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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

JEFF HATCH-MILLER - Chairman - 9 P 4: 39

WILLIAM A. MUNDELL

MARC SPITZER

MIKE GLEASON

KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. W-01445A-05-0469
ARIZONA WATER COMPANY FOR AN)	
EXTENSION OF ITS EXISTING CERTIFICATE)	GLOBAL'S EXCEPTIONS
OF CONVENIENCE AND NECESSITY)	
)	
)	

Palo Verde Utilities Company ("Palo Verde") and Santa Cruz Water Company ("Santa Cruz")(collectively, "Global"), respectfully submit these Exceptions to the Recommended Opinion and Order ("ROO"). Global is concurrently filing a Motion to Intervene in this docket. If the Motion to Intervene is not granted, Global requests that these Exceptions be treated as Comments in this docket.

I. INTRODUCTION.

The ROO recommends granting Arizona Water Company ("AWC") a Certificate of Convenience and Necessity ("CC&N") for various parcels, including one known as "Parcel 1." Unfortunately, the record in this case is incomplete with respect to "Parcel 1." New facts have come to light since the hearing. These facts include:

- 1) Parcel 1 is within the Global Planning Area established by the City of Casa Grande ("Casa Grande");
- 2) Global received a request for service for part of Parcel 1;
- 3) Global filed a CC&N application that includes part of Parcel 1;and
- 4) A major landowner in Parcel 1 opposes AWC's inclusion of their land without a request for service.

1 **II. DESCRIPTION OF GLOBAL.**

2 Santa Cruz is an Arizona public service corporation authorized to provide water service
3 within portions of Pinal County, Arizona. Santa Cruz received CC&Ns from the Commission in
4 Decision No. 61943 (September 17, 1999), Decision No. 67240 (September 15, 2004); Decision
5 No. 67830 (May 5, 2005) and Decision No. 68448 (February 2, 2006).¹ As of 30 November 2005,
6 Santa Cruz served approximately 9,430 water customers. Approximately 5,500 of these units are
7 in the hands of residential homeowners or other end-users. Approximately 3,600 units are
8 connected but in the hands of builders.

9 Palo Verde is an Arizona public service corporation authorized to provide wastewater
10 service within portions of Pinal County, Arizona. Palo Verde received CC&Ns from the
11 Commission in Decision No. 61943 (September 17, 1999), Decision No. 67240 (September 15,
12 2004); Decision No. 67830 (May 5, 2005) and Decision No. 68448 (February 2, 2006). Palo
13 Verde currently serves approximately 9,300 wastewater customers. Approximately 5,500 of these
14 units are in the hands of residential homeowners or other end-users. Approximately 3,600 units are
15 connected but in the hands of builders.

16 Global (i.e. Palo Verde and Santa Cruz) is ultimately owned by Global Water Resources,
17 LLC ("GWR"). GWR also owns Cave Creek Water Company and acts as the Interim Manager of
18 Sabrosa Water Company. GWR's various subsidiaries provide utility service to approximately
19 18,600 customers in Arizona. (See Decision No. 68448 at footnote 1).

20 Global also emphasizes the need for close and cooperative relationships with the cities in
21 which it operates. GWR entered into a Public Private Partnership (P3) with the Cities of Maricopa
22 and Casa Grande to promote cooperation, joint planning and the sensible regional management of
23 growth and precious water resources.

24
25
26 ¹ Two additional applications for an extension of a Certificate of Convenience and
27 Necessity are pending before the Commission in Dockets No. SW-03575A-05-0470, W-03576A-
05-0470 and Dockets No. SW-03575A-05-0926 and W-03576A-05-0926.

1 GWR's P3 with Casa Grande establishes a Global Planning Area. Under the P3, Casa
2 Grande desires that Global provide service to the Global Planning Area, and Casa Grande supports
3 extending Global's CC&Ns within the Global Planning Area. Parcel 1 is within the Global
4 Planning Area.

5 **III. THERE ARE NO REQUESTS FOR SERVICE FOR PARCEL 1.**

6 Parcel 1 contains approximately eight and a half square miles. Requests for service
7 are important because they demonstrate the necessity required for a CC&N. Further, they ensure
8 that there is some real prospect of development. In their absence, there is no guarantee that the
9 CC&N will not simply lie dormant once granted. Such dormant CC&Ns have caused numerous
10 problems over the years – the very reason that the Commission now insists on requests for service.
11 For example, dormant CC&Ns can obstruct regional planning. Further, cities or other providers
12 sometimes have to “buy off” dormant CC&N holders, even though the holders have no investment
13 in the area.

14 To be clear, Global does not object to AWC continuing to serve its existing customers in
15 Parcel 1. Indeed, AWC should eventually be granted a CC&N to serve those customers. But it is
16 not clear where the existing AWC customers are located within Parcel 1. Requests for service
17 should be required before any CC&N is granted for areas where AWC is not already existing
18 customers. Thus, the Commission should remand this matter to the Hearing Division to conduct a
19 hearing to determine what area within Parcel 1 AWC currently serves. Once the facts are
20 established, the Commission should only grant a CC&N for the limited portion of Parcel 1
21 currently served by AWC and any portion where they have received a request for service.

22 **IV. LANDOWNER INTERESTS SHOULD BE RESPECTED.**

23 Here, at least one landowner in Parcel 1 opposes AWC. That landowner has instead
24 requested service from Global. A copy of the request for service from Jorde Hacienda, Inc.
25 (“Jorde”) is attached as Exhibit A. This request includes part of Parcel 1, as well as other areas
26 outside Parcel 1. The portion within Parcel 1 (approximately 640 acres) is the western ½ of
27

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1 Section 12, Township 7 South, Range 4 East.² Jorde is also requesting service for numerous other
2 sections outside of Parcel 1. The areas requested by Jorde are included in a CC&N application
3 filed by Global that is currently pending before the Commission in Dockets No. SW-03575A-05-
4 0926 and W-03576A-05-0926.

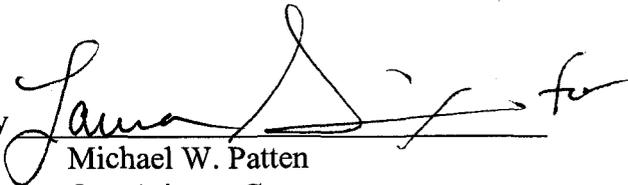
5 Jorde's property presents a further problem. If the Commission grants AWC a CC&N for
6 all of Parcel 1, Jorde will be left with one company (AWC) serving a small part of its property,
7 while Global provides an integrated solution to the rest. This makes little sense. Jorde's property
8 should not be carved up into separate pieces served by separate companies.

9 **V. CONCLUSION.**

10 For these reasons, Global respectfully requests that the Commission not grant a CC&N for
11 Parcel 1 at this time, and that this matter be remanded to the Hearing Division to conduct a further
12 hearing to clarify matters. Suggested language for amending the ROO is attached as Exhibit B. If
13 the Commission elects not to remand this matter, then at a minimum, Jorde's property should be
14 excluded from AWC's CC&N.

15 RESPECTFULLY SUBMITTED this 9th day of February 2006

16 ROSHKA DEWULF & PATTEN, PLC

17
18 By 

19 Michael W. Patten
20 One Arizona Center
21 400 East Van Buren Street, Suite 800
22 Phoenix, Arizona 85004

23
24
25 _____
26 ² A small part of the western 1/2 of Section 12 is not owned by Jorde. The exact legal
27 description of Jorde's property is shown on the legal description attached to Exhibit A. The
portion within "Parcel 1" of AWC's Application is shown as "Parcel 13" on the legal description
attached to Exhibit A.

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1 Original and 13 copies of the foregoing
2 filed this 9th day of February 2006 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 Copy of the foregoing hand-delivered/mailed
8 this 9th day of February 2006 to:

9 Thomas H. Campbell
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13 Phoenix, Arizona 85004

14 Robert W. Geake
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16 P. O. Box 29006
17 Phoenix, Arizona 85038-9006

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21 Casa Grande, Arizona 85230

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11 By 

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EXHIBIT

"A"

Ms. Cindy Liles
Palo Verde Utilities Company, LLC
22601 N. 19th Ave., Ste. 210
Phoenix, AZ 85027

Re: Water and Sewer CC&N Expansion
Arizona Corporation Commission

Dear Ms. Liles:

The undersigned is owner or authorized representative of the owners of the real property described on the attached Exhibit A and being a part of the projects known as Jorde Hacienda located in Pinal County, Arizona. The owner(s) have no objection to Santa Cruz Water Company's and Palo Verde Utilities Company's inclusion of Owner's land described on Exhibit A in Palo Verde's and Santa Cruz's CC&N expansion application.

Sincerely,
Jorde Hacienda, Inc., an Arizona corporation

Paul Jorde, President
By: Paul Jorde
Its:

8-16-05
Date

EXHIBIT A TO
PURCHASE AND SALE AGREEMENT

Legal Description

PARCEL NO. 1:

The Northeast quarter of Section 15, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO. 2:

The South half of the South half of Section 11, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT that portion of the South half of the South half of Section 11, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, which lies within a strip of land 300 feet in width, being 150 feet wide, when measured at right angles, on each side of the following described line:

BEGINNING at a point on the Easterly line of said Section 11 and from which the Southeast quarter of said section 11 bears South 00 degrees 01 minutes 40 seconds West, 867.59 feet distant therefrom;

Thence North 89 degrees 54 minutes 21 seconds West, (North 89 degrees 52 minutes 59 seconds West, record) along said centerline, a distance of 5286.33 feet to a point on the Westerly line of said Section 11, said point also being the point of terminus, and from which the Southwest corner of said Section 11 bears South 00 degrees 00 minutes 56 seconds West, 876.07 feet distant therefrom;

EXCEPT that portion of the South half of the South half of Section 11, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, lying Easterly of the following described line:

BEGINNING at the Southeast corner of said Section 11;

Thence North 89 degrees 57 minutes 21 seconds West (North 89 degrees 52 minutes 59 seconds West, record) being parallel with the Southerly right-of-way line of the Yuma-Casa Grande Interstate Highway 8, a distance of 68.25 feet;

Thence North 00 degrees 01 minutes 40 seconds East (North 00 degrees 30 minutes 00 seconds East, record), being parallel with the Easterly line of said Section 11, a distance of 717.56 feet (716.90 feet record) to a point on said Southerly right-of-way line of the Yuma-Casa Grande Interstate Highway 8, said point also being the point of terminus of this description; and

EXCEPT that portion of the South half of the South half of Section 11, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, lying Easterly of the following described line:

BEGINNING at the Southeast corner of said Section 11;

Thence North 00 degrees 03 minutes 00 seconds East 1866.90 feet;

Thence North 89 degrees 52 minutes 59 seconds West 57.31 feet;

Thence South 00 degrees 07 minutes 01 seconds West 400 feet;

Thence North 89 degrees 52 minutes 59 seconds West 9.33 feet;

Thence South 00 degrees 07 minutes 01 seconds West 175 feet;

Thence North 89 degrees 52 minutes 59 seconds West 122.93 feet;

Thence South 00 degrees 07 minutes 01 seconds West 275 feet to the North line of the first exception herein and the end of this line description.

PARCEL NO. 3:

The West half of Section 14, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO 4:

The Northwest quarter and the North half of the Southwest quarter of Section 11, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

EXCEPT that portion conveyed to the State of Arizona in Docket 373, page 77 and in Docket 375, page 501.

PARCEL NO. 5:

The Northeast quarter and the North half of the Southeast quarter of Section 11, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

EXCEPT that portion conveyed to the State of Arizona in Docket 373, page 77 and in Docket 375, page 501.

PARCEL NO. 6:

The East half of Section 14, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT all the coal and other minerals as reserved in Patent from United States of America.

EXCEPT that portion conveyed to the State of Arizona by Deed recorded in Docket 383, page 330, described as follows:

The East 68.25 feet of the North 133.10 feet of Section 14, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO. 7:

Lot 18 and the South half of the Northwest quarter and the North half of the Southwest quarter of Section 13, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

PARCEL NO. 8:

Lots 19 and 20 of Section 13, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO. 9:

That portion of the North half of the Northwest quarter of Section 24, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, described as follows:

BEGINNING at the Southeast corner of the North half of the Northwest quarter of said Section 24;

Thence North 00 degrees 03 minutes East along the East line thereof, 500 feet;

Thence South 89 degrees 59 minutes 45 seconds West, parallel with the South line of the North half of the Northwest quarter of said Section 24, a distance of 232 feet;

Thence South 00 degrees 03 minutes West 500 feet to a point on the South line of the North half of the Northwest quarter of said Section 24;

Thence North 89 degrees 59 minutes 45 seconds East along said South line, 232 feet to the POINT OF BEGINNING.

PARCEL NO. 10:

Lots 5 and 6 of Section 24, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

EXCEPT all the coal and other minerals as reserved in Patent from United States of America.

PARCEL NO. 11:

The South half of the Southwest quarter of Section 13, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO. 12:

Lots 5, 6, 7, 8, 17, 18, 19 and 20, Section 12, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

EXCEPT all that portion which lies within a strip of land 300 feet in width, being 150 feet, when measured at right angles on each side of the following described centerline:

BEGINNING at a point on the West line of Section 7, Township 7 South, Range 3 East, which point of 150 feet Southerly of the West quarter corner thereof;

Thence North 89 degrees 52 minutes 59 seconds West, a distance of 10562.63 feet, more or less, to a point on the West line of said Section 12 and the end of this centerline description; and

EXCEPT all the coal and other minerals as reserved in Patent from United State of America. (Affects Lots 5 and 6 of said Section 12)

PARCEL NO. 13:

The West half of Section 12, Township 7 South, Range 4 East of the Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT all that portion which lies within a strip of land 300 feet in width, being 150 feet, when measured at right angles; on each side of the following described centerline:

BEGINNING at a point on the West line of Section 7, Township 7 South, Range 3 East, which point is 150 feet Southerly of the West quarter corner thereof;

Thence North 89 degrees 52 minutes 59 seconds West, a distance of 10562.63 feet, more or less, to a point on the West line of said Section 12 and the end of this centerline description; and

EXCEPT all the coal and other minerals as reserved in Patent from United States of America. (Affects the South half of the Southwest quarter of said Section 12); and

EXCEPT all that portion lying Westerly of the following described line:

COMMENCING at the Northwest corner of Section 13, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

Thence South 00 degrees 03 minutes 00 seconds West, a distance of 133.10 feet;

Thence South 89 degrees 52 minutes 59 seconds East, a distance of 106.79 feet to the TRUE POINT OF BEGINNING;

Thence North 00 degrees 03 minutes 00 seconds East, a distance of 2000 feet and the end of this line description.

PARCEL NO. 14:

Government Lots 3 through 10 inclusive, 15, 16, 17, 21, 22 and the North half of the Northwest quarter of Section 13, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL NO. 15:

Government Lots 3 and 4, Section 24, Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

EXHIBIT

"B"

Exhibit B

Proposed Language to Amend Recommended Opinion and Order

- (1) **Page 6, line 28 to Page 7, line 1:** **DELETE** Finding of Fact No. 30, and **INSERT** a new Finding of Fact No. 30 as follows: “Santa Cruz Water Company and Palo Verde Utilities Company (collectively, “Global”) filed Exceptions, as well as a Motion to Intervene. In its Exceptions, Global notes that: (1) Arizona Water has no requests for service from Parcel 1 and (2) landowner interests are an important factor, and a major landowner in Parcel 1 does not desire service from Arizona Water without a request for service, and this landowner has submitted a request for service to Global. We are concerned by the issues raised by Global, and we believe that the issues concerning Parcel 1 should be remanded to the Hearing Division to conduct an additional hearing to further develop the record.”
- (2) **Page 11, lines 10-11:** **INSERT** at the end of Conclusion of Law No. 7, the following: “, except for the area described therein as Parcel 1”
- (3) **Page 11, lines 12-14:** **INSERT** after “Exhibit B attached hereto,” the following: “, except for the area described therein as Parcel 1,”
- (4) **Page 11, line 15:** **INSERT** a new Conclusion of Law No. 9, as follows: “In light of the concerns raised by Global, it is in the public interest that that the issues concerning Parcel 1 should be remanded to the Hearing Division to conduct an additional hearing to further develop the record with respect to Parcel 1.”
- (5) **Page 11, line 15:** **INSERT** at new Conclusion of Law No. 10, as follows: “It is not in the public interest to grant a CC&N or Order Preliminary for Parcel 1 at this time.”
- (6) **Page 11, line 15:** **INSERT** a new Conclusion of Law No. 11, as follows: “It is in the public interest to suspend the CC&N time-clock rule (A.A.C. R14-2-411.C) with respect to Parcel 1 to allow the additional hearing described herein.”
- (7) **Page 12, lines 5-6:** **INSERT** after “Exhibit B attached hereto and incorporated herein by reference” the following: “, except for the area described therein as Parcel 1,”
- (8) **Page 13, line 3:** **INSERT** a new Ordering Paragraph, as follows: “IT IS FURTHER ORDERED that the issues concerning Parcel 1 should be remanded to the Hearing Division to conduct a further hearing to further develop the record with respect to Parcel 1.”
- (9) **Page 12, line 5:** **INSERT** a new Ordering Paragraph, as follows: “IT IS FURTHER ORDERED that no CC&N or Order Preliminary is granted for Parcel 1 at this time.”
- (10) **Page 12, line 5:** **INSERT** a new Ordering Paragraph, as follows: “IT IS FURTHER ORDERED that the CC&N time-clock rule (A.A.C. R14-2-411.C) is suspended with respect to Parcel 1 to allow the additional hearing described herein.”