

OPEN MEETING ITEM  
ORIGINAL



0000041320

**COMMISSIONERS**  
JEFF HATCH-MILLER - Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES



Executive Director

22

**ARIZONA CORPORATION COMMISSION**

DATE: March 20, 2006  
DOCKET NO: W-01979A-05-0645

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Opinion and Order on:

SILVERWELL SERVICE CORPORATION dba WATCO, INC.

(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MARCH 29, 2006

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

APRIL 4 AND 5, 2006

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

RECEIVED  
2006 MAR 20 1P 3:15  
AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission  
**DOCKETED**  
MAR 20 2006  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DOCKETED BY *AV*

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman  
4 WILLIAM A. MUNDELL  
5 MARC SPITZER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF  
9 SILVERWELL SERVICE CORPORATION DBA  
10 WATCO, INC. FOR AN EXTENSION OF ITS  
11 CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY.

DOCKET NO. W-01979A-05-0645

DECISION NO. \_\_\_\_\_

OPINION AND ORDER

9 DATE OF HEARING: February 13, 2006

10 PLACE OF HEARING: Phoenix, Arizona

11 ADMINISTRATIVE LAW JUDGE: Amy Bjelland

12 APPEARANCES: Mr. Mark Grapp, President and General Manager,  
13 Silverwell Service Corporation doing business as  
14 WATCO, Inc.; and

15 Mr. Keith Layton, Staff Attorney, on behalf of the  
16 Arizona Corporation Commission's Utilities Division.

17 **BY THE COMMISSION:**

18 On September 6, 2005, Silverwell Service Corporation doing business as WATCO, Inc.  
19 ("WATCO") filed with the Arizona Corporation Commission ("Commission") an Application for an  
20 extension of its existing Certificate of Convenience and Necessity ("Certificate").

21 On October 5, 2005, the Commission's Utilities Division Staff ("Staff") filed an Insufficiency  
22 Letter.

23 On November 4, 2005, WATCO filed its response to Staff's Insufficiency Letter.

24 On November 30, 2005, WATCO filed Supplemental Information.

25 On December 2, 2005, Staff filed a Letter of Sufficiency.

26 On December 6, 2005, by Procedural Order, a hearing was set in this matter for February 13,  
27 2006.

28 On December 27, 2005, WATCO filed an Affidavit of Publication and a copy of the notice  
sent to property owners in the extension area.

1 On January 20, 2006, Staff filed its Staff Report recommending approval of the application  
2 with conditions.

3 On January 26, 2006, WATCO filed its Navajo County franchise.

4 On February 13, 2006, a full public hearing was convened before a duly authorized  
5 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Both parties made  
6 appearances. At the conclusion of the hearing, the matter was taken under advisement pending  
7 submission of a Recommended Opinion and Order.

8 \* \* \* \* \*

9 Having considered the entire record herein and being fully advised in the premises, the  
10 Commission finds, concludes, and orders that:

11 **FINDINGS OF FACT**

12 1. Pursuant to authority granted by the Commission in Decision No. 38013 (September  
13 7, 1965), WATCO is an Arizona corporation that provides water service to approximately 290  
14 customers in portions of Navajo County, Arizona.

15 2. On September 6, 2005, WATCO filed an Application with the Commission for an  
16 extension of its existing Certificate to an area of Navajo County known as the Shumway Road  
17 Improvement District (“District”), described more fully in attached Exhibit A. The extension would  
18 add approximately 888 acres (1.35 square miles) about six miles northwest of WATCO’s existing  
19 1.75 miles of certificated area, which is located approximately six miles northeast of Show Low in  
20 Navajo County, Arizona.

21 3. Mr. Thomas Daggett, Managing Member of Canyon Vista Properties, LLC (“Canyon  
22 Vista”), testified that Canyon Vista requested water service from WATCO for the Canyon Vista  
23 Estates Subdivision. Mr. Daggett stated that the first phase of development is a proposed 105 acre,  
24 56 lot residential development located within the District. The water system for Canyon Vista  
25 Estates will be designed in such a manner as to allow for its expansion to serve future phases of  
26 development within the District, including a future subdivision called Cedar Mesa Ridge, which will  
27 have 54 lots. Mark Grapp, President and General Manager of WATCO, testified that there are no  
28 other water providers contiguous to or in close proximity to the District.

1 **Water System**

2 4. WATCO currently has two water systems; the Silver Lake Estates System (Public  
3 Water System ("PWS") No. 09-027) and the Bourdon Ranch Estates System (PWS No. 09-049).  
4 According to Staff, WATCO is current in paying its property taxes. The Silver Lake Estate System  
5 serves approximately 260 customers, and the Bourdon Ranch Estates System serves approximately  
6 30 customers. Staff stated that based on historical growth rates, the existing service area is  
7 anticipated to have approximately 315 total customers at the end of five years. The two systems  
8 consist of two wells with a total production capacity of 89 gallons per minute ("gpm"), 125,000  
9 gallons of storage capacity, booster pumps, pressure tanks and distribution systems. The two water  
10 systems are interconnected via a temporary line to accommodate demand during peak water use  
11 periods. WATCO is in the process of obtaining a Water Infrastructure Financing Authority  
12 ("WIFA") loan to finance the construction of a line which will permanently replace the temporary  
13 line. Mr. Grapp testified that, in addition to the replacement of the temporary line, WATCO will  
14 obtain additional storage, and upgrade its water meters throughout its existing system with the  
15 proceeds of the loan. WATCO has informed Staff that it plans to file a financing application with the  
16 Commission for the required loan approval within six months. Staff recommends that WATCO be  
17 required to file for loan approval no later than six months of a decision in this docket.

18 5. Because the requested extension area is several miles from WATCO's existing service  
19 area, the requested service area will be served by its own well and storage tank. WATCO predicts 95  
20 new connections for the proposed extension at the end of five years. The new system will include a  
21 well with a maximum production capacity of 200 gpm, a 120,000 gallon storage tank, booster pumps,  
22 pressure tank, fire flow and distribution system. Staff estimated that the proposed system can serve  
23 approximately 170 connections. Staff concluded that the proposed system will have adequate  
24 production and storage capacity to serve the proposed Certificate area and that it can reasonably be  
25 expected to develop additional storage and production as required in the future.

26 6. WATCO plans to finance the required utility facilities through advances in aid of  
27 construction, which generally take the form of Main Extension Agreements ("MXAs"). MXAs  
28 between water utilities and private parties are governed by A.A.C. R14-2-406, and result in developer

1 construction of the facilities, conveyance of the facilities to the utility company, and a refund by the  
2 water utility of ten percent of the annual revenue associated with the line to the developer for a period  
3 of ten years. Staff recommended that WATCO filed with Docket Control, as a compliance item, a  
4 Notice of Filing indicating WATCO has submitted for Staff review and approval a copy of the fully  
5 executed MXAs for water facilities for the extension area within 365 days of a decision in this case.

6 7. Staff stated that the Arizona Department of Environmental Quality ("ADEQ") has  
7 determined that WATCO's two existing water systems are currently delivering water that meets  
8 ADEQ water quality standards.

9 8. WATCO is not located in an Active Management Area and therefore is not subject to  
10 Arizona Department of Water Resources ("ADWR") reporting and conservation rules. WATCO has  
11 not yet received a copy of the Developer's Letter of Adequate Water Supply for the requested  
12 extension area. Staff recommended that WATCO be ordered to file with Docket Control, as a  
13 compliance item, copies of the Developer's Letter of Adequate Water Supply, stating that there is  
14 adequate water, no later than six months of a decision in this docket.

15 9. Rules established by the United States Environmental Protection Agency ("EPA")  
16 require the maximum contaminant level ("MCL") for arsenic in potable water to be reduced from 50  
17 parts per billion ("ppb") to 10 ppb, effective January 23, 2006. Staff stated that the most recent lab  
18 analysis of the wells for the two existing water systems indicates that the arsenic levels are 3 and 4.6  
19 ppb. Based on these arsenic concentrations, WATCO is in compliance with the new arsenic MCL.

20 10. Staff stated that a Curtailment Plan Tariff ("CPT") is an effective tool to allow a water  
21 company to manage resources during periods of water shortages due to pump breakdowns, droughts,  
22 or other unforeseeable events. WATCO has a curtailment tariff on file with the Utilities Division.

23 11. WATCO proposed to provide water service to the extension area using a different  
24 rates and charges tariff schedule. Staff stated that the proposed rates and charges for the extension  
25 area are higher than WATCO's authorized rates and charges for its existing Certificate area. Staff  
26 stated that WATCO informed Staff of its plans to file an application for a rate increase with the  
27 Commission for its existing Certificate area within the next few months due to the net loss of \$12,582  
28 it experienced in 2004. It is the Commission's normal practice and procedure to require companies

1 proposing to extend their Certificates to charge their tariffed or authorized rates and charges in the  
2 requested extension area. Because WATCO is planning to file for a rate increase, Staff  
3 recommended that WATCO be required to charge its authorized rates and charges in the extension  
4 area. Staff further recommended that WATCO be required to file a rate case application by  
5 September 30, 2006, using a 2005 test year. Mr. Grapp testified that WATCO agreed with Staff's  
6 recommendation.

7 12. Arizona law requires every applicant for a CC&N or CC&N extension to submit  
8 evidence to the Commission that the applicant has received consent, franchise or permit from the  
9 proper authority prior to being granted the CC&N or CC&N extension. WATCO is located in an  
10 unincorporated part of Navajo County, and has docketed its franchise agreement with Navajo County.

11 13. Because an allowance for the property tax expense of WATCO is included in the  
12 Company's rates and will be collected from its customers, the Commission seeks assurances from the  
13 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing  
14 authority. It has come to the Commission's attention that a number of water companies have been  
15 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,  
16 some for as many as twenty years. It is reasonable, therefore, that as a prophylactic measure  
17 WATCO annually file, as part of its annual report, an affidavit with the Utilities Division attesting  
18 that the company is current in paying its property taxes in Arizona.

19 **Staff's Recommendations**

20 14. Staff recommended that the Commission approve WATCO's application for an  
21 extension of its Certificate within portions of Navajo County, Arizona, to provide water service,  
22 subject to compliance with the following conditions:

23 (a) To require WATCO to charge its authorized rates and charges in the extension  
24 area.

25 (b) To require WATCO to file for approval of the financing application associated  
26 with the proposed construction of a permanent interconnection between the Silver Lake  
27 Estates System and the Bourdon Ranch Estates System no later than six months of a decision  
28 in this docket.

1 (c) To require WATCO to file with Docket Control, as a compliance item in this  
 2 docket, copies of the ADEQ Approval to Construct ("ATC") for the proposed new water  
 3 system no later than one year of a decision in this docket.

4 (d) To require WATCO to file with Docket Control, as a compliance item in this  
 5 docket, a Notice of Filing indicating WATCO has submitted for Staff review and approval, a  
 6 copy of the fully executed main extension agreements for water facilities for the extension  
 7 area within 365 days of a decision in this docket.

8 (e) To require WATCO to file with Docket Control, as a compliance item in this  
 9 docket, copies of the Developer's Letter of Adequate Water Supply, stating that there is  
 10 adequate water, no later than six months of a decision in this docket.

11 (f) To require WATCO to file with Docket Control, as a compliance item in this  
 12 docket, a copy of the franchise agreement from Navajo County for the requested area within  
 13 365 days of the decision in this docket.

14 (g) To require WATCO to file a rate case application by September 30, 2006,  
 15 using a 2005 test year.

16 15. Staff further recommended that the Commission's Decision granting the requested  
 17 Certificate extension to WATCO be considered null and void, after due process, should WATCO fail  
 18 to meet Conditions (b), (c), (d), (e), (f), and (g), above, within the time specified.

### 19 CONCLUSIONS OF LAW

20 1. WATCO is a public service corporation within the meaning of Article XV of the  
 21 Arizona Constitution and A.R.S. §§ 40-281 and 40-282 *et seq.*

22 2. The Commission has jurisdiction over WATCO and the subject matter of the  
 23 application.

24 3. Notice of the application was provided in accordance with law.

25 4. There is a public need and necessity for water utility service in the proposed extension  
 26 area.

27 5. WATCO is a fit and proper entity to receive a water CC&N extension to include the  
 28 service area more fully described in Exhibit A attached hereto, subject to compliance with the

1 conditions set forth above.

2 **ORDER**

3 IT IS THEREFORE ORDERED that the application of Silverwell Service Corporation doing  
4 business as WATCO, Inc. for an extension of its existing water Certificate of Convenience and  
5 Necessity to include the area described in Exhibit A attached hereto and incorporated herein by  
6 reference be, and is hereby approved, subject to the conditions more fully described herein.

7 IT IS FURTHER ORDERED that Silverwell Service Corporation doing business as WATCO,  
8 Inc. charge its authorized rates and charges in the extension area.

9 IT IS FURTHER ORDERED that should Silverwell Service Corporation doing business as  
10 WATCO, Inc. fail to meet the conditions enumerated in the following six Ordering Paragraphs, this  
11 Decision shall be considered null and void after due process.

12 IT IS FURTHER ORDERED that Silverwell Service Corporation doing business as WATCO,  
13 Inc. shall file for approval of the financing application associated with the proposed construction of a  
14 permanent interconnection between the Silver Lake Estates System and the Bourdon Ranch Estates  
15 System within six months of this Decision.

16 IT IS FURTHER ORDERED that Silverwell Service Corporation doing business as WATCO,  
17 Inc. shall file with Docket Control, as a compliance item in this docket, copies of the Arizona  
18 Department of Environmental Quality Approval to Construct for the proposed new water system  
19 within one year of this Decision.

20 IT IS FURTHER ORDERED that Silverwell Service Corporation doing business as WATCO,  
21 Inc. shall file with Docket Control, as a compliance item in this docket, a Notice of Filing indicating  
22 WATCO, Inc. has submitted for Staff review and approval, a copy of the fully executed main  
23 extension agreements for water facilities for the extension area within 365 days of this Decision.

24 IT IS FURTHER ORDERED that Silverwell Service Corporation doing business as WATCO,  
25 Inc. shall file with Docket Control, as a compliance item in this docket, copies of the Developer's  
26 Letter of Adequate Water Supply, stating that there is adequate water, within six months of this  
27 Decision.

28 IT IS FURTHER ORDERED that Silverwell Service Corporation doing business as WATCO,

1 Inc. shall file a rate case application by September 30, 2006, using a 2005 test year.

2 IT IS FURTHER ORDERED that Silverwell Service Corporation doing business as WATCO,  
3 Inc. shall annually file as part of its annual report, an affidavit with the Utilities Division attesting that  
4 the Company is current in paying its property taxes in Arizona.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7

8

9 CHAIRMAN \_\_\_\_\_ COMMISSIONER

10

11 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER

12

13

14

15

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
Director of the Arizona Corporation Commission, have  
hereunto set my hand and caused the official seal of the  
Commission to be affixed at the Capitol, in the City of Phoenix,  
this \_\_\_\_ day of \_\_\_\_\_, 2006.

16

17

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

18

19 DISSENT \_\_\_\_\_

20

21 DISSENT \_\_\_\_\_

22

AB:mj

23

24

25

26

27

28

1 SERVICE LIST FOR: WATCO, INC.  
2 DOCKET NO.: W-01979A-05-0645

3 Mark Grapp  
4 WATCO  
5 P.O. Box 1270  
6 Show Low, AZ 85902

7 Christopher Kempley, Chief Counsel  
8 Legal Division  
9 ARIZONA CORPORATION COMMISSION  
10 1200 West Washington Street  
11 Phoenix, AZ 85007

12 Ernest G. Johnson, Director  
13 Utilities Division  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington  
16 Phoenix, AZ 85007

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PARCEL OF LAND SITUATED WITHIN SECTIONS 30 AND 31, TOWNSHIP 12 NORTH, RANGE 22 EAST  
 OF THE GILA & SALT RIVER MERIDIAN, NAVAJO COUNTY, ARIZONA, BEING MORE PARTICULARLY

DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 31;

- THENCE S 00°26'48" W, A DISTANCE OF 4390.29 FEET;
- THENCE S 83°18'57" W, A DISTANCE OF 277.69 FEET;
- THENCE S 86°59'55" W, A DISTANCE OF 184.18 FEET;
- THENCE S 88°20'03" W, A DISTANCE OF 308.05 FEET;
- THENCE N 64°08'01" W, A DISTANCE OF 25.26 FEET;
- THENCE N 48°48'03" W, A DISTANCE OF 279.24 FEET;
- THENCE N 60°40'53" W, A DISTANCE OF 118.51 FEET;
- THENCE N 50°21'58" W, A DISTANCE OF 538.48 FEET;
- THENCE N 57°34'03" W, A DISTANCE OF 78.35 FEET;
- THENCE N 79°18'24" W, A DISTANCE OF 161.94 FEET;
- THENCE N 51°47'30" W, A DISTANCE OF 203.39 FEET;
- THENCE N 67°00'41" W, A DISTANCE OF 88.19 FEET;
- THENCE N 56°04'54" W, A DISTANCE OF 336.04 FEET;
- THENCE N 53°22'58" W, A DISTANCE OF 126.16 FEET;
- THENCE N 50°19'16" W, A DISTANCE OF 199.60 FEET;
- THENCE N 67°55'56" W, A DISTANCE OF 82.51 FEET;
- THENCE N 82°58'31" W, A DISTANCE OF 146.45 FEET;
- THENCE N 80°22'29" W, A DISTANCE OF 358.43 FEET;
- THENCE S 77°47'12" W, A DISTANCE OF 162.81 FEET;
- THENCE S 36°52'12" W, A DISTANCE OF 99.89 FEET;
- THENCE S 56°48'42" W, A DISTANCE OF 130.88 FEET;
- THENCE S 23°02'22" W, A DISTANCE OF 207.32 FEET;
- THENCE N 89°49'27" W, A DISTANCE OF 3196.54 FEET;
- THENCE N 08°32'35" W, A DISTANCE OF 153.27 FEET;
- THENCE N 36°34'29" W, A DISTANCE OF 179.44 FEET;
- THENCE N 18°24'04" W, A DISTANCE OF 61.00 FEET;
- THENCE N 89°58'07" E, A DISTANCE OF 670.90 FEET;
- THENCE N 12°08'50" W, A DISTANCE OF 329.41 FEET;
- THENCE N 21°16'25" W, A DISTANCE OF 204.94 FEET;
- THENCE N 09°11'29" W, A DISTANCE OF 129.71 FEET;
- THENCE N 34°49'51" W, A DISTANCE OF 832.93 FEET;
- THENCE N 20°20'22" W, A DISTANCE OF 313.23 FEET;
- THENCE N 10°45'32" W, A DISTANCE OF 591.04 FEET;
- THENCE N 90°00'00" W, A DISTANCE OF 523.49 FEET;
- THENCE N 00°00'00" E, A DISTANCE OF 935.00 FEET;
- THENCE S 89°58'59" E, A DISTANCE OF 942.48 FEET;
- THENCE N 00°18'36" E, A DISTANCE OF 2007.48 FEET;
- THENCE N 85°58'59" W, A DISTANCE OF 437.40 FEET;
- THENCE S 03°53'54" E, A DISTANCE OF 486.15 FEET;

- THENCE N 13°33'39" W, A DISTANCE OF 275.01 FEET;
- THENCE N 00°21'04" E, A DISTANCE OF 179.44 FEET;
- THENCE N 15°22'16" E, A DISTANCE OF 130.17 FEET;
- THENCE N 09°50'55" E, A DISTANCE OF 20.19 FEET;
- THENCE S 78°45'07" E, A DISTANCE OF 394.47 FEET;
- THENCE S 69°28'56" E, A DISTANCE OF 46.25 FEET;
- THENCE N 00°28'26" W, A DISTANCE OF 466.13 FEET TO A  
 NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 62°35'48" AND  
 A RADIUS OF 473.04 FEET;
- THENCE ALONG SAID CURVE A DISTANCE OF 516.94 FEET TO A  
 NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 56°48'51" AND  
 A RADIUS OF 880.35 FEET;
- THENCE ALONG SAID CURVE A DISTANCE OF 881.88 FEET;
- THENCE N 22°10'40" E, A DISTANCE OF 70.09 FEET;
- THENCE N 06°27'10" E, A DISTANCE OF 129.06 FEET;
- THENCE N 64°05'19" E, A DISTANCE OF 80.77 FEET;
- THENCE N 20°22'53" E, A DISTANCE OF 83.55 FEET;
- THENCE N 11°51'27" E, A DISTANCE OF 232.66 FEET;
- THENCE N 06°22'16" E, A DISTANCE OF 66.02 FEET;
- THENCE N 90°00'00" E, A DISTANCE OF 1746.83 FEET;
- THENCE S 09°04'58" W, A DISTANCE OF 17.30 FEET;
- THENCE S 01°21'11" W, A DISTANCE OF 112.47 FEET;
- THENCE S 02°44'15" E, A DISTANCE OF 107.73 FEET;
- THENCE S 00°08'25" E, A DISTANCE OF 1084.57 FEET;
- THENCE S 49°31'55" E, A DISTANCE OF 232.40 FEET;
- THENCE S 69°18'42" E, A DISTANCE OF 84.31 FEET;
- THENCE S 87°46'18" E, A DISTANCE OF 185.31 FEET;
- THENCE S 85°14'39" E, A DISTANCE OF 52.76 FEET;
- THENCE N 89°21'00" E, A DISTANCE OF 224.25 FEET;
- THENCE S 88°09'38" E, A DISTANCE OF 407.67 FEET;
- THENCE N 84°12'48" E, A DISTANCE OF 80.69 FEET;
- THENCE S 77°41'54" E, A DISTANCE OF 43.21 FEET;
- THENCE S 63°39'13" E, A DISTANCE OF 228.62 FEET;
- THENCE S 16°54'41" W, A DISTANCE OF 120.04 FEET;
- THENCE S 01°56'09" W, A DISTANCE OF 284.26 FEET;
- THENCE S 00°53'05" E, A DISTANCE OF 837.28 FEET;
- THENCE S 06°30'11" E, A DISTANCE OF 149.76 FEET;
- THENCE S 89°34'45" E, A DISTANCE OF 2649.84 FEET;
- THENCE S 00°11'21" W, A DISTANCE OF 1285.83 FEET;
- THENCE N 89°13'27" E, A DISTANCE OF 1296.42 FEET TO  
 THE POINT OF BEGINNING.

SAID PARCEL BEING 888.29 ACRES, MORE OR LESS AND  
 SUFFICIENT TO ...