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BEFORE THE ARIZONA CORPORATION COMMISSION

2006 FEB 24 P 3: 52

COMMISSIONERS

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

<p>IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY FOR AN EXTENSION OF THE SERVICE AREA UNDER ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICES</p>	<p><b>DOCKET NO. W-01445A-03-0559</b></p> <p><b>REQUEST TO SET HEARING DATE</b></p>
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In Decision 66893 in the above-captioned docket, the Commission conditionally approved the extension of the Certificate of Convenience and Necessity ("CC&N") of Arizona Water Company ("AWC") to include approximately 11 square miles in Pinal County, Arizona. Pursuant to the decision, AWC had one year from the date of the decision—or until April 6, 2005—to: (1) file a copy of the developer's assured water supply for each respective development within the extension area; and (2) file a main extension agreement associated with the extension area. If AWC failed to meet the two conditions, then the decision by its own terms "is deemed null and void without further order of the Arizona Corporation Commission." AWC did not meet either condition, but rather filed a request to extend the deadlines on March 30, 2005, one week prior to the expiration of the deadlines.

In AWC's request to extend the deadlines, the company requested an additional 365 days to comply, or until April 6, 2006. We are now less than 45 days away from AWC's requested new deadlines (and nearly two years away from the issuance of Decision

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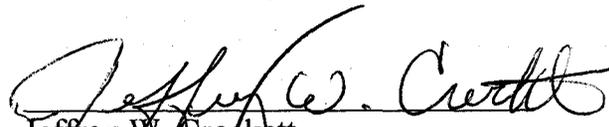
1 66893), and AWC has yet to docket any evidence of an assured water supply for any  
2 parcel within the conditionally approved area or a main extension agreement for any  
3 development.

4 By Procedural Order dated November 14, 2005, Cornman Tweedy 560, LLC  
5 ("Cornman Tweedy") was granted intervention in the above-captioned docket. At the  
6 procedural conference held November 21, 2005, the Chief Administrative Law ("ALJ")  
7 told the parties they could proceed with discovery. In a letter dated January 31, 2006,  
8 Cornman Tweedy sent AWC its first set of data requests with a due date of February 10,  
9 2006. AWC did not respond to the data requests, but rather sent a letter dated February  
10 10, 2006, proposing to continue the response date "until we get a ruling on the pending  
11 motions and more direction from the Commission as to how the case will proceed."  
12 Cornman Tweedy responded through legal counsel in a letter dated February 17, 2006,  
13 that Cornman Tweedy would not agree to continue the deadlines, and that AWC should  
14 provide answers to the data requests immediately. To date, AWC has not responded to  
15 Cornman Tweedy's February 17 letter.

16 AWC's failure even now to comply with the conditions of Decision 66893 nearly  
17 two years after the date of the decision and its failure to provide responses to Cornman  
18 Tweedy's data requests in spite of the fact that the ALJ has authorized the parties to  
19 proceed with discovery evidence an effort by AWC to delay action in this docket. On  
20 December 19, 2005, Cornman Tweedy submitted its response to the Utilities Division  
21 Staff ("Staff") legal memorandum dated November 22, 2005, in which Staff discussed  
22 whether the "null and void" language in Decision 66893 rendered the decision void  
23 without further action on the part of the Commission. Cornman Tweedy maintains that  
24 the "null and void" language of Decision 66893 is lawful and effective, and that AWC's  
25 failure to timely fulfill the conditions attached to Decision 66893 rendered the decision  
26 null and void without the need for any additional action by the Commission. However,  
Cornman Tweedy recognizes that Staff has a different view regarding the status of the

1 CC&N. Thus, Cornman Tweedy requests that the Commission schedule a hearing date in  
2 this docket in sixty (60) days, or as soon thereafter as practicable, to: (i) hear oral  
3 argument regarding whether the "null and void" language of Decision 66893 has rendered  
4 the decision null and void without further action by the Commission; and then if necessary  
5 (ii) take testimony regarding AWC's request for an extension of the deadlines contained in  
6 Decision 66893. Cornman Tweedy further requests that the Commission issue its order  
7 directing AWC to comply with the discovery requests of Cornman Tweedy.

8 RESPECTFULLY SUBMITTED this 24th day of February, 2006.

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11 Jeffrey W. Crockett  
12 SNELL & WILMER  
13 One Arizona Center  
14 Phoenix, Arizona 85004-2202  
15 (602) 382-6234  
16 Attorneys for Cornman Tweedy 560, LLC

17 ORIGINAL and thirteen (13) copies  
18 of the foregoing filed this 24<sup>th</sup> day of  
19 February, 2006, with:

20 Docket Control  
21 ARIZONA CORPORATION COMMISSION  
22 1200 West Washington Street  
23 Phoenix, Arizona 85007

24 A COPY of the foregoing hand-delivered  
25 this 24th day of February, 2006, to:

26 Christopher C. Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

1 Ernest G. Johnson, Director  
2 Utilities Division  
3 ARIZONA CORPORATION COMMISSION  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6 Lyn Farmer  
7 Chief Administrative Law Judge  
8 Hearing Division  
9 ARIZONA CORPORATION COMMISSION  
10 1200 West Washington Street  
11 Phoenix, Arizona 85007

12 A COPY of the foregoing sent via e-mail and first  
13 class mail this 24<sup>th</sup> day of February, 2006, to:

14 Steven A. Hirsch, Esq.  
15 BRYAN CAVE LLP  
16 Two North Central Ave., Suite 2200  
17 Phoenix, Arizona 85004-4406

18 Robert W. Geake  
19 Arizona Water Company  
20 P.O. Box 29006  
21 Phoenix, Arizona 85038

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