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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

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COMMISSIONERS

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

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

DOCKET NO. W-01979A-05-0645

DECISION NO. 68657

OPINION AND ORDER

DATE OF HEARING: February 13, 2006
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Amy Bjelland
APPEARANCES: Mr. Mark Grapp, President and General Manager,
Silverwell Service Corporation doing business as
WATCO, Inc.; and
Mr. Keith Layton, Staff Attorney, on behalf of the
Arizona Corporation Commission's Utilities Division.

BY THE COMMISSION:

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

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

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

On November 30, 2005, WATCO filed Supplemental Information.

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

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

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 file 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,

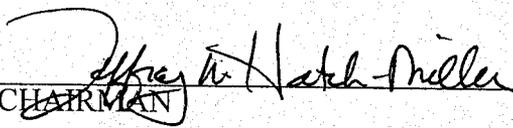
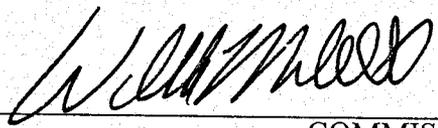
1 Inc. shall file a rate case application by September 30, 2006, using a 2005 test year.

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  

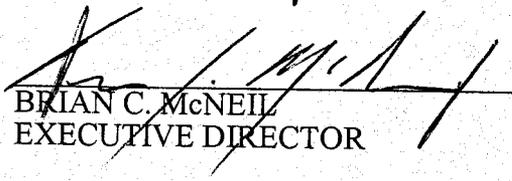
9 CHAIRMAN COMMISSIONER

10

11  

12 COMMISSIONER COMMISSIONER COMMISSIONER

13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
14 Director of the Arizona Corporation Commission, have
15 hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this 12th day of April, 2006.

18 
19 BRIAN C. McNEIL
20 EXECUTIVE DIRECTOR

21 DISSENT _____

22 DISSENT _____

23 AB:mj

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

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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 88°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 68.19 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 88°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°09'50" 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°59'59" E, A DISTANCE OF 942.49 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°36'48" 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 60.77 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 1684.57 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 60.69 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 1295.83 FEET;
- THENCE N 89°13'27" E, A DISTANCE OF 1266.42 FEET TO
THE POINT OF BEGINNING.

SAID PARCEL BEING 888.29 ACRES, MORE OR LESS AND,