

ORIGINAL

OPEN MEETING



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MEMORANDUM

AZ CORP COMMISSION
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2006 MAY 18 P 12:50

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TO: THE COMMISSION

FROM: Utilities Division

DATE: May 18, 2006

RE: REQUEST FOR CLARIFICATION OF THE IMPLEMENTATION DATE OF THE SYSTEM IMPROVEMENT SURCHARGE IN DECISION NO. 68667 (DOCKET NOS. W-01646A-06-0010, W-01868A-06-0010, W-02235A-06-0010, W-02316A-06-0010, W-02230A-06-0010, W-01629A-06-0010, AND W-02240A-06-0010)

In Decision No. 68667 (April 20, 2006), the Arizona Corporation Commission ("Commission") approved emergency rate relief to the Miracle Valley Water Company, Inc., Cochise Water Company, Horseshoe Ranch Water Company, Crystal Water Company, Mustang Water Company, Sierra Sunset Water Company and Coronado Estates Water Company, owned by Johnny A. McLain (collectively, the "McLain Systems"). This relief was a System Improvement Surcharge ("SIS") of \$9.00 per meter or connection per month. The fourth ordering paragraph in that decision states "IT IS FURTHER ORDERED that the above rates and charges shall be effective for all service provided on and after May 1, 2006."

On May 15, 2006, Arizona Small Utilities Association ("ASUA"), the interim manager for the McLain Systems, docketed a letter requesting clarification of the implementation date of the SIS in Decision No. 68667. In that letter, ASUA explains that several customers have complained about ASUA prematurely charging customers the SIS. ASUA indicates in that letter that it believes it has correctly interpreted the implementation date for the SIS. ASUA believes that it is authorized to begin assessing the SIS to customers starting May 1, 2006. ASUA further indicates that any delay to allowing it to assess the SIS would impede its objectives of paying down debts incurred to date, as well as beginning scheduled infrastructure improvements to the systems. Finally, ASUA indicates that, based on 1,319 connections, ASUA would suffer a loss of \$11,871.00 if it were not allowed to collect the surcharge in May 2006.

In Decision No. 68667, the Commission concluded that the McLain Water Companies are facing an emergency and that the emergency rate increase is just and reasonable on an interim basis and that it should be granted. The Commission further found that the inability of the McLain Water Companies to pay debts as they come due, the bankruptcy and the need to make immediate system repairs justified the finding of an emergency. The Commission cited numerous outages and numerous system deficiencies with all of the McLain Systems. Finally, the Commission also noted that several vendors would no longer offer materials or services to ASUA because there had not been sufficient cash flow to pay them for past services. All of the evidence heard at the evidentiary hearing justified the need to implement the SIS as soon as possible.

THE COMMISSION

May 18, 2006

Page 2

Based on the evidence on the record in this case, the findings made in Decision No. 68667 and the language in that order, Staff believes ASUA properly implemented the SIS and properly assessed customers starting May 1, 2006, and that the intent of Decision No. 68667 was for the SIS to be assessed starting May 1, 2006.

Therefore, Staff recommends that the fourth ordering paragraph in Decision No. 68667 be amended to read as follows:

IT IS FURTHER ORDERED that the above rates and charges shall be assessed on all bills rendered on or after May 1, 2006.

Staff further recommends that all other ordering paragraphs in Decision No. 68667 should remain in effect and not be altered or set aside in any way by this clarifying order.



Ernest G. Johnson
Director
Utilities Division

EGJ:SMO:CEW:lhmvJG

ORIGINATOR: Steven M. Olea

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BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE APPLICATION)
FOR EMERGENCY INTERIM RATE)
RELIEF FOR MIRACLE VALLEY WATER)
COMPANY, INC., COCHISE WATER)
COMPANY, HORSESHOE RANCH)
WATER COMPANY, CRYSTAL WATER)
COMPANY, MUSTANG WATER)
COMPANY, SIERRA SUNSET WATER)
COMPANY AND CORONADO ESTATES)
WATER COMPANY, OWNED BY JOHNNY)
A. MCLAIN)

DOCKET NOS. W-01646A-06-0010
W-01868A-06-0010
W-02235A-06-0010
W-02316A-06-0010
W-02230A-06-0010
W-01629A-06-0010
W-02240A-06-0010

DECISION NO. _____

ORDER

Open Meeting
May 25, 2006
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. In Decision No. 68667 (April 20, 2006), the Arizona Corporation Commission (“Commission”) approved emergency rate relief to the Miracle Valley Water Company, Inc., Cochise Water Company, Horseshoe Ranch Water Company, Crystal Water Company, Mustang Water Company, Sierra Sunset Water Company and Coronado Estates Water Company, owned by Johnny A. McLain (collectively, the “McLain Systems”). This relief was a System Improvement Surcharge (“SIS”) of \$9.00 per meter or connection per month.

2. The fourth ordering paragraph in that decision states “IT IS FURTHER ORDERED that the above rates and charges shall be effective for all service provided on and after May 1, 2006.”

1 3. On May 15, 2006, Arizona Small Utilities Association ("ASUA"), the interim
2 manager for the McLain Systems, docketed a letter requesting clarification of the implementation
3 date of the SIS in Decision No. 68667.

4 4. In that letter, ASUA explains that several customers have complained about ASUA
5 prematurely charging customers the SIS.

6 5. ASUA indicates in that letter that it believes it has correctly interpreted the
7 implementation date for the SIS. ASUA believes that it is authorized to begin assessing the SIS to
8 customers starting May 1, 2006. ASUA further indicates that any delay to allowing it to assess the
9 SIS would impede its objectives of paying down debts incurred to date, as well as beginning
10 scheduled infrastructure improvements to the systems. Finally, ASUA indicates that, based on
11 1,319 connections, ASUA would suffer a loss of \$11,871.00 if it were not allowed to collect the
12 surcharge for May 2006.

13 6. In Decision No. 68667, we concluded that the McLain Water Companies are facing
14 an emergency and that the emergency rate increase is just and reasonable on an interim basis and
15 that it should be granted. We found that the inability of the McLain Water Companies to pay debts
16 as they come due, the bankruptcy and the need to make immediate system repairs justified the
17 finding of an emergency. We cited numerous outages and numerous system deficiencies with all of
18 the McLain Systems. Finally, we also noted that several vendors would no longer offer materials
19 or services to ASUA because there had not been sufficient cash flow to pay them for past services.
20 All of the evidence heard at the evidentiary hearing justified the need to implement the SIS as soon
21 as possible.

22 7. Staff believes, based on the evidence on the record in this case, the findings made in
23 Decision No. 68667 and the language in that order, that ASUA properly implemented the SIS and
24 properly assessed customers starting May 1, 2006.

25 8. Therefore, Staff recommends that the fourth ordering paragraph in Decision No.
26 68667 be amended to read as follows:

27 IT IS FURTHER ORDERED that the above rates and charges shall
28 be assessed on all bills rendered on or after May 1, 2006.

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9. Staff further recommends that all other ordering paragraphs in Decision No. 68667 should remain in effect and not be altered or set aside in any way by this clarifying order.

CONCLUSIONS OF LAW

1. The McLain Systems are public service corporations pursuant to Article XV of the Arizona Constitution, and A.R.S. §§ 40-250 and 40-251.

2. The Commission has jurisdiction over the McLain systems and the subject matter herein.

3. Finding of Fact No. 8 clarifies our intent regarding implementation of the SIS in the fourth ordering paragraph of Decision No. 68667, is reasonable, in the public interest and should be adopted.

4. All other ordering paragraphs in Decision No. 68667 shall remain in effect and not be altered or set aside in any way by this clarifying order.

ORDER

IT IS THEREFORE ORDERED that the fourth ordering paragraph in Decision No. 68667 shall be amended as discussed in Finding of Fact No. 8.

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IT IS FURTHER ORDERED that all other ordering paragraphs in Decision No. 68667 remain in effect and are not altered or set aside in any way by this clarifying order.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN	COMMISSIONER	
COMMISSIONER	COMMISSIONER	COMMISSIONER

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 this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2006.

BRIAN C. McNEIL
Executive Director

DISSENT: _____

DISSENT: _____

EGJ:SMO:CEW:lhmvJG

1 DOCKET NOS. W-01646A-06-0010, et al.

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11 7110 East Jaxel Road
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13 Mr. Johnny and Linda McLain
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16 Arizona Small Utilities Association
17 210 North Central Avenue, Suite 6B
18 Avondale, Arizona 85323
19 Interim Manager for the McLain Systems

20 Mr. Ernest G. Johnson
21 Director, Utilities Division
22 Arizona Corporation Commission
23 1200 West Washington
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25 Mr. Christopher C. Kempley
26 Chief Counsel
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