

OPEN MEETING ITEM



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



ARIZONA CORPORATION COMMISSION

DATE: June 2, 2006

DOCKET NO.: W-04199A-05-0905 and W-20435A-05-0905

TO ALL PARTIES:

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

E.H. LEWIS dba SONOITA VALLEY WATER COMPANY

(CC&N TRANSFER)

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:

JUNE 12, 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:

JUNE 27 AND 28, 2006

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

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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

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 E.H. LEWIS dba SONOITA VALLEY WATER
10 COMPANY FOR APPROVAL OF THE
11 TRANSFER OF ASSETS TO SONOITA WATER
12 COMPANY, AN ARIZONA CORPORATION.

DOCKET NO. W-04199A-05-0905
DOCKET NO. W-20435A-05-0905

DECISION NO. _____

13 **OPINION AND ORDER**

14 DATE OF HEARING:

May 10, 2006

15 PLACE OF HEARING:

Tucson, Arizona

16 ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

17 APPEARANCES:

Ms. Bonnie O'Connor, Southwest Utility
Management, on behalf of E.H. Lewis
dba Sonoita Valley Water Company and
Sonoita Valley Water Company; and

Ms. Linda Fisher, Staff Attorney, Legal
Division, on behalf of the Utilities
Division of the Arizona Corporation
Commission.

18 **BY THE COMMISSION:**

19 * * * * *

20 Having considered the entire record herein and being fully advised in the premises, the
21 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

22 **FINDINGS OF FACT**

23 1. On December 16, 2005, E.H. Lewis dba Sonoita Valley Water Company ("SVWC-
24 Lewis" or "Company" or "Transferor") filed with the Commission an Application to Transfer its
25 Assets and Certificate of Convenience and Necessity ("CCN" or "Certificate") to Sonoita Valley
26 Water Company, an Arizona Corporation ("SVWC-Corporation" or "Transferee").

27 2. On January 13, 2006, the Commission's Utilities Division Staff ("Staff") filed an
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1 Insufficiency Letter, indicating that the Company's application did not meet the sufficiency
2 requirements of Arizona Administrative Code R14-2-402(C).

3 3. On January 26, 2006, and January 30, 2006, the Company provided additional
4 documentation to support its application.

5 4. On February 24, 2006, Staff filed a Sufficiency Letter indicating that the application
6 had met the sufficiency requirements of the Arizona Administrative Code.

7 5. By Procedural Order dated March 13, 2006, the matter was set for hearing in Tucson,
8 Arizona, and procedural guidelines and deadlines were established.

9 6. On April 17, 2006, the Company filed an affidavit that the notice was mailed to all
10 customers on March 31, 2006, pursuant to the requirements of the March 13, 2006 Procedural Order.

11 7. On April 21, 2006, Staff filed its Staff Report that recommends approval of the
12 application.

13 8. SVWC-Lewis is a sole proprietorship that provides water utility service to
14 approximately 40 customers in Papago Springs, a 55 lot subdivision near Sonoita, in Santa Cruz
15 County, Arizona.

16 9. Sonoita Valley Water Co. had been a sole proprietorship of Mr. Michael Ronstadt,
17 and had been the subject of a Complaint and Order to Show Cause brought by Staff for failing to
18 address inadequate water quantity and pressure. In Decision No. 65858 (April 25, 2003) the
19 Commission authorized Staff to appoint an interim manager for the system. On May 12, 2003, Staff
20 entered into an Interim Management Agreement with Southwestern Utility Management, Inc.
21 ("SUM"). SUM was owned and operated by Mr. Lewis.

22 10. On August 5, 2003, Mr. Ronstadt filed an application to approve the sale of its assets
23 and transfer it CC&N to Mr. Lewis. On January 20, 2004, the Commission issued Decision No.
24 66731 that approved the sale of assets and transfer of CC&N to Mr. Lewis.

25 11. Staff reports that since SUM began managing the system, customer complaints have
26 declined dramatically. SUM will continue to manage and operate the Company after the proposed
27 transfer. Certified operator personnel will not change as a result of the proposed transfer.

28 12. Pursuant to the application, all customer security deposits will be transferred to the

1 Transferee; all refunds due on meter and line installations will be assumed by the Transferee; and
2 there are no refunds due on any main extension agreements.

3 13. The Arizona Department of Environmental Quality ("ADEQ") has determined that the
4 system is currently delivering water that meets water quality standards required by Arizona
5 Administrative Code, Title 18, Chapter 4. The level of arsenic complies with the new arsenic
6 standard of 10 micrograms per liter.

7 14. The Company is not located in an Active Management Area ("AMA") and
8 subsequently is not subject to Arizona Department of Water Resources ("ADWR") reporting and
9 conservation rules.

10 15. A Curtailment Plan Tariff is an effective tool to allow a water company to manage its
11 resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable
12 events. The Company has an approved Curtailment Plan Tariff.

13 16. At the time of the Staff Report, the Company had not filed its 2003 Annual Report
14 with the Commission.

15 17. By the time of the hearing, the Company had filed the 2003 Annual Report.

16 18. The Company is current with its property taxes and filed its 2004 and 2005 Annual
17 Reports in a timely fashion.

18 19. The Company's franchise with Santa Cruz County has expired. The Company is
19 aware of the process for obtaining a new franchise.

20 20. Staff further recommends:

21 (a) That SVWC-Corporation charge SVWC-Lewis' authorized rates and charges in
22 the transfer area;

23 (b) That SVWC-Corporation file with Docket Control, as a compliance item in this
24 docket, a copy of the Santa Cruz County franchise agreement within 365 days of the Decision in this
25 matter; and

26 (c) That the Decision granting the transfer of assets and CC&N to SVWC-Corporation
27 be considered null and void after due process, should SVWC-Corporation fail to meet file the County
28 franchise within the time specified.

CONCLUSIONS OF LAW

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1. SVWC-Lewis and SVWC-Corporation are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over SVWC-Lewis, SVWC-Corporation and the subject matter of the application.

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

4. There is a public need and necessity for water service in SVWC-Lewis' service area.

5. SVWC-Corporation is a fit and proper entity to receive a CC&N to provide water service in the proposed extension area.

6. Staff's recommendations contained in Findings of Fact No. 20 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of E. H. Lewis dba Sonoita Valley Water Company to transfer its assets and Certificate of Convenience and Necessity to Sonoita Valley Water Company, an Arizona corporation is approved.

IT IS FURTHER ORDERED that Sonoita Valley Water Company, an Arizona corporation shall charge the existing rates and charges of E. H. Lewis dba Sonoita Valley Water Company.

IT IS FURTHER ORDERED that Sonoita Valley Water Company, an Arizona corporation shall file with Docket Control as a compliance item in this docket, a copy the franchise agreement from Santa Cruz County within 365 days of the effective date of this Order.

IT IS FURTHER ORDERED that this Decision granting the requested transfer be considered null and void, after due process, should Sonoita Valley Water Company, an Arizona corporation fail to file the franchise within the time specified.

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IT IS FURTHER ORDERED that Sonoita Valley Water Company, an Arizona corporation shall annually file as part of its annual report, an affidavit with the Utilities Division attesting that the Company is current in paying its property taxes in Arizona.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.
BY 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 the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2006.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

JR:mj

1 SERVICE LIST FOR:

SONOITA VALLEY WATER COMPANY

2 DOCKET NO.:

W-04199A-05-0905 & W-20435A-05-0905

3 E.H. Lewis dba
4 Sonoita Valley Water Co.
5 2644 Leisure World
6 Mesa, AZ 85206

7 Bonnie O'Connor
8 Sonoita Valley Water Company, Inc.
9 P.O. Box 85160
10 Tucson, Arizona 85754

11 Mr. Christopher Kempley, Chief Counsel
12 Legal Division
13 ARIZONA CORPORATION COMMISSION
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16 Mr. Ernest Johnson, Director
17 Utilities Division
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19 1200 West Washington Street
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