



BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

JUN 05 2006

DOCKETED BY RB

IN THE MATTER OF THE APPLICATION OF
SOUTHLAND SANITATION CO. FOR
DELETION OF A PORTION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WASTEWATER
SERVICE IN COCHISE COUNTY.

DOCKET NO. SW-02390A-05-0796

DECISION NO. 68746

OPINION AND ORDER

DATE OF HEARING: March 9, 2006
PLACE OF HEARING: Tucson, Arizona
ADMINISTRATIVE LAW JUDGE: Jane L. Rodda
APPEARANCES: Sidney Mendelsohn, Jr., Mendelsohn & Oseran PLC, on behalf of Southland Sanitation Co.; and Linda Fisher, Commission Legal Division for the Utilities Division.

BY THE COMMISSION:

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

FINDINGS OF FACT

- 1. On October 21, 2005, Southland Sanitation Company, ("Southland" or "Company") filed an application with the Commission requesting to delete a portion of its Certificate of Convenience and Necessity ("CC&N") to provide sewer service in Cochise County.
2. Southland is an Arizona C corporation authorized by Decision No. 52546 (October 22, 1981) to provide wastewater service in a portion of Cochise County in and adjacent to the City of Sierra Vista (the "City" or "Sierra Vista").
3. Southland currently provides wastewater service to approximately 300 customers.

1 4. In its Application, Southland requested authorization to delete approximately four
2 square miles of its CC&N, and transfer it to the City. The area to be deleted included all of
3 Southland's existing wastewater customers. Southland planned to retain a portion of the certificated
4 area, consisting of approximately 100 acres. The area to be retained is currently undeveloped. The
5 topography of this 100 acres is hilly and requires a lift station and boosters to transport wastewater to
6 the treatment plant, and Sierra Vista did not want to operate such facilities. Southland planned to
7 retain this area and construct distribution lines and a lift station to transport the wastewater for
8 treatment by the City.

9 5. On December 9, 2005, the Commission's Utility Division Staff ("Staff") notified the
10 Company that its Application was sufficient under the Arizona Administrative Code.

11 6. By Procedural Orders dated December 16, 2005 and January 6, 2006, the matter was
12 set for hearing on April 3, 2006, at the Commission's Tucson office.

13 7. On February 16, 2006, the Company filed notice that it had mailed to its customers
14 and published in the *Bisbee Observer*, notice of the hearing as required by the January 6, 2006
15 Procedural Order.

16 8. The Commission has not received any comments on the application nor requests for
17 intervention.

18 9. On March 17, 2006, Staff filed its Staff Report, recommending approval of the
19 deletion.

20 10. At the hearing, the Company announced that it had reached an agreement with Sierra
21 Vista for the City to acquire Southland's entire CC&N service area, and that it wished to modify its
22 application accordingly. Staff did not object.

23 11. Southland offered the following witnesses in support of its application: Andrew
24 Romo, president, director and shareholder of Southland; Ed Geiser, a professional engineer with
25 Engineering Environmental Consultants ("EEC"); and Mary Jacobs, the Assistant City Manager for
26 the City.

27 12. Ms. Linda Jaress testified on behalf of Staff. Staff also called Mike Hemesath, the
28 Director of Public Works for the City.

1 13. On April 10, 2006, Southland filed as late-filed exhibits, the Board of Directors
2 Resolution that authorizes the deletion of the entire wastewater CC&N and an updated legal
3 description of the area sought to be deleted. The revised legal description is attached hereto as
4 Exhibit A.

5 14. Tucson Sierra Properties PLC ("Tucson Sierra"), is the sole property owner of the 100
6 acres that the Company had originally planned to retain, but which is now being proposed to be
7 transferred to the City. Mr. Romo is a limited partner, and one of the partners on the management
8 committee, of Tucson Sierra. Tucson Sierra supports the transfer.

9 15. In order for the City to serve the Southland service territory, Tucson Sierra, will
10 construct the additional lines needed to interconnect with the City's treatment facilities. Tucson
11 Sierra will also construct the pump station necessary to transport wastewater from the currently
12 undeveloped portion of the service territory to the City for treatment. Then Tucson Sierra, or a third
13 as yet to be determined entity, will operate the pump facilities.

14 16. The City operates a gravity-fed system and intends to remain that way. (TR at 20).
15 The City does not want the expense of operating a lift station, and does not believe it fair to pass
16 along the costs of operating the station to all of its customers when it benefits only the customers
17 located in the 100 acre parcel. (TR at 25). The City supports the revised application and has the
18 capacity to treat the entire Southland service area. (TR at 22).

19 17. According to the City resolution approving the sale of facilities, the Southland
20 customers would be required to repay the City's purchase price over a period of approximately eight
21 years. (Ex A-2). Although the City's monthly rates are less than Southland's current monthly rates,
22 the City will continue to bill Southland customers at their current rates until the purchase price of the
23 system (\$198,000) is paid off. (Id.) By this means, the City states it does not pass the cost of the
24 system on to its current customers, and the Southland customers pay their share of hooking into the
25 City's system. When the costs of acquiring the facilities are recovered, existing Southland customers
26 will be charged the City's regular monthly rates, which are currently lower than Southland's rates.
27 Newly constructed homes would be required to pay the same hook-up charges as all other City
28 customers. (TR at 29-31 and 33).

1 18. Southland's current rates are \$17.78 per month for sewer service for all customers.
2 Sierra Vista currently charges \$26.62 bi-monthly (\$13.31 per month) for sewer service. The City
3 allows customers to prepay their bill for an entire year and gives them a 10 percent discount.

4 19. The City has annexed the 100 acre parcel within the city limits, and will be able to
5 exercise control over the master-planning of the development.

6 20. The City expects to get an additional 60 to 70 acre feet of effluent for recharge from
7 treating the wastewater of Southland's current customers. (TR at 26).

8 21. After an inspection in November 2005, the Arizona Department of Environmental
9 Quality ("ADEQ") found that the City was deficient in reporting its hexachloride benzene lab test
10 results. Consequently, ADEQ found the City's system to only be in substantial compliance with
11 ADEQ's regulations. The City explains that the company that had tested for hexachloride benzene
12 misreported the concentration of that substance at .005 mg/l, the lowest its meter could record. In
13 actuality, the true concentration was lower than .005 mg/l, and should have been reported as "non-
14 detectable." The City explained the problem to ADEQ in December 2005, and Mr. Hemesath,
15 testified the City is now in total compliance. (TR at 38).

16 22. The City has current capacity to serve the current and anticipated customers in the
17 Southland service area.

18 23. Southland owns and operates a lagoon system consisting of two aerated ponds.
19 Southland is in compliance with ADEQ. The Company does not currently recharge effluent.

20 24. After interconnection is complete, Southland will decommission the oxidation ponds.
21 The Company expects the entire process, which includes having a plan approved by ADEQ,
22 physically drying the ponds, and disposing of the sludge, to take about a year.

23 25. Southland is current on its property taxes, and is in compliance with the Corporations
24 Division. Staff reports there have been no complaints filed against Southland from 2002 until the
25 present, and there are no outstanding compliance issues.

26 26. Southland currently holds 20 security deposits, which total approximately \$750,
27 including interest. The security deposits will be transferred to the City which will refund them. (TR
28 at 15 and 23).

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27. Staff recommends:

- a. Approval of the application as modified at the hearing;
- b. That the Company file the sales agreement with Sierra Vista in Docket Control as a compliance item in this matter no later than January 31, 2007; and
- c. That Southland's CC&N not be deleted until the final sales agreement is filed.

28. Southland Utilities Company, Inc., which has the same directors as Southland, is certificated to provide water service in the same CC&N area and will retain its CC&N to provide water service in the affected area.

29. There continues to be a need for wastewater treatment in the Southland service area. The City of Sierra Vista will be able to provide that service economically and efficiently and utilize the effluent to the benefit of the region. Current customers will not experience a rate increase as a result of the transfer and may experience a rate decrease in the future depending on the City's rates at the time the purchase price is recovered by the City.

CONCLUSIONS OF LAW

1. Southland is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

2. The Commission has jurisdiction over Southland and the subject matter of its Application.

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

4. There is a need for wastewater service in the proposed deletion area.

5. The City of Sierra Vista is a fit and proper entity to operate a wastewater system within the proposed deletion area.

6. The recommendations set forth in Findings of Fact No. 27 are reasonable and should be adopted.

7. It is in the public interest for the proposed deletion and for the City of Sierra Vista to provide wastewater service within the area.

ORDER

IT IS THEREFORE ORDERED that the application of Southland Sanitation Company to delete the area described in Exhibit A is approved subject to the conditions herein.

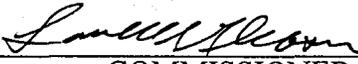
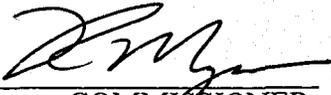
IT IS FURTHER ORDERED that Southland Sanitation Company shall file in Docket Control as a compliance item, a copy of the executed final sales agreement with the City of Sierra Vista.

IT IS FURTHER ORDERED that Southland Sanitation Company's Certificate of Convenience and Necessity shall be canceled without further Order of the Commission after the Company files the final sales agreement with the City of Sierra Vista.

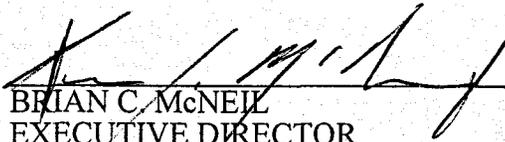
IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN	 COMMISSIONER
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 COMMISSIONER	 COMMISSIONER	 COMMISSIONER
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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 5th day of June, 2006.


BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

JR:mj

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SERVICE LIST FOR: SOUTHLAND SANITATION COMPANY

DOCKET NO.: SW-02390A-05-0796

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SOUTHLAND SANITATION COMPANY
DOCKET NO. SW-02390A-05-0796
LEGAL DESCRIPTION OF CC&N DELETION

Those portions of Sections 19, 20, 29 and 30, Township 22 South, Range 21 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona, described as follows:

The East Half (E ½) and the North Half (N ½) of the Southwest Quarter (SW ¼) of Section 19;

The Southwest Quarter (SW ¼) of Section 20;

The Northwest Quarter (NW ¼) of Section 29; and

The Northeast Quarter (NE ¼) of Section 30

EXCEPT for that portion of the East Half (E ½) of Section 19 previously deleted by the Arizona Corporation Commission Docket No. SW-02390A-05-0097.