

ORIGINAL



0000054206

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

18

COMMISSIONERS

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

2006 JUN -5 P 4: 50
 AZ CORP COMMISSION
 DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
 ARIZONA WATER COMPANY, AN ARIZONA
 CORPORATION, TO EXTEND ITS EXISTING
 CERTIFICATE OF CONVENIENCE AND
 NECESSITY IN THE CITY OF CASA GRANDE
 AND IN PINAL COUNTY, ARIZONA

DOCKET NO. W-01445A-06-0059

REPLY IN SUPPORT OF
 MOTION TO INTERVENE OF
 RIDGEVIEW UTILITY COMPANY,
 PICACHO WATER COMPANY,
 LAGO DEL ORO WATER
 COMPANY, AND SANTA ROSA
 WATER COMPANY

Petitioners Ridgeview Utility Company, Picacho Water Company, Lago Del Oro Water Company and Santa Rosa Water Company (collectively, the "Robson Utilities") submit this reply in support of their Motion to Intervene (the "Motion") and to rebut the mischaracterizations of Arizona Water Company ("AWC") in its Opposition to Motion to Intervene (the "Response").

I. Robson Utilities' Motion Is Consistent with the May 11, 2006, Procedural Order.

In her Procedural Order dated May 11, 2006, Judge Kinsey permitted motions to intervene regarding "the issues outlined in the public comment that was docketed prior to the hearing on May 8, 2006." Prior to the May 8 hearing, written public comment was docketed by Patricia Jo Robertson ("Ms. Robertson"), Global Water Resources LLC ("Global Water"), and Robson Utilities. AWC contends that Robson Utilities' Motion violates Judge Kinsey's limitation on the scope of intervention by addressing the "water/wastewater/integrated utilities issue" which was not referenced in the Motion "except for a passing reference to Ms. Robertson's letter." Response at pp. 1-2, and fn 1. However, AWC's argument is contrary to the plain language of the public comment that was docketed. First, the Robson Utilities may raise any issue raised in the docketed public comment, and Ms. Robertson's May 4, 2006, letter clearly raised the water-wastewater integration issue, as follows:

Snell & Wilmer

LLP
 LAW OFFICES
 One Arizona Center, 400 E. Van Buren
 Phoenix, Arizona 85004-2202
 (602) 382-6000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 In addition, I am concerned that Arizona Water Company does not provide sewer
2 service, and that it will be difficult to find a sewer provider who is willing to provide
3 sewer service without being able to also provide water service. *Robertson Letter*
dated May 4, 2006.

4 *Robertson Letter* dated May 4, 2006. Second, Robson Utilities also raised the water-wastewater
5 integration issue in its docketed comments, stating—in unambiguous language—as follows:

6 Ms. Patricia Jo Robertson filed a letter with the Commission dated May 4, 2006,
7 stating that she did not request water service from AWC, and that she is concerned
8 about her ability to find a stand-alone wastewater provider if AWC is granted the
requested extension. [FN 2]

9 [FN 2] There are several other providers of water service in Pinal County that
10 also have companion sewer providers. In Decision 68453 (February 2, 2006),
11 the Commission recently ruled in favor of the issuance of a CC&N to a new
12 water company with an affiliated wastewater provider instead of AWC on the
13 grounds that (i) the landowner had not requested water service from AWC;
and (ii) "[t]he benefits of developing and operating integrated water and
wastewater utilities in this instance outweigh the economies imputed to
AWC's larger scale." *Decision 68453, FOF ¶ 129.*

14 AWC's assertion that the water-wastewater integration issue was not clearly raised in
15 the docketed public comment is absurd. Robson Utilities' Motion is proper in scope and
16 does not violate the May 11 Procedural Order.

17 **II. Granting Robson Utilities' Motion Is Proper and Will Not Unduly Broaden the**
18 **Issues in this Proceeding.**

19 In its Motion, Robson Utilities identifies several concerns with AWC's application in
20 this docket, including AWC's failure to obtain requests for service for approximately one-
21 half of the requested extension area and AWC's failure to explain how wastewater service
22 will be provided in the requested extension area (in the face of Ms. Robertson's stated
23 concern about her ability to find a stand-alone sewer provider if AWC is certificated for
24 water service). AWC's assertion that consideration of these important issues will unduly
25 broaden this proceeding is ironic for at least two reasons. First, AWC created these issues by
26 filing for areas where there are no requests for service from the property owners (a common
27 theme in multiple recent filings by AWC). Second, the concerns raised by the Robson
28 Utilities (as well as those raised by Ms. Robertson and Global Water) go to the very heart of

1 a proper evaluation of the public interest associated with granting AWC's requested
2 extension. In fact, it is difficult to see how the Commission can properly rule on AWC's
3 requested extension without resolving these issues. The Robson Utilities' participation in this
4 docket as limited by Judge Kinsey's May 11 Procedural Order will not unduly broaden the
5 issues in this case.

6 AWC suggests several times that the Commission should set up a generic docket to
7 address the issues raised by the Robson Utilities. In light of the fact that AWC has filed
8 applications in multiple dockets for extensions of its CC&N to include property where there
9 is no request for service, a generic docket might be a good idea provided that AWC's existing
10 extension dockets are stayed pending the results of the generic docket. However, absent the
11 creation of such a generic docket and the staying of AWC's pending extension dockets, the
12 issues raised by the Robson Utilities (as well as Ms. Robertson and Global Utilities) need to
13 be addressed in this case.

14 AWC's attempted land grab in this docket (and others) prejudices the Robson
15 Utilities in that they are forever precluded from serving areas which are subsequently
16 included in AWC's CC&N. This is not an "industry-wide" issue as it is characterized by
17 AWC; rather, it directly impacts the Robson Utilities which are water and wastewater
18 providers in Pinal County. The fact that the Robson Utilities have not applied for extensions
19 at this time is irrelevant. The Robson Utilities would like the opportunity to extend their
20 respective CC&Ns, as appropriate, at the time a request for service is made. If AWC is
21 allowed to lock up large areas of land ahead of any request for service, then the Robson
22 Utilities have no opportunity to compete to serve new areas. The Robson Utilities should not
23 be required to engage in the same type of improper conduct as AWC in order to preserve
24 their opportunity to serve new areas.

25 AWC also contends that it is improper for the Commission to establish policy in non-
26 generic cases. However, the Commission regularly establishes policy in individual cases.
27 For example, the Commission recently ruled that an integrated water and wastewater
28

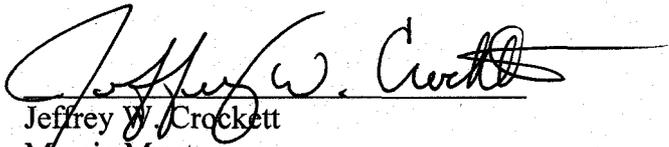
1 provider is preferable to separate companies providing water and wastewater services on a
2 stand-alone basis. *See Decision 68453 at FOF ¶ 129 (Feb. 2, 2006).*

3 Finally, AWC asserts that the Robson Utilities will not be prejudiced if denied
4 intervention, because the Robson Utilities are “already seeking to raise such issues in other
5 proceedings before the Commission.” *AWC’s Response at 4.* AWC implicitly refers to the
6 Robson Utilities’ motion to intervene in another AWC CC&N extension application (Docket
7 No. W-01445A-06-0199). By making this statement, the Robson Utilities assume that AWC
8 is stating implicitly that it does not oppose the Robson Utilities’ intervention in that docket.
9 Yet, how can the Robson Utilities’ intervention on the same issues in that docket be
10 differentiated from the intervention in this docket. The Robson Utilities must be granted
11 intervention in both dockets because two separate and distinct extension areas are being
12 considered that are both located in Pinal County. By denying this intervention, the Robson
13 Utilities run the risk that AWC will eventually oppose the Robson Utilities’ intervention on
14 the same issues in other docket, leaving no forum for the Robson Utilities to protect its
15 interests and be heard on these issues.

16 The Robson Utilities should be granted intervention in this docket because the
17 companies will be forever precluded from serving within the extension area, if granted to
18 AWC.

19 DATED this 5th day of June, 2006.

20 SNELL & WILMER

21
22
23 
24 Jeffrey W. Crockett
25 Marcie Montgomery
26 One Arizona Center
27 400 East Van Buren
28 Phoenix, Arizona 85004-2202
Attorneys for Ridgeview Utility Company,
Picacho Water Company,
Lago Del Oro Water Company, and
Santa Rosa Water Company

1 ORIGINAL and thirteen (13) copies
2 filed with Docket Control this 5th
3 day of June, 2006.

4 COPY of the foregoing hand-delivered
5 this 5th day of June, 2006, to:

6 Yvette B. Kinsey, Administrative Law Judge
7 Hearing Division
8 ARIZONA CORPORATION COMMISSION
9 1200 West Washington Street
10 Phoenix, Arizona 85007

11 Linda Jaress, Executive Consultant III
12 Utilities Division
13 ARIZONA CORPORATION COMMISSION
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16 David Ronald, Staff Attorney
17 Legal Division
18 ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21 COPY of the foregoing mailed this
22 5th day of June, 2006, to:

23 Robert W. Geake
24 Vice President and General Counsel
25 ARIZONA WATER COMPANY
26 P.O. Box 29006
27 Phoenix, Arizona 85038

28 Steven A. Hirsch, Esq.
Rodney W. Ott, Esq.
BRYAN CAVE LLP
Two North Central Ave., Suite 2200
Phoenix, Arizona 85004-4406

Michael W. Patten
ROSHKA DEWULF & PATTEN
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Sheryl A. Sweeney
RYLEY CARLOCK & APPLEWHITE
One North Central, Suite 1200
Phoenix, Arizona 85004


MONTGOMERY HWY 1842969.2

Snell & Wilmer
LLP
LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000