

OPEN MEETING ITEM

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



ARIZONA CORPORATION COMMISSION



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AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: July 6, 2006

ORIGINAL

DOCKET NO.: WS-01303A-06-0036

TO ALL PARTIES:

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

ARIZONA-AMERICAN WATER COMPANY
(CC&N EXTENSION)

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:

JULY 17, 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 Open Meeting to be held on:

JULY 25 AND 26, 2006

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


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 ARIZONA-AMERICAN WATER COMPANY, AN
10 ARIZONA CORPORATION, FOR AN
11 EXTENSION OF THE SERVICE AREA UNDER
12 ITS EXISTING CERTIFICATE OF
13 CONVENIENCE AND NECESSITY TO PROVIDE
14 WATER AND SEWER UTILITY SERVICES IN
15 ITS ANTHEM WATER AND ANTHEM
16 WASTEWATER DISTRICTS.

DOCKET NO. WS-01303A-06-0036

DECISION NO. _____

OPINION AND ORDER

11 DATE OF HEARING: June 22, 2006
12 PLACE OF HEARING: Phoenix, Arizona
13 ADMINISTRATIVE LAW JUDGE: Marc E. Stern
14 APPEARANCES: Craig Marks, Attorney for Arizona-American Water
15 Company; and
16 David Ronald, Staff Attorney, Legal Division, on behalf
17 of the Utilities Division of the Arizona Corporation
18 Commission.

18 **BY THE COMMISSION:**

19 On January 20, 2006, Arizona-American Water Company ("Applicant" or "Company") on
20 behalf of its Anthem Water and Wastewater Districts ("Anthem Districts") filed an application for an
21 extension of its existing Certificate of Convenience and Necessity ("Certificate") with the Arizona
22 Corporation Commission ("Commission") to provide public water and public wastewater utility
23 service in various parts of Maricopa County, Arizona.

24 On February 16, 2006, the Commission's Utilities Division ("Staff") issued a notice of
25 insufficiency which indicated that the Company's application had not met the sufficiency
26 requirements of A.A.C. R14-2-411(C), and A.A.C. R14-2-610(C).

27 On April 6, 2006, Staff issued a notice of administrative sufficiency to the Company.

28 On April 14, 2006, by Procedural Order, the above-captioned matter was scheduled for a

1 hearing on June 26, 2006, and Applicant was ordered to publish notice of the application and hearing
2 thereon.

3 On May 9, 2006, the Company filed notice that it had provided public notice pursuant to the
4 terms of the Commission's Procedural Order.

5 On May 18, 2006, the Commission's Utilities Division filed its Staff Report in this matter.

6 On June 22, 2006, a full public hearing was convened before a duly authorized Administrative
7 Law Judge of the Commission at its offices in Phoenix, Arizona. The Company and Staff appeared
8 with counsel. At the conclusion of the hearing, the matter was taken under advisement pending
9 submission of a Recommended Opinion and Order to the Commission.

10 * * * * *

11 Having considered the entire record herein and being fully advised in the premises, the
12 Commission finds, concludes, and orders that:

13 **FINDINGS OF FACT**

14 1. Pursuant to authority granted by the Commission, the Company is an Arizona
15 corporation which is engaged in the business of providing water and wastewater service in various
16 parts of Maricopa, Mohave and Santa Cruz Counties, Arizona.¹

17 2. On January 20, 2006, the Company, on behalf of its Anthem Districts², filed an
18 application for an extension of its Certificate in Maricopa County to provide water and wastewater
19 service to an area which is marked Exhibit A attached hereto and incorporated herein by reference.

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

21 4. On May 18, 2006, Staff filed its Staff Report recommending conditional approval of
22 the application following a hearing.

23 5. Pulte owns approximately 203 acres which are described in Exhibit A and has
24 requested that the Company provide water and wastewater service to Arroyo Vista, a new residential
25 subdivision, which will contain 293 residential units. The extension area is east of Interstate 17, and

26 ¹ The Company is a wholly owned subsidiary of American Water Works, Inc. and provides waster and wastewater
27 utility service to approximately 94,000 water and 47,000 wastewater customers in Arizona.

28 ² The Anthem Districts provide water and wastewater service to approximately 8,000 customers in the Anthem
community which was developed by the Del Webb Corporation ("Del Webb") which is now owned by Pulte Home
Corporation ("Pulte").

1 is immediately adjacent to the Anthem community served by the Anthem Districts.

2 6. To finance the new water distribution and wastewater collection facilities, a
3 combination of advances in aid of construction will be used. To deal with water facility advances,
4 the Company has entered into a main extension agreement with Pulte for the proposed extension area.
5 An executed extension agreement for water service between Pulte and the Company was filed with
6 the application as an exhibit for Commission approval. The Company has also entered into a
7 wastewater extension agreement with Pulte, but wastewater extension agreements do not require
8 Commission approval.

9 7. No other municipal or public service corporations provide waster or wastewater
10 service in the proposed service area described in Exhibit A.

11 8. The proposed extension area lies entirely within an unincorporated portion of
12 Maricopa County, and is contiguous to the Anthem community on its northern border.

13 9. During the hearing, Applicant indicated that it has filed an application for a Maricopa
14 County franchise for the area sought to be certificated herein.

15 10. Based on the record, there is ample evidence that the Company has access to Central
16 Arizona Project ("CAP") water which is the primary source of water for the Anthem community. Del
17 Webb is a party to a 100 year lease with the Ak-Chin Indian Community and has an option to
18 purchase 6,000 to 10,000 acre feet of water per year and has committed 7,900 acre-feet to serve
19 Anthem. It is estimated that Arroyo Vista will require a maximum amount of 238 acre-feet of water
20 per year and Pulte will require Del Webb to assign Applicant the rights to this water to serve the new
21 subdivision. As a back-up source for water, the Company also has several large capacity wells and
22 an inter-connection with the City of Phoenix.

23 11. Staff reviewed the water and wastewater facilities of the Company and believes that
24 Applicant has adequate facilities and capacity to provide service to its existing service area and in the
25 requested extension area. Estimated water line extension costs are projected to be \$2,380,672 and
26 estimated wastewater facilities are projected to cost \$1,127,980.

27 12. According to the Staff Report, Applicant is in full compliance with the rules of the
28 Maricopa County Environmental Services Department ("MCESD") and is providing water which

1 meets the requirements of the Safe Drinking Water Act. Additionally, the Company's water at
2 Anthem is well below the new maximum allowable level for arsenic of 10 parts per billion ("ppb").

3 13. The Arizona Department of Environmental Quality ("ADEQ") which regulates
4 Applicant's wastewater system at Anthem indicates that it is in compliance with its regulations.

5 14. The Company is current on the payment of its property taxes, and is in compliance
6 with its filing requirements with the Commission.

7 15. Staff believes that there is a public need and necessity for water and wastewater
8 service to the requested area and that the issuance of the Certificate is in the public interest.

9 16. Staff recommends the Commission condition approval of the application as follows:

- 10
- 11 • that the Company charge its Anthem Water and Wastewater Districts' tariffed
12 rates and charges in the extension area;
 - 13 • that the Company file, within 365 days of the effective date of this Decision, with
14 Docket Control, as a compliance item in this docket, a Notice of Filing indicating
15 the Company has submitted for Staff review and approval, a copy of the fully
16 executed main extension agreement for water facilities for the extension area;
 - 17 • that the Company file, within 365 days of the effective date of this Decision, with
18 Docket Control, as a compliance item in this docket, a copy of the developer's
19 Certificate of Assured Water Supply for the requested area, where applicable or
20 when required by statute;
 - 21 • that the Company file, within 365 days of the effective date of this Decision, with
22 Docket Control, as a compliance item in this docket, a copy of the applicable
23 ADEQ or MCESD Certificate of ATC for the water and wastewater facilities
24 needed to serve the requested area; and
 - 25 • that the Company file, within 365 days of the effective date of this Decision, with
26 Docket Control, as a compliance item in this docket, a copy of the Maricopa
27 County franchise agreement for the requested area.

28 17. Staff further recommends that the Commission's Decision granting the requested
Certificate extension to the Company be considered null and void, after due process, should the
Company fail to meet the second, third, fourth and fifth conditions listed above within the time
specified.

18. Because an allowance for the property tax expense of the Company is included in the
Company's rates and will be collected from its customers, the Commission seeks assurances from the
Company that any taxes collected from ratepayers have been remitted to the appropriate taxing

1 authority. It has come to the Commission's attention that a number of utilities have been unwilling or
2 unable to fulfill their obligation to pay the taxes that were collected from ratepayers, some for as
3 many as twenty years. It is reasonable, therefore, that as a preventive measure, the Company should
4 annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the
5 company is current in paying its property taxes in Arizona.

6 19. We find that Staff's recommendations, as set forth in Findings of Fact Nos. 16 and 17
7 are reasonable and should be adopted.

8 CONCLUSIONS OF LAW

9 1. Applicant is a public service corporation within the meaning of Article XV of the
10 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

11 2. The Commission has jurisdiction over the Company and the subject matter of the
12 application.

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

14 4. There is a public need and necessity for water utility service in the proposed service
15 area described in Exhibit A.

16 5. The Company is a fit and proper entity to receive an extension of its Certificate.

17 6. The application by the Company to extend its Certificate for the area described in
18 Exhibit A should be granted as recommended by Staff in Finding of Fact Nos. 16 and 17.

19 ORDER

20 IT IS THEREFORE ORDERED that the application of Arizona-American Water Company
21 on behalf of its Anthem Water and Wastewater Districts for an amendment to its Certificate of
22 Convenience and Necessity for the operation of water and wastewater utilities in the area more fully
23 described in Exhibit A is hereby, approved provided that Arizona-American Water Company
24 complies with the conditions as set forth in Findings of Fact Nos. 16 and 17.

25 IT IS FURTHER ORDERED that in the event that Arizona-American Water Company does
26 not timely comply with Findings of Fact Nos. 16 and 17, then the extension of its Certificate of
27 Convenience and Necessity shall be deemed to be null and void after due process.

28 IT IS FURTHER ORDERED that Arizona-American Water Company shall charge water and

1 wastewater customers in the area more fully described in Exhibit A its tariffed rates and charges
2 authorized previously by the Commission.

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

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
8
9

10 CHAIRMAN _____ COMMISSIONER _____

11
12
13 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

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

20 _____
21 BRIAN C. McNEIL
22 EXECUTIVE DIRECTOR

23 DISSENT _____

24 DISSENT _____

25 MES:mj
26
27
28

1 SERVICE LIST FOR: ARIZONA-AMERICAN WATER COMPANY

2 DOCKET NO.: WS-01303A-06-0036

3 Craig A. Marks
4 19820 N. 7th Street, Ste. 201
5 Phoenix, AZ 85024
6 Attorney for Arizona American Water Company

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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Hoskin-Ryan Consultants, Inc.
creative engineering solutions

November 30, 2005

**LEGAL DESCRIPTION FOR
ARROYO VISTA**

That part of the North half of Section 10, Township 6 North, Range 2 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at the Northeast corner of Section 10, monumented with a G.L.O. brass cap;

Thence South 00 Degrees 00 Minutes 07 Seconds West along the East line of said North half of Section 10, a distance of 2,644.88 feet to the East quarter corner of Section 10, monumented with a G.L.O. brass cap;

Thence South 89 Degrees 59 Minutes 13 Seconds West, along the South line of said North half of Section 10, a distance of 3,556.89 feet to the Easterly Right of Way of Interstate 17, monumented with a ½" rebar with cap LS #12216;

Thence North 05 Degrees 28 Minutes 34 Seconds West, along said Right of Way a distance of 774.64 feet to the beginning of a tangent curve of 22,714.32 foot radius, concave Northeasterly, monumented with an ADOT Right of Way brass cap;

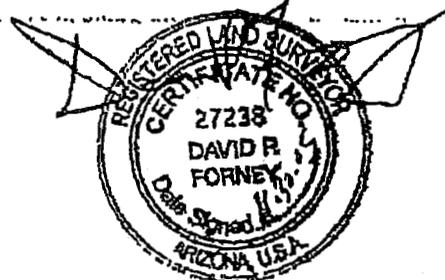
Thence continuing Northwesterly, along said Right of Way and curve, through a central angle of 03 Degrees 02 Minutes 31 Seconds, a distance of 1,206.00 feet to the Southwest corner of Tax A.P.N. 202-22-015A, monumented with a ½" rebar with cap L.S. #12216;

Thence South 90 Degrees 00 Minutes 00 Seconds East, along the South line of Tax A.P.N.'s 202-22-015A, 202-22-015B, 202-22-009U, 202-22-009T, 202-22-009W, AND 202-22-009V, a distance of 1,207.07 feet to the Southeast corner of Tax A.P.N. 202-22-009V, monumented with a ½" rebar with cap L.S. #33315;

Thence North 00 Degrees 00 Minutes 00 Seconds East along the East line of Tax A.P.N.'s 202-22-009v, and 202-22-009X, a distance of 660.34 feet to the North line of said North half of Section 10, monumented with a ½" rebar;

Thence North 89 Degrees 44 Minutes 33 Seconds East along said North line, a distance of 2,507.10 feet to the Point Of Beginning.

Containing 203.48 Acres, more or less



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EXHIBIT A

DECISION NO. _____