

ORIGINAL



MEMORANDUM

305M

TO: Docket Control  
Arizona Corporation Commission

FROM: Ernest G. Johnson  
Director  
Utilities Division

Date: June 30, 2006

RE: SUPPLEMENT TO STAFF REPORT FOR ARIZONA WATER COMPANY TO EXTEND ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY AT CASA GRADE, PINAL COUNTY, ARIZONA. (DOCKET NO. W-01445A-06-0059)

A Procedural Order issued on May 11, 2006 directed Staff to address public comment letters submitted by potential intervenors. The letters concerned the extension of Arizona Water Company's Certificate of Convenience and Necessity ("CC&N") into areas for which Arizona Water Company did not have requests for service. Staff has modified its recommendations made in its Staff Report filed April 3, 2006. Other than the exclusion of Section 35 discussed below, Staff continues to recommend approval of Arizona Water's application with the same conditions included in its Staff Report filed on April 3, 2006.

EGJ:LAJ:mfm

Originator: Linda A. Jaress

Attachment: Original and 13 Copies

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DOCUMENT CONTROL

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Docket No. W-01445A-06-0059

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STAFF REPORT  
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ARIZONA CORPORATION COMMISSION

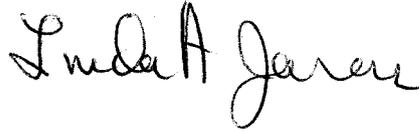
ARIZONA WATER COMPANY  
DOCKET NO. W-01445A-06-0059

APPLICATION FOR EXTENSION  
OF CERTIFICATE OF ITS  
CONVENIENCE AND NECESSITY

June 30, 2006

**STAFF ACKNOWLEDGMENT**

The Supplemental Staff Report for Arizona Water Company (Docket No. W-01445A-06-0059) was prepared by the Staff member listed below.

A handwritten signature in cursive script that reads "Linda A. Jaress". The signature is written in black ink and is centered on the page.

Linda A. Jaress  
Executive Consultant III

## **Procedural Order**

This Supplemental Staff Report is being filed pursuant to a Procedural Order Issued by the Administrative Law Judge on May 11, 2006. The Procedural Order directed Staff to file a Supplemental Staff Report addressing the issues raised in written public comments submitted by Picacho Water Company, Lago Del Oro Water Company, Santa Rosa Water Company and Ridgeview Utility Company (collectively, "Robson"), Global Water Resources, LLC ("Global") and Ms. Patricia J. Robertson and addressing Arizona Water's response to the public comments.

## **The Public Comment Letters**

Robson's Public Comment was filed on May 5, 2006, stating that Robson opposes the initial grant or extension of a Certificate of Convenience and Necessity ("CC&N") to a water provider who does not have a request for service covering the area, or "substantially all" the area requested. The reason given was that such applications "violate the Arizona Corporation Commission's ("ACC") long-followed policy of requiring a request for service before a CC&N is extended" and that "Arizona Water Company's ("AWC") obvious plan to lock-up for itself the balance of the un-certificated territory in Pinal County directly harms the interests of the Robson Utilities and other providers." Robson urges the Administrative Law Judge "to require a request for service for each portion of the requested extension area before recommending the extension of AWC's CC&N to include the area."

On May 8, 2006, Global filed a similar letter in the docket. Global expressed concern that "AWC's practice of requesting areas with no requests for service is directly contrary to ACC practice and precedent." Global was also concerned about the amount of time and effort it takes to discern the "discrepancies" between the requests for service and the extension areas requested. Global also accuses Arizona Water of engaging in a pattern of land grabs. Finally Global requests that the Commission direct Arizona Water, "to stop its practice of filing for extensions without legitimate requests for service from all affected landowners."

## **Letter from Ms. Robertson**

Ms. Patricia J. Robertson's property is located in Section 35, Range 7 East, Township 6 South and is included in Arizona Water's proposed extension area. Section 35 is surrounded on three sides by Arizona Water's current CC&N area. The fourth side of Section 35 borders on the current service territory of Robson's Picacho Sewer and Picacho Water Companies. On May 4, 2006, Ms. Robertson filed a letter in this docket wherein she indicated that it was "inappropriate" to include her property in Arizona Water Company's CC&N extension "at this time." She mentioned that she had not requested water service from Arizona Water and was "concerned that Arizona Water Company does not provide sewer service, and that it will be difficult to find a sewer

provider who is willing to provide sewer service without being able to also provide water service.” Staff interpreted these comments to mean that Ms. Robertson desires to have her property excluded from Arizona Water’s CC&N extension area.

### **Arizona Water Company’s Response**

On June 16, 2006, Arizona Water filed its response to Ms. Robertson’s letter by arguing that her concerns about sewer service are unfounded. The Company’s response to Global and Robson is there is no Commission policy requiring that requests for service exactly match the CC&N area requested. The Company also supports its request for inclusion of those areas for which it does not have a request for service by arguing that it is sound public policy to give utilities the flexibility to extend into areas that are “a natural and logical extension” to meet present and future needs of growth and development. The Company also contends that system design and extensions should not be accomplished in a “fractured, disorganized fashion.” It also believes administrative efficiency can be accomplished by such extensions.

### **Staff’s Response**

Staff reviewed the letters filed by Robson, Global and Ms. Robertson along with the response of Arizona Water. First, Staff does not agree that the Commission has an inflexible, long-standing policy against approving CC&N extensions into areas in which there are no requests for service. A recent Water Utility of Greater Tonopah (“WUGT”) case is such an example. Although not precisely on point, Decision No. 68451, issued on February 2, 2006, approved WUGT’s request for a retroactive order correcting a 1985 decision which, in error, omitted a portion of the legal description of service territory being transferred to WUGT. There were neither customers nor requests for service in the area in question. However, it was surrounded on three sides by WUGT. The Decision contained the following language: “We also agree with Staff that the inclusion of the 1 ½ sections of land in WUGT’s CC&N is in the public interest given its land-locked position.”

Second, Staff is concerned that if the Commission were to establish a firm policy against approving extensions where there is no request for service (as Global and Robson seem to favor), utilities would be motivated to shop for requests for service to reserve areas for planning purposes. At best, this would increase costs to the utilities. At worst, these costs could be passed on to ratepayers. Also, a request for service could become a commodity going to the highest bidder rather than to the company which is best able to further the public interest.

Staff believes there are certain circumstances under which the Commission should consider approving extensions into areas for which there are no requests for service. In a recent case, Docket W-01445A-06-0317, Staff recommended approval of extensions into

small, contiguous areas for which there were no requests for service. Staff believes the Commission should consider those factors along with others in deciding whether to allow extensions into areas for which there is no request for service. These factors are:

1. Whether inclusion of the area could reasonably be expected to contribute to operational efficiencies.
2. Whether exclusion of the area could reasonably be expected to result in operational inefficiencies.
3. Whether there is a competing application for the area.
4. Whether a customer in the area requests to be excluded and the nature of that request.
5. Whether the area is contiguous to the company's current service territory.
6. Whether the requested area "squares off" the service territory or fills in holes in the service territory.
7. Whether the company at issue is financially sound.
8. Whether the company at issue is in compliance with Commission decisions, ADEQ and ADWR.
9. Other showings by the company at issue that it is in the public interest to approve the extension.

The factors listed above would apply equally to all requests for initial CC&Ns and extensions of CC&Ns including those of Robson and Global as well as those of Arizona Water.

Both Robson and Global believe Arizona Water is "land-grabbing" and "locking-up" service territory. Any CC&N or CC&N extension application approved by the Commission results in locking up service territory to the exclusion of other providers. Furthermore, Staff is uncertain as to the precise meaning of land-grabbing and locking-up service territory, how they would be proven and what law, rule or decision such actions violate. In this case, after comparing the requests for service to the requested CC&N extension area, Staff perceives no land-grabbing taking place.

Regarding Ms. Robertson's letter, clearly, it is not in the best interest of Robson for Arizona Water to extend to Section 35 because it reduces Picacho Water Company's potential for expansion. Staff has not performed an analysis as to which company is most appropriate to serve section 35 because there is no request for service, no competing application to serve and no showing by Arizona Water that the public interest would not be served by the exclusion of Section 35 in its CC&N. Whether or not Ms. Robertson's concerns about sewer service are valid, absent a showing that there is a specific need to include Section 35 in the extension area, Ms. Robertson's concerns should be honored. Therefore, Staff recommends that the Commission deny Arizona Water's extension to Section 35.

Other than the exclusion of Section 35 mentioned above, Staff continues to recommend approval of Arizona Water's application. Staff continues to recommend approval of the CC&N extension with the same conditions included in its Staff Report filed on April 3, 2006.