

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

125HC

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

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AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR ITS
COOLIDGE SYSTEM.

DOCKET NO. W-01445A-06-0317

PROCEDURAL ORDER

BY THE COMMISSION:

On May 4, 2006, Arizona Water Company ("AWC") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N") for its Coolidge system.

On June 2, 2006, the Commission's Utilities Division ("Staff") filed a Sufficiency Letter in this docket indicating that the Applicant's application has met the sufficiency requirements as outlined in the Arizona Administrative Code.

On June 6, 2006, by Procedural Order, a hearing was scheduled and other procedural deadlines were set.

On June 16, 2006, AWC filed a Motion to Continue Hearing due to witness unavailability and stating that Staff did not oppose the continuance.

On June 22, 2006, Staff filed its Staff Report recommending approval subject to compliance requirements.

On June 23, 2006, by Procedural Order, the matter was continued until September 11, 2006.

On July 18, 2006, AWC filed a letter from the Arizona State Land Department requesting it be included in the certificated area requested by AWC.

On July 19, 2006, AWC filed a Certificate of Notice of the hearing.

On August 10, 2006, Santa Cruz Water Company and Palo Verde Utilities Company ("Global") filed a Motion to Intervene asserting that AWC was engaging in "land grabbing", that AWC has historically used groundwater to serve its Casa Grande and Coolidge systems and that a

1 “failure to use cutting edge conservation strategies” in the proposed extension areas would directly
2 and substantially affect Global. Additionally, Global asserted that AWC’s application lacks
3 information regarding wastewater and that AWC’s requests for service constituted 39 percent of the
4 requested area in its application.

5 On August 15, 2006, Cardon Hiatt Company (“Cardon”) filed a letter in opposition to being
6 included in AWC’s CC&N in the proposed extension area. Cardon’s letter stated that it owns
7 approximately 720 acres of real property located in Section 19, Township 5 South, Range 8 East and
8 that it believed inclusion of their property was premature because development of the property is
9 tentative, and it may provide the water and sewer service to the property when it is developed.
10 Further, Cardon stated that inclusion at this time would not be in the public interest because it would
11 force acceleration of development plans and property rights should be respected.

12 On August 21, 2006, Woodruff Water Company (“Woodruff”) filed a Motion to Intervene
13 stating that because the Commission, in Decision No. 68453 (February 2, 2006), had approved its
14 application for a CC&N contiguous to the Cardon property, Woodruff opposed inclusion of Cardon’s
15 property in AWC’s CC&N. Woodruff alleges that it is currently in discussions with Cardon to
16 provide water utility service to Cardon’s property and, if the discussions resulted in an agreement,
17 Woodruff would immediately file an application to extend its CC&N to the Cardon property.

18 On August 25, 2006, Global filed its objection to the Staff Report.

19 On August 25, 2006, Woodruff filed its Joinder in Global’s Objection to the Staff Report.

20 On August 29, 2006, AWC filed a Response in Opposition to Global’s Motion to Intervene.
21 In its response, AWC asserted that Global was “using this CC&N case to persuade the Commission
22 to adopt a policy to further Global’s business interest elsewhere,” Global was “gratuitously” opposing
23 each and every AWC filing “even though it has no facilities or present planned service area such as in
24 this case.” Further, AWC asserted that, based on Global’s contention that it does not plan to file a
25 competing application, “Global apparently sees itself as a self appointed private attorney general,
26 ignoring the fact that Staff will properly perform its duties in cases such as this.”

27 On September 5, 2006, AWC filed a Response in Opposition to Woodruff’s Motion to
28 Intervene. AWC asserts that Woodruff should be denied intervention it because it has not shown that

1 it is “directly and substantially” affected by the proceedings. AWC further states, that Woodruff’s
2 assertion that it is engaged in discussions with Cardon is contrary to Cardon’s letter, which does not
3 mention Woodruff or any discussions Cardon has had with Woodruff, and it does not state that
4 Woodruff has any authority to make any objections or representation to the Commission on Cardon’s
5 behalf. Further, AWC asserts that allowing Woodruff intervention would “unduly broaden” the issues
6 in this matter because Woodruff’s assertion that it might serve Cardon is speculation at this time and
7 Woodruff’s witness testified in Decision No. 68453 that Woodruff had no plans to serve outside of
8 Sandia.

9 On September 5, 2006, by Procedural Order, Staff was ordered to file a detailed Supplemental
10 Staff Report addressing the issues raised in Global’s and Woodruff’s Motions to Intervene, Global’s
11 and Woodruff’s Objections to the Staff Report and addressing the letter from Cardon Hiatt Company
12 and the State Land Department’s interest in being included in the extension area. The Procedural
13 Order also vacated the hearing scheduled for September 11, 2006, but reserved it for public comment.

14 On September 6, 2006, Global filed a Reply in Support of Motion to Intervene.

15 On September 29, 2006, Staff filed its Supplemental Staff Report addressing the issues raised
16 in the September 5, 2006 Procedural Order. Staff stated that it opposed Global and Woodruff’s
17 Motions to Intervene because neither has filed a competing application to serve the proposed
18 extension area and they have not shown any requests for service. Staff also stated that allowing
19 intervention by Global or Woodruff would “set a regrettable precedent which could bring the
20 processing of this CC&N application and others to a crawl, while at the same time raising costs to
21 potential (and in some cases current) ratepayers and homeowners.” “Furthermore, the intervention of
22 Global and Woodruff is unlikely to add significant relevant facts to the proceedings.” Therefore,
23 Staff recommended denial of Woodruff’s and Global’s intervention.

24 Pursuant to A.A.C. R14-3-105.A, intervention may be granted to “persons . . . who are
25 directly and substantially affected by the proceedings.” Additionally, A.A.C. R14-3-105.B states that
26 “no application for leave to intervene shall be granted where by so doing the issues theretofore
27 presented will be unduly broadened.” In regards to Woodruff’s Motion to Intervene and Cardon’s
28 request to be excluded from AWC’s CC&N, we find Woodruff’s assertion that it is in discussions

1 with Cardon speculative at this time and contradictory to Cardon's claims that its plans are tentative
2 and that it may choose to provide water and sewer service itself if the property is developed.
3 Cardon's request to be excluded will be considered in the course of the evidentiary hearing, and the
4 Commission's ultimate deliberation in this case.

5 Further, because Global has not filed a competing application in this matter and has not
6 shown that it has any requests for service in the proposed extension area, Global has failed to
7 demonstrate that it is directly and substantially affected by the proceedings in this matter.

8 IT IS THEREFORE ORDERED that Woodruff's Motion to Intervene is hereby denied.

9 IT IS FURTHER ORDERED that Global's Motion to Intervene is hereby denied.

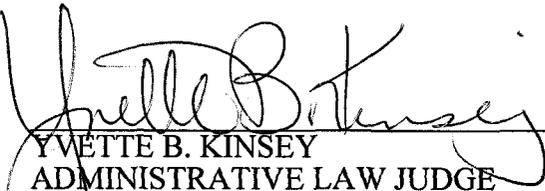
10 IT IS FURTHER ORDERED that the **evidentiary hearing in this matter shall reconvene**
11 **on November 16, 2006 at 10:00 a.m.**

12 IT IS FURTHER ORDERED that the timeclock shall be extended.

13 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
14 Communications) continues to apply to this proceeding and shall remain in effect until the
15 Commission's Decision in this matter is final and non-appealable.

16 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,
17 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
18 ruling at hearing.

19 Dated this 26th day of October, 2006

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22 YVETTE B. KINSEY
23 ADMINISTRATIVE LAW JUDGE
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1 Copies of the foregoing mailed/delivered
this _____ day of October, 2006 to:

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