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REHEARING AUG - 7 2007



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BEFORE THE ARIZONA CORPORATION COMMISSION

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MIKE GLEASON  
Chairman  
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Commissioner  
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KRISTIN K. MAYES  
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GARY PIERCE  
Commissioner

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUL 18 2007

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IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. W-01157A-05-0706  
WEST END WATER COMPANY FOR )  
EXTENSION OF EXISTING CERTIFICATE OF ) APPLICATION FOR  
CONVENIENCE AND NECESSITY ) REHEARING OF  
) DECISION NO. 69672  
)

Pursuant to A.R.S. §40-253, the City of Surprise respectfully submits the Application for Rehearing of Decision No. 69672 (“Decision”) granting the West End Water Company request for an extension of its Certificate of Convenience and Necessity (“CC&N”).

**Grounds for Rehearing**

**1. The Commission Lacks Authority to Grant an Unconditional CC&N When the Applicant Lacks a Franchise**

West End Water Company does not have a franchise or a permit from Maricopa County to operate a water company in the requested expansion area. The franchise previously issued by Maricopa County for the expansion area expired by its terms on August 1, 2006 and was not renewed. Every applicant for a certificate must submit to the commission evidence that the “applicant has received the required consent, franchise or permit of the proper county, city and county, municipal or other public authority.” A.R.S. §40-282(B). Arizona cases interpreting

A.R.S. §40-282(B) & (D) have consistently enforced the franchise requirement and the conditional nature of any certificate issued to an applicant without a franchise. *City of Tucson v. Ariz. Corp. Comm'n*, 1 Ariz. App. 110, 112, 399 P.2d 913, 915 (1965) (“Commission may order compliance with the provisions of A.R.S. §40-282(B), as a condition subsequent to its order granting a certificate.”); *Paradise Valley Water Co. v. Ariz. Corp. Comm'n*, 92 Ariz. 391, 393, 377 P.2d 769, 771 (1963) (“issuance of the certificate dependent upon securing of a franchise and health department approval”).

Because West End does not have a franchise, the Commission was lawfully authorized to: (1) issue an “order preliminary” or (2) grant the expansion on the condition that the contemplated franchise or permit would be obtained. A.R.S. §40-282(D). The Decision, however, does neither. Instead the Decision directs the Company to return and submit a franchise to the Commission within 365 days, but does not *condition* the expansion on the submission of that franchise. Issuing an unconditional certificate to a utility without a franchise is contrary to Arizona law.

The unconditioned form of this certificate may not be what the Commission intended. The Staff report (page 6, No.6), as well as the conversation during the open meeting, suggested that the franchise requirement was intended to be “conditional” and that the CC&N would be “null and void” if the condition was not met. The relevant pages of the Staff Report are attached as Exhibit 1. By its language, however, the Decision unlawfully grants West End Water Company a certificate without a franchise and does not condition the certificate on receipt of such a franchise. For this reason, the City of Surprise requests rehearing.

**2. West End Water Company Has Not Received A Request for Service.**

This Commission has steadfastly required a request for service from the landowner before granting a water company a CC&N. *See e.g.* Decision No. 68453 at ¶¶ 78, 119, and 129; *see also* Decision No. 68445 at page 4 (declining to approve extension into area without request for service); Decision No. 64288 at ¶¶ 47, 70, and 84 (declining to approve extension into area without requests for service because without them, “a public need and necessity has not been established”). This case is no different. The owner of the expansion area has *never* asked West End Water Company for water service. Nothing in this record supports a finding that this private water company’s CC&N should be expanded to serve this property when it has not been asked to provide water by the property owner.

**3. The Commission Made No Factual Finding that West End Water Company is Fit to Provide Service.**

Neither the Recommended Opinion and Order, nor the Decision expressly determined that West End Water Company was a fit and proper entity to receive an extension of its water CC&N. Because the Recommended Order and Opinion denied the requested expansion, West End’s fitness as an applicant was not addressed. For the issuance of a CC&N to be in the public interest, the Commission must investigate the applicant and compile a record demonstrating that issuing a certificate would serve the public interest. A.R.S. §40-281-285; *James P. Paul Water Co. v. Ariz. Corp. Comm’n*, 137 Ariz. 426, 434, 671 P.2d 404, 412 (1983). The Commission must examine the evidence, and draw conclusions based on that evidence. *Id.* In this case, the Hearing Officer drew no such conclusions and the Commission similarly did not weigh the evidence. During the hearing, testimony was offered regarding West End’s ongoing water loss rate of 16% (May Tr. 270:20-271:8; May Tr. 257:25-258:24); inappropriate use of developer funds (*See* Exs. COS-4, COS-5, COS-6; May Tr. 94:10-95:14; 96:9-25); and the age and low

capacity of West End Water Company's equipment. Additionally, the Commission recently approved a rate increase for all current and future West End ratepayers of approximately 60%. (See August 29, 2006 Decision No. 68925 at ¶¶ 33, 44, and 45.) These concerns all bring into sharp focus that in this Decision the Commission did not weigh the evidence and affirmatively conclude that West End Water Company is fit to receive the CC&N expansion. Rehearing should be granted because the Commission lacks authority to issue a CC&N without finding that the applicant is a fit and proper entity to provide water service.

**4. The Commission Violated the City's Constitutional Right to Serve by Authorizing Service by a Private Water Company.**

The City of Surprise has a constitutional right to provide water service to neighborhoods that are in – or soon will be in – its municipal boundary. See Const. art. II, § 34; Const. art. XIII, § 5; *City of Phoenix v. Kasun*, 54 Ariz. 470, 474, 97 P.2d 210, 212 (1939) (listing the “rules governing municipal corporations,” which include “the right to furnish water . . . to customers without, as well as within, its corporate limits”). No certificate, or an expansion of a current certificate, should be issued by the Commission when the City stands ready, able and willing to serve the land at issue. Certainly, where a developer has *only* requested service from the municipality, and has made no such request to the private water company, issuing a CC&N to the private water company amounts to an unconstitutional interference with the municipality's right to serve.

**5. The Public Interest Favors Denial of this Expansion Request**

The City of Surprise chose to extend service to the requested expansion area, after careful deliberation, as part of a state-mandated planning effort (the Growing Smarter legislation). (See City's Closing Brief at 4-5 and 19-23.) The Surprise General Plan sets forth a City policy designed to prevent “negatively impact[ing] the supply and quality of the city's water resources,”

and announces that the City will provide integrated water and wastewater service for areas like the requested expansion area. (Ex. COS-10 at p.123-24.) This is entirely consistent with the Arizona Supreme Court's guidance that "it is desirable [for the city] to have control of construction and expense, of utility facilities in the areas of potential growth." *Citizens Utilities Water Co. v. Pima County Super. Ct.*, 108 Ariz. 296, 300, 497 P.2d 55, 59 (1972). In the end, residents living within the City of Surprise General Planning Area will be better served by a municipal provider that is able to deliver integrated water and sewer services. Indeed, integrated water and wastewater service has been chosen repeatedly as the preferred option by this Commission. See, *In the Matter of Woodruff Water Company*, Decision No. 68453 (Staff recommendation that "[t]he benefits of developing and operating integrated water and wastewater utilities . . . outweigh the economies imputed to [the non-integrated provider's] larger scale"); see generally *Citizens Utilities Water Co.*, 108 Ariz. at 300, 497 Ariz. at 59 ("It is desirable to 'beef up' the fire protection by having an integrated water system throughout the area.").

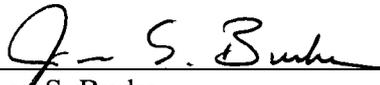
As for timing, the record shows that the City can provide integrated water and sewer services just as quickly as West End can provide only water services. (See May Tr. 195:2-13 (Surprise testimony that water service will be provided in same time frame by either party); 267:18-268:2 (Staff testimony that water service will be provided in same time frame by either party).) As Staff's expert witness testified, the time frame for engineering and building the water system would be the same whether West End or the City serves because it is the developer who will be funding and constructing the necessary infrastructure. (May Tr. 199:16-200:6; 265:22-266:17; 267:18-268:2.) The City's method for repaying the developer for the cost of water infrastructure also is relevant to the public interest analysis. West End will recover the cost of

serving the expansion area through revenue collected from all of its ratepayers over time. In contrast, Surprise would use development impact fees to reimburse the developer – a mechanism that ensures that development costs are paid by only those individuals who choose to buy a home in the requested area.

In sum, the public interest will be best served if the City of Surprise, with its substantial financial, operational and administrative resources, serves the expansion area at issue.<sup>1</sup> For these reasons, the City of Surprise respectfully requests rehearing of Decision No. 69672.

Dated this 18<sup>th</sup> day of July, 2006.

OSBORN MALEDON, P.A.

By  \_\_\_\_\_  
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Attorneys for the City of Surprise

---

<sup>1</sup> Any suggestion that the City of Surprise will inevitably and imminently serve this development is incorrect. The West End Water Company CC&N expansion will, in all likelihood, discourage rather than encourage ultimate municipal ownership of the water facilities serving this development.

Original and thirteen (13) copies of  
the foregoing were filed this 18<sup>th</sup> day of  
July, 2006, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Copies of the foregoing e-mailed  
and mailed this 18<sup>th</sup> day of July, 2006, to:

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A handwritten signature in cursive script, appearing to read "Lindsay Byers", written over a horizontal line.

# Exhibit 1

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APR 26 2006

MEMORANDUM

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2006 APR 21 A 9:33

TO: Docket Control  
Arizona Corporation Commission

FROM: Ernest G. Johnson  
Director  
Utilities Division

AZ CORP COMMISSION  
DOCUMENT CONTROL

Date: April 21, 2006

RE: STAFF REPORT FOR WEST END WATER COMPANY – APPLICATION  
FOR EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR WATER SERVICE (DOCKET NO. W-01157A-05-0706)

Attached is the Staff Report for West End Water Company's application for extension of its existing Certificate of Convenience and Necessity for water service. Staff is recommending approval with conditions.

EGJ:BNC:tdp

Originator: Blessing Chukwu

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APR 21 2006

Z Corporation Commission  
Director of Utilities

Service List for: West End Water Company  
Docket No. W-01157A-05-0706

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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

WEST END WATER COMPANY

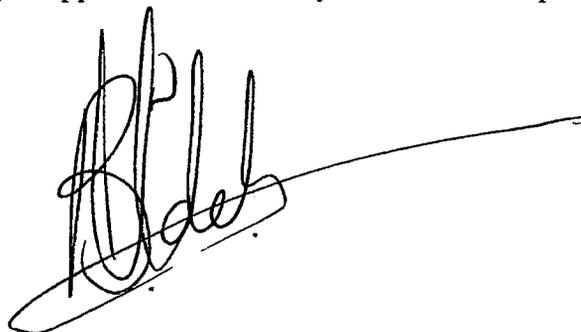
DOCKET NO. W-01157A-05-0706

APPLICATION FOR EXTENSION  
OF EXISTING CERTIFICATE OF  
CONVENIENCE AND NECESSITY

APRIL 21, 2006

## STAFF ACKNOWLEDGMENT

The Staff Report for West End Water Company (Docket No. W-01157A-05-0706) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Dorothy Hains was responsible for the engineering and technical analysis.

A handwritten signature in black ink, appearing to read 'Blessing Chukwu', with a long horizontal flourish extending to the right.

Blessing Chukwu  
Executive Consultant III

A handwritten signature in black ink, appearing to read 'Dorothy Hains', with a horizontal flourish extending to the right.

Dorothy Hains  
Utilities Engineer

**EXECUTIVE SUMMARY  
WEST END WATER COMPANY  
DOCKET NO. W-01157A-05-0706**

On October 5, 2005, West End Water Company ("West End" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service to a portion of Maricopa County, Arizona. On February 3, 2006, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of the A.A.C. R14-2-402(C).

By this application, the Company is seeking Commission authority to add approximately one quarter square mile to its existing certificated area. West End's certificated area is located in an area northwest of the City of Surprise and the City of Phoenix, in Maricopa County. The requested area is adjacent to the Company's existing service area and is located in the northwest quarter of Section 25 in Township 5 North, Range 3 West.

On March 28, 2006, the City of Surprise ("the City") filed an Application for Leave to Intervene. In its Application, the City of Surprise stated that it "anticipates providing water and sewer services to the area targeted by West End Water Company for future service." The City also alleged that "West End Water Company's Application seeks authority to provide water utility service to an area that is within the City of Surprise's planned annexation area and which the City intends to serve."

Based on Staff's review and analysis of the application, Staff believes that the Company will have adequate production and storage capacity to serve the requested area with the addition of the new wells and storage tank.

Staff recommends the Commission approve the West End application for an extension of its CC&N within portions of Mohave County, Arizona, to provide water service, subject to compliance with the following conditions:

1. To require West End to charge its authorized rates and charges in the extension area.
2. To require West End to file with Docket Control, as a compliance item in this docket, a Notice of Filing indicating West End has submitted for Staff review and approval, a copy of the fully executed main extension agreements for water facilities for the extension area within 365 days of a decision in this case.
3. To require West End to file with Docket Control, as a compliance item in this docket, a copy of the Maricopa County Environmental Services Department Approval to Construct ("ATC") for the new wells and storage tank by December 31, 2006.
4. To require West End to file with Docket Control, as a compliance item in this docket, a copy of the developer's Certificate of Assured Water Supply, where applicable or when required by statute, by December 31, 2007.

5. To require West End to file a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the order in this matter. The tariff shall be filed with Docket Control as a compliance item in this docket for Staff's review and certification. The tariff shall generally conform to the sample tariff found on the Commission's web site at [www.cc.state.az.us](http://www.cc.state.az.us). Staff recognizes that the Company may need to make minor modifications according to its specific management, operational, and design requirements as necessary and appropriate.
6. To require West End to file with Docket Control, as a compliance item in this docket, a copy of Maricopa County franchise agreement for the requested area within 365 days of the decision in this matter.
7. To require West End to file a plan to reduce its water loss to less than 10%. This plan should be filed within 45 days of a decision in this matter. If the Company believes that it is not cost effective to reduce its water loss to less than 10%, it shall file a detailed analysis with Docket Control explaining why it is not cost effective to do so.
8. To require West End to reduce its water loss to a level that is 15 percent or less before filing for approval of any new main extension agreements.

Staff further recommends that the Commission's Decision granting the requested CC&N extension to West End be considered null and void, after due process, should West End fail to meet Condition Nos. 2, 3, 4, 5, 6, and 7 listed above within the time specified.

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## **Introduction**

On October 5, 2005, West End Water Company ("West End" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service to a portion of Maricopa County, Arizona.

On November 4, 2005, the ACC Utilities Division ("Staff") filed an Insufficiency Letter, indicating that the Company's application did not meet the sufficiency requirements of Arizona Administrative Code ("A.A.C.") R14-2-402(C). A copy of the Insufficiency Letter was sent to the Company via U.S. mail. In the letter, Staff listed the deficiencies that needed to be cured for administrative purposes.

On January 4, 2006, and January 30, 2006, the Company provided additional documentation to support its relief requested.

On February 3, 2006, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of the A.A.C. R14-2-402(C).

## **Background**

West End is an Arizona Corporation, in good standing with the Commission's Corporation Division, and engaged in providing water service to customers in portions of Maricopa County, Arizona. West End was incorporated on March 7, 1979. The original CC&N for the Company was granted by the Commission in Decision No. 16649, issued on September 23, 1946, in Docket No. 10545-E-1157, under the name Spear Seven Water Company. On July 14, 1979, the Commission issued Decision No. 50079, in Docket No. 1045-E-1157, approving the transfer of Spear Seven Water Company's CC&N to West End. West End's only shareholder is Mr. J. D. Campbell, the President. Mr. Campbell also owns Sunrise Water Company. Altogether, Mr. Campbell's Water Companies provide water service to approximately 1,535 customers in Arizona.

By this application, the Company is seeking Commission authority to add approximately one quarter square mile to its existing certificated area. West End's certificated area is located in an area northwest of the City of Surprise and the City of Phoenix, in Maricopa County. The requested area is adjacent to the Company's existing service area and is located in the northwest quarter of Section 25 in Township 5 North, Range 3 West.

## **Finance of Utility Facilities**

The Company indicated in the application that it will finance the required utility facilities through Company-provided funding and Advance in aid of construction. Advances in aid of construction are often in the form of Main or Line Extension Agreements ("MXAs"). MXAs are standard industry practice. The minimal acceptable criteria for line extension agreements

between water utilities and private parties are established by A.A.C. R14-2-406. These agreements generally require the developer to design, construct and install (or cause to be), all facilities to provide adequate service to the development. The developer is required to pay all costs of constructing the required facilities necessary to serve the development. Upon acceptance of the facilities by the Utility Company, the developer conveys the utility facilities through a warranty deed to the Utility Company. Utility Companies will often refund ten (10) percent of the annual water revenue associated with development for a period of ten (10) years.

Staff recommends that West End file with Docket Control, as a compliance item in this docket, a Notice of Filing indicating West End has submitted for Staff review and approval, a copy of the fully executed main extension agreements for water facilities for the extension area within 365 days of a decision in this case.

### The Water System

West End operates two separate systems. They are the Wheat System which is assigned Public Water System ("PWS") No. 07-167, and the Wittmann System which is assigned PWS No. 07-067. The Wheat system consists of a single well<sup>1</sup>, 10,000 gallons of storage capacity and a distribution system serving 14 customers. The Wittmann system consists of one well<sup>2</sup>, 200,000 gallons of storage capacity and a distribution system serving 215 customers. The Wittmann system will be utilized to serve the requested area.

Although the Wittmann system has adequate production and storage capacity to serve its existing customer base, there is inadequate storage and production capacity to serve all 443 customers in the requested area. The Company plans to add two new wells<sup>3</sup> and an 800,000 gallon storage tank to the Wittmann system. The Company plans to begin installation of this new plant in the Spring of 2006 and complete its construction in 2007. Staff concludes that the Company will have adequate production and storage capacity to serve the requested area with the addition of the new wells and storage tank.

Staff recommends that West End file with Docket Control, as a compliance item in this docket, a copy of the Maricopa County Environmental Services Department Approval to Construct ("ATC") for the new wells and storage tank by December 31, 2006.

The wastewater generated by West End's customers is treated by septic tank. According to Mr. Marvin E. Collins, the Manager of West End, wastewater service to the area will be supplied by the City of Surprise. The area is within the City of Surprise's "Maricopa Association of Government" Section 208 Planning Area.

<sup>1</sup>This well produces 26 gallons per minutes ("GPM") and does not support a fire flow requirement.

<sup>2</sup>This well produces 250 GPM and supports a fire flow requirement of 500 GPM for 2 hours.

<sup>3</sup>Each well is designed to produce 750GPM.

*extension 5761  
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*undered  
Grand Ave  
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to under build  
new*

### **Maricopa County Environmental Services Department ("MCESD") Compliance**

MCDES reported that both the Wheat and Wittmann systems are in Compliance with its requirements and are currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4<sup>4</sup>.

### **Arizona Department of Water Resources ("ADWR") Compliance**

West End is located in the Phoenix Active Management Area, as designated by ADWR. ADWR reported that West End is in compliance with its reporting and conservation rules<sup>5</sup>.

The Company has not yet received a copy of the Developer's Certificate of Assured Water Supply for the area being requested from the ADWR. As such, Staff recommends that West End be ordered to file with Docket Control, as a compliance item in this docket, a copy of the developer's Certificate of Assured Water Supply, where applicable or when required by statute, by December 31, 2007.

### **ACC Compliance**

According to the Utilities Division Compliance Section, West End has no outstanding ACC compliance issues. The Company is current in its property tax payments.

### **Arsenic**

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter (" $\mu\text{g/l}$ ") or parts per billion ("ppb") to 10  $\mu\text{g/l}$ . The date for compliance with the new MCL is January 23, 2006. The most recent lab analysis of the two wells indicates that the arsenic levels are below the new arsenic MCL of 10  $\mu\text{g/l}$ .

### **Curtailment Plan Tariff**

A Curtailment Plan Tariff ("CPT") is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Since the Company does not have a curtailment tariff, this application provides an opportune time to prepare and file such a tariff. As such, Staff recommends that the Company file a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the order in this matter. The tariff shall be filed with the Commission's Docket Control as a compliance item in this docket for Staff's review and certification.

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<sup>4</sup>MCESD issued its compliance status report on February 2, 2006.

<sup>5</sup> Compliance status per phone message dated February 10, 2006.

Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's web site at [www.cc.state.az.us](http://www.cc.state.az.us). Staff recognizes that the Company may need to make minor modifications according to its specific management, operational, and design requirements as necessary and appropriate.

### **Proposed Rates**

West End has proposed to provide water utility service to the extension area under its authorized rates and charges.

### **County Franchise**

Every applicant for a CC&N and/or CC&N extension is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority. If the applicant operates in an unincorporated area, the company has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

The extension area is located in an unincorporated area of Maricopa County. As such, Staff recommends that the Company be required to file with Docket Control, as a compliance item in this docket, a copy of Maricopa County franchise agreement for the requested area within 365 days of the decision in this matter.

### **Application of the City of Surprise for Leave to Intervene**

On March 28, 2006, the City of Surprise ("the City") filed an Application for Leave to Intervene. In its Application, the City of Surprise stated that it "anticipates providing water and sewer services to the area targeted by West End Water Company for future service." The City also alleged that "West End Water Company's Application seeks authority to provide water utility service to an area that is within the City of Surprise's planned annexation area and which the City intends to serve." On March 30, 2006, Staff sent a Request for Information to the Representatives of the City via e-mail seeking additional information regarding the planned annexation. (See Attachment C) The City responded to Staff's Request for Information, on April 13, 2006. (See Attachment D).

Staff duplicated a map of the City of Surprise General Planning Area (attached to a March 8, 2006 letter from Mr. K. Scott McCoy, City Attorney, to the Arizona Corporation Commission) and overlaid the service territories of public service companies in and around the City's General Planning Area. (See Attachment E) In reviewing Attachment E, Staff notes that there are several public service companies that operate within the City of Surprise Planning Area. The public service companies are Arizona-American Water Company, Beardsley Water Company, Inc., Chaparral Water Company, Circle City Water Company, LLC, Morristown Water Company, Puesta del Sol Water Company, and West End Water Company. Staff also notes that the extension area is approximately one and one half mile outside the corporate city

limits of the City of Surprise, but is within the City's General Planning Area and is bordered on two sides (west and south) by Beardsley Water Company, Inc., and bordered on the northern side by West End's existing CC&N. According to West End's January 4, 2006 response to Staff's November 4, 2005 Insufficiency Letter, the requested area represents approximately 30% of the proposed Walden Ranch development. The remaining 70% of the development is within West End's existing CC&N. Staff further notes that it appears that two public service companies, certificated by this Commission, namely: Arizona-American Water Company, and Beardsley Water Company, Inc., provide services within the corporate city limits of the City of Surprise.

### **Water Loss**

Based on the Company's Water Usage Data for the period of July 2004 through July 2005, the Wittmann system had a 19 percent water loss. Staff recommends that lost water should be 10 percent, or less, but never more than 15 percent. The Company reported that it is aware of its water loss problem and is taking steps to reduce lost water to a level below 10 percent.

Staff recommends that the Company file a plan to reduce its water loss to less than 10%, this plan should be filed within 45 days of a decision in this matter. If the Company believes that it is not cost effective to reduce its water loss to less than 10%, it shall file a detailed analysis with Docket Control explaining why it is not cost effective to do so. Staff further recommends that the Company reduce its water loss to a level that is 15 percent or less before filing for approval of any new main extension agreements.

### **Recommendations**

Staff recommends the Commission approve the West End application for an extension of its CC&N within portions of Mohave County, Arizona, to provide water service, subject to compliance with the following conditions:

1. To require West End to charge its authorized rates and charges in the extension area.
2. To require West End to file with Docket Control, as a compliance item in this docket, a Notice of Filing indicating West End has submitted for Staff review and approval, a copy of the fully executed main extension agreements for water facilities for the extension area within 365 days of a decision in this case.
3. To require West End to file with Docket Control, as a compliance item in this docket, a copy of the Maricopa County Environmental Services Department Approval to Construct ("ATC") for the new wells and storage tank by December 31, 2006.
4. To require West End to file with Docket Control, as a compliance item in this docket, a copy of the developer's Certificate of Assured Water Supply, where applicable or when required by statute, by December 31, 2007.

5. To require West End to file a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the order in this matter. The tariff shall be filed with Docket Control as a compliance item in this docket for Staff's review and certification. The tariff shall generally conform to the sample tariff found on the Commission's web site at [www.cc.state.az.us](http://www.cc.state.az.us). Staff recognizes that the Company may need to make minor modifications according to its specific management, operational, and design requirements as necessary and appropriate.
6. To require West End to file with Docket Control, as a compliance item in this docket, a copy of Maricopa County franchise agreement for the requested area within 365 days of the decision in this matter.
7. To require West End to file a plan to reduce its water loss to less than 10%. This plan should be filed within 45 days of a decision in this matter. If the Company believes that it is not cost effective to reduce its water loss to less than 10%, it shall file a detailed analysis with Docket Control explaining why it is not cost effective to do so.
8. To require West End to reduce its water loss to a level that is 15 percent or less before filing for approval of any new main extension agreements.

Staff further recommends that the Commission's Decision granting the requested CC&N extension to West End be considered null and void, after due process, should West End fail to meet Condition Nos. 2, 3, 4, 5, 6, and 7 listed above within the time specified.