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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

JUL 30 2007

DOCKETED BY	nr
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IN THE MATTER OF THE APPLICATION OF
THE COMMISSION ON ITS OWN MOTION
INVESTIGATING THE FAILURE OF CARL
HARVEY DBA GOLDEN CORRIDOR WATER
COMPANY, TO COMPLY WITH COMMISSION
RULES AND REGULATIONS.

DOCKET NO. W-02497A-06-0580

DECISION NO. 69723

OPINION AND ORDER

DATE OF HEARING: December 11, 2006 (Prehearing Conference); February 8, 2007 and March 19, 2007.

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

IN ATTENDANCE: Kristin K. Mayes, Commissioner

APPEARANCES: Ms. Carol Harvey, on behalf of Golden Corridor Water Company;

Ms. Nancy Hawkins, in pro persona;

Mr. John Chadwick, in pro persona;

Mrs. Kelly Sampson, in pro persona;

Mr. Lewis McKenzie Larkin, in pro persona; and

Mr. Kevin Torrey and Mr. Charles Hains, Staff Attorneys, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On October 6, 2006, the Utilities Division of the Arizona Corporation Commission ("Staff") filed a Complaint and Petition for an Order to Show Cause ("Complaint") against Carl Harvey, dba Golden Corridor Water Company ("GCWC" or "Golden Corridor" or "Company") for failure to comply with water quality and service standards.

On October 18, 2006, Mr. George Moya, Ms. Nancy Hawkins, Mr. Craig Sampson and Mr.

1 Lewis McKenzie Larkin filed Requests to Intervene.

2 On October 19, 2006, Mr. John A. Chadwick filed a Request to Intervene.

3 On November 1, 2006, by Procedural Order, Mr. George Moya, Ms. Nancy Hawkins, Mr.
4 Craig Sampson, Mr. Lewis McKenzie Larkin and Mr. John A. Chadwick were granted intervention.

5 On December 5, 2006, the Arizona Corporation Commission ("Commission") issued
6 Decision No. 69166, which directed the Hearing Division to conduct further proceedings in this
7 matter.

8 On December 11, 2006, a pre-hearing conference was held and procedural deadlines were
9 discussed.

10 On January 12, 2007, a Procedural Order was issued setting the hearing for February 8, 2007.

11 On February 8, 2007, a full public hearing was convened as scheduled, but was not
12 completed.

13 On February 27, 2007, by Procedural Order, the hearing was continued to reconvene on
14 March 19, 2007.

15 On March 19, 2007 a full public hearing was held by the Commission at its offices in
16 Phoenix, Arizona before a duly authorized Administrative Law Judge of the Commission. Staff
17 appeared through counsel. Mr. George Moya, Ms. Nancy Hawkins, Mr. Craig Sampson, Mr. Lewis
18 McKenzie Larkin, and Mr. John A. Chadwick appeared on their own behalf, and presented evidence
19 and testimony. Several members of the public appeared to give public comments. At the conclusion
20 of the hearing, Staff was directed to file notice in this docket when an agreement had been reached
21 with an interim manager and pending Staff's filing, and the submission of a Recommended Opinion
22 and Order to the Commission the matter was taken under advisement.

23 On May 14, 2007, Staff filed a Notice stating Staff had reached an agreement with Arizona
24 Water Company ("AWC") to act as the interim operator for GCWC.

25 On May 21, 2007, Staff filed a Notice of Filing Clarifying Corrections stating that the terms
26 of the interim operator agreement with AWC had been settled; however, the agreement had not yet
27 been entered into pending a notification from the Arizona Department of Environmental Quality
28 ("ADEQ") that AWC will not assume responsibility for GCWC's existing Notice of Violation

1 (“NOV”). Staff’s filing further stated Staff would file a notice when the agreement is formally
 2 entered.

3 On May 23, 2007, Staff filed a Notice stating that a fully executed agreement had been
 4 reached with AWC to act as the interim operator for the GCWC system.

5 * * * * *

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

8 **FINDINGS OF FACT**

9 1. Pursuant to authority granted by the Commission in Decision No. 56088 (August 17,
 10 1988), Golden Corridor, a public service corporation, is engaged in the business of providing water
 11 utility service to approximately 53 customers in Pinal County.

12 2. GCWC is located approximately six miles southeast of downtown Casa Grande in
 13 Pinal County and has a certificated area of approximately 1-1/2 square miles.

14 3. On December 5, 2006, the Commission issued Decision No. 69166, a Complaint
 15 against Golden Corridor which alleged that Golden Corridor is not fulfilling its duties, obligations or
 16 legal requirements as an Arizona public service corporation. Staff further alleged that:

- 17 a. Golden Corridor has failed to provide potable water to the customer’s point of
 18 delivery in violation of A.A.C. R-14-2-407A.
- 19 b. Golden Corridor has failed to supply a satisfactory and continuous level of
 20 service in violation of A.A. C. R-14-2-407C.
- 21 c. The equipment and facilities for Golden Corridor are inadequate and
 22 insufficient in violation of A.R.S. § 40-321(A).
- 23 d. Due to Golden Corridor’s continued failure to provide an adequate level of
 24 service, that the Commission consider requiring an interim manager
 25 (“Manager”) selected by Staff for the Golden Corridor water system until
 26 further order of the Commission, and upon reasonable terms and conditions
 27 agreed between the Manager and Staff, with full authority to conduct the
 28 business and affairs of Golden Corridor’s water system.

- 1 e. Golden Corridor is in violation of A.R.S. § 40-281 (A) by serving customers
2 outside of its certificated area.
- 3 f. Golden Corridor has violated A.A.C. R-14-2-402(A) (1) by serving customers
4 outside its certificated area.
- 5 g. Golden Corridor has violated A.A.C. R-14-2-407 (E) by providing water at a
6 pressure lower than 20 pounds per square inch gauge ("PSIG").

7 4. Staff's Complaint further alleges that according to GCWC customers, the owners are
8 non-responsive or belatedly responsive to complaints or service concerns, and that the owners are
9 verbally abusive.

10 5. According to Staff's analysis, Golden Corridor's water system is unable to adequately
11 serve its 53 customers; 33 of GCWC's customers are outside its service territory; GCWC's storage
12 tanks are in need of repair; the owners/operator are not consistently available to customers; there are
13 high levels of nitrates in GCWC's one operating well; and the required ADEQ tests for water quality
14 have not been taken.

15 6. According to Staff's Complaint, Golden Corridor's service issues became known to
16 Staff when Golden Corridor filed an application to transfer its CC&N to a Limited Liability Company
17 (Docket No. W-20461A-06-0349), and an application for approval for financing (Docket No. W-
18 02497A-05-0502).

19 7. Staff's Complaint further states during its review process on the above referenced
20 applications, the Consumer Services Section ("Consumer Services") reported it received numerous
21 complaints from GCWC customers. Consumer Services reported there were 28 complaints, seven
22 inquiries and four opinions reported. Staff noted that in general, the complaints concerned service
23 outages, low water pressure, the customers' inability to receive assistance, poor water quality, and
24 poor treatment by the owners.

25 8. On December 11, 2006, a Pre-hearing Conference was held in this matter. Golden
26 Corridor's owner, Mrs. Carol Harvey, appeared telephonically for the Conference. Intervenors Nancy
27 Hawkins and John Chadwick personally appeared for the Conference. Procedural issues were
28 discussed and GCWC was directed to personally appear for the evidentiary hearing, and to look for

1 the Procedural Order setting the date for the hearing in the mail. Further, GCWC was informed that
2 copies of the Procedural Order would be sent to both their Indiana address and their Phoenix address.

3 9. On January 12, 2007, by Procedural Order the hearing in this matter was scheduled to
4 commence on February 8, 2007, and other procedural deadlines were set. Specifically, GCWC was
5 ordered to publish notice of the date of the hearing on or before January 26, 2007.

6 10. On January 26, 2007, GCWC filed a Response to the Procedural Order, stating,
7 GCWC did not receive the Procedural Order directing them to publish notice of the hearing until
8 January 23, 2007. GCWC further stated that due to them having received notice on the January 23,
9 2007, they were unable to publish notice of the hearing by the January 26, 2007 deadline. GCWC
10 also requested that the hearing scheduled to begin on February 8, 2007 be continued.

11 11. On February 5, 2007, intervenor John Chadwick filed an objection to the continuance
12 of the hearing in this matter. His objection stated that GCWC had "intentionally failed to publish and
13 mail the notices," and he believed that they should not be allowed a continuance.

14 12. On February 8, 2007, a public hearing was convened as scheduled and GCWC was
15 directed to publish notice of a second hearing date to give any additional interested parties time to
16 participate in the proceeding.

17 13. On March 19, 2007, the hearing reconvened and additional testimony, evidence and
18 public comment was taken.

19 **Failure to provide potable water to customers**

20 14. Staff's Complaint alleges that GCWC has violated A.A.C. R-14-2-407(A) by not
21 providing potable water to its customer's point of delivery. At hearing, Staff's Consumer Services
22 witness testified that due to the number of complaints and the high levels of nitrates in the water,
23 GCWC was directed by Staff to institute a bottle water program beginning in mid-June 2006. (Tr. Pg.
24 70, lines 11-13). Staff's witness testified that at the end of July 2006, there were a number of
25 complaints from GCWC customers that it was too difficult to make arrangements with the owners to
26 pick up the bottled water and that they were just giving up on the program. (Tr. Pg. 70, lines 8-16)

27 15. Mr. Norm Short, a customer of GCWC, presented public comments regarding the
28 bottled water program. Mr. Short stated each family was given one gallon of water per day and that

1 he had to meet the Harvey's "on the side of road [to get] bottled water." He further stated picking the
2 water up was no problem until the weekends and then "we couldn't pick up water on Saturdays and
3 Sundays". . . and we were told "on Monday we couldn't get the water for Saturday and Sunday
4 because those days had already passed." (Tr. Pg. 46, lines 1-11)

5 16. Mr. Short also stated that during the time the bottled water program was in place he
6 was told by Mrs. Harvey that she "did not appreciate the fact that [he] had contacted the Corporation
7 Commission." According to Mr. Short, when he advised Mrs. Harvey that the Commission called
8 him the conversation became "so heated", that he decided not to continue getting bottled water
9 because it was a "no-win situation." (Tr. Pgs. 46- 47)

10 17. Kendra Williams also presented public comments on the bottled water issue. She
11 stated that she has been on the GCWC system for 11 years. She stated that the bottled water was
12 never delivered to customers, and that she was told to pick up the water from the owners' trailer park
13 and to bring her own jugs to be filled up. She stated she refused to drive to "someone's trailer park to
14 have jugs filled up. . . that's not safe drinking water." She further stated that it is unreasonable that
15 customers should have to go and fill up jugs and go to wherever the owners are to get the water. (Tr.
16 Pg. 41, lines 7-22.)

17 18. Staff's witness stated that although GCWC did provide a notice to customers on where
18 to pick up the bottled water it did not state customers were to supply their own containers. According
19 to Staff's witness, GCWC discontinued the bottle water program at the end of July 2006. (Tr. Pg. 78,
20 lines 1-4)

21 19. At hearing, Commissioner Mayes asked Mrs. Harvey if the company ever thought to
22 deliver the bottled water to its customers. Mrs. Harvey testified that they did deliver water to
23 customers' residences in the beginning, but after a week or so it "became too much of a burden" and
24 they started to have customers come to their location to pick it up. (Tr. Pg. 164, lines 20-25)

25 20. Mrs. Harvey further stated that she believed the company did have an obligation to
26 provide water to its customers pursuant to the rules and that having customers come to pick up the
27 water from their RV park fulfilled that obligation. (Tr. Pg. 165, lines 1-18)

28 21. After the filing of the Complaint, the bottled water program was restarted by GCWC

1 in March 2007. Under the new program, customers are still required to pick up the bottled water
2 from a local retail shop. In a related docket (W- 20461A-07-0158) GCWC provided documentation
3 showing that as of April 6, 2007, only 20 of its 53 customers had participated in the bottled water
4 program.

5 22. We find GCWC's efforts to provide potable water to its customers inadequate.
6 GCWC abandoned the delivery of bottled water to customers' residences after one week and the
7 quantity of bottled water was inadequate for families connected to GCWC's system. GCWC's notice
8 to customers regarding the bottled water program was insufficient. The notice did not instruct
9 customers to bring containers to get the bottled water and yet they were told that was the criteria
10 when they tried to obtain water.

11 **Failure to supply satisfactory and continuous service and inadequate and insufficient**
12 **equipment and facilities**

13 23. According to Staff's Engineering Report¹, the GCWC system consists of one
14 operating well producing 150 gallons per minute ("GPM"), one well having no well pump/electricity,
15 two storage tanks (6,000 and 9,000 gallons, but only a total of the 9,700 gallons is usable due to
16 bullet holes in one of the tanks), a booster system (two 42 gallon bladder tanks and one 5-
17 Horsepower booster pump), and a distribution system serving 53 service connections. Staff states that
18 based on the existing well production and storage capacities, the GCWC system can adequately serve
19 up to 20 service connections.

20 24. Staff's Report² states that approximately 33 current customers are located outside of
21 GCWC's CC&N.

22 25. According to Staff's Report³, the GCWC system has nitrate levels for its one operating
23 well of 13 parts per billion ("ppb"), which exceeds the maximum containment level ("MCL") of 10
24 ppb as required the U.S. Environmental Protection Agency ("EPA").

25 26. At hearing, Staff's Engineering witness testified that in reviewing GCWC's financing
26

27 ¹ Docket nos. W-20461A-06-0349 and W-02497A-05-0502.

28 ² Id.

³ Id.

1 application,⁴ three site visits were made to the GCWC system. According to the witness, the system
2 was visited in September 2005, July 2006 and December 2006. He testified that the day before the
3 December 2006 visit, Staff was contacted by an inspector for ADEQ who stated that there was a
4 concern that the storage tanks may fail during the Christmas holidays and requested Staff accompany
5 them on a visit to the system for a third time.

6 27. During the December 2006 site visit, the witness stated that he observed two tanks that
7 were out of service and the other tank had water leaking from it and that it appeared water was only
8 being pumped up to the level of the leak. He further stated, the pressure pump was running nonstop
9 and he believed from looking at the tanks they were not repairable.

10 28. Staff submitted into evidence ADEQ compliance reports dated January 10, 2005 and
11 June 29, 2006, which showed that GCWC's system had major deficiencies and ADEQ had
12 determined that GCWC was currently delivering water that did not meet water quality standards as
13 required by A.A.C. ADEQ listed the major deficiencies as:

- 14 a. GCWC was issued a NOV on January 10, 2005, for failing to have adequate
15 storage capacity and exceeding the nitrate MCL. These violations remain
16 unresolved.
- 17 b. GCWC has failed to take the required lead and copper samples.
- 18 c. GCWC should take action to increase the water pressure in its distribution
19 system so that 20 psi is maintained.
- 20 d. Both storage tanks are in serious disrepair with numerous holes and need to be
21 replaced.

22 29. Staff also submitted into evidence an ADEQ pressure recording chart dated July 31,
23 2006, for the GCWC system which recorded the water pressure in the GCWC system for one week in
24 June 2006. According to Staff's Engineering witness, the chart showed that within a seven day
25 period, there were 14 times that the GCWC system went below 20 psi, the minimum level required
26 by ADEQ and Commission rules. The witness explained that the readings illustrate that during one of
27

28 ⁴ Id.

1 the hottest and peak months of the year, the GCWC system was not meeting the demand for its
2 customers.

3 30. Staff's witness further testified that by not maintaining an adequate water pressure,
4 customers cannot get the quantity of water they want, the low pressure could introduce bacteria into
5 the pipes, and the low water pressure could damage the systems' plumbing.

6 31. Staff's witness also stated that the pressure recording chart showed numerous times
7 where the water pressure "peaked or spiked". He stated that during those times customers wouldn't
8 have adequate pressure to use their washers or showers, and the water coming through the taps would
9 be very minimal. (Tr. Pg. 87, lines 13-25)

10 32. Mrs. Harvey testified that GCWC's water system problems were directly related to
11 GCWC being unable to get financing to upgrade the system. She stated that the company filed for
12 new rates in 2000, but because Commission Staff never responded to the company's request, GCWC
13 did not receive a rate increase. (Tr. Pg. 129, lines 1-25) In response to Commissioner Mayes inquiry
14 into why the company never filed for another rate increase, Mrs. Harvey stated the company assumed
15 that "if we heard no in 2000, then we assumed we would hear no in 2006." (Tr. Pg. 159, lines 19-24)
16 Mrs. Harvey further testified that she had documentation supporting her allegation that Commission
17 Staff failed to follow up on the rate application submitted by the company in 2000.

18 33. At hearing, Commissioner Mayes requested that Mrs. Harvey provide the
19 documentation showing that the Commission Staff did not respond to the company's request for a
20 rate increase. (Tr. Pg. 130, lines 2-25) To date, no documentation supporting the company's
21 allegation has been filed.

22 34. Mrs. Harvey further testified that in 2004, GCWC filed for WIFA funds through
23 ADEQ and also filed an application for financing with the Commission. However, Mrs. Harvey
24 testified that the financing application was later withdrawn by the company. (Tr. Pg. 131, lines 9-25)

25 35. At hearing, Mrs. Harvey testified that GCWC has tried to address the nitrate issue and
26 in order to reduce the nitrates to the recommended level, GCWC would have to blend 7,000 gallons
27 of water per day. Mrs. Harvey stated that GCWC approached Picacho Water Company ("Picacho")
28 to see if they would be willing to interconnect to the GCWC system, to blend the water and reduce

1 the nitrate levels. According to Mrs. Harvey, Picacho refused to interconnect with the GCWC
2 system. (Tr. Pg. 122, lines 18-25)

3 36. Mrs. Harvey also testified that she believed that the nitrates problem arose when
4 Robson drilled wells just east of the GCWC system and that because they drilled the wells by
5 “fracking” them, this allowed surface water and contamination to flow down into the water source.
6 (Tr. Pg. 135, lines 1-4)

7 37. Mrs. Harvey further testified that although the Commission granted GCWC its CC&N
8 in 1988, the company was not contacted regarding the required ADEQ testing until 1994. She further
9 stated that in regards to the lead and copper testing, the company offered customers a \$10 credit to
10 get them to participate in the testing. She stated that the only reason the company was in violation of
11 the lead and copper testing was because the company could not get customers to participate, not
12 because the company did not want to do the required testing. (Tr. Pg. 126, lines 6-21)

13 38. Mr. Lendenican, a customer of GCWC, presented comments regarding the ADEQ
14 testing. He stated that he participated in the testing for ADEQ, but he became concerned after they
15 [the Harvey’s] picked up the water specimen and they didn’t seal it in front of him (Tr. Pg. 50, lines
16 2-4). He further stated “for all we know, the Harveys went down and poured that water out of my
17 bottle and put tap water in or Circle K water” (Tr. Pg. 50, lines 12-14). Additionally, he stated he
18 never saw the results of the tests.

19 39. According to intervenor, Mr. John Chadwick, GCWC’s two storage tanks and its
20 booster system are located on a 0.06 acre parcel that Mr. Chadwick purchased from Pinal County in a
21 tax lien sale. Mr. Chadwick testified that he paid \$1,150 to purchase the land containing the storage
22 tanks and pressure tanks.

23 40. According to Staff’s Complaint, Pinal County records, supported by communications
24 with Pinal County officials, indicate that Carl Harvey lost the parcel of land containing one of
25 GCWC’s storage tanks and the pressure tank for failure to redeem a tax lien. Staff reports that the
26 0.06 acre parcel, as reported by Mr. Chadwick, is located outside an “exclusive easement” that was
27 recorded by Mr. Harvey, and the exclusive easement covers the east 65 feet of the 2.43 acre parcel
28 that Mr. Chadwick purchased in addition to the 0.06 acre parcel.

1 41. Mrs. Harvey testified that although the company no longer owns the land under the
2 storage and pressure tanks, an “exclusive easement” gives them authority “for use, operation,
3 maintenance and repair for the delivery of water.”

4 42. Staff further alleges that the owners of GCWC have been non-responsive or belatedly
5 responsive to complaints or service concerns, the owners are verbally abusive and GCWC has failed
6 to be available for customers when there is a service outage.

7 43. At hearing, Mrs. Harvey testified that she and her husband, co-owners of GCWC,
8 spend on average four months out of the year outside of Arizona. Mrs. Harvey testified that her
9 residency is in Indiana. She stated that during the times when they are out of state, they have a
10 certified manager that troubleshoots the system to see if there is a problem, but that person does not
11 take service calls. She further stated that service calls are routed to them even when they are out of
12 state. (Tr. Pg. 166, lines 1-25).

13 44. Staff’s Complaint also alleges that GCWC customers have complained that the owners
14 are verbally abusive. Mrs. Harvey’s testimony was met with laughter from the audience when she
15 stated “there have been times that I have not used the nicest of tone with my customers, but that was
16 because my customers were screaming, swearing, yelling at me because they did something wrong
17 that got their water shut off”. . . “I am not normally a person that just goes around screaming and
18 yelling at people.” (Tr. Pg. 167, lines 1-15)

19 45. Ms. Sherri Ballard presented public comment on GCWC service. She stated that the
20 Harvey’s “are just so mean”. “I sold a place and [Mrs. Harvey] called and yelled at me because I
21 didn’t call and tell her”. . . “she just about made me cry”. . . and “I’m afraid to leave town because
22 my water might get turned off” (Tr. Pg. 48, lines 9-19).

23 46. Mr. Fitzpatrick stated that it is inconvenient to send his water bill all the way to
24 Indiana each month and that GCWC takes no responsibility for delays in the postal service. Mr.
25 Fitzpatrick stated that GCWC mailed him a late notice, which stated that his water was going to be
26 shut off if he didn’t pay the 58 cents he owed. (Tr. Pg. 57, lines 1-19)

27 47. Mrs. Harvey stated she was aware that the water line near Intervenor Kelly
28 Sampson’s property had been broken for four years. Mrs. Harvey testified that the company hired

1 someone to repair it, but the work was never done. Mrs. Harvey further stated that a smaller leak
2 located at a customer's meter was repaired, but the bigger one near Mrs. Sampson's property was not
3 because it did not pose any kind of threat that bacteria could get in the system.

4 48. Mr. Mike Fitzpatrick gave public comments regarding safety issues related to GCWC.
5 He stated that there is electrical conduit lying on top of the ground and holes where water meters
6 have been dug up are still open and have cattails growing out them. He further stated the holes are
7 "traps for people to break a leg". . . "horses could step into them or a horse back rider could be
8 maimed." (Tr. Pg. 55, lines 9-15; pg. 56, lines 1-4).

9 49. Mr. Norm Short, customer of GCWC, presented public comments on the low water
10 pressure issue. He stated that the water pressure is "so bad at times that you cannot get but a trickle
11 coming out of the shower" and "then other times it will knock you out of the shower" (Tr. Pg. 43,
12 lines 17-24; pg. 45, lines 13-19). Additionally, he stated that the water pressure is so low that the
13 "automatic dishwasher does not work" and to "water any plants outside, [he] has to do it at 4:00 and
14 5:00 a.m." to have water pressure (Tr. Pg. 44, lines 7-20). Mr. Short further stated he has horses and
15 he is unable to tell when the system has gone down and if the horses have had water (Tr. Pg. 45, lines
16 4-7).

17 50. Kendra Williams presented public comment and stated that she bought her home in
18 1996 and began taking water from GCWC. She stated that "our water is terrible". . . "our water has
19 been undrinkable". . . and "you take a big chance if you wash white clothes in our water, because it's
20 so terrible with the residue and rust." She further stated that on several occasions she has had
21 conversations with Mrs. Harvey and "she is a tyrant, she keeps [the] whole neighborhood in fear of
22 getting your water shut off if you cross her." (Tr. Pg. 39, lines 22-25; pg. 40, lines 1-10)

23 51. Staff's Complaint alleges that GCWC's service outages, poor water quality, and
24 inadequate water pressure requires the Commission to issue Orders appointing an interim manager
25 ("Manager") to preserve the safety and health of GCWC's customers.

26 52. At the hearing, Mrs. Harvey testified that the company does not challenge the
27 Commission's decision to appoint an interim operator for the GCWC system. (Tr. Pg. 123, lines 23-
28 25)

1 53. On May 23, 2007, Staff filed notice in this docket that Staff had reached a fully
2 executed agreement with AWC to act as interim operator for the GCWC system.

3 54. Based on the testimony and evidence presented, GCWC has failed to do mandatory
4 testing as required by the ADEQ; to maintain a minimum of 20 psi pressure in its system; to provide
5 a satisfactory level of service to its customers; and to maintain adequate and sufficient facilities and
6 equipment. Additionally, GCWC has not acted responsibly by allowing the taxes for the parcel of
7 land where its storage tanks and pressure tanks are located to go unpaid and the land to be sold in a
8 tax lien sale. Based on the testimony, evidence, and public comments, we find that GCWC owners
9 often conducted business in a combative and aggressive manner, leaving customers in fear of having
10 their water turned off and fostering poor relations with its customers. Further, we find that GCWC
11 has not put the safety and welfare of its customers in the forefront of its business, by allowing needed
12 repairs to go undone, and by not providing a remedy to its nitrates issues. Therefore, Staff's
13 recommendation for the appointment of an interim operator for the GCWC system is reasonable.

14 **Serving customers outside of Certificated area**

15 55. Staff alleges GCWC is serving customers outside its Certificated area in violation of
16 A.R.S. § 40281(A) and A.A.C. R-14-2-402(A)(1).

17 56. Staff's Engineering witness testified that on July 18, 2006, Staff drove the system
18 along with the Harveys and estimated that there are approximately 53 customers connected to the
19 WCWC system and approximately 30-35 of them are outside of GCWC's certificated area.

20 57. We find that GCWC has violated A.R.S. § 40-281(A) and A.A.C. R-14-2-402(A)(1)
21 by not applying with the Commission to extend its CC&N to include the customers who were outside
22 its Certificated area.

23 **Other issues**

24 58. At hearing, the issue of credits that were to be paid by the company for the installation
25 of meters was raised.

26 59. At hearing, Mrs. Harvey stated that due personal issues in 2001, GCWC fell behind on
27 reimbursing customers advances in aid of construction for meters the customers had installed. She
28 further testified that the meter credits to customers have remained behind from 2001 forward. She

1 stated that after the November 2006 Open Meeting, the company began to bring the credits current.

2 60. Pursuant to A.A.C. R-14-2-403, interest on customer's deposits shall be credited
3 annually on the customer bill. Mrs. Harvey testified that the company also fell behind on these
4 payments in 2001. She testified that as of the date of the hearing the interest credits were up to date.

5 61. Based on the testimony and evidence presented, GCWC has failed to reimburse
6 customers for advances in aid of construction in a timely manner. We believe GCWC should be
7 required to bring all customer credits for the installation of meters up to date within 60 days of a
8 Decision in this matter.

9 **Fines and cancellation of CC&N**

10 62. Staff is recommending two fines be assessed against GCWC. Related to GCWC's
11 failure to provide potable water to its customers and the nitrate issues, Staff recommends a fine of
12 \$100 per day starting January 10, 2005. The January 10, 2005, date is related to the NOV GCWC
13 received from ADEQ.

14 63. Staff's witness testified that Staff is recommending a second fine related to GCWC
15 having inadequate and insufficient equipment and facilities. Staff recommends that a fine of \$100
16 per day starting January 10, 2005, for this violation.

17 64. Mrs. Harvey testified that assessing penalties against the company will only make
18 matters worse. She stated that if the company had money to pay penalties it could have solved its
19 nitrate problem, storage problem and pressure problem.

20 65. Staff further recommended that the Commission cancel GCWC's CC&N because
21 GCWC is no longer a fit and proper entity to hold a CC&N.

22 66. Based on the evidence presented, GCWC has failed to address in a timely manner its
23 equipment and facilities issues, as well as its ADEQ compliance issues. Throughout GCWC's
24 testimony, GCWC pointed to outside entities for the problems the company encountered, including:
25 blaming ADEQ for not contacting them for six years after they were certificated regarding the
26 required testing for the system; asserting that Robson was responsible for the nitrates found in its one
27 operating well; asserting that customers were at fault for them not doing the required lead and copper
28 testing; and arguing that Commission employees failed to follow through on GCWC's application

1 for financing. Because we find that GCWC failed to provide potable water to its customers, and has
2 not acted responsibly to maintain its equipment and facilities and to remain in compliance with
3 ADEQ and Commission rules, we find that Staff's recommendations regarding fines to be assessed
4 against GCWC are reasonable and should be adopted. Although Staff recommended a \$100 per day,
5 per violation, beginning January 10, 2005, Staff did not propose a date for the fines to stop.
6 Accordingly, we find that the per day fine should stop on November 21, 2006, where at the
7 Commission's Open Meeting, GCWC agreed to the appointment of an interim operator for its
8 system. Further, for the foregoing reasons, we find that GCWC is not a fit and proper entity to hold a
9 CC&N, and Staff's recommendation that GCWC's CC&N be cancelled is reasonable.

10 CONCLUSIONS OF LAW

- 11 1. Golden Corridor Water Company is a public service corporation within the meaning
12 of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.
- 13 2. The Commission has jurisdiction over the Respondent and the subject matter of the
14 Complaint.
- 15 3. The issuance of a Certificate of Convenience and Necessity to a public service
16 corporation imposes a duty upon the certificate holder to operate the utility in a lawful manner, to
17 comply with law, and to provide competent management and adequate service to its customers.
- 18 4. Golden Corridor Water Company is in violation of A.A.C. R14-2-407(A); R-14-2-
19 407(C); R-14-2-402(A)(1); R-14-2-407 (E); A.R.S. §§ 40-321(A); and 40-281 (A).
- 20 5. Notice of this proceeding was provided as required by law.
- 21 6. Golden Corridor Water Company is not a fit and proper entity to hold a CC&N and its
22 CC&N should be cancelled.
- 23 7. Golden Corridor Water Company remains a public service corporation subject to the
24 jurisdiction of the Commission.
- 25 8. Staff's recommendation for the appointment of an interim operator for the Golden
26 Corridor Water Company is reasonable and is adopted.
- 27 9. Staff's recommendation that Carl Harvey dba Golden Corridor Water Company be
28 assessed fines is reasonable and should be adopted.

ORDER

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IT IS THEREFORE ORDERED that Staff's recommendation for the appointment of Arizona Water Company as the interim operator for Carl Harvey dba Golden Corridor Water Company is hereby granted.

IT IS FURTHER ORDERED that Carl Harvey dba Golden Corridor Water Company shall cooperate with and indemnify, defend and hold harmless Arizona Water Company.

IT IS FURTHER ORDERED that the Certificate of Convenience and Necessity granted to Carl Harvey dba Golden Corridor Water Company is hereby cancelled.

IT IS FURTHER ORDERED that Carl Harvey dba Golden Corridor Water Company shall be assessed fines and penalties pursuant Article XV, §§ 16 and 19 of the Arizona Constitution and A.R.S. §§ 40-424 and 40-425 in the amount of \$100 per day, beginning on January 10, 2005 through November 21, 2006, for a total amount of \$68,000, for violations of A.A.C. R-14-2-407(A) and (C), A.A.C. R-14-2-402 (A)(1), A.A.C. R-14-2-407(E) relating to Carl Harvey dba Golden Corridor Water Company's failure to provide potable water to its customers; for failure to maintain a satisfactory and continuous level of service; for serving customers outside its certificated area; and for delivering water pressure at a pressure lower than 20 psi.

IT IS FURTHER ORDERED that Carl Harvey dba Golden Corridor Water Company shall be assessed fines and penalties pursuant to Article XV, §§ 16 and 19 of the Arizona Constitution and A.R.S. §§ 40-424 and 40-425 in the amount of \$100 per day, beginning on January 10, 2005 through November 21, 2006, for a total amount of \$68,000, for violations of A.R.S. § 40-321(A) relating to Golden Corridor Water Company having inadequate and insufficient equipment and facilities.

IT IS FURTHER ORDERED that Carl Harvey dba Golden Corridor Water Company shall pay the fines discussed herein in the amount of \$136,000 (one hundred and thirty-six thousand dollars) either by check or money order to the "State of Arizona", and presented to the Arizona Corporation Commission for deposit into the general fund for the State of Arizona, no later than December 31, 2007.

...
...

1 IT IS FURTHER ORDERED that Carl Harvey dba Golden Corridor Water Company shall
2 bring current all credits due to customers for the installation of meters within 60 days of the date of
3 this Decision, and shall file documentation demonstrating compliance with this requirement, with the
4 Commission's Docket Control, as a compliance item in this docket within 90 days of the effective
5 date of this Decision.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

8
9 CHAIRMAN COMMISSIONER

10
11 COMMISSIONER COMMISSIONER COMMISSIONER
12

13
14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
15 Director of the Arizona Corporation Commission, have
16 hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this 30th day of JULY, 2007.

19
20 BRIAN C. McNEIL
21 EXECUTIVE DIRECTOR

22 DISSENT _____

23 DISSENT _____
24 YBK:db

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SERVICE LIST FOR:

CARL HARVEY DBA GOLDEN CORRIDOR
WATER COMPANY

DOCKET NO.:

W-02497A-06-0580

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