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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

SEP 27 2007

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IN THE MATTER OF APPLICATION OF TONTO
VILLAGE WATER COMPANY, INC. FOR A
RATE INCREASE.

DOCKET NO. W-01580A-04-0672

DECISION NO. 69911

**SUPPLEMENTAL
OPINION AND ORDER**

DATE OF HEARING: February 12, 2007
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes
IN ATTENDANCE: Mike Gleason, Chairman
Kristin K. Mayes, Commissioner
APPEARANCES: Mr. Ronald D. Standage, on behalf of Applicant; and
Ms. Robin Mitchell, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

On August 17, 2005, the Arizona Corporation Commission ("Commission") issued Decision No. 68066 which granted Tonto Village Water Company, Inc. ("Tonto Village" or "Company") a rate increase conditioned upon certain filing requirements. Specifically, Tonto Village was ordered to "immediately fix the leakage found on the pressure tank and the 34,000 gallon storage tank at Well site No. 2, and file documentation with Docket Control within 30 days of this Decision showing that the leakage has been repaired." Tonto Village was also directed to "install its planned new water source by June 30, 2006 and file a copy of its Arizona Department of Environmental Quality ("ADEQ") Approval of Construction with Docket Control by June 30, 2006."

On July 10, 2006, Tonto Village filed copies of photographs that purport to show that the repairs to leaks in the pressure and storage tanks had been made. The Company also filed a request

1 for a one-year extension of time to comply with the requirement that it install a new water source by
2 June 30, 2006. Tonto Village stated that it lacked financial resources to meet the deadline for adding
3 a new water source, but that it intends to seek WIFA financing for the project, and file a new rate
4 case in 2007 "to become profitable and be able to repay the loan arranged through WIFA."

5 On November 17, 2006, the Commission's Utilities Division Staff ("Staff") filed a
6 Memorandum recommending that Tonto Village be granted an extension of time, until April 30,
7 2008, to install its planned new water source, and that the Company be required to file a rate
8 application, using a 2006 test year, by no later than March 31, 2007. Staff indicated that, based on
9 discussions with the Company's president and general manager, the requested one-year extension
10 was no longer a sufficient amount of time to receive rate relief and complete the required work. Staff
11 recommended that Tonto Village be required file with its rate application, a financing application to
12 obtain Commission approval for a Water Infrastructure Finance Authority ("WIFA") loan for the
13 planned new water source. Staff further recommended that no additional time extensions be granted
14 in these matters.

15 On December 4, 2006, Chairman Gleason filed a letter in the docket requesting that a hearing
16 be scheduled to require a representative of the Company to explain why it had failed to comply with
17 the Commission's prior Order.

18 On January 19, 2007, a Procedural Order was issued scheduling a hearing for February 5,
19 2007.

20 On January 23, 2007, a Procedural Order was issued rescheduling the hearing for February
21 12, 2007, due to a scheduling conflict.

22 The hearing was held, as scheduled, on February 12, 2007, before a duly authorized
23 Administrative Law Judge. At the conclusion of the hearing, the matter was taken under advisement
24 pending issuance of a Recommended Opinion and Order.

25 * * * * *

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

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FINDINGS OF FACT

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2 1. On August 17, 2005, the Commission issued Decision No. 68066 which granted Tonto
3 Village a rate increase conditioned upon certain filing requirements. Specifically, the Company was
4 ordered to "immediately fix the leakage found on the pressure tank and the 34,000 gallon storage tank
5 at Well site No. 2, and file documentation with Docket Control within 30 days of this Decision
6 showing that the leakage has been repaired." Tonto Village was also directed to "install its planned
7 new water source by June 30, 2006 and file a copy of its ADEQ Approval of Construction with
8 Docket Control by June 30, 2006."

9 2. On July 10, 2006, Tonto Village filed copies of photographs purporting to show that
10 the repairs to leaks in the pressure and storage tanks had been made. The Company also filed a
11 request for a one-year extension of time to comply with the requirement that it install a new water
12 source by June 30, 2006. Tonto Village stated that it lacked financial resources to meet the deadline
13 for adding a new water source, but that it intends to seek WIFA financing for the project, and file a
14 new rate case in 2007 "to become profitable and be able to repay the loan arranged through WIFA."

15 3. On November 17, 2006, Staff filed a Memorandum recommending that Tonto Village
16 be granted an extension of time, until April 30, 2008, to install its planned new water source, and that
17 the Company be required to file a rate application, using a 2006 test year, by no later than March 31,
18 2007. Staff indicated that, based on discussions with the Company's president and general manager,
19 the requested one-year extension was no longer a sufficient amount of time to receive rate relief and
20 complete the required work. Staff recommended that Tonto Village be required file with its rate
21 application, a financing application to obtain Commission approval for a WIFA loan for the planned
22 new water source. Staff further recommended that no additional time extensions be granted in these
23 matters.

24 4. A hearing was conducted on February 12, 2007, at which time Ronald Standage
25 appeared on behalf of the Company and offered sworn testimony. When asked why the Company
26 failed to comply with the 30-day repair deadline set forth in the Commission's Order, Mr. Standage
27 testified that "basically I didn't get around to it" (Tr. 7). He went on to explain that, although a
28 leaking valve on the tank was repaired in September [2005], he had to wait to find a welder to repair

1 the pressure tank leak, which was accomplished in January [2006] (*Id.*). However, he did not submit
2 the required compliance filing until July 10, 2006.

3 5. With respect to the requirement that Tonto Village install a new water source and file
4 its ADEQ Approval of Construction by June 30, 2006, Mr. Standage stated that “we don’t have the
5 money to pay for the engineering to put in a new well” (Tr. 8). According to Mr. Standage, a new
6 well is estimated to cost approximately \$35,000, with an additional \$1,500 required for preliminary
7 engineering before the Company could obtain the required ADEQ approval to commence
8 construction (Tr. 8-9). He indicated that, even with the rate increase approved in 2005, Tonto Village
9 has revenues of only \$41,000 per year, but has expenses of \$48,000 per year, with the difference
10 being covered through loans from his family to the Company (Tr. 9).

11 6. Mr. Standage testified that the Company was founded, and has been operated by, the
12 Standage family for approximately 50 years. Tonto Village currently has approximately 190
13 customers. Since his father’s death in 1993, he and his sister have supervised the finances of the
14 Company (Tr. 10-13). The Company has an operator who lives in Star Valley and who is responsible
15 for maintaining the wells and chlorinators, and responding to customers (Tr. 31-32).

16 7. In response to Chairman Gleason’s questions about the importance of complying with
17 Commission Orders, Mr. Standage claims he was not intentionally trying to disregard the Order, but
18 he “was trying to balance all the ... balls in the air ... and unfortunately that one fell through” (Tr.
19 16). Mr. Standage conceded that he was remiss in not submitting the pressure tank repair compliance
20 filing within the timeframe established by the Commission (Tr. 17). Mr. Standage also testified that
21 it is sometimes difficult to provide an adequate supply during the summer months when usage
22 increases, and that many of the water lines are old and in need of repair or replacement (Tr. 19-21).

23 8. Mr. Standage agreed to seek financial assistance from WIFA for drilling the well that
24 was required by the Commission’s prior Order, but he would need to get ADEQ approval of the well
25 plans prior to approaching WIFA (Tr. 25-27). He also indicated that he was attempting to find an
26 existing water company that would be willing to buy Tonto Village (Tr. 27).

27 9. At the conclusion of the hearing, Mr. Standage indicated that he was willing to work
28 with Staff regarding WIFA assistance, and other matters related to ongoing compliance with

1 Commission Orders (Tr. 39-42).

2 **CONCLUSIONS OF LAW**

3 1. Tonto Village Water Company, Inc. is a public service corporation within the meaning
4 of Article XV of the Arizona Constitution and A.R.S. §§40-246, 40-250 and 40-251.

5 2. The Commission has jurisdiction over the Company and the subject matter of the
6 application.

7 3. The Commission has authority to enforce compliance with its Orders pursuant to
8 A.R.S. §40-424.

9 **ORDER**

10 IT IS THEREFORE ORDERED that Tonto Village Water Company, Inc., shall be granted an
11 extension of time, until April 30, 2008, to install its planned new water source in accordance with
12 Decision No. 68066. The Company shall, by April 30, 2008, file with Docket Control, as a
13 compliance item in this docket, a copy of its ADEQ Approval of Construction.

14 IT IS FURTHER ORDERED that Tonto Village Water Company, Inc., shall file a rate
15 application, using a 2006 test year, by no later than December 31, 2007.

16 IT IS FURTHER ORDERED that Tonto Village Water Company, Inc., shall file with its rate
17 application, a financing application to obtain Commission approval for a WIFA loan for the planned
18 new water source.

19 IT IS FURTHER ORDERED that Tonto Village Water Company, Inc., shall work
20 cooperatively with Commission Staff to secure the required new water source approvals and
21 financing, and with respect to the rate application required hereinabove.

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1 IT IS FURTHER ORDERED that failure to comply with the requirements set forth herein
2 may result in penalties for non-compliance, issuance of an Order to Show Cause, and other
3 appropriate remedial measures necessary to ensure compliance.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6
7 *Laurel Dean* *William M. ...*
8 CHAIRMAN COMMISSIONER
9 *Debra M. Hatch-Miller* *R. Lynn* *Gary ...*
10 COMMISSIONER COMMISSIONER COMMISSIONER
11

12 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this 27th day of Sept., 2007.

17 *Dean S. Miller*
18 DEAN S. MILLER
19 INTERIM EXECUTIVE DIRECTOR

20 DISSENT _____

21 DISSENT _____

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1 SERVICE LIST FOR: TONTO VILLAGE WTER COMPANY, INC.

2 DOCKET NO.: W-01580A-04-0672

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