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MEMORANDUM
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Arizona Corporation Commission
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TO: Docket Control Center

FROM: Ernest G. Johnson
for Director
Utilities Division

2007 OCT 12 P 12:04

AZ CORP COMMISSION
DOCKET CONTROL

DATE: October 12, 2007

RE: WHY UTILITY COMPANY, INC. - REQUEST FOR EXTENSION OF COMPLIANCE DEADLINES (DOCKET NO. W-02052A-05-0528 AND W-02052A-05-0529)

History

In Decision No. 68609, dated March 23, 2006, the Arizona Corporation Commission ("ACC" or "Commission") approved the application of Why Utility Company, Inc. ("Why Utility" or "Company") for a rate increase. As part of Decision No. 68609, the Commission ordered the following:

"It is further ordered that Why Utility Company, Inc. shall file with Docket Control, as a compliance item in this docket, a copy of the ADEQ Certificate for Approval to Construct for its water distribution system project by June 30, 2006."

Per Decision No. 68609, the Company received approval for \$185,000 in long-term debt from the Rural Utility Service ("RUS") of the United States Department of Agriculture ("USDA"). In conjunction with the \$185,000 loan, Why Utility also received an RUS grant for \$864,178 and a Colonia Grant of \$300,000. Therefore, the loan/grant financing package resulted in a total of \$1,349,178 in funds that were earmarked for installation of water treatment facilities, replacement of two storage tanks and replacement and installation of water distribution mains. Decision No. 68609 referred to these systems as the arsenic treatment system and the water distribution system and ordered the Company to provide copies of the Arizona Department of Environmental Quality ("ADEQ") Approvals to Construct ("ATC") for each project by June 30, 2006. On June 26, 2006, Why Utility docketed the ADEQ ATC for the arsenic treatment system, thereby completing one of the two ATC requirements.

On August 28, 2007, Why Utility docketed a "request for extension" on the ATC for the water distribution system. The application requested an extension of time until December 31, 2008 to provide the remaining ATC to the Commission. The Company stated the following in that filing:

"The original grant of \$1,349,178 which was approved by the USDA was supposed to cover the cost of both the filtration system and the replacement of the water distribution system. However, the filtration system has consumed the entire amount that was funded for both projects. The Company has continued to search for alternate funding for the Water Distribution System project."

The application also stated that, on July 11, 2007, the Company met with individuals from the USDA Rural Development, Highland Engineers and Tres Rios Consulting Engineers to discuss the completion of the filtration system. On July 12, 2007, the Company applied for \$2,500,000 of Federal Assistance to construct the water distribution system, with a proposed start date in February 2008 and a completion date in December 2008.

Staff Review

On October 10, 2007, Staff contacted the business organizations involved in this project to verify that the Company has made application for federal assistance. Staff talked with Mr. Leonard Gradillas, Program Director for Community Programs at the USDA Rural Development and Mr. Jeff Bower, Owner of Tres Rios Consulting Engineers, Inc. In discussing Why Utility's situation, each of these individuals painted a picture of unfortunate engineering delays so troublesome that they resulted in the termination of the contract for both the original Design Engineer and the original construction contractor. Each of those original firms has been replaced and the Company is moving forward with its construction agenda.

Mr. Gradillas confirmed that Why Utility has a pending application for approximately \$2,500,000 in funding that will likely be funded by both the USDA Rural Development and the Border Environmental Cooperation Commission which is an international organization created by the United States and Mexico that assists with funding for projects located in the border region on both sides of the US/Mexico border. While Why Utility's application for funding has been received, Mr. Gradillas stated that it will not be processed prior to final construction of the arsenic treatment system which should be completed by the end of 2007. Both Mr. Gradillas and Mr. Bower confirmed that the engineering problems and delays experienced by Why Utility were unlucky, very severe and warranted the Company's request for extension of time request to comply with the ATC requirement.

Staff Recommendation

Based on the application and all of the above, Staff does not object to the Company's request for extension of time until December 31, 2008, to comply with the ATC requirement for the water distribution system.

EGJ:BKB:lhv

Originator: Brian K. Bozzo

Attachment

SERVICE LIST FOR:
DOCKET NO.

WHY UTILITY COMPANY, INC.
W-02052A-05-0528 & W-02052A-05-0529

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Ms. Lyn Farmer
Chief Administrative Law Judge
Hearing Division
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WHY UTILITY CO., INC.
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August 22, 2007

Docket Control Center
Arizona Corporations Commission
1200 West Washington Street
Phoenix, AZ. 85007

Arizona Corporation Commission

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Re: New Request for Extension
Decision No. 68609
Docket No. W-02052A-05-0528 & W-02052A-05-0529

Why Utility Co., Inc. is requesting an extension of time to comply with the following compliance item from Decision No. 68609.

* Approval to Construct on the Water Distribution Facilities

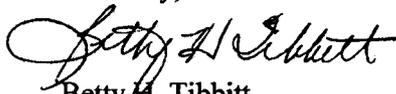
The Company requests an extension of time to complete this item until December 31, 2008.

On July 11, 2007, the Company had a meeting in Phoenix, Arizona, with representatives from the USDA (Rural Development), Highland Engineers (Contractor), Tres Rios Consulting Engineers, Rural Community Assistance Corporation, and Why Utility Co., Inc. to discuss the completion of the filtration system for Arsenic removal.

The original grant of \$1,349,178 which was approved by the USDA was supposed to cover the cost of both the filtration system and the replacement of the water distribution system. However, the filtration system has consumed the entire amount that was funded for both projects. The Company has continued to search for alternate funding for the Water Distribution System project.

On July 12, 2007, the Company applied for Federal Assistance to construct the water distribution system at an estimated cost of \$2,500,000. The proposed starting date would be February 2008 with a completion date of December 31, 2008.

Sincerely,



Betty H. Tibbitt
Sec/Treas.

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