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BEFORE THE ARIZONA CORPORATION CO.

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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

OCT 30 2007

DOCKETED BY nr

IN THE MATTER OF THE APPLICATION OF
WALNUT CREEK WATER COMPANY, INC. FOR
AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WATER SERVICE IN VARIOUS PARTS OF
MOHAVE COUNTY, ARIZONA.

DOCKET NO. W-02466A-06-0504

DECISION NO. 69951

OPINION AND ORDER

DATE OF HEARING: September 13, 2007
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Marc E. Stern
APPEARANCES: Scott Dunton, President, on behalf of Walnut Creek Water Company, Inc.; and
Robin Mitchell, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On August 7, 2006, Walnut Creek Water Company, Inc. ("Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide water service in various parts of Mohave County, Arizona.

On September 1, 2006, pursuant to A.A.C. R14-2-402(C), the Utilities Division ("Staff") filed a Notice of Insufficiency with respect to the Company's application.

On November 8, 2006, the Company filed a motion from the Company's president requesting that the proceeding be suspended due to his ongoing medical problems.

On December 5, 2006, Staff filed a response to the Company's request indicating that it did not object to Applicant's request and indicated that it believed that the timeclock should be suspended until at least June 30, 2007.

1 On December 12, 2006, by Procedural Order, the timeclock was suspended indefinitely due to
2 the uncertainty expressed by the Company's president. The timeclock was to remain suspended until
3 either a sufficiency letter was issued on this application or it was determined that the matter should be
4 dismissed.

5 On July 16, 2007, Staff issued a Notice of Sufficiency to the Company.

6 On July 27, 2007, by Procedural Order, the above-captioned matter was scheduled for a
7 hearing on September 13, 2007, and Applicant was ordered to publish notice of the application and
8 hearing thereon.

9 On August 20, 2007, the Commission's Utilities Division filed its Staff Report in this matter.

10 On August 23, 2007, the Company filed notice that it had provided public notice pursuant to
11 the terms of the Commission's Procedural Order.

12 On September 13, 2007, a full public hearing was convened before a duly authorized
13 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Company was
14 represented by its president and Staff appeared with counsel. At the conclusion of the hearing, the
15 matter was taken under advisement pending submission of a Recommended Opinion and Order to the
16 Commission.

17 * * * * *

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

20 **FINDINGS OF FACT**

21 1. Pursuant to authority granted by the Commission, the Company is an Arizona
22 corporation which is engaged in the business of providing water service in various parts of Mohave
23 County, Arizona.

24 2. On August 7, 2006, the Company filed an application for an extension of its
25 Certificate in Mohave County to provide water service to an area which is marked Exhibit A attached
26 hereto and incorporated herein by reference.

27 3. Notice of the application was provided in accordance with the law.

28 4. On August 20, 2007, Staff filed its Staff Report recommending conditional approval

1 of the application following a hearing.

2 5. At present, the Company provides public water service primarily to approximately 300
3 residential customers.

4 6. With its application, the Company is seeking authorization for an extension of its
5 Certificate to serve approximately 80 acres which are described in Exhibit A. The extension area is
6 nearly adjacent to the northwestern boundary of the Company's existing certificated service area in
7 an unincorporated portion of Mohave County about three miles south of Kingman, Arizona on U.S.
8 Route 66. The extension area is an old 32 lot residential subdivision where only one house was built,
9 but more construction is anticipated.

10 7. Applicant's existing certificated service area consists of approximately 700 acres. The
11 new water distribution facilities will be built by the Company with funds provided by its three owners
12 who also own Walnut Creek Development Company which either sold or still owns all of the
13 remaining lots in the current service area.

14 8. No other municipal or public service corporations provide water service in the
15 proposed service area described in Exhibit A.

16 9. Applicant previously secured a Mohave County franchise for the area sought to be
17 certificated herein and filed it with its application.

18 10. Based on the record, there is ample evidence that the Company has access to an
19 adequate supply of water with five wells and storage to hold up to 315,000 gallons of water to serve
20 existing and future customers. Additionally, the Arizona Department of Water Resources on June 27,
21 2005, issued a Designation of Adequate Water Supply in Decision No. 21-401425.0000.

22 11. Staff reviewed the water facilities of the Company and confirmed that Applicant has
23 adequate facilities and capacity to provide service to existing and future customers in its existing
24 service area and future customers in the requested extension area.

25 12. According to the Staff Report, Applicant is in full compliance with the rules of the
26 Arizona Department of Environmental Quality ("ADEQ") and is providing water which meets the
27 requirements of the Safe Drinking Water Act. Additionally, the Company's water is below the new
28 maximum allowable level for arsenic of 10 parts per billion ("ppb").

1 13. The Company is current on the payment of its property taxes, and is in compliance
2 with its filing requirements with the Commission.

3 14. Staff believes that there is a public need and necessity for water service to the
4 requested area and that the issuance of the Certificate is in the public interest.

5 15. Staff recommends the Commission condition approval of the application as follows:

- 6 • that the Company charge its existing tariffed rates and charges in the extension
7 area;
- 8 • that the Company file, within two years of the effective date of this Decision, with
9 Docket Control, as a compliance item in this docket, a copy of the applicable
10 ADEQ Certificate of Approval of Construction for the water facilities needed to
11 serve the requested area; and
- 12 • that the Company file, by May 31, 2008, a rate application which utilizes a 2007
13 test year.

14 16. Staff further recommends that the Commission's Decision granting the requested
15 Certificate extension to the Company be considered null and void, after due process, should the
16 Company fail to meet the second and third conditions listed above within the time specified.

17 17. Because an allowance for the property tax expense of the Company is included in the
18 Company's rates and will be collected from its customers, the Commission seeks assurances from the
19 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing
20 authority. It has come to the Commission's attention that a number of utilities have been unwilling or
21 unable to fulfill their obligation to pay the taxes that were collected from ratepayers, some for as
22 many as twenty years. It is reasonable, therefore, that as a preventive measure, the Company should
23 annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the
24 company is current in paying its property taxes in Arizona.

25 18. We find that Staff's recommendations, as set forth in Findings of Fact Nos. 15 and 16
26 are reasonable and should be adopted.

CONCLUSIONS OF LAW

27 1. Applicant is a public service corporation within the meaning of Article XV of the
28 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

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

1 IT IS FURTHER ORDERED that Walnut Creek Water Company, Inc. shall annually file, as
2 part of its annual report, an affidavit with the Utilities Division attesting that the Company is current
3 in paying its property taxes in Arizona.

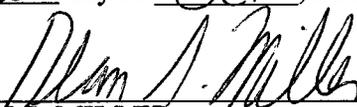
4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7  
8 CHAIRMAN COMMISSIONER

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10 
11 COMMISSIONER COMMISSIONER COMMISSIONER

12
13 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
14 Executive Director of the Arizona Corporation Commission,
15 have hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this 30th day of Oct., 2007.

18 
19 DEAN S. MILLER
20 INTERIM EXECUTIVE DIRECTOR

21 DISSENT _____

22 DISSENT _____
23 MES:db

1 SERVICE LIST FOR: WALNUT CREEK WATER COMPANY, INC.

2 DOCKET NO.: W-02466A-06-0504

3 Scott Dunton, President
4 WALNUT CREEK WATER CO., INC.
5 119 East Route 66
6 Kingman, AZ 86401

6 Christopher Kempley, Chief Counsel
7 Legal Division
8 ARIZONA CORPORATION COMMISSION
9 1200 West Washington Street
10 Phoenix, AZ 85007

9 Ernest G. Johnson, Director
10 Utilities Division
11 ARIZONA CORPORATION COMMISSION
12 1200 West Washington
13 Phoenix, AZ 85007

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EXHIBIT "A"

Legal description of proposed new water service area requested by Walnut Creek Water Company, Inc., the south half of the south half of the south half of Section 1, Township 20 North, Range 18 West, G & S.R.M., Mohave County, Arizona.