



BEFORE THE ARIZONA CORPORATION COMMISSION

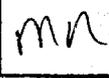
COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

DEC - 4 2007

DOCKETED BY 

IN THE MATTER OF THE APPLICATION
OF WATER UTILITY OF GREATER
TONOPA, INC., FOR AN EXTENSION OF
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. W-02450A-06-0253

DECISION NO. 70037

OPINION AND ORDER

DATE OF HEARING:

July 31, 2007

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Yvette B. Kinsey

APPEARANCES:

Mr. Timothy J. Sabo, ROSHKA DeWULF & PATTEN,
PLC on behalf of Water Utility of Greater Tonopah,
Inc.; and

Ms. Robin R. Mitchell, Staff Attorney, Legal Division,
on behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

On April 14, 2006, Water Utility of Greater Tonopah, Inc., ("Applicant" or "WUGT") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("CC&N") to include a portion of a development known as Balterra, in Maricopa County.

On May 12, 2006, the Commission's Utilities Division ("Staff") filed a Letter of Insufficiency in this docket stating the Applicant's application had not met the sufficiency requirements as outlined in the Arizona Administrative Code ("A.A.C.").

On June 19, 2006, Applicant filed supplemental information in support of its application.

On August 24, 2006, Staff filed a second Insufficiency Letter in this matter.

On September 19, 2006, Applicant filed a Motion to Substitute Counsel.

1 On October 3, 2006, by Procedural Order, WUGT's Motion to Substitute Counsel was
2 granted.

3 On October 6, 2006, Applicant filed its response to Staff's second Insufficiency Letter.

4 On January 31, 2007, Applicant filed an Analysis of Assured Water Supply for the proposed
5 extension area.

6 On May 11, 2007, Applicant filed responses to Staff's inquiry.

7 On May 16, 2007, Applicant filed an amended engineering data report.

8 On May 23, 2007, Applicant filed a Notice of Filing Late-Filed Exhibit.

9 On May 23, 2007, Staff filed a Sufficiency Letter in this docket indicating that the Applicant's
10 application had met the sufficiency requirements as outlined in the A.A.C.

11 On June 6, 2007, by Procedural Order, the hearing in this matter was set to commence on July
12 31, 2007 and other procedural deadlines were set.

13 On June 12, 2007, WUGT filed a Notice of Filing.

14 On June 14, 2007, WUGT filed its Affidavit of Publication and Affidavit of Mailing.

15 On June 29, 2007, Staff filed its Staff Report in this matter, recommending approval of
16 WUGT's application subject to conditions.

17 On July 13, 2007, WUGT filed its Response to Staff's Report.

18 On July 31, 2007, a full public hearing was held before a duly authorized Administrative Law
19 Judge of the Commission at its offices in Phoenix, Arizona. WUGT and Staff appeared through
20 counsel and presented evidence and testimony. No members of the public appeared to give public
21 comment.

22 On August 13, 2007, Staff filed a Notice of Filing Late-Filed Exhibit.

23 On August 27, 2007, WUGT filed a Response to Staff's Post Hearing Exhibit.

24 Following the filing of late-filed exhibits, this matter was taken under advisement pending the
25 submission of a Recommended Opinion and Order to the Commission.
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* * * * *

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

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5 **FINDINGS OF FACT**

6 1. Pursuant to authority granted by the Commission, WUGT is an Arizona public service
7 corporation engaged in the business of providing water service to approximately 350 customers in
8 various locations between 331st Avenue and 555th Avenue and between Elliot Road and Glendale
9 Avenue in Maricopa County, Arizona.

10 2. WUGT is one of five utilities owned by West Maricopa Combine, Inc, which is owned
11 by Global Water, Inc.¹

12 3. WUGT is an Arizona corporation in good standing with the Commission's
13 Corporation Division.

14 4. On April 14, 2006, WUGT filed an application to extend its CC&N to include a $\frac{3}{4}$
15 section of land located in a development known as Balterra. The proposed extension area is located in
16 the vicinity of 395th Avenue and Camelback Road in Maricopa County, and is more fully described in
17 Exhibit A, attached hereto and incorporated herein by reference.

18 5. WUGT provided notice in accordance with the law.

19 6. The owner of the Balterra subdivision is the only property owner in the proposed
20 extension area and has requested service from WUGT.

21 7. WUGT is currently serving the largest portion of the Balterra development, which is
22 located within WUGT's existing CC&N. The proposed extension area is contiguous to WUGT's
23 current service area for Balterra.

24 8. The Balterra development will consist of approximately 6,100 residential units at final
25 build out, with 2,600 being located in the proposed extension area.

26 9. WUGT operates eight individual water systems, which include the B&D/Buckeye
27 Ranch; Dixie; Garden City/Big Horn; Rose View; Sunshine; West Phoenix Estates #6; Tufte & West

28 ¹ Global Water Resources, LLC is the ultimate parent company of Global Water Inc.

1 Phoenix Estates #7; and West Phoenix Estates #1 systems.

2 10. WUGT's water systems range in size with the smallest system serving 2 customers to
3 its largest system which serves 137 customers.

4 11. Staff is recommending approval of WUGT's application for an extension of its CC&N
5 subject to the following conditions:

- 6 a. That WUGT resolve the storage and production deficiencies in the Dixie
7 System before allowing any new Main Extension Agreements ("MXAs") or
8 CC&N extensions involving the Dixie System.
- 9 b. That WUGT file with Docket Control as a compliance item, by December 31,
10 2007, evidence that the arsenic removal plans for WUGT's water systems have
11 been approved by the Maricopa County Environmental Services Department
12 ("MCESD").
- 13 c. That WUGT file with Docket Control, as a compliance item by March 31,
14 2008, documents showing that its water systems are in compliance with the
15 new arsenic standard.
- 16 d. That WUGT file with Docket Control, as a compliance item in this docket,
17 within two years of a Decision in this matter, copies of the Certificates of
18 Approval of Construction for its water source, treatment plant, storage tanks,
19 and water distribution system for the proposed water system issued by
20 MCESD or the Arizona Department of Environmental Quality ("ADEQ").
- 21 e. That WUGT file with Docket Control, as a compliance item in this docket,
22 within eighteen (18) months of a Decision in this matter, a copy of the Aquifer
23 Protection Permit ("APP") issued by ADEQ for the proposed water treatment
24 plant.
- 25 f. That WUGT file with Docket Control, as a compliance item in this docket, by
26 July 31, 2009 a copy of the Arizona Department of Water Resources'
27 ("ADWR") Designation of Assured Water Supply ("DAWS") and/or a copy of
28

1 the Developer's Certificate of Assured Water Supply ("CAWS") for the
2 requested extension area.

- 3 g. That WUGT file with Docket Control as a compliance item in this docket,
4 within one (1) year of a Decision in this matter, a copy of the franchise
5 agreement with the city or county in which the extension area is located.
- 6 h. That WUGT file a Cross Connection/Backflow Tariff with the Commission's
7 Docket Control, as a compliance item in this docket, within forty-five (45)
8 days of the effective date of a final Decision in this matter for Staff's review
9 and certification.
- 10 i. That if WUGT fails to comply with the above requirements in the time
11 ordered, the Decision approving this application should be deemed null and
12 void after due process.

13 Water Systems

14 12. Staff analyzed WUGT's water systems and summarized the information in the
15 following chart:

16 System Name	B&D/Buckeye Ranch	Dixie	Garden City/Big Horn	Rose View	Sunshine	WPE #6	Tuft WPE #7	WPE #1
17 PWS ID# (07-xxx)	618	030	037	082	071	733	617 ¹	N/A ¹
18 # of wells	2	1	1	1	1	1	1	1
19 Total well production ²	145	40	30	30	130	20	20	20
20 # of storage tanks	2	1	2	1	1	1	1	1
21 Total storage capacity (gallons)	155,000	10,000	35,000	5,000	100,000	6,000	5,700	5,000
22 # of existing customers	93	33	19	17	137	23	6	2
23 Are any FH ³ in the system?	Yes	No	No	No	Yes	No	No	N/A ⁴
24 Does system contain fire flow? ⁵	Yes	No	No	No	Yes	No	No	No

1	Does the system have adequate storage and production capacity?	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
4	Is arsenic exceeding 10 µg/l standard in the system? ⁶	Yes	No	No	Yes	Yes	Yes	Yes	Yes

1. The system is not regulated by either ADEQ or MCESD yet, because it is a semi-public system.
2. Reported in gallons per minute ("GPM").
3. FH stands for fire hydrant.
4. Staff assumes that there is no fire hydrant in this system.
5. Staff used 500 GPM for one hour to calculate fire flow reservation.
6. Data came from 2006 WUGT's Annual Report and email from WUGT.

13. Staff concluded that due to the rapid growth in WUGT's service area, the Dixie system's existing production and storage capacity is inadequate to serve its current thirty-three (33) customers.

14. WUGT's witness² testified the Dixie system has a 10,000 gallon storage tank with an average daily maximum monthly flow of 13,200 gallons per day, which calculates to about a 3,200 gallon storage shortage. The witness further testified that a 5,000 gallon storage tank has been installed to correct the shortage and construction will begin in October 2007 to install a welded steel tank that will replace both the temporary tank and the old tank. (Tr. Pg. 30, lines 9-22).

15. During the hearing, Staff modified its recommendation, deleting the requirement that WUGT correct the production and storage shortage for the Dixie system based on a review of information submitted by WUGT prior to the hearing and on the testimony of WUGT's witness.

Proposed Water and Wastewater Systems

16. Wastewater service will be provided by Balterra Sewer Company and WUGT has entered into a Cooperation Agreement to provide service to the development.

17. WUGT proposes to install a new water system consisting of two wells, producing 500 gallons per minute ("GPM"), an arsenic/fluoride removal treatment plant, a reservoir system, booster

² Mr. Graham Symmonds, Chief Technical Officer and Senior Vice President of Regulatory Affairs and Compliance for Global Water Management.

1 pump station systems, and a distribution system to serve its projected customer base within the next
2 five years.

3 18. The proposed new water system will be used to service the entire Balterra
4 development, including the proposed extension area in this docket and an additional eighteen (18)
5 square mile section.³

6 19. The new water system will be located on a parcel of land located at 407th Avenue and
7 Camelback Road.

8 20. WUGT will initially install two 500 gallon per minute ("GPM") wells, a one million
9 gallon storage facility, a water distribution center and a water treatment plant to serve the Balterra
10 development. (Tr. Pg. 22, lines 1-8)

11 21. WUGT estimates the total cost of plant to serve the extension area during the first five
12 years is \$4,621,867.

13 22. WUGT will fund the facilities needed in the extension area with advances in aid of
14 construction.

15 23. Staff concluded that WUGT's estimated costs of plant to serve the extension area are
16 reasonable; however, Staff made no "used and useful" determination for future rate making or rate
17 base purposes.

18 24. All of WUGT's regulated systems are delivering water that meets the water quality
19 standards as required by the A.A.C.

20 25. WUGT has no delinquent ACC compliance issues.

21 26. WUGT is located within the Phoenix Active Management Area ("AMA") and is in
22 compliance with all AMA requirements.

23 27. WUGT's witness testified that the developer has received an Analysis of Assured
24 Water Supply from ADWR and that WUGT plans to submit an application for a DAWS for the
25 proposed extension area. (Tr. Pg. 25, line 20-25)

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28 ³ WUGT provided a water master plan showing its regional plans to provide utility service using the WUGT water system described in this docket.

1 28. On January 23, 2006, the U.S. Environmental Protection Agency ("EPA") reduced the
2 arsenic maximum containment level ("MCL") from 50 parts per billion ("ppb") to 10 ppb. The
3 arsenic levels in all of the WUGT's systems exceed the new arsenic standard except for the Dixie and
4 Garden systems.

5 29. WUGT's witness testified that plans for arsenic treatment for WUGT's different
6 systems are in varying stages of completion. The chart below summarizes the information provided
7 during the hearing on arsenic removal for the various systems.
8

Water System	Current Arsenic Level	Number of Customers	Plan for Removal	Permit Status
1. Roseview	24 ppb	15	Point of use treatment	ATC applied for
2. W. Phoenix 1	11 ppb	4	Point of use treatment	Not public water system
3. W. Phoenix 7 or Tufte	26 ppb	6	Point of use treatment	ATC in process
4. W. Phoenix 4, 5 and 6	110 ppb		Arsenic treatment in progress ¹	ATC
5. Buckeye Ranch and B & D	12 ppb	99	Well head treatment	ATC in process
6. Sunshine	12 ppb		Well head treatment	ATC in process
7. Dixie	Below MCL	30	N/A	N/A
8. Garden City/ Big Horn	Below MCL	19	N/A	N/A

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19 1. W. Phoenix 4, 5 & 6 are all served by one well. Fluoride levels are at 10 parts per million. Both arsenic and fluoride treatments are on-going.

20 30. WUGT testified that it agrees with Staff's recommendation which requires compliance
21 with the arsenic standard for all of WUGT's water systems by December 31, 2007.

22 31. WUGT will install an Arsenic Activated Alumina and granular Ferric Hydroxide
23 water treatment plant as a part of its proposed new water system.

24 32. The proposed water treatment plant will take the backwash water and funnel it into an
25 evaporative pond, which will then flow through a reverse osmosis unit that will reduce waste water
26 volume before disposal. (Tr. Pg. 31, lines 17-25) The final waste water will be disposed of in an on-
27 site, lined 0.6 acre evaporation pond.
28

1 33. ADEQ requires an Aquifer Protection Permit ("APP") for the proposed waste water
2 disposal system.

3 34. WUGT's witness testified WUGT plans to finalize the designs for the water treatment
4 facility and then apply for the APP. WUGT further testified that WUGT believes twenty-four (24)
5 months is a more realistic timeframe for obtaining an APP from ADEQ and requested that Staff
6 modify its recommendation to require WUGT to file a copy of the APP within twenty-four (24)
7 months of a Decision in this matter.

8 35. At hearing, Staff agreed to modify its recommendation to allow WUGT twenty-four
9 (24) months to file its APP with the Commission.

10 36. In WUGT's Response to Staff's Report, WUGT also requested that it be allowed to
11 file the Discharge Authorization Letter issued by ADEQ instead of an APP. WUGT stated that
12 because the APP will be for the evaporation pond, the pond falls under a Type 3 General Permit.
13 Under the Type 3 General Permit, ADEQ will issue a Discharge Authorization Letter.

14 37. Staff filed a Late-Filed Exhibit that addressed WUGT's request for clarification on the
15 Discharge Authorization Letter. In its exhibit, Staff stated it consulted with the ADEQ and confirmed
16 that under the circumstances of this case a Discharge Authorization Letter is the same as an APP; and
17 therefore the Discharge Authorization Letter would satisfy Staff's condition that WUGT file an APP.

18 38. WUGT has an approved Curtailment Tariff that has been in effect since January 26,
19 2005.

20 39. WUGT does not have an approved Cross Connection/Backflow Tariff.

21 40. WUGT requested that it be allowed to modify its Backflow Tariff to mirror the
22 Backflow Tariff WUGT has on file with the ACC for the Water Utility of Greater Buckeye.

23 41. WUGT's witness testified that the Backflow Tariff on file for the Water Utility of
24 Greater Buckeye encompasses all of the standard information required by the ACC, but also includes
25 additional information required by the MCESD. He explained that the more detailed tariff allows
26 WUGT to meet the requirements of the ACC and MCESD in one document with expanded details on
27 the technical aspects of the Backflow prevention programs. (Tr. Pg. 33, lines 1-25)

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1 Order, a copy of its Discharge Authorization Letter issued by the Arizona Department of
2 Environmental Quality for its proposed treatment plant.

3 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc., shall file with
4 Docket Control, as a compliance item in this docket, by December 31, 2009, a copy of its
5 Designation of Assured Water Supply or a copy of the Developer's Certificate of Assured Water
6 Supply issued by the Arizona Department of Water Resources for the extension area.

7 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc., shall file with
8 Docket Control, as a compliance item in this docket, within one year of the effective date of this
9 Order, a copy of the franchise agreement with the city or county in which the extension area is
10 located.

11 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc., shall file with
12 Docket Control, as a compliance item in this docket, Tariff, within forty-five (45) days of the
13 effective date of this Order, a copy of its Cross Connection/ Backflow Tariff, in the format used for
14 the Water Utility of Greater Buckeye Tariff on file with the Commission and using broader language
15 under Category #4 to describe the agricultural nature of the land in the extension area.

16 IT IS FURTHER ORDERED that if Water Utility of Greater Tonopah, Inc., fails to comply
17 with the above conditions within the required time-frames the Certificate of Convenience and
18 Necessity conditionally granted herein shall become null and void, after due process.

19 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc., shall charge its
20 existing rates and charges on file with the Commission for the extension area granted herein, until
21 further Order of the Commission.

22 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc., shall annually file
23 as part of its annual report, an affidavit with the Utilities Division attesting that it is current on paying
24 its property taxes in Arizona.

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1 IT IS FURTHER ORDERED that in light of the on-going drought conditions in central
2 Arizona and the need to conserve groundwater, Water Utility of Greater Tonopah, Inc., is prohibited
3 from selling groundwater for the purpose of irrigating any future golf courses within the certificated
4 expansion areas or any ornamental lakes or water features located in the common areas of the
5 proposed new developments with the certificated expansion areas.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

8
9 Laurel Wilson William A. White
10 CHAIRMAN COMMISSIONER

11 Debbie H. Hatch Miller R. M. [Signature] Gary [Signature]
12 COMMISSIONER COMMISSIONER COMMISSIONER
13

14 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
15 Executive Director of the Arizona Corporation Commission,
16 have 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 4th day of Dec., 2007.

19 Dean S. Miller
20 DEAN S. MILLER
21 INTERIM EXECUTIVE DIRECTOR

22 DISSENT _____

23 DISSENT _____

24 YBK:db

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1 SERVICE LIST FOR: WATER UTILITY OF GREATER TONOPAH, INC.

2 DOCKET NO.: W-02450A-06-0253

3
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EXHIBIT "A"

WATER SERVICE AREA DESCRIPTION

BALTERRA

THE NORTHEAST QUARTER AND THE SOUTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 6 WEST,
GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THAT PORTION OF THE SOUTHWEST QUARTER OF SAID SECTION 19 DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP FOUND AT THE SOUTH QUARTER CORNER OF SAID SECTION 19, FROM WHICH AN ARIZONA DEPARTMENT OF TRANSPORTATION BRASS CAP AT THE SOUTHEAST CORNER OF SAID SECTION 19 BEARS SOUTH 89°28'08" EAST, A DISTANCE OF 2640.04 FEET; THENCE NORTH 89°28'43" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19, A DISTANCE OF 1482.82 FEET; THENCE NORTH 00°31'17" EAST, A DISTANCE OF 40.00 FEET TO A HALF INCH REBAR AT A POINT ON A LINE LYING 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19 AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00°31'17" EAST, A DISTANCE OF 200.00 FEET TO A HALF IN REBAR AT A POINT ON A LINE LYING 240.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19;

THENCE SOUTH 89°28'43" EAST, ALONG SAID LINE LYING 240.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19, A DISTANCE OF 200.00 FEET TO A HALF IN REBAR;

THENCE SOUTH 00°31'17" WEST, A DISTANCE OF 200.00 FEET TO A HALF IN REBAR AT A POINT ON SAID LINE LYING 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19;

THENCE NORTH 89°28'43" WEST, ALONG SAID LINE LYING 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19, A DISTANCE OF 200.00 FEET TO A HALF IN REBAR AT THE POINT OF BEGINNING;

ALSO EXCEPT ANY PORTION OF THE SOUTHWEST QUARTER OF SAID SECTION 19 LYING WITHIN THAT CERTAIN TRACT OF LAND CONDEMNED FOR HIGHWAY PURPOSES BY INSTRUMENT RECORDED UNDER DOCKET 7553, PAGE 749, RECORDS OF MARICOPA COUNTY ARIZONA.

SITUATE IN THE COUNTY OF MARICOPA, STATE OF ARIZONA.

CONTAINS 475.815 ACRES MORE OR LESS.

