

ORIGINAL



RECEIVED

ARROYO WATER COMPANY

2007 DEC 21 P 12:04

HC 6 BOX 1048 L
PAYSON, ARIZONA 85541
928-474-1766
FAX: 928-474-7812

AZ CORP COMMISSION
DOCKET CONTROL

December 10, 2007

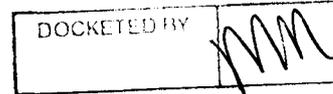
Ms. Kimberly D. Battista
Chief, Compliance & Enforcement
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
Phone: 602-542-0747
Fax: 602-364-0888

Re: Arroyo Water Company
Docket No. W-04286A-04-0774

Arizona Corporation Commission
DOCKETED

DEC 21 2007

Dear Ms. Battista;



On October 8, 2007, we docketed an inquiry in regards to the status of Arroyo Water Company's CC&N.

We are attaching the letter dated October 8, 2007, along with the summary of dockets provided for Arroyo Water Company, since November of 2006 and other pertinent information referenced in that letter. Copies of Return Receipts are attached.

Since that letter, the issues with Jakes Corner have been resolved and we have successfully completed the current inspection. (attached). We are in compliance with Arizona Department of Environmental Quality as well.

Our special concern is the Gila County Franchise which is only applicable for one year from the date of February 6, 2007 as stated under the conditions in Paragraph # 9.

Please feel free to call us if there are any questions.

Sincerely,

Kyle Parker

Attachments: New Billing card, Procedural Order dated 4/4/07; Staff Memorandum dated 9/17/07, Letter from ADEQ dated March 7, 2007; Gila County Franchise, Return Receipts, current Inspection from ADEQ.

ARROYO WATER COMPANY

HC 6 BOX 1048 L
PAYSON, ARIZONA 85541
928-474-1766
FAX: 928-474-7812

October 8, 2007

Docket Control Center
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Re: Arroyo Water Company
Docket #04286A-04-0774

Dear Commission;

We are inquiring as to the status on the pending CC&N for Arroyo Water Company.

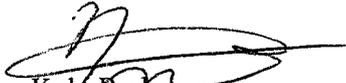
The attached letter from Blessing N. Chukwu, Executive Consultant II, states, "the application has met the sufficiency requirements as outline in the Arizona Administrative Code ("A.A.C."). (attached).

Since the Hearing for the Procedural Order, dated April 4, 2007:

1. We have complied with all the requirements previous and following the Hearing.
(Procedural Order for above referenced docket number is attached.)
2. We have complied with the request from Deborah Regan to update our billing cards. As of this date, three monthly separate billings have gone out to our customers and all of our customers have responded in a very positive way. (billing card enclosed)
3. Jakes Corner Water System storage tank Decision # 67231 has been addressed and we are in the process of billing our customers. (attached)
4. We realize that the installation of a storage and pressure tank for Arroyo is a compliance issue for both the Commission and ADEQ. (Letter from ADEQ is attached.) We are in compliance with ADEQ with all issues except the tanks for Arroyo. We have tanks ready for installation and are also ready to complete the upgrading of the entire system for Arroyo.
5. Enclosed is a copy of our Gila County Franchise which has an expiration date of February 6, 2008. We do have a concern of meeting that deadline.
6. We are looking forward anxiously in making another positive step forward in attaining our CC&N.

Please feel free to call us if there are any questions or further information needed.

Sincerely,


Kyle Parker

Attachments: new billing card, Procedural Order dated 4/4/07, Staff Memorandum dated 9/17/07,
Letter from ADEQ dated March 7, 2007, Gila County Franchise.

Copy: ADEQ, James Gibbons

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



ARIZONA CORPORATION COMMISSION

BRIAN C. MCNEIL
Executive Director
RECEIVED

2007 MAR 16 A 8:17

AZ CORP COMMISSION
DOCUMENT CONTROL

March 16, 2007

Kacy Parker
Tony Vlahopoulos
Arroyo Water Company, Inc.
HC 6 Box 1048 L
Payson, Arizona 85541

RE: Arroyo Water Company – Application for Sale of Assets and Certificate of Convenience and Necessity (CC&N) in Docket No. W-04286A-04-0774
SUFFICIENCY LETTER

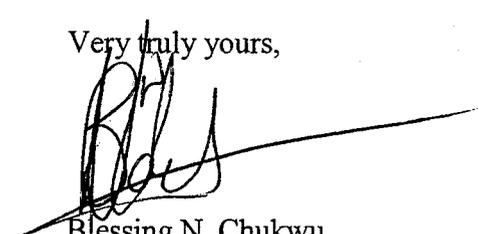
Dear Sirs:

In reference to the above mentioned application filed on October 19, 2004, and the supporting documents filed on November 15, 2006, December 22, 2006, February 7, 2007, and February 15, 2007, this letter is to inform you that the application has met the sufficiency requirements as outlined in the Arizona Administrative Code ("A.A.C.").

Pursuant to the A.A.C. (R14-2-411(C) for water), the Commission has 150 calendar days for its substantive review. This includes conducting a hearing and preparing a proposed Opinion and Order to present to the Commission at an Open Meeting.

If you have any questions concerning this matter, please do not hesitate to contact me at 602-542-0840 and Del Smith at 602-542-7277.

Very truly yours,


Blessing N. Chukwu
Executive Consultant III

BNC

cc: Docket Control
Del Smith
Lyn Farmer
Brian Bozzo
Vicki Wallace

RECEIVED
BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

2007 APR -4 A 8:49

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

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
KACY PARKER dba ARROYO WATER
COMPANY FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WATER SERVICE AND FOR APPROVAL OF
THE SALE OF ASSETS TO KACY PARKER.

DOCKET NO. W-04286A-04-0774

PROCEDURAL ORDER

BY THE COMMISSION:

On September 13, 2004, a Procedural Order was issued in Docket No. W-03672A-01-0474 (*In the Matter of the Complaint of Utilities Division Staff v. Arroyo Water Co., Inc.*) directing Kyle and Kacy Parker to file an application for sale of assets and for transfer of the current Certificate of Convenience and Necessity ("CC&N") for Arroyo Water Company, Inc. ("Arroyo Water" or "Company"). Based on an investigation in that docket, the Commission's Utilities Division Staff ("Staff") indicated that Kyle and Kacy Parker appear to have purchased the assets of Arroyo Water from Richard Williamson, the prior owner, yet no application for authority to transfer the assets or CC&N had been filed with the Commission.

On October 19, 2004, Kacy Parker dba Arroyo Water Company filed an application in the above-captioned docket for a new CC&N and for approval of the sale of assets to Kacy Parker.

By Procedural Order issued April 19, 2005, Staff was directed to file a Staff Report by June 3, 2005, addressing the ownership and operational status of Arroyo Water, as well as any ongoing issues with respect to Arizona Department of Environmental Quality compliance issues and Staff's recommendation regarding the proposed transfer of assets and issuance of a CC&N to Kacy Parker dba Arroyo Water Company.

On June 1, 2005, Staff filed a request for an extension of time, until June 24, 2005, to file the Staff Report ordered by the April 19, 2005 Procedural Order.

By Procedural Order dated June 2, 2005, Staff was granted an extension to file its Staff

1 commence on June 12, 2007, at 10:00 a.m., or as soon thereafter as is practical, at the
2 Commission's offices at 1200 West Washington Street, Phoenix, Arizona.

3 IT IS FURTHER ORDERED that intervention requests shall be considered in accordance
4 with A.A.C. R14-3-105, except that all motions to intervene must be filed on or before May 14,
5 2007.

6 IT IS FURTHER ORDERED that any direct testimony and associated exhibits to be
7 presented by intervenors or Staff shall be reduced to writing and filed on or before May 14,
8 2007.

9 IT IS FURTHER ORDERED that any rebuttal testimony and associated exhibits to be
10 presented at hearing by the Company shall be reduced to writing and filed on or before June 1,
11 2007.

12 IT IS FURTHER ORDERED that Arroyo Water shall provide direct notice by mail, in the
13 format set forth below, to each of its customers by no later than April 30, 2007.

14 IT IS FURTHER ORDERED that Arroyo Water shall provide notice of the hearing in this
15 matter, in the following form and style, to be published at least once in a newspaper of general
16 circulation in its service territory, with publication to be completed no later than April 30, 2007:

17
18 **PUBLIC NOTICE OF THE HEARING FOR**
19 **ARROYO WATER COMPANY FOR SALE OF ASSETS AND FOR TRANSFER OF**
20 **CERTIFICATE OF CONVENIENCE AND NECESSITY**
21 **DOCKET NO. W-04286A-04-0774**

22 On September 13, 2004, a Procedural Order was issued in Docket No. W-
23 03672A-01-0474 (*In the Matter of the Complaint of Utilities Division Staff v.*
24 *Arroyo Water Co., Inc.*) directing Kyle and Kacy Parker to file an application for
25 sale of assets and for transfer of the current Certificate of Convenience and
26 Necessity ("CC&N") for Arroyo Water Company, Inc. ("Arroyo Water" or
27 "Company"). Based on an investigation in that docket, the Commission's
28 Utilities Division Staff ("Staff") indicated that Kyle and Kacy Parker appear to
have purchased the assets of Arroyo Water from Richard Williamson, the prior
owner, yet no application for authority to transfer the assets or CC&N had been
filed with the Commission. On October 19, 2004, Kacy Parker dba Arroyo Water
Company filed an application in the above-captioned docket for a new CC&N and
for approval of the sale of assets to Kacy Parker. If the application is approved,
Kacy Parker dba Arroyo Water Company would be the authorized and exclusive
provider of water service within its designated service area.

should be made as early as possible to allow time to arrange the accommodation.

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IT IS FURTHER ORDERED that Arroyo Water shall file certification of publication and mailing as soon as practical after the publication and mailing have been completed, but not later than May 14, 2007.

IT IS FURTHER ORDERED that notice shall be deemed complete upon publication and mailing of such notice, notwithstanding the failure of an individual customer to read or receive the notice.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized Communications) applies to this proceeding as the matter is now set for public hearing.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

Dated this 4th day of April, 2007



DWIGHT D. NODES
ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this LTM day of April, 2007 to:

Kacy Parker dba Arroyo Water Company
HC 6, Box 1048-H
Payson, AZ 85541
(VIA CERTIFIED AND REGULAR MAIL)

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Richard W. Williamson
Arroyo Water Company, Inc.
P.O. Box 231
Young, AZ 85554
(VIA CERTIFIED AND REGULAR MAIL)

ARIZONA REPORTING SERVICE, INC.
2627 N. Third Street, Suite 3
Phoenix, AZ 85004-1126

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

By: 
Debbi Person
Secretary to Dwight D. Nodes

ARROYO WATER COMPANY

DOCKETS/RESPONSES TO ARIZONA CORPORATION COMMISSION

DOCKETS:

- 9-13-04 ORIGINAL APPLICATION FOR CC&N
- 11-03-06 APPLICATION FOR CROSS CONNECTION/BACKFLOW TARIFF
- 11-14-06 RESPONSE TO STAFF REPORT DATED JUNE 5, 2005 ALL EIGHT ITEMS
- 12-5-06 RESPONSE TO 7 CUSTOMER COMPLAINTS FOR 2005/06
- 12-12-06 TARIFF SCHEDULE
- 12-15-06 AFFIDAVIT - ARROYO CUSTOMERS-INFORMED PER BLESSING
- 12-20-06 CUSTOMERS REQUESTS FOR WATER SERVICE PER BLESSINGS LETTER DATED 12-6-06 INCLUDING CROSS CONNECTION TARIFF/BACKFLOW TARIFF AND AFFIDAVIT AS REQUESTED
- 1-17-07 PLANT DESCRIPTION AND WATER USE DATA SHEET TO DEL SMITH FAXED AND DOCKETED 3 TIMES (11/14-2/05-2/7/07)
- 1-17-07 NEWSPAPER AD AND NOTICE FROM GILA COUNTY BOARD OF SUPERVISORS FOR FRANCHISE HEARING AND PROCESS
- 2-7-07 RE-DOCKET AND FAX TO DEL SMITH PLANT DESCRIPTION, ADEQ PLANT DESCRIPTION AND ACC'S PREVIOUS PLANT DESCRIPTION
- 2-12-07 GILA COUNTY BOARD OF SUPERVISORS FRANCHISE
- 2-15-07 CONSUMER CONFIDENCE REPORTS 2005/06
- 2-19-07 RESPONSE TO ADEQ PAT FENTON INSPECTION VIOLATIONS (12-15-07) COMPLIED WITH 8 OUT OF 9
- 2-28-07 ANNUAL REPORTS (HAND CARRIED) AND DOCKETED FOR 2005/06
- 3-1-07 NOTICE TO CUSTOMERS OF WATER REPORT AND CONSUMER CONFIDENCE REPORT NOTICE ON BULLENTIN BOARD PUNKIN CENTER

3-2-07 LETTER TO JOHN GIBBON, ADEQ UPDATE ON COMPLIANCE AND TIME FRAME FOR STORAGE TANK

3-15-07 LETTER TO BRIAN BOZZO UPDATE ON DOCKETS, RESPONSES, CC& N STATUS

3-15-07 CORPORATE FILING FOR 2005/06

3-26-07 RESPONSE LETTER TO KIM BATTISTA FOR JAKES CORNER WATER SYSTEM REGARDS TO STORAGE TANK

4-16-07 PUBLIC NOTICE FOR NEWSPAPER & AFFIDAVIT FOR CC&N HEARING

4-18-07 APOLOGY LETTER TO KIM BATTISTA FOR MARCH 26 LETTER JAKE CORNER

5-2-07 ADEQ SITE VISIT & INSPECTION REPORT

5-9-07 ANNUAL REPORT 2006

6-12-07 ATTENDED PROCEDURAL ORDER HEARING: KYLE, NANCY & TONY, PRESIDING JUDGE NODES, ADMIN. LAW JUDGE

6-20-07 LEGEND COLIFORM, LEAD & COPPER RESULTS

7/20 ANNUAL REPORTS, ARIZONA DEPARTMENT OF REVENUE '06 ARROYO WATER COMPANY AND JAKES CORNER WATER SYSTEM

7/26 COVER LETTER AND INVOICE FOR NEW PUMP AT JAKES CORNER ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY LEAD AND COPPER RESULTS AND INFORMATION.

8-6-07 AMMENDMENT LETTER FOR JAKES CORNER STORAGE TANK, FAX COPY TO BRIAN BOZZO

10-9-07 LETTER TO ACC FOR STATUS ON CC&N WITH ATTACHEMENTS



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

CTS-150778
March 7, 2007

Case ID #: 76774

Arroyo Water Company Inc.
Attention: Kacy Parker
HC 6, Box 1048 L
Payson, Arizona 85541

Re: Response to the February 13, 2007, February 19, 2007 and March 2, 2007 Submittals that Addressed the Notice of Violation Issued to Arroyo Water Company on December 15, 2006

Dear Mr. Parker:

Arizona Department of Environmental Quality (ADEQ) has received your submittals dated February 13, 2007, February 19, 2007 and March 2, 2007. After reviewing the submitted information and evaluating it against the requirements in the Documenting Compliance section of the NOV, we have determined that six of the nine compliance conditions have been satisfied. The status of each compliance condition is as follows:

Compliance Condition 1: Compliance previously achieved.

Compliance Condition 2: Within 20 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a plan that describes how AWC will meet the water storage requirements. The plan must include a calculation of the average daily demand during the peak month for water usage during the year. Storage capacity must be greater than the average daily demand during the peak month for water usage during the year.

In Item 2 of the February 19, 2007 submittal, Arroyo Water Company stated that the average daily maximum water demand is 34,433 gallons per day. In Item 8 of the February 19, 2007 submittal, Arroyo Water Company states that they are planning on installing an additional 24,000 gallon water storage tank at the existing site and another 24,000 gallon storage tank at a new east site. The two new storage tanks plus the existing 11,000 gallon water storage tank will give the water system a total storage capacity of 59,000 gallons. This is more than the maximum demand of 34,433 gallons. Based on information in the February 19, 2007 submittal, ADEQ considers the compliance conditions in item 2 to have been met.

Compliance Condition 3: Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or an administratively complete Approval to Construct (ATC) application for increasing water storage capacity.

Arroyo Water Company has not submitted an ATC to ADEQ. *Compliance has not been achieved.*

Northern Regional Office
1801 West Route 66 • Suite 117 • Flagstaff, AZ
86001
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ
85701
(520) 628-6733

Arroyo Water Company Inc.
March 7, 2007
Page 2

Compliance Condition 4: Within 120 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or an Engineer's Certificate of Completion for the water storage project.

Arroyo Water Company has not submitted an Engineer's Certificate of Completion for the water storage project. *Compliance has not been achieved.*

Compliance Condition 5: Within 20 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or documentation that AWC employs a operator that holds a grade 1 or greater, water treatment and distribution certification.

In Item 5 of the February 19, 2007 submittal, Arroyo Water Company states that James Harrell is their certified operator. Based on this information, ADEQ considers the compliance condition in item 5 to have been met.

Compliance Condition 6: Compliance previously achieved.

Compliance Condition 7: Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a complete consumer confidence report documenting water quality conditions for calendar year 2005, along with a description of how the AWC customers have received the report.

As part of the February 19, 2007 submittal, Arroyo Water Company submitted a copy of the Consumer Confidence Report (CCR) for the years 2004, 2005 and 2006. In Item 7 of the February 19, 2007 submittal, Arroyo Water Company stated that the CCR was posted on the community bulletin board and copies would be included in the next water bill. Based on this information, ADEQ considers compliance condition 7 to have been met by Arroyo Water Company.

Compliance Condition 8: Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or documentation that the pressure tank has been repaired or replaced. The documentation must include pictures that show all aspects of the pressure tank.

ADEQ has not received any documentation that the pressure tank is in any better shape than at the time of the inspection on November 3, 2006, or on January 17, 2007 when the site was visited. *Compliance has not been achieved.*

Compliance Condition 9: Compliance previously achieved.

In the March 2, 2007 letter to Mr. Gibbons, Arroyo Water Company has asked to appeal the 120 day NOV timeline and requested ADEQ to take into consideration that Arroyo Water Company does not have a CC&N for the water system. The maximum 120 day timeline within an NOV is fixed for all drinking water systems and can not be extended. Extensions can be achieved as part of a Consent Order, which is the next step in the enforcement process. However, Arroyo Water Company needs to be aware that any extension as part of a Consent Order will be binding upon the water system.

Arroyo Water Company Inc.
March 7, 2007
Page 3

If you need any additional information or help, please feel free to contact me at (602) 771-7667.

Sincerely,



Patrick Finton
Water Quality Field Services Unit

cc: Nancy Moreno, Arroyo Water Company, HC 6 Box 1048 L, Payson, AZ 85541
Tony V, Arroyo Water Company, HC 6 Box 1048 L, Payson, AZ 85541
Brian Bozzo, Arizona Corporation Commission
Carmela Leon, Arizona Corporation Commission
Deborah Reagan, Arizona Corporation Commission
Gila County Health Department

When recorded, deliver to:

Marian Sheppard, Chief Deputy Clerk
Board of Supervisors

RESOLUTION NO. 07-02-01

BEFORE THE BOARD OF SUPERVISORS

GILA COUNTY, STATE OF ARIZONA

In the Matter of:)	
)	
Application of ARROYO WATER COMPANY, INC.)	
)	
)	FRANCHISE
)	
for a water franchise.)	
_____)	

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF GILA COUNTY, STATE OF ARIZONA, THAT:

WHEREAS, ARROYO WATER COMPANY, INC. ("Franchisee") on January 2, 2007, presented to the Gila County Board of Supervisors an application petitioning that the Board grant it a non-exclusive water franchise for public utility purposes pursuant to A.R.S. §40-283 to enter upon all present and future public highways, roads, streets, alleys, thoroughfares (except state highways and except within the present confines of any incorporated city or town) within the unincorporated area of Gila County known as Punkin Center Village to construct, operate and maintain water system facilities along, over, under and across said public highways, roads, streets, alleys and thoroughfares for the provision of water utility service; and,

WHEREAS, the proposed water service area is legally described as the East half of Section 11, all of Section 12, all of Section 13 and the East half of Section 14 of Township 6 North, Range 10 East, Gila and Salt River Base Meridian; and,

WHEREAS, the above named petitioner is an Arizona public service corporation that will operate its water utility service in Gila County pursuant to a Certificate of Convenience and Necessity granted by the Arizona Corporation Commission; and,

WHEREAS, upon filing of said application, the Board of Supervisors ordered the public notice of the intention of the Board to make such a grant by publication in the *Arizona Silver Belt*, once a week, three times consecutively on January 17, 2007, January 24, 2007, and January 31, 2007, and noticing that on Tuesday, February 6, 2007, the Gila County Board of Supervisors would consider the application at the courthouse at 1400 E. Ash Street in Globe; and,

WHEREAS, the *Arizona Silver Belt* has provided the Gila County Board of Supervisors with an affidavit that the notice had been published at least once a week for three consecutive weeks in the newspaper; and,

WHEREAS, notice was also regularly given pursuant to A.R.S. §38-431; and,

WHEREAS, this matter appeared before the Gila County Board of Supervisors on February 6, 2007, and no one appeared in opposition thereto; and,

WHEREAS, it appears that it will benefit the public safety, health or welfare in the granting of this franchise and that the Franchisee has complied with all necessary laws to enable it to receive such a franchise.

NOW, THEREFORE, IT IS RESOLVED that a franchise be granted to ARROYO WATER COMPANY, INC. for the purpose of entering all present and future

public highways, roads, streets, alleys, thoroughfares (except state highways and except within the present confines of any incorporated city or town) for the period of fifteen (15) years, unless earlier terminated, to construct, operate and maintain water service facilities within the unincorporated areas of Gila County, specifically providing, however, that:

1. All rights hereunder are granted under the express condition that the Board of Supervisors of Gila County shall have the power at any time to impose such restrictions and limitations and to make such regulations on such highways, roads, streets, alleys and thoroughfares as may be deemed best for the public safety, welfare and convenience.

2. All rights hereunder are granted on the express condition that the Franchisee shall bear all expenses, including damage and compensation, for any alteration of the direction, surface grade or alignment of a county road or any other such highway, road, street, alley, or thoroughfare occasioned by the exercise of its franchise rights. If such road improvements are necessary and the Franchisee fails to make such improvements or bear all expenses necessary within 45 days after notification by Gila County, this grant shall be immediately rescinded and without any force or effect. Franchisee shall erect and maintain all necessary safety precautions throughout the period of the improvements.

3. All rights hereby granted shall be exercised so as not to interfere or conflict with any easement or right-of-way heretofore granted by said Board of Supervisors. Before Franchisee enters upon any highway, road, street, alley or thoroughfare that requires a right-of-way permit from the Gila County Public Works

Division pursuant to Ordinance 97-3, Franchisee shall apply for and receive such a permit.

4. All water system facilities constructed, operated and maintained pursuant to this franchise shall be placed, removed or relocated, initially and throughout the term of this franchise, along, in, or, under, over and across the said highways, roads and thoroughfares in such manner and location as the Board of Supervisors or its duly authorized agents may approve. Such placement, removal or relocation shall be done at the sole expense of the Franchisee upon a determination by the Board of Supervisors of Gila County that such facilities interfere unduly with vehicular traffic over any such highway, road, street, alley, or thoroughfare. In all other instances, the costs incurred in relocating such facilities shall be borne by and added to the costs of the public or private improvement causing or resulting in such relocation.

5. Franchisee shall indemnify, defend, and save harmless Gila County from all costs, expenses and liabilities in connection with the grant of this franchise and exercise of the same by Franchisee.

6. The franchise granted herein shall not be deemed exclusive and the Board of Supervisors expressly reserves the right to grant from time to time similar franchises over the same territory, highways, roads, streets, alleys and thoroughfares.

7. The right, privilege and franchise granted herein shall be binding upon and inure to the benefit of Franchisee, its successors and assigns; provided, however, that no transfer or assignment shall be made without prior written notice to the Board of Supervisors.

8. In the event Gila County takes action to dispose of unnecessary public roadways in accordance with the provisions of Arizona Revised Statutes 28-7201, et seq., Gila County shall recognize and preserve each of Grantee's prior rights-of-way, easements, and rights under this Franchise which are affected thereby, as they existed prior to such disposition.

9. This franchise is granted upon the express condition that a Certificate of Convenience and Necessity be acquired from the Arizona Corporation Commission within twelve (12) months of the date of this franchise and all delinquent property taxes are paid to the Gila County Treasurer within 30 days of receiving the Certificate of Convenience and Necessity; and if such Certificate is not acquired within twelve (12) months from this date and the property taxes are not paid within the required time frame, this franchise shall be null and void.

10. A copy of the Certificate of Convenience and Necessity must be submitted to the Clerk of the Board of Supervisors within the twelve (12) month period along with proof of payment of the delinquent property taxes.

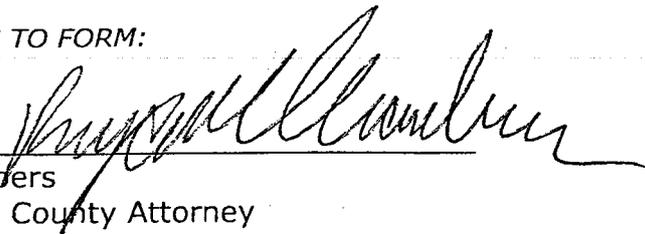
11. This franchise supercedes and revokes any other existing franchise between Gila County and Arroyo Water Company, Inc.

IN WITNESS THEREOF the Board of Supervisors of Gila County, State of Arizona, by its chairman and clerk, have hereunto set their hand and caused its official seal to be affixed this 6th day of February 2007.


Jose M. Sanchez, Chairman
Gila County Board of Supervisors

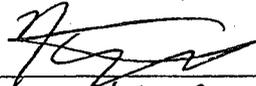

Steven L. Besich, Clerk
Gila County Board of Supervisors

APPROVED AS TO FORM:



Bryan Chambers
Chief Deputy County Attorney

The foregoing terms and conditions are hereby accepted by the Franchisee.

By 

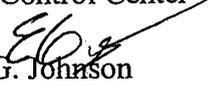
Kyle PARKER

Title owner

Date 2-6-07

MEMORANDUM

TO: Docket Control Center

FROM: Ernest G. Johnson 
Director
Utilities Division

DATE: September 17, 2007

RE: KACY J. PARKER DBA JAKE'S CORNER WATER SYSTEM - ORDER TO SHOW
CAUSE (DOCKET NOS. W-04249A-04-0249 AND W-03745A-04-0249)

Introduction

On May 21, 2007, the Arizona Corporation Commission ("Commission") issued Decision No. 69583 which granted Staff's motion for Complaint and Order to Show Cause ("OSC") against Kacy J. Parker dba Jake's Corner Water System ("Jake's Corner" or "Company"). The OSC was a result of the Company's repeated failure to comply with Commission Decision No. 67231 and its requirement that Jake's Corner install a storage tank. Based on the language in Decision No. 67231, the original due date for the installation of the storage tank was June 2005.

On August 27, 2007, a procedural order was issued by the Administrative Law Judge ("ALJ") setting forth a procedural schedule for conducting the above mentioned OSC proceedings. Specifically, the ALJ ordered that a Staff Report be filed in this matter by September 17, 2007.

The following is a summary of the Decisions relating to this docket, an engineering review of the Jake's Corner system and an update of filings that have been docketed since Staff filed the OSC.

Decision No. 67231

In Decision No. 67231, dated September 8, 2004, the Commission approved the transfer of assets and Certificate of Convenience and Necessity ("CC&N") from Edwin L. Wetzler dba Jakes Corner Water System to Kacy J. Parker dba Jake's Corner Water System. As part of the decision, Jake's Corner was ordered to comply with the following Commission requirements:

- a) "It is further ordered that Kacy J. Parker dba Jake's Corner Water System shall file a Backflow Prevention Tariff within 60 days of this Decision"
- b) "It is further ordered that Kacy J. Parker dba Jake's Corner Water System shall install a Storage Tank by June 2005."
- c) "It is further ordered that Kacy J. Parker dba Jake's Corner Water System shall file a Curtailment Tariff within 365 days of the installation of such storage tank."

The Company originally had difficulty complying with each of the above requirements. The Backflow Prevention Tariff was due in November 2004 and filed on April 25, 2007. The Curtailment Tariff was due in June 2006 (365 days after the June 2005 due date of the storage tank) and was filed on April 25, 2007. Therefore, the above tariffs have been filed but the requirement to install the storage tank remains.

Decision No. 69583 – OSC

In Decision No. 69583, dated May 21, 2007, the Commission approved the OSC proceeding and ordered the Company to appear before the Commission to discuss why the storage tank was not completed. The Decision outlined Staff's efforts to contact the Company and bring them into compliance. It also noted that the Company had not requested a waiver, extension of time or a modification of the Commission requirement. Staff continued to pursue the Compliance of the storage tank because the Company had not complied with the Commission order.

Request for Amendment - 40-252 Filing

The Company has made several filings suggesting that the installation of a storage tank is not the most efficient action to be taken for this particular system at this time. A letter docketed on March 26, 2007, stated that after considering the time, effort and expense, Jake's Corner believes that the Company "does not warrant the financial investment" of the storage tank. A July 26, 2007 letter, faxed to the Compliance section, stated that the need for the storage tank was eliminated by inspection report "documentation" from the Arizona Department of Environmental Quality ("ADEQ"), a separate state agency. Although the Company had also previously stated in writing, phone conversations and meetings that they *did* intend to install the storage tank, the Company ultimately filed a request for amendment of Decision No. 67231.

The Company's August 10, 2007, request for amendment is attached and requested that the Commission "re-consider" the portion of Decision No. 67231 that required the installation of the storage tank. In the filing, the Company provided historical information and an outline detailing the water system that is in place at Jake's Corner. The system includes plant facilities in two separate sites as discussed in the Engineering section below. The Company argument is that the system has provided domestic water to the same 20 lots unchanged for 40 years and, based on the specific characteristics of this case, the system will become much more complex (and expensive) if a storage tank is required. The Company also stated that the existing 5,000 gallon tank is "more than adequate per current regulations from ADEQ". In fact, the Company refers to the existing tank as a "storage pressure tank" to indicate that it serves both storage and pressure purposes.

Engineering

According to the Company, the operation of the water system has two plant sites. Plant #1 is the well site that consists of a well (27 GPM) and a small bladder tank (estimated at 40 gallons) that is used as a surge arrestor. The well pumps into the distribution system and up a hill to Plant #2, which is approximately 1,600 feet from Plant #1. Plant #2 consists of a 5,000 gallon pressure tank used to serve approximately 19 service connections.

Using the 2006 Annual Report's peak month data of 99,106 gallons of water sold to the 19 service connections, the well capacity of 27 GPM could serve up to 90 service connections and a 5,000 gallon pressure/storage tank capacity could service up to approximately 28 service connections. Although pressure tanks are not considered storage tanks, in this case, the 5,000 gallon pressure tank could be considered somewhat a storage tank because of the location of the tank; approximately 1,600 feet from the well site and located at the highest point on the water system. This pressure tank is supplied with air using a portable air compressor to increase the water pressure before entering the distribution system. In addition, the Company informed Staff that in the past the well and pump were repaired in a matter of hours anytime there was a failure.

Based on the current operation of the water system, it appears that the Commission ordered storage tank is not a critical requirement at this time.

Staff Review

Prior to August 2007, the Company had not previously filed any request for waiver, amendment or modification of Decision No. 67231. Therefore, Staff's interaction with Jake's Corner has been based on its Compliance status alone. Mr. Kyle Parker finally admitted in conversation that he should have sought reconsideration of the storage tank requirement several years ago but was not aware of that option.

Based on all of the above, it is Staff's opinion that the storage tank is not a critical requirement at this time. However, the need for a storage tank should be reconsidered in a future rate case and/or financing case when the revenue needed to cover any additional plant costs to install a storage tank can be considered.

Therefore, Staff considers the current use and operation of the 5,000 gallon tank to be an interim solution to the storage tank situation. Staff recommends the storage tank issue be revisited in the Company's next rate and/or financing application. The Company should be required to file a rate case by no later than March 31, 2011.

Recommendation

Based on the above, Staff recommends that the Commission dismiss the Order to Show Cause; however, Staff makes no recommendation regarding the compliance status of Decision No. 67231. Staff further recommends that the Company be ordered to file a rate case no later than March 31, 2011.

EGJ:BKB:MSJ:lmh

Originators: Brian K. Bozzo and Marlin Scott, Jr.

SERVICE LIST FOR: KACY J. PARKER DBA JAKE'S CORNER WATER SYSTEM
DOCKET NOS. W-04249A-04-0249, et al.

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