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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

FEB 27 2008

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

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IN THE MATTER OF THE OF THE
APPLICATION OF KEATON DEVELOPMENT
COMPANY FOR AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR THE PROVISION OF
WATER SERVICE IN PORTIONS OF LA PAZ
COUNTY, ARIZONA.

DOCKET NO. W-02169A-07-0098

DECISION NO: 70172

OPINION AND ORDER

DATE OF HEARING: November 30, 2007

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Marc E. Stern

APPEARANCES: Mr. Richard L. Sallquist, Sallquist Drummond & O'Connor, P.C. on behalf of Keaton Development Company; and

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

BY THE COMMISSION:

On February 13, 2007, Keaton Development Company ("Applicant" or "Company") filed an application for an extension of its existing Certificate of Convenience and Necessity ("Certificate") with the Arizona Corporation Commission ("Commission") to provide public water service in various parts of La Paz County, Arizona.

On March 9, 2007, the Commission's Utilities Division ("Staff") issued a Notice of Insufficiency which indicated that the Company's application had not met the sufficiency requirements of A.A.C. R14-2-411(C).

On September 28, 2007, Staff issued a Notice of Sufficiency to the Company.

On October 4, 2007, by Procedural Order, the above-captioned matter was scheduled for

1 hearing on November 30, 2007, and Applicant was ordered to publish notice of the application and
2 hearing thereon.

3 On November 2, 2007, Staff filed its initial report which recommended denial of the
4 Company's application.

5 On November 9, 2007, the Company filed notice that it had provided public notice pursuant to
6 the terms of the Commission's Procedural Order, and also filed objections to the Staff Report.

7 On November 30, 2007, a full public hearing was convened before a duly authorized
8 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Company and
9 Staff appeared with counsel. At the conclusion of the hearing, the matter was taken under
10 advisement pending submission of a Recommended Opinion and Order to the Commission.¹

11 On December 7, 2007, Staff filed an amended Staff Report which recommends that the
12 Commission issue an Order Preliminary to the Company for the area for which it is requesting an
13 extension of its Certificate.

14 * * * * *

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

17 **FINDINGS OF FACT**

18 1. Pursuant to authority granted by the Commission, the Company is an Arizona
19 corporation engaged in the business of providing public water service in the vicinity of Salome, La
20 Paz County, Arizona pursuant to Decision No. 41705 (November 12, 1971).

21 2. On February 13, 2007, the Company filed an application for an extension of its
22 existing Certificate in order to provide water service to an area which is marked Exhibit A, attached
23 hereto and incorporated herein by reference.

24 3. Public notice of the application was provided in accordance with the law.

25 4. With its application, the Company is seeking an extension of its Certificate to provide
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27 ¹ At the conclusion of the hearing, the presiding Administrative Law Judge directed Staff to file an amended Staff Report
28 due to changes made when Staff testified at the hearing. One of the included changes is that the Commission approve the
Company's request for an extension with an Order Preliminary.

1 public water service to approximately 72 acres of land which are being developed as residential
2 subdivisions, Sunshine Acres, a 37 acre parcel being developed as a 107 lot subdivision, and Salome
3 Heights, a 35 acre parcel which is being developed as a 29 lot subdivision.

4 5. The two subdivisions are owned by the same owners and are adjacent to one another,
5 approximately one-half mile east of the Company's existing certificated service area.

6 6. At present, the Applicant is providing public water service to approximately 475
7 customers.

8 7. According to the Staff Report, the Company has two active wells which produce
9 approximately 760 gallons per minute ("GPM") of water, and one inactive well which has a
10 production capacity of approximately 383 GPM and will be brought on line to serve the extension
11 area described in Exhibit A.

12 8. The developers will fund the cost of the transmission facilities for the Company with
13 advances in aid of construction totaling approximately \$264,500 through main extension agreements
14 which are approved by the Commission.

15 9. Concurrently with its application, the Company submitted an Approval to Construct
16 ("ATC") which was issued by the Arizona Department of Environmental Quality ("ADEQ") for the
17 water facilities to serve the Sunshine Acres subdivision. During the hearing, the Company indicated
18 that it will file a copy of the Salome Heights subdivision's ATC upon receipt from ADEQ.

19 10. The Company, in conjunction with its application, on October 31, 2007, filed a
20 Curtailment Tariff with the Commission for its approval.

21 11. Applicant further indicates that it will file a copy of a Letter of Adequate Water
22 Supply ("LAWS") which is to be issued from the Arizona Department of Water Resources
23 ("ADWR") which will demonstrate the availability of adequate water to serve the extension area
24 upon its receipt from the state agency.

25 12. On November 2, 2007, Staff filed its report which initially recommended the denial of
26 the Company's application based on an ADEQ report which indicated that ADEQ was unable to
27 determine whether the system was delivering water which met the requirements of the Safe Drinking
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1 Water Act. However, on November 9, 2007, ADEQ issued a current status report to the Company
2 which indicates that it has no major deficiencies and is delivering water which meets the
3 requirements of the Safe Drinking Water Act. Upon the Company's receipt of the current ADEQ
4 status report, a copy was filed with the Commission.

5 13. During the hearing, based on the current ADEQ status report, Staff revised its original
6 recommendation and is now recommending that the Commission issue the Applicant an Order
7 Preliminary for the extension of its Certificate for the area described in Exhibit A.

8 14. On December 7, 2007, pursuant to the presiding Administrative Law Judge's request
9 during the hearing, Staff filed an amended Staff Report which set forth its recommendation that the
10 Commission approve the issuance of an Order Preliminary to the Company along with several other
11 recommendations.

12 15. According to the Staff Report, the Company has no compliance issues with the
13 Commission and the Company is delivering water with no more than five parts per billion ("ppb") of
14 arsenic, which is in compliance with the new arsenic standard established by the U.S. Environmental
15 Protection Agency. The Company is also current on the payment of its sales and property taxes.

16 16. Staff is recommending that the Commission approve an Order Preliminary be issued
17 to the Company for the extension area subject to the following conditions:

- 18
- 19 • that the Company be required to charge its authorized rates and charges in the extension
20 area;
 - 21 • that the Company file, within three years of the effective date of this Decision, with the
22 Commission's Docket Control, as a compliance item in this docket, a copy of a franchise
23 agreement issued from La Paz County for the requested extension area;
 - 24 • that the Company file, within three years of the effective date of this Decision, with the
25 Commission's Docket Control, as a compliance item in this docket, a copy of the ATC for
26 Salome Heights which is to be issued by ADEQ;
 - 27 • that the Company file, within three years of the effective date of this Decision, with the
28 Commission's Docket Control, as a compliance item in this docket, a copy of the Letter of
Adequate Water Supply which is to be issued by ADWR which demonstrates the
availability of adequate water for the Sunshine Acres and Salome Heights subdivisions;
and
 - that the Company upon complying with the second, third, and fourth conditions above,
make a compliance filing, and within sixty days of this filing, Staff shall file a response in
the form of an Order to be placed on the Commission's agenda for a vote to approve a
Certificate as soon as possible after Staff's filing that confirms the Company's compliance
with the second, third and fourth conditions listed above.

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17. Staff further recommends approval of the Curtailment Tariff filed by the Applicant.

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

19. We find that Staff's recommendations, as set forth in Findings of Fact Nos. 16 and 17 are reasonable and should be adopted.

CONCLUSIONS OF LAW

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

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

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

4. There is a public need and necessity for water utility service in the proposed service area described in Exhibit A.

5. The Company is a fit and proper entity to receive an Order Preliminary prior to the issuance of a Certificate.

6. The application by the Company to extend its Certificate for the area described in Exhibit A should be granted for an Order Preliminary as recommended by Staff in Findings of Fact No. 16.

7. The Curtailment Tariff filed by the Company should be approved.

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ORDER

IT IS THEREFORE ORDERED that the application of Keaton Development Company for an amendment to its Certificate of Convenience and Necessity for the operation of water utility in the area more fully described in Exhibit A is hereby approved for an Order Preliminary provided that Keaton Development Company complies with the conditions set forth in Findings of Fact No. 16.

IT IS FURTHER ORDERED that upon Keaton Development Company satisfying the second, third and fourth conditions of Findings of Fact No. 16, it shall file a Notice of Compliance and within sixty days of this filing, Staff shall file a response in the form of a Commission Order to be placed on the Commission's agenda to approve a Certificate of Convenience and Necessity upon Staff's confirmation that Keaton Development Company has complied with the conditions set forth in Findings of Fact No. 16 above.

IT IS FURTHER ORDERED that the Curtailment Tariff filed by Keaton Development Company is hereby approved.

IT IS FURTHER ORDERED that Keaton Development Company shall charge water customers in the areas more fully described in Exhibit A its tariffed rates and charges as authorized previously by the Commission

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1 IT IS FURTHER ORDERED that Keaton Development Company shall annually file, as part
2 of its Annual Report, an affidavit with the Utilities Division attesting that the Company is current in
3 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 Samuel L. Khan
CHAIRMAN

W. Miller

COMMISSIONER

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10 Gregory H. H. H. H.
COMMISSIONER

R. M. G.

COMMISSIONER

G. P. R.

COMMISSIONER

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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 Feb., 2008.

Dean S. Miller

17 DEAN S. MILLER
18 INTERIM EXECUTIVE DIRECTOR

19 DISSENT _____

20
21
22 DISSENT _____

MES:db

1 SRVICE LIST FOR: KEATON DEVELOPMENT COMPANY

2 DOCKET NO.: W-02169A-07-0098

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9 Christopher Kempley, Chief Counsel
10 Legal Division
11 ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14 Ernest Johnson, Director
15 Utilities Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, Arizona 85007

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EXHIBIT "A"
LEGAL DESCRIPTION

SUNSHINE ACRES

The South 613.77 feet of the North 913.77 feet of the
Northeast Quarter of Section 27, Township 5 North, Range
13 West of the G&SRB&M, La Paz, Arizona

SALOME HEIGHTS

PARCEL DESCRIPTION

That parcel of land situated in the NE 1/4 of Section 27, Township 5
North, Range 13 West, Gila & Salt River Meridian, La Paz County, Arizona,
and being more particularly described as follows:

Commencing for reference at the Northeast corner of said Section 27;
Thence S0°05'59"E along the East line of said Section 27 a distance of
912.85 feet to a point on the centerline of Palm Boulevard, said point
also being the POINT OF BEGINNING;
Thence N89°57'55"W along the centerline of said Palm Boulevard a
distance of 2135.18 feet to the beginning of a curve to the right, concave
to the Northeast, having a radius of 300.00 feet and a central angle of
43°40'49";
Thence Northwest along said curve an arc distance of 228.71 feet, said
arc also being the centerline of said Palm Boulevard;
Thence N46°17'06"W along the centerline of said Palm Boulevard a distance
of 47.20 feet to the intersection of Palm Boulevard and Mesquite Avenue;
Thence S43°42'54"W along the centerline of said Mesquite Avenue a
distance of 299.90 feet to the beginning of a curve to the left, concave
to the Southeast, with a radius of 300.00 feet and a central angle of
43°37'15";
Thence Southwest along said curve an arc distance of 228.40 feet, said
arc also being the centerline of said Mesquite Avenue;
Thence S0°05'39"W along the centerline of said Mesquite Avenue a distance
of 265.87 feet to the intersection of Mesquite Avenue and Cactus Street;
Thence S89°57'55"E along the centerline of said Cactus Street a distance
of 2668.28 feet to a point on the East line of said Section 27;
Thence N0°05'59"W along the East line of said Section 27 a distance of
574.00 feet to the POINT OF BEGINNING.
Containing 37.05 acres, more or less.

