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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

SEP 30 2008

DOCKETED BY [Signature]

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF UTILITY SOURCE, L.L.C. FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER AND WASTEWATER SERVICE IN COCONINO COUNTY, ARIZONA.

DOCKET NO. WS-04235A-05-0707

DECISION NO. 70530

ORDER EXTENDING TIME DEADLINE CONTAINED IN DECISION NO. 68962

Open Meeting  
September 23 and 24, 2008  
Phoenix, Arizona

BY THE COMMISSION:

\* \* \* \* \*

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

FINDINGS OF FACT

- On September 21, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68962 which approved the application of Utility Source, L.L.C. ("Applicant" or "Company") for the conditional extension of its Certificate of Convenience and Necessity ("Certificate") to provide public water and wastewater utility service to Parcels A, B, C and F which are further described in Exhibit A to the Decision. Parcels A and F were to receive both water and wastewater service and Parcels B and C were to receive wastewater service only.
- Parcel A consisted of 90 acres which was to be developed for residential purposes consisting of 156 single family residences and 120 townhomes requiring both water and wastewater service.
- Parcel B consisted of 30 acres which was to be developed as a 306 lot mobile home

1 development where water would be included in the tenants' rental fees charged by the mobile home  
2 park which was to drill its own well. The tenants were to receive their wastewater service from the  
3 Company.

4 4. Parcel C consisted of 20 acres which was to be developed into 30  
5 commercial/industrial lots for which wastewater service alone was to be provided.

6 5. Parcel F consisted of only three acres which were owned by the Company and was  
7 utilized for the expansion of its wastewater treatment facilities which it was thought would require  
8 both water and wastewater service.

9 6. The Commission's Decision extending the Company's Certificate to provide service  
10 to Parcels A, B, C and F was conditioned upon the Company filing, within 365 days of the effective  
11 date of the Decision, with the Commission's Docket Control, as a compliance item in this docket, the  
12 following documents:

- 13 • a copy of the Arizona Department of Environmental Quality ("ADEQ")  
14 Certificate of Approval to Construct ("ATC") the water facilities for Parcels A  
15 and F in the extension area;
- 16 • a copy of the ADEQ ATC for wastewater facilities for Parcels B and C in the  
17 extension area;
- 18 • a copy of the applicable ADEQ Aquifer Protection Permit ("APP") and  
19 applicable Section 208 Permit for the proposed addition to its wastewater  
20 facilities needed to serve the requested area; and
- 21 • a copy of the Coconino County Franchise for the requested extension area.

22 7. On September 19, 2007, the Company filed its initial request for an extension of time,  
23 until September 20, 2008, in order to meet the compliance requirements of Decision No. 68962.  
24 With its request, the Company included copies of its APP for the system as well as its ATC for  
25 wastewater along with the ATC for the water facilities for Parcel A. The Company further described  
26 delays which developers were experiencing in proceeding with the development of their parcels.

27 8. On March 21, 2008, the Company filed an update and supplement to its initial  
28 September 19, 2007, request for an extension of time to comply with Decision No. 68962 and  
submitted additional documentation with respect to the required compliance documents which were  
to be filed to comply with the Commission's Decision.

1           9.       On June 27, 2008, the Applicant's attorney filed a supplemental letter in the docket  
2 clarifying the status of the respective compliance documents required by the Decision. Therein, the  
3 Company indicated its concurrence with the Commission's Utilities Division ("Staff") that it had  
4 successfully filed copies of its ATC for Parcel A together with the relevant documentation for its  
5 Section 208 Permit. The Company believes that the portion of its conditional Certificate for  
6 wastewater service only for Parcels B and C should be cancelled.<sup>1</sup> Additionally, the Company  
7 pointed out that it believes that the requirement for an ATC for Parcel F should be declared complete  
8 or be terminated, pointing out that the only water use in this three acre parcel, which is where the  
9 Company's wastewater treatment plant is located, is a service line to a hose bib used by plant  
10 operators to clean the facilities and there is neither a bathroom nor any distribution facilities located  
11 on the parcel which would require ADEQ approval for an ATC.

12           10.       Further, the Company pointed out that, with the elimination of Parcels B and C from  
13 the extension area, the Company's existing APP which was submitted to the Commission previously  
14 is adequate to provide for service as it develops in Parcel A and should be sufficient to meet the  
15 requirements of the Decision.

16           11.       Lastly, the Company is requesting an extension, until September 20, 2008, in order to  
17 secure a franchise for the extension area.

18           12.       On August 5, 2008, Staff filed a memorandum with respect to the Company's request  
19 for an extension of time in which to comply with Decision No. 68962. In its memorandum, Staff  
20 indicated that it agreed that the Company had met the compliance requirements which were required  
21 by the Decision for Parcel A and for the filing of the Company's Section 208 Permit. With respect to  
22 Parcels B and C, Staff recommends that the Commission cancel the Certificate of the Company for  
23 both parcels. Staff found that the Company's filing of its APP had satisfied the compliance  
24 requirements of the Decision with the elimination of Parcels B and C from the Company's extension  
25 area. Staff disagreed with the Company's position with respect to an ATC for Parcel F, but did not

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27 <sup>1</sup> In its June 27, 2008, letter the Company's attorney describes myriad problems involved in the development of Parcels B  
28 and C and indicates that the Company will apply for an extension of its Certificate to provide both water and wastewater  
service to both parcels in the future once the Company and developers conclude negotiations for the provision of service  
to Parcels B and C. This will resolve a complaint brought in a separate proceeding by the developer of Parcel B against  
the Company in Docket No. WS-04235A-07-0674.

1 recommend any further treatment in light of the Company's request. Lastly, Staff recommends that  
2 the Company's request for an extension of time in which to file a copy of its Coconino County  
3 Franchise be approved until December 31, 2008, in order to allow the Company sufficient time to  
4 secure this documentation which is required by Decision No. 68962.

5 13. Under the circumstances, we find that the Company's request for an extension of time  
6 to secure a Coconino County Franchise for the extension area is reasonable and should be granted as  
7 recommended by Staff.

8 14. In light of the Company's position with respect to Parcels B and C, pursuant to  
9 Decision No. 68962, we agree that the portion of Applicant's conditional Certificate to provide  
10 wastewater service to those parcels should be null and void and the Company may apply for a  
11 Certificate extension in the future. Lastly, we believe that since the Company has failed to file an  
12 ADEQ ATC for water for Parcel F, the Company's wastewater plant, that the portion of their  
13 Certificate for water service to that parcel should also be null and void.

14 CONCLUSIONS OF LAW

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

17 2. The Commission has jurisdiction over the Company and the subject matter of the  
18 extension request addressed herein.

19 3. Staff's recommendation for extension of time, until December 31, 2008, to file a copy  
20 of its Coconino County Franchise is reasonable and should be adopted.

21 4. The Company's conditional Certificate to provide wastewater service to Parcels B and  
22 C and water service to Parcel F are null and void.

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**ORDER**

IT IS THEREFORE ORDERED that the Utility Source, L.L.C. shall be granted an extension of time, until December 31, 2008, to file a copy of the franchise to be issued by the Coconino County Board of Supervisors for the extension area as set forth in Exhibit A to Decision No. 68962.

IT IS FURTHER ORDERED that Utility Source, L.L.C.'s Certificate of Convenience and Necessity conditionally approved by the Commission in Decision No. 68962 for Parcels B, C and F as described in Exhibit A to the Decision is hereby null and void.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

*Samuel L. Brown*  
CHAIRMAN

*William A. Mandel*  
COMMISSIONER

COMMISSIONER

*[Signature]*  
COMMISSIONER

*Gary Reier*  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 30<sup>th</sup> day of Sept., 2008.

*[Signature]*  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:db

1 SERVICE LIST FOR: UTILITY SOURCE, L.L.C.

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