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BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

NOV 19 2008

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

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IN THE MATTER OF THE APPLICATION OF  
HASSAYAMPA UTILITIES COMPANY, INC.  
FOR A CERTIFICATE OF CONVENIENCE  
AND NECESSITY.

DOCKET NO. SW-20422A-05-0659

DECISION NO. 70613

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NO. 68922**

Open Meeting  
November 12 and 13, 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**

1. On August 29, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68922 which approved the application of Hassayampa Utilities Company, Inc. ("Company" or "Applicant") for a Certificate of Convenience and Necessity ("Certificate") to provide public wastewater utility service to the Hassayampa Ranch subdivision, which is being developed by Hassayampa Ranch Ventures, L.L.C. ("HRV"). Hassayampa Ranch is located west of the Town of Buckeye ("Town") and three miles north of Interstate 10 in Maricopa County, Arizona. The Commission's approval was conditional upon the Company filing copies of the following documents in a timely fashion:

- A copy of the Maricopa Association of Governments' ("MAG") approved Section 208 Plan Amendment ("208 Plan") by April 30, 2007;
- A copy of an Approval to Construct ("ATC") issued by the Maricopa County Environmental Services Department ("MCESD") for the proposed Phase I wastewater treatment plant by July 31, 2007;

- 1 • A copy of an Approval of Construction (“AOC”) issued by MCESD for the proposed Phase I wastewater treatment plant by April 30, 2008; and
- 2 • A copy of an Aquifer Protection Permit (“APP”) and/or Arizona Pollutant Discharge Elimination System (“AZPDES”) permit issued by the Arizona Department of Environmental Quality (“ADEQ”) by April 30, 2008.

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5 2. On April 30, 2007, the Company filed a Motion to Extend Time (“Motion”) for filing the above-referenced documents as follows:

- 6 • MAG approval of the 208 Plan from April 30, 2007 to April 30, 2008;
- 7 • MCESD approval of the ATC from July 31, 2007 to July 31, 2008;
- 8 • MCESD approval of the AOC from April 30, 2008 to April 30, 2009; and
- 9 • ADEQ approval of the APP and/or AZPDES permit from April 30, 2008 to April 30, 2009.

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11 3. The Company’s Motion described how the ATC, AOC and APP could not be issued until the Company’s 208 Plan was approved. The Company had experienced unexpected delays in  
12 obtaining 208 Plan approval and requested all four deadlines be extended by one year.

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14 4. The Company’s April 30, 2007 Motion stated that because Hassayampa Ranch is located in an unincorporated portion of Maricopa County, the MCESD had to sponsor the 208 Plan to  
15 MAG before MAG would further consider it. Subsequently, the Company secured the sponsorship of  
16 the MCESD.

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18 5. On June 18, 2007, by Procedural Order, the Commission approved the Company’s Motion filed on April 30, 2007. Subsequently, on December 26, 2007, the Company filed a copy of  
19 the MAG 208 Plan and on July 18, 2008, filed a copy of the AZPDES permit.

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21 6. On July 31, 2008, the Company filed a second Motion for an extension of time to comply with Decision No. 68922. The Motion’s caption further referenced a “Notice of filing  
22 (Compliance)” with respect to an attachment for the ATC for Phase I of the Wastewater Treatment  
23 Plant in an attempt to satisfy one of the remaining conditions of the Decision.

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25 7. The Company’s July 31, 2008 Motion further indicates that separate ATCs will be filed for both the Phase I Wastewater Treatment Plant and the Sewer Collection System. Similarly,  
26 separate AOCs will be filed for both the Phase I Wastewater Treatment Plant and the Sewer  
27 Collection System.  
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1           8.       Initially, the Company did not request an extension for the ATC for the Phase I  
2 Wastewater Treatment Plant believing its July 31, 2008, compliance filing met the Decision's  
3 requirement. The Company requested extensions for the three remaining filings to be extended until  
4 "30 days after issuance" of the respective documents by the MCESD. However, after conferring with  
5 Staff, the Company subsequently amended its July 31, 2008 Motion for the other three filings as  
6 follows: the ATC for Phase I Collection System, until December 31, 2010; the AOC for Phase I  
7 Wastewater Treatment Plant, until December 31, 2011; and the AOC for Phase I Collection System,  
8 until December 31, 2011.

9           9.       On September 12, 2008, Staff filed a memorandum indicating that the Company's  
10 July 31, 2008 filing of the copy of the ATC for Phase I Wastewater Treatment Plant was insufficient  
11 to comply with Decision No. 68922. Staff took this position because Staff, after contacting the  
12 MCESD engineer who had signed the ATC, learned that this ATC was issued on an "interim" basis  
13 because the Company was utilizing a "design/build" process for constructing the treatment plant, and  
14 that construction of the plant would proceed in stages with each stage receiving interim ATCs until  
15 the final overall ATC for the treatment plant is issued.

16           10.       Staff's memorandum indicates that the Company is seeking an extension of time for  
17 the ATC and AOC of its Phase I Collection System "due to pressures from the current real estate  
18 slump." The slump in real estate sales and housing construction have restricted the Company's  
19 ability to design and construct the collection system because it is presently unclear where the first  
20 phase of the Hassayampa Ranch subdivision will be built.

21           11.       To date, the Company has expended over \$995,000 in total funds towards the  
22 permitting and completion for the Phase I development of wastewater facilities in the planned  
23 subdivision area. Staff believes that a more flexible timetable for Commission review should be  
24 afforded the Applicant in this instance due to the delays caused by the slowdown in construction  
25 through no fault of the Company. Staff is recommending extensions of time for the Company to  
26 comply with Decision No. 68922 as follows:

- 27           •       ATC for Phase I Wastewater Treatment Plant, until December 31, 2010;
- 28           •       ATC for Phase I Collection System, until December 31, 2010;

- AOC for Phase I Wastewater Treatment Plant, until December 31, 2011; and
- AOC for Phase I Collection System, until December 31, 2011.

12. In conclusion, Staff recommends that no more extensions be granted.

13. Under the circumstances, we find the Company's July 31, 2008 Motion for an extension of time is reasonable and should be approved; however, we shall not adopt Staff's recommendation that no further time extensions should be granted for the Company to comply with Commission Decision No. 68922, but we will put Applicant on notice that any further requests for extensions of time to comply must demonstrate that extraordinary circumstances exist that warrant an additional extension.

**CONCLUSIONS OF LAW**

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

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

3. Staff's recommendations for the extension of time to file copies of the required documentation should be adopted as set forth in Findings of Fact No. 11, but absent extraordinary circumstances, no further extensions should be granted.

**ORDER**

IT IS THEREFORE ORDERED that Hassayampa Utilities Company, Inc. shall be granted extensions of time to file copies of the following documents as set forth in Decision No. 68922:

- ATC for Phase I Wastewater Treatment Plant, until December 31, 2010;
- ATC for Phase I Collection System, until December 31, 2010;
- AOC for Phase I Wastewater Treatment Plant, until December 31, 2011; and
- AOC for Phase I Collection System, until December 31, 2011.

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IT IS FURTHER ORDERED that no further extensions of time to file the aforementioned documents shall be granted absent extraordinary circumstances.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

*Lawrence S. McLean* for *William D. Mundell* by *XIM EXEC DIR*  
CHAIRMAN COMMISSIONER

*Jeffrey Hochmiller* *[Signature]* *Gary [Signature]*  
COMMISSIONER COMMISSIONER 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 19<sup>th</sup> day of NOV., 2008.

*[Signature]*  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:db

1 SERVICE LIST FOR: HASSAYAMPA UTILITIES COMPANY, INC.

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