

ORIGINAL

OPEN MEETING ITEM



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



BRIAN C. McNEIL
Executive Director

ARIZONA CORPORATION COMMISSION

DATE: NOVEMBER 24, 2008

DOCKET NO: WS-20432A-05-0874

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc Stern. The recommendation has been filed in the form of an Order on:

WILLOW SPRINGS UTILITIES, L.L.C.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 68963)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

DECEMBER 3, 2008

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

DECEMBER 16, 2008 and DECEMBER 17, 2008

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

Arizona Corporation Commission
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
WILLOW SPRINGS UTILITIES, L.L.C., FOR
A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER AND
WASTEWATER SERVICE IN PINAL COUNTY,
ARIZONA.

DOCKET NO. WS-20432A-05-0874

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 68963

Open Meeting
December 16 and 17, 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 September 21, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68963 which approved the application of Willow Springs Utilities, L.L.C. ("Company" or "Applicant") for a Certificate of Convenience and Necessity ("Certificate") to provide public water and wastewater utility service to a master-planned community called Willow Springs. ("WSP") located 30 miles north of Tucson.
2. As a condition of the Commission's approval, the Company was to file copies of the Certificate of Approval to Construct ("ATC") and the Certificate of Approval of Construction ("AOC") which were to be issued by the Arizona Department of Environmental Quality ("ADEQ") for the Company's Phase I water utility plant by December 30, 2007, and December 31, 2008, respectively. The Company was also ordered to file, within one year of the effective date of the Decision, either a copy of the Designation or Certificate of Assured Water Supply ("D/CAWS") to be

1 issued by the Arizona Department of Water Resources ("ADWR"). The Company was further
2 ordered to file, not later than December 31, 2008, a copy of the notice issued by ADEQ that the
3 Company's Aquifer Protection Permit ("APP") and Arizona Pollutant Discharge and Elimination
4 System ("AZPDES") has been approved.

5 3. On August 15, 2007, the Company filed a letter ("Motion") requesting one-year
6 extensions of time to file the respective copies of the ATC and AOC due to a slowdown in the real
7 estate market and planning delays.

8 4. On September 17, 2007, the Company amended its Motion and also requested a one-
9 year extension of time, until September 21, 2008, to file a copy of the D/CAWS to be issued by the
10 ADWR.

11 5. On October 5, 2007, the Company filed a letter from the developer of the Willow
12 Springs master-planned community who indicated that development is going forward and that water
13 and wastewater service will be required for the project.

14 6. On October 15, 2007, the Commission's Utilities Division ("Staff") filed a
15 memorandum in response to the Company's Motion as amended. Staff stated that it conducted a
16 review of the Company's Motion and found that ADWR's processing of the Company's D/CAWS
17 was moving along and that Staff did not find the one year extension requested for the ATC and AOC
18 documents to be issued by ADEQ to be unreasonable. Staff recommended approval of the
19 Company's Motion as amended.

20 7. On October 26, 2007, by Procedural Order, the Company's Motion as amended was
21 granted and the Company was granted a one-year extension of time to file copies of the required
22 documents in the following manner: the ATC from December 30, 2007 to December 30, 2008; the
23 AOC from December 31, 2008 to December 31, 2009; and the D/CAWS from September 21, 2007 to
24 September 21, 2008.

25 8. On May 1, 2008, the Company filed the D/CAWS issued by ADWR.

26 9. On September 22, 2008, the Company filed a second Motion for an extension of time
27 requesting that the copies of the ATC and AOC be filed by December 30, 2010 and December 31,
28 2011, respectively. Additionally, the Company filed an initial request for an extension of time

1 requesting that the copies of the ATC and AOC be filed by December 30, 2010 and December 31,
2 2011, respectively. Additionally, the Company filed an initial request for an extension of time to file
3 a copy of the notice from ADEQ that its APP and AZPDES had been approved from December 31,
4 2008 to December 31, 2010.

5 10. On October 7, 2008, the Company filed a copy of a letter from the developer that
6 indicates that development is going forward, but at a slower pace due to the first phase of the
7 development being replatted.

8 11. On October 22, 2008, Staff filed its memorandum, which indicates that Staff has
9 contacted ADEQ and has verified that development is going forward, albeit slower than initially
10 planned, but interaction is ongoing between the Company and ADEQ to secure the necessary permits.

11 12. Staff is recommending that, due to the continued real estate slowdown, the requested
12 extensions be granted as follows: for the Phase I ATC, APP and AZPDES to December 31, 2010;
13 and for the Phase I AOC until December 31, 2011.

14 13. Staff further recommends that no additional extension be granted.

15 14. Under the circumstances, we find that Company's September 22, 2008, Motion for an
16 extension of time is reasonable and should be approved; however, we shall not adopt Staff's
17 recommendation that no further time extensions should be granted for the Company to comply with
18 Commission Decision No. 68963, but we will put Applicant on notice that any further requests for
19 extensions of time to comply must demonstrate that extraordinary circumstances exist that warrant an
20 additional extension.

21 CONCLUSIONS OF LAW

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

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

26 3. Staff's recommendations for the extension of time to file copies of the required
27 documentation should be adopted as set forth in Findings of Fact No. 12, but absent extraordinary
28 circumstances, no further extensions should be granted.

ORDER

IT IS THEREFORE ORDERED that Willow Springs Utilities, L.L.C. shall be granted extensions of time to file copies of the following documents as set for the in Decision No. 68963:

- ATC for Phase I water service/treatment and distribution system until December 31, 2010;
- APP and AZPDES until December 31, 2010; and
- AOC for Phase I water source/treatment and distribution system until December 31, 2011.

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

FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

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 ____ day of _____, 2008.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

MES:db

1 SERVICE LIST FOR: WILLOW SPRINGS UTILITIES, L.L.C.

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