

ORIGINAL

OPEN PUBLIC MEETING



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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: DECEMBER 24, 2008

DOCKET NO: W-02450A-04-0837

TO ALL PARTIES:

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

WATER UTILITY OF GREATER TONOPAH, INC.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 68307)

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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JANUARY 6, 2009

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 Open Meeting to be held on:

JANUARY 13, 2009 and JANUARY 14, 2009

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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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION
9 WATER UTILITY OF GREATER TONOPAH,
10 INC., AN ARIZONA CORPORATION, FOR
11 AN EXTENSION OF ITS CERTIFICATE OF
12 CONVENIENCE AND NECESSITY TO
13 ENCOMPASS ALL OR PORTIONS OF SECTIONS
14 15, 17 AND 22, T2N, R5W, G&SRB&M,
15 MARICOPA COUNTY, ARIZONA (AKA THE
16 HASSAYAMPA RANCH DEVELOPMENT).

DOCKET NO. W-02450A-04-0837

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 68307

11 Open Meeting
12 January 13 and 14, 2009
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 * * * * *

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

18 **FINDINGS OF FACT**

19 1. On November 19, 2004, the Water Utility of Greater Tonopah¹ ("Global Tonopah" or
20 "Applicant") filed an application for an extension of its Certificate of Convenience and Necessity
21 ("Certificate" or "CC&N") with the Arizona Corporation Commission ("Commission") to provide
22 public water utility service in various parts of Maricopa County, Arizona.

23 2. On November 14, 2005, the Commission issued Decision No. 68307, which approved
24 Global Tonopah's application to extend its CC&N to serve an area known as Hassayampa Ranch, a
25 2,066 acre subdivision in Maricopa County, Arizona.
26

27 ¹ Applicant is one of five utilities owned by West Maricopa Combine, Inc. Subsequent to Decision No. 68307, West
28 Maricopa Combine, Inc., was acquired by Global Water Resources, LLC ("Global"). Applicant is now known as Global
Tonopah.

1 3. On March 27, 2007, Global Tonopah filed a Motion for an Extension of Time to
2 comply with the conditions set forth in Decision No. 68307, and requesting that the Commission
3 grant it the option of filing a Designation of Assured Water Supply ("DAWS") instead of a
4 Certificate of Assured Water Supply ("CAWS") for the extension area.

5 4. On March 29, 2007, by Procedural Order, the Commission's Utilities Division Staff
6 ("Staff") was directed to file a response to Global Tonopah's Motion for Extension of Time.

7 5. On April 16, 2007, Staff filed its response to the Motion for an Extension of Time,
8 stating Global Tonopah was in compliance with three of the seven requirements ordered in Decision
9 No. 68307. According to Staff, the following requirements had not been satisfied:

- 10 • that Global Tonopah file, by June 30, 2006, evidence of compliance with the
11 new arsenic standard;
- 12 • that Global Tonopah file, by November 14, 2006, a copy of the Maricopa
13 County Environmental Services Department ("MCESD") Certificate of
14 Approval of Construction ("CAC") for the water source/treatment plant, and
15 for the distribution system for Hassayampa Ranch;
- 16 • that Global Tonopah file, by November 14, 2006, a copy of the developer's
17 Certificate of Assured Water Supply ("CAWS") issued by Arizona
18 Department of Water Resources ("ADWR") where applicable or when
19 required by statute; and
- 20 • that storage and production deficiencies be corrected no later than December
21 31, 2006.

22 6. On May 3, 2007, by Procedural Order, Global Tonopah was granted an extension of
23 time to comply with the following requirements as set forth below:

- 24 • to file, with the Commission's Docket Control, a plan to meet storage and
25 production deficiencies and completely correct the deficiencies by December
26 31, 2007;
- 27 • to file, by December 31, 2007, with the Commission's Docket Control,
28 evidence of compliance with the new arsenic standard;
- 29 • to file, by September 23, 2008, with the Commission's Docket Control, a copy
30 of the MCESD CAC for the water source/treatment plant, and for the
31 distribution system for Hassayampa Ranch; and
- 32 • to file, by September 23, 2008, with the Commission's Docket Control, a copy
33 of the developer's CAWS issued by the ADWR where applicable or when
34 required by statute.

35 7. On June 25, 2007, Global Tonopah docketed a Motion for Clarification reiterating its
36 request that the Commission allow it to file a DAWS in lieu of a CAWS for the extension area set
37
38

1 forth in Decision No. 68307. The motion stated that the key difference between a DAWS and a
2 CAWS is that “a DAWS is subject to on-going review and supervision by ADWR, and therefore
3 provides greater protections to future customers than a CAWS.”

4 8. On April 23, 2008, Global Tonopah filed a Motion to Correct Nunc Pro Tunc the
5 Commission’s May 3, 2007, Procedural Order. The motion stated that the Procedural Order granted
6 the extension of time for Global Tonopah to file a MCESD CAC, but that previous references in the
7 docket were for the company to file a Certificate of Approval to Construct (“ATC”). The motion
8 cited several references to the ATC requirement.

9 9. On April 25, 2008, by Amended Procedural Order, Global Tonopah’s request to
10 correct the May 3, 2007, Procedural Order requiring Global Tonopah to file a ATC by September 23,
11 2008, was granted.

12 10. On September 12, 2008, Global Tonopah filed a second Motion for an Extension of
13 Time (“Motion”) to comply with Decision No. 68307.

14 11. In its Motion, Global Tonopah requests an extension of time to match the deadline
15 established in Commission Decision No. 70357 (May 16, 2008), which requires Global Tonopah to
16 file a CAWS or DAWS for the extension area in that Decision within two years. Global Tonopah has
17 a pending application with ADWR requesting a DAWS that covers the extension areas granted in
18 Decision Nos. 68307 and 70357.

19 12. Global Tonopah’s Motion states that the company has obtained an Analysis of
20 Assured Water Supply (“AAWS”) for Hassayampa Ranch, and that the AAWS is a key step towards
21 a CAWS or DAWS. According to the Motion, the AAWS showed that there is water physically
22 available to meet the projected needs of the Hassayampa Ranch subdivision. Global Tonopah also
23 attached a letter from Harvard Investments, the developers for Hassayampa Ranch, which expressed a
24 continuing desire for Global Tonopah to provide water utility service to the extension area.

25 13. On October 2, 2008, Staff filed a memorandum stating Staff does not oppose Global
26 Tonopah’s request for an extension of time to comply and recommending that Global Tonopah be
27 allowed to file a CAWS or DAWS for the extension area granted in Decision No. 68307. Staff also
28

1 recommended that Global Tonopah not be granted any additional extensions of time to comply with
2 Decision No. 68307.

3 14. Global Tonopah made a timely request for an extension of time to comply with
4 Decision No. 68307. Staff reports that Global Tonopah has already met six of the seven conditions
5 required in Decision No. 68307. The only remaining requirement is for Global Tonopah to file a copy
6 of the developers' CAWS issued by ADWR where applicable or required by statute. Global Tonopah
7 has also acquired the AAWS for Hassayampa Ranch, which is a significant step towards obtaining a
8 CAWS or DAWS. Staff has confirmed that Global Tonopah has been diligently working with
9 ADWR. In addition, the developer for the extension area has expressed a continuing desire to have
10 Global Tonopah serve the extension area.

11 15. Staff recommends allowing Global Tonopah to file a CAWS or DAWS by May 16,
12 2010, to match the compliance deadline set forth in Decision No. 70357. Global Tonopah's request
13 to file a DAWS in lieu of a CAWS would require modification of Decision No. 68307, pursuant to
14 A.R.S. § 40-252, and to date the Commission has not made a determination to conduct such a
15 proceeding. However, based on Global Tonopah's timely request to extend time to comply, its
16 compliance with six of the seven requirements ordered in the Decision, its acquisition of a AAWS for
17 the extension area, and the continuing desire of the developer to have Global Tonopah to serve
18 Hassayampa Ranch; we find Global Tonopah's request for an extension of time to file a CAWS for
19 the extension area conditionally granted in Decision No. 68307 is reasonable.

20 16. Staff has also expressed concern that Global Tonopah has twice requested an
21 extension of time to comply with Decision No. 68307 and recommends that no future extensions of
22 time be granted. Although we are not adopting Staff's recommendation that no future requests for
23 extensions of time to comply with Decision No. 68307 be granted, we will put Global Tonopah on
24 notice that any further requests for extensions of time to comply must demonstrate that extraordinary
25 circumstances exist that warrant additional time.

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CONCLUSIONS OF LAW

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

2. The Commission has jurisdiction over Global Tonopah and the subject matter of the Request for Additional Time to Comply with Commission Decision No. 68307 and the Motion for Clarification.

3. Staff's recommendation that Global Tonopah should receive an extension of time to comply with Decision No. 68307, is reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that Global Tonopah's Request for an Extension of Time to Comply, until May 16, 2010, to file a Certificate of Assured Water Supply for the extension area conditionally granted in Decision No. 68307, is hereby granted.

1 IT IS FURTHER ORDERED that Global Tonopah shall be on notice that any future requests
2 for extensions of time to comply with Decision No. 68307, shall demonstrate that extraordinary
3 circumstances exist or the request shall be denied.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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8 CHAIRMAN

COMMISSIONER

9
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11 COMMISSIONER

COMMISSIONER

COMMISSIONER

12
13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
14 Director of the Arizona Corporation Commission, have
15 hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this _____ day of _____, 2009.

18 _____
BRIAN C. McNEIL
EXECUTIVE DIRECTOR

19
20
21 DISSENT _____

22
23 DISSENT _____

24 YBK:db

1 SERVICE LIST FOR: WATER UTILITY OF GREATER TONOPAH, INC

2 DOCKET NO. W-02450A-04-0837

3 Michael W. Patten
4 Timothy J. Sabo
5 ROSHKA DEWULF & PATTEN, PLC
6 One Arizona Center
7 400 East Van Buren Street, Suite 800
8 Phoenix, AZ 85004-2262
9 Attorneys of the Water Utility of Greater Tonopah

7 Janice Alward, Chief Counsel
8 Legal Division
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, AZ 85007

10 Ernest G. Johnson, Director
11 Utilities Division
12 ARIZONA CORPORATION COMMISSION
13 1200 West Washington
14 Phoenix, AZ 85007

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