

OPEN MEETING ITEM

ORIGINAL

COMMISSIONERS  
KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



0000094440

Interim Executive Director

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission  
**DOCKETED**

MAR 11 2009

DATE: MARCH 11, 2009  
DOCKET NO: W-01157A-05-0706  
TO ALL PARTIES:

DOCKETED BY

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

WEST END WATER COMPANY  
(EXTENSION OF TIME DEADLINE CONTAINED  
IN DECISION NOS. 69672 and 70475 )

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:

MARCH 20, 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:

MARCH 31, 2009 and APRIL 1, 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.

RECEIVED

2009 MAR 11 A 11: 38

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

IN THE MATTER OF THE APPLICATION  
OF WEST END WATER COMPANY FOR  
AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

DOCKET NO. W-01157A-05-0706

DECISION NO. \_\_\_\_\_

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NOS. 69672 AND 70475**

Open Meeting  
March 31 and April 1, 2009  
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 June 28, 2007, the Arizona Corporation Commission ("Commission") issued Decision No. 69672 which approved the application of West End Water Company ("Applicant" or "Company") for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide public water service to a 140 acre parcel contiguous to its certificated service area to be developed as a residential subdivision known as Walden Ranch, developed by Woodside Homes ("Woodside").

2. The Commission's Decision extending the Company's Certificate to provide service to Walden Ranch was conditioned upon the Company filing, by December 31, 2007, with the Commission's Docket Control, as a compliance item in this docket, a copy of the developer's Certificate of Assured Water Supply ("CAWS") issued by the Arizona Department of Water Resources ("ADWR"), where applicable or when required by statute and a copy of the Maricopa

1 County Environmental Services Department ("MCESD") Approval to Construct ("ATC"). The  
2 Company was also ordered to file, within 365 days of the effective date of the Decision, a copy of the  
3 fully executed Main Extension Agreement ("MXA") for the water facilities for the extension area.

4 3. On October 19, 2007, the Company filed a request for an extension with respect to the  
5 above-referenced conditions under an incorrect docket number, which was subsequently corrected  
6 with an amended filing on November 16, 2007, in the correct docket. The Company requested an  
7 extension of time until July 31, 2008 in order to file copies of the developer's CAWS and the  
8 MCESD ATC. The Company said its request was due to delays in the proceeding caused by  
9 intervenor issues and the requirement of a supplemental hearing approximately four months after the  
10 initial hearing on the application. As a result, the Company requested that the previously authorized  
11 filing dates for the CAWS and the ATC be extended.

12 4. On December 7, 2007, the Commission's Utilities Division ("Staff") filed a  
13 memorandum recommending approval of the Company's requested extension of its time to meet the  
14 filing dates established by Decision No. 69672.

15 5. On December 26, 2007, by Procedural Order, the Company was granted an extension  
16 of time to July 31, 2008, in which to file copies of the developer's CAWS and the MCESD ATC.

17 6. According to Staff, on June 27, 2008, the Company misfiled a request for an extension  
18 of the requirement to file copies of the CAWS and the MXA using an incorrect docket number. On  
19 July 15, 2008, the Company withdrew its June 27, 2008, request and filed in this docket a new  
20 request for an additional extension of time, until December 31, 2008, to complete the compliance  
21 filings ordered in Decision No. 69672 for the CAWS and the ATC. The Company further requested  
22 an extension until December 31, 2008, to file a copy of the MXA required by the Decision.

23 7. The Company advised Staff that delays were encountered in securing the CAWS  
24 because the ADWR has requested an expanded hydrological study. Additionally, the developers  
25 involved in the project were negotiating over which entity would pay for which facilities and this  
26 delayed the filing of the MXA.<sup>1</sup>

27 \_\_\_\_\_  
28 <sup>1</sup> This involved a well and storage tank to be transferred to the Company to satisfy the filing of the ATC to be issued by the MCESD.

1           8.       On July 25, 2008, Staff filed a memorandum which recommended approval of the  
2 Company's requested extension of time, until December 31, 2008, to meet the filing dates required  
3 by Decision No. 69672 for the filing of copies of the developer's CAWS, the MCESD ATC, and the  
4 MXA.

5           9.       On September 3, 2008, the Commission issued Decision No. 70475 which approved  
6 the Company's request for an extension of time, until December 31, 2008, to file copies of the  
7 developer's CAWS, the MCESD ATC, and the MXA.

8           10.      On December 12 and 17, 2008, the Company filed copies of the MXA and the  
9 MCESD ATC, respectively, in compliance with Decision No. 70475.

10          11.      On December 23, 2008, the Company filed an additional request for an extension of  
11 time, until December 31, 2010, to file a copy of the developer's CAWS. In its request, the Company  
12 described the chronology of the Company's and Woodside's discussions with ADWR with respect to  
13 securing a CAWS for the Walden Ranch subdivision. The chronology dates back to September 2007,  
14 and sets forth the process that Woodside and the Company have been following so that the developer  
15 may secure a CAWS. This process includes several meetings with ADWR with one as recently as  
16 December 11, 2008. The Company states that ADWR is requiring additional documentation from  
17 Woodside. The Company argues that due to the unusual nature and extent of the request made by  
18 ADWR and due to "changing requirements for groundwater modeling" for the project that require  
19 "substantial additional modeling work" an extended timeline is required while Woodside works to  
20 secure the CAWS.

21          12.      On January 30, 2009, Staff filed a memorandum indicating that it has contacted  
22 ADWR and verified the chronology of events as described by the Company in its request for an  
23 extension and the amount of time that will be required by the developer and ADWR to complete the  
24 process for issuance of a CAWS. Based on the Company's ongoing compliance with Decision No.  
25 69672, the future need for service in the extension area, and on Woodside's ongoing efforts to secure  
26 the CAWS for the project, Staff is recommending approval of the Company's request for an  
27 extension herein.

28          13.      Staff further recommends that no further extension of time be granted



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

IT IS THEREFORE ORDERED that the West End Water Company shall be granted an extension of time, until December 31, 2010, to file a copy of the developer's Certificate of Assured Water Supply to be issued by Arizona Department of Water Resources as previously ordered in Decision No. 69672.

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

IT IS 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, MICHAEL P. KEARNS, Interim 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 \_\_\_\_\_, 2009.

\_\_\_\_\_  
MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:db

1 SERVICE LIST FOR: WEST END WATER COMPANY

2 DOCKET NO.: W-01157A-05-0706

3 J. Scott Rhodes  
4 JENNINGS STROUSS & SALMON  
5 201 East Washington Street, 11<sup>th</sup> Floor  
Phoenix, Arizona 85004

6 Joan S. Burke  
Danielle D. Janitch  
7 OSBORN MALEDON  
8 2929 North Central Avenue, Suite 2100  
Phoenix, Arizona 85012  
Attorneys for the City of Surprise

9 City Attorney  
10 CITY OF SURPRISE  
11 12425 West Bell, Suite D100  
Surprise, Arizona 85374

12 Janice Alward, Chief Counsel  
Legal Division  
13 ARIZONA CORPORATION COMMISSION  
14 1200 West Washington Street  
Phoenix, Arizona 85007

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

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28