

OPEN MEETING ITEM

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



0000094467

Interim Executive Director

ORIGINAL

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAR 11 2009

DATE: MARCH 11, 2009
DOCKET NO: W-01445A-06-0317
TO ALL PARTIES:

DOCKETED BY

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

ARIZONA WATER COMPANY
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 69386)

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.

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AZ CORP COMMISSION
DOCKET CONTROL

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY FOR AN
10 EXTENSION OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY AT
12 COOLIDGE, PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-06-0317

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 69386

13 Open Meeting
14 March 31 and April 1, 2009
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 * * * * *

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

20 **FINDINGS OF FACT**

21 1. On May 4, 2006, Arizona Water Company ("AWC") filed with the Arizona
22 Corporation Commission ("Commission") an application for an extension of its Certificate of
23 Convenience and Necessity ("Certificate" or "CC&N") for its Coolidge system.

24 2. On March 22, 2007, the Commission issued Decision No. 69386, which approved
25 AWC's application to extend its CC&N to include approximately 21 square miles of land adjacent to
26 its Coolidge System. The Decision required AWC, among other things, to comply with the
27 following:

28 a. That AWC file within one year of the Decision, a copy of the first Approval to
Construct ("ATC") from the Arizona Department of Environmental Quality ("ADEQ") for the
facilities needed to serve the requested area.

1 b. That AWC file within one year of the Decision, a copy of the first developer's
2 Certificate of Assured Water Supply ("CAWS") from the Department of Water Resources
3 ("ADWR").

4 3. On January 9, 2008, AWC filed a copy of the first ATC for the facilities needed to
5 serve the extension area, in compliance with Decision No. 69386. In the same filing, AWC requested
6 an extension of time, until March 22, 2009, to file a copy of the first developer's CAWS. By
7 Procedural Order issued on March 4, 2008, AWC was granted an extension of time, until March 22,
8 2009, to file the first developer's CAWS.

9 4. On January 16, 2009, AWC filed a Request for Additional Time to Comply with
10 Filing Requirements ("Request") set forth in Decision No. 69386. The Request seeks to extend the
11 compliance deadline to file a copy of the CAWS for the first developer, until March 22, 2011.

12 5. In support of its Request, AWC stated it has complied with all but one of the
13 requirements set forth in Decision No. 69386. Further, AWC has a pending ADWR application for a
14 Physical Availability Determination ("PAD") for its Pinal Valley System, which includes the
15 Coolidge System that is the subject of the Decision. According to AWC's Request, the developments
16 within the extension area may need to rely on the PAD, but AWC does not believe the PAD will be
17 approved before March 22, 2009.

18 6. AWC's Request states that AWC is currently serving customers in the extension area.
19 Under a lease agreement with the City of Coolidge, AWC is providing water to the Coolidge Airport
20 and eight other customers in the extension area. Further, AWC attached to its Request a copy of an
21 application for an Analysis of Assured Water Supply ("AAWS") submitted to ADWR by the
22 developer for a development in the extension area. AWC states the application for an AAWS is a
23 preliminary step towards a CAWS.

24 7. AWC's Request included 41 letters from property owners expressing a continued
25 need and desire for water service in the extension area. According to AWC, the property owner
26 letters cover approximately 5,920 acres out of the 13,440 acres in the extension area.

27 8. On February 11, 2009, the Commission's Utilities Division ("Staff") filed a response
28 ("Response") to AWC's Request. Staff recommends granting AWC a two year extension of time to

1 file the CAWS because AWC and the first developer have taken steps toward ultimately fulfilling the
2 compliance requirements of Decision No. 69386, a significant number of property owners have a
3 continuing desire and need for service, and AWC is currently serving the Coolidge Airport and eight
4 other customers in the extension area.

5 9. Staff further recommends that if, after the recommended two year extension, AWC
6 files for an additional extension of time, the Commission should require AWC to show there is an
7 imminent need for water service for each section of land in the CC&N extension area. Absent a
8 strong showing of need, Staff recommends the Commission grant no further extensions of time to
9 comply with Decision No. 69386.

10 10. Based on the above facts, we believe AWC's request for an extension of time, until
11 March 22, 2011, to file a copy of the first developer's CAWS is reasonable.

12 11. Staff has recommended that any additional requests for extensions of time to comply
13 with Decision No. 69386, must include a strong showing that there is an imminent need for service
14 for each section of land in the CC&N extension. We will evaluate the specific facts and
15 circumstances of any future requests for extension of time by AWC and AWC should be on notice
16 that future requests must demonstrate that extraordinary circumstances exist that warrant granting
17 additional time for compliance.

18 CONCLUSIONS OF LAW

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

21 2. The Commission has jurisdiction over AWC and the subject matter of the Request for
22 Additional Time to Comply with Commission Decision No. 69386.

23 3. Staff's recommendation that AWC should receive an extension of time to comply with
24 Decision No. 69386 is reasonable.

25 ORDER

26 IT IS THEREFORE ORDERED that Arizona Water Company's request for an extension of
27 time, until March 22, 2011, to file a copy of the first developer's Certificate of Assured Water Supply
28

1 for the extension area conditionally granted in Decision No. 69386 is hereby granted.

2 IT IS FURTHER ORDERED that Arizona Water Company shall be on notice that any future
3 requests for extensions of time to comply with Decision No. 69386, must demonstrate that
4 extraordinary circumstances exist.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
7
8

9 CHAIRMAN

COMMISSIONER

10
11
12 COMMISSIONER

COMMISSIONER

COMMISSIONER

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

19 _____
20 MICHAEL P. KEARNS
21 INTERIM EXECUTIVE DIRECTOR

22 DISSENT _____

23
24 DISSENT _____
25
26
27
28

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

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