

ORIGINAL

OPEN MEETING ITEM



0000095274

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



Interim Executive Director

ARIZONA CORPORATION COMMISSION

DATE: APRIL 9, 2009  
DOCKET NO: W-04286A-04-0774  
TO ALL PARTIES:

Arizona Corporation Commission  
**DOCKETED**  
APR - 9 2009

DOCKETED BY	
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Enclosed please find the recommendation of Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Order on:

KACY PARKER dba ARROYO WATER COMPANY  
(EXTENSION OF TIME DEADLINE CONTAINED  
IN DECISION NO. 70206 )

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:

APRIL 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:

APRIL 28, 2009 and APRIL 29, 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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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 KACY PARKER dba ARROYO WATER  
10 COMPANY FOR A CERTIFICATE OF  
11 CONVENIENCE AND NECESSITY TO PROVIDE  
12 WATER SERVICE AND FOR APPROVAL OF  
13 THE SALE OF ASSETS TO KACY PARKER.

DOCKET NO. W-04286A-04-0774

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

**ORDER EXTENDING TIME**  
**DEADLINE CONTAINED IN**  
**DECISION NO. 70206**

11 Open Meeting  
12 April 28 and 29, 2009

13 **BY THE COMMISSION:**

14 \* \* \* \* \*

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

17 **FINDINGS OF FACT**

18 1. On October 19, 2004, Kacy Parker dba Arroyo Water Company, Inc. ("Arroyo Water"  
19 or "Company") filed an application with the Arizona Corporation Commission ("Commission") in  
20 the above-captioned docket for a new Certificate of Convenience and Necessity ("CC&N") and for  
21 approval of the sale of the Company's assets to Kacy Parker.

22 2. Arroyo Water Company, Inc., is an Arizona public service corporation engaged in  
23 providing water utility service to approximately 86 customers in a portion of Gila County.

24 3. On March 20, 2008, the Commission issued Decision No. 70206, which approved the  
25 application of Arroyo Water for a CC&N to provide water service and for approval of the sale of  
26 assets to Mr. Kacy Parker. As a condition of approval, the Commission required the Company to  
27 submit a number of compliance filings, including a requirement that Arroyo Water "... file with  
28 Docket Control, as a compliance item in this docket, a copy of the ADEQ [Arizona Department of

1 Environmental Quality] Approval of Construction for the necessary storage additions and other  
2 improvements by August 31, 2008.”

3 4. On September 9, 2008, the Company filed a letter requesting an additional 60 days to  
4 comply with the Approval of Construction (“AOC”) filing requirement.

5 5. On February 12, 2009, the Commission’s Utilities Division Staff (“Staff”) filed a  
6 Memorandum recommending that Arroyo Water be granted an extension of time, until December 31,  
7 2009, to submit its AOC for the storage additions and other improvements<sup>1</sup>. In its Memorandum,  
8 Staff points out that Arroyo Water has complied with all of the numerous compliance requirements of  
9 Decision No. 70206, with the exception of the AOC filing. According to Staff, the Company has  
10 complied with the following requirements:

- 11 a. Filing of Arizona Department of Water Resources (“ADWR”) well  
12 ownership records;
- 13 b. Filing of approved rates and charges;
- 14 c. Filing of evidence of maintaining its books and records per the  
15 National Association of Regulatory Utility Commissioners  
16 (“NARUC”) Uniform System of Accounts;
- 17 d. Installation of a well meter;
- 18 e. Filing of documentation evidencing the final sale and transfer of assets  
19 to Mr. Parker;
- 20 f. Filing of Annual Reports through 2007;
- 21 g. Filing of a curtailment tariff;
- 22 h. Filing of a backflow prevention tariff;
- 23 i. Filing proof of payment of all items to the Gila County Treasurer;
- 24 j. Filing a franchise agreement with Gila County;
- 25 k. Filing proof of procurement of a performance bond; and
- 26 l. Filing of ADEQ water quality monitoring reports.

27 6. Staff’s February 12, 2009, Memorandum also indicates that the Company’s ADEQ  
28 compliance reports show that Arroyo Water has no major deficiencies and that it is delivering water  
that meets minimum water quality standards. Staff claims that the compliance efforts undertaken by  
Arroyo Water demonstrate the Company’s “good faith effort” to address the numerous compliance  
requirements set forth in Decision No. 70206, and shows that Arroyo Water has made “substantial

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<sup>1</sup> Attached to Staff’s Memorandum is a letter from Arroyo Water dated December 2, 2008, requesting an extension of the AOC filing requirement until the end of 2009. It appears that the Company’s December 2, 2008, letter was sent to the Compliance Division but was not filed by the Company with Docket Control as a separate item.

1 progress” in complying with ADEQ and Commission requirements. Based on the compliance efforts  
2 achieved by the Company, Staff states that it does not object to the extension of time requested for  
3 filing of the AOC.

4 **CONCLUSIONS OF LAW**

5 1. Arroyo Water Company, Inc., is a public service corporation within the meaning of  
6 Article XV of the Arizona Constitution and A.R.S. §40-281 et seq.

7 2. The Commission has jurisdiction over Arroyo Water and the subject matter of the  
8 application.

9 3. Staff’s recommendation is reasonable and should be adopted.

10 **ORDER**

11 IT IS THEREFORE ORDERED that the Arroyo Water Company, Inc.’s request for an  
12 extension of time to comply with Decision No. 70206 is granted in accordance with Staff’s  
13 recommendation. The Company shall file with Docket Control, as a compliance item in this docket,  
14 by December 31, 2009, a copy of the ADEQ Approval of Construction for the necessary storage  
15 additions and other improvements.

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IT IS FURTHER ORDERED that in all other respects Decision No. 70206 shall remain in full force and effect.

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 \_\_\_\_\_

1 SERVICE LIST FOR: KACY PARKER dba ARROYO WATER COMPANY

2 DOCKET NO.: W-04286A-04-0774

3  
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