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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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

APR - 7 2009

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IN THE MATTER OF THE APPLICATION OF BEAVER DAM WATER COMPANY FOR DELETION OF A PORTION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY IN MOHAVE COUNTY, ARIZONA.

DOCKET NO. W-03067A-04-0216

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

DOCKET NO. WS-04247A-04-0604

DECISION NO. 70946

ORDER EXTENDING TIME DEADLINE CONTAINED IN DECISION NO. 68247

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 October 25, 2005, the Arizona Corporation Commission ("Commission") issued Decision No. 68247 which approved the application of Beaver Dam Water Company ("BDWC") to delete a small portion of its certificated service area in Mohave County, Arizona, and approved the application of Sunrise Utilities, L.L.C. ("Sunrise") for a Certificate of Convenience and Necessity ("Certificate") to provide public water and wastewater utility service to various parts of Mohave County, Arizona, which included the area described in BDWC's application for deletion. The approval was subject to certain conditions, including that Sunrise be required to file a copy of the

1 Arizona Department of Environmental Quality's ("ADEQ") Approval to Construct ("ATC") its
2 arsenic treatment facilities by October 31, 2005. Decision No. 68247 also required Sunrise to file,
3 within one year of the effective date of the Decision, copies of the following documents:

- 4 • a copy of the franchise from Mohave County for the certificated
service area for water and wastewater;
- 5 • a copy of the ADEQ ATC for public water facilities;
- 6 • a copy of the developers' Letter(s) of Adequate Water Supply
issues by the Arizona Department of Water Resources ("ADWR");
7 and
- 8 • a copy of the Letter of Intent and/or Aquifer Protection Permit
("APP") issued by ADEQ.

9 2. On November 22, 2005, Sunrise filed a request for retroactive approval for an
10 extension of time of two years, until October 31, 2007, to file a copy of the ADEQ's ATC arsenic
11 treatment facilities because additional testing was required to determine whether arsenic removal was
12 needed. The request also stated that the legal descriptions on Exhibit B attached to the Decision was
13 mislabeled and requested that a revised legal description which was included with Sunrise's request
14 replace the original Exhibit B.

15 3. On November 23, 2005, by Procedural Order, the Commission's Utilities Division
16 ("Staff") was ordered to file a response by December 9, 2005.

17 4. On December 9, 2005, Staff filed a response to Sunrise's request for a two year
18 extension of time for testing to determine whether arsenic removal was needed and for approval to
19 replace Exhibit B to Decision No. 68247 with a correctly labeled Exhibit B. Staff agreed to the
20 replacement of Exhibit B to Decision No. 68247 with the correctly labeled Exhibit B. However, Staff
21 disagreed with the requested two year extension of time in which Sunrise was to file a copy of its
22 ATC for arsenic facilities, if necessary, and recommended an extension of time be limited to one year
23 from the date of the Decision (until October 25, 2006) to show Staff an indication that Sunrise would
24 fulfill a bona fide need for service.

25 5. On December 14, 2005, by Procedural Order, it was ordered nunc pro tunc that
26 Exhibit B to Decision No. 68247 should be replaced with the correctly labeled Exhibit B attached to
27 the Procedural Order and Sunrise was granted a one year extension of time from the date of the
28

1 Decision, until October 25, 2006, to file a copy of its ADEQ ATC for arsenic treatment facilities, if
2 necessary, to provide water service.

3 6. On October 4, 2006, Sunrise filed with the Director of the Commission's Utilities
4 Division documentary evidence that it does not require arsenic treatment facilities and a request for
5 an additional year, until October 25, 2007, to file the following:

- 6 • a copy of the franchise from Mohave County for the certificated
7 service area for water and wastewater;
- 8 • a copy of the ADEQ ATC for public water facilities;
- 9 • a copy of the developers' Letter(s) of Adequate Water Supply
10 issued by ADWR; and
- 11 • a copy of the Letter of Intent and/or APP issued by ADEQ.

12 7. On November 7, 2006, Staff filed its response and recommended approval of
13 Sunrise's request for an extension because it appeared that there was a need for service. Staff further
14 indicated in its response that "Attached to the letter was evidence that the water quality did not
15 necessitate arsenic treatment facilities."

16 8. On November 28, 2006, by Procedural Order, the request of Sunrise was granted for
17 an extension of one year, until October 25, 2007, to file copies of the following: a copy of the
18 Mohave County franchise for the certificated service area for water and wastewater; a copy of the
19 ADEQ ATC public water facilities; a copy of the developers' Letter(s) of Adequate Water Supply;
20 and a copy of the Letter of Intent and/or Aquifer Protection Permit issued by ADEQ.

21 9. On January 25, 2007, Sunrise filed a copy of its franchise issued by Mohave County.

22 10. On October 12, 2007, Sunrise filed an update to the information which had been
23 contained in its October 4, 2006, request, and further requested an additional twelve month extension
24 of time to comply with Decision No. 68247, until October 25, 2008, to file copies of the following: a
25 copy of the ADEQ ATC public water facilities; a copy of the developers' Letter(s) of Adequate
26 Water Supply; and a copy of the Letter of Intent and/or Aquifer Protection Permit issued by ADEQ.

27 11. On January 29, 2008, Staff filed a memorandum which indicated that Staff did not
28 oppose the additional request for an extension of time, until October 25, 2008, in which to file the
required documents. Staff further indicated that it believed that it had seen "no Commission ruling

1 on the Company assertion that the ATC on arsenic treatment facilities was no longer necessary and
2 this item therefore remains outstanding.”

3 12. On February 5, 2008, the Sunrise’s attorney filed a copy of his letter which had been
4 docketed on October 4, 2006, on behalf of Sunrise with an attached lab report from Del Mar
5 Analytical which found that Sunrise’s water contains 8.3 parts per billion (“ppb”) of arsenic which is
6 below the new maximum contaminant level allowed by the U.S. Environmental Protection Agency
7 (“EPA”) and negated the need for arsenic treatment facilities.

8 13. On February 20, 2008, by Procedural Order, Sunrise’s request was approved for an
9 extension of time until October 25, 2008, to file copies of the following: a copy of the ADEQ ATC
10 for public water facilities; a copy of the developers’ Letter(s) of Adequate Water Supply; and a copy
11 of the Letter of Intent and/or Aquifer Protection Permit to be issued by ADEQ. Sunrise was also
12 relieved of the requirement to file a copy of an ATC issued by ADEQ for arsenic treatment facilities
13 as required by Decision No. 68247 since Sunrise had filed documentary evidence that its water
14 contains less arsenic than the maximum contaminant level allowed by the United States EPA.

15 14. On November 14, 2008, Sunrise made two filings with the Commission. The first
16 consisted of a copy of the Analysis of Adequate Water Supply issued by ADWR as required by
17 Decision No. 68247. The second was a request by Sunrise for an additional extension of time, until
18 October 25, 2009, to file a copy of the ATC for public water facilities and a copy of the Letter of
19 Intent and/or APP both of which are to be issued by ADEQ. Sunrise’s request for an extension of
20 time to complete compliance with the Commission’s Decision describes the ongoing efforts to
21 develop the certificated service area during a difficult real estate market. Attached to Sunrise’s
22 request was a copy of a letter dated October 31, 2008, from the president of one of the development
23 companies describing its actions to proceed with the development of property in the certificated area.

24 15. On January 25, 2009, Staff filed a memorandum in response to Sunrise’s additional
25 request for an extension of time to comply with Decision No. 68247. Staff weighed the pros and
26 cons for a further extension of time for the Company to meet the remaining compliance elements of
27 the Decision and reviewed the difficulties that developers of the property have had to overcome.
28 Staff ultimately concluded that the requested extension of time should be approved because Sunrise

1 has been moving forward with the compliance requirements of Decision No. 68247.

2 16. Staff further recommends that no further extensions of time should be granted.

3 17. Under the circumstances, we find that Sunrise's November 14, 2008, request for an
4 extension of time is reasonable and should be approved; however, we will put Sunrise on notice that
5 any further requests for extensions of time to comply must demonstrate that extraordinary
6 circumstances exist that warrant an additional extension.

7 **CONCLUSIONS OF LAW**

8 1. Sunrise is a public service corporation within the meaning of article XV of the
9 Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-282.

10 2. The Commission has jurisdiction over Sunrise and the subject matter of the request
11 addressed herein.

12 3. Staff's recommendations for the extension of time to file copies of the required
13 documentation as set forth in Findings of Fact No. 15 should be adopted, but absent extraordinary
14 circumstances, no further extensions should be granted.

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ORDER

IT IS THEREFORE ORDERED the Sunrise Utilities, L.L.C. is hereby granted an extension of time, until October 25, 2009, to file copies of the following documents as set forth in Decision No. 68247: ATC for public water facilities; and, Letter of Intent and/or APP issued by ADEQ.

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

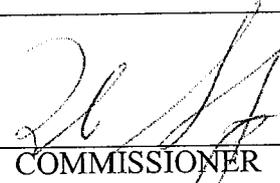
IT IS FURTHER ORDERED that this Decision shall become effective immediately.

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 7th day of April, 2009.


MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

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SERVICE LIST FOR: BEAVER DAM WATER COMPANY and SUNRISE UTILITIES, L.L.C.

DOCKET NOS.: W-03067A-04-0216 and WS-04247A-04-0604

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