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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

**MAY - 5 2009**

DOCKETED BY	nr
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IN THE MATTER OF THE APPLICATION OF SAHUARITA WATER COMPANY, LLC FOR AUTHORITY TO INCUR LONG-TERM INDEBTEDNESS TO FINANCE WATER SYSTEM IMPROVEMENTS.

DOCKET NO. W-03718A-09-0122

DECISION NO. 70984

**ORDER**

Open Meeting  
April 28 and 29, 2009  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

\* \* \* \* \*

**FINDINGS OF FACT**

1. On March 16, 2009, Sahuarita Water Company LLC ("SWC" or "Company") filed an application with the Commission for authorization to execute a loan agreement with the Water Infrastructure Finance Authority of Arizona ("WIFA").<sup>1</sup>

2. SWC is a for-profit Class "B" Arizona public service corporation located in Sahuarita, Arizona, and provides public water utility service to approximately 4,622 customers in Pima County, Arizona.

3. On April 3, 2009, the Company filed an affidavit of publication verifying that it had notice of its application published in the *Arizona Daily Star* on March 29, 2009. The *Arizona Daily Star* is a daily newspaper of general circulation in Pima County, Arizona.

4. On April 10, 2009, the Commission's Utilities Division ("Staff") issued a Staff Report

<sup>1</sup> This application was filed to take advantage of "stimulus" funds being administered by WIFA, and replaces SWC's earlier financing request made on February 17, 2009, in Docket No. W-03718A-09-0065.

1 that recommends approval of the finance authority.

2 5. On April 15, 2009, Staff filed an Addendum to its Staff Report, correcting a table in  
3 the Engineering Report.

4 6. On April 16, 2009, the Company filed Comments on the April 10, 2009 Staff Report,  
5 and supports Staff's recommendations. The Company requested that the Commission consider this  
6 matter at the earliest possible date.

7 7. On April 17, 2009, the Company filed a waiver of the ten days for filing of exceptions,  
8 and Staff filed its response indicating it has no objection to the waiver.

9 8. On February 17, 2009, the American Recovery and Reinvestment Act ("ARRA") of  
10 2009 went into effect. WIFA's *Supplemental 2009 ARRA Intended Use Plan* shows that the ARRA  
11 authorizes WIFA to provide an additional subsidy on loans, which can include forgivable principal  
12 and/or additional interest rate subsidies. In addition, the *Supplemental 2009 ARRA Intended Use*  
13 *Plan* provides that projects that receive ARRA funds will need to be capable of moving forward  
14 rapidly, hence, expedited regulatory consideration is appropriate.

15 9. The Company requested the WIFA loan to finance a 2,000 gallon per minute ("gpm")  
16 centralized arsenic treatment facility and related plant.

17 10. In 2007, the Company's two existing production wells were tested and determined to  
18 be in compliance with the United States Environmental Protection Agency ("EPA") requirement for  
19 an arsenic maximum contaminant level ("MCL") no greater than 10 parts per billion ("ppb"). At that  
20 time, one of the wells was barely in compliance, testing at 9.9 ppb for arsenic. Testing of the two  
21 wells in 2008 found them to exceed the 10 ppb limit. In addition, during 2007, the Company initiated  
22 a well exploratory program which was designed to enhance the Company's water production  
23 capability and quality. The results of that effort indicated that the water produced from each of the  
24 five exploratory wells would require arsenic treatment.

25 11. Under the Safe Drinking Water Act ("SDWA") Reduced Monitoring Cycle program,  
26 the next arsenic concentration sample test year for SWC will be 2010. Given the background of its  
27 existing production wells and the presence of elevated arsenic levels within its anticipated future  
28 sources of water supply, the Company concluded that it should implement arsenic treatment at this

1 time in order to ensure the Company is in compliance with the SDWA and the EPA arsenic  
 2 concentration regulations at all times.

3 12. The Company operates a water system that consists of two drinking water wells  
 4 having a combined capacity of 3,450 gpm, and three storage tanks, with a combined storage capacity  
 5 of 2,550,000 gallons.

6 13. Staff believes that the Company has adequate capacity to serve its existing customer  
 7 base plus reasonable growth.

8 14. The Company plans to construct a 2,000 gpm arsenic treatment plant and connect it to  
 9 its existing plant with approximately 2.5 miles of collection transmission mains.

10 15. A general description of the plant and expected costs is as follows:

11

<u>Project Description</u>	<u>Estimated Cost (\$)</u>
<b><u>Arsenic Treatment Plant</u></b>	
Bid Total Labor	654,756
One 2,000 GPM arsenic treatment plant (four 10 ft diameter vessels manufactured by Layne)	1,505,910
Transformer	30,000
Earth work/site design	397,500
Fiber optics (design/production)	16,667
Engineering (construction inspections)	19,013
Labor	10,000
<b>Subtotal (Arsenic Treatment Facility)</b>	<b>2,633,846</b>
Contingency	52,677
<b>Total (Arsenic Treatment Facility)</b>	<b>2,686,523</b>

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25 **Transmission Mains**

<b><u>Well #18 Mains</u></b>	
Includes 24" DIP (349') @ \$123/ft; 12" PVC (1,050') @ \$80/ft; 24" PVC (4,005') @ \$110/ft; 1" air relief valve @ \$2,000/unit; 4" air relief valve @ \$4,000/unit	1,018,000

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1	Contingency	204,000
2	<b>Subtotal (Well #18 Mains)</b>	<b>1,222,000</b>
3		
4	<u>Well #14 Mains</u>	
5	Includes 16" PVC (867') @\$100/ft; 24" PVC (2,513') @ \$110/ft; 4" air relief valve @ \$4,000/unit	655,000
6	Contingency	131,000
7	<b>Subtotal (Well #14 Mains)</b>	<b><u>786,000</u></b>
8		
9	<b>Total Arsenic Treatment Facility &amp; Mains</b>	<b>4,694,523</b>

10

11 16. The Company anticipates beginning construction of the transmission mains in May

12 2009 and beginning construction of the arsenic treatment plant in June 2009. The Company expects

13 all construction work to be completed by December 2009.

14 17. WIFA has advised the Company that the centralized arsenic treatment facility will

15 qualify for funding under the ARRA.

16 18. The Commission's Engineering Staff reviewed the Company's proposed capital

17 improvements and found the project costs to be appropriate and the related cost estimates to be

18 reasonable. Staff states, however, that it was making no "used and useful" determination of the

19 proposed improvements, nor any conclusions for rate base or ratemaking purposes.

20 19. In an Arizona Department of Environmental Quality ("ADEQ") compliance status

21 report, dated May 30, 2008, ADEQ determined that SWC was in full compliance with ADEQ

22 requirements and is delivering water that meets the water quality standards required by Arizona

23 Administrative Code, Title 18, Chapter 4.

24 20. SWC is located in the Pima Active Management Area ("AMA"). In a compliance

25 status reported dated June 23, 2008, the Arizona Department of Water Resources ("ADWR")

26 determined that the Company was in compliance with ADWR requirements governing water

27 providers and/or community water systems.

28 21. Staff reports there are no delinquent compliance issues with this Company.

1           22.     SWC request that the Commission authorize it to secure WIFA financing in an amount  
2 not to exceed \$4,694,523. Due to an anticipated \$1,880,000 of forgivable principal pursuant to  
3 WIFA's authority under its *Supplemental 2009 ARRA Intended Use Plan*, the Company expected  
4 repayable indebtedness of \$2,820,000, with an anticipated 20 year amortizing loan and an interest  
5 rate of 4.46 percent per annum.<sup>2</sup>

6           23.     At December 31, 2008, the Company's capital structure consisted of 100 percent  
7 equity. Including Advances-In-Aid-Of-Construction ("AIAC") and Net Contributions-In-Aid-Of-  
8 Construction ("CIAC"), SWC's capital structure consisted of 0.0 percent debt, 52.6 percent equity,  
9 38.4 percent AIAC and 9.0 percent CIAC.

10          24.     Staff calculated a pro forma capital structure reflecting issuance of a \$2,820,000,  
11 twenty-year amortizing loan, at an interest rate of 5.0 percent per annum, and determined that based  
12 on December 31, 2008 financial results, SWC's capital structure would be comprised of 0.5 percent  
13 short-term debt, 17.5 percent long-term debt and 81.0 percent equity.

14          25.     Staff's financial analysis shows that based on December 31, 2008 operating results,  
15 issuance of the WIFA loan in the amount of \$2,820,000 at an interest rate of 5.0 percent per year,  
16 would result in a Times Interest Earned Ratio ("TIER") of 2.90 and a Debt Service Coverage  
17 ("DSC") ratio of 4.04.<sup>3</sup>

18          26.     Staff's financial analysis shows that based on December 31, 2008 operating results,  
19 issuance of the WIFA loan in the amount of \$4,694,523 at an interest rate of 5.0 percent per year,  
20 would result in TIER of 1.76 and a DSC of 2.45.

21          27.     Arizona Administrative Code ("A.A.C.") R18-15-104 requires WIFA borrowers to

22 \_\_\_\_\_  
23 <sup>2</sup> According to Staff, the current base interest rate on a WIFA loan is 5.25 percent, and is calculated by using the current  
24 prime rate of 3.25 percent plus 2.00 percent. The interest rate for each debtor is determined by multiplying the base  
interest rate by a subsidy rate set by WIFA for each individual entity. Multiplying the 0.85 subsidy rate of SWC by the  
5.25 base interest rate yields an interest rate of 4.46 percent.

25 <sup>3</sup> TIER represents the number of times earnings cover interest expense on short-term and long-term debt. A TIER greater  
26 than 1.0 means that operating income is greater than interest expense. A TIER less than 1.0 is not sustainable in the long  
27 term but does not mean that debt obligations cannot be met in the short term. DSC represents the number of times  
28 internally generated cash will cover required principal and interest payments on short-term and long-term debt. A DSC  
greater than 1.0 indicates that operating cash flow is sufficient to cover debt obligations. A DSC less than 1.0 means that  
debt service obligations cannot be met by cash generated from operations and that another source of funds is needed to  
avoid default.

1 pledge their revenue sources to repay the financial assistance. A.R.S. § 40-285 requires public  
2 service corporations to obtain Commission authorization to encumber certain utility assets. Staff  
3 states that the statute serves to protect captive customers from a utility's act to dispose of any of its  
4 assets that are necessary for the provision of service, and thus, it serves to preempt any service  
5 impairment due to disposal of assets essential for providing service. Staff states further that pledging  
6 assets as security typically provides benefits to the borrower in the way of increased access to capital  
7 funds or preferable interest rates, and it is often an unavoidable condition of procuring funds for small  
8 or financially stressed entities.

9       28. Staff concludes that issuance of the proposed debt financing for the purposes stated in  
10 the application is within the Company's corporate powers, is compatible with the public interest, is  
11 consistent with sound financial practices and will not impair its ability to provide service. Staff  
12 recommends authorizing SWC to incur debt in an amount not to exceed \$2,820,000 (\$4.7 million less  
13 \$1.88 million forgivable principal) for a period of 19-to-22 years, and at a rate not to exceed that  
14 available from WIFA.

15       29. Staff further recommends that the Company:

- 16       a. be authorized to engage in any transactions and to execute any documents necessary to  
17       effectuate the authorizations granted here;
- 18       b. be authorized to pledge its assets in the state of Arizona pursuant to A.R.S. § 40-285  
19       and A.A.C. R18-15-104 in connection with the WIFA loan;
- 20       c. file with Docket Control, as a compliance item in this matter, a copy of the loan  
21       documentation within 60 days of the execution of any financing transaction authorized  
22       herein; and
- 23       d. file with Docket Control as a compliance item in this docket by December 31, 2010,  
24       copies of the Certificates of Approval of Construction ("AOC") issued by ADEQ for  
25       the arsenic treatment plant and transmission mains.

26       30. Staff's pro forma analysis indicates that SWC has the capacity to support the requested  
27 borrowing based on its 2008 operating results.

28       31. Staff recommendations are reasonable.



1 IT IS FURTHER ORDERED that, for ratemaking purposes, the amount of the loan that  
2 would otherwise qualify as forgivable principal may not be recoverable from ratepayers if Sahuarita  
3 Water Company LLC fails to use best efforts and act in good faith to comply with the American  
4 Recovery and Reinvestment Act of 2009.

5 IT IS FURTHER ORDERED that the finance authority granted herein shall be expressly  
6 contingent upon Sahuarita Water Company LLC's use of the proceeds for the purposes stated in its  
7 application and approved herein.

8 IT IS FURTHER ORDERED that Sahuarita Water Company LLC is authorized to pledge its  
9 assets in the state of Arizona pursuant to A.R.S. § 40-285 and A.A.C. R18-15-104 in connection with  
10 the loan approved herein.

11 IT IS FURTHER ORDERED that Sahuarita Water Company LLC is authorized to execute  
12 any documents necessary to effectuate the authorizations granted.

13 IT IS FURTHER ORDERED that Sahuarita Water Company LLC shall file with Docket  
14 Control, as a compliance item in this docket, copies of any executed financing documents related to  
15 this authority within 60 days after the date of execution.

16 IT IS FURTHER ORDERED that Sahuarita Water Company LLC shall file with Docket  
17 Control, as a compliance item in this docket, by December 31, 2010, copies of the Certificates of  
18 Approval of Construction issued by ADEQ for the arsenic treatment plant and transmission mains.

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1 IT IS FURTHER ORDERED that approval of the financing set forth hereinabove does not  
2 constitute or imply approval or disapproval by the Commission of any particular expenditure of the  
3 proceeds derived thereby for purposes of establishing just and reasonable rates.

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

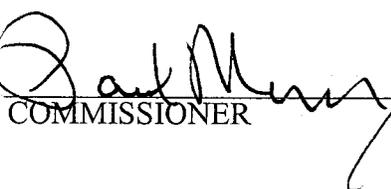
5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 CHAIRMAN



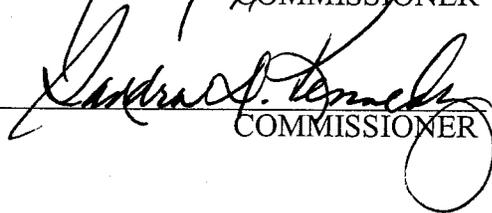
COMMISSIONER

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10 COMMISSIONER



COMMISSIONER



COMMISSIONER

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12 IN WITNESS WHEREOF, I, MICHAEL P. KERNS, Interim  
13 Executive Director of the Arizona Corporation Commission,  
14 have hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 5TH day of MAY, 2009.

  
17 MICHAEL P. KERNS  
18 INTERIM EXECUTIVE DIRECTOR

19 DISSENT \_\_\_\_\_

20 DISSENT \_\_\_\_\_

21 JR:

1 SERVICE LIST FOR: SAHUARITA WATER COMPANY, LLC.

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