

ORIGINAL

OPEN MEETING ITEM



0000098520

MICHAEL P. KEARNS
Interim Executive Director

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



ARIZONA CORPORATION COMMISSION

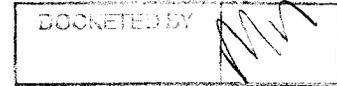
Arizona Corporation Commission

DOCKETED

MAY 29 2009

DATE: MAY 29, 2009
DOCKET NOS: W-01732A-05-0532

TO ALL PARTIES:



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

WILLOW VALLEY WATER COMPANY
(EXTENSION OF TIME DEADLINE
CONTAINED IN DECISION NO. 68610)

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:

JUNE 8, 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:

JUNE 23, 2009 and JUNE 24, 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

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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
WILLOW VALLEY WATER COMPANY, INC.
FOR AN EXTENSION OF ITS CERTIFICATE
OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01732A-05-0532

DECISION NO. _____

**ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 68610**

Open Meeting
June 23 and 24, 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 March 23, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68610 which approved the application of Willow Valley Water Company, Inc. ("Company" or "Applicant") for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide public water utility service to 48 acres of land consisting of Parcels A, B and C in Mohave County, Arizona.

2. As a condition of the Commission's approval, the Company was to file, by March 23, 2007, copies of the developer's Letter(s) of Adequate Water Supply ("LAWS") which is to be issued by the Arizona Department of Water Resources ("ADWR") for each parcel.

3. On March 21, 2007, the Company filed a Motion for Extension of Time ("Motion") to file copies of the developer's LAWS stating that it needed an additional twelve months, until March 23, 2008, to secure and file copies of the LAWS to be issued by ADWR. The developer was

1 encountering delays due to litigation which involved the Mohave Valley Irrigation and Drainage
2 District ("MVIDD") and a 2005 recall election that involved its board of directors.

3 4. On April 4, 2007, the Commission's Utilities Division ("Staff") filed a Memorandum
4 which stated that Staff did not object to the Company's Motion and recommended that the requested
5 extension be approved.

6 5. On April 19, 2007, by Procedural Order, an extension of time was granted for the
7 Company to file copies of the developer's LAWS by March 23, 2008.

8 6. On March 21, 2008, the Company requested an additional one year extension of time,
9 until March 23, 2009, in which to file a copy of the developer's LAWS for Parcel C to be issued by
10 ADWR. The Applicant in the proceeding had secured and filed copies of the developer's LAWS for
11 Parcels A and B in the extension area.

12 7. In its March 2008 filing, the Company stated that the developer was proceeding with
13 the development of Parcel C and had experienced some delays with the Mohave County Planning and
14 Zoning Department ("MCPZD"). At that time, the developer expected to resolve those issues with
15 the MCPZD after which the developer would secure a LAWS for Parcel C and provide it to the
16 Company to file with the Commission if an extension was granted.

17 8. On April 16, 2008, Staff filed a Memorandum which recommended approval of the
18 Company's request for an extension of time, until March 23, 2009, in order to file a copy of the
19 developer's LAWS for Parcel C.

20 9. On April 29, 2008, by Procedural Order, the Company was granted an extension of
21 time, until March 23, 2009, in which to file a copy of the developer's LAWS for Parcel C.

22 10. On March 23, 2009, the developer of the parcels, McKellips Land Corporation
23 ("MLC"), filed an Application to Intervene ("Application") in this docket. MLC described what has
24 happened since the granting of the extension of the Company's Certificate on March 23, 2006, and
25 requested intervention pursuant A.A.C. R14-3-105(A) because it alleges that it is directly and
26 substantially affected by the Commission's proceedings.

27 11. MLC, in its Application, further indicates that the Company does not oppose its
28 Application. Additionally, together with its Application, MLC filed a Conditional Motion for

1 Extension of Time (“Conditional Motion”), until March 23, 2010, in which to secure a LAWS for
2 Parcel C and provide it to the Company for filing in compliance with the Commission’s Decision No.
3 68610.

4 12. On April 7, 2009, by Procedural Order, Staff and the Company were each ordered to
5 file a response to MLC’s Application and to its Conditional Motion.

6 13. On April 30, 2009, the Company filed its response to MLC’s Conditional Motion and
7 indicates that the Company does not oppose MLC’s request for extension of time on behalf of the
8 Company.

9 14. On May 8, 2009, Staff filed its response to MLC’s conditional Motion. Staff stated
10 that “the downturn in the economy has put a damper on much of the development in the state,” but
11 recognized that MLC and the Company “have made significant progress in the extension area” with
12 the LAWS for Parcel C remaining as the last required compliance item from Decision No. 68610, and
13 recommended approval of MLC’s Conditional Motion.

14 15. Staff further recommended that no further extension of time be granted.

15 16. Neither Staff nor the Company objected to MLC’s Application and therefore MLC
16 should be granted intervention for the limited purpose of explaining why additional time for
17 compliance is necessary. Further, we find that the request for an extension of time is reasonable and
18 should be granted, until March 23, 2010, as recommended by Staff; however, we will put the
19 Company on notice that any further requests for an extension of time to comply must demonstrate
20 that extraordinary circumstances exist that will warrant an additional extension.

21 CONCLUSIONS OF LAW

22 1. The Company is a public service corporation within the meaning of Article XV of the
23 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

24 2. The Commission has jurisdiction over the Company and the subject matter of the
25 extension request addressed herein.

26 3. MLC should be granted intervenor status pursuant to A.A.C. R14-3-105 for purposes
27 of filing the Conditional Motion on behalf of the Company.
28

1 4. Staff's recommendation for the extension of time to file a copy of the required
2 documentation as set forth in Findings of Fact No. 14 should be adopted, but absent extraordinary
3 circumstances, no further extensions should be granted.

4 **ORDER**

5 IT IS THEREFORE ORDERED that Willow Valley Water Company, Inc. shall be granted an
6 extension of time, until March 23, 2010, to file a copy of the developer's Letter of Assured Water
7 Supply for Parcel C to be issued by Arizona Department of Water Resources as previously ordered in
8 Decision No. 68610.

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

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

12 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

13
14
15 CHAIRMAN _____

COMMISSIONER

16
17 COMMISSIONER _____

COMMISSIONER

COMMISSIONER

18
19 IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim
20 Executive Director of the Arizona Corporation Commission,
21 have hereunto set my hand and caused the official seal of the
22 Commission to be affixed at the Capitol, in the City of Phoenix,
23 this _____ day of _____, 2009.

24
25 _____
26 MICHAEL P. KEARNS
27 INTERIM EXECUTIVE DIRECTOR

28
29 DISSENT _____

DISSENT _____

MES:db

1 SERVICE LIST FOR: WILLOW VALLEY WATER COMPANY

2 DOCKET NO.: W-01732A-05-0532

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