

OPEN MEETING ITEM



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INTERIM EXECUTIVE DIRECTOR

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



ARIZONA CORPORATION COMMISSION

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2009 JUL -1 P 2:15

DATE: JULY 1, 2009
DOCKET NO: W-03948A-06-0490
TO ALL PARTIES:

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

EMPIRITA WATER COMPANY, LLC
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NOS. 69399 AND 70476)

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:

JULY 10, 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:

JULY 28, 2009 and JULY 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.

Arizona Corporation Commission
DOCKETED

JUL 1 2009

DOCKETED BY

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
EMPIRITA WATER COMPANY, LLC FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-03948A-06-0490

DECISION NO. _____

**ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 69399 AND
70476**

Open Meeting
July 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 29, 2007, in Decision No. 69399, the Commission granted an Order Preliminary for Empirita Water Company, LLC ("Empirita" or "Company") to extend its Certificate of Convenience and Necessity ("CC&N") upon completion of the requirements contained in Findings of Fact Nos. 43 and 45 in the Decision.

2. On September 3, 2008, in Decision No. 70476, the Commission granted Empirita the CC&N extension, and required that Empirita complete the remaining compliance items in Decision No. 69399 in the times specified, or the extension would be null and void after due process.

3. The only remaining compliance item required pursuant to Decision 69399, is the requirement to file the Approval of Construction ("AOC") for the water plant additions needed to serve the Redhawk II development within one year of the date of Decision No. 70476, or September

1 3, 2009.

2 4. On April 16, 2009, Empirita filed a Motion For Extension of Compliance Filing Date
3 Deadline, seeking to extend the deadline to file the AOC for the Redhawk II subdivision by two
4 years, until September 3, 2011. The Company states that the request was occasioned by the dramatic
5 decline in new home construction, which affected the development timeline for the Redhawk II
6 subdivision. The Company provided a letter from the developer of Redhawk II which indicated a
7 continued need for water service and expressed the desire that Empirita be the water provider.
8 Empirita provided a copy of the invoice for the installation of a 150,000 gallon storage reservoir that
9 will ultimately be used to serve the future residents of Redhawk II. Empirita states that it does not
10 believe it would be financially prudent to install the booster station and related remaining facilities
11 needed to provide service to Redhawk II until an actual demand materializes.

12 5. On June 3, 2009, the Commission's Utilities Division ("Staff") filed a Memorandum
13 in Response to the Company's motion for an extension of the deadline to file the AOC.

14 6. Staff recommends that in light of the continued need and request for service from the
15 developer, the Company's motion for extension of time to file the AOC be extended until September
16 3, 2011. Staff further recommends that no further extensions of time be granted in this matter.

17 7. Under the circumstances, the Company's request for an extension to file the AOC for
18 the Redhawk II subdivision is reasonable and should be granted.

19 **CONCLUSIONS OF LAW**

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

22 2. The Commission has jurisdiction over Empirita and the subject matter of the motion.

23 3. An extension of time to comply with the requirements of Decision No. 69399, as
24 discussed herein, is fair and reasonable and in the public interest.

25 **ORDER**

26 IT IS THEREFORE ORDERED that that the deadline for Empirita Water Company, LLC to
27 file the Approval of Construction, as required by Decision Nos. 69399 and 70476, is extended to
28 September 3, 2011.

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IT IS FURTHER ORDERED that all other provisions of Decision Nos. 69399 and 70476 shall remain in 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:

EMPIRITA WATER COMPANY, LLC

2 DOCKET NO.:

W-03948A-06-0490

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