

OPEN MEETING ITEM



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



RECEIVED Interim Executive Director

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ARIZONA CORPORATION COMMISSION 4: 02

AZ CORP COMMISSION
DOCKET CONTROL

DATE: July 21, 2009

RE: LIVCO WATER COMPANY AND LIVCO SEWER COMPANY
DOCKET NOS. W-02121A-06-0316 AND SW-02563A-06-0316

TO ALL PARTIES:

Enclosed please find the proposed order prepared by Utilities Division Staff. This is only a Staff recommendation to the Commission; it has not yet become an order of the Commission. The Commission can decide to accept, amend or reject Staff's proposed order.

You may file comments to the recommendation(s) of the proposed order by filing an original and thirteen (13) copies of the comments with the Commission's Docket Control Center at the Phoenix address listed below by 4:00 p.m. on or before July 24, 2009.

This matter is scheduled for Commission deliberation at its Open Meetings scheduled July 28, 2009, at 10:00 a.m. and July 29, 2009, at 10:00 a.m.

If you have any questions about this matter, please contact Kim Battista of our Staff at (602) 542-0747 or me, at (602) 542-0745.

Sincerely,

Ernest G. Johnson
Director
Utilities Division

for

EGJ:KDB:lhbm

Enclosures

cc: Mr. Steve Wene, Moyes Sellers & Sims, Ltd.
Ms. Janice M. Alward, Legal Division

Arizona Corporation Commission
DOCKETED

JUL 21 2009

DOCKETED BY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 KRISTIN K. MAYES
Chairman

3 GARY PIERCE
Commissioner

4 PAUL NEWMAN
Commissioner

5 SANDRA D. KENNEDY
Commissioner

6 BOB STUMP
Commissioner

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8 IN THE MATTER OF THE APPLICATION)
9 OF LIVCO WATER COMPANY, INC. FOR)
10 AN EXTENSION OF ITS CERTIFICATE OF)
11 CONVENIENCE AND NECESSITY FOR)
12 THE PROVISION OF WATER SERVICE IN)
13 PORTIONS OF APACHE COUNTY,)
14 ARIZONA)

DOCKET NOS. W-02121A-06-0316
SW-02563A-06-0316

DECISION NO. _____

ORDER AMENDING

DECISION NO. 69258

12 IN THE MATTER OF THE APPLICATION)
13 OF LIVCO SEWER COMPANY FOR AN)
14 EXTENSION OF ITS CERTIFICATE OF)
15 CONVENIENCE AND NECESSITY FOR)
16 THE PROVISION OF WASTEWATER)
17 SERVICE IN PORTIONS OF APACHE)
18 COUNTY, ARIZONA)

18 Open Meeting
19 July 28 and 29, 2009
Phoenix, Arizona

20 **BY THE COMMISSION:**

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

23 **FINDINGS OF FACT**

24 1. On May 4, 2006, Livco Water Company ("LWC") and Livco Sewer Company
25 ("LSC") (collectively, "Companies" or "Applicants") filed a joint application for an extension of
26 their existing Certificates of Convenience and Necessity ("CC&N") with the Arizona Corporation
27 Commission ("Commission") to provide water and wastewater utility service in Apache County,
28 Arizona.

1 2. On January 19, 2007, the Commission issued Decision No. 69258 which granted an
2 Order Preliminary to the issuance of an extension of the CC&N for LWC and LSC.

3 3. The Decision directed the Companies, within two years of the date the Decision
4 was issued, to acquire various documents, including a Letter of Adequate Water Supply, after
5 which the Companies were to file a Motion requesting that the Order Preliminary become
6 permanent. In order to comply with Decision No. 69258, the Companies were to have filed all the
7 required documents on or before January 19, 2009. The Companies failed to file the Letter of
8 Adequate Water Supply on or before this date.

9 4. Pursuant to Decision No. 69258, Staff was directed to file a Memorandum to the
10 Docket requesting that the docket be administratively closed. Staff filed its Memorandum on
11 January 28, 2009, requesting that the Hearing Division administratively close the docket.

12 5. On January 29, 2009, the Companies filed a joint motion objecting to the
13 administrative closure and requesting that Staff grant an extension of time to comply with the
14 deadlines set forth in Decision No. 69258. On March 11, 2009, Staff responded to the Companies'
15 motion.

16 6. On May 15, 2009, the Companies filed a joint motion to amend Decision
17 No. 69258, pursuant to Arizona Revised Statutes ("A.R.S.") A.R.S. § 40-252, to grant the
18 Companies until December 31, 2009 to file documentation establishing that there is an adequate
19 water supply available to serve the proposed extension areas described as Concho Valley Units
20 One, Three, Thirty-Three, and Concho West.

21 7. On June 30, 2009, the Companies request for consideration of an extension of time
22 was placed on a Commission Staff Open Meeting agenda for consideration pursuant to A.R.S. §
23 40-252.

24 8. On July 17, 2009, Staff filed a memorandum recommending that the Company's
25 request for a time extension until December 31, 2009, to file the developer's Letter of Adequate
26 Water Supply be granted.

27 9. We concur with Staff's recommendation and will also order that no further time
28 extensions be granted.

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CONCLUSIONS OF LAW

1. LWC and LSC are public service corporations within the meaning of Article XV of the Arizona Constitution and Arizona Revised Statutes §§ 40-281 and 40-282.

2. The Commission has jurisdiction over LWC and LSC and over the subject matter of the Motion.

3. It is reasonable to amend Decision No. 69258 to allow additional time for LWC and LSC to file the developers Letter of Adequate Water Supply until December 31, 2009.

4. It is not necessary for the Commission to hold an evidentiary hearing before amending Decision No. 69258 as described herein.

ORDER

IT IS THEREFORE ORDERED that Decision No. 69258 is amended to give Livco Water Company and Livco Sewer Company until December 31, 2009, to file a copy of the Developer's Letter of Adequate Water Supply.

IT IS FURTHER ORDERED that no further time extensions be granted to comply with this Order Preliminary.

1 IT IS FURTHER ORDERED that Livco Water Company and Livco Sewer Company shall,
 2 after final compliance with Decision No. 69258, file a request with the Commission to receive a
 3 Final Order for an extension of their Certificates of Convenience and Necessity.

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

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BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

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COMMISSIONER

COMMISSIONER

COMMISSIONER

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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 this Commission to be affixed at the Capitol,
 in the City of Phoenix, this ____ day of _____, 2009.

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 MICHAEL P. KEARNS
 INTERIM EXECUTIVE DIRECTOR

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DISSENT: _____

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DISSENT: _____

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EGJ:KDB:lhmkOT

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1 SERVICE LIST FOR: LIVCO WATER COMPANY AND LIVCO SEWER COMPANY
2 DOCKET NOS.: W-02121A-06-0316 AND SW-02563A-06-0316

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7 Attorney for Livco Water & Livco Sewer

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9 Director, Utilities Division
10 Arizona Corporation Commission
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12 Phoenix, Arizona 85007

13 Ms. Janice M. Alward
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