

ORIGINAL



0000102060

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

2009 AUG 28 A 11: 30

AUG 28 2009

COMMISSIONERS

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

ARIZONA CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
DEL RIO WATER COMPANY, LLC FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER SERVICE
IN YAVAPAI COUNTY, ARIZONA.

DOCKET NO. W-04074A-08-0094

**STAFF'S RESPONSE TO APPLICANT'S
REQUEST FOR EXTENSION OF TIME**

On February 15, 2008, Del Rio Water Company ("Del Rio") filed an application before the Arizona Corporation Commission ("ACC") requesting a Certificate of Convenience and Necessity ("CC&N") to provide water service in Yavapai County, Arizona.

On April 21, 2008, ACC Utilities Division Staff ("Staff") filed a Sufficiency Letter in this docket.

On July 28, 2008, a hearing was held in this matter. At the close of evidence, the Hearing Division ("Hearing") determined that additional information was necessary in order to make an informed decision. An additional day of hearing was scheduled for November 14, 2008, and Del Rio was instructed to provide a witness to respond to several areas of inquiry, including: Del Rio's organizational structure; names of principal officers, affiliated entities; and additional financial information.

Subsequently, Staff issued several data requests in an effort to gather this added information.

On September 3, 2008, a Motion to Intervene had been filed by the Appaloosa Water Company.

On September 12, 2008, Del Rio filed in Docket Control a request that the November 14 hearing be delayed until December 13, 2008, or later. Del Rio explained that its sole member, Bond Ranch, was involved in a refinancing, and would be unable to respond to Staff's data requests regarding the financial arrangements until the refinancing was complete. Del Rio discussed the request with Staff prior to filing, and Staff did not oppose the request.

1 On September 18, 2008, the Hearing issued a Procedural Order vacating the November 14
2 hearing date and establishing a new hearing date of December 22, 2008.

3 On September 29, Staff filed its Response to Appaloosa's request to intervene and requested
4 at that time to have the hearing date slightly accelerated.

5 On October 3, 2008, Del Rio filed its Response to the Appaloosa's request to intervene and
6 in the same response did not object to the acceleration of the hearing date.

7 On October 22, 2008, Del Rio filed in Docket Control a second request for an extension of
8 time, asking that the hearing be put on hold until June 30, 2009. Del Rio cited the faltering economy
9 and uncertainty regarding future development as the primary reasons for the delay in arranging the
10 financing underlying the development.

11 On June 30, 2009, Del Rio filed with Docket Control a third request for an extension of time
12 in order to "pursue new financing".

13 On August 17, 2009, the Hearing Division issued a Procedural Order directing Staff and the
14 Intervenor to file responses to Del Rio's request.

15 Staff hereby provides its response.

16 It is Staff's position that this matter should be administratively closed at this time. This
17 matter has been pending before the Commission for nearly two years, and at this time, Del Rio is
18 still unable to arrange financing. In the absence of the underlying financing, there is no need to
19 pursue the instant application. At this time, there is still no indication that financing is any closer to
20 completion than at any time in this proceeding thus far.

21 Furthermore, to date, Del Rio has not provided responses to the data requests Staff issued
22 after the first day of hearing. As a result, Staff is still unable to respond to any of the remaining
23 matters about which the Hearing Division needed information.

24 Rather than filing an ongoing series of postponements, Del Rio should withdraw its
25 application and file a new application if and when the circumstances have come to fruition that will
26 allow it to proceed. But in the absence of such a withdrawal, the Commission should
27 administratively close this docket.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESPECTFULLY SUBMITTED this 28th day of August, 2009.



Kevin O. Tofrey
Attorney, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Original and thirteen (13) copies
of the foregoing were filed this
28th day of August, 2009 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copy of the foregoing mailed this
28th day of August, 2009 to:

Jeffrey C. Zimmerman
MOYES SELLERS & SIMS
Viad Corporate Center
1850 North Central Avenue, Suite 1100
Phoenix, Arizona 85004-4541
Attorneys for Del Rio Water Company, LLC

Joe Cordovana, Owner
APPALOOSA WATER COMPANY
P.O. Box 3150
Chino valley, Arizona 86323-2708


