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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

DEC -8 2009

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

DOCKETED BY ne

IN THE MATTER OF THE APPLICATION
WATER UTILITY OF GREATER TONOPAH,
INC. FOR APPROVAL OF AN EXTENSION OF
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER UTILITY
SERVICE IN MARICOPA COUNTY, ARIZONA.

DOCKET NO. W-02450A-06-0626

IN THE MATTER OF THE APPLICATION OF
HASSAYAMPA UTILITY COMPANY, INC. FOR
APPROVAL OF AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WASTEWATER
UTILITY SERVICE IN MARICOPA COUNTY,
ARIZONA.

DOCKET NO. SW-20422A-06-0566

DECISION NO. 71430

ORDER

Open Meeting
November 19 and 20, 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 May 16, 2008, the Commission issued Decision No. 70357, which conditionally approved the applications of Hassayampa Utility Company ("HUC") and Water Utility of Greater WUGT (collectively, "the Utilities") to extend their respective Certificates of Convenience and Necessity ("CC&N") to provide water and wastewater utility services in various parts of Maricopa County, Arizona. The Decision conditionally granted approval for the Utilities to extend their service areas to include an additional 22,000 acres.

2. On April 30, 2009, the Utilities filed a Motion for an Extension of Time ("Motion") to

1 comply with the conditions set forth in Decision No. 70357 as follows:

| 2 Company | Item Description | Due Date | Extension Request |
|-----------|---|----------------|-------------------|
| 3 WUGT | ADWR Designation of Assured Water Supply for the first subdivision | May 16, 2010 | none requested |
| 4 WUGT | Approval of Construction from MCESD for the initial water plant facilities, including production, storage and water distribution system to serve the initial phase of the development | May 16, 2010 | December 31, 2012 |
| 5 HUC | Approval to Construct from MCESD for the sewer tie-in between Water Reclamation Facility Campus No. 1 and the initial phase of the development | April 30, 2009 | December 31, 2012 |
| 6 HUC | Aquifer Protection Permit ("APP") for the Water Reclamation Facility Campus No. 1 needed to serve the initial phase of the development | April 30, 2009 | December 31, 2012 |

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11 The Utilities' Motion states that development in the extension area has been severely impacted by the
12 current economic crisis; the Hassayampa Ranch Water Reclamation Facility ("WRF") Campus No. 1
13 has not been constructed and it will not be needed for several more years and the interconnect
14 between Phase 1 of the development and the HUC WRF Campus No. 1 will not be needed for several
15 more years; and it is not prudent for the Utilities to incur the costs for an interconnect at this time.
16 The Motion also requests extensions of time to comply with the filing of its Approval of Construction
17 ("AOC") for the initial water plant facilities; and the APP for the WRF Campus No. 1. The Utilities
18 request an extension of time, until December 31, 2012, to meet the compliance items outlined above.

19 3. On June 25, 2009, Staff filed a Memorandum expressing concern that development in
20 the extension area may be prolonged or may never happen. Based on the Utilities' admission that
21 development is not imminent for several more years; the lack of evidence demonstrating a continuing
22 need for service in the extension area; the excessive length of time requested by the Utilities' for the
23 extension of time; and no apparent need for service in the foreseeable future; Staff recommends
24 denial of the Utilities request for an extension of time. Further, Staff stated that HUC should be on
25 notice that it is currently out of compliance with the Commission and both HUC and WUGT must
26 satisfy the required compliance items or present further evidence to the Commission to substantiate
27 its request for the extension of time.

28 4. On July 15, 2009, the Utilities filed a Reply in Support of Motion for Extension of

1 Time. The Utilities' reply states that although Staff requested "renewed requests for service," Staff
2 does not cite any authority to support "the idea that renewed requests for service must be submitted
3 with motions for extension of time." The reply cites other Decisions, where updated requests for
4 service were not submitted with a motion for extension of time.¹ However, the reply did include four
5 updated requests for service purportedly representing all of the water extension area, and the vast
6 majority of the wastewater and recycled water extension area. Further, the reply states that Staff's
7 recommendation that the Utilities build the facilities required in Decision No. 70357 would place an
8 unnecessary financial burden on the Utilities and their ratepayers at this time. The reply renewed the
9 Utilities' request for an extension of time to comply until December 31, 2012.

10 5. On August 18, 2009, by Procedural Order, Staff was directed to file a response to the
11 Utilities' updated information by September 30, 2009.

12 6. On September 11, 2009, Staff filed a Memorandum in response to the Procedural
13 Order issued August 18, 2009. Staff states that in reviewing the updated requests for service
14 submitted by the Utilities they do not contain specific dates as to when development will take place;
15 they do not define an apparent need for service in the near future; and that no request for service was
16 submitted for the Desert Whisper development. Staff further states that it is aware that "due to a
17 downturn in the economy many developers have gone bankrupt and developments have been
18 abandoned across the state," and that although the developer letters submitted by the Utilities
19 indicated that the approval process is on-going, they also state that development may not take place
20 for several years. Staff continues to recommend denial of the Utilities' request for an extension of
21 time. In the alternative, Staff recommends that the Commission issue the Utilities an Order
22 Preliminary requiring full compliance with the outstanding compliance items by December 31, 2012,
23 before a final Order is issued granting the CC&N extension.

24 7. On September 30, 2009, the Utilities filed a Request for Procedural Conference and
25 Motion to Set Hearing. The Utilities state that their request for an extension of time is not a "run-of-
26 the-mill" compliance matter and that the Utilities' request presents important policy issues. The
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28 ¹ See Arroyo Water Co., Decision No. 70974 (May 5, 2009); Gold Canyon Sewer Corp., Decision No. 71101 (June 5, 2009); Baca Float Water Co., Decision No. 71170 (June 30, 2009).

1 Utilities state that Staff's recommendation fails to properly consider the need for long-term planning;
2 promotion of responsible and sustainable water management; and does not consider the unique
3 situation in the Lower Hassayampa Sub-Basin. The Utilities further state that Staff's
4 recommendation is unprecedented and based on erroneous assumptions, and therefore a procedural
5 conference is needed, and thereafter a hearing should be scheduled prior to the end of November
6 2009.

7 8. According to the Utilities' request, the CC&N extension area includes several large
8 developments, located in the Lower Hassayampa Sub-basin. The Utilities assert that:

- 9 ° long-term planning for the extensive use of recycled water has been conducted
10 for the extension area;
- 11 ° the size of the proposed Belmont project in the extension area will make the
12 use of purple pipe a "national leader;"
- 13 ° the developers' use of recycled water could make Arizona a leader in
14 sustainable water use; and
- 15 ° it is critical for the Utilities to maintain its close working relationship with the
16 Town of Buckeye in order to continue the on-going regional planning in the
17 area.

18 The Utilities' request further points out that this is the first request for an extension of time related to
19 Decision No. 70357; the requested extension of time is only a little more than two years away; Global
20 has spent more than \$1 million on permitting in the extension area; and a hearing to resolve the issues
21 surrounding the request for an extension of time is needed.

22 9. Staff has recommended denial of the Utilities request for an extension of time or in the
23 alternative, granting the Utilities an Order Preliminary. The recommendation for an Order
24 Preliminary and the Utilities' request that the Commission hear evidence on development timeframes
25 in the extension area; the impact denial of the extension of time will have on the developers, Town of
26 Buckeye, and Global, would require the Commission to, pursuant to A.R.S. § 40-252, "rescind, alter
27 or amend" Decision No. 70357. To date, the Commission has not voted to rescind, alter or amend
28 Decision No. 70357, pursuant to A.R.S. § 40-252.

ORDER

IT IS THEREFORE ORDERED that Water Utility of Greater Tonopah's and Hassayampa Utility Company's time to comply with all compliance deadlines in Commission Decision No. 70357 shall be extended to December 31, 2012.

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

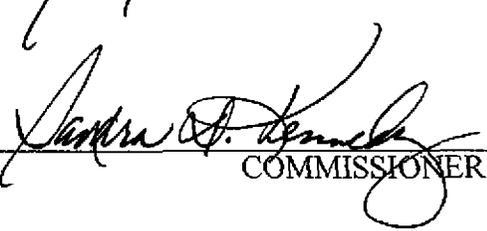
BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, 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 8th day of December 2009.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

YBK:db

1 SERVICE LIST FOR: WATER UTILITY OF GREATER TONOPAH, INC.
2 and HASSAYAMPA UTILITY COMPANY, INC.

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