

# OPEN MEETING ITEM



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EXECUTIVE DIRECTOR

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



## ARIZONA CORPORATION COMMISSION

ORIGINAL

Arizona Corporation Commission

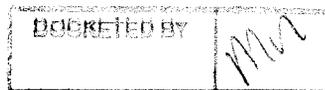
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DEC 22 2009

DATE: DECEMBER 22, 2009

DOCKET NO: W-01445A-05-0469

TO ALL PARTIES:



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

ARIZONA WATER COMPANY  
(EXTENSION OF TIME DEADLINE  
CONTAINED IN DECISION NO. 68607)

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:

DECEMBER 31, 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:

JANUARY 12, 2010 AND JANUARY 13, 2010

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.

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF  
9 ARIZONA WATER COMPANY, AN ARIZONA  
10 CORPORATION, TO EXTEND ITS EXISTING  
11 CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY AT CASA GRANDE, PINAL  
13 COUNTY, ARIZONA.

DOCKET NO. W-01445A-05-0469

DECISION NO. \_\_\_\_\_

**ORDER EXTENDING TIME**  
**DEADLINE CONTAINED IN**  
**DECISION NO. 68607**

14 Open Meeting  
15 January 12 and 13, 2010  
16 Phoenix, Arizona

17 **BY THE COMMISSION:**

18 \* \* \* \* \*

19 Having considered the entire record herein and being fully advised in the premises, the  
20 Commission finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22 1. On March 23, 2006, the Arizona Corporation Commission ("Commission") issued  
23 Decision No. 68607, approving the application of Arizona Water Company ("Arizona Water" or  
24 "Company") for an extension of its water Certificate of Convenience and Necessity ("CC&N"). The  
25 Decision approved the extension of AWC's CC&N to include areas referred to as parcels 1, 3, 4, 5, 6,  
26 7, and 8. Pursuant to Commission Decision No. 68607, Arizona Water was required to file the  
27 following:

- 28 • a copy of the Approval to Construct ("ATC") issued by the Arizona Department of Environmental Quality ("ADEQ") for the facilities needed to serve each of the parcels within two years of the effective date of the Decision;
- a copy of one developers' Certificates of Assured Water Supply ("CAWS") for each of the parcels within two years of the effective date of the Decision; and

- a copy of the fully executed main extension agreements (“MXAs”) for water facilities for each parcel within two years of the effective date of the Decision.

2. On February 12, 2007, AWC filed all of the compliance items required for Parcel 6.

Therefore, compliance items still remain for Parcels 3, 4, 5 and 7.<sup>1</sup>

3. On January 28, 2008, AWC filed a request for an extension of time, until March 23, 2010, to comply with Decision No. 68607. AWC requested an extension of the deadline to obtain the MXAs, ATCs, and CAWS for the remaining parcels.

4. On February 19, 2008, the Commission’s Utilities Division (“Staff”) filed a response recommending approval of AWC’s request for an extension of time, until March 23, 2010.

5. By Procedural Order issued on March 11, 2008, AWC’s request for an extension of time was approved.

6. On October 2, 2009, AWC filed a second request for an extension of time, until March 23, 2012, to comply with Decision No. 68607. AWC’s extension request states that: additional time is needed due to the housing market decline;<sup>2</sup> ADWR has not completed the approval process for the Company’s Physical Availability Demonstration (“PAD”) application; approval of the PAD is a “precursor” to obtaining a CAWS; and, because the extension area is located within the Pinal Active Management Area (“AMA”), developers cannot plat a subdivision without a CAWS. AWC submitted letters from the current owners of Parcels 3, 4, 5 and 7, showing the owners’ continued desire to develop their properties and to receive water service from AWC. AWC further states that denial of its request to extend the time deadlines will be harmful to housing market recovery.

7. On November 27, 2009, Staff filed a response to AWC’s second request for an extension of time to comply with 68607. In its response, Staff expressed concerns over both the number of times AWC has requested to extend the time deadlines and length of time to comply. Nonetheless, Staff recommends granting AWC’s request based on the Commission’s recent discussions regarding the length of extension requests. According to Staff, in deciding whether a

<sup>1</sup> Decision No. 68607 did not require any compliance items for Parcel 1. The Decision granted an Order Preliminary for Parcel 8, and AWC was required to obtain a consent, franchise, or permission from the City of Eloy, within one year of the date of the Decision. AWC was unable to satisfy the requirement for Parcel 8 and the Order Preliminary became null and void.

<sup>2</sup> AWC’s request notes that housing permits have dropped from an annual peak of 11,371 in 2005 to 3,104 in 2008, for single family residences issued in Pinal County.

1 request for an extension of time should be granted, the Commission considered the condition of the  
2 housing market and recession; the need to comply with state agency requirements; the need for long-  
3 term planning; and the complexity of the issues involved in the extension of time request.

4 8. AWC has filed a timely request for an extension of the time deadlines contained in  
5 Decision No. 68607. Based on the recent housing market decline, the current economic recession,  
6 the length of time needed for developers and utilities to meet state agency requirements, and the  
7 continuing desire expressed by property owners in the extension area to have AWC provide water  
8 utility service in the extension area, we find Staff's recommendation to grant AWC an extension of  
9 time, until March 23, 2012, to comply with Decision No. 68607, reasonable.

10 **CONCLUSIONS OF LAW**

11 1. Arizona Water Company is a public service corporations within the meaning of  
12 Article XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282 and 40-285.

13 2. The Commission has jurisdiction over Arizona Water Company and the subject matter  
14 of the Request for Additional Time to Comply with Commission Decision No. 68607.

15 3. Arizona Water Company's request for an extension of time is in the public interest.  
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**ORDER**

IT IS THEREFORE ORDERED that Arizona Water Company's deadline to comply with the compliance deadlines set forth in Commission Decision No. 68607, as discussed herein, shall be extended to March 23, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

YBK:db

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