

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

OPEN MEETING ITEM



0000107733

Executive Director

ORIGINAL

ARIZONA CORPORATION COMMISSION

2010 JAN 28 A 9:40

DATE: JANUARY 28, 2010

DOCKET NO.: W-01384A-08-0048

TO ALL PARTIES:

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

DELLS WATER COMPANY, INC.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 70953)

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:

FEBRUARY 8, 2010

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:

MARCH 2, 2010 and MARCH 3, 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.

Arizona Corporation Commission
DOCKETED

JAN 28 2010

DOCKETED BY [Signature]

[Signature]
ERNEST G. JOHNSON
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 THE DELLS WATER COMPANY, INC.
FOR FINANCING APPROVAL.

DOCKET NO. W-01384A-08-0048

DECISION NO. _____

**ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 70953**

Open Meeting
March 2 and 3, 2010
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 April 7, 2009, the Arizona Corporation Commission ("Commission") issued Decision No. 70953 which approved the application by the Dells Water Company, Inc. ("Company" or "Applicant") for long-term debt to pay for the installation of additional storage facilities.¹
2. The Commission's Decision approving the Company's application for a long-term debt ordered the Company to file, by December 31, 2009, with the Commission's Docket Control as a compliance item in this docket, a copy of the AEDQ AOC for the new storage facilities.
3. On January 25, 2008, following the issuance of Decision No. 70102 in Docket No. W-

¹ Because the Commission found in Docket No. W-01384A-07-0314, a rate case, which resulted in Decision No. 70102 (December 21, 2007), that the Company had inadequate storage to serve its existing customers, the Commission ordered the Company to add 20,000 gallons of additional water storage facilities. As a condition of the Commission's approval of the Company's rate application and to verify that the additional storage was added, the Company was initially ordered to file a copy of the Arizona Department of Environmental Quality ("AEDQ") Certificate of Approval of Construction ("AOC") by December 31, 2008, in the rate case docket.

1 01384A-07-0314, the Company filed the financing application in this docket requesting authorization
2 to incur long-term debt for a \$30,000 loan from the Water Infrastructure Authority ("WIFA") to fund
3 the construction of two new 10,000 gallon storage tanks. After the storage facilities are constructed,
4 ADEQ is to approve the construction and issue the AOC for the storage tanks.

5 4. While the financing application was pending, on January 28, 2009, the Company filed
6 a request for an extension of time in Docket No. W-01384A-07-0314, until November 1, 2009, in
7 order to file a copy of the ADEQ AOC. According to the Company, the delay in securing the AOC
8 for the additional storage was due to the processing of the Company's financing application in this
9 docket.

10 5. On January 15, 2009, the Commission's Utilities Division ("Staff") filed its report in
11 this docket recommending approval of the Company's financing application which would provide
12 funds for the construction of the Company's planned new storage tanks. The Staff Report concerning
13 the financing application also recommended that the Company be granted an extension until
14 December 31, 2009, in the rate case docket to file a copy of the ADEQ AOC for the storage facilities.

15 6. On March 20, 2009, Staff filed a memorandum in the rate case docket concerning the
16 ADEQ AOC compliance item required by Decision No. 70102. Staff reaffirmed its previous
17 recommendation for the Company to file a copy of the ADEQ AOC by December 31, 2009, as stated
18 in the financing docket.

19 7. Staff's recommendation with respect to the AOC was adopted with the Commission's
20 approval of the financing application in Decision No. 70953 (April 7, 2009) and the Company was
21 ordered to file by December 31, 2009, a copy of the ADEQ AOC.

22 8. On December 11, 2009, the Company filed a request for an extension of time to file a
23 copy of the ADEQ AOC for the additional storage facilities until May 1, 2010, in both this docket
24 and the rate case docket. The Company stated that plans for the construction of the facilities were
25 submitted to ADEQ on August 21, 2009, and it still had not received the Certificate of Approval to
26 Construct ("ATC") from ADEQ. The Company further stated that it had only recently received
27 notice that its application to obtain a loan from WIFA had been approved. That loan has not yet
28 closed and without the loan the Company does not have the resources to construct the storage facility.

1 The Company explained that the WIFA loan was expected to close before the end of 2009 and the
2 Company would then contract with a firm to construct the storage facilities at that time.

3 9. On January 15, 2010, Staff filed a memorandum in both dockets recommending
4 approval of an extension until June 30, 2010, in order for the Company to file a copy of the ADEQ
5 AOC. Staff stated that it had recently contacted the Executive Director of WIFA who advised Staff
6 that the loan had not closed as of January 8, 2010, and that recent changes related to the federal
7 minimum wage laws must be included in the Company's construction contracts and this would delay
8 the processing and the closing of the loan.

9 10. Subsequently, Staff contacted the Company's consultant who indicated that the
10 Company had received the ADEQ ATC, but the effects of changes to the federal minimum wage laws
11 could possibly increase the project's cost by 15 to 20 percent and these costs were not considered
12 when the loan for the project was approved in Decision No. 70953. As a result of the changes to the
13 laws, the authorized loan may be insufficient to fund the project.

14 11. The Company's consultant indicated that he has been in contact with Commission
15 Staff concerning how to address the possible funding shortfall.

16 12. Staff is concerned with the Company's failure to comply with the requirement of
17 Decision No. 70953 to file a copy of the ADEQ AOC because the Company has yet to complete the
18 following actions: close on the loan; contract for the construction work; complete construction; and
19 secure the ADEQ AOC. Staff believes the Company should either complete the project with the
20 authorized funding of \$30,000 or if the funding is insufficient, apply for additional financing
21 authorization.

22 13. Under the circumstances, the Company should be granted an extension of time until
23 June 30, 2010, in which to file a copy of its ADEQ AOC as recommended by Staff.

24 CONCLUSIONS OF LAW

25 1. The Company is a public service corporation within the meaning of Article XV of the
26 Arizona Constitution and A.R.S. §§ 40-301 and 40-302.

27 2. The Commission has jurisdiction over Applicant and of the subject matter of the
28 extension request addressed herein.

1 SERVICE LIST FOR: THE DELLS WATER COMPANY, INC.

2 DOCKET NO.: W-01384A-08-0048

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