

OPEN MEETING ITEM



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



ORIGINAL

ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: JUNE 8, 2010
DOCKET NO.: W-02113A-05-0178
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Order on:

CHAPARRAL CITY WATER COMPANY, INC.
(ORDER AMENDING DECISION NO. 70608
PURSUANT TO A.R.S. § 40-252)

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:

JUNE 17, 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:

JUNE 29, 2010 and JUNE 30, 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

JUN - 8 2010

DOCKETED BY 


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 CHAPARRAL CITY WATER COMPANY,
INC., AN ARIZONA CORPORATION, FOR
AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY, AND
FOR AN ORDER PRELIMINARY
PURSUANT TO A.R.S. § 40-282.D.

DOCKET NO. W-02113A-05-0178

DECISION NO. _____

**ORDER AMENDING DECISION NO.
70608 PURSUANT TO A.R.S. § 40-252**

Open Meeting
June 29 and 30, 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 March 10, 2005, Chaparral City Water Company, Inc. ("Chaparral City" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("CC&N"), and for an "order preliminary" pursuant to A.R.S. § 40-282.D, to allow Chaparral City to extend its CC&N to include approximately 1,300 acres of state trust land located north of the Town of Fountain Hills and immediately adjacent to Chaparral City's existing CC&N area.

2. On October 25, 2005, the Commission issued Decision No. 68238, granting Chaparral City an Order Preliminary for the requested CC&N extension area. The Commission stated that a Final Order granting the CC&N extension would be issued upon the Company's satisfaction of the following requirements:

- a) Demonstrate to the satisfaction of the Commission's Director of

1 Utilities that the Company is able to meet the water production needs
 2 for its system, PWS No. 07-017, for both its current customer base as
 3 well as expected demand for the proposed extension area. Sufficient
 4 capacity may be demonstrated by filing with Docket Control a list of
 5 pending or future water sources, their anticipated production capacity
 6 in gallons per minute, and a time schedule for ADEQ approval of
 7 construction and operation;

8 b) Update or amend its Designation of Assured Water Supply to include
 9 the service area sought by the CC&N extension request. The
 10 Company must file with Docket Control under the above-captioned
 11 docket number, the amended Designation, stating that there is
 12 adequate water supply, where applicable or required by law;

13 c) File with Docket Control the projected number of customers to be
 14 served at build-out in the extension area;

15 d) File with Docket Control the projected cost of utility facilities for the
 16 proposed extension area;

17 e) File with Docket Control a copy of the amended Maricopa County
 18 and/or Town of Fountain Hills franchise agreement in accordance
 19 with the application in this proceeding; and

20 f) Comply with items 3, 4, 5, 6, 7, and 8 of Staff's recommendations, as
 21 more fully described herein in Finding of Fact No. 13 [in Decision
 22 No. 68238], within three (3) years of the effective date of the "Order
 23 Preliminary" issued in this proceeding. If the Company complies
 24 with the designated items within the three-year timeframe, it shall file
 25 a Motion in the above-captioned docket, within the three-year period,
 26 seeking a "Final Order" for approval of the CC&N extension area. If
 27 Chaparral City fails to meet the three-year timeframe, it shall submit a
 28 new CC&N extension application in order to serve the area requested
 by its application in this proceeding and to file proof of such
 submission in this docket for compliance purposes.

3. On September 19, 2008, Chaparral City filed a Request for Extension of Time to
 Comply with Order 68238 (Order Preliminary), pursuant to A.R.S. § 40-252. The Company requested
 that Decision No. 68238 be modified to remove the three-year time limit for compliance or to extend
 the time limit for an additional three to five years. Chaparral City argued that the planned
 development had taken longer than anticipated and additional time was needed to comply with the
 requirements of Decision No. 68238.

4. During a Special Open Meeting held on October 23, 2008, the Commission voted to

1 stay the three-year compliance deadlines established in Decision No. 68238, pending preparation and
2 issuance of an Order amending that Decision. The Commission voted to grant the Company an
3 additional 18 months beyond the original October 25, 2008, deadline, in order to comply with the
4 requirements of Decision No. 68238.

5 5. On November 12, 2008, the Commission issued Decision No. 70608, amending
6 Decision No. 68238, pursuant to A.R.S. § 40-252, "to allow an additional 18 months for compliance
7 with the Order Preliminary deadlines established therein." Decision No. 70608 also stated that

8 [I]f Chaparral City Water Company, Inc., fails to meet the April 25, 2010,
9 deadline, then the Order Preliminary is deemed null and void and Chaparral
10 City Water Company, Inc. shall submit a new CC&N extension application
11 in order to serve the area requested by its application in this proceeding and
12 to file proof of such submission in this docket for compliance purposes.

13 6. On June 3, 2010, Chaparral City filed a request to extend the deadline, from April 25,
14 2010 to February 1, 2011, for compliance with the requirements of Decision No. 70608. The
15 Company states that it seeks additional time for compliance on behalf of the owner of the property for
16 which the Order Preliminary was granted. According to Chaparral City's filing, previously pending
17 litigation delayed start of the development project, which litigation has been resolved, and the
18 developer is now ready to proceed with engineering plans and obtaining necessary agreements for the
19 project.

20 7. On June 4, 2010, the Commission's Utilities Division ("Staff") filed a Memorandum in
21 response to Chaparral City's request. Staff indicates that, based on the ordering paragraph cited
22 above, "it appears that the Order Preliminary granted by Decision No. 68238 and extended by
23 Decision No. 70608 is now null and void." Staff noted, however, that during a recent Staff Open
24 Meeting (held on May 13, 2010), the Commission directed the Hearing Division to prepare a
25 Recommended Opinion and Order on this issue. Staff states that has no objection to reinstating
26 Chaparral City's Order Preliminary [pursuant to A.R.S. § 40-252] granted by Decision Nos. 68238
27 and 70608, and making the new deadline February 1, 2011.

CONCLUSIONS OF LAW

28 1. Chaparral City is a public service company within the meaning of Article XV of the

1 Arizona Constitution and A.R.S. §§ 40-281, 40-252, 40-282 and 40-285.

2 2. The Commission has jurisdiction over Chaparral City, and the subject matter of the
3 application.

4 3. On October 23, 2008, the Commission voted to stay the three-year compliance
5 deadlines established in Decision No. 68238, pending preparation and issuance of an Order
6 amending that Decision.

7 4. On November 12, 2008, the Commission memorialized its prior vote by issuing
8 Decision No. 70608 and, pursuant to A.R.S. § 40-252, Decision No. 68238 was amended to allow an
9 additional 18 months for compliance with the Order Preliminary deadlines established therein.

10 5. On April 25, 2010, the Order Preliminary became null and void in accordance with the
11 terms of Decision No. 70608.

12 6. Pursuant to A.R.S. § 40-252, it is reasonable and in the public interest to reinstate the
13 Order Preliminary granted by Decision No. 68238, as amended by Decision No. 70608, and grant an
14 extension, until February 1, 2011, to comply with the requirements of those prior Decisions.

15 **ORDER**

16 IT IS THEREFORE ORDERED that, pursuant to A.R.S. § 40-252, the Order Preliminary
17 granted by Decision No. 68238, as amended by Decision No. 70608, is hereby reinstated and
18 Chaparral City Water Company, Inc., is granted an extension, until February 1, 2011, to comply with
19 the requirements of those prior Decisions.

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1 IT IS FURTHER ORDERED that in all other respects, the requirements contained in
2 Decision Nos. 68238 and 70608 shall remain in full force and effect.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
5

6 CHAIRMAN

COMMISSIONER

9 COMMISSIONER

COMMISSIONER

COMMISSIONER

10
11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
12 Executive Director of the Arizona Corporation Commission,
13 have hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this _____ day of _____, 2010.

16 _____
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

17 DISSENT _____

19 DISSENT _____

1 SERVICE LIST FOR: CHAPARRAL CITY WATER COMPANY, INC.
2 DOCKET NO.: W-02113A-05-0178
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