

OPEN MEETING ITEM



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



ARIZONA CORPORATION COMMISSION

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2010 JUN -2 P 3:12

ORIGINAL

DATE: JUNE 2, 2010

DOCKET NOS.: W-02065A-07-0308, W-02065A-07-0309, W-02065A-07-0311 and W-02065A-09-0123

AZ CORP COMMISSION  
DOCKET CONTROL

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 Opinion and Order on:

WILHOIT WATER COMPANY, INC.  
YAVAPAI MOBILE HOME ESTATES SYSTEM  
(EXTENSION OF TIME DEADLINE CONTAINED  
IN DECISION NO. 71235)

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 11, 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 - 2 2010

DOCKETED BY

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

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 WILHOIT WATER COMPANY, INC., YAVAPAI  
10 MOBILE HOME ESTATES SYSTEM, FOR  
11 RETROACTIVE APPROVAL OF A FINANCING  
12 APPLICATION.

DOCKET NO. W-02065A-07-0308

13 IN THE MATTER OF THE APPLICATION OF  
14 WILHOIT WATER COMPANY, INC., YAVAPAI  
15 MOBILE HOME ESTATES SYSTEM, FOR  
16 APPROVAL OF A FINANCING APPLICATION.

DOCKET NO. W-02065A-07-0309

17 IN THE MATTER OF THE APPLICATION OF  
18 WILHOIT WATER COMPANY, INC., YAVAPAI  
19 MOBILE HOME ESTATES SYSTEM, FOR  
20 APPROVAL OF A PERMANENT RATE  
21 INCREASE.

DOCKET NO. W-02065A-07-0311

22 IN THE MATTER OF THE APPLICATION OF  
23 WILHOIT WATER COMPANY, INC., YAVAPAI  
24 MOBILE HOME ESTATES SYSTEM, FOR  
25 APPROVAL OF A FINANCING APPLICATION  
26 FOR A NEW ARSENIC TREATMENT SYSTEM.

DOCKET NO. W-02065A-09-0123

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

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NO. 71235**

27 Open Meeting  
28 June 29 and 30, 2010  
Phoenix, Arizona

29 **BY THE COMMISSION:**

30 \* \* \* \* \*

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

33 **FINDINGS OF FACT**

34 1. On June 13, 2008, the Arizona Corporation Commission ("Commission") issued  
35 Decision No. 70384 with respect to the first three dockets referred to hereinabove. Therein, the  
36

1 Commission approved a permanent rate increase for Wilhoit Water Company, Inc.'s Yavapai Mobile  
2 Home Estates System ("Applicant" or "Company"). The Commission's Decision also authorized the  
3 Company to recover \$36,105 which it had expended for the installation of an arsenic remediation  
4 system by means of an Arsenic Cost Recovery Mechanism ("ACRM").

5       2. Subsequently, the arsenic remediation system which had been installed for the  
6 Company failed to operate in a satisfactory manner and it became necessary for the Company to  
7 replace the ineffective remediation system with a more expensive system.

8       3. On March 17, 2009, in order to bring the water utility into compliance with the Safe  
9 Drinking Water Act ("SDWA") and with the new arsenic standard as required by the Arizona  
10 Department of Environmental Quality ("ADEQ"), the Company filed a new financing application in  
11 Docket No. W-02065A-09-0123 seeking approval from the Commission for long-term financing in  
12 order to borrow up to \$280,042 from the Water Infrastructure Financing Authority ("WIFA") to fund  
13 the installation of a new arsenic remediation system which was to be repaid utilizing an Arsenic  
14 Remediation Surcharge Mechanism ("ARSM").<sup>1</sup>

15       4. Subsequently, the Commission approved the re-opening of Decision No. 70384  
16 consistent with the Company's request for the amendment of that Decision, and the application filed  
17 in 2009 for long-term financing was consolidated with the earlier-filed dockets appearing above.

18       5. On August 6, 2009, the Commission issued Decision No. 71235 which approved the  
19 amendment of Decision No. 70384 and authorized the Company to incorporate an ARSM in place of  
20 the ACRM, and further authorized the Company to enter into long-term debt not to exceed \$280,042  
21 to fund the construction of the new arsenic remediation facilities.

22       6. Due to the Company's ongoing arsenic problems, the City of Prescott ("City")  
23 permitted the Company to temporarily interconnect its system with that of the City because the City's  
24 water met the requirements of the SDWA and did not exceed the new arsenic standard of 10 parts per  
25 billion ("ppb"). The Commission's approval for the Company to secure long-term financing in the  
26

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27 <sup>1</sup> Concurrently with the filing of the Company's financing application in Docket No. W-02065A-09-0123, Applicant, on  
28 March 17, 2009, pursuant to A.R.S. § 40-252, filed a request with the Commission to amend Decision No. 70384 to not  
only approve the WIFA financing, but to authorize the imposition of a ARSM in lieu of the ACRM as originally approved  
in Decision No. 70384.

1 amount of \$280,042 to be repaid by utilizing an ARSM was conditioned upon the Company filing, by  
2 March 31, 2010, a copy of the ADEQ Certificate of Approval of Construction ("AOC") for the new  
3 arsenic remediation system.

4 7. On March 9, 2010, the Company filed a Motion for Extension of Time ("Motion")  
5 until December 31, 2010, to file the ADEQ AOC. The Company explained that it had only recently  
6 closed on its WIFA loan to finance the new treatment system and while engineering plans were in  
7 preparation, they had not yet been presented to ADEQ for its review. Additionally, the Company  
8 stated that it had recently submitted plans for additional storage facilities for a related system and that  
9 approximately 90 days had elapsed before ADEQ approval was granted. Due to this delay, the  
10 Company is requesting the extension because it believes that additional time will be required to meet  
11 the Commission's condition to file a copy of the AOC pursuant to the terms of the Decision.

12 8. On May 12, 2010, the Commission's Utilities Division ("Staff") filed a Staff  
13 Memorandum in response to the Motion in which Staff recommended approval of an extension until  
14 December 31, 2010, in order for the Company to file a copy of the ADEQ AOC for the new arsenic  
15 treatment facilities.

16 9. Staff stated that it had recently contacted a senior loan officer of WIFA who advised  
17 Staff that although the loan had been approved on October 14, 2009, it had not closed until March 8,  
18 2010.

19 10. Staff stated further that a Company consultant had been contacted and verified that the  
20 Company continued to be interconnected with the City's water system, and while there were no  
21 guarantees that the City would continue to provide water service, the Company is continuing its  
22 progress to complete the construction of the new arsenic remediation system.

23 11. The Director of Public Works for the City has advised Staff that the Company is  
24 continuing its work to develop its arsenic remediation system and the City has no immediate plans to  
25 discontinue water service to the system.

26 12. Under the circumstances, the Company should be granted an extension of time until  
27 December 31, 2010, in which to file a copy of its ADEQ AOC as recommended by Staff.

28 ...

**CONCLUSIONS OF LAW**

1  
2 1. The Company is a public service corporation within the meaning of Article XV of the  
3 Arizona Constitution and A.R.S. §§ 40-250, 40-251, 40-301 and 40-302.

4 2. The Commission has jurisdiction over Applicant and the subject matter of the Motion  
5 requesting an extension herein.

6 3. Staff's recommendation for the extension of time to file the Company's ADEQ AOC  
7 should be adopted.

8 **ORDER**

9 IT IS THEREFORE ORDERED that Wilhoit Water Company, Inc. on behalf of its Yavapai  
10 Mobile Home Estates System, shall be granted an extension of time until December 31, 2010, to file  
11 its Arizona Department of Environmental Quality Certificate of Approval of Construction.

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1 IT IS FURTHER ORDERED that Wilhoit Water Company, Inc. on behalf of its Yavapai  
2 Mobile Home Estates System, shall, be granted no further extensions in the matter, absent good cause  
3 shown.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
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7

8 CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

9  
10 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

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

17  
18 \_\_\_\_\_  
19 ERNEST G. JOHNSON  
20 EXECUTIVE DIRECTOR

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SERVICE LIST FOR:

WILHOIT WATER COMPANY, INC., YAVAPAI  
MOBILE HOME ESTATES SYSTEM

DOCKET NOS.:

W-02065A-07-0308, W-02065A-07-0309, W-02065A-  
07-0311, and W-02065A-09-0123

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