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BEFORE THE ARIZONA CORPORATION C

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

SEP -1 2010

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

DOCKETED BY [nr]

IN THE MATTER OF THE APPLICATION OF  
WILLOW VALLEY WATER COMPANY, INC.  
FOR AN EXTENSION OF ITS CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01732A-05-0532

DECISION NO. 71861

ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NOS. 68610 AND 71174

Open Meeting  
August 24 and 25, 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 23, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68610 which approved the application of Willow Valley Water Company, Inc. ("Company" or "Applicant") for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide public water utility service to 48 acres of land consisting of Parcels A, B and C in Mohave County, Arizona.

2. As a condition of the Commission's approval, the Company was required to file, by March 23, 2007, copies of the developer's Letter(s) of Adequate Water Supply ("LAWS") which is to be issued by the Arizona Department of Water Resources ("ADWR") for each parcel.

3. On March 21, 2007, the Company filed a Motion for Extension of Time ("Motion") to file copies of the developer's LAWS stating that it needed an additional twelve months, until March 23, 2008, to secure and file copies of the LAWS to be issued by ADWR. The developer was

1 encountering delays due to litigation which involved the Mohave Valley Irrigation and Drainage  
2 District ("MVIDD") and a 2005 recall election that involved its board of directors.

3 4. On April 4, 2007, the Commission's Utilities Division ("Staff") filed a Memorandum  
4 which stated that Staff did not object to the Company's Motion and recommended that the requested  
5 extension be approved.

6 5. On April 19, 2007, by Procedural Order, an extension of time was granted for the  
7 Company to file copies of the developer's LAWS by March 23, 2008.

8 6. On March 21, 2008, the Company requested an additional one year extension of time,  
9 until March 23, 2009, in which to file a copy of the developer's LAWS for Parcel C to be issued by  
10 ADWR. The Applicant in the proceeding had secured and filed copies of the developer's LAWS for  
11 Parcels A and B in the extension area.

12 7. In its March 2008 filing, the Company stated that the developer was proceeding with  
13 the development of Parcel C and had experienced some delays with the Mohave County Planning and  
14 Zoning Department ("MCPZD"). At that time, the developer expected to resolve those issues with  
15 the MCPZD after which the developer would secure a LAWS for Parcel C and provide it to the  
16 Company to file with the Commission if an extension was granted.

17 8. On April 16, 2008, Staff filed a Memorandum which recommended approval of the  
18 Company's request for an extension of time, until March 23, 2009, in order to file a copy of the  
19 developer's LAWS for Parcel C.

20 9. On April 29, 2008, by Procedural Order, the Company was granted an extension of  
21 time, until March 23, 2009, in which to file a copy of the developer's LAWS for Parcel C.

22 10. On March 23, 2009, the developer of Parcels A, B and C, McKellips Land  
23 Corporation ("MLC"), filed an Application to Intervene ("Application") in this docket. MLC  
24 described what had happened since the granting of the extension of the Company's Certificate on  
25 March 23, 2006, and requested intervention pursuant A.A.C. R14-3-105(A) because it alleged that it  
26 was directly and substantially affected by the Commission's proceedings.

27 11. MLC, in its Application, further indicated that the Company did not oppose its  
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1 Application. Additionally, together with its Application, MLC filed a Conditional Motion for  
2 Extension of Time ("Conditional Motion"), until March 23, 2010, in which to secure a LAWS for  
3 Parcel C and provide it to the Company for filing in compliance with the Commission's Decision No.  
4 68610.

5 12. On April 7, 2009, by Procedural Order, Staff and the Company were each ordered to  
6 file a response to MLC's Application and to its Conditional Motion.

7 13. On April 30, 2009, the Company filed its response to MLC's Conditional Motion and  
8 indicated that the Company did not oppose MLC's request for an extension of time on behalf of the  
9 Company.

10 14. On May 8, 2009, Staff filed its response to MLC's Conditional Motion. Staff stated  
11 that "the downturn in the economy has put a damper on much of the development in the state," but  
12 recognized that MLC and the Company "have made significant progress in the extension area" with  
13 the LAWS for Parcel C remaining as the last required compliance item from Decision No. 68610, and  
14 recommended approval of MLC's Conditional Motion.

15 15. Staff further recommended that no further extension of time be granted.

16 16. Neither Staff nor the Company objected to MLC's Application and therefore MLC  
17 was granted intervention for the limited purpose of explaining why additional time for compliance  
18 was necessary. The Commission found that the request for an extension of time was reasonable and  
19 issued Decision No. 71174 (June 30, 2009) which authorized the Company to file a copy of the  
20 LAWS for Parcel C as recommended by Staff by March 23, 2010; however, the Commission placed  
21 the Company on notice that any further requests for an extension of time to comply would have to  
22 demonstrate that extraordinary circumstances existed that would warrant an additional extension.

23 17. On March 23, 2010, MLC filed another Motion in this proceeding requesting an  
24 additional year, until March 23, 2011, for the company to file a copy of the LAWS which is to be  
25 issued by ADWR to the developer for Parcel C. Further, MLC indicates in its Motion that the  
26 Company does not object to MLC's request and concurs in the Motion.

27 18. MLC, in its Motion, describes the difficulties it has encountered in securing the  
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1 LAWS for Parcel C. The Motion describes the ongoing political and litigation problems which have  
2 been affecting the MVIDD and its board. MLC also claims to have encountered further  
3 complications with various Mohave County administrative departments and, as a result, MLC was  
4 required to commence the subdivision process all over again "under a new ordinance." MLC asserts  
5 that the preliminary plat for Parcel C was submitted and resubmitted multiple times in order to meet  
6 new county requirements and additional delays were caused by the parent company of the title  
7 company involved in the subdivision process going into reorganization. According to MLC, these  
8 events further delayed the issuance of a deed that would enable MLC to file a parcel plat that defines  
9 a retention basin which receives storm drainage from all three parcels in the extension area approved  
10 in Decision No 68610.

11 19. According to MLC's Motion, the developer believes that the plat issues have been  
12 resolved and the subdivision process can resume. MLC states that it "has arranged the financing to  
13 complete the subdivision and has performed rough grading." MLC indicates that the preliminary plat  
14 is complete and the final plat and drafts of the improvement plans have also been completed.

15 20. MLC's Motion goes on to state that the Company has adequate water to serve Parcel C  
16 and that the Company is the "only feasible service provider" within the expansion area and that it is  
17 already providing water service to homes within Parcels A and B.

18 21. MLC further states that it "has diligently pursued the LAWS" to be issued by ADWR  
19 and that delays in the process were caused by others and not the fault of MLC or the Company.

20 22. On June 9, 2010, Staff filed its response which indicates that Staff has no objections to  
21 the most recent request by MLC for an extension of time for the Company to have until March 23,  
22 2011, to file a copy of the developer's LAWS for Parcel C. Staff states that it recognizes MLC is  
23 moving forward with the development of Parcel C and the only remaining compliance item from  
24 Decision No. 68610 is for the Company to file a copy of the LAWS for the subject parcel. Therefore,  
25 Staff is not opposing the pending Motion, but is recommending that no further extensions be granted.

26 23. Under the circumstances, based upon MLC's ongoing development efforts for Parcel  
27 C, we believe that an extension of time until March 23, 2011, for the Company to file a copy of the  
28 developer's LAWS for Parcel C is reasonable and should be granted.

CONCLUSIONS OF LAW

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1. The Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.
2. The Commission has jurisdiction over the Company and the subject matter of the extension request addressed herein.
3. MLC has previously been granted intervenor status pursuant to A.A.C. R14-3-105 for the purpose of filing for an extension of time on behalf of the Company.
4. The Motion requesting an extension of time for the Company to file a copy of the required documentation without objection by Staff as set forth in Findings of Fact No. 22 should be approved, but absent extraordinary circumstances, no further extensions should be granted.

**ORDER**

IT IS THEREFORE ORDERED that Willow Valley Water Company, Inc. shall be granted an extension of time, until March 23, 2011, to file a copy of the developer's Letter of Assured Water Supply for Parcel C to be issued by Arizona Department of Water Resources as previously ordered in Decision Nos. 68610 and 71174.

IT IS FURTHER ORDERED that no further extension of time to file the aforementioned document shall be granted absent extraordinary circumstances.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.



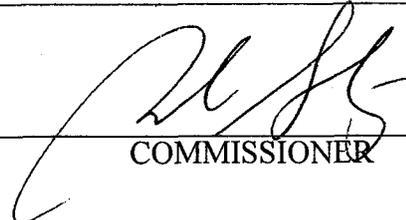
CHAIRMAN



COMMISSIONER



COMMISSIONER

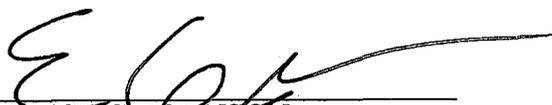


COMMISSIONER



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 31<sup>st</sup> day of August, 2010.

  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:db

1 SERVICE LIST FOR: WILLOW VALLEY WATER COMPANY

2 DOCKET NO.: W-01732A-05-0532

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