

OPEN MEETING ITEM



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



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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: NOVEMBER 2, 2010

DOCKET NO.: WS-20432A-05-0874

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:

WILLOW SPRINGS UTILITIES, L.L.C.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NOS. 68963 AND 70647)

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:

NOVEMBER 12, 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:

NOVEMBER 22, 2010 and NOVEMBER 23, 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

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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
WILLOW SPRINGS UTILITIES, L.L.C., FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER AND
WASTEWATER SERVICE IN PINAL COUNTY,
ARIZONA.

DOCKET NO. WS-20432A-05-0874

DECISION NO. _____

**ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 68963 AND 70647**

Open Meeting
November 22 and 23, 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 September 21, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68963 which approved the application of Willow Springs Utilities, L.L.C. ("Company" or "Applicant") for a Certificate of Convenience and Necessity ("Certificate") to provide public water and wastewater utility service to a master-planned community called Willow Springs ("WSP") located 30 miles north of Tucson.

2. As a condition of the Commission's approval, the Company was to file copies of the Certificate of Approval to Construct ("ATC") and the Certificate of Approval of Construction ("AOC") which were to be issued by the Arizona Department of Environmental Quality ("ADEQ") for the Company's Phase I water utility plant by December 30, 2007, and December 31, 2008, respectively. The Company was also ordered to file, within one year of the effective date of the Decision, either a copy of the Designation or Certificate of Assured Water Supply ("D/CAWS") to be

1 issued by the Arizona Department of Water Resources ("ADWR"). The Company was further
2 ordered to file, no later than December 31, 2008, a copy of the notice issued by ADEQ that the
3 Company's Aquifer Protection Permit ("APP") and Arizona Pollutant Discharge and Elimination
4 System ("AZPDES") had been approved.

5 3. On August 15, 2007, the Company filed a letter ("Motion") requesting one-year
6 extensions of time to file the respective copies of the ATC and AOC due to a slowdown in the real
7 estate market and planning delays.

8 4. On September 17, 2007, the Company amended its Motion and also requested a one-
9 year extension of time, until September 21, 2008, to file copies of the D/CAWS to be issued by the
10 ADWR.

11 5. On October 5, 2007, the Company filed a letter from the developer of the Willow
12 Springs master-planned community who indicated that development is going forward and that water
13 and wastewater service will be required for the project.

14 6. On October 15, 2007, the Commission's Utilities Division ("Staff") filed a
15 memorandum in response to the Company's Motion as amended. Staff stated that it conducted a
16 review of the Company's Motion and found that ADWR's processing of the Company's D/CAWS
17 was moving along and that Staff did not find the one year extension requested for the ATC and AOC
18 documents to be issued by ADEQ to be unreasonable. Staff recommended approval of the
19 Company's Motion as amended.

20 7. On October 26, 2007, by Procedural Order, the Company's Motion as amended was
21 granted and the Company was granted a one-year extension to file copies of the required documents
22 in the following manner: the ATC from December 30, 2007 to December 30, 2008; the AOC from
23 December 31, 2008 to December 31, 2009; and the D/CAWS from September 21, 2007 to September
24 21, 2008.

25 8. On May 1, 2008, the Company filed the D/CAWS issued by ADWR.

26 9. On September 22, 2008, the Company filed a second Motion for an extension of time
27 requesting that the copies of the ATC and AOC be filed by December 30, 2010 and December 31,
28 2011, respectively. Additionally, the Company filed an initial request for an extension of time to file

1 a copy of the notice from ADEQ that its APP and AZPDES has been approved from December 31,
2 2008 to December 31, 2010.

3 10. On October 7, 2008, the Company filed a copy of a letter from the developer that
4 indicated that development was going forward, but at a slower pace due to the first phase of the
5 development being replatted.

6 11. On October 22, 2008, Staff filed a memorandum, which indicated that Staff had
7 contacted ADEQ and had verified that development was going forward, albeit slower than initially
8 planned, but interaction was ongoing between the Company and ADEQ to secure the necessary
9 permits.

10 12. Staff recommended that, due to the continued real estate slowdown, the requested
11 extensions be granted as follows: for the Phase I ATC, APP and AZPDES to December 31, 2010;
12 and for the Phase I AOC until December 31, 2011.

13 13. Staff further recommended that no additional extensions be granted.

14 14. On December 17, 2008, the Commission issued Decision No. 70647, which found that
15 the Company's September 22, 2008, Motion for an extension of time was reasonable and was
16 approved. Decision No. 70647 authorized the following extensions:

- 17
- 18 • ATC for Phase I water service/treatment and distribution system until December 31,
2010;
 - 19 • APP and AZPDES until December 31, 2010; and
 - 20 • AOC for Phase I water source/treatment and distribution system until December 31,
2011.

21 15. Decision No. 70647 put the Company on notice and further ordered that no further
22 extensions of time to file the aforementioned documents would be granted absent extraordinary
23 circumstances.

24 16. On September 23, 2010, the Company filed a third Motion for an extension of time "to
25 satisfy the remaining compliance conditions" as set forth in Decision No. 68963. Concurrently with
26 this Motion, Applicant filed copies of its ADEQ ATC for Phase I water service/treatment and
27 distribution system and its ADEQ AZPDES.

28 17. The Company's third Motion requests the following extensions in order to comply

1 with Decision No. 68963:

- 2 • for the APP which is to be issued by ADEQ, until December 31, 2011; and
- 3 • for the AOC which is to be issued by ADEQ, until December 31, 2013.

4 18. In its Motion, the Company states that the ongoing national economic recession and its
5 impact on the homebuilding industry is continuing and slowing development of what is to be the
6 4,600 acre master-planned community known as WSP. An exhibit attached to the Company's
7 Motion from the developer, Willow Springs Properties, L.L.C., describes the steps being taken by the
8 developer to bring the project to fruition as the market improves, and as a result, final compliance by
9 the Company is being delayed until the housing market improves.

10 19. On October 1, 2010, Staff filed a memorandum which indicates that upon review of
11 the updated request for service from the developer, Staff does not object to the Company's Motion
12 and further recommends approval of the extensions as follows: for the APP until December 31, 2011;
13 and for the AOC until December 31, 2013.

14 20. Under the circumstances, the Company's Motion is reasonable and should be granted.

15 CONCLUSIONS OF LAW

16 1. The Company is a public service corporation within the meaning of Article XV of the
17 Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-282.

18 2. The Commission has jurisdiction over the Company and the subject matter of the
19 request addressed herein.

20 3. Staff's recommendation for the extension of time to file copies of the required
21 documentation should be adopted as set forth in Findings of Fact No. 19.

22 ORDER

23 IT IS THEREFORE ORDERED that Willow Springs Utilities, L.L.C. shall be granted
24 extensions of time to file copies of the following documents as set forth in Decision Nos. 68963 and
25 70647:

- 26 • APP until December 31, 2011; and
- 27 • AOC for Phase I water source/treatment and distribution system until
28 December 31, 2013.

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IT IS FURTHER ORDERED that no further extensions of time to file the aforementioned documents shall be granted absent good cause shown.

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 _____

1 SERVICE LIST FOR: WILLOW SPRINGS UTILITIES, LLC

2 DOCKET NO.: WS-20432A-05-0874

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