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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

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COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF BENSCH RANCH UTILITIES, LLC FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE.

DOCKET NO. SW-04026A-01-0499

DECISION NO. 71944

ORDER

Open Meeting
October 19 and 20, 2010
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On June 21, 2001, Bensch Ranch Utilities, LLC ("Bensch Ranch" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity to provide wastewater service to two subdivisions in Yavapai County, Arizona.

2. On August 10, 2004, the Commission issued Decision No. 67180, conditionally granting the Company's application. Decision No. 67180 included specific conditions requiring the Company to secure Commission approval before changing its ownership structure.

3. On March 19, 2007, Bensch Ranch filed a Notice of Compliance with Decision No. 67180 and Request for Commission Approval. The March 19, 2007, filing requested Commission approval for Dwight L. Zemp, member of Bensch Ranch, to transfer, for the purpose of trust, 100 units of Bensch Ranch to Act III Investments, LLC. The Notice and Request stated that Mr. Zemp serves as manager of Act III.

4. On September 7, 2007, the Company filed an Application for Approval of Compliance

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1 with Decision No. 67180. In that filing, Bensch Ranch renewed its request for Commission approval
2 for Dwight L. Zemp, member of Bensch Ranch, to transfer, for the purpose of trust, 100 units of
3 Bensch Ranch to Act III Investments, LLC. In addition, the September 7, 2007, filing seeks approval
4 to transfer units of the Company in accordance with a proposed agreement between Bensch Ranch
5 and Pat Carpenter. The September 7, 2007 filing states that Pat Carpenter is the certified operator
6 providing operations and maintenance services to Bensch Ranch. A copy of the proposed agreement
7 was attached to the filing.

8 5. On December 20, 2007, a procedural order was issued directing the Commission's
9 Utilities Division ("Staff") to file a recommendation for Commission action on the September 7,
10 2007 filing.

11 6. On January 25, 2008, Staff filed a recommendation. Staff recommended approval of
12 the agreement between Bensch Ranch and Pat Carpenter. Staff further stated that the notification and
13 filing requirements placed on the Company in Decision No. 67180 were directly related to the
14 involvement with the Company of Mr. Lester Smith. Staff noted that Mr. Smith died in June 2006,
15 and therefore Staff believes the required notification and filing requirements are no longer necessary.
16 Staff recommended that the Commission waive the notification and filing requirements regarding the
17 managing members and ownership structure of Bensch Ranch Utilities, LLC.

18 7. We agree with Staff that following Mr. Smith's death in June 2006, the notification
19 and filing requirements regarding the managing members and ownership structure of the Company
20 are no longer necessary. Decision No. 67180 should be amended to remove those requirements.

21 8. With the notification and filing requirements regarding the managing members and
22 ownership structure of the Company removed from Decision No. 67180, it is not necessary to
23 approve the agreement between the Company and Pat Carpenter pursuant to Decision No. 67180.

24 9. This Decision's amendment of Decision No. 67180 to remove notification and filing
25 requirements regarding the managing members and ownership structure of the Company does not
26 exempt the Company from seeking Commission approval of transactions as otherwise required by
27 law.

28 10. According to the Compliance Section of the Commission's Utilities Division, in

1 whether the Company, Pivotal Utility Management, or any subsequent management company has
2 provided compensation to Lester Smith or any business entity owned or controlled by Lester Smith in
3 the previous calendar year.

4 7. This Decision's amendment of Decision No. 67180 to remove notification and filing
5 requirements regarding the managing members and ownership structure of the Company does not
6 exempt the Company from seeking Commission approval of transactions as otherwise required by
7 law.

8 8. It is reasonable to extend the deadline for the Company to file the required rate case to
9 November 30, 2010.

10 **ORDER**

11 IT IS THEREFORE ORDERED that Decision No. 67180 is hereby amended to remove the
12 requirement that the Company is not allowed to change its ownership structure, including, without
13 limitation, adding new members or changing the managing members, without first obtaining approval
14 from the Commission.

15 IT IS FURTHER ORDERED Decision No. 67180 is hereby amended to remove the
16 requirement that the Company annually file with the Commission an affidavit signed by one of its
17 managing members confirming that it has not changed its membership structure during the previous
18 calendar year.

19 IT IS FURTHER ORDERED Decision No. 67180 is hereby amended to remove the
20 requirement that the Company work with Commission Staff to identify the extent of Mr. Lester
21 Smith's role in the development of Bensch Ranch Estates.

22 IT IS FURTHER ORDERED Decision No. 67180 is hereby amended to remove the
23 requirement that the Company make an annual filing detailing whether it or Pivotal Utility
24 Management has retained Lester Smith as an employee, independent contractor or consultant and
25 whether the Company, Pivotal Utility Management, or any subsequent management company has
26 provided compensation to Lester Smith or any business entity owned or controlled by Lester Smith in
27 the previous calendar year.

28 IT IS FURTHER ORDERED that this Decision's amendment of Decision No. 67180 to

1 remove notification and filing requirements regarding the managing members and ownership
2 structure of the Company does not exempt the Company from seeking Commission approval of
3 transactions as otherwise required by law.

4 IT IS FURTHER ORDERED that Bensch Ranch Utilities shall file a rate application no later
5 than November 30, 2010.

6 IT IS FURTHER ORDERED that all other provisions of Decision No. 67180 remain in effect.

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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11 CHAIRMAN



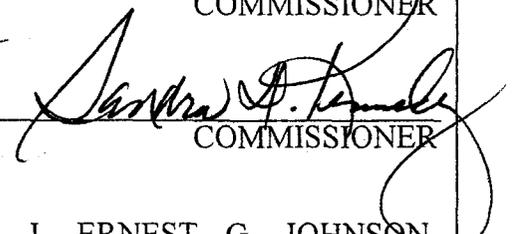
COMMISSIONER

12 **EXCUSED**
13 COMM. NEWMAN

COMMISSIONER



COMMISSIONER



COMMISSIONER

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15 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
16 Executive Director of the Arizona Corporation Commission,
17 have hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this 15th day of Nov., 2010.



20 ERNEST G. JOHNSON
21 EXECUTIVE DIRECTOR

22 DISSENT _____

23
24 DISSENT _____

1 SERVICE LIST FOR: BENSCH RANCH UTILITIES, LLC

2 DOCKET NO.: SW-04026A-01-0499

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