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MEMORANDUM

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TO: Docket Control Center

FROM: Steven M. Olea
Director
Utilities Division

DATE: January 20, 2011

RE: ARIZONA WATER COMPANY - REQUEST FOR EXTENSION OF COMPLIANCE
DEADLINE (DOCKET NO. W-01445A-06-0059)

2011 JAN 20 A 11: 52

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

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In Decision No. 69163, dated December 5, 2006, the Arizona Corporation Commission (“Commission”) approved the application of Arizona Water Company (“Arizona Water” or “Company”) for extension of its Certificate of Convenience and Necessity (“CC&N”) in the area of Casa Grande, Arizona. This decision approved an extension area which was divided into five separate parcels, referred to as Parcels 1, 2, 3, 4 and 5. As such, the Company was ordered to provide the following compliance filings in the above docket:

“...a copy of one Approval to Construct from the Arizona Department of Environmental Quality for the extension facilities within two years of the effective date of this Decision for each of the five parcels approved by this decision ...”

“...a copy of one developer’s Certificate of Assured Water Supply, where applicable or when required by statute within two years of the effective date of this Decision for each of the five parcels approved by this decision ...”

Based on the Commission ordered two year timeframe, the original due date for compliance with this requirement was on or about December 5, 2008.

On October 8, 2008, Arizona Water docketed a motion with the Commission titled “request for additional time”, seeking to extend the original December 5, 2008 deadline by two years, until December 5, 2010, for the provision of the Approval to Construct (“ATC”) and the Certificate of Assured Water Supply (“CAWS”) on Parcels 2, 4 and 5 of the extension area. Staff filed its response to the Company application on December 12, 2008 and did not object to the Company request for extension of time but recommended that no further extensions be granted. On January 20, 2009, the Commission issued Decision No. 70689 which approved the Arizona Water’s request for extension of time until December 5, 2010. The Commission also stated that further requests for extensions of time would need to demonstrate that “extraordinary circumstances exist” in order to be approved.

On October 5, 2010, Arizona Water docketed a subsequent motion with the Commission titled “request for additional time for compliance filing”, seeking to extend the pending December 5, 2010 deadline by an additional two years, until December 5, 2012, for the provision of the Approval to Construct (“ATC”) and the Certificate of Assured Water Supply (“CAWS”) on Parcels 2, 4 and 5 of the extension area. In the application, the Company provided various rationale supporting its request for extension of time, including that:

- The Company has achieved “substantial compliance” as the filings have already been made for Parcel 1 and Parcel 3 that were required by Decision No 69163.
- The Company is “currently serving 592 customers in the expansion area”.
- The Company provided letters updating the need for service from the property owners in the expansion area.
- An ATC for construction in Parcel 5 was received on September 21, 2010.
- The Department of Water Resources (“DWR”) has already approved a physical availability demonstration (“PAD”) in the Casa Grande system where Parcels 1 through 5 are located. The Company extrapolates that “while the PAD is not a CAWS, it is a precursor to, and a necessary requirement for obtaining a certificate” and, thus, ADWR’s approval of the PAD “constitutes substantial compliance” with CAWS requirement of Decision No. 69163.
- Development has been slowed by the economic downturn, a downturn that did not exist when the decision was rendered, and was something over which the Company had no control. Further, that the “economic reality” of the downturn “is a very important determinant in the Commission’s consideration of the Company’s request” for extension of time.
- “the continued existence of the Company’s CC&N for the extension area supports the now improving development market; conversely, the withdrawal of the CC&N would be harmful to the development recovery.”

Arizona Water submitted that the above facts provide adequate support for the Company to be granted an additional two years of time, from December 5, 2010 to December 5, 2012, for provision of Approval to Construct and Certificate of Assured Water Supply for Parcels 2, 4 and 5 which were granted in Decision No. 69163.

On January 10, 2011, Staff contacted Mr. Bob Geake, to discuss the Company request for extension of time. Mr. Geake confirmed that the development of the remaining parcels has not proceeded due to the economy and the current housing market and stated that the Company has no control over the future date in which development will again proceed. Given the uncertainty currently being evidenced in the economic and financial markets and given the effort expended by the Company thus far, it does not appear unreasonable to allow additional time for the Company to comply with the remaining requirements outlined in Decision No. 69163 and Decision No. 70689.

Based on all of the above, Staff will not object to the Company request for extension of time until December 5, 2012, for the provision of Approval to Construct and Assured Water Supply filings originally outlined in Decision No. 69163. Staff recommends that no further extensions be granted in this matter.

SMO:BKB:lhm

Originator: Brian K. Bozzo

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DOCKET NO.

ARIZONA WATER COMPANY
W-01445A-06-0059

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