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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission

DOCKETED

JAN 6 2011

DOCKETED BY
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IN THE MATTER OF OAK CREEK
UTILITY COMPANY; STAFF REQUEST
FOR THE APPOINTMENT OF AN
INTERIM MANAGER

DOCKET NOS. WS-02061A-04-0835
WS-02061A-04-0836

DECISION NO. 72053

ORDER

Open Meeting
December 14 and 15, 2010
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Oak Creek Utility Company ("Oak Creek" or "Company") is certificated to provide water and sewer service as a public service corporation in the State of Arizona.

BACKGROUND

2. On April 23, 2010, Dixie Potter, President of Oak Creek Utility Company ("Oak Creek" or "Company") docketed a letter entitled "No Longer Owner/Manager of Oak Creek Utility Corporation ("OCUC") located in Oak Creek Canyon, Sedona, Arizona." In the one-page letter, Ms. Potter wrote to inform the Arizona Corporation Commission ("Commission") that she would "not be owner or manager of Oak Creek Utility Corporation" and was moving to Texas for treatment of a serious illness. Ms. Potter also stated that "OCUC has tried to advertise the business for sale, but under the current real estate crisis, have not been successful."

1 3. Oak Creek currently provides water and sewer service to a small mobile home park
2 near Oak Creek, Arizona. The Company serves approximately 35 customers. The original
3 Certificate of Convenience & Necessity ("CC&N") to provide water and wastewater service was
4 granted to R&S Utilities pursuant to Decision No. 39712. The Commission in Decision No. 54538
5 approved a transfer of the CC&N and sale of assets from R&S Utilities to Oak Creek Utility which
6 was owned by Scott and Alison Gray ("the Grays"). The Gray's sold the stock of Oak Creek to
7 Dean Orem in 2003. Ms. Potter purchased the stock of Oak Creek in October 2006. Oak Creek's
8 current rates and charges were established by Decision No. 67986 (July 18, 2005).

9 4. After Mr. Orem purchased Oak Creek, the Company filed an application for a rate
10 increase and financing. New rates were adopted and a \$40,000 Water Infrastructure Financing
11 Authority ("WIFA") loan was approved in Decision No. 67986. The purpose of the WIFA loan
12 was to purchase and install a tank necessary for compliance with the Arizona Department of
13 Environmental Quality ("ADEQ") requirement to maintain a one-day minimum of storage
14 capacity. In the case of Oak Creek, the installation of a 10,000 gallon tank would meet the storage
15 requirement. The Commission ordered Oak Creek to install the storage tank within 18 months of
16 the decision and to docket the ADEQ Approval of Construction ("AOC").

17 5. After the purchase of the Company by Ms. Potter, there was some confusion about
18 the ownership of the land upon which Ms. Potter intended to place the new tank and took several
19 months to resolve because the Gray's had retained ownership of this land. With ADEQ's and
20 WIFA's assistance, a tank site was chosen that was not part of the Grays' property.

21 6. Oak Creek has requested and received four extensions to comply with the
22 installation of the storage tank and the docketing of the AOC. The last extension was granted by
23 Decision No. 71315, which allowed the Company until April 30, 2010 to comply. The Company's
24 delay in complying was exacerbated by Ms. Potter's health problems.

25 7. On January 4, 2010, Ms. Potter filed in the docket, a letter to Mr. Scott W. Gray,
26 P.C. entitled "Transfer of Triple Net Land Lease and Return of Oak Creek Utility Corporation
27 (OCUC) with all Shares and Rights to Original Land Utility Owner, Scott Gray". In her letter to
28 Mr. Gray, Ms. Potter stated that, due to a very serious illness, she and her partner, Ms. Carla

1 Hastings are “turning Oak Creek Utility Corporation with all assets and shares back to the actual
2 owner of the utility which is you”. She further stated that Oak Creek could not “afford the
3 construction of this project (storage tank) as well as any legal counsel”. Mr. Gray responded with
4 a letter docketed January 20, 2010, stating that he had disposed of his interest in the Company and
5 was unable to be involved with the Company.

6 8. Upon Ms. Potter’s departure, no other corporate officer or agent was placed in
7 charge of the everyday management of Oak Creek. Staff therefore contacted the remaining
8 principals – Ms. Carla Hastings, Vice President; and Ms. Nicole R. Clayton, Statutory Agent, to
9 determine which party would step in to provide management of the Company. Both Ms. Hastings
10 and Ms. Clayton stated that they were not actively involved in managing the Company.

11 9. The Company had retained First National Management to handle basic office
12 functions such as customer billing, cash management and utility payables. S.O.S. Management is
13 the Company’s certified water operator. However neither of these entities has an ownership
14 interest in the Company and cannot manage the Company. Additionally, neither of these entities
15 has contact with any of the listed officers of the Company. The contracted management
16 companies have been operating without the benefit of proper corporate guidance, full remuneration
17 for services, or emergency ownership funds.

18 10. Discussions with First National Management, S.O.S. Management and Mr. Darryl
19 Dayton, a rate payer, have indicated that field and office issues have been developing that require
20 the expertise, decision making and financial commitment of the owners. These issues include:

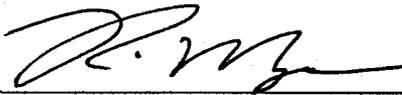
- 21 • a failed electrical panel that has required Oak Creek to depend on an adjacent
22 landowner for the provision of electricity.
- 23 • a broken pump which is leaking sewage into the environment.
- 24 • lack of funds to do required testing.
- 25 • lack of funds to meet incoming utility obligations.
- 26 • no valve containment of a vent which, if properly addressed, would minimize or
27 prevent the escape of methane gas which releases an unacceptable odor into the
28 vicinity.

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IT IS FURTHER ORDERED that Oak Creek Utility Corporation shall cooperate fully with the interim manager and supply all necessary documents, records, and other information requested by the interim operator.

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

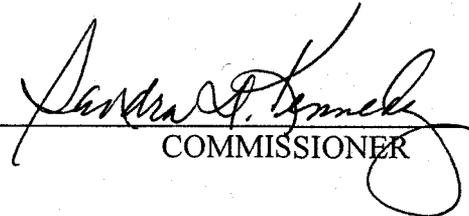
BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN

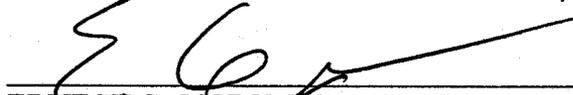

COMMISSIONER


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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 this Commission to be affixed at the Capitol, in the City of Phoenix, this 10th day of JANUARY, ~~2010~~ 2011


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:BKB:lhm\RM

1 SERVICE LIST FOR: Oak Creek Utility Corporation
2 DOCKET NO. WS-02061A-04-0836

3 Ms. Dixie R. Potter
4 President
5 Oak Creek Utility Corporation
6 771 Skipjack Drive
7 Henderson, Nevada 89015

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