

OPEN MEETING ITEM



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COMMISSIONERS
GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

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ERNEST G. JOHNSON
Executive Director

ARIZONA CORPORATION COMMISSION 2011 MAR 14 A 9:40

DATE: MARCH 14, 2011
DOCKET NO.: W-01445A-05-0389

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL
Arizona Corporation Commission
DOCKETED
MAR 14 2011

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

ARIZONA WATER COMPANY
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NOS. 68442 AND 70844)

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:

MARCH 23, 2011

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:

MARCH 29, 2011 and MARCH 30, 2011

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.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

- GARY PIERCE - Chairman
- BOB STUMP
- SANDRA D. KENNEDY
- PAUL NEWMAN
- BRENDA BURNS

IN THE MATTER OF THE APPLICATION
 OF ARIZONA WATER COMPANY FOR AN
 EXTENSION OF ITS EXISTING CERTIFICATE
 OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01445A-05-0389
 DECISION NO. _____

**ORDER EXTENDING TIME
 DEADLINE CONTAINED IN
 DECISION NOS. 68442 AND 70844**

Open Meeting
 March 29 and 30, 2011
 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 February 2, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68442 which approved a request for an extension of Arizona Water Company's ("Company" or "Applicant") Certificate of Convenience and Necessity ("Certificate") to provide public water service to three parcels of land¹ located in both the City of Coolidge ("City"), and in portions of Pinal County, Arizona subject to certain conditions to be completed within one year of the Decision.

2. As a condition of the Commission's approval, the Company was required to do the following:

- that the Company charge its existing rates and charges for its Coolidge system in the proposed extension area;

¹ The three parcels were known as the Skousen, Lorenson and Vail parcels.

- 1 • that the Company file, within 365 days of the effective date of this
2 Decision, with the Commission's Docket Control, as a compliance item, a
3 copy of the respective developer's Certificate of Assured Water Supply
4 ("CAWS") issued by the Arizona Department of Water Resources
5 ("ADWR") for the areas described in Exhibit A;
- 6 • that the Company file, within 365 days of the effective date of this
7 Decision, with the Commission's Docket Control, as a compliance item,
8 copies of any executed main extension agreements;² and
- 9 • that the Company file, within 365 days of the effective date of the
10 Decision, with the Commission's Docket Control, as a compliance item,
11 copies of the respective Certificates of Approval to Construct ("ATC")
12 issued by the Arizona Department of Environmental Quality for the
13 construction of mains in the three extension areas.

14 3. On December 27, 2006, the Company filed a request for a one-year extension of time,
15 until February 2, 2008, to complete the compliance requirements for Decision No. 68442. The
16 Company indicated that it was in partial compliance with Decision No. 68442 and had filed some of
17 the required documentation, and stated that development was going forward on the three parcels of
18 land included in the extension area.

19 4. On January 4, 2007, by Procedural Order, the Commission's Utilities Division
20 ("Staff") was directed to file a response to the Company's request by January 18, 2007. Staff did not
21 file any objections to this request by the Company.

22 5. On January 17, 2007, the owner of the Vail parcel filed a letter in support of the
23 Company's request for an extension of time.

24 6. On February 1, 2007, by Procedural Order, the Company was granted an additional
25 extension of time, until February 2, 2008, to comply with Decision No. 68442.

26 7. On December 13, 2007, the Company filed another request for an additional one-year
27 extension of time, until February 2, 2009, to complete the compliance requirements for Decision No.
28 68442. The Company indicated that it was in partial compliance with Decision No. 68442 and had
completed the required compliance filing on the Skousen and Lorenson parcels, and stated that
development was going forward on the three parcels of land included in the extension area.

8. On January 8, 2008, Staff filed a memorandum with respect to the Company's

² Staff notes that since the date of Decision No. 68442, Commission extension Decisions no longer require the filing of main extension agreements in the docket because the Commission's rules require that main extension agreements be filed with Staff for approval.

1 additional request for an extension of time, until February 2, 2009, to meet the compliance
2 requirements of Decision No. 68442. Staff confirmed the completion of the compliance requirements
3 for the Skousen and Lorenson parcels and confirmed that development was proceeding on the third
4 parcel. Staff concluded that it did not object to the Company's request for an extension of time, until
5 February 2, 2009, to complete the compliance requirements for the third parcel, but recommended
6 that no further extensions of time be approved after the aforementioned date.

7 9. On January 24, 2008, by Procedural Order, the Company was granted an additional
8 extension of time to comply with Decision No. 68442, until February 2, 2009, to meet the compliance
9 requirements of the Decision.

10 10. On December 17, 2008, the Company filed a request for a third extension of time, this
11 time for two years, until February 2, 2011, to complete its compliance requirements for the third
12 parcel known as the Vail parcel. Attached to the Company's request was a letter from the CEO of the
13 company which owns the Vail parcel. He indicates that his firm still desires water service for the
14 parcel and states that development is to begin within 24 months "if market conditions do not worsen."

15 11. On January 28, 2009, Staff filed a memorandum in response to the Company's third
16 request for an extension of time to comply with Decision No. 68442. Staff weighed the pros and
17 cons for a further extension of time for the Company to meet the compliance requirements for the
18 third parcel and pointed out that the third parcel consists of only 160 acres and is essentially
19 surrounded by, and is adjacent to, the Company's existing certificated service area. Staff ultimately
20 concluded that the requested extension of time is in the best interest of all of the parties, adding that it
21 would not be economically or operationally feasible for a water provider other than the Company to
22 provide service. Staff therefore recommended approval of the Company's request.

23 12. On March 17, 2009, the Commission issued Decision No. 70844 approving an
24 extension of time until February 2, 2011, to file the required documentation for Parcel Three aka the
25 Vail parcel.

26 13. On November 17, 2010, the Company filed a further request for an additional two-
27 year extension of time, until February 2, 2013, to file the required documentation for Parcel Three
28 due to the "severe economic recession" which had a "particularly adverse effect on Arizona real

1 estate.” The Company further related that it has secured a Physical Availability Determination
2 (“PAD”) from ADWR, a precursor to securing a CAWS from the same agency. Lastly, the Company
3 provided a copy of an updated request for water service from the developer of Parcel Three.

4 14. On February 18, 2011, Staff filed a memorandum in response to the Company’s latest
5 request for an extension of time to file the required documentation for Parcel Three. Staff does not
6 object to the requested extension in light of the Company’s compliance with respect to parcels One
7 and Two and recommends approval of the extension, until February 2, 2013, to file the required
8 documentation as set forth above in Findings of Fact No. 2.

9 15. Staff further recommended that no additional extensions be granted.

10 16. Under the circumstances, we find that Company’s November 17, 2010, request for an
11 additional extension of time is reasonable and should be approved. Although we do not believe it is
12 necessary, at this time to adopt Staff’s recommendation that no further requests for extensions of time
13 to comply with Decision 68442 be granted, we will put the Company on notice that any future
14 requests for extension of time to comply must demonstrate that extraordinary circumstances exist that
15 warrant granting additional time.

16 CONCLUSIONS OF LAW

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

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

21 3. Staff’s recommendation for the extension of time to file copies of the required
22 documentation as set forth above in Findings of Fact No. 2 should be adopted.

23 ORDER

24 IT IS THEREFORE ORDERED the Arizona Water Company is hereby granted an extension
25 of time, until February 2, 2013, to file copies of the required documents for Parcel Three, as set forth
26 in Decision No. 68442 and Decision No. 70844, as follows: the developer’s Certificate of Assured
27 Water Supply; any executed main extension agreements; and the Certificate of Approval to
28

1 Construct.

2 IT IS FURTHER ORDERED that no further extension to file the aforementioned
3 documentation shall be granted absent extraordinary circumstances.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
6
7

8 CHAIRMAN _____ COMMISSIONER _____

9
10 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
12 Executive Director of the Arizona Corporation Commission,
13 have hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this _____ day of _____, 2011.

16 _____
17 ERNEST G. JOHNSON
18 EXECUTIVE DIRECTOR

19 DISSENT _____

20 DISSENT _____
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1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO.: W-01445A-05-0389

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