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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

APR - 7 2011

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

DOCKETED BY 

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. 72247

**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 land<sup>1</sup> 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;

<sup>1</sup> The three parcels were known as the Skousen, Lorensen and Vail parcels.

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

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

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

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

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

21 7. On December 13, 2007, the Company filed another request for an additional one-year  
22 extension of time, until February 2, 2009, to complete the compliance requirements for Decision No.  
23 68442. The Company indicated that it was in partial compliance with Decision No. 68442 and had  
24 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.

25 8. On January 8, 2008, Staff filed a memorandum with respect to the Company's  
26

27 <sup>2</sup> Staff notes that since the date of Decision No. 68442, Commission extension Decisions no longer require the filing of  
28 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

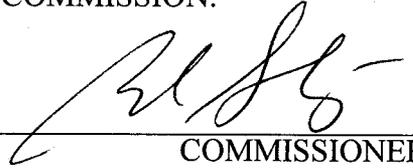
24 IT IS THEREFORE ORDERED the Arizona Water Company is hereby granted an extension  
25 of time, until February 2, 2013, to file copies of the required documents for Parcel Three, as set forth  
26 in Decision No. 68442 and Decision No. 70844, as follows: the developer’s Certificate of Assured  
27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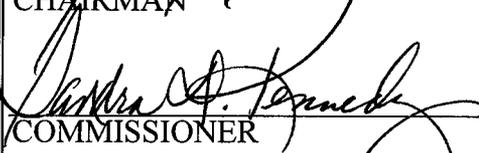
1 Construct.

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

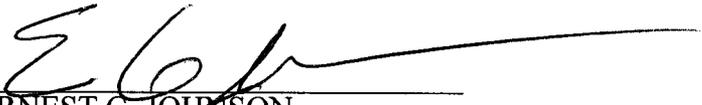
4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7   
8 CHAIRMAN   
9 COMMISSIONER

10   
11 COMMISSIONER   
12 COMMISSIONER   
13 COMMISSIONER

14 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
15 Executive Director of the Arizona Corporation Commission,  
16 have hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this 7<sup>th</sup> day of April, 2011.

19   
20 ERNEST G. JOHNSON  
21 EXECUTIVE DIRECTOR

22 DISSENT \_\_\_\_\_

23 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

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