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ROBSON COMMUNITIES, INC.
9532 EAST RIGGS ROAD
SUN LAKES, ARIZONA 85248

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May 5, 2006

VIA HAND DELIVERY

Yvette B. Kinsey, Administrative Law Judge
Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission
DOCKETED

MAY 05 2006

DOCKETED BY	
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Re: *Public Comment Regarding Arizona Water Company's Application for Extension of Certificate of Convenience and Necessity*
Docket No. W-01445A-06-0059

Dear Judge Kinsey:

I am the Manager of Ridgeview Utility Company, Picacho Water Company, Lago Del Oro Water Company and Santa Rosa Water Company (collectively, the "Robson Utilities"), and I am submitting these public comments on behalf of the Robson Utilities. The Robson Utilities each provide water service in portions of Pinal County, Arizona. The Robson Utilities oppose the initial grant or extension of a certificate of convenience and necessity ("CC&N") to any water provider which does not have a request for service covering the area requested, or at least substantially all of the area requested. It is becoming a worrisome trend for Arizona Water Company ("AWC" or the "Company") to file applications for vast extensions of the Company's CC&N without the prerequisite requests for service from the landowners. In this docket, AWC has produced requests for service covering less than half of the extension area requested. In addition, AWC recently filed another extension request covering a staggering 69,000 acres,¹ yet AWC had requests for service addressed to AWC covering less than 200 acres. See *Docket No. W-01445A-06-0199*. These applications violate the Arizona Corporation Commission's long-followed policy of requiring a request for service before a CC&N is extended. The Robson Utilities and other utility providers operate in Pinal County in close proximity to AWC. AWC's obvious plan to lock-up for itself the balance of the un-certificated territory in Pinal County directly harms the interests of the Robson Utilities and other providers. More importantly, these land grabs by AWC thwart the Commission's policy on CC&N extensions, and thereby adversely impact the public interest.

¹ The AWC extension request covers 108 sections.

In this case, it appears that only about one-half of the requested extension area is covered by requests for service. However, one might be led to believe from a reading of the application that AWC has requests for service covering all of the extension area. The following portions of the requested extension area do not have any requests for service:

- Parcel One: NW ¼, NE ¼, NE ¼ and NE ¼, NE ¼, NE ¼ of Section 28 and E ½, SE ¼, SE ¼ of Section 34, Township 5 South, Range 6 East.
- Parcel Two: W ½ of Section 14 and approximately the western half of E ½ of Section 15, Township 7 South, Range 5 East.
- Parcel Three: E ½ of Section 35, Township 5 South, Range 7 East; SW ¼ and S ½, SE ¼ of Section 3, NE ¼ of Section 4, All of Section 9, All of Section 16 of Township 6 South, Range 7 East.
- Parcel Four: All of Section 35, Township 6 South, Range 7 East (Ms. Robertson's property).

Not only has AWC failed to provide requests for service for all of the requested extension area, at least one land owner has specifically requested that her land not be included in the extension. Ms. Patricia Jo Robertson filed a letter with the Commission dated May 4, 2006, stating that she did not request water service from AWC, and that she is concerned about her ability to find a stand-alone wastewater provider if AWC is granted the requested extension.² Ms. Robertson specifically requested that her property be excluded from AWC's requested extension. Ms. Robertson owns approximately 640 acres consisting of Section 35, Township 6 South, Range 7 East. A copy of Ms. Robertson's letter is attached.

The Robson Utilities note that recently, AWC orally amended its application at the hearing to extend its CC&N in Docket No. W-01445A-05-0469 to exclude a parcel of property where a property owner withdrew its request for service before the hearing. AWC's Vice President of Engineering, Mike Whitehead, testified that AWC "received a letter from the developer requesting that the parcel be removed from this application and we are certainly willing to honor that." *Hearing Transcript at 33 (Docket No. W-01445A-05-0469)*. Accordingly, AWC should honor Ms. Robertson's request to exclude her section of land.

² There are several other providers of water service in Pinal County that also have companion sewer providers. In Decision 68453 (February 2, 2006), the Commission recently ruled in favor of the issuance of a CC&N to a new water company with an affiliated wastewater provider instead of AWC on the grounds that (i) the landowner had not requested water service from AWC; and (ii) "[t]he benefits of developing and operating integrated water and wastewater utilities in this instance outweigh the economies imputed to AWC's larger scale." *Decision 68453, FOF ¶ 129*.

Ms. Robertson's letter begs the question whether other property owners in the requested extension area knowingly consented to the inclusion of their properties, or whether they were even aware of AWC's application. The Robson Utilities urge the Administrative Law Judge to require a request for service for each portion of the requested extension area before recommending the extension of AWC's CC&N to include the area. This is sound regulatory policy.

It is long-established policy at the Commission that CC&Ns for water companies should only be extended in areas where companies have requests for service. In 1995, for example, Beardsley Water Company ("Beardsley") filed an application to extend its CC&N to include all of Section 25, Township 5 North, Range 3 West. *Decision 59396, Docket No. U-2074-95-103 (Nov. 28, 1995)*. Beardsley had received requests for service for the southwest quarter of Section 25, but had no requests for service for the remaining portion of Section 25. The Commission properly limited Beardsley's extension to that area where the company had requests for service, namely the southwest quarter of Section 25. In that case, Utilities Division Staff would not recommend approval of Beardsley's CC&N extension in the remaining portion of Section 25 without a request for service and a demonstration of the public need for certification. *Staff Report dated Sept. 1995 (Docket No. U-2074-95-103)*.

The Commission had occasion to reiterate this policy recently in a case where AWC filed a competing application against Woodruff Water Company (*Docket Nos. W-04264A-04-0438, SW-04265A-04-0439, W-01445A-04-0755*). Three days before the hearing, the Cardon Hiatt Companies ("Cardon") filed a letter with the Commission requesting that its property of approximately 720 acres be excluded from AWC's CC&N extension.³ During the hearing, Assistant Director Steve Olea testified that the Cardon property should be excluded, as set forth in the following exchange between the administrative law judge and Mr. Olea:

- Q. [Administrative Law Judge Marc Stern:] ... So what is the status of Staff's recommendation to the areas not requested – that haven't requested service apparently and which would include Sandia... and then there is a number of small little sections and a couple of other sections [sic] in which part of it is that Cardon property that didn't request service apparently.
- A. [Assistant Director Olea:] Okay. Staff's opinion is that on sections 19 and 30, which I think we are referring to as the Cardon areas, there is not a request for service. Whether it's to Woodruff or to anybody, there is not a request.

³ Cardon did not intervene in the case, but its request to have its property excluded from the case was granted.

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And for a CC&N, Staff has always been in the opinion that there has to be a need for service, and without a request, there is not a need, so there is no need to have a certificate of convenience and necessity because the necessity portion isn't met.

See Transcript Vol. VII at 1415:3-18 (Aug. 4, 2005), Docket Nos. W-04264A-04-0438, SW-04265A-04-0439, W-01445A-04-0755.

The Commission properly determined that it was in the public interest to limit AWC's CC&N extension to include only those areas where AWC had received requests for service. *Decision No. 68453, FOF ¶¶ 78, 119, 129.* Areas with no requests for service, including the Cardon property, were removed from AWC's CC&N extension. *Id.*

There is a wise rationale behind the Commission's policy of requiring a request for service from the landowner before extending a CC&N to include the property. To do otherwise encourages utility companies to engage in speculative land grabs, which subverts the public interest. The merits of each extension of a water company's CC&N should be addressed at the time that there is a demonstrated need for utility service. At that time, the Commission can evaluate the financial stability and compliance status of the applicant, as well as any competing applications for the extension area. The Robson Utilities urge the Commission to exclude any lands from AWC's requested extension area which are not covered by a request for service.

Thank you for considering these comments.

Very truly yours,



Jim Poulos, Manager
*Ridgeview Utility Company
Picacho Water Company
Lago Del Oro Water Company
Santa Rose Water Company*

JP/jp
Enclosure

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cc (with enclosure) Commissioner Jeff Hatch-Miller
Commissioner William A. Mundell
Commissioner Marc Spitzer
Commissioner Mike Gleason
Commissioner Kristin K. Mayes
Robert W. Geake, Arizona Water Company
Christopher Kempley, Chief Counsel--ACC
Ernest Johnson, Director--ACC
David Ronald, Staff Attorney--ACC

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Arizona Corporation Commission
Docket Control
1200 Washington Street
Phoenix, Arizona 85007

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AZ CORP COMMISSION
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RE: Application of Arizona Water Company for approval to extend their existing Certificate of Convenience and Necessity

Docket Number W-01445A-06-0059

To Whom It May Concern:

I am the owner of the following real property:

Section 35, Township 6S, Range 7E
401-01-086-05
401-01-087-04
401-01-088-03

Recently, I received notice of an application by the Arizona Water Company, which was filed with the Arizona Corporation Commission whereby the Applicant applied to extend its Certificate of Convenience and Necessity to include my property. Please be aware that I have not requested water service from Arizona Water Company. In addition, I am concerned that Arizona Water Company does not provide sewer service, and that it will be difficult to find a sewer provider who is willing to provide sewer service without being able to also provide water service. Under the circumstances, I believe it is inappropriate to include my property in this CC&N at this time.

Should you have any questions or comments regarding the foregoing, please feel free to contact me at your convenience.

Sincerely,



Patricia Jo Robertson

Contact Information:

Patricia Jo Robertson
Alligator Farms
P.O. Box 68
Coolidge, Arizona 85228

c: Arizona Water Company
Sheryl A. Sweeney
David J. Itzkowitz

or

Sheryl A. Sweeney
Ryley Carlock & Applewhite
One North Central, Suite 1200
Phoenix, Arizona 85004
602-440-4824