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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

2 COMMISSIONERS

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6 IN THE MATTER OF THE APPLICATION
7 OF WOODRUFF WATER COMPANY, INC.
8 FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE WATER
SERVICE IN PINAL COUNTY, ARIZONA.

DOCKET NO. W-04264A-04-0438

9 IN THE MATTER OF THE APPLICATION
10 OF WOODRUFF UTILITY COMPANY, INC.
11 FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE SEWER
SERVICE IN PINAL COUNTY, ARIZONA.

DOCKET NO. SW-04265A-04-0439

12 IN THE MATTER OF THE APPLICATION
13 OF ARIZONA WATER COMPANY, AN
14 ARIZONA CORPORATION, TO EXTEND
ITS EXISTING CERTIFICATES OF
CONVENIENCE AND NECESSITY AT
15 CASA GRANDE AND COOLIDGE, PINAL
COUNTY, ARIZONA.

DOCKET NO. W-01445A-04-0755

PROCEDURAL ORDER

16 **BY THE COMMISSION:**

17 On February 2, 2006, in Decision No. 68453, the Commission granted to Woodruff Water
 18 Company, Inc. ("WWC") and to Woodruff Utility Company, Inc. ("WUC") Certificates of
 19 Convenience and Necessity ("CC&Ns") to provide water utility service and wastewater utility service
 20 in a 3,200-acre parcel between Casa Grande and Coolidge, in Pinal County, that was to be developed
 21 as a master-planned subdivision known as Sandia ("Sandia parcel"). The Decision also dealt with an
 22 Arizona Water Company ("AWC") application to extend its CC&N to include an area known as
 23 Martin Ranch as well as the Sandia parcel and other surrounding parcels. The Decision granted
 24 AWC a CC&N extension as to Martin Ranch, but denied AWC's application as to the Sandia parcel
 25 and the other surrounding parcels.¹

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28 ¹ AWC appealed Decision No. 68453, which was ultimately affirmed by the Arizona Court of Appeals. (*Arizona Water Co. v. Arizona Corp. Comm'n*, 217 Ariz. 652 (Ariz. Ct. App. 2008).

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1 In Decision No. 68453, the Commission required, *inter alia*, that WWC and WUC each file a
2 rate application no later than three months after the fifth anniversary of the effective date of the
3 Decision (by May 2, 2011) and that WWC notify the Utilities Division Compliance Section within 30
4 days of initiating service to its first customer. The Commission found that Pivotal Group was the
5 developer for Sandia; that WWC and WUC were both owned by Pivotal Sandia, L.L.C., which was
6 controlled by Pivotal Group X, L.L.C., which was controlled by the F. Francis Najafi Family Trust;
7 and that Mr. Francis Najafi was the sole director of both WWC and WUC. The Commission also
8 found that WWC had already commenced providing water service to one customer:

9 In order to secure its service area right, WWC is required to provide
10 service for one year and toward this end, WWC has been providing water
11 service to the owners of the farm that sold their land to Pivotal. The
12 application for the service area right was filed on or about September 1,
2004, and according to the rules of the Arizona Department of Water
Resources ("ADWR"), Mr. Polen expected that the service area right
would be established by September, 2005.²

13 On March 3, 2006, WWC and WUC filed a Notice of Filing Water Tariff and Sewer Tariff;
14 and Notice of Initiation of Water Service to First Customer. In the Notice, WWC stated that it had
15 commenced water service to its first customer on or about September 1, 2004, in connection with
16 WWC's Initial Request to Establish a New Service Area Right, filed with ADWR.

17 WWC and WUC made additional compliance filings in January 2007 and January 2008.

18 In January 2010, a compliance filing on behalf of WUC was made by Desert Troon
19 Companies ("Desert Troon"), which also filed updated contact information for WWC and WUC,
20 including a copy of Amended and Restated Articles of Incorporation for both WWC and WUC, dated
21 August 14, 2009. No additional background information was provided.

22 In January 2011, Desert Troon again made a compliance filing on behalf of WUC.

23 On May 31, 2011, Desert Troon filed, on behalf of WWC and WUC, letters requesting
24 amendment of Decision No. 68543 so that rate applications need not be filed until project
25 development commences. The letters state that ownership and management of the entities owning
26 the Sandia parcel, WWC, and WUC were transferred by the original developer in late 2009. The
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28 ² Decision No. 68543 at 9.

1 WWC letter also states that “there are no plans to develop the community any time in the near future,
2 nor will the facility provide public water services in the near future.” The WUC letter likewise states
3 that “there are no plans to develop the community any time in the near future, nor will the facility
4 become operational in the near future.” Both letters request, in the alternative, that the Commission
5 grant a five-year extension to file a rate application. Neither letter explains to what extent
6 development has occurred in the Sandia parcel; to what extent WWC and WUC have constructed
7 facilities to provide water and wastewater service; and to what extent water and/or wastewater
8 services have been or are currently being provided to properties in the Sandia parcel.³ Nor is there
9 any detail provided concerning how WWC and WUC came to be owned by Desert Troon rather than
10 Pivotal Group.

11 On July 5, 2011, the Commission’s Utilities Division (“Staff”) filed a Memorandum
12 recommending that the rate application filing deadlines for WWC and WUC be extended to a date no
13 later than five years after service is provided to their first customers. Staff further recommended that
14 WWC and WUC be required to file notice in this docket, within 15 days after commencing service to
15 their first customers, as to the date of commencing service. Staff did not provide any additional
16 information about the current state of development in the Sandia parcel and did not mention that
17 WWC had filed notice of service to its first customer in March 2006.

18 There is not currently sufficient information in this docket to determine whether it is in the
19 public interest to extend the rate case filing deadlines for WWC and WUC, either as requested by
20 WWC and WUC or as recommended by Staff. Thus, it is reasonable and appropriate to require
21 WWC and WUC to provide additional information regarding their past and current ownership; the
22 transactions that led to their current ownership; the past and current ownership of the Sandia parcel;
23 the transactions that led to the current ownership of the Sandia parcel; the current state of
24 development in the Sandia parcel (*i.e.*, what has been built there); the current infrastructure of WWC
25 and WUC; whether and to what extent utility service has been and is currently being provided in the
26 Sandia parcel and by whom; the plans for development in the Sandia parcel, with a projected timeline

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28 ³ For example, there is no indication of when WWC ceased providing water service to its first customer, if such service has ceased.

1 for development; and whether WWC and WUC desire to retain CC&N authority for the Sandia parcel
2 and, if so, for what purpose if they “have no plans to develop the community any time in the near
3 future.” It is also reasonable and appropriate to require Staff to review the information filed by
4 WWC and WUC and to make a supplemental filing providing any revised or new Staff
5 recommendations in light of such information.

6 **IT IS THEREFORE ORDERED that WWC and WUC shall, by August 11, 2011, file in**
7 **this docket comprehensive responses to the following, including copies of documents referenced**
8 **in their responses,** to the extent that providing copies of such documents will aid in the
9 understanding of their responses:

- 10 • Explain the past and current ownership of WWC and WUC.
- 11 • Describe the transactions that led to the current ownership of WWC and WUC.
- 12 • Explain the past and current ownership of the Sandia parcel.
- 13 • Describe the transactions that led to the current ownership of the Sandia parcel.
- 14 • Describe the current state of development in the Sandia parcel (*i.e.*, what has been built there and
15 whether anyone resides there).
- 16 • Describe the current utilities infrastructure of WWC and WUC.
- 17 • Explain whether and to what extent utility service has been provided in the Sandia parcel and by
18 whom, including an explanation as to the water service that was identified in the filing of March
19 2006.
- 20 • Explain whether and to what extent utility service is currently being provided in the Sandia parcel
21 and by whom.
- 22 • Explain the plans for development in the Sandia parcel, with a projected timeline for development.
- 23 • Explain whether WWC and WUC desire to retain CC&N authority for the Sandia parcel and, if so,
24 for what purpose, if they “have no plans to develop the community any time in the near future.”

25 **IT IS FURTHER ORDERED that Staff shall review the information filed by WWC and**
26 **WUC in response to this Procedural Order and shall, by September 12, 2011, make a**
27 **supplemental filing** providing Staff’s analysis of the information and any revised Staff
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1 recommendations or new Staff recommendations determined to be appropriate in light of such
2 information.

3 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
4 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

5 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
6 Communications) applies to this proceeding and shall remain in effect until the Commission's
7 Decision in this matter is final and non-appealable.

8 IT IS FURTHER ORDERED that any motion filed in this matter, other than a motion to
9 intervene, that is not ruled upon by the Commission within 20 calendar days of the filing date of the
10 motion shall be deemed denied.

11 IT IS FURTHER ORDERED that any response to a motion, other than a motion to intervene,
12 shall be filed within five calendar days of the filing date of the motion.

13 IT IS FURTHER ORDERED that any reply related to a motion shall be filed within five
14 calendar days of the filing date of the response to the motion.

15 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
16 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
17 hearing.

18 DATED this 11th day of July, 2011.

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21 
22 SARAH N. HARPRING
23 ADMINISTRATIVE LAW JUDGE
24

25 Copies of the foregoing mailed/delivered
this 11th day of July, 2011, to:

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27
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