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MEMORANDUM

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Arizona Corporation Commission

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TO: Docket Control Center

FROM: Steven M. Olea
Director
Utilities Division

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AZ CORP COMMISSION
DOCKET CONTROL

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DATE: September 30, 2011

RE: **SUPPLEMENTAL FILING - WOODRUFF WATER COMPANY, INC., WOODRUFF UTILITY COMPANY, INC., AND ARIZONA WATER COMPANY - REQUEST FOR EXTENSION OF COMPLIANCE DEADLINES - DECISION NO. 68453 (DOCKET NOS. W-04264A-04-0438, SW-04265A-04-0439 AND W-01445A-04-0755)**

In Decision No. 68453, dated February 2, 2006, the Arizona Corporation Commission (“Commission”) approved the application of Woodruff Water Company, Inc. and Woodruff Utility Company, Inc. (individually known as “WWC” and “WUC”) for approval of a Certificate of Convenience and Necessity (“CC&N”) to provide water and sewer service in Pinal County, Arizona.

As part of Decision No. 68453, the Commission ordered that WWC and WUC each:

“...file, not later than three months following the fifth anniversary of the effective date of this Decision, a rate application.”

Based on the February 2, 2006 date of the decision, Woodruff’s original due date for the above compliance item was May 2, 2011.

Petitions

On May 31, 2011, Woodruff docketed filings requesting an amendment to the compliance requirements such that the rate applications not be required until project development commences. That portion of the application was not acted upon by the Commission, but the application also included a request for five year extensions of time.

The applications stated that in late 2009, both the water and wastewater firms and “the ownership and management for the entities owning the property for the Community” were transferred from the original developer”. More specifically, the applications stated directly that, given the current economic state, there were “no plans to develop the community any time in the near future”.

As such, the Company seeks to avoid filing the rate applications until project development takes place and requests the aforementioned five year extension of time for provision of the rate applications.

Staff Recommendations

Staff acted upon the Company statement that there were no plans to develop in the near future by making the following recommendation:

“Staff recommends that the extension period be linked to the date of service to the first customer. Staff therefore recommends that the Company’s current due date for provision of the required rate case application be extended to a period no later than five years after service is provided to its first customer.

Procedural Order

However, on July 11, 2011, a Procedural Order was issued which outlined that the Company had actually commenced water service to its first customer on or about September 1, 2004 in relation to an “Area Right” application with Arizona Department of Water Resources (“ADWR”). Based on this, Staff’s recommendations above were based on inaccurate information.

In the same Procedural Order, the Commission concluded that there was not adequate information in the docket to determine whether the rate case filing deadlines for WWC and WUC should be extended. The Commission therefore ordered WWC and WUC to provide supplemental information on a variety of ownership, development, provision of service and CC&N topics. This information was to be reviewed by Staff for use in developing either revised or new Staff recommendations.

Company Supplemental Filing

On August 25, 2011, the Company filed the supplemental information ordered in the July 11, 2011 Procedural Order, which Staff was to use in developing possible revised recommendations. The Company addressed the following questions:

1. Explain the past and current ownership of WWC and WUC.
2. Describe the transactions that led to the current ownership of WWC and WUC.
3. Explain the past and current ownership of the Sandia parcel.
4. Describe the transactions that led to the current ownership of the Sandia parcel.
5. Describe the current state of development in the Sandia parcel (i.e., what has been built there and whether anyone resides there).
6. Describe the current utilities infrastructure of WWC and WUC.

7. Explain whether and to what extent utility service has been provided in the Sandia parcel and by whom, including an explanation as to the water service that was identified in the filing of March 2006.
8. Explain whether and to what extent utility service is currently being provided in the Sandia parcel and by whom.
9. Explain the plans for development in the Sandia parcel, with a projected timeline for development.
10. Explain whether WWC and WUC desire to retain CC&N authority for the Sandia parcel and, if so, for what purpose, if they "have no plans to develop the community any time in the near future".

Staff Review

Staff reviewed the Company's responses to the above Procedural Order requirements and notes the following information provided by the Company.

Ownership. Question numbers one through four.

WWC and WUC were *previously* owned by Pivotal Sandia LLC which was ultimately controlled by the F. Francis Najafi Trust. WWC and WUC are *currently* owned by Sandia 2009, LLC (formerly known as Pivotal Sandia LLC) which is ultimately owned and controlled by a company called DTR1, LLC. The utility firms came under DTR1, LLC's control as part of the change in ownership in August 2009. This appears to confirm the information presented in the original application regarding "ownership and management" changes for the property and the utility companies. Upon change in control, new officers and directors were appointed for the utility firms.

DTR1, LLC is owned and controlled by Desert Troon Limited, LLC and Arizona PSPRS Trust. The Sandia property is owned under a trust agreement where the "settlers of the trust are various entities are owned and controlled by the Wuertz family". The Wuertz family's primary current use of these assets is found in the occupation and farming of the Sandia property. This supports the position that the property is utilized for a small number of utility customers during the time when development is on hold. Finally, there appears to be no expected change to these uses in the near future.

Development. Question numbers five, six and nine.

The Company is very straightforward in stating that the Sandia property remains "largely undeveloped and is currently being operated as a farm by the Wuertz family". The infrastructure present extends to WWC rather than WUC as WUC has engineering design plans but no "physical utility infrastructure". WWC assets consist of two wells which the Company describes as "established". They further state that Well #1 has "complete improvements" including electrical

control structures and “5,300 feet of distribution lines and four digital meters that serve current customers”. Customers appear to be served exclusively through Well # 1 as the Company describes that Well # 2 is “drilled, improved and is ready to deliver water”. Overall, the amount of utility plant outlined seems consistent with the plant that would be necessary to serve a small number of customers prior to actual development of the property.

The Company also states that Sandia 2009, LLC plans to keep to the development vision of Pivotal Sandia, LLC, who designed the master planned subdivision of approximately 9,500 residential units with additional commercial development and typical supporting elements such as “schools, parks and a golf course”. The Company discusses the pressure of the deep recession in real estate and the corresponding deep economic downturn in Arizona, but quotes recent economic indicators that signal that prices will “strengthen” in the near term.

Finally, the supplemental filing clearly states that WWC and WUC intend to move forward with development when market conditions improve and there is local demand for housing. WWC and WUC conclude that they will see new requests for water and wastewater service within a two to five year period. However, the Company confirms that WWC has only four current customers. And since WUC has no current customers, Staff finds that it will likely be closer to the five year period before customers increase significantly.

Staff and the Company agree that there are clearly an insufficient number of customers to make rate applications meaningful at this time. WWC and WUC seek to address this through their five year extensions of time for provision of the individual rate cases.

Provision of Service. Question number seven and eight.

In this section, WWC confirmed both that the water service commenced to its first customer on September 1, 2004 and that the service was connected to their attempt to establish an Area Right with ADWR (as outlined in the July 11, 2011 Procedural Order). The Company also provided that WWC currently has four residential customers who are on ¾-inch meters. Previously, the Company had provided that WUC had no physical infrastructure and therefore no customers. Finally, the supplemental filing confirmed that the active customers are served through Well # 1 via a one-half mile long distribution pipe.

Staff concludes that the level of development and the actual number of customers in WWC and WUC are too minimal to warrant the production of rate applications at this time and an extension of time is reasonable considering the facts in this matter.

CC&N. Question number 10.

The supplemental filing concludes with WWC and WUC stating their desire to “retain their CC&N’s for the Sandia property” because they are currently serving water customers and since WUC is essential to the goal of an “integrated water and wastewater provider”. In closing, they reiterate that the property will be developed as soon as real estate market conditions create the necessary demand.

Staff Recommendations

Staff has reviewed the Company's Supplemental Filing and concludes that there is insufficient development or customer activity for the completion of meaningful rate applications. Staff further concludes that the supplemental information lends support to Company statements that the ownership of the property changed and to the scenario that the minimal existing assets are being used to serve a minimal number of customers until the development landscape improves. Based on all of the above, Staff continues to recommend that the due dates for provision of individual rate applications for WWC and WUC be extended five years from the date of a decision in this matter.

SMO:BKB:lhv

Originator: Brian K. Bozzo

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WOODRUFF UTILITY COMPANY, INC.
ARIZONA WATER COMPANY
DOCKET NOS. W-04264A-04-0438, W-04265A-04-0439 & W-01445A-04-0755

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