

ORIGINAL

OPEN MEETING ITEM

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



ARIZONA CORPORATION COMMISSION

2012 MAY -4 P 2:53

DATE: MAY 4, 2012  
DOCKET NOS.: W-01445A-05-0469  
TO ALL PARTIES:

ARIZONA CORPORATION COMMISSION  
DOCKETED  
MAY 04 2012

DOCKETED BY *JM*

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. 68607 AND 71475)

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:

MAY 14, 2012

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:

MAY 22, 2012 and MAY 23, 2012

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*  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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, AN ARIZONA  
CORPORATION, TO EXTEND ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY AT CASA GRANDE, PINAL  
COUNTY, ARIZONA.

DOCKET NO. W-01445A-05-0469

DECISION NO. \_\_\_\_\_

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NOS. 68607 AND 71475**

Open Meeting  
May 22 and 23, 2012  
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 March 23, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68607, approving the application of Arizona Water Company ("AWC" or "Company") for an extension of its water Certificate of Convenience and Necessity ("CC&N"). The Decision approved the extension of AWC's CC&N to include areas referred to as parcels 1, 3, 4, 5, 6, 7, and 8.

Pursuant to Commission Decision No. 68607, Arizona Water was required to file the following:

- a copy of the Approval to Construct ("ATC") issued by the Arizona Department of Environmental Quality ("ADEQ") for the facilities needed to serve each of the parcels within two years of the effective date of the Decision;
- a copy of one developers' Certificates of Assured Water Supply ("CAWS") for each of the parcels within two years of the effective date of the Decision; and
- a copy of the fully executed main extension agreements ("MXAs") for water facilities for each parcel within two years of the effective date of the Decision.

2. On February 12, 2007, AWC filed all of the compliance items required for Parcel 6.

1 At that time, compliance items still remained for Parcels 3, 4, 5 and 7.<sup>1</sup>

2 3. On January 28, 2008, AWC filed a request for an extension of time, until March 23,  
3 2010, to comply with Decision No. 68607. AWC requested an extension of the deadline to obtain the  
4 MXAs, ATCs, and CAWS for the remaining parcels.

5 4. On February 19, 2008, the Commission's Utilities Division ("Staff") filed a response  
6 recommending approval of AWC's request for an extension of time, until March 23, 2010.

7 5. On March 11, 2008, by Procedural Order, AWC's request for an extension of time was  
8 approved for the Company to file copies of the remaining compliance items by March 23, 2010.

9 6. On October 2, 2009, AWC filed a second request for an extension of time, until March  
10 23, 2012, to comply with Decision No. 68607. AWC's extension request stated that: additional time  
11 was needed due to the housing market decline;<sup>2</sup> the Arizona Department of Water Resources  
12 ("ADWR") had not completed the approval process for the Company's Physical Availability  
13 Demonstration ("PAD") application; approval of the PAD is a "precursor" to obtaining a CAWS;  
14 and, because the extension area is located within the Pinal Active Management Area ("AMA"),  
15 developers cannot plat a subdivision without a CAWS. AWC submitted letters from the current  
16 owners of Parcels 3, 4, 5 and 7, showing the owners' continued desire to develop their properties and  
17 to receive water service from AWC. AWC further stated that denial of its request to extend the time  
18 deadline would be harmful to a recovery of the housing market in the area.

19 7. On November 27, 2009, Staff filed a response to AWC's second request for an  
20 extension of time to comply with Decision No. 68607. In its response, Staff expressed concerns over  
21 both the number of times AWC had requested that the time deadlines be extended and the length of  
22 time to comply. Nonetheless, Staff recommended granting AWC's request based on the  
23 Commission's recent discussions regarding the length of extension requests. According to Staff, in  
24 deciding whether a request for an extension of time should be granted, the Commission would

25

26 <sup>1</sup> Decision No. 68607 did not require any compliance items for Parcel 1. The Decision granted an Order Preliminary for  
27 Parcel 8, and AWC was required to obtain a consent, franchise, or permission from the City of Eloy, within one year of  
the date of the Decision. AWC was unable to satisfy the requirement for Parcel 8 and the Order Preliminary became null  
and void.

28 <sup>2</sup> AWC's request noted that housing permits had dropped from an annual peak of 11,371 in 2005 to 3,104 in 2008, for  
single family residences issued in Pinal County.

1 consider the condition of the housing market and recession; the need to comply with state agency  
2 requirements; the need for long-term planning; and the complexity of the issues involved in the  
3 request for an extension of time.

4       8.       On January 26, 2010, the Commission issued Decision No. 71475 and found that  
5 AWC had filed a timely request for an extension of the time deadlines contained in Decision No.  
6 68607. Based on the following: the recent housing market decline; the current economic recession;  
7 the length of time needed for developers and utilities to meet state agency requirements; and the  
8 continuing desire expressed by property owners in the extension area to have AWC provide water  
9 utility service in the extension area, the Commission granted AWC an extension of time, until March  
10 23, 2012, to comply with Decision No. 68607.

11       9.       On October 5, 2011, AWC filed a third request for another extension of time until  
12 March 23, 2014, to file the required documentation as required by Decision Nos. 68607 and 71475  
13 for parcels 3, 4, 5 and 7.

14       10.      On December 25, 2011, and February 28, 2012, the Company filed two addendums to  
15 its third request for an extension of time to comply with Decision Nos. 68607 and 71475 and  
16 included copies of letters from property owners or their representatives who expressed their  
17 continued desire for service to their properties by AWC.

18       11.      On April 26, 2012, Staff filed its response to the Company's continuing request for an  
19 extension of time to meet the Commission's compliance requirements for parcels 3, 4, 5 and 7 as  
20 discussed herein and noted the ongoing problems associated with real estate development in Arizona.

21       12.      Staff in its response related that AWC has obtained the approval of the Arizona  
22 ADWR for a PAD for the Company's Pinal Valley system (which includes parcels 3, 4, 5 and 7).  
23 The Company described the PAD as "an important precursor to, and a necessary requirement for  
24 obtaining a CAWS" and stated that, in conjunction with ADEQ's approval, the combination  
25 represents sufficient compliance on the CAWS condition reflected in Decision No. 68607.  
26 Additionally, the Company has provided letters from property owners in parcels 3, 4, 5, and 7  
27 reiterating their requests for service and their intent to develop within the approximate timeframe of  
28 the requested extension.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

IT IS THEREFORE ORDERED that Arizona Water Company's deadline to comply with the compliance deadlines as initially set forth in Commission Decision No. 68607 and modified by Decision No. 71475, as discussed herein, shall be extended to March 23, 2014.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:db

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO.: W-01445A-05-0469

3 Robert W. Geake  
4 ARIZONA WATER COMPANY  
5 P.O. Box 29006  
Phoenix, AZ 85038-9006

6 Thomas H. Campbell  
7 Michael T. Hallam  
8 LEWIS AND ROCA, LLP  
40 North Central Avenue, Suite 1900  
Phoenix, AZ 85004

9 Gary L. Vasquez  
10 COOPER, VASQUEZ & RUETER, LLP  
P.O. Box 15005  
Casa Grande, AZ 85230-5005

11 Janice Alward, Chief Counsel  
12 Legal Division  
ARIZONA CORPORATION COMMISSION  
13 1200 West Washington Street  
Phoenix, AZ 85007

14 Steven M. Olea, Director  
15 Utilities Division  
ARIZONA CORPORATION COMMISSION  
16 1200 West Washington Street  
Phoenix, AZ 85007

17

18

19

20

21

22

23

24

25

26

27

28