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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission

DOCKETED

JUN 20 2012

DOCKETED BY
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STAFF OF THE UTILITIES DIVISION)
COMPLAINANT,)
VS.)
AMERICAN REALTY AND MORTGAGE)
COMPANY, INC. DBA HACIENDA ACRES)
WATER SYSTEM)
RESPONDENT.)

DOCKET NO. W-02258A-07-0470
DECISION NO. 73233
ORDER

Open Meeting
June 19, 2012
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

Introduction

1. On June 5, 2012, Global Water – Santa Cruz Water Company (“Global”), as the interim manager for American Realty & Mortgage Co., Inc., d/b/a Hacienda Acres Water System (“Hacienda Acres” or “Company”), filed a motion asking the Commission to terminate its interim manager authority.
2. In its Motion, Global is asking the Commission to issue an order: (1) authorizing Global to take all steps necessary and appropriate to facilitate the actions of a new service provider, Maricopa Mountain Domestic Water Improvement District (“District”), to provide service to the former Hacienda Acres’ customers; (2) upon completion of the District’s extension

1 of service to the former Hacienda Acres' customers, terminating the interim manager arrangement
2 granted in Commission Decision Nos. 69865 and 70609; and (3) making appropriate findings to
3 facilitate the District's extension of service to the former Hacienda Acres' customers.

4 3. Global is the current interim manager for Hacienda Acres.

5 Background and Status

6 4. Pursuant to Decision No. 44444, issued August 1, 1974, Hacienda Acres received a
7 Certificate of Convenience and Necessity ("CC&N") from the Commission to provide water
8 service in Pinal County. As a condition of its CC&N, Hacienda Acres was required to comply
9 with Arizona law, Commission Orders, and Commission Rules and Regulations.

10 5. Hacienda Acres serves approximately 24 residential lots and an apartment complex
11 with 11 apartments. The system contained two well sites, with each site containing a storage tank,
12 pressure tank, and booster system. One well site had been disconnected due to nonpayment of a
13 lease.

14 6. On October 21, 2011, Hacienda Acres' other well ceased to function, and Global
15 has been forced to haul water in order to provide Hacienda Acres' customers with water.

16 7. In Decision No. 69865, issued August 23, 2007, the Commission authorized
17 Commission Staff to appoint an interim manager and ordered Hacienda Acres to cooperate with
18 the interim manager. Thereafter, the Commission Staff entered into a letter agreement with Global
19 to establish Global as the interim manager as an interim measure until a more permanent solution
20 could be found.

21 8. On November 19, 2008, the Commission issued an order (Decision No. 70609)
22 revoking the CC&N held by Hacienda Acres. The revocation was the result of an enforcement
23 proceeding initiated against Hacienda Acres due to the Company's abandonment of service to its
24 customers and violation of various Arizona statutes and Commission rules, as outlined in the
25 Complaint and Petition for an Order to Show Cause filed by Commission Staff on August 14,
26 2007.

27 9. As a result of this revocation, Hacienda Acres no longer holds a CC&N to serve this
28 area.

1 10. In Arizona, a CC&N granted to a water company by the Commission confers upon
2 the holder the right to operate as a monopoly within a defined service area. As long as a water
3 company provides adequate service at just and reasonable rates, it may enjoy monopoly status
4 within its certificated service area. The privilege of a monopoly, however, is revocable by the
5 Commission if service becomes inadequate.

6 11. In Decision No. 70609, referenced above, the Commission determined that it was
7 appropriate to revoke the Company's CC&N because the Company's conduct had endangered the
8 public health and safety of its customers. The Commission continued the authorization for the
9 interim manager and fined Hacienda Acres \$41,000 for the violation of numerous Commission
10 rules and other regulatory requirements.

11 12. The Decision made numerous findings of fact, including the following:

12 The evidence is undisputed that Joseph Lee and two men acting as his
13 agents vandalized the water system by damaging the well head by
14 severing the well discharge pipe to the storage tank; damaging the power
15 supply and circuit breaker box by severing the well motor electrical cable
16 and tearing apart the electrical service; damaging the storage tank by
17 cutting a valve and emptying water from the tank; removing the booster
pumps and hydropneumatic tanks; and removing residential service meters
and causing damage to service laterals. This damage left Respondent's
customers without a water supply or water service.

18 13. The Company filed a "Notice of Surrender of Water Franchise of American Realty
19 and Mortgage Co., Inc.," signed by Joseph W. Lee as attorney, stating that the water company had
20 ceased operations and had provided its customers a "Notice of Termination of Water Service".

21 14. Hacienda Acres filed Articles of Dissolution on September 27, 2007, and the
22 dissolution was completed on August 1, 2008.

23 15. While the Commission retains jurisdiction over the Company for enforcement
24 purposes (such as the imposition of fines or other penalties), there is no longer a CC&N for this
25 service area. As a result, there is no entity subject to the Commission's jurisdiction which is
26 entitled to maintain monopoly service in the former certificated service area of Hacienda Acres.

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1 16. Although certain interim measures to provide for water service, including the
2 appointment of an interim manager, have been in place since approximately 2008, these measures
3 were not intended to be a permanent solution.

4 17. On October 21, 2011, Hacienda Acres' well ceased to function, and Global has
5 been forced to haul water in order to provide Hacienda Acres' customers with water.

6 18. After the well failure, it is not economically feasible to operate the physical water
7 system of Hacienda Acres.

8 19. Currently, there is no Commission-certificated provider of water service for this
9 area. The customers in Hacienda Acres' service area would benefit from the entry of an entity that
10 would provide reasonable and adequate water service on a permanent basis.

11 Proposed Solution

12 20. Decision No. 70609 found that engaging an interim manager was appropriate until
13 such time as a permanent solution could be established, at which time terminating the interim
14 manager authority would be appropriate.

15 21. Global has identified a long-term water provider for Hacienda Acres' customers:
16 the Maricopa Mountain Domestic Water Improvement District. The District has a near-by potable
17 water system that provides customers with hauled water service, and the District is interested in
18 becoming a piped water supplier to the area. Accordingly, the District is in a position to develop a
19 new well source and extend potable piped water service to the former Hacienda Acres service area.

20 22. The District will build an entirely new distribution system to serve the former
21 Hacienda Acres customers. In doing so, it will not use any of the former plant or equipment of the
22 Company. As a result, there will be no need to purchase any assets from Mr. Lee or Hacienda
23 Acres.

24 23. Ultimately, the District's ability to extend service to the Company's service area is
25 contingent on a grant and/or loan issued by the United States Department of Agriculture.

26 24. According to Global, the District has the legal authority to provide potable water
27 service, within or without the boundaries of the District. Staff believes that the public interest
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1 would be served by the Maricopa Mountain Domestic Water Improvement District extending
2 service to the current customers of Hacienda Acres.

3 25. Having lost its CC&N, Hacienda Acres has no basis to prevent another service
4 provider approved by the Commission or the District from providing service to the current
5 customers of Hacienda Acres. Hacienda Acres is not currently providing adequate public utility
6 service.

7 Staff Recommendations

8 26. Staff has recommended that the Commission grant Global's Motion and issue an
9 Order: (1) authorizing Global as interim manager to continue to pursue the solutions described
10 above; and (2) allowing Staff to terminate the interim manager agreement with Global resulting
11 from Decision Nos. 69865 and 70609, upon the District extending service to Hacienda Acres'
12 former service area. Staff further recommends that Global notify the Commission once the
13 District commences providing service to Hacienda Acres' former service area.

14 27. Staff's recommendations, as set forth in Finding of Fact No. 26, are reasonable and
15 should be adopted.

16 CONCLUSIONS OF LAW

17 1. On November 19, 2008, the Commission issued Decision No 70609 revoking the
18 CC&N held by Hacienda Acres.

19 2. There is no longer a CC&N for this service area; and thus, there is no entity subject
20 to the Commission's jurisdiction which is entitled to maintain monopoly service in the former
21 certificated service area of Hacienda Acres.

22 3. Pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-202, -321, -
23 322, and -361, the Commission has the jurisdiction and authority to determine what is just,
24 reasonable, safe, proper, adequate, and sufficient and shall enforce its determination by Order or
25 regulation.

26 4. Hacienda Acres is currently operated by Global, who is the interim manager
27 appointed by Commission Staff.

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IT IS FURTHER ORDERED that Global Water -- Santa Cruz Water Company shall notify the Commission once the Maricopa Mountain Domestic Water Improvement District begins providing service to American Realty & Mortgage Co., Inc., d/b/a Hacienda Acres Water System's former service area.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

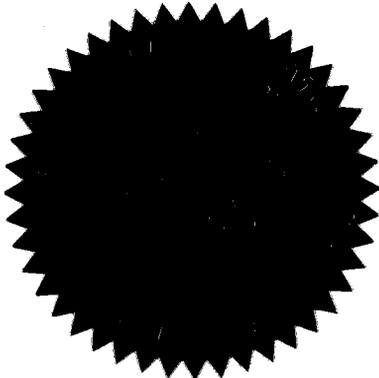
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CHAIRMAN

Becky
COMMISSIONER

Andrew D. Kennedy
COMMISSIONER

Paul Murray
COMMISSIONER

Barbara Dunn
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 this Commission to be affixed at the Capitol, in the City of Phoenix, this 20th day of June, 2012.

Ernest G. Johnson
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:VW:kdh/WVC

1 SERVICE LIST FOR: AMERICAN REALTY AND MORTGAGE COMPANY, INC.
2 DBA HACIENDA ACRES WATER SYSTEM

3 DOCKET NO.: W-02258A-07-0470

4 Mr. Michael W. Patten, Esq.
5 Mr. Timothy J. Sabo, Esq.
6 Roshka DeWulf & Patten, PLC
7 One Arizona Center
8 400 E. Van Buren Ste. 800
9 Phoenix, Arizona 85004
10 Attorneys for Global Water – Santa Cruz

11 Mr. Joseph W. Lee
12 Post Office Box 640
13 Wittmann, Arizona 85361

14 Alma R. Lee, Jr.
15 American Realty and Mortgage Company, Inc.
16 Post Office Box 232
17 Wittmann, Arizona 85361

18 Alma R. Lee, Jr.
19 American Realty and Mortgage Company, Inc.
20 32241 South Center Street
21 Wittmann, Arizona 85361

22 Mr. Steven M. Olea
23 Director, Utilities Division
24 Arizona Corporation Commission
25 1200 West Washington Street
26 Phoenix, Arizona 85007

27 Ms. Janice M. Alward
28 Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007