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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

OCT - 4 2012

COMMISSIONERS

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

DOCKETED BY  
nr

IN THE MATTER OF THE JOINT APPLICATION OF: (1) FRANCISCO GRANDE UTILITY COMPANY, AN ARIZONA CORPORATION, TO TRANSFER A PORTION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY TO ARIZONA WATER COMPANY, AN ARIZONA CORPORATION; (2) ARIZONA WATER COMPANY TO INCLUDE CERTIFICATED AREA TO BE TRANSFERRED BY FRANCISCO GRANDE UTILITY COMPANY IN ARIZONA WATER COMPANY'S CASA GRANDE CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01445A-05-0700  
DOCKET NO. WS-01775A-05-0700

DECISION NO. 73517

**ORDER EXTENDING TIME DEADLINE ORDERED IN DECISION NOS. 68654, 70450, AND 71688**

Open Meeting  
September 19 and 20, 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 October 4, 2005, Francisco Grande Utility Company ("Francisco") and Arizona Water Company ("AWC") ("Joint Applicants") jointly filed an application with the Arizona Corporation Commission ("Commission") to transfer a portion of Francisco's Certificate of Convenience and Necessity ("CC&N") to AWC and for AWC to include the same area in AWC's Casa Grande CC&N.

2. On April 12, 2006, the Commission issued Decision No. 68654 approving the joint application of AWC and Francisco. Pursuant to Commission Decision No. 68654 (April 12, 2006),

1 AWC was required to file, among other things, the following compliance items:

- 2 • Copies of the Arizona Department of Environmental Quality's Approval to  
3 Construct ("ATC") for facilities needed to serve the requested transfer areas  
4 within two years of the effective date of the Decision.
- 5 • A Notice of filing indicating AWC had submitted for Staff's review and  
6 approval, a copy of the fully executed main extension agreements ("MXAs")  
7 for water facilities for the requested transfer areas within two years of the  
8 effective date of the Decision.
- 9 • A copy of the developer's Certificate of Assured Water Supply ("CAWS") for  
10 the requested transfer areas where applicable or when required by statute,  
11 within two years of the effective date of the Decision.

12 3. On March 10, 2008, AWC filed a request for additional time, until April 12, 2010, to  
13 file the above compliance items.

14 4. On August 6, 2008, the Commission issued Decision No. 70450, approving AWC's  
15 request for additional time, until April 12, 2010, to comply with Decision No. 68654.

16 5. On November 23, 2009, AWC filed a request for determination of compliance with  
17 Decision No. 68654; or in the alternative, a request for additional time to comply with Decision No.  
18 68654. In its request, AWC stated that the remaining compliance items are under the control of the  
19 developer; the developer has prepared a regional groundwater model for AWC's entire Pinal Valley  
20 Water Service Area to demonstrate the physical availability of groundwater in the transfer area; an  
21 application for a Physical Availability Demonstration ("PAD") was filed with the Arizona  
22 Department of Water Resources ("ADWR") in 2007, but has not yet been approved; the recession has  
23 significantly slowed the housing market; and because the PAD is a precursor to receiving a CAWS  
24 and no MXAs may be entered into without a CAWs, AWC needed more time to comply. AWC's  
25 request sought a determination that it had complied with the requirements of Decision No. 68654, or  
26 alternatively requested, that AWC be granted an extension of time, until April 12, 2012, to comply  
27 with the Decision.

28 6. On January 19, 2010, AWC filed an amendment to its request which revised the map  
submitted for the transfer area; provided a copy of the approved ADWR PAD<sup>1</sup> for the transfer area;  
withdrew a previously submitted MXA the Company erroneously believed included the transfer area;

<sup>1</sup> ADWR approved the PAD application for the transfer area on December 24, 2009.

1 submitted a copy of the ATC application for the facilities needed in the transfer area; and withdrew  
2 its request for a determination of compliance with Decision No. 68654. AWC further requested to  
3 extend the compliance deadlines contained in Decision No. 68654, until April 12, 2012, for the ATC,  
4 MXAs, and CAWS related to the transfer area.

5 7. On May 3, 2010, the Commission issued Decision No. 71688 which approved AWC's  
6 request for an extension of time, until April 12, 2012, to file the ATC, MXAs, and CAWS related to  
7 the transfer area.

8 8. On December 9, 2011, AWC filed its third Request for Additional Time for  
9 Compliance Filing ("Request"). The Request seeks an extension of time, until April 12, 2014, to  
10 comply with Decision No. 68654. The Request included a map of the transfer area; an ATC for the  
11 facilities needed in the extension area; a PAD (which AWC states meets the requirements of a  
12 CAWS) issued by ADWR; and letters from each property owner or property owner's representative  
13 for each parcel of real property located in the transfer area. Further, the Request states that the deep  
14 recession and real estate crash over the last several years have created extraordinary circumstances  
15 that have not been seen since the Great Depression; and therefore, AWC needs additional time to  
16 comply with the Decision.

17 9. On August 10, 2012, Staff filed a memorandum stating that it does not object to  
18 AWC's request for an extension of time, until April 12, 2014, to comply with Decision No. 68654.  
19 Staff states that although it accepts the PAD as evidence of progress toward compliance with the  
20 CAWS, Staff does not consider the provision of the PAD to represent compliance with the CAWS  
21 requirement as stated in Decision No. 68654. Staff concludes that the AWC's should be seeking an  
22 extension of time for both the MXA and the CAWS; that generally the remaining compliance items  
23 are under the control of the developer rather than the Company; and that the length of the extension  
24 of time is due to the economy and its continuing effect on the market. Therefore, Staff recommends  
25 approval of AWC's request for an extension of time, until April 12, 2014, to comply with Decision  
26 No. 68654, by obtaining the remaining MXA and CAWS. Staff further recommends that no further  
27 time extensions be granted in this matter.

28 10. Based on AWC's timely request for extension of the deadlines to obtain the MXA and

1 CAWS as set forth in Decision No. 68654; letters from each property owner or property owner's  
2 representative located in the transfer area demonstrating a continuing need for service; and the effect  
3 of the economy on development in the transfer area, we find that AWC's request for an extension of  
4 time to comply with Decision No. 68654 is reasonable and should be granted.

5 11. Further, although we are not adopting Staff's recommendation that no further time  
6 extensions should be granted for compliance with Decision No. 68654, we will put the Joint  
7 Applicants on notice that any further requests for extension of time to comply must demonstrate that  
8 extraordinary circumstances exist that warrant additional time.

9 **CONCLUSIONS OF LAW**

10 1. AWC and Francisco are public service corporations within the meaning of Article XV  
11 of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

12 2. The Commission has jurisdiction over AWC, Francisco and the subject matter  
13 described herein.

14 3. AWC's request to for an extension of time, until April 12, 2014, to comply with the  
15 requirements outlined in Decision No. 68654, is reasonable and should be granted.

16 **ORDER**

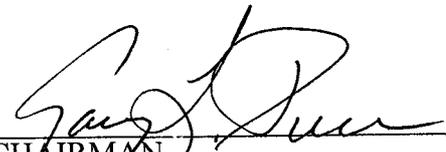
17 IT IS THEREFORE ORDERED that Arizona Water Company is hereby granted an extension  
18 of time, until April 12, 2014, to comply with Commission Decision No. 68654, by filing a notice in  
19 this docket, that Arizona Water Company has submitted for Staff's review and approval, a copy of a  
20 fully executed main extension agreement for the water facilities in the transfer areas, and a copy of  
21 the developer's Certificate of Assured Water Supply for the transfer area where applicable or when  
22 required by statute.

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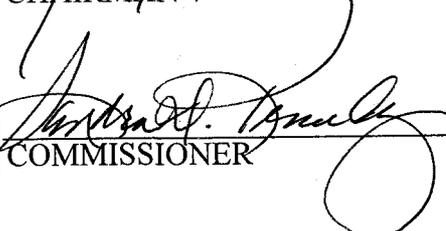
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IT IS FURTHER ORDERED that Arizona Water Company and Francisco Grande Utility Company, are hereby put on notice that no additional extensions of time shall be granted regarding this matter absent extraordinary circumstances.

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 4th day of October, 2012.

  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR:

ARIZONA WATER COMPANY AND  
FRANCISCO GRANDE UTILITY COMPANY

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3 DOCKET NOS.:

W-01445A-05-0700 AND WS-01775A-05-0700

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