

OPEN MEETING ITEM



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COMMISSIONERS  
BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

ARIZONA CORPORATION COMMISSION

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DATE: FEBRUARY 1, 2013  
DOCKET NOS.: W-03514A-10-0116 AND W-03514A-10-0117

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

PAYSON WATER COMPANY, INC. - MESA DEL CABALLO SYSTEM  
(DENIES EXTENSION OF TIME DEADLINE  
CONTAINED IN DECISION NOS. 71902 AND 72679)

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:

FEBRUARY 11, 2013

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:

MARCH 12, 2013 AND MARCH 13, 2013

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.

Arizona Corporation Commission  
DOCKETED

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*Jodi A. Jerich*  
JODI JERICH  
EXECUTIVE DIRECTOR

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

BOB STUMP – Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF  
PAYSON WATER COMPANY ON BEHALF OF  
ITS MESA DEL CABALLO SYSTEM FOR  
APPROVAL OF A WATER AUGMENTATION  
SURCHARGE/EMERGENCY RATE TARIFF.

DOCKET NO. W-03514A-10-0116

IN THE MATTER OF THE NOTICE OF FILING  
OF PAYSON WATER COMPANY’S PROPOSED  
CHANGES TO ITS CURTAILMENT TARIFF  
(MESA DEL CABALLO SYSTEM).

DOCKET NO. W-03514A-10-0117

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

**ORDER DENYING EXTENSION OF  
TIME DEADLINE CONTAINED IN  
DECISION NOS. 71902 AND 72679**

Open Meeting  
March 12 and 13, 2013  
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. September 28, 2010, the Arizona Corporation Commission (“Commission”) issued Decision No. 71902 which approved the application of Payson Water Company, Inc. (“Company” or “Applicant”) on behalf of its Mesa Del Caballo (“MDC”) system for an emergency water augmentation surcharge tariff (“Surcharge”) on an interim basis to allow the Applicant to recover costs for the bulk water purchases needed to supply water to customers on its MDC System. In Decision No. 71902, the Commission also approved certain changes to MDC’s Curtailment Tariff.

2. The Commission’s approval of the Company’s application for a Surcharge was

1 conditioned upon the Company filing by September 27, 2011, with the Commission, as a compliance  
2 item, an application for permanent rate relief.

3         3.       On September 8, 2011, the Company filed a Motion for an Extension of Time  
4 (“Motion”), until January 31, 2012, for approval by the Commission to file its permanent rate  
5 application. The Company in its Motion stated as follows:

6                 The Surcharge is designed to allow Payson Water to recover its costs of  
7 supplementing water supplies for its Mesa Del Caballo system between  
8 the months of May and September each year. These costs are merely  
9 passed through to the end-user, and do not include the recovery of any  
10 administrative costs, nor does it provide Payson Water with any excess  
11 funds or profit. In order to provide an accurate accounting of the costs  
12 for supplemental water supplies, Payson Water will need information  
13 and data through the 2011 season when water augmentation was  
14 necessary – including all water augmentation that occurs in September,  
15 2011. In addition, Payson Water has been required to augment the Mesa  
16 Del Caballo system with water supplies outside the time the Surcharge is  
17 in effect (i.e. January and February 2011), and expects further water  
18 augmentation will be necessary for September 2011. These costs are not  
19 currently recovered from ratepayers.

20         4.       The Company stated that a 2011 test year will provide the Company and the  
21 Commission with the full and complete information necessary to provide a basis for permanent rate  
22 relief.

23         5.       The Company stated further that a 120-day delay should not have a negative impact on  
24 Applicant’s customers; in fact, it would delay any rate increase that may result from the rate  
25 application.

26         6.       The Company believed that granting its Motion for delay was in the public interest,  
27 and requested that the Commission grant such approval.

28         7.       On September 29, 2011, the Commission’s Utilities Division (“Staff”) filed a Staff  
Memorandum in response to the Company’s Motion in which Staff recommended approval of the  
requested extension until March 31, 2012, in order for the Company to file an application for a  
permanent rate increase.

       8.       Staff stated that it would be more efficient and less costly for the Company to file a  
rate application which utilized a complete 2011 calendar year for the test year. Staff agreed that an  
extension would benefit rate payers by delaying any possible rate increase and would benefit the

1 Company by not requiring it to incur additional accounting expense.

2 9. Staff contacted the Company's attorney who indicated that the Company's goal was to  
3 file its rate application as soon as possible after the end of calendar year 2011, using a 2011 test year.

4 10. Staff believed that additional time beyond January 31, 2012, would be appropriate to  
5 allow the Company to prepare and submit an adequate rate application pursuant to A.A.C. R14-2-  
6 103. Therefore, Staff recommended that the Applicant be granted an extension until March 31, 2012,  
7 to file a permanent rate application that utilizes a complete 2011 test year.

8 11. On November 17, 2011, the Commission issued Decision No. 72679, which granted  
9 the Company an extension of time until March 30, 2012, in which to file a permanent rate application  
10 as recommended by Staff.

11 12. On November 1, 2012, the Company filed a second Motion for an Extension of time  
12 until May 1, 2013, for approval by the Commission to file its permanent rate application. The  
13 Company in this Motion states as follows:

14 Since August 2009, Payson Water – in conjunction with the Mesa Del Caballo  
15 Water Committee (“Committee”) and several customers – explored the feasibility  
16 of addressing chronic water shortages by participating in the C.C. Cragin Pipeline  
17 Project (“Pipeline”). The Pipeline is being developed by the Town of Payson to  
18 deliver Salt River Project (“SRP”) renewable water supplies from the C.C. Cragin  
19 reservoir, located approximately 25 miles northeast, to Payson, Arizona. The  
20 Pipeline route passes very close to Payson Water's Mesa Del Caballo's system,  
and an interconnection can give the company access to as much as 72 acre-feet of  
renewable water supplies annually. Payson Water has conducted several analyses  
of the potential costs for this water, and has shared this with the Committee and  
individual customers. To date, there is overwhelming support for moving forward  
with an interconnection to the Pipeline. However, this will come at a cost that  
will require Commission approval.

21 13. The Company stated that it has executed a supply agreement with SRP and is now in  
22 the final stages of approving and executing an operational distribution agreement with the Town of  
23 Payson to deliver Cragin water to MDC's customers.

24 14. The Company further stated that it will be filing a financing application to recover the  
25 costs of an interconnection, and the issues addressed therein will be inextricably linked to its rate  
26 case, which has not yet been filed.

27 15. The Company stated further that it is requesting that the deadline set forth in Decision  
28 No. 72679 be extended to May 1, 2013, coupled with the additional requirement of filing a financing

1 application to address MDC's long term water supply need.

2 16. The Company believes that granting its additional Motion for delay is in the public  
3 interest, and requests that the Commission grant such approval.

4 17. On January 2, 2013, Staff filed a Staff Memorandum in response to the Company's  
5 second Motion for a delay in this matter stating that Decision No. 72679 ordered that "no further  
6 extension be granted absent good cause shown," and that the Company's second Motion was filed  
7 seven months after the expiration of the last authorized filing date of March 31, 2012.

8 18. Staff further stated that it had filed a Staff Report on July 19, 2012, in Docket Nos. W-  
9 03514A-12-0300 and W-03514A-12-0301 with regard to another emergency water tariff by the  
10 Company for its East Verde Park System ("EVP").

11 19. Staff states that in its report filed on July 19, 2012, Staff stated the following:

- 12 • that Staff did not recognize an emergency situation in those filings;
- 13 • that the Company was out of compliance with the Commission for not  
14 timely filing its, then overdue by four months, permanent rate case filing  
15 in this proceeding;
- 16 • that the Company should immediately prepare its overdue permanent rate  
17 case filing and incorporate the tariff requests embodied in Docket No. 12-  
18 0300 and 12-0301 into its rate case filing for the entire water utility; and
- 19 • that the pending financing situation cited by the Company for not filing its  
20 rate case, should not keep the Company from filing as it could be  
21 consolidated with the rate case filing at a later time, after the rate case had  
22 been filed.

23 20. Staff reiterates further again its recommendations in its July 19, 2012, filing in this  
24 case as follows:

25 Staff does not believe that the pending financing issues should continue to further  
26 delay the completion of the Company's outstanding obligation to file a permanent  
27 rate case. Staff does not believe that it is in the public interest to delay the rate  
28 case filing any further. Staff recommends denial of any further time extensions.  
Staff further recommends that the Company file its permanent rate case filing  
immediately.

29 21. Under the present circumstances, we agree with Staff and find that no further  
30 extension of time should be granted, and the Company should immediately file its permanent rate  
31 application within 30 days of the effective date of this Decision. Continued noncompliance with  
32 Commission decisions could result in the Company being charged with a violation of A.R.S. § 40-  
33 424 for being in contempt of the Commission, as well as the termination of the surcharge.

**CONCLUSIONS OF LAW**

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1. The Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

2. The Commission has jurisdiction over Applicant and of the subject matter of the extension request addressed herein.

3. The denial of the Company's Motion for a further delay to file its permanent rate application should be denied.

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**ORDER**

IT IS THEREFORE ORDERED that the Payson Water Company, Inc. is hereby denied an extension of time to file its permanent rate application as required by Decision No. 71902.

IT IS FURTHER ORDERED that the Payson Water Company, Inc. shall file its permanent rate case application within 30 days of the effective date of this Decision.

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, JODI JERICH, 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 \_\_\_\_\_ 2013.

\_\_\_\_\_  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

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SERVICE LIST FOR:

PAYSON WATER COMPANY, INC. – MESA DEL CABALLO SYSTEM

DOCKET NOS.:

W-03514A-10-0116 AND W-03514A-10-0117

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