

**ORIGINAL**  
COMMISSIONERS  
BOB STUMPF, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

OPEN MEETING ITEM



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ARIZONA CORPORATION COMMISSION

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DOCKET NO.: W-01445A-05-0389  
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 Opinion and Order on:

ARIZONA WATER COMPANY  
(CC&N EXTENSION)

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:

JULY 11, 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:

JULY 17, 2013 AND JULY 18, 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

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DOCKETED BY Jm

*Jodi A. Jerich*  
JODI JERICH  
EXECUTIVE DIRECTOR

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov).

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**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 FOR AN  
EXTENSION OF ITS EXISTING CERTIFICATE  
OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01445A-05-0389

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

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NOS. 68442, 70844 AND  
72247**

Open Meeting  
July 17 and 18, 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. On February 2, 2006, the Arizona Corporation Commission ("Commission") issued Decision No. 68442 which approved a request for an extension of Arizona Water Company's ("Company" or "Applicant") Certificate of Convenience and Necessity ("Certificate") to provide public water service to three parcels of land<sup>1</sup> located in both the City of Coolidge ("City"), and in portions of Pinal County, Arizona subject to certain conditions to be completed within one year of the Decision.

2. As a condition of the Commission's approval, the Company was required to do the following:

- that the Company charge its existing rates and charges for its Coolidge

<sup>1</sup> The three parcels were known as the Skousen, Lorenson and Vail parcels.

1 system in the proposed extension area;

- 2 • that the Company file, within 365 days of the effective date of this  
3 Decision, with the Commission's Docket Control, as a compliance item, a  
4 copy of the respective developer's Certificate of Assured Water Supply  
5 ("CAWS") issued by the Arizona Department of Water Resources  
6 ("ADWR") for the areas described in Exhibit A;
- 7 • that the Company file, within 365 days of the effective date of this  
8 Decision, with the Commission's Docket Control, as a compliance item,  
9 copies of any executed main extension agreements;<sup>2</sup> and
- 10 • that the Company file, within 365 days of the effective date of the  
11 Decision, with the Commission's Docket Control, as a compliance item,  
12 copies of the respective Certificates of Approval to Construct ("ATC")  
13 issued by the Arizona Department of Environmental Quality for the  
14 construction of mains in the three extension areas.

15 3. On December 27, 2006, the Company filed a request for a one-year extension of time,  
16 until February 2, 2008, to complete the compliance requirements for Decision No. 68442. The  
17 Company indicated that it was in partial compliance with Decision No. 68442 and had filed some of  
18 the required documentation, and stated that development was going forward on the three parcels of  
19 land included in the extension area.

20 4. On January 4, 2007, by Procedural Order, the Commission's Utilities Division  
21 ("Staff") was directed to file a response to the Company's request by January 18, 2007. Staff did not  
22 file any objections to this request by the Company.

23 5. On January 17, 2007, the owner of the Vail parcel filed a letter in support of the  
24 Company's request for an extension of time.

25 6. On February 1, 2007, by Procedural Order, the Company was granted an additional  
26 extension of time, until February 2, 2008, to comply with Decision No. 68442.

27 7. On December 13, 2007, the Company filed another request for an additional one-year  
28 extension of time, until February 2, 2009, to complete the compliance requirements for Decision No.  
68442. The Company indicated that it was in partial compliance with Decision No. 68442 and had  
completed the required compliance filing on the Skousen and Lorenson parcels, and stated that  
development was going forward on the three parcels of land included in the extension area.

<sup>2</sup> Staff notes that since the date of Decision No. 68442, Commission extension Decisions no longer require the filing of main extension agreements in the docket because the Commission's rules require that main extension agreements be filed with Staff for approval.

1           8.     On January 8, 2008, Staff filed a memorandum with respect to the Company's  
2 additional request for an extension of time, until February 2, 2009, to meet the compliance  
3 requirements of Decision No. 68442. Staff confirmed the completion of the compliance requirements  
4 for the Skousen and Lorenson parcels and confirmed that development was proceeding on the third  
5 parcel. Staff concluded that it did not object to the Company's request for an extension of time, until  
6 February 2, 2009, to complete the compliance requirements for the third parcel, but recommended  
7 that no further extensions of time be approved after the aforementioned date.

8           9.     On January 24, 2008, by Procedural Order, the Company was granted an additional  
9 extension of time to comply with Decision No. 68442, until February 2, 2009, to meet the compliance  
10 requirements of the Decision.

11          10.    On December 17, 2008, the Company filed a request for a third extension of time, this  
12 time for two years, until February 2, 2011, to complete its compliance requirements for the third  
13 parcel known as the Vail parcel. Attached to the Company's request was a letter from the CEO of the  
14 company which owns the Vail parcel. He indicated that his firm still desired water service for the  
15 parcel and stated that development was to begin within 24 months "if market conditions do not  
16 worsen."

17          11.    On January 28, 2009, Staff filed a memorandum in response to the Company's third  
18 request for an extension of time to comply with Decision No. 68442. Staff weighed the pros and  
19 cons for a further extension of time for the Company to meet the compliance requirements for the  
20 third parcel and pointed out that the third parcel consists of only 160 acres and is essentially  
21 surrounded by, and is adjacent to, the Company's existing certificated service area. Staff ultimately  
22 concluded that the requested extension of time is in the best interest of all of the parties, adding that it  
23 would not be economically or operationally feasible for a water provider other than the Company to  
24 provide service. Staff therefore recommended approval of the Company's request.

25          12.    On March 17, 2009, the Commission issued Decision No. 70844 approving an  
26 extension of time until February 2, 2011, to file the required documentation for Parcel Three aka the  
27 Vail parcel.

28          13.    On November 17, 2010, the Company filed a further request for an additional two-

1 year extension of time, until February 2, 2013, to file the required documentation for Parcel Three  
2 due to the "severe economic recession" which had a "particularly adverse effect on Arizona real  
3 estate." The Company further related that it has secured a Physical Availability Determination  
4 ("PAD") from ADWR, a precursor to securing a CAWS from the same agency. Lastly, the Company  
5 provided a copy of an updated request for water service from the developer of Parcel Three.

6 14. On February 18, 2011, Staff filed a memorandum in response to the Company's  
7 request for an extension of time to file the required documentation for Parcel Three. Staff did not  
8 object to the requested extension in light of the Company's compliance with respect to Parcels One  
9 and Two and recommended approval of the extension, until February 2, 2013, to file the required  
10 documentation as set forth in Findings of Fact No. 2.

11 15. Staff further recommended that no additional extensions be granted.

12 16. On April 7, 2011, the Commission issued Decision No. 72247, which approved the  
13 Company's November 17, 2010, request for an additional extension of time until February 2, 2013, to  
14 file the required documentation for Parcel Three aka the Vail Parcel. The Commission further stated  
15 that it was putting the Company on notice that any future requests for an extension of time to comply  
16 must demonstrate that extraordinary circumstances existed that warranted an approval of an extension  
17 of time.

18 17. On February 7, 2013, the Company filed a request for a fourth extension of time, for  
19 an additional two years, until February 2, 2015, to meet the compliance requirements for Parcel  
20 Three.

21 18. In support of the request herein, the Company states as follows:

- 22
- 23 ● the Company has substantially complied with the requirements of the Decision No. 68442, and the remaining compliance requirements concern only Parcel Three;
  - 24 ● the Company is currently serving 14 customers in the expansion area approved by the  
25 Decision No. 68442;
  - 26 ● the deep recession and real estate crash over the past several years (essentially, the  
27 entire time that Decision No. 68442 has been in effect) are extraordinary  
28 circumstances that have not been seen since the Great Depression. The severe  
economic downturn that has battered the Arizona real estate market persists, and  
continues to delay the development of residential and mixed-use development in

1 expects to serve additional customers in the expansion area within the next few years  
2 and no one, including housing experts and economists, can say for sure when the real  
estate market will see a recovery of any significance;

- 3 • the Commission's Staff observed in evaluating Willow Valley Water Company's  
4 request for additional time recommended approval in Docket No. W-1732A-05-0532  
5 resulting in Decision No. 71861 (September 1, 2010) that "... the downturn in the  
economy has put a damper on much of the development in this state;"
- 6 • ADWR has approved a PAD for an area that includes the entire expansion area. The  
7 PAD, as approved by ADWR, confirms the ADWR's determination that a sufficient  
8 amount of groundwater is physically available for 100 years for assured water supply  
9 purposes in the PAD study area, which includes the entire extension area and that the  
10 water is of adequate quality. The Company submits that approval of the PAD satisfies  
11 the policy objectives behind the condition of obtaining a CAWS. See, generally,  
12 Decision No. 68722 (July 30, 2007), paragraph 97. In addition, Commission Decision  
13 No. 74146 (May 1, 2012), entered in the Global Certificate dockets, Docket No. W-  
14 01445A-06-0199, et al., is consistent with this acceptance of the PAD; and
- 15 • the real property in Parcel Three is owned by one property owner. The Company has  
16 requested a letter from the property owner, and it will be filed to supplement this  
17 request as soon as the Company receives it. It will document the property owner's  
18 continuing need and request for water service from the Company to be able to develop  
19 its property in the expansion area. The property owner letter will also confirm the  
20 owner's plans to develop its property in reliance upon water service that it plans to  
21 obtain under the Company's Certificate. The continued existence of that Certificate  
22 will support the slowly improving development market that has experienced historic  
23 difficulty, as detailed above, and the withdrawal of the Certificate would be  
24 detrimental to that recovery.

18 19. On February 20, 2013, the Company filed a supplement to its request for an extension  
19 of time along with a copy of a letter from the owner of Parcel Three. The letter confirmed the need  
20 for service and the supplemental pleading further stated that the Company is now providing service to  
21 18 customers in the expansion area.

22 20. On June 14, 2013, Company filed another supplement to its request herein, and  
23 attached a copy of an ATC issued on April 18, 2013, that represents an extension of service to  
24 property located in Parcel Three as required by Decision No. 68442. This filing satisfies one of the  
25 three compliance filing requirements of the Decision.

26 21. On June 28, 2013, Staff filed a memorandum in response to the Company's fourth  
27 request for an extension of time to comply with Decision No. 68442. Staff stated that since the  
28 Company had met the requirements for Parcels One and Two, and in light of the letter from the

1 owner of Parcel Three, the extension should be granted until February 2, 2015, but no further  
2 extensions be granted for any reason.

3 22. Under the circumstances, as noted herein, and in light of the ATC granted for Parcel  
4 Three, the extension should be granted as requested until February 2, 2015.

5 **CONCLUSIONS OF LAW**

6 1. The Company is a public service corporation within the meaning of article XV of the  
7 Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-282.

8 2. The Commission has jurisdiction over the Company and the subject matter of the  
9 request addressed herein.

10 3. Staff's recommendation for the extension of time to file copies of the remaining  
11 required documentation as set forth above in Findings of Fact No. 2 should be adopted.

12 **ORDER**

13 IT IS THEREFORE ORDERED the Arizona Water Company is hereby granted an extension  
14 of time, until February 2, 2015, to file copies of the remaining required documents for Parcel Three,  
15 as set forth in Decision No. 68442, Decision No. 70844 and Decision No. 72247, as follows: the  
16 developer's Certificate of Assured Water Supply; and any executed main extension agreements.

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1 IT IS FURTHER ORDERED that no further extension to file the aforementioned  
2 documentation shall be granted absent extraordinary circumstances.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
5

6  
7 CHAIRMAN \_\_\_\_\_ COMMISSIONER

8  
9 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER

10 IN WITNESS WHEREOF, I, JODI A. JERICH, Executive  
11 Director of the Arizona Corporation Commission, have  
12 hereunto set my hand and caused the official seal of the  
13 Commission to be affixed at the Capitol, in the City of Phoenix,  
14 this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

15 JODI A. JERICH \_\_\_\_\_  
16 EXECUTIVE DIRECTOR

17 DISSENT \_\_\_\_\_

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19 DISSENT \_\_\_\_\_

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