

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

OPEN MEETING ITEM



0000150836

ARIZONA CORPORATION COMMISSION

ORIGINAL

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

DATE: JANUARY 16, 2014
DOCKET NO.: W-03948A-06-0490

2014 JAN 16 AM 9 24

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane L. Rodda. The recommendation has been filed in the form of an Order on:

EMPIRITA WATER COMPANY, L.L.C.
(ORDER EXTENDING DEADLINE IN DECISION NOS. 69399, 70476, AND 71222)

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:

JANUARY 27, 2014

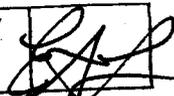
The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

FEBRUARY 6, 2014 and FEBRUARY 7, 2014

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

JAN 16 2014

DOCKETED BY 


JODI JERICH
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347
www.azcc.gov

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SBernal@azcc.gov.

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

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

IN THE MATTER OF THE APPLICATION OF
 EMPIRITA WATER COMPANY, L.L.C. FOR AN
 EXTENSION OF ITS CERTIFICATE OF
 CONVENIENCE AND NECESSITY.

DOCKET NO. W-03948A-06-0490

DECISION NO. _____

**ORDER EXTENDING TIME
 DEADLINE IN DECISION NOS.
 69399, 70476, AND 71222**

Open Meeting
 February 6 and 7, 2014
 Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. In Decision No. 69399 (March 29, 2007), the Commission issued an "Order Preliminary" to the issuance of a Certificate of Convenience and Necessity ("CC&N") for Empirita Water Company L.L.C. ("Empirita" or "Company").
2. As part of Decision No. 69399, the Commission ordered Empirita to file "copies of the AOC issued by ADEQ for the water plant additions needed to serve the Redhawk II development within one year of the effective date of the order granting the CC&N."¹
3. Decision No. 70476 (September 3, 2008) granted the CC&N to Empirita, and thus the due date for Empirita to file copies of its AOC for the Redhawk II development was established as September 3, 2009.

¹ An "AOC", or Approval of Construction is issued by the Arizona Department of Environmental Quality ("ADEQ") upon the completion of certain utility plant.

1 4. Decision No. 71222 (August 6, 2009) subsequently extended the September 3, 2009
2 due date until September 2, 2011, and Decision No. 72372 (May 27, 2011) further extended the due
3 date until September 3, 2013.

4 5. On August 29, 2013, Empirita docketed a Motion that requested a further six month
5 extension of time, until March 3, 2014, to file the AOC. The Company had completed the
6 construction the 150,000 gallon reservoir for Redhawk II in the 2008-09 time period, but did not
7 install the pump, pipes and electrical equipment necessary for functionality at that time, preferring to
8 wait and avoid exposure to the elements until the facilities were actually needed. In 2013, the
9 Company began the process of installing the remaining plant and enclosing the reservoir, but ADEQ
10 required resubmission of the previously-approved plan for construction. The Company states that it
11 resubmitted the plans to ADEQ which spent additional time reviewing the materials, and which
12 caused Empirita to delay ordering the required equipment until the Company was certain that ADEQ
13 would approve the resubmitted plans. Although ADEQ approved the resubmitted plants, the resulting
14 Approval to Construct ("ATC") was not received by Empirita until August 14, 2013, and the
15 Company learned that the ordered equipment would not arrive until the end of September 2013,
16 which meant that the Company could not comply with the September 3, 2013 deadline.
17 Consequently, the Company requested another six months to complete construction and file the AOC.

18 6. On January 3, 2014, Staff filed a Memorandum in Response to the Company's request
19 for an extension. Staff does not object to an extension of time for Empirita to provide the AOC for
20 the water plant additions needed to serve the Redhawk II development. In discussions between Staff
21 and counsel for Empirita, the Company amended its request to include an additional 30 days, and
22 thus, Staff is recommending that the deadline for filing the AOC be extended until April 30, 2014, to
23 give the Company sufficient time to obtain and file the AOC.

24 7. The delay in the development of Redhawk II is not atypical of other developments in
25 Arizona over the past few years. It appears that progress is being made toward completing the
26 project. Under the circumstances as reported in the Motion and Staff Memorandum, Empirita's
27 requested extension it is reasonable.

28

CONCLUSIONS OF LAW

- 1. Empirita is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.
- 2. The Commission has jurisdiction over Empirita and the subject matter of the Motion.
- 3. An extension of time to comply with the requirements of Decision Nos. 69399, 71222, 72372 and as discussed herein, is fair and reasonable and in the public interest.

ORDER

IT IS THEREFORE ORDERED that that the deadline for Empirita Water Company, L.L.C. to file the Approval of Construction, as required by Decision Nos. 69399, 70476, and 71222 is extended to April 30, 2014.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	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 _____ 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
JR:tv

1 SERVICE LIST FOR: EMPIRITA WATER COMPANY, LLC

2 DOCKET NO.: W-03948A-06-0490

3 Lawrence V. Robertson, Jr.
4 P.O. Box 1448
5 Tubac, AZ 85646
6 Attorney for Empirita Water Company

7 Jim Vermilyea, Manager
8 EMPIRITA WATER COMPANY, LLC
9 2090 North Kolb Road, Suite 120
10 Tucson, AZ 85715

11 Mary McCool
12 3111 West Clark Road
13 Benson, AZ 85602

14 Janice Alward, Chief Counsel
15 Legal Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, AZ 85007

19 Steven M. Olea, Director
20 Utilities Division
21 ARIZONA CORPORATION COMMISSION
22 1200 West Washington Street
23 Phoenix, AZ 85007

24

25

26

27

28

29

30

31

32

33

34

35

36