

OPEN MEETING ITEM

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



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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: MARCH 24, 2014

DOCKET NO.: W-02169A-13-0254

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

HARRISBURG UTILITY COMPANY, INC.
(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:

APRIL 2, 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:

APRIL 8, 2014 AND APRIL 9, 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

MAR 24 2014

DOCKETED BY

JODI JERICH
EXECUTIVE DIRECTOR

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

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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
HARRISBURG UTILITY COMPANY, INC., FOR
APPROVAL OF AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER UTILITY
SERVICES IN ARIZONA.

DOCKET NO. W-02169A-13-0254

DECISION NO. _____

OPINION AND ORDER

DATE OF HEARING: December 20, 2013
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey
APPEARANCES: Mr. William Scott, Applicant; and
Mr. Matthew Laudone, Staff Attorney, Legal Division,
on behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

Procedural History

On July 23, 2013, Harrisburg Utility Company, Inc. ("Harrisburg" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for approval of an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water utility service to an area known as the Castle Lakes Subdivision.

On October 1, 2013, the Commission's Utilities Division ("Staff") docketed a Sufficiency Letter indicating that Harrisburg's application had met the sufficiency requirements as outlined in the Arizona Administrative Code ("A.A.C.").

On October 9, 2013, by Procedural Order, the matter was scheduled for hearing and procedural deadlines were established.

On November 18, 2013, Staff filed a request for an extension of time from November 18,

1 2013 to November 20, 2013, to file the Staff Report.

2 On November 19, 2013, Staff filed a Staff Report recommending approval of the application
3 with conditions.

4 On November 21, 2013, Harrisburg filed an affidavit of publication and mailing of notice of
5 the application and hearing date.

6 On December 20, 2013, a full public hearing was held as scheduled before a duly authorized
7 Administrative Law Judge of the Commission. Staff appeared through counsel and Mr. William Scott
8 appeared on behalf of Harrisburg.

9 * * * * *

10 Having considered the entire record herein and being fully advised in the premises, the
11 Commission finds, concludes, and orders that:

12 **FINDINGS OF FACT**

13 1. Harrisburg, formerly known as Keaton Development Company,¹ is a public service
14 corporation in good standing with the Commission's Corporation's Division.

15 2. Harrisburg is an Arizona "S" corporation, providing water utility services and located
16 in the Town of Salome in La Paz County, Arizona.

17 3. The Company's CC&N area encompasses approximately three square miles and
18 serves approximately 501 connections.

19 4. On July 23, 2013, Harrisburg filed an application to extend its existing CC&N to
20 include a 7 acre parcel of land known as Castle Lakes Subdivision, which is more fully described in
21 Attachment A, attached hereto and incorporated herein.

22 5. Notice of the application was provided in accordance with the law.

23 6. Staff recommends approval of the application with conditions. Staff also
24 recommends:

25 a. Harrisburg implement five Best Management Practice ("BMP") tariffs and that
26 Harrisburg notify its customers, in a form acceptable to Staff, of the BMP tariffs authorized in this
27

28 ¹ Keaton received its initial CC&N in Decision No. 41705 (November 12, 1971).

1 matter and their effective date by means of either an insert in the next regularly scheduled billing or
 2 by a separate mailing, and that the Company provide copies of the BMP tariffs to any customer, upon
 3 request.

4 7. The Company's witness testified that Harrisburg is in agreement with all of Staff's
 5 recommendations.²

6 8. The Company's requested extension area encompasses approximately 7 acres and
 7 includes 36 lots in the Castle Lakes Subdivision. According to Staff, all lots in Phase I and II of the
 8 Castle Lakes Subdivision have been sold, but that the utilities to support the lots have not been built.
 9 Harrisburg's existing mainline water supply runs adjacent to the 36 lots in the proposed extension
 10 area.

11 9. Harrisburg provided four requests for service, and Staff confirmed that the requests
 12 cover 100 percent of the requested extension area.³

13 10. Harrisburg's application states that service in the proposed extension area will be
 14 provided by installing ¾-inch service lines to the 36 lots in the Castle Lakes Subdivision and
 15 connecting the service lines to Harrisburg's existing 6-inch mainline.⁴ Harrisburg's current tariff
 16 states its Service Line and Meter Installation charge is \$455 for ¾-inch meter sizes.⁵ Harrisburg
 17 will charge its tariff rate to cover the costs associated with installing the ¾-inch service lines.⁶

18 11. Staff reviewed the proposed costs for the service line connections in the extension area
 19 and found them appropriate and reasonable. However, Staff did not make a "used and useful"
 20 determination for the proposed plant-in-service and stated that no conclusions should be inferred for
 21 ratemaking or rate base purposes in the future.⁷

22 Existing Water System

23 12. Harrisburg's water system includes two wells, producing approximately 255 gallons
 24 per minute ("GPM"); three storage tanks (one 20,000 gallon and two 14,000 gallon); and a
 25

26 ² Tr. at 7.

27 ³ Exhibit A-1 at Attachment 9 and Exhibit S-1 at Executive Summary.

28 ⁴ Id. at Attachment 5.

⁵ Id. 1 at Attachment 6.

⁶ \$455 x 36 lots for a total of \$16,380.

⁷ Exhibit S-1 at Attachment A.

1 distribution system serving 501 connections.⁸

2 13. The Arizona Department of Environmental Quality ("ADEQ") has determined that
3 Harrisburg's drinking water system is delivering water that meets water quality standards as required
4 by the A.A.C.⁹

5 14. The Company is not located within any Active Management Area ("AMA") and is not
6 subject to Arizona Department of Water Resources ("ADWR") reporting and conservation
7 requirements. According to Staff, ADWR reported that Harrisburg is in compliance with
8 departmental requirements governing water providers and/or community water systems.¹⁰

9 15. There are no delinquent A.C.C. compliance issues for Harrisburg.

10 16. Harrisburg has approved Curtailment Plan and Backflow Prevention tariffs on file
11 with the Commission.

12 17. Staff concludes that Harrisburg's existing water system has adequate capacity to serve
13 its existing customers and reasonable growth (including the proposed CC&N extension area) and that
14 granting the CC&N extension is in the public interest.¹¹

15 18. Harrisburg is current on its property taxes in Arizona.¹²

16 **Analysis**

17 19. Staff recommends that Harrisburg file five BMPs as a compliance item in this matter.
18 Although the Company has agreed with Staff's recommendation, we find that it is not in the public
19 interest at this time to require Harrisburg to adopt BMPs and file related tariffs. Our finding in this
20 matter is consistent with a previous Commission Decision, where a utility located outside of an
21 A.M.A., was not required to adopt BMPs or required to file BMP tariffs with the Commission.¹³

22 20. Further, because an allowance for the property tax expense is included in the
23 Company's rates and will be collected from its customers, the Commission seeks assurances from the
24 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing
25

26 ⁸Exhibit S-1 at Attachment A.

⁹ ADEQ Compliance Status Report dated November 3, 2013.

¹⁰ ADWR Compliance Section email dated October 21, 2013.

¹¹ Exhibit S-1 at Attachment A and Tr. at 15.

¹² Tr. at 12.

¹³ See, Decision No. 74391 (March 19, 2014).

1 authority. It has come to the Commission's attention that a number of water companies have been
2 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,
3 some for as many as twenty years. It is reasonable, therefore, that as a preventative measure,
4 Harrisburg shall annually file, as part of its annual report, an affidavit with the Utilities Division
5 attesting that the Company is current in paying its property taxes in Arizona.

6 **CONCLUSIONS OF LAW**

7 1. Harrisburg Utility Company is a public service corporation within the meaning of
8 Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282, and 40-285.

9 2. The Commission has jurisdiction over Harrisburg Utility Company and the subject
10 matter of this application.

11 3. Notice of the application was provided in accordance with the law.

12 4. There is a public need and necessity for water in the proposed extension area
13 described in Exhibit A, attached hereto and incorporated herein by reference.

14 5. Harrisburg Utility Company is a fit and proper entity to receive an extension of its
15 CC&N.

16 **ORDER**

17 IT IS THEREFORE ORDERED that the application of Harrisburg Utility Company for an
18 extension of its Certificate of Convenience and Necessity to provide water utility services to the areas
19 described in Exhibit A, attached hereto and incorporated herein by reference, is hereby approved.

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1 IT IS FURTHER ORDERED that Harrisburg Utility Company shall annually file as part of its
2 annual report, an affidavit with the Utilities Division attesting that it is current on its property taxes in
3 Arizona.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6
7
8 CHAIRMAN _____ COMMISSIONER

9
10 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER

11
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this _____ day of _____ 2014.

17 JODI JERICH
EXECUTIVE DIRECTOR

18 DISSENT _____

19
20 DISSENT _____
21 YK:ru

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1 SERVICE LIST FOR: HARRISBURG UTILITY COMPANY, INC.

2 DOCKET NO.: W-02169A-13-0254

3 William S. Scott
4 HARRISBURG UTILITY COMPANY, INC.
5 P.O. Box 905
6 Salome, AZ 85348

7 Janice Alward, Chief Counsel
8 Legal Division
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, AZ 85007

12 Steven M. Olea, Director
13 Utilities Division
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington Street
16 Phoenix, AZ 85007

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EXHIBIT A

Those parcels of land situated in the North 1/2 of Section 27, Township 5 North, Range 13 West, Gila and Salt River Meridian, La Paz County, Arizona, being shown as Lots 515 through 519 and Lots 551 and 552 and Lots 555 through 557 and Lots 559 through 564 and Lots 566 through 569 and Lots 570 through 583, Castle Lakes Unit 1, Book 6 of Maps, Page 19 (R1), Official Records of Yuma (now La Paz) County, Arizona, and being more particularly described as follows:

Commencing for reference at a 1/2" rebar at the NW corner said Section 27;
 Thence S89°55'15"E along the Northerly line of said Section 27 [centerline of 65 th. Street (R1)] a distance of 75.13 feet;
 Thence S0°04'45"W a distance of 40.00 feet to a point on the Southerly line of said 65th. Street (R1) [Northerly line of said Lot 583 (R1)], said point also being the POINT OF BEGINNING;
 Thence S89°55'15"E, parallel with and 40.00 feet Southerly of the Northerly line of said Section 27 [along the Southerly line of said 65th. Street (R1)], a distance of 1048.60 feet to a point on the North line of said Lot 570 (R1) at the beginning of a curve to the right, concave to the Southwest, having a radius of 25.00 feet and a central angle of 90°00'00";
 Thence Southeasterly along said curve [Northeasterly line of said Lot 570 (R1)] an arc distance of 39.27 feet;
 Thence S00°04'45"W a distance of 85.00 feet to the Southeast corner of said Lot 570 (R1);
 Thence N89°55'15"W a distance of 1098.43 feet to the Southwest corner of said Lot 583 (R1), said corner also being a point on the Easterly right-of-way line of Harquahala Road (R1);
 Thence N0°02'00"W, parallel with and 50.00 feet Easterly of the Westerly line of said Section 27 [along said Easterly line of Harquahala Road (R1)] [along the Westerly line of said Lot 583 (R1)], a distance of 84.95 feet to the beginning of a curve to the right, concave to the Southeast, having a radius of 25.00 feet and a central angle of 90°06'45";
 Thence Northeasterly along said curve [Northwesterly line of said Lot 583 (R1)] an arc distance of 39.32 feet to the POINT OF BEGINNING.
 Containing 2.78 Acres (120570.03 Sq.ft.), more or less.

AND

Commencing for reference at a 1/2" rebar at the NW corner of said Section 27;
 Thence S89°55'15"E along the Northerly line of said Section 27 [centerline of 65 th. Street (R1)] a distance of 1223.73 feet;
 Thence S0°04'45"W a distance of 40.00 feet to a point on the Southerly line of said 65th. Street (R1) [on the North line of said Lot 569 (R1)], said point also being the POINT OF BEGINNING;
 Thence S89°55'15"E, parallel with and 40.00 feet Southerly of the North line of said Section 27 [along the Southerly line of said 65 th. Street (R1)], a distance of 275.00 to the Northeast corner of said Lot 566 (R1);
 Thence S0°04'45"W a distance of 110.00 feet to the Southeast corner of said Lot 566 (R1);
 Thence N89°55'15"W a distance of 300.00 feet to the Southwest corner of said Lot 569 (R1);
 Thence N0°04'45"E along the Westerly line of said Lot 557 (R1) a distance of 85.00 feet to the beginning of a curve to the right, concave to the Southeast, having a radius of 25.00 feet and a central angle of 90°00'00";
 Thence Northeasterly along said curve [Northwesterly line of said Lot 569 (R1)] an arc distance of 39.27 feet to the POINT OF BEGINNING.
 Containing 0.75 Acres (32865.81 Sq.ft.), more or less.
 (CONT.)

AND

Commencing for reference at a 1/2" rebar at the NW corner of said Section 27;
 Thence S89°55'15"E along the North line of said Section 27 [centerline of 65 th. Street (R1)] a distance of 1572.73 feet;
 Thence S0°04'45"W a distance of 40.00 feet to a point on the Southerly line of said 65th. Street (R1) at the Northwest corner of said Lot 564 (R1), said point also being the POINT OF BEGINNING;
 Thence S89°55'15"E, parallel with and 40.00 feet Southerly of the North line of said Section 27 [along the Southerly line of said 65 th. Street (R1)], a distance of 444.00 feet to the Northeast corner of said Lot 559 (R1);
 Thence S00°04'45"W a distance of 110.00 feet to the Southeast corner of said Lot 559 (R1);
 Thence N89°55'15"W a distance of 444.00 feet to the Southwest corner of said Lot 564 (R1);
 Thence N00°04'45"E a distance of 110.00 feet to the POINT OF BEGINNING.
 Containing 1.12 Acres (48839.91 Sq.ft.), more or less.

AND

Commencing for reference at a 1/2" rebar at the NW corner of said Section 27;
 Thence S89°55'15"E along the North line of said Section 27 [centerline of 65 th. Street (R1)] a distance of 2090.73 feet;
 Thence S0°04'45"W a distance of 40.00 feet to a point on the Southerly line of said 65th. Street (R1) at the Northwest corner of said Lot 557 (R1), said point also being the POINT OF BEGINNING;
 Thence S89°55'15"E a distance of 222.00 feet to the Northeast corner of said Lot 555 (R1);
 Thence S00°04'45"W a distance of 110.00 feet to the Southeast corner of said Lot 555 (R1);
 Thence N89°55'15"W a distance of 222.00 feet to the Southwest corner of said Lot 557 (R1);
 Thence N00°04'45"E to the POINT OF BEGINNING.
 Containing 0.56 Acres. (24419.96 Sq.ft.), more or less.

AND

Commencing for reference at a 1/2" rebar at the NW corner of said Section 27;
 Thence S89°55'15"E along the North line of said Section 27 [centerline of 65 th. Street (R1)] a distance of 2460.73 feet;
 Thence S0°04'45"W a distance of 40.00 feet to a point on the Southerly line of said 65th. Street (R1) at the Northwest corner of said Lot 552 (R1), said point also being the POINT OF BEGINNING;
 Thence S89°55'15"E a distance of 128.00 feet to a point on the North line of said Lot 551 (R1) at the beginning of a curve to the right, concave to the Southwest, having a radius of 25.00 feet and a central angle of 90°00'00";
 Thence Southeasterly along said curve [Northeasterly line of said Lot 551 (R1)] an arc distance of 39.27 feet;
 Thence S00°04'45"W a distance of 85.00 feet to the Southeast corner of said Lot 551 (R1);
 Thence N89°55'15"W a distance of 153.00 feet to the Southwest corner of said Lot 552 (R1);
 Thence N00°04'45"E a distance of 110.00 feet to the POINT OF BEGINNING.
 Containing 0.38 Acres. (16695.84 Sq.ft.), more or less.
 (CONT.)

AND

Commencing for reference at a 1/2" rebar at the NW corner of said Section 27;

Thence S89°55'15"E along the North line of said Section 27 [centerline of 65 th. Street (R1)] a distance of 1720.73 feet;

Thence S0°04'45"W a distance of 166.00 feet to the Northwest corner of said Lot 515 (R1), said corner also being the POINT OF BEGINNING;

Thence S89°55'15"E a distance of 370.00 feet to the Northeast corner of said Lot 519 (R1);

Thence S00°04'45"W a distance of 110.00 feet to the Southeast corner of said Lot 519 (R1);

Thence N89°55'15"W a distance of 370.00 feet to the Southwest corner of said Lot 515 (R1);

Thence N00°04'45"E a distance of 110.00 feet POINT OF BEGINNING.

Containing 0.93 Acres. (40699.92 Sq.ft.), more or less.

Containing in total 6.445940 Acres (284091.39 Sq. ft.), more or less.

BASIS OF BEARINGS AND DISTANCES per the plat of Castle Lakes Unit 1, Book 6 of Maps, Page 19 (R1), Official Records of Yuma (now La Paz) County, Arizona.

DECISION NO. _____