



0000152453

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

APR 15 2014

2014 APR 15 A 10:54

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DOCKETED BY

ORIGINAL

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
 RANCHO SAHUARITA WATER COMPANY,
 L.L.C. FOR THE TRANSFER OF ITS
 CERTIFICATE OF CONVENIENCE AND
 NECESSITY TO SAHUARITA WATER
 COMPANY, L.L.C. AND EXTENSION OF THE
 CERTIFICATE OF CONVENIENCE AND
 NECESSITY FOR WATER SERVICE.

DOCKET NO. W-03718A-07-0687

PROCEDURAL ORDER

BY THE COMMISSION:

On November 19, 2008, the Arizona Corporation Commission ("Commission") issued Decision No. 70620, granting Rancho Sahuarita Water Company, L.L.C.'s request to transfer its Certificate of Convenience and Necessity ("CC&N") to Sahuarita Water Company, L.L.C. ("Sahuarita" or "Company"), and for a CC&N extension. The approved CC&N extension covered three parcels from three different owners: Mission Peaks 4000, L.L.C. ("Mission Peaks"), Sahuarita Mission Partners ("SMP"), and the Arizona State Land Department ("ASLD"). Residential subdivisions had been planned for the three parcels.

Pursuant to Decision No. 70620, Sahuarita was required to file within three years of the effective date of the Decision "copies of the Approval to Construct from the Arizona Department of Environmental Quality for well(s), storage tanks(s), booster pump station(s), and the distribution system necessary to serve the initial subdivision in the extension area."¹ Based on the effective date of the Decision, the Approval to Construct ("ATC") should have been filed by November 19, 2011.

On November 4, 2011, Sahuarita docketed a motion requesting an extension of time to file the ATC. In its motion, the Company stated that, because of the depressed real estate market, Mission Peaks terminated its project and sold its parcel to Freeport-McMoRan Copper and Gold ("Freeport-

¹ Decision No. 70620, page 11.

1 McMoRan”). SMP and ASLD were also re-evaluating development of their respective parcels and
2 their plans had not been finalized. Nevertheless, attached to the motion were letters from Freeport-
3 McMoRan, SMP and ASLD indicating they preferred Sahuarita to continue to be the future water
4 provider for their respective parcels. Sahuarita stated it still wished to provide water service within
5 the CC&N extension areas.

6 Decision No. 73157 (May 18, 2012), granted the motion and extended the compliance
7 deadline for the ATC to November 19, 2013.

8 On November 4, 2013, Sahuarita filed a Motion for Extension of Compliance Date
9 (“Motion”). According to the Motion, the 2008 economic downturn continued to delay development
10 in Sahuarita’s certificated area and the planned projects had not moved forward. The Company also
11 related that ASLD sold its parcel to ASARCO, L.L.C. (“ASARCO”). Sahuarita attached to the
12 Motion a letter from SMP stating SMP still plans to develop its parcel and it supports Sahuarita’s
13 Motion for Extension. The Company stated that although its request specifically relates to the SMP
14 parcel, and although Sahuarita had not received letters from Freeport-McMoRan or ASARCO
15 renewing requests for service from the Company, Sahuarita supports an extension of the filing
16 deadline for the entire CC&N extension area approved in Decision No. 70620.

17 Sahuarita noted that it has satisfied all other requirements of the Decision and requested that
18 the Commission grant an extension of time to file the ATC for an additional five years, to November
19 19, 2018.

20 On January 17, 2014, the Commission’s Utilities Division (“Staff”) filed a Memorandum
21 recommending approval of Sahuarita’s Motion to extend the ATC filing deadline for the SMP parcel.
22 However, Staff recommended that the extension should be approved for only two years, rather than
23 five, and that no further extensions of time should be granted in this matter. Additionally, Staff
24 recommended that since Sahuarita had not received updated requests for service from the owners of
25 the two remaining parcels, the Motion should be denied for those areas and the property should be
26 deleted from the CC&N extension granted in Decision No. 70620.

27 On January 24, 2014, Sahuarita docketed its Reply to Staff’s Response to Sahuarita’s Motion
28 for Extension of Compliance Date. The Company asserted that its request for a five-year extension

1 was not unreasonable given the current state of the economy and noted that SMP has consistently
2 affirmed its intention to move forward with the development of its parcel once the real estate market
3 has improved. Alternatively, Sahuarita requested that if a two-year extension is granted, the
4 Company should be allowed to file another extension request before that extension expires, if
5 necessary.

6 Pursuant to a Procedural Order docketed March 26, 2014, a procedural conference was held
7 on April 10, 2014, to address the possible deletion of the Freeport – McMoRan parcel and the
8 ASARCO parcel from Sahuarita's certificated area. The parties discussed whether the property
9 owners had received sufficient notice of the possible removal of their parcels from the Company's
10 CC&N. The parties agreed that written notice should be provided to the parcels' owners.

11 IT IS THEREFORE ORDERED that Sahuarita Water Company, L.L.C. shall confirm there
12 are no other property owners within the two parcels being considered for deletion.

13 IT IS FURTHER ORDERED that Sahuarita Water Company, L.L.C. shall mail by both First
14 Class U.S. Mail and Certified U.S. Mail to all property owners within the affected two parcels a letter
15 explaining the background of this matter and the facts at issue, and advising them that:

- 16 • Commission Staff has recommended that their parcel be deleted from Sahuarita Water
17 Company, L.L.C.'s CC&N;
- 18 • If their parcels are deleted, Sahuarita Water Company, L.L.C. will no longer be the exclusive
19 provider of water service for that property;
- 20 • The property owners have 45 days from the date of the letter to respond in writing indicating
21 whether the property owners wish Sahuarita Water Company, L.L.C. to continue to be the
22 water service provider for the parcels;
- 23 • If the property owners do not respond in writing within 45 days of the letter's date, the
24 Company and Commission Staff may conclude that the property owners are no longer
25 interested in having Sahuarita Water Company, L.L.C. as the exclusive water provider for
26 their parcels; and,
- 27 • Sahuarita should provide contact information for both the Company and Commission Staff in
28 case the property owners have questions about the information contained in the letter.

1 IT IS FURTHER ORDERED that Sahuarita Water Company, L.L.C. shall file with Docket
2 Control, within five days of mailing, copies of the letters mailed to each property owner, and an
3 affidavit averring that the addressees are the sole property owners within the areas sought to be
4 deleted from the CC&N.

5 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
6 Communications) applies to this proceeding and shall remain in effect until the Commission's
7 Decision in this matter is final and non-appealable.

8 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
9 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
10 hearing.

11 Dated this 14th day of April, 2014.

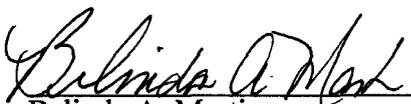
12 
13 BELINDA A. MARTIN
14 ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered
16 this 14th day of April, 2014, to:

17 Jason D. Gellman
18 ROSHKA DeWULF & PATTEN, PLC
19 One Arizona Center
20 400 East Van Buren Street, Suite 800
21 Phoenix, AZ 85004

22 Janice Alward, Chief Counsel
23 Legal Division
24 ARIZONA CORPORATION COMMISSION
25 1200 West Washington Street
26 Phoenix, AZ 85007

27 Steven M. Olea, Director
28 Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

By: 
Belinda A. Martin