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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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COMMISSIONERS

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

DOCKET NO. W-03718A-07-0687

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.

ORIGINAL

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 filing deadline for the Approval to Construct (“ATC”) was November 19, 2011.

On November 4, 2011, Sahuarita docketed a motion requesting an extension of time to file the ATC to November 19, 2013. 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

¹ Decision No. 70620, page 11.

1 Copper and Gold, Inc. ("Freeport-McMoRan"). SMP and ASLD were also re-evaluating
2 development of their parcels. Nevertheless, attached to the motion were letters from Freeport –
3 McMoRan, SMP and ASLD indicating they preferred Sahuarita to be the future water provider for
4 their respective parcels. Sahuarita stated it still wished to provide water service.

5 In Decision No. 73157 (May 18, 2012), the Commission granted the Company's request and
6 extended the compliance deadline for the ATC to November 19, 2013.

7 On November 4, 2013, Sahuarita filed a Motion for Extension of Compliance Date
8 ("Motion"). According to the Motion, the 2008 economic downturn continued to delay development
9 in Sahuarita's certificated area and the planned projects had not moved forward. The Company
10 attached a letter from SMP stating SMP still plans to develop its parcel and supports Sahuarita's
11 Motion. Sahuarita related that ASLD sold its parcel to ASARCO, L.L.C. ("ASARCO"). The
12 Company stated that although its request specifically relates to SMP's parcel, and although Sahuarita
13 had not received letters from Freeport-McMoRan or ASARCO renewing requests for service from
14 the Company, Sahuarita supported an extension of the filing deadline for the entire CC&N extension
15 area approved in Decision No. 70620. Sahuarita noted that it has satisfied all other requirements of
16 Decision No. 70260 and requested that the Commission grant an extension of time to file the ATC for
17 an additional five years, to November 19, 2018.

18 On January 17, 2014, the Commission's Utilities Division ("Staff") filed a Memorandum
19 recommending approval of Sahuarita's Motion to extend the ATC filing deadline for the SMP parcel.
20 However, Staff recommended that the extension should be approved for only two years, rather than
21 five, and that no further extensions of time should be granted in this matter. Staff also recommended
22 that since the owners of the two remaining parcels did not renew their requests for water service, the
23 Motion should be denied as to those parcels and the properties should be deleted from the CC&N
24 extension granted in Decision No. 70620.

25 On January 24, 2014, Sahuarita docketed its Reply to Staff's Response to Sahuarita's Motion
26 for Extension of Compliance Date. The Company asserted that its request for a five-year extension
27 was not unreasonable given current economic challenges and noted that SMP has consistently
28 affirmed its intention to move forward with the development of its parcel once the real estate market

1 has improved. Alternatively, Sahuarita requested that if the Commission grants a two-year extension,
2 the Company should not be precluded from filing another extension request, if necessary.

3 Pursuant to a Procedural Order docketed March 26, 2014, a procedural conference was held
4 on April 10, 2014, to address Staff's recommendations. The parties discussed whether the property
5 owners had received sufficient notice of the possible removal of their parcels from the Company's
6 CC&N and agreed that written notice should be provided to the parcels' owners.

7 On April 15, 2014, a Procedural Order was filed directing Sahuarita to confirm there are no
8 other property owners within the ASARCO and Freeport – McMoRan parcels. The Procedural Order
9 also directed the Company to mail letters to property owners within the two parcels advising that: 1)
10 Staff has recommended that the properties be deleted from Sahuarita's CC&N; 2) property owners
11 had 45 days from the date of letter to indicate in writing whether they wish Sahuarita to continue to
12 be the water service provider for the parcels; and 3) if the property owners did not respond in writing
13 within 45 days of the letter's date, the Company and Staff could conclude that the property owners
14 are no longer interested in having Sahuarita as the exclusive water provider for their parcels.

15 On April 23, 2014, Sahuarita submitted a Notice of Filing containing an affidavit averring
16 ASARCO and Freeport – McMoRan were the sole property owners of their respective parcels. The
17 Company attached copies of the letters sent to ASARCO and Freeport – McMoRan dated April 22,
18 2014, containing the information required by the April 15, 2014, Procedural Order. Based on the
19 April 22, 2014, date of Sahuarita's letter, ASARCO's and Freeport – McMoRan's written responses
20 should have been provided on or before June 6, 2014. To date, neither entity has filed correspondence
21 with the Commission's Docket Control.

22 IT IS THEREFORE ORDERED that Sahuarita Water Company, L.L.C. and Commission
23 Staff shall file with Docket Control on or before June 25, 2014, a Joint Notice indicating whether
24 ASARCO, L.L.C. and Freeport-McMoRan Copper and Gold, Inc. provided written responses to the
25 Company's April 22, 2014, letter and, if so, shall attach copies of the responses.

26 IT IS FURTHER ORDERED that if ASARCO, L.L.C. and Freeport-McMoRan Copper and
27 Gold, Inc. did not respond to Sahuarita Water Company, L.L.C.'s April 22, 2014, letter, the Company
28 and Commission Staff shall file with Docket Control on or before June 25, 2014, a Joint Notice

1 stating whether or not, and why, Sahuarita Water Company, L.L.C. and Commission Staff believe
2 deletion of ASARCO, L.L.C.'s and Freeport-McMoRan Copper and Gold, Inc.'s parcels from
3 Sahuarita Water Company, L.L.C. certificated area is in the public interest.

4 IT IS FURTHER ORDERED that if Sahuarita Water Company, L.L.C. and Commission Staff
5 believe the parcels should be deleted from the Company's certificated area, they shall attach to the
6 Joint Notice the parcels' correct legal descriptions and identify each parcel's owner.

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

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

13 Dated this 17th day of June, 2014.



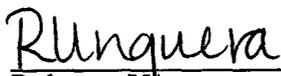
BELINDA A. MARTIN
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 17th day of June, 2014, to:

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