

OPEN MEETING ITEM



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



ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: September 23, 2014

DOCKET NO.: SW-02563A-14-0058

ORIGINAL

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:

LIVCO SEWER COMPANY
(SALE OF ASSETS/CC&N CANCELLATION)

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:

OCTOBER 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:

OCTOBER 16, 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

SEP 23 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 SABernal@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
LIVCO SEWER COMPANY FOR APPROVAL OF
THE SALE OF ASSETS AND FOR
CANCELLATION OF THE CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. SW-02563A-14-0058

DECISION NO. _____

OPINION AND ORDER

DATE OF HEARING: July 9, 2014
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey
APPEARANCES: Mr. Steven Wene, MOYES SELLERS & HENDRICKS LTD, on behalf of Applicant; and
Mr. Brian Smith, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On February 25, 2014, Livco Sewer Company (“Livco” or “Company”) filed with the Arizona Corporation Commission (“Commission”) an application for approval of the sale of its assets to the Concho Wastewater Improvement District (“CWID”) and for the cancellation of Livco’s Certificate of Convenience and Necessity (“CC&N”) to provide wastewater treatment service in Arizona.

On March 25, 2014, the Commission’s Utilities Division (“Staff”) docketed an Insufficiency Letter requesting additional information regarding Livco’s application.

On April 15, 2014, Livco filed a Response to Staff’s Insufficiency Letter.

On April 24, 2014, Staff filed a Sufficiency Letter stating that the Company’s application had met the sufficiency requirements as outlined in the Arizona Administrative Code (“A.A.C.”).

1 On April 29, 2014, by Procedural Order, the hearing on the application was scheduled to
2 commence on July 9, 2014, and other procedural deadlines were established.

3 On May 23, 2014, Staff filed a Staff Report in this matter, recommending approval of Livco's
4 application.

5 On June 5, 2014, the Company docketed a Filing of Customer Notices that purported to
6 contain an affidavit of publication and a copy of the public notice filed in this matter.

7 On June 11, 2014, by Procedural Order, Livco was directed to re-file its affidavit of
8 publication because the notice was illegible.

9 On June 16, 2014, Livco filed a Response to the Staff Report, stating that the Company was in
10 agreement with Staff's recommendations.

11 On June 20, 2014, Livco re-filed its affidavit of publication showing that public notice of the
12 application had been published in the *White Mountain Independent*, a newspaper of general
13 circulation on May 16, 2014, and certification that notice had been mailed to each customer in the
14 Company's CC&N area.

15 On July 9, 2014, a full public hearing was convened before a duly authorized Administrative
16 Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. Livco and Staff appeared
17 through counsel at the hearing and presented evidence and testimony. No members of the public
18 appeared to give public comments.

19 * * * * *

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

22 **FINDINGS OF FACT**

23 1. Livco is an Arizona corporation providing wastewater service to approximately 29
24 customers in Concho Valley, Arizona.

25 2. Livco's service territory is located approximately 18 miles southwest of St. Johns,
26 Apache County, Arizona.

27 3. The customers of Livco filed a petition with the Apache County Board of Supervisors
28 to form a water improvement district, which was approved and the CWID was established.

1 system.⁶ The witness stated that the Company anticipates that the WIFA grant monies would be
2 available to the CWID by the end of 2014.⁷

3 11. According to Livco's witness, the Company has security deposits in the amount of
4 approximately \$200 that will be transferred under the Agreement, and that the Company has no line
5 extension agreements and no debt.⁸

6 12. According to Staff's Engineering Report, Livco's wastewater system consists of
7 service laterals, gravity mains, force mains, manholes, lift stations, and a treatment facility.⁹ Staff
8 states that Livco's treatment facility is designed to handle influent flows up to 20,000 gallons per day
9 ("gpd"), and that the facility includes: a settling pond; two wetland cells; a chlorine contact chamber;
10 and a reuse area.¹⁰

11 13. Staff states that when the Company's treatment facility was installed it was presumed
12 that each service connection would produce approximately 250 gpd of wastewater, but that with only
13 the current 29 connections, the total flow is approximately 2,405 gpd.¹¹ Staff states that based on the
14 current wastewater flow, the Company's treatment facility could handle an additional 17,595 gpd, or
15 an additional 211 service connections.¹²

16 14. In response to Staff's data request, Livco provided a Facilities Assessment Report
17 developed by Tetra Tech Inc., which prioritized a list of improvements needed for Livco's
18 wastewater system.¹³ The report included improvements that need to be completed within the next
19 year and improvements needed within the next five years. The immediate improvements include:

- 20 a. The replacement of all of the existing manholes that accept wastewater from
21 force mains.
22 b. Installing additional (redundant) pumps in the lift stations that were identified
23 as having only one pump, but designed for two pumps.

24

25 ⁶ Tr. at 14, 20.

⁷ *Id.* at 21.

26 ⁸ *Id.* at 20.

⁹ Exhibit S-1 at 2.

27 ¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² *Id.* at 4.

28 ¹³ Exhibit A-2.

1 c. Epoxy coating existing manholes that were identified to have significant
2 internal deterioration.¹⁴

3 15. Livco's witness testified that once the grant monies are received, the above repairs
4 will be started and that CWID will initiate engineering improvements to make the system more
5 efficient.¹⁵

6 16. The estimated costs for the immediate system improvements are approximately
7 \$51,900.¹⁶

8 17. Staff concludes that the improvements to the wastewater system should be addressed
9 as recommended in the Facilities Assessment Report. Staff notes that the Agreement states that the
10 Company's assets will be transferred to the CWID "as is" and therefore CWID would be responsible
11 for any and all improvements to the wastewater system.

12 18. Staff states that during its inspection of the Company's wastewater system, Staff
13 found no major deficiencies in the operation, maintenance, or certified operator status for the
14 system.¹⁷

15 19. The Arizona Department of Environmental Quality ("ADEQ") considers Livco's
16 wastewater system as in compliance.¹⁸

17 20. Livco has no delinquent compliance items with the Commission.

18 21. Staff's recommendation for approval of the application is reasonable and should be
19 adopted.

20 **CONCLUSIONS OF LAW**

21 1. Livco is a public service corporation within the meaning of Article XV of the Arizona
22 Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

23 2. The Commission has jurisdiction over Livco and the subject matter of the application.

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

25 ¹⁴ Exhibit A-2 at 24.

26 ¹⁵ Tr. at 13.

26 ¹⁶ Exhibit A-2 at 24-25.

27 ¹⁷ Exhibit S-1 at 6.

28 ¹⁸ According to Staff, ADEQ has determined that Livco's wastewater system is not currently in violation at a level at which ADEQ will take action, or issue a Notice of Opportunity to Correct, or Notice of Violation, and/or is in compliance with the Order/Judgment. Exhibit S-1 at 6.

1 IT IS FURTHER ORDERED that approval of the application in this matter is conditioned on
2 Concho Wastewater Improvement District's commitment to honor all liabilities of Livco Sewer
3 Company, relating to customer accounts, including customer deposits, and advance credits.

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 _____
18 EXECUTIVE DIRECTOR

19 DISSENT _____

20 DISSENT _____
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SERVICE LIST FOR:

LIVCO SEWER COMPANY

DOCKET NO.:

SW-02563A-14-0058

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