

OPEN MEETING ITEM



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JODI JERICH
Executive Director

SUSAN BITTICK SMITH

ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DATE: OCTOBER 21, 2014

DOCKET NO.: W-02450A-06-0253

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 Order on:

WATER UTILITY OF GREATER TONOPAH, INC.
(EXTENDING TIME DEADLINES CONTAINED IN
DECISION NOS. 70037 AND 71516)

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 30, 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:

NOVEMBER 5, 2014 and NOVEMBER 6, 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

OCT 21 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 WATER UTILITY OF GREATER
 TONOPAH, INC., FOR AN EXTENSION OF
 ITS CERTIFICATE OF CONVENIENCE AND
 NECESSITY.

DOCKET NO. W-02450A-06-0253

DECISION NO. _____

**ORDER EXTENDING TIME
 DEADLINES CONTAINED IN
 DECISION NOS. 70037 AND 71516**

Open Meeting
 November 5 and 6, 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

Background

1. On April 14, 2006, Water Utility of Greater Tonopah, Inc. ("WUGT"), filed with the
 Arizona Corporation Commission ("Commission") an application for an extension of its Certificate
 of Convenience and Necessity ("CC&N") to include a portion of a development known as Balterra,
 in Maricopa County, Arizona.

2. On December 6, 2007, the Commission issued Decision No. 70037, approving
 WUGT's application to extend its CC&N to include a 3/4 section of land in Balterra. The extension
 area is located in the vicinity of 395th Avenue and Camelback road in Maricopa County. The
 Decision required WUGT, among other things, to:

- a. File with Docket Control, as a compliance item, within two years of the
 effective date of the Decision, copies of the Certificates of Approval of

1 Construction ("AOC") issued by the Maricopa County of Environmental
2 Services Department ("MCESD") or Arizona Department of Environmental
3 Quality ("ADEQ") for its water source, treatment plant, storage tanks, and
4 water distribution system for the proposed water system.

- 5 b. File with Docket Control, as a compliance item in this docket, within two years
6 of the effective date of the Decision, a copy of its Discharge Authorization
7 Letter issued by ADEQ for the proposed treatment plant.
- 8 c. File with Docket Control, as a compliance item in this docket, by December
9 31, 2009, a copy of the Designation of Assured Water Supply ("DAWS") or a
10 copy of the Developer's Certificate of Assured Water Supply ("CAWS")
11 issued by the Arizona Department of Water Resources ("ADWR") for the
12 extension area.

13 3. Based on the compliance deadlines in Decision No. 70037, the original date for
14 compliance was December 4, 2009, for both the AOCs and Discharge Authorization Letter, and
15 WUGT was to file a DAWS or CAWS by December 31, 2009.

16 4. On December 4, 2009, WUGT filed a Motion for an extension of time, until December
17 4, 2013, to file the AOC for its water source, treatment plant, storage tanks, water distribution system,
18 and the ADEQ Discharge Authorization Letter related to the water treatment plant. The Motion stated
19 that due to the economic downturn in the Arizona housing market, WUGT has delayed filing for an
20 AOC. The Motion further stated WUGT is currently faced with building a water system before it is
21 needed in order to comply with the Decision or request an extension of time. According to WUGT, at
22 this time construction of the water system is premature. In support of the request for an extension of
23 time, WUGT stated that it has met several of the compliance items in the Decision including
24 participating in the Lower Hassayampa Sub-Basin study to obtain a DAWS; meeting the arsenic
25 treatment requirements; and securing a franchise agreement from Maricopa County for the extension
26 area. Further, WUGT stated its parent company, Global Water Resources, had expended considerable
27 resources in the extension area.

28 5. Subsequently on December 31, 2009, WUGT filed a Second Motion for extension of
time to comply with Decision No. 70037. The Second Motion requested an extension of time until
December 31, 2012, to file the DAWS or CAWS from ADEQ for the extension area. In the Second
Motion, WUGT stated that although WUGT has filed an application with ADEQ to obtain the

1 DAWS, due to the complexities of the Lower Hassayampa Sub-Basin region, extensive analysis is
2 needed to maximize water reuse, recycling, and recharge in the area.

3 6. On March 17, 2010, the Commission issued Decision No. 71516, granting WUGT an
4 extension of time until December 4, 2013, to file the AOCs and Discharge Authorization Letter, and
5 until December 31, 2012, to file the DAWS or CAWS for the extension area.

6 7. On February 12, 2013, WUGT filed its third Motion for an Extension of Time,
7 requesting an extension of time until December 15, 2015, to file the DAWS or CAWS for the
8 extension area.¹ WUGT states it has spent over five years and significant time and funds on the
9 DAWS process; the process has been slow due to the unique circumstances of the Lower Hassayampa
10 Sub-Basin; budget cuts have impacted on the process, but ADWR has sent WUGT a draft order
11 approving the DAWS. WUGT request the extension of time to complete the process.

12 8. Staff states that on February 4, 2014, it informed WUGT that its request was
13 incomplete because it did not include the required updated request for service for the extension area.

14 9. On April 15, 2014, WUGT docketed updated requests for service for the extension
15 area.

16 On June 27, 2014, Staff filed a memorandum in response to the Company's request for an
17 extension of time. Staff states that it contacted WUGT, through its attorney, and that the Company
18 further requested that the deadlines for it to file its compliance items be further extended to include
19 filing the AOC and Discharge Authorization Letter to December 4, 2018 and the DAWS or CAWS to
20 December 31, 2016. Staff notes that WUGT's request for an extension of time to file the AOC and
21 Discharge Letter were filed on the due date and that the request for an extension of time to file the
22 DAWS or CAWS was filed more than five weeks after the due date. Staff recommends that the
23 Company be required to file requests for extensions of time (if it is allowed to do so in the future) at
24 least 90 days prior to the existing due date. Staff states it has no objection to the Company's request
25 for an extension of time. However, Staff recommends an extension of time until December 15, 2016,
26

27 ¹ The deadline for filing a CAWS or DAWS is the same date in two other dockets, W-02450A-06-0626 and W-02450A-
28 04-0837. WUGT stated that it filed motions for an extension of time in those two dockets, but inadvertently neglected to
file an extension of time in this docket.

1 only, for the Company to file the AOC, Discharge Letter, and the DAWS or CAWS.

2 10. WUGT is hereby placed on notice that any future requests for extensions of time to
3 comply with Decision No. 70037, must demonstrate that extraordinary circumstances exist.

4 11. Staff's recommendations are reasonable and we will adopt them.

5
6 **CONCLUSIONS OF LAW**

7 1. Water Utility of Greater Tonopah, Inc., is a public service corporation with the
8 meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282 and 40-285.

9 2. The Commission has jurisdiction over Water Utility of Greater Tonopah, Inc., and the
10 subject matter of the application.

11 3. Water Utility of Greater Tonopah, Inc.'s request for an extension of time to comply
12 with Decision Nos. 70037 and 71516 is in the public interest.

13 4. Staff's recommendation that Water Utility of Greater Tonopah, Inc. receive an
14 extension of time to comply with Decision No. 70037 and 71516 is reasonable and should be
15 adopted.

16 5. Water Utility of Greater Tonopah, Inc., is hereby placed on notice that any future
17 requests for extensions of time to comply with Decision No. 70037 and 71516, must demonstrate that
18 extraordinary circumstances exist.

19 **ORDER**

20 IT IS THEREFORE ORDERED that Water Utility of Greater Tonopah, Inc. is granted an
21 extension of time to comply with Decision Nos. 70037 and 71516, until December 31, 2016, to file a
22 copy of the Designation of Assured Water Supply or a copy of the Developer's Certificate of Assured
23 Water Supply issued by the Arizona Department of Water Resources for the extension area.

24 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc. is granted an
25 extension of time to comply with Decision Nos. 70037 and 71516, until December 31, 2016, to file
26 copies of the Certificates of Approval of Construction for its water source, treatment plant, storage
27 tanks, and water distribution system, and a copy of the Discharge Authorization Letter related to its
28 proposed water treatment plant.

1 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc. shall file any future
2 request for extensions of time at least 90 days prior to the due date for compliance.

3 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc. is hereby on notice
4 that any future requests for extensions of time to comply with Decision Nos. 70037 and 71516, must
5 demonstrate that extraordinary circumstances exist.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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CHAIRMAN _____ 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 _____
YK:tv

1 SERVICE LIST FOR: WATER UTILITY OF GREATER TONOPAH, INC.

2 DOCKET NO.: W-02450A-06-0253

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