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**BEFORE THE ARIZONA CORPORATION**

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

OCT 24 2014

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

DOCKETED BY nr

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. 74783

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 wastewater improvement district, which was approved and the CWID was established.

1           4.       Subsequently, Livco entered into a transfer agreement (“Agreement”) with the CWID  
2 for the transfer and sale of Livco’s assets, which provides that upon the close of the transaction,  
3 Livco will cancel its CC&N with the Commission. Under the Agreement, the CWID will pay Livco  
4 a transfer fee of \$1.00 or the cash equivalent and, in turn, title to, and possession of, all of the assets  
5 will transfer to CWID.

6           5.       Livco has filed the above-captioned application seeking Commission approval to sell  
7 its assets and transfer ownership to CWID. The application also requests cancellation of Livco’s  
8 CC&N.

9           6.       Public notice of the application was given in accordance with the law.

10          7.       Livco was initially granted a CC&N in Decision No. 57959 (August 5, 1992). The  
11 original CC&N area has been extended over the years and Livco currently serves an area  
12 encompassing 806 acres.<sup>1</sup>

13          8.       Staff recommends approval of Livco’s application for the sale of its assets to the  
14 CWID and for Livco to cancel its CC&N with the Commission.

15          9.       The decision to form the CWID was based on the Company’s need to qualify for  
16 grants to cover the costs associated with maintaining and upgrading the wastewater system.<sup>2</sup> The  
17 Company’s sewer system is designed to serve 680 properties, but with only 28 customers currently  
18 on the system, it is not affordable to maintain.<sup>3</sup> Livco’s sewer system includes six pumps, five miles  
19 of pipe, and a lagoon.<sup>4</sup>

20          10.       Livco’s witness stated that the CWID will pursue grants through the Water  
21 Infrastructure Finance Authority of Arizona (“WIFA”) and the U.S. Department of Agriculture to  
22 repair some of the pumps and to contract with an engineering firm to determine ways to make the  
23 system more efficient.<sup>5</sup> The witness stated that in addition to the grant monies, property owners will  
24 be assessed a tax of \$65 per lot, annually, and a \$35 per month user fee, to cover costs to upgrade the  
25

26 \_\_\_\_\_  
<sup>1</sup> Livco is an affiliate of Livco Water Company, a Commission regulated utility.

27 <sup>2</sup> Tr. at 12.

28 <sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 13.

1 system.<sup>6</sup> The witness stated that the Company anticipates that the WIFA grant monies would be  
2 available to the CWID by the end of 2014.<sup>7</sup>

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.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> 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.

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25 <sup>6</sup> Tr. at 14, 20.  
26 <sup>7</sup> *Id.* at 21.  
<sup>8</sup> *Id.* at 20.  
<sup>9</sup> Exhibit S-1 at 2.  
27 <sup>10</sup> *Id.* at 3.  
<sup>11</sup> *Id.*  
28 <sup>12</sup> *Id.* at 4.  
<sup>13</sup> Exhibit A-2.

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

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.<sup>15</sup>

6 16. The estimated costs for the immediate system improvements are approximately  
7 \$51,900.<sup>16</sup>

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 the Arizona Department of Environmental Quality's  
13 ("ADEQ") inspection of the Company's wastewater system, ADEQ found no major deficiencies in  
14 the operation, maintenance, or certified operator status for the system.<sup>17</sup>

15 19. ADEQ considers Livco's wastewater system as in compliance.<sup>18</sup>

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

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

### 19 CONCLUSIONS OF LAW

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

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

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

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25 <sup>14</sup> Exhibit A-2 at 24.

26 <sup>15</sup> Tr. at 13.

27 <sup>16</sup> Exhibit A-2 at 24-25.

28 <sup>17</sup> Exhibit S-1 at 6.

<sup>18</sup> 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 SERVICE LIST FOR:

LIVCO SEWER COMPANY

2 DOCKET NO.:

SW-02563A-14-0058

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