

RENZ D. JENNINGS
CHAIRMAN

MARCIA WEEKS
COMMISSIONER

CARL J. KUNASEK
COMMISSIONER



0000158732



JAMES MATTHEWS
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: SEPTEMBER 20, 1996

DOCKET NOS: U-1993-96-412; U-2134-96-412; U-2075-96-412; U-1576-96-412; U-2417-96-412; U-2396-96-412; U-1983-96-412; U-2137-96-412 and U-2337-96-412

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

UNITED UTILITIES, INC.; C & S WATER COMPANY, INC.; DESERT UTILITIES, INC.; E & R WATER COMPANY, INC.; HIGH COUNTRY WATER, INC.; PINE OAK WATER COMPANY, INC.; WHITE MOUNTAIN LADE ESTATES, INC.; WILLIAMSON WATERWORKS, INC.; and SHEER SPEED, INC., dba TONTO BASIN WATER COMPANY

(ORDER TO SHOW CAUSE)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 5:00 p.m. on or before:

SEPTEMBER 30, 1996

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 8, 1996 and OCTOBER 9, 1996

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


James Matthews
EXECUTIVE SECRETARY

JM
Enc.
cc: ALL PARTIES

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 RENZ D. JENNINGS
CHAIRMAN
3 MARCIA WEEKS
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER

5 ARIZONA CORPORATION COMMISSION,)
6)
7 Complainant,)
8 vs.)
9 UNITED UTILITIES, INC.; C & S WATER)
COMPANY, INC.; DESERT UTILITIES, INC.;)
10 E & R WATER COMPANY, INC.; HIGH)
COUNTRY WATER, INC.; PINE OAK WATER)
11 COMPANY, INC.; WHITE MOUNTAIN LAKE)
ESTATES, INC.; WILLIAMSON)
12 WATERWORKS, INC.; SHEER SPEED, INC.,)
dba TONTO BASIN WATER COMPANY,)
13 Respondents.)

DOCKET NOS. U-1993-96-412
U-2134-96-412
U-2075-96-412
U-1576-96-412
U-2417-96-412
U-2396-96-412
U-1983-96-412
U-2137-96-412
U-2337-96-412

14 **ORDER**

15 Open Meeting
October 9, 1996
Phoenix Arizona

16 **BY THE COMMISSION:**

17 Pursuant to Decision No. 59779, dated July 30, 1996, the Arizona Corporation Commission
18 ("Commission") issued its Complaint and Order to Show Cause ("Complaint") against United Utilities,
19 Inc., C & S Water Company, Inc., Desert Utilities, Inc., E & R Water Company, Inc., High Country
20 Water, Inc., Pine Oak Water Company, Inc., White Mountain Lake Estates, Inc., Williamson
21 Waterworks, Inc., and Sheer Speed, Inc., dba Tonto Basin Water Company, (collectively "Respondents").
22 Decision No. 59779 scheduled a hearing on the Complaint for August 9, 1996.

23 Subsequently, Brooke Utilities Inc. completed the acquisition of United Utilities, Inc., C&S Water
24 Company, Inc., Desert Utilities, Inc., E & R Water Company, Inc., High Country Water, Inc, Pine Oak
25 Water Company, Inc. and Williamson Waterworks, Inc. (collectively "Brooke Companies"). As a result
26 of the completed sale, the Commission continued the hearing until September 12, 1996, as set forth in
27 Decision No. 59779. On September 10, 1996, the Brooke Companies filed a Motion to Dismiss
28 Complaint and Order to Show Cause on the grounds that the Brooke Companies had remedied the

1 violations contained in the Complaint.

2 Likewise, on September 11, 1996, White Mountain Lake Estates and Sheer Speed, Inc. dba Tonto
3 Basin ("Williamson Companies") filed a Motion to Dismiss Complaint and Order To Show Cause and
4 Motion to Continue Hearing based on their remediation of the Commission's alleged violations.

5 On September 11, 1996, the Commission Utilities Division Staff ("Staff") filed a Response to
6 Respondents' Motions to Dismiss supporting dismissal because the Brooke Companies and Williamson
7 Companies demonstrated that they are currently in compliance with the statutes and regulations cited in
8 the Complaint. Based on the foregoing, on September 11, 1996, the Commission Hearing Division
9 continued the hearing indefinitely pending Commission disposition of the Motions to Dismiss.

10 Because Respondents have remedied the violations cited in our Complaint and are in compliance
11 with state law and Commission regulations, a hearing on the Complaint is unnecessary and the
12 Complaint should be dismissed.

13 FINDINGS OF FACT

14 1. On July 30, 1996, in Decision No. 59779, the Commission issued a Complaint and Order
15 To Show Cause against the Respondents.

16 2. Respondents are public service corporations engaged in the provision of water utility, and
17 in some cases sewer utility services, to the public in Arizona.

18 3. At the time the Complaint issued, Respondents were owned and controlled by Richard
19 Williamson, or holding companies owned and controlled by Mr. Williamson.

20 4. The Complaint alleged that Respondents violated the following provisions of Arizona law
21 and Commission regulations:

22 a. Failure to pay Arizona Public Service Company electric bills, violating A.R.S.
23 §40-361(B);

24 b. Failure to file main extension agreements with the Commission for approval,
violating A.A.C. R14-2-406(M);

25 c. Failure to make appropriate refunds of advances paid under main extension
26 agreements, violating R14-2-406(D) and (M);

27 d. Failure to accrue interest to customer deposits, violating A.A.C. R14-2-403(B)(3);

28 e. Failure to credit deposit interest to customer bills annually, violating A.A.C. R14-
2-403(B)(4);

- 1 f. Failure to refund customer deposits after the customers established a twelve month
2 "good payment" history, violating A.A.C. R14-2-403(B)(5);
3 g. Failure of Williamson Waterworks, Inc. to obtain Commission approval for the
4 transfer of the Portal IV well, violating A.R.S. §40-285;
5 h. Failure to provide adequate, efficient, and reasonable service by not following
6 proper customer deposit procedures, violating A.R.S. §40-361(B); and
7 i. Failure of Williamson Waterworks to provide adequate, efficient and reasonable
8 service by transferring a well asset, violating A.R.S. §40-361(B).

9 5. In Decision No. 59779, the Commission set the Complaint for hearing on August 9, 1996.

10 6. Subsequent to the issue of the Complaint, Brooke completed the acquisition of the Brooke
11 Companies.

12 7. As a result of the Brooke acquisition, the Commission continued the hearing until
13 September 12, 1996 as set forth in Decision No. 58779.

14 8. On September 10, 1996, the Brooke Companies filed a Motion to Dismiss Complaint and
15 Order to Show Cause.

16 9. The Brooke Companies provided documentation that they remedied all of the alleged
17 violations, and as a result are providing adequate, efficient and reasonable service to all of their
18 customers. Specifically, Brooke, on behalf of the Brooke Companies has:

19 a. Paid all assumed liabilities of the Brooke Companies, including all outstanding
20 electric bills;

21 b. Filed all main extension agreements with the Commission for approval;

22 c. Apprised the Commission of its efforts to comply with the regulations regarding
23 main extension agreements, and is currently paying and liquidating all amounts due under
24 the existing agreements;

25 d. Analyzed interest due on customer deposits, identified those customers entitled
26 to accrued interest, and arranged to credit future water bills for those customer accounts
27 with accrued interest;

28 e. Analyzed the liabilities for unpaid refunds of customer deposits for accounts with
"good payment" history and currently is paying and liquidating all amounts due;

f. Filed the application for Approval of the Transfer of the Portal IV Well, and
Application for deletion of a Portion of the Certificate of Convenience and Necessity
(covering the Portal IV Well area) for E& R Water Company; and

g. Remedied all other deficiencies which prevented the Brooke Companies from
providing adequate, efficient and reasonable service to their customers.

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10. On September 11, 1996, the Williamson Companies filed a Motion to Dismiss Complaint and Order To Show Cause and Motion to Continue Hearing.

11. Mr. Williamson has provided documentation that demonstrates that the Williamson Companies are in compliance with the statutes and regulations cited in the Complaint. Specifically, the Williamson Companies provided documentation demonstrating that:

- a. All customer deposits have been accounted for and refunded to consumers in accordance with Commission rules;
- b. All electric bills are current;
- c. All property taxes are current; and
- d. All applicable main extension agreements have been submitted.

12. On September 11, 1996, Staff filed a Response to Respondents' Motions To Dismiss in which Staff confirmed that Respondents are currently in compliance with the statutes and regulations cited in the Complaint and recommended that the Complaint be dismissed.

CONCLUSIONS OF LAW

1. Respondents are public service corporations within the meaning of Article XV of the Arizona Constitution, A.R.S. §§ 40-202, et seq., and A.A.C.14-2-406.

2. The Commission has jurisdiction over Respondents and the subject matter of the Complaint.

3. Respondents' actions, as described in Findings of Fact Nos. 9 & 11, resolve the violations cited in the Complaint.

4. It is reasonable to grant the request of the parties to dismiss the Complaint and close the docket.

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ORDER

IT IS THEREFORE ORDERED that the Complaint of the Arizona Corporation Commission, issued in Decision No. 59779, shall be and is hereby, dismissed and the Docket closed.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JAMES MATTHEWS, Executive Secretary 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 _____, 1996.

JAMES MATTHEWS
EXECUTIVE SECRETARY

DISSENT _____
JR/dap

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SERVICE LIST FOR:

UNITED UTILITIES , INC.; C & S WATER COMPANY, INC.; DESERT UTILITIES, INC.; E & R WATER COMPANY, INC.; HIGH COUNTRY WATER, INC.; PINE OAK WATER COMPANY, INC.; WHITE MOUNTAIN LADE ESTATES, INC.; WILLIAMSON WATERWORKS, INC.; and SHEER SPEED, INC., dba TONTO BASIN WATER COMPANY.

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