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ARIZONA CORPORATION COMMISSION

DATE: October 18, 2000

DOCKET NO.: W-03293A-00-0365

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Opinion and Order on:

THIM UTILITY COMPANY (THREE POINTS DIVISION)
(CC&N EXTENSION)

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 ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

OCTOBER 27, 2000

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 Working Session and Open Meeting to be held on:

NOVEMBER 7, 2000 and NOVEMBER 8, 2000

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

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 WILLIAM A. MUNDELL
COMMISSIONER
5

6 IN THE MATTER OF THE APPLICATION OF
THIM UTILITY COMPANY (THREE POINTS
7 DIVISION) FOR AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND
8 NECESSITY.

DOCKET NO. W-03293A-00-0365

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: October 5, 2000
10 PLACE OF HEARING: Tucson, Arizona
11 ADMINISTRATIVE LAW JUDGE: Jane L. Rodda
12 APPEARANCES: Robin Thim, President, on behalf of Thim Utility
Company; and
13 Devinti Williams, Staff Attorney, Arizona Corporation
14 Commission on behalf of the Utilities Division.

15 **BY THE COMMISSION:**

16 Having considered the entire record herein and being fully advised in the premises, the
17 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. Thim Utility Company (Three Points Division) ("TUC" or "Company") provides
20 water utility service to approximately 279 customers in and around the area known as Three Points in
21 Pima County, Arizona.

22 2. On May 30, 2000, TUC filed an application to extend its Certificate of Convenience
23 and Necessity ("CC&N" or "Certificate") to include an additional 3/4 of a section of land, comprised
24 of a private master planned community currently in the planning stages.

25 3. On June 29, 2000, the Commission's Utilities Division Staff ("Staff") filed a
26 sufficiency letter indicating that the application was sufficient.

27 4. By Procedural Order dated July 14, 2000, the Commission set the matter for hearing at
28 its offices in Tucson, Arizona on October 5, 2000.

1 5. Staff filed its Staff Report on September 11, 2000, in which it recommended approval
2 of the application.

3 6. On July 26, 2000, TUC provided notice of the hearing by publishing in a newspaper of
4 general circulation within its service area.

5 7. Ken Jacobson, the developer of the planned community requested that TUC provide
6 water service to a new development, which at build-out, is expected to consist of 654 single family
7 homes, 96 duplexes, a motel and several businesses and an 18 hole golf course.

8 8. The proposed extension area is approximately 1 1/2 mile west of TUC's Three Points
9 Division service area. TUC would serve the extension area by constructing a water system consisting
10 of three wells, four 10,000 gallon pressure tanks, two 500,000 gallon storage tanks and a distribution
11 system. The developer would finance construction of the facilities. Engineering Staff believes that
12 the proposed construction costs of \$950,000 are reasonable.

13 9. TUC is in compliance with the Commission's filing requirements and is current on all
14 property and sales taxes.

15 10. The Arizona Department of Environmental Quality ("ADEQ") reports that TUC is in
16 violation of its regulations for failing to submit chemical analysis testing and consequently cannot
17 make a determination that the Company is delivering water that meets the quality standards of the
18 Safe Drinking Water Act.

19 11. As of the date of the hearing, TUC had not provided a copy of the developer's
20 Certificate of Assured Water Supply nor a copy of the developer's ADEQ Certificate of Approval to
21 Construct.

22 12. As of the date of the hearing, TUC had not submitted a copy of its franchise from
23 Pima County for the proposed extension area.

24 13. At the hearing, TUC's president testified that it was in process of clearing up the
25 ADEQ violations.

26 14. Staff recommended that:

27 (a) The Commission condition approval of the application on TUC filing copies of the
28 developer's Certificate of Assured Water Supply and Approval to Construct within 365 days of the

1 effective date of this Decision;

2 (b) The Commission condition approval on TUC's Three Points Division being in
3 compliance with the quality standards of the Safe Drinking Water Act by December 31, 2000;

4 (c) TUC file a copy of its Pima County franchise within 365 days of the effective date
5 of this Decision;

6 (d) This Decision covering the extension area be considered null and void without
7 further order from the Commission should TUC fail to meet the above conditions; and

8 (e) TUC charge its existing rates and charges within the extension area.

9 15. Staff's recommendations set forth in the preceding Finding of Fact are reasonable,
10 except that testimony at the hearing indicated that the developer may not start construction within the
11 next year and that providing TUC 18 months to provide copies the Certificate of Assured Water
12 Supply and Approval to Construct may be a more realistic and reasonable time period. Staff did not
13 oppose granting the Company an additional 6 months to provide these documents.

14 **CONCLUSIONS OF LAW**

15 1. TUC is a public service corporation within the meaning of Article XV of the Arizona
16 Constitution and A.R.S. §§ 40-281 and 40-282.

17 2. The Commission has jurisdiction over TUC and the subject matter of the application.

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

19 4. There is a public need and necessity for water service in the proposed extension area
20 as set forth in Exhibit A.

21 5. As conditioned herein TUC is a fit and proper entity to receive a Certificate to provide
22 water service in the proposed service area.

23 6. The recommendations contained in Findings of Fact Nos. 14 and 15 are reasonable
24 and should be adopted.

25 **ORDER**

26 IT IS THEREFORE ORDERED that the application of Thim Utility Company for an
27 extension of its Certificate of Convenience and Necessity to provide water service to the area in Pima
28 County, Arizona, described in Exhibit A hereto, is approved conditioned upon Thim Utility Company

1 providing a copy of the developer's Certificate of Assured Water Supply, Approval to Construct and
2 Pima County franchise within 18 months of the effective date of this Decision.

3 IT IS FURTHER ORDERED that the approval granted herein is further conditioned upon
4 Thim Utility Company providing documentation from the Arizona Department of Environmental
5 Quality that its Three Points Division is providing water that meets the quality standards of the Safe
6 Drinking Water Act by December 31, 2000.

7 IT IS FURHTER ORDERED that the approval granted herein shall be null and void without
8 further order of the Commission in the event Thim Utility Company fails to meet the above
9 conditions or receive approval of an extension within the time specified.

10 IT IS FURTHER ORDERED that Thim Utility Company shall charge its existing rates and
11 charges within the extension area.

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

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

14
15
16 CHAIRMAN

COMMISSIONER

COMMISSIONER

17
18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
19 Secretary of the Arizona Corporation Commission, have
20 hereunto set my hand and caused the official seal of the
21 Commission to be affixed at the Capitol, in the City of Phoenix,
22 this ____ day of _____, 2000.

23
24 _____
25 BRIAN C. McNEIL
26 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR:

THIM UTILITY COMPANY

2 DOCKET NO.

W-03293A-00-0365

3 Mr. Robin Thim, President
4 Thim Utility Co.
5 P.O. Box 13145
6 Tucson, Arizona 86732

7 Lyn Farmer, Chief Counsel
8 Legal Division
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, Arizona 85007

12 Deborah Scott, Director
13 Utilities Division
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington Street
16 Phoenix, Arizona 85007

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EXHIBIT A

Legal Description of Extension Area

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3 The Southwest 1/4 of Section 6, and the West 1/2 of the Southwest 1/4 of Section 6 and the West 1/2
4 of the Northeast 1/4 of the Southeast 1/4 of Section 6, Township 16 South, Range 10 East G&
5 SRB&M;

6 Also, the Section 7 Township 16 South, Range 11 East G& SRB&M;

7 Also, the West 1/2 of the Northwest 1/4 and the Southeast 1/4 of the Northwest 1/4 and the West 1/2
8 of the Southeast 1/4 and the Southwest 1/4 of Section 24, Township 16 South, Range 10 East
9 G&SRB&M;

10 The West 1/2 of the West 1/2 and the Southeast 1/4 of the Northwest 1/4 and the northeast 1/4 of the
11 Southwest 1/4 of Section 18, Township 16 South, Range 10 East G&SRB&M; and

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