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AZ CORP COMMISSION
DOCKET CONTROL

MEMORANDUM

TO: Docket Control Center

FROM: Steven M. Olea
Director
Utilities Division

DATE: March 2, 2015

RE: STAFF REPORT FOR THE APPLICATION OF ARIZONA WINDSONG REALTY, INC. FOR APPROVAL TO TRANSFER ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET NOS. W-02250A-14-0376 AND W-20919A-14-0376)

Attached is the Staff Report for the application of Arizona Windsong Realty Inc. ("AWR") and Arizona Windsong Water Company ("AWW") for approval of the transfer of assets from AWR to AWW and the application of AWW for a Certificate of Convenience and Necessity ("CC&N").

SMO:RGG:sms\CHH

Originator: Robert Gray

Arizona Corporation Commission

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Service List for: Arizona Windsong Realty, Inc. and Arizona Windsong Water Company
Docket Nos. W-02250A-14-0376 and W-20919A-14-0376

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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

**ARIZONA WINDSONG REALTY, INC. AND ARIZONA WINDSONG WATER
COMPANY**

DOCKET NOS. W-02250A-14-0376 AND W-20919A-14-0376

**APPLICATION FOR APPROVAL OF A TRANSFER OF ASSETS AND FOR A
CERTIFICATE OF CONVENIENCE AND NECESSITY**

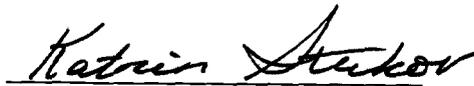
MARCH 2, 2015

STAFF ACKNOWLEDGMENT

The Staff Report for Arizona Windsong Realty, Inc. and Arizona Windsong Water Company, Docket Nos. W-02250A-14-0376 and W-20919A-14-0376, was the responsibility of the Staff members listed below. Robert Gray was responsible for the review and analysis of the Company's application. Katrin Stukov was responsible for the engineering analysis.



Robert Gray
Executive Consultant



Katrin Stukov
Engineer

EXECUTIVE SUMMARY
ARIZONA WINDSONG REALTY, INC. AND ARIZONA WINDSONG WATER
COMPANY
DOCKET NOS. W-02250A-14-0376 AND W-20919A-14-0376

Staff reviewed the application for approval of the transfer of assets from Arizona Windsong Realty, Inc. to Arizona Windsong Water Company and the application for a certificate of convenience and necessity by Arizona Windsong Water Company. Staff recommends approval of the transfer of assets and certificate of convenience and necessity, subject to conditions discussed herein.

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Introduction

On October 28, 2014, in compliance with Decision No. 74597, Arizona Windsong Realty, Inc. ("AWR") and Arizona Windsong Water Company ("AWW") filed an application with the Arizona Corporation Commission ("ACC") for approval of the transfer of assets from AWR to AWW. Further, AWR and AWW filed for ACC approval of a transfer of AWR's Certificate of Convenience and Necessity ("CC&N") to AWW. The filing for the transfer of the assets and CC&N is in response to a requirement in Decision No. 74597 (July 30, 2014) in AWR's recent rate proceeding, requiring AWR to "file an application with the Commission for approval to transfer utility assets and Certificate of Convenience and Necessity to Arizona Windsong Water Co. within 90 days of the date of this Decision." On November 26, 2014, Staff found the application to be sufficient. On December 2, 2014, AWW filed a copy of its Certificate of Good Standing with the ACC. However, AWW failed to file its 2014 Annual Report that was due on November 21, 2014 and is now not in good standing as a corporation with the ACC.

AWR is providing water service to approximately 69 customers near the Town of Sanders (approximately 50 miles east of Holbrook) in Apache County. All customers are residential, with the exception of a gas station. AWW has indicated that the existing customer base is not expected to change in the next five years. Attached as Exhibit 1 is the Engineering Report regarding this matter.

The purpose of the transfer of assets request is that AWW is intended to be the on-going water company, replacing AWR which is the current water company serving the area. The ownership of AWR and AWW is identical, with shares held by Mrs. Lillian Paulsell and the estate of Patton Earl Paulsell, and no changes to service or other aspects of the utility operation would occur as a result of the transfer.

Background

AWR was issued a CC&N by the Commission in Decision No. 49857 (April 18, 1979). AWR's Articles of Incorporation were revoked by the Commission on November 10, 1979 for failing to maintain a statutory agent. On November 21, 2002, Mr. Paulsell incorporated AWW to operate the water utility but failed to seek Commission approval to transfer AWR's assets and CC&N to AWW. On May 16, 2003 (Decision No. 65918), the Commission ordered AWR to certify it had cured Arizona Department of Environmental Quality ("ADEQ") violations and to transfer its assets and CC&N to AWW. On April 30, 2010, AWW was administratively dissolved for failure to file its 2009 Annual Report with the Corporations Division. The current application, as ordered by Decision No. 74597, seeks to remedy the failure to transfer the assets and CC&N to AWW.

On January 31, 2014, AWR filed a general rate case with the Commission. On March 19, 2014, AWR filed a report discussing the need to address a variety of infrastructure issues that the Company indicated were imperative to improve the safety and reliability of the water system. On March 24, 2014, AWR filed for an Emergency/Interim Surcharge, indicating that Mr. Paulsell had recently passed away and the surcharge was needed to hire a certified operator. On April 18, 2014, the Commission granted AWR's request for an Emergency/Interim Surcharge as recommended by Staff (Decision No. 74442). Subsequently in Decision No. 74597 (July 30, 2014) the Commission

approved a permanent rate increase for AWR, subject to a variety of conditions, including the transfer of assets and application for a CC&N contained in the current filing at issue in this case.

CC&N Area

The area covered by the CC&N is approximately 1,662 acres (approximately 2.6 square miles). In Decision No. 72239 (April 7, 2011), the Commission found that AWR failed to file its 2008 Annual Report with the Commission. In that case, Staff indicated that it was not necessary to revoke AWR's CC&N because it had previously been revoked in 2003. This was in error, as AWR's CC&N was not cancelled in 2003. Thus, it would seem that AWR's CC&N should have been cancelled in 2011, but was not as there was a mistaken understanding that it had already been revoked. Thus, AWR still has its CC&N. Attached as Exhibit 2 is a map of the service area.

Water Facilities

The water system includes one 45 gallons per minute ("GPM") well, one 40,000 gallon storage tank, one 1,000 gallon pressure tank, one booster pump and a distribution system.

Current water use data was not provided because the water system does not yet have a wellhead meter. Therefore, Staff used water use data reported by the Company for 2012. Based on the available water use data, Staff concludes that the Company's well production capacity of 45 GPM and storage capacity of 40,000 gallons are adequate to serve the present customer base and reasonable growth.

The well, pump, and electrical system have recently been repaired with assistance from a number of entities, including Arizonans for Responsible Water Policy (Arizona Water Company, Global Water Resources, and Liberty Utilities), Arizona Public Service Company, and the Navajo Tribal Utility Authority.

Arizona Department of Environmental Quality ("ADEQ") Compliance

According to an ADEQ compliance status report dated March 21, 2014, the Company has unresolved monitoring, reporting, operation, and maintenance deficiencies. Based upon these deficiencies, ADEQ cannot determine if the Company system is currently delivering water that meets water quality standards required by 40 C.F.R. 14 (National Primary Drinking Water Regulations) and Arizona Administrative Code, Title 18, Chapter 4.

Arizona Department of Water Resources Compliance

The Company's water system is not located in an Arizona Department of Water Resources ("ADWR") Active Management Area. According to an ADWR compliance status report, dated February 12, 2014, ADWR has determined that the Company's water system is not in compliance with ADWR requirements, as the Company failed to file its System Water Plan.

Arizona Corporation Commission Compliance

The Utilities Division Compliance Section noted that a check of the compliance database indicates that there are six outstanding compliance filings. Four are from Decision No. 74597, AWR's recent general rate proceeding. First, AWR has not filed the capital improvement plan with Docket Control by October 30, 2014. Second, AWR has not filed documentation showing AWR is in compliance with ADWR requirements by December 31, 2014. Third, AWR has not filed by December 31, 2014, documentation showing that AWR is in compliance with ADEQ and delivering water that meets water quality standards or has entered into a consent agreement with ADEQ. Fourth, AWR has not filed by January 30, 2015, documentation that a wellhead meter has been installed.

Two other outstanding compliance filings are from Decision No. 65918: the Company has not cured ADEQ deficiencies by July 15, 2003, and AWR has not filed with the Director of the Utilities Division by July 15, 2003, certification of curing ADEQ deficiencies. Therefore, AWR is not in compliance according to the ACC Compliance Database.

It is Staff's understanding that Arizonans for Responsible Water Policy has been assisting AWR in addressing its ADEQ, ADWR, and ACC compliance issues and that many compliance issues have been resolved recently, while some still remain.

Arizona Corporation Commission Complaints

Based on a January 28, 2015 report from the Commission's Consumer Services section, the Corporations Division has no records for AWR. In Docket No. W-02250A-14-0028, AWR filed a copy of its Certificate of Good Standing with the ACC. On December 2, 2014, AWW filed a copy of its Certificate of Good Standing with the ACC. However, AWW failed to file its 2014 Annual Report that was due on November 21, 2014 and as a result is now not in good standing with the Corporations Division.

Consumer Services database shows the following number of complaints have been received regarding AWR/AWW in recent years: 2012-0, 2013-3, 2014-66, 2015-3. There are currently 13 open complaints pending investigation. The open complaints primarily deal with metering and billing concerns. Staff understands that as of February 5, 2015, Sunstate Environmental Services has entered into an agreement with AWR/AWW to handle all billing and customer service activities. This may reduce or eliminate the types of concerns contained in the 13 open complaints and help the current open complaints to reach a resolution.

Curtailment Tariff

The Company has an approved Curtailment Tariff.

Backflow Prevention Tariff

The Company has an approved Backflow Prevention Tariff.

Recommendations

Staff recommends approval of the transfer of assets from Arizona Windsong Realty, Inc. to Arizona Windsong Water Company.

Staff further recommends the approval of the transfer of the Certificate of Convenience and Necessity from Arizona Windsong Realty, Inc. to Arizona Windsong Water Company.

Staff further recommends that Arizona Windsong Water Company, within 60 days of the decision in this proceeding, file a new set of tariffs under the name of Arizona Windsong Water Company.

Staff further recommends that Arizona Windsong Water Company file its annual report for 2014 with the Corporations Division within 60 days of the decision in this proceeding.

Staff further recommends that Arizona Windsong Water Company assume responsibility for meeting all past compliance requirements placed on Arizona Windsong Realty, Inc. by the Commission. These compliance items should be met by December 31, 2015.

Lastly, Staff recommends that if Arizona Windsong Water Company does not comply with the above compliance items, Arizona Windsong Water Company's CC&N should be revoked by the Commission.

ATTACHMENT A

MEMORANDUM

TO: Robert Gray
Executive Consultant III
Utilities Division

FROM: Katrin Stukov 
Utilities Engineer
Utilities Division

DATE: March 2, 2015

RE: Arizona Windsong Realty, Inc. (Application for a Certificate of Convenience and Necessity and for approval of transfer of assets)
Docket Nos. W-02250A-14-0376 and W- 20919A-14-0376

Introduction

On October 28, 2014, in compliance with Decision No. 74597, the Arizona Windsong Realty, Inc. ("Company") filed an application with the Arizona Corporation Commission ("ACC") for a Certificate of Convenience and Necessity ("CC&N") and for approval of transfer of assets. The Company is providing service to approximately 69 customers near the Town of Sanders (approximately 50 miles east of Holbrook) in Apache County. The requested area covers approximately 1,662 acres (approximately 2.6 square mile).

Water System

Operation¹

The Company's water system includes one 45 gallon per minute ("GPM") well, one 40,000 gallon storage tank, one 1,000 gallon pressure tank, one booster pump and a distribution system.

Capacity

The Company did not provide current water use data, because the water system does not yet have a wellhead meter. Therefore, Staff used water use data reported by the Company for 2012. Based on the available water use data, Staff concludes that the Company's well production capacity of 45 GPM and storage capacity of 40,000 gallons are adequate to serve the present customer base and reasonable growth.

Arizona Department of Environmental Quality ("ADEQ") Compliance

According to an ADEQ compliance status report, dated March 21, 2014, the Company has unresolved monitoring, reporting, operation, and maintenance deficiencies. Based upon these deficiencies, ADEQ cannot determine if the Company system is currently delivering water that

¹ Per the Company's responses to Staff's data requests KS 1.1

meets water quality standards required by 40 C.F.R. 14 (National Primary Drinking Water Regulations) and Arizona Administrative Code, Title 18, Chapter 4.

Arizona Department of Water Resources Compliance

The Company's water system is not located in an Arizona Department of Water Resources ("ADWR") Active Management Area. According to an ADWR compliance status report dated February 12, 2014, ADWR has determined that the Company's water system is not in compliance with ADWR requirements, as the Company failed to file its System Water Plan.

ACC Compliance²

The Utilities Division Compliance Section noted that a check of the compliance database indicates that there are six outstanding compliance filings. Four are from Decision No. 74597. First, the Company has not filed the capital improvement plan with Docket Control by October 30, 2014. Second, the Company has not filed documentation showing the Company is in compliance with ADWR requirements by December 31, 2014. Third, the Company has not filed by December 31, 2014, documentation showing the Company is in compliance with ADEQ and delivering water that meets water quality standards or has entered into a consent agreement with ADEQ. Fourth, the Company has not filed by January 30, 2015, documentation that a well head meter has been installed.

Two other outstanding compliance filings are from Decision No. 65918, as the Company has not cured ADEQ deficiencies by July 15, 2003, and the Company has not filed with the Director of the Utilities Division by July 15, 2003, certification of curing ADEQ deficiencies

Curtailment Tariff

The Company has an approved Curtailment Tariff.

Backflow Prevention Tariff

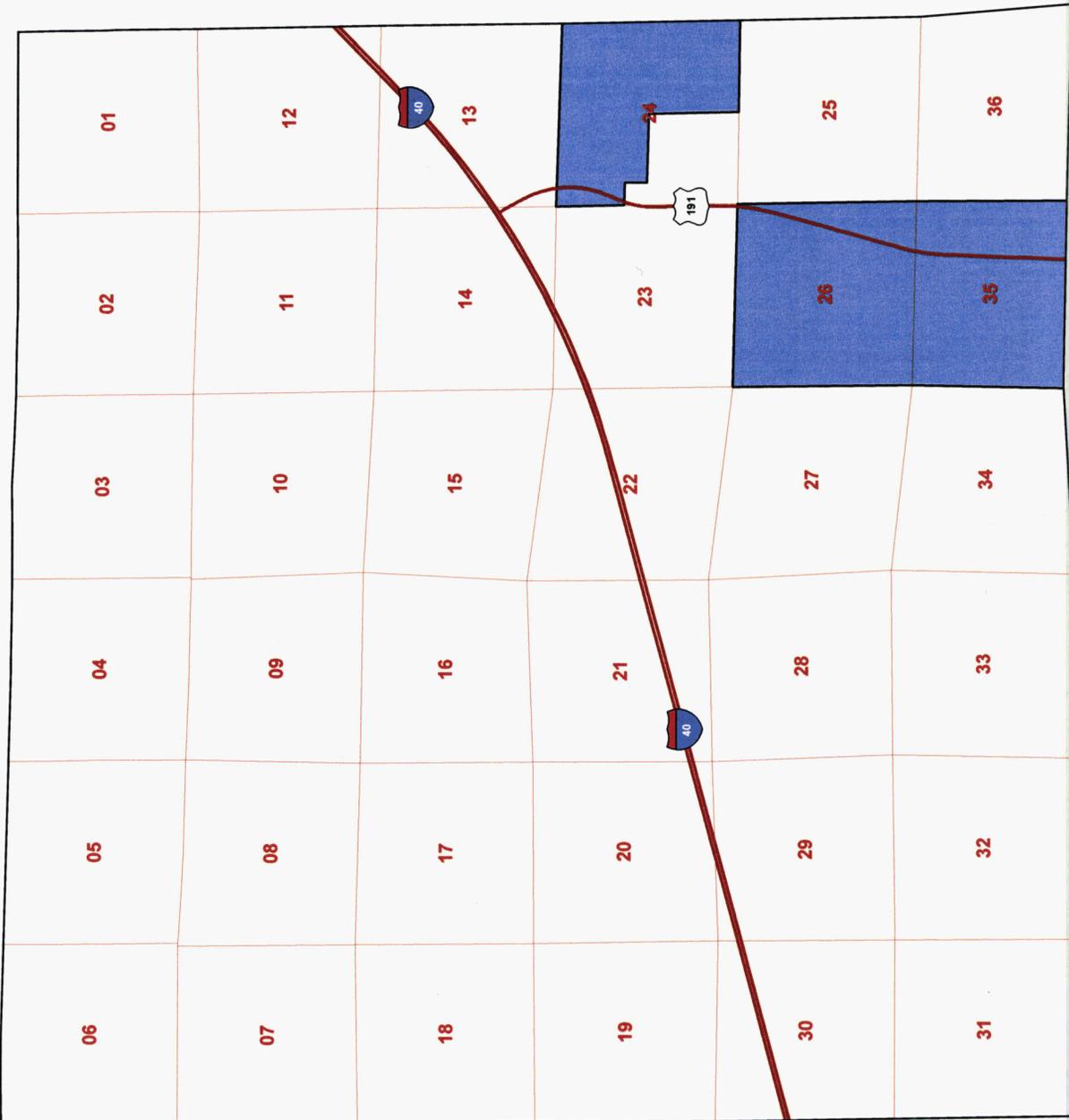
The Company has an approved Backflow Prevention Tariff.

² Per ACC compliance check on February 6, 2015

ATTACHMENT B

RANGE 28 East

TOWNSHIP 21 North



W-02250A (1)

Arizona Windsong Realty, Inc.

Arizona Windsong Realty, Inc.

Docket No. W-02205A-14-0376

Application to transfer to Arizona Windsong Water Co

Docket No. W-20919A-14-0376



Prepared by:
 Arizona Corporation Commission
 Utilities Division
 Engineering Section/GIS Mapping
 602-542-4251