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OPEN MEETING ITEM



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Executive Director

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ARIZONA CORPORATION COMMISSION

2015 MAY -7 A 9:14

DATE: MAY 7, 2015
DOCKET NO.: W-01445A-05-0389

ARIZONA CORP COM
DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc Stern. The recommendation has been filed in the form of an Order on:

ARIZONA WATER COMPANY
(ORDER EXTENDING TIME DEADLINE CONTAINED IN
DECISION NOS. 68442, 70844, 72247, AND 74007)

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:

MAY 18, 2015

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:

JUNE 16, 2015 and JUNE 17, 2015

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

MAY 07 2015

DOCKETED BY *RC*

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

SUSAN BITTER SMITH – Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY FOR AN
EXTENSION OF ITS EXISTING CERTIFICATE
OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01445A-05-0389

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 68442, 70844, 72247,
AND 74007

Open Meeting
June 16 and 17, 2015
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On February 2, 2006, the Arizona Corporation Commission (“Commission”) issued Decision No. 68442 which approved a request for an extension of Arizona Water Company’s (“Company” or “Applicant”) Certificate of Convenience and Necessity (“Certificate”) to provide public water service to three parcels of land¹ located in both the City of Coolidge (“City”), and in portions of Pinal County, Arizona subject to certain conditions to be completed within one year of the Decision.

2. As a condition of the Commission’s approval, the Company was required to do the following:

- that the Company charge its existing rates and charges for its Coolidge system in the proposed extension area;

¹ The three parcels were known as the Skousen, Lorenson and Vail parcels.

- 1 • that the Company file, within 365 days of the effective date of this
2 Decision, with the Commission's Docket Control, as a compliance item, a
3 copy of the respective developer's Certificate of Assured Water Supply
4 ("CAWS") issued by the Arizona Department of Water Resources
5 ("ADWR") for the areas described in Exhibit A;
- 6 • that the Company file, within 365 days of the effective date of this
7 Decision, with the Commission's Docket Control, as a compliance item,
8 copies of any executed main extension agreements;² and
- 9 • that the Company file, within 365 days of the effective date of the
10 Decision, with the Commission's Docket Control, as a compliance item,
11 copies of the respective Certificates of Approval to Construct ("ATC")
12 issued by the Arizona Department of Environmental Quality for the
13 construction of mains in the three extension areas.

14 3. On December 27, 2006, the Company filed a request for a one-year extension of time,
15 until February 2, 2008, to complete the compliance requirements for Decision No. 68442. The
16 Company indicated that it was in partial compliance with Decision No. 68442 and had filed some of
17 the required documentation, and stated that development was going forward on the three parcels of
18 land included in the extension area.

19 4. On January 4, 2007, by Procedural Order, the Commission's Utilities Division
20 ("Staff") was directed to file a response to the Company's request by January 18, 2007. Staff did not
21 file any objections to this request by the Company.

22 5. On January 17, 2007, the owner of the Vail parcel filed a letter in support of the
23 Company's request for an extension of time.

24 6. On February 1, 2007, by Procedural Order, the Company was granted an additional
25 extension of time, until February 2, 2008, to comply with Decision No. 68442.

26 7. On December 13, 2007, the Company filed another request for an additional one-year
27 extension of time, until February 2, 2009, to complete the compliance requirements for Decision No.
28 68442. The Company indicated that it was in partial compliance with Decision No. 68442 and had
completed the required compliance filing on the Skousen and Lorenson parcels, and stated that
development was going forward on the three parcels of land included in the extension area.

8. On January 8, 2008, Staff filed a memorandum with respect to the Company's

² Staff notes that since the date of Decision No. 68442, Commission extension Decisions no longer require the filing of
main extension agreements in the docket because the Commission's rules require that main extension agreements be filed
with Staff for approval.

1 additional request for an extension of time, until February 2, 2009, to meet the compliance
2 requirements of Decision No. 68442. Staff confirmed the completion of the compliance requirements
3 for the Skousen and Lorenson parcels and confirmed that development was proceeding on the third
4 parcel. Staff concluded that it did not object to the Company's request for an extension of time, until
5 February 2, 2009, to complete the compliance requirements for the third parcel, but recommended
6 that no further extensions of time be approved after the aforementioned date.

7 9. On January 24, 2008, by Procedural Order, the Company was granted an additional
8 extension of time to comply with Decision No. 68442, until February 2, 2009, to meet the compliance
9 requirements of the Decision.

10 10. On December 17, 2008, the Company filed a request for a third extension of time, this
11 time for two years, until February 2, 2011, to complete its compliance requirements for the third
12 parcel known as the Vail parcel. Attached to the Company's request was a letter from the CEO of the
13 company which owns the Vail parcel. He indicated that his firm still desired water service for the
14 parcel and stated that development was to begin within 24 months "if market conditions do not
15 worsen."

16 11. On January 28, 2009, Staff filed a memorandum in response to the Company's third
17 request for an extension of time to comply with Decision No. 68442. Staff weighed the pros and
18 cons for a further extension of time for the Company to meet the compliance requirements for the
19 third parcel and pointed out that the third parcel consists of only 160 acres and is essentially
20 surrounded by, and is adjacent to, the Company's existing certificated service area. Staff ultimately
21 concluded that the requested extension of time is in the best interest of all of the parties, adding that it
22 would not be economically or operationally feasible for a water provider other than the Company to
23 provide service. Staff therefore recommended approval of the Company's request.

24 12. On March 17, 2009, the Commission issued Decision No. 70844 approving an
25 extension of time until February 2, 2011, to file the required documentation for Parcel Three aka the
26 Vail parcel.

27 13. On November 17, 2010, the Company filed a further request for an additional two-
28 year extension of time, until February 2, 2013, to file the required documentation for Parcel Three

1 due to the "severe economic recession" which had a "particularly adverse effect on Arizona real
2 estate." The Company further related that it has secured a Physical Availability Determination
3 ("PAD") from ADWR, a precursor to securing a CAWS from the same agency. Lastly, the Company
4 provided a copy of an updated request for water service from the developer of Parcel Three.

5 14. On February 18, 2011, Staff filed a memorandum in response to the Company's
6 request for an extension of time to file the required documentation for Parcel Three. Staff did not
7 object to the requested extension in light of the Company's compliance with respect to Parcels One
8 and Two and recommended approval of the extension, until February 2, 2013, to file the required
9 documentation as set forth in Findings of Fact No. 2.

10 15. Staff further recommended that no additional extensions be granted.

11 16. On April 7, 2011, the Commission issued Decision No. 72247, which approved the
12 Company's November 17, 2010, request for an additional extension of time until February 2, 2013, to
13 file the required documentation for Parcel Three aka the Vail Parcel. The Commission further stated
14 that it was putting the Company on notice that any future requests for an extension of time to comply
15 must demonstrate that extraordinary circumstances existed that warranted an approval of an extension
16 of time.

17 17. On February 7, 2013, the Company filed a request for a fourth extension of time, for
18 an additional two years, until February 2, 2015, to meet the compliance requirements for Parcel
19 Three.

20 18. In support of the request herein, the Company stated as follows:

- 21
- 22 • the Company has substantially complied with the requirements of Decision No. 68442,
and the remaining compliance requirements concern only Parcel Three;
 - 23 • the Company is currently serving 14 customers in the expansion area approved by
24 Decision No. 68442;
 - 25 • the deep recession and real estate crash over the past several years (essentially, the
26 entire time that Decision No. 68442 has been in effect) are extraordinary
27 circumstances that have not been seen since the Great Depression. The severe
28 economic downturn that has battered the Arizona real estate market persists, and
continues to delay the development of residential and mixed-use development in
Arizona, including Pinal County. Therefore, even though the Company is serving, and

1 expects to serve additional customers in the expansion area within the next few years
2 and no one, including housing experts and economists, can say for sure when the real
estate market will see a recovery of any significance;

- 3 • the Commission's Staff observed in evaluating Willow Valley Water Company's
4 request for additional time recommended approval in Docket No. W-1732A-05-0532
5 resulting in Decision No. 71861 (September 1, 2010) that "... the downturn in the
economy has put a damper on much of the development in this state;"
- 6 • ADWR has approved a PAD for an area that includes the entire expansion area. The
7 PAD, as approved by ADWR, confirms the ADWR's determination that a sufficient
8 amount of groundwater is physically available for 100 years for assured water supply
9 purposes in the PAD study area, which includes the entire extension area and that the
10 water is of adequate quality. The Company submits that approval of the PAD satisfies
11 the policy objectives behind the condition of obtaining a CAWS. See, generally,
12 Decision No. 68722 (July 30, 2007), paragraph 97. In addition, Commission Decision
13 No. 74146 (May 1, 2012), entered in the Global Certificate dockets, Docket No. W-
14 01445A-06-0199, et al., is consistent with this acceptance of the PAD; and
- 15 • the real property in Parcel Three is owned by one property owner. The Company has
16 requested a letter from the property owner, and it will be filed to supplement this
17 request as soon as the Company receives it. It will document the property owner's
continuing need and request for water service from the Company to be able to develop
its property in the expansion area. The property owner letter will also confirm the
owner's plans to develop its property in reliance upon water service that it plans to
obtain under the Company's Certificate. The continued existence of that Certificate
will support the slowly improving development market that has experienced historic
difficulty, as detailed above, and the withdrawal of the Certificate would be
detrimental to that recovery.

18 19. On February 20, 2013, the Company filed a supplement to its fourth request for an
19 extension of time along with a copy of a letter from the owner of Parcel Three. The letter confirmed
20 the need for service and the supplemental pleading further stated that the Company was providing
21 service to 18 customers in the expansion area.

22 20. On June 14, 2013, the Company filed another supplement to its fourth request for an
23 extension, and attached a copy of an ATC issued on April 18, 2013, that represented an extension of
24 service to property located in Parcel Three as required by Decision No. 68442. This filing satisfied
25 one of the three compliance filing requirements of the Decision.

26 21. On June 28, 2013, Staff filed a memorandum in response to the Company's fourth
27 request for an extension of time to comply with Decision No. 68442. Staff stated that since the
28 Company had met the requirements for Parcels One and Two, and in light of the letter from the

1 owner of Parcel Three, the extension should be granted until February 2, 2015, but no further
2 extensions be granted for any reason.

3 22. On July 30, 2013, the Commission issued Decision No. 74007, which approved the
4 Company's February 7, 2013, request for an additional extension of time until February 2, 2015, to
5 file copies of the remaining required documents for Parcel Three, aka the Vail Parcel as follows: the
6 developer's CAWS and any executed main extension agreements.

7 23. On November 5, 2014, the Company filed a request for a fifth extension of time, for
8 an additional two years, until February 2, 2017, to meet the compliance requirements for Parcel
9 Three.

10 24. In support of the request herein, the Company states as follows:

- 11 • the Company has substantially complied with the requirements of Decision No. 68442,
12 and the remaining compliance requirements concern only Parcel Three;
- 13 • the Company is currently serving 14 customers in the expansion area approved by
14 Decision No. 68442;
- 15 • the deep recession and real estate crash over the past several years (essentially, the
16 entire time that Decision No. 68442 has been in effect) are extraordinary
17 circumstances that have not been seen since the Great Depression. The severe
18 economic downturn that has battered the Arizona real estate market persists, and
19 continues to delay the development of residential and mixed-use development in
20 Arizona, including Pinal County. Therefore, even though the Company is serving, and
21 expects to serve additional customers in the expansion area within the next few years
22 and no one, including housing experts and economists, can say for sure when the real
23 estate market will see a recovery of any significance;
- 24 • the Commission's Staff observed in evaluating Willow Valley Water Company's
25 request for additional time recommended approval in Docket No. W-1732A-05-0532
26 resulting in Decision No. 71861 (September 1, 2010) that "... the downturn in the
27 economy has put a damper on much of the development in this state;"
- 28 • the real property in Parcel Three is owned by one property owner. The Company has
received a letter from the property owner, and it has been attached as Exhibit "A" to
the request herein. This letter documents the property owner's continuing need and
request for water service from the Company in order to develop its property in the
expansion area in 24 months or less if market conditions improve. The property
owner letter also confirms the owner's plans to develop its property in reliance upon
water service that it plans to obtain under the Company's Certificate. The continued
existence of that Certificate will support the slowly improving development market
that has experienced historic difficulty, as detailed above, and the withdrawal of the

Certificate would be detrimental to that recovery, and to the property owner's ability to obtain the necessary CAWS; and

- absent an extension of the Company's Certificate, the owner of Parcel Three will not be able to apply to ADWR for a CAWS because ADWR places a condition on any application for a CAWS requiring the property owner to have its property located in an area included within a Certificated area or have an application for a Certificate pending at the time of the application for a CAWS.

25. On April 21, 2015, Staff filed a memorandum in response to the Company's fifth request for an extension of time to comply with Division No. 68442. Staff stated that the two remaining compliance items apply only to Parcel Three of the three parcels which the Company originally applied to serve in this docket. The compliance requirements for Parcels One and Two have been satisfied. Staff has reviewed the current letter requesting service from the sole property owner of Parcel Three, Vail 160, L.L.C. and does not object to the Company's fifth request for an extension herein.

26. Under the circumstances, in light of the property owner of Parcel Three's plans to proceed with development within 24 months or less time if market conditions improve, the extension should be granted as requested until February 2, 2017.

CONCLUSIONS OF LAW

1. The Company is a public service corporation within the meaning of article XV of the Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-282.

2. The Commission has jurisdiction over the Company and the subject matter of the request addressed herein.

3. Staff's recommendation for the extension of time to file copies of the remaining required documentation as set forth above in Findings of Fact No. 26 should be adopted.

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ORDER

IT IS THEREFORE ORDERED the Arizona Water Company is hereby granted an extension of time, until February 2, 2017, to file copies of the remaining required documents for Parcel Three, as set forth in Decision Nos. 68442, 70844, 72247, and 74007 as follows: the developer's Certificate of Assured Water Supply; and any executed main extension agreements.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____ COMMISSIONER _____

COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

IN WITNESS WHEREOF, I, JODI A. 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 _____, 2015.

JODI A. JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
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SERVICE LIST FOR: ARIZONA WATER COMPANY

DOCKET NO.: W-01445A-05-0389

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