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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED
AUG 26 2015
DOCKETED BY

IN THE MATTER OF THE APPLICATION OF NEW RIVER UTILITY COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS WATER RATES AND CHARGES FOR UTILITY SERVICE BASED THEREON.

DOCKET NO. W-01737A-12-0478

DECISION NO. 75228

ORDER EXTENDING TIME DEADLINE IN DECISION NO. 74294

Open Meeting
August 18 and 19, 2015
Phoenix, Arizona

BY THE COMMISSION:

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

FINDINGS OF FACT

1. On January 29, 2014, the Commission issued Decision No. 74294 approving permanent rates and charges for New River Utility Company ("New River"). In the Decision, in response to New River's request for $31,333 in normalized tank painting expenses, the Commission stated the following:

> While the Commission's rules require a utility to use a historical test year for its rate case, they also allow for pro forma adjustments to actual test year figures "to obtain a normal or more realistic relationship between revenues, expenses and rate base." (*See* A.A.C. R14-2-103(A)(3)(i), App. C.) The Commission allows such adjustments to be made for future expenses when there is evidence establishing that the future expenses are known and measurable. In this case, the evidence establishes that New River has an obligation to incur a $130,000 expense for tank painting to be commenced in the next few months. The evidence also establishes that this is a reasonable level of expense for the work to be completed, that New River's tanks need to be recoated, and that a 15-year

> period between recoatings for water tanks is reasonable. Based upon the evidence herein, we find that it is just and reasonable to allow New River recovery of the $130,000 in tank recoating expense for the work to be completed by ACAI, with the $130,000 to be normalized over 15 years, which amounts to a pro forma expense increase of $8,667 for the adjusted TY. We will require New River to ensure that the tank recoating work is completed in accordance with its testimony herein and to file, as a compliance item in this docket, no later than June 2, 2014, documentation from ACAI confirming completion of the quoted tank recoating work.[1]

2. Consistent with the above, the Commission ordered New River to file, by June 2, 2014, documentation from ACAI establishing that the recoating work for New River's storage tank built in 1997 had been completed and showing the final invoiced amount for that work. (Decision No. 74294 at 75, 81-82.)

3. On June 27, 2014, New River filed a Request to Extend Deadline in Decision 74294 for Tank Recoating ("1st Request"), stating that New River had implemented its new rates and charges in March 2014, but had incurred significant unexpected costs for well and pump repairs in May and June 2013 and then again in June 2014, cumulatively incurring expenses in excess of $258,000 for these repairs. New River stated that it did not at that time have the $133,000 needed to pay for the storage tank recoating and added that the recoating work must be done during the winter months when system water demand is lower. New River requested a one-year extension of the deadline for completing the tank recoating work, through and including June 2, 2015.

4. On January 20, 2015, the Commission's Utilities Division ("Staff") filed a Memorandum stating that Staff did not object to New River's 1st Request and recommending that the 1st Request be granted. Noting that New River's 1st Request had been filed after the existing due date for this compliance item, however, Staff also recommended that New River be required to file any future requests for extension of time, in any docket, at least 90 days prior to the existing due date. Additionally, Staff recommended that no further extensions of time be granted in this matter.

5. New River did not file a response to Staff's Memorandum.

6. On March 16, 2015, the Commission issued Decision No. 74977, extending to June 2, 2015, the deadline for New River to file with the Commission's Docket Control, as a compliance

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[1] Decision No. 74294 at 29-30 (footnote omitted). New River had testified that there was a contract in place to have the recoating work done in winter 2013. (*See id.* at 28.)

item in this docket, documentation obtained from ACAI establishing that the recoating work for New River's storage tank built in 1997 had been completed and showing the final invoiced amount for that work. (Decision No. 74977 (March 16, 2015) at 3.) The Decision further ordered New River to file any future requests for extension of time, in any docket, at least 90 days before the existing deadline for the requirement in question. (*Id.* at 4.)

7. On May 22, 2015,[2] New River filed a Request to Extend Deadline in Decision 74294 for Tank Recoating ("2nd Request"). In its 2nd Request, New River stated that New River desires an additional one-year extension, through June 2, 2016, of the deadline for completing the tank recoating work because the City of Peoria ("City") is considering acquisition of New River. New River further stated that after inspecting the storage tank, New River had determined that the tank recoating work could wait another year without risk of damage or deterioration to the tank. New River included a copy of Minutes from the Peoria City Council meeting of April 7, 2015, in which potential acquisition of New River had been a subject of an Executive Session.

8. On July 21, 2015, Staff filed a Memorandum recommending that New River's 2nd Request be approved and that New River be granted no further extensions of time in this matter. Staff stated that it had contacted New River to discuss the 2nd Request and that, according to New River, the recoating work will likely be completed this winter if New River is not purchased by the City of Peoria. Staff did not address the tardiness of New River's 2nd Request.

9. In Decision No. 74977, we made New River aware that any future extension request would be granted only under compelling circumstances, as New River's current rates include funds to cover the normalized expense of recoating the storage tank. We also ordered New River to file any future requests for extension of time at least 90 days prior to the existing deadline for the requirement in question, a directive that was not met with the 2nd Request. However, the City's acquisition of New River would be a singular event, and New River almost certainly has no control over the timing of the City's decision-making process or its outcome. With the City's determination pending, it was reasonable and appropriate for New River to request an extension of its deadline to complete the tank

[2] New River did not address why the 2nd Request had not been filed at least 90 days before the June 2, 2015, deadline.

recoating.[3] We find that the uncertainty surrounding New River's operations, as a result of the pending City decision, constitutes compelling circumstances warranting approval of the 2nd Request. In addition, we find that New River should be foreclosed from filing any future request for deadline extension in this matter unless the request is filed at least 90 days before the deadline in question, and the request describes and provides documentation to support a compelling reason for the requested extension.

CONCLUSIONS OF LAW

1. New River is a public service corporation pursuant to Article XV of the Arizona Constitution and A.R.S. Title 40.

2. The Commission has jurisdiction over New River and the subject matter of New River's 2nd Request.

3. It is reasonable and appropriate and in the public interest to grant New River another one-year extension of time to file documentation from ACAI confirming completion of the quoted tank recoating work.

4. It is reasonable and appropriate and in the public interest to preclude New River from filing a future request for deadline extension in this matter unless the request is filed at least 90 days before the deadline in question, and the request describes and provides documentation to support a compelling reason for the requested deadline extension.

ORDER

IT IS THEREFORE ORDERED that the Commission hereby extends, to June 2, 2016, the deadline for New River Utility Company to file with the Commission's Docket Control, as a compliance item in this docket, documentation obtained from ACAI establishing that the recoating work for New River Utility Company's storage tank built in 1997 has been completed and showing the final invoiced amount for that work.

. . .

. . .

[3] New River should have made the filing in a timely manner.

IT IS FURTHER ORDERED that New River Utility Company may not file another request for deadline extension in this matter unless the request is filed at least 90 days before the deadline in question, and the request describes and provides documentation to support a compelling reason for the requested extension.

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 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 26th day of August 2015.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
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SERVICE LIST FOR: NEW RIVER UTILITY COMPANY

DOCKET NO.: W-01737A-12-0478

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