

OPEN MEETING



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MEMORANDUM

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Arizona Corporation Commission

2015 DEC 29 P 4: 30

TO: THE COMMISSION

DOCKETED

AZ CORP COMMISSION
DOCKET CONTROL

FROM: Utilities Division

DEC 29 2015

DATE: December 29, 2015

DOCKETED BY

RE: IN THE MATTER OF THE APPLICATION OF ARIZONA WINDSONG REALTY, INC. FOR APPROVAL TO TRANSFER UTILITY ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY (Docket Nos. W-02250A-14-0376 & W-20919A-14-0376)

SUBJECT: REVOCATION OF ARIZONA WINDSONG'S CC&N

Introduction

On December 23, 2015, Arizona Windsong Water Company ("Arizona Windsong" or "Company"), through its attorney, sent a letter to Utilities Division ("Staff") requesting revocation of its Certificate of Convenience and Necessity ("CC&N") granted by the Arizona Corporation Commission ("ACC" or "Commission") in Decision No. 75083. A copy of the letter was docketed in Docket Nos. W-02250A-14-0376 and W-20919A-14-0376 and is attached to this Memorandum as Attachment A. Staff recommends that the Commission grant Arizona Windsong's request for revocation of its CC&N. Staff further recommends that the Commission require Arizona Windsong to continue to provide service at approved rates to customers until a new entity is able to provide adequate service to customers within Arizona Windsong's service territory.

Background and Analysis

Arizona Windsong provides water service to approximately 68 residential customers and one commercial customer in Sanders, Arizona. In Decision No. 75083, the Commission granted Arizona Windsong a conditional CC&N which required, among other things, Arizona Windsong to be in compliance with the Arizona Department of Environmental Quality ("ADEQ") by December 31, 2015 or have entered into a consent agreement with ADEQ demonstrating a plan to reach compliance. Decision No. 75083 also required Staff to request revocation of the Company's CC&N if that condition was not satisfied. Arizona Windsong's December, 23, 2015 letter informs the Commission that the Company will not be able to meet the December 31, 2015 deadline¹ due to circumstance outside the Company's control.

Arizona Windsong further indicates the Navajo Tribal Utilities Authority ("NTUA") is considering extending service to Arizona Windsong's customers. The Company requests the

¹ On October 15, 2015, ADEQ issued a Compliance Order to Arizona Windsong alleging, among other things, exceedances of the Maximum Contaminant Level (MCL) for Uranium.

Commission revoke its CC&N according to Decision No. 75083 to remove any impediment to the NTUA extending service.

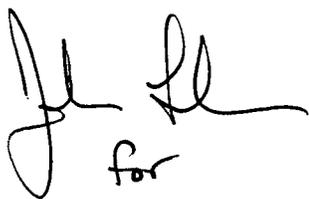
Arizona Windsong acknowledges that the revocation of its CC&N will not affect its status as a public service corporation ("PSC") and its obligation to continue service to its customers, (even in absence of a CC&N), until service is available from a new provider. Arizona Windsong agrees to continue to provide service to customers under rates approved by the Commission until such time as NTUA extends its system to serve Arizona Windsong customers. Arizona Windsong further requests that the Commission authorize the Company to terminate service and its status as a PSC once service is available from another provider.

Staff Recommendations

Staff recommends that Arizona Windsong's request for revocation of its CC&N be approved to remove any impediment to NTUA extending its lines to serve Arizona Windsong's customers. Staff further recommends that the Commission require Arizona Windsong to continue to provide service to its customers at rates authorized by the Commission until a new provider is ready willing and able to provide service to Arizona Windsong customers. Staff further recommends that Arizona Windsong notify the Commission within 30 days of another entity providing water service to any Arizona Windsong customer.

Thomas M. Broderick
Director
Utilities Division

TMB:LJL:vsc\ML



for

ORIGINATOR: John LeSueur

ORIGINAL
Snell & Wilmer
 L.L.P.
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December 23, 2015

BY HAND DELIVERY

John LeSueur
 Assistant Director
 Arizona Corporation Commission
 1200 West Washington
 Phoenix, AZ 85007

Re: Arizona Windsong Realty, Inc.
 Docket Nos. W-02250A-14-0376 and W-20919A-14-0376

Dear Mr. LeSueur:

In Decision No. 75083, the Arizona Corporation Commission ("Commission") approved the transfer of assets from Arizona Windsong Realty, Inc. to Arizona Windsong Water Company ("Arizona Windsong"). The Decision also issued a Certificate of Convenience and Necessity ("CC&N") to Arizona Windsong in accordance with Commission Staff's recommendations that the Commission condition the CC&N upon Arizona Windsong's compliance with the past compliance requirements placed on Arizona Windsong Realty, Inc. by December 31, 2015. Staff further recommended that the Commission revoke Arizona Windsong's CC&N if Arizona Windsong did not timely satisfy the outstanding compliance requirements. Due to circumstances outside of Arizona Windsong's control, Arizona Windsong hereby informs the Commission that it will not satisfy all of the above-mentioned compliance requirements by December 31, 2015.

The Navajo Tribal Utilities Authority ("NTUA") has indicated that NTUA is considering extending service to Arizona Windsong's customers by building an extension to NTUA's system. Arizona Windsong believes that this is the only viable solution for its customers. Accordingly, Arizona Windsong requests that the Commission revoke its CC&N as envisioned by the Commission in Decision No. 75083 to remove any impediment to the NTUA extending its lines.

Finally, Arizona Windsong acknowledges that the revocation of its CC&N will not affect its status as a public service corporation. It will continue to offer services to existing customers

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2015 DEC 23 P 4: 22

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DEC 23 2015

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John LeSueur
December 23, 2015
Page 2

under rates approved by the Commission until such time as the NTUA extends its system. Arizona Windsong also requests any necessary authority to terminate service once service is available from NTUA.

Very truly yours,

Snell & Wilmer

A handwritten signature in black ink, appearing to read "Timothy J. Sabo", followed by a long horizontal line extending to the right.

Timothy J. Sabo

TJS:jh

Original and 13 Copies to Docket Control

cc: Lillie Paulsell

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BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE APPLICATION)
 OF ARIZONA WINDSONG REALTY, INC.)
 FOR APPROVAL TO TRANSFER UTILITY)
 ASSETS AND CERTIFICATE OF)
 CONVENIENCE AND NECESSITY)

DOCKET NO. W-02250A-14-0376
 W-20919A-14-0376
 DECISION NO. _____
ORDER

Open Meeting
 January 12, 2016
 Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

Introduction

1. On December 23, 2015, Arizona Windsong Water Company ("Arizona Windsong" or "Company"), through its attorney, sent a letter to the Arizona Corporation Commission's ("ACC" or "Commission") Utilities Division ("Staff") requesting the revocation of its Certificate of Convenience and Necessity ("CC&N") granted in Decision No. 75083. A copy of the letter was docketed in Docket Nos. W-02250A-14-0376 and W-20919A-14-0376.

2. Staff recommends that the Commission grant Arizona Windsong's request for revocation of its CC&N. Staff further recommends that the Commission require Arizona Windsong to continue to provide service at approved rates to customers until a new entity is able to provide adequate service to customers within Arizona Windsong's service territory.

...

1 **Background and Analysis**

2 3. Arizona Windsong provides water service to approximately 68 residential customers and
3 one commercial customer in Sanders, Arizona.

4 4. In Decision No. 75083, the Commission granted Arizona Windsong a conditional
5 CC&N which required, among other things, Arizona Windsong to be in compliance with the Arizona
6 Department of Environmental Quality (“ADEQ”) by December 31, 2015 or have entered into a consent
7 agreement with ADEQ demonstrating a plan to reach compliance.

8 5. Decision No. 75083 also requires Staff to request revocation of the Company’s CC&N
9 if that condition is not satisfied. Arizona Windsong’s December 23, 2015 letter informs the Commission
10 that the Company will not be able to meet the December 31, 2015 deadline due to circumstance outside
11 the Company’s control.

12 6. On October 15, 2015, ADEQ issued a Compliance Order to Arizona Windsong alleging,
13 among other things, exceedances of the Maximum Contaminant Level (MCL) for Uranium.

14 7. Arizona Windsong further indicates the Navajo Tribal Utilities Authority (“NTUA”) is
15 considering extending service to Arizona Windsong’s customers.

16 8. The Company requests the Commission revoke its CC&N according to Decision No.
17 75083 to remove any impediment to the NTUA extending service.

18 9. Arizona Windsong acknowledges that the revocation of its CC&N will not affect its
19 status as a public service corporation (“PSC”) and its obligation to continue service to its customers,
20 (even in absence of a CC&N), until service is available from a new provider.

21 10. Arizona Windsong agrees to continue to provide service to customers under rate
22 approved by the Commission until such time as NTUA or another provider extends its system to serve
23 Arizona Windsong customers.

24 11. Arizona Windsong further requests the Commission grant any authority required for the
25 Company to terminate service and its status as a PSC once service is available from another provider.

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1 Staff Recommendations

2 12. Staff recommends that Arizona Windsong's request for revocation of its CC&N be
3 approved to remove any impediment to NTUA extending its lines to serve Arizona Windsong's
4 customers.

5 13. Staff further recommends that the Commission require Arizona Windsong to continue
6 to provide service to its customers at rates authorized by the Commission until a new provider is ready
7 willing and able to provide service to Arizona Windsong customers.

8 14. Staff further recommends that Arizona Windsong notify the Commission within 30 days
9 of another entity providing water service to any Arizona Windsong customer.

10 CONCLUSIONS OF LAW

11 1. Arizona Windsong Water Company is an Arizona public service corporation within the
12 meaning of Article XV, Section 2, of the Arizona Constitution.

13 2. The Commission has jurisdiction over Arizona Windsong and over the subject matter
14 of this application.

15 3. The Commission, having reviewed Staff's Memorandum dated December 29, 2015,
16 concludes that it is in public interest to approve Arizona Windsong's request to revoke its Certificate of
17 Convenience and Necessity as proposed and discussed herein.

18 ORDER

19 IT IS THEREFORE ORDERED that Arizona Windsong Water Company's Certificate of
20 Convenience of Necessity granted in Decision No. 75083 is hereby revoked.

21 IT IS FURTHER ORDERED that Arizona Windsong Water Company shall continue
22 providing water service to its customers at rates authorized by the Commission.

23 IT IS FURTHER ORDERED that Arizona Windsong Water Company shall notify the
24 Commission within 30 days of another entity providing water service to any Arizona Windsong's
25 customers.

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

BY THE 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 this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2016.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

TMB:LJL vsc/ML

1 SERVICE LIST FOR: Arizona Windsong Realty, Inc.
2 DOCKET NO. W-02250A-14-0376 and W-20919A-14-0376

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