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TOM FURSE  
ANDY TOBIN

OPEN MEETING ITEM



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AZ CORP COMMISSION Executive Director  
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ARIZONA CORPORATION COMMISSION JUL 22 A 9:48

DATE: JULY 22, 2016  
DOCKET NOS.: W-04249A-15-0260  
W-20935A-15-0260

Arizona Corporation Commission  
DOCKETED  
JUL 22 2016

DOCKETED BY [Signature]

TO ALL PARTIES:

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

KACY J. PARKER D/B/A JAKE'S CORNER WATER SYSTEMS.  
(SALE OF ASSETS/TRANSFER OF CC&N)

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:

AUGUST 1, 2016

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:

AUGUST 9, 2016 AND AUGUST 10, 2016

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.

JODI A. 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 [SBernal@azcc.gov](mailto:SBernal@azcc.gov).

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

DOUG LITTLE – Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE  
ANDY TOBIN

IN THE MATTER OF THE APPLICATION OF  
KACY J. PARKER d/b/a JAKE’S CORNER WATER  
SYSTEMS FOR APPROVAL OF THE SALE OF ITS  
ASSETS AND TRANSFER OF ITS CERTIFICATE  
OF CONVENIENCE AND NECESSITY TO  
MANAGEMENT SYSTEMS, LLC.

DOCKET NOS. W-04249A-15-0260  
W-20935A-15-0260

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

DATE OF HEARING: January 22, 2016  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey<sup>1</sup>  
APPEARANCES: Mr. Michael Armstead, on behalf of Management Systems, LLC; and  
Mr. Robert Geake, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**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**

**Procedural History**

1. On July 10, 2015, Kacy J. Parker dba Jake’s Corner Water Systems (“Jake’s Corner”) filed with the Arizona Corporation Commission (“Commission”) an application for approval of the sale of its assets and the transfer of its Certificate of Convenience and Necessity (“CC&N”) to

<sup>1</sup> Administrative Law Judge (“ALJ”) Kinsey presided over the January 22, 2016, hearing. The Recommended Opinion and Order was prepared by ALJ Brian D. Schneider.

1 Management Systems, LLC (“Management Systems”).

2       2.     On August 10, 2015, the Commission’s Utilities Division (“Staff”) filed an  
3 Insufficiency Letter indicating that the application did not meet the sufficiency requirements outlined  
4 in Arizona Administrative Code (“A.A.C.”) R14-2-402.

5       3.     On September 28, 2015, Jake’s Corner filed additional information in support of its  
6 application.

7       4.     On October 28, 2015, Staff filed a Letter of Sufficiency stating that Jake’s Corner’s  
8 application had met the sufficiency requirements outlined in A.A.C. R14-2-402.

9       5.     On December 1, 2015, by Procedural Order, a hearing was scheduled to commence on  
10 January 22, 2016, and other procedural deadlines were established.

11       6.     On December 28, 2015, Staff filed a Staff Report.

12       7.     On January 5, 2016, Jake’s Corner filed an affidavit stating that notice of the application  
13 had been mailed to its customers on December 24, 2015.

14       8.     On January 22, 2016, a full public hearing was convened before a duly authorized  
15 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Michael Armstead  
16 appeared on behalf of Jake’s Corner, and Staff appeared through counsel. No members of the public  
17 were present to provide comments on the application. During the hearing, discussions were held  
18 regarding whether the Jake Corner’s public notice of the application had complied with the Procedural  
19 Order issued on December 1, 2015. Jake’s Corner was instructed to late-file certification that it had  
20 published notice of the application in accordance with the December 1, 2015, Procedural Order.

21       9.     On January 27, 2016, Jake’s Corner late-filed a Certification of Publication  
22 demonstrating that notice of the application had been published in the *Payson Roundup* on January 5,  
23 2016.

24       10.    Also on January 27, 2016, Staff filed a Notice of Filing Amended Staff Report and  
25 Engineering Report.

26       11.    On March 4, 2016, by Procedural Order, Jake’s Corner was directed to provide public  
27 notice of the application in this matter to correct deficiencies in the original notice.

28       12.    On March 23, 2016, Jake’s Corner filed an affidavit stating that the Notice of the

1 application had been mailed to its customers on March 12, 2016, and published in the *Payson Roundup*  
 2 on March 18, 2016.

3 **Application**

4 13. Management Systems is an Arizona public service cooperation owned and operated by  
 5 Mr. Michael Armstead.<sup>2</sup> Mr. Armstead has had 9 years of technical and operational experience with  
 6 water and wastewater utilities.<sup>3</sup> Management Systems is in good standing with the Commission.<sup>4</sup>

7 14. Jake's Corner is a sole proprietorship authorized to provide water services to certain  
 8 portions of Gila County, Arizona, pursuant to authority granted by the Commission in Decision No.  
 9 50872 (April 22, 1980).<sup>5</sup> Jake's Corner is currently providing water utility service to approximately  
 10 20 customers, covering approximately 160 acres, in an area located approximately 18 miles south of  
 11 Payson in Gila County, Arizona.<sup>6</sup> Jake's Corner's current rates and charges for water utility service  
 12 were authorized by the Commission in Decision Nos. 75451 (February 11, 2016) and 75520 (April 22,  
 13 2016).<sup>7</sup>

14 15. The existing water system includes one well with an estimated pump yield of 22-28  
 15 gallons per minute ("GPM"), one 30 gallon bladder tank, one 5,000 gallon pressure tank, and a  
 16 distribution system.<sup>8</sup>

17 16. The actual well production is unknown and the system's capacity cannot be determined  
 18 because there is no well meter.<sup>9</sup> Based on Jake's Corner's water use data, Staff estimates that the well  
 19 capacity of 22 GPM could adequately service the present customer base and a reasonable level of  
 20 growth.<sup>10</sup>

21 17. The existing water system lacks adequate storage capacity to serve the existing customer  
 22

23 \_\_\_\_\_  
 24 <sup>2</sup> Tr. at 11.

25 <sup>3</sup> Exh. S-1.

26 <sup>4</sup> *Id.*

27 <sup>5</sup> *Id.*

28 <sup>6</sup> *Id.*

<sup>7</sup> Jake's Corner was authorized to charge a monthly emergency interim surcharge of \$16.23. Decision No. 75451 contained a typographical error in the authorized monthly emergency interim surcharge which was corrected *Nunc Pro Tunc* by Decision No. 75520.

<sup>8</sup> Exh. S-1.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

1 base.<sup>11</sup> Based on Jake's Corner's 2014 water use data and the capacity analyses, Staff states a minimum  
 2 of 5,000 gallons of storage is required to meet seasonal peak demand.<sup>12</sup>

3 18. According to a July 22, 2015, compliance status report by the Arizona Department of  
 4 Environmental Quality ("ADEQ"), Jake's Corner has unresolved ongoing arsenic exceedances,  
 5 monitoring and reporting deficiencies.<sup>13</sup> Due to these deficiencies, ADEQ cannot determine if Jake's  
 6 Corner is currently delivering water that meets water quality standards required by 40 C.F.R. 14  
 7 (National Primary Drinking Water Regulations) and A.A.C., Title 18, Chapter 4.<sup>14</sup> Mr. Armstead has  
 8 been meeting with ADEQ to become compliant with its requirements.<sup>15</sup>

9 19. Jake's Corner is not located in an Arizona Department of Water Resources ("ADWR")  
 10 Active Management Area.<sup>16</sup> According to a July 23, 2015, ADWR compliance status report, ADWR  
 11 has determined that Jake's Corner is not in compliance with ADWR requirements as it failed to file its  
 12 annual reports and System Water Plan.<sup>17</sup>

13 20. Staff's Compliance Section database shows no outstanding compliance issues for Jake's  
 14 Corner with the Commission.<sup>18</sup>

15 21. According to the application, Jake's Corner has no customer deposit refund obligations  
 16 or main line extension agreements, and no other utility will be affected by the proposed transaction.<sup>19</sup>

17 22. Staff reported that Jake's Corner is not aware of any judgments/liens against any of the  
 18 entities involved in this transfer of water utility assets and the CC&N.<sup>20</sup> Mr. Armstead testified that  
 19 \$1,500 is owed to the Arizona Department of Revenue ("ADOR") for delinquent property taxes and  
 20 that he is going to work with ADOR to pay off those taxes.<sup>21</sup> The delinquent property taxes have not  
 21 been reduced to a judgment or a lien.<sup>22</sup>

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23 <sup>11</sup> *Id.*

24 <sup>12</sup> *Id.*

25 <sup>13</sup> *Id.*

26 <sup>14</sup> *Id.*

27 <sup>15</sup> Exh. S-1; Tr. 18-19, 29.

28 <sup>16</sup> Exh. S-1.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Exh. A-1; Exh. S-1.

<sup>20</sup> Exh. S-1.

<sup>21</sup> Tr. at 15-16.

<sup>22</sup> Exh. S-1.

1           23.    On July 1, 2015, Jake's Corner and Management Systems entered into an agreement  
2 through a Bill of Sale of Personal Property under which Management Systems will acquire Jake's  
3 Corner's water utility assets and CC&N.<sup>23</sup> The purchase price of the assets and CC&N is \$1.00.<sup>24</sup>

4           24.    Staff reviewed the application and concluded that Management Systems has the  
5 financial, technical, and managerial ability to operate a public utility water system.<sup>25</sup> According to  
6 Staff, approval of the proposed sale and transfer would serve the public interest.<sup>26</sup>

7 **Staff's Recommendations**

8           25.    Staff recommends approval of the application, subject to the following conditions:

- 9           a.    To require Management Systems to charge the existing rates and  
10 charges under Jake's Corner's tariff until new rates are authorized by  
11 the Commission;
- 12           b.    To require Management Systems to file with Docket Control, as a  
13 compliance item in this docket by December 31, 2016, documentation  
14 from ADEQ indicating that there are no compliance deficiencies, and  
15 that Management Systems' water system is delivering water that meets  
16 the water quality standards required by 40 C.F.R. 14 (National Primary  
17 Drinking Water Regulations) and A.A.C., Title 18, Chapter 4. In the  
18 alternative, Management Systems may file a signed consent agreement  
19 with ADEQ demonstrating a plan to reach compliance;
- 20           c.    To require Management Systems to file with Docket Control, as a  
21 compliance item in this docket by December 31, 2016, documentation  
22 from ADWR indicating that the water system is compliant with  
23 departmental requirements governing water providers and/or  
24 community water systems;
- 25           d.    To require Management Systems to coordinate the reading of its well

26 \_\_\_\_\_  
27 <sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

1 meter and individual customer meters on a monthly basis and report this  
2 data in its Commission Annual Reports going forward (Management  
3 Systems shall collect the data needed in a format necessary to accurately  
4 complete the water use data sheets contained in the Annual Report  
5 form);

6 e. To require Management Systems to file with Docket Control within  
7 thirty days of the effective date of this Decision, as a compliance item  
8 in this docket, an affidavit affirming that Management Systems obtained  
9 and provided to Staff a copy of a Management Systems evaluation  
10 report (dated December 2015) prepared by KUV Consultants, LLC; and

11 f. To require Management Systems to file with Docket Control, as a  
12 compliance item in this docket by December 31, 2016, a copy of the  
13 ADEQ Approval of Construction for a new storage tank with a  
14 minimum capacity of 5,000 gallons.<sup>27</sup>

15 26. Mr. Armstead testified that he is in agreement with Staff's recommended conditions.<sup>28</sup>

16 27. We find it is in the public interest to approve the application, as recommended by Staff.

17 **CONCLUSIONS OF LAW**

18 1. Kacy J. Parker dba Jake's Corner Water Systems and Management Systems, LLC are  
19 public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S.  
20 §§ 40-281, 40-282, and 40-285.

21 2. The Commission has jurisdiction over Kacy J. Parker dba Jake's Corner Water Systems  
22 and Management Systems, LLC and the subject matter of the application.

23 3. Notice of this matter was provided in accordance with the law.

24 4. There is a continuing need for the provision of water utility service in the certificated  
25 service area of Kacy J. Parker dba Jake's Corner Water System.

26 5. Management Systems, LLC is a fit and proper entity to receive the assets and  
27

28 <sup>27</sup> *Id.*

<sup>28</sup> Tr. at 20-21.

1 certificated area of Kacy J. Parker dba Jake's Corner Water Systems.

2 6. It is in the public interest to approve the application, as recommended by Staff.

3 **ORDER**

4 IT IS THEREFORE ORDERED that the application of Management Systems, LLC for  
5 approval of the purchase of assets and transfer of Certificate of Convenience and Necessity from Kacy  
6 J. Parker dba Jake's Corner Water Systems is hereby approved, as discussed herein.

7 IT IS FURTHER ORDERED that Kacy J. Parker dba Jake's Corner Water Systems is hereby  
8 authorized to transfer all of its water utility assets and Certificate of Convenience and Necessity to  
9 Management Systems, LLC.

10 IT IS FURTHER ORDERED that Management Systems LLC shall continue to charge water  
11 customers in the certificated service area of Kacy J. Parker dba Jake's Corner Water Systems their  
12 existing rates and charges until further order of the Commission.

13 IT IS FURTHER ORDERED that Management Systems, LLC shall continue to comply with  
14 all Commission decisions and outstanding compliance items previously required by Kacy J. Parker dba  
15 Jake's Corner Water Systems.

16 IT IS FURTHER ORDERED that Management Systems, LLC file with Docket Control, as a  
17 compliance item in this docket, by December 31, 2016, documentation from ADEQ indicating that  
18 there are no compliance deficiencies, and that Management Systems, LLC is delivering water that  
19 meets the water quality standards required by 40 C.F.R. 14 (National Primary Drinking Water  
20 Regulations) and A.A.C., Title 18, Chapter 4. In the alternative, Management Systems, LLC may file  
21 a signed consent agreement with ADEQ demonstrating a plan to reach compliance.

22 IT IS FURTHER ORDERED that Management Systems, LLC file with Docket Control, as a  
23 compliance item in this docket, by December 31, 2016, documentation from ADWR indicating that the  
24 water system is compliant with departmental requirements governing water providers and/or  
25 community water systems.

26 IT IS FURTHER ORDERED that Management Systems, LLC coordinate the reading of its  
27 well meter and individual customer meters on a monthly basis and report this data in its Commission  
28 Annual Reports going forward (Management Systems, LLC shall collect the data needed in a format

1 necessary to accurately complete the water use data sheets contained in the Annual Report form).

2 IT IS FURTHER ORDERED that Management Systems, LLC file with Docket Control within  
3 thirty days of the effective date of this Decision, as a compliance item in this docket, an affidavit  
4 affirming that Management Systems, LLC obtained and provided to Staff a copy of a Management  
5 Systems, LLC evaluation report (dated December 2015) prepared by KUV Consultants, LLC.

6 IT IS FURTHER ORDERED that Management Systems, LLC file with Docket Control, as a  
7 compliance item in this docket, by December 31, 2016, a copy of the ADEQ Approval of Construction  
8 for a new storage tank with a minimum capacity of 5,000 gallons.

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

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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13 CHAIRMAN LITTLE

COMMISSIONER STUMP

14  
15 COMMISSIONER FORESE

COMMISSIONER TOBIN

COMMISSIONER BURNS

16  
17 IN WITNESS WHEREOF, I, JODI JERICH, Executive Director  
18 of the Arizona Corporation Commission, have hereunto set my  
19 hand and caused the official seal of the Commission to be affixed  
20 at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day  
of \_\_\_\_\_ 2016.

21  
22 JODI A. JERICH  
23 EXECUTIVE DIRECTOR

24 DISSENT \_\_\_\_\_

25  
26 DISSENT \_\_\_\_\_

27 BDS:rt:aw

28

1 SERVICE LIST FOR:

KACY J. PARKER DBA JAKE'S CORNER WATER  
SYSTEMS and MANAGEMENT SYSTEMS, LLC

2 DOCKET NOS.:

W-04249A-15-0260 and W-20935A-15-0260

3 Michael Armstead  
4 MANAGEMENT SYSTEMS, LLC  
5 211 W. Saddle Lane  
6 Payson, AZ 85541

7 Kacy Parker  
8 JAKE'S CORNER WATER SYSTEMS  
9 1400 N. Beeline Hwy  
10 Payson, AZ 85541

11 Dean Shaffer  
12 605 W. Arabian Way  
13 Payson, AZ 85441

14 Janice Alward, Chief Counsel  
15 Legal Division  
16 ARIZONA CORPORATION COMMISSION  
17 1200 West Washington Street  
18 Phoenix, Arizona 85007

19 Thomas Broderick, Director  
20 Utilities Division  
21 ARIZONA CORPORATION COMMISSION  
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