

ORIGINAL



0000180306

BEFORE THE ARIZONA CORPORATION COMMISSION  
AZ CORP COMMISSION  
DOCKET CONTROL

**COMMISSIONERS**

TOM FORESE - Chairman  
BOB BURNS  
DOUG LITTLE  
ANDY TOBIN  
BOYD DUNN

Arizona Corporation Commission

2017 JUN -9 A 11:30

DOCKETED

JUN 9 2017

DOCKETED BY *[Signature]*

IN THE MATTER OF THE COMMISSION'S  
INVESTIGATION INTO THE SETTING AND  
SUBSEQUENT EXTENSION OF  
COMPLIANCE DEADLINES ASSOCIATED  
WITH CERTIFICATES OF CONVENIENCE  
AND NECESSITY.

DOCKET NO. WS-00000A-17-0094

**NOTICE OF FILING  
STAFF'S CC&N WORKSHOP  
POWERPOINT PRESENTATION**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby files the CC&N Workshop – Power Point – Staff Presentation of Bob Gray, in the above-referenced matter.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of June, 2017.

Andy McKesic, Chief Counsel  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402  
[akvesic@azcc.gov](mailto:akvesic@azcc.gov)

On this 9th day of June, 2017, the foregoing document was filed with Docket Control as a Utilities Division Notice of Filing - Miscellaneous, and copies of the foregoing were mailed on behalf of the Utilities Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

Patrick J. Black  
FENNEMORE CRAIG, P.C.  
2394 E. Camelback Rd., Suite 600  
Phoenix, Arizona 85016

Utilities Inc.  
Wendy Barnett  
1240 E. State Street, Suite 115  
Pahrum, Nevada 89048

...

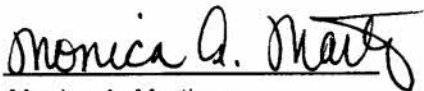
1 Michele Van Quathem  
LAW OFFICES OF MICHELE VAN  
2 QUATHEM, PLLC  
7600 N. 15<sup>th</sup> St., Suite 150-30  
3 Phoenix, Arizona 85020

Andy M. Kvesic  
ARIZONA CORPORATION COMMISSION  
Director – Legal Division  
1200 West Washington Street  
Phoenix, Arizona 85007

4 Elijah O. Abinah  
ARIZONA CORPORATION COMMISSION  
5 Director – Utilities Division  
1200 West Washington Street  
6 Phoenix, Arizona 85007

7

8

9 By:   
Monica A. Martinez  
Assistant to Andy Kvesic

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

## CC&N Workshop

Docket No. WS-00000A-17-0094

Staff Presentation – Bob Gray

# Background

- The ACC issues CC&Ns to public service corporations pursuant to A.R.S. 40-281
- The Commission issues CC&Ns to water and wastewater public service corporations with various conditions, some of which have defined timeframes for compliance
- Some conditions are related to Arizona Department of Environmental Quality; Arizona Department of Water Resources; and county/municipality consent, permit, or franchise requirements
- At times the company receiving a new or expanded CC&N does not complete certain conditions within the required timeframe, resulting in the company requesting an extension of time from the Commission

# Types of Conditions Placed on Water and Wastewater CC&N cases and Their Sources

Conditions that don't typically have compliance timeframes

- Applying existing rates and charges to an extension area, use NARUC Uniform System of Accounts (ACC), use depreciation rates by NARUC category, backflow and curtailment tariffs (ACC)

Conditions that typically have compliance timeframes:

- Approval to Construct (ADEQ)
- Approval of Construction (ADEQ)
- Aquifer Protection Permit (ADEQ/MAG)
- Main Extension Agreement (ACC)
- General Permits (State Statute, Various Agencies)
- Analysis of Adequate Water Supply, Letter of Adequate Water Supply, Designation of Assured Water Supply, Certificate of Assured Water Supply, Water Adequacy Report, Physical Availability Determination (ADWR)
- File a rate case with the ACC, often after five years (ACC)

# Types of CC&Ns Granted

- CC&N With Conditions – CC&N granted with conditions that are operational and on-going in nature rather than conditions that will be resolved at some point.
- Conditional CC&N – CC&N granted with explicit compliance requirements that must be fulfilled to perfect the CC&N.
- Order Preliminary – CC&N is not granted and the order places requirements on the utility. Utility does not receive the right to serve customers, exclude competitors, or construct plant in the territory in question. When the utility complies with those requirements, the utility may then apply to obtain the CC&N. Order preliminaries have been infrequently awarded and have been used in cases where additional documentation further into the future was needed.

## Survey of Other States

- 5 question survey sent out to various states and NARUC Staff Subcommittee on Water
- 13 states responded – Colorado, Florida, Missouri, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Washington, West Virginia, Wisconsin
- Staff also reviewed the Texas Public Utility Commission's website

## 5 Questions In State Survey

1. Does your state have statutory provisions that address the issuance of CC&Ns to water and wastewater utility companies? If yes, please identify this statutory provision.

Response: 11 of 13 states issue CC&Ns or the equivalent

2. Does your state have commission rules, regulations, or policies that prescribe the circumstances under which a CC&N can be issued conditionally? If yes, please provide a copy of these rules or policies?

Response: 3 of 9 states apply conditions on a case by case basis. 6 other states have a specific type of condition they apply.

3. Does your state have a statute or commission rules and/or regulations or policy that prescribe the timeframe within which a company must satisfy the conditions upon which a CC&N is based? If yes, please briefly describe.

Response: 2 of 5 states prescribe timeframes on a case by case basis. 2 states require construction to begin within a given timeframe, 6 months in one case and 2 years in the other. One state requires conditions to be completed in 60 days or the CC&N is voided.



# Summary of Survey Results for Each Question

4. Does your state have a statute or commission rules and/or regulations or policy that prescribe guidelines for requesting an extension of the time for a company to satisfy the conditions upon which a CC&N was granted? If yes, to the extent practical, please briefly describe.

Response: 3 of 5 states deal with extensions of time on a case by case basis. One other state allows for extensions if the CC&N has not been voided. One state allows for extensions if good cause is shown.

5. To what extent, if any, has your state commission undertaken a review or an assessment of public service implications regarding how long the Commission should grant time extensions and regarding how long it takes for a utility that has been unable to move forward with plans to provide service in its authorized CC&N?

Response: 0 of 5 states indicated they had undertaken such a process.

# Summary of ACC Condition and Extension History

- There has not been a formally adopted policy on what conditions should apply to a new or extended CC&N or how long or how many time extensions should be granted, but there have been general changes over time in how the Commission has handled these issues
- Pre-2007 Period – simpler process, fewer conditions, infrequent time extension requests, compliance requirements often tied to ADWR and at times ADEQ. Extensions were approved by procedural order.
- 2007 – The Great Recession – more compliance requirements, requests for extensions of time greatly increased, updated requests for service began to be required for time extensions, compliance requirements tied to ADEQ and ADWR are typical

# Summary of ACC Condition and Extension History, Continued

- 2008 – Commission shifts from extensions being approved by Procedural Order to extensions going to open meeting for approval
- January 22, 2010 – Commission revised rules for new CC&Ns and CC&N extensions of time for water and wastewater companies (R14-2-402 and R14-2-602). The new rules impose additional requirements for a utility to receive a new CC&N or a CC&N extension.
- Ten year extensions – In Decision No. 75482 (March 10, 2016) the Commission approved a ten year extension for Global Water in Docket 06-0199 and indicated that updated requests for service should not be required for processing extensions of time. Since that time eight additional ten year extensions have been granted, with the last ten year extension having been granted on March 22, 2017. There was an expectation that this would reduce the administrative burden and cost of processing extensions.

## Factors For Consideration in Extending Compliance Deadlines for Water and Wastewater CC&Ns

- Market conditions
- Length of time since original order approving CC&N
- Numbers of time extensions previously granted for the area
- Plant and/or other investment related to the CC&N area
- Whether an area has been contested or reasonably could be contested
- Whether another company is willing, ready, and able to provide service in the area
- Impact on economic development
- Impact on ratepayers of the frequency/cost of processing extensions/efficiency
- Cost of applying for and receiving initial CC&N grant or pursuing the CC&N area again if it was taken away

## Factors For Consideration in Extending Compliance Deadlines for Water and Wastewater CC&Ns, Continued

- Whether the new area is part of a larger development, parts of which are already being served by the utility
- Impact on property values and development if a CC&N area were to be taken away
- Extent to which other conditions on a new CC&N area have been met, have been extended, etc.
- Property rights issues
- Whether the CC&N holder is still fit and proper (technical, managerial, and financial capabilities) to serve the area
- Demonstration of a continued need for service in the area
- Need for additional Commission processes to consider extension
- Any unique circumstances related to a given case