BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ Corporation Commission
Director Of Utilities

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
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KRISTIN K. MAYES

IN THE MATTER OF THE APPLICATION OF OAK CREEK PUBLIC SERVICE COMPANY FOR APPROVAL OF THE TRANSFER OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY.	DOCKET NO. W-01577A-05-0072 DOCKET NO. W-04304A-05-0072 DECISION NO. 67985 **OPINION AND ORDER**

DATE OF HEARING:	May 26, 2005
PLACE OF HEARING:	Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE:	Marc E. Stern
APPEARANCES:	Mr. William E. Jackson, on behalf of Oak Creek Public Service Company; and Mr. David M. Ronald, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On February 4, 2005, the Estate of Pauline K. Smith, nee Jackson ("Estate") dba Oak Creek Public Service Company[1] ("Applicant" or "Company") filed with the Arizona Corporation Commission ("Commission") an application requesting the Commission's approval for the issuance of a Certificate of Convenience and Necessity ("Certificate") to operate a public water utility in various parts of Yavapai County, Arizona.[2]

On February 18, 2005, the Commission's Utilities Division ("Staff") issued a letter of insufficiency which stated that the application had not met the sufficiency requirements of A.A.C. R14-2-402(C). Staff found the Company's application insufficient because, in order for Applicant to

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[1] The Applicant is not related to, or affiliated with, Oak Creek Utility Corporation, which provides water and wastewater service to approximately 30 customers in an area east of Oak Creek along Highway 89A in Coconino County.

[2] The application was filed by William E. Jackson, Jr., Mrs. Smith's son and the Personal Representative of the Estate, which is currently operating Applicant.

comply with Decision No. 67514 (January 20, 2005), the Company had been ordered to file an application for the transfer of its Certificate to a legal business entity, in this case, Oak Creek Public Service, LLC ("Oak Creek LLC").[3]

On March 16, 2005, the Company filed an amended application which requests Commission approval to transfer its assets and Certificate to Oak Creek LLC.

On March 30, 2005, Staff issued a notice of sufficiency which stated Applicant had met the sufficiency requirements of A.A.C. R14-2-402(C).

On April 14, 2005, by Procedural Order, the Commission scheduled a hearing to commence on May 26, 2005.

On May 4, 2005, Staff filed its Staff Report recommending approval of the application.

On May 16, 2005, Applicant filed certification that notice had been provided pursuant to the Commission's Procedural Order.

On May 26, 2005, a full public hearing was convened before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Applicant appeared through the Personal Representative of the Estate and Staff appeared with counsel. At the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to 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. Pursuant to the authority granted by the Commission, the Company provides public water utility service in the vicinity of Cornville, Yavapai County, Arizona.

2. On January 20, 2005, the Commission issued Decision No. 67514, which approved an application by the Company for a rate increase conditioning the effective date for rates to increase upon the Company's filing an application found sufficient to transfer its utility assets and Certificate "to a designated legal business organization."

[3] Presently, the sole member of Oak Creek LLC is the Estate.

3. On March 16, 2005, in order to comply with Decision No. 67514, the Company filed an amended application requesting the Commission's authorization for the transfer of its assets and its Certificate to Oak Creek LLC. Oak Creek LLC, an Arizona limited liability company, was organized on February 24, 2005, and is managed by Mr. Jackson, but upon the completion of probate, the Estate's interest will be deleted and new members of Oak Creek LLC will be added consisting of Mr. Jackson and his four siblings who will share equally in the entity's ownership.

4. The Company has been operated by the Estate since Mrs. Smith died in September 2001. The Estate is going through probate proceedings in the Yavapai County Superior Court and its Personal Representative, Mr. Jackson, believes that probate proceedings will be concluded within the next year at which time the utility will be operated by Oak Creek LLC if the Commission approves the transfer of assets and Certificate as requested herein.

5. Applicant is presently providing public water utility service to approximately 255 residential customers.[4]

6. Presently, Mr. Jackson's wife is in charge of the Company's day to day operations. All required maintenance is performed by Mr. Jackson and his brother.

7. The Company employs a certified operator who handles water sampling and related activities for the system. He is to continue in this capacity after the transfer is approved by the Commission.

8. On May 16, 2005, Applicant filed certification that notice of the proposed transfer of assets and Certificate had been provided as required by the Commission's Procedural Order.

9. Any obligations due for refunds and/or deposits from the Company's existing customers will be assumed and paid by Oak Creek LLC.

10. Oak Creek LLC will charge the rates and charges previously authorized for the Company by the Commission in Decision No. 67514.

11. A county franchise enabling the utility to operate its system in county rights of way has been issued by the Yavapai County Board of Supervisors.

12. Applicant is current on Commission filings and is current on the payment of its sales

[4] Approximately 150 more lots remain available for development in the Company's certificated service area.

and property taxes.

13. The Company is experiencing customer growth of approximately six new connections a year.

14. According to Mr. Jackson, the Company experiences only minimal water loss.

15. Applicant has three well sites, but it is making use of only one well which produces 250 gallons of water per minute.

16. Of the Company's other two well sites, one is an artesian well which is not utilized to provide water service. The Company is planning to bring its remaining well on line to resolve a storage issue raised in its last rate proceeding which resulted in Decision No. 67514. The Company also has a 48,000 gallon storage tank and one 2,500 gallon pressure tank utilized to provide water service.

17. With respect to arsenic content in the water, Mr. Jackson indicated that Applicant's primary well has arsenic content of no more than 10 parts per billion ("ppb") based on a recent arsenic test conducted pursuant to ADEQ's Map Program. This falls within the new maximum standard of 10 ppb effective in January 2006.

18. Staff is recommending conditional approval of the application.

19. According to the Staff Report, Applicant is providing water which meets ADEQ requirements and meets the standards of the Safe Drinking Water Act.

20. The Company has previously filed a Backflow Prevention Tariff and Curtailment Tariff, both of which were approved by the Commission.

21. Staff is recommending the approval of the Company's application subject to the following conditions:

- that the Commission require Oak Creek LLC to charge the authorized rates and charges of Oak Creek Public Service Company;
- that the Commission require Oak Creek LLC to file with Docket Control, within 30 days of the Estate's release from probate proceedings, a notice of such release[5]; and
- that the Commission require Oak Creek LLC to file with Docket Control, within 30 days of the Estate's release from probate proceedings, a list of Oak Creek LLC's

[5] Mr. Jackson estimated that the Estate would complete probate proceedings within twelve months from the date of hearing.

members and their respective membership interests.

22. Staff further recommends that the Commission's Decision approving the transfer of Certificate and assets to Oak Creek LLC be considered null and void without further Order from the Commission should Oak Creek LLC fail to meet the second and third conditions listed above.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

2. The Commission has jurisdiction over the Company and of the subject matter of the application.

3. There is a continuing need for the provision of water utility service to the public in the Company's certificated service area.

4. Oak Creek LLC is a fit and proper entity to receive the assets and Certificate of the Company.

5. Notice of the Company's application as described herein was given in the manner prescribed by law.

6. The conditions as set forth in Findings of Fact No. 21 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of the Estate of Pauline K. Smith, nee Jackson dba Oak Creek Public Service Company for approval of the transfer of utility assets and transfer of its Certificate of Convenience and Necessity to Oak Creek Public Service, LLC is hereby approved.

IT IS FURTHER ORDERED that Oak Creek Public Service, LLC shall continue to charge water customers the existing rates and charges until further Order by the Commission.

IT IS FURTHER ORDERED that Oak Creek Public Service, LLC shall comply in all respects with Findings of Fact No. 21 and Conclusion of Law No. 6 or the approval granted hereinabove shall be null and void.

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. . .

IT IS FURTHER ORDERED that the authorization granted hereinabove shall be null and void without further Order by the Commission if Oak Creek Public Service, LLC fails to timely file the documentation required to be filed in Findings of Fact No. 21.

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, BRIAN C. McNEIL, Executive Secretary 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 18th day of July, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

MES:mj

SERVICE LIST FOR: Oak Creek Public Service Company

DOCKET NOS.: DOCKET NO. W-01577A-05-0072 and W-04304A-05-0072

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