



0000094538

BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAR 17 2009

DOCKETED BY

nr

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

IN THE MATTER OF THE APPLICATION OF  
PINE WATER COMPANY FOR A  
DETERMINATION OF THE CURRENT FAIR  
VALUE OF ITS UTILITY PLANT AND  
PROPERTY AND FOR INCREASES IN ITS  
RATES AND CHARGES BASED THEREON  
FOR UTILITY SERVICE AND FOR APPROVAL  
TO INCUR LONG-TERM DEBT.

DOCKET NO. W-03512A-03-0279

DECISION NO. 70839

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NO. 70452**

Open Meeting  
March 3 and 4, 2009  
Phoenix, Arizona

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**

1. On August 10, 2004, the Arizona Corporation Commission ("Commission") issued Decision No. 67166 which approved a rate increase and authority to incur long-term debt for Pine Water Company ("Pine Water" or "Company"), and imposed certain other conditions on the Company. One of the conditions imposed on Pine Water by Decision No. 67166 was a requirement that the Company file a rate application by June 1, 2008, using a 2007 test year.

2. On February 27, 2008, Pine Water filed a Request for Extension of Deadline to File Rate Case. Therein, the Company stated that its extension request was justified because it was working with the Pine-Strawberry Water Improvement District ("PSWID") on a deep well project in Strawberry, Arizona ("K2 Well"), and that it had begun to explore the possible acquisition of another deep well in Pine, Arizona. The Company also claimed that the earlier filing deadline set forth in

21  
20

1 Decision No. 67166 would not enable it to include the investments in either of the deep well projects,  
2 and would result in a "pancaking" of rate applications. Pine Water asserted that the public interest  
3 would not be served by requiring multiple rate applications and the Company therefore requested that  
4 the rate case filing deadline be extended by one year, until June 1, 2009.

5 3. On March 12, 2008, the Commission's Utilities Division ("Staff") filed a  
6 Memorandum recommending approval of the extension request.

7 4. On August 6, 2008, the Commission issued Decision No. 70452 which granted the  
8 Company an extension of time, until June 1, 2009, to file a rate application in accordance with the  
9 requirement set forth in Decision No. 67166. Decision No. 70452 also indicated that no additional  
10 extensions would be granted absent extraordinary circumstances.

11 5. On December 15, 2008, Pine Water filed a Second Request for Modification of  
12 Deadline to File Rate Case. The Company seeks to vacate entirely the rate case filing requirement  
13 given the pending arbitration and litigation between Pine Water and the PSWID regarding the K2  
14 Well project and a condemnation action by the PSWID. Pine Water claims that neither the Company  
15 nor its customers would benefit from the filing of a rate case until the cloud of the condemnation  
16 proceeding has been removed. Alternatively, Pine Water requests that the Company should be  
17 ordered only to file a rate case within 6 months of a final determination that the PSWID will not  
18 condemn the Company's assets.

19 6. On January 28, 2009, Staff filed a Memorandum recommending denial of the request  
20 to vacate the rate case filing requirement. Staff recommended instead that the filing date be amended  
21 to require a filing no later than June 1, 2010, using a 2009 test year. Staff acknowledged that the  
22 pending arbitration and litigation between the Company and the PSWID will be costly, and that  
23 requiring a rate filing this year would be cost prohibitive for Pine Water given its current financial  
24 circumstances. Staff states that the arbitration and litigation are likely to be lengthy and if the  
25 Company's financial health does not improve, a rate case may be necessary before those court  
26 proceedings conclude. Staff therefore recommends a one-year extension of the current rate case  
27 filing requirement, but that no additional extensions be granted.

28 7. On February 5, 2009, Pine Water filed a Notification of Acceptance of Staff

1 Recommendations Concerning Pine Water Company's Second Request for Modification of Deadline  
2 to File rate Case. In its filing, the Company states that it accepts Staff's recommendation to limit the  
3 requested extension for only one additional year.

4 **CONCLUSIONS OF LAW**

5 1. Pine Water Company is a public service corporation within the meaning of Article XV  
6 of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

7 2. The Commission has jurisdiction over Pine Water Company and the subject matter of  
8 the extension request addressed herein.

9 3. Staff's recommendations, as modified herein, are reasonable and should be adopted.

10 4. The Commission is concerned with the financial and operational status of Pine Water  
11 Company. In the absence of a full rate case at this time, as an intermediate measure the Commission  
12 believes a financial and rate review of Pine Water is necessary.

13 **ORDER**

14 IT IS THEREFORE ORDERED that Pine Water Company is hereby granted an extension of  
15 time, until June 1, 2010, to file a rate application. The application shall be based on a 2009 test year.

16 IT IS FURTHER ORDERED that Staff shall conduct a financial and rate review of the  
17 Company. Pine Water Company shall submit all data necessary to facilitate this review within 60  
18 days of the effective date of this Decision. Staff shall undertake and complete its review, and file a  
19 Staff Report, within 90 days thereafter.

20 ...  
21 ...  
22 ...  
23 ...  
24 ...  
25 ...  
26 ...  
27 ...  
28

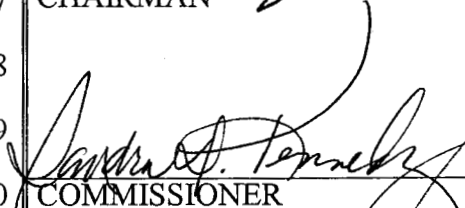
1 IT IS FURTHER ORDERED no additional extensions of time will be granted regarding this  
2 matter absent extraordinary circumstances.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5  
6   
7 CHAIRMAN

  
8 COMMISSIONER

9   
10 COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

11 IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim  
12 Executive Director of the Arizona Corporation Commission,  
13 have hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this 17th day of March, 2009.

16   
17 MICHAEL P. KEARNS  
18 INTERIM EXECUTIVE DIRECTOR

19 DISSENT \_\_\_\_\_

20  
21 DISSENT \_\_\_\_\_  
22  
23  
24  
25  
26  
27  
28

1 SERVICE LIST FOR: PINE WATER COMPANY

2 DOCKET NO. W-03512A-03-0279

3

4 Jay L. Shapiro  
Patrick J. Black  
FENNEMORE CRAIG  
5 3003 N. Central Ave., Suite 2600  
Phoenix, AZ 85012  
6 Attorneys for Pine Water Company

7 Robert M. Cassaro  
P.O. Box 1522  
8 Pine, AZ 85544

9 John O. Breninger  
P.O. Box 2096  
10 Pine, AZ 85544

11 Pine-Strawberry Water Improvement District  
P.O. Box 134  
12 Pine, AZ 85544

13 Janice Alward, Chief Counsel  
Legal Division  
14 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
15 Phoenix, AZ 85007

16 Ernest G. Johnson, Director  
Utilities Division  
17 ARIZONA CORPORATION COMMISSION  
1200 West Washington  
18 Phoenix, AZ 85007

19

20

21

22

23

24

25

26

27

28