

OPEN MEETING ITEM



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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

DATE: OCTOBER 25, 2005

DOCKET NO: SW-04316A-05-0371

TO ALL PARTIES:

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

ENTRADA DEL ORO SEWER COMPANY
(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 ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

NOVEMBER 3, 2005

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 Working Session and Open Meeting to be held on:

NOVEMBER 8, 2005 and NOVEMBER 9, 2005

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 Secretary's Office at (602) 542-3931.

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AZ CORP COMMISSION
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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 ENTRADA DEL ORO SEWER COMPANY FOR A
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY FOR WASTEWATER SERVICE.

DOCKET NO. SW-04316A-05-0371

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: September 16, 2005
10 PLACE OF HEARING: Phoenix, Arizona
11 ADMINISTRATIVE LAW JUDGE: Amy Bjelland
12 APPEARANCES: Mr. Michael W. Patten, ROSHKA, DeWULF &
13 PATTEN, PLC, on behalf of Applicant; and
14 Mr. Keith Layton, Staff Attorney, Legal
15 Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

16 **BY THE COMMISSION:**

17 On May 24, 2005, Entrada Del Oro Sewer Company ("Company" or "Applicant"), filed an
18 application for a Certificate of Convenience and Necessity ("Certificate") with the Arizona
19 Corporation Commission ("Commission") to provide wastewater service to a development known as
20 Entrada Del Oro, located in Pinal County, Arizona, approximately four miles east of Gold Canyon.

21 On May 31, 2005 and June 8, 2005, the Company filed Supplements to its application.

22 On June 22, 2005, the Commission's Utilities Division Staff ("Staff") filed a letter notifying
23 Applicant that its application was administratively sufficient pursuant to the requirements of A.A.C.
24 R14-2-602(A)(2).

25 By Procedural Order issued June 24, 2005, a hearing was scheduled to commence on
26 September 15, 2005.

27 By Procedural Order issued June 27, 2005, the hearing was rescheduled to commence on
28 September 16, 2005.

1 On July 21, 2005, the Company filed a Notice of Filing Affidavit of Publication as required
2 by the Commission's Procedural Order of June 24, 2005.

3 On July 27, 2005, the Company filed a Notice of Filing Affidavit of Mailing as required by
4 the Commission's Procedural Order dated June 24, 2005.

5 On August 8, 2005, the Company filed its Approval of Sewer Franchise from Pinal County.

6 On August 11, 2005, the Staff filed its Staff Report in this matter. Staff recommended
7 approval of the application subject to certain conditions.

8 On September 16, 2005, a hearing was convened before a duly authorized Administrative
9 Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing,
10 the matter was taken under advisement pending submission of a Recommended Opinion and Order.

11 * * * * *

12 Having considered the entire record herein and being fully advised in the premises, the
13 Commission finds, concludes, and orders that:

14 **FINDINGS OF FACT**

15 1. Applicant is a corporation formed for the purpose of providing wastewater utility
16 service to the Entrada Del Oro development, an area consisting of approximately 452 acres, located
17 in Pinal County approximately four miles east of Gold Canyon (Ex. A-1). Arizona Water Company
18 was granted a CC&N to deliver water service to the same development in Decision No. 66235
19 (September 16, 2003).

20 2. Applicant received a request for service to provide wastewater utility service from the
21 developer of the Entrada Del Oro subdivision. The developer of the subdivision contacted several
22 nearby wastewater utility service providers; however, the companies did not indicate interest in
23 serving the project, which is surrounded by state and federal lands (Ex. S-1 at 1; Tr. at 7).

24 3. Applicant plans to finance the wastewater utility system with \$4.4 million of paid-in
25 capital and \$1.9 million in the form of a contribution from Engle Homes, the purchaser of Phase 1,
26 the first phase of 372 lots (Ex. S-1 at 1; Tr. at 14). Engle Homes is contributing the installation of the
27 on-site collection system for Phase 1 of the development (Ex. S-1 at 1). Applicant anticipates that
28 collection systems of future phases of the development will be installed and contributed by

1 homebuilders (*Id.*). Applicant is funding the construction of the treatment facility, building, walls,
2 landscaping, force main and other improvements (*Id.*).

3 4. The proposed facility is a 0.3 million gallons per day Marwood package wastewater
4 treatment plant (Ex. S-1 at 1; Ex. S-1, Ex. 2 (“Engineering Report”)). Applicant has obtained a
5 permit from the United States Environmental Protection Agency National Pollutant Discharge
6 Elimination System that authorizes treated effluent to be disposed of in a dry wash (Ex. S-1 at 1).
7 The Arizona Department of Environmental Quality (“ADEQ”) approved the proposed on-site
8 wastewater treatment and disposal system by issuing an Aquifer Protection Permit on May 17, 2005.

9 5. Pursuant to Section 208 of the Federal Water Pollution Control Act, each state is
10 required to develop and implement area-wide water quality management plans for pollution control
11 purposes. The Central Arizona Association of Governments (“CAAG”) has been designated as the
12 area-wide water quality management planning agency for Pinal County. According to Staff, ADEQ
13 certified that Applicant’s Entrada Del Oro Water Management System Plan Amendment is consistent
14 with the CAAG Water Quality Management Plan (Ex. S-1 at 2).

15 6. Pursuant to the Commission’s rules, Applicant provided five-year projections for plant
16 values, operating revenues and expenses, and number of customers. Such projections are necessary
17 to establish rates for new companies due to the lack of historical data. Staff reviewed Applicant’s
18 projections and recommended that the Commission find that the projected fair value rate base will be
19 \$3,343,970 (Ex. S-1 at 2).

20 7. Applicant proposed an initial residential flat rate of \$70.00. Staff found Applicant’s
21 proposed residential rate to be reasonable and recommended approval of that rate. Applicant
22 recommended proposed an initial school service flat rate of \$7.00 per student. Staff found \$5.60 to
23 be a more reasonable estimated rate of students’ water use at school and recommended approval of
24 Staff’s recommended flat rate for school service per student. Applicant’s proposed rates and charges
25 for initial wastewater service are as follows:

26 ...

27 ...

28

<u>MONTHLY WASTEWATER SERVICE</u>	<u>Company Proposed</u>	<u>Staff Recommended</u>
Residential Service	\$70.00	\$70.00
School Service – Per Student	7.00	5.60
<u>OTHER RATES AND CHARGES</u>		
Establishment of Service – Regular Hours	\$30.00	\$30.00
Establishment of Service – After Hours	60.00	60.00
Re-establishment of Service (Within 12 Months)	*	*
Reconnection – Delinquent	60.00	60.00
Customer Deposit	**	**
Deposit Interest	3.50%	**
NSF Check Charge	35.00	25.00
Late Payment Penalty – Per Month	1.50%	1.50%
Deferred Payment Interest – Per Month	1.50%	1.50%
Main Extensions/Additional Facilities	Cost	Cost
Revenue Taxes & Assessments	***	***

* Per A.A.C. R14-2-603(D) – Months off system times the minimum charge.

** Per A.A.C. R14-2-603(B)

*** Per A.A.C. R14-2-608(D)

8. Based on its review, Staff recommended that the Commission grant the Company's Application for a Certificate to provide wastewater services, subject to the following conditions:

(a) The Company must use the depreciation rates delineated in Table 1 of Staff's Engineering Report;

(b) The Company must file documentation with Docket Control by December 31, 2007, which demonstrates that the system is in service;

(c) The Company must charge Staff's recommended rates and charges;

(d) The Company must file a permanent rate application in its sixth year of operations, using the fifth year as the test year; and

(e) The Company must file documentation of the date service is first provided within 30 days of that date.

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 *et seq.*

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

1 IT IS FURTHER ORDERED that failure by Entrada Del Oro Sewer Company to comply with
2 Staff's recommendations within the specified time frames set forth above, will render the Certificate
3 null and void.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
6
7

8 CHAIRMAN

COMMISSIONER

9
10 COMMISSIONER

COMMISSIONER

COMMISSIONER

11
12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this ____ day of _____, 2005.

17
18 _____
19 BRIAN C. McNEIL
20 EXECUTIVE DIRECTOR

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DISSENT _____

1 SERVICE LIST FOR: ENTRADA DEL ORO SEWER COMPANY

2 DOCKET NO.: SW-04316A-05-0371

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