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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

2003 APR 25 P 1:15

- MARC SPITZER, Chairman
- JIM IRVIN
- WILLIAM A. MUNDELL
- JEFF HATCH-MILLER
- MIKE GLEASON

APR 25 2003

DOCKETED BY *CAH*

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
BENSCH RANCH UTILITIES, LLC FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE SEWER SERVICE.

DOCKET NO. SW-04026A-01-0499

THIRD PROCEDURAL ORDER

BY THE COMMISSION:

On June 21, 2001, Bensch Ranch Utilities, LLC ("Bensch Ranch" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide sewer service to the Bensch Ranch Estates subdivision in Yavapai County, Arizona ("Application").

On November 27, 2002, the Commission's Utilities Division Staff ("Staff") filed a letter notifying Bensch Ranch that its Application was sufficient, and on November 29, 2002, filed a Staff Report on the Application, recommending approval.

On December 5, 2003, the Commission issued a Procedural Order setting a hearing date of February 19, 2003. The December 5, 2003 Procedural Order required Applicant to provide public notice of the hearing by January 10, 2003, and to file certification of the required notice no later than January 17, 2003. Applicant failed to comply with the notice requirements of the December 5, 2003 Procedural Order. By Procedural Order of February 14, 2003, the hearing was continued to April 16, 2003, the timeclock for a Commission decision pursuant to A.A.C. R14-2-610(C) was extended, and Applicant was again ordered to mail notice of the application and hearing to all property owners and all entities with contracts pending to purchase real property in the requested CC&N area, and to publish notice in a newspaper of general circulation in the requested CC&N area.

An affidavit of publication was filed in this docket on April 7, 2003.

The hearing was held as scheduled on April 16, 2003. At the hearing, Applicant was ordered to file an affidavit of mailing, in compliance with the February 14, 2003 Procedural Order, as a late-

1 filed hearing exhibit. Subsequent to the hearing, Applicant informed the Hearing Division that notice
2 of the hearing was not mailed as required by the February 14, 2003 Procedural Order.

3 It is therefore necessary to keep the record open in this proceeding pending notification, by
4 mail, of property owners and entities with contracts pending to purchase real property in the
5 requested CC&N area of their opportunity to intervene or provide public comment on the
6 Application; and to extend the timeclock for a Commission decision pursuant to A.A.C. R14-2-
7 610(C).

8 IT IS THEREFORE ORDERED that the record in this proceeding shall remain open in order
9 to allow proper notification of property owners and entities with contracts pending to purchase real
10 property in the requested CC&N area of their opportunity to intervene or provide public comment on
11 the Application.

12 IT IS FURTHER ORDERED that the timeclock for a Commission decision in this matter is
13 hereby extended for an additional 37 days to allow time for proper notification.

14 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
15 except that all motions to intervene must be filed on or before **May 23, 2003**.

16 IT IS FURTHER ORDERED that objections to any motions to intervene must be filed on or
17 before **May 30, 2003**.

18 IT IS FURTHER ORDERED that the Applicant shall provide public notice of the hearing in
19 this matter, in the following form and style:

20 **PUBLIC NOTICE OF HEARING ON THE APPLICATION OF BENSCH RANCH**
21 **UTILITIES, LLC FOR A CC&N TO PROVIDE SEWER SERVICE**
22 **DOCKET NO. SW-04026A-01-0499**

23 On June 21, 2001, Bensch Ranch Utilities, LLC ("Applicant") filed an application with the
24 Arizona Corporation Commission ("Commission") for a Certificate of Convenience and
25 Necessity ("CC&N") to provide sewer utility service to the Bensch Ranch Estates subdivision
26 in Yavapai County. If the application is granted, Applicant will be the exclusive provider of
27 sewer service to the proposed area, and will be required by the Commission to provide service
under rates and charges and terms and conditions established by the Commission. The
application is available for inspection during regular business hours at the offices of the
Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and at the
offices of the Applicant, [**Applicant insert address**].

28 The law provides for an open public hearing at which, under appropriate circumstances,
interested persons may intervene in the proceedings and participate as a party. You may have
the right to intervene in the proceeding. The Commission held a hearing on this matter on

1 April 16, 2003. Notice of the hearing to all property owners and all entities with contracts
2 pending to purchase real property in the requested CC&N area was not provided as required
3 prior to the hearing. The deadline for intervention in this matter is therefore extended to **May**
4 **23, 2003**. Persons desiring to intervene must file a written motion to intervene with the
5 Commission and send such motion to Applicant or its counsel and to all parties of record.
6 The motion shall, at the minimum, contain the following:

- 7 1. The name, address, and telephone number of the proposed intervenor and of
8 any party upon whom service of documents is to be made if different than the
9 intervenor.
- 10 2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,
11 a customer or potential customer of the Applicant, a shareholder of the
12 Applicant, etc.).
- 13 3. A statement certifying that a copy of the motion to intervene has been mailed
14 to the Applicant or its counsel and to all parties of record in the case.

15 The granting of intervention, among other things, entitles a party to present sworn evidence at
16 a hearing and to cross-examine other witnesses. However, failure to intervene will not
17 preclude any interested person or entity from providing public comment on the application.

18 If you have any questions about this application, or want further information on intervention,
19 you may contact the Consumer Services Section of the Commission at 1200 West Washington
20 Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

21 The Commission does not discriminate on the basis of disability in admission to its public
22 meetings. Persons with a disability may request a reasonable accommodation such as a sign
23 language interpreter, as well as request this document in an alternative format, by contacting
24 Shelly Hood, ADA Coordinator, voice phone number 602/542-3931, E-mail
25 shood@cc.state.az.us. Requests should be made as early as possible to allow time to arrange
26 the accommodation.

27 IT IS FURTHER ORDERED that Applicant shall cause to be mailed to all property owners in
28 the requested CC&N area, and all entities that have contracts pending to purchase real property in the
the requested CC&N area, as of the date of this Procedural Order, a copy of the above notice by **May 9,**
2003.

IT IS FURTHER ORDERED that Applicant shall file certification of the above-ordered
mailing as soon as practicable after the mailing has been completed, but not later than **May 16, 2003.**

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
Communications) applies to this proceeding and shall remain in effect until the Commission's
Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

...

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 25th day of April, 2003.

4
5
6 
7 TEENA WOLFE
8 ADMINISTRATIVE LAW JUDGE

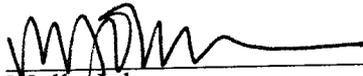
9 Copies of the foregoing mailed/delivered
10 this 25 day of April, 2003 to:

11 Joshua Meyer
12 11593 S. Fortuna Rd.
13 Yuma, Arizona 85367
14 Attorney for Bensch Ranch Utilities, LLC

15 Jason Williamson
16 Executive Director
17 Pivotal Utility Management
18 6845 East Tennessee Ave., Ste. 401
19 Denver, Colorado 80224

20 Christopher Kempley, Chief Counsel
21 Legal Division
22 ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 Ernest G. Johnson, Director
26 Utilities Division
27 ARIZONA CORPORATION COMMISSION
28 1200 West Washington Street
Phoenix, Arizona 85007

By: 

Molly Johnson
Secretary to Teena Wolfe