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BEFORE THE ARIZONA CORPORATION COMMISSION

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2008 MAR 28 P 12: 32

AZ CORP COMMISSION
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Arizona Corporation Commission
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IN THE MATTER OF RULEMAKING TO)	DOCKET NOS.
AMEND EXISTING RULES AND/OR)	
ESTABLISH NEW RULES REGARDING)	RW-00000B-07-0051
THE COMMISSION'S REQUIREMENTS FOR)	RWS-00000A-07-0051
APPLICATIONS REQUESTING APPROVAL)	
TO OBTAIN A NEW CERTIFICATE OF)	
CONVENIENCE AND NECESSITY OR)	COMMENTS ON PROPOSED
EXTEND AN EXISTING CERTIFICATE OF)	RULES
CONVENIENCE AND NECESSITY FOR)	
WATER AND SEWER UTILITIES)	

The City of Surprise (the "City") submits these comments pursuant to the January 24, 2008 Procedural Order, inviting comments in response to other interested persons' comments on Decision Number 70128, containing proposed changes to the existing water and sewer rules (the "Proposed Rules"). In particular, the City responds to Paragraphs 2 and 6 of the March 17, 2008 Comments submitted by the Arizona Water Company.

I. NOTICE OF APPLICATION TO ANY MUNICIPALITY WITHIN FIVE MILES OF THE AREA UNDER APPLICATION

Contrary to Arizona Water Company's assertion otherwise, substantial evidence exists supporting Section 14-2-402(B)(2)(I) of the Proposed Rules requiring an applicant

to provide notice to all municipalities located within five miles of the area under application. When the initial draft of the Proposed Rules did not include notice to municipalities most likely to be affected by the outcome of a pending application, the City, along with the City of Peoria, the City of Litchfield Park, the Town of Buckeye, the Town of Queen Creek, the City of Avondale and the City of Goodyear each submitted written comments requesting a notice provision. The intent of this notice provision was to facilitate communication between the Commission, applicants, and those municipalities most likely to be affected by the outcome of a pending application. Following a discussion of this matter at the January 15, 2008 Open Meeting, where representatives from the City and the Town of Queen Creek explained their concerns with the current notice process, the Commissioners unanimously approved an amendment from Commissioner Hatch-Miller adding the notice requirement to the Proposed Rules.

This notice requirement ensures that interested municipalities promptly learn of all applications and are well positioned to provide the Commission with any relevant information concerning the area to be served. The modest additional time required to send out the notice is not significant when compared to the alternative: municipalities implementing time consuming and costly monitoring programs for applications filed with the Commission and, should such programs fail, the Commission making a decision on an application possible without the benefit of all the relevant information concerning the area to be served.

II. MAP IDENTIFYING ANY MUNICIPAL LIMITS WITHIN FIVE MILES OF THE AREA UNDER APPLICATION

Section 14-2-402(b)(2)(j) of the Proposed Rules requires the applicant to submit a map identifying all municipal limits within five miles of the area under application. Currently, applicants submit a map showing limits within one mile of the area under application. As with the notice requirement discussed above, numerous municipalities submitted comments in favor of increasing the map identification limits in order to address the rapid pace of municipal annexation now occurring across Arizona. Increasing the requirement from one to five miles should not materially impact applicant's cost or the time necessary to prepare the map. Applicant will pull municipal limits from the same publicly available sources.

III. SUMMARY

The municipality notice and map requirements included in the Proposed Rules make sense and should not be removed. As evidenced by the substantial municipal support for these requirements, they are designed solely to help ensure that the Commission will receive all relevant information before making decisions on pending applications.

Dated this 28th day of March, 2008.

OSBORN MALEDON, P.A.

By  _____

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