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Arizona Corporation Commission
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TO: Docket Control
FROM: Ernest G. Johnson
for Director
Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

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DATE: April 10, 2008

RE: IN THE MATTER OF RULEMAKING TO AMEND EXISTING RULES AND/OR ESTABLISH NEW RULES REGARDING THE COMMISSION'S REQUIREMENTS FOR APPLICATIONS REQUESTING APPROVAL TO OBTAIN A NEW CERTIFICATE OF CONVENIENCE AND NECESSITY OR EXTEND AN EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER AND SEWER UTILITIES
DOCKET NOS. RW-00000B-07-0051 AND RSW-00000A-07-0051

On January 24, 2008, the Hearing Division issued a Procedural Order which ordered the Utilities Division to cause to have published in the Arizona Administrative Register no later than February 15, 2008, a Notice of Proposed Rulemaking. The Rulemaking would amend the current rules requiring certain information in water or sewer applications for new Certificates of Convenience and Necessity (CC&Ns) or extensions of water or sewer CC&Ns. On February 15, 2008, the Notice of Rulemaking Docket Opening was published in Volume 14, Issue 7 of the Arizona Administrative Register (attached).

The Procedural Order also required that the notice include dates for written comments on the proposed rules and dates by which written comments in response to other interested parties' comments should be filed. Finally, the Procedural Order required the Utilities Division to file "written comments, including any additional recommendations, in response to any comments filed by interested parties." The purpose of this memorandum is to fulfill that requirement.

In response to the Notice of Proposed Rulemaking, written comments were received from five parties; Arizona Water Company, the City of Surprise, the City of Goodyear, the City of Avondale and Pulte Home Corporation ("Pulte"). Arizona Water reiterated its earlier comments which were generally against the adoption of the proposed rules. The City of Surprise responded to Arizona Water's comments and supported the proposed rules, especially the requirements to provide notice to municipalities within five miles of the proposed service territory and to include municipalities on maps included in the applications. The Cities of Goodyear and Avondale also supported the proposed rules. Pulte's comments requested language changes which would accommodate the possible lack of information regarding water usage and conservation at the time of the application.

Staff has reviewed and considered the comments of the five parties. Based on this review, Staff would like to recommend a correction to the sewer rules (See Arizona Water Company comments of March 17, 2008). For the sewer rules, Staff would insert a new R14-2-602.B.2.o and re-letter the remainder of the R14-2-602.B.2 rules. The newly inserted R14-2-602.B.2.o rule would read, "If a landowner did not respond to the notice of application, the application shall include a description of the action taken by the applicant to obtain a written response from the landowner." Staff has no further comments or recommendations to make.

EGJ:LAJ:kdh

ORIGINATOR: Linda A. Jaress

NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING

CORPORATION COMMISSION

FIXED UTILITIES

[R08-26]

- 1. Title and its heading:** 14, Public Service Corporations; Corporations and Associations; Securities Regulation
- Chapter and its heading:** 2, Corporation Commission – Fixed Utilities
- Article and its heading:** 4, Water Utilities; 6, Sewer Utilities
- Section numbers:** R14-2-402, R14-2-602
- 2. The subject matter of the proposed rule:**
 The proposed changes will amend R14-2-402 and R14-2-602, both entitled “Certificate of Convenience and Necessity” (“CC&N”) and will require applicants for a new CC&N or for an extension of a CC&N to provide additional information regarding affected landowners, developers and nearby municipalities and nearby water and wastewater service providers in order for the Arizona Corporation Commission and its staff to verify proper notification of the CC&N proceeding.
- The agency docket number, if applicable:**
 RW-00000B-07-0051 and RSW-0000A-07-0051
- 3. A citation to all published notices relating to the proceeding:**
 Notice of Proposed Rulemaking: 14 A.A.R. 452, February 15, 2008 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
- Name: Robin Mitchell, Esq.
 Legal Division, Arizona Corporation Commission
- Address: 1200 W. Washington St.
 Phoenix, AZ 85007
- Telephone: (602) 542-3402
- Fax: (602) 542-4870
- E-mail: rmitchell@azcc.gov
- or
- Name: Steve Olea, Assistant Director
 Utilities Division, Arizona Corporation Commission
- Address: 1200 W. Washington St.
 Phoenix, AZ 85007
- Telephone: (602) 542-7270
- Fax: (602) 542-2129
- E-mail: solea@azcc.gov
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
 Public comment will be held on two separate dates and two separate locations: 1) April 14, 2008, beginning at 10:00 a.m. and in Room 222 in the Tucson offices of the Arizona Corporation Commission located at 400 W. Congress St., Tucson, AZ 85701, or 2) April 15, 2008, beginning at 10:00 a.m. in the Hearing Room of the Arizona Corporation Commission located at 1200 W. Washington St., Phoenix, AZ 85007. Hearing requests initial written comments be received on or before March 17, 2008 and responsive comments be received on or before March 28, 2008. However, written comments will be accepted through April 15, 2008. Comments should be submitted to Docket Control at the above address. Please reference docket number ACC-00000A-05-0613 on all documents.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**
 The Commission will likely bring this to Open Meeting for final approval in late spring or early summer, 2008.