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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
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Arizona Corporation Commission

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SEP 19 2008

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IN THE MATTER OF:  
WESTCOR/GOODYEAR, L.L.C., and GLOBE  
LAND INVESTORS, L.L.C.,  
COMPLAINANTS,  
VS.  
LITCHFIELD PARK SERVICE COMPANY,  
RESPONDENT.

DOCKET NO. SW-01428A-08-0234

PROCEDURAL ORDER

BY THE COMMISSION:

On May 6, 2008, Westcor/Goodyear, L.L.C., and Globe Land Investors, L.L.C., ("Complainants" or "Westcor") filed with the Arizona Corporation Commission ("Commission") a formal complaint against Litchfield Park Service Company ("LPSCO"). The Complainants are developing a regional mall called Estrella Falls, and other surrounding commercial facilities, in a 330 acre area in Goodyear, Arizona, within LPSCO's Certificate of Convenience and Necessity ("CC&N") area. The Complainants allege, among other things, that LPSCO refused to accept a check for an amount the Complainants claim represents the final capacity payment for Phase II of the Estrella Falls development pursuant to a 2001 Commercial Agreement between the Complainants and LPSCO.

On May 23, 2008, the Complainants filed an Emergency Motion for Will-Serve Letter and Other Expedited Relief. The Complainants requested that the Commission issue an expedited Show Cause Order and set an expedited hearing date to consider the Complainants' demand for a will-serve letter from LPSCO to serve Phase II of the Estrella Falls development. Alternatively, the Complainants requested that a Procedural Order be issued to schedule an expedited hearing to consider the will-serve letter demand issue.

1 On May 29, 2008, LPSCO filed an Answer to the Complaint, generally denying the  
2 allegations in the Complaint and asserting several affirmative defenses. LPSCO also filed on May  
3 29, 2008, a Motion to Stay All Proceedings and Request for Procedural Conference.

4 On June 13, 2008, a procedural conference was held as scheduled. Following a discussion of  
5 the pending motions, and the possibility of an interim solution, the parties agreed to engage in  
6 discussions regarding this matter and to reconvene a procedural conference at a later date.

7 On July 7, 2008, the Complainants filed a Second Emergency Motion for Will-Serve Letter  
8 and Other Expedited Relief. The Complainants stated that the parties were unable to complete a  
9 settlement agreement, and claim that an expedited decision is needed to avoid an additional one-year  
10 delay in construction of the mall project.

11 On July 18, 2008, a second procedural conference was conducted to discuss the status of the  
12 proceeding and the possibility of an agreement between the parties. Following the discussion, the  
13 parties were directed to attempt to negotiate an interim solution to the dispute until the underlying  
14 issues are resolved through a full evidentiary hearing.

15 On July 31, 2008, a third procedural conference was held to discuss the status of the parties'  
16 settlement discussions. The Complainants and LPSCO agreed to continue to pursue settlement  
17 negotiations and to file the agreement upon completion.

18 On August 13, 2008, LPSCO filed a Will Serve Letter in the docket setting forth the terms  
19 under which LPSCO agreed to extend service to the Estrella Falls commercial development.

20 On August 15, 2008, Westcor filed a responsive letter stating several conditions that must be  
21 resolved before it would agree to execute a settlement of the complaint.

22 On August 21, 2008, LPSCO filed a reply letter to the Complainants describing how, from  
23 LPSCO's perspective, each of the items set forth by Westcor should be resolved.

24 On September 15, 2008, a teleconference was conducted during which counsel for LPSCO  
25 and the Complainants represented that a settlement agreement had been executed. The parties agreed  
26 on an expedited hearing date and dates for filing testimony.

27 On September 16, 2008, Westcor and LPSCO filed a Joint Notice of Filing Settlement  
28 Agreement and Request for Approval. The parties seek unconditional approval of the Settlement

1 Agreement or, at a minimum, approval of the financing and funding provisions of the Agreement, by  
2 no later than October 22, 2008.

3 IT IS THEREFORE ORDERED that a hearing shall be scheduled for October 1, 2008, at  
4 9:30 a.m., at the offices of the Commission, 1200 West Washington, Hearing Room 1, Phoenix,  
5 Arizona 85007.

6 IT IS FURTHER ORDERED that the Complainants and LPSCO shall profile Direct  
7 Testimony in support of the settlement agreement by September 22, 2008.

8 IT IS FURTHER ORDERED that Staff shall Responsive Testimony, if any, by September  
9 29, 2008.

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

13 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
14 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
15 hearing.

16 DATED this 19<sup>th</sup> day of September, 2008.

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20 DWIGHT D. NODES  
21 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

22 Copies of the foregoing mailed/delivered  
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