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AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED
SEP 29 2008

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BEFORE THE ARIZONA CORPORATION COMMISSION

7
8 IN THE MATTER OF THE FORMAL
COMPLAINT OF WESTCOR/
9 GOODYEAR, L.L.C. and GLOBE LAND
INVESTORS, L.L.C. AGAINST
10 LITCHFIELD PARK SERVICE COMPANY

DOCKET NO. SW-01428A-08-0234

**REPLY IN SUPPORT OF JOINT
REQUEST FOR APPROVAL OF
SETTLEMENT AGREEMENT**

11 Litchfield Park Service Company ("LPSCO") hereby submits this brief reply to
12 address Staff's Response to Joint Notice of Filing Settlement Agreement and Request for
13 Approval. Unfortunately, it appears that the Parties to the Settlement have confused Staff,
14 and perhaps others with respect to the specific relief sought. As a result, LPSCO files this
15 reply in an effort to clarify Staff's confusion about the relief sought by LPSCO and
16 Developers in this matter.

17 In the Parties' joint request for approval filed September 16, 2008, they specifically
18 stated that they are *not* seeking approval for LPSCO to include any plant funded by
19 LPSCO in rate base at this time. Joint Notice at 4. Instead, as the Parties further
20 explained, they are seeking a finding by the Commission that the amount of funding to be
21 provided by Developers (\$8.67 per gallon for a total advance of \$4,844,623) is a
22 reasonable and prudent allocation of the responsibility for funding the cost of additional
23 capacity needed for LPSCO to serve Phase II of Developers' Estrella Falls project. *Id.*
24 The Parties seek what is akin to a financing approval, not pre-approval to include the plant
25 in rate base.

26 Staff incorrectly states that "as a practical matter, the Parties are asking the

1 Commission to pre-approve LPSCO's investment in the wastewater treatment plant for
2 inclusion in rate base." Staff Response at 2. That statement is not accurate. In the
3 Parties' joint notice, they specifically stated that "the Parties are not seeking approval at
4 this time to include the portion of the additional treatment capacity funded by Utility in
5 rate base. Rather, the Parties ask that the Commission find that that the negotiated
6 capacity price and developer-funding mechanism are a fair and reasonable resolution of
7 the dispute concerning Developers' funding obligation with respect to additional
8 wastewater treatment capacity for Estrella Falls Phase II." Joint Notice at p. 4.

9 As a practical matter, the Commission will consider whether to include such
10 treatment capacity in rate base in a future rate case filed by LPSCO. But that is not what
11 is being sought in this case. To the contrary, the Parties seek only a finding by the ACC
12 that LPSCO should not have obtained additional funding for the capacity from the
13 Developers in order to resolve this litigation. Given that (i) the Commission's main
14 extension rules do not require utilities to make developers pay for 100% of plant needed
15 to serve new development; (ii) that that the Commission frequently approves funding of
16 plant through a mix of debt, equity, AIAC and CIAC; and (iii) that this Settlement
17 Agreement will resolve a dispute over the allocation of funding responsibilities for a
18 project the City of Goodyear deems vital to the public interest, the Company should not
19 have to risk subsequent second guessing by a future Commission that had not been asked
20 to resolve the dispute. Accordingly, LPSCO echoes its request that the Settlement
21 Agreement be approved despite Staff's well-intentioned but misplaced concerns.

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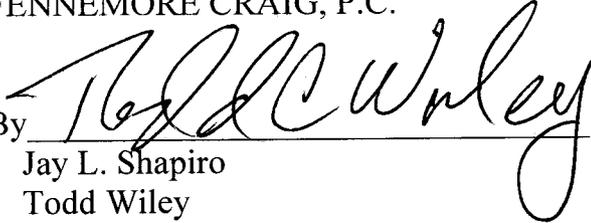
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RESPECTFULLY SUBMITTED this 29th day of September, 2008.

FENNEMORE CRAIG, P.C.

By 

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