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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION OF
DOUBLE DIAMOND UTILITIES, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER SERVICE
AND WASTEWATER SERVICE

Docket No. WS-20543A-07-0435

MOTION FOR EXTENSION OF
COMPLIANCE DATES

Double Diamond Utilities, Inc. ("DDU"), through undersigned counsel, hereby moves for the extension of two compliance dates set forth in Decision No. 70352 (May 16, 2008). This request arises from the significant downturn in the economy that has caused a delay in the timetable for the development covered by DDU's CC&N.

First, DDU requests that the deadline for procuring a performance bond or irrevocable sight draft letter of credit in the amount of \$500,000 be extended from December 31, 2008 until 15 days prior to providing service to any customer. This proposed deadline parallels comparable deadlines for similar bond requirements for other new water and wastewater companies.

Second, DDU requests that the deadline for retaining a Certified Operator (and related notification to the Commission) – currently the deadline is "at least six months before its serves its first customer or by June 30, 2009, whichever comes first" – be extended to "at least six months before its serves its first customer" in light of key facility design compliance dates set forth in Decision No. 70352 that would be relevant to the timing of retaining a Certified Operator.

DDU submits that these extensions will not material impact the purpose of the two conditions, particularly since the development will be somewhat delayed and the proposed dates are tied to certain actions to which the conditions are addressed.

Background

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2 In Decision No. 70352, DDU received a CC&N to provide water and wastewater service to
3 the initial phase of The Ranch at White Hills (“White Hills”), a large master planned community
4 located between Kingman and Las Vegas. As set forth in the Decision, DDU is a developer-
5 owned utility that will ultimately serve the entire White Hills development. The initial phase of
6 constitutes approximately 10% of the overall development.

7 The Decision set forth numerous compliance requirements that were due at various times
8 between the issuance of the Decision and May 16, 2010 (that is, two years after the date of the
9 Decision). DDU has met all compliance requirements that have been due to date, including the
10 filing of its rate tariff, its curtailment tariff, its backflow prevention tariff and its Water
11 Conservation Plan.

12 There remain several compliance requirements. The most immediate compliance
13 requirement is the procurement of a \$500,000 performance bond or irrevocable sight draft letter of
14 credit by December 31, 2008. DDU must also identify a Certified Operator at least six months
15 before its serves its first customer or by June 30, 2009, whichever comes first. In addition to these
16 imminent compliance requirements, DDU must file key permits for the construction of the water
17 and wastewater systems by May 16, 2010. These permits include the Approval to Construct for
18 Phase 1 of the water system and the Aquifer Protection Permit for the wastewater treatment plant.
19 Construction cannot begin until these permits are obtained and it will take significant time
20 thereafter before the facilities can be constructed and service commenced.

21 As the Commission is well aware, since the issuance of the CC&N in May 2008, the
22 economy has suffered a precipitous downturn and the finance and credit markets have significantly
23 tightened. The White Hills development had already been delayed due to delays in the
24 construction of the Hoover Dam bypass bridge. Although the Mardians, the developer of White
25 Hills, still fully intend to proceed with White Hills, common sense and good judgment dictate that
26 the timeline for the development be pushed back.
27

1 **A. Extension of the Date for Procuring the Bond.**

2 In Decision No. 70532, the Commission required DDU to procure and file a performance
3 bond or letter of credit in the amount of \$500,000 by December 31, 2008. The rationale for
4 requiring the bond, as set forth in the Decision (at 16) is “to ensure that the applicants would be
5 able to continue operations for a reasonable period of time without a related entity’s financial
6 support, if necessary.” The Decision cited the Commission’s previous decision for the Green
7 Acres utilities (Decision No. 69256) to support this requirement. In the Green Acres decision, the
8 Commission required that the bond or letter of credit be procured and filed “at least 15 days before
9 providing water and wastewater utility service to any customer.” DDU requests that the
10 Commission now set a similar compliance date for its bond requirement.¹

11 Extending the bond compliance date as requested will still provide the public benefit
12 intended by the bond. Certainly, there will be no customers receiving service in the near future.
13 The proposed timing will still protect DDU’s customers in a timely manner. Second, given the
14 current condition of the financial and credit markets, DDU believes that the terms of any bond or
15 letter of credit will be more palatable in the future compared to now. Third, not restricting funds
16 through the bond or letter of credit now will allow DDU to move forward with other permitting
17 activities necessary to emplace the infrastructure that will ultimately serve the customers. DDU
18 does not object to the performance bond requirement, just the particular timing of the bond.

19 **B. Extension of the Date for Retaining the Certified Operator.**

20 The Commission also required DDU to retain a Certified Operator and notify the
21 Commission of that retention “at least six months before its serves its first customer or by June 30,
22 2009, whichever comes first.” DDU welcomes the willingness of the Commission to review
23 DDU’s choice of a Certified Operator. However, given the anticipated timeline for the
24 development, DDU believes that it would be premature to retain a Certified Operator by June 30,
25

26 ¹ In the pending Perkins Mountain CC&N docket (Docket No. SW-20739A-05-0489 et al.), the
27 proposed order (at 25) requires that the bond be procured and filed “prior to service being provided
to any customer.”

1 2009, particularly given other compliance dates in the Decision. In particular, DDU is required to
2 obtain the Aquifer Protection Permit for its wastewater treatment plant and the Approval to
3 Construct for the water system for Phase 1 of the development by May 16, 2010 (that is, two years
4 after the date of the Decision). Given possible construction time frames, it is unlikely there will be
5 any plant to operate until 2011.

6 Retaining a Certified Operator up to two years in advance of the commencement of
7 operation oversee does not make sense, particularly in this economy. DDU believes that it will be
8 difficult to enter into a cost-effective and prudent contract for services that may not be needed for
9 at least two years. Moreover, given the economy, DDU would prefer to wait until a date closer to
10 the date of operation to contract with the Operator to better ensure that Operator will be able to
11 meet its contractual obligations. Therefore, DDU requests that the compliance date for retaining
12 the Certified Operator be extended to "at least six months before its serves its first customer" to
13 allow a closer temporal connection between the retention of the Operator and the commencement
14 of operations.

15 WHEREFORE, DDU requests that two compliance dates be extended as follows:

16 1. The deadline for procuring a performance bond or irrevocable sight draft letter of
17 credit in the amount of \$500,000 be extended from December 31, 2008 until 15 days prior to
18 providing service to any customer. This proposed deadline parallels comparable deadlines for
19 similar bond requirements for other new water and wastewater companies.

20 2. The deadline for retaining a Certified Operator (and related notification to the
21 Commission) be extended from "at least six months before its serves its first customer or by June
22 30, 2009 to "at least six months before its serves its first customer."
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RESPECTFULLY submitted this 17th day of December, 2008.

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Original and 13 copies of the foregoing
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