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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

8 IN THE MATTER OF THE FORMAL
9 COMPLAINT OF SPARTAN HOMES
10 AND CONSTRUCTION, INC.,

COMPLAINANT,

11 vs.

12 FAR WEST WATER AND SEWER, INC.,

13 RESPONDENT.

DOCKET NO. WS-03478A-08-0256

RESPONSE TO SPARTAN HOMES
AND CONSTRUCTION, INC.'S
MOTION TO SET HEARING DATE
AND DATE FOR FILING
TESTIMONY

14
15 Far West Water and Sewer, Inc. ("Far West" or "the Company") hereby submits
16 this Response to Spartan Homes and Construction, Inc.'s ("Spartan") Motion to Set
17 Hearing Date and Date for Filing Testimony and Exhibits of Far West Water and Sewer
18 ("Motion"), filed on October 13, 2009 in the above-captioned matter. Far West objects to
19 Spartan's proposed deadline of October 27, 2009, for the filing of the Company's
20 testimony, as well as the proposed hearing date of November 17, 2009. Two weeks is
21 insufficient time to prepare direct testimony and exhibits in this matter, nor does it make
22 sense to suddenly rush to hearing for the reasons set forth below.

23 Much has happened since Spartan submitted its pre-filed testimony. On
24 December 19, 2008, the Company's sewer division filed an application for interim rate
25 relief.¹ The Company believed that its financial condition had deteriorated to the point
26 that an emergency existed, requiring interim rate increases to be immediately

27
28 ¹ Docket No. WS-03478A-08-0608.

1 implemented pending the completion of the Company's permanent rate case, filed in
2 August 2008.² Unfortunately, what appeared to be a relatively straightforward matter
3 required six days of hearing in April and May 2009. On September 2, 2009, the
4 Administrative Law Judge issued a recommended opinion and order ("the ROO"), which
5 was considered by the Commissioners at the agency's September 22, 2009 Open Meeting.
6 In the ROO, the Administrative Law Judge determined that the Company cannot complete
7 its sewer renovation project and come into compliance with consent orders issued by the
8 Arizona Department of Environmental Quality without a substantial infusion of capital,
9 effectively rendering the Company insolvent.³ However, the Administrative Law Judge
10 recommended that interim rate relief be denied and, further, that the Utilities Division be
11 directed to investigate whether the Commission should appoint an agent take over the
12 operation of the Company.⁴

13 Shortly before the September 22 Open Meeting, the Company's shareholders
14 located a potential source of funding that would allow additional equity to be infused for
15 the satisfaction of amounts owed to vendors and contractors. Based on that development,
16 the Commission postponed consideration of the ROO to the October 20, 2009, Open
17 Meeting.

18 Given these circumstances, Far West's management has been focused on securing
19 financing and attempting to resolve its current cash flow problems for the benefit of its
20 customers. Consequently, two weeks is simply not enough time to prepare and finalize
21 Mr. Capestro's direct testimony, nor would it be in the public interest to force the
22 Company to focus its efforts on Spartan's concerns.

23 Far West does not oppose holding a hearing three weeks after its pre-filed
24 testimony and exhibits are due, but because the Company opposes the October 27, 2009
25 deadline, the Company also opposes Spartan's proposed hearing date of November 17,

26 ² Docket No. WS-03478A-08-0454.

27 ³ ROO at 26.

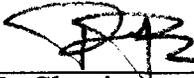
28 ⁴ *Id.* at 27-28.

1 2009. Instead, Far West requests that a procedural conference be held some time after
2 October 20, 2009, when the Company will be in a better position to determine what is a
3 reasonable filing deadline and hearing date given more time-sensitive matters that directly
4 affect the Company and its customers.

5 For these reasons, Far West respectfully requests that the Administrative Law
6 Judge deny Spartan's Motion and schedule a procedural conference for a date after
7 October 20, 2009.

8 RESPECTFULLY SUBMITTED this 14th day of October, 2009.

9 FENNEMORE CRAIG, P.C.

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11 By: 

12 Jay L. Shapiro
13 Patrick J. Black
14 Attorneys for Far West Water and Sewer, Inc.

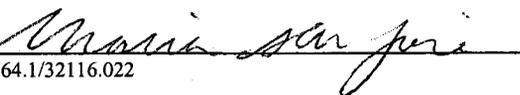
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22 this 14th day of October, 2009 to:

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