

ORIGINAL

OPEN MEETING AGENDA ITEM

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EXCEPTION

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Arizona Corporation Commission

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Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007
AZ CORP COMMISSION
DOCKET CONTROL

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Subject: Exceptions to Recommendations, Opinion and Order of the Administrative Law Judge in the Report dated March 16, 2010 to the Arizona Corporation Commission on the Joint Petition From APS and Verizon California to Establish an Underground Conversion Service Area for Hillcrest Bay Mobile Manor Subdivision, La Paz County, Arizona

- Reference:
1. Docket Numbers E-01345A-07-0663 and T-01846B-07-0663
 2. The Lorches' Two Lots, Lot 238 and Lot 239 in Hillcrest Bay Mobile Manor, Parcel Nos. 310-32-238 and 310-32-239, Respectively

Dear Commissioners:

Introduction

First, I want to acknowledge the Administrative Law Judge and the Report (under Executive Director cover letter dated March 16, 2010) for its thorough compilation and chronological summary of activities, materials, testimony and events over years 2004 into 2010 most of which is regarding the Joint Petition for a Underground Conversion Service Area (UCSA) at Hillcrest Bay Subdivision located in La Paz County, Arizona.

As a reminder, you, the Arizona Corporation Commission, are dealing by Association (of the Joint Petition for this UCSA) with the law, General Order U-48, enacted many years ago to (as I understand it) require undergrounding of electrical wiring and components. This and other similar laws, as those referenced in the Administrative Law Judge Current Report are meant to bring progress, safety, and better ways of living to Arizona citizens and property owners and to advance the State of Arizona into better conformance to and with the many progressive methods and developments available to attain today's high standard of living.

Secondly, although there are obstacles to overcome with this APS/Verizon Joint Petition for a UCSA at Hillcrest Bay Subdivision, this effort over about 5 years, if not successful at this time, will most likely never be attempted again. The outdated overhead electric and communication lines on poles will be the rule forward and undergrounding requirements as in Arizona law will only be piecemeal placements at Hillcrest Bay

Information and Facts

Next, I want to present below what I consider to be pertinent information and facts not presented nor covered in the Administrative Law Judge Report which information, I believe, allows the Arizona Corporation Commission to come to a different recommendation,

conclusion and hopefully a different Order than that stated in the Administrative Law Judge Report.

1. The Administrative Law Judge Current Report discusses the exception granted to Max Dunlap, and Western Land & Development Corporation to not underground power lines required by Arizona General Order U-48. (No. 25 on page 10). I believe that there were Reports and Whereas' supporting and justifying General Order U-48 dealing with Undergrounding of utilities. Therefore, In determining whether the benefits of establishing the current proposed UCSA at Hillcrest Bay outweigh the burdens therewith, I believe that bringing Hillcrest Bay Subdivision through the proposed UCSA into compliance with Arizona General Order U-48 should be listed in the Report as another important benefit.
2. Regarding definitions for the language in A.R.S. 40-346 on the words "...economically... feasible", there are also associated or supplementary definitions besides the ones selected out in the Current Report. Economically (an adverb) means in an economic or economical manner as stated in the Report – which means then going to those additional words for their definitions – which means kind of coming up with ones own interpretation and a new definition. Actually lines 9 and 10 on page 57 of the Report flip the words "economically feasible" to "feasible economically" as to the meaning stated. To me this changes the meanings from evaluating financial feasibility of the UCSA project (i.e. *reasonableness of the estimated costs of conversion to property owners – Viz. the spreadsheets*) to emphasis on the economic aspects of the finances involved, including issues as to any financial difficulties of property owners with their cost obligations – not that that should not be evaluated.
3. It is my understanding that of the 30 or so property owners claiming financial hardship, that about 10 actually followed through to interview with the HBI financial assistance program CPA and that approximately 4 property owners qualified. As I further understand, currently some of the affected properties were sold, and only 1 qualified financial hardship property owner is left. If there is still an issue with financial hardship and the HBI financial assistance program/fund, the Commission can state what it thinks is needed to be done and vote for how the program needs adjustment, for example calling for conversion of pledges to cash. I think the financial assistance program was well done by HBI on the first go around and I believe HBI has stated willingness to consider to make needed adjustments to the program.
4. I am having trouble connecting the dots as to how the Administrative Law Judge got to the position of, what appears, not only creating the requirement that the benefits from the expenditures must outweigh the burden of the expenditures, but then of making the recommendation on which is the most significant - the benefit or the burden? To me, it seems to relate back to if the meaning changed with the flip on "economically feasible" to "feasible economically" that seems got to the most benefit versus the most burden requirement for a yes or no recommendation on the UCSA?

Exceptions:

- a. Based on concerns in my No. 2 above, with the Report statements and meanings in Paragraph No. 175 (page 57), I take exception if the meaning stated therein which appears written for wording of "feasible economically" changed the emphasis to the financial condition of property owners for considering burdens versus a meaning of validity and reasonableness of financial cost estimates to property owners for "economically feasible"?

- b. I take exception to the conclusions reached in the Current Report at No. 176 (page 57) leading from Nos. 174 and 175 (pages 56 & 57) regarding that benefits must outweigh burdens with regard to expenditures of funds to comply with the requirement of "economic feasibility".
- c. I take exception to No. 6 in the CONCLUSIONS OF LAW Section (page 63) in that it is not proven that there would not be some benefit from establishment of the UCSA.
- d. I take exception to No. 8 on page 63 of the Current Report as I understand the definition of economically feasible as prudent use of expenditure of funds that that would in fact be cost effective and that the UCSA would add value to my property in an amount maybe up to my expenditures and so, I believe, would be the case for many other property owners in Hillcrest Bay.
- e. I take exception to No. 9 on page 63 of the Current Report as I believe that this one time opportunity has the most credibility of success and prudent use and expenditure of funds of property owners, APS and Verizon and therefore the establishment of the UCSA should be approved. Additionally, The Commission can rule for an oversight action/committee to assure that expenditure of funds to accomplish the proposed UCSA are done prudently and economically.

Summary and Request

The work regarding the Joint Petitions on your docket were initiated 5 years ago to accomplish what the State of Arizona, in its Statutes, deemed necessary years ago (i.e. the undergrounding of utilities). The Administrative Law Judge Recommendations and Order does not accomplish what the Arizona Legislators and the Governor have deemed necessary as the way to update deficient and outdated existing utility systems. With the Determinations and Order therewith in the Current Report carried forward, I believe that the Arizona Statutes A.R.S. 40-34X's will seldom, if ever, be implemented – i.e. there will always be objections, objectors and persons or property owners with financial difficulties and/or hardship(s).

I request that a motion to approve the APS/Verizon UCSA joint petition be made along with any other appropriate motions therewith.

Sincerely yours and thank you for your consideration of my letter and requests.

