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BEFORE THE ARIZONA CORPORATION

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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION) DOCKET NO. W-04236A-04-0075
OF TIERRA LINDA HOMEOWNERS)
ASSOCIATION, INC. FOR A CERTIFICATE) MOTION FOR EXTENSION OF
OF CONVENIENCE AND NECESSITY TO) COMPLIANCE CONDITION FILING
PROVIDE WATER SERVICE IN PIMA) DEADLINE ESTABLISHED IN
COUNTY, ARIZONA) DECISION NO. 71291

I.

INTRODUCTION

By means of this Motion For Extension of Compliance Condition Filing Deadline Established in Decision No. 71291 ("Motion"), Tierra Linda Homeowners Association, Inc. ("Tierra Linda") and Gary Smyth ("Smyth") request that the Commission issue an appropriate order extending the deadline for Tierra Linda filing a rate application from June 30, 2011 to June 30, 2012. In support of their Motion, Tierra Linda and Smyth submit the following information.

II.

BACKGROUND

On October 7, 2009, the Commission issued Decision No. 71291 in which it extended a previously established deadline for Tierra Linda to file a rate application from October 9, 2009 to June 30, 2011.¹ In its Decision No. 71291, the Commission (i) observed that

"... Staff recommends that because of the pending sale and transfer, the relatively short amount of time that Tierra Linda has been serving customers, and the small number of current customers, the rate application deadline should be extended to no later than June 30, 2011, using a December 31, 2010 test year."^{2 and 3}

¹ The October 9, 2009 deadline was established in the Commission's Decision No. 67104.

² Previously, in an August 7, 2009 Motion, Tierra Linda had requested that the October 9, 2009 deadline be extended to October 9, 2010.

³ See Decision No. 71291 at page 2, line 24-page 3, line 1; and, page 3, lines 4 and 10.

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and, (ii) adopted the Commission Staff's recommendation in its decision.

The processing of the Joint Application⁴ by means of which Tierra Linda's water system assets and certificate of convenience and necessity ("CC&N") are proposed to be transferred to Smyth did not progress as rapidly as may have been anticipated in October of 2009. In that regard, the evidentiary hearing on the Joint Application was recently held on September 13, 2010; and, the assigned Administrative Law Judge has not as yet issued a Recommended Opinion and Order. Accordingly, as of this juncture, it is unknown whether the contemplated transfer of water system assets and CC&N can occur by December 31, 2010, even in the event of Commission approval of the proposed transaction. As a consequence, there will not be an opportunity to acquire that twelve (12) months of test period experience for the Tierra Linda system under Smyth's ownership which may have been contemplated by Decision No. 71291.

In addition, during the aforesaid September 13, 2010 evidentiary hearing on the Joint Application, Smyth testified that (i) it has been determined that Tierra Linda's only well requires arsenic treatment in order to comply with the United States Environmental Protection Agency's arsenic concentration standards; and, (ii) Smyth intends to install the necessary arsenic treatment facilities within months following his acquisition of the Tierra Linda system, in the event of Commission authorization of the proposed transaction.

As a consequence of the foregoing developments, Tierra Linda and Smyth request that the current deadline for Tierra Linda to file a rate application be further from the June 30, 2011 deadline established in Decision No. 71291 to June 30, 2012. Assuming Commission approval of the proposed water system asset and CC&N transfer no later than the early months of 2011, this extension would enable Smyth to file a rate application using a test period which reflects twelve (12) months of his ownership and operation of the Tierra Linda system, rather than a test period reflecting the mixed results of two (2) different ownership and management styles.

⁴ See Docket Nos. W-20689A-09-0327 and W-04236A-09-0327.

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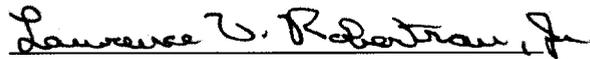
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IV.
CONCLUSION

For the reasons discussed above, Tierra Linda and Smyth hereby request that the Commission enter an appropriate order extending the deadline contained in Decision No. 71291 for the filing of a rate application for the Tierra Linda water system from June 30, 2011 to June 30, 2012, using a test year ending no later than April 30, 2012.

Dated this 5th of October 2010.

Respectfully submitted,



Lawrence V. Robertson, Jr.
Attorney for Tierra Linda Homeowners,
Association, Inc. and Gary Smyth

The original and thirteen (13) copies of the foregoing Motion will be mailed for filing this 5th day of October 2010 to:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

A copy of the foregoing Motion will be emailed or mailed this same date to:

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Chief Administrative Law Judge
Hearing Division
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Ernest Johnson, Director
Utilities Division
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