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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS

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GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

AZ CORP COMMISSION
DOCKET CONTROL

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[Signature]

IN THE MATTER OF THE APPLICATION
OF DII-EMERALD SPRINGS, L.L.C. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WASTEWATER
SERVICES.

DOCKET NO. WS-20794A-11-0140

IN THE MATTER OF THE APPLICATION
OF DII-EMERALD SPRINGS, L.L.C. FOR
APPROVAL OF RATES.

DOCKET NO. WS-20794A-11-0279

PROCEDURAL ORDER

BY THE COMMISSION:

This consolidated docket concerns two applications filed by DII-Emerald Springs, L.L.C. ("DII")--an application for a Certificate of Convenience and Necessity ("CC&N") to provide wastewater service, filed on April 4, 2011, in Docket No. WS-20794A-11-0140 ("CC&N Docket"), and an application for ratemaking, filed on July 15, 2011, in Docket No. WS-20794A-11-0279 ("Rate Docket"). The applications filed in the CC&N Docket and Rate Docket were found to be sufficient by the Commission's Utilities Division ("Staff") on August 24, 2011, and August 15, 2011, respectively, and the two dockets were consolidated through a Procedural Order issued on September 15, 2011. The time clock in this consolidated docket was suspended indefinitely by a Procedural Order issued on November 21, 2011.

The hearing in this matter was originally scheduled to be held on November 18, 2011, but was rescheduled as a result of an issue with the public notice of the hearing provided by DII. Thus, a public comment proceeding was held on November 18, 2011, at the time set for hearing.

The hearing in this matter was then scheduled to be held on December 16, 2011, but was rescheduled as a result of an extension of time requested by Staff for the issuance of the Staff Report. Thus, a public comment proceeding was held on December 16, 2011, at the time set for hearing.

The hearing is currently scheduled to be held on March 20, 2012, pursuant to a Procedural Order issued on January 4, 2012. Because the Staff Report recommended rates significantly higher

1 than DII's test year and current rate equivalents, the Procedural Order required DII, by February 3,
2 2012, to provide specific notice by first class U.S. Mail to the Emerald Springs Homeowners
3 Association ("HOA"), to the individual HOA members who receive service from DII's wastewater
4 treatment plant, and to each owner of land within the proposed service area and, further, to cause the
5 specific notice to be published in a newspaper of general circulation in the proposed service area.
6 The Procedural Order also required DII to file certification of mailing and publication as soon as
7 practicable after the mailing and publication had been completed, but no later than February 24,
8 2012.

9 On January 26, 2012, DII filed Certification of Mailing and Publication ("Certification")
10 stating that notice had been mailed to the HOA and to every member/property owner on January 18,
11 2012. The Certification further stated that notice had been published in the *Parker Pioneer* on
12 January 18, 2012, and included a copy of the notice as published.

13 Upon review, it was determined that the notice published in the *Parker Pioneer* contained a
14 number of errors, including an erroneous intervention deadline of November 24, 2012, which was
15 sufficiently significant to necessitate that corrected notice be provided, by both mail and publication,
16 so as to avoid again rescheduling the hearing for this matter.

17 On January 27, 2012, a Procedural Order was issued requiring DII to re-send and re-publish a
18 corrected notice by February 3, 2012. The Procedural Order included a copy of the published notice,
19 with the errors marked, for DII's reference.

20 On February 3, 2012, DII filed a letter stating that the earliest available date for re-publication
21 of notice in the *Parker Pioneer* is February 15, 2012. DII requested that the deadline for publication
22 be changed to February 15, 2012, and that any other dates be updated accordingly. DII stated that it
23 did not foresee any problems in mailing notices to the HOA and its members.

24 Because February 15, 2012, publication of corrected notice for the March 20, 2012, hearing
25 would eliminate a large portion of the time for submitting motions to intervene, which would be
26 particularly problematic for anyone who was relying upon the erroneous "November 24, 2012,"
27 deadline in the previously published notice, it is once again necessary to reschedule the hearing in
28 this matter for a later date and to change the current March 20, 2012, hearing to a public comment

1 proceeding. In addition, it is once again necessary to require DII to re-publish and re-send notice.
2 DII is responsible for ensuring that the notice provided, whether by mail or through publication in a
3 newspaper, is correct in all respects. Any significant deviation in the notice provided could again
4 result in rescheduling of the hearing in this matter.

5 IT IS THEREFORE ORDERED that **the evidentiary hearing scheduled for March 20,**
6 **2012, shall proceed only for the purpose of accepting public comment.**

7 IT IS FURTHER ORDERED that the second date of the evidentiary hearing, scheduled for
8 **March 21, 2012,** is hereby **vacated.**

9 IT IS FURTHER ORDERED that the **evidentiary hearing** in this matter **shall commence on**
10 **April 10, 2012, at 10:00 a.m.,** in Hearing Room No. 2 at the Commission's offices, 1200 West
11 Washington Street, Phoenix, Arizona 85007.

12 IT IS FURTHER ORDERED that the evidentiary hearing **shall continue, if necessary on**
13 **April 11, 2012, at 9:30 a.m.,** in Hearing Room No. 2 at the Commission's offices, 1200 West
14 Washington Street, Phoenix, Arizona 85007.

15 IT IS FURTHER ORDERED that **DII shall, by February 15, 2012, mail** a copy of the
16 following notice by first class U.S. Mail **to the HOA, the individual HOA members who receive**
17 **service from DII's wastewater treatment plant, and each owner of land** within the proposed
18 service area **and cause the following notice to be published in a newspaper(s) of general**
19 **circulation** in the proposed service area, in the following form and style:

20
21 **PUBLIC NOTICE OF HEARING ON THE**
22 **APPLICATIONS OF DII-EMERALD SPRINGS, L.L.C. FOR A CERTIFICATE**
23 **OF CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER**
24 **SERVICE AND FOR APPROVAL OF RATES.**
25 **(Docket Nos. WS-20794A-11-0140 et al.)**

26 **Summary**

27 On April 4, 2011, DII-Emerald Springs, L.L.C. ("DII") filed with the Arizona
28 Corporation Commission ("Commission") an application for a Certificate of
Convenience and Necessity ("CC&N") to provide wastewater service in a service area
adjacent to the Colorado River in Ehrenberg, approximately 45 miles south of Parker,
in La Paz County, Arizona. The service area encompasses the 54-lot Emerald Springs
Subdivision ("Emerald Springs"), to which DII states it has been providing wastewater
service since 2004. DII explained that it established a packaged plant on an
emergency basis in 2004, with permission from the Arizona Department of
Environmental Quality ("ADEQ"), but that the situation has become permanent. DII
stated that it has been operating at a loss and that it desires for the Commission to

1 establish rates that will at least cover operating costs.

2 On July 15, 2011, DII filed a rate application, using a calendar year 2010 test year
 3 (“TY”). In its rate application, DII stated that the Emerald Springs Homeowners
 4 Association (“HOA”) is DII’s only customer; that the HOA’s currently monthly rate is
 5 \$3,041.18; and that DII had TY gross revenues of \$32,164.00 and TY operating
 6 expenses of \$10,962.61, but that many expenses have been subsidized or temporarily
 7 suspended. DII did not propose any specific rates or level of revenue increase. DII
 8 also stated that DII owns, operates, and is responsible for only the actual sewer
 9 treatment plant and any process thereafter and that the HOA owns, operates, and
 10 maintains the entire collection system, including the lift station and the pipes from the
 11 lift station to the sewer treatment plant.

12 DII’s CC&N application and rate application have been consolidated into one matter
 13 for the Commission’s consideration and decision. The Commission’s Utilities
 14 Division (“Staff”) has filed a Staff Report recommending approval of DII’s rate
 15 increase application using Staff’s recommended rates and charges and recommending
 16 approval of DII’s CC&N application. Staff recommends a flat rate of \$125.80 per
 17 completed residential connection, in lieu of the current fixed monthly flat rate for the
 18 HOA as DII’s single customer. The \$3,041.18 monthly rate paid by the HOA equates
 19 to a monthly charge of \$70.73 per completed residential connection. Thus, Staff’s
 20 recommended monthly charge per completed residential connection represents an
 21 increase of 77.86%. In addition, Staff determined that its recommended rate
 22 represents an increase of 101.83% over the TY monthly flat rate, which Staff
 23 calculated as equivalent to \$62.33 per completed residential connection.

24 The Commission is not bound by the proposals made by DII, Staff, or any intervenors.
 25 The Commission will issue a decision regarding DII’s applications following
 26 consideration of testimony and evidence provided at an evidentiary hearing.

27 **How You Can View or Obtain Documents**

28 Copies of the applications and other documents filed in this matter are available for
 inspection during regular business hours at the Commission’s Docket Control Center
 in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and at DII’s offices
 [COMPANY INSERT ADDRESS HERE]. The documents are also available on the
 Internet via the Commission’s website (www.azcc.gov) using the e-Docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **April 10, 2012, at
 10:00 a.m.**, at the Commission’s offices, Hearing Room No. 2, 1200 West
 Washington, Phoenix, Arizona. Public comments will be taken on the first day of the
 hearing. Written public comments may be submitted by mailing a letter referencing
 Docket Nos. WS-20794A-11-0140 et al. to Arizona Corporation Commission,
 Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-
 mail. For a form to use and instructions on how to e-mail comments to the
 Commission, go to
<http://www.azcc.gov/Divisions/Utilities/forms/PublicCommentForm.pdf>. If
 you require assistance, you may contact the Consumer Services Section at 1-800-222-
 7000 or 602-542-4251.

About Intervention

The law provides for an open public hearing at which, under appropriate
 circumstances, interested parties may intervene. Any person or entity entitled by law
 to intervene and having a direct and substantial interest in the matter will be permitted
 to intervene. If you desire to intervene, you must file a written motion to intervene
 with the Commission no later than **March 12, 2012**. You must send a copy of the
 motion to intervene to DII or its counsel and to all parties of record. Your motion to
 intervene must contain the following:

- 1 1. Your name, address, and telephone number and the name, address, and
2 telephone number of any person upon whom service of documents is to be
3 made, if not yourself;
- 4 2. A short statement of your interest in the proceeding (e.g., a potential customer
5 of DII, property owner in the proposed service area, etc.);
- 6 3. A statement certifying that you have mailed a copy of the motion to intervene
7 to DII or its counsel and to all parties of record in the case; and
- 8 4. If you are not represented by an attorney who is an active member of the
9 Arizona State Bar, and are not representing yourself as an individual,
10 information and any appropriate documentation demonstrating compliance
11 with Arizona Supreme Court Rules 31, 38, and 42, as applicable.

12 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
13 that all motions to intervene must be filed on or before March 12, 2012. If
14 representation by counsel is required by Arizona Supreme Court Rule 31, intervention
15 will be conditioned upon the intervenor's obtaining counsel to represent the
16 intervenor. For information about requesting intervention, visit the Commission's
17 website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The
18 granting of intervention, among other things, entitles a party to present sworn evidence
19 at the hearing and to cross-examine other witnesses. However, failure to intervene
20 will not preclude any interested person or entity from appearing at the hearing and
21 providing public comment on the application or from filing written comments in the
22 record of the case.

23 **ADA/Equal Access Information**

24 The Commission does not discriminate on the basis of disability in admission to its
25 public meetings. Persons with a disability may request a reasonable accommodation
26 such as a sign language interpreter, as well as request this document in an alternative
27 format, by contacting the ADA Coordinator, Shaylin Bernal, at sabernal@azcc.gov,
28 voice phone number (602) 542-3931. Requests should be made as early as possible to
allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **DII shall file certification of mailing and publication** as
soon as practicable after the mailing and publication has been completed, but **no later than March
12, 2012**.

IT IS FURTHER ORDERED that **DII shall file**, with its certification of mailing and
publication, **a copy of the notice as published and a copy of the notice as mailed** to property
owners.

IT IS FURTHER ORDERED that any motion to intervene shall conform to the requirements
of A.A.C. R14-3-105 and this Procedural Order and demonstrate compliance with Arizona Supreme
Court Rules 31, 38, and 42, as set forth herein.

IT IS FURTHER ORDERED that any **objection to a motion to intervene** shall be filed
within **7 days** after the filing date for the motion to intervene.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized

1 Communications) applies to this proceeding and shall remain in effect until the Commission's
2 Decision in this matter is final and non-appealable.

3 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
4 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
5 hearing.

6 DATED this 6th day of February, 2012.

7
8 
9 SARAH N. HARPRING
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing
12 e-mailed/delivered/mailed
13 this 6th day of February, 2012, to:

14 Henry Melendez
15 DII-Emerald Springs, LLC
16 212 East Rowland Street, No. 423
17 Covina, CA 91723-3146
18 diigroup@aol.com

19 Janice Alward, Chief Counsel
20 Legal Division
21 ARIZONA CORPORATION COMMISSION
22 1200 West Washington Street
23 Phoenix, AZ 85007

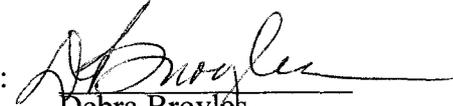
24 Steven M. Olea, Director
25 Utilities Division
26 ARIZONA CORPORATION COMMISSION
27 1200 West Washington Street
28 Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

Courtesy Copies provided by mail to:

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By: 
Debra Broyles
Secretary to Sarah N. Harpring