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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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Arizona Corporation Commission

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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 matter is set for hearing to commence on April 10, 2012, and a public comment proceeding is scheduled to proceed on March 20, 2012, at a time previously set for hearing.

The Emerald Springs Homeowners' Association ("HOA") has been granted intervention, without objection, pursuant to a Procedural Order issued on March 5, 2012.

On March 7, 2012, the HOA filed a Motion to Continue ("HOA Motion"), requesting that both the March 12, 2012, deadline to file an objection or response to the Staff Report and the April 10, 2012, evidentiary hearing be continued 60 days to allow the HOA time to complete a data request, draft an objection or response to the Staff Report, and prepare for the evidentiary hearing.

1 The HOA Motion made no assertion of an agreement with the other parties as to the extension  
2 requested. Thus, the HOA Motion could not be acted on until the time for objections had passed.<sup>1</sup>

3 On March 9, 2012, the HOA filed a Response and Objection to the Staff Report.

4 On March 12, 2012, Robhana, Inc. ("Robhana") and Charles Dunn Capital, Inc. ("Dunn")  
5 filed an Application for Leave to Intervene ("Robhana and Dunn MTI"), asserting that Robhana and  
6 Dunn collectively own real property within and adjacent to the proposed CC&N and thus are  
7 potential customers of the local wastewater service provider. Robhana and Dunn further assert that  
8 the issue of Dunn's ownership of the wastewater treatment facility, and potentially other fixtures, has  
9 been raised in this matter. Robhana and Dunn assert that they will be affected by the Commission's  
10 decision and that their intervention will not unduly broaden the issues or delay the proceeding.

11 Any objection to the Robhana and Dunn MTI must be filed by March 19, 2012.<sup>2</sup>

12 In light of the pending HOA Motion and the pending Robhana and Dunn MTI, it is reasonable  
13 and appropriate to hold a procedural conference following any public comment received at the public  
14 comment proceeding to be held on March 20, 2012. Each party and prospective party will be  
15 expected to attend the procedural conference and to make proposals at the procedural conference  
16 regarding the scheduling of this matter. The parties and prospective parties are urged to engage in  
17 discussions prior to the procedural conference for the purpose of determining whether a joint  
18 proposal as to scheduling can be made. Rulings on the HOA Motion and the Robhana and Dunn MTI  
19 will be made during the procedural conference.

20 IT IS THEREFORE ORDERED that a **procedural conference** shall be held on **March 20,**  
21 **2012, immediately following the public comment proceeding** scheduled to commence at **10:00**  
22 **a.m.** on March 20, 2012, in Hearing Room No. 1 at the Commission's offices at 1200 West  
23 Washington Street, Phoenix, Arizona 85007, for the purpose of discussing scheduling in this matter  
24 and resolving the HOA Motion and Robhana and Dunn MTI.

25 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
26

27 <sup>1</sup> The Procedural Order of January 4, 2012, establishes that a party has 5 calendar days to file a response to a Motion  
other than a Motion to Intervene.

28 <sup>2</sup> The Procedural Order of February 6, 2012, establishes that a party has 7 days to file an objection to a Motion to  
Intervene.

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 13<sup>th</sup> day of March, 2012.

7  
8   
9 SARAH N. HARPRING  
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing e-mailed/mailed/delivered  
12 this 13<sup>th</sup> day of March 2012, to:

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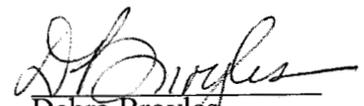
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By:   
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