

ORIGINAL



0000135161

BEFORE THE ARIZONA CORPORATION COMMISSION

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

RECEIVED

2012 MAR 14 P 12: 53

ARIZONA CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

MAR 14 2012

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
DII-EMERALD SPRINGS, LLC FOR
APPROVAL OF 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, LLC FOR
APPROVAL OF A RATE INCREASE

DOCKET NO. WS-20794A-11-0279

**STAFF'S RESPONSE TO MOTION TO
CONTINUE**

On March 5, 2012, Emerald Springs Homeowner's Association ("HOA") filed a motion in the above named docket requesting an extension to file objections or a response to the Staff Report and to have the evidentiary hearing scheduled for April 12, 2012 postponed for another sixty days. The HOA's stated reasons for requesting the extensions are to complete a data request; draft an objection or response to the Staff Report; and to prepare for the evidentiary hearing. Staff respectfully requests that the HOA's motion to postpone the hearing not be granted.

DII-Emerald Springs, L.L.C. ("Emerald Springs" or "Company") filed an application for a Certificate of Convenience and Necessity ("CC&N application") to provide wastewater treatment services with the Arizona Corporation Commission ("Commission") on April 4, 2011. On July 15, 2011, the Company filed in a separate docket an application for approval of rates ("rate application"). The CC&N application and the rate application were consolidated through a September 15, 2011 Procedural Order.

The hearing for this matter was originally scheduled for November 18, 2011 and has been postponed numerous times do to issues unrelated to HOA intervention; these delays have allowed ample additional time for the HOA to intervene. Since the Company filed its CC&N application in April of 2011, Utilities Division Staff ("Staff") has been in contact numerous times with the then

1 current HOA President, past HOA President, and individual HOA members. Staff has continuously
2 encouraged the HOA to intervene, even providing information on how to do so. The former
3 President of the HOA, as well as the HOA's attorney, have formally received documents and
4 procedural orders in this case since August 2011 when they were added to the service list.
5 Additionally, the former President of the HOA, Mr. Dennis Price, appeared to provide public
6 comment on December 16, 2011. At that public comment proceeding the ALJ discussed intervention
7 options with Mr. Price and provided additional information about intervention in her subsequent
8 procedural order.

9 When the HOA filed for intervention on February 24, 2012, Staff did not oppose their motion
10 because Staff believes that the HOA is an interested party and has a right to be a part of this
11 proceeding. However, considering the unusual circumstances of this case and the fact the hearing has
12 already been postponed numerous times, Staff would request that the HOA's motion be denied and
13 that the hearing continue to be held on April 10, 2012.

14 Staff respectfully requests that the HOA's motion be denied and/or further discussed at the
15 procedural conference scheduled for March 20, 2012

16 RESPECTFULLY SUBMITTED this 14th day of March 2012.

17

18

19

20

21

22

23

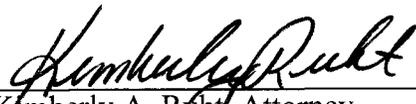
24

25

26

27

28



Kimberly A. Ruhl, Attorney
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Original and thirteen (13) copies
of the foregoing filed this
14th day of March 2012 with:

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

1 Copies of the foregoing mailed this
2 14th day of March 2012 to:

3 Mr. Henry Melendez
4 DII-Emerald Springs, LLC
5 212 East Rowland Street # 423
6 Covina, California 91723

7 Julie A. LaBenz
8 Law Office of John C. Churchill
9 1300 Joshua Avenue, Suite B
10 Parker, Arizona 85344
11 Attorney for Emerald Springs
12 Homeowners Association

13 Steve Wene, Esq.
14 Moyes Sellers & Hendricks Ltd
15 1850 North Central Avenue
16 Suite 1100
17 Phoenix, Arizona 85004
18 Attorney for Robhana, Inc.
19 and Charles Dunn Capital, Inc.

20 Courtesy Copy provided by mail to:

21 Dennis Price
22 Post Office Box 1125
23 Ehrenberg, Arizona 85334-1125

24 Doyle Thompson, Jr.
25 c/o Copper State Mobile Home & RV Park
26 48998 Sourdough Road
27 Ehrenburg, Arizona 85334

28

29 
30

31

32

33

34

35

36

37

38