

OPEN MEETING ITEM

ORIGINAL

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



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AZ CORP COMMISSION
DOCKET CONTROL

DATE: MARCH 28, 2012
DOCKET NO.: WS-20543A-07-0435
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

DOUBLE DIAMOND UTILITIES, INC.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NOS. 70352 and 70947)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

APRIL 6, 2012

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

APRIL 24, 2012 and APRIL 25, 2012

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

MAR 28 2012

DOCKETED BY [initials]

[Signature]
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
DOUBLE DIAMOND UTILITIES, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER AND
WASTEWATER SERVICE.

DOCKET NO. WS-20543A-07-0435

DECISION NO. _____

**ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 70352 and 70947**

Open Meeting
April 24 and 25, 2012
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On July 23, 2007, Double Diamond Utilities, Inc. ("DDU" or "Double Diamond") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide water and wastewater services for a master planned community known as The Ranch at White Hills ("White Hills") in Mohave County, Arizona.

2. On May 16, 2008, the Commission issued Decision No. 70352, which approved DDU's application for CC&Ns to provide water and wastewater services to White Hills. Decision No. 70352 required DDU, among other things, to file by December 31, 2008, a performance bond or irrevocable sight draft letter of credit ("ISDLC") in the amount of \$500,000 for its water and wastewater CC&Ns, and to retain a Certified Operator at least six months before it serves its first customer or by June 30, 2009, whichever occurred first.

3. On December 17, 2008, DDU filed a Motion for Extension of Compliance Dates to

1 file the performance bond or ISDLC and to retain a Certified Operator. DDU's motion stated that
2 DDU had complied with other requirements in Decision No. 70352, which included filing its rate
3 tariff, curtailment tariff, backflow prevention tariff, and Water Conservation Plan. The motion
4 further stated that due to a downturn in the economy the finance and credit markets had tightened,
5 which had delayed the development at White Hills. DDU further requested that it be allowed to file
6 the performance bond or ISDLC at least 15 days prior to providing water and wastewater utility
7 service to any customers.

8 4. On April 7, 2009, the Commission issued Decision No. 70947 granting DDU an
9 extension of time, until 30 days prior to serving its first customer or by December 31, 2011,
10 whichever comes first, to procure and file proof of a performance bond or ISDLC in the amount of
11 \$500,000, pursuant to Commission Decision No. 70352. Decision No. 70947 also extended the
12 timeframe for DDU to retain a Certified Operator for its water and wastewater systems to December
13 31, 2011 or six months before DDU serves its first customer, whichever occurred first.

14 5. On April 30, 2010, DDU filed a motion for an extension of time to file: 1) copies of the
15 water division's Approval to Construct ("ATC") for Phase 1; 2) copies of the wastewater division's
16 General Permits for Phase 1; and 3) a copy of the Aquifer Protection Permit for the wastewater division.
17 Pursuant to Decision No. 70352, the above compliance items were due to be completed by May 16, 2010.
18 DDU's motion requested an extension of time, until December 31, 2012, to file the above compliance
19 items.

20 6. On December 10, 2010, the Commission issued Decision No. 72008 granting DDU an
21 extension of time, until December 31, 2012, to comply with Commission Decision No. 70352 by
22 filing copies of the water division's ATC for Phase 1, copies of the wastewater division's General
23 Permits for Phase 1, and a copy of the Aquifer Protection Permit for the wastewater division.

24 7. On December 22, 2011, DDU filed its fourth Motion for Extension of Compliance
25 Dates, requesting that the deadlines for procuring a performance bond or ISDLC in the amount of
26 \$500,000 be extended from December 31, 2011, to December 31, 2014, or 30 days prior to DDU
27 serving its first customer, whichever occurs first. DDU also requests that the deadline for it to retain a
28 Certified Operator be extended from December 31, 2011, until six months prior to serving its first

1 customer or December 31, 2014, whichever occurs first. DDU stated that the reason for the extension
2 request is that there has been a continuing downturn in the economy and the housing market that has
3 caused delay in the timetable for the development covered by DDU's CCN. DDU attached to its
4 motion a letter from the developer/owner, which expressed a continuing desire to have DDU provide
5 water and wastewater services in the CC&N area.

6 8. On March 6, 2012, Staff filed a Memorandum in response to DDU's Motion for
7 Extension of Compliance Dates. Staff recommends approval of the request for an extension of the
8 deadlines for DDU to procure a performance bond or ISDLC and to obtain a Certified Operator.
9 Staff based its recommendation on the Company's belief that there will not likely be any plant to
10 operate until 2014; that procurement of a performance bond or ISDLC or retaining a Certified
11 Operator is premature at this time; and that there is a continuing desire to have DDU provide water
12 and wastewater services in the CC&N extension areas. Therefore, Staff recommends that the due
13 date for procurement of the performance bond or ISDLC be extended to 30 days prior to DDU
14 serving its first customer or December 31, 2014, whichever occurs first; and that the due date for
15 DDU to obtain a Certified Operator be extended until six months prior to DDU serving its first
16 customer or December 31, 2014, whichever occurs first. Staff also recommends that no additional
17 time extension be granted.

18 9. DDU's request for an extension of time to comply is reasonable and should be
19 adopted.

20 CONCLUSIONS OF LAW

21 1. Double Diamond is a public service corporation within the meaning of Article XV of
22 the Arizona Constitution and A.R.S. §§40-281 and 40-282.

23 2. The Commission has jurisdiction over Double Diamond and the subject matter to
24 extend the time for compliance as set forth in Commission Decision Nos. 70352 and 70947.

25 3. Staff's recommendation that Double Diamond receive an extension of time to comply,
26 is reasonable and should be adopted.

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ORDER

IT IS THEREFORE ORDERED that Double Diamond Utilities, Inc., is hereby granted an extension of time to file its performance bond or irrevocable sight draft letter of credit until 30 days prior to serving its first customer or until December 31, 2014, whichever occurs first.

IT IS FURTHER ORDERED that Double Diamond Utilities, Inc., is hereby granted an extension of time, to obtain a Certified Operator and to file notification of the entity's name and qualifications, at least six months prior to serving its first customer or December 31, 2014, whichever occurs first.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____ COMMISSIONER _____

COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2012.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

YBK:db

1 SERVICE LIST FOR: DOUBLE DIAMOND UTILITIES, INC.

2 DOCKET NO.: WS-20543A-07-0435

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