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ARIZONA CORPORATION COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission
DOCKETED
JUN 11 2012
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14 IN THE MATTER OF THE APPLICATION
15 OF DII-EMERALD SPRINGS, L.L.C. FOR A
16 CERTIFICATE OF CONVENIENCE AND
17 NECESSITY TO PROVIDE WASTEWATER
18 SERVICES.

**Docket Nos. WS-20794A-11-0140
WS-20794A-11-0279**

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

POSITION STATEMENT

21
22 Pursuant to the procedural order dated April 11, 2012, Robhana, Inc. ("Robhana")
23 hereby submits this update on its position and proposal regarding how this matter should
24 move forward.

25
26 Robhana's central concern is ensuring a competent entity is authorized to provide
27 wastewater service to the Emerald Springs development so that such service is safe,
28 reliable, and affordable. DII-Emerald Springs, L.L.C. ("DII") has filed an application for

1 a Certificate of Convenience and Necessity (“CC&N”). Doyle Thompson has indicated
2 that he intends to file an application for a CC&N for the same area. Robhana will
3
4 comment on both proposals.

5 **DII Proposal**

6 Robhana believes there are four significant considerations surrounding DII’s
7 application. First, based upon conversations with Henry Melendez, the main reason DII
8 wants the CC&N is to secure a revenue stream to pay the debt associated with the
9 wastewater treatment package plant. Second, the Emerald Springs Homeowners
10 Association (“HOA”) is opposing DII’s application. Third, DII would have to secure a
11 lease from Robhana and/or its related entities to operate and maintain the wastewater
12 treatment plant, as well as any transmission lines, located on Robhana’s property. Fourth,
13 the rates necessary meet the cost to operate the system, pay the debt, and lease the
14 property likely will be higher than the residents will want to pay.
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18 Of the four issues, only the need to lease property directly impacts Robhana. If
19 the Commission indicates that it is going to grant DII’s application, then Robhana will
20 negotiate a lease to allow DII to operate and maintain the wastewater system located on
21 property controlled by Robhana. However, it seems as though this dispute can be
22 resolved because the HOA wants Mr. Melendez out of Emerald Springs and Mr.
23 Melendez would remove himself but for the need to pay the debt. Thus, the real issue is
24 deciding who will pay the debt for the treatment plant - Melendez or the residents.
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1 **Thompson Proposal**

2 Likewise, Robhana believes there are four important considerations surrounding
3
4 Doyle Thompson's proposal. First, Mr. Thompson has not yet filed a CC&N application.
5 Second, Mr. Thompson's service to Emerald Springs likely will cause the Commission to
6 regulate his rates and service not only to Emerald Springs, but to his residential park as
7 well, the impact of which Mr. Thompson may not completely appreciate yet. Third, Mr.
8 Thompson would have to secure a lease from Robhana to operate and maintain the
9 wastewater treatment plant, as well as any transmission lines, located on Robhana's
10 property. Fourth, serving Emerald Springs may require Mr. Thompson to obtain a new
11 wastewater treatment permit, which will be an expensive process and may require Mr.
12 Thompson to build additional treatment facilities, which could cost the residents more
13 money.
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17 Of the four issues, only the possible need to lease property directly impacts
18 Robhana. If the Commission indicates that it is going to grant Mr. Thompson's
19 application, then Robhana will negotiate a lease to allow him to operate and maintain the
20 wastewater system located on Robhana's property. However, Robhana is concerned that
21 Mr. Thompson will not move forward with the CC&N application once he learns the true
22 cost of becoming a regulated utility. Therefore, the real issue here is whether or not Mr.
23 Thompson understands that he is submitting his business to the financial oversight of the
24 Commission and whether or not he has the desire and ability to make the improvements
25 needed to service the existing, as well as future, demand.
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1 **How should the matter go forward?**

2 If Mr. Thompson files a CC&N application, then that matter should be
3 consolidated with this case. Commission staff should then draft a report comparing the
4 two competing applications. The report should also evaluate the likelihood that
5 additional plant and permits will be necessary.
6

7
8 DATED this 11th day of June, 2012.

9 **MOYES SELLERS & HENDRICKS LTD.**

10
11 
12 Steve Wene

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14 Original and 13 copies of the foregoing
15 filed on this 11th day of June, 2012 with:

16 Docket Control
17 Arizona Corporation Commission
18 1200 W. Washington Street
19 Phoenix, Arizona 85007

20 Copy of the foregoing mailed this
21 11th day of June, 2012, to:

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