

ORIGINAL



0000143634

Arizona Corporation Commission

DOCKETED

MAR 21 2013

DOCKETED BY [Signature]

BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

- BOB STUMP - Chairman
- GARY PIERCE
- BRENDA BURNS
- BOB BURNS
- SUSAN BITTER SMITH

AZ CORP COM
DOCKET CC
2013 MAR 21 PM 10 26

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

IN THE MATTER OF THE APPLICATION OF DOYLE THOMPSON FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICES.

DOCKET NO. SW-20851A-12-0226

STAFF'S RESPONSE TO INTERVENOR HOA'S MOTION TO CONTINUE HEARING SET APRIL 2-3, 2013

On March 19, 2013, the Emerald Springs Homeowners' Association ("HOA") filed a motion to continue the hearing in this matter, currently scheduled to begin April 2, 2013, for 30 to 60 days. The HOA submits that a continuance is necessary in order to re-notice customers of the rates recommended by the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") and to allow the HOA additional time to gather evidence and prepare for the hearing.

On March 20, 2013, Staff received the HOA's Second Set of Data Requests to Staff. The HOA is requesting all documentation of all communications relating to this matter beginning January 1, 2011: 1) between Staff and the Arizona Corporation Commission; 2) between Staff and DII-Emerald Springs, LLC; 3) between Staff and Doyle Thompson; 4) between Staff and Charles Dunn Capital, Inc. and/or Robhana, Inc.; and 5) amongst and between the members of Staff.¹ Staff's responses are due to the HOA on April 1, 2013.²

¹ See Attachment A, Emerald Springs HOA's Second Set of Data Requests (March 18, 2013).

² Ten days following Staff's receipt of the Second Set of Data Requests is March 30, 2013, which is a Saturday.

1 Staff notes that it anticipates lodging objections to the HOA's Second Set of Data Requests
2 along with its responses, if any. Specifically, the HOA's requests do not seek any information
3 specific to the Staff Report filed on March 8, 2013. Rather, the HOA appears to be engaging in an
4 improper, overbroad, and unduly burdensome "fishing expedition" on the relative eve of hearing
5 without explaining why these requests were not issued sooner.³ In addition, much of the requested
6 information will likely contain privileged information that is not subject to disclosure.

7 Notwithstanding the foregoing, Staff does not object to continuing the hearing for 30 to 60
8 days. However, Staff does not believe that any further continuances should be granted unless
9 extenuating circumstances exist. In the event the motion to continue is granted, Staff respectfully
10 requests that a procedural conference be held to discuss, among other things, customer notice, new
11 hearing dates, Staff's objections to the HOA's Second Set of Data Requests, and the scope and
12 necessity of any future discovery between the parties.⁴

13 RESPECTFULLY SUBMITTED this 21st day of March, 2013.

14
15
16 

17 Scott M. Hesla, Attorney
18 Legal Division
19 Arizona Corporation Commission
20 1200 West Washington Street
21 Phoenix, Arizona 85007
22 (602) 542-3402

23 Original and thirteen (13) copies of the
24 foregoing filed this 21st day of March, 2013,
25 with:

26
27 Docket Control
28 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

³ The HOA was granted intervention over 12 months ago, on March 5, 2012.

⁴ Staff proposes that a procedural conference convene on April 2, 2013, the date currently scheduled for hearing.

1 Copies of the foregoing mailed this
2 21st day of March, 2013 to:

3 Henry Melendez
4 DII-Emerald Springs, LLC
5 212 East Rowland Street – No. 423
6 Covina, CA 91723-3146
7 diigroup@aol.com

8 Julie A. LaBenz
9 LAW OFFICE OF JOHN C. CHURCHILL
10 1300 Joshua Avenue, Suite B
11 Parker, AZ 85344
12 jlabenz@johnchurchill.com
13 Attorney for Emerald Springs HOA

14 Steve Wene, Esq.
15 MOYES SELLERS & HENDRICKS
16 1850 North Central Avenue, Suite 1100
17 Phoenix, Arizona 85004
18 swene@law-msh.com
19 Attorney for Robhana, Inc. and Charles Dunn Capital, Inc.

20 Doyle R. Thompson
21 COPPER STATE GAME CLUB,
22 R.V. AND MOBILE HOME PARK
23 P.O Box 287
24 Ehrenburg, Arizona 85334

25 **Courtesy Copy provided by mail to:**

26 Dennis Price
27 P.O. Box 1125
28 Ehrenberg, Arizona 85334-1125

29 

30
31
32
33
34
35
36
37
38

Attachment A

Churchill and LaBenz

John C. Churchill
Julie A. LaBenz

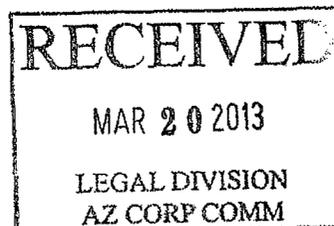
of counsel:

John A. Shannon, Jr.*

Faye Peters, Legal Assistant

1300 Joshua Avenue, Suite B
Parker, Arizona 85344
Telephone (928) 669-6195
Fax (928) 669-5376
Toll Free (888)244-3887

March 18, 2013



Scott Hesla
Arizona Corporation Commission
Legal Division
1200 West Washington Street
Phoenix, AZ 85007-2927

Re: Emerald Springs HOA's Second Set of Data Requests to the ACC Staff
Docet Nos. WE-20794A-11-0140; WS-20794A-11-0279 and SW-20851A-12-0226

Dear Mr. Hesla

Enclosed, please find the HOA's second set of data requests to the ACC Staff.

For purposes of this data request set, the words "Arizona Corporation Commission Staff," "ACC Staff," "Staff," "you," and "your" refer the Arizona Corporation Commission Staff and any representative, including every person and/or entity acting with, under the control of, or on behalf of the Arizona Corporation Commission Staff. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses.

Please respond within ten calendar days of your receipt of the copy of this letter. However, if you need additional time, please notify me in writing.

Please send your responses to me by mail and/or email at the contact information listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie LaBenz". The signature is fluid and cursive, with a large loop at the end.

Julie A. LaBenz,
Attorney for the Emerald Springs HOA

Enclosure

E-mail address: jchurchill@johnchurchill.com
or jlabenz@johnchurchill.com

*on select contested litigation matters

3. Produce all of the documentation related to all communications between ACC Staff and Doyle Thompson and/or Copper State Mobile Home Park from January 1, 2011 to the present date which are in any way related to Docket Nos. WS-20794A-11-0140; WS-20794A-11-0279 AND SW-20851A-12-0226.

4. Produce all of the documentation related to all communications between ACC Staff and WALTCO and/or Charles Dunn Capital, Inc., and/or Robhana, Inc. and/or the agents and/or representatives thereof, including attorney Steve Wene, from January 1, 2011 to the present date which are in any way related to Docket Nos. WS-20794A-11-0140; WS-20794A-11-0279 AND SW-20851A-12-0226.

5. Produce all of the documentation related to all communications amongst ACC Staff from January 1, 2011 to the present date which are in any way related to Docket Nos. WS-20794A-11-0140; WS-20794A-11-0279 AND SW-20851A-12-0226.

E-mail address: jchurchill@johnchurchill.com
or jlabenz@johnchurchill.com

*on select contested litigation matters