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BEFORE THE ARIZONA CORPORATI

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Arizona Corporation Commission

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JUN 11 2013

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COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION  
 OF FAR WEST WATER & SEWER, INC.,  
 AN ARIZONA CORPORATION, FOR A  
 DETERMINATION OF THE CURRENT  
 FAIR VALUE OF ITS UTILITY PLANT  
 AND PROPERTY AND FOR INCREASES  
 IN ITS WASTEWATER RATES AND  
 CHARGES BASED THEREON FOR  
 UTILITY SERVICE

DOCKET NO. WS-03478A-12-0307

CLOSING BRIEF OF SPARTAN HOMES  
& CONSTRUCTION, INC.

Spartan Homes & Construction, Inc., ("Spartan") hereby files its Closing Brief in the above-captioned matter. Far West Water & Sewer, Inc. ("Far West") has a long track record as a poorly managed utility which has regularly disregarded the rules, regulations and orders of the Arizona Corporation Commission ("Commission") and the Arizona Department of Environmental Quality ("ADEQ"). The evidentiary record in this case demonstrates that: (i) Far West has provided a poor level of customer service, placing a low value on customer service; (ii) Far West management has consistently placed the financial interests of its owners and affiliated businesses ahead of those of its customers, routinely making payments to its affiliated businesses while letting property taxes, refunds of advances in aid of construction, and other legal obligations go unpaid; (iii) Far West has engaged in self-serving and profitable dealings with affiliated companies such as H & S Developers; (iv) Far West has failed to comply with the rules, regulations, decisions and consent orders of the Commission and ADEQ; and (v) Far West has improperly accounted for advances in aid of construction and failed to make required refund payments. Years of mismanagement of the utility has led to the instant request by Far West to nearly triple its sewer rates. The fact that the owners of the utility failed to attend even one day

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1 of the evidentiary hearing in this case speaks volumes regarding their willingness to step up and  
2 take responsibility for the company.

3 Far West's dealings and actions with regard to Spartan have been financially devastating  
4 to Spartan. In 2008, Spartan was forced to file a formal complaint against Far West to force the  
5 utility to comply with the Commission's rules and with the main extension agreements between  
6 Far West and Spartan. This formal complaint led to Decision 72594 on September 15, 2011,  
7 whereby Far West was ordered to: (i) refund \$154,180 to Spartan for Far West's failure to  
8 follow the Commission's rules regarding water main extension agreements; (ii) pay unpaid  
9 refunds of advances in aid of construction under Spartan's sewer collection main extension  
10 agreement; and (iii) extend Far West's sewer CC&N. Further, Decision 72594 found that Far  
11 West had violated several Commission rules and the terms of Spartan's main extension  
12 agreement. Nearly two years after Decision 72594, Far West has still not made the refund  
13 ordered by the Commission; is not current on its refunds of advances under the sewer collection  
14 main extension agreement; and has not filed an application to extend its sewer CC&N. Spartan  
15 believes that this is illustrative of Far West's general antipathy to Commission rules, regulations  
16 and orders.

17 Because Far West has a track record of disregarding the rules, regulations and orders of  
18 those bodies which regulate the utility, Spartan urges the Commission to include safeguards in  
19 any decision approving an increase in rates. Specifically, Spartan is making the following  
20 recommendations that the Company requests be adopted by the Commission in this case:

21 1. Compliance. Spartan recommends that the Commission order Far West to  
22 demonstrate compliance with all Commission statutes, rules and decisions before the company is  
23 permitted to implement any rate increase approved in this docket. This includes full compliance  
24 with Decision 72594 in Docket WS-03478A-08-0256 (the Spartan formal complaint docket). In  
25 addition, Far West should be required to demonstrate compliance with the statutes, rules and  
26 consent orders of ADEQ before the company is permitted to implement a rate increase.

27 Spartan supports Conditions 1 and 2 in the stipulation between Utilities Division Staff  
28 ("Staff") and Far West reflected in Hearing Exhibit A-8. However, Spartan believes that the

1 conditions should be broader and require a showing by Far West of compliance with all  
2 applicable Commission statutes, rules and decisions (in addition to compliance with the ADEQ  
3 Consent Judgment and Decision 72594) before any increase in rates may be implemented.

4       2.     Refunds of Advances in Aid of Construction. Spartan recommends that the  
5 Commission require Far West to demonstrate and certify that it is current on all refunds of  
6 advances in aid of construction for its water and wastewater divisions before the company is  
7 permitted to implement any rate increase approved in this docket. Condition 5 of Hearing  
8 Exhibit A-8 requires Far West to make monthly refund payments to developers for unpaid  
9 amounts due under main extension agreements, with all past due amounts paid by June 30, 2015.  
10 However, in the case of Spartan, despite ordering Far West to make refunds of advances in aid  
11 of construction to Spartan pursuant to Decision 72594, Far West has failed to make all required  
12 refunds. Thus, the evidence is clear that a Commission order, in and of itself, is insufficient  
13 motivation for Far West to comply or to seek an order from the Commission authorizing a delay  
14 in payments. One sure way to ensure that Far West complies with its refund obligations is to  
15 require the utility to make up the past due refund payments before any rate increase is  
16 implemented.

17       If the Commission does order payments over time to make up past due refunds as  
18 provided in Condition 5 of Hearing Exhibit A-8, Spartan believes that Far West should still be  
19 required to make up all past due refund payments to Spartan before any increase in rates may be  
20 implemented. Unlike other developers, Spartan incurred to great expense to file and prosecute a  
21 formal complaint and the Commission previously ordered the refund of advances pursuant to  
22 Decision 72594. Thus, Far West should be required to fully comply with Decision 72594 before  
23 it may implement new rates.

24       Finally, if the Commission does allow payments over time, then Spartan believes that Far  
25 West should be ordered to pay interest on the unpaid amounts at the statutory rate from the date  
26 that the refund payments were due through the date of payment. Far West has had the benefit of  
27 funds that belong to developers and equity requires that these developers be made whole.  
28



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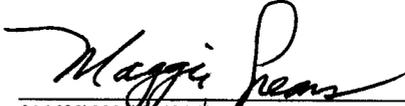
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