

ORIGINAL



0000146343

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

DOCKETED

JUL 03 2013

DOCKETED BY [Signature]

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

2013 JUL 3 PM 1 16

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

PROCEDURAL ORDER

BY THE COMMISSION:

On April 3, 2013, a Procedural Order was issued in this consolidated matter scheduling a hearing to commence on July 23, 2013, and establishing other procedural requirements and deadlines.

On May 1, 2013, DII-Emerald Springs, L.L.C. ("DII") filed a Motion Requesting Approval for Witnesses to Testify via Video Conferencing ("Motion"). This Motion was subsequently amended on May 15, 2013, pursuant to instructions in a Procedural Order issued on May 3, 2013, and granted, pursuant to a Procedural Order issued on June 5, 2013, to allow telephonic testimony from Robert Watson.

On May 28, 2013, Doyle Thompson filed proof that notice of the July 23, 2013, hearing for this matter had been provided to tenants at Copper State Mobile Home & RV Park ("Copper State") along with their monthly billing statements, had been publicly posted at Copper State, had been e-mailed to Emerald Springs Homeowners Association ("HOA") members by the HOA's Treasurer, and had been published on May 1, 2013, in the *Palo Verde Valley Times*.

On July 2, 2013, the HOA filed a Motion to Continue July 23-26 Hearing ("HOA Motion"), stating that the HOA and Robhana, Inc., both intervenors in this matter, have taken steps to form a

1 sewer district in Ehrenberg, which would render moot the applications pending in this matter. The
2 HOA Motion requests that the hearing be continued for 90 days to allow for the sewer district to be
3 formed. The HOA further stated that the HOA had contacted all of the parties to this matter
4 regarding the HOA Motion and that only DII objects to the HOA Motion.

5 Although DII objects to the HOA Motion, it is reasonable and appropriate to grant the
6 continuance requested therein because successful formation of a sewer district would fundamentally
7 change the nature of this proceeding and its resolution. However, because public notice of the July
8 23, 2013, hearing date has been provided, that date will need to be retained for a public comment
9 proceeding. Additionally, because resolution of the sewer district issue may take more than 90 days,
10 it would be premature at this time to reschedule the evidentiary hearing. Thus, instead, each party
11 will be required to file an update in 90 days apprising the Commission of the status of the sewer
12 district formation process and providing the party's proposal regarding the process and schedule for
13 this matter going forward.

14 **IT IS THEREFORE ORDERED** that the **evidentiary hearing** scheduled to commence on
15 **July 23, 2013, at 10:00 a.m.** is hereby **vacated**.

16 **IT IS FURTHER ORDERED** that a **public comment proceeding** in this matter shall proceed
17 on **July 23, 2013, at 10:00 a.m.** in Hearing Room No. 2 at the Commission's offices at 1200 West
18 Washington Street, Phoenix, Arizona.

19 **IT IS FURTHER ORDERED** that **DII shall ensure that Robert Watson is notified** that the
20 evidentiary hearing in this matter has been vacated until further order of the Commission.

21 **IT IS FURTHER ORDERED** that **each party** to this matter **shall, by October 1, 2013**, file in
22 this docket an **update** providing the party's understanding of the status of sewer district formation for
23 the Ehrenberg area, any pertinent supporting documentation, and the party's proposal regarding the
24 process and schedule for this matter going forward.

25 **IT IS FURTHER ORDERED** that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
26 Communications) applies to this proceeding and shall remain in effect until the Commission's
27 Decision in this matter is final and non-appealable.

28 **IT IS FURTHER ORDERED** that all parties must comply with Arizona Supreme Court Rules

1 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

2 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
3 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
4 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
5 all hearings, procedural conferences, and Open Meetings for which the matter is scheduled for
6 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
7 Law Judge or Commission.

8 IT IS FURTHER ORDERED that any motion, other than a Motion to Intervene, that is filed
9 in this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall
10 be deemed denied.

11 IT IS FURTHER ORDERED that except as otherwise ordered, any response to a motion shall
12 be filed within five calendar days of the filing date of the motion

13 IT IS FURTHER ORDERED that except as otherwise ordered, any reply shall be filed within
14 five calendar days of the filing date of the response.

15 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
16 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
17 hearing.

18 DATED this 3rd day of July, 2013.

19
20 
21 SARAH N. HARPRING
22 ADMINISTRATIVE LAW JUDGE

23 Copies of the foregoing mailed/delivered
this 3rd day of July, 2013, to:

24 Henry Melendez
25 DII-EMERALD SPRINGS, LLC
212 East Rowland Street, No. 423
Covina, CA 91723-3146

26 Julie A. LaBenz
27 CHURCHILL & LABENZ
1300 Joshua Avenue, Suite B
Parker, AZ 85344
28 Attorney for Emerald Springs HOA

1 Steve Wene
MOYES SELLERS & HENDRICKS
2 1850 North Central Avenue, Suite 1100
Phoenix, AZ 85004
3 Attorney for Robhana, Inc. and Charles Dunn Capital, Inc.

4 Doyle R. Thompson
COPPER STATE GAME CLUB, R.V. AND MOBILE HOME PARK
P.O. Box 287
5 Ehrenberg, AZ 85334

6 Curtis Cox
Assistant Attorney General
7 Attorney General's Office
1275 West Washington Street
8 Phoenix, AZ 85007
Attorney for Arizona Department of Environmental Quality

9 Janice Alward, Chief Counsel
Legal Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
11 Phoenix, AZ 85007

12 Steven M. Olea, Director
Utilities Division
13 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
14 Phoenix, AZ 85007

15 ARIZONA REPORTING SERVICE, INC
2200 North Central Avenue, Suite 502
16 Phoenix, AZ 85004-1481

17 By: 
18 Rebecca Unquera
Assistant to Sarah N. Harpring
19
20
21
22
23
24
25
26
27
28