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BEFORE THE ARIZONA CORPORATION COMMISSION

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2013 OCT 15 P 12:05
AZ CORP COMMISSION
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Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION OF)
PRESIDIO TRAILS DEVELOPMENT, LLC) DOCKET NO. W-02312A-13-0326
FOR DELETION OF ITS PROJECT FROM)
THE CERTIFICATE OF CONVENIENCE AND) **APPLICANT'S RESPONSE TO**
NECESSITY HELD BY HALCYON ACRES) **STAFF'S NOTICE OF CASE**
ANNEX NO. 2 WATER COMPANY, INC.) **STATUS**
_____)

Presidio Trails Development, LLC ("Presidio") respectfully submits this Response to Staff's Notice of Case Status filed on October 10, 2013 ("Notice"). The Notice correctly summarizes the September 20, 2013 application filed by Presidio ("Application"). However, Staff apparently believes that an "application" can only be filed by a regulated utility, not a private party. Furthermore, Staff seems to be taking the position that a complaint cannot be filed until after attempting to resolve the matter through the Commission's informal complaint process. Neither of these positions is supported by the Commission's rules.

With respect to the parties that are able to file "applications" with the Commission, the definition of "Applicant" in R14-3-103.B refers to "[a]ny person requesting ... any affirmative relief." Thus, "applicant" is not limited to regulated utilities. Similarly, R14-3-

1 106.F defines “[a]pplication” to include “[a] request for a right, authority, or other
2 affirmative relief.”¹

3 Even if this proceeding is more appropriately viewed as a complaint, there is no
4 requirement under R14-3-106.L that the informal complaint process be used prior to filing a
5 formal complaint. Subsection M of that rule *recommends* the informal procedure “except
6 [in cases] which clearly cannot be adjusted informally.” In this case, extensive discussions
7 and proceedings over a long period of time involving the parties as well as officials of the
8 City of Tucson have already occurred.

9 Nevertheless, Presidio is willing to have its Application treated as a complaint so
10 long as it is understood that the relief sought is a deletion of Presidio’s property from the
11 Certificate of Convenience and Necessity held by Halcyon Acres Annex No. 2 Water
12 Company, Inc. (“Halcyon”). Presidio is also willing to participate in an informal mediation
13 with Halcyon, Presidio, and Arizona Corporation Commission representatives. In fact,
14 Presidio has already contacted Commission Staff to schedule such a mediation.

15 For administrative efficiency, Presidio suggests that its Application be stayed until
16 the informal mediation process is completed. The parties will then report to the
17 Administrative Law Judge on the success or failure of that process. If the matter cannot be
18 resolved, Presidio requests that its Application be deemed a complaint and the formal
19 complaint process initiated at that time.

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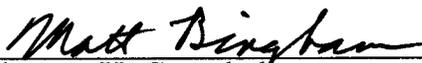
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26 ¹ Presidio also notes that recent similar actions have been designated “Applications for Deletion” without any apparent objection from Staff. *See e.g.*, Applications in Dockets No. W-03512A-06-0407 and W-03512A-07-0100.

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RESPECTFULLY SUBMITTED this 15th day of October, 2013.

LEWIS ROCA ROTHGERBER LLP



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Attorneys for Presidio Trails Development, LLC

ORIGINAL and thirteen (13) copies
of the foregoing filed this 15th day
of October, 2013, with:

The Arizona Corporation Commission
Utilities Division – Docket Control
1200 W. Washington Street
Phoenix, Arizona 85007

Copy of the foregoing hand-delivered
this 15th day of October, 2013, to:

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