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BEFORE THE ARIZONA CORPORATION

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Arizona Corporation Commission

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DEC 04 2013

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AZ CORP COMMISSION
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COMMISSIONERS

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

DOCKETED BY

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"). The Motion was subsequently amended on May 15, 2013, and was granted on June 5, 2013, allowing for telephonic testimony from DII's witness.

On May 28, 2013, Doyle Thompson filed proof that notice of the July 23, 2013, hearing date had been provided to tenants at Copper State Mobile Home & RV Park ("Copper State") 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. ("Robhana"), both intervenors in this matter, had taken steps to form a sewer district in Ehrenberg, which would render moot the applications pending in this

1 matter. The HOA Motion requested that the hearing be continued for 90 days to allow for the sewer
2 district to be formed. The HOA further stated that the HOA had contacted all of the parties to this
3 matter regarding the HOA Motion and that only DII objected to the HOA Motion.

4 On July 3, 2013, a Procedural Order was issued vacating the evidentiary hearing scheduled
5 for July 23, 2013; ordering that a public comment proceeding instead be held on July 23, 2013; and
6 ordering each party to file, by October 1, 2013, an update on the status of the sewer district
7 formation, along with any pertinent supporting documentation and the party's proposal regarding the
8 process and schedule for the matter going forward.

9 On July 23, 2013, the public comment proceeding was held as scheduled. DII, Robhana, and
10 Staff appeared; Mr. Thompson and the HOA did not appear. Public comment was received from two
11 individuals who own property within the service area at issue. Additionally, counsel for Robhana
12 provided an update on the status of the sewer district formation, indicating that there was already
13 sufficient property-owner support for the sewer district to be formed, but that efforts were being
14 made to determine the boundaries of the district area and to identify prospective district board
15 members.

16 On October 1, 2013, the HOA and Robhana filed a joint status update stating that the petition
17 for the Ehrenberg Improvement District had been drafted and was expected to be filed in early
18 October and heard by the La Paz County Board of Supervisors in early November. The HOA and
19 Robhana further stated that five prospective board members¹ had been identified, that steps were
20 being taken to amend the boundaries for the district, and that both the HOA and Robhana were
21 encouraged by the progress made thus far and intended to continue moving forward with the sewer
22 district formation. Staff also filed its update, recommending that this matter continue to be held in
23 abeyance pending the outcome of the sewer district formation, which could be finalized as early as
24 November 2013, and that Robhana be required to file another status update in 60 days regarding the
25 status and progress of the sewer district formation. DII also filed its status update, reporting that the
26 other parties had not been in communication with DII except through the joint status update, that DII
27

28 ¹ The five individuals are current board members for the area water provider, Ehrenberg Improvement Association.

1 was disappointed by the “lack of pertinent information” in the joint status update, that the purpose of
2 forming a sewer district is to circumvent the Commission’s authority, and that there are a number of
3 questions to which DII would like answers. DII requested that its questions be answered before any
4 additional extensions are granted to allow for the formation of the district.²

5 On October 8, 2013, a Procedural Order was issued ordering the HOA and Robhana to file, by
6 December 1, 2013, a joint status update reciting the actions taken toward formation of the sewer
7 district, copies of documents filed with government entities toward that end, and the parties’ proposal
8 regarding the process and schedule for this matter going forward.

9 On October 10, 2013, the HOA and Robhana filed a supplement to the joint status update
10 stating that they had inadvertently omitted that they supported Staff’s recommendation for this matter
11 to be continued with a status update required every 60 days.

12 On December 2, 2013, the HOA and Robhana filed a joint status update stating that the
13 Petition to form a sewer district has been signed by the potential district board members, that minor
14 errors in the district map are being corrected, and that the Petition will be filed with the La Paz
15 County Clerk once those corrections are completed, probably within the next 10 business days. The
16 HOA and Robhana requested that the matter be continued for an additional 90 days, with another
17 joint status update required at that time.

18 In light of the continued progress reportedly being made toward formation of a sewer district,
19 it is reasonable and appropriate for the Commission to continue holding this consolidated matter in
20 abeyance for another 90 days, after which the HOA and Robhana will be required to file another
21 update.

22 IT IS THEREFORE ORDERED that the **HOA and Robhana shall, by March 3, 2014**, file
23 in this docket a **joint status update** reciting the actions taken thus far toward formation of a sewer
24 district for the Ehrenberg area, copies of any documents filed with the county and/or other
25 governmental entities in furtherance of district formation, and the parties’ proposal regarding the
26 process and schedule for this matter going forward.

27 ² To the extent that DII owns property within the boundaries of the area proposed for the sewer district, DII should
28 have the ability to participate and to voice its position in the appropriate venue regarding that formation. The
Commission does not regulate sewer districts and does not have jurisdiction over their formation.

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

4 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
5 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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

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

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

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

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

22 DATED this 4th day of December, 2013.

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24 
25 SARAH N. HARPRING
26 ADMINISTRATIVE LAW JUDGE
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28

1 Copies of the foregoing mailed/delivered
this 4th day of December, 2013, to:

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