

ORIGINAL



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MEMORANDUM

RECEIVED

TO: Docket Control

FROM: Thomas M. Broderick
for Director
Utilities Division

2016 MAY -9 P 4: 06

AZ CORP COMMISSION
DOCKET CONTROL

DATE: May 9, 2016

RE: STAFF REPORT FOR LIBERTY UTILITIES (BLACK MOUNTAIN SEWER) CORP. - APPLICATIONS FOR EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER AND WASTEWATER UTILITY SERVICE TO A PORTION OF MARICOPA COUNTY (DOCKET NO. SW-02361A-16-0067)

Attached is the Staff Report for the application of Liberty Utilities (Black Mountain Sewer), Corp. for extension of its existing Certificate of Convenience and Necessity ("CC&N"). Staff is recommending approval with conditions.

TMB:BNC:nr\RRM

Originator: Blessing Chukwu

Arizona Corporation Commission

DOCKETED

MAY 09 2016

DOCKETED BY

Service List for: Liberty Utilities (Black Mountain Sewer) Corp.
Docket No. SW-02361A-16-0067

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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

LIBERTY UTILITIES (BLACK MOUNTAIN SEWER) CORP.

DOCKET NO SW-02361A-16-0067

**APPLICATION FOR EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE
AND NECESSITY**

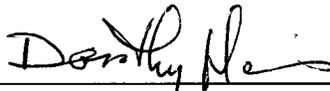
MAY 9, 2016

STAFF ACKNOWLEDGMENT

The Staff Report for Liberty Utilities (Black Mountain Sewer) Corp. (Docket No. SW-02361A-16-0067) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the application. Dorothy Hains was responsible for the engineering and technical analysis.

A handwritten signature in black ink, appearing to be 'Blessing Chukwu', written over a horizontal line.

Blessing Chukwu
Executive Consultant

A handwritten signature in black ink, appearing to be 'Dorothy Hains', written over a horizontal line.

Dorothy Hains
Utilities Engineer

EXECUTIVE SUMMARY
LIBERTY UTILITIES (BLACK MOUNTAIN SEWER) CORP.
DOCKET NO. SW-02361A-16-0067

On February 24, 2016, Liberty Utilities (Black Mountain Sewer), Corp. ("Liberty" or "Applicant" or "Company") filed an Application for extension of its Certificates of Convenience and Necessity ("CC&N") with the Arizona Corporation Commission ("ACC" or "Commission") to provide wastewater utility service, to a portion of Maricopa County. On March 23, 2016, Staff informed Liberty that its application was sufficient for administrative purposes. Hearing is set for June 2, 2016.

Liberty is requesting Commission approval to serve the Eastwood development. The requested area consists of approximately 9.5 acres and will have a total of 39 residential dwelling units at build out. The requested area is in the Town of Carefree, Maricopa County.

Based on Staff's review and analysis of the application, Staff believes that the Liberty's wastewater system has adequate treatment capacity to treat the existing customer base. Staff also believes that the proposed wastewater plan by Liberty is appropriate and the costs are reasonable. However, no "used and useful" determination of the proposed plants was made, and no conclusions should be inferred for future rate making or rate base purposes.

Staff recommends the Commission approve Liberty's application for extension of its CC&N for wastewater service to the Eastwood development, located in a portion of Maricopa County, Arizona, subject to compliance with the following conditions:

1. To require Liberty to charge its existing rates and charges in the proposed extension area.
2. To require Liberty to file with Docket Control, a copy of the Town's franchise agreement or consent for the extension area as a compliance item in this docket no later than June 30, 2017.
3. To require Liberty to file with Docket Control, as a compliance item in this docket, a copy of the Certificate of Approval of Construction for the first parcel served in the Development area no later than June 30, 2017.

Staff further recommends that the Commission's Decision granting this extension of CC&N to Liberty, for Eastwood development, be considered null and void, after due process, should Liberty fail to meet Conditions Nos. 2 and 3 within the time specified.

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INTRODUCTION

On February 24, 2016, Liberty Utilities (Black Mountain Sewer), Corp. ("Liberty" or "Applicant" or "Company") filed an Application for extension of its Certificates of Convenience and Necessity ("CC&N") with the Arizona Corporation Commission ("ACC" or "Commission") to provide wastewater utility service, to a portion of Maricopa County.

On March 23, 2016, Staff informed Liberty that its application was sufficient for administrative purposes. Hearing is set for June 2, 2016.

BACKGROUND

Liberty is an Arizona corporation in good standing with the Commission's Corporation Division. Liberty provides wastewater utility service to the public in and around the Town of Carefree, in Maricopa County, Arizona. Liberty's affiliates provide water and/or wastewater services in Santa Cruz County, Cochise County, Pinal County and within the cities of Litchfield Park, Goodyear, and Avondale, and in adjacent unincorporated areas of Maricopa County in the west Phoenix valley, west of Agua Fria River and north of Interstate Highway 10. Currently, Liberty provides water utility service to approximately 18,400 customers and wastewater utility service to approximately 20,500 customers.

Liberty is wholly owned by Liberty Utilities (Sub) Corp., a Delaware corporation, which is a wholly owned subsidiary of Liberty Utilities Co., a Delaware corporation. Liberty's ultimate parent is Algonquin Power & Utilities Corp., a Canadian corporation whose shares are traded on the Toronto Stock Exchange.

PROPOSED EXTENSION AREA

Liberty is requesting Commission approval to serve the Eastwood development, located within Sections 36 of Township 6 North, Range 4 East. The requested area is bounded by Cave Creek Road to the north, Pima Norte Commercial Site to the east, a vacant land to the south and a future Stagecreek Estates subdivision to the west. The Eastwood development consists of approximately 9.5 acres and will have a total of 39 residential dwelling units at build out. The requested area is in the Town of Carefree, Maricopa County. Attachment B contains a map which shows the portion of Maricopa County. According to the Application, all construction will be started and completed in 2016, upon Commission approval of this CC&N approval.

REQUEST FOR SERVICE

A request for service is fundamental in determining whether a need for a CC&N exists. Exhibit 9 to the application contains four (4) requests for service for the requested area. Three (3) requests for service are from the property owners and the fourth is from the developer, Keystone at Eastwood, LLC. According to the application, once the Eastwood development plat process is completed, the three property owners that requested service would pass the title to the developer and the entire development will be owned by the Keystone at Eastwood, LLC.

THE WASTEWATER SYSTEM

Liberty and the City of Scottsdale ("City") signed a service agreement ("Agreement"), on January 21, 1996, that will expire on December 31, 2016. In the agreement, the City agrees to treat and to dispose of the wastewater from Liberty's CC&N area. Liberty purchased 600,000 GPD of treatment capacity in the City's Wastewater Treatment Plant system. At present, the City agrees to treat a maximum of 1,000,000 GPD for Liberty. Liberty and the City have negotiated an Amended and Restated Wastewater Treatment Agreement for additional treatment capacity of 120,000 gallons, effective March 15, 2016.¹ The Agreement also gives Liberty the right to purchase additional treatment capacity, up to 150,000 GPD after January 1, 2018.

Wastewater from the requested CC&N area will be treated by Boulder Wastewater Treatment Plant ("Boulder WTP") until the plant is closed on or before November 30, 2018 and the City. Liberty owns and operates its Boulder WTP. Boulder WTP has a treatment capacity of 120,000 gallon per day ("GPD"). Excess wastewater flow is diverted through a bypass line and discharges into a collection system that connects to the City's wastewater collection system and is treated by the City's Wastewater Treatment Plant.

Liberty intends to finance the wastewater facilities through a combination of contributions and advances in aid of construction ("AIAC") (Hook-up Fees) made by Eastwood developer.

Attachment A is Staff's Engineering Report which describes Liberty's current wastewater system, the proposed wastewater plan, the projected wastewater construction schedule and the costs to serve the requested area. The report includes the finding that Liberty is in compliance with the Commission decisions and Arizona Department of Environmental Quality ("ADEQ"). The report indicates that ADEQ has determined that the City's WTP was not in violation at a level at which ADEQ will take an action or issue a Notice of Opportunity to Correct or Notice of Violation and/or is in compliance with the Order/Judgment.² The report also indicates that Liberty's wastewater system has adequate treatment capacity to treat the existing customer base. Further, that the proposed wastewater plan by Liberty is appropriate and the costs are reasonable. No "used and useful" determination of the proposed plants was made, and no conclusions should be inferred for future rate making or rate base purposes.

Staff recommends that Liberty file with Docket Control, as a compliance item in this docket, a copy of the Certificate of Approval of Construction ("AOC") for the first parcel served in the Development no later than June 30, 2017.

The Town of Carefree ("Town") will provide water service to the requested area.

¹ Decision No. 75510 (April 25, 2016).

² ADEQ Compliance Status Report dated March 23, 2016.

PROPOSED RATES

Liberty intends to provide wastewater utility service to the extension area under its authorized rates and charges.

HOOKUP FEE TARIFFS

Liberty has an approved Offsite Hookup Fee Tariff for wastewater on file.

FRANCHISE

Every applicant for a CC&N and/or CC&N extension is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority, authorizing the use of public roads or lands to construct, install, operate and maintain a water and/or wastewater system. If the applicant operates in an unincorporated area, the Company has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

Liberty did not file, in the docket, a copy of the franchise agreement it had entered into with the Town or the Town's consent, for its proposed extension area.

RECOMMENDATIONS

Staff recommends the Commission approve Liberty's application for extension of its CC&N for wastewater service to Eastwood development, located in a portion of Maricopa County, Arizona, subject to compliance with the following conditions:

1. To require Liberty to charge its existing rates and charges in the proposed extension area.
2. To require Liberty to file with Docket Control, a copy of the Town's franchise agreement or consent for the extension area as a compliance item in this docket no later than June 30, 2017.
3. To require Liberty to file with Docket Control, as a compliance item in this docket, a copy of the Certificate of Approval of Construction for the first parcel served in the Development area no later than June 30, 2017.

Staff further recommends that the Commission's Decision granting this extension of CC&N to Liberty, for Eastwood development, be considered null and void, after due process, should Liberty fail to meet Conditions Nos. 2 and 3 within the time specified.

MEMORANDUM

DATE: March 30, 2016

TO: Blessing N. Chukwu
Executive Consultant III

FROM: Dorothy Hains, P. E. DH
Utilities Engineer

RE: The Application of Liberty Utilities (Black Mountain Sewer) Corp. For Approval of An Extension Of A Certificate Of Convenience and Necessity To Provide Wastewater Utility Service In Maricopa County, Arizona (Docket No. SW-02361A-16-0067)

I. BACKGROUND

On February 24, 2016, Liberty Utilities (Black Mountain Sewer) Corp. (“Applicant” or “BMSC”) filed an application (Docket No. SW-02361A-16-0067) for an extension of its wastewater Certificate of Convenience and Necessity (“CC&N”) to serve the Eastwood development which is located, near the Carefree Airport, in a portion of Section 36, Township 6 North, Range 4 East in the Town of Carefree, Maricopa County. It is anticipated that the requested area of 9.5 acres will have a total of 39 residential dwelling units at build out. The requested area is surrounded by Pima Road, Cave Creek Road, and Stagecoach Pass Road. The offsite and onsite facility construction will be financed through a combination of contributions and advances in aid of construction via Hook-up fees paid by the Eastwood Developer.

II. PROPOSED WATER PLAN

The Town of Carefree will provide water service to the requested area.

III. WASTEWATER SYSTEM

Wastewater from the requested area will be treated by Boulder Wastewater Treatment Plant (“Boulder WWTP”) and the City of Scottsdale (“Scottsdale”). The Applicant owns and operates the Boulder which has a 120,000 gallon per day (“GPD”) permitted treatment capacity. Excess wastewater flow is diverted through a bypass line and discharges into a collection system that connects to the Scottsdale wastewater collection system and will be treated by Scottsdale’s WWTP. The Boulder WTP is scheduled to close on or before November 30, 2018.¹

On January 21, 1996, Scottsdale and BMSC signed a service agreement (“Scottsdale Agreement”) that will expire on December 31, 2016. In this agreement, Scottsdale agrees to treat and to dispose of the wastewater from BMSC’s CC&N area. BMSC purchased 600,000 GPD of

¹ Decision No. 75510 (April 25, 2016)

treatment capacity in the Scottsdale WWTP system. At present, Scottsdale agrees to treat a total maximum of 1,000,000 GPD for BMSC. BMSC and Scottsdale have negotiated an Amended and Restated Wastewater Treatment Agreement for additional treatment capacity of 120,000 gallons, effective March 15, 2016.² The Agreement also gives BMSC the right to purchase additional treatment capacity, up to 150,000 GPD after January 1, 2018.

Currently, BMSC serves 2,198 customers, the average flow was 354,167 GPD and the daily average flow per customer is 162 GPD per customer and the peak flow was 194 GPD per customer. The Applicant estimates that this development will create 12,480 GPD flow, based on 320 GPD per connection and 39 connections when it is fully developed. Therefore, BMSC has adequate treatment capacity to serve this request.

IV. PROPOSED WASTEWATER PLAN

On-site System

The Applicant plans to install 1,862 linear feet of 8-inch polyvinyl chloride (“PVC”) sewer pipeline, 25 linear feet of 8-inch Ductile Iron Pipe (“DIP”) sewer line, fifteen Five-foot diameter manholes, four cleanouts and 39 service lateral connections. According to the Applicant all construction will be completed by the end of 2016.

Off-site System

The on-site system will be interconnected to an existing manhole on Cave Creek Road which is approximately 28 feet within the Right-of-way from the proposed on-site sewer collection system.

Estimated Construction Costs

The estimated cost is approximate \$127,204. The following table provides an itemized list of the plant components included in the estimated cost.

Estimated Engineering Costs

Project Description	Estimated Costs by the Applicant (\$)
On-site Sewer Improvement for Eastwood	
1,862 feet of 8” PVC (@ \$21/ft)	39,102
25 feet of 8” DIP (@ \$30/ft)	750
15 of 5’-diameter Manholes (@ \$3,200/unit)	48,000
4 clean outs (@ \$700/unit)	2,800
39 lateral service connections (@ \$600/unit)	23,400
subtotal	114,052

² *Id.*

10% contingency fee	11,405
Total	125,457
Off-site Sewer Improvement for Eastwood	
28 feet of 8" PVC (@ \$21/ft)	588
Traffic Control	600
Connection to existing Manhole	400
subtotal	1,588
10% contingency fee	159
Total	1,747
Total Costs of Sewer Improvement for Eastwood	127,204

Staff concludes that the listed system improvements are appropriate and the costs are reasonable. No "used and useful" determination of the proposed plant was made, and no conclusions should be inferred for future rate making or rate base purposes.

Staff recommends that BMSC file with Docket Control, as a compliance item in this docket, a copy of the Approval of Construction ("AOC") for the first parcel served in the Development by June 30, 2017.

V. ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY ("ADEQ") COMPLIANCE

Staff received a compliance status report for BMSC dated March 23, 2016, in which ADEQ reported: "Based upon the data submitted by the facility, ADEQ has determined that as of this date the facility was currently in compliance for the review period noted above".

Staff received a compliance status report for Scottsdale dated March 23, 2016, in which ADEQ has determined that as of this date the facility was not in violation at a level at which ADEQ would take an action or issue a Notice of Opportunity to Correct or Notice of Violation and/or is in compliance with the Order/Judgment.

VI. ARIZONA CORPORATION COMMISSION ("ACC") COMPLIANCE

A check of the Commission's Compliance Section database dated March 18, 2016, indicates there is no delinquent compliance items for the Applicant.

VII. MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT ("MCESD") COMPLIANCE

MCESD, acting as the formally delegated agent of ADEQ has reported in a Compliance Status Report dated March 29, 2016, that the Carefree water system operating under public water system ("PWS") No. 07-015 has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141 (National Primary Drinking Water Regulations) and Arizona Administrative Code, Title 18, Chapter 4.

SUMMARY

Recommendations

1. Staff recommends that BMSC file with Docket Control, as a compliance item in this docket, a copy of the Approval of Construction ("AOC") for the first parcel served in the Development by June 30, 2017.

Conclusions

1. Staff concludes that BMSC has adequate treatment capacity to serve the existing customer base.
2. Staff concludes that the listed system improvements to serve the Eastwood Development are appropriate and the costs are reasonable. No "used and useful" determination of the proposed plant was made, and no conclusions should be inferred for future rate making or rate base purposes.
3. A check of the Commission's Compliance Section database dated March 18, 2016, indicates there is no delinquent compliance items for the Applicant.
4. Staff received a compliance status report for BMSC dated March 23, 2016, in which ADEQ reported: "Based upon the data submitted by the facility, ADEQ has determined that as of this date the facility was currently in compliance for the review period noted above"..

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III
Utilities Division

FROM: Lori H. Miller *LHM*
Programs and Projects Specialist II
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: April 1, 2016

RE: BLACK MOUNTAIN SEWER (DOCKET NO. SW-02361A-16-0067)

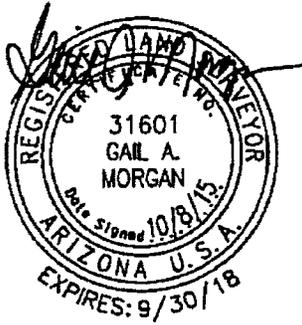
The area requested by Black Mountain Sewer for an extension has been plotted with no complications using the legal description provided with the application (a copy of which is attached).

Also attached is a copy of the map for your files.

/lhm

Attachments

cc: Mr. Jay L. Shapiro
Ms. Deb Person (Hand Carried)
Ms. Dorothy Hains
File



Legal Description Eastwood

Job No. 15-058

October 8, 2015

A portion of the Southeast quarter of Section 36, Township 6 North, Range 4 East of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at a brass cap at the southeast corner of the Southeast Quarter of said Section 36, from which a brass cap at the South quarter corner of said Section 36 bears South 89 degrees 52 minutes 32 seconds West (an assumed bearing) 2641.74 feet; thence South 89 degrees 52 minutes 32 seconds West, 548.51 feet; thence North 0 degrees 03 minutes 03 seconds West, along a line parallel with the east line of the Southeast Quarter of said Section 36, 891.13 feet to the POINT OF BEGINNING;

Thence South 89 degrees 52 minutes 31 seconds West, 227.40 feet;
thence South 14 degrees 30 minutes 24 seconds West, 192.25 feet to the northeast corner of Lot 2C of the Lot Split of Lot 2, defined in Book 1135, Page 14, records of Maricopa County, Arizona;
thence South 31 degrees 52 minutes 47 seconds West, along the east line of said Lot 2C, 88.28 feet;
thence North 74 degrees 20 minutes 42 seconds West, 287.42 feet to a point on the west line of said Lot 2C;
thence North 0 degrees 03 minutes 03 seconds West, along said west line and the northerly prolongation thereof, 607.69 feet to the monument line of Cave Creek-Camp Creek Road and the beginning of a non-tangent curve, concave Northwest, from which the radius point bears North 34 degrees 29 minutes 14 seconds West a distance of 716.20 feet;
thence Northeasterly, 14.56 feet along said monument line and the arc of said curve to the left through a central angle of 1 degrees 09 minutes 52 seconds;
thence North 54 degrees 20 minutes 54 seconds East, along said monument line, 62.05 feet to the beginning of a curve, concave Southeast, having a radius of 716.20 feet;
thence Northeasterly 299.79 feet along said monument line and the arc of said curve to the right through a central angle of 23 degrees 59 minutes 00 seconds;
thence North 78 degrees 19 minutes 54 seconds East, along said monument line, 269.55 feet;
thence South 0 degrees 03 minutes 03 seconds East, along a line parallel with the east line of the Southeast Quarter of said Section 36, 642.15 feet to the POINT OF BEGINNING.

An area containing 413,915 s.f. or 9.5022 acres, more or less.

EPS Group, Inc. • 2045 S. Vineyard, Suite 101 • Mesa, AZ 85210

Tel (480) 503-2250 • Fax (480) 503-2258

S:\Projects\2015\15-058\Legal Survey\Legals\15058 LD Combined Parcels.docx

MAHARIGOPA COUNTY

Map No. 45

RANGE 4 East



TOWNSHIP 6 North



SW-02361A (2)

Black Mountain Sewer Corporation



(3)

Town of Carefree (Nonjurisdictional)



(4)

Town of Cave Creek (Nonjurisdictional)



(1)

Black Mountain Sewer Corporation
Application for Extension of CC&N
(Docket No. SW-02361A-16-007)



Prepared by:
Arizona Corporation Commission
Utilities Division
Engineering Section/GIS Mapping
602-542-4251
TR6N4E 06 JUN 2007