

# ORIGINAL INTERVENTION



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## BEFORE THE ARIZONA CORPORATION COMMISSION

**MARC SPITZER**

Chairman

**WILLIAM MUNDELL**

Commissioner

**JEFF HATCH-MILLER**

Commissioner

**MIKE GLEASON**

Commissioner

**KRISTIN K. MAYES**

Commissioner

Arizona Corporation Commission

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**IN THE MATTER OF THE APPLICATION OF ARIZONA UTILITY SUPPLY & SERVICES, L.L.C. FOR THE TRANSFER OF A PORTION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO JOHNSON UTILITIES, L.L.C.**

DOCKET NOS.

SW-04002A-02-0837

WS-02987A-02-0837

DOCKET NOS.

WS-02987A-04-0465

SW-04002A-04-0465

**IN THE MATTER OF THE APPLICATION OF ARIZONA UTILITY SUPPLY & SERVICE, INC. TO TRANSFER ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO JOHNSON UTILITIES, L.L.C.**

**REQUEST FOR POSTPONEMENT OF HEARING AND REQUEST FOR INTERVENTION**

GALLAGHER & KENNEDY, P.A.  
2575 E. CAMELBACK ROAD  
PHOENIX, ARIZONA 85016-9225  
(602) 530-8000

For the reasons set forth below, Centex Homes ("Centex") requests postponement of the July 16, 2004 hearing scheduled in this matter and moves to intervene in these dockets.

### REQUEST FOR POSTPONEMENT

Centex requests that the Administrative Law Judge postpone the hearing currently set for July 16, 2004 because Centex has not been provided with adequate notice and opportunity to intervene in the June 21, 2004 application filed by Arizona Utility Supply & Service, LLC ("AUSS") to transfer its CC&N to Johnson Utilities L.L.C. ("Johnson") and convey its utility assets to Johnson under a June 11, 2004 Bulk Wastewater Treatment and Effluent Disposal Agreement between AUSS and Johnson. Centex is a developer of certain properties and parcels in the service territory of AUSS. Specifically, AUSS has breached service agreements and line

1 extension agreements with Centex. Centex, further, has certain security interests in the equity  
2 ownership of AUSS. As a result, Centex has a substantial interest in the proposed transfer of  
3 AUSS's entire CC&N and conveyance of its utility assets to Johnson.

4 Centex only recently learned that AUSS had filed its June 21, 2004 application to  
5 transfer all assets and that such filing had been consolidated as part of the July 16, 2004 hearing  
6 set for the prior 2002 filing by AUSS to transfer a portion of its CC&N to Johnson. Centex  
7 promptly engaged counsel to attempt to protect its interests, but the rapid scheduling simply does  
8 not allow sufficient time for analysis and preparation. Undersigned counsel also are either  
9 unavailable or have scheduled meetings with the Commission on unrelated matters on July 16. If  
10 the July 16, 2004 hearing relating to AUSS's request to transfer its entire CC&N and assets to  
11 Johnson proceeds, Centex will suffer substantial prejudice and be denied the opportunity to  
12 protect its interests in these proceedings. A short continuance will also afford the parties an  
13 opportunity to perhaps narrow and/or resolve issues. As a result, Centex requests that the  
14 Administrative Law Judge postpone the July 16, 2004 hearing and reschedule the hearing in  
15 30-45 days to give Centex an adequate opportunity to participate in the proceedings.

### 16 MOTION TO INTERVENE

17 Pursuant to A.A.C. R14-3-105, Centex requests leave to intervene in these  
18 dockets. In support of this application, Centex states:

- 19 1. Centex is a developer in the certificated service area of AUSS.
- 20 2. Centex will be directly and substantially affected by the issues raised in  
21 these dockets and specifically with respect to the application for transfer filed by AUSS on  
22 June 21, 2004.
- 24 3. Centex's participation in these dockets will not unduly broaden the issues  
presented.

4. Centex is entitled to intervene pursuant to A.A.C. R14-3-105.

1 5. The name, address and telephone of the persons upon whom service of all  
2 documents is to be made is:

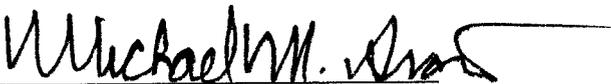
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8 Phone: (602) 530-8514  
9 Fax: (602) 530-8500  
10 Email: [tcw@gknet.com](mailto:tcw@gknet.com)

11 **CONCLUSION**

12 In conclusion, Centex respectfully requests that the Administrative Law Judge  
13 issue a procedural order postponing the July 16 hearing in this matter for 30-45 days and  
14 granting Centex's request for intervention in the above-captioned proceedings.

15 RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of July, 2004.

16 GALLAGHER & KENNEDY, P.A.

17 By 

18 Michael Grant  
19 Todd C. Wiley  
20 2575 East Camelback Road  
21 Phoenix, Arizona 85016-9225  
22 Attorneys for Centex Homes

23 **ORIGINAL** and **nineteen** copies filed  
24 this 12<sup>th</sup> day of July, 2004, with:

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