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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

2004 JUN 17 P 3: 20

DOCKETED

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

JUN 17 2004

AZ CORP COMMISSION  
DOCUMENT CONTROL

DOCKETED BY 

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 NO. SW-04002A-02-0837  
DOCKET NO. WS-02987A-02-0837

PROCEDURAL ORDER

**BY THE COMMISSION:**

On November 8, 2002, Arizona Utility Supply & Service, L.L.C. ("Applicant" or "AUSS") filed with the Arizona Corporation Commission ("Commission") an application for the transfer of a portion of its Certificate of Convenience and Necessity ("Certificate") to Johnson Utilities, LLC ("Johnson").

On August 27, 2003, Applicant filed an amended application.

On September 26, 2003, the Commission's Utilities Division ("Staff") filed an insufficiency letter.

On May 17, 2004, Staff filed its Staff Report recommending approval of the application subject to certain conditions.

On June 3, 2004, a Procedural Order was issued setting the hearing in this case for July 9, 2004 and directing the Applicant to mail notice of the application to its customers.

On June 8, 2004, Johnson filed a request for a new hearing date as soon as possible after July 13, 2004. Johnson represented that neither Staff nor AUSS opposed the date change.

On June 8, 2004, Staff filed a response to Johnson's request and a Motion to Accelerate the hearing date due to information received by Staff that indicated AUSS's treatment facilities were unable to properly treat wastewater flows.

On June 11, 2004, AUSS filed a notice of appearance of Jeffrey Zimmerman of the law firm Moyes Storey Ltd. AUSS also filed on June 11, 2004 a response to Staff's Motion to Accelerate the

1 hearing date. AUSS states that the emergency described in Staff's Motion has been abated due to an  
2 agreement facilitated by the Arizona Department of Environmental Quality between AUSS and  
3 Johnson. According to AUSS, Johnson has agreed to accept wastewater from a portion of AUSS'  
4 CC&N and effluent from the remainder of AUSS' CC&N, thereby eliminating any possibility of  
5 overflows of effluent at the AUSS plant.

6 IT IS THEREFORE ORDERED that **the hearing date in this matter shall be rescheduled**  
7 **to commence on July 16, 2004, at 10:00 a.m.**, at the offices of the Commission, 1200 West  
8 Washington Street, Phoenix, Arizona 85007.

9 IT IS FURTHER ORDERED that the applicable time clock rules shall be extended  
10 accordingly.

11 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,  
12 except that all motions to intervene must be filed on or before July 9, 2004.

13 IT IS FURTHER ORDERED that Applicant shall serve public notice of this proceeding and  
14 the opportunity to request a hearing in this matter, in the following form and style:

15 **PUBLIC NOTICE OF APPLICATION BY**  
16 **ARIZONA UTILITY SUPPLY & SERVICES, L.L.C. FOR TRANSFER**  
17 **OF A PORTION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY**  
18 **TO JOHNSON UTILITIES, L.L.C.**  
19 **(SW-04002A-02-0837, et al.)**

20 On November 8, 2002, Arizona Utility Supply & Services, L.L.C.  
21 ("Applicant") filed an application to transfer a portion of its Certificate of  
22 Convenience and Necessity ("Certificate") to Johnson Utilities, L.L.C. If the  
23 application is granted, Johnson Utilities, L.L.C. ("Johnson") would be the provider of  
24 wastewater service to the following portion of the Applicant's service territory:  
25 Section 22 of Township 2 South of Range 8 East. The area sought to be transferred to  
26 Johnson is generally located one mile north of Combs Road, bounded on the east by  
27 Schneff Road and south of Rittenhouse Auxillary Airfield.

28 The application is available for inspection during regular business hours at the  
offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix,  
Arizona and at the Applicant's offices, [insert applicants' addresses].

The Commission will hold a hearing on this matter beginning **July 16, 2004,**  
**at 10:00 a.m.**, at the Commission's office, 1200 West Washington Street, Phoenix,  
Arizona. Public comments will be taken at the commencement of the hearing.

As a property owner or customer you may have the right to intervene in the  
proceeding and request a hearing. If you do not want to intervene, you may make oral

1 or written comments by contacting the Commission at the above addresses.  
2 Intervention shall be permitted to any person entitled by law to intervene and having a  
3 direct and substantial interest in the matter. Persons desiring to intervene must file a  
4 written notice to intervene with the Commission, which motion should be sent to the  
5 Applicant or their counsel and to all parties of record, and which, at the minimum,  
6 shall contain the following:

- 7 1. The name, address, and telephone number of the proposed intervenor  
8 and of any party upon whom service of documents is to be made if  
9 different than the intervenor.
- 10 2. A short statement of the proposed intervenor's interest in the  
11 proceeding (e.g., a customer of the Applicants, a shareholder or  
12 member of the Applicants, etc.)
- 13 3. A statement certifying that a copy of the motion to intervene has been  
14 mailed to the Company or its counsel and to all parties of record in the  
15 case.

16 The granting of motions to intervene shall be governed by A.A.C. R14-3-105,  
17 except that all motions to intervene must be filed on or before July 9, 2004. The  
18 granting of intervention, among other things, entitles a party to present sworn evidence  
19 at hearing and to cross-examine other witnesses. However, failure to intervene will  
20 not preclude any customer from appearing at the hearing and making a statement on  
21 such customer's own behalf.

22 If you have any questions or concerns about this application or have any  
23 objections to its approval, or wish to make a statement in support of it, you may write  
24 the Consumer Services Section of the Commission at 1200 West Washington Street,  
25 Phoenix, Arizona 85007 or call 1-800-222-7000 or appear at the hearing and make  
26 comment.

27 The Commission does not discriminate on the basis of disability in admission to  
28 its public meetings. Persons with a disability may request a reasonable accommodation  
such as a sign language interpreter, as well as request this document in an alternative  
format, by contacting Yvonne McFarland, ADA Coordinator, voice phone number  
602/542-3931, E-mail [YMcFarlin@cc.state.az.us](mailto:YMcFarlin@cc.state.az.us). Requests should be made as early as  
possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Applicant shall mail to its customers a copy of this notice  
by first-class U.S. Mail, to begin as soon as possible and to be completed on or before June 25, 2004.

IT IS FURTHER ORDERED that Applicant shall file certification of mailing of notice as  
soon as practicable after the mailing has been completed, but no later than July 2, 2004.

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing,  
notwithstanding the failure of an individual customer to read or receive the notice.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized  
Communications) applies to this proceeding as the matter is now set for public hearing.

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 17<sup>th</sup> day of June, 2004

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5 

6 DWIGHT D. NODES  
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed  
9 this 17<sup>th</sup> day June, 2004 to:

10 Maurice Lee  
11 Arizona Utility Supply & Services, LLC  
12 4002 E. Taro Lane  
13 Phoenix, AZ 85050

ARIZONA REPORTING SERVICE, INC.  
2627 N. Third Street, Suite Three  
Phoenix, Arizona 85004-1003

14 Jeffrey C. Zimmerman  
15 MOYES STOREY LTD.  
16 1850 N. Central Ave., Suite 1100  
17 Phoenix, AZ 85004

By:   
Debbi Person  
Secretary to Dwight D. Nodes

18 Lynn A. Keeling  
19 DYER & FERRIS, LLC  
20 3550 N. Central Ave, # 1801  
21 Phoenix, AZ 85012-2114

22 George Johnson  
23 Johnson Utilities Co., LLC  
24 5230 East Shea Blvd.  
25 Phoenix, AZ 85253

26 Jay L. Shapiro  
27 FENNEMORE CRAIG  
28 3003 North Central Avenue, Ste. 2600  
Phoenix, AZ 85012  
Attorneys for Johnson Utilities Co., L.L.C.

Christopher Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Ernest Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007