

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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

IN THE MATTER OF THE APPLICATION OF
ARIZONA UTILITY SUPPLY & SERVICES,
L.L.C., TO TRANSFER ITS ASSETS AND
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO JOHNSON UTILITIES, LLC.

DOCKET NO. SW-04002A-04-0465
DOCKET NO. WS-02987A-04-0465

PROCEDURAL ORDER

BY THE COMMISSION:

On November 8, 2002, Arizona Utility Supply & Services, L.L.C. ("Applicant" or "AUSS") filed with the Arizona Corporation Commission ("Commission") an application in Docket Nos. SW-04002A-02-0837 and WS-02987A-02-0837 ("the 02-0837 dockets") for the transfer of a portion of its Certificate of Convenience and Necessity ("CC&N") to Johnson Utilities, L.L.C. ("Johnson").

On June 3, 2004, a Procedural Order was issued setting a hearing for July 9, 2004 in the 02-0837 dockets.

By Procedural Order issued June 17, 2004, the hearing date in the 02-0837 dockets was rescheduled for July 16, 2004, at the request of all parties, and the applicable time clock rules were extended accordingly. The Procedural Order referenced the fact that an emergency situation involving potential overflows of wastewater on the AUSS system had been temporarily averted by Johnson's agreement to accept wastewater and effluent from AUSS pending consideration of the pending application. Johnson's agreement to accept wastewater and effluent from the AUSS system was facilitated by the Commission's Utilities Division Staff ("Staff") and the Arizona Department of Environmental Quality.

On June 21, 2004, AUSS filed an application in Docket Nos. SW-04002A-04-0465 and WS-

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1 02987A-04-0465 ("the 04-0465 dockets") with the Commission to transfer assets and the entirety of
2 its CC&N to Johnson.

3 On June 28, 2004, Staff filed a Motion to Consolidate the above-captioned dockets. On June
4 29, 2004, Staff filed a consolidated Staff Report, recommending approval of the applications subject
5 to certain conditions.

6 By Procedural Order issued June 30, 2004, the above-captioned cases were consolidated and a
7 consolidated hearing was scheduled for July 16, 2004.

8 On July 16, 2004, the hearing was held as scheduled. At the conclusion of the July 16, 2004
9 hearing, the parties requested additional time to engage in settlement discussions regarding certain
10 issues that arose shortly before and during the July 16, 2004 hearing.

11 Procedural teleconferences were conducted with all parties on July 30 and August 6, 2004.

12 On August 4, 2004, AUSS filed a Chapter 7 bankruptcy petition in U.S. Bankruptcy Court for
13 the District of Arizona (Case No. 4:04-bk-3873-JMM).

14 By Procedural Order issued August 9, 2004, a hearing was scheduled for August 25, 2004 in
15 the consolidated AUSS/Johnson CC&N transfer application cases.

16 On August 18, 2004, the Commission issued a Show Cause Order against AUSS in Docket
17 No. SW-04002A-04-0600 regarding alleged deficiencies at two of the Company's wastewater
18 treatment facilities (Decision No. 67101). The Order also directed Staff to appoint an interim
19 manager to operate the AUSS system in order to protect the health, safety, and welfare of AUSS
20 customers.

21 On August 24, 2004, a telephonic procedural conference was conducted to discuss the status
22 of the CC&N transfer proceeding. The parties agreed that the August 25, 2004 hearing should be
23 cancelled and that a subsequent status conference should be held after the parties have an opportunity
24 to discuss the possibility of settlement of issues raised in the above-captioned dockets, as well as in
25 the AUSS bankruptcy proceeding.

26 Additional telephonic status conferences were held on September 13, September 29, October
27 14, 2004 and October 21, 2004. During those conferences, the parties indicated that ongoing
28 attempts were being made to negotiate a resolution of the issues raised in the above-captioned

1 dockets, as well as by the bankruptcy proceeding.

2 IT IS THEREFORE ORDERED that a further telephonic status conference shall be conducted
3 with all interested parties on **November 4, 2004, at 11:30 a.m.** Interested parties shall call **(602)**
4 **542-9004** at the designated time.

5 IT IS FURTHER ORDERED that the Ex Parte Rule is still in effect.

6 IT IS FURTHER ORDERED that the applicable time clock rules shall be extended
7 accordingly.

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

10 DATED this 22nd day of October, 2004

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12 

13 DWIGHT D. NODES
14 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed
16 this 22 day October, 2004 to:

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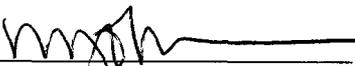
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20 By: 
21 Molly Johnson
22 Secretary to Dwight D. Nodes