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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS

2005 FEB 16 P 1:30

DOCKETED

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

FEB 16 2005

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR WATER
SERVICE.

DOCKET NO. WS-02987A-04-0869

PROCEDURAL ORDER

BY THE COMMISSION:

On December 2, 2004, Johnson Utilities Company ("Johnson") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service to an area encompassing a portion of a development known as Bella Vista in Pinal County, Arizona.

Staff filed a Sufficiency Letter on January 11, 2005.

By Procedural Order issued January 13, 2005, this matter was scheduled for hearing on April 18, 2005, and Staff was directed to file a Staff Report by March 11, 2005.

On January 14, 2005, Diversified Water Utilities, Inc. ("Diversified") filed an Application to Intervene. Diversified states that the CC&N area sought by Johnson was left uncertificated by a prior Commission Decision (Decision No. 63690) and Diversified has filed a separate application for the same CC&N area in Docket No. W-02859-04-0844 ("04-0844 Docket"). Diversified argues that it will be directly and substantially affected by the outcome of this proceeding and therefore intervention is appropriate.

On January 21, 2005, Johnson filed an Opposition to Diversified's Application to Intervene. Johnson claims that Diversified has no valid interest in this proceeding because the prior cited Commission Order rejected Diversified's request for the service area in question and specifically left the area uncertificated. Johnson also argues that Diversified's application in the 04-0844 Docket has been rejected by Staff as insufficient because Diversified failed to provide evidence of a request for service from the affected property owners. Therefore, Johnson asserts that Diversified has not shown

1 that it has a substantial interest in this proceeding that warrants granting intervention.

2 On February 1, 2005, Diversified filed a Reply to Johnson's Opposition to Diversified's
3 Application to intervene. Diversified contends that the right to intervene has always been liberally
4 construed in favor of granting intervention to persons who are "directly and substantially affected by
5 the proceedings" (A.A.C. R14-3-105). Diversified states that it is currently certificated to serve the
6 area adjacent to the area requested in Johnson's application, and Diversified's CC&N already
7 encompasses a portion of the Bella Vista Ranches planned community. Diversified claims that it is
8 preparing to supplement its application in the 04-0844 Docket¹ and will then move to consolidate the
9 competing applications.

10 Despite Johnson's claims to the contrary, Diversified's interests could be "directly and
11 substantially affected" by the outcome of this proceeding. Whether Diversified ultimately prevails in
12 its request to serve the area sought by Johnson is a matter that is properly considered in the course of
13 an evidentiary hearing. However, Diversified should not be precluded from presenting evidence in
14 support of its claims in this proceeding.

15 IT IS THEREFORE ORDERED that the request to intervene by Diversified Water Utilities,
16 Inc. is hereby granted.

17 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
18 Communications) continues to apply to this proceeding as the matter is scheduled for public hearing.

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 16th day of February, 2005

23 
24 _____
25 DWIGHT D. NODES
26 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE
27

26 ...
27 ...

28 ¹ Diversified filed Supplemental Information in the 04-0844 Docket on February 3, 2005.

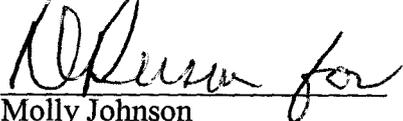
1 Copies of the foregoing mailed/delivered
this 16th day of February, 2005 to:

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