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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

2005 MAR 25 A 10: 54

DOCKETED

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

AZ CORP COMMISSION
DOCUMENT CONTROL

MAR 25 2005

DOCKETED BY	<i>WJ</i>
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IN THE MATTER OF DIVERSIFIED WATER UTILITIES, INC. TO EXPAND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO INCLUDE ALL OF SECTION 13, 14, 15, 23 AND THAT PORTION OF SECTION 16 EAST OF RAILROAD TRACKS ALL IN T3S, R83, PINAL COUNTY, ARIZONA.

DOCKET NO. W-02859A-04-0844

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

DOCKET NO. WS-02987A-04-0869

PROCEDURAL ORDER

BY THE COMMISSION:

On November 24, 2004, Diversified Water Utilities, Inc. ("Diversified") filed with the Arizona Corporation Commission ("Commission") an application in Docket No. W-02859A-04-0844 for an extension of its Certificate of Convenience and Necessity ("CC&N") in Pinal County by either amending Decision No. 63690 (September 4, 2001)¹ or alternatively by treating the filing as a new application ("Diversified Application").

On December 3, 2004, Johnson Utilities Company ("Johnson") filed an application ("Johnson Application") for an extension of its CC&N in Pinal County. The area sought by Johnson overlaps with a portion of the extension area requested by Diversified.

On January 13, 2005, a Procedural Order was issued in the Johnson Application docket scheduling a hearing for April 18, 2005 and directing Johnson to publish notice of the application.

On March 2, 2005, a Procedural Order was issued consolidating the Diversified and Johnson dockets and scheduling a Procedural Conference for March 7, 2005.

During the March 7, 2005 Procedural Conference, the parties discussed, among other things,

¹ Decision No. 63690 was amended by Decision No. 64062 (October 4, 2001) and Decision No. 65840 (April 22, 2003).

1 filing dates for a consolidated Staff Report and testimony, as well as hearing dates.

2 By Procedural Order issued March 16, 2005, a hearing was scheduled to begin on June 7,
3 2005, Diversified and Johnson were directed to publish notice of the hearing date, and a number of
4 other procedural filing dates were established.

5 On March 23, 2005, the Administrative Law Judge conducted a procedural teleconference at
6 the parties' request in order to discuss amending the procedural schedule.

7 On March 24, 2005, Johnson filed a Motion for Revised Schedule setting forth a proposed
8 revised procedural schedule. Johnson represents that all parties have agreed to the revised schedule.

9 IT IS THEREFORE ORDERED that the hearing in the above-captioned matters shall be
10 rescheduled to commence on **July 20, 2005, at 10:00 a.m.**, or as soon thereafter as is practical, at the
11 Commission's offices, 1200 West Washington Street, Phoenix, Arizona 85007.

12 IT IS FURTHER ORDERED that, given Johnson's prior mailing/publication, the April 18,
13 2005 hearing date previously established for the Johnson Application shall be maintained as an
14 opportunity for public comment.

15 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
16 except that all motions to intervene must be filed on or before May 20, 2005.

17 IT IS FURTHER ORDERED that objections to any motions to intervene must be filed within
18 10 days of the request for intervention and no later than May 31, 2005.

19 IT IS FURTHER ORDERED that Diversified and Johnson shall jointly publish, by April 22,
20 2005, notice of the hearing in a newspaper of general circulation in the affected service areas, in the
21 following form and style:

22 **PUBLIC NOTICE OF HEARING ON THE**
23 **APPLICATIONS OF DIVERSIFIED WATER UTILITIES, INC. AND**
24 **JOHNSON UTILITIES COMPANY**
25 **FOR EXTENSION OF THEIR CERTIFICATES OF**
26 **CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE**
27 **(W-02859A-04-0844 and WS-02987A-04-0869)**

28 On November 24, 2004 and December 3, 2004, Diversified Water Utilities, Inc. ("Diversified") and Johnson Utilities Company ("Johnson"), respectively, filed applications with the Arizona Corporation Commission ("Commission") for extensions of their Certificates of Convenience and Necessity ("CC&Ns") to provide water service to an area in Pinal County, Arizona. The applications have been consolidated for purposes of hearing. If their respective applications are granted, either Diversified or

1 Johnson would be the exclusive provider of water to the proposed areas, and would be
2 required by the Commission to provide service under rates and charges and terms and
3 conditions established by the Commission. The applications are available for inspection
4 during regular business hours at the offices of the Commission in Phoenix, at 1200 West
5 Washington Street, Phoenix, Arizona, and at the offices of the Company, [insert address].

6 The Commission will hold a hearing on this matter beginning on **July 20, 2005, at 10:00**
7 **a.m.**, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona.
8 Public comment will be taken on the first day of the hearing.

9 The law provides for an open public hearing at which, under appropriate circumstances,
10 interested parties may intervene. Intervention shall be permitted to any person entitled by
11 law to intervene and having a direct and substantial interest in the matter. Persons
12 desiring to intervene must file a written motion to intervene with the Commission, which
13 motion should be sent to all parties of record, and which, at the minimum, shall contain
14 the following:

- 15 1. The name, address, and telephone number of the proposed intervenor and
16 of any party upon whom service of documents is to be made if different
17 than the intervenor.
- 18 2. A short statement of the proposed intervenor's interest in the proceeding
19 (e.g., a customer of the Applicants, a shareholder of the Applicants, etc.).
- 20 3. A statement certifying that a copy of the motion to intervene has been
21 mailed to the Applicants or their counsel and to all parties of record in the
22 case.

23 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that
24 all motions to intervene must be filed on or before May 20, 2005. The granting of
25 intervention, among other things, entitles a party to present sworn evidence at hearing
26 and to cross-examine other witnesses. Failure to intervene will not preclude any potential
27 customer from appearing at the hearing and making a statement on such person's own
28 behalf. You will not, however, receive any further notice of the proceeding unless
requested by you.

The Commission does not discriminate on the basis of disability in admission to 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 Linda Hogan, ADA Coordinator, voice phone number 602/542-3931, E-mail
Lhogan@admin.cc.state.az.us. Requests should be made as early as possible to allow
time to arrange the accommodation.

IT IS FURTHER ORDERED that Diversified and Johnson shall mail and/or jointly bear the
costs of mailing to each property owner in their requested extension areas a copy of the above notice
by April 22, 2005.

IT IS FURTHER ORDERED that Diversified and Johnson shall file certification of
mailing/publication as soon as practical after the mailing has been completed but not later than May
20, 2005.

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing of same,

1 notwithstanding the failure of an individual to read or receive the notice.

2 IT IS FURTHER ORDERED that Staff shall file a consolidated Staff Report by April 22,
3 2005.

4 IT IS FURTHER ORDERED that Diversified and Johnson shall file their Direct testimony by
5 May 23, 2005.

6 IT IS FURTHER ORDERED that Staff and Intervenors shall file Rebuttal testimony by June
7 20, 2005.

8 IT IS FURTHER ORDERED that Diversified and Johnson shall file Surrebuttal testimony by
9 July 8, 2005.

10 IT IS FURTHER ORDERED that the applicable time clock requirements shall be extended
11 accordingly in this consolidated proceeding.

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

14 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
15 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
16 hearing.

17 Dated this 25th day of March, 2005

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19 

20 DWIGHT D. NODES
21 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

22 The foregoing was mailed/delivered
23 this 25th day of March, 2005 to:

24 William P. Sullivan
25 Michael A. Curtis
26 CURTIS, GOODWIN, SULLIVAN, UDALL & SCHWAB
27 2712 N. 7th Street
28 Phoenix, AZ 85006-1090
Attorneys for Diversified Water Utilities, Inc.

27 ...
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2 FENNEMORE CRAIG
3003 N. Central Avenue, Ste. 2600
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4 Christopher Kempley, Chief Counsel
Legal Division
5 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
6 Phoenix, AZ 85007

7 Ernest G. Johnson, Director
Utilities Division
8 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
9 Phoenix, AZ 85007

10 ARIZONA REPORTING SERVICE
2627 N. Third Street, Ste. Three
11 Phoenix, AZ 85004-1003

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13 By: 
14 Molly Johnson
Secretary to Dwight D. Nodes

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