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BEFORE THE ARIZONA CORPORATION COMMISSION
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COMMISSIONERS

JEFF HATCH-MILLER – Chairman

WILLIAM A. MUNDELL

MARC SPITZER

MIKE GLEASON

KRISTIN K. MAYES

2005 APR 29 P 3:04

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

APR 29 2005

DOCKETED BY	<i>KW</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 SECTIONS 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

Staff's Response to Johnson Utilities Company's Motion to Continue

During the Public Comment hearing on April 18, 2005, the relevant landowners withdrew their requests for service. Johnson Utilities Company ("JUC") filed a Motion to Continue these dockets until new requests for service are received. The Utilities Division ("Staff") of the Arizona Corporation Commission supports continuance.

A Certificate of Convenience and Necessity (CC&N) for water service grants the holder a monopoly. *James P. Paul Water Co. v. Arizona Corp. Comm'n*, 137 Ariz. 426, 671 P.2d 404 (1983). It should not be issued lightly. A CC&N, by definition, requires a showing of necessity. Ordinarily, a showing of necessity is made by demonstrating requests for service for the area. In an exceptional situation, a showing of necessity can be made by other means. For example, if the applicant has an adjacent service area and is the only possible service provider, a CC&N is sometimes issued. No such exceptional situation exists here. Indeed, competing applicants are seeking the service area.

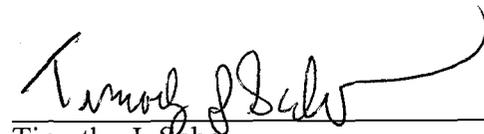
Further, the contested nature of this case weighs in favor of a continuance. A CC&N can be

1 issued only upon a public interest finding. *Id.* This case presents difficult public interest questions.
2 Requests for service will provide a more complete record for the Commission in deciding the difficult
3 public interest questions posed by this case.

4 Accordingly, Staff agrees that this case should be continued. JUC proposed a procedural
5 conference in January 2006. Staff believes that a procedural conference in September 2005 would be
6 more appropriate. The record in this case will be completely stale by 2006. If no requests for service
7 are filed before the proposed September 2005 procedural conference, Staff believes that this case
8 should be dismissed.

9 RESPECTFULLY SUBMITTED on the 29th day of April 2005.

10 ARIZONA CORPORATION COMMISSION

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20 Original and fifteen (15) copies of
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22 day of April 2005, with:

23 Docket Control
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26 Phoenix, AZ 85007

27 Copies of the foregoing were
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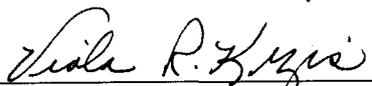
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