

ORIGINAL

32R



0000022348

Arizona Corporation Commission

DOCKETED

RECEIVED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

WILLIAM MUNDELL
Chairman

JAN 30 2001

2001 JAN 30 P 4:10

JAMES M. IRVIN
Commissioner

DOCKETED BY

AZ CORP COMMISSION
DOCUMENT CONTROL

MARC SPITZER
Commissioner

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF H2O, INC., FOR AN EXTENSION OF
ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-02234A-00-0371

IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, L.L.C., DBA
JOHNSON UTILITIES COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
PROVIDE WATER AND WASTEWATER
SERVICE TO THE PUBLIC IN THE
DESCRIBED AREA IN PINAL COUNTY,
ARIZONA.

DOCKET NO. W-02987A-99-0583

IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, L.L.C., DBA
JOHNSON UTILITIES COMPANY FOR AN
EXTENSION FOR ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
PROVIDE WATER AND WASTEWATER
SERVICE TO THE PUBLIC IN THE
DESCRIBED AREA IN PINAL COUNTY,
ARIZONA.

DOCKET NO. WS-02987A-00-0618

IN THE MATTER OF THE APPLICATION
OF DIVERSIFIED WATER UTILITIES,
INC. TO EXTEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-02859A-00-0774

IN THE MATTER OF THE APPLICATION
OF QUEEN CREEK WATER COMPANY
TO EXTEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-01395A-00-0784
**NOTICE OF FILING REBUTTAL
TESTIMONY OF DONALD L. SCHNEPF**

1 H2O, Inc. ("H2O"), hereby files the Rebuttal Testimony of Donald L. Schnepf in
2 the above dockets.

3 DATED this 30th day of January, 2001.

4
5 FENNEMORE CRAIG, P.C.

6
7 By 
8 Jay Shapiro
9 Karen E. Errant
10 3003 North Central, Suite 2600
11 Phoenix, Arizona 85012
Attorneys for H2O, Inc.

12 AN ORIGINAL and ten copies
13 of the foregoing were filed
14 this 30 day of January, 2001 with:

15 Docketing Supervisor
16 Docket Control
17 Arizona Corporation Commission
18 1200 W. Washington Street
19 Phoenix, AZ 85007

20 A COPY of the foregoing
21 was delivered this 30th
22 day of January, 2001 to:

23 Marc Stern, Hearing Officer
24 Arizona Corporation Commission
25 1200 W. Washington Street
26 Phoenix, Arizona 85007

Teena Wolfe, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

1 A COPY of the foregoing
2 was mailed this 30th
3 day of January, 2001 to:

4 Petra Schadeberg
5 Pantano Development Limited Partnership
6 3408 North 60th Street
7 Phoenix, Arizona 85018-6702

8 William P. Sullivan
9 MARTINEZ & CURTIS
10 2712 N. 7th Street
11 Phoenix, AZ 85006-1090

12 Richard N. Morrison
13 SALMON, LEWIS & WELDON
14 4444 N. 32nd Street, Suite 200
15 Phoenix, AZ 85018

16 Louis Felix
17 18100 Walter Butte Drive
18 Florence, AZ 85232-9700

19 Dick Ames
20 Vistas Partners, O.K.
21 1121 West Warner Road, Suite 109
22 Tempe, AZ 85284

23 Kathy Almena
24 Wellford, O.K.
25 3850 E. Baseline Road, Suite 123
26 Mesa, AZ 85206

By 
1149695.1/46327.002

1 WILLIAM MUNDELL
Chairman
2 JAMES M. IRVIN
Commissioner
3 MARC SPITZER
Commissioner
4

BEFORE THE ARIZONA CORPORATION COMMISSION

5 IN THE MATTER OF THE
6 APPLICATION OF H2O, INC., FOR
7 AN EXTENSION OF ITS EXISTING
8 CERTIFICATE OF CONVENIENCE AND
9 NECESSITY.

DOCKET NO. W-02234A-00-0371

10 IN THE MATTER OF THE
11 APPLICATION OF JOHNSON
12 UTILITIES, L.L.C., DBA JOHNSON
13 UTILITIES COMPANY FOR AN
14 EXTENSION OF ITS CERTIFICATE OF
15 CONVENIENCE AND NECESSITY TO
16 PROVIDE WATER AND WASTEWATER
17 SERVICE TO THE PUBLIC IN THE
18 DESCRIBED AREA IN PINAL COUNTY,
19 ARIZONA.

DOCKET NO. W-02987A-99-0583

20 IN THE MATTER OF THE
21 APPLICATION OF JOHNSON
22 UTILITIES, L.L.C., DBA JOHNSON
23 UTILITIES COMPANY FOR AN
24 EXTENSION FOR ITS CERTIFICATE
25 OF CONVENIENCE AND NECESSITY TO
26 PROVIDE WATER AND WASTEWATER
SERVICE TO THE PUBLIC IN THE
DESCRIBED AREA IN PINAL COUNTY,
ARIZONA.

DOCKET NO. WS-02987A-00-0618

IN THE MATTER OF THE
APPLICATION OF DIVERSIFIED
WATER UTILITIES, INC. TO EXTEND
ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-02859A-00-0774

IN THE MATTER OF THE
APPLICATION OF QUEEN CREEK
WATER COMPANY TO EXTEND ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. W-01395A-00-0784

1 PRE-FILED REBUTTAL TESTIMONY OF
2 DONALD L. SCHNEPF

3 Q. PLEASE STATE YOUR NAME, PRESENT POSITION AND PLACE OF
4 EMPLOYMENT.

5 A. My Name is Donald L. Schnepf. I am the president of
6 H2O, Inc. ("H2O"). H2O's business address is 832 W Baseline Road
7 Suite 18, Mesa, Arizona 85210.

8 Q. WHAT ARE YOUR RESPONSIBILITIES WITH H2O?

9 A. I have occupied the office of President & Director of
10 H2O from its date of incorporation October 5, 1972 and
11 maintained a 50% shareholder interest throughout this period. I
12 am responsible for the management and operations of the Company.

13 Q. HAVE YOU PREVIOUSLY APPEARED BEFORE THE COMMISSION?

14 A. Yes. I have previously appeared before the Commission
15 in various regulatory matters on behalf of H2O.

16 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

17 A. To discuss H2O's May 30, 2000, application and
18 December 15, 2000 amendment, to extend its Certificate of
19 Convenience and Necessity ("CC&N") and the Settlement Agreement
20 dated January 23, 2001, reached among H2O, Johnson Utilities,
21 L.L.C. ("Johnson Utilities"), and Queen Creek Water Company
22 ("Queen Creek").

23 Q. WHAT AREAS DID H2O INCLUDE IN ITS APPLICATION TO
24 EXTEND ITS CC&N?

25 A. H2O's May 30, 2000, application, along with the
26 December 15, 2000 amendment, sought an extension to H2O's CC&N

1 to provide water utility service to Parcels 5, 6, 11, 14, 15,
2 16, 17, 18, 20, and 22 as described in the Parcel List attached
3 hereto as Exhibit A.

4 Q. UNDER THE SETTLEMENT AGREEMENT, WHAT AREAS WOULD H2O
5 SERVE?

6 A. H2O's CC&N will be extended to include that portion of
7 Parcel 14 not currently located within H2O's CC&N consisting of
8 Section 5, Range 8 East, Township 3 South, Pinal County, Parcels
9 15, 16, 17, 18 and 22 as described in the Parcel List and
10 Section 13, Range 7 East, Township 2 South, in Maricopa County.
11 In addition, the Country Thunder property, comprising
12 approximately the western one-third of Section 30, Range 8 East,
13 Township 2 South, south of Queen Creek Wash will be deleted from
14 H2O's CC&N.

15 Q. WHY DID H2O AGREE TO SETTLE FOR LESS THAN IT REQUESTED
16 IN ITS APPLICATION?

17 A. H2O was approached by Dr. Stanley Griffis, the Pinal
18 County Manager, and asked to meet with Johnson Utilities and
19 Queen Creek to discuss settlement. During the meeting arranged
20 by Dr. Griffis, H2O was informed that Pinal County had received
21 a petition from landowners in Diversified's certificated service
22 area requesting that a water improvement district be created to
23 replace Diversified as the water service provider. Further, Dr.
24 Griffis expressed the County's concern that both developers and
25 the County were facing significant financial losses if the
26 competing CC&N applications were not resolved in an expeditious

1 manner. Based on the County's concerns and with the
2 understanding that Diversified's application to extend its CC&N
3 would be rendered moot by the formation of a water improvement
4 district, H2O reached an agreement with Johnson Utilities and
5 Queen Creek.

6 Q. WHY DO YOU BELIEVE THE SETTLEMENT AGREEMENT WILL
7 BENEFIT THE PUBLIC?

8 A. The Settlement Agreement balances H2O's need to expand
9 its system to ensure quality service at reasonable rates with
10 the County's, landowners' and developers' needs to resolve this
11 matter in a timely manner. The Settlement Agreement will
12 promote orderly development in Pinal and Maricopa Counties. If
13 approved, the Settlement Agreement will foster cost efficient
14 extension of service to new areas which will help minimize the
15 rate impact of extending service. Further, the expeditious
16 resolution of the pending dockets will avoid lengthy and costly
17 litigation and protect landowners and developers currently
18 threatened by the uncertainty of when and by whom they will
19 receive water and wastewater utility service. That the
20 Settlement Agreement is in the public interest is clearly
21 demonstrated by the nearly unanimous support of Pinal County and
22 the major landowners in the area.

23 Q. IF A WATER IMPROVEMENT DISTRICT IS NOT FORMED OR DOES
24 NOT PURCHASE, CONDEMN OR OTHERWISE ACQUIRE DIVERSIFIED'S
25 EXISTING FACILITIES, DOES H2O BELIEVE THAT DIVERSIFIED IS FIT
26 AND ABLE TO SERVE THE CONTESTED AREA?

1 A. No. I attended the deposition of Scott Gray and I
2 have reviewed Diversified's application and amendments thereto,
3 the January 9, 2001 Staff Report and Diversified's responses to
4 H2O's first set of data requests. Based on my 30 years of
5 experience in the water utility industry in Arizona, I
6 respectfully suggest that it is not in the public interest to
7 expand Diversified's CC&N at this time.

8 Q. WHAT IS THE BASIS FOR YOUR CONCLUSION?

9 A. My opinion is based on the following:

10 (1) The petition seeking to form a water improvement
11 district filed by Diversified's current customers and landowners
12 within Diversified's certificated area is a clear sign that
13 Diversified's customers are not satisfied with their current
14 service. If Diversified's customers are so displeased with
15 their service that they wish to form a water improvement
16 district, I do not believe that Diversified should be allowed to
17 expand until they resolve the complaints of their current
18 customers.

19 (2) Diversified's current facilities are not adequate
20 to serve any additional areas. Therefore, Diversified cannot
21 demonstrate that it is fit and able to serve any additional
22 areas.

23 (3) Diversified claims in its application that it
24 needs to loop its system. Based on the location of
25 Diversified's current well and facilities, I cannot identify any
26 efficiencies gained by looping the system. Actually, in order

1 to loop its system, Diversified would be required to run a main
2 across a half section (320 acres) of State land. In the future,
3 if new wells and facilities warrant looping the system,
4 Diversified may still do so even if its CC&N is not extended by
5 installing a line within the right-of-way of Schnepf road.
6 Diversified has failed to produce any engineering reports or
7 plans that support the conclusion that the system should be
8 looped or that evaluate any other options for improving
9 efficiency within Diversified's system and I am unable to come
10 up with any reason on my own.

11 (4) Diversified has a history of violating Arizona
12 Department of Environmental Quality ("ADEQ") regulations
13 including MCL violations. Furthermore, ADEQ has consistently
14 determined that Diversified is not in full compliance with state
15 monitoring requirements. Frankly, based on what I heard during
16 Mr. Gray's deposition, I can only conclude this is the result of
17 inadequate management oversight.

18 Q. BY ENTERING INTO THE SETTLEMENT AGREEMENT IS H2O
19 ACKNOWLEDGING THAT IT CANNOT SERVE ALL OF THE AREAS REQUESTED IN
20 ITS APPLICATION?

21 A. No. As Staff recognized in its January 9, 2001 Staff
22 Report, H2O is clearly in a position to serve all of the areas
23 included in its application. Still, the Settlement Agreement
24 provides for an expeditious resolution of the competing
25 applications and is in the public interest. Therefore, although
26 H2O believes that it is fit and able to serve all of the areas

1 included within its application, H2O has agreed to join in the
2 settlement in an effort to serve a wider range of interests.

3 Q. DO YOU HAVE ANY CONCERNS ABOUT THE RECOMMENDATIONS
4 CONTAINED IN THE JANUARY 9, 2001 STAFF REPORT?

5 A. Yes.

6 Q. CAN YOU SUMMARIZE THOSE CONCERNS?

7 A. The Staff Report recommends that H2O's CC&N be
8 "conditionally" extended.

9 Q. WHAT CONDITIONS DOES STAFF RECOMMEND?

10 A. The Staff suggests that within two years from the
11 effective date of the conditional extension, H2O should be
12 required to submit a report containing the following
13 information: (1) the number of customers being service in the
14 extension areas, (2) the amount of plant facilities installed to
15 service extension areas, (3) the number of gallons sold in the
16 extension areas, (4) the amount of revenue generated by the
17 extension areas, (5) a master plan of extension areas showing
18 all plant installed and (6) customer locations and any other
19 information Staff deems relevant. Upon receipt of this
20 information, if Staff concludes that no development has
21 commenced at the two year review period, the conditional CC&N
22 would be null and void without further order of the Commission
23 and future extensions into the areas deemed null and void would
24 require a new CC&N extension filing.

25 Q. WHY DO YOU DISAGREE WITH THIS APPROVAL?

26 A. This approach is problematic for several reasons.

1 First, it is unclear when Staff will conclude that "development
2 has commenced." Additionally, the two year time frame is
3 arbitrary and potentially severely damaging to a landowner
4 currently planning to commence development in just over two
5 years. Lastly, because the CC&N extension would be null and
6 void apparently without any further proceedings, H2O would be
7 deprived of the opportunity to present evidence concerning the
8 developments that may be starting construction in the near
9 future.

10 Q. IS THERE ANYTHING ELSE ABOUT THE STAFF REPORT THAT YOU
11 ARE CONCERNED ABOUT?

12 A. Yes. The Staff also proposes that they be allowed to
13 file a report within 120 days after the two-year anniversary
14 date of the conditional CC&N extension recommending whether to
15 grant final approval for all, a portion, or none of the
16 extension area. This approach is also problematic.

17 Q. WHY?

18 A. First, the proposed process does not include any
19 criteria upon which Staff will make its recommendation, nor does
20 it afford H2O the opportunity to respond to Staff's
21 recommendation. Second, and most importantly, Staff's proposal
22 will result in the inefficient extension of service into the new
23 areas. Over the next two years, H2O may install facilities
24 within the extension area in anticipation of serving additional
25 development. These facilities may include acquisition of
26 existing wells or well sites, removing existing old unused

1 pumping equipment, testing for chemistry and investigating the
2 well depth and condition to determine what will be required to
3 re-habilitate these wells to comply with ADEQ and ADWR
4 groundwater source requirements for potable uses within the
5 expansion area. Should this investigation prove negative then
6 some new well construction may be required. This preliminary
7 investigation needs to be accomplished well in advance of any
8 development beginning in order to Master Plan a properly
9 designed water source and distribution facilities in the most
10 efficient and cost effective manner. Then, if the additional
11 developments have not begun construction within two years, these
12 areas may be deleted from H2O's CC&N. Conversely, if H2O were
13 to plan its expansion based solely on the current development,
14 H2O and its customers would loose the monetary benefit
15 associated with planned orderly development. Lastly, if H2O is
16 required to file new CC&N extension applications for areas where
17 development occurs two or more years later, H2O, its customers,
18 landowners and developers will be forced to incur added costs
19 and delays in seeking Commission approval of a matter
20 essentially decided in these proceedings.

21 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

22 A. Yes.

23

24

1146973.1/46327.002

25

26

