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BEFORE THE ARIZONA CORPORATION COMMISSION  
RECEIVED Arizona Corporation Commission

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COMMISSIONERS

DOCKETED

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

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AZ CORP COMMISSION  
DOCUMENT CONTROL

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| DOCKETED BY | KJ |
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IN THE MATTER OF THE APPLICATION OF  
JOHNSON UTILITIES COMPANY, L.L.C. FOR  
AN EXTENSION OF ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR WATER AND WASTEWATER  
SERVICE.

DOCKET NO. WS-02987A-04-0288

PROCEDURAL ORDER

**BY THE COMMISSION:**

On April 14, 2004, Johnson Utilities Company, L.L.C. ("Johnson"), filed an application for an extension of its Certificate of Convenience and Necessity ("Certificate") with the Arizona Corporation Commission ("Commission") to provide public water and wastewater utility service to various parts of Pinal County, Arizona.

The hearing in this matter was conducted in this matter on April 19, 2005. At the conclusion of the hearing, the Commission's Utilities Division's ("Staff's") witness stated that if Johnson was able to submit an approval of construction from the Arizona Department of Environmental Quality ("ADEQ") for the estimated 890 gallons per minute Morning Sun Farms well in the near future, Staff's concern that Johnson lacked sufficient capacity to serve its existing customers would be satisfied (Tr. 223-224). Because Johnson's witness represented at the hearing that ADEQ approval of the well is imminent, the record shall remain open for an additional 90 days from the date of this Procedural Order to allow Johnson additional time to submit the necessary approvals associated with the Morning Sun Farms well. Allowing the record to remain open to receive this additional information is an "extraordinary event" pursuant to Arizona Administrative Code ("A.A.C.") R14-2-103(B)(11)(e), and good cause therefore exists for extending the applicable time clock in this proceeding.

On May 12, 2005, counsel for Johnson, Jay Shapiro of Fenemore Craig, P.C., filed a "Notice of Withdrawal as Counsel of Record" ("Notice of Withdrawal"). The Notice of Withdrawal stated

1 that Richard Sallquist will be taking over representation of Johnson and all future correspondence  
2 should be directed to Mr. Sallquist.

3 Although the Notice of Withdrawal appears to assume that the proposed change of counsel  
4 may be accomplished without further action, the Commission’s rules clearly require that such a  
5 request must be approved by the Commission. A.A.C. R14-3-104(E) states:

6 Withdrawal of attorney. The Commission or presiding officer *may* permit  
7 the withdrawal of an attorney from any proceeding *upon written*  
8 *application and good cause shown* under such terms, conditions, and  
9 notices to clients and other parties as the Commission or presiding officer  
10 may direct. Oral application for withdrawal may be made during any open  
11 proceeding which is being recorded. (emphasis added)

12 This rule contemplates that withdrawal is permitted only with the approval of the  
13 Commission or the Administrative Law Judge following submission of an “application” and  
14 explanation why “good cause” exists for granting such application. Simply filing a Notice of  
15 Withdrawal does not satisfy the requirements of the rule and, absent the Commission’s approval, Mr.  
16 Shapiro continues to be Johnson’s counsel of record for this proceeding.

17 IT IS THEREFORE ORDERED the record shall remain open to allow Johnson Utilities  
18 Company additional time to submit the necessary approvals associated with the Morning Sun Farms  
19 well. Accordingly, the time clock in this proceeding shall be extended for an additional 90 days from  
20 the date of this Procedural Order, pursuant to A.A.C. R14-2-103(B)(11)(e).

21 IT IS FURTHER ORDERED that counsel of record for Johnson Utilities Company, Jay  
22 Shapiro of Fennemore Craig, P.C., shall file by June 17, 2005 an Application for Withdrawal as  
23 Counsel which includes an explanation of the reason for the proposed withdrawal and why good  
24 cause exists to grant the request.

25 ...  
26 ...  
27 ...  
28 ...

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

4 DATED this 2<sup>nd</sup> day of June, 2005

5   
6 DWIGHT D. NODES  
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

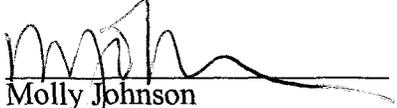
8 Copies of the foregoing mailed/delivered  
9 this 2 day of June, 2005 to:

10 Jay L. Shapiro  
11 Patrick J. Black  
12 FENNEMORE CRAIG  
13 3003 N. Central Avenue, Ste. 2600  
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15 Attorneys for Johnson Utilities Company, L.L.C.

16 Richard L. Sallquist  
17 SALLQUIST & DRUMMOND  
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21 Legal Division  
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23 1200 West Washington Street  
24 Phoenix, Arizona 85007

25 Ernest Johnson, Director  
26 Utilities Division  
27 ARIZONA CORPORATION COMMISSION  
28 1200 West Washington Street  
Phoenix, Arizona 85007

29 By:   
30 Molly Johnson  
31 Secretary to Dwight D. Nodes