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BEFORE THE ARIZONA CORPORATION COMMISSION

30

COMMISSIONERS

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

2006 MAR 17 P 4: 14

AZ CORP COMMISSION
DOCUMENT CONTROL

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

NOTICE OF FILING

Arizona Corporation Commission Staff (“Staff”) hereby files its Staff Report dated March 17, 2006 for Docket No. WS-02987A-04-0869.

RESPECTFULLY SUBMITTED on the 17th day of March, 2006

ARIZONA CORPORATION COMMISSION

Jason D. Gellman
Senior Staff Counsel, Legal Division
Arizona Corporation Commission
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Original and fifteen (15) copies of the foregoing was filed this 17th day of March, 2006, with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

1 Copies of the foregoing were
2 mailed / hand-delivered this 17th
3 day of March, 2006, to:

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26 Ernest Johnson, Director
27 Utilities Division
28 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

MEMORANDUM

TO: Docket Control Center

FROM: Ernest G. Johnson
Director
Utilities Division

DATE: March 17, 2006

RE: JOHNSON UTILITIES COMPANY - APPLICATION FOR AN EXTENSION
OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET
NO. WS-02987A-04-0869)

Attached is the Staff Report for Johnson Utilities Company. Staff recommends approval with conditions.

EGJ:LAJ:tdp

Originator: Linda A. Jaress

Attachment: Original and Thirteen Copies

Service List for: Johnson Utilities Company
Docket No. WS-02987-04-0869

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Mr. Ernest G. Johnson
Director, Utilities Division
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Ms. Lyn Farmer
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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

JOHNSON UTILITIES COMPANY

DOCKET NO. WS-02987-04-0869

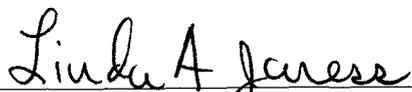
APPLICATION FOR AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND NECESSITY

MARCH 17, 2006

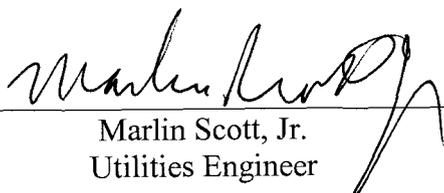
STAFF ACKNOWLEDGEMENT

The Staff Report for Johnson Utilities Company, Docket No. Docket No. WS-02987-04-0869, was prepared by the Staff members listed below. Linda Jaress performed the review and analysis of the Company's application and Marlin Scott, Jr. performed the engineering analysis.

Contributing Staff:



Linda A. Jaress
Executive Consultant III



Marlin Scott, Jr.
Utilities Engineer

**EXECUTIVE SUMMARY
JOHNSON UTILITIES COMPANY
DOCKET NO. WS-02987A-04-0869**

On December 3, 2005, Johnson Utilities Company ("Johnson") filed an application for approval to extend the area of its Certificate of Convenience and Necessity ("CC&N").

Johnson has outstanding compliance issues with the Arizona Corporation Commission. On March 14, 2006, Johnson filed an application to amend Decision Nos. 68235, 68236 and 68237 to address some of those issues. Pending resolution of all compliance issues and Johnson's March 14th filing, Staff recommends that a decision approving the extension at issue, be withheld. In the meantime; Staff is preparing an Order to Show Cause to address the non-compliance issues.

Staff believes that once the issues related to non-compliance with previous Commission decisions are resolved, Johnson could be found to be a fit and proper entity to serve the extension area and it would be in the public interest for the Commission to approve this application and adopt certain requirements of the Company. Staff recommends that the Company be ordered to charge its current rates to the customers in the extension area until otherwise changed by Commission order.

Staff recommends that the Commission require Johnson to file the following as compliance items in this docket and by the recommended dates, if and when the Commission approves the extension:

1. A copy of the Franchise for the proposed service territory within 365 days of the date of the decision in this case.
2. A copy of its Designation of Assured Water Supply from Arizona Department of Water Resources ("ADWR") to include the service area at issue within one year of the effective date of the final decision in this matter.

Staff further recommends that if Johnson does not comply with the recommendations listed above, that the decision approving this extension, after due process, be null and void.

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Introduction

Johnson Utilities Company (“Johnson”) provides water and wastewater service in various portions of Pinal County to approximately 8,500 customers. On December 3, 2005, Johnson filed an application for approval to extend the area of its Certificate of Convenience and Necessity (“CC&N”). The requested area was comprised of two sections of land; Sections 23 and 13, Range 8 east and Township 3 south. Diversified Water Utilities, Inc. (“Diversified”) provides water service to approximately 350 customers in the vicinity of Johnson’s certificated area. Diversified’s application for approval to extend its CC&N into the same Sections 23 and 13 was pending when Johnson filed its application. Ultimately, Johnson and Diversified came to an agreement and signed and filed a “Joint Settlement Statement” which, among other issues, resolved the dispute over Sections 23 and 13. Based upon the agreement in the Joint Settlement Statement, on October 7, 2005, Johnson amended its application by the deletion of Section 13 from its request, but is continuing with this application to extend into section 23.

A development known as Bella Vista is planned in the extension area. The development is comprised of approximately 2,200 lots. Exhibit 1 is a map showing section 23 and illustrating the proximity of Diversified’s service territory to Johnson’s. Johnson’s application includes requests for service in Section 23 from Wolfcor, LLC and Centrex Homes.

The Water System

Johnson has nine wells in the vicinity of the extension area. The total production capacity of the wells is 5,082 gallons per minute. Johnson’s water system is also comprised of booster pumps, pressure tanks, a distribution system and approximately 4 million gallons of storage capacity. The Company is in the process of interconnecting three of its water systems which will provide flexibility and improve reliability. Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N area. Attached as Exhibit 2 is Staff’s Engineering Report which describes Johnson’s system and capacity in further detail.

Financing

The Company anticipates that the cost of additional plant to serve the extension area will reach \$1,0521,939. The water facilities for this extension will be funded by advances in aid of construction and offsite facility hookup fees.

Arizona Department of Environmental Quality (“ADEQ”)

ADEQ has determined that Johnson’s water system is currently delivering water that meets water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4. All of Johnson’s wells, except one, delivered water which is in compliance with the new arsenic standard of 10 parts per billion. Johnson intends to abandon the non-compliant well.

Arizona Department of Water Resources (“ADWR”)

Johnson is within the Phoenix Active Management Area. Each developer in the proposed extension area will be required to demonstrate an Assured Water Supply to ADWR. Staff recommends that Johnson update or amend its Demonstration of Assured Water Supply to include the service area at issue within two years of the effective date of the final decision in this matter.

Arizona Corporation Commission (“ACC” or “the Commission”)

The 14 complaints logged by the ACC’s Consumer Services Section in 2005 and 2006 against Johnson have been resolved.

Johnson is currently out of compliance with Commission decisions. In Decision No. 65840, dated April 22, 2003, the Commission ordered Johnson to file with the Commission a copy of any Notice Of Violation (“NOV”) issued against it by ADEQ within seven days from receipt of such notice. The Decision goes on to state that if the ADEQ notice is not timely filed, “...the Director shall, upon becoming aware of such failure, commence an Order to Show Cause Proceeding against JUC forthwith, seeking such sanctions and Orders as the Director deems appropriate.” On January 10, 2006 Staff was made aware of a late filing of a NOV by Johnson. Staff further researched the docket and found three similar violations. In each case, Johnson’s filing of their NOV exceeded the timeframe directed in this order. Johnson has offered its explanation, nonetheless, in consistence with the order, Staff is preparing an Order to Show Cause to be filed as soon as possible.

Also, Decision No. 68235, Decision No. 68236 and Decision No. 68237, all dated October 25, 2005 contained language requiring Johnson to file a \$500,000 bond. In substitution for the bond, Johnson has filed evidence of a letter of credit for the same amount. The late filing of notices of violation from ADEQ along with the substitution of a letter of credit for the bond causes Johnson to be out of compliance with Commission decisions. On March 14, 2006, Johnson filed an application to amend Decision Nos. 68235, 68236 and 68237. Pending resolution of the compliance issues and Johnson’s March 14th filing, Staff recommends that a decision approving the extension at issue, be withheld.

Tariff Amendment

In its October 7, 2005 Amended Application, Johnson also requested approval of a tariff which would apply to water utilities providing water service in areas where Johnson provides wastewater service. The proposed tariff would allow the water utility to terminate water service to a water customer in the event that the water customer fails to pay Johnson for wastewater service. Staff believes that it is not procedurally appropriate for Johnson to request this tariff as it is the water utility which will have to enforce it. The water utility should be filing the tariff. On this basis, Staff recommends denial of the tariff.

The previously mentioned Decision Nos. 68235 and 68237 contained language requiring Johnson to file quarterly reports relating to the status of the pending La Osa and Sonoran Litigation and to file Affiliate Interest reports and a rate case. The decisions also required a \$500,000 performance bond to be increased to \$1.0 million if Johnson is named as a defendant in either the La Osa or Sonoran lawsuits. Staff does not believe it necessary to repeat those requirements in this docket as the result would be duplicative filing in an additional docket. However, Staff believes that those requirements, or any others set forth in previous decisions, should remain in place even if not imposed as a specific condition for approval of this application.

Conclusions and Recommendations

Staff believes that once the issues related to non-compliance with previous Commission decisions are resolved, Johnson could be found to be a fit and proper entity to serve the extension area and it would be in the public interest for the Commission to approve this application and adopt certain requirements of the Company. Staff recommends that the Company be ordered to charge its current rates to the customers in the extension area until otherwise changed by Commission order.

Staff recommends denial of the request for approval of a water service shut-off tariff as requested in Johnson's October 7, 2005 filing.

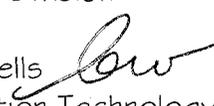
Staff recommends that the Commission require Johnson to file the following as compliance items in this docket and by the recommended dates if and when the Commission approves the extension:

1. A copy of the Franchise for the proposed service territory within 365 days of the date of the decision in this case.
2. A copy of its Designation of Assured Water Supply from ADWR to include the service area at issue within one year of the effective date of the final decision in this matter.

Staff further recommends that if Johnson does not comply with the two recommendations listed above, that the decision approving this extension, after due process, be null and void.

MEMORANDUM

TO: Linda Jaress
Executive Consultant III
Utilities Division

FROM: Barb Wells 
Information Technology Specialist
Utilities Division

THRU: Del Smith
Engineering Supervisor
Utilities Division

DATE: October 17, 2005

RE: **JOHNSON UTILITIES COMPANY (DOCKET NO. WS-02987A-04-0869)**
AMENDED LEGAL DESCRIPTION

The area requested by Johnson for an extension for water service has been plotted with no complications using an amended legal description, which has been docketed. This legal description is attached and should be used in place of the original description submitted with the application.

Also attached is a copy of the map for your files.

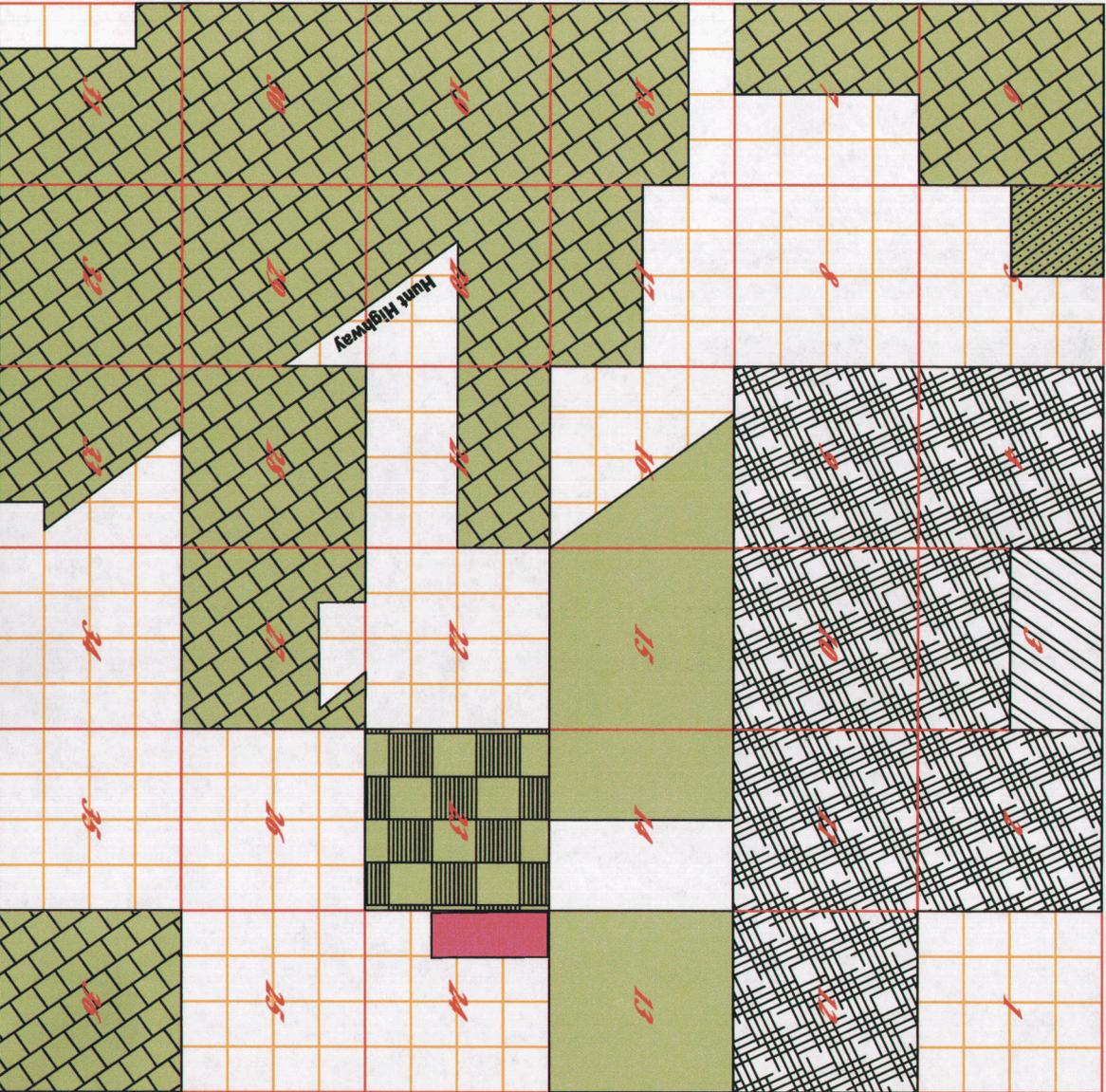
:bsw

Attachments

cc: Docket Control
Mr. Richard Sallquist
Mr. John Chelus
Ms. Deb Person (Hand Carried)
File

COUNTY OF Pinal

RANGE 8 East



TOWNSHIP 3 South

- 
W-2859 (3)
 Diversified Water Utilities, Inc.
- 
W-2234 (2)
 H₂O, Inc.
- 
WS-2987 (6)
 Johnson Utilities Company
- 
W-2425 (2)
 Sun Valley Farms Unit VI Water Company
- 
Sewer
- 
Johnson Utilities Company (Water)
 Docket No. WS-2987-04-869
 Application for Extension
- 
Johnson Utilities Company (Water)
 Docket No. WS-2987-05-088
 Application for Extension

Legal Description
Bella Vista Farms

Section 23, Township 3 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona

REVISED EXHIBIT 2

MEMORANDUM

DATE: December 30, 2005

TO: Linda Jaress
Executive Consultant III

FROM: John A. Chelus 
Utilities Engineer

RE: Johnson Utilities Company
CC&N Extension – Water
Docket No. WS-02987A-04-0869

Introduction

Johnson Utilities Company (“Johnson or Company”) has applied to extend its Certificate of Convenience and Necessity (“CC&N”) for water service in Pinal County. The requested service area includes Section 23 of Township 3 South, Range 8 East. This will add approximately one square mile or 640 acres to its existing certificated area for water service. The area will cover a portion of the development known as Bella Vista and will contain approximately 2,200 lots. The Company anticipates approximately 767 new connections within five years.

Capacity

The development will be served by the Johnson Utilities public water system number 11-128. Johnson has in existence nine well(s) with a total production capacity of 5,082 gal/min, 3,970,480 gallons of storage capacity, booster pumps, pressure tanks, and a distribution system serving approximately 14,000 connections. The Crestfield Well No. 1 is completed and ready to go on-line with a flow of 1,000 gpm. The Hardison Well No. 1 is under construction and should produce 1,000 gallons per minute when done. The Company is in the process of interconnecting three of their water systems into one which will provide more flexibility and improve reliability. Based on historical growth rates, it is anticipated that the existing service area could have 35,000 total customers at the end of five years. The existing production and storage can adequately serve approximately 18,000 connections under peak conditions. Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N area and can reasonably be expected to develop additional storage and production as required in the future.

Cost Analysis

The Company anticipates the cost to serve the new area in the next five years to reach \$1,051,939 including service meters. The water facilities for this area will be constructed as needed. The development will be funded through advances in aid of construction and offsite facility hookup fees.

ACC Compliance

A check with the Utilities Division Compliance Section showed no outstanding compliance issues.

Arizona Department of Environmental Quality (“ADEQ”) Compliance

ADEQ regulates the water system under ADEQ Public Water System I.D. No. 11-128. ADEQ has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Arizona Department of Water Resources (“ADWR”) Compliance

Johnson is within the Phoenix Active Management Area. As such, each developer will be required to demonstrate an Assured Water Supply” from ADWR for the entire development. Presently Johnson Utilities holds a “Designation of Assured Water Supply” for its existing service area. It is assumed that Johnson will continue to elect this alternative. Therefore, it is recommended that Johnson Utilities shall update or amend its “Designation of Assured Water Supply” to include the service areas in this CC&N application. Johnson Utilities shall file such an amended ADWR certificate within two years of the effective date of the final decision and order in this matter.

Arsenic

The Company provided arsenic concentrations for their wells. All wells except one showed compliance with the new arsenic standard of 10 µg/l. Well No. 55-582085, Oasis Well No. 1 has an arsenic concentration of 22 µg/l. The Company plans to abandon this well. The remainder of the wells ranged from 2.0 to 8.0 µg/l.

Curtailment Tariff

The Company has a curtailment tariff on file with the Utilities Division.

Comments

1. Staff concludes that the existing Johnson water system has adequate production and storage capacity to serve the existing and proposed CC&N area.

2. ADEQ has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
3. A check with the Utilities Division Compliance Section showed no outstanding compliance issues.

Recommendations

1. Staff recommends that Johnson Utilities shall update or amend its “Designation of Assured Water Supply” to include the service areas in this CC&N application. Johnson Utilities shall file such an amended ADWR certificate within one year of the effective date of the final decision and order in this matter.