

ORIGINAL



0000060870

305M

MEMORANDUM

TO: Docket Control 2006 AUG 16 A 11: 30

FROM: Ernest G. Johnson  
 Director  
 Utilities Division

THRU: Kim Battista  
 Chief of Compliance  
 Utilities Division

DATE: August 15, 2006

AZ CORP COMMISSION  
 DOCUMENT CONTROL

Arizona Corporation Commission  
**DOCKETED**

**AUG 16 2006**

DOCKETED BY	ne
-------------	----

RE: IN THE MATTER OF THE APPLICATION OF ARIZONA UTILITY SUPPLY & SERVICES, L.L.C. FOR THE TRANSFER OF A PORTION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO JOHNSON UTILITIES, L.L.C. (DOCKET NOS. SW-04002A-02-0837, WS-02987A-02-0837, SW-04002A-04-0465, WS-02987A-04-0465)

IN THE MATTER OF THE APPLICATION OF ARIZONA UTILITY SUPPLY & SERVICES, L.L.C. TO TRANSFER ITS ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY TO JOHNSON UTILITIES, L.L.C.

On February 15, 2005, an Order Preliminary, Decision No. 67586, was issued to Johnson Utilities Company ("Johnson" or "Company") authorizing Johnson to acquire specified assets of Arizona Utility Supply & Services, L.L.C. ("AUSS") and a portion of the AUSS Certificate of Convenience & Necessity ("CC&N") area following compliance with conditions described in the Order Preliminary and issuance of a subsequent Order approving the acquisition of assets, deletion of the AUSS CC&N, and extension of the CC&N to Johnson.

The following items outline the ordering paragraphs and the company's compliance to those orders.

1. **"IT IS FURTHER ORDERED that, prior to issuance of a final Order, Johnson Utilities Company must acquire the Utility Assets specified in Exhibit A of Attachment A hereto free and clear of any lien or other encumbrances."**

On May 26, 2006, Johnson Utilities Company filed a Bill of Sale signed by the Trustee in the bankruptcy of Arizona Utility Supply and Services, LLC, pursuant to an order of the Bankruptcy Court. The Bill of Sale clearly transfers, conveys, and assigns, free and clear of liens, to Johnson Utilities, L.L.C. the property described in Exhibit A.

Staff recommends that this requirement be considered fulfilled.

2. **IT IS FURTHER ORDERED that prior to issuance of a final Order, Johnson Utilities Company shall have authorized access to the acquired Utility Assets within either public rights-of-way and/or the Utility Assets must be within granted easements, the rights to both of which will be transferred to Johnson Utilities Company along with any franchise rights Arizona Utility Supply and Service, L.L.C. has under a franchise or similar agreement with Pinal County, to the extent such franchise or other rights are needed by Johnson Utilities Company to serve.**

On May 26, 2006, Johnson Utilities Company filed an easement agreement between DJSP, L.L.C.; The Links at Ocotillo HOA and Johnson Utilities, L.L.C, or its assignee. The Easement Agreement, dated June 2, 2005, grants Johnson, among other rights, ingress and egress and utility operational access, and alignment over, upon and across certain property. The term of the Easement is perpetual. The easement is for access to a sewer line, a lift station and a road in Cambria Parcel 3.

On May 26, 2006, Johnson also filed an Access and Utility Easement between Cambria Ocotillo Homeowners Association and Johnson Utilities, L.L.C. which was entered into on March 9, 2005. This document gives Johnson Utilities access to a lift station and to two roads within Cambria Parcel 3.

An Expansion and Amendment of the Johnson utility Water and Sewer Franchise with Pinal County was also filed. The Franchise is dated August 2, 2000. This franchise covers all of the area to be transferred to Johnson.

Staff recommends that this requirement be considered fulfilled.

3. **IT IS FURTHER ORDERED that, prior to issuance of a final Order, the Utility Assets being acquired by Johnson Utilities Company in order for it to commence service in the area currently certificated to Arizona Utility Supply & Services, L.L.C. must be operated by Johnson in accordance with all necessary governmental approvals, including, without limitation, approvals required by ADEQ and Pinal County, and that, to the extent required, all such approvals must be transferred from Arizona Utility Supply & Services, L.L.C. to Johnson Utilities Company.**

Staff is satisfied that compliance with the other ordering paragraphs results in compliance with this ordering paragraph. Staff recommends that this requirement be considered fulfilled.

4. **IT IS FURTHER ORDERED that, prior to issuance of a final Order, Johnson Utilities Company must satisfy each of the following requirements by filing each of the items listed below with the Commission:**

- a. **ADEQ's written confirmation affirming that Johnson Utilities Company's Pecan wastewater treatment plant has adequate wastewater treatment capacity for Johnson Utilities Company to provide wastewater treatment services to each of the subdivisions listed in Exhibit B of Attachment A of the Order.**

Johnson Utilities Company has complied by submitting the ADEQ General Permits for 46 of the 48 listed subdivisions. These General Permits verify that adequate wastewater treatment capacity is available. Two of the listed subdivisions were never built.

Staff recommends that this requirement be considered fulfilled.

- b. **ADEQ's written confirmation affirming that the Pecan Plant, as constructed and planned, conforms to all applicable requirements for setbacks.**

Johnson Utilities Company has complied by submitting the signed Aquifer Protection Permit ("APP") dated June 1, 2005. The APP is ADEQ's approval of the construction and permit to operate.

Staff recommends that this requirement be considered fulfilled.

- c. **ADEQ's written approval of the transfer of the existing reuse permit to discharge effluent on the Links Golf Course to Johnson Utilities Company without additional conditions or modifications.**

Johnson Utilities Company has complied by submitting the ADEQ Verification of General Permit Conformance and Authorization to Discharge to Johnson Utilities Company issued on July 19, 2006.

Staff recommends that this requirement be considered fulfilled.

- d. **ADEQ's issuance of an Engineering Certificate of Completion of the existing 6-inch pipeline located in Section 20 of Township 2 South, Range 8 East and approval to allow conversion of this 6-inch pipeline from an effluent delivery line to a wastewater force main and approval of the modifications to the lift stations located at the Links Plant to allow the bypass of the treatment plant.**

Johnson Utilities Company has complied by submitting ADEQ Verification of General Permit Conformance (Engineering Certificate of Completion) for the subject plant, issued on June 29, 2005.

Staff recommends that this requirement be considered fulfilled.

- e. All ADEQ requisite approvals for construction and operation of lift station at the site of the former Links Plant to allow the bypass of the Links Plant.**

Johnson Utilities Company has complied by submitting the ADEQ Verification of General Permit Conformance issued on December 16, 2005 for the Cambria (Links Plant) Lift Station Replacement project.

Staff recommends that this requirement be considered fulfilled.

In conclusion, Staff believes that Johnson has complied with all requirements set forth in the Order Preliminary. Staff recommends that the Commission issue a final Decision approving the transfer of the assets and a portion of the CC&N of AUSS to Johnson.

Docket Control  
August 15, 2006  
Page 5

SERVICE LIST FOR: Beaver Valley Water Company  
Docket Nos. W-02015A-03-0268 and W-02015A-03-0724

Mr. Edgar M. Delaney  
Delaney & Melknoff, P.C.  
1013 East Washington  
Phoenix, Arizona 85034

Mr. R. E. Ward  
Beaver Valley Water Company  
Post Office Box 9031  
Phoenix, Arizona 85068

Mr. Michael Davoren  
Post Office Box 421  
Payson, Arizona 85541

Mr. Christopher C. Kempley  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Mr. Ernest G. Johnson  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007