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REHEARING

OCT 04 2001

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2001 SEP 14 P 4: 12

BEFORE THE ARIZONA CORPORATION COMMISSION  
AZ CORP COMMISSION  
DOCUMENT CONTROL

WILLIAM A. MUNDELL  
CHAIRMAN

JIM IRVIN  
COMMISSIONER

MARC SPITZER  
COMMISSIONER

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 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-99-0583

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

Arizona Corporation Commission  
DOCKETED

APPLICATION FOR REHEARING SEP 14 2001

DOCKETED BY [Signature]

1 Pursuant to A.R.S. § 40-253 and A.A.C. R14-3-111, Johnson Utilities,  
2 L.L.C. dba Johnson Utilities Company (“Johnson Utilities”) files this Application for  
3 Rehearing (“Application”) in the above-referenced docket. Through this Application,  
4 Johnson Utilities respectfully requests that the Arizona Corporation Commission  
5 (“Commission”) reconsider and rehear one issue: Whether Johnson Utilities’ wastewater  
6 Certificate of Convenience and Necessity (“Certificate”) should be conditionally extended  
7 to include parcel 2—Bella Vista Farms. Johnson Utilities believes that parcel 2 was  
8 inadvertently excluded from the conditional extension of its wastewater Certificate.  
9 Because wastewater service is not impacted by the Skyline Water Improvement District,  
10 Johnson Utilities believes that the Commission only intended to deny applications to  
11 provide water service to parcel 2. For these reasons, Johnson Utilities respectfully  
12 requests that the Commission revise its Opinion and Order dated September 4, 2001  
13 (“Order”) to include parcel 2 in the conditional extension of Johnson Utilities’ wastewater  
14 Certificate.

15 As set forth in the Order, Staff recommended the conditional extension of  
16 Johnson Utilities’ wastewater Certificate to include parcel 2. *See* Opinion and Order,  
17 Finding of Fact No. 153. The Administrative Law Judge also recommended that the  
18 conditional extension of Johnson Utilities’ wastewater certificate include parcel 2. *See*  
19 Recommended Opinion and Order, dated August 15, 2001, Conclusion of Law No. 6.

20 At the Open Meeting on August 28, 2001, Commissioner Spitzer proposed  
21 an Amendment under which none of the parties would be granted an extension to serve  
22 parcel 2. *See* Commissioner Spitzer Proposed Amendment #1, attached as Exhibit A to  
23 this Application. This Amendment resulted from “the uncertainty of the Skyline [Water  
24 Improvement] District and potential litigation in state court” relating to the creation of the  
25 District. *See* Exhibit A. Because the Skyline Water Improvement District does not impact  
26

1 wastewater service, Johnson Utilities believes that the intent of the Spitzer Amendment  
2 was to deny parcel 2 only as it relates to water service. This is supported by the language  
3 in the Spitzer Amendment revising Exhibit B to remove parcel 2 from the list of parcels  
4 granted to Diversified Water Utilities, Inc. for water service, but not from the list of  
5 parcels granted to Johnson Utilities for wastewater service. See Exhibit A.

6 Although the Commission Order did not incorporate the Spitzer Amendment  
7 precisely as written, Johnson Utilities believes that the intent of the amendment made to  
8 the Order remained the same. Accordingly, Johnson Utilities respectfully requests that the  
9 Commission reconsider and rehear that portion of its Order that denies parcel 2 for  
10 wastewater service and conditionally extend Johnson Utilities wastewater certificate to  
11 include parcel 2.

12  
13 DATED this 14<sup>th</sup> day of September, 2001.

14 LEWIS AND ROCA LLP

15 

16 Thomas H. Campbell  
17 Michael Denby  
18 Michael Hallam  
19 40 N. Central Avenue  
20 Phoenix, Arizona 85004  
(602) 262-5723

21 Attorneys for Johnson Utilities Company

22  
23  
24 ORIGINAL and ten (10) copies  
25 of the foregoing filed this 14<sup>th</sup> day  
26 of September, 2001, with:

1 The Arizona Corporation Commission  
2 Docket Control – Utilities Division  
3 1200 W. Washington Street  
4 Phoenix, Arizona 85007

5 COPY of the foregoing hand-  
6 delivered this 14<sup>th</sup> day of September,  
7 2001, to:

8 Administrative Law Judge Marc Stern  
9 Arizona Corporation Commission  
10 1200 W. Washington Street  
11 Phoenix, Arizona 85007

12 William Mundell, Chairman  
13 Arizona Corporation Commission  
14 1200 W. Washington Street  
15 Phoenix, Arizona 85007

16 Jim Irvin, Commissioner  
17 Arizona Corporation Commission  
18 1200 W. Washington Street  
19 Phoenix, Arizona 85007

20 Marc Spitzer, Commissioner  
21 Arizona Corporation Commission  
22 1200 W. Washington Street  
23 Phoenix, Arizona 85007

24 Teena Wolfe, Legal Division  
25 Arizona Corporation Commission  
26 1200 W. Washington Street  
Phoenix, Arizona 85007

Mark DeNunzio  
Utilities Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

COPY of the foregoing mailed  
this 14<sup>th</sup> day of September, 2001,  
to:

LEWIS  
AND  
ROCA  
LLP  
LAWYERS

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Jayne Williams

# EXHIBIT A

<b>THIS AMENDMENT:</b>		
_____ Passed _____	Passed as amended by _____	
_____ Failed _____	_____ Not Offered _____	_____ Withdrawn _____

**COMMISSIONER SPITZER PROPOSED AMENDMENT # 1**

TIME/DATE PREPARED: August 28, 2001 / 9:00 a.m.

COMPANY: H<sub>2</sub>O, Johnson Utilities, ET AL.

AGENDA ITEM NO. U-1

DOCKET NO. W-02234A-00-0371 ET AL. OPEN MEETING DATE: August 28 & 29, 2001

Page 32, Line 23: After "recommendations"

INSERT: "with the exception of Parcel 2"

Page 32, Line 24: After "hereto.":

INSERT: "With respect to parcel 2, because of uncertainty with respect to the Skyline District and potential litigation in state court, we shall deny all applications for this parcel at this time."

Make corresponding changes:

**Exhibit B:**

Page 1 at parcel 2:

Remove coloration and diagonals and REPLACE with "Denied"

Page 2 at Diversified:

DELETE: "Parcels 2 and 24"

INSERT: "Parcel 24"

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