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BEFORE THE ARIZONA CORPORATION COMMISSION  
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2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 SANDRA D. KENNEDY  
6 BOB STUMP

2009 JAN 21 A 8:44

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JAN 21 2009

DOCKETED BY

7 IN THE MATTER OF THE APPLICATION OF  
8 JOHNSON UTILITIES, L.L.C., DBA JOHNSON  
9 UTILITIES COMPANY FOR AN INCREASE IN  
ITS WATER AND WASTEWATER RATES FOR  
CUSTOMERS WITHIN PINAL COUNTY,  
ARIZONA.

DOCKET NO. WS-02987A-08-0180

PROCEDURAL ORDER

10 **BY THE COMMISSION:**

11 On March 31, 2008, Johnson Utilities, LLC, dba Johnson Utilities Company ("Johnson" or  
12 "Company") filed with the Arizona Corporation Commission ("Commission") an application for  
13 increases in its water and wastewater utility rates.

14 Intervention in this proceeding has been granted to Swing First Golf, LLC ("Swing First") the  
15 Residential Utility Consumer Office ("RUCO") and the Town of Florence ("Florence").

16 On November 21, 2008, Swing First filed a Motion to Compel Discovery ("Motion").

17 On November 25, 2008, Johnson filed a Request for Extension of Time to Respond to Motion  
18 to Compel.

19 On December 2, 2008, Johnson filed a Response to the Motion ("Response").

20 On December 5, 2008, Swing First filed a Reply to Johnson's Response ("Reply").

21 In the Motion, Swing First provides an outline of the testimony it expects to present in this  
22 case. Swing First also states that it has attempted, through data requests issued to Johnson, to  
23 confirm facts in the various newspaper articles and press releases which it attached to the Motion.  
24 Swing First asserts that those facts are necessary to support the case it plans to present in this  
25 proceeding. The Motion summarizes the disputed data requests and the objections Johnson has made  
26 to those data requests. Swing First asserts that Johnson's objections to Swing First's data requests  
27 are without merit, and that Johnson waived its right to object to discovery requests by failing to  
28

1 object within the timeframe set forth in the August 15, 2008 Procedural Order issued in these  
2 dockets. Swing First requests that the Commission order Johnson to provide the information  
3 requested in Swing First's Data Requests numbered 1.3, 1.5, 1.6, 1.7, 2.6, 3.1, 3.2, 3.3, 3.6, 3.7, 3.8,  
4 3.9, 3.10, 3.15, and 3.16, and also requests such further relief that the Commission deems  
5 appropriate.

6 In its Response, Johnson argues that the Motion should be denied. Johnson asserts that while  
7 it made several objections subsequent to the seven day timeframe for objections set forth in the  
8 Procedural Order governing discovery, that Johnson has not waived the right to raise relevant and  
9 appropriate objections to data requests. Johnson further asserts that all its objections to Swing First's  
10 data requests have proper legal foundation, and that Johnson is prepared to defend them at a  
11 proceeding relating to the Motion.

12 In its Reply, Swing First responds that the issues set forth in the Motion are relevant and of  
13 interest to the Commission, and that the Motion should be granted.

14 A procedural conference should be held to allow the parties to present their arguments  
15 regarding the Motion.

16 IT IS THEREFORE ORDERED that a procedural conference is hereby scheduled to  
17 commence on **January 27, 2009, at 10:00 a.m.** or as soon thereafter as is practicable, at the  
18 Commission's offices, 1200 West Washington Street, Conference Room 100, Phoenix, Arizona  
19 85007, for the purpose of allowing the parties to present their arguments regarding Swing First Golf,  
20 LLC's Motion to Compel Discovery.

21 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
22 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
23 *pro hac vice*.

24 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
25 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
26 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
27 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
28 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the

1 Administrative Law Judge or the Commission.

2 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
3 Communications) continues to apply to this proceeding and shall remain in effect until the  
4 Commission's Decision in this matter is final and non-appealable.

5 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
6 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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

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10 DATED this 21<sup>st</sup> day of January, 2009.

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TEENA WOLFE  
ADMINISTRATIVE LAW JUDGE

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15 Copies of the foregoing mailed/delivered  
this 21<sup>st</sup> day of January, 2009 to:

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By:   
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Secretary to Teena Wolfe