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BEFORE THE ARIZONA CORPORATION COMMISSION

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KRISTIN K. MAYES, Chairman  
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AZ CORP COMMISSION  
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JUL 24 2009

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IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES, L.L.C., DBA JOHNSON 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

**BY THE COMMISSION:**

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

On April 23, 2009, a hearing on the application commenced as scheduled. Appearances were entered by Johnson, intervenors Swing First Golf, LLC (Swing First"), the Town of Florence ("Florence"), the Residential Utility Consumer Office ("RUCO"), and the Commission's Utilities Division ("Staff"). No members of the public appeared to provide public comment.

On April 27, 2009, the timeclock for processing this matter was suspended pending a ruling on the admissibility of a transcript introduced at the hearing on that date. A discovery and briefing schedule on the issue was set, and parties filed briefs on the issue.

On July 23, 2009, a procedural conference was convened for the purpose of taking oral argument as scheduled by procedural order issued June 30, 2009, and continued by procedural order issued July 20, 2009. Johnson, Swing First, RUCO and Staff appeared through counsel and provided oral argument regarding the admissibility of the transcript.

After oral argument was taken, the Administrative Law Judge ("ALJ") issued a preliminary ruling on admissibility of the transcript, which has not yet been moved into evidence. It was ruled that portions of the transcript may be admitted if offered for the purpose of impeachment; and that portions of the transcript may be admitted as direct evidence in regard to (1) customer service issues,

1 (2) billing issues, and (3) revenue issues. It was ruled that because allegations that Johnson attempted  
2 to drive Swing First out of business are not relevant to this rate case proceeding, the transcript would  
3 not be admissible in this proceeding for the purpose of supporting those allegations.

4 The parties also discussed procedural issues associated with resumption of the hearing. Staff  
5 indicated its intent to file, by July 28, 2009, supplemental surrebuttal testimony reflecting a change in  
6 its analysis on the Central Arizona Groundwater District assessment issue in this case. There was no  
7 objection. A suitable date for rejoinder testimony on that issue was discussed, with agreement  
8 reached on a deadline of August 8, 2009. The parties also discussed their general availability for  
9 resumption of the hearing.

10 Accordingly, the procedural schedule for resumption of the hearing in this matter should  
11 be set.

12 IT IS THEREFORE ORDERED that the **hearing** in this matter shall **reconvene** on  
13 **September 21, 2009, at 10:00 a.m., or as soon thereafter as practicable**, at the Commission's  
14 Phoenix offices, Hearing Room #1, 1200 West Washington, Phoenix, Arizona, 85007.

15 IT IS FURTHER ORDERED that **the Commission's Utilities Division** shall file **revised**  
16 **surrebuttal testimony** on the Central Arizona Groundwater District assessment issue on or before  
17 **July 28, 2009**.

18 IT IS FURTHER ORDERED that **rejoinder testimony** in response to the Utilities Division's  
19 revised surrebuttal testimony shall be filed on or before **August 8, 2009**.

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

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

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

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

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

9 DATED this 24<sup>th</sup> day of July, 2009.

11   
12 TEENA WOLFE  
13 ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed/delivered  
this 24<sup>th</sup> day of July, 2009 to:

15 Jeffrey W. Crockett, Esq.  
16 Bradley S. Carroll, Esq.  
17 Kristoffer P. Kiefer, Esq.  
18 SNELL & WILMER LLP  
19 One Arizona Center  
20 400 East Van Buren Street  
21 Phoenix, Arizona 85004  
22 Attorneys for Johnson Utilities, LLC

Janice Alward, Chief Counsel  
Nancy Scott, Staff Attorney  
Ayesha Vohra, Staff Attorney  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007-2927

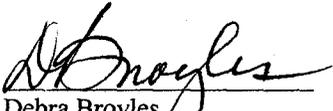
19 Craig A. Marks  
20 CRAIG A. MARKS, PLC  
21 10645 N. Tatum Blvd., Suite 200-676  
22 Phoenix, Arizona 85028  
23 Attorney for Swing First Golf, LLC

Ernest G. Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007-2927

23 Daniel Pozefsky, Chief Counsel  
24 RESIDENTIAL UTILITY  
25 CONSUMER OFFICE  
26 1110 West Washington Street, Suite 220  
27 Phoenix, AZ 85007-2958

ARIZONA REPORTING SERVICE, INC.  
2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004

26 James E. Mannato, Town Attorney  
27 TOWN OF FLORENCE  
28 775 North Main Street  
P.O. Box 2670  
Florence, AZ 85232-2670

By:   
Debra Broyles  
Secretary to Teena Wolfe