

OPEN MEETING



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ORIGINAL

MEMORANDUM

RECEIVED

TO: THE COMMISSION

FEB 11 P 3:46

FROM: Utilities Division

UTILITY DIVISION
WASTEWATER CONTROL

DATE: February 11, 2010

RE: IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES L.L.C. DBA JOHNSON UTILITIES COMPANY FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WASTEWATER SERVICE TO INCLUDE AN AREA ENCOMPASSING FOUR RESIDENTIAL DEVELOPMENTS KNOWN AS WAYNE RANCH, VINEYARD ESTATES, MILAGRO AND TAYLOR RANCH (DOCKET NO. WS-02987A-04-0889)

On December 14, 2004, Johnson Utilities Company ("Johnson" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide wastewater service.

On October 25, 2005, the Commission issued Decision No. 68236 which approved Johnson's application subject to the filing of certain compliance items. Pursuant to Decision No. 68236, Johnson was ordered to file a quarterly report on the status of the La Osa and Sonoran litigation as well as filing quarterly letters of bond confirmation evidencing the Company's maintenance of a \$500,000 performance bond, until further order of the Commission.

The performance bond requirement was issued as a means of protection against any potential detrimental impact on customers as a result of a judgment against Mr. Johnson and/or Johnson affiliates as it related to the La Osa and Sonoran litigation. Because this litigation is now closed, Johnson has requested that the Commission issue an Order which removes the quarterly status reports on the La Osa and Sonoran litigation, a release of the \$500,000 performance bond and the quarterly confirmation letter thereof.

Staff recommends that the Commission remove any further requirement of the Company to file quarterly reports on the status of the now concluded La Osa and Sonoran litigation. Staff further recommends the Commission release the \$500,000 performance bond and remove the quarterly confirmation letter filing.

Steven M. Olea
Director
Utilities Division

SMO:KDB:lhm\CH

ORIGINATOR: Kimberly D. Battista

Arizona Corporation Commission

DOCKETED

FEB 11 2010

DOCKETED BY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 KRISTIN K. MAYES
Chairman

3 GARY PIERCE
Commissioner

4 PAUL NEWMAN
Commissioner

5 SANDRA D. KENNEDY
Commissioner

6 BOB STUMP
Commissioner

7
8 IN THE MATTER OF THE APPLICATION)
OF JOHNSON UTILITIES L.L.C. DBA)
9 JOHNSON UTILITIES COMPANY FOR AN)
EXTENSION OF ITS CERTIFICATE OF)
10 CONVENIENCE AND NECESSITY FOR)
WASTEWATER SERVICE TO INCLUDE)
11 AN AREA ENCOMPASSING FOUR)
RESIDENTIAL DEVELOPMENTS KNOWN)
12 AS WAYNE RANCH, VINEYARD)
ESTATES, MILAGRO AND TAYLOR)
13 RANCH.)
14

DOCKET NO. WS-02987A-04-0889

11 DECISION NO. _____

15 Open Meeting
March 2 and 3, 2010
16 Phoenix, Arizona

17 FINDINGS OF FACT

18 1. On December 14, 2004, Johnson Utilities Company, L.L.C. ("Johnson" or
19 "Company") filed with the Arizona Corporation Commission ("Commission") an application for
20 an extension of its Certificate of Convenience and Necessity ("CC&N") to provide wastewater
21 service.

22 2. On October 25, 2005, the Commission issued Decision No. 68236 which approved
23 Johnson's application subject to the filing of certain compliance items.

24 3. Johnson has filed and Staff has confirmed all of the required compliance filings of
25 Decision No. 68236.

26 4. Pursuant to Decision No. 68236, Johnson was ordered to file a quarterly report on
27 the status of the La Osa and Sonoran litigation as well as filing quarterly letters of bond

28 ...

1 confirmation evidencing the Company's maintenance of a \$500,000 performance bond, until
2 further order of the Commission.

3 5. The performance bond requirement was issued as a means of protection against any
4 potential detrimental impact on customers as a result of a judgment against Mr. Johnson and/or
5 Johnson affiliates as it related to the La Osa and Sonoran litigation.

6 6. Johnson has requested that the Commission issue an Order which removes the
7 quarterly status reports on the La Osa and Sonoran litigation, a release of the \$500,000
8 performance bond and the quarterly confirmation letter thereof.

9 7. Staff has confirmed that the "La Osa Litigation" (State of Arizona v. Johnson, Case
10 No. CV2005-002692) was dismissed with prejudice against the various defendants, following
11 settlement, on January 14, 2008 and March 20, 2008. Also, the "Sonoran Litigation" (Lennar
12 Communities v. Sonoran Utilities, Case No. CV2005-002548) was dismissed with prejudice on
13 March 13, 2009.

14 8. Staff recommends that because the litigation has been dismissed that the
15 Commission remove any further requirement of the Company to file quarterly reports on the status
16 of the now concluded La Osa and Sonoran litigation. Staff further recommends the Commission
17 release the \$500,000 performance bond and remove the quarterly confirmation letter filing.

18 CONCLUSIONS OF LAW

19 1. Johnson is a public service corporation within the meaning of Article XV of the
20 Arizona Constitution and Arizona Revised Statutes §§ 40-281, 40-282 and 40-285.

21 2. The Commission has jurisdiction over Johnson and the subject matter of the
22 application.

23 3. Staff's recommendations are just and reasonable and should be adopted.

24 ORDER

25 IT IS THEREFORE ORDERED that the quarterly status reports on the La Osa and
26 Sonoran litigation as required by Decision No. 68236 are removed.

27 IT IS THEREFORE ORDERED that the \$500,000 performance bond posted by Johnson
28 Utilities Company, L.L.C. as required by Decision No. 68236 is hereby released.

1 IT IS THEREFORE ORDERED that the quarterly confirmation letter of the Performance
2 Bond as required by Decision No. 68236 is removed.

3 IT IS FURTHER ORDERED that all other requirements of Decision No. 68236 shall
4 remain in effect.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6
7 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

8
9 _____
10 CHAIRMAN

COMMISSIONER

11
12 _____
13 COMMISSIONER

COMMISSIONER

COMMISSIONER

14 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
15 Executive Director of the Arizona Corporation Commission,
16 have hereunto, set my hand and caused the official seal of
17 this Commission to be affixed at the Capitol, in the City of
18 Phoenix, this ____ day of _____, 2010.

19 _____
20 ERNEST G. JOHNSON
21 EXECUTIVE DIRECTOR

22 DISSENT: _____

23 DISSENT: _____

24 EGJ:KDB:lh\CH
25
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1 SERVICE LIST FOR: JOHNSON UTILITIES COMPANY
2 DOCKET NO.: WS-02987A-04-0889

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13 Ms. Janice M. Alward
14 Chief, Legal Division
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