

OPEN MEETING



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ORIGINAL

MEMORANDUM

RECEIVED

TO: THE COMMISSION

FROM: Utilities Division

DATE: April 16, 2010

RE: IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER AND WASTEWATER SERVICE (DOCKET NO. WS-02987A-05-0088)

2010 APR 16 P 12: 54

AZ CORP COMMISSION
DOCKET CONTROL

On February 11, 2005, 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 water and wastewater service.

On October 25, 2005, the Commission issued Decision No. 68235 which approved Johnson's application subject to the filing of certain compliance items. Pursuant to Decision No. 68235, 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, and 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

ORIGINATOR: Kimberly D. Battista

Arizona Corporation Commission

DOCKETED

APR 16 2010

DOCKETED BY	MM
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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)
9 OF JOHNSON UTILITIES COMPANY FOR)
10 AN EXTENSION OF ITS CERTIFICATE OF)
11 CONVENIENCE AND NECESSITY FOR)
12 WATER AND WASTEWATER SERVICE)

DOCKET NO. WS-02987A-05-0088

DECISION NO. _____

13 Open Meeting
14 May 26 and 27, 2010
Phoenix, Arizona

15 PROCEDURAL HISTORY

16 On February 11, 2005, Johnson Utilities Company ("Johnson" or "Company") filed with
17 the Arizona Corporation Commission ("Commission") an application for an extension of its
18 Certificate of Convenience and Necessity ("CC&N") to provide water and wastewater service.

19 On October 25, 2005, the Commission issued Decision No. 68235 which approved
20 Johnson's application subject to the filing of certain compliance items.

21 Johnson has filed and Staff has confirmed all of the required compliance filings of Decision
22 No. 68235.

23 Pursuant to Decision No. 68235, Johnson was ordered to file a quarterly report on the
24 status of the La Osa and Sonoran litigation as well as filing quarterly letters of bond confirmation
25 evidencing the Company's maintenance of a \$500,000 performance bond, until further order of the
26 Commission.

27 ...

28 ...

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

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

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

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

16 CONCLUSIONS OF LAW

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

19 2. The Commission has jurisdiction over Johnson and the subject matter of the
20 application.

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

22 ORDER

23 IT IS THEREFORE ORDERED that the filing of quarterly status reports on the La Osa
24 and Sonoran litigation as required by Decision No. 68235 is removed.

25 IT IS FURTHER ORDERED that the \$500,000 performance bond posted by Johnson
26 Utilities Company, L.L.C. as required by Decision No. 68235 is hereby released.

27 IT IS FURTHER ORDERED that the filing of quarterly confirmation letters of the
28 Performance Bond as required by Decision No. 68235 is removed.

1 IT IS FURTHER ORDERED that all other requirements of Decision No. 68235 shall
2 remain in effect.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.
4

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

7 _____
CHAIRMAN

COMMISSIONER

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9
10 _____
COMMISSIONER

COMMISSIONER

COMMISSIONER

11
12 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto, set my hand and caused the official seal of
15 this Commission to be affixed at the Capitol, in the City of
16 Phoenix, this ____ day of _____, 2010.

17 _____
18 ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

19
20 DISSENT: _____

21 DISSENT: _____
22

23 EGJ:KDB:lh
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27
28

1 SERVICE LIST FOR: JOHNSON UTILITIES COMPANY
2 DOCKET NO.: WS-02987A-05-0088

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9 Arizona Corporation Commission
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12 Ms. Janice M. Alward
13 Chief, Legal Division
14 Arizona Corporation Commission
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