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Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES L.L.C. D/B/A
JOHNSON UTILITIES COMPANY FOR
AN EXTENSION OF ITS EXISTING
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR WATER AND
WASTEWATER SERVICE.

DOCKET NO.: WS-02987A-04-0288

**REQUEST TO MODIFY DECISION
NO. 68237 TO AUTHORIZE RELEASE
OF PERFORMANCE BOND AND TO
TERMINATE CERTAIN REPORTING
REQUIREMENTS AND
RESTRICTIONS**

Snell & Wilmer

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On October 25, 2005, the Arizona Corporation Commission (the "Commission") issued Decision No. 68237 approving the application of Johnson Utilities LLC ("Johnson Utilities" or the "Company") to extend its Certificate of Convenience and Necessity ("CC&N") to provide water and wastewater service. Pursuant to Decision No. 68237, Johnson Utilities was ordered to file quarterly reports (the "Quarterly Reports") on the status of: (i) litigation in Maricopa County Superior Court Case No. CV2005-002692 (the "La Osa Litigation"); and (ii) litigation in Maricopa County Superior Court Case No. CV2005-002548 (the "Sonoran Utility Services Litigation").¹ In addition, Decision No. 68237 required the Company to procure a \$500,000 performance bond (subject to increase to \$1,000,000) to remain in place until further order of the Commission (the "Performance Bond"), and to file evidence of the maintenance of that bond by a quarterly

¹ Decision No. 68237 notes that Johnson Utilities was not a party in either the Las Osa Litigation or the Sonoran Utility Services Litigation. Decision No. 68237 ¶¶ 44, 45.

1 letter of bond maintenance. In addition, Decision No. 68237 imposed additional
2 affiliated interests reporting requirements on Johnson Utilities as a result of the La Osa
3 Litigation and the Sonoran Utility Services Litigation.² Specifically, the Company was
4 required to make filings every six months with Staff which:

- 5 • Provide the dollar amount transferred between Johnson Utilities and
6 each of the defendants in the La Osa Litigation and the Sonoran
7 Utility Services Litigation and the purpose of each transfer; and
- 8 • Provide copies of contracts or agreements to receive, or provide
9 management, engineering, accounting, legal, financial or other
10 similar services between Johnson Utilities and any of the defendants
11 in the La Osa Litigation and the Sonoran Utility Services Litigation.

12 In addition to these requirements, Johnson Utilities was bound by the following
13 restrictions:

- 14 • Any transactions between Johnson Utilities and any of the
15 defendants in the La Osa Litigation and/or the Sonoran Utility
16 Services Litigation would be subject to Commission scrutiny,
17 including allowing Staff to see books and records of Johnson
18 Utilities and/or the defendant with whom business was transacted;
- 19 • Johnson Utilities will not obtain a financial interest in any of the
20 defendants in the La Osa Litigation and/or the Sonoran Utility
21 Services Litigation or make any loans to, or guarantees for, any of
22 the defendants without prior Commission approval; and
- 23 • Johnson Utilities will not make any dividend payments if such
24 payments would have the effect of impairing its financial status,
25 prevent it from attracting capital at fair and reasonable terms or
26 impair Johnson's ability to provide safe, reasonable and adequate
service.

² Staff's recommended conditions in the case referred only to the La Osa Litigation. However, the Commission expanded Staff's recommended conditions to apply to the Sonoran Utility Services Litigation in its Findings of Fact. See Decision No. 68237 ¶ 47 lines 9-11.

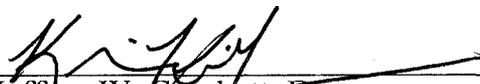
1 Pursuant to a memorandum dated April 16, 2010 and filed in this Docket, Utilities
2 Division Staff (“Staff”) confirmed that the Las Osa Litigation and the Sonoran Utility
3 Services Litigation have been dismissed with prejudice. As a result, Staff recommended
4 that because those cases have been dismissed: (i) the Commission should remove any
5 further requirement that Johnson Utilities file the Quarterly Reports; and (ii) the
6 Commission should release the Performance Bond and remove the associated
7 requirement that Johnson Utilities make a quarterly bond confirmation letter filing.
8 Johnson Utilities urges the Commission to adopt Staff’s recommendation, and hereby
9 requests that the Commission issue its order in this docket modifying Decision No. 68237
10 to expressly eliminate the Quarterly Report and Performance Bond requirements, as well
11 as the associated quarterly confirmation letter filing requirement.

12 Further, given that: (i) the additional reporting and filing requirements of Decision
13 No. 68237 were adopted in response to the Commission’s concerns regarding the La Osa
14 Litigation and the Sonoran Utility Services Litigation; (ii) the two cases did not involve
15 Johnson Utilities as a party; and (iii) the two cases have both been dismissed with
16 prejudice, Johnson Utilities submits that the additional reporting and filing requirements
17 and restrictions described above should now be released. Specifically, the Company
18 requests that it be released from the requirement that it make affiliated interests filings
19 every six months as set forth in Decision No. 68237 ¶ 46.i.(v)-(vi) [page 11, lines 10-17],
20 and page 14, lines 26-28. In addition, the Company requests that it be released from any
21 of the restrictions identified in Decision No. 68237 that go beyond the conditions
22 contained in the Commission’s affiliated interests rules found at A.A.C. R14-2-801 *et*
23 *seq.* (“Affiliated Interests Rules”). These restrictions are found in Decision No. 68237 at
24 ¶ 46.j.(i)-(iii) [pages 11-12], and page 14, lines 26-28. Johnson Utilities fully complies
25 with the requirements of the Commission’s Affiliated Interests Rules, and there is no
26

1 reason to require additional reports or to expand the scope of the rules with respect to the
2 Company.

3 RESPECTFULLY SUBMITTED this 3rd day of May, 2010.

4 SNELL & WILMER L.L.P.

5
6 By 
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10 ORIGINAL and 13 copies of the foregoing hand-
delivered this 3rd day of May, 2010, to:

11 Docket Control
12 ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
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14 COPIES of the foregoing hand-delivered this
3rd day of May, 2010, to:

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