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BEFORE THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN
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WILLIAM A. MUNDELL
COMMISSIONER

AUG 24 2000

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
H2O, INC., FOR AN EXTENSION OF ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-02234A-00-0371

IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES, L.L.C., DBA JOHNSON
UTILITIES COMPANY FOR AN EXTENSION
FOR ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE WATER AND
WASTEWATER SERVICE TO THE PUBLIC IN
THE DESCRIBED AREA IN PINAL COUNTY,
ARIZONA.

DOCKET NO. W-02987A-99-0583

PROCEDURAL ORDER

BY THE COMMISSION:

On October 18, 1999, Johnson Utilities Company ("Johnson") filed an Application to extend its existing Certificate of Convenience and Necessity ("CC&N") for water and wastewater services ("Application") with the Arizona Corporation Commission ("Commission").

On November 1, 1999, Johnson filed an Amended Application. On January 21, 2000, Johnson filed a letter acknowledging that Johnson waives the requirement of A.A.C. Rule 14-2-411(c) relating to the processing of the Application.

On June 15, 2000, Johnson filed a Second Amended Application revising the requested expansion area.

On July 5, 2000, Johnson filed a Third Amended Application again revising the requested expansion area stating that Johnson has received several additional requests from other property owners to include their properties within its service area ("J-Application").

On May 30, 2000, H2O, Inc. ("H2O") filed an Application for an Extension of its Existing CC&N ("H-Application").

Our August 23, 2000 Procedural Order consolidated the above-referenced applications.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern

1 the preparation and conduct of this proceeding.

2 IT IS THEREFORE ORDERED that a hearing shall commence on October 5, 2000 at 11:00
3 a.m., or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street,
4 Phoenix, Arizona 85007.

5 IT IS FURTHER ORDERED that a pre-hearing conference shall be held on October 2, 2000
6 at 1:30 p.m., at the Commission's office in Phoenix, Arizona for the purpose of discussing the
7 scheduling of witnesses and the conduct of the hearing.

8 IT IS FURTHER ORDERED that the Staff Report and associated exhibits to be presented at
9 hearing on behalf of Staff shall be reduced to writing and filed on or before 4:00 p.m. on September
10 12, 2000.

11 IT IS FURTHER ORDERED that any direct testimony and associated exhibits to be presented
12 at hearing on behalf of Intervenors shall be reduced to writing and filed on or before 4:00 p.m. on
13 September 20, 2000.

14 IT IS FURTHER ORDERED that any rebuttal testimony and associated exhibits to be
15 presented at hearing by Applicants shall be reduced to writing and filed on or before 4:00 p.m. on
16 September 26, 2000.

17 IT IS FURTHER ORDERED that any surrebuttal and rejoinder testimony may be presented
18 orally at hearing.

19 IT IS FURTHER ORDERED that any objections to any testimony or exhibits, which have
20 been prefiled as of September 26, 2000, shall be made on or before September 29, 2000.

21 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
22 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is
23 scheduled to testify.

24 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
25 pre-filed testimony of each of their witnesses and shall file each summary at least two working days
26 before the witness is scheduled to testify.¹

27 _____
28 ¹ These summaries are for the administrative convenience of the Commission at hearing and will not
become evidence in the case. Oral summaries will not be taken at hearing.

1 IT IS FURTHER ORDERED that copies of summaries should be served upon the Presiding
2 Officer, the Commissioners, and the Commissioners' aides as well as the parties of record.

3 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
4 except that all motions to intervene must be filed on or before September 20, 2000.

5 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
6 regulations of the Commission, except that: any objection to discovery requests shall be made within
7 three days² of receipt; responses to discovery requests shall be made within five days of receipt; the
8 response time may be extended by mutual agreement of the parties involved if the request requires an
9 extensive compilation effort; and no discovery requests shall be served after September 27, 2000.

10 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
11 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
12 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
13 request, a procedural hearing will be convened as soon as practicable; and that the party making such
14 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
15 hearing provide a statement confirming that the other parties were contacted.³

16 IT IS FURTHER ORDERED that Applicants shall provide public notice of the hearing in this
17 matter, in the following form and style, with the hearing in no less than 24 point bold type and the
18 body in no less than 10 point regular type:

19 **PUBLIC NOTICE OF THE HEARING FOR**
20 **JOHNSON UTILITIES COMPANY AND**
21 **H2O, INC. FOR EXTENSION OF THEIR**
CERTIFICATES OF CONVENIENCE AND NECESSITY.

22 On October 18, 1999, Johnson Utilities Company ("Johnson") filed an Application
23 for an extension of its water and wastewater Certificate of Convenience and Necessity
with a third amended application filed on July 5, 2000.

24 On May 30, 2000, H2O, Inc. filed an Application for an extension of its water
Certificate of Convenience and Necessity.

25 Portions of these two Applications are substantially similar and have been
26 consolidated for purposes of testimony and hearing.

27 ² All reference to "days" is to calendar days.

28 ³ The parties are encouraged to attempt to settle discovery disputes through informal, good faith
negotiations before seeking Commission resolution of the controversy.

1 The Commission will hold a hearing on these matters commencing on October 5,
2 2000, at 11:00 a.m. at the Commission's offices, 1200 West Washington Street,
3 Phoenix, Arizona. Public comments will also be taken at the hearing.

4 The law provides for an open public hearing at which, under appropriate
5 circumstances, interested parties may intervene. Intervention shall be permitted to
6 any person entitled by law to intervene and having a direct and substantial interest in
7 the matter. Persons desiring to intervene must file a written motion to intervene with
8 the Commission, which motion should be sent to Applicants or its counsel and to all
9 parties of record, and which, at the minimum, shall contain the following:

- 10 1. The name, address, and telephone number of the proposed intervenor and of
11 any party upon whom service of documents is to be made if different than the
12 intervenor.
- 13 2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,
14 a customer of Applicants, a shareholder of Applicants, a competitor, etc.).
- 15 3. A statement certifying that a copy of the motion to intervene has been mailed
16 to the Company or its counsel and to all parties of record in the case.

17 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
18 that all motions to intervene must be filed on or before September 20, 2000. The
19 granting of intervention, among other things, entitles a party to present sworn
20 evidence at hearing and to cross-examine other witnesses. However, failure to
21 intervene will not preclude any customer from appearing at the hearing and making a
22 statement on such customer's own behalf.

23 The Commission does not discriminate on the basis of disability in admission to its
24 public meetings. Persons with a disability may request a reasonable accommodation
25 such as a sign language interpreter, as well as request this document in an alternative
26 format, by contacting Cynthia Mercurio-Sandoval, ADA Coordinator, voice phone
27 number 602/542-0838, E-mail *csandoval@cc.state.az.us*. Requests should be made
28 as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that each Applicant shall mail by first-class U.S. Mail the above
notice to their customers and property owners within each Applicant's proposed extension areas as
set forth in their respective Applications with mailing to be completed by September 8, 2000.

IT IS FURTHER ORDERED that Johnson Utilities Company and H2O, Inc. shall file
certification of mailing as soon as practicable after the notification has been completed.

IT IS FURTHER ORDERED that notice shall be deemed complete upon publication of same,
notwithstanding the failure of an individual customer to read or receive the notice.

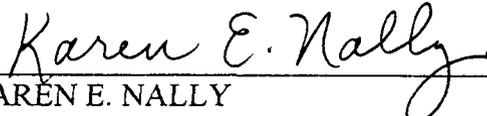
IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
Communications) applies to this proceeding as the matter is now set for public hearing.

...

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1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 24th day of August, 2000.

4
5 
6 KAREN E. NALLY
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

8
9 Copies of the foregoing mailed/delivered
10 this 24th day of August, 2000 to:

11 Thomas H. Campbell
12 Gregory Y. Harris
13 LEWIS & ROCA
14 40 N. Central Avenue
15 Phoenix, Arizona 85004
16 Attorneys for Johnson Utilities Company

17 Richard L. Sallquist
18 SALLQUIST & DRUMMOND
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26 Attorneys for H₂O, Inc.

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28 ARIZONA CORPORATION COMMISSION
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Phoenix, Arizona 85007

Deborah R. Scott
Utilities Division Director
ARIZONA CORPORATION COMMISSION
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Phoenix, Arizona 85007

1 Arizona Reporting Service, Inc.
2 2627 N. Third Street, Suite Three
3 Phoenix, Arizona 85004-1103

4 By: 
5 Debbi Person
6 Secretary to Karen E. Nally
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