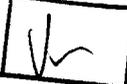


Arizona Corporation Commission
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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

1 IN THE MATTER OF THE APPLICATION)
2 OF H2O, INC., FOR AN EXTENSION)
3 OF ITS EXISTING CERTIFICATE OF)
4 CONVENIENCE AND NECESSITY)

Docket No: WS-02234A-00-0371

8 IN THE MATTER OF THE APPLICATION)
9 OF JOHNSON UTILITIES, L.L.C. DBA)
10 JOHNSON UTILITIES COMPANY FOR AN)
11 EXTENSION FOR ITS CERTIFICATE OF)
12 CONVENIENCE AND NECESSITY TO)
13 PROVIDE WATER AND WASTEWATER)
14 SERVICE TO THE PUBLIC IN THE)
15 DESCRIBED AREA IN PINAL COUNTY,)
16 ARIZONA)

Docket No: WS-02987A-99-0583

Docket No: WS-02987A-00-0618

**JOHNSON UTILITIES' OBJECTION TO
DIVERSIFIED WATER UTILITIES' MOTION TO
CONTINUE HEARINGS**

16 Johnson Utilities LLC ("Johnson Utilities") objects to Diversified Water Utilities
17 ("Diversified") motion to continue the hearing scheduled for October 19, 2000.

18 Diversified's belated request for continuance should be denied for the following reasons:

- 19
- 20 1. The best interests of the potential customers in the extension areas would be
21 advanced by permitting the hearing to proceed as scheduled in order to permit a
22 certificated water and wastewater company to be available to serve them as soon as
23 possible. Some owners want to begin development in late 2000 or early 2001, a result that
24 would not be possible if this matter were to be continued as requested by Diversified.
25
26

1 2. Johnson Utilities' application to extend its certificate is a public filing.
2
3 Thus, Diversified received constructive notice as early as October 1999 of the pendency of
4 these proceedings. Significantly, Johnson Utilities did not have the obligation to provide
5 notice of these proceedings to customers and potential customers until September 22, 2000
6 and faced no obligation to provide the now sought-after notice to Diversified or any other
7 utility. Before that time, Johnson Utilities' applications and amendments, as well as H2O
8 applications, have been on the public record for months. In addition, Johnson Utilities
9 published notice of its application in Pinal County on July 17, 2000 in the *Casa Grande*
10 *Dispatch*. No Diversified due process rights will be violated by proceeding with the
11 October 19 hearing.

13 3. With respect to the "uncontested proceeding," Diversified only has
14 expressed an interest in one parcel (Parcel 2 – Bella Vista Farms). The remaining
15 landowners in the uncontested proceeding would be unfairly prejudiced by having the
16 hearing postponed because of Diversified's belated expression of an interest in Bella Vista
17 Farms. Moreover, Bella Vista Farms has requested service from Johnson Utilities, not
18 Diversified.
19

20 4. In the contested proceeding, most landowners have expressed a preference
21 for Johnson Utilities. Diversified vaguely alleges that it has "received requests and
22 inquiries regarding providing service" but provides no letters or documentation to support
23 that claim. Diversified's unsupported assertion should not be viewed as sufficient to
24 support its continuance request.
25
26

1 5. With respect to both the contested and uncontested proceedings, Diversified
2 only seeks to provide water service, not wastewater service. Landowners who seek both
3 water and wastewater service should not be unfairly prejudiced by the delay of these
4 proceedings due to Diversified's request to provide water service only.
5

6 6. Diversified's "application" to provide water service is insufficient and does
7 not even begin to comply with Commission rules and regulations.
8

9 7. If Diversified was interested in serving the areas set forth in its request for a
10 continuance and had legitimate requests for service, nothing prevented Diversified from
11 having filed a complete application months ago, well in advance of the October 19
12 hearing.
13

14 8. Queen Creek Water Company has similarly sought to intervene in this
15 proceeding, yet it did not request a continuance. Clearly, even late-intervening parties can
16 be prepared to participate in the hearing without a continuance. Queen Creek proved able
17 to prepare pre-filed testimony in a timely fashion, even though its intervention application
18 was filed after Diversified. Diversified should be held to the same standard.¹
19

20 9. Johnson Utilities does not object to Diversified's motion for intervention so
21 long as it does not delay the proceeding or expand the scope of the proceeding. A properly
22 limited intervention will allow Diversified to appear at the hearing, make arguments and
23
24
25

26 ¹ Diversified subsequently filed a Notice of Intent to Testify and Request for Waiver.
That Notice and Request should be denied for the same reasons set forth in this objection.

1 examine witnesses. Thus, it will have the opportunity to try to persuade the Commission
2 that it should not grant a certificate to Johnson Utilities (or H2O).

3 Johnson Utilities respectfully requests that Diversified's last minute attempt to
4 delay the October 19 hearing be denied.
5

6 RESPECTFULLY SUBMITTED this 5th day of October, 2000.

7 LEWIS AND ROCA LLP

8
9
10 

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

16 Original and ten (10) copies of
17 the foregoing hand-delivered
18 this 5th day of October, 2000, to:

19 The Arizona Corporation Commission
20 Docket Control
21 1200 W. Washington Street
22 Phoenix, Arizona 85007

23 Copy of the foregoing hand-delivered
24 this 5th day of October, 2000, to:

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11 Copy of the foregoing mailed this
12 5th day of October, 2000, to:

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23
24
25
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