

ORIGINAL  
OPEN MEETING



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MEMORANDUM

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Arizona Corporation Commission

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JUN 28 2011

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

TO: THE COMMISSON

FROM: Utilities Division

DATE: June 28, 2011

RE: JOHNSON UTILITIES, L.L.C. DBA JOHNSON UTILITIES COMPANY -  
EXTENSION OF ITS SEWER CERTIFICATE OF CONVENIENCE AND  
NECESSITY IN PINAL COUNTY, ARIZONA (DOCKET NO. WS-02987A-07-  
0487- AMEND DECISION NO. 70849)

**Introduction**

In Decision No. 70849, dated March 17, 2009, the Arizona Corporation Commission ("Commission") granted extensions of Johnson Utilities, L.L.C. dba Johnson Utilities Company's ("Johnson" or "Company") wastewater Certificates of Convenience and Necessity ("CC&N") with conditions. Specifically, the Decision contained the following ordering paragraphs:

- IT IS FURTHER ORDERED that Johnson Utility L.L.C. shall file by December 31, 2009, with Docket Control, as a compliance item in this docket, documentation from the Arizona Department of Environmental Quality demonstrating that Johnson Utility L.L.C.'s Pecan Water Reclamation Plant (ADEQ Inventory #105324) is in full compliance and that the Notice of Violations issued on March 4, 2008, and June 5, 2008, have been closed.
- IT IS FURTHER ORDERED that if Johnson Utility L.L.C. fails to meet the above timeframe, the Utilities Division Staff shall file a pleading requesting the Commission to order Johnson Utility L.L.C. to appear and show cause why the conditional extension of its wastewater Certificate of Convenience and Necessity granted herein, should not be considered null and void.
- IT IS FURTHER ORDERED that if Johnson Utility L.L.C. achieves full compliance with the Arizona Department of Environmental Quality for its Pecan Water Reclamation Plant (ADEQ Inventory #105324) on or before December 31, 2009, the extension of Johnson Utility L.L.C.'s wastewater Certificate of Convenience shall become effective on the first day of the month following Johnson Utility L.L.C.'s filing with Docket Control proof of its compliance and the Utilities Division Staff's confirmation of such compliance with Docket Control.

### **Discussion**

On May 6, 2011, Johnson filed a "Petition To Amend Decision 70849 Pursuant to A.R.S. §40-252" requesting an order that removes the requirement that Johnson file documentation from the Arizona Department of Environmental Quality ("ADEQ") that the Notice of Violations ("NOVs") issued by ADEQ on March 4, 2008 and June 5, 2008 for Johnson's Pecan Water Reclamation Plant ("PWRP") have been closed. Alternatively, Johnson requests that the Commission issue its order that the foregoing requirement has been deemed satisfied by the Company, based upon the documented actions taken by the Company in compliance with the NOVs.

At a Commission Staff Meeting on June 21, 2011, the Commission approved the Company's request for reconsideration of Decision No. 70849 and requested Staff to prepare a recommended order for the July 12 and 13, 2011 Open Meeting.

As part of Johnson's May 6, 2011 filing, Johnson described how it worked closely with ADEQ to fully comply with the two NOVs for more than two years. Johnson also provided numerous documentations showing its compliance with the NOVs and how Johnson fulfilled all requirements contained in the NOVs. Johnson stated that ADEQ has never notified Johnson of any deficiency in the reported responses or actions taken by Johnson to comply with the NOVs, nor has ADEQ ever rebutted any of Johnson's statements that it fulfilled all requirements contained in the NOVs.

Staff has reviewed Johnson's May 6, 2011 filing and noted one particular document, Attachment 6 – ADEQ Inspection of Pecan Water Reclamation Plant, dated March 9, 2011, stating that the PWRP was in full compliance.

Due to the fact that ADEQ's latest inspection report states that the PWRP is in full compliance, Staff believes that Johnson has complied with the intent of Decision No. 70849.

### **Conclusion/Recommendation**

Staff concludes that Johnson has taken actions to bring the PWRP into full compliance with ADEQ and has therefore met the intent of Decision No. 70849.

THE COMMISSION

June 28, 2011

Page 2

Staff recommends that Johnson be considered to have complied with the three ordering paragraphs of Decision No. 70849 listed on page 1 of this memorandum.

*for*   
Steven M. Olea  
Director  
Utilities Division

SMO:MSJ:lhms\MAS

Originator: Marlin Scott, Jr.

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BEFORE THE ARIZONA CORPORATION COMMISSION

GARY PIERCE  
Chairman  
BOB STUMP  
Commissioner  
SANDRA D. KENNEDY  
Commissioner  
PAUL NEWMAN  
Commissioner  
BRENDA BURNS  
Commissioner

IN THE MATTER OF JOHNSON UTILITIES, )  
L.L.C. dba JOHNSON UTILITIES COMPANY )  
FOR AN EXTENSION OF ITS SEWER )  
CERTIFICATE OF CONVENIENCE AND )  
NEXESSITY IN PINAL COUNTY, ARIZONA. )

DOCKET NO. WS-02987A-07-0487  
DECISION NO. \_\_\_\_\_  
ORDER  
AMEND DECISION NO. 70849

Open Meeting  
July 12 and 13, 2010  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Johnson Utilities, L.L.C. dba Johnson Utilities Company (“Johnson” or “Company”) is engaged in providing water and wastewater services within portions of Arizona, pursuant to authority granted by the Arizona Corporation Commission (“Commission”).

2. In Decision No. 70849, dated March 17, 2009, the Commission granted extensions of Johnson’s wastewater Certificates of Convenience and Necessity (“CC&N”) with conditions. Specifically, the Decision contained the following ordering paragraphs:

- IT IS FURTHER ORDERED that Johnson Utility L.L.C. shall file by December 31, 2009, with Docket Control, as a compliance item in this docket, documentation from the Arizona Department of Environmental Quality demonstrating that Johnson Utility L.L.C.’s Pecan Water Reclamation Plant (ADEQ Inventory #105324) is in full compliance and that the Notice of Violations issued on March 4, 2008, and June 5, 2008, have been closed.
- IT IS FURTHER ORDERED that if Johnson Utility L.L.C. fails to meet the above timeframe, the Utilities Division Staff shall file a pleading requesting the Commission

1 to order Johnson Utility L.L.C. to appear and show cause why the conditional extension  
2 of its wastewater Certificate of Convenience and Necessity granted herein, should not  
3 be considered null and void.

- 4 • IT IS FURTHER ORDERED that if Johnson Utility L.L.C. achieves full compliance  
5 with the Arizona Department of Environmental Quality for its Pecan Water  
6 Reclamation Plant (ADEQ Inventory #105324) on or before December 31, 2009, the  
7 extension of Johnson Utility L.L.C.'s wastewater Certificate of Convenience shall  
8 become effective on the first day of the month following Johnson Utility L.L.C.'s filing  
9 with Docket Control proof of its compliance and the Utilities Division Staff's  
10 confirmation of such compliance with Docket Control.

11 3. On May 6, 2011, Johnson filed a "Petition To Amend Decision 70849 Pursuant to  
12 A.R.S. §40-252" requesting an order that removes the requirement that Johnson file documentation  
13 from the Arizona Department of Environmental Quality ("ADEQ") that the Notice of Violations  
14 ("NOVs") issued by ADEQ on March 4, 2008 and June 5, 2008 for Johnson's Pecan Water  
15 Reclamation Plant ("PWRP") have been closed. Alternatively, Johnson requests that the  
16 Commission issue its order that the foregoing requirement has been deemed satisfied by the  
17 Company, based upon the documented actions taken by the Company in compliance with the  
18 NOVs.

19 4. At a Commission Staff Meeting on June 21, 2011, the Commission approved the  
20 Company's request for reconsideration of Decision No. 70849 and requested Staff to prepare a  
21 recommended order for the July 12 and 13, 2011 Open Meeting.

22 5. As part of Johnson's May 6, 2011 filing, Johnson described how it worked closely  
23 with ADEQ to fully comply with the two NOVs for more than two years. Johnson also provided  
24 numerous documentations showing its compliance with the NOVs and how Johnson fulfilled all  
25 requirements contained in the NOVs. Johnson stated that ADEQ has never notified Johnson of  
26 any deficiency in the reported responses or actions taken by Johnson to comply with the NOVs,  
27 nor has ADEQ ever rebutted any of Johnson's statements that it fulfilled all requirements  
28 contained in the NOVs.

29 6. Staff has reviewed Johnson's May 6, 2011 filing and noted one particular  
30 document, Attachment 6 – ADEQ Inspection of Pecan Water Reclamation Plant, dated March 9,  
31 2011, stating that the PWRP was in full compliance.



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*become effective on the first day of the month following Johnson Utility L.L.C.'s filing with Docket Control proof of its compliance and the Utilities Division Staff's confirmation of such compliance with Docket Control.*

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

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

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO:MSJ:lh\MAS

1 SERVICE LIST FOR: Johnson Utilities, L.L.C. dba Johnson Utilities Company  
2 DOCKET NO. WS-02987A-07-0487

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