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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

GARY PIERCE, CHAIRMAN
BOB STUMP
PAUL NEWMAN
SANDRA D. KENNEDY
BRENDA BURNS

SEP 15 2011

DOCKETED BY	ne
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IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES, LLC, DBA JOHNSON
UTILITIES COMPANY FOR AN INCREASE IN
ITS WATER AND WASTEWATER RATES FOR
CUSTOMERS WITHIN PINAL COUNTY,
ARIZONA.

DOCKET NO. WS-02987A-08-0180

DECISION NO. 72579

ORDER AMENDING
DECISION NO. 71854

Open Meeting
September 6, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Johnson Utilities LLC ("Johnson Utilities" or "Company") is engaged in providing water and waste water service within Pinal County, Arizona.
2. Johnson Utilities current rates were approved in Decision No. 71854 entered August 25, 2010.
3. On February 28, 2011, Johnson Utilities filed with the Arizona Corporation Commission ("Commission") a Petition to Amend Decision No. 71854 pursuant to A.R.S § 40-252.
4. Johnson Utilities' Petition to Amend requested that the Commission modify Decision No. 71854 in the following manner:
 - a. Change the \$40 per month late fee in the Company's wastewater division tariff to a late fee of 1.5% per month on the unpaid account balance, consistent with the Company's water division tariff.
 - b. Add back into rate base wastewater division plant of \$18,244,755 which was

- 1 disallowed in the rate case. This sum includes the addition back into rate base
2 the \$10,892,391 disallowance for inadequately supported plant cost and the
3 \$7,352,364 disallowance related to affiliate profit.
- 4 c. Remove from the water division rate base \$6,931,078 in unexpended test year
5 hook-up fees.
- 6 d. Reinstate the Company's previously authorized hook-up fees for new water and
7 wastewater divisions' connections.
- 8 e. Establish a rate of return for the Company based upon its weighted average
9 cost of capital in the range of 8.18% to 11.89%.
- 10 f. Reclassify \$2,201,386 of wastewater plant identified as post test year plant to
11 test year plant-in-service.
- 12 g. Include in plant-in-service post test-year wastewater plant at \$1,021,108,
13 which the Company alleges is necessary to serve the test year-end level of
14 customers.
- 15 h. Include explicit language for Johnson Utilities to request income tax expense
16 prospectively in a future A.R.S. § 40-252 Petition if the Commission changes
17 its policy on imputed income tax expense.
- 18 5. At its July 12, 2011 Open Meeting, the Commission voted to reopen Decision No.
19 71854, and directed the Company to notice its customers concerning: (a) the rate impacts of granting
20 the relief requested, (b) a public comment session in Pinal County, and (c) the August 11, 2011 Open
21 Meeting at which the Commission would consider the Company's request for relief.
- 22 6. Johnson Utilities noticed its customers as directed by the Commission and filed proof
23 of notice in the docket.
- 24 7. On July 26, 2011, Johnson Utilities filed an Amendment to Petition to Amend
25 Decision No. 71854. The amendment modified its Petition to Amend to request a rate of return based
26 upon a weighted average cost of capital of 8.0%.
- 27 8. On August 4, 2011, Chairman Pierce mailed and docketed a letter to the parties
28 requesting proposed amendments to aid in the Commission's consideration of the Petition.

1 9. On August 9, 2011, Johnson Utilities filed a proposed amendment modifying Decision
2 No. 71854 concerning the relief requested. The amendment was adopted by Chairman Pierce for
3 purposes of discussion and consideration at the August 11, 2011 Open Meeting.

4 10. At the August 11, 2011 Open Meeting, the Commission discussed and considered the
5 proposed amendment to Decision No. 71854 in accordance with A.R.S. § 40-252, and provided all
6 parties an opportunity to be heard concerning the requested relief.

7 11. The Commission determined that certain of the Company's requested modifications
8 to Decision No. 71854 did not warrant further Commission consideration, but voted to direct the
9 Utilities Division ("Staff") to prepare and docket an order incorporating the following requested
10 modifications to be considered at September, 2011 Open Meeting:

- 11 a. The change of the wastewater late fee from \$40 per month to 1.5% per month.
- 12 b. The addition back of \$ 18,244,755 in disallowed wastewater plant, which
13 includes the \$10,892,391 disallowance for inadequately supported plant and
14 the \$7,352,364 disallowance related to affiliate profit.
- 15 c. The reinstatement of hook-up fee tariffs for water and wastewater divisions.
- 16 d. The determination of a rate of return of 8.0% for the wastewater division.
- 17 e. The inclusion of language permitting the Company to request income tax
18 expense prospectively in a future A.R.S. § 40-252 Petition if the Commission
19 changes its policy relating to imputed income tax expense.

20 12. The Commission also determined that if the relief requested was granted, that new
21 rates should go into effect October 1, 2011, and that the Company could not a file a rate case with a
22 test year ending earlier than December 31, 2012.

23 13. The Commission directed Staff and the Company to meet, discuss and analyze the rate
24 impacts concerning the remaining requested modifications to Decision No. 71854, and thereafter for
25 Staff to docket a report concerning the resulting revenue and rate design analysis.

26 14. On August 26, 2011, Staff docketed its report as directed by the Commission.

27 15. Upon due consideration of these matters pursuant to A.R.S. § 40-252, and in balancing
28 the implicated public interest concerning the certainty of Commission orders with the opportunity to

1 take appropriate regulatory ratemaking measures presented by the circumstances herein, we find and
2 conclude that it is in the public interest to modify Decision No. 71854 as determined in this decision.

3 16. The Company's hook up fee tariffs for its water and wastewater in effect prior to
4 Decision No. 71854 are reinstated, with the condition that new tariffs be filed with wording in
5 conformance with the hook-up fee templates on the Commission's website.

6 17. The Company is permitted to request income tax expense prospectively in a future
7 A.R.S. § 40-252 Petition if the Commission changes its policy relating to imputed income tax
8 expense.

9 18. The Company's wastewater division current tariff for a \$40 late payment fee is
10 modified to a late fee of 1.5% on the unpaid account balance, consistent with the similar tariff for the
11 Company's water division.

12 19. The Company's wastewater rate base shall be increased to allow the additional
13 inclusion of plant in the amount of \$18,244,755. As a result, the Company's adjusted fair value rate
14 base ("FVRB") for its wastewater division is modified, and is determined to be \$17,270,554, an
15 increase of \$17,133,992 over \$136,562 authorized in Decision No. 71854.

16 20. The rate of return on the Company's wastewater division adjusted FVRB shall be 8.0
17 percent. This rate of return applied to the Company's adjusted wastewater division FVRB results in
18 an increase to the Company's Required Operating Income in the amount of \$1,091,034 over the
19 \$290,610 authorized in Decision No. 71854. The new Required Operating Income is determined to
20 be \$1,381,644.

21 21. Because we make these modifications in this decision, the new revenue requirement is
22 determined to be 11,591,861, which is an increase of \$1,904,866 over the \$9,686,995 authorized in
23 Decision No. 71854.

24 22. In Staff's August 26, 2011 filing, Staff sets out an analysis with a revised rate design
25 with new rates intended to provide the Company the opportunity to earn the return authorized herein.
26 We approve the new rates as set out by Staff and attached to this decision as Exhibit A, and shall
27 require the Company to file new tariffs reflecting these approved rates.

28 23. Under the new rates approved by this decision, a residential wastewater customer on a

1 ¾ inch meter would experience an increase of \$6.56 or approximately 20% over the rates approved in
2 Decision No. 71854, from \$32.79 to \$39.35 per month.

3 24. We find and conclude that the modifications made herein to Decision No. 71854 result
4 in just and reasonable rates for the Company and its ratepayers.

5 25. We further find and conclude that the modifications made herein to Decision No.
6 71854 shall be effective prospectively, and all other provisions, terms and rates in Decision No.
7 71854 remain in full force and effect except where inconsistent with this Decision on rehearing.

8 26. We further find and conclude that because we make these modifications to Decision
9 No. 71854, the public interest requires a stay out provision that prohibits the Company from filing a
10 future rate increase application that uses a test year ending earlier than December 31, 2012.

11 27. We further find and conclude that it is in the public interest that new rates and tariffs
12 resulting from this Decision shall be effective for all service rendered on and after October 1, 2011.

13 **CONCLUSIONS OF LAW**

14 1. Johnson Utilities is a public service corporation within the meaning of Article XV of
15 the Arizona Constitution and A.R.S. §§ 40-250, 40-251, 40-367, 40-202, 40-321, and 40-361.

16 2. The Commission has jurisdiction over Johnson Utilities and the subject matter set
17 forth in the Company's rate application and in the Company's Petition to Amend Decision No.
18 71854 pursuant to A.R.S. § 40-252.

19 3. Pursuant to A.R.S. § 40-252, the Commission, having reviewed the Petition and the
20 Staff's Memorandum dated August 26, 2011, concludes that it is in the public interest to approve the
21 modification to Decision No. 71854 as discussed herein.

22 **ORDER**

23 IT IS THEREFORE ORDERED that Decision No. 71854 is modified by the Commission in
24 the manner determined by this Decision.

25 IT IS FURTHER ORDERED that Johnson Utilities shall not file for an increase in rates using
26 a test year ending earlier than December 31, 2012.

27 IT IS FURTHER ORDERED that all other matters set forth in Decision No. 71854 continue
28 to be in full force and effect except where inconsistent with the Decision.

1 IT IS FURTHER ORDERED that Johnson Utilities shall file a tariff in conformance with this
2 Decision for rates as shown in Exhibit A to go into effect for all service rendered on and after
3 October 1, 2011, and notice its customers of the new rates on or before September 23, 2011.

4 IT IS FURTHER ORDERED that in the event the Commission alters its policy to allow S-
5 corporation and LLC entities to impute a hypothetical income tax expense for ratemaking purposes,
6 Johnson Utilities may file a motion to amend this Order prospectively, and Johnson Utilities'
7 authorized revenue requirement hereunder, pursuant to A.R.S. § 40-252, to reflect the change in
8 Commission policy.

9 IT IS FURTHER ORDERED that Johnson Utilities shall file new hook-up fee tariffs for both
10 water and sewer with wording conforming to the wording on the Commission's hook-up fee
11 templates on its website and the charges shall be the same as those on Johnson Utilities' former hook-
12 up fee tariffs.

13 IT IS FURTHER ORDERED that this Decision shall be effective immediately.


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BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

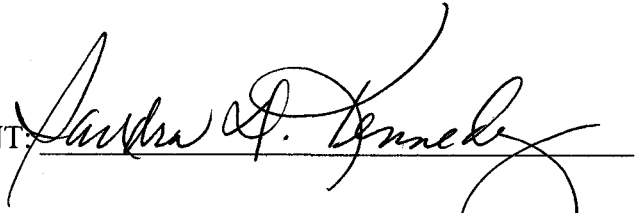

COMMISSIONER


COMMISSIONER

Commissioner Burns
Abstained
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 Capital, in the City of Phoenix,
this 15th day of September 2011.


ERNEST G. JOHNSON
Executive Director

DISSENT: 

DISSENT: _____

EXHIBIT A
WASTEWATER DIVISION

Monthly Minimum Charge	PER DECISION NO. 71854	NEW RATES PER ARS 40-262
Meter Sizes (All Zones and Classes)		
5/8 Inch	\$ 29.8100	\$ 35.7700
3/4 Inch	\$ 32.7900	\$ 39.3500
1 Inch	\$ 41.7300	\$ 50.0800
1 1/2 Inch	\$ 53.6508	\$ 64.3900
2 Inch	\$ 86.4400	\$ 103.7300
3 Inch	\$ 327.8700	\$ 393.4700
4 Inch	\$ 625.9300	\$ 751.1700
6 Inch	\$ 864.3700	\$ 1,037.3300
8 Inch	\$ 1,092.6000	\$ 1,430.8000
10 inch	\$ 1,748.3300	\$ 2,056.7800
Effluent per 1,000 gallons	\$ 0.5280	\$ 0.6300
per acre foot	\$ 170.3200	\$ 205.2900
Service Charges		
Establishment	\$ 25.00	\$ 25.00
Establishment (After hours)	\$ 40.00	\$ 40.00
Deposit Requirement (Residential)	(a)	(a)
Deposit Requirement (Non Residential Meter)	(a)	(a)
Deposit Interest	(b)	(b)
Re-Establishment (With-in 12 months)	(c)	(c)
Re-Establishment (After Hours)	(c)	(c)
NSF Check	15.00	15.00
Deffered Payment, Per Month	1.50%	1.50%
After Hours service charge, per Rule R14-2-603D	Refer to Above Charges	Refer to Above Charges
Late Charge per month	40.00	1.50%
Service Line Connection Charge	350.00	350.00
Main Extension Tariff, per Rule R14-2-606B except refunds shall be based upon five percent (5%) of gross revenues from bonafide customers, until all advances are fully refunded to Developer.	Cost N/A	Cost (d)
Off-site Facilities Hook-up Fee		

- (a) Residential - two times the estimated average monthly bill. Non-residential - two and one-half times the estimated maximum monthly bill.
- (b) Interest per Rule R14-2-603(B).
- (c) Minimum charge times number of full months off the system. per Rule R14-2-603(B).
- (d) New wastewater installations. May be assessed only once per parcel, service connection, or lot within a sub-division.

COMPARISON OF RATE BASE AND REVENUE REQUIREMENT PER DECISION NO 71854 AND ARS 40-252

	[A] DECISION NO. 71854	[B] ARS 40-252	[C] CHANGE
Gross Plant-in-Service	\$ 95,566,588	\$ 113,811,344	\$ 18,244,756
Accumulated Depreciation	(6,375,814)	(7,486,577)	(1,110,763)
Net Plant in Service	\$ 89,190,774	\$ 106,324,766	\$ 17,133,992
Advances in Aid of Construction	(52,231,631)	(52,231,631)	-
Net Contribution in Aid of Construction	(36,822,582)	(36,822,582)	-
Rate Base	\$ 136,562	\$ 17,270,554	\$ 17,133,992
	Operating Margin	Rate of Return	
Required Operating Margin/Rate of Return	3.00%	8.00%	
Required Operating Income	\$ 290,610	\$ 1,381,644	\$ 1,091,034
Operating Income Deficiency	\$ (1,631,136)	\$ 232,727	\$ 1,863,863
Tax Gross-up Factor	1.0220	1.0220	
Gross Revenue Increase (Decrease)	\$ (1,667,020)	\$ 237,847	\$ 1,904,867
Adjusted Test Year Revenue	\$ 11,354,014	\$ 11,354,014	-
Revenue Requirement	\$ 9,686,995	\$ 11,591,861	\$ 1,904,866
Percentage Increase in Revenue Requirement(Decrease)	-14.68%	2.09%	19.66%
<u>Impact on 3/4 Inch Residential Bill</u>			
Average 3/4 Inch Residential Bill	\$ 32.79	\$ 39.35	\$ 6.56

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



ARIZONA CORPORATION COMMISSION

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September 14, 2011

Arizona Corporation Commission
Docket Control
WS02987A-08-0180

Re: **Johnson Utilities; Dissent Letter**
WS-02987A-08-0180

To all Interested Parties;

I am submitting my dissent letter explaining my No vote of September 6, 2011 on the rehearing of Johnson Utilities Company's (Company) application for an increase in its Water and Wastewater Rates for Customers within Pinal County, AZ.

The case and record before the Commission posed many concerns on how the company was operating and keeping vital business records. Due to those issues and concerns, in my opinion, the original order issued on August 2010 (Decision No. 71854) was the correct one.

While having said that, when the company petitioned the Commission for a rehearing, I voted to give the company another opportunity to present new evidence that was not part of the previous record. However, that did not occur.

With no additional evidence or an amended recommended opinion and order presented to the Commissioners, there was nothing new to persuade me that we erred in Decision No. 71854. Given the lack of new evidence or information, I do not believe the record supports the vote to amend Decision No. 71854 and the resulting increases in rates for Johnson Utilities' customers.

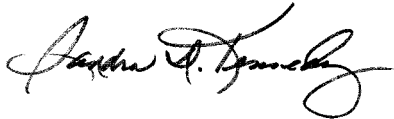
I am concerned that the manner in which the Commission reversed several key ratemaking components will lead to a precedent that may be used or referenced by other companies when they do not support their rate cases with proper documentation. As I mentioned earlier, the record was very clear on the fact the company was not maintaining appropriate day-to-day record keeping, and raised with concerns that transactions with affiliates and related parties may lack needed transparency and were not conducted at arms length. For me, the Commission's Decision based on the record presented did not support a finding that amending Decision No. 71854 is in the public interest.

I know this rate case has been a learning process for Johnson Utilities. The company seems committed from this point on to conduct their business in a professional manner. I believe this is evident by the Company's statements that they have made reorganizational changes. However, that was not the record before us and I could not vote for a decision that will increase the wastewater rates that lack the proper documentation.

Our job as Commissioners is to find just and reasonable rates that are in the public interest, to allow investors the opportunity to get a reasonable return on their investments. However, the utility that holds a monopoly has a responsibility to show that it indeed made those investments. Without adequate documentation, it is unfair to make the ratepayers bear that burden.

It is because of these facts I voted against increasing the rates.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra D. Kennedy". The signature is fluid and cursive, with a large initial "S" and "K".

Corporation Commissioner
Sandra D. Kennedy