



0000131103

BEFORE THE ARIZONA CORPORATION COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Arizona Corporation Commission

DOCKETED

NOV - 3 2011

DOCKETED BY ne

IN THE MATTER OF THE APPLICATION)
OF JOHNSON UTILITIES L.L.C. DBA)
JOHNSON UTILITIES COMPANY FOR AN)
EXTENSION OF ITS CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO)
PROVIDE WATER AND WASTEWATER)
SERVICES.)

DOCKET NO. WS-02987A-04-0288

DECISION NO. 72664

ORDER AMENDING
DECISION NO. 68237

BY THE COMMISSION:

Pursuant to A.R.S. § 40-252, on June 23, 2011, Johnson Utilities, L.L.C. ("Johnson Utilities" or the "Company") filed a request with the Arizona Corporation Commission ("Commission") to amend Decision No. 68237 to either remove the requirement that the Company file within 24 months of the effective date of the decision a copy to the Aquifer Protection Permit ("APP") issued by the Arizona Department of Environmental Quality ("ADEQ") for the Copper Basin Regional Wastewater Treatment Plant ("Copper Basin WWTP"), or alternatively to extend the deadline for filing a copy of the APP until no earlier than December 31, 2016.

FINDINGS OF FACT

1. Decision No. 68237, entered on October 25, 2005, conditionally granted Johnson Utilities application for an extension of its certificate of convenience and necessity ("CC&N") to provide water and wastewater services to two developments known as Anthem at Merrill Ranch and Sonoran Villages.

...

...

1 2. A condition in Decision No. 68237 required Johnson to file within 24 months, a copy of the
2 United (Aquifer Protection) Water Quality Permits by ADEQ for both the Merrill Ranch
3 Wastewater Treatment Facility and the Copper Basin Regional Wastewater Treatment Facility.

4 3. The Copper Basin WWTP is a master planned wastewater treatment project for which
5 Johnson Utilities obtained Central Arizona Association of Governments ("CAAG") § 208 Water
6 Quality Plan approval. The Plan encompasses the Sonoran Villages development. (The
7 wastewater from the other development, Anthem at Merrill Ranch, is to be treated at the Mystic
8 Ranch WWTP).

9 4. On October 4, 2007, Johnson Utilities filed with Docket Control a copy of the APP for the
10 Anthem at Merrill Ranch wastewater treatment plant. In the same filing, the Company requested a
11 two-year extension of the compliance deadline for filing a copy of the APP for the planned Copper
12 Basin WRP, to October 25, 2009. At the time, the Company cited delays unexpectedly
13 encountered due to title problems associated with the proposed plant site property. The Company
14 also filed on December 27, 1007, a Notice of Filing and Request for Order to Release and Extend
15 Certain Compliance Requirements of Decision No. 68237. The Commission approved the
16 requested extension of the compliance date in Decision No. 70411. The Company filed another
17 request on September 15, 2009, for a further extension of the compliance deadline for filing the
18 APP for the Copper Basin WRP, citing a general market slowdown.

19 5. On June, 23 2011, Johnson Utilities filed a Renewed Petition to Amend Decision No.
20 68237 pursuant to A.R.S. § 40-252 to remove the condition that the Company file a copy of the
21 APP for the copper Basin WRP, or alternatively to extend the deadline for filing a copy of the APP
22 for the Copper Basin WRP until no earlier than December 31, 2016.

23 6. Johnson Utilities again states that the severe economic downturn to the Arizona real estate
24 market has delayed the start of many planned residential developments, including Sonoran
25 Villages, and as a result, the Copper Basin WWTP will not be needed for over five years.

26 7. Further, according to the Company's filings, ADEQ requires that construction commence
27 within one year of the issuance of an APP, and that it would not be in the best interest of the
28

1 Company to finish the process of obtaining the APP when construction of the Copper Basin WRP
2 would not begin before the permit expires.

3 8. On October 26, 2011, the Commission provided notice and opportunity to be heard on
4 Johnson Utilities § 40-252 Petition. Upon due consideration of the matter, the Commission hereby
5 modifies Decision No. 68237 to eliminate the requirement that Johnson Utilities file with Docket
6 Control, as a compliance item in this docket, the Aquifer Protection Permit issued by ADEQ for
7 the Copper Basin Regional Wastewater Treatment Facility within 24 months of the issuance of
8 Decision No. 68237.

9 **CONCLUSIONS OF LAW**

10 1. Johnson Utilities is a public service corporation within the meaning of Article XV of the
11 Arizona Constitution and A.R.S. § 40-281 *et seq.*

12 2. The Commission has jurisdiction over Johnson Utilities and the subject matter of the
13 application.

14 **ORDER**

15 IT IS ORDERED that Decision No. 68237 is amended to remove the requirement
16 contained in Ordering Paragraph 9 that Johnson Utilities file within 24 months of Decision No.
17 68237, as a compliance item in this docket, the Unified (Aquifer Protection) Water Quality Permit
18 issued by ADEQ for the Copper Basin Regional Wastewater Treatment facility.

19 ...
20 ...
21 ...
22 ...
23 ...
24 ...
25 ...
26 ...
27 ...
28 ...

1 IT IS FURTHER ORDERED that all other requirements in Decision No. 68237 shall
2 remain in effect.

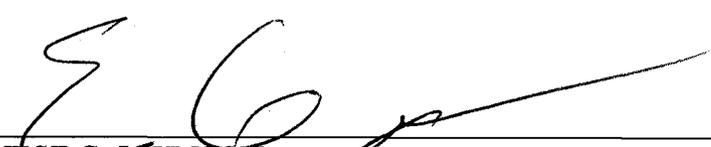
3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.
4

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

6  Commissioner Kennedy
7 CHAIRMAN COMMISSIONER COMMISSIONER
8 Absentia

9  
10 COMMISSIONER COMMISSIONER
11

12 IN WITNESS WHEREOF, I ERNEST G. JOHNSON,
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto, set my hand and caused the official seal of
15 this Commission to be affixed at the Capitol, in the City of
16 Phoenix, this 3rd day of
November, 2011.

17 
18 ERNEST G. JOHNSON
19 Executive Director

20
21 DISSENT: _____

22 DISSENT: _____

23 MAS:bc
24
25
26
27
28

1 SERVICE LIST FOR:
2 DOCKET NO. WS-02987A-04-0288

3 Mr. Steven M. Olea
4 Director, Utilities Division
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007

8 Ms. Janice Alward
9 Chief Counsel
10 Arizona Corporation Commission
11 1200 West Washington
12 Phoenix, Arizona 85007

13 Jeffrey W. Crockett, Esq.
14 Brownstein Hyatt Farber Schreck LLP
15 40 North Central Avenue, 14th Floor
16 Phoenix, AZ 85004

17 George H. Johnson
18 Johnson Utilities, L.L.C.
19 5230 E. Shea Boulevard #200
20 Scottsdale, AZ 85254

21 Michelle E. Belaski
22 Johnson Utilities, L.L.C.
23 5230 E. Shea Boulevard #200
24 Scottsdale, AZ 85254

25 Patrick J. Black,. Esq.
26 Fennemore Craig, P.C.
27 3003 N. Central Ave., Suite 2600
28 Phoenix, AZ 85012