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ORIGINAL

OPEN MEETING ITEM

MEMORANDUM

2013 APR 26 P 2: 17

TO: THE COMMISSION

FROM: Utilities Division

DATE: April 26, 2013

RE: STAFF REPORT FOR THE PETITION TO AMEND DECISION NOS. 71854 AND 72579 PURSUANT TO ARS § 40-252 REGARDING 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)

Attached is the Staff Report for Johnson Utilities, LLC's application for a Petition to Amend Decision Nos. 71854 and 72579 pursuant to Arizona Revised Statutes § 40-252 regarding 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. Staff recommends approval of the increase and associated rate design. Staff further recommends additional conditions in this Report.

Steven M. Olea
Director
Utilities Division

SMO:DWC:lm\RRM

Originator: Darron W. Carlson

Arizona Corporation Commission

DOCKETED

APR 26 2013

DOCKETED BY

Service List for: Johnson Utilities, LLC, dba Johnson Utilities Company
Docket No. WS-02987A-08-0180

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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

**JOHNSON UTILITIES, LLC, DBA
JOHNSON UTILITIES COMPANY**

DOCKET NO. WS-02987A-08-0180

**APPLICATION FOR A PETITION TO AMEND DECISION NOS. 71854 AND 72579
PURSUANT TO ARS § 40-252 REGARDING 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**

APRIL 26, 2013

STAFF ACKNOWLEDGMENT

The Staff Report for Johnson Utilities, LLC, dba Johnson Utilities Company ("Company"), Docket No. WS-02987A-08-0180 was the responsibility of the Staff member listed below. Darron Carlson was responsible for the review and analysis of the Company's application.

A handwritten signature in black ink, appearing to read 'D. Carlson', written in a cursive style.

Darron W. Carlson
Public Utilities Analyst Manager

EXECUTIVE SUMMARY

Johnson Utilities, LLC, dba Johnson Utilities Company (“Johnson” or “Company”) is a Class A water and wastewater public service corporation. The Company is headquartered in Scottsdale, Arizona but its service area encompasses various areas of Pinal County, Arizona. In the test year, ending December 31, 2007, the Company served an average of 17,541 water customers and 21,596 wastewater customers.

The Company’s petition and application requests an increase in its revenue requirement for its water division in the amount of \$125,071 and for its wastewater division in the amount of \$747,274.

This increase reflects the income tax obligation created by the Company’s distribution of profits to its members.

Staff Recommendations

Staff recommends approval of the rate increases requested by the Company in the amounts of \$125,071 for its water division and \$747,274 for its wastewater division.

Staff further recommends approval of the associated rate design proposed by the Company in its application.

Staff further recommends that the Company be ordered to file a full rate case application for both its water and wastewater divisions by no later than June 30, 2015, using a 2014 calendar year test year.

Staff further recommends that the Company provide the notice attached as Attachment 1 in a special direct mailing to all of its customers and to all parties to the case by May 8, 2013.

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Sample of Customer Notice.....	Attachment 1
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Introduction

Johnson Utilities, LLC, dba Johnson Utilities Company (“Johnson” or “Company”) is a Class A water and wastewater public service corporation. The Company is headquartered in Scottsdale, Arizona but its service area encompasses various areas of Pinal County, Arizona. In the test year, ending December 31, 2007, the Company served an average of 17,541 water customers and 21,596 wastewater customers.

The Company has filed a petition as described below arising from the Arizona Corporation Commission’s (“Commission”) recent policy change regarding income taxes.

Summary of Filing

On September 15, 2011, the Commission issued Decision No. 72579, which established the current rates for Johnson. This Decision amended the rates that had been set for Johnson in Decision No. 71854, issued August 25, 2010. Decision No. 72579 also provided that Johnson could seek an allowance for income taxes generated as a result of its operations if the Commission changed its policy regarding the treatment of income taxes for subchapter S corporations. On February 21, 2013, in Decision No. 73739, the Commission adopted a policy allowing every utility entity, other than subchapter C corporations and tax-exempt entities, to seek to include in its cost of service an income tax allowance based on the lower of comparable subchapter C corporate income tax expense, or the combined personal income tax obligation created by the distribution of the utility’s profits.

On March 8, 2013, the Company filed a petition to amend Decision No. 71854 pursuant to Arizona Revised Statutes (“A.R.S.”) § 40-252. The Company has included full schedules that appropriately fulfill the new income tax policy requirements and the resulting recognition of an income tax allowance. The increase to the revenue requirement for water customers is \$125,071, or an increase of 0.95 percent, and the increase to the revenue requirement for wastewater customers is \$747,274, or an increase of 6.58 percent. Staff concurs with these amounts because they comply with the Commission’s new policy and will therefore result in just and reasonable rates. Staff has confirmed that the amount the Company is seeking to collect for income taxes is less than it would be had the Company elected to be taxed as a stand-alone C corporation.

In its filing, the Company is not proposing any changes to its fair value rate base, which is negative \$2,414,613 for its water division and \$17,270,553 for its wastewater division. Adopting the increases proposed by the Company would increase the Company’s revenue requirements to \$9,899,013 and \$12,339,134 for its water and wastewater divisions, respectively.

For the water division, there is no impact to the fair value rate of return (“FVROR”) because the fair value rate base is negative, i.e., the revenue requirement is based on an operating margin. The impact to rates is *de minimis* because the amount of the increase is so small. For the wastewater division, the FVROR remains at 8.0 percent or may become 12.33 percent, depending on the ratemaking classification for the income tax issue, as discussed below.

Company Background

The Company's current rates, based on a 2007 test year, were approved in Decision No. 71854 as amended by Decision No. 72579. In that case, the Company requested recognition of income tax expense in its application, but it was disallowed as the Commission's policy at that time did not recognize income tax for pass-through entities that had no income tax liability. However, also at that time, the Commission was in the process of evaluating changes to this policy, which ultimately resulted in Decision No. 73739.

Stay-Out Provision

In its petition, the Company stated that, if its application is approved, the Company would not need new rates to be effective prior to July 1, 2019.

Staff notes that the new Commission income tax policy has no stay-out requirements. Further, Decision No. 71854 (amended by Decision No. 72579) was the Company's first rate case since the granting of its Certificate of Convenience and Necessity by Decision No. 60223 (May 27, 1997). Because of the length of time between rate cases that would occur if the Company did not file a new rate case application for several years, Staff recommends that the Company be ordered to file a full rate case application for its water and wastewater divisions by no later than June 30, 2015, using a 2014 calendar year test year.

Notice

Staff recommends that the Company provide the notice attached as Attachment 1 in a special direct mailing to all of its customers by May 8, 2013. Staff also recommends that the Company provide the attached notice to all parties to this case by May 8, 2013.

Terminology

The Commission's new policy on the income tax issue for pass-through entities refers in the body of the policy to an "imputed income tax expense"; however, in items 5, 6 and 7 listed on page 3 of the policy statement, it refers to an "income tax allowance." Although this terminology may appear insignificant, the classification of this adjustment may impact the calculation of the FVROR. If the income taxes were classified as an imputed expense, the FVROR for this case will not be impacted (will remain 8.0 percent) for the Johnson wastewater division. If the income taxes were classified as an allowance, the resulting FVROR could be 12.33 percent. Staff notes, however, that within the context of this case, the actual rate impact to customers is the same under either classification. Staff believes that, for the purposes of accounting, auditing, bookkeeping, and other associated activities, the Commission was correct on page 3 of its policy statement in classifying the income taxes for pass-through entities as an "allowance." This classification is also consistent with that used in Texas (referred to on page 2 of the Commission's policy statement) and with that used by the Federal Energy Regulatory Commission. However, for ratemaking purposes, the Commission could elect to classify this

adjustment as an imputed expense, which would also be consistent with the intent of the Commission's policy.

Rate Design

The Company has proposed a rate design that includes both an increase to the monthly minimum charge and an increase to the commodity charge for its water division, and an increase to its monthly minimum charge for its wastewater division as there is no commodity charge (except for the purchase of effluent) for wastewater service.

Staff concurs with the Company on its proposed rate design. For informational purposes, the typical bill impact analysis for a ¾-inch meter residential customer using the average of 6,931 gallons per month is as follows:

Water: current bill is \$29.81
 proposed bill would be \$30.28
 increase would be \$0.47 or 1.58%.

Wastewater: current bill is \$39.35
 proposed bill would be \$42.00
 increase would be \$2.65 or 6.73%.

Staff Recommendations

Staff recommends approval of the rate increases requested by the Company in the amounts of \$125,071 for its water division and \$747,274 for its wastewater division.

Staff further recommends approval of the associated rate design proposed by the Company in its application.

Staff further recommends that the Company be ordered to file a full rate case application for both its water and wastewater divisions by no later than June 30, 2015, using a 2014 calendar year test year.

Staff further recommends that the Company provide the notice attached as Attachment 1 in a special direct mailing to all of its customers and to all parties to this case by May 8, 2013.

NOTICE
PUBLIC NOTICE OF PUBLIC COMMENT MEETING AND OPEN MEETING

Regarding

Johnson Utilities' Petition to Amend Decision No. 71854 pursuant to AR.S. § 40-252 (Docket No. WS-02987A-08-0180)

Summary

On September 15, 2011, the Arizona Corporation Commission issued Decision No. 72579, which established the current rates for Johnson Utilities LLC, dba Johnson Utilities Company ("Johnson" or "Company"). This Decision amended the rates that had been set for Johnson in Decision No. 71854, issued August 25, 2010. Decision No. 72579 also provided that Johnson could seek an allowance for income taxes generated as a result of its operations. On February 21, 2013, in Decision No. 73739, the Commission adopted a policy that allows all utility entities, other than subchapter C corporations and tax-exempt entities, to include in the cost of service an income tax allowance based on the lower of comparable subchapter C corporate income tax expense, or the combined personal income tax obligation created by the distribution of the utility's profits. Johnson has filed a petition pursuant to A.R.S. 40-252 seeking recovery of an allowance for income taxes.

Public Comment Meeting and Open Meeting

This matter is currently scheduled for an opportunity to be heard at a Commission **Open Meeting on June 11 and 12, 2013, at 10:00 a.m.** at the Commission's offices located at 1200 West Washington Street, Phoenix, Arizona 85007. Please check the Commission's Open Meeting schedule at <http://www.azcc.gov/Divisions/Administration/Meetings/Agendas/2013/2013openmeetings.asp> in case the Open Meeting is rescheduled or this matter is postponed to a later date.

Written public comments may be submitted by mailing a letter referencing Docket No. WS-02987A-08-0180 to the Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, Arizona 85007, or by e-mail. For a form to use and instructions on how to e-mail comments to the Commission, go to http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf.

Requests to intervene may be filed in Docket No. WS-02987A-08-0180, and the last day to file a request for intervention is June 4, 2013. If you require assistance, either to provide public comment or to seek intervention, you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

Water Division

Under the rates approved in Decision No. 72579, a residential customer with a ¾-inch meter and average usage of 6,931 gallons per month currently pays \$ 29.81 per month. Under the Company's request, that amount would increase by \$.47 (1.58 percent) to \$30.28. **The actual change in rates for individual customers would vary depending upon the type and quantity of service provided. You may contact the Company and request a calculation of the impact of its proposals on your account.**

Wastewater Division

Under rates approved in Decision No. 72579, a residential wastewater customer with a ¾-inch water meter currently pays \$39.35 per month. Under the Company's request, that amount would increase by \$2.65 (6.73 percent) to \$42.00. **The actual change in rates for individual customers would vary depending upon the type and quantity of service provided. You may contact the Company and request a calculation of the impact of its proposals on your account.**

The proposed rate changes are summarized in the following table:

<u>Water Monthly Minimum Charge</u>	Current Rates	New Rates
5/8" Meter	11.00	11.27
3/4" Meter	16.50	16.90
1" Meter	27.50	28.17
1 1/2" Meter	55.00	56.53
2" Meter	88.00	90.13
3" Meter	176.00	180.26
4" Meter	275.00	281.66
6" Meter	550.00	563.31
8" Meter	880.00	901.30
10" Meter	1,265.00	1,295.61
<u>Commodity Charge (Per 1,000 Gallons)</u>		
All Current Commodity Charges are increased by approximately \$0.01/per 1,000 gallons		

<u>Wastewater Monthly Minimum Charge</u>	Current Rates	New Rates
5/8" Meter	35.77	38.19
3/4" Meter	39.35	42.00
1" Meter	50.08	53.46
1 1/2" Meter	64.39	68.73
2" Meter	103.73	110.74
3" Meter	393.47	420.04
4" Meter	751.17	801.89
6" Meter	1,037.33	1,107.37
8" Meter	1,430.80	1,527.60
10" Meter	2,056.78	2,195.93
<u>Commodity Charge for Effluent</u>		
Per 1,000 Gallons	0.63	0.68
Per Acre Foot	205.29	221.58

The Commission is not bound by the proposals made by the Company in its Petition; therefore, **the final rates approved by the Commission may be higher or lower than the rates requested by Johnson.**

How You Can View or Obtain a Copy of the Petition

Copies of the Petition are available from Johnson Utilities at 968 East Hunt Highway, Queen Creek, Arizona 85242 and at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours and on the Internet via the Commission's website (www.azcc.gov) using the e-Docket function.

ADA/Equal Access Information

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Shaylin Bernal, e-mail sbernal@azcc.gov, voice phone number 602-542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

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BEFORE THE ARIZONA CORPORATION COMMISSION

- BOB STUMP
Chairman
- GARY PIERCE
Commissioner
- BRENDA BURNS
Commissioner
- BOB BURNS
Commissioner
- SUSAN BITTER SMITH
Commissioner

STAFF REPORT FOR THE PETITION TO AMEND DECISION NOS. 71854 AND 72579 PURSUANT TO ARS § 40-252 REGARDING 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. _____
ORDER

Open Meeting
 June 11 and 12, 2013
 Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Johnson Utilities, LLC, dba Johnson Utilities Company (“Johnson” or “Company”) is a Class A water and wastewater public service corporation. The Company is headquartered in Scottsdale, Arizona, but its service area encompasses various areas of Pinal County, Arizona. In the test year, ending December 31, 2007, the Company served an average of 17,541 water customers and 21,596 wastewater customers.

2. The Company has filed a petition as described below arising from the Arizona Corporation Commission’s (“Commission”) recent policy change regarding income taxes.

Background

3. On September 15, 2011, the Commission issued Decision No. 72579, which established the current rates for Johnson. This Decision amended the rates that had been set for

1 Johnson in Decision No. 71854, issued August 25, 2010. Decision No. 72579 also provided that
 2 Johnson could seek an allowance for income taxes generated as a result of its operations if the
 3 Commission changed its policy regarding the treatment of income taxes for subchapter S
 4 corporations.

5 4. On February 21, 2013, in Decision No. 73739, the Commission adopted a policy
 6 allowing every utility entity, other than subchapter C corporations and tax-exempt entities, to seek
 7 to include in its cost of service an income tax allowance based on the lower of comparable
 8 subchapter C corporate income tax expense, or the combined personal income tax obligation
 9 created by the distribution of the utility's profits.

10 5. On March 8, 2013, the Company filed a petition to amend Decision No. 71854
 11 pursuant to Arizona Revised Statutes ("A.R.S.") § 40-252. The Company has included full
 12 schedules that appropriately fulfill the new income tax policy requirements and the resulting
 13 recognition of an income tax allowance. Staff has confirmed that the amount that the Company is
 14 seeking to collect for income taxes is less than it would be if the Company had elected to be taxed
 15 as a stand-alone C corporation. The increase to the revenue requirement for water customers is
 16 \$125,071, or an increase of 0.95 percent, and the increase to the revenue requirement for
 17 wastewater customers is \$747,274, or an increase of 6.58 percent. Staff concurs with these
 18 amounts because they comply with the Commission's new policy and will therefore result in just
 19 and reasonable rates.

20 6. In its filing, the Company is not proposing any changes to its fair value rate base,
 21 which is negative \$2,414,613 for its water division and \$17,270,553 for its wastewater division.
 22 Adopting the increases proposed by the Company would increase the Company's revenue
 23 requirements to \$9,899,013 and \$12,339,134 for its water and wastewater divisions, respectively.

24 7. For the water division, there is no impact to the fair value rate of return ("FVROR")
 25 because the fair value rate base is negative, i.e., the revenue requirement is based on an operating
 26 margin. The impact to rates is *de minimis* because the amount of the increase is so small.

27 ...
 28 ...

1 8. For the wastewater division, the FVROR remains at 8.0 percent, or may become
2 12.33 percent, depending on the ratemaking classification for the income tax issue, as discussed
3 in Finding of Fact Nos. 14 – 16 below.

4 9. The Company's current rates, based on a 2007 test year, were approved in Decision
5 No. 71854, as amended by Decision No. 72579. In that case, the Company requested recognition
6 of income tax expense in its application, but it was disallowed as the Commission's policy at that
7 time did not recognize income tax for pass-through entities that had no income tax liability.
8 However, also at that time, the Commission was in the process of evaluating changes to this
9 policy, which ultimately resulted in Decision No. 73739.

10 10. In its petition, the Company stated that, if its application is approved, the Company
11 would not need new rates to be effective prior to July 1, 2019.

12 11. Staff notes that the new Commission income tax policy has no stay-out
13 requirements. Further, Decision No. 71854 (amended by Decision No. 72579) was the
14 Company's first rate case since the granting of its Certificate of Convenience and Necessity by
15 Decision No. 60223 (May 27, 1997).

16 12. Because of the length of time between rate cases that would occur if the Company
17 did not file a new rate application for several years, Staff recommends that the Company be
18 ordered to file a full rate case application for its water and wastewater divisions by no later than
19 June 30, 2015, using a 2014 calendar year test year.

20 **Notice**

21 13. Staff asked the Company to provide the notice attached as Attachment 1 to the Staff
22 Memorandum in a special direct mailing to all of its customers by May 8, 2013. Staff also asked
23 the Company to provide the attached notice to all parties to this case by May 8, 2013.

24 **Terminology**

25 14. The Commission's new policy on the income tax issue for pass-through entities
26 refers in the body of the policy to an "imputed income tax expense"; however, in items 5, 6, and 7
27 listed on page 3 of the policy statement, it refers to an "income tax allowance." Although this
28 ...

1 terminology may appear insignificant, the classification of this adjustment impacts the
2 calculation of the FVROR.

3 15. If the income taxes were classified as an imputed expense, the FVROR for this case
4 would not be impacted (will remain 8.0 percent) for the Johnson wastewater division. If the
5 income taxes were classified as an allowance, the resulting FVROR could be 12.33 percent.
6 Within the context of this case, however, the actual rate impact to customers is the same under
7 either classification.

8 16. Staff believes that, for the purposes of accounting, auditing, bookkeeping, and other
9 associated activities, the Commission was correct on page 3 of its policy statement in classifying
10 the income taxes for pass-through entities as an "allowance." This classification is also consistent
11 with that used in Texas (referred to on page 2 of the Commission's policy statement) and with
12 that used by the Federal Energy Regulatory Commission. However, for ratemaking purposes, the
13 Commission could elect to classify this adjustment as an imputed expense, which would be
14 consistent with the intent of the Commission's policy.

15 Rate Design

16 17. The Company has proposed a rate design that includes both an increase to the
17 monthly minimum charge and an increase to the commodity charge for its water division, and an
18 increase to its monthly minimum charge for its wastewater division as there is no commodity
19 charge (except for the purchase of effluent) for wastewater service.

20 18. Staff concurs with the Company on its proposed rate design. For informational
21 purposes, the typical bill impact analysis for a ¾-inch meter residential customer using the
22 average of 6,931 gallons per month is as follows:

23 Water current bill is \$29.81
24 proposed bill would be \$30.28
increase would be \$0.47 or 1.58%.

25
26 Wastewater: current bill is \$39.35
27 proposed bill would be \$42.00
increase would be \$2.65 or 6.73%.

1 **Staff Recommendations**

2 19. Staff recommends approval of the rate increases requested by the Company in the
3 amounts of \$125,071 for its water division and \$747,274 for its wastewater division.

4 20. Staff further recommends approval of the associated rate design proposed by the
5 Company in its application.

6 21. Staff further recommends that the Company be ordered to file a full rate case
7 application for both its water and wastewater divisions by no later than June 30, 2015, using a
8 2014 calendar year test year.

9 **CONCLUSIONS OF LAW**

10 1. Johnson Utilities, LLC, dba Johnson Utilities Company, is a public service
11 corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§40-250
12 and -252.

13 2. The Commission has jurisdiction over the Company and over the subject matter of
14 the application.

15 3. Notice of the proceeding and an opportunity to be heard have been afforded in the
16 manner prescribed by law.

17 4. For the purposes of evaluating this application, the information set forth in Finding
18 of Fact Nos. 6 – 8 serve as appropriate fair value information for the Commission's consideration.

19 5. The Commission may determine appropriate ratemaking classifications pursuant to
20 Article XV, Section 3 of the Arizona Constitution, and the rates proposed herein are just and
21 reasonable.

22 6. Decision Nos. 71854 and 72579 are hereby modified to provide for recovery of
23 income taxes through rates.

24 7. Staff's recommendations are reasonable and hereby approved.

25 **ORDER**

26 IT IS THEREFORE ORDERED that Decision Nos. 71854 and 72579 are hereby modified
27 to permit Johnson Utilities, LLC, DBA Johnson Utilities Company, to recover income taxes as
28 requested in its March 8, 2013 petition.

1 IT IS FURTHER ORDERED that the recommendations of Staff discussed in Findings of
2 Fact 19 through 21 are reasonable and are hereby adopted.

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

4
5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

6
7 _____
8 CHAIRMAN

COMMISSIONER

9
10 _____
11 COMMISSIONER

COMMISSIONER

COMMISSIONER

12 IN WITNESS WHEREOF, I, JODI JERICH, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto, set my hand and caused the official seal of this
15 Commission to be affixed at the Capitol, in the City of
16 Phoenix, this _____ day of _____, 2013.

17 _____
18 JODI JERICH
EXECUTIVE DIRECTOR

19 DISSENT: _____

20
21 DISSENT: _____

22 SMO:DWC:lhm\JFW
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1 Service List for: Johnson Utilities, LLC, dba Johnson Utilities Company
2 Docket No. WS-02987A-08-0180

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