

OPEN MEETING ITEM



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COMMISSIONERS
BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

DATE: SEPTEMBER 30, 2013

DOCKET NO.: WS-02987A-06-0663

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

JOHNSON UTILITIES COMPANY
(EXTENDING TIME DEADLINE CONTAINED IN
DECISION NOS. 69414, 71242, AND 72531)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 9, 2013

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

OCTOBER 16, 2013 and OCTOBER 17, 2013

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

SEP 30 2013

DOCKETED BY 


JODI JERICH
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347
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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 BOB STUMP- Chairman
4 GARY PIERCE
5 BRENDA BURNS
6 BOB BURNS
7 SUSAN BITTER SMITH

8 IN THE MATTER OF THE APPLICATION
9 OF JOHNSON UTILITIES COMPANY FOR
10 AN EXTENSION OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY.

DOCKET NO. WS-02987A-06-0663

DECISION NO. _____

**ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 69414, 71242, AND
72531**

12 Open Meeting
13 October 16 and 17, 2013
14 Phoenix, Arizona

15 **BY THE COMMISSION:**

16 * * * * *

17 Having considered the entire record herein and being fully advised in the premises, the
18 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

19 **FINDINGS OF FACT**

20 1. On October 16, 2006, Johnson Utilities L.L.C. ("Johnson" or "Company") filed with
21 the Commission an application for an extension of its Certificate of Convenience and Necessity
22 ("Certificate" or "CC&N") to provide water and wastewater services to primarily serve a
23 development known as Skyview Farms.¹

24 2. On April 16, 2007, the Commission issued Decision No. 69414 approving Johnson's
25 application. Decision No. 69414 ordered Johnson to file, within two years of the Decision the
26 following compliance items:

- 27 • Copies of the Approval to Construct ("ATC") for the water facilities and the
28 General Permit for the wastewater facilities needed to serve the extension area.

¹ The extension area encompasses two sections of land and the majority (except 40 acres) will be used to develop Skyview Farms. Decision No. 69414 at 3.

- A copy of the Aquifer Protection Permit (“APP”) amendment indicating approval of the expansion of Johnson’s Section 11 Wastewater Treatment Plant to 4.0 MGD.
- An amendment to Johnson’s Designation of Assured Water Supply (“DAWS”) to include the extension area.²

3. On March 16, 2009, Johnson filed a request for a 24-month extension of time to file the compliance items in Decision No. 69414. Johnson stated that due to the slow down in the real estate market, the developer for Skyview Farms had suspended the start of the project and therefore the need for Johnson to obtain the required compliance items was also delayed.

4. On August 6, 2009, the Commission issued Decision No. 71242 granting Johnson’s request for an extension of time, until April 16, 2011, to file copies of the ATC for the water facilities and the General Permit for the wastewater facilities needed to serve the extension area and to file the APP amendment expanding Johnson’s Section 11 Wastewater Treatment Plant to 4.0 MGD.

5. On April 15, 2011, Johnson docketed a second request for an extension of time, until April 16, 2013, to comply with the remaining compliance items. The Company’s request stated that “the severe economic downturn” has persisted and affected the start of the development, and that the developer had reconfirmed both its intent to proceed and its desire to have water and wastewater services provided by Johnson.

6. On August 17, 2011, the Commission issued Decision No. 72531 granting Johnson’s request for an extension of time, until April 16, 2013, to file copies of the ATC for the water facilities and the General Permit for the wastewater facilities needed to serve the extension area and to file a copy of the APP amendment indicating approval of the expansion of Johnson’s Section 11 Wastewater Treatment Plant to 4.0 MGD.

7. On April 4, 2013, Johnson docketed a third request for extension of time, until April 16, 2016, to comply with the remaining compliance items. The Company’s request states that “the developer of Skyview Farms has further delayed the start of the project due to the slowdown in the

...
...

² On March 16, 2009, Johnson docketed a copy of an amendment to its DAWS issued by the Arizona Department of Water Resources in compliance with Decision No. 69414.

1 residential real estate market,” and that this has delayed the need for obtaining the above mentioned
2 compliance items at this time.³

3 8. On August 23, 2013, Staff filed a Memorandum stating that Staff does not object to
4 the Company’s request for an extension of time, until April 16, 2016, in this matter. Staff
5 recommends that the due dates for provision of the ATC, the General Permit, and the APP
6 requirements be extended from April 16, 2013, until April 16, 2016. Staff further recommends that
7 no further extensions be granted in this matter.

8 9. We agree that under the current circumstances, Staff’s recommendation to grant the
9 extension is reasonable. We continue to believe that any further request for an extension should be
10 reviewed based on the facts and circumstances existing at the time of such request, but that Johnson
11 should be on notice that it will be required to show that continued progress is being made toward the
12 filing of the compliance items or that there will be harm to the public interest if the future request for
13 an extension of time is not granted.

14 CONCLUSIONS OF LAW

15 1. Johnson Utilities L.L.C. is a public service corporation within the meaning of Article
16 XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

17 2. The Commission has jurisdiction over Johnson Utilities L.L.C. and the subject matter
18 of the request for additional time to comply with Commission Decision Nos. 69414, 71242, and
19 72531.

20 3. Staff’s recommendation that Johnson receive an extension of time, until April 16,
21 2016, to comply with Decision Nos. 69414, 71242, and 72531 is reasonable and should be adopted.

22 ORDER

23 IT IS THEREFORE ORDERED that Johnson Utilities LLC’s request for an extension of
24 time, until April 16, 2016, to comply with Decision Nos. 69414, 71242, and 72531, by filing copies
25 of the Approval to Construct for the water facilities and the General Permit for the wastewater
26 facilities needed to serve the extension area and to file a copy of the Aquifer Protection Permit

27 ³ Johnson attached to its third request a letter from a managing member of Skyview Farms confirming that the developer
28 for Skyview has a continuing interest in having Johnson provide water, wastewater, and reclaimed water services to the
development.

1 amendment indicating approval of the expansion of Johnson Utilities, LLC's Section 11 Wastewater
2 Treatment Plant to 4.0 MGD, is hereby granted.

3 IT IS FURTHER ORDERED that Johnson Utilities, L.L.C., shall be on notice that any future
4 requests for extensions of time to comply with Decision Nos. 69414, 71242, and 72531, must
5 demonstrate that continued progress is being made toward the filing of the compliance items or that
6 there will be harm to the public interest if the future request for an extension of time is not granted.

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
9
10

11 CHAIRMAN _____ COMMISSIONER _____

12
13 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____
14

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

20 JODI JERICH _____
21 EXECUTIVE DIRECTOR

22 DISSENT _____

23 DISSENT _____

24 YBK:tv

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SERVICE LIST FOR: JOHNSON UTILITIES L.L.C.

DOCKET NO.: WS-02987A-06-0663

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