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BEFORE THE ARIZONA CORPORATION COMMISSION

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2013 OCT -4 A 11: 12

Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, L.L.C., 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
**COMMENTS OF JOHNSON UTILITIES
REGARDING REHEARING OF
DECISIONS 73992 AND 73993**

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In Decision 73992 issued July 16, 2013, the Arizona Corporation Commission (“Commission”) approved changes to the rates and charges of Johnson Utilities, L.L.C. (“Johnson Utilities” or the “Company”) approved in Decision 71854, as amended, to include income tax expense. Likewise, in Decision 73993 issued July 16, 2013, the Commission approved changes to the rates and charges of Pima Utility Company (“Pima Utility”) approved in Decision 73573 to include income tax expense. On July 31, 2013, the Residential Utility Consumer Office (“RUCO”) filed motions to rehear Decisions 73992 and 73993. The arguments put forth by RUCO in the two motions opposing income tax expense for Johnson Utilities and Pima Utility are substantially if not exactly the same.

On July 26, 2013, Johnson Utilities filed a petition requesting rehearing of Decision 73992 to approve an extension of the deadline for filing a full rate case from June 30, 2015 (using a 2014 test year) to June 30, 2017 (using a 2016 test year). At the Commission’s August 15, 2013 Staff Open Meeting, the Commission voted to grant both the Johnson Utilities and RUCO requests to rehear Decision 73992. Likewise, the Commission voted to approve the RUCO request for rehearing Decision 73993.

On August 19, 2013, Sahuarita Water Company (“Sahuarita”) filed a motion to amend its most recent rate case decision (Decision 72177) to include income tax expense. At the

1 Commission's September 11, 2013 Staff Open Meeting, the Commission voted to grant
2 Sahuarita's request to rehear Decision 72177. RUCO did not intervene in the Sahuarita rate
3 case, and presumably, has no basis for seeking rehearing of any decision by the Commission
4 approving income tax expense for Sahuarita. As of the date of this filing, the Commission's
5 Hearing Division has not issued a procedural order establishing a procedural schedule for the
6 rehearing of Decision 72177.

7 In procedural orders dated September 20, 2013, the Commission's Hearing Division set
8 two separate procedural conferences on October 4, 2013 to discuss the rehearing of Decisions
9 73992 and 73993. However, Johnson Utilities is concerned about the potential for conflicting
10 results in two separate proceedings for Johnson Utilities and Pima Utility. The arguments
11 framed by RUCO in its two motions for rehearing (as quoted from the section headings) are
12 word-for-word identical:

- 13 • The Company's proposal violates Arizona's Constitution because the
14 Commission's process does not properly consider fair value.
- 15 • Allowance of an imputed income impacts the Company's rate of return.
- 16 • Because shareholders may have different individual tax rates and different
17 offsets, any rate the Commission sets would be arbitrary, capricious and
18 an abuse of discretion.
- 19 • The Commission's methodology for imputing taxes is contrary to the
20 weight of authority in other states.
- 21 • As a matter of public policy, allowing a limited liability company or a
22 subchapter S corporation to recover income tax from ratepayers is poor
23 public policy.

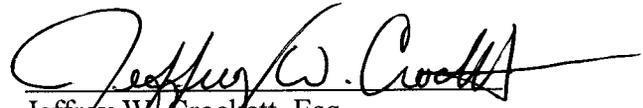
24 It is not possible for these identical arguments to be litigated in separate proceedings
25 without a substantial risk of conflicting outcomes in the decisions produced. In addition,
26 combining the proceedings would certainly result in judicial economy and a savings in the time
27 and resources of Utilities Division Staff, RUCO, Johnson Utilities and Pima Utility. The
28 evidence presented by RUCO in support of its position will be virtually identical in both
dockets. Likewise, the evidence presented by Johnson Utilities and Pima Utility in their

1 respective dockets will be virtually identical. Johnson Utilities also notes also that the resolution
2 of the arguments raised by RUCO will necessarily have a bearing on the petition of Sahuarita,
3 and it would be judicious to afford Sahuarita the opportunity to participate in a consolidated
4 proceeding even though RUCO is not an intervenor in the Sahuarita rate case.

5 For the reasons set forth above, Johnson Utilities requests that the arguments raised by
6 RUCO in its motions for rehearing Decisions 73992 and 73993 be addressed in a single
7 consolidated proceeding, with an opportunity for Sahuarita to participate in that proceeding.
8 Further, since Johnson Utilities' request for an extension of its rate case filing deadline is
9 completely unrelated to any of the arguments raised in the RUCO motions, the Company
10 requests that its request regarding the rate case filing deadline be addressed in a separate
11 proceeding.

12 RESPECTFULLY submitted this 4th day of October, 2013.

13 BROWNSTEIN HYATT FARBER SCHRECK LLP

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19 ORIGINAL and thirteen (13) copies of the
20 foregoing filed this 4th day of October, 2013, with:

21 Docket Control
22 ARIZONA CORPORATION COMMISSION
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25 Copy of the foregoing hand-delivered
26 this 4th day of October, 2013, to:

27 Lyn Farmer, Chief Administrative Law Judge
28 Hearing Division
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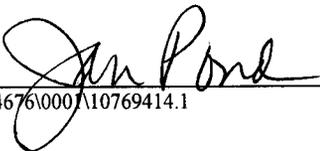
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