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BEFORE THE ARIZONA CORPORATION COMMISSION

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2014 APR -3 A 11:06

AZ CORP COMMISSION
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Arizona Corporation Commission

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APR 03 2014

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IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES, LLC, DOING BUSINESS AS JOHNSON UTILITIES COMPANY, FOR APPROVAL OF SALE AND TRANSFER OF ASSETS AND CONDITIONAL CANCELLATION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. WS-02987^A13-0477

MOTION TO SUSPEND PROCEDURAL SCHEDULE AND CONTINUE HEARING

1 Swing First Golf LLC ("Swing First") hereby moves to suspend the procedural schedule
2 and continue the hearing set by the Administrative Law Judge in the above-captioned docket.

3 The March 14, 2014, procedural schedule required the Town of Florence ("Town") to file
4 written testimony in this docket no later than March 28, 2014. The Town has filed no testimony.
5 On April 2, 2014, the Town finally filed a Motion to Intervene, but it has not filed the ordered
6 testimony, or even disclosed when it intends to make the filing.

7 The Town's delay in participating in this hearing and its failure to file the ordered
8 testimony severely prejudices the other parties that are required to file direct testimony by April
9 25, 2014. Swing First and the other responsive parties have nothing to respond to at all from the
10 Town. Due process and respect for the Commission require that the Town file testimony and
11 that the responsive parties be allowed at least four weeks to review the Town's testimony,
12 conduct discovery, determine whether responsive testimony is needed, and to prepare that
13 testimony. Indeed, this was the basis for Swing First's agreement to the parties' proposed
14 procedural schedule that was adopted by the Administrative Law Judge.

15 Swing First is aware that the Town wishes to complete the proposed transaction in June
16 2014. However, the Town's desire does not trump due-process. Further, the asset purchase

1 agreement—the most important evidence in this proceeding— *still* has not been made available
2 for the Commission and the parties to review. The Town has only itself to blame for any delays
3 that result from its failures to timely intervene, submit written testimony, provide copies of the
4 executed asset purchase agreement to the Commission and the parties, respond to discovery, and
5 be subject to cross examination.

6 As the Commission is likely aware, Swing First has certainly not been happy with its
7 service from Johnson Utilities, but it at least had the Commission to oversee Johnson Utilities.
8 Swing First certainly hopes that the Town will be a more satisfactory water and wastewater
9 utility, but it does not want the Commission to blindly approve moving customers out of the
10 frying pan and into the fire. If the transfer is approved, Swing First, along with most current
11 Johnson Utilities customers, will be left with virtually no customer rights and no entity to
12 supervise rates and conditions of service. Carefully scrutiny is required before the Commission
13 approves the requested transaction—approval which fairly should not be rushed.

14 **Requested Relief.** Swing First asks the Commission to suspend the procedural schedule
15 and indefinitely continue the scheduled hearing until the Town has filed direct, written testimony
16 and has provided the Commission and all parties a copy of asset purchase agreement. Once
17 these conditions have been satisfied, the Commission should set a new procedural schedule.

18 Respectfully submitted on April 3, 2014.

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1 **Original** and 13 copies **filed** on April 3, 2014, with:
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