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BEFORE THE ARIZONA CORPORATION CC

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CORP COMMISSION DOCKET CONTROL

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- 7

8 IN THE MATTER OF THE APPLICATION OF  
 9 JOHNSON UTILITIES, LLC, DOING  
 10 BUSINESS AS JOHNSON UTILITIES  
 11 COMPANY, FOR APPROVAL OF SALE AND  
 12 TRANSFER OF ASSETS AND  
 13 CONDITIONAL CANCELLATION OF ITS  
 14 CERTIFICATE OF CONVENIENCE AND  
 15 NECESSITY.

Docket No. WS-02987A-13-0477

Arizona Corporation Commission

DOCKETED

APR 17 2014

DOCKETED BY 

14 RE: Johnson Utilities proposed sale to Florence

15 April 17, 2014

16 Notes in reply to Mr. Crockett's objection to Application to Intervene, docketed April 15:

17  
18 **Regarding the supposed violation of protocol on the Applicants' part:**

19 Steve Pratt was not able to be present with the other three parties when the Application to  
 20 Intervene was filed. His signature on an additional page was obtained as soon as possible,  
 21 and this signature form was then mailed to all parties in the docket on Monday, April 14. To  
 22 ensure full compliance so that all parties on the docket service list would have all four  
 23 pages of the Application, an additional copy of the original letter and the form with the  
 24 three signatures was mailed on April 15 to all 9 parties on the service list, again including

1 Mr. Crockett. Hence, all 9 parties on the service list should now have all four pages of the  
2 Application, and this objection by Mr. Crockett should now be a moot point.

3  
4 **Regarding the objection that the issues raised in our Application are outside of the**  
5 **scope of the Arizona Corporation Commission:**

6 We thank Mr. Pozefsky for his support for our position and interest in this case as  
7 ratepayers with a great deal at stake in this case. As such, we note that throughout the  
8 various discussions in this docket, the term “municipality” has frequently been applied to  
9 the San Tan Valley community of approximately 93,000 residents. However, we remind all  
10 parties that the San Tan Valley community is unincorporated, has no elected officials or  
11 town/city facilities, and aside from status with the U.S. Postal Service as a recognized  
12 community name has no other legal presence whatsoever. “San Tan Valley,” from a legal  
13 perspective, exists primarily in the minds of those who use the name to describe the  
14 community. Consequently, we request all involved in this decision to carefully consider  
15 whether existing legal statutes that address municipalities, including the previously  
16 referenced ARS Title 9 and Opinion 62-7 (the latter precipitated by the sale of a private  
17 water company within Tucson—significantly, an already incorporated area—to the City of  
18 Tucson), also apply to unincorporated communities, which lack legal presence and  
19 standing.

20 For these reasons, it may well be in order for the ACC—which as the same Opinion notes  
21 is responsible for assessing whether the sale is injurious to the rights of the public—to  
22 extend a greater level of consideration for the rights of the residents of an unincorporated  
23 community. We therefore contend that the ACC would be well within its scope to examine  
24 how this transaction as presently constituted might affect the rights of those who live in the

1 San Tan Valley community. Although it is our hope this is already the case, we would like  
2 written assurance in the documents relevant to this transaction that in this case, the terms  
3 “community” and “municipality” will be considered as interchangeable and that the San Tan  
4 Valley community will be treated under purposes of all relevant laws and judicial opinions  
5 as a municipality, both now and in the future.

6 One of the primary functions of the ACC is to regulate the rates of private utility  
7 consumers. We have noted with some alarm, however, statements such as a recent quote  
8 from Florence Mayor Tom Rankin regarding the transaction that *“There’s no cost to the*  
9 *citizens of Florence. The cost will be borne by the utility users inside and outside of town.”*  
10 (Casa Grande Dispatch, April 7, 2014, emphasis added. See  
11 [http://www.trivalleycentral.com/casa\\_grande\\_dispatch/area\\_news/johnson-utilities-  
purchase-goes-to-florence-voters/article\\_e7250dae-be7a-11e3-8f57-001a4bcf887a.html](http://www.trivalleycentral.com/casa_grande_dispatch/area_news/johnson-utilities-<br/>12 purchase-goes-to-florence-voters/article_e7250dae-be7a-11e3-8f57-001a4bcf887a.html).)

13 As previously noted in our Application, the economic study done by the Town of Florence  
14 forecasts regular 5-6% raises in the rates of Johnson Utility customers. Mr. Johnson,  
15 however, is quoted in the same article (as well as his April newsletter to Johnson Utilities  
16 customers) as saying of the proposed transaction that this choice “position[s] the town of  
17 Florence to take the driver’s seat,” and adds in the April newsletter that, “As this  
18 transparent agreement evolves between Johnson Utilities and the Town, customers will  
19 see no increase in utility bills, since the current rates will pay for the seller financing.” We  
20 have previously noted Mr. Hodges’ testimony that rates would be frozen for 18 months and  
21 we remain convinced that the pass-thru rate provision should not apply to the Town of  
22 Florence, which pays no income tax and has no need to recoup the cost. Given the  
23 ambiguity about rates in any case, establishing some clear guidelines and guarantees  
24 about rate protection would seem to be an important priority in settling the terms of this  
transaction rather than a distraction or over-broadening of the relevant issues.

1  
2 As the ownership of Johnson Utilities changes from privately owned to the control of Town  
3 of Florence (thereby leaving ACC jurisdiction), we understand and acknowledge (as in our  
4 original Application) that there are procedures the Town of Florence must follow in order to  
5 alter our rates. Similar to our previous note, Mr. Crockett cites on page 4 existing Arizona  
6 law (9-511.01) that has been interpreted to mean that rates assessed to nonresidents of a  
7 municipality must be "just and reasonable." However, since Mr. Crockett also states that  
8 the "just and reasonable" rate standard is not an actual provision of Arizona law but merely  
9 an interpretation based on *Jung vs. City of Phoenix*, we now see it as even more important  
10 that this "just and reasonable" standard be at minimum referenced, if not the procedure in  
11 ARS 9-511.01 for raising rates spelled out, as part of this Agreement in the interests of  
12 current Johnson Utilities consumers. For all these reasons, we therefore reaffirm our  
13 request that these procedures for raising rates as established in Arizona law be explicitly  
14 referenced in the Agreement.

15 Our request for a Customer Advisory Board also ties back to the previously mentioned  
16 concerns about the difference between a municipality and a community. If San Tan Valley  
17 were a legal municipality with elected representatives governing public utilities, we would  
18 have sufficient representation and our request would be moot. However, there is currently  
19 no such representation in place, resulting in our previous complaint that residents in our  
20 area have had no voice in this process. A Customer Advisory Board that would hear  
21 concerns from customers and pass them along to the Manager and/or management team  
22 would help alleviate this concern. If it is not within the jurisdiction of the ACC to rectify this  
23 particular concern given that San Tan Valley is an unincorporated community, the Town of  
24 Florence and Johnson Utilities might consider voluntarily implementing this, along with any

1 other provision relevant to hearing and alleviating resident concerns, in the interest of  
2 goodwill towards and reassurance to their paying customers in San Tan Valley.

3  
4 We also note that Mr. Crockett asks for a single representative to voice our concerns at the  
5 hearing. We agree that this will greatly simplify and facilitate the expression of our  
6 concerns. We therefore name Steve Pratt as our spokesman at the hearings.

7  
8 **Concerns about notification and conclusion:**

9 Again, we are requesting intervention because we do not believe the concerns of San Tan  
10 Valley residents have been adequately considered and we have had no voice in this  
11 process, particularly as an unincorporated community. Mr. Crockett addresses the issue of  
12 public notification, which we do not believe has been sufficient. To the best of our  
13 knowledge, no public meetings whatsoever have been held in San Tan Valley itself  
14 regarding this sale; if so, they have been very poorly advertised. We do know of a single  
15 "public" meeting, held last night (April 16) at Anthem in Florence, which we understand  
16 was open only to Anthem residents. No Johnson Utility newsletter to date has announced  
17 any other public meetings on the issue in San Tan Valley, nor has any other media outlet  
18 with which we are familiar.

19 We suggest to the consideration of all parties involved that, as we learned in August 2012  
20 in the E. coli controversy, public notification via the mass media in our area is somewhat  
21 problematic. No newspaper or major TV/radio media outlet specifically serves San Tan  
22 Valley, though three commercial news-based websites (santanvalley.com,  
23 santanvalleytoday.com, and santanvalleydailyprss.com), along with the home-based radio  
24 station KQCK, constitute the closest approximations. However, major newspapers such as

1 the Arizona Republic and East Valley Tribune pay scant attention to our area and do not  
2 publish an edition specific to our community despite its size. Likewise, smaller publications  
3 such as the Queen Creek Independent and the Pinal County consortium headed by the  
4 Florence Blade-Tribune barely cover San Tan Valley and do not have operations in our  
5 community. Social media (Facebook, Twitter, etc.) are notoriously erratic in terms of  
6 disseminating news to a particular geographical location. Yet Mr. Crockett implies that  
7 publication of the required notice in the statewide edition of the Arizona Republic is  
8 sufficient to notify the entire San Tan Valley area, a problematic statement for all these  
9 reasons.

10 It is true that the Johnson Utilities newsletters discussed the issue in the February, March,  
11 and April newsletters—along with extensive commentary denouncing the Curis copper  
12 mine, a critique of a legal case in which Mr. Johnson had been named as a defendant, and  
13 a lengthy open letter about the benefits of annexation into Florence, ostensibly for the  
14 benefit of Magic Ranch residents and others currently facing this question. To its credit, the  
15 March newsletter also featured the required notification form. However, the newsletters  
16 conspicuously lack any accompanying invitation to discuss this sale in public in San Tan  
17 Valley with the ratepayers who will be most directly affected. Moreover, the public  
18 notification mailer sent out by Johnson Utilities invites ratepayers to send their concerns to  
19 the ACC—to an *incorrect docket number*. (Although the correct number was also included  
20 at the top of the page, the error is significant, since it requires consumers to guess which  
21 number is correct.) Ratepayers may also comment at the public hearing on May 19—well  
22 after many relevant issues have been discussed and decided—or file motions to intervene  
23 to cite their concerns, as we have done. However, after having followed this last  
24 recommendation, Mr. Crockett's swift response that virtually all of our concerns and

1 proposed solutions are irrelevant to the ACC's jurisdiction and would unduly burden these  
2 proceedings hardly reassures us that we have in fact had a voice in this process.

3  
4 We therefore renew our contention that the concerns of San Tan Valley ratepayers need to  
5 be heard and addressed as this transaction goes forward and appeal to all parties to lend  
6 a listening ear. Should the issues raised lie outside the jurisdiction of the ACC, as Mr.  
7 Pozefsky correctly notes is the decision of the Administrative Law Judge, we appeal to the  
8 goodwill of the Town of Florence and Johnson Utilities to voluntarily implement measures  
9 to ensure that the needs and wishes of ratepayers are addressed.

10 Sincerely,  
11 Karen Christian  
12 Todd Hubbard  
13 Alden Weight  
14 Steve Pratt

15  
16  
17 RESPECTFULLY SUBMITTED this \_17th\_\_\_ day of April, 2014

18  
19   
20 \_\_\_\_\_

1 AN ORIGINAL AND THIRTEEN COPIES  
2 of the foregoing filed this 17th day  
3 of April, 2014 with:

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6 Phoenix, Arizona 85007

5 COPIES of the foregoing hand delivered/  
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