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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP, Chairman
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ARIZONA CORP COMMISSION
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Arizona Corporation Commission

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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-02987-13-0477

RESPONSE IN SUPPORT OF RUCO'S MOTION TO COMPEL

1 Swing First Golf LLC ("Swing First") supports RUCO's Motion to Compel and
2 Modification of Procedural Schedule.

3 The Town of Florence and Johnson Utilities seem to believe that the Commission's role
4 is simply to rubber-stamp the requested approval. Swing First disagrees. The Commission
5 should only approve the requested transaction if it is in the public interest.

6 Application of the public interest standard to this transaction requires that the
7 Commission answer a fundamental question: Will customers be better off (or at least no worse
8 off) if the transaction is approved than if it is not?

9 Presently, Johnson Utilities' rates and services are regulated by the Commission. If the
10 transaction is approved, Johnson Utilities, still owned and managed by George Johnson, will
11 escape Commission regulation. It will no longer be required to "file a full rate case application
12 for both its water and wastewater divisions by no later than June 30, 2015, using a 2014 calendar
13 year test year."¹ Johnson Utilities has resisted this requirement at every turn, which suggests that
14 present rates (based on a 2007 test year) may be excessive. The Town of Florence instead
15 merely intends not to change rates for 18 months, which then could well be rate increases.²

¹ Decision No. 73992.

² Direct Testimony of Charles A. Montoya at 7.

1 RUCO's Motion raises troubling issues that suggest that customers will actually be worse
2 off if the transaction is approved. The documents attached to RUCO's Motion suggest that
3 Florence Mayor Rankin may be colluding with George Johnson or acting under his control or
4 undue influence. RUCO's discovery seeks information directly relevant to determining the
5 nature and extent of their relationship, which is in turn relevant concerning whether the proposed
6 transaction is in the public interest.

7 On April 4, 2014, Judge Jibilian stated:

8 Provided that the Town's April 15, 2014 filing includes a fully executed asset
9 purchase agreement that specifies the terms of the proposed asset purchase, the
10 current procedural schedule can accommodate a short delay in the testimony
11 filing schedule prior to the current hearing date.³

12 It is now one week past the Judge's deadline and the Town has still not filed a fully executed
13 copy of the asset-purchase agreement. Implicit in the Judge's Order is a requirement that
14 Johnson Utilities and the Town would timely respond in good faith to reasonable discovery
15 requests. Instead, Johnson Utilities is stonewalling RUCO's reasonable discovery requests,
16 which may make testimony preparation impossible by the Order's deadlines. Therefore, Swing
17 First renews its request to indefinitely suspend the procedural schedule.

18 Respectfully submitted on April 22, 2014.

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³ Procedural Order dated April 4, 2014.

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