

WS-02987A-13-0477



0000153067

ARIZONA CORPORATION COMM

UTILITY COMPLAINT **RECEIVED**

Investigator: _____

Phone: 2014 APR 29 A 9 17 Fax: (602) 542-2129

Priority: Respond Within Five Days

ARIZONA CORPORATION COMMISSION
DOCUMENT CONTROL

ORIGINAL

Opinion No. 2014 - 115925

Date: 4/23/2014

Complaint Description: 08A Rate Case Items - Opposed
N/A Not Applicable

Arizona Corporation Commission

DOCKETED

APR 29 2014

First:

Last:

Complaint By: Karen

Christain

Account Name: Christain

Home: (

Street:

Work:

City: San Tan Valley

CBR:

State: AZ Zip: 85143

is:

DOCKETED BY

Utility Company: Johnson Utilities L.L.C. d/b/a Johnson Utilities Company

Division: Water

Contact Name: Greg Brown

Contact Phone: _____

Nature of Complaint:

DOCKET NO. WS-02987A-13-0477 OPPOSED

RE: Johnson Utilities Docket WS-02987A-13-0477:

We, as members of the San Tan Valley community and unincorporated Pinal County very much appreciate the ongoing discussions in our behalf, including the letters dated April 3rd from Robin Mitchell, and March 24th from Commissioner Susan Bitter-Smith to the parties in the docket regarding the sale of Johnson Utilities, LLC, to the Town of Florence. As we look over the documents related to the transaction, we do not feel our interests have been sufficiently considered and cannot support the sale as the documents are presently written. We therefore request to intervene in this case as concerned customers of Johnson Utilities and residents of San Tan Valley. Our intent is not necessarily to stop the sale, nor shall our participation burden the record. In fact, we will offer cures to many of the gross affronts to the public interest that exist in the current application.

Our primary objection is that current JU customers have had no voice in this process. Despite the fact that the acquisition will affect nearly 100,000 people in the San Tan Valley and Florence areas, about 4,000 existing JU customers will be able to vote in the Florence election that decides this issue, leaving the rest without any say at all. In fact, recent Florence councilmember elections have seen a 50% turnout, and this special election may see even fewer voters participate. It is highly likely, therefore, that fewer than 2,000 people will decide the fate of this acquisition that impacts 100,000 people. We believe this lack of representation is neither fair nor in the best interest of the community of San Tan Valley and other unincorporated areas that are currently serviced by Johnson Utilities. The proposed sale, as presently constituted, also leaves us without any representation or recourse if we are dissatisfied with the quality or service of the Town of Florence. The lack of representation is in and of itself injurious to the public.

We refer you to Attorney General Opinion 62-7 P. 9, last paragraph: "...The owner may not transfer such properties unless authorized by the commission. All that the commission is concerned with therefore, is whether a proposed transfer, is injurious to the rights of the public."

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

We are also concerned about our current and future water-service rates. We note that Daniel Hodges, on behalf of Johnson Utilities, has testified (March 28, Direct Testimony) that Florence has agreed to maintain current customer rates for 18 months after the sale is effective. However, we can find no formal provision for this in the current terms of sale, as presently shown in "draft" form. For that matter, we also see no provision at all for how our rates will be assessed or governed in the future. Our rates should also no longer reflect the "pass-thru" provision effective as of our September 2013 water bills that allows privately owned companies to collect revenue to offset their income taxes. We acknowledge that Mr. Crockett as a legal representative of Johnson Utilities commented on April 3 that rates must be just and "reasonable," justified in a written report, and raised only after a hearing. He also provided assurance that non-residents of a community cannot legally be charged "unreasonable rates." The testimony of Mr. Hodges repeats many of these concerns.

However, it is also our clear understanding in council meetings with Florence officials that we will not only face a non-resident water surcharge but that the Town of Florence expects to be able to raise our rates 5-6% every year, according to their economic study of the purchase. The PowerPoint presentation given on March 26th demonstrated a graph showing unprecedented and continual revenue increases. Granted, some of this will be a result of growth, but the implication and verbal statements made by the economist stated yearly increases of 3-5%. We would be satisfied with a concrete proposal as to how rates will be established consistent with the just and reasonable standard, as well as how they will be governed, rather than a vague promise that we won't be charged anything "unreasonable."

We are further concerned about infrastructure problems such as leaks in sewer lines, and we would like to inquire who will bear the cost of maintenance and repair on unforeseen expenses to infrastructure. Finally, we also believe the current drafts of the Management Agreement have excessively lengthened the transition period and failed to specify a few key provisions relevant to the Manager. Unfortunately, none

of these concerns appear to be addressed under the current "draft form" terms of the agreement, which the council distributed at their town meeting on Wednesday, March 26th, 2014.

Therefore, we request the following to be revised or added to the Management Agreement:

- A Customer Advisory Board should be created to represent the current and future interests of Johnson Utilities customers. This should be added as an Amendment to Section 9 of the current "draft" form of the Management Agreement. CAB members should be appointed from the various developments served by Johnson Utilities, perhaps in connection with HOA elections or municipal elections-NOT appointed by either Owner or Manager, as is sometimes the case with CABs elsewhere. CAB members should also be protected from dismissal at the hand of both Owner and Manager.
- The Terms of Sale also need to address rates and rate increases, as well as the procedures for altering rates, particularly since the ACC will no longer have jurisdiction. We request the following additions to the Management Agreement regarding rates and increases: 1) A note guaranteeing that our rates will revert to the level they were before the pass-thru increase allowed as of September 2013, since the pass-thru provisions do not apply to the Town of Florence. 2) The promise alluded to by Mr. Hodges by the Town of Florence to freeze the rates at that level for JU customers for 18 months following the date of sale. 3) The full legal protocol for future rate increases, as discussed by Mr. Crockett and also mentioned by Mr. Hodges. 4) An additional stipulation that rate increases should also be subject to input from the Customer Advisory Board, and if the proposed increase is sufficiently large, also subject to the vote of current JU customers.
- The Management Agreement should also stipulate who is responsible for the costs of infrastructure maintenance and repairs, as well as any fines that might be incurred during the transition period. The Agreement should expressly state that in no case shall the cost of infrastructure repairs or fines ever be passed on to customers.

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

• The transition from Johnson Utilities to the Town of Florence should begin immediately upon the date of sale and be limited to 3 years. This would be a revision of Section IOa. However, the Manager, or a designated representative, could continue beyond the transition period as a Special Consultant to the Town of Florence for up to 10 years beyond the date of sale. This consultant role would occur on an at-will basis at the discretion of the Owner.

• Two additional provisions of the Management Agreement are important but neglected.

1) The clause in 19a governing the cause for termination of the Manager should also include any future egregious AbEQ violations and excessive fines, as well as the violation of any other term of the Management Agreement, as such costs would be deeply injurious to the Owner's finances and public reputation. 2) Section 19 should also address provisions in case of the Manager's incapacitation, disability, or any other health or personal issue that renders Manager unable to perform duties during the transition period.

We believe these to be fair, equitable, and workable solutions that would allow those of us currently served by Johnson Utilities a clear sense of representation and establish a more concrete understanding and reassurance about our rates and the other previously mentioned aspects of this transaction. With these revisions and additions, we would be more comfortable supporting the Town of Florence's acquisition of Johnson Utilities and feel these measures would be a positive step in promoting satisfaction and fairness for all in the combined JU/TOF service area.

Hoping for a healthy future,

Undersigned residents of the current Johnson Utilities service area
End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

Intervention granted. Docketed
End of Comments

Date Completed: 4/23/2014

Opinion No. 2014 - 115925
