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ARIZONA CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

MAY 16 2014

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

DOCKET NO. WS-02987A-13-0477

AARP COMMENTS

In the matter of the application to the Arizona Corporation Commission of Johnson Utilities, LLC requesting ACC approval of a sale and transfer of Johnson assets to the Town of Florence, the AARP agrees with intervenors Karen Christensen, Todd J. Hubbard, Alden L. Weight, and Steve Pratt who state “[o]ur 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.”

Current Johnson Utilities rates associated with the water and wastewater utility assets the Town proposes to purchase from Johnson Utility include allowances for personal income tax recoveries of the private owners of the utility company that RUCO has deemed to be “phantom income taxes”. Apparently, the Town of Florence and Johnson Utility want the ACC and the Town’s voters to approve the sale of Johnson Utility assets with tariffs including these phantom income taxes without conducting a thorough and transparent examination of the costs of operations including unrevealed owner personal income taxes reflected in the tariffs the Town will acquire when buying these privately owned utility company assets.

The phantom personal income tax recovery to private owner utility asset sellers already baked into the tariff schedule that Florence will adopt provides a financial windfall profit on the unsubstantiated "costs of service" to be sold to the Town. Buying utility assets with utility rates that reflect the recovery of the personal income taxes of the seller's owners will provide no economic or service benefit to municipal utility resident rate payers while enriching the departing private sellers by the price charged for these utility assets. Yet there is more.

How does paying the personal income taxes of the seller's owners benefit water and sewer users once the Town buys Johnson Utility assets and associated utility rates are purchased? Presumably the requirement of utility users to pay the personal income taxes of water company owners was to give the private utility owners greater capital resources to invest in utility improvements to the water and sewer services used. How likely is it that a water company asset seller will spend the windfall profit of recovery of their personal income taxes on utility assets sold to the Town, a municipality which pays no income taxes? The answer is not likely, as the private owner pockets the windfall profit of personal income tax recovery in the price of the asset sale to the Town while the Town continues to charge utility customers rates for a cost of service operations which the Town, a tax-exempt municipality, does not actually incur or pay. The asset purchase agreement would have the Town charge whatever rates deemed necessary to meet the bond obligations the Town will incur to purchase the utility assets from Johnson Utility, and the current rates include phantom personal income taxes of the seller's owners. Despite the wrangling among the parties and the ACC over promises attributed to the Town to freeze existing utility rates for 18 months at current levels, there appears to be no limitation of rates or time in the asset purchase agreement. The apparent result of this sale would be for Johnson utility owners to get their personal income taxes paid in the price of the assets sold and the water and sewer utility users continue to pay utility rates for costs of service not incurred by the Town.

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Is this fair and "in the public interest"? Not without a public ACC hearing examining the asset purchase agreement, the costs of the assets to be sold that include phantom personal income tax recoveries, and the current utility rates the Town would acquire that include phantom costs. The AARP agrees with the intervenors and RUCO: phantom personal income taxes of the utility asset seller should not be charged to utility users served by the Town of Florence.



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