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OPEN MEETING

MEMORANDUM

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Arizona Corporation Commission

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TO: THE COMMISSION

FROM: Utilities Division

AUG 07 2015

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: August 7, 2015

DOCKETED BY

ORIGINAL

RE: IN THE MATTER OF STAFF'S INQUIRY INTO THE TERMINATION OF  
STANDPIPE SERVICE BY JOHNSON UTILITIES (DOCKET NO. WS-  
02987A-15-0284)

On June 10, 2015, the owner of San Tan Water Hauling ("San Tan") lodged an informal complaint with the Arizona Corporation Commission ("Commission") Utilities Division Staff, ("Staff") wherein San Tan asserted that Johnson Utilities, LLC ("Johnson" or "Company") had denied San Tan access to standpipe water without notice. San Tan conducts a water hauling business, transporting water by truck to homes or businesses that require bulk water delivery.

On July 24, 2015, Johnson issued notice that it would discontinue its standpipe service to all customers by August 5, 2015. However, Johnson actually discontinued service on July 30, 2015, due to a vandalized computer screen that operates the standpipe, and the Company has advised Staff that it does not intend to bring the standpipe back into operation. Staff recommends the Commission order Johnson to reinstate the standpipe service in order to prevent the abrupt discontinuation of standpipe water service in the summer season and to allow the Commission an opportunity to fully consider whether the continued provision of standpipe service by Johnson is in the public interest.

**BACKGROUND**

Johnson is an Arizona public service corporation that provides water utility service in the San Tan Valley area. The Company was certificated to provide water utility service by Decision No. 60233 (May 27, 1997). The Commission authorized Johnson to provide standpipe service, at a rate of \$3.75 per thousand gallons, when Johnson received its Certificate of Convenience and Necessity in 1997. However, Staff understands that the Company has been charging \$2.49 per thousand gallons for standpipe service since August 24, 2010, when the Commission issued Decision No. 71854 approving new rates for the Company. Decision No. 71854 did not address the Company's ongoing standpipe service,<sup>1</sup> either to discontinue it or to approve a new standpipe rate going forward.

<sup>1</sup> Staff believes this is the result of an error in Staff's Direct Testimony in the Company's last rate case. In its rate application, the Company sought to continue standpipe service and asked for a new standpipe rate of \$2.485 per thousand gallons. The Company sought a new construction water rate also at \$2.485 per thousand gallons. Staff's Direct Testimony and associated tariff schedule listed the Company's request for approval of a new construction water rate, but erroneously failed to mention the Company's request for a new standpipe rate. Although, the Company again included its request for a new standpipe rate in its rebuttal testimony, the standpipe rate was unfortunately not included in Staff's surrebutal testimony or schedules and was ultimately not included in Decision No. 71854. Discontinuation of

THE COMMISSION

August 7, 2015

Page 2

On June 10th of this year, San Tan lodged an informal complaint with Staff's Consumer Services Section asserting that the Company had inappropriately denied San Tan access to the Company's standpipe service. In response to Staff's inquiries, the Company claimed that San Tan was reselling water and allegedly transporting water via a truck with a non-potable water tank. San Tan, however, responded that it routinely chlorinates its tanks to ensure the safe delivery of water.

Staff would also note that the Company has been providing standpipe service to San Tan for a significant period of time, charging \$2.49 per 1,000 gallons. To Staff's knowledge, no complaints have been filed by any customers of San Tan relating to poor water quality or adverse health effects.

Throughout June and July, Staff, Johnson, and San Tan engaged in discussions but were unable to resolve the dispute.

On July 22, 2015, Staff contacted Johnson to advise the Company to reinstate standpipe service during the pendency of San Tan's informal complaint. Based upon Staff's review, providing standpipe service to San Tan does not create a hazard to the safety or health of the public. Under these circumstances, Staff concluded that it was inappropriate for the Company to terminate San Tan's service. *See* A.A.C. R14-2-410. On July 23, 2015, the Company responded to Staff, claiming that the standpipe is not regulated by the Commission and that Johnson may turn it off at any time. The Company also claimed that it does not currently have a tariff for standpipe service, and is therefore not obligated to continue to provide such service.

On July 24, 2015, Johnson issued a notice to all of its standpipe customers informing them that the standpipe would be permanently closed on August 5, 2015. Also on July 24<sup>th</sup>, all of San Tan's drivers were denied access to standpipe service. Staff received seven additional verbal communications from standpipe customers inquiring about and/or objecting to the Company's closing of the standpipe.

On July 29, 2015, Staff again contacted the Company to discuss the status of the standpipe and to request that the San Tan account be reinstated. Staff further related its position that, if the Company wishes to discontinue standpipe service, it should file an application with the Commission to have the tariff either clarified or discontinued.

On July 30, 2015, the Company notified Staff that the standpipe had been vandalized and was therefore inoperable. Johnson Utilities further advised that, due to other alleged incidents of vandalism and potential liability arising from unnamed third parties purchasing and hauling water to consumers for potable purposes, the Company had decided to permanently close the standpipe.

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the Company's standpipe service was never mentioned or discussed in the filings or transcripts in the case leading up to Decision No. 71854. For these reasons, Staff believes the lack of a new standpipe rate in Decision No. 71854 is the result of a Staff error, not an intention on behalf of the Commission, Staff or the Company for Johnson to discontinue standpipe service.

On July 31, 2015, an engineer from the ACC Utilities Division visited the standpipe facilities. Attachment 1 is one of the photos taken during the visit.

Staff has communicated with the Company on several occasions in an effort to determine when the standpipe will be repaired and placed back in service. The Company has informed Staff that it has no intention of reopening the standpipe, and that customers have two other standpipe options from which they may obtain water. Attachment 2 is a map depicting the location of these two standpipes and showing the distances between the various standpipes in miles.

On July 31st, Staff also offered to engage in a mediation process in an effort to resolve this dispute. The Company, however, has rejected Staff's mediation proposal and advised that it would be filing an application with the Commission "to confirm that there is no standpipe tariff in effect."

On August 5, 2015, San Tan sent a petition to Staff with 233 signatures and 38 letters from standpipe customers requesting the Commission's assistance in re-establishing the standpipe service.

Despite the alleged vandalism, Staff has received reports that the Company continues to provide standpipe service to Roadrunner Transit, a company reportedly owned by the daughter of the Company's principal shareholder. Staff has been informed that Roadrunner Transit conducts a water hauling business, transporting water by truck to customers who require bulk water delivery.

#### STAFF RECOMMENDATIONS

Water service is a form of utility service that has been acknowledged to be "clothed in the public interest." The Commission's rules require not only the continuous provision of water service but also the Commission's authorization prior to discontinuation of such service. *See, e.g., A.A.C. R14-2-402(C), -407(C).* Staff believes that the Company's abrupt and complete termination of standpipe service during the summer months justifies preliminary relief.

Staff acknowledges that this matter presents disputed issues that may take time to evaluate, especially in relation to the question of the applicable tariffs. However, it is undisputed that the Company has been providing standpipe service, charging \$2.49 per thousand gallons, since at least August 24, 2010. Under the circumstances, the Company's abrupt termination of standpipe service is not reasonable, and creates a substantial inconvenience for its customers. Staff believes that the Company should continue to offer standpipe service, pending resolution.

THE COMMISSION

August 7, 2015

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For these reasons, Staff requests that the Commission issue an order providing for the following interim disposition in order to appropriately resolve this matter:

1. The Commission should refer this matter to the Hearing Division in order to schedule proceedings on whether the Company's standpipe service should be discontinued.
2. In order to resolve this matter as quickly as possible, the Company is directed to file written testimony by October 1, 2015. In its testimony, the Company should explain why it believes that its standpipe service should be terminated.
3. The Hearing Division should expeditiously hold a procedural conference to address matters such as intervention, discovery, and due dates for filing additional testimony. An evidentiary hearing should be scheduled if necessary.
4. The Hearing Division is requested to prepare a proposed order for our consideration.
5. While these matters are pending, the Company is directed to reinstate its standpipe service. Until such time as the Company repairs the computer that operates the standpipe, the Company is directed to station an employee at the standpipe for a minimum of four hours per day Monday through Saturday, between the hours of 7:00 a.m. to 7:00 p.m., so that customers may receive standpipe service manually.
6. While these matters are pending, the Company is directed to reinstate service for San Tan.

  
Thomas M. Broderick  
Director  
Utilities Division

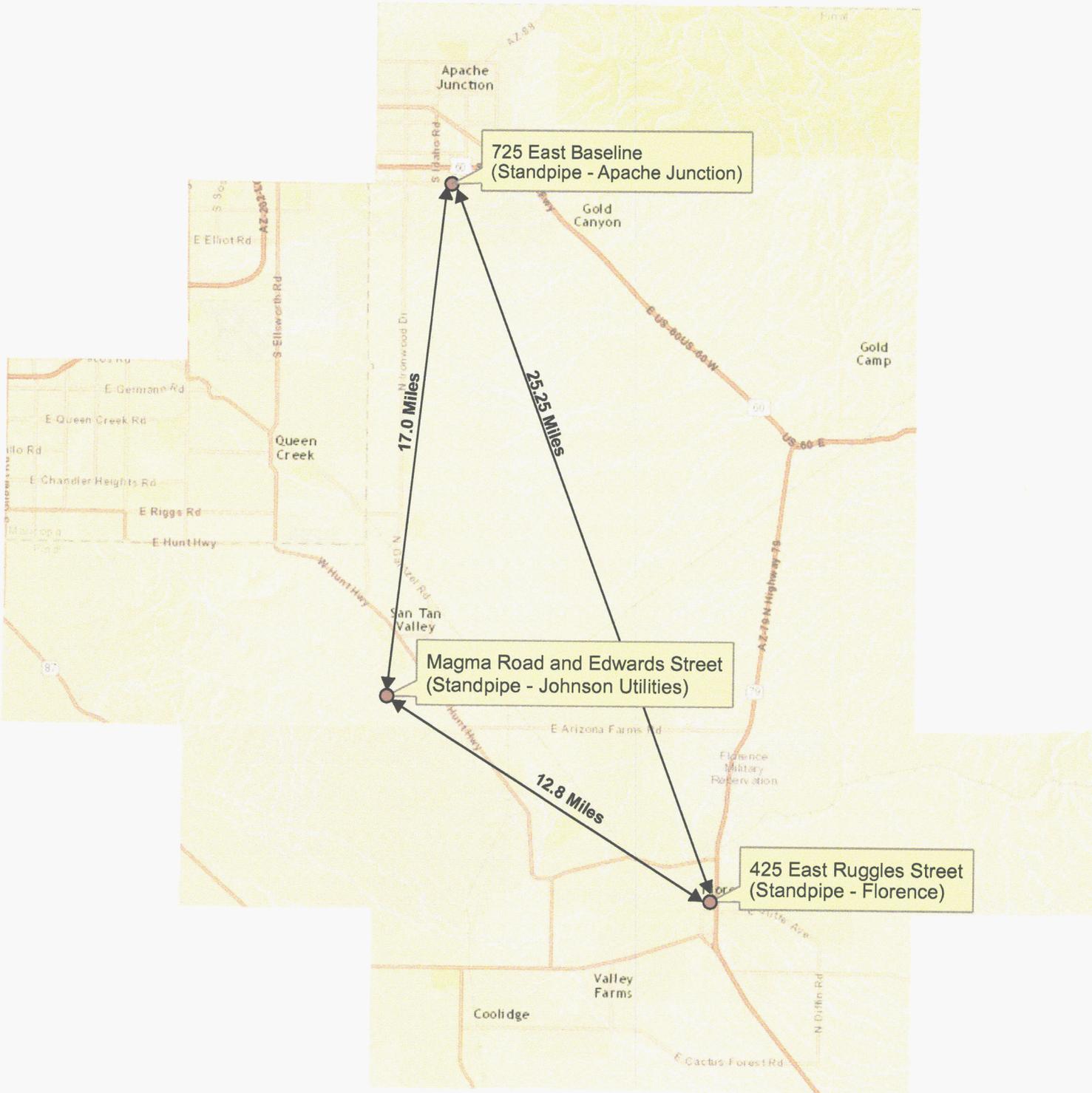
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ORIGINATOR: Thomas Broderick, Brian E. Smith





# PINAL COUNTY



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BEFORE THE ARIZONA CORPORATION COMMISSION

**COMMISSIONERS**

SUSAN BITTER SMITH  
Chairman  
BOB STUMP  
Commissioner  
BOB BURNS  
Commissioner  
DOUG LITTLE  
Commissioner  
TOM FORESE  
Commissioner

IN THE MATTER OF STAFF'S INQUIRY  
INTO THE TERMINATION OF STANDPIPE  
SERVICE BY JOHNSON UTILITIES L.L.C.

DOCKET NO. WS-02987A-15-0284

**DECISION NO. \_\_\_\_\_**  
**ORDER**

Open Meeting  
August 18 and 19, 2015  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On June 10, 2015, the owner of San Tan Water Hauling ("San Tan") lodged an informal complaint with the Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") wherein San Tan asserted that Johnson Utilities, LLC ("Johnson" or "Company") had denied San Tan access to standpipe water without notice. San Tan conducts a water hauling business, transporting water by truck to homes or businesses that require bulk water delivery.

2. On July 24, 2015, Johnson issued notice that it would discontinue its standpipe service to all customers by August 5, 2015. However, Johnson actually discontinued service on July 30, 2015 due to a vandalized computer screen that operates the standpipe, and the Company has advised Staff that it does not intend to bring the standpipe back into operation. . . .

1           3.       Staff recommends that the Commission order Johnson to reinstate the standpipe service  
2 in order to prevent the abrupt discontinuation of standpipe water service in the summer season and to  
3 allow the Commission an opportunity to fully consider whether the continued provision of standpipe  
4 service by Johnson is in the public interest.

5       **Background**

6           4.       Johnson is an Arizona public service corporation that provides water utility service in the  
7 San Tan Valley area. The Company was certificated to provide water utility service by Decision No.  
8 60233 (May 27, 1997). The Commission authorized Johnson to provide standpipe service, at a rate of  
9 \$3.75 per thousand gallons, when Johnson received its Certificate of Convenience and Necessity in 1997.

10          5.       Staff understands that the Company has been charging \$2.49 per thousand gallons for  
11 standpipe service since August 24, 2010, when the Commission issued Decision No. 71854 (August 25,  
12 2010) approving new rates for the Company. Decision No. 71854 did not address the Company's  
13 ongoing standpipe service, either to discontinue it or to approve a new standpipe rate going forward.

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15          6.       Staff believes this is the result of an error in Staff's Direct Testimony in the Company's  
16 last rate case. In its rate application, the Company sought to continue standpipe service and asked for a  
17 new standpipe rate of \$2.485 per thousand gallons. The Company sought a new construction water rate  
18 also at \$2.485 per thousand gallons. Staff's Direct Testimony and associated tariff schedule listed the  
19 Company's request for approval of a new construction water rate, but erroneously failed to mention the  
20 Company's request for a new standpipe rate. Although the Company again included its request for a new  
21 standpipe rate in its rebuttal testimony, the standpipe rate was unfortunately not included in Staff's  
22 Surrebuttal testimony or schedules and was ultimately not included in Decision No. 71854.  
23 Discontinuation of the Company's standpipe service was never mentioned or discussed in the filings or  
24 transcripts in the case leading up to Decision No. 71854. For these reasons, Staff believes the lack of a  
25 new standpipe rate in Decision No. 71854 is the result of a Staff error, not an intention on behalf of the  
26 Commission, Staff or the Company for Johnson to discontinue standpipe service.

27          7.       On June 10<sup>th</sup> of this year, San Tan lodged an informal complaint with Staff's Consumer  
28 Services Section asserting that the Company had inappropriately denied San Tan access to the

1 Company's standpipe service. In response to Staff's inquiries, the Company claimed that San Tan was  
2 reselling water and allegedly transporting water via a truck with a non-potable water tank. San Tan,  
3 however, responded that it routinely chlorinates its tanks to ensure the safe delivery of water.

4 8. Staff also notes that the Company has been providing standpipe service to San Tan for a  
5 significant period of time, charging \$2.49 per 1,000 gallons. To Staff's knowledge, no complaints have  
6 been filed by any customers of San Tan relating to poor water quality or adverse health effects.

7 9. Throughout June and July, Staff, Johnson, and San Tan engaged in discussions but were  
8 unable to resolve the dispute.

9 10. On July 22, 2015, Staff contacted Johnson to advise the Company to reinstate standpipe  
10 service during the pendency of San Tan's informal complaint. Based upon Staff's review, providing  
11 standpipe service to San Tan does not create a hazard to the safety or health of the public. Under these  
12 circumstances, Staff concluded that it was inappropriate for the Company to terminate San Tan's service.  
13 *See* A.A.C. R14-2-410.

14 11. On July 23, 2015, the Company responded to Staff, claiming that the standpipe is not  
15 regulated by the Commission and that Johnson may turn it off at any time. The Company also claimed  
16 that it does not currently have a tariff for standpipe service, and is therefore not obligated to continue to  
17 provide such service.

18 12. On July 24, 2015, Johnson issued a notice to all of its standpipe customers informing  
19 them that the standpipe would be permanently closed on August 5, 2015. Also on July 24<sup>th</sup>, all of San  
20 Tan's drivers were denied access to standpipe service.

21 13. Staff received seven additional verbal communications from standpipe customers  
22 inquiring about and/or objecting to the Company's closing of the standpipe.

23 14. On July 29, 2015, Staff again contacted the Company to discuss the status of the  
24 standpipe and to request that the San Tan account be reinstated. Staff further related its position that, if  
25 the Company wishes to discontinue standpipe service, it should file an application with the Commission  
26 to have the tariff either clarified or discontinued.

27 15. On July 30, 2015, the Company notified Staff that the standpipe had been vandalized and  
28 was therefore inoperable. Johnson further advised that, due to other alleged incidents of vandalism and

1 potential liability arising from unnamed third parties purchasing and hauling water to consumers for  
2 potable purposes, the Company had decided to permanently close the standpipe.

3 16. On July 31, 2015, an engineer from the Utilities Division visited the standpipe facilities  
4 and took photos of the site.

5 17. Staff has communicated with the Company on several occasions in an effort to determine  
6 when the standpipe will be repaired and placed back in service. The Company has informed Staff that it  
7 has no intention of reopening the standpipe, and that customers have two other standpipe options from  
8 which they may obtain water.

9 18. On July 31<sup>st</sup>, Staff offered to engage in a mediation process in an effort to resolve this  
10 dispute. The Company, however, has rejected Staff's mediation proposal and advised that it would be  
11 filing an application with the Commission "to confirm that there is no standpipe tariff in effect."

12 19. On August 5, 2015, San Tan sent a petition to Staff with 233 signatures and 38 letters  
13 from standpipe customers requesting the Commission's assistance in re-establishing the standpipe  
14 service.

15 20. Despite the alleged vandalism, Staff has received reports that the Company continues to  
16 provide standpipe service to Roadrunner Transit, a company reportedly owned by the daughter of the  
17 Company's principal shareholder. Staff has been informed that Roadrunner Transit conducts a water  
18 hauling business, transporting water by truck to customers who require bulk water delivery.

19 **Staff Recommendations**

20 21. Water service is a form of utility service that has been acknowledged to be "clothed in the  
21 public interest."

22 22. The Commission's rules require not only the continuous provision of water service but  
23 also the Commission's authorization prior to discontinuation of such service. *See, e.g., A.A.C. R14-2-*  
24 *402(C), -407(C).*

25 23. Staff believes that the Company's abrupt and complete termination of standpipe service  
26 during the summer months justifies preliminary relief.

27 24. Staff acknowledges that this matter presents disputed issues that may take time to  
28 evaluate, especially in relation to the question of the applicable tariffs. However, it is undisputed that the

1 Company has been providing standpipe service, charging \$2.49 per thousand gallons since at least August  
2 24, 2010. Under the circumstances, the Company's abrupt termination of standpipe service is not  
3 reasonable, and creates a substantial inconvenience for its customers.

4 25. Staff believes that the Company should continue to offer standpipe service, pending the  
5 resolution of these matters.

6 26. For these reasons, Staff requests that the Commission issue an order providing for the  
7 following interim disposition in order to appropriately resolve this matter:

8 1) The Commission should refer this matter to the Hearing Division in order to  
9 schedule proceedings on whether the Company's standpipe service should be  
10 discontinued;

11 2) In order to resolve this matter as quickly as possible, the Company should be  
12 directed to file written testimony by October 1, 2015. In its testimony, the  
13 Company should explain why it believes that its standpipe service should be  
14 terminated.

15 3) The Hearing Division should expeditiously hold a procedural conference to  
16 address matters such as intervention, discovery, and due dates for filing additional  
17 testimony. An evidentiary hearing should be scheduled if necessary.

18 4) The Hearing Division is requested to prepare a proposed order for the  
19 Commission's consideration.

20 5) While these matters are pending, the Company should be directed to reinstate its  
21 standpipe service. Until such time as the Company repairs the computer that  
22 operates the standpipe, the Company should be directed to station an employee at  
23 the standpipe for a minimum of four hours per day, Monday through Saturday,  
24 between the hours of 7:00 a.m. to 7:00 p.m., so that customers may receive  
25 standpipe service manually.

26 6) While these matters are pending, the Company should be directed to reinstate  
27 service for San Tan.

28 ...

CONCLUSIONS OF LAW

1. Johnson Utilities is a public service corporation within the meaning of Article XV of the Arizona Constitution and Title 40 of the Arizona Statutes.
2. The Commission has jurisdiction over Johnson Utilities and over the subject matter of the issues addressed herein.
3. The Commission, having reviewed Staff's memorandum, concludes that it is in the public interest to grant Staff's request for interim relief, as discussed in Findings of Fact 25 and 26.
4. Staff's recommendations, as set forth in Findings of Fact 25 and 26, are reasonable and should be adopted.

ORDER

**IT IS THEREFORE ORDERED** that the Company is ordered to continue to offer standpipe service, pending the resolution of these matters.

**IT IS FURTHER ORDERED** that this matter is referred to the Hearing Division in order to schedule proceedings on whether the Company's standpipe service should be discontinued.

**IT IS FURTHER ORDERED** that the Company is directed to file written testimony by October 1, 2015 in order to explain why it believes that its standpipe service should be terminated.

**IT IS FURTHER ORDERED** that the Hearing Division is directed to expeditiously hold a procedural conference to address matters such as intervention, discovery, and due dates for filing additional testimony. An evidentiary hearing should be scheduled if necessary.

**IT IS FURTHER ORDERED** that the Hearing Division is requested to prepare a proposed order for the Commission's consideration.

**IT IS FURTHER ORDERED** that, while these matters are pending, the Company should be directed to reinstate its standpipe service.

**IT IS FURTHER ORDERED** that, until such time as the Company repairs the computer that operates the standpipe, the Company is directed to station an employee at the standpipe for a minimum

1 of four hours per day, Monday through Saturday, between the hours of 7:00 a.m. to 7:00 p.m., so that  
2 customers may receive standpipe service manually.

3 **IT IS FURTHER ORDERED** that, while these matters are pending, the Company should be  
4 directed to reinstate service for San Tan.

5 **IT IS FURTHER ORDERED** that this decision shall become effective immediately.

6 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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CHAIRMAN COMMISSIONER

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COMMISSIONER COMMISSIONER COMMISSIONER

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14 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
15 Director of the Arizona Corporation Commission, have hereunto,  
16 set my hand and caused the official seal of this Commission to be  
17 affixed at the Capitol, in the City of Phoenix, this  
18 \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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JODI JERICH  
Executive Director

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21 DISSENT: \_\_\_\_\_

22 DISSENT: \_\_\_\_\_

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1 SERVICE LIST FOR: JOHNSON UTILITIES L.L.C.

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