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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
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COMMISSIONERS

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

BRIAN RAK,

Complainant,

vs.

JOHNSON UTILITIES, L.L.C.,

Respondent.

Arizona Corporation Commission

DOCKETED

SEP 15 2015

DOCKETED BY

DOCKET NO. WS-02987A-15-0261

ORIGINAL

PROCEDURAL ORDER  
(Sets Hearing)

**BY THE COMMISSION:**

On July 13, 2015, Brian Rak ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint ("Complaint") against Johnson Utilities, L.L.C ("Johnson" or "the Company"), alleging that Johnson shut off Complainant's sewer without notice, and that sewage backed up in Complainant's home causing over \$10,000 in damages. The Complaint seeks costs related to damages to Complainant's home as well as punitive damages for mental distress.

On August 6, 2015, Johnson filed a request for an extension of time to file an answer to the Complaint. Johnson's request stated that Johnson needed additional time to file its answer; that the Company had attempted to reach Complainant by telephone and email to confirm that he did not object to the request; and that the Company had not received a response from Complainant regarding Johnson's request. Johnson requested an extension of time from August 6, 2015, to August 14, 2015, to file an answer.

On August 11, 2015, Johnson filed an answer to the Complaint disputing the allegations made in the Complaint.

On August 13, 2015, Complainant filed a response to Johnson's request, objecting to

1 Johnson's request for an extension of time.

2 On August 18, 2015, by Procedural Order, Johnson's request for an extension of time was  
3 granted. Further, a procedural conference was scheduled for September 10, 2015, to determine the  
4 appropriate procedural schedule for this matter.

5 On September 10, 2015, a procedural conference was held as scheduled. Complainant  
6 appeared telephonically on his own behalf. The Company appeared through counsel. Discussions  
7 were held regarding a procedural schedule for this matter and it was determined that this matter  
8 should be set for hearing. As a preliminary matter, Johnson requested to file a brief regarding  
9 Complainant's claims for damages.

10 Johnson's request to file a brief regarding Complainant's claims for damages is reasonable  
11 and should be granted. It is also appropriate to set this matter for hearing.

12 IT IS THEREFORE ORDERED that **the hearing in the above-captioned matter shall**  
13 **commence on February 22, 2016, at 10:00 a.m.**, or as soon thereafter as is practicable, at the  
14 Commission's offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona.

15 IT IS FURTHER ORDERED that all parties shall **appear in person** for the hearing.

16 IT IS FURTHER ORDERED that **Johnson's request to file a brief regarding**  
17 **Complainant's claims for damages is hereby granted.**

18 IT IS FURTHER ORDERED that **Johnson shall file, on or before October 12, 2015, a brief**  
19 **discussing Complainant's claims for damages.**

20 IT IS FURTHER ORDERED that **Complainant shall file, on or before November 12, 2015,**  
21 **a response to Johnson's brief.**

22 IT IS FURTHER ORDERED that **Johnson may file, on or before November 30, 2015, a**  
23 **reply.**

24 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits to be**  
25 **presented by Complainant** at the hearing shall be reduced to writing and filed on or before  
26 **December 28, 2015.**

27 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits to be**  
28 **presented at hearing by Johnson** shall be reduced to writing and filed on or before **January 25,**

1 2016.

2 IT IS FURTHER ORDERED that the **rebuttal testimony and associated exhibits to be**  
3 **presented by Complainant** shall be reduced to writing and filed on or before **February 8, 2016**.

4 IT IS FURTHER ORDERED that **surrebuttal testimony and associated exhibits** may be  
5 presented at the hearing.

6 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to  
7 this matter may opt to receive service of all filings in this docket, including all filings by parties and  
8 all Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the  
9 Commission's Hearing Division, via email sent to an email address provided by the party rather than  
10 via U.S. Mail. To exercise this option, a party shall:

- 11 1. Ensure that the party has a valid and active email address to which the party has  
12 regular and reliable access ("designated email address");
- 13 2. Complete a Consent to Email Service form, available on the Commission's website  
14 ([www.azcc.gov](http://www.azcc.gov));
- 15 3. File the original and 13 copies of the Consent to Email Service form with the  
16 Commission's Docket Control, also providing service to each party to the service list;
- 17 4. Send an email, containing the party's name and the docket number for this matter, to  
18 [HearingDivisionServicebyEmail@azcc.gov](mailto:HearingDivisionServicebyEmail@azcc.gov) from the designated email address, to  
19 allow the Hearing Division to verify the validity of the designated email address;
- 20 5. Understand and agree that service of a document on the party shall be complete upon  
21 the sending of an email containing the document to the designated email address,  
22 regardless of whether the party receives or reads the email containing the document;  
23 and
- 24 6. Understand and agree that the party will no longer receive service of filings in this  
25 matter through First Class U.S. Mail or any other form of hard-copy delivery, unless  
26 and until the party withdraws this consent through a filing made in this docket.

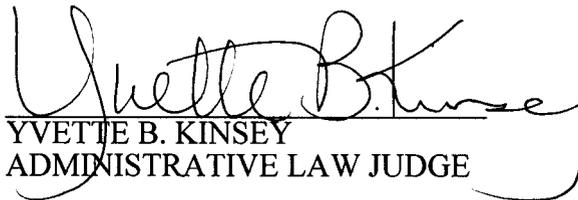
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1 IT IS FURTHER ORDERED that a party's consent to email service shall not become  
2 effective until a Procedural Order is issued approving the use of email service for the party. The  
3 Procedural Order shall be issued only after the party has completed steps 1 through 4 above, and the  
4 Hearing Division has verified receipt of an email from the party's designated email address.

5 IT IS FURTHER ORDERED that a party's election to receive service of all filings in this  
6 matter via email does not change the requirement that all filings with the Commission's Docket  
7 Control must be made in hard copy and must include an original and 13 copies.

8 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
9 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
10 the hearing.

11 DATED this 15<sup>th</sup> day of September, 2015.

12  
13   
14 YVETTE B. KINSEY  
15 ADMINISTRATIVE LAW JUDGE

16 Copies of the foregoing mailed/delivered  
17 this 15<sup>th</sup> day of September, 2015 to:

18 Jeffrey W. Crockett  
19 CROCKETT LAW GROUP  
20 1702 E. Highland Ave., Suite 204  
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Attorney for Johnson Utilities, L.L.C.

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21 Brian Rak  
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26  
27 By:   
28 Rebecca Unquera  
Assistant to Yvette B. Kinsey