

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION



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COMMISSIONERS

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AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

JUN 16 2016

DOCKETED BY

DOCKET WS-02987A-16-0181

IN THE MATTER OF THE FORMAL
COMPLAINT OF NICK MYERS
AGAINST JOHNSON UTILITIES, L.L.C.

**JOHNSON UTILITIES' RESPONSE TO
NICK MYERS' MOTION FOR
EXPEDITED PROCESSING**

Johnson Utilities, L.L.C. ("Johnson Utilities" or the "Company") hereby files this Response to Nick Myers' Motion for Expedited Processing and urges that it be denied.

INTRODUCTION

This Formal Complaint is Nick Myers' standpipe "emergency" of 2016.

Mr. Myers was a key figure behind the standpipe "emergency" of 2015. The 2015 "emergency" was resolved by the Commission in its Decision No. 75325 in docket WS-02987A-15-0284 concerning the very standpipe Mr. Myers again complains was closed – now, about a year ago. In that Decision, the Commission dismissed the matter concerning the standpipe, allowing Staff to bring the issues back to the Commission if necessary.

When the 2015 matter was dismissed, pending before the Commission was Johnson Utilities' defense that there was NO tariff for standpipe service and Johnson Utilities' Petition for Declaratory Order and Request for Relief, filed August 25, 2015, which sought an order from the Commission that the Company had no standpipe tariff and, thus, no obligation to continue a non-required operation.

A brief review of the chronology of the 2015 standpipe "emergency" handled in WS-02987A-15-0284 is in order.

The Commission discussed this standpipe at its August 18, 2015 open meeting.

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1 On September 10, 2015, a Procedural Order was issued setting numerous deadlines with
2 a hearing commencing on November 9, 2015.

3 On October 2, 2015, Staff filed its Motion to Close Docket without Prejudice.

4 The matter was dismissed.

5 This matter is old. Acceleration is not needed nor should it be granted.

6 **MR. MYERS**

7 As noted, the complainant here, Mr. Myers, was deeply involved in the 2015 version of
8 the standpipe "emergency."

9 Mr. Myers has sometimes been in the water hauling business. The area in question in
10 the 2015 matter, which we assume is the same area allegedly being harmed in this 2016 matter,
11 is an area of what are commonly referred to as wildcat or lot split subdivisions. Mr. Myers, in
12 2015, wanted to obtain water for resale from Johnson Utilities because it was closer to his
13 customers and less expensive. In fact, in the view of Johnson Utilities, the standpipe rate was
14 being subsidized by other customers of Johnson Utilities.

15 At the August 18, 2015, Staff Meeting of the Commission, which had the 2015 standpipe
16 "emergency" on its agenda, the Commission was informed that Mr. Myers was seeking to receive
17 discriminatory treatment from Johnson Utilities in exchange for abandoning his standpipe
18 complaints (and efforts to organize others to complain).

19 The following email was received on August 14, 2015, from Mr. Myers. Other than the
20 noted redactions of a name and email address, the email is produced in its entirety. Mr. Myers'
21 August 2015 email seeking discriminatory treatment which would provide him services without
22 fees and costs paid by all other customers in his position stated:

23
24 From: "Nick Myers" <nick@santanwatercompany.net>
25 Date: Aug 14, 2015 7:52 PM
26 Subject: Conditions
27 To: [REDACTED]
28 Cc:

[NAME REDACTED],

As I mentioned, I would be willing to drop any personal interest and

1 my STWC interest in this dispute between our companies based on
2 the following conditions:

3 1) When it comes time for my water line (one year should be an
4 adequate time frame, but I am willing to work with this as long as it
5 is defined), I want the Johnson team (however this gets done is really
6 not my concern at this point) to pick up the tab for my share of that
7 chunk of water line (which includes the meter costs as you indicated
8 in the meeting), including any "down payments" and hook up fees
9 and any other costs associated with getting the water to my
10 property. I will, of course, pay the normal monthly fees and usage
11 fees as would any other customer.

12 2) I want this to be a reciprocal agreement. Basically, I will keep my
13 mouth closed on this issue going forward and I expect any and all of
14 the JU companies/corporate offices to do the same. This includes
15 keeping quiet about this agreement. One possible exception I would
16 make is that we can tell others that we "came to an agreement" (or
17 equivalent phrasing).

18 3) You guys get your lawyers to draw this up.

19 In addition to this I have already committed to speaking only
20 favorably of this plan overall (and I have already been upholding that
21 end of our discussion).

22 Finally, if for any reason I don't get the water line in the time frame
23 defined, this agreement is void (or can possibly be renegotiated
24 assuming there are valid reasons for the extra delay).

25 --
26 Nick Myers
27 San Tan Water Company
28 www.santanwatercompany.net
nick@santanwatercompany.net
[480-788-5514](tel:480-788-5514)

It is noteworthy that Mr. Myers appears to fully understand that what he proposes in order to get him to keep his "mouth closed on this issue going forward" is improper. Also, he acknowledges that the extension of water lines can take a long time. Johnson Utilities refused to enter into any such arrangement with Mr. Myers.

Now, ten months later, he comes before the Commission seeking expedited treatment of a matter which will take much discovery, witnesses and a complex process. Importantly, the issue that there is NO standpipe tariff currently in place must be fully resolved as an initial matter.

1 Mr. Myers has shown his stripes. His plea for an extraordinary order must be rejected.

2 CONCLUSION

3 This matter must be handled in the normal course of formal complaints. Within the time
4 periods allowed, Johnson Utilities will file appropriate papers seeking dismissal of this matter.

5 The 2015 matter was dismissed, in Johnson Utilities' opinion, because no one was
6 without water. Again, that is the situation in 2016.

7 Johnson Utilities respectfully requests that the Motion to Expedite this matter be denied.

8 FILED this 16th day of June, 2016.

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21 **ORIGINAL** and thirteen (13) copies
22 filed this 16th day of June, 2016, with:

23 Docket Control
24 ARIZONA CORPORATION COMMISSION
25 1200 West Washington Street
26 Phoenix, Arizona 85007

27 **COPIES** of the foregoing hand-delivered
28 this 16th day of June, 2016, to:

Dwight D. Nodes, Chief Administrative Law Judge
Hearing Division
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COPY of the foregoing sent via
e-mail this 16th day of June, 2016, to:

Jeffrey W. Crockett, Esq.
CROCKETT LAW GROUP PLLC
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Attorneys for Johnson Utilities, L.L.C.

COPIES of the foregoing emailed (Mr. Myers did
not include his address on his filings in this matter,
therefore, the email address from his email quoted
above is being used for service) this 16th day of
June, 2016, to:

Nick Myers
San Tan Water Company
www.santanwatercompany.net
nick@santanwatercompany.net


