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Memorandum
From the office of
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Arizona Corporation Commission

DOCKETED

TO: Docket Control

DATE: June 2nd, 2017

FROM: Commissioner Andy Tobin's Office

SUBJECT: Doc. No. ACC-00000B-17-0062

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Correspondence from the Office of Commissioner Andy Tobin to fellow commissioners and interested parties.

COMMISSIONERS
TOM FORESE - Chairman
BOB BURNS
DOUG LITTLE
ANDY TOBIN
BOYD W. DUNN



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ARIZONA CORPORATION COMMISSION

June 2, 2017

Chairman Tom Forese
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Dear Chairman Forese:

Thank you for your immediate attention to a matter that troubles me greatly.¹ The recent allegations of wrongdoing by former Commissioner Gary Pierce are disturbing.² I hope that the judicial process will be swift and conclusive in determining what actually happened between a former utility regulator and one of the utilities he regulated.

While a court of law will determine the fate of those indicted, we must decide the fate of prior Commission decisions implicated in that indictment.³ You have requested that I, in my capacity as Chairman of the Water Policy Committee, review and audit those decisions, evaluating whether they were made in the public interest.

Such an inquiry covers two areas:

1. Commission recognition of income tax expense as component of the cost of service for certain utilities pursuant to Decision No. 73739 (February 22, 2013); and
2. The managerial, technical, and financial condition of Johnson Utilities, LLC (Johnson).

¹ See Correspondence from Chairman Tom Forese, Arizona Corporation Commission, (May 30, 2017), RE: Indictment of Former Arizona Corporation Commissioner, Docket No. ACC-00000B-17-0062.

² See *US v. Gary Leonard Pierce, et al.*, U.S. District Court, District of Arizona, Case No. CR-17-00713-PHX-JJT (JZB).

³ *Ibid.* at 3-4 (The indictment addresses four key Commission Decisions: 71445 (Dec. 23, 2009), 71854 (Aug. 25, 2010), 72579 (Sep. 15, 2011) and 73739 (Feb. 22, 2013)).

As to the first, I will send a letter next week to all utilities affected by the Commission policy promulgated in Decision No. 73739. The letter recommends that effective July 1, 2017, they place revenues received pursuant to that policy into a separate, interest-bearing bank account. Segregated accounting is consistent with standard Commission practice when establishing rates or surcharges for specific purposes. I will also request that these utilities submit to Staff a quarterly report of revenues received for income tax expense beginning with the third quarter of 2017. These recommended measures should remain in effect until I have completed my review of Decision No. 73739 and the Commission has considered whether that decision is in the public interest.

Further, the public interest warrants a full review and audit of Johnson within 90 days.

Within 30 days after completing this comprehensive review, Staff should report back to the Commission with recommendations that address, at the very least, the following:

- Should Johnson be directed to file for new rates/charges based on the rate review?
- Should an interim manager be appointed to manage the entirety of affairs for Johnson?
- Does Johnson have the capability to serve new territory outside of the boundaries defined in its Certificate of Convenience and Necessity?

Therefore, I respectfully request that you consider placing on this month's Open Meeting an agenda item for the Commission to vote upon that directs Staff to conduct a review and audit as outlined above. My office will contact you separately with suggested language for the agenda item.

Regards,



Andy Tobin
Commissioner

cc: Bob Burns, Commissioner
Doug Little, Commissioner
Boyd W. Dunn, Commissioner

CERTIFICATION OF SERVICE

On this 2nd day of June, 2017, the foregoing document was filed with Docket Control as a correspondence from Commissioner Andy Tobin, and copies of the foregoing were mailed on behalf of Commissioner Andy Tobin to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

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