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Memorandum
From the office of
Commissioner Andy Tobin
Arizona Corporation Commission
1200 W. WASHINGTON
PHOENIX, ARIZONA
(602) 542-3625

Arizona Corporation Commission

DOCKETED

TO: Docket Control

DATE: June 5th, 2017

JUN 05 2017

FROM: Commissioner Andy Tobin's Office

DOCKETED BY

GB

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

Letter from Commissioner Tobin to Water Companies requesting action on income received as income tax expense.

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ANDY TOBIN
COMMISSIONER

Direct Line: (602) 542-3625
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ARIZONA CORPORATION COMMISSION

June 5, 2017

Dear Utility Providers:

In light of recent events, and to promote the integrity and public trust among ratepayers, their utilities, and the Corporation Commission, I recommend that, beginning July 1, 2017, income received as recognition of income tax expenses per Commission Policy promulgated in Decision No. 73739¹ be placed in a separate, interest-accruing bank account until the Commission has reviewed the policy and determined whether it is in the public interest. Segregated accounting is consistent with standard Commission practice when establishing rates or surcharges for specific purposes.

On May 23, 2017, a formal indictment was brought in the U.S. District Court for the District of Arizona against former Chairman Gary L. Pierce, among others. The indictment has alleged several counts of Federal Programs Bribery (18 U.S.C. § 666(a)(1)(B)), Honest Service Mail Fraud (18 U.S.C. §§ 1341 and 1346), and Honest Services Wire Fraud (18 U.S.C. §§ 1341 and 1346). The indictment alleges that "George Harry Johnson [of Johnson Utilities, LLC] unlawfully paye[ed] money and property to defendants" to "unlawfully execute official actions... with respect to matters pending before the ACC."² One of the reportedly unlawful actions was the "docketing of a proposed policy change... which lead to the ACC permitting utilities... to charge their ratepayers for the utility owner's personal income taxes."³

On May 30, 2017, Commission Chairman Tom Forese, in response to this indictment, requested that I, acting in my capacity as Chairman of the Water Policy Committee, "audit and review the policies and decision made by former Commissioners that are the subject of the current indictment."⁴ It is with respect to the indictment and subsequent review called for by Chairman Forese that I recommend your company reserve funds received under this policy in an interest-accruing bank account effective July 1, 2017. If the Commission determines that the policy identified in the current indictment was not made in the public interest, all utilities that

¹ Docket No. W-00000C-06-0149.

² *US v. Pierce*, US District Court, District of Arizona, Case No. CR-17-00713-PHX-JJT, at 5.

³ *Ibid* at 5-6.

⁴ 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.

received income under this policy may be required to refund their customers for the full amount received dated to July 1, 2017.

I also respectfully request your company prepare quarterly reporting of income received from this policy starting with the third quarter of calendar year 2017. Please submit this report to Commission Staff no later than 30 days following the conclusion of each quarter.

I am sympathetic to the suddenness of recent events; however, preserving and promoting the public trust is of the utmost importance. I respectfully request that you inform me within 30 days of issuance of this letter whether your company intends to comply with these recommended requests.

Sincerely,


A handwritten signature in black ink, appearing to read "Andy M. Tobin". The signature is fluid and cursive, with the first name "Andy" and the last name "Tobin" clearly distinguishable.

Andy Tobin
Commissioner

CERTIFICATION OF SERVICE

On this 31st day of May, 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.

Docket No. ACC-00000B-17-0062

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