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BEFORE THE ARIZONA CORPORATION COMMISSION

FILED
AZ CORP COMMISSION
DOCKET CONTACT

COMMISSIONERS

Arizona Corporation Commission

TOM FORESE – Chairman
BOB BURNS
ANDY TOBIN
BOYD DUNN
JUSTIN OLSON

DOCKETED

2018 MAR 15 A 10:29

MAR 15 2018

DOCKETED BY

IN THE MATTER OF THE COMMISSION'S
INVESTIGATION OF THE BILLING AND
WATER QUALITY ISSUES OF JOHNSON
UTILITIES, LLC

DOCKET NO. WS-02987A-18-0050

**COMPLAINT; PETITION FOR
AN ORDER TO SHOW CAUSE**

Staff of the Utilities Division (“Staff”) of the Arizona Corporation Commission (“Commission), for its Complaint, Petition for Order to Show Cause, and Petition for Order for Interim Relief against Johnson Utilities, L.L.C. (“Johnson Utilities” or “Company”), an Arizona corporation, alleges:

I. JURISDICTION

1. The Commission has jurisdiction to hear complaints against public service corporations pursuant to A.R.S. § 40-246. The Commission has jurisdiction to supervise and regulate public service corporations pursuant to Article XV of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

II. JOHNSON UTILITIES

2. Johnson Utilities is an Arizona public service corporation that provides water and wastewater utility services in portions of Maricopa and Pinal Counties, Arizona.

3. Johnson Utilities is classified as a Class “A” utility for both its water and wastewater divisions.

4. Johnson Utilities provides water and wastewater services pursuant to Certificates of Convenience and Necessity (“CC&Ns”) originally granted by the Commission in Decision 60223 (May 27, 1997) and extended in subsequent decisions.

1 5. Johnson Utilities operates two water systems, Johnson Ranch and Anthem at Merrill
2 Ranch, and four wastewater systems, Pecan Water Reclamation Plant (“Pecan WRP”), San Tan,
3 Section 11 Wastewater Treatment Plant (“Section 11 WWTP”), and Anthem. As of June 30, 2017,
4 Johnson Utilities provided water service to approximately 25,615 service connections and served
5 approximately 35,320 sewer laterals.

6 6. The Company services customers located throughout Pinal County, including
7 customers located in Florence, Queen Creek, and San Tan Valley. The Company also services
8 customers located in Maricopa County.

9 7. As a condition of its CC&N, Johnson Utilities is required to comply with Arizona law,
10 Commission Orders, and Commission Rules and Regulations.

11 **III. FACTUAL BACKGROUND**

12 8. On May 23, 2017, the Company’s owner and manager, Mr. George Johnson (“Mr.
13 Johnson”), was indicted in the United States District Court for the District of Arizona on charges of
14 conspiracy, fraud and bribery. *U.S. v. Pierce, et al.*, CR-17-00713-PHX-JJT (May 23, 2017).

15 9. On May 26, 2017, Johnson Utilities notified the Commission via a filing in Docket
16 No. WS-02987A-08-0180 that Mr. Johnson had removed himself from all management of the
17 Company in response to his indictment.

18 10. On June 7, 2017, in the same Docket, Johnson Utilities notified the Commission that
19 Mr. Gary A. Drummond (“Mr. Drummond”) had replaced Mr. Johnson as the manager of the
20 Company; that Mr. Johnson had been removed from all facets of the operation, decision-making and
21 management of Johnson Utilities; and that Mr. Johnson would have no further contact with
22 Commissioners or employees of the Commission on behalf of the Company.

23 11. On August 23, 2017, the Commission issued Decision No. 76336, ordering Johnson
24 Utilities to file a full rate application by December 31, 2017.

25 12. On December 29, 2017, Johnson Utilities filed an application seeking, among other
26 things, a permanent increase for its rates and charges for water and wastewater utility services
27 (“Application”) in Docket No. WS-02987A-17-0392.

1 13. Following the Company's filing of its Application, approximately 74 Johnson Utilities
2 customers filed opinions with the Commission objecting to the Company's requested rate increase.
3 The consumer complaints cite unsafe water quality, toxic gas emissions, inaccurate meter readings,
4 overcharges and unwarranted fees.

5 14. On Tuesday, February 20, 2018 and Wednesday, February 21, 2018, the Commission
6 held a series of six two-hour meetings in San Tan Valley for public comment regarding Johnson
7 Utilities' Application (the "Public Comment Meetings").

8 15. During the Public Comment Meetings, the Commission heard from approximately 170
9 customers.¹ The speakers' comments and complaints primarily fell into two areas of concern: 1)
10 health and safety issues dealing with the quality of the drinking water provided by Johnson Utilities
11 and with the release of hydrogen sulfide gas from Johnson Utilities' wastewater treatment plants; and
12 2) meter reading and billing practices by Johnson Utilities that were resulting in astronomical bills
13 and unwarranted shut-offs and reconnection fees.

14 16. As a result of the public comments, Chairman Tom Forese ("Chairman Forese")
15 directed Commission Staff to open a docket to address water quality and bill complaints associated
16 with Johnson Utilities.

17 17. At the Commission's February 22, 2018 Open Meeting, the Commission directed
18 Staff to conduct a site inspection and water/wastewater sampling of Johnson Utilities and prepare a
19 report to bring before the Commission at its March Open Meeting.

20 18. Pursuant to the Commission's directive, Staff opened Docket No. WS-02987A-18-
21 0050.

22 19. Pursuant to the Commission's request, the Arizona Department of Environmental
23 Quality ("ADEQ") completed the water/wastewater sampling. Staff coordinated its investigatory
24 efforts with the ADEQ in conducting site visits and testing at Johnson Utilities' facilities. Staff also
25

26 _____
27 ¹A filing was also made on February 27, 2018, that purports to be a copy of a citizens' petition to the
28 Pinal County Board of Supervisors. The petition requests that Johnson Utilities' pond-based water
treatment operations and lift stations be moved or otherwise changed to eliminate toxic emissions
near the communities where they are located.

1 reviewed the number of consumer complaints filed against Johnson Utilities between January 1, 2015
2 and March 2, 2018.

3 20. As a result of its investigation and additional facts discussed in more detail below,
4 Staff is concerned that the Company may lack the necessary managerial and technical capabilities to
5 appropriately run the utility.

6 21. Meanwhile, on March 1, 2018, within the Company's pending rate case in Docket No.
7 17-0392, Johnson Utilities moved for an order that would continue the rate case and stay all activity,
8 including discovery, until the conclusion of Mr. Johnson's pending criminal case in federal court (the
9 "Motion to Stay").

10 22. In the Motion to Stay, Johnson Utilities claimed that the Company's due process rights
11 and right to a fair, unbiased hearing would be violated but proceeding with the rate case. Specifically,
12 the Company alleged this due process violation would occur by virtue the following:

- 13
- 14 a. Forcing the Company to address unproven allegations against Mr. Johnson while
15 Mr. Johnson addressed the same allegations in federal court;
- 16 b. Forcing the Company to proceed without access to information and evidence
17 critical to the prosecution of its case; and
- 18 c. Forcing the Company to proceed under a cloud of suspicion, even though the
19 allegations in the federal case are unproven and untested.

20 Motion to Stay, *In the Matter of the Application of Johnson Utilities, LLC et cet.*,
21 Docket No. WS-02987A-17-0392 (March 1, 2018).

22 23. The Motion to Stay claimed that two protective orders have been issued in the federal
23 case, which will hamper discovery and the Company's access to certain documents that will be
24 needed in the rate case.

25 24. It is unclear what the relationship is between the Company's rate case that is pending
26 before the Commission and the criminal case pending against Mr. Johnson in Arizona District Court.
27 If there has been no connection or communication between the Company and Mr. Johnson as of May
28 2016, when Mr. Johnson notified the Commission that he had resigned and would have no further

1 involvement with the Company, the nexus between the rate case and the criminal indictment seems
2 tenuous.

3 25. In response to the assertions raised in the Motion to Stay, Staff propounded a number
4 of discovery requests to Johnson Utilities inquiring into, among other things, Mr. Johnson's
5 continued involvement with the Company. A copy of Staff's Discovery Requests and Johnson
6 Utilities' Responses is attached hereto as Exhibit "A."

7 26. Johnson Utilities objected or provided incomplete responses to Staff's discovery
8 requests that were specifically directed to Mr. Johnson's continued involvement in "facets of the
9 operation, decision-making and management of the company":

10
11 a. Q: Identify the name(s) of all person(s) who consulted and/or communicated with
12 counsel for Johnson Utilities in connection with the preparation and filing of this
13 Motion.

14 A: [Johnson] objects to this data request on the grounds that it seeks information
15 that is not relevant to this rate case proceeding . . . In addition, Johnson Utilities
16 objects to this data request on the grounds that it seeks confidential information
17 that is protected by the attorney-client privilege and the attorney work product
18 doctrine.

19 b. Q: Admit that George Johnson consulted and/or communicated with counsel for
20 Johnson Utilities in connection with the filing of this Motion.

21 A: [Johnson] objects . . . on the grounds that [this question] seek[s] information that
22 is not relevant to this rate case proceeding. . . . [Johnson] objects to [the above
23 question] on the grounds that it seeks confidential information that is protected by
24 the attorney-client privilege and the attorney work product doctrine.

25 c. Q: Produce an electronic copy in original form of the invoice prepared by counsel
26 to the client responsible for payment in connection with the preparation of the
27 Motion. To the extent the invoice contains privileged information, please redact
28 the same.

A: [Johnson] objects to this data request on the grounds that it seeks information
that is not relevant to this rate case proceeding. . . . In addition, Johnson Utilities
objects to this data request on the grounds that it seeks confidential information
that is protected by the attorney-client privilege and the attorney work product
doctrine.

Exh. A.

1 27. Staff is in the process of preparing a motion to compel and seeking a procedural
2 conference with the Administrative Law Judge to compel responses to these questions.

3 28. In addition to the above, on or around July 6, 2017, the Commission received a call
4 from a person who wished to remain anonymous who stated that, 1) Mr. Johnson was continuing to
5 go to Johnson Utilities' business location daily, and 2) that Mr. Johnson was still managing the
6 Company.

7 29. As a result, Staff met with the Company's representatives to discuss the above
8 allegations. The Company confirmed the first allegation. With respect to the second allegation, the
9 Company did not deny it but said that Mr. Johnson has other businesses that he runs and attends to
10 from his office at the Johnson Utilities location.

11 30. Finally, Commission Decision No. 60223 shows that the Commission granted the
12 CC&N to Johnson Utilities, LLC for water and wastewater service based, at least in part, on the
13 Company's management by Mr. Johnson. Decision No. 60223, Opinion and Order, *In the Matter of*
14 *the Application of Johnson Utilities, LLC, et cet.*, Docket Nos. U-2987-95-284 and U-2987-95-285
15 (May 27, 1997), p. 3, ¶4.

16 31. Mr. Johnson's listed experience included 25 years of real estate development and
17 previous ownership and operation of another public servicing corporation furnishing water and
18 wastewater. *Id.* at ¶5. As such, Mr. Johnson demonstrated that he had the technical and managerial
19 experience necessary to run Johnson Utilities.

20 32. On June 7, 2017, Mr. Johnson was replaced by Mr. Drummond as the manager of
21 Johnson Utilities. The June 7 filing in which Mr. Drummond replaced Mr. Johnson as manager of
22 Johnson Utilities provided Mr. Drummond's background. The Drummond's background does not
23 include any experience in the management and operations of a wastewater utility.

24 **IV. EVIDENCE OF NON-COMPLIANCE**

25 **a. Arizona Department of Water Resources Compliance**

26 33. According to a Water Provider Compliance Report dated March 1, 2018, Johnson
27 Utilities is currently non-compliant with the Arizona Department of Water Resources ("ADWR") for
28 failing to submit a required update to its System Water Plan.

1 34. The update submission was due to ADWR by January 1, 2018.

2 35. To date, Johnson Utilities has failed to remedy this violation.

3 **b. Arizona Department of Environmental Quality Compliance**

4 **i. January 2015-November 2017**

5 36. Staff investigated the history of Sanitary Sewer Overflows (“SSO”) that are reported
6 to ADEQ either by customers or by the Company.

7 37. The sheer number of SSO in the wastewater system demonstrates the Company lacks
8 the necessary managerial and technical capabilities to appropriately run the utility.

9 38. The following table provides the history of SSO from January 2015 to November
10 2017:

Date Reported	Date of Incident	Description
2/11/2015	2/9/2015	At approximately 11 AM, there was leak on Empire Rd near Gary Rd. The leak came from a force main due to a small crack in the pipe. Approximately 50 gallons were spilled.
2/11/2015	2/9/2015	At approximately 8 AM, there was a spill near Judd Rd and Felix Rd. The spill came from a three-foot crack in the force main. Approximately 24,000 gallons were spilled and resulted in standing wastewater that measured approximately 100 feet long, 10 feet wide and eight inches deep. The wastewater was located in a farm field with minimum exposure to the public.
2/25/2015	2/22/2015	At approximately 8 AM, 6000 gallons spilled near Village Ln and Morning Sun Circle. The cause was determined to be a piece of manhole ladder rung stuck in a pump at the San Tan Water Reclamation Plant Lift Station.
3/1/2015	3/1/2015	At approximately 5 PM, there was a 40-50-gallon spill near Hunt Hwy and Copper Mine Rd. A manhole was overflowing and the wastewater traveled to a retention basin that is five yards from the site. The Johnson Utilities crew unclogged a manhole filled with grease which caused the overflow to cease.
4/6/2015	3/31/2015	10,000 gallons overflowed at Section 11 WWTP. The cause was undetermined.
4/11/2015	4/11/2015	At approximately 9 AM, 16,000 gallons spilled from a leak in a force main located near Arizona Farms Road and Felix Road.
4/24/2015	4/23/2015	19,000 gallons spilled near Hunt Hwy due to a 90-degree pipe breaking in the manhole.
5/3/2015	5/3/2015	At approximately 6:30 PM, 8,000 gallons spilled in a retention area near Village Lane and Morning Sun Circle.

		The cause was determined to be a failed influent pump at the San Tan Water Reclamation Plant lift station.
5/8/2015	5/7/2015	At approximately 3:30 PM, 12,000 gallons spilled at a gravity trench line near the Johnson Farms Lift Station. The cause was determined to be a broken force main due to over excavation.
6/14/2015	6/14/2015	At approximately 2:30 PM, 1,500 gallons spilled due to submersible pumps overheating at the Morning Sun Farms Lift Station. Wastewater spilled from the grit chamber and flowed to a retention area next to the lift station.
7/8/2015	7/7/2015	At approximately 6:30 PM, 2,000 gallons spilled in a ditch within a farm field located near Arizona Farms Road and Felix Rd. The cause was determined to be a cracked force main.
8/8/2015	8/7/2015	At approximately, 3:30 PM, 10,000 gallons spilled near Hunt Hwy and Magma Road. The wastewater spilled into a retention area adjacent to the highway. The cause was determined to be a construction company that was boring and hit the pipe.
8/13/2015	8/12/2015	13,500 gallons spilled near the San Tan Wastewater Reclamation Plant Lift Station. The cause was determined to be an unknown liquid in in the lift station causing a pump failure.
8/17/2015	8/12/2015	At approximately 3:30 PM, 13,500 gallons spilled near Morning Sun Circle and Village Lane. The cause was determined to be a lift station backing up at the San Tan Water Reclamation Plant. A second pump failed to turn on due to a layer of sewage caked on the influent vault. The cake prevented a float switch from turning on the pump.
9/10/2015	9/9/2015	At approximately 8 PM, 4,000 gallons spilled near Morning Sun Circle and Village Lane. The cause was determined to be a cracked force main near the Main Yard Lift Station. The wastewater formed a pool that was 250 feet long, 4 feet wide and ½ inch deep.
10/25/2015	10/24/2015	At approximately 2 AM, 117,000 gallons spilled near Tourmaline and Copper Mine Road. The cause was determined to be a cracked force main. The wastewater formed a pool that was 1,300 feet long, eight feet wide and one and half feet deep.
1/7/2016	1/7/2016	A sewer line break on Hunt Hwy near Johnson Ranch Blvd resulted in the release of an undetermined amount of wastewater being spilled.
2/12/2016	2/8/2016	At approximately 2:30 PM, 9,000 gallons spilled near Rittenhouse and Combs Road. The cause was determined to be a broken air relief damaged by a construction company performing grading work. The wastewater formed a pool that was 1,200 feet long, four feet wide and ¾ inch deep.
3/31/2016	3/31/2016	At approximately 3 AM, 8,000 gallons spilled into a retention

		basin near Rousay Drive and Schnepf Road. The cause was determined to be grease and debris build-up in the gravity sewer line.
5/20/2016	5/20/2016	At approximately 6:35 AM, 9,000 gallons spilled near Rousay Drive and Schnepf Road. The cause was determined to be a grease blockage.
6/6/2016	6/5/2016	At approximately, 6 PM, 1,500 gallons spilled near the Pecan Water Reclamation Plant. The cause was determined to be submersible pump failure due to a blown 200-amp fuse and failed motor savor. An alternator bolt broke on the trash pump and the belt came off.
7/10/2016	7/9/2016	At approximately 5:20 PM, 500 gallons spilled near Muscovite and Silverbell. The cause was determined be grease and wipes caught on manhole ladder rungs. The wastewater formed a pool that was 70 feet long, two feet wide and ½ inch deep.
7/28/2016	7/24/2016	At approximately 3:45 PM, 300 to 500 gallons of wastewater were discharged from the Morning Sun Farms Lift Station. The wastewater traveled approximately 100 feet to an open dirt field where it evaporated and percolated into the ground.
8/8/2016	8/4/2016	At approximately 4:40 PM. 3,000 gallons spilled due to an alternator starter failing to send a signal resulting in high water levels that overflowed.
8/22/2016	8/18/2016	At approximately 10 AM, 3,000 gallons overflowed near Rittenhouse and Combs Road. The cause was determined to be a contractor performing grading activities and damaging a sewer air relief valve.
10/3/2016	9/30/2016	At approximately 7:15 AM, 100 gallons spilled near High Dunes Road and Escape Ave. The cause was determined to be a build-up of grease and baby wipes at the lift station which blocked floats from sending a signal to activate pumps.
11/4/2016	11/1/2016	At approximately 6:45 AM, 6,000 gallons spilled near Ocotillo Road and Coyote Road.
11/22/2016	11/18/2016	At approximately 11:30 AM, a Johnson Utilities employee noticed discolored dirt along Hunt Hwy near Johnson Ranch Blvd. 400 gallons spilled due to a crack in a force main.
12/7/2016	12/2/2016	At approximately 8 AM, 8,000 gallons spilled and traveled to Queen Creek Wash which is classified as "Waters of the United States" and the Environmental Protection Agency was notified.
1/17/2017	1/13/2017	At approximately 11:30 AM, 1,500 gallons spilled near Hunt Hwy and Oasis Blvd. The cause was determined to be asphalt, branches and construction debris blocking a gravity sewer line.
2/7/2017	2/1/2017	At approximately 11:30 AM, 5,000 gallons spilled near the Ironwood Crossing Lift Station. The cause was determined to be a grit chamber clogging due to mechanical plugs and debris.

2/9/2017	2/4/2017	At approximately 5:45 PM, 11,000 gallons spilled near Charbray Drive and Matthews Drive. The cause was determined to be a crack in the force main.
2/10/2017	2/7/2017	At approximately 8:45 PM. 100 gallons spilled near Stonecreek and Desert Basin in a green belt area. The cause was determined to be a build-up of grease in a gravity sewer line.
6/14/2017	6/14/2017	An unknown amount of wastewater spilled near Hunt Hwy and Johnson Ranch Blvd.
8/19/2017	8/19/2017	An unknown amount of wastewater spilled near Valley Drive.
11/15/2017	11/15/2017	An unknown amount of wastewater spilled near Kenworthy and Ocotillo St.

ii. November 2017

39. On November 3, 2017, ADEQ issued a Notice of Violation (“NOV”) to Johnson Utilities for operating discharging facilities that do not meet the requirements established in A.R.S § 49-243(B)(1) to operate the best available demonstrated control technologies for recharge basins identified at Pecan WRP.

40. Thereafter, the Company failed to meet the NOV deadline on February 7, 2018 due to submitting an administratively deficient application.

41. To date, Johnson Utilities has failed to remedy this violation.

iii. January 2018

42. On January 25, 2018, ADEQ conducted a site inspection of the Section 11 Wastewater Treatment Plant (“WWTP”).

43. ADEQ noted the following deficiencies in its report:

- a. Recharge Basin No. 4 was overflowing at the northwest corner and effluent was flowing west towards the dirt road.
- b. Recharge Basin No. 4 and 5 were observed with no freeboard as required in Johnson Utilities’ Aquifer Protection Permit.
- c. Effluent was observed overflowing at the southeast corner of Recharge Basin No. 7. The drainage pattern and soil erosion indicated the effluent is flowing towards a wash identified as a stormwater detention basin.

- i. ADEQ observed the same conditions on March 6, 2015 resulting in a Notice of Violation (“NOV”) dated May 11, 2015.

- ii. The NOV was closed after Johnson Utilities responded on July 21, 2015. The response included employee training assuring operators were aware of

1 the effluent disposal rules. Additionally, modification was made to the
2 Operator's Standing Operating Procedures to avoid future unauthorized
3 discharges.

- 4 d. Recharge Basin No. 5 was observed with saturated soil outside the basin which
5 indicated previous overflowing.
- 6 e. According to Johnson Utilities, the Section 11 WWTP is not disposing enough
7 effluent which causes overflowing of the recharge basins. This condition is due to
8 lower demand by reclaim end users during the winter season.
- 9 f. The Section 11 WWTP failed to notify ADEQ of freeboard exceedances
10 performance levels that were specifically set for the recharge basins. No five-day
11 notification was reported nor a 30-day investigation report. According to the
12 plant's operator, he did not know these reports were needed.
- 13 g. At the time of the inspection, a WWTP operator commented the solar panel area
14 could be used as a recharge basin. ADEQ clarified that this area is not included on
15 Johnson's APP and shall not be used unless an amendment is approved by ADEQ.
- 16 h. At the time of the inspection, the operators did not have an Operations and
17 Maintenance Manual and current APP on-site, as required by Johnson's APP.
- 18 i. Offensive odors were not perceived at any time during the ADEQ inspection of the
19 aeration lagoons and recharge basins.
- 20 j. Strong sewage odor was identified outside and within the property limits of the
21 Oasis Sunrise Lift Station.
- 22 k. An oil stain was observed on the soil, adjacent to the wet well at the Oasis Sunrise
23 Lift Station.

24 44. On February 27, 2018, ADEQ issued a NOV to Johnson Utilities regarding the
25 findings from the January 2018 site inspection.

26 45. To date, Johnson Utilities has failed to remedy the violation.

27 **iv. February 2018**

28 46. On February 23, 2018, Staff Engineer Andrew Smith inspected the Company's
wastewater system, and found the following violations:

- a. Multiple recharge basins located at the Section 11 WWTP did not meet the
minimum two-foot freeboard requirement as prescribed in Johnson's APP and
were at risk of overflowing.
- b. The colorization of one of the aeration lagoons located at the Section 11 WWTP
was atypical indicating a possible anomaly in the treatment process.

1 c. Johnson Utilities is utilizing recharge basins at its Pecan WRP that are not
2 included on its APP. The Company is currently in process of modifying its permit.

3 d. A strong sewage odor was identified at the Main Yard Lift Station. This lift
4 station is located on the Johnson Utilities premises where customers are able to
5 pay their bills.

6 47. According to Company estimates, it believes there have been approximately six
7 unauthorized discharges at the Section 11 WWTP dating back to 2016.

8 48. The Section 11 WWTP is the only wastewater plant the Company runs that lacks any
9 monitoring or automated control system.

10 49. According to A.R.S. § 40-361(B), “every public service corporation shall furnish and
11 maintain such service, equipment and facilities as will promote the safety, health, comfort and
12 convenience of its patrons, employees, and the public, and as will be in all respects adequate,
13 efficient and reasonable.”

14 50. Additionally, A.A.C. R14-2-607(A) and (C) require, respectively, that “each utility
15 shall be responsible for the safe con duct and handling of the sewage from the customer’s point of
16 collection” and “each utility shall make reasonable efforts to supply a satisfactory and continuous
17 level of service.” The quantity of overflows of wastewater demonstrates that the Company is failing
18 to provide adequate service that promotes the safety and health of the public.

19 51. The Company has two active NOVs and a history of non-compliance with ADEQ
20 requirements which demonstrates that the Company is failing to provide adequate service.

21 **c. Arizona Corporation Commission Consumer Services**

22 52. A review of Consumer Service records revealed the following complaints have been
23 filed from January 1, 2015 through March 2, 2018:

Year	Complaints
2018	18 Complaints 10 Billing (High/Disputed) 6 Quality of Service (Can’t Reach Company/Customer Service Contact) 2 Disconnect/Terminations
2017	362 Complaints 280 Billing (High/Disputed/CAGR D) 42 Quality of Service (Outage or Low Pressure) 21 Quality of Service (Customer Service Contact)

	16 Disconnect/Terminations 3 Deposit Note: 107 ADEQ inquiries regarding high nitrate issues
2016	56 Complaints 24 Billing (High or Disputed) 21 Quality of Service (Customer Service Contact) 11 Disconnection/Terminations Note: 22 ADEQ inquiries regarding high nitrate issues
2015	94 Complaints 16 Billing (High or Disputed) 12 Disconnect/Terminations 64 Quality of Service (Removal of Standpipe) 2 Deposit

53. At the public comment sessions, Johnson Utilities customers raised numerous issues. Among these were bills that fluctuated as the result of monthly meter readings indicating unusually high usage and meter readings indicating a more normal level of monthly usage. According to the customers, when they contacted Johnson Utilities regarding the usage level variances, they were informed that the fluctuation in their bill could be a result of possible leaks and possible theft of water by their neighbors.

V. **CLAIMS**

COUNT ONE

(Unjust and Unreasonable Service)

54. Staff incorporates the foregoing allegations as if they were fully set forth herein.

55. The number of Sanitary Sewer Overflows that have been reported ADEQ in less than three years is excessive and constitutes unjust and unreasonable service to the public.

56. Johnson Utilities' repeated failure to bring its Section 11 WWTP and Pecan WRF into compliance, despite having had full opportunity to do so, is unacceptable and constitutes unjust and unreasonable service to the public.

57. Under A.R.S. §§ 40-202, 40-203, 40-321, 40-322, and 40-361(B), the Commission may prohibit unjust and unreasonable service.

58. In addition, under Article XV § 3 of the Arizona Constitution, the Commission may enter "orders for the convenience, comfort, and safety, and preservation of health" of the customers of a public service corporation.

1 subsequent request to stay the Company's pending rate case because of issues pertaining to Mr.
2 Johnson's indictment.

3 70. As a result, Staff is concerned that Mr. Johnson continues to be involved in the
4 operation, decision-making, and management of Johnson Utilities, despite Johnson Utilities' written
5 notices to the Commission on May 26, 2017 and June 7, 2017 in Docket No. 08-0180.

6 71. Staff is additionally concerned that Mr. Drummond's technical expertise and
7 managerial experience is not sufficient to appropriately run the utility.

8 72. The above demonstrates the Company's lack of independent management discretion
9 and deficient operation planning capabilities, and thereby supports the reasonableness of concluding
10 that the Company is providing unjust and unreasonable service to its consumers.

11 **COUNT THREE**
12 **(Failure to Provide and Maintain Service, Equipment and**
13 **Facilities that Promote Public Health and Safety)**

14 73. Staff incorporates the foregoing allegations as if they were fully set forth herein.

15 74. The number of Sanitary Sewer Overflows that have been reported ADEQ in less than
16 three years is excessive and constitutes unjust and unreasonable service to the public.

17 75. Johnson Utilities' repeated failure to bring its Section 11 WWTP and Pecan WRP into
18 compliance, despite having had full opportunity to do so, constitutes unjust and unreasonable service
19 to the public.

20 76. A.R.S. § 40-361(B) provides that "[e]very public service corporation shall furnish and
21 maintain such service, equipment and facilities as will promote the safety, health, comfort and
22 convenience of its patrons, employees, and the public, and as will be in all respects adequate,
23 efficient and reasonable."

24 77. Johnson Utilities' failure to adequately maintain its Section 11 and Pecan WRP
25 constitutes a failure to provide and maintain service, equipment and facilities that promote its
26 customers' health and safety, in violation of A.R.S. § 40-361(B).

27 **COUNT FOUR**
28 **(Violation of A.A.C. R14-2-607(A))**

78. Staff incorporates the forgoing allegations as if they were fully set forth herein.

1 79. The number of SSO that have been reported to ADEQ in less than three years is
2 excessive.

3 80. Johnson Utilities has repeatedly failed to bring its Section 11 WWTP and Pecan WRP
4 into compliance, despite having had full opportunity to do so.

5 81. Under A.A.C. R14-2-607(A), "each utility shall be responsible for the safe conduct
6 and handling of the sewage from the customer's point of collection."

7 82. The number of SSO in three years and Johnson Utilities' ongoing non-compliance
8 with respect to the operation of the Section 11 and Pecan plants violates A.A.C. R14-2-607(A).

9 **COUNT FIVE**

10 **(Violation of A.A.C. R14-2-607(C))**

11 83. Staff incorporates the forgoing allegations as if they were fully set forth herein.

12 84. The number of SSO that have been reported ADEQ in less than three years is
13 excessive.

14 85. Johnson Utilities has repeatedly failed to bring its Section 11 WWTP and Pecan WRP
15 into compliance, despite having had full opportunity to do so.

16 86. Under A.A.C. R14-2-607(C), "each utility shall make reasonable efforts to supply a
17 satisfactory and continuous level of service."

18 87. The number of SSO overflows in three years and Johnson Utilities' ongoing non-
19 compliance with respect to the operation of the Section 11 WWTP and Pecan WRP violates A.A.C.
20 R14-2-607(C).

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1 **CONCLUSION**

2 The facts and evidence demonstrate a continuing pattern of violations by the Company. The
3 Company has failed to correct these violations, despite having been given the opportunity to do so.
4 Staff requests that the Commission issue and Order to Show Cause against Johnson Utilities to
5 demonstrate why an Interim Manager should not be appointed. Staff further requests that the
6 Commission impose fines and penalties pursuant to A.R.S. §§ 40-424 and 425 and Article 15, section
7 19 of the Arizona Constitution and any such other relief that the Commission deems appropriate.

8 RESPECTFULLY SUBMITTED this 15th day of March 2018.

9
10 
11 Wesley C. Van Cleve, Senior Staff Counsel
12 Naomi E. Davis, Staff Counsel
13 Legal Division
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, Arizona 85007
17 (602) 542-3402
18 wvanclave@azcc.gov
19 ndavis@azcc.gov

20 On this 15th day of March, 2018, the foregoing document was filed with Docket Control as an
21 Utilities Division Complaint in Ongoing Case, and copies of the foregoing were mailed on behalf of
22 the Utilities Division to the following who have not consented to email service. On this date or as
23 soon as possible thereafter, the Commission's eDocket program will automatically email a link to the
24 foregoing to the following who have consented to email service.

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Executive Legal Assistant

EXHIBIT A



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March 12, 2018

VIA E-MAIL AND HAND-DELIVERY

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RECEIVED
ARIZONA CORPORATION COMMISSION
LEGAL DIVISION
MARCH 12 2018

**Re: Responses and Objections of Johnson Utilities, LLC to Utilities Division Staff's
First Set of Data Requests (Docket No. WS-02987A-17-0392)**

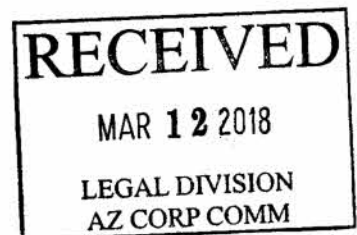
Dear Counsel:

Attached are the responses and objections of Johnson Utilities, LLC, to Utilities Division Staff's First Set of Data Requests in Docket WS-02987A-17-0392.

Very truly yours,

CROCKETT LAW GROUP PLLC

Jeffrey W. Crockett



cc: Betty Camargo (hard copy and electronic copy at bscamargo@azcc.gov)
Gary Drummond, Esq.
Brad Cole

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**ARIZONA CORPORATION COMMISSION
STAFF'S FIRST SET OF DATA REQUESTS TO
JOHNSON UTILITIES, LLC
DOCKET NO. WS-02987A-17-0392
March 2, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Wes Van Cleve at (602) 542-3402 to discuss.

STF 1.1 Interrogatories:

- a. State the total number of hours billed by counsel for Johnson Utilities in connection preparing and filing the Motion for Continuance and Stay (the "Motion"), and counsel's hourly rate.
- b. Identify the name(s) of all person(s) at whose instruction the Motion was filed.
- c. Identify the name(s) of all person(s) who consulted and/or communicated with counsel for Johnson Utilities in connection with the preparation and filing of the Motion. Please note that this request does not seek confidential communications between client and attorney.

Objections: Johnson Utilities, L.L.C. ("Johnson Utilities" or the "Company") objects to this data request on the grounds that it seeks information that is not relevant to this rate case proceeding. Johnson Utilities did not include attorney's fees for the preparation of the Motion for Continuance and Stay in its requested rate case expense as filed in the rate application, and further, the Company does not intend to request such attorney's fees in requested rate case expense.

In addition, Johnson Utilities objects to this data request on the grounds that it seeks confidential information that is protected by the attorney-client privilege and the attorney work product doctrine.

Response: As to STF 1.1(b), without waiving the foregoing objections, privilege or other protection, Gary Drummond as Manager of Johnson Utilities directed the filing of the Motion for Continuance and Stay.

Prepared by: Gary Drummond, Manager
Johnson Utilities, L.L.C.
5230 E. Shea Blvd. Suite 200
Scottsdale, Arizona 85254

STF 1.2 Request for Admission:

- a. Admit that George Johnson consulted and/or communicated with counsel for Johnson Utilities in connection with the filing of the Motion.
- b. Admit that George Johnson is still involved in the day-to-day operations of Johnson Utilities.
- c. Admit that the Commission has the authority to require public service corporations to file rate cases.

- d. Admit that under Article 15, § 3 of the Constitution, the Commission has the authority to investigate the operations of a public service corporation.

Objections: As to STF 1.2 (a) and (b), Johnson Utilities objects to these data requests on the grounds that they seek information that is not relevant to this rate case proceeding.

In addition, Johnson Utilities objects to STF 1.2 (a) on the grounds that it seeks confidential information that is protected by the attorney-client privilege and the attorney work product doctrine.

Response: As to STF 1.2(b), without waiving the foregoing objections, Johnson Utilities denies that George Johnson is involved in the day-to-day operations of the Company.

As to STF 1.2 (c) and (d), the Arizona Corporation Commission derives its authority from Article 15 of the Arizona Constitution and Title 40 of the Arizona Revised Statutes. The Arizona Constitution and the Arizona Revised Statutes are the best evidence of their contents with regard to the Commission's authority to (i) require the filing of rate cases by public service corporations; and (ii) investigate the operations of a public service corporation.

Prepared by: Gary Drummond, Manager
Johnson Utilities, L.L.C.
5230 E. Shea Blvd. Suite 200
Scottsdale, Arizona 85254

STF 1.3 Request for Production:

- a. Produce an electronic copy in original form of the invoice prepared by counsel to the client responsible for payment in connection with the preparation of the Motion. To the extent the invoice contains privileged information, please redact the same.

Objections: Johnson Utilities objects to this data request on the grounds that it seeks information that is not relevant to this rate case proceeding. Johnson Utilities did not include attorney's fees for the preparation of the Motion for Continuance and Stay in its requested rate case expense as filed in the rate application, and further, the Company does not intend to request such attorney's fees in requested rate case expense.

In addition, Johnson Utilities objects to this data request on the grounds that it seeks confidential information that is protected by the attorney-client privilege and the attorney work product doctrine.

Prepared by: Gary Drummond, Manager
Johnson Utilities, L.L.C.
5230 E. Shea Blvd. Suite 200
Scottsdale, Arizona 85254

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

TOM FORESE – Chairman
BOB BURNS
ANDY TOBIN
BOYD DUNN
JUSTIN OLSON

IN THE MATTER OF THE COMMISSION’S
INVESTIGATION OF THE BILLING AND
WATER QUALITY ISSUES OF JOHNSON
UTILITIES, LLC

DOCKET NO. WS-02987A-18-0050

ORDER TO SHOW CAUSE

OPEN MEETING: March 16, 2018

PHOENIX, ARIZONA

BY THE COMMISSION

For purposes of this Order, the determinations, Findings of Fact and Conclusions of Law propounded by Staff in their Memorandum filed in this docket on March 8, 2018 and Staff’s Proposed Order filed in this docket on March 9, 2018, are incorporated as if fully set forth herein.

* * * * *

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

FINDINGS OF FACT

1. Johnson Utilities, LLC (“Johnson Utilities” or the “Company” is an Arizona public service corporation that provides water and wastewater utility services in portions of Maricopa and Pinal Counties, Arizona.

2. Johnson Utilities is classified as a Class “A” utility for both its water and wastewater divisions.

1 3. Johnson Utilities provides water and wastewater services pursuant to Certificates of
2 Convenience and Necessity (“CC&Ns”) originally granted by the Commission in Decision 60223
3 (May 27, 1997) and extended in subsequent decisions.

4 4. Johnson Utilities operates two water systems, Johnson Ranch and Anthem at Merrill
5 Ranch, and four wastewater systems, Pecan Water Reclamation Plant (“Pecan WRP”), San Tan,
6 Section 11 Wastewater Treatment Plant (“Section 11 WWTP”), and Anthem. As of June 30, 2017,
7 Johnson Utilities provided water service to approximately 25,615 service connections and served
8 approximately 35,320 sewer laterals.

9 5. The Company services customers located throughout Pinal County, including
10 customers located in Florence, Queen Creek, and San Tan Valley. The Company also services
11 customers located in Maricopa County.

12 6. As a condition of its CC&N, Johnson Utilities is required to comply with Arizona law,
13 Commission Orders, and Commission Rules and Regulations.

14 7. On May 23, 2017, the Company’s owner and manager, Mr. George Johnson (“Mr.
15 Johnson”), was indicted in the United States District Court for the District of Arizona on charges of
16 conspiracy, fraud and bribery. *U.S. v. Pierce, et al.*, CR-17-00713-PHX-JJT (May 23, 2017).

17 8. On May 26, 2017, Johnson Utilities notified the Commission via a filing in Docket
18 No. WS-02987A-08-0180 that Mr. Johnson had removed himself from all management of the
19 Company in response to his indictment.

20 9. On June 7, 2017, in the same Docket, Johnson Utilities notified the Commission that
21 Mr. Gary A. Drummond (“Mr. Drummond”) had replaced Mr. Johnson as the manager of the
22 Company; that Mr. Johnson had been removed from all facets of the operation, decision-making and
23 management of Johnson Utilities; and that Mr. Johnson would have no further contact with
24 Commissioners or employees of the Commission on behalf of the Company.

25 10. On August 23, 2017, the Commission issued Decision No. 76336, ordering Johnson
26 Utilities to file a full rate application by December 31, 2017.

1 11. On December 29, 2017, Johnson Utilities filed an application seeking, among other
2 things, a permanent increase for its rates and charges for water and wastewater utility services
3 (“Application”) in Docket No. WS-02987A-17-0392.

4 12. Following the Company’s filing of its Application, approximately 74 Johnson Utilities
5 customers filed opinions with the Commission objecting to the Company’s requested rate increase.
6 The consumer complaints cite unsafe water quality, toxic gas emissions, inaccurate meter readings,
7 overcharges and unwarranted fees.

8 13. On Tuesday, February 20, 2018 and Wednesday, February 21, 2018, the Commission
9 held a series of six two-hour meetings in San Tan Valley for public comment regarding Johnson
10 Utilities’ Application (the “Public Comment Meetings”).

11 14. During the Public Comment Meetings, the Commission heard from approximately 170
12 customers.¹ The speakers’ comments and complaints primarily fell into two areas of concern: 1)
13 health and safety issues dealing with the quality of the drinking water provided by Johnson Utilities
14 and with the release of hydrogen sulfide gas from Johnson Utilities’ wastewater treatment plants; and
15 2) meter reading and billing practices by Johnson Utilities that were resulting in astronomical bills
16 and unwarranted shut-offs and reconnection fees.

17 15. As a result of the public comments, Chairman Tom Forese (“Chairman Forese”)
18 directed Commission Staff to open a docket to address water quality and bill complaints associated
19 with Johnson Utilities.

20 16. At the Commission’s February 22, 2018 Open Meeting, the Commission directed Staff
21 to conduct a site inspection and water/wastewater sampling of Johnson Utilities and prepare a report
22 to bring before the Commission at its March Open Meeting.

23 17. Pursuant to the Commission’s directive, Staff opened Docket No. WS-02987A-18-
24 0050.

25
26 _____
27 ¹A filing was also made on February 27, 2018, that purports to be a copy of a citizens’ petition to the
28 Pinal County Board of Supervisors. The petition requests that Johnson Utilities’ pond-based water
treatment operations and lift stations be moved or otherwise changed to eliminate toxic emissions
near the communities where they are located.

1 18. Pursuant to the Commission's request, the Arizona Department of Environmental
2 Quality ("ADEQ") completed the water/wastewater sampling. Staff coordinated its investigatory
3 efforts with the ADEQ in conducting site visits and testing at Johnson Utilities' facilities. Staff also
4 reviewed the number of consumer complaints filed against Johnson Utilities between January 1, 2015
5 and March 2, 2018.

6 19. As a result of its investigation and additional facts discussed in more detail below,
7 Staff is concerned that the Company may lack the necessary managerial and technical capabilities to
8 appropriately run the utility.

9 20. Meanwhile, on March 1, 2018, within the Company's pending rate case in Docket No.
10 17-0392, Johnson Utilities moved for an order that would continue the rate case and stay all activity,
11 including discovery, until the conclusion of Mr. Johnson's pending criminal case in federal court (the
12 "Motion to Stay").

13 21. In the Motion to Stay, Johnson Utilities claimed that the Company's due process rights
14 and right to a fair, unbiased hearing would be violated but proceeding with the rate case. Specifically,
15 the Company alleged this due process violation would occur by virtue the following:

- 16
- 17 a. Forcing the Company to address unproven allegations against Mr. Johnson while
18 Mr. Johnson addressed the same allegations in federal court;
 - 19 b. Forcing the Company to proceed without access to information and evidence
20 critical to the prosecution of its case; and
 - 21 c. Forcing the Company to proceed under a cloud of suspicion, even though the
22 allegations in the federal case are unproven and untested.

23 Motion to Stay, *In the Matter of the Application of Johnson Utilities, LLC et cet.*,
24 Docket No. WS-02987A-17-0392 (March 1, 2018).

25 22. The Motion to Stay claimed that two protective orders have been issued in the federal
26 case, which will hamper discovery and the Company's access to certain documents that will be
27 needed in the rate case.

28 23. It is unclear what the relationship is between the Company's rate case that is pending
before the Commission and the criminal case pending against Mr. Johnson in Arizona District Court.

1 24. If there has been no connection or communication between the Company and Mr.
2 Johnson as of May 2016, when Mr. Johnson notified the Commission that he had resigned and would
3 have no further involvement with the Company, the nexus between the rate case and the criminal
4 indictment seems tenuous.

5 25. In response to the assertions raised in the Motion to Stay, Staff propounded a number
6 of discovery requests to Johnson Utilities inquiring into, among other things, Mr. Johnson's
7 continued involvement with the Company. A copy of Staff's Discovery Requests and Johnson
8 Utilities' Responses is attached hereto as Exhibit "A."

9 26. Johnson Utilities objected or provided incomplete responses to Staff's discovery
10 requests that were specifically directed to Mr. Johnson's continued involvement in "facets of the
11 operation, decision-making and management of the company":

12
13 a. Q: Identify the name(s) of all person(s) who consulted and/or communicated with
14 counsel for Johnson Utilities in connection with the preparation and filing of this
15 Motion.

16 A: [Johnson] objects to this data request on the grounds that it seeks information
17 that is not relevant to this rate case proceeding . . . In addition, Johnson Utilities
18 objects to this data request on the grounds that it seeks confidential information
19 that is protected by the attorney-client privilege and the attorney work product
20 doctrine.

21 b. Q: Admit that George Johnson consulted and/or communicated with counsel for
22 Johnson Utilities in connection with the filing of this Motion.

23 A: [Johnson] objects . . . on the grounds that [this question] seek[s] information that
24 is not relevant to this rate case proceeding. . . . [Johnson] objects to [the above
25 question] on the grounds that it seeks confidential information that is protected by
26 the attorney-client privilege and the attorney work product doctrine.

27 c. Q: Produce an electronic copy in original form of the invoice prepared by counsel
28 to the client responsible for payment in connection with the preparation of the
 Motion. To the extent the invoice contains privileged information, please redact
 the same.

 A: [Johnson] objects to this data request on the grounds that it seeks information
 that is not relevant to this rate case proceeding. . . . In addition, Johnson Utilities
 objects to this data request on the grounds that it seeks confidential information

1 that is protected by the attorney-client privilege and the attorney work product
2 doctrine.

3 Exh. A.

4 27. Staff is in the process of preparing a motion to compel and seeking a procedural
5 conference with the Administrative Law Judge to compel responses to these questions.

6 28. In addition to the above, on or around July 6, 2017, the Commission received a call
7 from a person who wished to remain anonymous who stated that Mr. Johnson was continuing to go to
8 Johnson Utilities' business location daily, and that Mr. Johnson was still managing the Company.

9 29. Finally, Commission Decision No. 60223 shows that the Commission granted the
10 CC&N to Johnson Utilities, LLC for water and wastewater service based, at least in part, on the
11 Company's management by Mr. Johnson. Decision No. 60223, Opinion and Order, *In the Matter of*
12 *the Application of Johnson Utilities, LLC, et cet.*, Docket Nos. U-2987-95-284 and U-2987-95-285
(May 27, 1997), p. 3, ¶4.

13 30. As a result, Staff met with the Company's representatives to discuss the above
14 allegations. The Company confirmed the first allegation. With respect to the second allegation, the
15 Company did not deny it but said that Mr. Johnson has other businesses that he runs and attends to
16 from his office at the Johnson Utilities location.

17 31. Finally, Commission Decision No. 60223 shows that the Commission granted the
18 CC&N to Johnson Utilities, LLC for water and wastewater service based, at least in part, on the
19 Company's management by Mr. Johnson. Decision No. 60223, Opinion and Order, *In the Matter of*
20 *the Application of Johnson Utilities, LLC, et cet.*, Docket Nos. U-2987-95-284 and U-2987-95-285
21 (May 27, 1997), p. 3, ¶4.

22 32. Mr. Johnson's listed experience included 25 years of real estate development and
23 previous ownership and operation of another public servicing corporation furnishing water and
24 wastewater. *Id.* at ¶5. As such, Mr. Johnson demonstrated that he had the technical and managerial
25 experience necessary to run Johnson Utilities.

26 33. On June 7, 2017, Mr. Johnson was replaced by Mr. Drummond as the manager of
27 Johnson Utilities. The June 7 filing in which Mr. Drummond replaced Mr. Johnson as manager of
28

1 Johnson Utilities provided Mr. Drummond's background. The Drummond's background does not
2 include any experience in the management and operations of a wastewater utility.

3 **a. Arizona Department of Water Resources Compliance**

4 34. According to a Water Provider Compliance Report dated March 1, 2018, Johnson
5 Utilities is currently non-compliant with the Arizona Department of Water Resources ("ADWR") for
6 failing to submit a required update to its System Water Plan.

7 35. The update submission was due to ADWR by January 1, 2018.

8 36. To date, Johnson Utilities has failed to remedy this violation.

9 **b. Arizona Department of Environmental Quality Compliance**

10 **i. January 2015-November 2017**

11 37. Staff investigated the history of Sanitary Sewer Overflows ("SSO") that are reported
12 to ADEQ either by customers or by the Company.

13 38. The sheer number of SSO in the wastewater system demonstrates the Company lacks
14 the necessary managerial and technical capabilities to appropriately run the utility.

15 39. The following table provides the history of SSO from January 2015 to November
16 2017:

Date Reported	Date of Incident	Description
2/11/2015	2/9/2015	At approximately 11 AM, there was leak on Empire Rd near Gary Rd. The leak came from a force main due to a small crack in the pipe. Approximately 50 gallons were spilled.
2/11/2015	2/9/2015	At approximately 8 AM, there was a spill near Judd Rd and Felix Rd. The spill came from a three-foot crack in the force main. Approximately 24,000 gallons were spilled and resulted in standing wastewater that measured approximately 100 feet long, 10 feet wide and eight inches deep. The wastewater was located in a farm field with minimum exposure to the public.
2/25/2015	2/22/2015	At approximately 8 AM, 6000 gallons spilled near Village Ln and Morning Sun Circle. The cause was determined to be a piece of manhole ladder rung stuck in a pump at the San Tan Water Reclamation Plant Lift Station.
3/1/2015	3/1/2015	At approximately 5 PM, there was a 40-50-gallon spill near Hunt Hwy and Copper Mine Rd. A manhole was overflowing and the wastewater traveled to a retention basin that is five yards from the site. The Johnson Utilities crew unclogged a manhole filled with grease which caused the

		overflow to cease.	
1	4/6/2015	3/31/2015	10,000 gallons overflowed at Section 11 WWTP. The cause was undetermined.
2	4/11/2015	4/11/2015	At approximately 9 AM, 16,000 gallons spilled from a leak in a force main located near Arizona Farms Road and Felix Road.
3	4/24/2015	4/23/2015	19,000 gallons spilled near Hunt Hwy due to a 90-degree pipe breaking in the manhole.
4	5/3/2015	5/3/2015	At approximately 6:30 PM, 8,000 gallons spilled in a retention area near Village Lane and Morning Sun Circle. The cause was determined to be a failed influent pump at the San Tan Water Reclamation Plant lift station.
5	5/8/2015	5/7/2015	At approximately 3:30 PM, 12,000 gallons spilled at a gravity trench line near the Johnson Farms Lift Station. The cause was determined to be a broken force main due to over excavation.
6	6/14/2015	6/14/2015	At approximately 2:30 PM, 1,500 gallons spilled due to submersible pumps overheating at the Morning Sun Farms Lift Station. Wastewater spilled from the grit chamber and flowed to a retention area next to the lift station.
7	7/8/2015	7/7/2015	At approximately 6:30 PM, 2,000 gallons spilled in a ditch within a farm field located near Arizona Farms Road and Felix Rd. The cause was determined to be a cracked force main.
8	8/8/2015	8/7/2015	At approximately, 3:30 PM, 10,000 gallons spilled near Hunt Hwy and Magma Road. The wastewater spilled into a retention area adjacent to the highway. The cause was determined to be a construction company that was boring and hit the pipe.
9	8/13/2015	8/12/2015	13,500 gallons spilled near the San Tan Wastewater Reclamation Plant Lift Station. The cause was determined to be an unknown liquid in in the lift station causing a pump failure.
10	8/17/2015	8/12/2015	At approximately 3:30 PM, 13,500 gallons spilled near Morning Sun Circle and Village Lane. The cause was determined to be a lift station backing up at the San Tan Water Reclamation Plant. A second pump failed to turn on due to a layer of sewage caked on the influent vault. The cake prevented a float switch from turning on the pump.
11	9/10/2015	9/9/2015	At approximately 8 PM, 4,000 gallons spilled near Morning Sun Circle and Village Lane. The cause was determined to be a cracked force main near the Main Yard Lift Station. The wastewater formed a pool that was 250 feet long, 4 feet wide and ½ inch deep.
12	10/25/2015	10/24/2015	At approximately 2 AM, 117,000 gallons spilled near Tourmaline and Copper Mine Road. The cause was determined to be a cracked force main. The wastewater formed a pool that was 1,300 feet long, eight feet wide and
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		one and half feet deep.	
1	1/7/2016	1/7/2016	A sewer line break on Hunt Hwy near Johnson Ranch Blvd resulted in the release of an undetermined amount of wastewater being spilled.
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3	2/12/2016	2/8/2016	At approximately 2:30 PM, 9,000 gallons spilled near Rittenhouse and Combs Road. The cause was determined to be a broken air relief damaged by a construction company performing grading work. The wastewater formed a pool that was 1,200 feet long, four feet wide and ¾ inch deep.
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6	3/31/2016	3/31/2016	At approximately 3 AM, 8,000 gallons spilled into a retention basin near Rousay Drive and Schnepf Road. The cause was determined to be grease and debris build-up in the gravity sewer line.
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9	5/20/2016	5/20/2016	At approximately 6:35 AM, 9,000 gallons spilled near Rousay Drive and Schnepf Road. The cause was determined to be a grease blockage.
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11	6/6/2016	6/5/2016	At approximately, 6 PM, 1,500 gallons spilled near the Pecan Water Reclamation Plant. The cause was determined to be submersible pump failure due to a blown 200-amp fuse and failed motor savor. An alternator bolt broke on the trash pump and the belt came off.
12			
13	7/10/2016	7/9/2016	At approximately 5:20 PM, 500 gallons spilled near Muscovite and Silverbell. The cause was determined be grease and wipes caught on manhole ladder rungs. The wastewater formed a pool that was 70 feet long, two feet wide and ½ inch deep.
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16	7/28/2016	7/24/2016	At approximately 3:45 PM, 300 to 500 gallons of wastewater were discharged from the Morning Sun Farms Lift Station. The wastewater traveled approximately 100 feet to an open dirt field where it evaporated and percolated into the ground.
17			
18	8/8/2016	8/4/2016	At approximately 4:40 PM. 3,000 gallons spilled due to an alternator starter failing to send a signal resulting in high water levels that overflowed.
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20	8/22/2016	8/18/2016	At approximately 10 AM, 3,000 gallons overflowed near Rittenhouse and Combs Road. The cause was determined to be a contractor performing grading activities and damaging a sewer air relief valve.
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23	10/3/2016	9/30/2016	At approximately 7:15 AM, 100 gallons spilled near High Dunes Road and Escape Ave. The cause was determined to be a build-up of grease and baby wipes at the lift station which blocked floats from sending a signal to activate pumps.
24			
25	11/4/2016	11/1/2016	At approximately 6:45 AM, 6,000 gallons spilled near Ocotillo Road and Coyote Road.
26			
27	11/22/2016	11/18/2016	At approximately 11:30 AM, a Johnson Utilities employee noticed discolored dirt along Hunt Hwy near Johnson Ranch Blvd. 400 gallons spilled due to a crack in a force main.
28	12/7/2016	12/2/2016	At approximately 8 AM, 8,000 gallons spilled and traveled to Queen Creek Wash which is classified as "Waters of the

		United States” and the Environmental Protection Agency was notified.
1/17/2017	1/13/2017	At approximately 11:30 AM, 1,500 gallons spilled near Hunt Hwy and Oasis Blvd. The cause was determined to be asphalt, branches and construction debris blocking a gravity sewer line.
2/7/2017	2/1/2017	At approximately 11:30 AM, 5,000 gallons spilled near the Ironwood Crossing Lift Station. The cause was determined to be a grit chamber clogging due to mechanical plugs and debris.
2/9/2017	2/4/2017	At approximately 5:45 PM, 11,000 gallons spilled near Charbray Drive and Matthews Drive. The cause was determined to be a crack in the force main.
2/10/2017	2/7/2017	At approximately 8:45 PM, 100 gallons spilled near Stonecreek and Desert Basin in a green belt area. The cause was determined to be a build-up of grease in a gravity sewer line.
6/14/2017	6/14/2017	An unknown amount of wastewater spilled near Hunt Hwy and Johnson Ranch Blvd.
8/19/2017	8/19/2017	An unknown amount of wastewater spilled near Valley Drive.
11/15/2017	11/15/2017	An unknown amount of wastewater spilled near Kenworthy and Ocotillo St.

ii. November 2017

40. On November 3, 2017, ADEQ issued a Notice of Violation (“NOV”) to Johnson Utilities for operating discharging facilities that do not meet the requirements established in A.R.S § 49-243(B)(1) to operate the best available demonstrated control technologies for recharge basins identified at Pecan WRP.

41. Thereafter, the Company failed to meet the NOV deadline on February 7, 2018 due to submitting an administratively deficient application.

42. To date, Johnson Utilities has failed to remedy this violation.

iii. January 2018

43. On January 25, 2018, ADEQ conducted a site inspection of the Section 11 Wastewater Treatment Plant (“WWTP”).

44. ADEQ noted the following deficiencies in its report:

- a. Recharge Basin No. 4 was overflowing at the northwest corner and effluent was flowing west towards the dirt road.
- b. Recharge Basin No. 4 and 5 were observed with no freeboard as required in Johnson Utilities’ Aquifer Protection Permit.

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- c. Effluent was observed overflowing at the southeast corner of Recharge Basin No. 7. The drainage pattern and soil erosion indicated the effluent is flowing towards a wash identified as a stormwater detention basin.
 - i. ADEQ observed the same conditions on March 6, 2015 resulting in a Notice of Violation (“NOV”) dated May 11, 2015.
 - ii. The NOV was closed after Johnson Utilities responded on July 21, 2015. The response included employee training assuring operators were aware of the effluent disposal rules. Additionally, modification was made to the Operator’s Standing Operating Procedures to avoid future unauthorized discharges.
 - d. Recharge Basin No. 5 was observed with saturated soil outside the basin which indicated previous overflowing.
 - e. According to Johnson Utilities, the Section 11 WWTP is not disposing enough effluent which causes overflowing of the recharge basins. This condition is due to lower demand by reclaim end users during the winter season.
 - f. The Section 11 WWTP failed to notify ADEQ of freeboard exceedances performance levels that were specifically set for the recharge basins. No five-day notification was reported nor a 30-day investigation report. According to the plant’s operator, he did not know these reports were needed.
 - g. At the time of the inspection, a WWTP operator commented the solar panel area could be used as a recharge basin. ADEQ clarified that this area is not included on Johnson’s APP and shall not be used unless an amendment is approved by ADEQ.
 - h. At the time of the inspection, the operators did not have an Operations and Maintenance Manual and current APP on-site, as required by Johnson’s APP.
 - i. Offensive odors were not perceived at any time during the ADEQ inspection of the aeration lagoons and recharge basins.
 - j. Strong sewage odor was identified outside and within the property limits of the Oasis Sunrise Lift Station.
 - k. An oil stain was observed on the soil, adjacent to the wet well at the Oasis Sunrise Lift Station.

25 45. On February 27, 2018, ADEQ issued a NOV to Johnson Utilities regarding the
26 findings from the January 2018 site inspection.

27 46. To date, Johnson Utilities has failed to remedy the violation.

28 **iv. February 2018**

1 47. On February 23, 2018, Staff Engineer Andrew Smith inspected the Company's
2 wastewater system, and found the following violations:

- 3 a. Multiple recharge basins located at the Section 11 WWTP did not meet the
4 minimum two-foot freeboard requirement as prescribed in Johnson's APP and
5 were at risk of overflowing.
- 6 b. The colorization of one of the aeration lagoons located at the Section 11 WWTP
7 was atypical indicating a possible anomaly in the treatment process.
- 8 c. Johnson Utilities is utilizing recharge basins at its Pecan WRP that are not
9 included on its APP. The Company is currently in process of modifying its permit.
- 10 d. A strong sewage odor was identified at the Main Yard Lift Station. This lift
11 station is located on the Johnson Utilities premises where customers are able to pay
12 their bills.

13 48. According to Company estimates, it believes there have been approximately six
14 unauthorized discharges at the Section 11 WWTP dating back to 2016.

15 49. The Section 11 WWTP is the only wastewater plant the Company runs that lacks any
16 monitoring or automated control system.

17 50. According to A.R.S. § 40-361(B), "every public service corporation shall furnish and
18 maintain such service, equipment and facilities as will promote the safety, health, comfort and
19 convenience of its patrons, employees, and the public, and as will be in all respects adequate, efficient
20 and reasonable."

21 51. Additionally, A.A.C. R14-2-607(A) and (C) require, respectively, that "each utility
22 shall be responsible for the safe con duct and handling of the sewage from the customer's point of
23 collection" and "each utility shall make reasonable efforts to supply a satisfactory and continuous
24 level of service." The quantity of overflows of wastewater demonstrates that the Company is failing
25 to provide adequate service that promotes the safety and health of the public.

26 52. The Company has two active NOV's and a history of non-compliance with ADEQ
27 requirements which demonstrates that the Company is failing to provide adequate service.

28 **c. Arizona Corporation Commission Consumer Services**

 53. A review of Consumer Service records revealed the following complaints have been
filed from January 1, 2015 through March 2, 2018:

Year	Complaints
2018	18 Complaints 10 Billing (High/Disputed) 6 Quality of Service (Can't Reach Company/Customer Service Contact) 2 Disconnect/Terminations
2017	362 Complaints 280 Billing (High/Disputed/CAGR) 42 Quality of Service (Outage or Low Pressure) 21 Quality of Service (Customer Service Contact) 16 Disconnect/Terminations 3 Deposit Note: 107 ADEQ inquiries regarding high nitrate issues
2016	56 Complaints 24 Billing (High or Disputed) 21 Quality of Service (Customer Service Contact) 11 Disconnection/Terminations Note: 22 ADEQ inquiries regarding high nitrate issues
2015	94 Complaints 16 Billing (High or Disputed) 12 Disconnect/Terminations 64 Quality of Service (Removal of Standpipe) 2 Deposit

54. At the public comment sessions, Johnson Utilities customers raised numerous issues. Among these were bills that fluctuated as the result of monthly meter readings indicating unusually high usage and meter readings indicating a more normal level of monthly usage. According to the customers, when they contacted Johnson Utilities regarding the usage level variances, they were informed that the fluctuation in their bill could be a result of possible leaks and possible theft of water by their neighbors.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to hear complaints against public service corporation pursuant to A.R.S. § 40-246. The Commission has jurisdiction to supervise and regulate public service corporations pursuant to Article XV of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

2. Johnson Utilities is a public service corporation within the meaning of Article XV of the Arizona Constitution and is subject to the jurisdiction of the Commission.

1 IT IS FURTHER ORDERED that Johnson Utilities shall appear and show cause at 10:00 a.m.
2 on March 29, 2018 to defend:

- 3 a. Why its actions do not represent a violation of A.R.S. § 40-361(B);
- 4 b. Why its actions do not represent a violation of A.A.C. R-14-2-607(A);
- 5 c. Why its actions do not represent a violation of A.A.C. R-14-2-607(C);
- 6 d. Why its actions do not represent a failure to provide just and reasonable service;
- 7 e. Why an Interim Manager should not be appointed to guarantee the necessary
- 8 technical expertise and managerial experience to run a public utility is met;
- 9 f. Why Johnson Utilities should not cooperate with and indemnify, defend and hold
- 10 the Interim Manager harmless;
- 11 g. Why other relief deemed appropriate by the Commission should not be ordered.
- 12 h. Why fines and penalties should not be imposed pursuant to A.R.S. §§ 40-424 and
- 13 40-425 and Article 15, section 19 of the Arizona Constitution.

14 IT IS FURTHER ORDERED that the Hearing Division shall forthwith schedule any
15 additional appropriate proceedings.

16 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

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

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25 _____
CHAIRMAN FORESE

COMMISSIONER DUNN

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27 _____
COMMISSIONER TOBIN

COMMISSIONER OLSON

COMMISSIONER BURNS

IN WITNESS WHEREOF, I, TED VOGT, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2018.

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TED VOGT
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

1 SERVICE LIST FOR: JOHNSON UTILITIES

2 DOCKET NO.: WS-02987A-18-0050

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Consented to Service by Email

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