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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS – Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

IN THE MATTER OF THE JOINT APPLICATION OF EPCOR WATER ARIZONA INC., AN ARIZONA CORPORATION, AND JOHNSON UTILITIES, L.L.C., A LIMITED LIABILITY COMPANY, FOR APPROVAL TO TRANSFER THE CERTIFICATES OF CONVENIENCE AND NECESSITY OF THE WATER AND WASTEWATER SYSTEM ASSETS OF JOHNSON UTILITIES, L.L.C. TO EPCOR WATER ARIZONA INC.; DETERMINATION OF AN ACQUISITION PREMIUM FOR THE JOHNSON UTILITIES, L.L.C. WATER AND WASTEWATER SYSTEM ASSETS; AND APPROVAL OF DEBT FINANCING FOR EPCOR WATER ARIZONA, INC.

DOCKET NO. WS-01303A-20-0298
DOCKET NO. WS-02987A-20-0298

PROCEDURAL ORDER
(Schedules a Hearing)

BY THE COMMISSION:

On October 5, 2020, EPCOR Water Arizona Inc. ("EPCOR") and Johnson Utilities, L.L.C ("Johnson") (collectively the "Companies") filed a joint application with the Arizona Corporation Commission ("Commission") for approval to transfer the Certificates of Convenience and Necessity ("CC&Ns") for Johnson's water and wastewater system assets to EPCOR, determination of an acquisition premium for Johnson's water and wastewater system assets, and approval of debt financing for EPCOR ("joint application"). In the joint application, the Companies propose an acquisition premium of \$63.2 million for Johnson's systems, to be treated as a regulatory asset, and to have EPCOR issue a Carryhack Note for \$10 million with simple interest at 3% per annum and a term of three years. The Companies also request that the following dockets involving Johnson be dismissed with prejudice and administratively closed: Docket Nos. WS-02987A-18-0050, WS-02987A-18-0343, and WS-02987A-18-0329. Finally, the Companies request that the Commission approve EPCOR's acquisition of Johnson's water and wastewater assets by December 31, 2020.

On October 16, 2020, the Commission's Utilities Division ("Staff") issued a Letter of Sufficiency indicating that the joint application had met the requirements of the Arizona Administrative

1 Code (“A.A.C.”)

2 Thus, it is now reasonable and appropriate to schedule a hearing and to establish other
3 procedural requirements and deadlines in this matter.

4 IT IS THEREFORE ORDERED that the **hearing** in this matter shall commence on **November**
5 **18, 2020, at 10:00 a.m.**, or as soon as practicable thereafter, at the Commission’s offices at 1200 West
6 Washington Street, Phoenix, Arizona 85007, and shall continue, as necessary, at **9:00 a.m. on**
7 **November 19 and 20, 2020**. Telephonic public comment will be taken on the first day of hearing, as
8 set forth below.

9 IT IS FURTHER ORDERED that a **telephonic prehearing** for this matter shall commence on
10 **November 10, 2020, at 1:00 p.m.**, at which the format for the hearing, in light of the current pandemic,
11 and any additional issues that have arisen will be discussed.

12 IT IS FURTHER ORDERED that the following **telephonic public comment meetings** shall
13 be held by the Commission:

Date	Time
Monday, November 2, 2020	6:00 p.m. to 8:30 p.m., or until the last caller is finished speaking, whichever comes first
Wednesday, November 18, 2020	10:00 a.m. to 12:30 p.m., or until the last caller is finished speaking, whichever comes first. The hearing will commence after the public comment concludes.

18 IT IS FURTHER ORDERED that members of the public may participate in the telephonic
19 public comment meetings by calling **(866) 705-2554** and entering the code **241497#**.
20

21 IT IS FURTHER ORDERED that the **telephone line** for each telephonic public comment
22 meeting shall be **opened no later than 30 minutes before** the start time for the meeting, to allow
23 callers to get into the queue to speak.

24 IT IS FURTHER ORDERED that a **three-minute time limit shall be imposed for each**
25 **speaker**, although that time may be extended by the presiding Administrative Law Judge (“ALJ”) to
26 clarify or obtain additional information from the speaker or to allow for Spanish interpretation.

27 IT IS FURTHER ORDERED that members of the public are **encouraged to use landline**
28 **telephones** to call into the telephonic public comment meetings, as mobile telephones do not

1 consistently provide adequate audio quality to permit the verbatim transcription of telephonic speech.¹

2 IT IS FURTHER ORDERED that the **direct testimony** and associated exhibits to be presented
3 at hearing on behalf of each party shall be reduced to writing and filed on or before **November 9, 2020**.

4 IT IS FURTHER ORDERED that any **responsive testimony** and associated exhibits to be
5 presented at hearing by any party shall be reduced to writing and filed on or before **November 16,**
6 **2020**.

7 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m.** on the date the filing
8 is due.

9 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
10 except that **all motions to intervene must be filed on or before November 6, 2020**.

11 IT IS FURTHER ORDERED that **discovery** shall be as permitted by law and the rules and
12 regulations of the Commission, except that any objection to discovery requests shall be made within 5
13 calendar days of receipt,² and responses to discovery requests shall be made within 7 calendar days of
14 receipt. The response time may be extended by mutual agreement of the parties involved.

15 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a receiving
16 party requests service to be made electronically, and the sending party has the technical capability to
17 provide service electronically, service to that party shall be made electronically.

18 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
19 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
20 Commission's Hearing Division to request a date for a procedural conference to resolve the discovery
21 dispute; that upon such a request, a procedural conference will be convened as soon as practicable; that
22 the party making such a request shall forthwith contact all other parties to advise them of the date and
23 time of the procedural conference and shall at the procedural conference provide a statement
24 confirming that the other parties were contacted and **explaining the good faith efforts made to resolve**
25

26 _____
27 ¹ If a caller cannot be sufficiently understood to make an accurate transcription, the caller will be requested to file written
comments in the docket.

28 ² The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. Arizona
time will be considered as received the next business day.

1 **the discovery dispute, which shall include reasonable attempts at verbal communication either**
2 **in person or by telephone.**³

3 IT IS FURTHER ORDERED that any motion, other than a dispositive motion, that is filed in
4 this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall be
5 deemed denied.

6 IT IS FURTHER ORDERED that any response to a motion other than a dispositive motion
7 shall be filed within seven calendar days of the filing date of the motion.

8 IT IS FURTHER ORDERED that any response to a dispositive motion shall be filed within 10
9 calendar days of the filing date of the motion.

10 IT IS FURTHER ORDERED that any reply to a response shall be filed within five calendar
11 days of the filing date of the response.

12 IT IS FURTHER ORDERED that **the Companies shall provide public notice of the hearing**
13 in this matter, in the following form and style, with the heading in no less than 12-point bold type and
14 the body in no less than 10-point regular type:

15 **PUBLIC NOTICE OF HEARING ON EPCOR WATER ARIZONA INC. AND**
16 **JOHNSON UTILITIES, L.L.C.'S JOINT APPLICATION FOR APPROVAL TO TRANSFER**
17 **THE CERTIFICATES OF CONVENIENCE AND NECESSITY OF THE WATER AND**
18 **WASTEWATER SYSTEM ASSETS OF JOHNSON UTILITIES, L.L.C. TO EPCOR WATER**
19 **ARIZONA INC.; DETERMINATION OF AN ACQUISITION PREMIUM FOR THE**
20 **JOHNSON UTILITIES, L.L.C. WATER AND WASTEWATER SYSTEM ASSETS; AND**
21 **APPROVAL OF DEBT FINANCING FOR EPCOR WATER ARIZONA, INC.**
22 **(DOCKET NOS. WS-01303A-20-0298 and WS-02987A-20-0298)**

23 **Summary**

24 On October 5, 2020, EPCOR Water Arizona Inc. ("EPCOR") and Johnson Utilities,
25 L.L.C ("Johnson") (collectively the "Companies") filed a joint application with the
26 Arizona Corporation Commission ("Commission") for approval to transfer the assets
27 and Certificates of Convenience and Necessity ("CC&Ns") for Johnson's water and
wastewater systems to EPCOR, determination of an acquisition premium for Johnson's
water and wastewater system assets, and approval of debt financing for EPCOR ("joint
application"). The Companies propose an acquisition premium of \$63.2 million for
Johnson's systems, to be treated as a regulatory asset, and to have EPCOR issue a
Carryback Note for \$10 million with simple interest at 3% per annum and a term of three
years. The Companies also request that the following dockets involving Johnson be
dismissed with prejudice and administratively closed: Docket Nos. WS-02987A-18-

28 ³ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

0050, WS-02987A-18-0343, and WS-02987A-18-0329. Finally, the Companies request that the Commission approve EPCOR's acquisition of Johnson's water and wastewater assets by December 31, 2020. The joint application does not propose any changes to the water and wastewater utility service rates currently paid by Johnson's customers but does propose to have the pending rate case for Johnson, in Docket No. WS-02987A-20-0025, continue before the Commission. Additionally, the joint application proposes to have EPCOR add the Johnson systems to EPCOR's operations as new San Tan Valley water and wastewater districts, to be operated by EPCOR's employees.

THE COMMISSION IS NOT BOUND BY THE PROPOSALS OF THE COMPANIES, STAFF, OR ANY INTERVENORS. THE COMMISSION WILL DETERMINE THE APPROPRIATE RELIEF TO BE GRANTED IN RESPONSE TO THE JOINT APPLICATION BASED ON THE EVIDENCE PRESENTED IN THIS MATTER.

How You Can View or Obtain a Copy of the Application

Copies of the Application are available from the Companies [INSERT HOW AND WHERE AVAILABLE from Johnson and EPCOR]; at the Commission's Docket Control Center at 1200 West Washington Street, Phoenix, Arizona, and the Commission's office at 400 West Congress Street, Suite 218, Tucson, Arizona, during regular business hours; and on the Commission website (www.azcc.gov) using the e-Docket function. Access to the Commission's Docket Control Center and the Commission's Tucson office is restricted due to the COVID-19 pandemic but can be arranged by appointment by calling 602-542-4250.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **November 18, 2020, at 10:00 a.m.**, or as soon as practicable thereafter, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Telephonic public comments will be taken before the hearing commences, as set forth below.

Telephonic Public Comment Sessions

Due to federal and state COVID-19 pandemic safety guidelines, public comment will not be permitted in person. The Commission will allow **telephonic public comment** to be provided as follows:

Date	Time
Monday, November 2 , 2020	6:00 p.m. to 8:30 p.m., or until the last caller is finished speaking, whichever comes first
Wednesday, November 18 , 2020	10:00 a.m. to 12:30 p.m., or until the last caller is finished speaking, whichever comes first. The hearing will commence after the public comment concludes.

To provide telephonic public comments, please call, **1-866-705-2554 and enter this code: 241497#.**

The Commission will impose a three-minute time limit per speaker, to maximize the number of callers who have an opportunity to speak. That time limit may be extended by the presiding Administrative Law Judge.

1 There may be a significant wait time to speak, and callers will be muted until it is their
2 turn to speak. However, once placed into the proceeding, callers will be able to hear the
3 comments of other callers through the phone line. Callers should turn off their computer
4 audio during the public comment meeting, as the live stream on azcc.gov is delayed by
5 28 seconds and may cause feedback when it is the caller's turn to speak.

6 The Commission encourages callers to use landline telephones for the telephonic public
7 comment meetings, as mobile telephones do not consistently provide adequate audio
8 quality to permit the verbatim transcription of telephonic speech. If a caller cannot be
9 sufficiently understood to make an accurate transcription, the caller will be requested to
10 file written comments in the docket.

11 **Written public comments** may be submitted by mailing a letter referencing **Docket
12 No. WS-01303A-20-0298 et al.** to Arizona Corporation Commission, Consumer
13 Services Section, 1200 West Washington, Phoenix, AZ 85007, or by submitting
14 comments on the Commission's website (www.azcc.gov) by clicking on "Cases and
15 Open Meetings" and "Make a Public Comment in a Docket." If you require assistance,
16 you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

17 **If you do not intervene in this proceeding, you will receive no further notice of the
18 proceedings in this docket unless you sign up to Follow the Docket. However, all
19 documents filed in this docket are available online** (usually within 24 hours after
20 docketing) at the Commission's website (www.azcc.gov) using the e-Docket function.
21 **Information on how to Follow a Docket is available on the Commission's website
22 by clicking on "Cases and Open Meetings" and "Follow a Docket or Document
23 Type."**

24 **About Intervention**

25 The law provides for an open public hearing at which, under appropriate circumstances,
26 interested persons may intervene. An interested person may be granted intervention if
27 the outcome of the case will directly and substantially impact the person, and the
28 person's intervention will not unduly broaden the issues in the case. Intervention,
among other things, entitles a party to present sworn evidence at hearing and to cross-
examine other parties' witnesses. **Intervention is not required for you to provide
telephonic public comment, to file written comments in the case, or to receive
emailed notice of each filing made in the case by following the docket.**

**Information about what intervention means, including an explanation of the rights
and responsibilities of an intervenor, is available on the Commission's website
(www.azcc.gov) by clicking on "Cases and Open Meetings" and then clicking on
"Intervene in a Case."** The information includes a Sample Intervention Request and a
Fillable Intervention Request Form.

To request intervention, you must file a written request to intervene, either (a) by filing a
hard copy request (meeting filing requirements) with Docket Control (Docket Control,
1200 West Washington, Phoenix, AZ 85007), or (b) by eFiling the request. Your request
must be filed or eFiled no later than November 6, 2020. Instructions and restrictions
for eFiling are available on the Commission's website at [http://azcc.gov/hearing/efile-
for-utilities-instruction](http://azcc.gov/hearing/efile-for-utilities-instruction). You also **must** serve a copy of the request to intervene on each

1 party of record, on the same day that you file the request to intervene with the
Commission.

2 Your request to intervene **must** contain the information below:

- 3 1. Your name, address, and telephone number;
- 4 2. A reference to Docket No. WS-01303A-20-0298, et al.;
- 5 3. A short statement explaining:
 - 6 a. Your interest in the proceeding (e.g., a customer of the regulated company
involved, a property owner in an area to be affected by the case, etc.),
 - 7 b. How you will be directly and substantially affected by the outcome of the case,
and
 - 8 c. Why your intervention will not unduly broaden the issues in the case;
- 9 4. A statement certifying that you have sent copies of your request to intervene to
EPCOR and Johnson through their attorneys and to all other parties of record in the
10 case; and
- 11 5. If you are not represented by an attorney who is an active member of the Arizona State
Bar, and you are not representing yourself as an individual, sufficient information and
any appropriate documentation to demonstrate compliance with Arizona Supreme
12 Court Rules 31, 38, 39, and 42, as applicable. This only applies if you are NOT
representing yourself and you are not a licensed attorney.

13 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
that all motions to intervene must be filed on or before **November 6, 2020.**

14 **ADA/Equal Access Information**

15 The Commission does not discriminate on the basis of disability in admission to its
public meetings. Persons with a disability may request a reasonable accommodation
16 such as a sign language interpreter, as well as request this document in an alternative
format, by contacting the ADA Coordinator, Carolyn Buck, E-mail
17 ADACoordinator@azcc.gov, voice phone number 602-542-2247. Requests should be
made as early as possible and no later than 48 hours in advance of the event to allow
18 time to arrange the accommodation.

19 IT IS FURTHER ORDERED that **the Companies shall, as soon as possible and no later than**
20 **October 23, 2020, mail** the above notice to **each Johnson customer**, as a bill insert or as a separate
21 mailing; cause a copy of such notice to be **published at least once in a newspaper/s of general**
22 **circulation in each Johnson and EPCOR service area**; post the above notice in a **prominent**
23 **location⁴ on the Johnson and EPCOR websites**; and **send** the above notice (via email if consent for
24 email service has been provided and by mail if not) **to each party of record in Docket Nos. WS-**
25 **02987A-18-0050, WS-02987A-18-0343, and WS-02987A-18-0329 et al.**

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28 ⁴ If the text of the full notice itself is not viewable on the main page of the website, the link to the notice shall appear in
a font size of at least 12 pt. and shall be viewable on the main page of the website without scrolling down on the page.

1 IT IS FURTHER ORDERED that **the Companies** shall file **certification of notice** as soon as
2 possible after notice has been completed, but no later than **November 16, 2020**.

3 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing, publication,
4 and/or posting of same, notwithstanding the failure of an individual customer to read or receive the
5 notice.

6 IT IS FURTHER ORDERED that each party or prospective party shall **refer to the**
7 **Commission's website** for information regarding **Global Consent to Email Service⁵ and how to**
8 **Follow the Docket.**⁶ Information regarding Global Consent to Email Service and how to Follow the
9 Docket is available on the Commission's website (www.azcc.gov) by clicking on "**Cases and Open**
10 **Meetings**" and then clicking on "**Globally Consent to Email Service**" or "**Follow a Docket or**
11 **Document Type.**"

12 IT IS FURTHER ORDERED that **documents may be eFiled** in this docket and that instructions
13 and restrictions for eFiling are available on the Commission's website at [http://azcc.gov/hearing/efile-](http://azcc.gov/hearing/efile-for-utilities-instruction)
14 [for-utilities-instruction](http://azcc.gov/hearing/efile-for-utilities-instruction).

15 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
16 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

17 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
18 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
19 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
20 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
21 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
22 Law Judge or the Commission.

23 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
24 Communications) applies to this proceeding and shall remain in effect until the Commission's Decision
25 in this matter is final and non-appealable.

26 _____
27 ⁵ Global Consent to Email Service allows a party to consent to receive email service in all cases for which the party is
included on the service list, now or in the future.

28 ⁶ The "Follow a Docket" service allows any person to receive email notice, with a link to the filing, whenever something
is filed in the docket. The service can be used to follow one or many dockets.

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
2 pursuant to Rule 6(a)(2) or (c) of the Arizona Rules of Civil Procedure.

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

6 DATED this 16th day of October, 2020.

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9 SARAH N. HARPRING
ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

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1 On this 16th day of October, 2020, the foregoing document was filed with Docket Control as a
2 Procedural Order – Sets a Hearing, and copies of the foregoing were mailed on behalf of the Hearing
3 Division 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
4 following who have consented to email service.

4 Jason Gellman
5 EPCOR WATER ARIZONA, INC.
6 2355 W. Pinnacle Peak Road, Suite 300
7 Phoenix, AZ 85027
8 Attorney for EPCOR Water Arizona Inc.
9 jgellman@epcor.com
10 **Consented to Service by Email**

8 Jeffrey W. Crockett
9 CROCKETT LAW GROUP PLLC
10 2198 E. Camelback Road, Suite 305
11 Phoenix, AZ 85016
12 Attorney for Johnson Utilities, L.L.C.
13 jeff@jeffcrockettlaw.com
14 **Consented to Service by Email**

13 Robin Mitchell, Director
14 Legal Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, AZ 85007
18 LegalDiv@azcc.gov
19 utildivservicebyemail@azcc.gov
20 **Consented to Service by Email**

17 COASH & COASH, INC.
18 Court Reporting, Video and
19 Videoconferencing
20 1802 North 7th Street
21 Phoenix, AZ 85006
22 **Emailed as a courtesy**

21 By: 
22 Grace Beltran
23 Assistant to Sarah N. Harpring