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## ARIZONA CORPORATION COMMISSION

March 14, 2018

**RE: Docket No. WS-02987A-17-0392**  
**Johnson Utilities Rate Case**

My Fellow Commissioners,

On July 26, 2018, Staff raised concerns that serving as an interim manager could present conflicts of interest, as incremental decisions could potentially be used to more favorably acquire the company.<sup>1</sup>

Selecting a test year on behalf of another company is one example where I feel strongly that removing temptation is in the best interest of the public. The Hearing Division was clear that the existing decision did not require personal, commissioner approval of the test year selection date and that my amendment would add commissioner oversight for this decision. The interim manager and Staff did not oppose this additional oversight. Commissioner Olson and I voted in favor of ensuring this transparency and oversight of these decisions.

The amendment was just one issue. I agree with Commissioner Olson that Johnson Utilities should not be relieved of the burden of a rate case, considering the many years and issues it took for the Commission to insert an interim manager and Staff's counsel that a rate case was the most appropriate way to move forward. The Commission held an Open Meeting on August 16, 2017, and the Commission ordered the company to file a rate case by December 31, 2017.<sup>2</sup>

As Chairman of the Commission's Water Policy Committee in 2017, I was concerned by the company's lack of accountability for nearly \$34 million in capital improvements it had promised to customers to delay filing a rate case and having its financial affairs reviewed by the Commission.<sup>3</sup>

On June 2, 2017, I asked Staff to investigate the books and records of Johnson Utilities and report back whether an interim manager should be appointed.<sup>4</sup> On August 8, 2017, Staff said, "[A] full rate case may be the appropriate course of action rather than a rate review. This course of action favors judicial economy and will likely result in a more comprehensive understanding of the Company's financial condition and managerial stability."<sup>5</sup> Now there are concerns regarding the Commission's ability to continue prosecuting the Hunt and Ultra affiliated interest dockets, now that the Commission has withdrawn its full authority of a rate case.<sup>6</sup>

<sup>1</sup> See [Video Archive of Open Meeting](http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=3175) (Jul. 26, 2018), available at: [http://azcc.granicus.com/MediaPlayer.php?view\\_id=3&clip\\_id=3175](http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=3175).

<sup>2</sup> See [Decision No. 76336](http://docket.images.azcc.gov/0000182271.pdf) (Aug. 23, 2017), PDF available at: <http://docket.images.azcc.gov/0000182271.pdf>.

<sup>3</sup> See [Correspondence from Commissioner Tobin](http://docket.images.azcc.gov/0000181940.pdf) (Aug. 9, 2017), PDF available at: <http://docket.images.azcc.gov/0000181940.pdf>.

<sup>4</sup> See [Correspondence from Commissioner Andy Tobin](http://images.edocket.azcc.gov/docketpdf/0000180080.pdf) (Jun. 2, 2017) ("Within 30 days after completing this comprehensive review, Staff should report back to the Commission with recommendations that address . . . Should an interim manager be appointed to manage the entirety of affairs for Johnson?"), PDF available at: <http://images.edocket.azcc.gov/docketpdf/0000180080.pdf>.

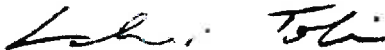
<sup>5</sup> See [Staff Report](http://images.edocket.azcc.gov/docketpdf/0000181887.pdf) (Aug. 8, 2017), <http://images.edocket.azcc.gov/docketpdf/0000181887.pdf>.

<sup>6</sup> See [Recommended Order and Opinion of the Administrative Law Judge](#), p.13 (Feb. 25, 2019) (Indicating that the Town of Queen Creek and Town of Florence had no concerns with dismissing the rate case, as long as Johnson Utilities was willing to agree that the Commission can prosecute the Ultra and Hunt affiliated interest dockets outside of a full rate case.), p.15 (Indicating that Staff's concerns regarding Staff's

There is nothing about Johnson Utilities that is usual. The public scrutiny surrounding the Commission regarding this company warrants direct and ongoing oversight by the commissioners whenever possible. Appointment of an interim manager has never been done in Arizona for such a large company, and the time it took us to insert the interim manager was fraught with enough delay.

My amendment's purpose was to progress ahead on transparency and oversight, not to support reducing it. Unfortunately, Commissioner Olson and I are in the minority, and I am disappointed that the Commission voted not to acknowledge these concerns.

Respectfully,



Andy Tobin  
Commissioner