



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**JOHNSON UTILITIES, L.L.C. v. ARIZONA CORPORATION
COMMISSION,
CV-19-0105-PR
246 Ariz. 287 (App. 2019)**

PARTIES:

Petitioner: Johnson Utilities, L.L.C. (“Johnson”)

Respondent: Arizona Corporation Commission (“ACC”).

FACTS:

Johnson provides water and wastewater services in Pinal and Maricopa Counties. Service areas include portions of Queen Creek, the unincorporated San Tan Valley area, and portions of Florence.

In December 2017, Johnson filed a request with the ACC to increase rates for its water and wastewater utility services. In early 2018, the ACC held a two-day public comment hearing to receive feedback from Johnson’s customers. Prompted to investigate further, the ACC held a Staff Open Meeting on February 22, 2018 to discuss conducting an investigation of Johnson’s system as to health and safety-related complaints, billing-related complaints, complaints of retaliatory conduct, and water pressure complaints, which included a notice that the ACC would consider the possibility of an Order to Show Cause and possibly seek the appointment of an interim manager.

In March 2018, the ACC held a 12-day evidentiary hearing regarding the adequacy of Johnson’s management and issued a decision finding its operations had raised public health and safety concerns through its billing practices, financial management, and the conditions of its equipment and facilities.

On July 24, 2018, the ACC issued Commission Decision No. 76785 appointing another water utility provider, EPCOR Water Arizona, Inc. (“EPCOR”), as Johnson’s interim manager, finding it “just and reasonable and in the public interest,” to protect the health and safety of its customers. Decision 76785 (“Decision”). EPCOR was to take over management effective August 15, 2018.

Johnson filed various actions protesting the ACC’s order and requests to enjoin its enforcement. It also filed a “Statutory Special Action” with the Court, Case No. CV-18-0221-SA, arguing that this Court had exclusive jurisdiction under A.R.S. § 40-254(F) to enjoin the ACC and to stay the proceedings. This Court declined jurisdiction without prejudice to file in the court of appeals. The court of appeals denied a stay and on March 7, 2019 issued an opinion accepting special action jurisdiction and denying relief. Johnson then filed this petition for review in the Supreme Court.

ISSUE PRESENTED:

Did the Arizona Corporation Commission exceed its constitutional and statutory authority by ordering the complete replacement of the management of Johnson Utilities with outside management that is answerable only to the ACC?

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