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**BEFORE THE PUBLIC UTILITIES COMMISSION**  
**OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the  
Odd Fellows Sierra Recreation Association,  
a California corporation, and Sierra Park  
Water Company, Inc., a California corporation,  
for a Certificate of Public Convenience and  
Necessity to Operate a Public Utility Water  
System near Long Barn, Tuolumne County,  
California and to Establish Rates for Service  
and For Sierra Park Water Company, Inc. to  
Issue stock

) Application No. 13-09-023  
) (Filed September 20, 2013)

Fred Coleman, Steven Wallace, Larry L. Vaughn  
and Ruth Dargitz

Complainants

) Case 12-03-017  
) (Filed March 14, 2012)  
) (CONSOLIDATED)

vs

Odd Fellows Sierra Recreation Association

Defendant

**COMMENTS FOR THE COMMISSION ON ALJ SMITH'S REVISED  
PROPOSED DECISION IN A. 13-09-023 AND C. 12-03-017 BY  
COMPLAINANTS FRED COLEMAN, STEVEN WALLACE, LARRY L.  
VAUGHN AND RUTH DARGITZ**

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November 3, 2015

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 12 Fred Coleman, Steven Wallace, Larry L. Vaughn )  
 13 and Ruth Dargitz )  
 14 )  
 15 Complainants )  
 16 )  
 17 vs )  
 18 Odd Fellows Sierra Recreation Association )  
 19 )  
 20 Defendant )  
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 24 )  
 25 )

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**COMMENTS FOR THE COMMISSION ON ALJ SMITH'S REVISED PROPOSED DECISION IN  
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 LARRY L. VAUGHN AND RUTH DARGITZ**

Pursuant to Rule 14.2(a) of the Rules of Practice and Procedure of the California Public Utilities Commission the Complainants file their Comments on the Revised Proposed Decision Resolving a Complaint and Authorizing a Certificate of Public Convenience and Necessity. Complainants agree with the changes made in the Revised Proposed Decision especially the fair manner in which the refunds are now to be handled.

Pursuant to Rule 14.3(b), as its subject index listing recommended changes, Complainants urge the Commission to:

- Consider the Water Reserve Account collected from the lot owners as an asset to be transferred to the Water Company.

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- Pay the proposed engineering costs of up to \$45,000 that was transferred to the water company by the Recreation Association from the Water Reserve Account.
  - Allow the water payments to be made on a quarterly basis per the Scoping Memo of Judge Minkin and Assigned Commissioner Sandoval.
  - Require an accurate accounting of all of the water connections served by the Water Company.
- A. A Water Reserve Account of \$132,977.00 was created from special assessments on the lot owners by the Recreation Association. The Recreation Association used this account for purposes other than why it was created and never replaced it as required by law. The \$139,977.00 that was collected for the Water Reserve Account is a water asset and should be transferred to the Water Company along with the water assets ordered in the Revised Proposed Decision. (Please refer to **HISTORY OF ODD FELLOWS SIERRA RECREATION ASSOCIATION WATER RESERVE ACCOUNT** in the **APPENDIX** for information about this account, pages i and ii).
- B. Should the Commission order the Recreation Association to transfer the \$132,977.00 collected for the Water Reserve Account to the Water Company, the revenue required for the engineering study should be paid from the \$132,977.00 and not out of the refund to the lot owners. Also, should this transfer take place from the Recreation Association to the Water Company, the funds should be placed in a water reserve account and used for future major repairs and replacement of the water system.
- C. Complainants request that the Commission consider following the Joint Scoping Memo Ruling of Assigned Commissioner and Administrative Law Judge dated February 2, 2013. In this memo Assigned Commissioner Catherine J. K. Sandoval and ALJ Minkin ruled that water payments could be made on a quarterly basis. With the dramatic increase in the water rate, quarterly payments would make it easier for those in the subdivision on fixed incomes. It would also allow the payments to the water company to transition into the future when meters will be installed. At that point, water will be paid at the end of each month or possibly at the end of a two month cycle. This will allow the water company to adjust for the future.
- D. In the subdivision there are approximately 364 residential connections as noted in the Revised Proposed Decision. However, there are connections that are not addressed in the Revised Proposed Decision. To establish a fair water rate for the consumers, all of the connections should be addressed by the Commission. These connections should be charged for water and used in determining the water rate. (Please refer to **WATER CONNECTIONS** in the **APPENDIX**, page ii, for an explanation of these other water connections.)

**CONCLUSION**

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2 Complainants urge the Commission to follow the Revised Proposed Decision concerning the payment  
3 of full refunds in a two year period as suggested by the DWA and the Revised Proposed Decision.  
4 Complainants agree with the Revised Proposed Decision and think it is fair to the rate payers.  
5 Complainants want this matter settled so that the subdivision can move on.

6 Complainants respectfully requests that the Commission revise the Revised Proposed Decision and:

- 7 • Order the Recreation Association to transfer the \$132,977.00 Water Reserve Account to the Water  
8 Company along with the other water assets they now hold.
- 9 • Order that the proposed engineering study is to be paid for out of the \$132,977.00 rather than from  
10 the refunds to the lot owners; the remainder to go into a Water Reserve Account to be used for  
11 future major repairs and improvements to the water system.
- 12 • Follow the February 2, 2013 Scoping Memo of Assigned Commissioner Sandoval and ALJ Minkin  
13 and provide for quarterly water payments.
- 14 • Order the Water Company to provide an accurate accounting of all connections to the water system,  
15 the size of these connections, and determine the rates on the total number of connections served.

16  
17 November 3, 2015

18 Respectfully submitted,  
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25

APPENDIX

**HISTORY OF ODD FELLOWS SIERRA RECREATION ASSOCIATION WATER RESERVE ACCOUNT**

The Revised Proposed Decision orders the Recreation Association to turn over all water assets to the Water Company as a condition of granting a CPCN. There is an error in the Revised Proposed Decision in that it leaves out the Water Reserve Account of \$132,977.00. The Water Reserve Account was created through the collection of a “special assessment” by the Odd Fellows (Recreation Association). In the Revised Proposed Decision of ALJ Smith, the Recreation Association is required to turn over all assets relating to water to the Water Company. This Water Reserve Account created through “special assessments” on the lot owners qualifies as such an asset:

A brief history of the Water Reserve Account follows:

A question arises concerning the legality of the Recreation Association collecting a “special assessment” for a “reserve account” and holding it since the Recreation Association was neither a Homeowner Association nor a planned development community. Discussions concerning how a homeowner’s association could create and fund “reserve accounts” took place in the 1980’s by the Recreation Association. Civil Code Section 1365.5 was discussed which required Homeowner Associations to set aside cash reserves on a current basis for funding of major components. Thus, various reserve accounts, including the account for water, were set up for the Odd Fellows Sierra Homeowners’ Association by the Recreation Association. These special assessments funded by the lot owners were subsequently moved into the Recreation Association’s account. In ODD FELLOWS SIERRA RECREATION ASSOCIATION, INC. REVIEWED FINANCIAL STATEMENTS MAY 31, 2004, page five (5), the water fund was described: “Water Fund - This fund is used to accumulate financial resources designated for future major repairs and replacement of the water system.” In May of 2011 there was a Water Reserve Account totaling \$132,977.00. By May 2012 this account was down to approximately \$1,000. The Recreation Association Newsletter for March 2012 explained why: “Funds are still being transferred from the various reserve accounts to cover the costs of managing the Park. These funds should be reimbursed when the dispute with OFSHA is settled.” The Recreation Association Newsletter for April 2012 stated: “36,000.00 will be transferred to the checking account from the Water Reserve, Equipment Reserve, and Road Reserve funds to fund expenses of operating the Park. The balance left in each of these “reserve accounts” is \$1,000.00.” (Note – The Recreation Association justified the “reserve accounts” by quoting California Civil Code sections 1350 to the 1650. However, the “reserve accounts” including the one for water, were used for “operating the Park”). In California Civil Code Section 1365.5 (c) (2) a special fund can be used for other than the stated purposes but requires **the restoration**

1 **of the funds within one year.** It has now been now over three years since the Water Reserve Account  
2 was depleted by the Recreation Association and not replaced as required by law.

3 The concern for the Commission is the \$132,977.00 that was collected from the lot owners through  
4 special assessments and which legally should still be in the Water Reserve Account. The Water  
5 Reserve Account of \$132,977.00 was used for purposes other than water by the Recreation Association  
6 and never replaced. Since the Recreation Association is legally obligated to restore the Water Reserve  
7 Account per Civil Code Section 1365 (c) (2), the Water Reserve Account technically still exists.  
8 Therefore, it is a water asset and should be transferred to the Water Company along with the other water  
9 assets addressed in ALJ Smith's Revised Proposed Decision.

10 **WATER CONNECTIONS**

11 The Revised Proposed Decision bases the water rates per lot on 364 connections. This number needs to  
12 be revised to address several other connections to the water supply that also need to be billed.  
13 There are two commercial connections, the Lodge-Recreation Hall and the shop-fire station, owned by  
14 the Recreation Association-Service Company with two inch connections. There are three agricultural  
15 connections, the apple orchard, dog park, and playground, on property owned by the Recreation  
16 Association-Service Company with two inch connections. There is a five acre parcel bordering the  
17 subdivision with a six inch connection but no buildings on the property. There is a two and a half inch  
18 connection to a residence outside of the subdivision.  
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