

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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



**FILED**  
11-19-15  
04:59 PM

In the Matter of the Application of 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)

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

**COMMENTS OF APPLICANT ODD FELLOWS SIERRA RECREATION ASSOCIATION ON  
REVISED PROPOSED DECISION RESOLVING A COMPLAINT AND AUTHORIZING A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AS MODIFIED**

Timothy T. Trujillo  
DAMBACHER, TRUJILLO &  
ASSOCIATES, a professional law  
corporation  
32 N. Washington St.  
Sonora, CA 95370  
Telephone: 209-533-1883  
FAX: 209-533-3884  
Email: [tim@dtalawvers.com](mailto:tim@dtalawvers.com)

**November 19, 2015**

**Attorney for**  
Odd Fellows Sierra Recreation Association  
Attn: Del Wallis, President  
P.O. Box 116  
Long Barn, California 95335  
Telephone: (209) 586-4065

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

In the Matter of the Application of 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)

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

**COMMENTS OF APPLICANT ODD FELLOWS SIERRA RECREATION ASSOCIATION ON  
REVISED PROPOSED DECISION RESOLVING A COMPLAINT AND AUTHORIZING A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AS MODIFIED**

Pursuant to Rule 14.2(a) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Applicant ODD FELLOWS SIERRA RECREATION ASSOCIATION (“Odd Fellows”) files its comments (“Comments”) on the Revised Proposed Decision Resolving a Complaint and Authorizing a Certificate of Public Convenience and Necessity as Modified Sierra Park Water Company, Inc. (“RPD”).

Like Applicant SIERRA PARK WATER COMPANY, INC. (“Water Company”), Odd Fellows is eager to resolve the proceedings expeditiously and therefore generally accepts most of the orders proposed in the RPD except as set forth below.

Pursuant to Rule 14.3(b), as its subject index listing recommended changes, Odd Fellows urges the Commission to:

- Clarify that Odd Fellows is entitled to a credit of \$30,498.50 for FY 2011-12.
- Clarify that a \$20,965.71 refund is due by Odd Fellows for FY 2012-13.

**A. Odd Fellows Rejects the Order Requiring a \$109,432 Refund by Odd Fellows.**

Odd Fellows rejects the RPD order requiring Odd Fellows to refund \$109,432.00 (see Ord. ¶ 3(b)) as calculated by Staff for FY 2012-2013.

**1. Background.**

On December 5, 2012, Administrative Law Judge Angela Minkin filed a “Administrative Law Judge’s Ruling Memorializing Procedures Agreed to By Parties” in C-1203017 that provided in part as follows on page 2 and continuing to page 3 (emphasis added):

*“Based on my concern that this proceeding was stayed with the understanding that water would continue to be provided and the water assessment would be paid, I convened a conference call with the parties on November 30, 2012. During the conference call, Defendant stated that the bill for water service for the 2012/2013 budget years is approximately \$540. Complainants assert that the bill is \$134 for the same time period. During the conference call, the parties agreed to the following procedures:*

- 1. No later than December 7, 2012, Defendant will file and serve an accounting of its actual cost of water for the 2010/2011, 2011/2012, and 2012/2013 budget years.*
- 2. No later than January 4, 2013, Complainant will file and serve a response to Defendant’s accounting of actual water costs.*
- 3. Although Defendant provides other services to the subdivisions in addition to providing water and does issue a bill for bundled services, Defendant will issue an invoice for the actual cost of water for the 2012/2013 budget year to the lot owners who have not made full payment for water service. Defendant has agreed to accept quarterly payments (rather than a one-time annual payment), will accept these payments, subject to refund, and will ensure that the funds are available, should refunds be required. Defendant will continue to provide water service.*
- 4. Complainants agree to pay the full water assessment, subject to refund.*
- 5. Parties agree to have this Commission determine whether refunds are due for the limited period of the 2012/2013 budget year.”*

1  
2 Pursuant to Administrative Law Judge Angela Minkin’s December 5, 2012 ruling in C-  
3 1203017 referenced above, Odd Fellows filed a “Report of the Odd Fellows Sierra Recreation  
4 Association” on December 7, 2012 which provided in part as follows on page 2 and continuing  
5 to page 3 (emphasis in original):

6 “2. Attached hereto as **Exhibit “B”** is a comparison of the Recreation Association’s  
7 actual expenses for **2011-12** compared to its budget for 2011-12 for all services  
8 provided to the Odd Fellows Sierra Recreation Homeowners’ Association. As the  
9 Commission will see, the 2011-12 budget for the provision of water and maintenance  
10 of the water system was \$185,943.40 and the actual expense was \$187,754.35.  
11 Actual expenses therefore exceeded budgeted expenses by **\$1,810.95** for the provision  
12 of water and maintenance of the water system for 2011-12. As there are 364 lots in  
13 the Park, this represents an actual expense of **\$515.81** per lot for the provision of  
14 water and maintenance of the water system for 2011-12. It is important to note that  
15 Recreation Association had a net loss in 2011-12 of **\$227,718.**<sup>1</sup>

16 3. Attached hereto as **Exhibit “C”** is a comparison of the Recreation Association’s  
17 expenses for **2012-13 through September 30, 2012** compared to its total budget for  
18 2012-13 for all services provided to the lot owners of the Park. As the Commission  
19 will see, the 2012-13 budget for the provision of water and maintenance of the water  
20 system was \$208,061.71. The actual expenses through September 20, 2012 are  
21 \$71,155.45.<sup>2</sup> As there are 364 lots in the Park, this represents a budgeted expense of  
22 **\$571.60** per lot for the provision of water and maintenance of the water system for  
23 2012-13. Recreation Association will obviously not know its actual expenses for the  
24 provision of water and maintenance of the water system for 2012-13 until May 31,  
25 2013 (the end of its fiscal year).

25 <sup>1</sup>The total income received by Recreation Association for 2011-12 was only \$94,541 (representing  
26 approximately one-half (1/2) of the actual expenses for only water and maintenance of the water system for  
27 2011-12). (footnote in original quoted text)

28 <sup>2</sup>The expenses incurred by Recreation Association in connection with the provision of water and  
maintenance of the water system are not incurred equally over each month and thus Recreation Association  
will not know the actual expenses incurred by it for the provision of water and maintenance of the water  
system until May 31, 2013. (footnote in original quoted text)

1                   Based on the foregoing, Recreation Association demands that any lot owner of the  
2 Park who has not yet paid in full for water and maintenance of the water system for  
3 2012-13 pay either:

- 4                   i)       **\$571.60** (if paying on an annual basis); or  
5                   ii)       **\$428.70** (if paying on a quarterly basis) with an additional payment of  
6                                   **\$142.90 due on March 1, 2013,**

7 ***less any partial payments previously made by such lot owners for water and***  
8 ***maintenance of the water system, if any, by January 1, 2013.***

9                   By way of an example only, as Complainant Fred Coleman has paid \$54.79  
10 (\$20,000 estimated cost of water / 365 lots according to Mr. Coleman) for water based  
11 on the Status Report of the Complainants dated November 21, 2012<sup>3</sup>, Mr. Coleman would  
12 have the option of paying by January 1, 2013 either \$515.81 (annual payment) or  
13 \$373.91 with a further payment of \$142.90 due on March 1, 2013 (quarterly payments).”

14                   On February 14, 2013, a Joint Scoping Memo Ruling of Assigned Commissioner and  
15 Administrative Law Judge was filed in C-1203017 which provided in part as follows on page 4  
16 (emphasis added):

17                   “During the conference call, the parties agreed to the following procedures:

- 18                   1. Defendant filed and served an accounting of its actual cost of water for the  
19                   2010/2011, 2011/2012, and 2012/2013 budget years.  
20                   2. Complainant filed and served a response to Defendant’s accounting of actual  
21                   water costs.  
22                   3. ***Although Defendant provides other services to the subdivisions in addition***  
23                   ***to providing water and does issue a bill for bundled services, Defendant***  
24                   ***issued an invoice for the actual cost of water for the 2012/2013 budget year***  
25                   ***to the lot owners who have not made full payment for water service.***  
26                   *Defendant has agreed to accept quarterly payments (rather than a one-time*  
*annual payment), will accept these payments, subject to refund, and will*  
*ensure that the funds are available, should refunds be required. Defendant*  
*will continue to provide water service.*  
27                   4. Complainants agreed to pay the full water assessment, subject to refund.

28 <sup>3</sup> Mr. Coleman paid additional amounts to the Recreation Association for garbage and pine needle removal which are not relevant to the Commission. Recreation Association does however dispute Mr. Coleman’s calculation of the amounts due for garbage and pine needle removal. (footnote in original quoted text)

1                   5. *Parties agreed to have this Commission determine whether refunds are due*  
2                   *for the limited period of the 2012/2013 budget year.*

3                   *We affirm that these are reasonable approaches, to which the parties have agreed. This*  
4                   *agreement will help to ensure that residents receive water, a vital service for public*  
5                   *health and fire safety, and that Defendant is fairly compensated.”*

6                   **2.       A Credit Is Due to Odd Fellows for FY 2011-12.**

7                   On May 29, 2011, Odd Fellows’ shareholders and the lot owners of the Park who were  
8                   present approved a budget for the period of June 1, 2011 to May 31, 2012 of \$302,120.00 for all  
9                   services to be provided by Odd Fellows to the ODD FELLOWS SIERRA HOMEOWNERS’  
10                  ASSOCIATION, which such services included, but certainly were not limited to, the provision  
11                  of water. This equated to approximately **\$830.00** per lot ( $\$302,120.00 / 364$ ).

12                  As set forth above, the FY 2011-12 budget for the provision of water only was  
13                  \$185,943.40 and the actual expense was \$187,754.35. As set forth above, as there were 364 lots  
14                  in the Park at this time, this represented an actual expense of **\$515.81** per lot ( $\$187,754.35 / 364$ )  
15                  for the provision of water for FY 2011-12.

16                  However, it is undisputed that Odd Fellows only collected \$94,541.00 for all services  
17                  rendered by Odd Fellows to the lot owners for the period of June 1, 2011 to May 31, 2102,  
18                  which such services included, but certainly were not limited to, the provision of water. As the  
19                  budget for the provision of water and maintenance of the water system only represented 62%  
20                  ( $\$185,943.40 / \$302,120.00$ ) of the total budget for all services, Odd Fellows therefore only  
21                  collected **\$58,186.40** for such period for the provision of water ( $\$94,541.00 \times 62\%$ ) for FY 2011-  
22                  12. The balance of the amount collected in FY 2011-12, \$36,354.60, was applied to the other  
23                  services provided by Odd Fellows to the lot owners of the Park (which such services are detailed  
24                  below).  
25  
26  
27  
28

Staff determined that the proper assessment for water for FY 2011-12 was \$495.00 per lot per year as set forth in Table 3 of the Staff Report dated April 15, 2015 attached to the RPD<sup>4</sup> which is also set forth below:

**Table 3: Computation of extra amounts collected**

Assessment Period	Domecheli Report		Utility Assessment Amount		Assessment / Lot per staff Recommendation w/o special study	Over/(Under) Collection		Total Over/Under Collection			Refund by
	w/o CIP	w/CIP	Improved Lot	Unimproved Lot		Per Improved Lot	Per Unimproved Lot	Improved Lot (305 lots)	Unimproved Lot (59 lots)	Total	
	a	b	c	d	e	f=c-e	g=e-d	h=f*305 <sup>1</sup>	i=g*59 <sup>1</sup>	j=h+i <sup>1</sup>	
3/1/2012-5/31/2012			\$ 793	\$ 793	\$ 495	\$ 298	\$ 298	\$ 22,702	\$ 4,391	\$ 27,093	-
6/1/2012-5/31/2013	\$ 522	\$ 802	\$ 825	\$ 759	\$ 514	\$ 311	\$ 245	\$ 94,957	\$ 14,475	\$ 109,432	Recreation Assoc.
6/1/2013-5/31/2014	\$ 537	\$ 826	\$ 968	\$ 890	\$ 545	\$ 423	\$ 345	\$ 128,884	\$ 20,330	\$ 149,214	Water Company
6/1/2014-5/31/2015	\$ 553	\$ 851	\$ 997	\$ 997	\$ 524	\$ 473	\$ 473	\$ 144,297	\$ 27,911	\$ 172,208	Water Company
								Total Refund	\$ 368,138	\$ 62,715	\$ 430,854
								Total Overcollect	\$ 390,840	\$ 67,107	\$ 457,947

**Notes**

1. Over/Under Collections for FY 2011 is for 3 months (March through May, 2012).

Based on an assessment for water of \$495.00 per year per lot, this would mean that the total annual assessment for water for FY 2011-12 would have been \$180,180.00 (\$495 x 364) or \$15,015 per month (\$180,180.00 / 12).

However, as set forth above, Odd Fellows only collected a total of \$58,186.40 for FY 2011-12 for the provision for water (\$159.85 per lot per year) or \$4,848.83 per month (\$13.32 per lot per month). **Based on the foregoing, Odd Fellows is therefore entitled to a credit for the period of March 1, 2012 to May 31, 2012 in the amount of \$30,498.50 (\$15,015.00 - \$4,848.83) x 3).** Clearly no refund is therefore due for FY 2011-12 for the provision of water.

**3. The Refund Due for FY 2012-13 is \$20,965.71.**

On May 27, 2012, Odd Fellows' shareholders and the lot owners of the Park who were present approved a budget for the period of June 1, 2012 to May 31, 2013 of \$372,736.00 for all services to be provided by Odd Fellows to the lot owners including, but certainly not limited to, the provision of water. This represented a total assessment of approximately **\$1,024.00** per lot

<sup>4</sup> Odd Fellows also notes that the assessment amount that Staff inserted in columns c and d of Table 3 (\$793) for 3/1/2012-5/31/2012 is not correct however Odd Fellows does not address this issue in this section given the minimal collections by Odd Fellows for FY 2011-12 (as hereinafter set forth).

1 (\$372,736.00 / 364)) for FY 2012-13. The services provided by Odd Fellows to the lot owners  
2 for FY 2012-13 in addition to the provision of water were as follows:

- 3 • maintenance and repair of 5.8 miles of private roads located within the Park;
- 4 • maintenance and repair of a .3 mile private road necessary to access the Park;
- 5 • maintenance and repair of storm drains located along/under such roads;
- 6 • snowplowing of such roads during times of inclement weather;
- 7 • household trash disposal for all improved lots;
- 8 • pine needle disposal for all lots;
- 9 • maintenance and repair of an automated gate used to access the Park;
- 10 • maintenance and repair of a picnic area located within the Park;
- 11 • maintenance and repair of baseball field located within the Park;
- 12 • maintenance and repair of playground located within the Park;
- 13 • maintenance of a dog park located within the Park;
- 14 • maintenance and stocking of a fishing pond located within the Park;
- 15 • maintenance and repair of vehicles and other equipment used in connection with  
the foregoing services;
- 16 • services of an onsite caretaker to assist in providing the aforementioned services;  
17 and
- 18 • certain other services.

19 The above services are typical of the services provided by Odd Fellows to the ODD FELLOWS  
20 SIERRA HOMEOWNERS' ASSOCIATION prior to FY 2012-13.

21 As set forth above, the FY 2012-13 budget for the provision of water only was  
22 **\$208,061.71**. As set forth above, as there were 364 lots in the Park at this time, this represented  
23 a budgeted expense of **\$571.60** per lot ( $\$208,061.71 / 364$ ) for the provision of water for FY  
24 2012-13. The balance of the FY 2012-13 budget for the other services provided by Odd Fellows,  
25 other than the provision of water, all as itemized above, was \$452.40 per lot ( $\$1,024.00-$   
26  $\$571.60$ ).



1 Staff determined that the proper assessment for water for FY 2012-13 was **\$514.00** per  
2 lot per year as set forth in Table 3 of the Staff Report dated April 15, 2015 attached to the RPD  
3 (which is also set forth above). Based on an assessment for water of \$514.00 per year per lot,  
4 this would mean that Staff calculated that the total annual assessment for the provision of water  
5 only for FY 2012-13 should be **\$187,096.00** ( $\$514.00 \times 364$ ).

6  
7 Although the Commission is aware that not all lot owners have paid the full assessment  
8 for water FY 2012-13 (\$187,096.00), assuming for the sake of argument that all lot owners had  
9 paid the full assessment for water (\$187,096.00), this would mean that Odd Fellows would have  
10 collected approximately **\$20,965.71** ( $\$208,061.71 - \$187,096.00$ ) more than the amount  
11 determined by Staff to be the proper assessment amount for water for FY 2012-13.

12 For reasons that are not clear to Odd Fellows, Staff incorrectly sets forth in columns c  
13 and d of Table 3 that Odd Fellows had assessed \$825.00 per lot for the provision water for  
14 improved lot and \$759.00 per lot for the provision of water for unimproved lots. As set forth  
15 above, Odd Fellows assessed *\$571.60* for the provision of water for all lots (whether improved or  
16 unimproved) and not \$825 improved/\$759 unimproved. There is no explanation in the Staff  
17 Report for this discrepancy and in fact, as set forth above, this is completely contrary to the  
18 record which Odd Fellows has referenced above. Assuming arguendo that Staff was correct and  
19 that actual amount assessed by Odd Fellows for water was \$825 improved/\$759 unimproved  
20 (which it was not), this would mean that Staff was claiming that Odd Fellows had \$199.00 per  
21 year ( $\$1,024.00 - \$825.00$ ) for improved lots and \$265.00 ( $\$1,024.00 - \$759.00$ ) for unimproved  
22 lots for the provision of all of the other services (other than water) provided by Odd Fellows to  
23 the lot owners (all as detailed above) for FY 2012-13. This equates to \$16.58 ( $\$199 / 12$ ) per  
24 month for improved lots and \$22.08 ( $\$265 / 12$ ) for unimproved lots for such other services.  
25 Said another way, if Staff's amounts set forth in c and d of Table 3 were correct for FY 2012-13  
26  
27  
28

(which they are not as set forth above), this would mean that a lot owner of an unimproved lot would pay \$16.58 per month for trash disposal, pine needle disposal, use of 6.1 miles of private roads, use of an access gate, snowplowing of such roads, use of a recreation hall, picnic area, baseball field, dog park, fishing pond, playground, etc. Of course this also means that the owner of an unimproved lot paid more for such services (which still would be the deal of a lifetime for any resident of any subdivision in the State of California). In any event, such position is contrary to the record itself which clear shows that \$571.60 was the amount being charged for water for FY 2012-13.

Clearly therefore, Staff's amounts in columns c and d of Table 3 are incorrect. **The correct amounts that should be inserted in columns c and d are what Odd Fellows actually charged for water for FY 2012-13 (\$571.60).** This amount is supported by the record as set forth above. A corrected Table 3 is set forth below:

**Table 3: Computation of extra amounts collected**

Assessment Period	Domechell Report		Utility Assessment Amount		Assessment/Lot per staff Recommendation w/o special study	Over/(Under) Collection		Total Over/Under Collection			Refund by
	w/o CIP	w/CIP	Improved Lot	Unimproved Lot		Per Improved Lot	Per Unimproved Lot	Improved Lot (305 lots)	Unimproved Lot (59 lots)	Total	
	a	b	c	d	e	f=c-e	g=d-e	h=*305	i=g*59	j=h+i	
3/1/2012-5/31/2012			\$160	\$160	\$495	(\$335)	(\$335)	(\$25,555)	(\$4,943)	(\$30,499)	
6/1/2012-5/31/2013	\$522	\$802	\$572	\$572	\$514	\$58	\$58	\$17,568	\$3,398	\$20,966	Recreation Association
6/1/2013-5/31/2014	\$537	\$826	\$968	\$890	\$545	\$423	\$345	\$129,015	\$20,355	\$149,370	Water Company
6/1/2014-5/31/2015	\$553	\$851	\$997	\$997	\$524	\$473	\$473	\$144,265	\$27,907	\$172,172	Water Company
Total Refund								\$290,848	\$51,660	\$342,508	
Total Overcollection								\$265,293	\$46,717	\$312,010	

**Notes**

1. Over/Under Collections for FY 2011 is for 3 months (March through May, 2012).

**Based on the foregoing, Odd Fellows owes \$20,965.71 (rounded to \$20,966.00) for FY 2012-13 which is very close to the original amount of the refund that was to be made by Odd Fellows pursuant to the initial Proposed Decision (\$28,000.00).**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**B. Conclusion**

For the reasons set forth in these Comments, Odd Fellows respectfully requests the Commission revise the RPD to:

- Clarify that a \$20,966 refund is due by Odd Fellows for FY 2012-13.

Respectfully submitted,

Dambacher, Trujillo & Associates,  
a professional law corporation

November 19, 2015

By: /s/ Timothy T. Trujillo  
Timothy T. Trujillo, Esq,  
Attorney for Odd Fellows Sierra Recreation  
Association

1 **APPENDIX OF PROPOSED CHANGES**

2 **(Rule 14.3(b))**

3  
4 **P. 17, Section 7-**

5 "The Water Division calculates that Water Company and Odd Fellows  
6 must refund a combined \$430,854 as shown on Table 3 of Attachment A of the  
7 Water Division Final Report for the period from 6/1/2012 to 5/31/2015.  
8 According to the Water Division, Odd Fellows should refund ~~\$20,966 \$109,432:~~  
9 ~~\$17,568 \$94,957~~ for improved lots and ~~\$3,398 \$14,475~~ for unimproved lots for the  
10 period of time water utility operations and rates were under its control.  
11 According to the Water Division, Odd Fellows should refund ~~\$20,966 \$109,432:~~  
12 ~~\$17,568 \$94,957~~ for improved lots and ~~\$3,398 \$14,475~~ for unimproved lots for the  
13 period of time water utility operations and rates were under its control. The  
14 Water Company is to refund the balance (~~\$321,422~~) which is ~~\$ 273,181~~ for  
15 improved lots and ~~\$ 48,241~~ for unimproved lots."

16  
17 **P. 31, Order, paragraph 3(b)-**

18 "b. Odd Fellows must make a full refund of ~~\$20,966 \$109,432~~, allocated  
19 proportionately to the improved and unimproved lots as otherwise shown in the  
20 Division of Water and Audits Staff Report, its adjusted share prior to spinning-  
21 off Water Company. Odd Fellows must make the refund over two years (for a  
22 total of eight payments by the dates set forth in Ordering Paragraph 3.a above by  
23 paying Water Company who, in turn, will refund customers as proposed in the  
24 Division of Water and Audits Staff Report."