

In the Matter of the Application of the)	
Odd Fellows Sierra Recreation Association,)	Application No. 13-09-023
a California corporation, and Sierra Park)	(Filed September 20, 2013)
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)	
<u>Issue stock</u>)	
)	
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)	
)	
)	

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

**REPLY OF THE COMPLAINANTS FRED COLEMAN, STEVEN WALLACE, LARRY L. VAUGHN AND
RUTH DARGITZ
TO COMMENTS OF SIERRA PARK WATER COMPANY AND ODD FELLOWS SIERRA
RECREATION ASSOCIATION ON ALJ SMITH’S REVISED PROPOSED DECISION IN A. 13-09-023
AND
C. 12-03-017**

Pursuant to Rule 14.3(d) of the Commission’s Rules of Practice and Procedure, Complainants reply to the Comments on ALJ Smith’s Revised Proposes Decision in A. 13-09-023 and C. 12-03-017 by Sierra Park Water Company and Odd Fellows Sierra Recreation Association.

REPLY TO THE COMMENTS OF WATER COMPANY

Water Company, in its Comments, admits its failure to operate successfully as a water company. Water Company has overcharged customers with a water rate substantially higher than what is recommended by the DWA. Water Company admits that the money is gone and it is unable to pay the fair refund proposed in ALJ Smith's Revised Proposed Decision. This failure on the part of Water Company confirms the warning from ALJ Long. He told Water Company that it was very difficult for a small water company to succeed and their admitted insolvency proves the validity of his warning.

Complainants are concerned about Water Company proposing drastic increases in future water rates should the Commission grant a Certificate of Public Convenience and Necessity to Water Company. Water Company points out all of the volunteer work currently performed by the Board of Directors. Their plan, as pointed out earlier by Complainants, is to pay these volunteer board members and consequently result in increased water rates. For example, a Human Resources Manager for a twenty-four hour a week employee is ludicrous. If Water Company puts the General Manager, Regulatory Compliance Coordinator, Human Resources Manager, Financial Officer, Communications Staff, and Administrative Staff on salary the water rate will go from the current monthly rate of eighty dollars to approximately one hundred-sixty dollars.

Water Company argues that they did not know about the Scoping Memo of ALJ Minkin and Assigned Commissioner Sandoval concerning a refund. However, the company did overcharge and ignorance of the rules is not a valid excuse to avoid paying the full refund in a timely fashion as ALJ Smith recommends in his Revised Proposed Decision. Also, as a joint applicant with the Recreation Association the Water Company assumed the same responsibilities, such as refunds for overcharges, that were ordered by ALJ Minkin. Water Company was also aware of the standard practices for the calculation of revenue requirements. At the December, 18, 2013 telephonic conference held by ALJ Long, President Kirk Knudsen of Water Company was asked if he had access to the U series documents by ALJ Long. President Knudsen said, "Yes, we were given access to these documents." That being the case there was no justification for the water rate being so much higher than the rate recommended in the DWA Report. Had Water Company followed DWA recommendations and the revenue requirements in the U series documents, it would currently not be struggling to make refunds.

Water Company argues that they are unable to get the refund for the easement lease from the Service Company as ordered in ALJ Smith's Revised Proposed Decision. At the December 18, 2013 telephonic conference held by ALJ Long, President Michael Lechner of the Service Company asked for and was granted Party Status for Service Company in the proceedings. As a party to the proceedings, the Commission should directly order Service Company to make the required refunds for the illegal easement leases. The argument offered by Water Company as to why the Service Company cannot refund the money is because it was spent on services of benefit to the property owners in Sierra Park, including garbage collection, pine needle disposal, and common grounds maintenance. An assessment was collected for these services by Service Company. What happened to the assessments which were collected? Also, the aforementioned services are not the responsibility of the water customers to fund out of

illegally collected easement leases. This proves what Complainants have argued all along. Water Company has been overcharging its customers in order to funnel revenue to the struggling Service Company.

Water Company admits it is not a viable company. It has minimal cash reserves and has no ability to reclaim easement money from Service Company despite both companies having essentially the same board members. Water Company collected approximately twice the rate recommended by the DWA. What happened to the money?

Water Company requests permission, after the new rate schedule goes into effect, to turn the water off after thirty days if those customers who are in arrears have not paid in full. However, since ALJ Smith's Revised Proposed Decision provides for no interest on refunds or overdue bills, the late charge of \$25.00 per month added by Water Company to late water payments should also be canceled. The \$25.00 per month amounts to \$300.00 per year or approximately 31% per year on the current water rate and approximately 56% on the 2015 water rate recommended by the DWA. Under California law this is usury and should be disallowed by the Commission.

Water Company proposing a refund of \$80,000 at \$10,000 a year as a bill credit strikes of a failing, underfunded, and poorly managed company that is on its way to failure. The application should be rejected and the owner of the water system, the Recreation Association, can start operating it again after being granted a Certificate of Public Convenience and Necessity or transfer the water system to the Tuolumne Utilities District.

REPLY TO COMMENTS OF RECREATION ASSOCIATION

The Comments by the Recreation Association should be rejected by the Commission based on untruths and misleading information that has no bearing on the proceedings before the Commission:

1. Other offered services have no bearing on these proceedings.
2. Fees for other services for 2012-2013 are being handled in a civil case before the Superior Court in Tuolumne County. Three of the Complainants in this case are being sued for the non-payment of the water charge which the Recreation Association admits was paid by Complainants per the Scoping Memo of ALJ Minkin.
3. The Recreation Association should be required to provide the Commission with income tax statements verifying their claimed losses.
4. A budget of \$302,120 was never approved on May 29, 2011 by Odd Fellows' shareholders and lot owners for the period of June 1, 2011 to May 31, 2012. Complainants have the minutes of this meeting and other evidence of proof should the Commission request it.
5. Water is the issue and only water should be addressed. Recreation Association attempts to confuse the issue by introducing irrelevant items in their Reply.

CONCLUSION

In order to ascertain the true facts concerning the water rate and track the money, an audit should be ordered by the Commission for the Recreation Association, the Water Company, and the Service Company. ALJ Smith has stated that only the DWA has the expertise to understand the water costs and to recommend rates. Complainants have accepted this. Since the Recreation Association, Water Company, and Service Company dispute the DWA's expertise in these matters, the Recreation Association, Water Company, and Service Company should pay for an independent audit conducted by an accounting firm recommended by the Commission. That way there is no question concerning the revenue, where it went, and a fair water rate. By doing this there will be no question what refunds are owed and what rates should be charged. Complainants think the results will be more in line with the rate charged by the nearby Tuolumne Utilities District. CPUC Code requires water companies applying for a Certificate of Public Convenience and Necessity to establish rates comparable to nearby utilities.

Based on Water Company's Comments on the Revised Proposed Decision of ALJ Smith, Complainants think that it is in the best interest of the lot owners in the subdivision to reject the Water Company's Application. The company and its board have proven that they are unable to function as a viable water company.

November 23, 2015

Respectfully submitted,

/s/ Fred Coleman

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