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*Director, Division of Public Utilities*

**-== MEMORANDUM ==-**

**TO:** Utah Public Service Commission

**FROM:** Division of Public Utilities  
Philip Powlick, Director  
William Duncan, Manager, Telecommunication & Water Section  
Shauna Benvegnu-Springer, Utility Analyst

**SUBJECT:** In the Matter of the Request of Dammeron Valley Water Works to Add a Conservation Rate and Related Notes to Its Tariff

**RE:** Docket No 07-2025-T01

**DATE:** April 29, 2008

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**RECOMMENDATION: APPROVE**

The Division recommends the Commission approve the proposed conservation rate, the conveyance of irrigation water rights fee, the non-sufficient funds fee and the related tariff notes as modified with the following conditions:

- 1) Dammeron Corporation (Parent Company) will subsidize any net losses incurred by the Company, and that should a rate increase be requested, any losses of the Company as a result of the conservation rate would not be part of the rate base;

- 2) when the conservation rate is approved the water rights from Stoddard Land Company, LLC., (Holding Company) would transfer to the Company for future development of the service area, and;
- 3) the bulk irrigation rate would be withdrawn at this time.

**BACKGROUND:**

On August 30, 2007, the Company filed with the Utah Public Service Commission (Commission) a proposed conservation rate schedule and notes clarifying their use of irrigation rights in Docket No. 07-2025-T01. The Division filed comments on February 8, 2008 under Docket No. 07-2025-01 recommending the Commission allow the Division to provide further analysis of the proposed conservation rate and took a position that Notes 2 and 3 to the proposed conservation rate were Company policy issues. The Company filed four additional tariff notes for Commission consideration on March 12, 2008. An evidentiary and public witness hearing was held before the Commission on March 25, 2008. At the conclusion of the hearing, the Commission requested the Division, the Company and any customers who would like to come forward to collaborate on the proposed language of the tariff notes. The Division examined the filing of the tariff notes and the concerns of the hearing. A telephone conference was held between the Division, the Company and Barbara Hjelle (Customer). A draft of the tariff notes, taking into consideration the discussion, needs, and wants of all parties relating to the tariff notes, was distributed to the Company and the Customer prior to the telephone conference on April 11, 2008. After numerous modifications to the notes during the next several weeks, the attached (Exhibit 1) presents the agreed upon language of the tariff notes.

## **SUPPORT FOR RECOMMENDATION:**

The Division of Public Utilities (Division) has completed its review, analysis and collaboration with Dammeron Valley Water Works (Company) and Barbara Hjelle (Customer) in this matter. The proposed conservation rate will provide a lower minimum cost of \$18 per month for utilizing 400 gallons per day (gpd) versus a \$30 minimum cost per month for utilizing 800 gpd. The result is a difference of \$12 per month or \$144 per year for each household connection. For those customers utilizing 800 gallons per day (24,000 gallons a month), the cost will be \$42 per month versus the current \$36 per month. As the usage increases past the minimum culinary water allocation (400 gpd) the conservation rate increases from \$1.50 per 1,000 gallons to \$2.00 per 1,000 gallons for the next 12,000 gallons used per month. Usage over the 24,000 gallons per month will be charged \$3.00 per 1,000 gallons, unless irrigation rights are purchased and owned. Customers on the proposed conservation rate who have irrigation rights must use 24,000 gallons per month (48,000 in a two month billing cycle) before the irrigation rate will apply. Irrigation right customers will be charged \$.25 per 1,000 gallons to a maximum of one acre-foot per year per irrigation right usage over the 24,000 gallons per month. Current customers of record have an option to change to the proposed conservation rate or remain on the current tariff as approved by the Commission as of June 24, 2004. Should a current customer choose the proposed conservation rate, they would not be able to return to the standard culinary tariff rate. The proposed conservation rate applies to new subdivisions platted after the effective date of the conservation rate.

The Company has explained why the conservation rate would be available to all customers who would like to take advantage of the lower minimum charge. The Company explained its need to be able to plan for the customers expectations and balance those needs throughout the water delivery system. The Company acknowledged that, depending upon the number of customers who opted to take advantage of the conservation rate, the Company would experience a loss of revenue until additional customer growth compensated for the loss. The Company also agreed that the Parent Company would subsidize any net loss related to the conservation rate.

The Customer had concerns that purchased irrigation rights and culinary water allocations that were included with the purchase of the lot would be diverted to future expansion of the service area. The Company stated the Holding Company has more than sufficient water rights for the future development of the service area.

The Customer stated concerns regarding the restrictive Company policy of irrigation use. As such, the language of the proposed Note 2 was expanded to include examples of situations, which were not all inclusive, where the temporary use policy would be utilized.

The Company provided reasoning for why it would offer excess water to be used at the irrigation rate for all customers. Since the service area resides in a drought and potential fire zone the Company offers, for a short period, the opportunity for all customers to consume excess water at the irrigation rate to irrigate property where native foliage grows. A wet buffer area is created to avoid hazardous fire damage to property. For customers with several irrigation rights, the offer may not be rendered. The Company has stated that when the offer is made, it is done so with the general welfare of the customer in mind.

The Company requested that a renumbering of the tariff rates occur with the addition of the conservation rate. This would help to clarify the entitlement use and the rate used for the customer.

The Company requested an administrative fee of \$25.00 (for the tracking of irrigation rights when they are sold or leased to a new customer) be added to the tariff schedule. The paperwork required to maintain the irrigation right record with the Division of Water Rights, the Washington County Records Office and the Company takes additional time for the Company. The fee recovers costs of the time involved for this function and is a reasonable and just fee.

The Company requested that a non-sufficient funds fee for return check payments be added to the tariff schedule. Based upon comparison with other water companies' fees and current collection fees allowed by law, the non-sufficient funds fee is reasonable and just.

The Company proposed a bulk-sale irrigation rate to the current tariff schedule, which would apply to use in excess of 250 acre-feet per year. The intention of the Company was to protect the water rights the Company and the customers possess from forfeiture of non-use for water allocated. During the 2008 Legislative Session, House Bill 51 was passed. Governor Huntsman signed the bill on March 19, 2008. The bill becomes effective May 5, 2008. The Division discussed with the Division of Water Rights how the bill would affect the Company. The Company would like to use the water for a beneficial purpose such as irrigation/agriculture. HB 51 would exempt the Company from forfeiture if they have a 40 year planned use or filed a non-use application. Simply, the Company would not need to demonstrate use to avoid forfeiture of the water rights. The Company has requested to withdraw the bulk irrigation rate at this time.

The Division, the Company and the Customer agreed to the modified changes of the tariff and to the accompanying tariff notes.

#### **CONCLUSION:**

The Division recommends that the modified tariff schedule and accompanying notes be approved as presented in Exhibit 1. The modified tariff notes clarify the practice and operation of the Company for the customers. The Division, the Company and the Customer agree on the modified accompanying tariff notes. The Division has determined that the modified conservation rates, conveyance of water rights fee, and non-sufficient funds fee are just and reasonable.

cc: Brooks Pace, Dammeron Valley Water Works  
Barbara Hjelle, Resident of Dammeron Valley Water Works