

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Request of Pineview West Water Company for Approval of a Special Assessment and Rate Increase))))))	<u>DOCKET NO. 08-2438-01</u> <u>ORDER ON SPECIAL ASSESSMENT</u>
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ISSUED: February 4, 2009

SYNOPSIS

Pineview West Water Company requested approval of a special assessment. Pursuant to evidence filed previous to the hearing, and pursuant to evidence presented at the hearing held January 22, 2009, the Commission finds the approval of a special assessment is just and reasonable and in the public interest and approves the assessment.

By The Commission:

BACKGROUND

Pineview West Water Company (Company) filed its Request for Approval of a Rate Increase and Special Assessment on November 20, 2008. The Division of Public Utilities commenced a preliminary compliance audit. Some of the information needed to review the rate increase is still forthcoming, but the information needed for the special assessment is completed. The Commission previously ordered bifurcation of the rate increase and special assessment.

On January 22, 2009, a duly noticed hearing was held on the special assessment. Patricia Schmid, Assistant Attorney General, appeared for the Division. Mark Long, Utility Analyst, and Shauna Benvegna-Springer, Utility Analyst, testified on behalf of the Division. Bryan Bryner of Smith Hartvigsen, PLLC appeared for the Company. June Anderson and Nathan Brockbank testified for the Company. Peter Turner, a public witness, testified and

DOCKET NO. 08-2438-01

appeared telephonically. Mrs. Velma Reeder also a public witness, testified at the hearing. Due to the pressing need to meet past-due obligations of the Company, it requested a special assessment to pay those obligations.

When developer Titan Development (Titan) acquired the Company in 2006, the system was in varied degrees of disrepair, with no reserve funds to make those repairs. Consequently, the Company's expenses have far-exceeded its income. The Company has previously been able to satisfy many of its obligations through various loans from Titan (exceeding \$40,000) and by stalling payments to several vendors and contractors. Given the current credit market, however, Titan is no longer able to obtain loans sufficient to cover its own and the Company's expenses. In the past months, the Company has simply left many bills unpaid, and even had board members pay debts on their personal credit cards. Even Ogden City Utilities, which supplements secondary water connections to the Company, has not been paid. In November 2008, Ogden City threatened to terminate its water service to the Company, and has only forestalled its termination after intervention from the Division, board members, and pending the outcome of these proceedings.

The Division conducted a compliance audit on January 13, 2009. Mr. Long testified about that audit and specifically, regarding the inquiries into the items that would be included in the special assessment. He testified that the audit ensured that current customers would not be billed for other connections made to accommodate future growth. Additionally, he stated that the Division ensured that any proposed special assessment items were those that were unforeseen and unanticipated. Additionally, items included in the special assessment must have

been directly attributable to work for system repair, and not for potential development, and also to amounts related to currently maintain the system operating. Mr. Long did comment, however, that many of the expenses reviewed in the audit can and should be included in the rate increase docket.

None of the ratepayers testifying opposed the special assessment, and in fact, encouraged the Commission to approve it so as to prevent any future termination or decrease of service.

The Division also recommended that the amount of special assessment for all connections belonging to Titan be credited against the amount the Company owes Titan, not to exceed \$4,500.

The Company did move for inclusion of its attorneys fees to be included in the special assessment. The Division opposed the inclusion of the fees in the special assessment, but suggested they would more properly be included in the rate case.

After the hearing, and pursuant to testimony offered and evidence presented by the Company, the Division modified its initial recommendation and suggested that: 1) the total special assessment be \$37,613.99; 2) each of the 58 present ratepayers be assessed an amount of \$648.52; and 3) that for each ratepayer, one-half (i.e. \$324.26) of the special assessment of \$648.52 is due and payable on or before February 2, 2009, with the remainder of the assessment to be paid in six, equal, monthly payments beginning March 1, 2009.

Due to the Company's pressing need to meet past-due obligations, and to maintain its service to ratepayers, the Commission finds as follows:

1. The amount of the special assessment is just and reasonable and in the public interest;
2. The Commission finds that although the attorneys fees (as listed in the Company's request) were incurred somewhat in the representation of the Company's petition for a special assessment, they were incurred more as a part of the Company's normal course of operations, and not tied directly to those costs needed to maintain the Company's provision of safe and clean culinary water to its ratepayers. Therefore, the Commission finds that while they may not be included in the special assessment, they should be submitted in the rate case;
3. The payment schedule set for payment of the special assessment is just and reasonable;
4. The crediting of amounts to Titan as detailed in the Division's recommendation is just and reasonable and not against the public interest.

THEREFORE, the Commission orders as follows:

1. The special assessment of \$37,613.99 is approved;
2. The special assessment of \$648.52 for each ratepayer is approved;

3. For each ratepayer, one-half, or \$324.26, of the special assessment of \$648.52 shall be due and payable on or before February 2, 2009. The remainder of the assessment shall be paid in six, equal, monthly payments beginning March 1, 2009.
4. The amount of the special assessment for all connections belonging to Titan shall be credited against the amount the Company owes Titan, not to exceed \$4,500.
5. Pursuant to Utah Code § 63G-4-301 and 54-7-15, an aggrieved party may request agency review or rehearing of this Order by filing a written request for review or rehearing with the Commission within 30 days after the issuance of the Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Utah Code §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 4th day of February, 2009.

/s/ Ruben H. Arredondo
Administrative Law Judge

DOCKET NO. 08-2438-01

Approved and confirmed this 4th day of February, 2009, as the Order on Special Assessment of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#60480