

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE)
APPLICATION OF NORTH) Docket No. 08-2492-01
FORK WATER COMPANY FOR) TRANSCRIPT OF
A CERTIFICATE OF) PROCEEDINGS
PUBLIC CONVENIENCE AND)
NECESSITY TO OPERATE)
AS A PUBLIC UTILITY)
RENDERING CULINARY)
WATER SERVICE)
)
)

June 10, 2008 * 9:00 a.m.

Location: Public Service Commission
160 East 300 South, Hearing Room 451
Salt Lake City, Utah

Steve Goodwill
Administrative Law Judge

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A P P E A R A N C E S

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1 P R O C E E D I N G S

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3 THE COURT: Let's go on the record. This
4 is a Public Service Commission hearing In The Matter
5 of the Application of the North Fork Water Company
6 for a Certificate of Public Convenience and Necessity
7 to Operate as a Public Utility Rendering Culinary
8 Water Service or for an exemption from Public Service
9 regulation. The Public Service Commission Docket
10 Number is 08-2492-01. I'm Steve Goodwill, the
11 Administrative Law Judge for the Public Service
12 Commission. I've been assigned by the Commission to
13 hear this matter.

14 Notice of this hearing was issued by the
15 Commission on the 28th of May, 2008. At this time I
16 would like to go ahead and take appearances, and
17 we'll start with the company, for North Fork.

18 MR. JENKINS: Bruce Jenkins, attorney and
19 registered agent.

20 THE COURT: And for the Division?

21 MS. SCHMID: Patricia Schmid with the
22 Attorney General's Office representing the Division
23 of Public Utilities.

24 THE COURT: Thank you.

25 Prior to going on the record we just had

1 some brief discussion about how we would proceed this
2 morning. And I believe that we've decided to go
3 ahead and turn to the Division first.

4 MS. SCHMID: The Division would like to
5 call Mr. Ron Slusher as its witness. Could he please
6 be sworn?

7 THE COURT: Mr. Slusher, if you would
8 please stand and raise your right hand I will swear
9 you in.

10 Do you solemnly swear the testimony you're
11 about to provide to be the truth, the whole truth and
12 nothing but the truth, so help you God?

13 MR. SLUSHER: I do.

14 THE COURT: Thank you. Please be seated.

15

16 RON SLUSHER,

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18 called as a witness, was examined

19 and testified as follows:

20

21 DIRECT EXAMINATION

22 BY MS. SCHMID:

23 Q. Good morning.

24 A. Good morning.

25 Q. Could you please state your name and

1 business address for the record?

2 A. My name is Ron Slusher. That's
3 S-L-U-S-H-E-R. Business address is 160 East 300
4 South, 4th Floor, Division of Public Utilities.

5 Q. Salt Lake City?

6 A. Salt Lake City, Utah, 84114.

7 Q. By whom are you employed and in what
8 capacity?

9 A. I'm employed by the Division of Public
10 Utilities as a division analyst.

11 Q. Have you been involved on behalf of the
12 Division in this docket, the North Fork Water
13 Company, Case No. 08-2492-01?

14 A. Yes, I have.

15 Q. Did you prepare and cause to be filed a
16 memorandum dated May 12, 2008 in this docket?

17 A. Yes.

18 Q. Do you have any corrections or changes to
19 make to this memorandum?

20 A. I do not.

21 MS. SCHMID: The Division would like to
22 move the admission of what has been premarked for
23 identification as DPU Exhibit 1, a memorandum
24 prepared by the Division, including Mr. Slusher,
25 dated May 12 entitled Issuance of a Certificate of

1 Public Convenience and Necessity (CPCN) to North Fork
2 Water Company, Case No. 08-2492-01.

3 THE COURT: Any objection to its
4 admission?

5 MR. JENKINS: None.

6 THE COURT: We'll go ahead and admit it.

7 Q. (BY MS. SCHMID) Do you have any
8 additional comments you would like to make this
9 morning, Mr. Slusher?

10 A. I do not.

11 MS. SCHMID: Thank you. Mr. Slusher is
12 available for cross-examination.

13 THE COURT: Any questions for this
14 witness, Mr. Jenkins?

15 MR. JENKINS: None, Your Honor.

16 THE COURT: Let me see what I have. Mr.
17 Slusher, I just want to make sure that we have in the
18 record, I know we have the Division's recommendation
19 that the certificate be issued. I take it,
20 therefore, that it's your conclusion that granting
21 the certificate would be in the public interest?

22 MR. SLUSHER: I do.

23 THE COURT: Mr. Slusher, are you aware of
24 any local permits, franchises or other requirements
25 that the North Fork Water has not yet secured that it

1 needs prior to granting the certificate or prior to
2 commencing operations?

3 MR. SLUSHER: I am not.

4 THE COURT: I have a quick question for
5 you regarding the proposed rates. As I read the
6 application and the proposed tariff for North Fork, I
7 believe it's Exhibit E to the application, paragraph
8 3 regarding connection fee or otherwise titled
9 "Hookup fee of \$6,000 will be charged to each owner,"
10 the second sentence of that says, "This fee will also
11 be charged upon the transfer of each lot to a new lot
12 owner."

13 What do you understand that to mean?

14 MR. SLUSHER: The way I understood that is
15 the purchaser or second purchaser of the lot or home
16 will also be charged a \$6,000 fee. A connection fee
17 or transfer fee, whatever you want to call it.

18 THE COURT: Even if one fee for that lot
19 has already been paid to the water company?

20 MR. JENKINS: Correct.

21 THE COURT: And is that typical in the
22 state for other water companies?

23 MR. SLUSHER: I have seen it in other
24 water companies. I also have seen it where they have
25 not charged, it's just a transfer with a home. But I

1 have seen it where they have charged an additional
2 fee for a new owner.

3 THE COURT: And are you aware -- I mean,
4 what's the need of the water company to charge that
5 fee, for instance, a second time?

6 MR. SLUSHER: It's my understanding it
7 just keeps the maintenance fees at a level that they
8 can afford to keep their lines and services in
9 repair.

10 THE COURT: So it's essentially in lieu of
11 a higher water usage rate or that sort of thing?

12 MR. SLUSHER: Correct.

13 THE COURT: Other questions of this
14 witness?

15 MR. JENKINS: None, Your Honor.

16 THE COURT: Thank you. Ms. Schmid,
17 anything further?

18 MS. SCHMID: Nothing further.

19 THE COURT: Anything from the company?

20 MR. JENKINS: I could proffer some
21 evidence, or have Bart Smith, who is the
22 secretary-treasurer of the company sworn in and give
23 you a little bit more understanding of the tariff and
24 how it was calculated and the connection fee, if you
25 would wish.

1 THE COURT: That would be great. Why
2 don't we have him come up to the table and we'll
3 swear him in.

4 Sir, if you would please just stand and
5 raise your right hand I'll swear you in and then Mr.
6 Jenkins can ask you to identify yourself.

7 Do you solemnly swear the testimony you're
8 about to provide shall be the truth, the whole truth
9 and nothing but the truth, so help you God?

10 MR. SMITH: I do.

11 THE COURT: Thank you. Please be seated.
12 Mr. Jenkins.

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14 BARTLEY W. SMITH,

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16 called as a witness, was examined

17 and testified as follows:

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19 DIRECT EXAMINATION

20 BY MR. JENKINS:

21 Q. For the record, state your full name and
22 your position with North Fork Water.

23 A. Bartley W. Smith, Secretary-Treasurer of
24 the North Fork Water Company.

25 Q. And is your background and training one of

1 a certified public accountant?

2 A. It is.

3 Q. So you've had familiarity with projections
4 and amortization schedules and things like that in
5 your practice; is that right?

6 A. I have.

7 Q. And you assisted in preparing the tariff
8 and rate schedules for this North Fork Water Company,
9 didn't you?

10 A. I did.

11 Q. The monthly use rate is identified at \$52
12 a month. Was that based just upon what the annual
13 operating expenses would be for the company?

14 A. It was. Annual operating expenses plus 10
15 percent for overhead.

16 Q. And did you have some involvement in the
17 calculation of the hookup fee of \$6,000?

18 A. I did.

19 Q. And could you explain to the Judge how
20 that fee is utilized to then maintain it or replace
21 the system over time?

22 A. Yes. The \$6,000 was calculated based on
23 the initial 20 users paying that in. That would then
24 be added, with a 5 percent interest addition over the
25 years, and compared to the amortization of the cost

1 of the system that was donated to the water company
2 and calculated to make sure that we would have enough
3 money at the end of the amortization to replace the
4 entire system, if need be, and leave adequate funds
5 for that so that there wouldn't have to be an
6 additional assessment. The additional \$6,000 that
7 was for each transfer allowed for any inflation that
8 would occur during that period. And there was just a
9 projection made that so many of the lots would
10 transfer in that 30-year period. And that's how we
11 arrived at that calculation.

12 THE COURT: Just so I'm clear, then, every
13 time a lot owner sells a lot with house, whether it's
14 been built upon or otherwise, each transfer of that
15 lot would incur the \$6,000?

16 MR. SMITH: Correct. And that would go
17 into the water company.

18 THE COURT: Thanks. I'm sorry, Mr.
19 Jenkins, go ahead.

20 Q. (BY MR. JENKINS) And is it the intention
21 of the water company to hold that \$6,000 in reserve
22 for the purpose of replacement of the system?

23 A. It is.

24 Q. And does that then help keep down the
25 monthly use rate for the water users?

1 A. It does. Because they won't have to have
2 an additional replacement fee added to that monthly
3 use rate.

4 MR. JENKINS: I have no further questions
5 for this witness.

6 THE COURT: Ms. Schmid, any questions?

7 MS. SCHMID: Only one.

8 CROSS-EXAMINATION

9 BY MS. SCHMID:

10 Q. Just to make sure it's on the record, if
11 there should be a shortfall in the revenues received
12 by North Fork Water Company, how will that shortfall
13 be made up?

14 A. Currently the developer has agreed to make
15 that difference up.

16 MS. SCHMID: Thank you. I have no further
17 questions.

18 THE COURT: Mr. Smith, just again a couple
19 of clarifying questions. I already asked Mr.
20 Slusher, but does North Fork, are there any required
21 local permits or franchises that North Fork still
22 needs to obtain prior to commencing operations of the
23 water system?

24 MR. SMITH: No.

25 THE COURT: The water system is strictly

1 for culinary, not secondary or irrigation water?

2 MR. SMITH: Strictly culinary.

3 THE COURT: And that includes sewer as
4 well?

5 MR. SMITH: Sewers are going to be on
6 septic.

7 THE COURT: Okay.

8 MR. SMITH: Too far removed.

9 THE COURT: Okay. The rates that have
10 been proposed apply equally to both residential and
11 commercial customers; is that correct?

12 MR. SMITH: Commercial customers are
13 tariffed actually at double. There's 20 users. The
14 commercial rate is the \$104 versus \$52.

15 MR. JENKINS: You'll see, Your Honor, if I
16 could interject and help with that.

17 THE COURT: Yes.

18 MR. JENKINS: If you'll look at the
19 schedule that created the tariff, there are 19
20 residential lots and one commercial lot. However,
21 the annual use fee was divided by 21 as opposed to
22 just 20. The 21 was an allocation of two unit costs,
23 if you will, to the commercial user and just one unit
24 cost to each residential user.

25 Therefore, the cost allocation was 21

1 units of cost allocation, although there were only 20
2 lots. The commercial will pay two unit costs.

3 THE COURT: Okay. What I think might make
4 sense, then, and be easily done, assuming the
5 Commission grants the certificate and approves the
6 proposed rates, would simply be to amend the tariff
7 that was offered with the application. In paragraph
8 2 concerning rates discussing monthly usage, it would
9 be helpful to specify that commercial, the commercial
10 rate is \$104 per month, or twice the residential
11 rate.

12 MR. JENKINS: Okay.

13 THE COURT: And I can easily put that --
14 or indicate in an order that we'll expect the company
15 to file a revised tariff.

16 MR. JENKINS: Okay.

17 THE COURT: The way that process works, is
18 you file it with the Commission. We'll give the
19 Division 30 days to review it and then notify the
20 Commission that it satisfies all requirements. Does
21 that make sense?

22 MR. JENKINS: It does. I guess I'm just
23 curious, since we have the Commission here, and it
24 actually runs to the benefit of the residential lot
25 owners to pay a lower monthly fee, if that's

1 something the Commission could opine on today so we
2 could shorten the 30-day period down to today?

3 THE COURT: What I was getting at is the
4 proposal is \$52 per month for residential and,
5 according to the testimony, \$104 a month for
6 commercial. It's my understanding the Division, in
7 recommending approval of the rates, it has no problem
8 with that. It just wasn't clear to me on the face of
9 the tariff itself that that's the rate that would be
10 charged to a commercial customer. And so all I'm
11 asking is, normally if there were nothing wrong with
12 the tariff as provided, we wouldn't ask that the
13 company provide a new tariff sheet.

14 MR. JENKINS: Correct.

15 THE COURT: But assuming the Commission
16 approves and grants the certificate, we would just
17 want a new tariff sheet that more clearly specifies
18 that commercial customer rate, and just as a matter
19 of routine we ask the Division to review all tariff
20 sheets that come in to the Commission. So that's all
21 I was getting at.

22 MR. JENKINS: And I understand. I'm not
23 trying to frustrate the process other than for my
24 needs, which aren't your needs, but after we receive
25 the letter of Convenience and Necessity then I take

1 this project, the entire project and submit an
2 application to the Division of Real Estate so we can
3 then commence lot sales. So time is not our friend.

4 THE COURT: I see. Well, and you're
5 certainly free to file a revised tariff sheet today
6 or at any other time. I can certainly indicate in a
7 proposed order that the company will be filing a
8 revised tariff sheet that simply more clearly
9 specifies the \$104 charge.

10 MR. JENKINS: And would that trigger,
11 then, another hearing requirement?

12 THE COURT: No, not at all.

13 MR. JENKINS: A stamp by the Division that
14 it's approved and we're good to go? As quick as they
15 stamp that we're okay to go?

16 THE COURT: Exactly.

17 MS. SCHMID: And on behalf of the
18 Division, I could commit to an expeditious review.

19 MR. JENKINS: That would be appreciated.

20 THE COURT: That's not a problem.
21 Anything further on that matter?

22 MR. JENKINS: No, nothing else, Your
23 Honor.

24 THE COURT: Then based on what I have
25 before me, as I kind of alluded to, it's my intent to

1 go ahead and prepare a proposed order for the
2 Commission that will grant the certificate and
3 approve the proposed rates, and will also indicate
4 that North Fork has, pursuant to our discussions,
5 stated that it will file a revised tariff sheet that
6 simply more clearly details the \$104 per month
7 commercial unit water usage rate for the company.

8 With that, is there anything further that
9 we need to take up on the record today?

10 MR. JENKINS: Not that I'm aware of, Your
11 Honor.

12 MS. SCHMID: Nothing from the Division.

13 THE COURT: Okay. Thank you very much.
14 We'll go ahead and adjourn.

15 (The taking of the deposition was
16 concluded at 9:47 a.m.)

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C E R T I F I C A T E

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

I, LANETTE SHINDURLING, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of Utah, residing at Salt Lake City, Utah hereby certify;

That the foregoing proceeding was taken before me at the time and place herein set forth, and was taken down by me in stenotype and thereafter transcribed into typewriting;

That pages 1 through 18, contain a full, true and correct transcription of my stenotype notes so taken.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 10th day of June, 2008.

LANETTE SHINDURLING, RPR, CRR
Utah License No. 103865-7801

