Exhibit 1.1

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Department of Commerce
Division of Public Utilities

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TO: **PUBLIC SERVICE COMMISSION OF UTAH**

FROM: **DIVISION OF PUBLIC UTILITIES**
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DATE: June 25, 2009

SUBJECT: In the Matter of the Request of Pineview West Water Company for Approval of a Rate Increase

RE: Docket No. 09-2438-01

RECOMMENDATION: **APPROVE DIVISION RECOMMENDATION**

The Division of Public Utilities (DPU or the "Division") has completed a compliance audit and rate case analysis of Pineview West Water Company ("Pineview" or the "Water Company"). For years, Pineview's expenses have far exceeded its revenues, resulting in on-going subsidies by the developer. Even with operations subsidized by the developer there were sizeable amounts owed to several vendors, needed repairs and replacement of key components to the water system and no financial reserves. In order to pay off the most pressing of those debts, a special assessment was recommended by the Division and ordered by the Commission on February 4, 2009. In the meantime, the ownership of the Water Company was transferred to the ratepayers.

While the special assessment paid off many of Pineview's past obligations, the Division now recommends that the Commission also approve a rate increase to assist in ensuring that Pineview's normal operating expenses will be covered by its revenues and it can start building a financial reserve to avoid another special assessment or financial mishap in the near future.

INTRODUCTION:

Pineview West Water Company filed a Request for Approval of a Rate Increase and Special Assessment on November 20, 2008. Some of the information needed for the rate increase was not available, but since the information needed for the special assessment was available, the Commission ordered the bifurcation of the rate increase and special assessment. This resulted in expediting the special assessment to allow Pineview to meet its most pressing past-due obligations, and to maintain service to ratepayers until the requested rate increase could be reviewed by the Commission.

A brief summary of the special assessment approved by the Commission, Docket No. 08-2438-01, is as follows:

1. Total amount of special assessment approved for $37,613.99;
2. Special assessment of $648.52 for each ratepayer;
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 Water Company owes Titan, not to exceed $4,500.

COMPANY BACKGROUND:

Pineview's operations are in Weber County, near Ogden City, Utah, and include 58-metered customers with an additional 54 standby customers. The service area includes Pineview West, Radford Hills, Arave, Southwick, Snowberry Inn, the Pineview Yacht Club, HOA clubhouse and related landscaping, and Crimson Ridge. All areas are largely developed with the exception of Crimson Ridge.

The Certificate of Public Convenience and Necessity (CPCN) Number 2438 was issued on September 30, 2004 with a service area approved for up to 133 connections and the corresponding tariff was implemented. The president of Pineview at this time was Edward E. Radford. The Water Company has operated since 1971 as a non-profit corporation. In 2004, Mr. Radford expanded the water system from 58 approved connections to 133 approved connections to accommodate anticipated growth. Mr. Radford, who also lived on site, ran the Water Company and did many of the repairs and the maintenance himself and at his own expense, thus keeping the rates artificially low.

In 2006 Titan Development, owned by Nathan Brockbank, purchased Pineview West Water Company in a related land acquisition. Because Mr. Radford was no longer subsidizing

Pineview through his donated labor and expertise, Titan Development soon found that the expenses for repairs, replacement and general maintenance for the Water Company far exceeded the revenues. As a result, to keep Pineview operational, Titan Development also subsidized the Water Company.

On or about December 4, 2008, Mr. Brockbank formally announced his and Titan Development's departure from Pineview. A special shareholder meeting was held on March 23, 2009 at which time the shareholder Board was voted in unanimously by proxy and by attendance vote. Mr. Radford dedicated 21 shares to the majority vote. Mr. Brockbank voted all his shares for the four members to be installed. The new Board Officers voted in are Peter Turner, President; Brian Burrows, Vice President; Velma Reeder, Vice President/Treasurer and Kevin Forbes as an advisor. The new Board immediately changed all ownership documents, vendor account information and legal registration to reflect the new Board. Mr. Brockbank also handed over the bank account to the new Board and a new account was opened.

ANALYSIS:

The Division reviewed annual reports submitted by the Water Company for the years ending December 31, 2004 through December 31, 2008. The Water Company willingly provided information to the Division for analysis, such as water utilization records, plant and equipment records, revenue, purchase and expense records, and full disclosure and explanation for various transactions. The Division met with Water Company representatives, and spoke on several more occasions to discuss its water rate design. The Division has found the Water Company to be cooperative in supplying data and other information. The Water Company is currently in compliance with all of its reporting requirements to the Division.

Test Year

The Division used the calendar year 2008 as the test year.

Adjustments to the Test Year:

Amounts were adjusted based on an annual connection increase of 5%, or three (3) connections. See DPU Exhibit 1.3 for additional details.

Revenue Adjustments:

Revenues were adjusted largely to cover the fixed and variable costs. See DPU Exhibit 1.2 for specific line item adjustments and detailed explanations.

Operating Expense Adjustments

Operating expenses were adjusted based on historical trends, prior year amounts and future anticipated needs. See DPU Exhibit 1.2 for specific line item adjustments and detailed explanations.

Rate Base Adjustments:

Amounts per the annual reports indicated a total rate base of $754,508. The Division's analysis determined that a majority of the assets listed under the '*Utility Plant in Service*' were incorrectly reported as depreciable assets purchased by the Water Company when they were actually donated to the Water Company and should have been reported as Contribution in Aid of Construction (CIAC). After the Division made the adjustments to correct the accumulated depreciation and CIAC, the correct rate base is $52,498.

In general, the return that the Water Company is entitled to should be the product of the rate base multiplied by the rate of return. The rate base amount is primarily made up of the '*Utility Plant in Service*' less the accumulated depreciation and CIAC. The rate of return is intended to pay the annual interest cost of debt capital and to provide a fair rate of return to the owner or shareholders. Changing either of these components will result in higher or lower levels of dollar return. In Pineview's case, because it reports no debt and operates as a mutual non-profit organization it has zero debt capital to repay and pays zero returns to shareholders because it has voluntary opted not to seek a profit. Due to the proceeding two factors, Pineview's recommended rate of return is 0%, therefore, the reduction in rate base was inconsequential in calculating the rates because the product of two amounts, when one amount is zero, is zero. [($0 debt capital plus $0 return on investment) times $52,498 rate base = $0]

For a complete and detailed analysis of Division adjustments to the rate base please refer to DPU Exhibit 1.5.

Debts

Pineview's current position is that it has no legally binding debt; therefore, the rates were calculated under this assumption. If Pineview does have debt, the rate of return will be incorrect, although this will have only a minimal affect on the rates because the rate base is so small. More significantly, however, the loan payments will increase the fixed expenses, which will in turn cause the recommended rates to be much too low.

As previously mentioned as part of the background of Pineview, Titan Development and Mr. Brockbank (personally) subsidized the operation of Pineview during the time they ran Pineview. Mr. Brockbank has consistently stated to the Division that the funds used to subsidize Pineview were a loan. These funds are recorded in the general ledger as *'Operating Expenses Advanced'* (refer to Exhibit 1.8 for an excerpt of the general ledger showing the entries for *'Operating Expenses Advanced'*) and shows a balance of $59,532. Of this $59,532, the general ledger lists personal loans of $13,150 from Mr. Brockbank. To date, Mr. Brockbank has only provided documentation for two loans made during 2008. The first loan is for $6,000 and another for $2,500 of which $4,000 has been repaid to Mr. Brockbank, leaving a balance due of $4,500. Pineview in the form of three (3) $1,500 checks paid the repayment of the $4,500 to Mr. Brockbank ordered in the aforementioned special assessment to Mr. Brockbank. The checks were issued on February 25, February 26 and March 11, 2009 with check numbers 3136, 3164 and 3171, respectively. The Division has not received any additional documentation or renewed claims beyond the $4,500 from Mr. Brockbank or Titan Development. The remaining '*Operating Expenses Advanced'* balance on the books is $55,032 ($8,650.00 + $19,447.58 + $17,101.61 +$ 9,832.50). The general ledger entries appear to indicate that the remaining amounts totaling $55,032 were for new development and infrastructure.

Pineview Board members state that Mr. Brockbank represented in a meeting of the Pineview's shareholders that the funds paid by Titan Construction and Mr. Brockbank on behalf of Pineview were a contribution and did not have to be repaid. In the reply to the second data request, dated May 4, 2009, to the Division's request of: "Interest rates on all notes payable and any other obligations" was received from Pineview's new President, Peter Turner who made the following notation:

> "We do not have any notes payable.
> Once their request for the Water Company to be exempt from PSC oversight was voted down by the shareholders in 2008 Titan Construction and Mr. Brockbank listed the monies they donated to the Water Company for 2006 and 2007 as debt.
> We are not aware of any legal agreements between them and the Water Company.
> Their claim was retroactive. This Board does not recognize it as valid debt.
> Monies loaned to the Water Company by Mr. Brockbank in 2008, and agreed to as such, have been repaid."

Based on the general ledger entries and Mr. Turner's statement, and in the absence of additional documentation or evidence, the Division believes that the new development and infrastructure should be borne by Titan Development and not the ratepayers of the Water Company. Titan Development had a stake in keeping the Water Company operational in order to sell and develop the property served by the Water Company and therefore subsidized the Water Company at its own expense.

A similar issue also arises regarding the $9,827 legal fees owned to Smith Hartvigsen for work done in 2007 and 2008. Water Company Board members state that the legal work was done on behalf of Mr. Brockbank for his own personal interest and not that of the Water Company. General ledger entries indicate that the legal work was done for "NEW water account #6212." The Commission Rule R746-330-6, states that there is a rebuttable presumption that the value of original utility plant and assets has been recovered in the sale of lots in a development to be served by a developer-owned water or sewer utility. Again, in the absence of additional documentation, the Division believes that the ratepayers should not bear the legal expenses incurred not benefitting the Water Company.

DIVISION RECOMMENDATIONS:

Rates

Rates and Rate Language Changes: *(Table One)*

Description	Current Tariff	Requested by Pineview	Recommended by Division
First 7,500 gallons	$15.00 per month	$30.00 per month	$55.00 per month
Usage per 1,000 gallons over 7,500	$2.50 per 1,000 gallons	$7.50 per 1,000 gallons	$5.00 per 1,000 gallons
Unmetered lots	$15.00 per month flat rate	$30.00 per month	$55.00 per month
Lots temporarily without meters	$15.00 per month	$30.00 per month	$55.00 per month
Standby Fees (Applies to all lots where the service mains are in place and where service is available, but no water service has been connected and no water service is used. Any unpaid standby fees for a particular lot, including those fees incurred by a prior owner, along with accumulated interest, must be paid in full before water service will be provided.	$50.00 per year	$180.00 per year	$240.00 per year

Disconnect fees		$100.00	$100.00
Re-connect fees		$100.00	$100.00
First time service connection fee (One time charge, to be paid in full before water service will be provided.)	$3,500.00	$3,500.00	$3,500.00
¾″-Line meter connection fee	none	$300.00	$200.00
1″-Line meter connection fee	none	$500.00	$300.00
1 ½″-Line meter connection fee	none	$700.00	$500.00
Interest rate on bills past due by 30 days or more	none	18% per annum or 1.5% per month	18% per annum or 1.5% per month
Fee for unwarranted service call: (Unwarranted service call defined as a service call that is determined to be customer responsibility.)	none	$50.00/hr above actual cost	Actual cost
Non-shareholder contract rates	none	$30.00 per month	$55.00 per month

The above rate schedule has the following rate changes and additions.

1. First 7,500 gallons

The original minimum gallons usage and rate was the first 6,000 gallons used was at a monthly rate of $15.00. The minimum gallons usage and rate is now the first 7,500 gallons used at a monthly rate of $55.00. The minimum billing rate has increased due to the high fixed costs, see DPU Exhibit 1.2, and the small number of connections (currently 58 and projected to be 61) to spread the fixed costs.

2. Usage per 1,000 gallons over 7,500

The utilization overage amount has increased from $2.50 per 1,000 gallons to $5.00 per 1,000 gallons. The projected utilization overages are calculated to cover the projected variable costs, see DPU Exhibit 1.2.

3. Unmetered lots

The unmetered lots, or 'contract sales' was originally $15.00 per month and are now set at the same minimum billing rate of $55.00.

4. Lots temporarily without meters

Same as #3. above.

5. Standby Fees

Standby fees have increased from $50.00 per year to $240.00 per year. The increased amount is the annual depreciation and amortization of CIAC of the Water Company's '*Utility Plant in Service*' account divided by the numbers of water users and those on standby. See DPU Exhibit 1.7, Row 29, Column A for the calculation of the $240.

6. Disconnect fees

This is a new fee and is set at $100.00.

7. <u>Re-connect fees</u>

This is a new fee and is set at $100.00.

8. <u>First time service connection fee</u>

This is a one-time charge to new customers for initiation of water service where no service previously existed by physically tapping the water main and installing the line to the customer's property boundary. The service connection fee is intended to recover the costs, both material and labor, that the Water Company must spend in providing first-time service. With that said, it should be noted that the service mains have already been installed to each lot's property line by the original developer, Ed Radford. The service connection fee will also cover the cost of conveying water rights from the developer to the Water Company and in turn, the Water Company will issue the accompanying water share(s) to the shareholders. The transactions for Pineview are 1) the receipt of the service connection fee and 2) the remittance to the developer, and 3) the cost of the meter installation, which is addressed immediately below. Mr. Radford, at the time of selling the unimproved lots, put in the sales contract between himself and the purchaser that the connection fees must be paid to Mr. Radford. In the past, the Water Company has collected the fees and reimbursed them to Mr. Radford. The Division recommends that Pineview and Mr. Radford come to a mutually agreeable arrangement in the collection of the connection fees and payment to Mr. Radford.

9. <u>¾″-Line meter connection fee</u>

Pineview requested a ¾″-line meter connection fee of $300.00. The Division contacted the certified water operator for Pineview and requested the costs to purchase and install a ¾″-line meter. The cost to purchase and install a ¾″-line meter is $200.00. A meter connection fee of $200.00 will allow Pineview to recover its costs, and therefore should be set at $200.00 for a ¾″-line meter connection.

10. <u>1″-Line meter connection fee</u>

Pineview requested a 1″-line meter connection fee of $500.00. The Division contacted the certified water operator for Pineview and requested the costs to purchase and install a 1″-line meter. The cost to purchase and install a 1″-line meter is $300.00. A meter connection fee of $300.00 will allow Pineview to recover its costs, and therefore should be set at $300.00 for a 1″-line meter connection.

11. <u>1 ½″-Line meter connection fee</u>

Pineview requested a 1½″-line meter connection fee of $700.00. The Division contacted the certified water operator for Pineview and requested the costs to purchase and install a 1½″-line meter. The cost to purchase and install a 1½″-line meter is $500.00. A meter connection fee of $500.00 will allow Pineview to recover its costs, and therefore should be set at $500.00 for a 1½″-line meter connection.

12. Fee for unwarranted service call

If during the course of a service call it is determined that the repair is the customer's responsibility, i.e. repair needed on the customer's side of the meter, then the customer is responsible for reimbursing Pineview for all expenses incurred on the customer's behalf. Pineview initially requested that it be reimbursed at $50.00 per hour above actual costs. Pineview should be able to cover its costs, but since Pineview is a non-profit organization and documentation was not submitted to support the $50.00 per hour, the Division does not recommend that the Water Company receive the additional $50.00 per hour.

13. Non-shareholder contract rates

These rates are properly set at the minimum billing rates for shareholders.

In addition to the rate changes and additions, the Division worked with Pineview in changing or expanding the descriptions for clarification purposes.

CUSTOMER IMPACT

Below, the Division has shown the impact to sample customers based on varying water usage amounts due to the rate increase. A percentage of change from current to recommended rates for Customer 1 is 325.33%, Customer 2 is 253.25%, and Customer 3 is 229.22%, respectively.

Sample Rates for Current Three-Month Billing Cycle *				*(Table 2)*
Customer	**Usage in Gallons**	**Current Minimum Rate**	**Current Overage Billing**	**Current Total Bill**
A	22,500	$45.00	$11.25	$56.25
B	60,000	$45.00	$105.00	$150.00
C	135,000	$45.00	$292.50	$337.50

Sample Rates and % Change for Recommended Three-Month Billing Cycle *					*(Table 2a)*
Customer	**Usage in Gallons**	**Proposed Minimum Rate**	**Proposed Overage Billing**	**Proposed Total Bill**	**% Increase**
A	22,500	$165.00	$0.00	$165.00	293.33%
B	60,000	$165.00	$196.88	$352.50	235.00%
C	135,000	$165.00	$590.63	$727.50	215.56%

** Please note, for comparative purposes, all above amounts are stated in three-month billing cycles to match Pineview's three-month billing cycle.*

In the past, the Division has recommended an increase of this percentage to be phased in over a period of time. Unfortunately, in this situation, the Water Company's cash flow needs are greater than other small water systems, and the fixed expenses for this system are spread over a smaller number of connections than other small water systems. Typically, the developer would retain and subsidize the water system until the water system is developed completely and all lots are sold. The Division discussed the large increase with the board members of the Water Company and the board members recognized the need for the tariff increases in order to maintain a sound and viable water system. The Division recognizes that this is a large increase and will have a big impact on the ratepayers, but without a developer subsidizing the Water Company, as in the past, and keeping prices artificially low, the Water Company must now fund its expenses and establish a minimum financial reserve through its revenues.

RESERVES:

The Division is concerned about the Water Company's lack of financial reserves. Parts of Pineview's infrastructure are over 30 years old and will be in need of replacement or repair in the near future. Pineview currently has no reserves set aside for these replacements or repairs. Reserves are a necessary part of a sound financial management plan for an on-going effective water system. The combined amounts of the annual depreciation and the annual amortization of contribution in aid of construction are a sound financial measurement in calculating the minimum level of reserves that should be set aside each year and allowed to accumulate or used as the need arises. Therefore, the Division recommends that each year the Water Company place the annual total depreciation and amortization of contribution in aid of construction amount into a reserve account; i.e. for 2009, the amount would be $27,496. (See Exhibit 1.4, line 29, column P)

CONCLUSION:

To cover expenses and set aside the recommended minimum financial reserve amount the Division recommends that:

1. minimum rate be set at $55.00 per month for the first 7,500 gallons be approved;
2. usage per 1,000 gallons over 7,500 is billed at $5.00 per 1,000 gallons be approved;

3. standby fees set at $240 per year be approved ;

4. disconnect and re-connect fees set at $100 per incident be approved ;

5. first time connection charge remains $3,500 (one-time charge per connection) be approved ;

6. ¾″-line meter connection fee set at $200 (one-time charge per connection) be approved;

7. 1″-line meter connection fee set at $300 (one-time charge per connection) be approved;

8. 1 ½″-line meter connection fee set at $500 (one-time charge per connection) be approved;

9. interest rate on bills past due by 30 days or more set at 18% per annum or 1.5% per year be approved;

10. fee for unwarranted service call billed at the same amount incurred by the Water Company be approved;

11. all other rates and terminology contained in Table 1 be approved.

12. overages shall be measured and billed every three (3) months be approved;

13. billing periods set at three (3) month increments, with winter months, the billing may include only the minimum billing amounts. The first reading of the meters after the winter months shall include the

overage billings for the prior period(s) plus the current overage and minimum billings be approved.