



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities

Chris Parker, Director

Bill Duncan, Telecommunications / Water Manager *USD*

Mark Long, Utility Analyst *ML*

Date: April 4, 2014

Re: In the Matter of the Formal Complaint of Duncan, Gavril, Workman, Bates, et al.
against Eagle's Landing Water Company, LLC. Docket No. 13-2477-02

Recommendations:

- The Utah Division of Public Utilities (Division) recommends that the Public Service Commission (Commission) order Eagle's Landing Water Company, LLC (Eagle's Landing or Company) to give each customer a credit for amounts they paid in excess of \$35 per month for water usage, beginning June 2010 through January 2014 as stated in the Order.
- The Division recommends that the Commission rescind its requirement for Eagle's Landing to file a rate case immediately until an accurate measurement of revenue is obtained for one complete season and the Company is better able to assess its needs for a rate case.
- The Division recommends that the Commission order Eagle's Landing to amend its tariff as explained below, as soon as practicable, to avoid any additional misunderstanding with its current and future customers.

Background

On or about March 26, 2014, the Division received an email from David Olsen, owner of Eagle's Landing indicating that his email is in response to the Report and Order on Docket No. 13-2477-02 dated March 6, 2014. In part, that Order, page 17, second paragraph, states,

"... all Complainants are entitled to a credit for the amount they paid in excess of \$35 per month for water usage, beginning June 2010 through January 2014, unless the Company can demonstrate to the Division within 30 days of this order that a given customer's average usage exceeded 10,000 gallons per month..."

Attached to this email was a five-page, untitled report, showing meter readings for "March 2014" for each lot connected to the Eagle's Landing water system. The report then calculates the total number of months from the date the meter was originally installed, "set," to March 2014. The meter reading in March 2014 is then divided by the number of months calculated above to arrive at an "Average Monthly Usage" amount for each lot. In two instances, the "Average Monthly Usage" amount is estimated based on other lots of "similar" size and construction period. The report then shows the number of months of occupancy of each current owner and applies the "Average Monthly Usage" amount for the lot to each month of occupancy for the current homeowner. The report then calculates the average monthly bill using the \$35 fixed charge for the first 10,000 gallons and then distributes the overage gallons into the appropriate tiers as prescribed by the Company's tariff. Finally, the report compares these calculated charges to the original amounts billed and shows a substantial underpayment for each customer.

Investigation

On or about April 1, 2014, Division personnel visited the sub-division of Eagle's Landing. They found nice homes on relatively large lots. The majority of the lots appear to have relatively modest sized areas of lawn, garden and other landscaping elements. In addition to the landscaped areas, most of the lots appear to have undeveloped portions of land as well, requiring less supplemental water than the more heavily landscaped areas. The Division noted that the lots with larger water use, according to the report provided by Mr. Olsen, appear to have larger areas of landscaping than other lots.

Analysis

The Commission's Order required Eagle's landing to provide the average monthly water usage for each customer. Instead, the Company provided average monthly water usage amounts for each lot since the meter was originally set. The Company ignored the fact that, in every instance, the customer was not the original owner and may have had significantly different water usage amounts than the previous customer(s). Had the company followed its tariff which requires that "[a]ll meters will be read by the Company each month, excepting November, December, January, February, and March." or even obtained a meter reading when new customers had their water service turned on, a more representative amount would have been attainable and the Company may have been able to make their case for no refund.

Based on the Company not providing usage amounts for each customer, which was a direct result of the Company not following its tariff, the Division recommends that the Commission order the

Company to give each customer a credit for amounts they paid in excess of \$35 per month for water usage, beginning June 2010 through January 2014 as stated in the Order.

Order To File A Rate Case

The Division was informed that as part of an ongoing legal proceeding involving Mr. Olsen, there is a good possibility that the Company will soon be under new ownership. The prospective owner met with the Division and discussed in detail the situation causing the formal complaint, provisions of the CPCN and the tariff as well as the correct application of the approved rates and fees in the tariff. The prospective owner indicated to the Division that by charging the correct rates, including additional standby customers and correctly applying overage amounts in the tiers as called for in the tariff, he believes that the income generated will be more than adequate to run the Company.

In the same Report and Order on Docket No. 13-2477-02 dated March 6, 2014. In part, that Order, page 23, item 5. states,

“The Company is ordered to file its rate case as soon as practicable ...”

The Division has reviewed the original tariff rates and fees as approved by the Commission in Docket No. 07-2477-01, issued on August 18, 2008, and believes that, based on anticipated usage amounts and additional standby customers, and if the rates and fees set forth in the tariff are followed, there will be adequate funds available to pay the reasonable and prudent expenses needed to run this Company in compliance with all Commission rules. Therefore, the Division recommends that the Commission rescind its requirement for Eagle’s Landing to file a rate case immediately until an accurate measurement of revenue is obtained for one complete year, that would serve as a test year, and the Company is better able to assess its needs for a rate case.

Tariff Amendments

In the same Report and Order on Docket No. 13-2477-02 dated March 6, 2014. In part, that Order, page 23, item 5. states,

“The Company is ordered to ... propose the tariff amendment noted above.”

The tariff amendment referred to above is found on page 21, third paragraph and continued in the first paragraph of page 22, states,

“Stand by fees are traditionally the amounts charged to undeveloped lots after the lot has been purchased but before the meter is set. We apply this definition in this instance and direct the Company to amend its tariff to make the definition of this fee explicit. ...”

Additionally, page 21, footnote 96 states,

“Tariff No. 1 at 6, ¶ 12. The Commission notes this deadline is 5 days shorter than what is allowed by Commission rule. See Utah Admin. Code R746-200-4(E) (“Statement Due Date – An account holder shall have not less than 20 days from the date the current bill was prepared to pay the new balance, which date shall be the statement due date.”). The Commission recommends the Company address this issue in its future tariff.”

The Division recommends that the Commission require these two changes to the Companies tariff be made as soon as practicable, independent of a rate case, to avoid any additional misunderstanding with its current and future customers.

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