

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Willow )  
Creek Water Company for a General Rate ) DOCKET NO. 13-2506-01  
Increase ) ORDER GRANTING INTERIM RATE  
 ) INCREASE  
 )  
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ISSUED: April 1, 2013

By The Commission:

BACKGROUND

On February 14, 2013, Willow Creek Water Company (“Willow Creek” or “Company”) filed an application (“Application”) for interim rate increase, pursuant to Utah Code Ann. § 54-7-12(4)(a).<sup>1</sup> In response to an action request, the Division of Public Utilities (“Division”) submitted a memorandum to the Commission, stating the Division has reviewed the Company’s interim rate application and has found it substantially complete per Utah Admin. Code R746-700-50.<sup>2</sup>

On March 12, 2013, the Administrative Law Judge (“ALJ”) for the Commission held a duly-noticed scheduling conference.<sup>3</sup> Subsequently, the ALJ issued a Scheduling Order and Notices of Hearings, which, in part, scheduled the interim rate increase hearing in this docket.<sup>4</sup> This notice also stated: “No later than Company’s March 2013 billing cycle, Company is instructed to provide notice to its customers of the interim rate increase hearing....”<sup>5</sup>

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<sup>1</sup> See Application for Interim Rate Increase, filed February 14, 2013. On the same date, Willow Creek also filed a request for a general rate increase. See Application for General Rate Increase, filed February 14, 2013. This Order pertains only to the application for interim rate increase.

<sup>2</sup> See Division Memo, filed March 4, 2013.

<sup>3</sup> See Notice of Scheduling Conference, issued March 5, 2013.

<sup>4</sup> See Scheduling Order and Notices of Hearings, issued March 13, 2013.

<sup>5</sup> Id. at 2.

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The Company seeks approval of the following rates on an interim basis:<sup>6</sup>

Current Rates per Tariff		Requested Rates	
Fixed System Fees, Maximum of 293,274 gallons per YEAR	\$38.00	<b>Residential:</b> Fixed System Fees: This includes 12,000 gallons per MONTH	\$49.00
		<b>Commercial:</b> Fixed System Fees: This includes 12,000 gallons per MONTH	\$49.00
Usage per 1,000 gallons over 293,274 gallons per YEAR	\$1.00	<b>Residential:</b> Usage per 1,000 gallons over 12,000 gallons per MONTH	\$1.50
		<b>Commercial:</b> Usage per 1,000 gallons over 12,000 gallons per MONTH	\$1.50
Standby Fee	“No Charge”	Standby Fee	\$24.40
Connection Fee (1’)	\$5,000.00	Connection Fee (1’)	\$5,000.00
Connection Fee (2’)	None	Connection Fee (2’)	\$5,000.00
Turn on Fee (with Meter in place)	\$150.00	Turn on Fee (with Meter in place)	\$900.00
Turn Off Fee	None	Turn Off Fee	\$150.00
Transfer of Ownership	None	Transfer of Ownership	\$300.00
Unwarranted Service Call	None	Unwarranted Service Call	\$60.00
Fire Hydrant (deposit)	None	Fire Hydrant (deposit)	\$100.00
Late Fee	None	Late Fee	\$15.00

These rates, if approved by the Commission, will affect 22 customers and 9 standby customers.<sup>7</sup>

On March 20, 2013, pursuant to a duly-noticed order, the ALJ convened an interim rate increase hearing. Alton Veibell (“Mr. Veibell”), Owner and Operator, and Steven Taylor (“Mr. Taylor”), Board Member, appeared *pro se* on behalf of Willow Creek. Patricia E. Schmid, Assistant Utah Attorney General, appeared together with Mark Long, Utility Analyst for the

<sup>6</sup> See Division’s Supplemental Memo, filed March 25, 2013, at 3. These rates reflect a correction made by the Division based on the Company’s current tariff, which does not distinguish between residential and commercial customers as indicated in the Company’s application for rate increase. At the Public Witness Hearing held on March 27, 2013, the Company acknowledged these rates as correct. See Transcript of Hearing, March 27, 2013, at 22, lines 7-17.

<sup>7</sup> See Transcript of Hearing, March 20, 2013, at 18, lines 12-14.

Division. Due to insufficient notice provided to customers, which the Company subsequently corrected, the Public Witness Hearing was delayed and held on March 27, 2013.<sup>8</sup>

Mr. Taylor explained at hearing a rate is in place, but that rate is not covering the Company's costs. Mr. Taylor testified, Mr. Veibell "does a lot of services . . . for the water company without any billing or expense to the . . . company."<sup>9</sup> By increasing rates, Mr. Taylor explained, the Company intends to hire a part-time water operator<sup>10</sup> and to ensure the financial stability and viability of the Company going forward.<sup>11</sup> Mr. Taylor, who is one of the Company's four board members, stated the board agreed to the proposed rates and supports the Company's efforts to establish a reserve.<sup>12</sup> Presently, the Company has "virtually no [financial] reserves"<sup>13</sup> and the Company wants to avoid having to request a voluntary contribution from each water user if the Company experiences a system failure.

Mr. Taylor also testified that while monthly billing revenues cover some of the Company's expenses, the Company relies primarily on lot sales for the bulk of the Company's revenue.<sup>14</sup> According to Mr. Taylor, "a rate increase would make a significant difference [in] how Willow Creek operate[s]."<sup>15</sup>

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<sup>8</sup> See Notice of Public Witness Hearing on Interim Rate Increase, issued March 20, 2013. No customers appeared at the public witness hearing; however, both the Company and the Division shared feedback and questions with the Commission from the Company's customers.

<sup>9</sup> Transcript of Hearing, March 20, 2013, at 7, lines 22-24.

<sup>10</sup> See *id.* at 8, lines 1-2.

<sup>11</sup> See *id.* at 9, lines 1-9.

<sup>12</sup> See *id.* lines 10-12, 16-19.

<sup>13</sup> *Id.* line 20.

<sup>14</sup> See *id.* at 13, lines 18-22.

<sup>15</sup> *Id.* at 24-25.

The Division recommends the Commission approve the interim rate increase.<sup>16</sup>

The Division's recommendation is summarized below:

The . . . Division . . . performed an initial, limited review of the rate increase and interim rate increase applications and the exhibits filed in support of the aforementioned applications and believes that Willow Creek meets its obligation under Utah Code [Ann.] § 54-7-12(4)(a) for approval of its request for interim rates. Specifically, the Division believes [the Company] has presented adequate prima facie evidence that the interim rate increase is justified as required by Utah Code [Ann.] § 54-7-12(4)(a)(iii).

In the Division's initial, limited review, it believes that the final rates will be higher in order to properly fund the capital reserve account and other overlooked expenses [on which] Willow Creek based [its] interim rate amounts.

The Division recommends that the . . . Commission approve the interim rates and fees as filed and requested in Willow Creek's Application for an Interim Rate Increase. Although the interim rates appear to be less than will be needed to properly fund the capital reserve account and other anticipated projects, the requested interim rates will produce more revenue than the current rates. The Division believes that the interim rates should cover most of Willow Creek's current monthly operating expenses until the Division completes its evaluation and the final rates are approved by the Commission. However, the Division recommends that if the final approved rates are higher than the approved interim rates, the Company will be prohibited from collecting additional funds from its ratepayers to make up the shortfall. If the final approved rates are lower than the approved interim rates, the Division recommends that Willow Creek be required to issue appropriate refunds by crediting its customers' accounts in the next billing cycle following the final Commission order.

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<sup>16</sup> See Division Memo at 1, filed March 25, 2013.

Division's Memo at 2-3, filed March 25, 2013. The Division's witness testified as to each of these points at hearing.<sup>17</sup> Likewise, the Company acknowledged its acceptance of the conditions set forth in the Division's recommendation.<sup>18</sup>

According to the Division, the interim rates requested will benefit Willow Creek and are just, reasonable, and in the public interest as interim rates.<sup>19</sup>

### STANDARD OF REVIEW AND FINDINGS

Section 54-7-12 of the Utah Code Annotated sets forth the applicable standard when reviewing a rate increase, as proposed in this docket. Specifically, under Utah Code Ann. § 54-7-12(4)(a)(ii), "[t]he commission . . . may, after a hearing, allow a[] rate increase . . . proposed by a public utility . . . to take effect on an interim basis within 45 days after the day on which the request is filed...." Utah Code Ann. § 54-7-12(4)(a)(ii) (2010). The Company filed its application for an interim rate increase on February 14, 2013. Thus, applying the 45-day constraint set forth in the above rule, the Commission may allow the requested interim rate increase to take effect on or before April 1, 2013.

Utah Code Ann. § 54-7-12(4)(a)(iii) further states, "[t]he evidence presented in the hearing held pursuant to this Subsection (4) need not encompass all issues that may be considered

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<sup>17</sup> See Transcript of Hearing, March 20, 2013, at 44, lines 18-25; 45, lines 1-13. See also Transcript of Hearing, March 27, 2013, at 11, lines 17-25; 12, lines 1-2. Regarding the Division's prima facie investigation, the Division's witness testified, "I went over each line item in Willow Creek's budget that was provided in the rate increase request. And we discussed several of the expenses that were not included in the rate case, such as proper funding of the capital reserve accounts. One real issue of concern is that [Willow Creek is] trying to fund the water company based on land sales and a subsequent donation by Mr. Veibell that is really precarious. It's just setting the company up for failure." See Transcript of Hearing, March 20, 2013, at 46, lines 3-10.

<sup>18</sup> See Transcript of Hearing, March 27, 2013, at 22, lines 7-17.

<sup>19</sup> See Transcript of Hearing, March 20, 2013, at 46, lines 24-25; 47; lines 1-2.

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in a rate case hearing . . . , but shall establish an adequate prima facie showing that the interim rate increase . . . is justified.” Utah Code Ann. § 54-7-12(4)(a)(iii) (2010) (emphasis added).

Based on the testimony presented at the hearings held on March 20, 2013, and March 27, 2013, the Commission finds an adequate prima facie showing that the interim rate increase is justified.

ORDER

We approve the interim rates as proposed. These rates shall be in effect until final rates are ordered by the Commission.

DATED at Salt Lake City, Utah, this 1<sup>st</sup> day of April, 2013.

/s/ Melanie A. Reif  
Administrative Law Judge

Approved and confirmed this 1<sup>st</sup> day of April, 2013, as the Order Granting Interim Rate Increase of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
D#243081

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a 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 fails to 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 Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1<sup>st</sup> day of April, 2013, a true and correct copy of the foregoing, was served upon the following as indicated below:

By U.S. Mail:

Willow Creek Water Company  
14015 North 400 West  
Beaver Dam, UT 84306

By Electronic Mail:

Alton Veibell ([alton.veibell@gmail.com](mailto:alton.veibell@gmail.com))  
Steven Taylor ([stevencraigtaylor@gmail.com](mailto:stevencraigtaylor@gmail.com))  
Willow Creek Water Company

Patricia Schmid ([pschmid@utah.gov](mailto:pschmid@utah.gov))  
Justin Jetter ([jjetter@utah.gov](mailto:jjetter@utah.gov))  
Assistant Utah Attorneys General

By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, Utah 84111

Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, Utah 84111

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Administrative Assistant