

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Request of Dammeron)
Valley Water Works to Add a Conservation) DOCKET NO. 07-2025-T01
Rate to Its Tariff) REPORT AND ORDER
)

ISSUED: June 24, 2008

By The Commission:

PROCEDURAL HISTORY

On August 3, 2007, Dammeron Valley Water Works (“DVWW” or “Company”) filed a memorandum requesting approval of a conservation rate and accompanying tariff notes (“Application”).

On February 8, 2008, the Division of Public Utilities (“Division”) filed a memorandum recommending the Commission approve the proposed conservation rates subject to additional Division analysis.

On February 22, 2008, the Commission issued a Notice of Evidentiary Hearing and Public Witness Hearing setting said hearings to convene on March 25, 2008.

On March 12, 2008, DVWW filed a memorandum listing some “additional items,” including a Bulk Sale Irrigation Rate, that DVWW desired the Commission consider for approval in conjunction with its Application.

On March 21, 2008, Barbara G. Hjelle, a Dammeron Valley resident and DVWW customer, filed an Objection in which she objected to DVWW’s rate proposals and requested to participate in the March 25, 2008, hearing.

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On March 25, 2008, the Division filed a memorandum detailing its financial analysis of the proposed rates and recommending their approval with exceptions.

On March 25, 2008, evidentiary hearing was held before the Administrative Law Judge (“ALJ”). Brooks Pace, president of Dammeron Corporation which owns DVWW, and Carol Thorpe appeared and testified on behalf of the DVWW. Patricia E. Schmid, Assistant Attorney General, appeared for the Division. Shauna Benvegna-Springer, utility analyst, testified on behalf of the Division. Gary G. Sackett of Jones Waldo Holbrook & McDonough appeared on behalf of Douglas Markham and Andrea Gasporra, complainants against DVWW in Docket No. 07-2025-01. During hearing, Mr. Sackett requested his clients be granted leave to intervene in the subject docket. The ALJ denied said request as untimely.

Public Witness convened as noticed. Mr. Sackett spoke on behalf of his clients; Ms. Hjelle appeared by telephone and provided a sworn statement. No other members of the public appeared or made statements.

At the conclusion of the evidentiary hearing on March 25, 2008, the ALJ notified participants that said hearing would be continued to a later date to permit adequate public notice of DVWW’s proposed bulk sales irrigation rate and to allow all parties to confer regarding proposed changes to various tariff language proposed by DVWW.

On March 28, 2008, Douglas Markham and Andrea Gasporra filed a Motion to Intervene. The Commission granted this motion by Order issued April 18, 2008.

On April 14, 2008, Barbara Hjelle filed a Motion to Intervene. The Commission granted this motion by Order issued May 5, 2008.

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On April 15, 2008, the Commission issued a Notice of Continuation of Evidentiary Hearing and Public Witness Hearing setting said hearings to convene in St. George, Utah, on June 13, 2008.

On May 1, 2008, the Division filed a memorandum detailing changes, agreed by the Company, to DVWW's proposed rates and tariff notes and recommending approval of the same with the condition that Dammeron Corporation subsidize any net losses incurred by DVWW as a result of the implementation of the proposed Conservation Culinary Rate ("Conservation Rate") and that any said loss not be included in DVWW's revenue requirement in future rate proceedings. The Division also indicated DVWW intended to withdraw its proposed bulk sale irrigation rate.

The evidentiary and public witness hearings re-convened as noticed before the ALJ in St. George, Utah, on June 13, 2008. Brooks Pace and Carol Thorpe were present and testified on behalf of DVWW. Patricia E. Schmid appeared for the Division and Ms. Benvegnu-Springer testified for the Division. Gary G. Sackett appeared on behalf of Intervenors Markham and Gasporra. Intervenor Hjelle appeared and testified on her own behalf. The ALJ sought and received confirmation from the Company that it no longer sought approval of its proposed bulk sale irrigation rate. Five public witnesses offered unsworn statements. None of these statements specifically supported or objected to the proposed conservation rates or tariff notes; each questioned why customers owning valid irrigation shares are required to pay "overage" culinary water rates prior to being billed for irrigation water at the lower irrigation rate.

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BACKGROUND AND DISCUSSION

The Company's current rates were approved effective July 1, 2004. By its Application, DVWW does not propose to change its approved Standard Culinary Water rates ("Standard Rate") but does propose some terminology changes with respect to those rates and seeks to add a Conservation Rate that would apply to customers in all new subdivisions platted after the effective date of the Conservation Rate as well as to current customers who choose to switch from the Standard Rate to the Conservation Rate. Those customers who switch to the Conservation Rate would not be permitted to switch back to the Standard Rate. DVWW's proposed Conservation Rate, along with various textual changes to new and existing rates and tariff notes, are as follows:¹

1) CONSERVATION CULINARY RATE (Monthly Rate) effective July 1, 2008

<u>Entitlement</u>	<u>Usage</u>	<u>Charges</u>
All new subdivisions platted after the effective date	First 12,000 gallons	\$18.00 Minimum Charge for each service connection at the Conservation Culinary Rate
OR	Next 12,000 gallons	\$2.00/1,000 gallons
owners of a lot subdivided prior to the effective date who wish to change from the standard culinary water rate	Over 24,000 gallons	\$3.00/1,000 gallons

¹These rates and tariff language incorporate those proposed by DVWW, suggestions made by the Division, and various revisions agreed by the Company at hearing. The proposed Conservation Rate, the administrative fee pertaining to Conveyance of Irrigation Water Rights, and the fee charged for Non-sufficient Funds are the only rate elements for which Commission approval is sought in this docket. Other notes and comments for which no change has been proposed are not included here.

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STANDARD CULINARY WATER RATE (Monthly Rate) effective July 1, 2004

<u>Entitlement</u>	<u>Usage</u>	<u>Charges</u>
Base Rate	First 20,000 gallons	\$30.00 minimum charge for each service connection for rates 2), 3), and 4) below
2) 800 gpd allocation	Next 4,000 gallons Over 24,000 gallons	\$1.50/1,000 gallons \$2.00/1,000 gallons
3) 1200 gpd allocation	Next 16,000 gallons Over 36,000 gallons	\$1.50/1,000 gallons \$2.00/1,000 gallons
4) 1600 gpd allocation	Next 28,000 gallons Over 48,000 gallons	\$1.50/1,000 gallons \$2.00/1,000 gallons

5) IRRIGATION WATER RATE (1) effective July 1, 2004

<u>Entitlement</u>	<u>Usage</u>	<u>Charges</u>
All who own irrigation rights	40,000 gallons per acre foot of water right, per month to a maximum of one acre-foot/year	\$.25/1,000 gallons

SERVICE CONNECTION FEE

Service to Property Line	\$1,500.00
One time charge for each service requiring new meter installation, to be paid in full before water service will be provided.	

MONTHLY STANDBY FEE

Ready to Serve Charge	\$20.00
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OTHER CHARGES:

1. Turn on service for new customer where meter is already in place	\$15.00
2. Re-connection fee after disconnection	\$25.00
3. Customer Account Change	\$25.00
4. Meter Tested	\$10.00
5. Late Fee per billing cycle	\$10.00
6. Conveyance of Irrigation Water Rights	\$25.00
7. Non-sufficient Funds	\$15.00

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Any unpaid standby fees for a particular premise, including those fees incurred by a prior owner, along with any accumulated interest, must be paid in full before water service will be provided.

NOTES:

1. The irrigation water rate is applicable to customers that have previously purchased a one (1) acre-foot water right or more from the Dammeron Corporation or successor in interest. The current charge for a one (1) acre foot water right is \$3,000. Supply of these water rights is limited and there is no guarantee that a customer will have the right to purchase an irrigation water right.
2. All Company certificated irrigation water rights will be held, conveyed and maintained by the Company on behalf of the owner. The owner of deeded irrigations water rights has the responsibility to properly convey the deeded irrigation water rights and file proof of conveyance with the Company.
3. Irrigation customers must first use their total culinary allotment at the applicable water rate before the irrigation rate applies. Once the culinary and irrigation allotments are used the applicable overage rate (\$2.00/1,000 gallons for standard rate and \$3.00/1,000 gallons for conservation rate) will apply.
4. Customers on the Conservation Culinary Rate who have irrigation rights must use 24,000 gallons per month (48,000 in a two month billing cycle) before the irrigation rate will apply. The second 12,000 gallons will be billed at \$2.00 per 1,000 gallons.
5. Any unpaid water bills are the responsibility of the current owner of the premise, even if he did not incur the bill. Dammeron Valley Water Works is not required to record a lien or notice of amounts owing from water customers. It is the responsibility of the person buying a home or lot in Dammeron Valley to contact the water company to ascertain if any amounts are outstanding from a previous owner. Eighteen percent (18%) per annum will be charged on all past due amounts.
6. Water service will be billed on a two month billing cycle. Meters may be read each billing period, or in case of inclement winter weather or other reasons why a meter cannot be read, an estimate may be made of the anticipated usage.
7. All customers of company record as of the effective date of the conservation culinary rate have a voluntary option to change to the use of the conservation culinary rate. Customers of company record who do not wish to change to the conservation culinary rate will remain with the standard culinary water rate. Existing customers who apply to convert to the conservation culinary rate will not be allowed to re-convert to the standard water rate.

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8. The conservation culinary rate applies to new subdivisions platted after the effective date.
9. All customers may be required to discontinue outside water use on a temporary basis if the Company determines an emergency defined as endangerment to public health, safety and general welfare is likely. Examples include but are not limited to fire, extreme drought, loss of water supply due to well failure or repair, pipeline issues, etc., all of which could affect the water supply for domestic use.
10. The Company may sell to all customers, from time to time, the right to use water over and above their current tariff allocations at the irrigation rate, for such cases as, to help landowners keep their native foliage healthy during times of extreme drought.

In support of the proposed Conservation Rate, DVWW notes average water usage is much closer to 400 gallons per day (“gpd”) than the 800 gpd most customers are allowed under the Standard Rate. Under the proposed Conservation Rate, a customer would have an \$18.00 per month base rate for the use of 400 gpd as opposed to the \$30.00 per month base rate for 800 gpd. Current customers will not be required to switch to the Conservation Rate but will be permitted to do so at any point in the future.

According to the Division, DVWW currently serves 313 customers. Based on its analysis of the Company’s 2006 water utilization schedule, the Division anticipates 90 customers may convert to the Conservation Rate, if approved. Having reviewed the Company’s financial data, the Division concludes the proposed rates would result in a revenue requirement shortfall of \$30,056 per year based on a rate base of \$808,995 and rate of return on rate base of 3.09%. The Division concludes the proposed rates are within an acceptable range of other regulated water companies and are just and reasonable. The Division recommends their approval.

Intervenor Hjelle’s primary objection to the proposed rate and tariff revisions is her suspicion that current customers who have bought and paid for the right to use a certain

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amount of water will lose the ability to do so as DVWW diverts water for future development. Hjelle also objects to DVWW's proposal prohibiting current customers who switch to the Conservation Rate from ever switching back to the Standard Rate. With respect to DVWW's stated financials, she believes the money paid by customers who purchased irrigation water shares should be imputed to DVWW as income. Finally, she objects to having to pay "overage" rates up to the maximum of her monthly culinary water use allotment prior to irrigating her property at the lower irrigation rates.

In response to these objections, DVWW testified it will continue to maintain sufficient water rights to serve the culinary needs and irrigation rights of current customers and subdivisions. DVWW also noted the prohibition against customers switching from the Conservation Rate to the Standard Rate is necessary so that DVWW can more accurately project its future water needs. Regarding customer payments made for irrigation rights, DVWW stated the rights were sold by Dammeron Corporation and Brooks Pace, not by DVWW, and that the money paid for said rights was paid to Dammeron Corporation and Brooks Pace. DVWW did not receive any money for these water rights so these amounts should not be included in any calculation of its rates. Finally, DVWW and the Division agreed rates could be changed so that customers with irrigation shares need not incur "overage" charges prior to using water at the lower irrigation rate but that various rate amounts would have to be adjusted to make up the additional revenue shortfall.

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Intervenors Markham and Gasporra questioned the Company regarding several facets of its operations and sought clarification of a number of its proposed tariff revisions, but made no specific objection to the proposed rates or tariff changes.

Having reviewed the evidence and testimony presented in this matter, the ALJ concurs with the Division's recommendations and finds the proposed rates to be just and reasonable. The ALJ therefore recommends the Commission approve the Conservation Culinary Rate, fees for Conveyance of Irrigation Water Rights and Non-sufficient Funds, and textual changes as outlined above.

Wherefore, based on the foregoing information, and for good cause appearing, the Administrative Law Judge, having been fully advised in the matter, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Dammeron Valley Water Works is a certificated water corporation operating in the State of Utah, subject to Commission jurisdiction.²
2. The Division has proposed, and DVWW agrees, that Dammeron Corporation will continue to subsidize any net losses incurred by DVWW and that any losses incurred as a result of approval of the Conservation Culinary Rate will not be included in future revenue requirement calculations.

²At hearing, questions arose concerning the assertion that DVWW is a d/b/a of Dammeron Corporation and may not be a separate corporate entity. Parties remain uncertain as to the actual corporate identity of the entity granted authority to operate under Certificate No. 2025. However, parties agree DVWW has operated as the water company providing service under said certificate and has submitted to Commission jurisdiction pursuant to said

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3. The rates and tariff language revisions proposed by DVWW, as modified by the Division and parties at hearing and reflected above, are just and reasonable, and in the public interest.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

- Dammeron Valley Water Works' proposed Conservation Culinary Rate, fees for Conveyance of Irrigation Water Rights and Non-sufficient Funds, and textual tariff changes, as discussed *supra*, are approved.
- Dammeron Valley Water Works shall file revised tariff sheets reflecting the new rates and tariff revisions as noted *supra*. The Division of Public Utilities shall review the revised tariff sheets for compliance with this Report and Order.

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained 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 Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

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Dated at Salt Lake City, Utah, this 24th day of June, 2008.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 24th day of June, 2008, as the Report and Order 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#57868