

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Request the Division received)
from DURFEE CREEK ASSOCIATION, INC.)
concerning rate approval)

DOCKET NO. 02-2194-01
REPORT AND ORDER

ISSUED: December 12, 2002

SYNOPSIS

Approval was sought for increased water rates for Durfee Creek Association, Inc. The Commission approved the new rates.

By The Commission:

Durfee Creek Association, Inc. (the "Association") is a non-profit mutual water company. The Association was issued certificate number 2728 by this Commission in 1994. Rates were approved at that time. In March of 1999 the Association held a special meeting at which the shareholders voted to approve new, increased water rates. The Association, and its officers, were apparently unaware that Commission approval is needed to change rates, and did not seek approval. The Association has been charging the new water rates since that time. In the course of an audit of the company, the Division of Public Utilities discovered that the Association was charging rates other than those approved by this Commission. As a result, a request was made in this docket for approval of the new rates.

On August 20, 2002, the Division of Public Utilities filed a memorandum containing the results of its investigation in this matter and its recommendation that the Commission approve the rates under a summary procedure. The Division stated that the Association had suffered an operating loss of over \$18,000 in 1998, and if the new rates had been submitted for approval in 1999, it would have recommended approval of the rates at that time. Since this is a mutual water company where all of its funds are retained by the Association and used to meet its expenses in providing water, the Division recommended that the Association not be assessed any fines nor be ordered to make refunds of revenue collected prior to Commission approval of its rates.

On August 30, 2002, a letter was received by the Commission from a customer of the Association containing allegations including that improper expenses had been charged to the Association, and requesting a hearing. A hearing was scheduled for November 7, 2002. Shortly before the scheduled hearing a letter was received by the Commission signed by both the customer that had previously requested a hearing, and a board member of the Association, stating that the customer agreed with the proposed water rates, and requesting that the hearing be canceled. The hearing was canceled.

The matter appears ripe for adjudication without hearing. The Administrative Law Judge, having been fully advised in the premises, recommends entry of the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Durfee Creek Association, Inc. is a certificated water corporation operating in the State of Utah, subject to Commission jurisdiction.
2. The Association's prior approved rates are insufficient to provide adequate revenues to recover the Company's reasonable operating expenses.

3. The new rates provide a reasonable opportunity for the Association to generate sufficient revenues to cover reasonable operating expenses.

4. The new rates are just and reasonable. These new rates are:

- a. Monthly minimum charge, including the first 12,000 gallons of water: \$32.00.
- b. The next 8,000 gallons per month: \$3.00 per 1,000 gallons.
- c. Any usage over 20,000 gallons per month: \$5.00 per 1,000 gallons.

5. Given the circumstances of this case, it is appropriate that fines not be levied against the Association. We also find that in this instance the Association should not be ordered to refund revenue collected prior to Commission approval of the new rates. We do, however, admonish the Association for implementing rates without approval, and direct it to seek approval prior to implementing any future rate changes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The new rates are approved by the Commission. Durfee Creek Association, Inc. shall submit revised tariff sheets reflecting the new rates approved by the Commission. The Division of Public Utilities shall review the revised tariff sheets for compliance with this Report and Order.

Dated at Salt Lake City, Utah, this 12th day of December, 2002.

/s/ Douglas C. Tingey
Administrative Law Judge

Approved and confirmed this 12th day of December, 2002, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#31856