

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application)
for a Certificate of Public)
Convenience and Necessity for)
NORTH CREEK RANCH)
HOMEOWNERS)
ASSOCIATION)

DOCKET NO. 05-2454-01
REPORT AND ORDER
CERTIFICATE NO. 2454

ISSUED: July 19, 2005

SYNOPSIS

Applicant, having demonstrated its fitness to serve, and no opposition to the application appearing, the Commission grants the certificate and approves rates as indicated.

By the Commission:

PROCEDURAL HISTORY

On March 25, 2005, Phillip C. Jolley, developer of the North Creek Ranch development and Secretary and Treasurer of the North Creek Ranch Homeowners Association, Inc. (“Applicant” or “Association”), submitted an application on behalf of Applicant for a Certificate of Public Convenience and Necessity (“Certificate”) to operate as a public utility providing culinary water service for indoor and outdoor use within the North Creek Ranch development near Beaver, Utah.

On June 13, 2005, the Division of Public Utilities (“Division”) filed its analysis of the application, recommending the Commission issue the requested Certificate and approve Applicant’s revised proposed tariff.

The Commission issued its Notice of Hearing on June 21, 2005, and hearing was held before the Administrative Law Judge on July 15, 2005. Mr. Phillip Jolley appeared on behalf of Applicant. Patricia Schmid, Assistant Attorney General, State of Utah, appeared on behalf of the Division. Mr. Bruce Moio, Utility Analyst, testified for the Division. Those appearing presented evidence that establishes there is a need for water service to the area to be served by Applicant, that the Applicant is qualified to provide such service, and that granting the requested Certificate is

in the public interest and appropriate under Utah law. No one appeared in opposition to Commission regulation.

As North Creek Ranch developer, Mr. Jolley continues to own and control the majority of shares in the Association. The Division of Drinking Water has approved Applicant to provide service to thirty-four lots in Phases I through V of the planned development. Mr. Jolley is currently approved to develop 87 lots in North Creek Ranch in an area extending beyond the boundaries of Phases I through V. The Division therefore recommends granting the Application and issuing a Certificate limiting Applicant's service territory to the area comprised by Phases I through V. The Division notes that, upon Division of Drinking Water approval of additional connections in other areas of the planned development, Applicant may request the Commission amend its Certificate to expand its service area accordingly.

Having determined that Applicant has received all required consent and permits, and that provision of service within its proposed service territory will not adversely affect the operations of any existing certificated public utility, we concur with the Division's recommendations and conclude, as a matter of law, that the Application should be granted and Certificate issued accordingly.

Applicant requests approval of the following rates:

<u>Usage</u>	<u>Charges</u>
First 12,000 gallons	\$30.00 minimum charge for each service connection
Usage over 12,000 gallons	\$1.50 per each 1,000 gallons
<u>Overuse Charge</u>	
\$5.00 per each 1,000 gallons over	326,000 gallons annually for 1" meter connection
	652,000 gallons annually for 1.5" meter connection
	1,304,000 gallons annually for 2" meter connection
Stand-by Fee	\$10.00 per month
<u>Connection Fees</u>	
1" service to property line	\$1,000.00
1.5" service to property line	\$1,500.00
2" service to property line	\$2,500.00
Turn on service where meter is already in place	\$100.00

Applicant initially included language in its proposed tariff which the Division believed could be read to permit disparate treatment of water users. Upon Division request, this language was removed.

Having reviewed Applicant's financials, the Division notes the proposed rates result in an annual

operating loss to Applicant of approximately \$889. Mr. Jolley acknowledges this loss and has agreed to continue to subsidize Applicant's operations until such time as sufficient connections exist to the water system to enable it to be self-supporting.

At hearing, Applicant requested a waiver of Commission Rule 746-200-4 requiring utilities to bill customers no less frequently than every other month, and to conduct actual meter readings with the same frequency when engaged in estimated billing. Because some North Creek Ranch residents are seasonal and some appear likely to reside year-round, Applicant intends to bill on a quarterly basis and employ estimated billing from approximately October to March of each year with monthly meter reads completed during the remaining months. Following each estimated billing period, Applicant proposes to adjust customers' bills with the first meter read in the spring. The Division supports Applicant's request for waiver and recommends approval of the revised tariff, including the rates listed above.

We concur with the Division's recommendation and find the proposed rates to be just and reasonable.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- NORTH CREEK RANCH HOMEOWNERS ASSOCIATION, INC., is hereby granted Certificate of Public Convenience and Necessity No. 2454 to operate as a water corporation providing culinary water for indoor and outdoor use within a service territory comprised of Phases 1 through V of the North Creek Ranch development.
- Applicant shall comply with all requirements of the Utah Division of Drinking Water.
- Applicant's rates are approved as set forth *supra*. Applicant shall file a tariff consistent with this Report and Order within 30 days of the date of this Order. The Division of Public Utilities shall review the revised tariff sheets for compliance with this Report and Order.
- Applicant is granted an exemption from Commission Rule 746-200-4(A) and (B), enabling Applicant to

bill its customers on a quarterly basis and to employ estimated billing procedures as set forth *supra*.

- 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.

DATED at Salt Lake City, Utah, this 19th day of July, 2005.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 19th day of July, 2005, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#45151