

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of DUCK )  
CREEK PINES, LLC, dba DUCK CREEK )  
PINES WATER COMPANY for a )  
Certificate of Convenience and Necessity to )  
Operate as a Public Utility Rendering )  
Water Service, or for an Exemption from )  
PSC Regulation )

DOCKET NO. 99-2295-01

REPORT AND ORDER  
Certificate No. 2295

ISSUED: October 15, 1999

SYNOPSIS

Applicant having demonstrated its fitness to serve, and no opposition to the application appearing, we grant the certificate.

By the Commission:

PROCEDURAL HISTORY

The instant application for water utility authority was filed October 1, 1999. Since no other provider operates in the proposed service area, and no customers are being served by the system, the matter appears ripe for adjudication without hearing; accordingly we choose to convert the matter to an informal proceeding. The Administrative Law Judge, having been fully advised in the premises, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT

1. Applicant is a Utah limited liability company in good standing with the applicable law. It proposes to serve a new subdivision known as Duck Creek Pines, Phase 1, being developed by Robert A. Barrus (hereafter "the Developer").

o The utility plant currently in place meets the requirements of the Utah Department of environmental Quality. The applicant owns, or will own by the time this Order is issued, sufficient water rights to meet the requirements of local authorities for culinary use only. Recorded restrictive covenants will limit water users to inside culinary use only.

o The Developer claims plant costs of \$350,000. title to all plant has been transferred to Applicant. All developer expenses are to be recouped through lot sales.

4. Applicant's initial rates have been set at \$200 per year with no connection fees. The

Division of Public Utilities, Utah Department of Commerce, recommends we find the proposed charges just and reasonable, and we so find.

5. Applicant expects an initial operating loss--understandable since the project is in its

inception. However, in our estimation, the Developer's commitment to lend Applicant needed operating capital until the system has a customer base sufficient to sustain it renders Applicant financially fit to provide the proposed service.

CONCLUSIONS OF LAW

Applicant has sustained its *prima facie* burden of demonstrating need for the service and its own fitness to meet that need. Since there is no other entity capable of serving the proposed service area, and there are no present customers, potential meritorious protest appears improbable to the vanishing point. A hearing thus appears superfluous. Accordingly, the matter should be converted to an informal proceeding, and the Application should be granted.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

- This matter be, and it hereby is, converted to an informal proceeding pursuant to §§

63-46b-4 and 63-46b-5, UCA 1953, as amended.

- DUCK CREEK PINES, LLC, dba DUCK CREEK PINES WATER COMPANY be,

and it hereby is, granted Certificate of Convenience and Necessity No. 2295 as follows:

To operate as a water corporation serving the following-described area: State of Utah: The Duck Creek Pines Phase 1 subdivision, according to the official plat thereof of record in the records of Kane County, Utah.

- Any person aggrieved by this Order may petition the Commission for review within

20 days of the date of this Order. Failure so to do will forfeit the right to such review as well as the right to appeal to the Utah Supreme Court.

Dated at Salt Lake City, Utah, this 15<sup>th</sup> day of October, 1999.

/s/A. Robert Thurman,  
Administrative Law Judge

Approved and Confirmed this 15<sup>th</sup> day of October, 1999, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard,  
Commission Secretary