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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition for an
Order to Show Cause Regarding
Exemption from Commission
Regulation of Boulder King Ranch
Estates Water Company

**SETTLEMENT AGREEMENT AND
MOTION TO APPROVE
SETTLEMENT AGREEMENT
AND TARIFF**

Docket No. 02-2254-01

The Division of Public Utilities (“Division”) and Boulder King Ranch Estates Water Company (“Boulder King” or “the Company”) (individually a “Party” and jointly “the Parties”) agree to settle this matter as follows, and request that the Commission approve the Settlement Agreement and Tariff as set forth below.

I. INTRODUCTION

On April 11, 2002, the Division filed a petition for an Order to Show Cause against Boulder King and questioned the validity of the Letter of Exemption issued to the Company by the Commission in 1999. Pursuant to a Notice of Hearing issued May 10, 2002, a hearing was conducted in the town of Boulder on May 29, 2002 where the Commission heard testimony from the Division, Boulder King representatives, and water system customers. On June 12, 2002, Boulder King and the Division filed briefs with the Commission regarding whether

or not Boulder King qualified for a Letter of Exemption under Commission Administrative Rules and Utah Statutes. The Commission canceled the Letter of Exemption issued to Boulder King in its amended Report and Order dated October 16, 2002, and determined that Boulder King was subject to the Commission's regulatory jurisdiction. The Commission also ordered that the rates being charged by Boulder King were to remain the same pending further ratemaking proceedings before the Commission.

The Division completed a financial audit of Boulder King in November, 2002, and filed supplemental testimony dated December 31, 2002 which recommended new monthly rates for Boulder King which were double those currently being charged. In addition, the Division identified the water system costs which it believed should be recognized for ratemaking and recommended a connection fee for the property owners in Boulder King Ranch Estates.

Subsequently, the Parties entered into lengthy settlement discussions. The Parties have conducted extensive analyses and negotiations over the last five months, during which the Division staff and Boulder King representatives discussed the original ratemaking recommendations made by the Division and the positions of Boulder King. Additional information has been provided by Boulder King which persuaded the Division staff that adjustments to the positions it previously took were appropriate.

On June 10, 2003, the Division and Boulder King informed the Commission that they had agreed to a settlement of the case. The Division has

prepared testimony identified as Exhibit DPU 1.0 Settlement with associated DPU 1.6 Settlement, DPU1.6A Settlement, DPU 1.7 Settlement, DPU 1.9 Settlement page 1 of 2, DPU 1.9 Settlement page 2 of 2, DPU 1.10 Settlement, DPU 1.11 Settlement, DPU 1.12 Settlement, DPU 1.13 Settlement, DPU 1.14 Settlement, DPU 1.15 Settlement, DPU 1.16 Settlement, DPU 1.17 Settlement, DPU 1.18 Settlement page 1 of 3 and DPU 1.18 Settlement page 2 of 3 in support of the Settlement Agreement. The Parties have agreed upon the principles set forth below.

II. TERMS OF SETTLEMENT AGREEMENT

A. Definitions.

1. "Development." The Boulder King Ranch Estates subdivision, consisting of 60 lots (plus the lot upon which the supply well is located) located in Boulder, Garfield County, Utah

2. "Dry lot." A lot that was purchased, and is currently, without any entitlement to water supply or water service from the Company.

3. "New system." The additional facilities installed after 2000 to serve 17 lots in the Development not served by the original system.

4. "Original system." The water-supply system in place to serve 43 lots in the Development prior to the installation of additional facilities before 2000 to serve an additional 17 lots.

5. "Standby lot." A lot that is (i) entitled to be connected to the Company's system at the request of the owner at the connection fee and (ii)

obligated to pay the monthly standby fee, as those fees are set forth elsewhere in this Settlement.

B. Recoverable Costs

1. Exhibit DPU 1.12 Settlement sets forth the appropriate total system recoverable costs for Boulder King of \$326,874. This amount is reduced by (a) contributions in aid of construction from the developer of Boulder King Ranch Estates (Mr. Dale Clarkson or companies controlled by him, "the Developer") of \$232,099; (b) contributions from customers of \$32,790 for connection fees paid; (c) connection fees receivable from current customers of \$18,345 and (d) \$31,259 for deferred connections fees associated with six dry lots in the Development. Therefore, total contributions in aid of construction total \$314,493 as shown in Exhibit DPU 1.13 Settlement. Additionally, the system costs allocated to the standby lots, which are not owned by the Developer total \$12,370, and which would provide additional contributions in aid of construction when lot owners apply for service and connection fees are received.

2. Exhibit DPU 1.6 Settlement reflects allocation of total recoverable costs among the 60 lots in the Development (except for the lot on which the Boulder King water-supply well is located). Of the \$326,874 set forth above, \$219,300 is allocated among all 60 lots (Columns 2, 4 & 5), resulting in a per-lot allocation of \$3,655. Next, \$52,245 is allocated to 43 lots being served by the original water system (Column 1), resulting in a per-lot allocation of \$1,215. Then, \$55,318 is allocated to 17 lots served by the new water system, resulting in a per lot allocation of \$3,254 (Column 3). Adding these sums results in a

connection fee of \$4,870 for lots served by the original system, and a connection fee of \$6,909 for lots served by the new system.

C. Recovery of Annual Costs

The Parties agree that the following monthly fees will provide Boulder King with an opportunity to recover expected operating costs and a reasonable return on rate base of 12% on equity and the cost of debt. Accordingly, the new rates will be \$35.00 per month for customers who are connected and using water and \$13.00 per month for customers on standby lots who are not yet connected but may request water service. Customers who purchased dry lots are not assessed a monthly charge.

D. Connection Fees for Each Lot

1. Exhibit DPU 1.6 Settlement sets forth the connection fee for each lot, reduced by payments made by or credited to the lot owners and contributions in aid of construction made by the Developer. Column 6 of this exhibit reflects the connection fees discussed in Section C, which are dependent upon whether the lot is served by the original system, the new system or was purchased as a dry lot. The amount in Column 6 is reduced by Columns 7, 8 and 9 which, respectively, reflect improvement package payments to date, contributions in aid of construction from the Developer and monies allocated to service connection paid. Column 10 reflects receivables, per lot, for standby lots and dry lots, which will be paid if and when lot owners apply to Boulder King for service. Column 11 reflects receivables, per lot, for lots that are currently receiving water service.

2. Each Boulder King customer will be allowed 12 months from

the date of the Commission order approving this Settlement to pay connection fees receivable, to be paid no later than in monthly installments beginning no later than six months after issuance of the Order approving this Settlement Agreement. If an amount remains unpaid after the 12 months, Boulder King may take appropriate collection action, including shutting off water service. Interest on unpaid connection fees will accrue at 12% APR beginning one month after issuance of the Order approving this Settlement Agreement.

3. Individual lot owners may elect to obtain their own water rights and deed such water rights to Boulder King in lieu of paying the water rights costs of \$1,350 reflected in columns 4 & 5 of Exhibit DPU 1.6 Settlement) to Boulder King, which amount reflects the price of the .45 acre-feet of water included in the allocated costs used to compute connection fees. An individual lot owner having .25 acre feet of water can purchase an additional .20 acre feet of water and deed that water to the Company in lieu of paying \$600 of the stated connection fee. However, any lot owner exercising either of these options will not be entitled to any refund of amounts already paid to Boulder King or the Developer for obtaining water rights or water service.

D. Miscellaneous Terms

1. Boulder King requires a certificate of public convenience and necessity to operate as a public water utility in Utah, and Boulder King agrees to accept such a certificate to serve the Development when issued by the Commission in connection with approval of this settlement.

2. Attached to this Settlement Agreement as Exhibit 2 Settlement is an initial water-service tariff for Boulder King that reflects (a) the monthly usage and standby fees, the connection fees agreed to in this Settlement, and (b) general tariff provisions applicable to the utility service provided by Boulder King.

E. General

1. The agreed-upon interest rate on past-due water usage fees, standby fees and connection fees is 12% APR.

2. Boulder King may, at its discretion, pursue through civil action collection of water usage fees for service rendered prior to April 16, 1999, the date upon which the letter of exemption was issued, and past-due fees since then and unpaid improvement package amounts. Likewise, Boulder King customers may pursue civil action to recover any improvement package over-collection by the Developer.

3. This Settlement is a compromise of disputed claims and positions. By entering in to this Settlement Agreement, Boulder King and the Division shall not be deemed to have waived any of their positions on any issue related to the matters subject to the Settlement Agreement.

4. Nothing in this Settlement Agreement or in the Order approving it shall be: (a) cited or construed as precedent for or indicative of Boulder King's or the Division's position on an issue resolved pursuant to this Settlement Agreement; or (b) asserted or construed to mean that Boulder King or the Division has agreed with, acknowledged the validity of, or adopted the other Party's legal or factual assertions in this or any other proceeding, including those

before the Commission, the state courts of Utah or of any other state or the federal courts of the United States. This Settlement Agreement shall not be used by any Party in any other proceeding, by way of illustration or as evidence in support of its advocacy.

5. Boulder King and the Division reserve the right to withdraw from and decline to support this Settlement Agreement and the right to advocate or support positions different than those set forth in this Settlement Agreement in the event the Commission rejects all or any material portion of the Settlement Agreement or requires any different or additional material conditions. If Boulder King or the Division withdraws from or declines to support this Settlement Agreement as permitted under this paragraph, this Settlement Agreement shall be deemed null and void, and no Party shall be bound or prejudiced by the terms of this Settlement Agreement, and each Party shall be entitled to seek reconsideration of the Commission's decision, making such material changes to this Settlement Agreement and taking such other steps as it deems appropriate.

6. The Division and Boulder King acknowledge that this Settlement Agreement is the product of negotiation and compromise and that no term or provision of this Settlement Agreement shall be construed against or in favor of any Party on the basis that a particular Party was the drafter of any or all of this Settlement Agreement.

7. This Settlement Agreement constitutes the Parties' entire agreement on all matters set forth herein and supersedes any and all prior oral and written understandings or agreements on such matters that previously

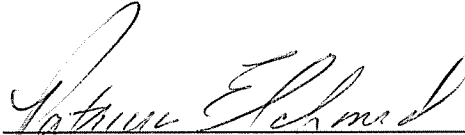
existed or occurred in this proceeding. No such prior understanding or agreement or related representation shall be relied upon by any of the Parties.

8. The Division and Boulder King shall take all actions necessary and appropriate to enable them to carry out this Settlement Agreement, including supporting the approval by the Commission of the Settlement Agreement and not supporting, directly or indirectly, any petition for review, rehearing or reconsideration of the Order or any appeal of or challenge to the Order. Neither the Division nor Boulder King shall take any position in this docket that is inconsistent in any manner with any term or provision of this Settlement Agreement.

WHEREFORE, the Division and Boulder King request that the Commission grant this motion, approve the Settlement Agreement, approve Boulder King PSCU Tariff No. 1 attached as Exhibit 2 to the Settlement Agreement and vacate the April 11, 2002, Order to Show Cause.

RESPECTFULLY submitted this 26th day of June 2003.

DIVISION OF PUBLIC UTILITIES



PATRICIA E. SCHMID
Assistant Attorney General
Division of Public Utilities

BOULDER KING ESTATES WATER CO.



GARY G. SACKETT
JONES WALDO HOLBROOK & McDONOUGH

CERTIFICATE OF SERVICE

I certify that on the 26 day of June 2003, I mailed a copy of the Motion to Approve Settlement Agreement, First Class Mail, to the following:

GARY G. SACKETT
JONES WALDO HOLBROOK & MCDONOUGH PC
170 SOUTH MAIN
SALT LAKE CITY, UT 84101

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DALE CLARKSON - PRESIDENT
BOULDER KING RANCH ESTATES WATER CO
30 E CENTER ST
KANAB UT 84741

A handwritten signature in cursive script, reading "Wesley Huntsman". The signature is written in black ink and is positioned to the right of the typed name of Wesley Huntsman.