

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of WOLF CREEK WATER)	<u>DOCKET NO. 05-2417-T01</u>
CONSERVANCY Regarding Schedule of)	
Rates, Rules and Regulations)	
)	
In the Matter of the Application of a)	<u>DOCKET NO. 03-2417-01</u>
Certificate of Convenience and Necessity)	
to Operate as a Public Utility Rendering)	
Service, or for an Exemption from PSC)	
Regulation for WOLF CREEK WATER)	<u>REPORT AND ORDER</u>
CONSERVANCY)	
)	

ISSUED: December 14, 2005

By The Commission:

PROCEDURAL HISTORY

On March 3, 2005, Wolf Creek Water Conservancy, Inc. (“Wolf Creek Conservancy” or “Company”) filed a proposed schedule of rates, rules, and regulations for its irrigation, or secondary, water operations. This filing was assigned Docket No. 05-2417-T01 and is directly related to earlier proceedings in Docket No. 03-2417-01 as a result of which the Commission granted the Company a certificate of public convenience and necessity and approved interim rates pending receipt of additional information and analysis by the Division of Public Utilities (“Division”).

Also on March 3, 2005, Wolf Creek Water and Sewer Company (“Wolf Creek Water”) filed a proposed schedule of rates, rules, and regulations for its culinary water operations which was assigned Docket No. 05-071-T01. This filing is related to Docket No. 03-

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071-T01 in which the Commission approved interim rates for Wolf Creek Water pending issuance of a final order in Docket No. 03-2417-01.

Wolf Creek Conservancy and Wolf Creek Water are affiliates whose close operating relationship at the time of filing in Docket Nos. 03-071-T01 and 03-2417-01 did not permit independent analysis of their respective rate requests. Given the companion nature of Docket Nos. 05-071-T01, 03-071-T01, 05-2417-T01 and 03-2417-01, the Administrative Law Judge determined to hear these matters jointly. Following a duly noticed Status and Scheduling Conference on September 27, 2005, during which a November 30, 2005, hearing date was agreed, Wolf Creek Conservancy and Wolf Creek Water waived the requirements of Utah Code Ann. § 54-7-12(3) related to the tariff filings of March 3, 2005, in Docket Nos. 05-071-T01 and 05-2417-T01.

On November 18, 2005, the Division filed a memorandum containing its analysis of Wolf Creek Conservancy's proposed rates and recommending approval with minor adjustments.

On November 30, 2005, hearing in this matter was held before the Administrative Law Judge. Lee Kapaloski appeared on behalf of the Company. Patricia Schmid, Assistant Attorney General, State of Utah, appeared on behalf of the Division. Mr. Bruce Moio, utility analyst, testified for the Division. Wolf Creek Conservancy President Steven Roberts testified on behalf of the Company.

A public witness hearing was also held on November 30, 2005, at which three residents of the Wolf Creek Conservancy service area testified under oath. Two of these

individuals generally opposed the proposed rates while the third individual, though not currently connected to the secondary water system, supported the proposed tiered rate structure as a good method to spur conservation but was unsure whether the specific rates and usage thresholds contained in the proposed tiered structure resulted in a proper sharing of increased costs between all parts of the service territory.

One of the individuals who opposes the proposed rates indicated that based on her latest monthly usage of 78,000 gallons of water her bill would increase from the \$15.00 flat rate to \$177.00. She is also concerned by the fact that she has attended many planning meetings for Weber County and the Eden area since moving to that area in February 2005 and this is the first time she's heard about the proposed increase from the \$15 flat rate.

The second individual who opposes the proposed rates stated he has experienced pressure problems in his secondary water system, apparently caused by faulty Company-owned pressure regulators and diversion of water to the golf course, that has caused him to use more water than he otherwise would have used. He also stated his belief that some customers residing on Juniper and Aspen Lanes are receiving secondary water via connections to the golf course's water system through their back yards and are paying the \$15 per month flat rate for these non-metered connections. He pointed out the Commission's prior orders require the flat rate to remain in effect until all connections are metered.

A fourth individual provided an unsworn statement indicating his opinion that if he is supposed to retrofit his sprinkler system in order to save water and avoid increasing

secondary water bills he should receive some sort of reimbursement or credit from the Company for the expense he will incur.

At the conclusion of the public witness hearing, the Administrative Law Judge requested the Company investigate the claim that some Wolf Creek Conservancy customers remain unmetered and report back to the Commission and Division with its findings. On December 8, 2005, Wolf Creek Conservancy filed a memorandum stating its findings with regard to this issue.

DISCUSSION

Having reviewed the Company's proposed rates and relevant financial data, the Division determined these rates to be just and reasonable, and in the public interest. The Division recommends the Commission approve said rates with minor changes noted below. The Division notes the Company has been very cooperative throughout this long process and that even with the adoption of the proposed rates, as adjusted by the Division, the Company will continue to experience an annual loss to its return on rate base of approximately \$9,066 which its parent company, Wolf Creek Properties, will absorb as it has done in the past.

The Division recommends the Commission make clear that the proposed "Customer Account Change" charge¹ is a one-time charge, not a monthly charge. The Division also recommends the "Irrigation Water Connection Fee per building" charge contained in the proposed tariff is a charge billed to developers and should therefore be removed from the tariff. Finally, given the affiliate relationships between Wolf Creek Conservancy, Wolf Creek Water,

¹The Company explained this charge is proposed as compensation for the time and expense the Company incurs when making administrative changes, such as a name change, to an account.

and Wolf Creek Properties, the Division recommends Commission approval of these rates be conditioned on the companies' continued cooperation in making available for reasonable inspection by the Division all books and records of Wolf Creek Conservancy, Wolf Creek Water, Wolf Creek Properties, and their affiliates. At hearing, the Company agreed with all of the Division's recommendations.

In response to questioning from the Administrative Law Judge, the Company and Division agreed that because all customers of Wolf Creek Conservancy now maintain metered connections, the \$15 per month Residential Unmetered Irrigation Water Usage charge contained in the proposed rate schedule is no longer necessary and will not be included in approved rates.

In reviewing the proposed rates, we note that many of our concerns expressed in prior orders in Docket No. 03-2417-01 have been adequately addressed in the new rate structure or no longer exist. For instance, the primary obstacle to approval of rates in that docket was the proper accounting treatment of the Company plant and equipment providing water to the golf course owned by Wolf Creek Properties. However, Wolf Creek Conservancy has since transferred ownership of all said plant and equipment to Wolf Creek Properties which now supplies water to the golf course independent of Wolf Creek Conservancy operations. As such, the Division removed this plant from all rate base calculations in evaluating the reasonableness of the requested rates.

In addition, we have previously been concerned about the propriety of approving a stand-by fee for a residential irrigation water system which, unlike its culinary water counterpart, need not necessarily be designed and built to provide service upon demand.

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Therefore, in Docket No. 03-2417-01, we concurred with the Division's recommendation and approved a stand-by fee only for those customers who had specifically entered into written, signed agreements obligating them to pay those fees. However, having further evaluated this fee in the context of the rates proposed in Docket No. 05-2417-T01, the Division now supports the stand-by fee. We note also Wolf Creek Conservancy's unrefuted testimony that customers throughout the Wolf Creek Water service territory have repeatedly requested secondary water over a period of many years, resulting in the establishment of Wolf Creek Conservancy and its construction of a ready-to-serve system. Under these circumstances, we conclude approval of the proposed stand-by fee is reasonable.

Turning to the concerns expressed by customers at the public witness hearing, we agree that customers who routinely use in excess of 20,000 gallons of water per month will see significant increases in their bill if the proposed rates are approved. However, having required Wolf Creek Water to maintain the \$15 flat rate for more than a year while sufficient information was gathered to permit proper analysis of proposed rates, we are now obligated by law to set rates intended to ensure safe, reliable secondary water service at a reasonable price that permits the Company to earn a reasonable rate of return. The Division's analysis concludes the proposed rates are just and reasonable. Furthermore, the Company has agreed to these rates even though they will produce a significant shortfall in annual revenue.

The issue of metering is one that caused the Commission much concern in Docket 03-2417-01. In that docket, we established a flat interim rate for all customers because we believed it would be fundamentally unfair to charge metered customers a tiered-rate based on

their usage but permit unmetered customers to use as much water as they please for one flat monthly rate. We also stated the flat rate would continue until all customer connections had been metered. Wolf Creek Conservancy, through its investigation and report filed on December 8, 2005, has confirmed that seven homes on Juniper Lane are currently connected to irrigation water via direct, unmetered connection to the golf course water facilities. Mr. Roberts states he was previously unaware of these connections and that they have been in place for approximately thirty years. A review of the Company's billing records indicates these residents have been and are being charged the same rate as all other Wolf Creek Conservancy customers. Mr. Roberts further states these customers are scheduled to receive a metered connection to the Company's system not later than April, 2006, prior to the start of the 2006 irrigation season. This being the case, we are satisfied that our approval of the rates contained herein will have no discriminatory effect since, by the time the 2006 irrigation season commences such that customers begin to be charged based upon their actual water usage, all connections, including the seven aforementioned connections on Juniper Lane, will have been metered.

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. Wolf Creek Water Conservancy, Inc., is a certificated water corporation operating in the State of Utah, subject to Commission jurisdiction.

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2. The Company's current rates are insufficient to provide adequate revenues to recover reasonable operating expenses.

3. The rates proposed by the Company, and recommended by the Division, are just and reasonable. The proposed changes in rates, revised as indicated above, to be effective upon final order of the Commission, are:

Residential Rates:

<u>Description</u>	<u>Current Rate</u>	<u>Proposed Rate</u>
Water Rates		
Flat Rate	\$15.00	
Base Charge - up to 20,000 gal. per month		\$15.00
Usage Rates (Monthly):		
New - 20,001 to 40,000 gal.		\$ 1.50 per 1,000 gal.
New - 40,001 to 60,000 gal.		\$ 3.00 per 1,000 gal.
New - 60,001 to 80,000 gal.		\$ 4.00 per 1,000 gal.
New - 80,001 to 100,000 gal.		\$ 6.00 per 1,000 gal.
New - 100,001 to 120,000 gal.		\$10.00 per 1,000 gal.
New - 120,001 to 140,000 gal.		\$15.00 per 1,000 gal.
New - Over 140,000 gal.		\$20.00 per 1,000 gal.
Connection fee	\$2,000	\$2,000
Connection fee (Patio Springs, Eden Hills, Snowflake)		\$3,000

Other Charges:

Stand-by Fee	\$180/per year	\$180/per year (\$15/month)
Any unpaid balance arising from stand-by fees shall bear interest 1 ½ % per month		
Turn on service for a new customer where a meter is already in place		\$ 50.00
Reconnection fee after disconnection		\$100.00
Customer Account Change		\$ 15.00
Meter Tested (at customer request more than once within one year.)		\$ 40.00

Multi-Family Rates:

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<u>Description</u>	<u>Current Rate</u>	<u>Proposed Rate</u>
Water Rates		
Flat Rate	\$15.00	
Base Charge - up to 10,000 gal. per month		\$10.00
Usage Rates (monthly):		
New - 10,001 to 20,000 gal.		\$ 1.00 per 1,000 gal.
New - 20,001 to 40,000 gal.		\$ 1.50 per 1,000 gal.
New - 40,001 to 60,000 gal.		\$ 3.00 per 1,000 gal.
New - 60,001 to 80,000 gal.		\$ 4.00 per 1,000 gal.
New - 80,001 to 100,000 gal.		\$ 6.00 per 1,000 gal.
New - 100,001 to 120,000 gal.		\$10.00 per 1,000 gal.
New - 120,001 to 140,000 gal.		\$15.00 per 1,000 gal.
New - Over 140,000 gal.		\$20.00 per 1,000 gal.

Meter Installation Charges:*

1" Meter	\$ 500	\$ 500
1 ½" Meter	\$ 750	\$ 750
2" Meter	\$1,000	\$1,000
3" Meter	\$2,000	\$2,000
4" Meter	\$3,000	\$3,000
6" Meter	\$5,000	\$5,000

*Meter size is based on acreage and will be determined by Wolf Creek Conservancy.

Commercial Facilities Rates:

<u>Description</u>	<u>Current Rate</u>	<u>Proposed Rate</u>
Water Rates		
Flat Rate	\$15.00	
Base Charge - up to 20,000 gal. per month		\$15.00
Usage Rates (monthly):		
New - 20,001 to 40,000 gal.		\$ 1.50 per 1,000 gal.
New - 40,001 to 60,000 gal.		\$ 3.00 per 1,000 gal.
New - 60,001 to 80,000 gal.		\$ 4.00 per 1,000 gal.
New - 80,001 to 100,000 gal.		\$ 6.00 per 1,000 gal.
New - 100,001 to 120,000 gal.		\$10.00 per 1,000 gal.
New - 120,001 to 140,000 gal.		\$15.00 per 1,000 gal.
New - Over 140,000 gal.		\$20.00 per 1,000 gal.

Meter Installation Charges:*

1" Meter	\$ 500	\$ 500
1 ½" Meter	\$ 750	\$ 750
2" Meter	\$1,000	\$1,000
3" Meter	\$2,000	\$2,000
4" Meter	\$3,000	\$3,000
6" Meter	\$5,000	\$5,000

*Meter size is based on acreage and will be determined by Wolf Creek Conservancy.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Wolf Creek Water Conservancy's proposed rates are approved as set forth *supra*, effective the date of this Order, conditioned upon Wolf Creek Water Conservancy ensuring all connections are metered prior to the start of the 2006 irrigation season and upon its continued cooperation in making available for reasonable inspection all books and records of Wolf Creek Water Conservancy and its affiliates.
2. Wolf Creek Water Conservancy shall submit revised tariff sheets reflecting the new rates. The Division of Public Utilities shall review the revised tariff sheets for compliance with this Report and Order.
3. 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 14th day of December, 2005.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 14th day of December, 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#46870 Docket No. 05-2417-T01
G#46871 Docket No. 03-2417-01