

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Eagle’s )  
Landing Water Company, L.L.C. for a ) DOCKET NO. 07-2477-01  
Certificate of Convenience and Necessity to )  
Operate as a Public Utility Rendering ) REPORT AND ORDER  
Culinary Water Service, or for an Exemption ) CERTIFICATE NO. 2477  
from Public Service Commission Regulation )  
)

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ISSUED: August 18, 2008

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.

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By the Commission:

PROCEDURAL HISTORY

On March 5, 2007, Eagle’s Landing Water Company, L.L.C., (“Applicant”), filed an Application for a Certificate of Public Convenience and Necessity (“Application”) to operate as a public utility providing culinary water service within the Applicant’s proposed service area which is comprised of the Eagle’s Landing subdivision located near Highway 89 several miles south of Thistle, Utah. Maps of the area are attached to the Application, as Attachment C, and the legal descriptions are noted there in; the descriptions are recorded as Entry 99926:2001 for the Utah County Recorder’s Office, on October 2, 2001, for Eagle’s Landing Development (“Developer”).

On July 17, 2007, the Division of Public Utilities (“Division”) filed a memorandum explaining the Application lacked certain information and noting the Applicant

and Division were working to obtain additional information with which the Division could complete its review of the Application. By Memorandum dated July 28, 2008, the Division detailed its investigation of the Application and recommended issuance of the requested Certificate and approval of the water service rates used in the Division's analysis.

Hearing on the Application was held before the Administrative Law Judge on August 13, 2008, pursuant to Notice issued on August 4, 2008. Applicant appeared through its owners and representatives and through counsel Craig Smith. Patricia Schmid, Assistant Attorney General, State of Utah, appeared on behalf of the Division with Paul Hicken of the Division staff. The Commission took notice of the Application and the Division's July 28, 2008, Memorandum and those appearing proffered evidence. These all establish 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.

BACKGROUND, DISCUSSION, FINDINGS AND CONCLUSIONS

The Eagle's Landing development consists of 95 single family lots on 299 acres. At the present time, there are 7 residents connected to the system. The Applicant water company is owned and fully financed by Hearthstone Development Inc., a registered corporation headquartered in Spanish Fork, Utah. The company is registered with the Division of Corporations as a domestic, for profit corporation. The company has adequate water rights for more than the expected 95 connections. The water comes from a single well that was drilled in 1999 and has an approved flow rating of 120 gpm. The system was designed by a certified

engineering firm and approved by engineers at the state Division of Drinking Water. The company's water quality has been tested regularly and the company is currently in good standing with the Division of Drinking Water.

The Division's July 28, 2008, Memorandum summarizes its analysis of the Applicant's financial data, asset or rate base information, projected revenue requirements and includes a proposed rate schedule for utility services which the Division believes is reasonable. Applicant agrees with the Division's analysis. Due to the small number of home owners in the subdivision at this time, likely revenues from utility operations will be less than operating costs in the near term, but will be adequate when additional customers come on the system. The subdivision's developer/Applicant's owners have agreed they will make up the short fall until such time as sufficient customers are on the system and revenues are sufficient to cover utility operations. In the future, Applicant will likely be turned over to the subdivision's residents through a homeowners association and likely will seek exemption as a mutual water company. Until such time, Applicant will be subject to Commission supervision and regulation.

Having determined that Applicant's provision of service within its proposed service territory will provide utility service where none is currently provided and such provision 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 a Certificate of Public Convenience and Necessity.

We approve the rates included in the Division's analysis and agreed to by Applicant. They are set forth in the following table.

<b>Eagle's Landing Water Company</b>	
<b>Water Usage</b>	<b>Proposed Rate</b>
Basic Service: up to 10,000 gallons	\$35 per month
Tier 1: 10,001 – 20,000 gallons	\$2.50 per 1,000 gallons
Tier 2: 20,001 – 40,000 gallons	\$3 per 1,000 gallons
Tier 3: 40,001 – 60,000 gallons	\$3.50 per 1,000 gallons
Tier 4: 60,001 – 80,000 gallons	\$4 per 1,000 gallons
Tier 5: over 80,000 gallons	\$5 per 1,000 gallons
<b>Other Fees</b>	<b>Proposed Rate</b>
Connection Fee	\$4,000
Stand by Fee	\$10 per month
Turn On Fee	\$100
Turn Off Fee	\$25
Late Payment Fee	1.5% per month

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:

- Eagle's Landing Water Company, L.L.C., is hereby granted Certificate of Public Convenience and Necessity No. 2477 to operate as a water corporation providing culinary water within the Eagle's Landing Subdivision, as more particularly described in its Application.
- 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.

DOCKET NO. 07-2477-01

-5-

Pursuant to *Utah Code Annotated* §§ 63G-4-301 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* §§ 63G-4-401 through 403 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 18<sup>th</sup> day of August, 2008.

/s/ Sander Mooy  
Administrative Law Judge

Approved and Confirmed this 18<sup>th</sup> day of August, 2008, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#58569