

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

)	
In the Matter of the Request of)	Docket No. 09-2179-01
Pine Valley Irrigation Company)	
for Approval of a Rate Increase.)	Administrative Law
)	Judge:
)	Ruben Arredondo
_____)	

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Third Judicial District Courthouse
 206 West Tabernacle
 No. 100, Room 2000B
 St. George, Utah

DATE: March 10, 2010

TIME: 4:00 p.m.

REPORTED BY: Robert D. Stanley, CSR, RPR

1 P R O C E E D I N G S

2

3 THE COURT: Okay. So let me just welcome
4 you to this hearing. And this is in the Matter of
5 the Request of Pine Valley Irrigation Company for
6 Approval of a Rate Increase, Docket No. 09-2179-01.
7 And I'm Ruben Arredondo, I'm the judge hearing
8 officer assigned by the Commission to hear this
9 matter.

10 Like I stated previously, what I'll do is
11 give you a very general overview of the Division's
12 recommendation. Again, the Division is a state
13 agency that investigated Pine Valley and determined
14 what type of need they have to be able to provide
15 just, reasonable water service, water service that's
16 still clean and meets state standards for culinary
17 water.

18 I believe that the rates have remained
19 unchanged since January 24th, 2002. So it's been
20 about eight years since they had a rate increase.

21 FEMALE SPEAKER: How about May '03?

22 THE COURT: Revenue adjustments, the
23 Division recommended an increase in revenues of
24 48,904, or about 19.14 percent, to cover all expenses
25 of the company.

1 FEMALE SPEAKER: Could you repeat that?

2 That was the state recommendation?

3 THE COURT: The state recommendation.

4 FEMALE SPEAKER: Is what percent?

5 THE COURT: 19.14 percent increase to
6 cover all the expenses of the utility company. They
7 made some operating expense adjustments. And I'll
8 just read the opening paragraph of this. "The 2008
9 Annual Report shows Pine Valley reported a net
10 operating profit of \$22,249 when \$31,725 of
11 non-utility income was reported. Without the
12 non-utility income, a \$9,476 loss was realized from
13 the operations of the water company, meaning that
14 Pine Valley did not cover its operating expenses."

15 They also recommended a capital reserve
16 account, and a capital reserve account is essential
17 so that you can replace equipment as it starts to
18 become outdated.

19 Also, I'm going to go through this table
20 here of proposed rate changes, and I'll just give you
21 the current tariff which is kind of like the current
22 prices and what's been recommended by the Division.

23 So the system expense, the current tariff
24 is \$10 per month. The Division recommended a change
25 of an increase to twenty-two twenty-five per month.

1 First 3,000 gallons they recommended first 5,000
2 gallons. The current tariff allows for \$20 per
3 month. The Division recommended an increase to
4 thirty-four twenty-five per month. Research for
5 1,000 gallons over 3,000 gallons, currently it's 50
6 cents for 1,000 gallons. Usage per 1,000 gallons
7 over 6,000 gallons, currently the tariff allows for
8 75 cents per 1,000 gallons. Usage per 1,000 gallons
9 over 9,000 gallons, currently the tariff allows for
10 one dollar for 1,000 gallons. And the Division
11 recommended an increase of a dollar 30 per 1,000
12 gallons over 5,000 gallons.

13 The disconnect fee per incident, there's
14 nothing applicable now in the tariff. The Division
15 recommended a hundred dollar fee per incident. The
16 reconnect fee per incident, there's currently nothing
17 in the tariff. The Division recommended a hundred
18 dollars per incident. Late fees, currently it's 1.5
19 percent of the unpaid balance, and the Division
20 recommended a \$5 fee, or 1.5 percent of the unpaid
21 balance, whichever is greater. The system expansion
22 impact fee, the current tariff allows for a \$1,500
23 fee, and the Division recommended \$2,000.

24 The hookup fee, the current tariff allows
25 for a \$500 fee, and the Division recommended \$900.

1 The name transfer fee, currently the tariff does not
2 provide for that. The Division recommended an
3 increase to \$25. The return check non-sufficient
4 funds fee, currently the tariff doesn't provide for
5 that. The Division recommended an increase to \$25
6 per incident. Unwarranted service call fee, the
7 current tariff doesn't provide for that, and the
8 division recommended an increase to \$50.

9 And then generally that's the
10 recommendation of the commission. And Ms. Shauna
11 Benvegna-Springer is actually with the Division.

12 What we would like to do now is just open
13 it up to public comment. So I have down Mary Esther
14 Putnam and John Nichols to make comments. Anyone
15 else that would like to make comments today? Today
16 we're just hearing public witness. Is there anyone
17 else?

18 MALE SPEAKER: Can we wait to see what's
19 said?

20 THE COURT: Yes. Tomorrow morning again
21 is the hearing from 10:00 to about 10:30, 10:45, and
22 as soon as that part is finished -- and again, I'll
23 repeat for those that came in late. In essence what
24 will happen is the Division of Public Utilities,
25 which investigated Pine Valley, they'll make their

1 recommendations. Okay, they have the attorney here
2 and they'll make their recommendation and you'll here
3 hear in more detail what that recommendation is.
4 Again generally I went over it today. I believe that
5 the Division is passing out copies of their
6 recommendations and you're welcome to look at that.

7 As soon as they're finished, we'll allow
8 Pine Valley to add additional comment, and then after
9 that we'll open it up again for public witness. So
10 again for Pine Valley residents.

11 We have to be out of here tomorrow by
12 12:30. So I would like to get started as soon as we
13 finish our case in chief. So, again, I'll probably
14 have to limit you if there's a lot of people because,
15 again, it's not our courthouse and we have to respect
16 the times and wishes of the courthouse.

17 I have the time right now at about 4:08.
18 So what we'll do I have two witnesses. We'll begin
19 with Ms. Putnam and Mr. Nichols, and if anybody else
20 would like to make a comment, we'll take that.

21 Ms. Putnam, if you could raise your right
22 hand for me.

23 / / /

24 / / /

25 / / /

1 MARY ESTHER PUTNAM,
2 having been first duly sworn to testify to the truth,
3 the whole truth, and nothing but the truth, was
4 examined and testified as follows:

5

6 THE COURT: All right. Go ahead,
7 Ms. Putnam.

8 MS. PUTNAM: Before I --

9 THE COURT: Actually I'm sorry. Could you
10 state and spell your name for the reporter and also
11 give us your address.

12 MS. PUTNAM: Mary, M-a-r-y, Esther,
13 E-s-t-h-e-r, Putnam, P-U-T-N, as in Nancy, M as in
14 Mary, A-N. 175 South 200 West, Pine Valley, Utah
15 894781.

16 THE COURT: Okay. Go ahead, Ms. Putnam.

17 MS. PUTNAM: Before I read this statement
18 that I have printed, it indicates on their
19 application that the water rates have not been
20 adjusted for 12 years. You just mentioned that it
21 was in '02 which is eight years. And she has
22 something written that says May of '03 which makes it
23 seven years.

24 Now, I'm a native of Pine Valley and I
25 know historically about the irrigation water. There

1 were water shares and each person could have water
2 for the family gardens and farming property. My
3 father was the water master for over 20 years and
4 rode his horse with his shovel slung over his
5 shoulder to see that the ditches were flowing
6 correctly and that each farmer was getting his share
7 of the water.

8 Pine Valley experienced a change of
9 generations, property was sold, divided and
10 subdivided and this beautiful little mountain town
11 was no longer a well kept secret.

12 The people living here no longer use their
13 wells or springs for culinary water as it became
14 necessary to pipe the water from a spring to the east
15 of town for all the houses springing up. A water
16 company was formed I suppose from the major
17 shareholders and that company became a private
18 company.

19 In the 1970s the Pine Valley Special
20 Service District was formed and as a special service
21 district has jurisdiction over fire, water, sewer and
22 recreation. We had no recreation facilities and no
23 sewer. Yet, so the only entities responsible to us
24 are the fire department and the water company. We
25 have great relationships with the fire department and

1 members of the water company; however, communication
2 with the water company is somewhat lacking. And my
3 questions about that are: Who does the water company
4 report to if not the PDSB, the Pine Valley Special
5 Service District, who should have jurisdiction of
6 that? Two, are the meetings public and posted as
7 ours are required to be? Three, do they have a bid
8 process when making upgrades to the system? Four, is
9 citizen input granted at such times?

10 We are grateful for the service we receive
11 and for Ryan Gardner the water master always being
12 there when I dial his number on my speed dial.

13 My questions about the irrigation
14 company's income and expense spreadsheet are, the
15 water bought from irrigation company, who gets that
16 money? It was an amount of \$26,000, and I have heard
17 from hearsay that one of those board members fronted
18 one of the projects with private money.

19 Two, repairs, et cetera, which are in the
20 budget for the upcoming year, and why has that not
21 been in the budget previously?

22 And, three, the debt service. Was this an
23 afterthought or was it budgeted before the upgrade in
24 the line last year, which was put in to meet state
25 standards.

1 And, four, the cost of water hookups for
2 new residents I understand at this time is \$2500. I
3 just heard you read from the state's report that a
4 hookup costs 500 now they want to raise it to 900.
5 So if that's what it costs them to put it in, that
6 means that the \$2,000 over that 500 is going into
7 their budget. Now -- and I had asked the question
8 how much does that cost with labor and material,
9 et cetera, and could it have been increased
10 previously to new homeowners to cover some of the
11 debt cost that has recently been incurred much as an
12 impact fee on new homeowners has been levied recently
13 by the public -- by the Pine Valley Special Service
14 District so that newcomers to the valley might
15 participate in the benefits of the fire department as
16 it could have -- could be to the water company as
17 well while the rest of us have been paying for years.

18 I know there's been a change in the water
19 board leadership in the past year. So some of these
20 questions might be difficult to answer. However, I
21 know the increasing costs and suppose there's
22 probably no other way at this time to cover the debt
23 than to raise costs to the consumer. But could we
24 know and will we know through the hearing how many
25 users there are in the valley of the water who pay

1 their bills monthly and how much each property owner
2 is charged, both metered and not metered, because my
3 understanding is if you have a reservation for a
4 water meter, you're paying \$10 a month at this time
5 and if you have a meter on your property, you're
6 paying \$20 a month. And how much overage is billed
7 and paid for the heavy usage time in summer months
8 with sprinklers, et cetera, and summer vacationers?

9 And I went through just my own personal
10 bills and my overage during the summer months was
11 double in some months because we have a pretty big
12 yard and we use sprinklers and we keep it pretty for
13 all the deer. Come see them, they're quite
14 wonderful. And so we were paying double an amount
15 some of the summer months during for the usage of our
16 water.

17 Now, I didn't give any time for any
18 answers to those questions. Hopefully that will be
19 brought out in the hearing, and unless I have left
20 something out, I'm sure I have taken more time than I
21 should. Other than the fact that you read something
22 about the state had suggested a raise of 19.4
23 percent. On the printout that we got from the Public
24 Service Commission it's suggesting a 46 percent
25 raise. Is that two separate items?

1 THE COURT: Let me -- what we'll do is,
2 let me have you save your questions for now, and
3 Ms. Benvegna-Springer and Mr. Duncan are here from
4 the division. They might be able to answer some of
5 your questions now. You might want to talk with them
6 on the side before tomorrow morning. You might even
7 want to reserve some of those questions for the
8 hearing tomorrow and get those answered as well.

9 But thank you for your questions. Thank
10 you, Ms. Putnam.

11 Mr. Nichols, could you raise your right
12 hand for me.

13

14 JOHNNY W. NICHOLS
15 having been first duly sworn to testify to the truth,
16 the whole truth, and nothing but the truth, testified
17 as follows:

18

19 THE COURT: Thank you. If you could state
20 your full name and your address, business address.

21 MR. NICHOLS: Okay. Johnny W. Nichols.
22 N-i-c-h-o-l-s, 222 Lost Arrow Road, Pine Valley, Utah
23 84781.

24 My comments are more strictly on an
25 individual member of the community in Pine Valley.

1 As you probably are aware the community of Pine
2 Valley was predominantly an agricultural area over
3 the years and now has developed into more of a
4 retirement community. Those people residing in that
5 community are, generally speaking, on fixed incomes
6 and rely heavily on gardens and orchards in order to
7 provide for their own means and sustenance. There
8 are number of owners in the valley that require
9 culinary water that have substantial means through
10 the irrigation department.

11 I'm not very familiar with exactly their
12 comparison, and I'm talking about the Pine Valley
13 Irrigation Company's numbers here when they compare
14 the rate that currently is being charged at \$20 a
15 month for 3,000 gallons of water to the rest of the
16 water companies in the area that are providing 5,000
17 gallons of water.

18 As I understood the increase that they
19 have denoted on the second page there, or the last
20 page, 2 of 2, they're suggesting that \$30.60 being
21 proposed for 5,000 gallons of water. If that's the
22 case, I'm in favor of it. I think it's wonderful
23 that if they could take this commodity and pay the
24 debts to operate the company, I'm in favor of it, if
25 we can get 5,000 gallons of water.

1 Mary Esther has made comment about the
2 usage of it, primarily in the summer months, and that
3 is a difficult time. I think this year may be a
4 bumper and we may have other situations going there.

5 But, generally speaking, I would say we're
6 in favor of the water company there and desire that
7 they should operate within their means, but we would
8 like to know what those means are and what their
9 intentions are.

10 THE COURT: Thank you, Mr. Nichols.
11 Again, your questions are valid. We appreciate your
12 questions and concerns. Ms. Benvegna-Springer and
13 Mr. Duncan are here from the division. If you have
14 questions, you might be able to ask them those today
15 before 5 o'clock. And again we have that main
16 hearing tomorrow.

17 Is there anyone else that would like to
18 offer up comment today?

19 MALE SPEAKER: Is there time now where
20 they can answer some of these questions that have
21 been asked?

22 THE COURT: Do you want to do that now,
23 Shauna or Bill?

24 MS. BENVEGNA-SPRINGER: I would like to
25 get a copy of your statement so that I can address

1 those issues tomorrow, if possible.

2 MS. PUTNAM: Oh, I have one more. When
3 was the last time the -- the last audit of the
4 irrigation company? I don't think there's anything
5 personal on that paper. If there is, you don't know
6 me.

7 MS. BENVEGNUM-SPRINGER: Thank you. The
8 last audit was done in 2002 when the last rate case
9 was performed.

10 MS. PUTNAM: So you had it audited per
11 this rate increase?

12 MS. BENVEGNUM-SPRINGER: Then we audited
13 from this one. We did audit the records.

14 MS. PUTNAM: You can't answer any of my
15 questions now, then, or what anybody else has?

16 MS. BENVEGNUM-SPRINGER: Who does the water
17 company report to?

18 MS. PUTNAM: Yes.

19 MS. BENVEGNUM-SPRINGER: They are regulated
20 by the Public Service Commission. So they do answer
21 to the Public Service Commission.

22 MS. PUTNAM: So they have no
23 responsibility to have open noticed meetings that the
24 public in Pine Valley can attend when they have their
25 board meetings?

1 MS. BENVEGNUM-SPRINGER: Because it's a
2 private company that provides for water, they can
3 invite people at their --

4 MS. PUTNAM: At their request?

5 MS. BENVEGNUM-SPRINGER: At their request.
6 The bylaws dictate how they have to operate. And so
7 those are available to the public as to what the
8 bylaws indicate.

9 Let's see, are there public meetings
10 public and posted? If they're relative to business
11 that's done with the Public Service Commission, yes,
12 all of those meetings are public and open. Meaning,
13 that if they're heard before the Public Service
14 Commission, those are open meetings.

15 MS. PUTNAM: But are there monthly
16 meetings which I'm sure they have?

17 MS. BENVEGNUM-SPRINGER: The company can
18 answer that.

19 MALE SPEAKER: We have an annual meeting
20 the first Monday in May.

21 MS. PUTNAM: One meeting in May?

22 MALE SPEAKER: That's the annual meeting
23 that every shareholder that belongs to the irrigation
24 company is invited to attend. And the reason that
25 that is not posted because it has never changed in

1 the last --

2 MALE SPEAKER: 30 years.

3 MALE SPEAKER: 30 or 40 years.

4 MS. PUTNAM: But my memory is --

5 MALE SPEAKER: About 46.

6 MALE SPEAKER: The only time we have to
7 post that meeting is if we change a date.

8 THE COURT: Let me do this because the
9 court reporter is trying to keep up with four or five
10 people at the same time. So unless there's anybody
11 else here that would like to offer public comment, is
12 there anyone else that would like to offer public
13 comment today?

14 So then what we'll go ahead and do is
15 we'll conclude this portion of the public witness
16 hearing. We'll commence again tomorrow morning at
17 10 o'clock in the morning. Again, at 10:00 in the
18 morning we'll have the case in chief, essentially,
19 from the Division, the Division will present their
20 recommendation, and the company will have a chance to
21 respond. And then after that finishes, my guess is
22 we'll go for probably 30, maybe 45 minutes, and after
23 that time you'll again be able to make comment if you
24 wish. Again we have to be out of here by 12:30. And
25 so if there are several of you that wish to make

1 comment, my suggestion is that you get together and
2 maybe try to avoid repetitious comment. Not that we
3 don't want to hear it, but again it's not our
4 courtroom, we have to be out by 12:30 and I will have
5 to limit the time that you talk or just completely
6 cut that off at 12:30.

7 You can also, if you look on the notices
8 in the doors, you can provide that comment tomorrow
9 via e-mail. It gives you an e-mail there that you
10 can provide your comments to. Or you can fax those
11 into the Public Service Commission, okay?

12 MALE SPEAKER: Is it possible to have the
13 questions that Mary Esther asked relative to what the
14 actual proposed rate increase is? Is it 46 percent
15 or --

16 THE COURT: You can ask that to
17 Ms. Benvegnu-Springer. Questions related to the
18 company I would ask the company directly as soon as
19 we go off the record, okay?

20 MALE SPEAKER: Can anybody answer that
21 question?

22 FEMALE SPEAKER: Will we will get answers
23 tomorrow?

24 MALE SPEAKER: In two days?

25 THE COURT: No, you can answer some. On

1 the record that's it for the hearing.

2 THE COURT REPORTER: Are we done?

3 THE COURT: We're done.

4 (Thereupon, the proceedings

5 adjourned at 4:24 p.m.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF UTAH)
) SS
4 COUNTY OF WASHINGTON)

5 I, Robert Stanley, Certified Shorthand
6 Reporter, do hereby certify that I took down in
7 Stenotype all of the proceedings had in the
8 before-entitled matter at the time and place indicated
9 and that thereafter said shorthand notes were
10 transcribed into typewriting at and under my direction
11 and supervision and that the foregoing transcript
12 constitutes a full, true and accurate record of the
13 proceedings had.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand in my office in the County of Washington, State
16 of Utah, this day of , 2010.

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21 Robert Stanley, RPR, CSR

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