

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Request of Pineview)
West Water Company for Approval of a) DOCKET NO. 09-2438-01
Rate Increase) REPORT AND ORDER

ISSUED: July 15, 2009

By The Commission:

This matter is before the Commission on Pineview West Water Company's (Company) Request for Approval of a Rate Increase.

On July 1, 2009, the ALJ of the Commission held a duly noticed scheduling conference in the matter. Patricia Schmid, Assistant Attorney General, appeared for the Division. Mark Long, Utility Analyst, testified on behalf of the Division. The following representatives for the Company also appeared: Peter Turner, President; Velma Reeder, Vice President; Brian Burrows, Treasurer. Public witnesses also testified. Brent Moss, a ratepayer and owner of one of the undeveloped lots, testified as a public witness. June Anderson, appeared on behalf of Titan Development—the previous owner of the Company.

BACKGROUND

In Docket No. 08-2438-01, the Commission approved a special assessment for \$37,613.99 to satisfy pressing, past-due obligations of the Company, including paying off past-due obligations to Ogden City, who threatened termination of service for the Company. The details of that special assessment are contained in the Report and Order approving it in Docket No. 08-2438-01. That docket was bifurcated to provide for this rate increase request. The Division of Public Utilities (Division) has completed a compliance audit and rate case analysis of

the Company and submitted its findings and recommendation on June 25, 2009.

The Company operates in Weber County, near Ogden City. It includes 58 metered customers with an additional 54 standby customers. The Company serves Pineview West, Radford Hills, Arave, Southwick, Snowberry Inn, the Pineview Yacht Club, HOA clubhouse and grounds, and Crimson Ridge subdivision. Most of the areas, except Crimson Ridge, are mostly developed. At the time the Company was issued its certificate in 2004, Edward Radford was president of the Company. He had operated the Company since 1971. Mr. Radford lived on site, and made many of the repairs, improvements, and other maintenance himself, and provided the services and upgrades at his own expense, keeping rates artificially low.

The Division stated that, like many other small rural water companies, the Company's expenses have far exceeded its revenues for several years, with consecutive developers subsidizing expenses. In 2006, Titan Development (owned by Nathan Brockbank) purchased the Company in a related land acquisition. Because Mr. Radford had been keeping expenses artificially low because of his donated labor, expertise, and repairs, Titan Development soon realized that costs for repairs, replacements, and general maintenance for the Company greatly exceeded its revenues. Titan soon began subsidizing the Company's expenses. In fact, Mr. Brockbank placed some of the Company's expenses on his personal credit card. On December 4, 2008, Titan and Mr. Brockbank turned over the ownership of the Company to a new board of directors.

In preparing its recommendation, the Division reviewed the Company's annual reports for years from December 31, 2004 through December 31, 2008. The Division also reviewed

“water utilization records, plant and equipment records, revenue, purchase and expenses records, and full disclosure and explanation for various transactions.” The Division also “met with Water Company representatives, and spoke on several more occasions to discuss its water rate design.”

The Division’s recommendations are summarized in the table below:

Rates and Rate Language Changes			
Description	Current tariff	Requested by Pineview	Recommended by Division
First 7,500 gallons	\$15 per month	\$30 per month	\$55 per month
Usage per 1,000 gallons over 7,500	\$2.50 per 1,000 gallons	\$7.50 per 1,000 gallons	\$5.00 per 1,000 gallons
Unmetered lots	\$15 per month flat rate	\$30 per month	\$55 per month
Lost temporarily without meters	\$15 per month	\$30 per month	\$55 per month
Standby Fees	\$50 per year	\$180 per year	\$240 per year
Disconnect fees		\$100	\$100
Re-connect fees		\$100	\$100
First time service connection fee	\$3,500	\$3,500	\$3,500
3/4"-line meter connection fee	none	\$300	\$200
1"-line meter connection fee	none	\$500	\$300
1 1/2"-line meter connection fee	none	\$700	\$500
Interest rate on bills past due by 30 days or more	none	18% per annum or 1.5% per month	18% per annum or 1.5% per month
Fee for unwarranted service call	none	\$50/hr above actual costs	Actual cost
Non-shareholder contract rates	none	\$30 per month	\$55 per month

Division recommendation, p. 9-10.

The Division additionally used these rate changes to analyze their impact on sample customers, as detailed below:

Sample Customer	Usage in Gallons	Current minimum rate	Current overage billing	Current total bill
A	22,500	\$45	\$11.25	\$56.25
B	60,000	\$45	\$105	\$150
C	135,000	\$45	\$292.50	\$337.50

Based on these rates, a percentage change from current to recommended rates for Customer A is 325.33%, Customer B is 253.25% and Customer C is 229.22%. The Division, in their recommendation and at the hearing, noted the dramatic increase in rates and stated that normally they recommend that such dramatic increases be implemented in phases. However, the Division explained why they recommended that such increases be implemented in one change:

In the past, the Division has recommended an increase of this percentage to be phased in over a period of time. Unfortunately, in this situation, the Water Company's cash flow needs are greater than other small water systems, and the fixed expenses for this system are spread over a smaller number of connections than other small water systems. Typically, the developer would retain and subsidize the water system until the water system is developed completely and all lots are sold. The Division discussed the large increase with the board members of the Water Company and the board members recognized the need for the tariff increases in order to maintain a sound and viable water system. The Division recognizes that this is a large increase and will have a big impact on the ratepayers, but without a developer subsidizing the Water Company, as in the past, and keeping prices artificially low, the Water Company must now fund its expenses and establish a minimum financial reserve through its revenues.

Division recommendation, p.15.

Ultimately, the Division recommended the rate increases and changes as detailed in their recommendation and as recited previously in this Order.

Mr. Brent Moss testified. He stated that he had some concerns about the percentage increase in the rates. He stated that he understood the need for the increase, but did not want the

increase to “set a precedent” for future rate increases, i.e. that any future rate case would increase rates from 200 to 300%. The Division responded that any future rate request, and resultant rate increase, would be analyzed on its own merits, and that there was no automatic percentage increase for rate cases.

Ms. Anderson also testified. She stated that, counter to the Company’s board representations and the Division’s recommendations that the Company had no debt, it did. The debt was owed to Titan and Mr. Brockbank. She said that Titan had made loans to the Company of \$55,032 for new development and infrastructure and that he had incurred \$9,827 in legal fees on the Company’s behalf. The Division did deal with these “loans” in their recommendation. The Division, however, stated that there was a lack of documentation for these loans and that absent any such documentation, showing that there was in fact a contract for loans from Titan or Mr. Brockbank to the Company, that the ratepayers should not be made to bear those costs. Regardless, the Division stated that any dispute regarding such loans was properly a matter for the new Company and Titan Development and that any dispute should be resolved between the two through negotiation, or through litigation. Ms. Anderson brought some documentation to the hearing, but the Division stated that the documentation was still properly raised in negotiations or litigation. The Division did state, however, that if and when those debts are established, the Company could properly move for another rate increase seeking inclusion of those debts in calculating the return due the Company. Ms. Anderson stated that Titan and Mr. Brockbank would resolve the issues outside of these proceedings.

Based on the findings provided by the Division in their recommendation, the Exhibits submitted by the Division at the hearing, and testimony presented at the hearing, the

Commission finds that the rate increase is just and reasonable, and is in the public interest and should be approved. Therefore the Commission orders as follows:

ORDER

1. The Company's request to increase rates, as recommended and detailed by the Division, is approved;
2. Such rate increase shall be effective July 1, 2009;
3. Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this 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 does not grant a request for review or rehearing within 20 days after the filing of the request, 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 Sections 63G-4-401 and 63G-4-403 of the Utah Code and the Utah Rules of Appellate Procedure.

Dated at Salt Lake City, Utah this 15TH day of July, 2009.

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and confirmed this 15th day of July, 2009 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#62847