

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of: The) Docket No. 09-2440-01
Request for a Rate Increase of)
Hidden Creek Water Company) **TRANSCRIPT**
) **OF HEARING**
)
)

Wednesday, January 20, 2010 - 9:04 a.m.

Location: PUBLIC SERVICE COMMISSION
160 East 300 South
Fourth Floor, Room 451
Salt Lake City, Utah

Before: Ruben H. Arredondo,
Administrative Law Judge

A P P E A R A N C E S

FOR HIDDEN CREEK WATER COMPANY:

Tracy Tanner, President, Operator

Jason Tanner, Treasurer, CPA

FOR THE STATE OF UTAH, DIVISION OF PUBLIC UTILITIES:

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Wednesday, January 20, 2010; 9:04 a.m.

P R O C E E D I N G S

JUDGE ARREDONDO: This is In the Matter of the Request for Approval of a Rate Increase of Hidden Creek Water Company, Docket 09-2440-01.

Let's take appearances, please, beginning with the Division.

MS. SCHMID: Good morning. Patricia Schmid from the Attorney General's Office, representing the Division of Public Utilities. And with me is Mark Long, Utility Analyst from the Division of Public Utilities.

JUDGE ARREDONDO: Thank you. And would the Company, please.

MS. TANNER: My name is Tracy Tanner, the Operator for Hidden Creek Water Company -- sorry. Start over.

JUDGE ARREDONDO: Sorry.

MS. TANNER: Tracy Tanner, the Operator for Hidden Creek Water Company.

JUDGE ARREDONDO: All right. Thank you. And with you, Ms. Tanner?

MR. TANNER: My name is Jason Tanner. I'm the Treasurer for Hidden Creek Water Company, and also their CPA.

1 **JUDGE ARREDONDO:** Thank you. Mr. Tanner, if
2 you would, look at your microphone. That little light
3 should be on. If you can pull it towards you.

4 **MS. TANNER:** It's not. There you go.

5 **MR. TANNER:** Excuse me.

6 **JUDGE ARREDONDO:** All right, thank you. And
7 let's begin with the Division. Mr. Long, I assume, is
8 going to comment on the Division's recommendation.

9 **(Mark Long was duly sworn.)**

10 **JUDGE ARREDONDO:** Thank you.

11 **MARK LONG,**
12 having been first duly sworn, was
13 examined and testified as follows:

14 **EXAMINATION**

15 **BY MS. SCHMID:**

16 **Q.** Good morning.

17 **A.** Morning.

18 **Q.** Could you please state your full name,
19 business address, and job title for the record.

20 **A.** Yes. Mark Allen Long. Job title, utility
21 analyst. Address is 160 East 300 South, Salt Lake.

22 **Q.** Are you employed by the Division of Public
23 Utilities?

24 **A.** Yes, I am.

25 **Q.** Have you worked on behalf of the Division of

1 Public Utilities in this docket?

2 A. Yes.

3 Q. Did you prepare, or cause to be prepared, a
4 memorandum dated January 4th, 2010, entitled "In the
5 Matter of the Request of Hidden Creek Water Company for
6 Approval of a Rate Increase?"

7 A. Yes, I prepared that.

8 Q. And that has eight pages of narrative and
9 several pages of exhibits, concluding with Exhibit-1.8;
10 is that correct?

11 A. That's correct.

12 MS. SCHMID: The Division would like to move
13 the admission of what we will mark as DPU Exhibit-1,
14 consisting of the eight pages of narrative and the
15 related exhibits, as previously described.

16 JUDGE ARREDONDO: Okay, we'll admit that.

17 MS. SCHMID: Thank you.

18 Q. Mr. Long, do you have a summary that you
19 would like to give today?

20 A. Yes, I do.

21 Q. Please proceed.

22 JUDGE ARREDONDO: Could I ask just a quick
23 question? Is this recommendation any different, the
24 January 4th, different from the December 31st
25 recommendation?

1 **THE WITNESS:** No, it's the same, with just
2 the updated date.

3 **JUDGE ARREDONDO:** All right.

4 **THE WITNESS:** I apologize for that.

5 **JUDGE ARREDONDO:** That's fine.

6 **A.** The purpose of my testimony today is to
7 provide a brief summary of the Division's analysis and
8 recommendation in response of the request by Hidden
9 Creek for a rate increase.

10 A little bit of background. Hidden Creek
11 Water Company is located near Springville, Utah in
12 Hobble Creek Canyon's left fork. The lot sizes range
13 from one to 87 acres. The water company is serving 18
14 metered customers, with an additional 30 lots on
15 standby status. Of those 30 lots on standby, nine lots
16 are still owned by the developer.

17 The rates set in 1997 and formally approved
18 in the 1998 CPCN are \$33 per month system fee plus 78.3
19 cents per thousand gallons, regardless of the quantity
20 used, although that is with a \$5 or 6,000 gallon a
21 month minimum. And they have remained unchanged since
22 1997.

23 Since its inception, Hidden Creek's expenses
24 exceeded revenues, and each year this deficit continues
25 to worsen. Consequently, Hidden Creek's operations

1 have been subsidized by the developer, which has kept
2 rates artificially low for many years through their
3 ongoing financial contributions as well as through
4 their labor provided at well below market value.

5 In doing the audit and rate analysis, the
6 Division would like to make mention that Tracy Tanner,
7 who is president of the water company, was very
8 knowledgeable in all aspects of Hidden Creek's
9 operations and finances, and was also very helpful
10 during the Division's analysis.

11 The Division reviewed the annual reports from
12 1998 through 2008 and used 2008 as the test year.
13 Based on recent trends, as well as conversations with
14 Ms. Tanner, no growth, and therefore no additional
15 connections, are anticipated to occur in 2010.

16 I would now like to draw attention to two of
17 the material expenses listed on Exhibit-1.2, and those
18 are the promissory note and the labor expenses. The
19 promissory note, which is on Exhibit-1.2, line 13, was
20 provided by Hidden Creek to the Division, and it was a
21 copy of a \$550,000 promissory note executed on January
22 1st, 1998 by the developer, which represents the amount
23 paid for the water company's infrastructure by the
24 developer.

25 Upon inspection of the original CPCN that was

1 issued to Hidden Creek in 1998, Docket No. 97-2440-01,
2 page 2, item 2, states, and I quote, "The Developer
3 claims plant costs of 513,000, already paid, and an
4 additional 150,000 in future costs to complete the next
5 phase. Title to all plant has been transferred to
6 Applicant. Aside from a \$1,550 connection fee, all
7 other developer expenses are to be recouped through lot
8 sales."

9 Therefore, the loan of 550,000 as originally
10 claimed in the rate increase request by Hidden Creek as
11 its investment in utility plant in service has been
12 removed and reclassified by the Division as
13 contribution in aid of construction.

14 Since the \$550,000 loan represents the entire
15 value of Hidden Creek's utility plan in service, the
16 net effect of classifying the loan as contribution in
17 aid is as follows: First of all, it removes the entire
18 loan obligation from Hidden Creek as well as the
19 \$38,080 annual payment on line 13. It also removes all
20 the utility plant in service from the rate base.

21 Since no assets remain on the accounts of
22 Hidden Creek, there can no longer be any depreciation
23 expense, and therefore that is removed, as indicated on
24 line 38 of Exhibit-1.2. It also removes the
25 accumulated depreciation from the accounting records,

1 and as I mentioned earlier, adds the entire 550,000 to
2 contribution in aid of construction.

3 The second expense I'd like to talk about is
4 the labor expenses. In the Division's initial review
5 of total labor costs of \$12,000 a year, or a thousand
6 dollars per month, charged by Ms. Tanner for the
7 three -- for three separate labor items, and they are
8 billing -- and this is also on Exhibit-1.2 -- the first
9 one is billing of \$2400 a year, and that's on line 17,
10 the water master duties of \$8400, which is on line 19,
11 and testing for \$1200, which is on line 23.

12 At first blush, they appeared excessive.
13 Based on that, the Division requested Ms. Tanner to
14 prepare a description of her duties and obtain bids
15 from qualified water masters to perform the water
16 company functions.

17 Ms. Tanner received two bids, one for 1500
18 and one for 1900 per month, much higher than the
19 thousand dollars per month that she was asking.

20 Additionally, based on the time spent in the
21 past years, Ms. Tanner reported that she will be paid
22 approximately \$25 per hour at the thousand dollars per
23 month to perform these duties, although after her
24 expenses her net pay is going to be much less. She is
25 paying for all her own transportation, the wear and

1 tear on her vehicle, gas, insurance, as well as also
2 funding many of the various office and field tools and
3 instruments that she uses on the job.

4 The Division determined that the labor
5 amounts are reasonable and recommends that the thousand
6 dollars monthly labor cost be funded in the rates.

7 This concludes the discussion regarding the expenses.

8 Going forward, the Division is concerned
9 about the water company's lack of financial reserves.
10 Setting aside reserves is critical to developing and
11 maintaining financial stability and can mean the
12 difference between a system that is self-sustaining and
13 one that may fall victim to disrepair or become
14 financially unstable during even a relatively small
15 emergency.

16 As you recall, we recently had a special
17 assessment to handle the matter that would have easily
18 been handled by the water company had a reserve account
19 been established, funded, and maintained.

20 Capital reserves are funded through rates and
21 should be maintained in a protected account and allowed
22 to accumulate or used for qualifying expenses as the
23 needs arise. In past cases, the reserve amount
24 informally consisted of amounts accumulated in an
25 accumulated depreciation account with no oversight as

1 to its use.

2 In the past several rate case orders, the
3 Commission has approved funding a reserve account at an
4 amount equal to the annual depreciation expense, plus
5 the annual amortized contribution in aid, using the
6 same service life as if it had been depreciated.

7 Other than recommending that a reserve
8 account be established at the amount discussed, there
9 was no accounting or oversight associated with the
10 reserve account.

11 The Division therefore recommends the
12 following guidelines regarding reserves. Number one,
13 the capital reserve amounts are to be deposited in a
14 restricted account, such as a separate escrow account,
15 within 30 days from the receipt of rate payments.

16 Number two, withdrawals are to be made from
17 the capital reserve account for capital replacements
18 and improvements only.

19 Number three, in accordance with Utah
20 Administrative Rule 746-401-3A, expenditures in excess
21 of five percent of the total utility plant in service
22 require the water company to file a report with the
23 Commission at least 30 days prior to the purchase or
24 acquisition of the asset or project.

25 At the present time, in this case that would

1 require any expenditure over \$27,500, or five percent
2 of \$550,000, to have a written submission to the -- to
3 the Commission.

4 Hidden Creek will also provide an annual
5 accounting of the capital reserve account with its
6 annual report, or any such time that the Commission
7 requests. The annual accounting shall be in the form
8 of an annual bank statement with sufficient detail to
9 determine that the reserve amounts are being deposited
10 timely per requirement one, and that any withdrawals
11 meet requirements two and three, as stated above.

12 The balance in the reserve account must be
13 clearly identifiable in the audited financial
14 statements as a restricted account, and additionally,
15 reserves are not to be used for system expansion, such
16 as extending the main lines to serve new areas of
17 customers. Funds for the expansion of the system
18 should come from new development, connection fees,
19 assessments, or other sources so that those benefiting
20 from the improvements contribute the funds for its
21 construction.

22 Next, a summary of all the expenses by major
23 category that's being funded through the rates,
24 commonly referred to as a revenue requirement, and
25 those are as follows, and you can follow along, if you

1 wish. This is Exhibit-5. And this kind of puts all
2 the expenses in a nutshell, if you will.

3 The first expense is the annual profit. This
4 company, based on the only thing they have in their
5 rate base, is the cash in their bank account right now,
6 so their annual profit at a 12-percent rate of return
7 is going to be \$1,047. They are also funding a capital
8 reserve of 16,640, estimated state and federal income
9 taxes of 4,422, and operating expenses of 27,749.

10 In order to fund these expenses, the
11 following rates are recommended. And if you would
12 return -- if you would turn to Exhibit-1.0, page 7.
13 This chart shows the current tariff amounts, as well as
14 those requested by Hidden Creek, and ultimately those
15 recommended by the Division. They're all pretty
16 self-explanatory, although I would like to discuss the
17 first two line items.

18 The first line item is system expenses, and
19 this is what we've in the past commonly referred to as
20 lots on standby. And what this is saying is that the
21 Division is recommending that every lot on standby
22 status pay \$61 per month.

23 Additionally, those 18 lots that are
24 connected to the system will pay an additional \$49.50,
25 making the total minimum bill for those connected at

1 \$110.50, and that will be good through the first 12,000
2 gallons a month. Any amount over that will pay \$5 per
3 thousand gallons.

4 The Division is aware that this is a large
5 increase and will have a big impact on the ratepayers'
6 bills, although without the developer subsidizing the
7 water company as in the past and keeping prices
8 artificially low, the water company must now fund its
9 expenses and establish a minimum financial reserve
10 through its own revenues.

11 In small water companies such as this,
12 without developer subsidies, there are few customers
13 among whom to spread the costs, thus creating higher
14 than desirable rates.

15 In the past, the Division has often
16 recommended an increase of this scale to be phased in
17 over a period of time. Unfortunately, with relatively
18 so few customers and pending needs, Hidden Creek does
19 not necessarily have this luxury of time.

20 In conclusion, the Division believes that the
21 recommended rates and charges represent an appropriate
22 balancing of the ratepayers' interests and the
23 interests of Hidden Creek. The Division asserts that
24 the rates and charges set forth on page 7 of
25 Exhibit-1.0 are just and reasonable and consistent with

1 the public interest, and therefore the Division
2 recommends that the Commission approve these new rates
3 and charges.

4 Q. Mr. Long, I have just one clarifying
5 question. In your summary you mentioned special
6 assessments. Those special assessments you referenced
7 were in another docket with another water company;
8 isn't that right?

9 A. That's correct.

10 Q. Thank you. Mr. Long is now available for
11 questioning.

12 JUDGE ARREDONDO: All right. Thank you. Ms.
13 Tanner, do you have any questions for Mr. Long?

14 **EXAMINATION**

15 **BY MS. TANNER:**

16 Q. One question we had, we just wanted to
17 clarify, as we understood it, is this -- the capital
18 reserve that's being set up is somewhat of a new
19 program, if you will, with the Commission, and that's
20 not unique just to Hidden Creek. We assume it is going
21 to be something that's incorporated into other water
22 systems --

23 JUDGE ARREDONDO: Mr. Long, do you want to
24 answer that?

25 Q. -- as far as the regulations of how, you

1 My question is, is how to do that as well as
2 comply with the reporting requirements every year. If
3 the depreciation expense is not allowed per the
4 reporting requirements, how am I to handle that per the
5 tax returns of Hidden Creek? I'm just a little
6 confused there.

7 **A.** Well, basically, taxes are beyond the scope
8 of what we deal with here, and the depreciation has
9 been eliminated for the rate-making purposes only.

10 **Q.** Okay. I -- in the past, I've always tried
11 to reconcile to the penny my tax return reporting and
12 the Division reporting.

13 **MS. TANNER:** Annual reporting.

14 **Q.** And so -- yet I guess what you're saying is
15 both of those things aren't even the same thing as what
16 we're doing here. This is -- these are the numbers
17 used to determine the rate increase. Okay.

18 **A.** Correct.

19 **MS. SCHMID:** Could we have one moment?

20 **Q.** I think I'm clear. In other words, the
21 annual report will still show a depreciation expense,
22 but it just simply has nothing to do with how the rate
23 increase was calculated, is what we're saying?

24 **MS. TANNER:** Is that correct?

25 **A.** Correct, and also for future rate cases as

1 well.

2 Q. At some time in the future, if we go through
3 this process again, again, you'll just eliminate
4 computationally the depreciation expense?

5 A. Right.

6 Q. I understand. Okay. And then in terms of
7 the capital reserve account, I think it should be noted
8 that we have voluntarily complied with your proposals,
9 even though this is not yet fully memorialized in the
10 statutes and your processes, in light of the fact that
11 we're -- this rate increase is not staggered or
12 incremental, as sometimes -- as often is the case.

13 A. Correct. And this capital reserve account is
14 no reflection whatsoever on the way you've been running
15 your company.

16 Q. No, I understand.

17 A. In fact, you know, you probably have more in
18 the bank than the last several companies I've looked
19 at, so it's in no way a reflection of Hidden Creek
20 whatsoever.

21 Q. I understand, Mr. Long. I just want it to
22 be noted that we thought that the idea is good, we
23 think it's prudent and in the interest of -- best
24 interest of the users of the system as well.

25 A. And that's correct. In fact, our

1 conversations with you have been very helpful in
2 helping us establish the criteria for this reserve
3 account as well, so we extend our gratitude to you for
4 that too.

5 **MS. TANNER:** I don't think we have any other
6 questions.

7 **JUDGE ARREDONDO:** Okay. All right. Thank
8 you.

9 **Q. (By Mr. Tanner)** I'm sorry, I do have one
10 other just note of clarification. Can we understand
11 that as you implement these new procedures and you
12 refine them that if there are any major changes or
13 directional deviations that we would be grandfathered
14 into whatever ends up being the official policy of the
15 Division, such -- for example, let's say that the final
16 Division recommendation is four percent or six percent,
17 that we would then be retroactively implementing
18 whatever the final procedural and process requirements
19 are? Does that make sense?

20 **A.** Yeah.

21 **MS. SCHMID:** I would feel comfortable
22 answering that one, if I may.

23 **JUDGE ARREDONDO:** All right then.

24 **MS. SCHMID:** There wouldn't be any
25 grandfathering, but any changes would be implemented

1 through the next rate case that was filed. We don't do
2 retroactive changes.

3 **MS. TANNER:** Oh, I see.

4 **MR. TANNER:** So --

5 **MS. TANNER:** So as of now, what you're
6 recommending is what we'll work with in our operational
7 basis?

8 **MS. SCHMID:** That is correct, until you
9 choose to file another rate case or one is filed on
10 behalf of the customers.

11 **MR. TANNER:** Oh, I see. So in other words,
12 another water company, if, for example, they're not
13 doing a rate increase for another five years, they
14 wouldn't even be required to deal with capital reserve
15 accounts?

16 **MS. SCHMID:** Unless they are called in,
17 because calling them in and redoing their rates would
18 be in the public interest.

19 **MR. TANNER:** I understand.

20 **JUDGE ARREDONDO:** Okay. And would you like
21 to present any testimony, the Company like to present
22 any testimony?

23 **MS. TANNER:** (Shaking head.)

24 **JUDGE ARREDONDO:** No? All right. I did have
25 one question, Mr. Long, on page 5 of your

1 recommendation, paragraph 3, the numbered paragraph 3.
2 You said, "At the present time in this case,
3 expenditures over 27,500 would require a submission --
4 would require submission of a written report and
5 Commission approval." What would that written report
6 contain?

7 **THE WITNESS:** We would anticipate it would
8 just contain a brief description of what projects
9 they're working on, and that would fall under one of
10 the criteria that it would be a capital replacement or
11 improvement.

12 **JUDGE ARREDONDO:** Okay.

13 **THE WITNESS:** And we could work with the
14 Company as well if we need additional information or
15 they need further clarification.

16 **JUDGE ARREDONDO:** Okay. And with that, if
17 there's nothing else, we'll go ahead and recess until
18 ten o'clock, when public witness testimony is
19 scheduled. So I'll come back on the bench at ten and
20 then wait a few minutes. But from my understanding,
21 you don't know of anybody that's going to appear.

22 **MS. TANNER:** I haven't gotten any calls or
23 any inquiries.

24 **JUDGE ARREDONDO:** Okay. What I'll do is I'll
25 come back on at ten and we'll wait five minutes or so,

1 and if nobody shows up, we'll conclude the proceedings,
2 all right? Thank you.

3 **MS. SCHMIDT:** Thank you.

4 **(Recess from 9:30 - 10:00 a.m.)**

5 **JUDGE ARREDONDO:** Back on the record. This
6 is the time for public witnesses. Again, the Company's
7 represented that -- did you contact a few people in
8 the -- customers?

9 **MS. TANNER:** Yes. I just wanted to clarify
10 for the record that I did send out our January billing
11 invoice on January 1 with the notice of this hearing,
12 the date, time, place, and also the website they could
13 go to to get the information, as per my instructions to
14 do so, so that was sent out on January 1.

15 **JUDGE ARREDONDO:** Okay. And the Commission
16 will note that there are no public witnesses. In
17 addition, no one has called stating that they're going
18 to comment today, so therefore we'll go ahead and
19 conclude this proceeding. And I'll recommend to the
20 Commission that they approve the rate increase. Thank
21 you.

22 **MS. TANNER:** Thank you.

23 **(The hearing concluded at 10:01 a.m.)**

24 --oo0oo--

25

REPORTER'S HEARING CERTIFICATE

State of Utah)
 : ss.
County of Salt Lake)

I, Angela L. Kirk, a Registered Professional Reporter, Certified Court Reporter, and Notary Public in and for the State of Utah, do hereby certify:

That prior to being examined the witness was duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said proceedings were taken down by me in stenotype on January 20, 2010, at the place herein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah this 1st day of February, 2010.

Angela L. Kirk, RPR, CCR