

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Request for a Rate
Increase of Hidden Creek Water Company

)
)
)
)
)

DOCKET NO. 09-2440-01

REPORT AND ORDER

ISSUED: August 3, 2010

SYNOPSIS

The Commission stayed its Order of February 9, 2010 approving the original rate increase. The Commission stayed that Order to allow public comment, it appearing that the water company's customers did not receive adequate notice. Following a period of discovery, a hearing, and public comment, the Commission now enters this Order approving the rate increase as recommended by the Division of Public Utilities (Division) in its amended recommendation submitted June 14, 2010.

By The Commission:

BACKGROUND

This matter is before the Commission on Hidden Creek Water Company's (Company) request for rate increase. On February 9, 2010, the Commission entered an Order approving the rate increase request as recommended by the Division of Public Utilities (Division) and as detailed in that Order. Since no party opposed the recommendation either in writing or at the hearing on the request, and based on Division and company testimony that the rate increase was just and reasonable and in the public interest, the Commission's Order approved the Division's recommendation, incorporating several parts of the recommendation by reference. *See Report and Order, February 9, 2010. U.S. West v. Public Service Commission,*

901 P.2d 270 (Utah 1995) (holding that “the law does not invest the Commission with any such arbitrary power to disbelieve or disregard uncontradicted, competent, credible evidence”).

Shortly after entry of the Order, several customers contacted the Commission to complain that the notice given to them, of the hearing and the potential increase in rates, was insufficient, and also to generally protest the increase in rates. On March 25, 2010, the Commission stayed its February 9, 2010 Order to permit further customer comment and permit discovery by intervenors. The Commission also set a technical conference for April 22, 2010, with notice being published. The Commission also stated that its February 9, 2010 Order could be rescinded, altered or remain in place. The Commission later permitted ten customers to intervene as parties. *See April 20, 2010 Order Granting Intervention.*

On April 20, 2010, the Commission denied a motion for continuance of the technical conference, set a deadline for intervention, denied the Company’s Motion to not hold further hearings, and also ordered the Company to be prepared to respond, at the technical conference, to twenty-five questions submitted by one of the customers. *See April 20, 2010 Order.*

On April 22, 2010, the administrative law judge of the Commission conducted a technical conference to allow the Company to answer the questions submitted by the customers, to present a summary of its reasons for the rate increase, and to answer other questions from the customers. At the technical conference, Jason and Tracy Tanner, Company officers, appeared for the Company. They were not represented by an attorney. David C. Wright was counsel for some of the customers in attendance, but he did not clarify which customers he represented. The ALJ directed Mr. Wright to enter his appearance and identify which customers he was

representing. Mr. Wright never entered an appearance nor participated further after the technical conference. There were several customers in attendance, and some of them signed a list of attendees.¹ There was also staff from the Division available to answer questions and give further clarifications to the attendees. Patricia Schmid, assistant attorney general, represented the Division. At the conference, the Company summarized its reasons for the rate increase. It answered each question as directed by the Commission. It also distributed copies of its 2009 corporate returns and 2009 balance sheet and explained those. It also answered several other questions from the attendees, as well as from their counsel, Mr. Wright. No party raised any concerns about the Company's forthrightness in answering the questions posed at the hearing and no party afterward submitted any concerns regarding the Company's forthrightness in answering the questions posed at the technical conference.

On May 13, 2010, the Commission entered an order denying some intervenors' requests for an independent attorney. The Commission further set a scheduling conference for May 26, 2010. At that scheduling conference, Craig Smith and Bryan Bryner were counsel for the Company. Jason and Tracy Tanner were present for the Company. There were also ratepayers in attendance and some who appeared telephonically. The Commission set a deadline for fact and expert discovery, Division recommendation, responses to the Division's recommendation, expert pre-filed testimony and a hearing date, which provided for additional public testimony.

¹ The technical conference was also streamed live over the internet and there may have been more customers listening via the internet.

The Division submitted amended recommendation on June 14, 2010. The Division amended its initial recommendation by: 1) adding two new users to increase the total number of users to 20, and total connections from 48 to 49; 2) reducing the estimated annual income tax expenses by \$3,000; and 3) added the labor expenses of \$1,020 for the back-up operator. The cumulative effect of these changes reduced the original total revenue requirement from \$49,858.11 to \$47,878.11.

Besides the Division's amended recommendation, no other party submitted a recommendation before the hearing. The Division also responded to various customer concerns raised in correspondence sent to the Commission, raised at the technical conference, and raised at the hearing. The Division's responses to those concerns are as follows:

In addition to revising the rates, the Division has summarized the issues and concerns of several of the water company's customers/intervenors.

A. Capital Reserve Account:

Customer Concern(s):

- A.1. Ensure that there are clear rules for withdrawing funds from the escrow account containing the Capital Reserve funds.
- A.2. Set a maximum target amount for the Capital Reserve Account balance.
- A.3. Create a line item surcharge for the Capital Reserves fund on the bill.
- A.4. What happens to the funds set aside in the Capital Reserve amount in the event another company purchases Hidden Creek Water Company?

Division Response:

- A.1. The Division has already recommended clear and identifiable rules for the use of the Capital Reserve Account funds and has not changed from their original recommendation. See *Recommendation No. 3, (Page 7)*.
- A.2. Setting a target amount for the Capital Reserve Account initially sounds reasonable, but imposing a cap of any amount less than the current total replacement cost defeats the purpose of having a reserve account to be used for repairs and replacement of the infrastructure. The Division reviews Hidden Creek's Annual Reports, including the Capital Reserve Account and if the Capital Reserve Account should ever reach the point that the reserve account exceeds the replacement cost of the total infrastructure, the Division will recommend to the

Public Service Commission that the amount being set aside be reduced or eliminated until it becomes in balance.

A.3. In order to promote trust and more transparency the Division is recommending that a separate line item show the amount of the bill that is being set aside for the Capital Reserve Account. See *Recommendation No. 4, (Page 8)* for additional details. Additionally, the Division recommends that an accounting of the Capital Reserve Account be provided annually. See *Recommendation No. 5, (Page 8)*.

A.4. The funds in the Capital Reserve Account are an asset of Hidden Creek Water Company. Upon the event that Hidden Creek is purchased by another company, the Commission will issue an order detailing how the sale is to take place, including how the assets will be distributed.

B. Financial Disclosure:

Customer Concern(s):

B.1. Require the water company to have an independent CPA audit their financial reports.

B.2. Require the water company to prepare their financial reports in accordance with generally accepted accounting principles.

B.3. Require the company to issue to each customer a copy of the audited financial statements.

Division Response:

B.1. In general, the Division recognizes the value of audited financial statements. Hidden Creek has a simple and straight-forward business structure and accounting system and the Division found no indication of misuse or inappropriate accounting practices and the Division does not believe that Hidden Creek Water Company or their customers would benefit from an independent financial audit and the corresponding increase in rates to pay for the additional services.

B.2. The Division's audit of the books and records of Hidden Creek verified that Hidden Creek's records were very well maintained and the accounting performed in accordance with generally accepted accounting principles.

B.3. This is a privately held company and the level of financial disclosure sought by some of the customers is excessive and too far-reaching. Hidden Creek has fully disclosed all financial information to the auditors of the Division of Public Utilities, who are charged with protecting the interests of the customers of the water company. As a note, all regulated water companies submit annual reports that can be reviewed by the public unless the utility specifically requests they be held confidential.

C. Compensation (Wages):

Customer Concern(s):

- C.1. Reduce or limit the amount of compensation paid to the company operator.
- C.2. Require that any increase in Tracy Tanner's salary be approved by the Commission.

Division Response:

C.1. In order to verify that Ms. Tanner's salary is appropriate, the Division required Ms. Tanner to obtain bids from two other certified operators to operate Hidden Creek's water system. These bids came in 50% and 90% higher than Ms. Tanner is being compensated. The Division believes that the wages paid to Ms. Tanner are fair and the level of care of the water system is excellent. See *Recommendation No. 6, (Page 8)*.

C.2. The labor amounts are set in the original recommendation, Exhibit 1.2 as follows:

Billing	\$ 2,400
Water	8,400
Master	
Duties	
Testing	1,200
Total	\$12,000
Wages	

Any material labor costs in excess of the above set amounts would result in an annual revenue shortfall which would be noted during the Division's annual review of Hidden Creek's Annual Report.

D. Rate Structure Should be a Flat Rate:

Customer Concern(s):

D.1. The expenses should be borne equally by all customers, regardless of their levels of water usage.

Division Response:

D.1. Several of the customers have requested a flat rate where each customer would pay the same amount regardless of their usage. Curiously, many of the customers requesting the use of a flat rate are using less than average water and, therefore, would be subsidizing those using more than the average.

For example, the Division learned that during the four-day Memorial Day weekend a single customer used in excess of 100,000 gallons of water. To put this into perspective, the average Utah household of four uses less than 4,000 gallons over a 4-day period during the summertime, which includes watering landscape. If a customer chooses to use exorbitant amounts of water they should pay for the privilege, never mind the environmental impact caused by the excessive water use.

Division Amended Recommendation, pp. 2-5.

Additionally, the Division made eight recommendations in its amended recommendation. Its first recommendation was that the labor rates of \$1,020 annual labor costs for the back-up operator be funded in the rates. The second recommendation dealt with the rates and charges the Company would implement, which are as follows:

Rate Changes:			
Description	Current Tariff	Original DPU Recommendation	Amended Recommended by Division
System Expense	\$33.00 per month	\$61.00 per month	\$53.00 per month
<i>Note: The System Expense of \$53.00 is made up from the following items:</i>		<i>Capital Reserves:</i>	\$28.50
		<i>Fixed Expenses:</i>	\$24.50
First 12,000 gallons	\$5.00 per month	\$49.50 per month	\$32.00 per month
Monthly usage in excess of: 12,000 gallons.	78.3¢ per 1,000 gallons	\$5.00 per 1,000 gallons	<i>See below for tier rates</i>
Monthly usage from: 12,001 to 50,000 gallons.			\$2.75 per 1,000 gallons
Monthly usage from: 50,001 to 94,000 gallons.			\$3.75 per 1,000 gallons
Monthly usage in excess of: 94,001 gallons.			\$7.00 per 1,000 gallons
Water Service Turn-on & Turn-off charges	\$25.00	\$100.00	\$100.00
Late Fees: (To be assessed each billing period if there is a prior balance owing on a customer's account.)	\$5.00	\$5.00	\$15.00
First time service connection fee, up to a 2" service connection. (One time charge for hot tap and install meter and setter in can with lid.)	<i>See below for original service connection fees</i>	\$3,350.00	\$3,350.00
First time service connection fee, up to a 2" service connection. (One time charge to set yoke and meter in can.)		\$2,850.00	\$2,850.00

Rate Changes:			
Description	Current Tariff	Original DPU Recommendation	Amended Recommended by Division
¾"-Line meter connection fee	\$1,550.00	<i>These fees replaced by the above service connection fees.</i>	
1"-Line meter connection fee	\$2,000.00		
2"-Line meter connection fee	\$2,500.00		
Inspection Fee	\$25.00	\$25.00	\$100.00

Amended Division Recommendation (Amended Table 1), p.5. The third recommendation was for the Commission to preserve that portion of its February 9, 2010 Order implementing the Capital Reserve Account and guidelines for its implementation and maintenance. The fourth recommendation was that the Company list the customer's contribution to the Capital Reserve Account as a separate line item on each billing statement. The fifth recommendation would be that the Company provide an accounting of the Capital Reserve Account to the Division annually with certain requirements for how it shall provide that accounting. The sixth recommendation was that the amount of \$1,000 per month paid to Ms. Tanner for her labor be funded in the rates. The seventh recommendation is that the Company be permitted to read meters monthly from April 1st to October 1st. The Division recommended that winter months be billed at minimum usage amounts, with the winter usage adjusted based on the first spring reading. The Division also recommended protections for customers who have a winter leak not discovered until spring. The final recommendation was that the rates be effective June 1,

2010, with billings prior to June 1, 2010 billed at rates based on the current tariff (rates in effect at the time of the filing of the application).

The ALJ conducted an additional hearing on July 6, 2010, with time permitted for public comment. Bryan Bryner represented the Company. Tracy Tanner and Jason Tanner testified for the Company. Patricia Schmid, assistant attorney general, represented the Division. Mark Long testified for the Division. There were four customers who made comment: Steve Thompson, Dionne Barron, Brett Scharffs, and Ray Crosby. The witnesses raised several issues already mentioned above, and addressed by the Division.

At the hearing, some of the Division's recommendations were further clarified and the Division and the Company submitted those clarifications in writing after the hearing.

ANALYSIS

The Company's request for a rate increase has spurred much concern among its ratepayers, as is usually the case whenever a natural monopoly/public utility seeks to increase its rates. Some of the concerns centered on the amount of the increase, cost of service, utility accountability, and transparency of transactions. Some customers also proposed alternatives to the Division's recommendation for generating the proper revenue requirement for the Company. To reach a just and reasonable outcome, and one in the public interest, the Commission provided for an extended comment period—previous to and during the hearing, and also permitted customers to intervene and participate in discovery.

Many of the comments made to the Commission were thoughtful, clearly stated, and well-intentioned. Some customers took occasion to submit evidence they gathered from various resources, manifesting the care with which some customers approached this matter.

However, in reaching a decision, the Commission is guided by certain principles. First, its decision must be based on substantial, credible, and competent evidence. Second, in determining whether a rate increase is proper, the Commission balances the need for ensuring safe, reliable, adequate, and reasonably priced utility service for customers, with the need to ensure utility companies have the opportunity to earn a reasonable rate of return.

Two polar constitutional principles fix the parameters of rate regulation for natural monopolies: the protection of utility investors from confiscatory rates and, of equal importance, the protection of ratepayers from exploitive rates. Those principles were set out in the watershed case of *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 88 L. Ed. 333, 64 S. Ct. 281 (1944), and have been reiterated in subsequent cases, both federal and state. *E.g.* [] *Myers v. Blair Tel. Co.*, 194 Neb. 55, 230 N.W.2d 190, 196 (Neb. 1975) ("The commission can no more permit the utility to have confiscatory rates for the service it performs than it can compel a utility to provide service without just and equitable compensation.").

Stewart v. Public Service Commission, 885 P.2d 759, 775 (Utah 1994). In determining a just and reasonable rate (so to "avoid confiscatory rates on the one hand and exploitive rates on the other", *see id.*) the Commission applies a "standard that is based on a utility's cost of service. A cost-of-service standard mandates that rates produce enough revenue to pay a utility's operating expenses plus a reasonable return on capital invested", i.e. cost of capital. *Id.*

Third, the Commission may not permit utilities to implement unlawfully discriminatory rates. *Utah Code Ann.* §54-3-8.

In issuing its February 2010 Order, the Commission reviewed the Division's January 2010 recommendation which provided the results of the Division's months-long compliance audit and rate analysis. Based on a proper test year, the recommendation analyzed and reviewed revenue and operating adjustments, rate base, rate of return, revenue requirement, and identified the need for a Capital Reserve Account. Although many customers have generally complained about the large increase, rate structure, and inclusion of the capital reserve account, there has been no specific evidence to controvert the Division's audit and analysis. Its recommendation provided substantial, credible, and competent evidence establishing the Company's need for a rate increase.

The Division addressed many of the specific customer concerns in its amended recommendation and the Commission will address those below as needed. Additionally, the Commission addresses a few concerns raised by public witnesses during the public comment period.

First, at the hearing, some customers advocated the implementation of a flat rate structure, with all water users, whether they use water or not, paying \$80 per month.² Such a rate structure, however, would be unlawfully discriminatory. It would require non-users to pay the same amount as large users of water with no legal basis for such discrimination. Additionally, such a rate structure would provide no incentive for water users to implement or maintain water conservation practices. For example, the Division noted that over the Memorial Day *weekend*, a *single customer* used in excess of 100,000 gallons of water. *Amended Division*

² Some customers advocated that non-users pay a slightly lower amount, but there is scant evidence for the Commission to determine how this would effect the revenue requirement for the Company and its ability to continue to meet its obligations to its customers.

Recommendation, p.5. The Division stated that the average household of four in Utah uses less than 16,000 gallons of water during a four-day period in the summer—including landscaping needs. *Id.* A flat rate would have no effect on such a user who uses considerable volumes of water, and such a rate structure would encourage less conservation. A flat rate structure is not just and reasonable and would not be in the public interest.

Second, some customers contended that Utah County (in approving the associated housing development) required the Company to provide water to customers for no or little cost. Some customers claimed that the Company could only charge for an amount in excess of a base amount of water the customer claimed they were entitled to annually.³ One customer stated that some lots came with water rights, some of those coming indirectly through the Company. Another argued that the Company was obligated to provide water perpetually at the cost that was already included in the lot purchase. In support of their contentions, the customers pointed to land records, statements by the Company made to Utah County officials during the development approval process, etc. However, the customers' arguments and evidence regarding the Company's obligations relate to the service standards Utah County required of the Company. None of the statements allegedly made by the Company regarding service standards, or other requirements allegedly mandated by Utah County, requires the Company to provide perpetual water service to each customer, without regard to cost-of-service. Even assuming the statements read at the hearing by some witnesses are true, they deal only with considerations like flow, volume, or other service standards. They are the requirements that any residential developer must meet in order to ensure each unit within the development has a perpetual supply of water to

³ Some customers claimed they were entitled to 960,000 gallons of water annually.

meet its needs. Such statements, however, cannot be interpreted by the Commission to mean that the Company somehow transferred its water rights to each buyer as they purchased a lot.

Therefore, any contention that the Company must somehow continue to provide its services to the customers without regard to cost of service, revenue requirement, etc. because it allegedly agreed to do so, is incorrect.

Finally, many customers complained that the tiered rate structure recommended by the Division is “punitive”, penalizing customers for using water supposedly already included with the purchase of their lots. The Commission disagrees. In fact, the flat rate structure proposed by some customers would be unreasonable as it bears no relation to usage. Tiered rates structures are an appropriate, just and reasonable method of allocating the costs of providing service to cost causers in proportion to their usage, and of encouraging conservation. For example, the Division noted that one customer who had been previously unresponsive to Company requests to fix a water leak, repaired the leak in order to avoid being incurring higher-tiered usage charges. *Amended Division Recommendation, p.5*. Additionally, the Commission has used tiered rate structures in the past⁴, and continues to use this practice as a method of allowing public utilities to implement just and reasonable rates while allowing the utility to meet its revenue requirement. The Commission finds that the tiered rate structure proposed by the Division is just and reasonable and in the public interest.

⁴ See e.g. In the Matter of the Request of Highland Water Co., Inc. for Approval of a Rate Increase, Docket No. 09-010-01; In the Matter of the Request of Sherwood Water Company for Approval of a Rate Increase, Docket No. 09-075-01; In the Matter of the Request of Pine Valley Irrigation Company for Approval of a Special Assessment and Rate Increase, Docket No. 09-2179-01; In the Matter of the Application of Cedar Point Water Company, for Approval of a Rate Increase, Docket No. 09-2404-02; In the Matter of the Request of White Hills Water Co. Inc., for Approval of a Rate Increase, Docket No. 08-2199-01.

Many customers raised concerns regarding the Capital Reserve Account. Some customers argued that it was not needed because other water companies did not maintain such an account. Some customers argued that clear guidelines needed to be set for its use, proper monitoring was required, that it should have a maximum limit, and that the developers should be required to place \$100,000 from the sale of each lot into funding the Capital Reserve Account. The Commission finds that such an account is just and reasonable and in the public interest, as it allows a utility to maintain its system well into the future, allowing it to provide the perpetual service which state law requires it to provide.

Whatever the practices of other non-regulated water companies may be, those practices are not before us. As far as regulated entities may be concerned, the Commission has ordered a capital reserve account be established in other dockets, e.g. In the Matter of the Request of Highland Water Co., Inc. for Approval of a Rate Increase, Docket No. 09-010-01, In the Matter of the Request of Pine Valley Irrigation Company for Approval of a Special Assessment and Rate Increase, Docket No. 09-2179-01, and In the Matter of the Application of Cedar Point Water Company, for Approval of a Rate Increase, Docket No. 09-2404-02. There have been other water companies whose lack of reserves has seriously hampered their ability to provide service, hampered their ability to provide clean drinking water, make emergency repairs, and exposed them to other future risks, with one company even having to pay the costs for emergency repairs by using a company officers' personal credit cards. *See e.g. Docket Nos. 08-2199-01, 08-2438-01, 09-2438-01.* A Capital Reserve Account can prevent such risks and enables a utility like the Company to replace aged parts of its system and also maintain the service and quality standards it is legally required to maintain.

As far as guidelines for its use, and proper monitoring, the Division recommended and the Commission ordered such guidelines and monitoring already. Contentions that they are not in place are meritless.

Many customers recommend the Commission have a limit to the amount to be accumulated in the Capital Reserve Account. However, the Commission declines to set such a limit. First, there is no evidence of what a limit should be. Second, there is no evidence before the Commission that the Capital Reserve Account, as it currently stands, borders an amount which would exceed a reasonable amount to replace the system. Third, the Commission has continuing jurisdiction over the Company and may address the amount in the Capital Reserve Account, as well as the amounts being collected for its maintenance at any time. The amounts collected for its maintenance, may additionally be addressed and adjusted in the future, based on the circumstances surrounding the Company at that time.

Suggestions that we require the developer to place \$100,000 from each lot sale into the Capital Reserve Account cannot be considered. The Commission has no jurisdiction to order such a requirement of the developer.⁵

The Commission agrees with the Division that the Company has a simple accounting system and there is no need to increase customer expense by requiring the services of an independent CPA. Although many customers—for whatever reason, have accused the Company of mismanagement of funds, there has been no evidence of such mismanagement presented to the Commission. The Division stated that the Company had been cooperative in the audit and that its “records were very well maintained and the accounting performed in

⁵ The developer is not even a party.

accordance with generally accepted accounting principles.” *Amended Division Recommendation, p. 4.* The Commission refers the parties to the Division recommendation for responses to other customer concerns. No party has presented the Commission with the factual or legal basis to order the independent audit and financial disclosure demanded by some customers and the Commission will not impose any such requirements here.

The Commission also finds that the compensation paid to Ms. Tanner is proper. As the Division’s January 2010 recommendation found, her rate was well below other bids for the same job. In fact, the Division noted that Ms. Tanner personally bore her own transportation expenses used in servicing Company needs, including depreciation to her own personal vehicle, gasoline and auto insurance expenses attributable to Company purposes, and also personally paid for office equipment, and other tools and instruments used in serving the system. The Commission finds nothing improper in the rate paid to Ms. Tanner and it should be included in the rate base.

The Company is also required to have a back-up operator. There is no evidence to dispute the amount of \$1,020 paid to the back up operator is inappropriate and it should be funded in rates.

The Commission appreciates the customers’ concerns regarding the large increase. However, the substantial, credible, and competent evidence before the Commission, shows that the rate increase is necessary to ensure the Company meets its costs and also has the opportunity to earn a reasonable rate of return. Given the small number of users, the length of time the Company last sought a rate increase, and the Company’s costs of providing service, the rate increase, as proposed by the Division in its amended recommendation, is just and

reasonable. Allowing the rate to increase is in the public interest as it will allow the Company to continue to provide safe, adequate and reliable service to its customers.

ORDER

1. The rate increase of the Company is approved and shall be effective as of June 1, 2010;
2. The Company may bill customers based on currently approved rates for usage from June 1, 2010. The Company shall work with customers in paying amounts owed after recalculation of bills since June 1, 2010, and allow a reasonable time to repay amounts owing;
3. The following rates are approved:

Description	Rate
System Expense	\$53.00 per month (comprised of \$28.50 for Capital Reserves and \$24.50 for Fixed Expenses)
First 12,000 gallons	\$32.00 per month
Monthly usage from: 12,001 to 50,000 gallons.	\$2.75 per 1,000 gallons
Monthly usage from: 50,001 to 94,000 gallons.	\$3.75 per 1,000 gallons
Monthly usage in excess of: 94,001 gallons.	\$7.00 per 1,000 gallons
Water Service Turn-on & Turn-off charges	\$100.00
Late Fees: (To be assessed each billing period if there is a prior balance owing on a customer's account.)	\$15.00
First time service connection fee, up to a 2" service connection. (One time charge for hot tap and install meter and setter in can with lid.)	\$3,350.00

Description	Rate
First time service connection fee, up to a 2” service connection. (One time charge to set yoke and meter in can.)	\$2,850.00
Inspection Fee	\$100.00

4. Paragraph 2 of the February 9, 2010 Order shall remain in effect except that Paragraph 2.d shall be amended to read as follows:
- a. Hidden Creek shall provide an ‘annual accounting’ of the Capital Reserve Account (in summary format) with its Annual Report and at any such other time as the Commission requests. The ‘annual accounting’ shall show, at a minimum, the beginning balance, annual deposits, annual withdrawals, and the ending balance. Included with the Annual Report, the water company shall also provide a separate detailed accounting of the Capital Reserve Account consisting of monthly bank statements encompassing the entire calendar year showing a series of deposits made within 30 days from the receipt of rate payments for each billing cycle and withdrawals that meet requirements a, b and c above. Such detailed accounting, including copies of bank statements and possible other sensitive information shall be marked as “confidential.”

5. The Company shall be permitted to allocate customer payments as follows: in the event any payment from a customer is a partial payment of any given billed invoice by Hidden Creek, that payment shall be used first to cover the fixed and variable expenses, with the remainder of such partial payment to apply towards the Capital Reserve Account. A reconciliation, clearly indicating the circumstances surrounding those instances when the Capital Reserve Account was not fully funded, shall be provided by the water company with the detailed 'annual accounting' of the Capital Reserve Account;
6. The Company shall be permitted to read meters monthly from April 1st through October 1st, weather permitting. Winter months shall be billed at the minimum usage amount. The actual winter usage should it exceed the minimum usage amount during the winter months, shall be billed in total on the first billing which shows the first meter reading taken in the calendar year. As an assurance to the water customers that they will not be billed at tier 3 rates as a result of a leak, during the time period that the meters are not read monthly, the maximum monthly billing adjusted after the first spring reading cannot exceed that of the maximum usage allowed through tier 2, unless it can be established that the customer actually used an excessive amount of water and/or it can be shown by the Company that a leak related to the customer's service was detected and noticed to the customer in a timely fashion. If the Company notifies a customer of a leak related to a customer's service then the customer shall have 15 calendar days from the time of notice sent by the Company to repair the leak. Failure by

the customer to repair a leak within 15 calendar days from the time of notice shall result in full billings based on the water flowing through their meters. This language applies only during the time periods that the meters are not read monthly;

7. The labor amounts of \$1,020 paid annually to the back-up operator are just and reasonable and shall be funded in the rates;
8. The monthly labor amounts paid to Ms. Tanner of \$1,000 are just and reasonable and shall be funded in the rates;
9. The Company shall list the customer's charge for payment to the Capital Reserve Account as a separate line item in each billing statement.

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 Utah Rules of Appellate Procedure.

DOCKET NO. 09-2440-01

- 21 -

DATED at Salt Lake City, Utah, this 3rd day of August, 2010

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and confirmed this 3rd day of August, 2010, 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#67871