



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

TO: PUBLIC SERVICE COMMISSION OF UTAH

FROM: DIVISION OF PUBLIC UTILITIES
Chris Parker, Director
William Duncan, Telecom & Water Section Manager
Shauna Benvegna-Springer, Utility Analyst

DATE: January 24, 2011

RE: Docket No. 10-2404-01 - In the Matter of the Application of Cedar Point Water Company for an Expansion of Service Area and Additional Types of Service and Applicable Rates

SUBJECT: Status Update and Recommendation in Response to Petition for Review and Rehearing

RECOMMENDATION: DENY AND DISMISS

The Division of Public Utilities (DPU) continues to recommend that the Utah Public Service Commission deny and dismiss the petition for review or rehearing on the order denying Cedar Point Water Company's (Company) application for expansion of its service area and for the additional types of service and rates to the tariff.

EXPLANATION:

On September 13, 2010, the DPU received an application from the Company requesting to expand to its service territory to 460 connections (450 residential and 10 commercial), to offer additional types of service, and to charge applicable rates for such additional types of services to their amended tariff.

EXPANSION OF SERVICE AREA:

The Division reviewed the request from the Company to expand to 460 connections from the 79 connections currently authorized. As part of the review process the Division requested a System

Capacity Assessment Report of the current and proposed service area expansion from the Division of Drinking Water (DDW).

Based upon the Division's investigation, as of January 19, 2010 there are a number of areas where the Company needs to provide documentation and evidence to support the expansion. These include, but are not limited to these issues:

- 1) source capacity and production,
- 2) indoor water use only,
- 3) water rights and use,
- 4) storage capacity,
- 5) impact of irrigation system on culinary system,
- 6) system capacity assessment by DDW to include financial, managerial and technical aspects of the expansion show also include current financial statements,
- 7) a system diagram/schematic/modeling and plan of the current system and the system expansion,
- 8) project cost and funding plan,
- 9) clear identification of lots on maps to be served, and
- 10) compliance approval from the state and local governments.

WATER SOURCE CAPACITY AND PRODUCTION:

In order to service 460 connections the DDW calculates that 256 gpm is required for indoor water use only. The DDW's files indicate that the Company has two active wells. The Cook Well #1 (WS001) produces 47 gallons per minute (gpm) and the Jessup Well #6 (WS002) produces 47 gpm for a total safe yield of 94 gpm. The Apple Valley Planning Commission requires 0.2 acre-feet of culinary water per connection for outdoor irrigation and the average irrigated acreage per connection is 0.074 acre which brings the total required source capacity to serve 460 connections to 481 gpm.

On January 12, 2011 the Division received a letter (see Attachment 1.1) from J. Paul Wright, P.E., a Southwest District Engineer with the DDW. He indicates that Well #4 (WS004) has received plan approval for construction from DDW and has been pump tested with a safe yield of 108 gpm, however, currently this well has not been equipped nor has it received an operating permit. When this well is approved to be active the Company could supply 363 residential customers for indoor use only or 202 residential customers with indoor and outdoor irrigation total connections.

Currently, the Company has two active wells, described above, that produce sufficient source capacity to supply no more than 169 residential customers for residential indoor use only or 89 residential customers with indoor and outdoor irrigation for lots with an average size of 0.100 acre. There is not sufficient source capacity with the current approved, permitted and active wells to authorize 460 connections or 250 connections.

The Company must provide documentation of the water system developments to the DDW certifying the production levels and the quality of the water for wells #1 through #6 to update the DDW's files.

INDOOR WATER USE ONLY:

The Company has stated that an outdoor landscaping ordinance requiring xeriscape will be implemented through the covenants, conditions and restrictions (CC&R's) for the subdivision development. However, this could affect the current 42 customers on the system. The Division and the DDW request to review the proposed CC&R to determine what impact this would have on the water system and to the customers.

WATER RIGHTS AND USE:

On or about November 8, 2010, The Division reviewed the records of the Division of Water Rights regarding the water rights recorded and claimed by the Company. The Company provided a spreadsheet titled "Exhibit A" on November 24, 2010 to the Division, which listed 5 water rights (See Attachment 1.2). The total water rights owned by the Company are 643.58¹ acre feet of water per year to be diverted with "246 families for domestic use and 532.88 acre feet for irrigation use" as recorded and approved. As the Company acknowledged "we anticipate filing change applications on the irrigation rights [use]... to convert to domestic."² The Division can only recognize that the Company has water rights for 246 domestic indoor and outdoor water use connections, which does not allow for the requested 460 connection or 250 connections. Hence, this is another reason why the Division did not and cannot recommend expanding the system until the change applications for use have been filed and approved by the Division of Water Rights.

STORAGE CAPACITY:

As stated before in the Division's memorandum of November 17, 2010, the Company did construct a 1-million-gallon (MG) storage tank, however it has been brought to the Division's attention on January 12, 2011 that an operating permit has not been issued by the DDW. The Company needs to obtain an operating permit for the 1 MG tank expeditiously in order to avoid non-compliance of its facility with DDW. Once the permit is issued the water system will have the necessary storage capacity for up to 363 indoor use only domestic connections. However, it will still be short the capacity necessary for the requested 460 connections.

IRRIGATION SYSTEM:

During the Division's visit and discussion with the Company in October 2009, the Company indicated it plans to provide irrigation services to future customers. The Division has requested the DDW determine the impact that the Company's irrigation system will have on the culinary system. This will be included in the DDW's report of the system capacity assessment of the water system as a whole.

¹ Water right 81-3430 is only approved for 10.0 acre feet per year of water not 16.0 acre feet per year. This corrects the total acre feet per year from 649.58 to 643.58.

² Email sent by Roger Sanders to Shauna Benvegnu-Springer, dated November 24, 2010 regarding Water Rights Summary – Cedar Point Water Company.

SYSTEM CAPACITY ASSESSMENT:

The DDW has stated that a System Capacity Assessment Report (SCAR) needs to be completed on the whole system under the proposed expansion of the water system. The SCAR will include an assessment on aspects of the system to include financial, managerial and technical support of the system. This report is necessary to determine if the system will be feasible, stable, safe and compliant with state, county and city laws, rules, ordinances and regulations. The DDW anticipates that once it has received the necessary information from the Company, the report can be completed within 30 to 60 days.

SYSTEM DIAGRAM/MODELING:

The Company has not produced or provided a specific plan of the expansion to the current water system. Generally, this is a diagram, schematic, or modeling of the water system as to the location of additional connections as well as additional distribution and transmission facilities. A project design engineer can complete the necessary plan with the appropriate calculations, specifications, materials and minimum pressure of the system. A copy of the project plan must be submitted to the Division and DDW for review.

PROJECT COST & FUNDING PLAN:

In previous requests to expand the Company's water system, the Division has requested an explanation or plan of the project costs and funding. A copy of the water system expansion project plan is required. The Division has reviewed the Company's 2009 annual report submitted on September 11, 2010. The Company reported a loss of \$18,537. An explanation of the changes in the Company's financial position is needed and how the expansion and provision of additional services would be funded.

SERVICE AREA MAPS:

The current maps supplied with the application to expand do not clearly delineate which additional connections/lots will be serviced. The Division needs subdivision maps with clearly marked streets, water system notations, and current connections with additional expansion connections.

COMPLIANCE WITH STATE AND LOCAL GOVERNMENTS:

Once all requirements have been submitted and approved, the Division will request notification from state and local governments that the Company is in compliance with the expansion of the water system.

ADDITIONAL SERVICE TYPES AND APPLICABLE RATES:

The Company requested an increase to the residential rate, an after-hours charge of \$75, standby fee, approval of a commercial, an industrial, an agriculture and an institutional rate for those customers who meet the definition of the various types. Documentation was not provided to substantiate the residential rate, after hours charge, the increase in the standby fee, or a definition provided for residential use. The Company amended the tariff to include very limited definitions for the commercial rate, industrial rate, agriculture rate and institutional rate. Additional tariff

language was also added without explanation. The Division requests the tariff be re-filled as a tariff filing with the expanded and additional definition, explanation and documentation.

CONCLUSIONS:

EXPANSIONS OF SERVICE AREA:

Until the Division receives the documentation and notifications of the actions completed as outlined above, the Division recommends that the Commission deny the application for expansion of service area requested by Cedar Point Water Company at this time.

TARIFF CHANGES:

The Division recommends that the Commission deny the tariff changes as submitted and re-file the tariff as suggested by the Division.

cc: Roger Sanders, Sanders Ruesch & Reeve, PLLC
Jerry Eves, Cedar Point Water Company
Michael Grange, DDW
Patricia Schmid, AG's Office