



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities

Chris Parker, Director

Bill Duncan, Telecommunications / Water Manager *BD*

Mark Long, Utility Analyst *ML*

Date: February 3, 2011

Re: Docket No. 10-2529-01, Issuance of a Certificate of Public Convenience and Necessity (CPCN) and Approval of the Tariff for Grand Staircase Water Company, L.L.C.

RECOMMENDATION

The Division of Public Utilities recommends:

- that the Utah Public Service Commission issue a Certificate of Public Convenience and Necessity to Grand Staircase Water Company, L.L.C. (Company) for a maximum of thirty-one (31) residential connections and four (4) commercial connections.
- that the Utah Public Service Commission does NOT approve the tariff.

EXPLANATION (CPCN):

Through its attorneys, J. Craig Smith and Bryan C. Bryner of Smith Hartvigsen PLLC., Grand Staircase Water Company, L.L.C. (Company) submitted an application to the Public Service Commission (Commission) indicating that the Company qualifies for a Certificate of Public Convenience and Necessity (CPCN).

The Company was incorporated in January 28, 2005, and according to the Division of Corporations, has an “Active” status and is in “Good Standing.” Michael Grange of the Division of Drinking Water (DDW) stated that the Company has an “Approved” rating for the Amangiri Resort subdivision, including Lots 1–31, the Service Area, and the Hotel Site (including the hotel and entry building) in Kane County, Utah. The Company appears to have sufficient water rights to serve 31 residential connections and 4 commercial connections. Additionally, the Company has built a 430,000-gallon tank that complies with rules set forth by the DDW.

EXPLANATION (TARIFF):

Mr. Bryner, Attorney for the Company, informed the Division that the developers of the Amangiri Resort subdivision, who are also the principal owners of Grand Staircase Water Company, L.L.C., would pay to the Water Company the connection and turn-on fees in the Tariff of:

- Residential: Connection fees of \$65,000 and Turn-on fees of \$5,000
- Commercial: Connection fees of \$75,000 and Turn-On fees of \$5,000
- Hotel: Connection Fees of \$100,000 and Turn-On fees of \$10,000.

The Division was told that these high dollar connection and turn-on fees are intended to be split between contribution in aid of construction (CIAC) and revenue. The CIAC portion is intended to cover the cost of the connections and the revenue portion to pay for standard operating and maintenance expenses.

Although the developers will pay the fees in question, at present, the Tariff still requires the purchaser of the land or the commercial development to pay the connection and turn-on fee amounts as described above. The Division is presently working with Mr. Bryner in resolving this issue.

Additionally, several other issues regarding documents as submitted by the Company in its Application need to be resolved. The Division and Mr. Bryner are also currently working on resolving the following issues:

- The Division has requested that the developers recover their costs through the sale of lots which follows R746-330-6 which states that, “There is a rebuttable presumption that the value of original utility plant and assets has been recovered in the sale of lots in a development to be served by a developer-owned water or sewer utility.” Currently the projected ratebase of \$2,893,158 (Total Assets of \$7,845,490 minus Water Rights of \$4,952,332) includes these assets. However, the developers have stated that they may not be able to recover their costs in the sale of the residential and commercial lots and the hotel project because it may adversely affect the water company’s previously established corporate and tax structure. Regardless of the tax consequences, the Division maintains that the infrastructure costs should be recovered by the developers in the sale of lots and correctly recorded as CIAC on the Water Company’s records. The Company is currently looking at this issue and is working with the Division to resolve it.
- The ratebase above includes the Company’s allocation of the asset recovery amounts being split 50-50 split between revenues and CIAC. There is no basis provided for the allocation percentages. If the values of the assets are recovered in the sale of the lots by the developer, the entire amount should be correctly listed as CIAC. Allocating only half of the value of the recovered asset costs to CIAC and leaving the remainder as “investments” by the Company has an enormous effect on the ratebase which will then be recovered again by the Company through its water rates of the 31 residential lots, four (4) commercial lots and the hotel.
- Pursuant to discussion with Mr. Bryner and his consultant, the Division is working with the Company to ensure that all assets are accounted for and that the assets are recorded at the correct amount in the Company’s financial statements

and records. The Division has informally requested that source documents, contracts and any other documentation establishing the cost of the assets be made available to the Division for its verification.

- The Division and the Company are in agreement that a capital reserve account needs to be established and are working together to establish such an account.

At the present time, the Division believes that the Company has submitted a proposed tariff with fees and rates that are not just and reasonable, does not promote the long-range interest of consumers or rate stability and is not consistent with the long-term financial viability of the Company.

CONCLUSION

The Division recommends that the Commission approve the CPCN. However, the Division recommends that the Commission does not approve the Tariff at this time, and requests an additional 90 days to resolve the tariff issues, including the just and reasonable application of the Contribution in Aid of Construction, the rate base and the valuation of the infrastructure. If the Company and the Division cannot agree on the resolutions of the concerns stated above, the Division recommends that a hearing be held to present these issues to the Commission.

CC Bryan C. Bryner, Smith Hartvigsen, PLLC
Patricia Schmid, Assistant Attorney General, State of Utah