

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Grand)
Staircase Water Company, L.L.C., for a) DOCKET NO. 10-2529-01
Certificate of Convenience and Necessity to)
Operate as a Public Utility Rendering) REPORT AND ORDER
Culinary Water Service) CERTIFICATE NO. 2529
)

ISSUED: March 14, 2011

By The Commission:

This matter is before the Commission on the application of the Grand Staircase Water Company, LLC (Company) for a certificate of public convenience and necessity (CPCN or Certificate). It also requests approval of its tariff.

The Division of Public Utilities (Division) reviewed the application. The Company was incorporated in January, 2005 and is an active company in good standing with the Division of Corporations. The Company proposes to serve the Amangiri Resort Amended Subdivision (Subdivision), located in Kane County, and including lots 1-31, the Service Area, the Hotel Site and shown in Exhibit D to the Application. It will provide culinary water service within its Service Territory and currently provides culinary water service to the hotel, entry building, and service building. The Division of Drinking Water (DDW) stated that the Company has an approved rating for the Subdivision, the Service Area, and the Hotel Site. The Company has sufficient water rights to serve 31 residential connections and 4 commercial connections. The Company also constructed a 430,000-gallon tank that complies with rules set forth by the DDW. The Division discovered certain information related to the Company's receipt of connection and turn-on fees. The developers of the Subdivision, are also the principal owners of

the Company, and would pay the following fees: 1) in residential fees, connection fees of \$65,500 and \$5,000 in turn-on fees; 2) in commercial fees, connection fees of \$75,000 and \$5,000 in turn-on fees, and 3) in hotel fees, connection fees of \$100,000 and \$10,000 in turn-on fees. The Company informed the Division that these high fees would be split between contribution in aid of construction (CIAC) and revenue. The Division further found as follows:

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 [Counsel for the Company] 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.

Division Recommendation, pp.2-4.

The Division found that the Company had met its burden showing it was qualified to obtain and maintain a CPCN. However, it found that the Company's proposed tariff, presently contains "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." *Id.* at 4. Therefore, it recommended the Commission approve the application for Certificate, but allow it another 90 days to further work with the Company on resolving the tariff issues.

ORDER

1. The Company's Application is approved, except that the Company's proposed tariff is rejected;
2. The Company is granted certificate number 2529;
3. The Division shall attempt to resolve the issues regarding the tariff and shall report to the Commission, **no later than Monday, May 23, 2011**, whether the parties have reached a resolution. If no resolution has been reached, or only a partial resolution, the Division shall move for a hearing date on any unresolved

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issues. The Commission will schedule deadlines for pre-hearing briefs and responsive briefs, previous to the hearing.

4. This is a final order on the Company's CPCN. 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.

DATED at Salt Lake City, Utah, this 14th day of March, 2011.

/s/ Ruben H. Arredondo
Administrative Law Judge

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Approved and confirmed this 14th day of March, 2011, as the Report and Order
Certificate No. 2529 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#71123