

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of Cedar )  
Ridge Distribution Company for an ) DOCKET NO. 11-2423-02  
Increase in Rates ) REPORT AND ORDER  
)

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ISSUED: December 16, 2011

SYNOPSIS

The Commission enters this Order approving the rate increase.

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By The Commission:

**BACKGROUND**

This matter is before the Commission on Cedar Ridge Distribution Company's ("Company) request for a rate increase. For over three decades, Company customers have paid a flat fee of \$45 per month for unmetered water. On October 4, 2010, several residents of Deweyville and customers of the Company filed a formal complaint against the Company. See Docket No. 10-2423-01. The complaint was based, in part, on an alleged sale of a water well to Tremonton City from David Z. Thompson, individually and as president of the Company, in exchange for \$190,000. See id., Exhibit C. Mr. Thompson subsequently confirmed the sale occurred and he received \$190,000 in exchange, which amount he deposited and which remains in his personal bank account.<sup>1</sup> The complaint also questioned a special assessment charged in August 2010 in the amount of \$970.<sup>2</sup>

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<sup>1</sup> See Transcript of Hearing, dated November 22, 2011, at 68; lines 1-8, 15-17. See also id. at 203, lines 24-25 (testimony of Mrs. Thompson: "[w]e have not used any of the \$190,000.").

<sup>2</sup> Some customers have paid the assessment but others have not. The Division recommends rescission of the assessment. See Division's Final Recommendation, dated November 14, 2011, at 1-2.

On December 9, 2010, the Division of Public Utilities (the “Division”) filed a petition for order to show cause, in part, to require the Company to explain why it had been operating a culinary water system as a public utility without a certificate of public convenience and necessity (“CPCN”). See Docket No. 10-2423-02. On April 21, 2011, the company filed for a CPCN. See Docket No. 11-2423-01. The Commission granted the Company a CPCN on July 11, 2011. See id., Report and Order. The CPCN ordered the Company to “ensure the necessary water rights are recorded so as to allow the Company to properly serve the needs of its system.” Id. at 5.

The Company’s interim tariff rates approved on July 11, 2011 under the CPCN are as follows:<sup>3</sup>

Monthly water use (without meters)	\$45 per month
Late fee per incident	\$5.00
Reconnection fee	\$75.00 per incident
Standby fee	\$0.00

See id. at 3.

The CPCN also approved a meter installation project in the amount of \$49,507. As stated in the CPCN,

[t]he Division has noted that although individual water meters are not mandatory, the water meters would greatly assist the Company in determining actual usage for each user, and manage its resources more effectively. The water meters would also allow the Company to implement more equitable and non-discriminatory rates among its users. ...The estimated cost of the project is \$49,507 for the 33 connections. The cost of the water meter installation will be recovered in the new rates to be determined in Docket 11-2423-02 [i.e., this docket].

Id. at 4.

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<sup>3</sup> These rates have been in effect since 1989.

Company's Proposed Rate Increase

On April 21, 2011, the Company filed for a rate increase. See Docket No. 11-2423-01, Exhibit C "Proposed System Expenses." The Company is requesting a rate increase to provide funding for legal and accounting costs of the CPCN issued on July 11, 2011, ongoing operating costs, and costs to install meters to each connection. See Division's Final Recommendation, dated November 14, 2011, at 1.

The proposed new rates are as follows:

Monthly water use (unmetered)	\$114.99 per month <sup>4</sup>
Late fee per incident	(no change)
Reconnection fee	(no change)
Standby fee	\$26.05 per month

See Docket No. 11-2423-01, Exhibit C "Proposed System Expenses."

The Division's Recommendation

On September 14, 2011, the presiding officer for the Commission conducted a technical conference at the Deweyville Town Hall. The purpose of the technical conference was to allow the Division to introduce its "draft recommendation" and to discuss the effects of that recommendation on the Company's proposed rate increase. Lee Kapaloski appeared on behalf of the Company, along with Mr. Thompson, and Patricia Schmid appeared on behalf of the Division, along with Shauna Benvegna-Springer and Bill Duncan.

On November 15, 2011, the Division filed its "final recommendation."

Foremost, the Division recommends that the \$190,000 from the sale of the water well to Tremonton City be deposited and recorded as property of the Company. Second, the Division

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<sup>4</sup> \$88.94 of this amount is proposed for "operating expenses" and the remaining \$26.05 is proposed for "capital reserves." See Docket No. 11-2423-01, Exhibit C "Proposed System Expenses."

recommends that no special assessment be allowed,<sup>5</sup> and to the extent any such assessment has already been paid that it be repaid to each customer with interest of 3.5% APR (as per IRS guidelines for 2010-2011). Third, the Division recommends the original cost of the meter installation be borne by the Company and funded from the proceeds of the sale of the well. Next, the Division recommends that the replacement costs and installation of the meters be recovered in customer rates, and that the legal fees incurred by the Company in applying for a CPCN and rate increase be recovered by the Company in rates paid by the customers. Lastly, the Division recommends: 1) an increase in the minimum rate, 2) implementation of a stand-by fee for vacant lots, 3) implementation of an overage fee for those customers using in excess of 12,000 gallons per month, 4) a rate for repairs to the customer's service line (i.e., the line from their property boundary to the residence), and 5) implementing a capital reserve account. The Division also noted that while the number of hours submitted by the water master "appear reasonable, . . .the rate of \$75 per hour is not reasonable and is an excessive rate for a water master." Division's Final Recommendation, dated November 14, 2011, at 8. The Division recommends an hourly rate of \$25 for a water master. See id.

In a supplemental report dated November 22, 2011, the Division emphasized that the proposed rate of \$75.00 per hour for waster mater duties "is not reasonable and just" and that the amount calculated based on that hourly rate should be disallowed as a cost of the Company.<sup>6</sup> The Division also notes that the Company failed to document or justify its reported \$25 per hour cost for use of an office and resources, and thus that amount should be disallowed.<sup>7</sup> In addition, the Division found interest rates on loans made to the Company in 2011, totaling \$29,000 and

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<sup>5</sup> See supra n.2.

<sup>6</sup> See Division's Supplemental Recommendation, at 1.

made payable over 18 months at 12% interest to pay legal fees, accounting fees, bookkeeping costs and water mater duties were “unreasonable and unjust.”<sup>8</sup> The Division recommends the Commission replace the 12% interest rate with 3.5% as allowed by IRS guidelines. The Division further testified during the hearing that this correction is necessary because the loans were not arm’s-length transactions and IRS rules limit the applicable interest rates for such loans.<sup>9</sup>

A hearing convened before the administrative law judge for the Commission on November 16, 2011. At that hearing, the parties, intervenors, and customers agreed by consensus to engage in settlement discussions and thereafter reconvene on November 22, 2011. On November 22, 2011, the hearing reconvened before the administrative law judge for the Commission. The hearing proceeded as a public hearing, with testimony from all parties, as settlement was not reached by the parties after the November 16, 2011 hearing. Lee Kapalowski appeared on behalf of the Company, along with Mr. Thompson, and Patricia Schmid appeared on behalf of the Division, along with Shauna Benvegna-Springer and Bill Duncan.

#### STANDARD OF REVIEW

Under Utah law, the Commission is responsible for ensuring that “[a]ll charges made, demanded or received by any public utility . . . shall be just and reasonable.” Utah Code Ann. § 54-3-1 (2010) (emphasis added). In addition, no public utility may through its rates “make or grant any preference or advantage to any person,” and “the commission shall have the

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<sup>7</sup> See *id.*

<sup>8</sup> *Id.*

<sup>9</sup> See Transcript of Hearing, dated November 22, 2011, at 127; lines 14-25 (the loans were made by Mr. Thompson, his cabinet company, Mrs. Thompson, and Mr. Thompson’s brother).

power to determine any question of fact arising under this section.” Id. at §§ 54-3-8(1)(a), -(2).

Thus, in reaching its decision in this docket, the Commission applies each of these principles.

## DISCUSSION, FINDINGS & CONCLUSIONS

### *I. The Sale of the Well to Tremonton City*

On or about March 5, 2010, Mr. Thompson and the Company entered into a Water Well Purchase Agreement (“Well Agreement”) with Tremonton City.<sup>10</sup> The Well Agreement states that for consideration of \$190,000 the parties sold and transferred the well to Tremonton City.<sup>11</sup> Mr. Thompson, Cedar Ridge, and Tremonton City each executed the Well Agreement.<sup>12</sup>

According to the Division’s report, Company checks and invoices demonstrate the well was paid for and owned by the Company; thus, based on generally accepted accounting principles, it was a corporate asset and the proceeds therefrom should have been deposited into the Company’s (corporate) bank account.<sup>13</sup>

Mr. Thompson testified that the \$190,000 he received under the Well Agreement was in exchange for personal water rights.<sup>14</sup> Mr. Thompson asserted that these water rights were forfeited or surrendered under paragraphs 3.02 (Limitation on Use and Scope of Cedar Ridge Water Company) and 3.03 (Cedar Ridge Water Company Maximum Connections) of the

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<sup>10</sup> See Company’s Exhibit C, Transcript of Hearing, dated November 22, 2011.

<sup>11</sup> See id. at 2.

<sup>12</sup> See id. at 8. Mr. Thompson, President, signed on behalf of Cedar Ridge. See id.

<sup>13</sup> See Division’s Final Recommendation, dated November 14, 2011, at 5-6.

<sup>14</sup> See Transcript of Hearing, dated November 22, 2011, at 26; lines 12-14. Elsewhere, the Company asserts: “What Tremonton City secured is a well.... Tremonton City’s interest is in capacities, beyond the reserved capacity was a very seriously negotiated quantity, and did require Mr. Thompson to relinquish the majority of his independently owned water rights.” See Company’s Exhibit A at 4, Transcript of Hearing, dated November 22, 2011.

Well Agreement.<sup>15</sup> When the Division challenged Mr. Thompson on this point, Mr. Thompson acknowledged that the paragraphs themselves may not directly address the issue of “forfeiture” or “surrender” of water rights but they nevertheless limit the number of customers and number of future connections the Company is allowed to serve, which he believes supports his argument.<sup>16</sup>

Mr. Thompson further testified that he deposited the \$190,000 in his personal bank account and the money remains there.<sup>17</sup>

The Division countered the Company’s argument under the “four corners” rule of contract law, noting that the Well Agreement does not state that water rights were sold or forfeited.<sup>18</sup> The Division’s position is that the “water well purchase agreement was only . . . for the hole in the ground.”<sup>19</sup> The Division also points to the *completely integrated contract clause* of paragraph 8.10 of the Well Agreement and notes that the Company is prohibited from varying the terms of that agreement by extrinsic evidence; meaning that the Company is legally precluded from asserting that the contract was anything more than an exchange of \$190,000 for a well.<sup>20</sup>

As a matter of law, the Division is correct. The contract contains a clear integration clause. The clause states:

Complete Agreement. This Agreement together with any addenda and attached exhibits constitutes the entire Agreement between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings contracts, or agreements between the parties. This Agreement cannot be changed except by the express written agreement of all parties.

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<sup>15</sup> See Transcript of Hearing, dated November 22, 2011, at 43, lines 1-8.

<sup>16</sup> See *id.*

<sup>17</sup> See *id.* at 67; lines 8-25; 68; lines 1-19.

<sup>18</sup> See *id.* at 82; lines 12-23.

<sup>19</sup> *Id.* at 84, lines 13-15.

<sup>20</sup> See *id.* at 87; lines 4-17.

Company's Exhibit C, Transcript of Hearing, dated November 22, 2011. Accordingly, as a matter of law, the parol evidence rule operates "to exclude [extrinsic] evidence of contemporaneous conversations, representations, or statements offered for the purpose of varying or adding to the terms of an integrated contract." Tangren Family Trust v. Tangren, 2008 UT 20, ¶ 11, 182 P.3d 326 (citation & emphasis omitted).

As further evidence countering Mr. Thompson's position, the Division spoke with the State Water Engineer and the Tremonton City Utility Manager. The State Water Engineer reported that on February 22, 2010, Tremonton City applied for water right 29-4476 requesting 3.34 cubic feet per second with a point of diversion using the well. The Tremonton City Utility Manager, Paul Fulgham reported that the Tremonton City only purchased "a hole in the ground," meaning the well, related facilities, the land the well resides on, easements, and the pump (which was returned to the Company). Based on the Division's research, "Tremonton City did not purchase any water rights [and none] were included with the transfer, sale, or conveyance of the water well."<sup>21</sup>

Despite the differences in position between the Company and the Division on the issue of the sale of the well, the Company has sought no clarification or legal recourse from Tremonton city to resolve this issue:

[ALJ]: Mr. Kapaloski, inasmuch as [the Division] is going to . . . what the heart of the issue is, which is an issue of contract between Mr. Thompson and Tremonton, has Mr. Thompson sought any legal recourse from Tremonton to get clarification on what it was that was contracted for, and what Tremonton got, and what Mr. Thompson got [paid] for?

[Company's Counsel]: That's a very good question, and the

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<sup>21</sup> See Division's Final Recommendation, dated November 14, 2011, at 6.

answer is not to date, no. There has not been any proceeding with the City –

...

[ALJ]: . . . Have you filed a[] notice of claim . . . with Tremonton?

[Company's Counsel]: Not at this time.

Transcript of Hearing, dated November 22, 2011, at 28; lines 4-14; at 29; lines 4-6.

At the hearing the administrative law judge also heard direct testimony from Mr. Fulgham, Tremonton City Public Works Director.<sup>22</sup> Mr. Fulgham testified that after approaching Mr. Thompson, testing and videoing the well and finding it was in good shape and met the City's needs, the City proceeded to negotiate a deal with Mr. Thompson for the well.<sup>23</sup>

Mr. Fulgham further testified:

...I wasn't buying the water rights. ...[T]he water rights meant nothing to us.

And you might say . . . why do water rights mean nothing to you? Well, [Mr. Thompson's] water rights for the Cedar Ridge Subdivision or Cedar Ridge Water Company was for .5 second foot of water. Point 5 second foot of water is equal to roughly 225 gallons a minute.

Now, as a small water company that's a lot, but as a city that wasn't a lot of water rights.

...So [Mr. Thompson's] water rights meant nothing to Tremonton City.

Transcript of Hearing, dated November 22, 2011, at 96, lines. 5-6; 7-8; 9-14; 15-16; 23-24.

On cross-examination, Mr. Fulgham added:

And all we was [sic] buying was the casing which is the 16-inch piece of pipe, and the hole that went down to the water. In my mind. ...

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<sup>22</sup> See Transcript of Hearing, dated November 22, 2011, at 91-103.

<sup>23</sup> See *id.*, at 95.

...  
And at the end of the negotiations that's all we bought, was the hole in the ground. And probably the electrical transformer, maybe. ...

Id. at 108, lines 14-16; 18-20. Mr. Fulgham also testified that before the Well Agreement was executed, Tremonton City filed for water rights for enough flow for 1,200 gallons per minute. See id. at 113; lines 2-10.

Ms. Shauna Benvegna-Springer, utility analyst, also testified on behalf of the Division. Ms. Springer testified that it's the Division's position that the Well Agreement sold the well but not water rights. See id. at 122; lines 10-15. Ms. Springer further testified that water rights can be transferred to other points of diversion, which Mr. Thompson had the opportunity to do and could have done before March 31, 2011. See id. at lines 15-19. So, as Ms. Springer explained, Mr. Thompson could have changed his point of diversion from the Tremonton well to another location and continued to use the water rights. See id. at 123; lines 4-7. Ms. Springer also testified the total cost of the well to the Company was in excess of \$96,000, not \$45,000 as Mr. Thompson indicated. See id. at 126; lines 2-6. Ms. Springer reiterated the position of the Division that "[t]he well that was sold to Tremonton City in exchange for \$190,000 was a corporate asset." Id. at lines 17-19. Ms. Springer accordingly urged that the Division's position is that the \$190,000 should be deposited back into the corporate account as proceeds from the sale of the well. See id. at line 23-25.

Based on the Division's investigation and testimony given, the Division recommends the funds in the amount of \$190,000 from the sale of the water well to Tremonton City be deposited and recorded as property of the Corporation.

Based on the testimony presented, the Commission concludes that the Well Agreement was for the well only and, accordingly, both the sale of the well and the proceeds therefor should be appropriately recorded and deposited into the Company's corporate bank account.

*II. Special Assessment*

On August 9, 2010, the Company issued a special assessment to each customer in the amount of \$970.00 due immediately with interest accruing after August 15, 2010 at a rate of 7% APR. The Company did not explain its position on this issue other than to say that it was willing to rescind the assessment fee as a term of settlement.<sup>24</sup>

The Commission did not authorize the special assessment. The Division's analysis recognizes that the sale of the water well provided enough income and equity to the Company, to render the special assessment unnecessary, unjust and unreasonable.<sup>25</sup> Accordingly, the Division recommends the Commission deny the special assessment and, for those customers who have already paid the assessment, a credit be issued in the amount of \$970 plus interest (if the Company accrued interest at 7% APR) to each customer's account where the charge is outstanding and issue a refund with interest of 3.5% APR (same as the IRS guideline for 2010-2011), to those customers who paid the \$970 assessment.

During the hearing, the Division explained that the Company issued the special assessment on April 2010 to repair a \$30,000 pump that broke down on the well the Company

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<sup>24</sup> See *id.* at 35; lines 11-15.

<sup>25</sup> See Division's Final Recommendation, dated November 14, 2011, at 7. The Division's analysis includes three equal payments of \$63,333 made to Mr. Thompson under the Water Well Agreement on or about December 31, 2009, July 31, 2010, and December 31, 2010.

sold to Tremonton City in March 2010.<sup>26</sup> As noted above, the proceeds from the sale of the well should have gone back into the Company to help cover repairs and so forth, instead of the Company taking out \$30,000 in loans.<sup>27</sup> Consequently, the Division finds the Company's actions unjust and unreasonable and not in the best interest of the ratepayers, and not in the best interest of the corporation.<sup>28</sup> Accordingly, the Division recommends the Commission order the Company to issue credits as outlined above.<sup>29</sup>

In light of the testimony provided and based on Commission's finding concerning the Tremonton well, the Commission finds the special assessment to be unjust and unreasonable, and not interest of the public. Therefore, the Commission finds that a credit shall be issued in the manner specified by the Division.

### *III. Original Cost of Meter Installation*

The Division recommends that meters be installed and that the original cost of meters and meter installation be borne by the Company. The meter replacement cost will be recovered in rates through the depreciation of the assets with a service life of 35 years, per Utah Admin. Code R746-332-1. Since a rate increase is dependent upon measuring water flow, and presently the system is unmetered, the Division recommends the Commission order the Company to install meters by March 31, 2012. The Division also emphasizes that meters will help identify where leaks may be occurring and provide customers with a fair measurement of

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<sup>26</sup> See Transcript of Hearing, dated November 22, 2011, at 132; lines 1-2.

<sup>27</sup> See *id.* at lines 3-8.

<sup>28</sup> See *id.* at lines 15-18.

<sup>29</sup> See *id.* at lines 18-22.

their use. The Division recommends that the cost of meters and installation be paid by the Company out of the \$190,000 from the sale of the well.<sup>30</sup>

The Division strongly suggests the meters be installed as soon as possible.

The Commission finds that the original cost of meters and meter installation shall be paid by company funds, including the proceeds of the sale of the well. As the Division notes, the meter replacement cost will be recovered in rates through the depreciation of the assets.

*IV. Legal Fees*

*a. Order to Show Cause*

The Division recommends disallowing the \$2,673 in legal fees paid by the Company in defending the order to show cause.

The Commission finds that the \$2,673 is a legitimate legal cost paid by the Company which should be borne by the ratepayers.

*b. CPCN Application*

The Division's audit also shows the Company paid \$2,226.50 in accounting and \$17,025 in legal fees for work related to the CPCN. The Division states that the accounting and legal fees are organization costs subject to a five-year amortization under IRS tax rules. The Division has adjusted for these expenses and has included \$500 for accounting fees and \$3,400 for legal fees in the rates to facilitate the amortization.

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<sup>30</sup> See *id.* at 130; lines 12-15. See also *id.* at 131; lines 9-13 ("The original cost of the meters would have been also recovered through the sale of the lots. Although [the Company] won't be able to do that now because, of course,

*V. Water Master Compensation*

The Division testified that a rate of \$75 per hour as proposed by Mr. Thompson is unjust and unreasonable.<sup>31</sup> The Division explained that water masters are not paid \$75 an hour in the state. The average rate for water masters in Utah, according to the Division, is \$25 an hour.<sup>32</sup> The Division further explained that it had reviewed municipal water master rates throughout the state, and the highest was \$30 per hour and the lowest was approximately \$15.00 an hour.<sup>33</sup>

The Company testified that after its accountant advised the Company to charge \$125.00 per hour for this service, the Company settled on \$75 an hour because it was more in line with what a repair service charges to come to a person's home to fix something.<sup>34</sup> The Company further testified that since the water master is basically on call 24/7, the Company felt that the \$75 an hour rate was fair in light of his duties.<sup>35</sup> The Company expressed that \$25 an hour is "just not enough," "[the Company] pay[s] employees more than that."<sup>36</sup>

The Commission recognizes Mr. Thompson and his many years of hard work put in to building a water company. Based on the uncontroverted testimony, the average rate for a water master is \$25 an hour. The Commission notes that while the evidence does not support adjusting the water master's hourly rate above the rate recommended by the Division, the Company and its corporate shareholders may wish to compensate Mr. Thompson for his

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it's after the fact. But the original cost should be bor[n]e out of the proceeds of the \$190,000."

<sup>31</sup> Transcript of Hearing, dated November 22, 2011, at 128; lines 8-9.

<sup>32</sup> See id. at line 12.

<sup>33</sup> See id. at 156; lines 10-15.

<sup>34</sup> Id. at 151; lines 6-16.

<sup>35</sup> Id. at 17-22.

dedication and many years of service. Based on the testimony presented, the Commission finds that the water master's service shall be recovered in rates at \$25 per hour.

*VI. Rates*

The following table presents the current tariff rates, those proposed by the Company, and the Division's recommendation:

<b>Description</b>	<b>Current Tariff</b>	<b>Requested by Cedar Ridge</b>	<b>Division Recommendation<sup>37</sup></b>
System Expense	\$0.00/month	\$114.99/month	\$50.00/month
First 12,000 gallons	\$45.00/month	\$0.00/month	\$7.00/month
Usage per 1,000 gallons over 12,000 gallons	\$0.00	\$0.00	\$.35 per 1,000 gallons over 12,000 gallons
Disconnection Fee/per incident	\$75.00	No change	No change
Reconnection Fee/per incident	\$75.00	No change	No change
Late Fee/per incident	\$5.00	No change	No change
Customer Initiated Pipe Repair Fee	N/A	N/A	\$25.00/hour labor plus actual cost of materials and equipment (if performed by Company) -or- Actual cost charged (if performed by a third-party)
Hook-up Fee	N/A	N/A	\$1,500

Based on the Division's recommendation, the Commission finds that the rates recommended by the Division are just and reasonable and in the public interest.

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<sup>36</sup> *Id.* at 153; lines 9-11.

<sup>37</sup> The Division is recommending that a "conservation rate" not be established until 12 months of metered water usage to each connection is obtained. See Division's Final Recommendation, dated November 14, 2011, at 1. The Division suggests that after this information has been obtained, the Company then request a conservation rate be

*VII. Capital Reserve Account*

The Division strongly encourages the Commission to order the Company to implement a capital reserve account. The Division explained that this approach has been followed in other rate cases so that infrastructure is protected and is replaced as appropriate.<sup>38</sup>

The Commission finds that establishing and maintaining a reasonable capital reserve account is just and reasonable and in the public interest.

PUBLIC INPUT

The Commission appreciates the thoughtfulness and participation by all who attended the meeting and hearings in this matter. Several individuals filed sworn statements in favor of the settlement proposed by the Company.<sup>39,40</sup> Several sworn statements were also filed in favor of the Division's recommendation. Others testified that something akin to compromise would be appropriate. In other words, input was divided.

The main issue on which customers commented was the \$190,000 from the sale of the well. Some customers thought Mr. Thompson should be entitled to it as a retirement annuity. Others were sympathetic to Mr. Thompson's financial needs while pointing out the legal and factual distinctions involved when a corporation (i.e., the Company), rather than an individual, sells an asset. These individuals felt the money should be returned to the Company. Others spoke in favor of a partial settlement arrangement whereby some portion of the \$190,000 would be returned to the Company.

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added to its tariff.

<sup>38</sup> See Transcript of Hearing, dated November 22, 2011, at 133; lines 8-13.

<sup>39</sup> The Commission is grateful to Ms. Jennifer Arbon who offered her notary services *gratis* to these individuals.

<sup>40</sup> The Commission was not a party to the settlement and, therefore, is not privy to the settlement terms proposed by

In addition to testifying about the \$190,000 from the sale of the well, customers and intervenors used the public hearing to gather information, better understand company expenses, discuss the importance of water conservation and fire suppression, and encourage more transparency in Company operations and records.

Lastly, and perhaps most importantly for many who attended, was a strong, heartfelt discussion about bringing peace and harmony back into the Cedar Ridge community. Again, the Commission appreciates the input provided and is sensitive to the issues presented here.

#### CONCLUSION

The substantial, credible, and competent evidence before the Commission shows that a rate increase is necessary to ensure the Company meets its costs and also has an opportunity to earn a reasonable rate of return. Given the testimony of the parties and intervenors, the Division's recommendation, as proposed, is just and reasonable. The rate increase presented in the Division's final recommendation, as supplemented, is in the public interest as it will allow the Company to continue to provide safe, adequate, and reliable service to its customers.

#### ORDER

In light of the foregoing testimony, Division recommendation, and comments, the Commission hereby ORDERS:

1. The Division's final recommendation, dated November 14, 2011, as amended on November 22, 2011, is hereby adopted by the Commission with the exception of the

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the Company.

legal fees incurred in defending the order to show cause. Any changes mandated by this order shall be reflected in the tariff sheets.

2. The Company shall record the sale of the water well to Tremonton City appropriately in its books and deposit the \$190,000 into the Company's corporate bank account. These transactions shall be completed within seven (7) calendar days of the date of this order, with confirmation to the Division thereafter.

3. The \$970 special assessment issued by the Corporation on August 9, 2010 is disallowed. The Corporation shall issue a credit in the amount of \$970 to each customer's account who did not pay the assessment charge and issue a refund with interest of 3.5% to those customers who paid the \$970 assessment.

4. The original cost of meters and meter installations shall be borne by the Company and funded by the proceeds of the sale of the well. The Commission directs the Company to install water meters as soon as possible and no later than March 31, 2011.

5. The Company's legal fees in defending the order to show cause shall be borne by the Company and recovered in rates from customers.

6. The following rates, except the usage per 1,000 gallons over 12,000 gallons are approved to go into effect January 1, 2012:

<b>Description</b>	<b>Rate</b>
System Expense	\$50.00/month
First 12,000 gallons	\$7.00/month
Usage per 1,000 gallons over 12,000 gallons	\$.35 per 1,000 gallons over 12,000 gallons
Disconnection Fee/per incident	No change

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Reconnection Fee/per incident	No change
Late Fee/per incident	No change
Customer Initiated Pipe Repair Fee	\$25.00/hour labor plus actual cost of materials and equipment (if performed by Company) -or- Actual cost charged (if performed by a third-party)
Hook-up Fee	\$1,500

The usage per 1,000 gallons over 12,000 gallons rate will go into effect April 1, 2012, if all meters are installed by March 31, 2012. If all meters are not installed by March 31, 2012, then the usage per 1,000 gallons over 12,000 rate will be suspended until all meters are installed.

The Company is directed to request a conservation rate be added to its tariff after 12 months of metered water usage has elapsed.

7. The water master's service shall be recovered in rates at \$25 per hour.

8. The Company shall use the proceeds of the well: i) to repay the legitimate corporate loans with interest of 3.5%, ii) to pay the original cost of meters and meter installation, and iii) to refund assessment fees paid by customers in the amount of \$13,210 with interest of 3.5%. The remaining balance of the \$190,000 shall be placed in a capital reserve account for use in repairing and maintaining the water system in good operating condition.

DATED at Salt Lake City, Utah this 16<sup>th</sup> day of December, 2011.

/s/Melanie A. Reif  
Administrative Law Judge

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Approved and confirmed this 16<sup>th</sup> day of December, 2011, 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  
D#212308

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16<sup>th</sup> day of December, 2011, a true and correct copy of the foregoing, was served upon the following as indicated below:

By Mail:

David Z. Thompson  
Cedar Ridge Distribution Company  
12435 North Hillcrest Dr.  
Deweyville, UT 84309

Lee Kapaloski  
Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111

Bryce and Lori Wiser  
12420 N. Edgewood Place  
Deweyville, UT 84309

Frances and Dee Doney  
3195 Crestview Avenue  
Deweyville, UT 84309

Devin and Camille King  
12417 N. Edgewood Place  
Deweyville, UT 84309

Dorothy and Eugene Hogan  
12495 N. Edgewood Pl.  
Deweyville, UT 84309

Doug and Dianne Adams  
3226 W. Cobblecrest Rd.  
Deweyville, UT 84309

Frank and Traci Walker  
3205 West Cobblecrest Rd.  
Deweyville, UT 84309

Keith and Barbara Anderson  
3275 West Cobblecrest  
Deweyville, UT 84309

By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, Utah 84111

Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, Utah 84111

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Administrative Assistant