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State of Utah
Department of Commerce
Division of Public Utilities

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Director, Division of Public Utilities

--==-- MEMORANDUM ==--

TO: PUBLIC SERVICE COMMISSION OF UTAH

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

DATE: June 18, 2013

SUBJECT: Hi-Country Estates Homeowners Association's Tariff No.1, Tariff No. 2 and Intent for a General Rate Case

RE: Docket No. 12-2195-01, 12-2195-T01 and 13-2195-T01

RECOMMENDATION: ACKNOWLEDGE TARIFF No.1, REJECT TARIFF No.2 AND ORDER A GENERAL RATE CASE

The Division of Public Utilities (Division) requests that the Utah Public Service Commission (Commission) acknowledge Tariff No. 1 as the current tariff for Hi-Country Estates Homeowners Association's (Company).

The Division requests that the Commission reject the Company's Tariff No. 2 by June 27, 2013.

The Division also recommends that the Commission direct the Company to file a general rate case by July 27, 2013, within 60 days of its advice letter 13-01 to address the Well Lease Agreement, other fees and language in Tariff No. 2.

ISSUES:

The Division would like to clarify the current issues outstanding for the Company. The issues include Tariff No.1 filing, Tariff No.2 filing and intent to file a general rate case. The Division offers the following background and explanation of the issues:

TARIFF No.1 Docket 12-2195-T01:

On July 12, 2012 the Commission revoked the Company's Letter of Exemption and reinstated Certificate of Public Convenience and Necessity No. 2737¹. This action established the Company as a regulated public utility under its jurisdiction.

On November 15, 2012, the Company submitted Tariff No.1 that was approved by their Board of Directors while the Company was exempt from the Commission's jurisdiction². Tariff No.1 represented the Company's current rate structure and rules prior to July 12, 2012. The Company was not able to provide a copy of the Board of Director minutes documenting the approval of Tariff No.1.

Commission rule R746-405-2 E (2) states, that "tariff sheets, unless otherwise authorized by the Commission, either on complaint or on its own motion, shall become effective after not less than 30 calendar days after the filed date." As has been the practice with other companies that are issued a new CPCN or reinstated CPCN, the Company's current rate schedules, charges and fees being charged at the time or being proposed are reviewed for reasonableness and filed as their initial tariff.³ The Company's Tariff No.1 was reviewed by the Division for reasonableness as a beginning point for a regulated water utility. Tariff No.1 contained the standard components of a tariff as established by Commission rules R746-200, R746-330 and R746-405. The tariff also contained additional rules established and approved by their Board of Directors prior to July 12, 2012. By default, Tariff No.1 became effective on December 15, 2012, 30 days after it was filed. The Division recommends the Commission acknowledge Tariff No.1 as the current tariff for the Company.

TARIFF No.2 – Docket 13-2195-T01:

On May 28, 2013 the Company filed Tariff No.2 which is requesting to entirely supersede Tariff No.1.⁴ To summarize the changes they include:

- 1) adding language to address the Well Lease and Water Line Extension Agreement of April 7, 1977 between Jesse Dansie and Gerald Bagley;
- 2) adding 18% interest to the customer late fee of \$10.00;
- 3) adding an Active Meter Replacement Fee at cost and language for the same;
- 4) adding a Nonstandard Service Connection Review Fee of \$10,000 and language for the same;
- 5) adding a Well Lease Rate Schedule and language for same;
- 6) deleting a Reconnection Fee of \$250 and language for the same;

¹ See *In the Matter of Hi-Country Estates Homeowners Association's Request for Reassessment of the Commission's Jurisdiction*, Docket 11-2195-01, Report and Order; July 12, 2012, p. 7.

² Hi-Country Advice Letter 12-2195-T01, filed November 15, 2012; Docket 12-2195-T01

³ See Utah Admin. Code R746-405-2(E) (2).

⁴ Hi-Country Advice Letter 13-01, filed May 28, 2013

- 7) adding language to use a second source for fire emergency response;
- 8) adding language to describe conditions of service for standard and non-standard service connections;
- 9) deleting language to require a 66% approval from current residents to add a potential customer outside the service area;
- 10) adding new reconnection language;
- 11) adding language to limit the water supply for fire suppression;
- 12) adding language to place a lien on property for delinquent accounts;
- 13) replacing the term “account holder” with the term “customer” along with other minor clarifying language which does not change the intent or meaning of the tariff rules.

In the Company’s advice letter 13-01 it requests Tariff No.2 become effective on June 27, 2013, 30 days after the file date, or earlier as appropriate.

Before tariff changes can be approved justification must be presented. Both Utah law⁵ and Commission rule⁶ states, “Utility tariffs may not increase rates, charges or conditions, change classifications which result in increases in rates and charges or make changes which result in lesser service or more restrictive conditions at the same rate or charge, unless a showing has been made before and a finding has been made by the Commission that the increases or changes are justified.”

To date, the Company has not filed a general rate case relating to the additions and deletions in Tariff No.2, or presented adequate justification for the changes summarized above.

GENERAL RATE CASE Docket 12-2195-01:

The Commission’s Report and Order⁷ stated “any issues pertaining to rates will be addressed in a separate proceeding, if and when the Company files for a rate change.” On October 23, 2012 the Company submitted a letter declaring their intent to file a general rate case⁸. In the advice letter filed on November 15, 2012 the Company planned to propose additional changes in its anticipated general rate case.⁹ On May 28, 2013 the Company stated in its advice letter that it “intends to file a general rate case in the near future and anticipates further updates and changes to the tariff as deemed necessary during the general rate case.”¹⁰ As mentioned above, the Company has filed notice of its intent to file a general rate case in three separate dockets, namely docket 12-2195-01, 12-2195-T01 and 13-2195-T01. The Company has not filed a general rate case as of this date. Although the notification is non-binding, it is in the public’s interest for the Company to file a general rate case and address the Well Lease Agreement within 60 days.

⁵ See Utah Code Title 54-7-12(6).

⁶ See Utah Admin. Code R746-405-2, E (1)

⁷ See *In the Matter of Hi-Country Estates Homeowners Association’s Request for Reassessment of the Commission’s Jurisdiction*, Docket 11-2195-01, Report and Order; July 12, 2012, at item 4, p. 8.

⁸ Hi-Country Letter dated June 18, 2012, filed October 23, 2012; Docket 12-2195-01.

⁹ Hi-Country Advice Letter 12-2195-T01, filed November 15, 2012; Docket 12-2195-T01

¹⁰ Hi-Country Advice Letter 13-01, filed May 28, 2013

CONCLUSION:

The Division requests that the Commission acknowledge Tariff No.1 as the current tariff for the Company. This will clarify for customers and the Company which tariff is the current tariff.

The Division recommends the Commission reject the Tariff No.2 filing by June 27, 2013, because a general rate case or adequate justification for the changes has not been filed, presented, or approved by the Commission.

The Division recommends that the Commission direct the Company to file a general rate case within 60 days of its advice letter 13-01 to address the Well Lease Agreement and other fees. This will assist the Commission in determining if it is in the public interest to approve the tariff.

cc: Noel Williams, President, Hi-Country Estates HOA
Randy Crane, Hi-Country Estates HOA Water Board Chairman
J. Craig Smith, Smith Hartvigsen, PLLC
Patricia Schmid, Attorney General's Office
Service List of Dockets 12-2195-01, 12-2195-T01 and 13-2195-T01