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Division of Public Utilities

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--==-- 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: May 30, 2014

SUBJECT: Hi-Country Estates Homeowners Association's Tariff No. 2

RE: Docket No. 14-2195-T01

RECOMMENDATION: REJECT TARIFF #2

The Division of Public Utilities (Division) requests that the Utah Public Service Commission (Commission) reject Hi-Country Estates Homeowners Association's (Company) Tariff No. 2 as filed. The Company added language to the tariff that was not approved by the Commission. The tariff also requires additional correction to comply with the Commission's Report and Order.

EXPLANATION:

On May 15, 2014 the Company filed a revised tariff to comply with the Report and Order issued by the Commission on May 5, 2014 in Docket No. 13-2195-02. The Division has reviewed Tariff #2 and reports the following language additions and needed corrections:

LANGUAGE ADDITIONS

1. On page 3, section B. *Service Rate Schedule*, 1. Applicability the following language was added.

“All water supplied by the Company shall be supplied pursuant to the applicable rate in this section or, if applicable, pursuant to the terms or a special contract between the Company and a particular customer. The Company will not supply any water at any time to any person without a valid promise from such person to pay the Company for the water supplied, regardless of promises or contracts made by the Company, its owners, or its agents prior to the effective date of this tariff.”

The Division recommends the Commission have the Company remove the language from the tariff because it has not been approved by the Commission.

2. On page 6, section 4, (b) the language was modified to address contamination of the water system only where previously it addressed contamination and *fire suppression surcharge to all active customers of the water system*. Fire suppression was removed. On page 6, section 4, (c) the following language was added: *“If the connection is required due to emergency response to fight a fire, then the additional cost from the second source shall be divided among all customers, both active and standby. The surcharge will be calculated as the total additional costs from the second source divided by the total number of active and standby connections.”*

The Division recommends the Commission have the Company restore the original language of the tariff as the additional language was not approved by the Commission.

3. On Page 7, section B, (16) *Active Meter Replacement Fee* definition and (17) *Outside Service Connection Review Deposit* definition were added. The Division agrees with the Active Meter Replacement Fee definition as discussed in the Report and Order. The Company addresses the increase in costs of the review to the customer but did not include a partial refund to the customer if less under section C (3).

The Division recommends that the Commission have the Company further clarify that the Outside Service Connection Review Deposit under the definition, that the fee will be subject to a “true-up” process which could allow for additional funds from the customer if costs are greater than the deposit of \$10,000 AND the process could allow for a partial refund of the deposit, if the costs are less.

4. On page 12, section B(13 a) Regulated Usage, the following language was added : *“..., including connections of those customers receiving water under the Well Lease,”*

The Division recommends the Commission have the Company remove the language from the tariff as the Well Lease is void per the Report and Order.

5. On page 13, section B(17) Fire Protection, the Company added the following language: *“The Company shall supply water for fire protection to only those customers within the Company’s service area and to other customers under special contract with the Company to supply water for fire protection.”*

The Division recommends the Commission approve the additional language for clarification purposes.

6. On page 14, section D, Billing (e) the following language was added:

“As an additional means for collecting delinquent accounts, the Company may file a lien on the parcel of property serviced in the amount of the delinquency plus interest and collection costs.”

The Division recommends the Commission approve the language. This is an allowed and encouraged practice to recover delinquent amounts from the current customer of the property.

7. On page 21, the Company added section K, the Service Area Legal Description which is the same description as issued in the Commission’s Report and Order, Docket No. 85-2010-01 which is in compliance.

CORRECTIONS:

8. On page 18, section G, Changes and Amendments, the tariff language reads :

“The right is reserved to amend or add to these rules and regulations as experience may show it to be necessary and as such amendments or additions are approved by the Company.”

This language was used in the tariff when the Company was operating under the Letter of Exemption issued by the Commission. Since the Commission revoked the Letter of Exemption, the Division recommends the Commission have the Company correct the language to state **“Amendments, deletions and additions to these rules and regulations are proposed by the Company Board of Directors and approved by the Public Service Commission.”**

9. On page 4 of the New Rate Schedule *“Second Source Backup Water from Herriman for fire protection or domestic use”* should be **“Emergency Backup Water Rate”** as identified in the Approved Rate Schedule of the Commission’s Report and Order.

The Division recommends the Commission have the Company correct the Rate Schedule as noted.

10. On page 4 of the New Rate Schedule *“Returned Check Fee”* should be **“Insufficient Funds Fee”** as identified in the Approved Rate Schedule of the Commission’s Report and Order.

The Division recommends the Commission have the Company correct the Rate Schedule as noted.

11. On page 5 of the BLM Rate Schedule “*Returned Check Fee*” should be “**Insufficient Funds Fee**” as identified in the Approved Rate Schedule of the Commission’s Report and Order.

The Division recommends the Commission have the Company correct the Rate Schedule as noted.

12. On page 5, section 4 “*Second Source*” should be identified as **Emergency Backup Water** to correspond with the Emergency Backup Water Rate as identified in the Approved Rate Schedule of the Commission’s Report and Order.

The Division recommends the Commission have the Company correct the definition title as noted.

RATES AND FEES:

All rates and fees listed on page 4, section 2 Residential Rates Schedule and page 5, section 3, BLM Rate Schedule are in accordance, except as noted above, with the Commission’s Report and Order of May 5, 2014 in Docket 13-2195-02.

RESERVE FUND:

The tariff does not include language regarding the reserve fund as addressed in the Division’s recommendation. The approved rates fund the capital reserve fund. The Division recommends the Commission approve the following language to be added to the tariff for clarification purposes of capital reserve fund:

1. ***Capital Reserve Accounting Requirements.*** *A Capital Reserve Account, targeted to equal the annual depreciation expense, annual amortization of the contribution in aid of construction of the Company’s water system assets and equipment, and the amount above the cost of service (i.e., \$.54 per 1,000 gallons) for water consumption rates, shall be established, subject to the following:*
 - a. *Capital reserve fees generated from rates shall be deposited into the Capital Reserve Account, which shall be a restricted account such as a separate escrow account, within thirty (30) days from receipt of payments.*
 - b. *Withdrawals from the Capital Reserve Account shall be made for capital replacements and improvements only.*
 - c. *In accordance with Utah Administrative Rule R746-401-3A, expenditures in excess of five (5) percent of total Utility Plant in Service shall require the Company to file a report with the Commission, at least thirty (30) days before the purchase or acquisition of the asset or project, and to obtain written Commission approval before transacting such acquisitions.*
 - d. *Upon submission of the Annual Report to the Public Service Commission, the Company shall also provide a separate accounting of the Capital Reserve Account consisting of monthly bank statements encompassing the entire calendar year showing a series of*

deposits made within thirty (30) days from the receipt of rate payments for each billing cycle and withdrawals that meet requirements a, b and c above. Such detailed accounting, including copies of bank statements and possible other sensitive information, shall be marked as “confidential.”

- e. The balance in the Capital Reserve Account shall be clearly identifiable in the financial statements as a restricted account.*
- f. In identifying a qualifying expenditure for replacement or improvements that may be made from the Capital Reserve Account, the Company shall consider the following guidelines:*
 - i. Capital improvements are typically high cost items with long service lives, including, but not limited to, the distribution pipe main lines, storage reservoirs, wells, and surface water intakes. Expenditures that qualify as capital expenditures are those that extend the life of an asset, enhance its original value with better quality materials or system upgrades, or replace such assets.*
 - ii. Capital improvements do not include minor expenses such as repair clamps, inventory parts and fittings, spare pieces of pipe kept to facilitate repairs, small tools, maintenance supplies such as paint or grease, service contracts, and other day-to-day supplies. Expenses for these items are properly classified as “operating and maintenance” expenses.*
 - iii. Additionally, it is not appropriate to use Capital Reserve Account funds received from existing Customers for system expansion, that is, to extend main lines to serve new areas or new Customers or to install new services. Funds for the expansion of the system should come from new development, impact fees, connection fees, assessments or other sources so that those benefiting from the improvement contribute the funds for its construction.*
- g. In the event any payment from a Customer is a partial payment of any given billed invoice by the Company, that payment shall be used first to cover the fixed and variable expenses, and then to cover the Capital Reserve Fee. A reconciliation, clearly indicating the circumstances surrounding those instances when the Capital Reserve Account was not fully funded, shall be provided by the Company with the detailed ‘annual accounting’ of the Capital Reserve Account.*
- h. Interest accruing on funds held in the Capital Reserve Account shall become a part of the Capital Reserve Account and can only be used in accordance with this section (a. through h).*

CONCLUSION:

The Division recommends the Commission reject the Tariff #2 filing of May 15, 2014, because modifications have not been approved and corrections as noted above are required to comply with the Report and Order of May 5, 2014.

The Division recommends that the Commission direct the Company to file a revised tariff as discussed within 30 days.

cc: Adam S. Long, Smith Hartvigsen
J. Craig Smith, Smith Hartvigsen
Patricia Schmid, Attorney General's Office