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State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI CHRIS PARKER
Executive Director *Director, Division of Public Utilities*

REDACTED

Memorandum

To: Utah Public Service Commission
From: Utah Division of Public Utilities
Chris Parker, Director
William Duncan, Manager
Shauna Benvegnu-Springer, Utility Technical Consultant
Date: May 30, 2019
Re: Investigation of South Duchesne Culinary Water, Inc., Compliance with Applicable Administrative Rules and Tariff, Docket No. 18-2372-01

The Division of Public Utilities (“the Division”) provides an update of its investigation of South Duchesne Culinary Water, Inc. (“the Utility”), reporting on the last six months progress of the Utility. The Division reports six (6) violations and makes recommendations.

Issue

The Division of Public Utilities identifies six (6) violations needing correction. They include:

- charging a unapproved fee not on the tariff;
- a very large amount of delinquent accounts not collected;
- meter readings and logs not read each month;
- late charge calculation done incorrectly;
- Developer and Owner fees not charged or paid; and
- water purity standards not met with the Division of Drinking Water.

Background

On December 4, 2018, the Public Service Commission of Utah (the “Commission”) held a scheduling conference for an investigation of South Duchesne Culinary Water, Inc.’s (the “Utility”) compliance with administrative rules and the Utility’s tariff. This was a result of the formal complaints of Tanya and Nick Olsen (Dockets No. 17-2371-01) and Shane Houskeeper (Docket No. 17-2372-02) against the Utility. The Utah Division of Public Utilities (the “Division”) has completed a follow-up compliance review of the Utility as ordered by the Commission.

The Utility received a Certificate of Public Convenience and Necessity (“the CPCN”) Number 2372 on December 18, 2001. The CPCN entitles the Utility to operate as a water corporation serving a subdivision known as Utah Mini Ranches, Phases 1 through 5, located southeast of Duchesne City. Initially, the Utility was approved for 75 connections.

The current tariff was approved on August 14, 2003 and effective August 15, 2003. The approved water service rate schedule is the following:

First 10,000 gallons	\$40.00 minimum charge for each service connection per month
All other usage	\$2.00 per 1,000 gallons per month

The maximum monthly water usage per hook-up is 12,000 gallons of culinary water and restricts the use of this water for irrigation purposes.

Premises temporarily without a meter will be charged the minimum rate.

¾” service to property line is one-time charge for each service requiring a new meter installation	\$3,500.00
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Turn-on service where meter is already in place	\$100.00
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Standby Service Charge	\$15.00 per month
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The Utility filed a request for an expansion of the connections from 75 to 804 on June 14, 2008. The City of Duchesne’s main water line, from which the Utility purchases water, could accommodate only 298 connections. The Commission issued an order on September 14, 2008

allowing 298 connections. The Commission provided a condition for a total of 804 connections. The Utility needed to certify that the water system resources with the City of Duchesne were improved to a 12" main to provide 450 gallons per minute.

In October 27, 2018 the developer, Duchesne Land, LLC ("the Developer"), and Joan Steed ("the Owner"), held an auction to sell 125 improved lots. On December 1, 2018 the sale of the lots closed. The Owner retained 15 lots.

The 2016, 2017, and 2018 Annual Reports for the Utility reported 167 customers and no standby customers.

The purpose of this Commission ordered compliance review was to investigate whether the Utility had resolved the problems identified in the Division's Memorandum of October 30, 2018. The Commission asked the Division to provide detail and specificity regardless of whether the problems have been subsequently resolved. This is the second Division Compliance Review for the Utility since the Commission's order of February 13, 2018. The previous compliance review for the Utility was conducted on February 14, 2014.

Discussion

The scope of the compliance review included reviewing monthly billing records, late charges/finance charges, standby charges, meter reading logs, annual reports, QuickBooks software records and Division of Drinking Water ("the DDW") records and reports. Data requests, a site tour and discussions with Jeff Schnars (Utility Water Operations Manager), Kriss Kofford (Utility bookkeeper), Scott Livingston (Accountant for Utility) and David J Crapo (Attorney for Utility) were performed during the review. The records for the period of December 1, 2018 through March 1, 2019 were scrutinized. The Division performed the following compliance review procedures for the Utility:

Monthly Billing:

- Reviewed accounts receivable subsidiary account history
- Reviewed all charges to accounts.

- Reviewed customer totals and trends of customer activity.

Late Charges/Finance Charges

- Reviewed calculation of finance charges to customer accounts

Standby Charge:

- Reviewed accounts receivable history of standby charges.

Meter Readings:

- Reviewed meter reading logs
- Toured site of metering activity
- Compared billing records with meter reading logs.

Annual Report

- Reviewed annual reports for 2016, 2017, and 2018.
- Compared report information.

QuickBooks

- Reviewed electronic accounts receivable account history customer account histories using QuickBooks software.
- Observed staff using QuickBooks to provide information on site.

Steed & Duchesne Land Property Charges

- Reviewed specific accounts receivable account history of Steed, Schnar and Duchesne Land.
- Reviewed charges of individual accounts.

Division of Drinking Water Reports

- Reviewed Administration Order April 22, 2019
- Reviewed System Evaluation Report

TABLE 1
Summary of Customer Billing for South Duchesne Culinary Water

DECEMBER

	Qty	Description	Qty	Charges	Payments
12/1/2018	723	customers had a beginning balance		\$ 159,630.56	
12/1/2018	443	customers were charged for standby fee	\$ 15.00	\$ 6,645.00	
12/1/2018	149	customers were charged for water	\$ 40.00	\$ 5,960.00	
	593	NUMBER OF INVOICES		\$ 12,660.00	
12/1/2018	90	customers were charged a connection fee	\$ 100.00	\$ 9,000.00	
12/26/2018	231	customers were charged a finance charge	various	\$ 1,715.38	
VARIOUS	416	payments were received	various		\$ 18,354.02
		TOTAL:		\$ 164,651.92	

JANUARY

1/1/2019	459	customers were charged for standby fee	\$ 15.00	\$ 6,885.00	
1/1/2019	149	customers were charged for water	\$ 40.00	\$ 5,960.00	
	609	NUMBER OF INVOICES		\$ 12,900.00	
1/1/2019	2	customers were charged a connection fee	\$ 100.00	\$ 200.00	
1/23/2019	233	customers were charged a finance charge	various	\$ 1,819.99	
VARIOUS	293	payments were received	various		\$ 14,972.98
		TOTAL:		\$ 164,598.93	

FEBRUARY

2/1/2019	471	customers were charged for standby fee	\$ 15.00	\$ 7,065.00	
2/1/2019	147	customers were charged for water	\$ 40.00	\$ 5,880.00	
	619	NUMBER OF INVOICES		\$ 13,000.00	
2/1/2019	3	customers were charged a connection fee	\$ 100.00	\$ 300.00	
2/24/2019	280	customers were charged a finance charge	various	\$ 1,619.94	
VARIOUS	295	payments were received	various		\$ 11,304.43
		TOTAL:		\$ 168,214.44	

MARCH

3/1/2019	465	customers were charged for standby fee	\$ 15.00	\$ 6,975.00	
3/1/2019	149	customers were charged for water	\$ 40.00	\$ 5,960.00	
	615	NUMBER OF INVOICES		\$ 12,990.00	
3/1/2019	1	customers were charged a connection fee	\$ 100.00	\$ 100.00	
	0	no finance charges were posted	various	\$ -	
VARIOUS	0	no payments were received	various		\$ -
		ENDING TOTAL:		\$ 181,304.44	

Monthly Billing:

Table 1, Summary of Customer Billing for South Duchesne Culinary Water demonstrates how many customers were billed standby fees, a water fee, connection fees, finance charges, and a \$55 unapproved fee. Three things are evident: 1) a monthly \$55 charge (highlighted in yellow); 2) the number of customers charged finance charges (highlighted in red); and 3) the total amount of accounts receivable at the end of each month (highlighted in green).

Violation #1 – Unapproved Fee

The customer for [REDACTED] and Lot [REDACTED] is being charged a \$55 per month for the past four months. There is not a \$55 fee in the tariff. The lots belong [REDACTED] who requested one bill for the two lots. Hence the water fee and the standby fee were combined to bill one charge instead of itemizing the charges. The Utility believes this was done while Gomez Accounting was preparing the billing and accounting.

RECOMMENDATION:

The \$55 fee should be corrected to reflect the water charge for Lot [REDACTED] and standby fee for Lot [REDACTED] on one bill instead of the rate combined. Other customers who own several lots are charged separately rather than a combined fee. Otherwise, the tariff should be amended to reflect the practice.

Violation #2 – Delinquent Accounts

The Commission’s rule R746-200-7 provides instruction on how to treat delinquent accounts. Nearly 45% of the accounts as of February 28, 2019 were delinquent were overdue 90 days. The outstanding balance represents more than a year worth of revenue. The Utility’s billing postcard, sent to all customer’s, provides:

- a past due balance;
- contact information for questions about the bill; and

- assesses a finance charge on their past due balance.

Many of the delinquent accounts are for standby fees. Previous owners also had past due balances that were not collected or paid. The Utility is pursuing a contract with a collection agency to either collect or write off the amounts that are not collectable. Retaining the delinquent accounts in the accounts receivable overstates the amount of funds due to the Utility and threatens the Utility's cash flow.

RECOMMENDATION:

The Utility must apply consistent collection and termination practices to include negotiations, write off for uncollectable accounts, and contracting with a collection agency.

Standby Charges:

Beginning in 2003, the Utility was authorized to charge a standby fee of \$15.00 to the property owner of any lot with a water main available to the property, even if the lot was not connected to the water system. The Utility chose to not charge or collect the standby fee for a time.

Beginning July 1, 2012 the Utility notified customers that the Utility was going to begin charging the standby fee in order to maintain and improve the water system. As of January 1, 2019 all lots without water service but with water access were charged a standby fee, including the Duchesne Land lots and the lots Joan Steed retained. Under the subheading "Steed & Duchesne Land Property Charges" standby charges prior to January 1, 2019 will be discussed.

Meter Readings:

The water meters were read on December 12, 2018 and April 10, 2019. The meters were not read in January 2019, February 2019, and March 2019 due to heavy snow covering meters.

Based upon the meter logs, two lots [REDACTED] exceeded 40,000 gallons of water for four months. Both customers were billed the additional usage. It was noted that 32 meters were not read because of damage or lack of access to the meter. Damages and lack of access included "meter dials were broken, earth movement buried the meters, broken pipes to the

meters, and broken meter glass.” The Utility will repair the damaged meters in the spring and summer or replace the meters with transponder equipped meters. Of the 149 water customers charged for water, 52 customers are yearly residents, and 92 customers are recreational, seasonal residents. The Utility is researching transponder equipment to allow for automated meter readings.

Violation #3 – Meter Readings

Because only 12,000 gallons are allowed per customer per month, it is important to monitor the meters each month for additional usage and overuse. The City of Duchesne’s contract with the Utility and the approval from the Division of Drinking Water restricts the water use to 12,000 gallons per month per customer. Water is not available for irrigation or fire suppression. The tariff reads:

“All meters shall be read by the Utility monthly and charges shall be based upon meter readings...”

RECOMMENDATION:

Because the meter logs demonstrate that readings cannot be read in the winter. Therefore, the tariff should be amended to accommodate inclement weather. The tariff amendment should contain language identifying how bills are to be estimated and rendered when meters cannot be read.

Late Charges/Finance Charges:

Utility’s tariff, section 13, page 6 addresses billing and payments:

“Bills covering the charges will be rendered monthly and shall be due 20 days after being rendered. After 30 days a late charge of 1.5% of the past due balance will be assessed. Late charges will be assessed at 18% per annum on all past due amounts until the account is brought current.”

Following the Oct 30, 2018 Division report, the Utility responded that the late charge is calculated by multiplying the unpaid balance by 18%, dividing by 365 days, and multiplying by the number of days past due. The Utility provided two examples as follows:

UTILITY EXAMPLES

Past Due Amount	\$15.00
Interest Rate	18%
Yearly Interest on Past Due Amount	\$2.70
Number of Days in Year	365 days
Per Diem Interest on Past Due Amount	\$0.007397
Number of Days between Jan. 20 & Feb. 26	36
Interest Charge	\$0.27

Past Due Amount	\$40.00
Interest Rate	18%
Yearly Interest on Past Due Amount	\$7.20
Number of Days in Year	365 days
Per Diem Interest on Past Due Amount	\$0.019726
Number of Days between Jan 20 & Feb 26	36
Interest Charge	\$0.71

TABLE 2

	Current Calculation	Correct Calculation
Past due amount (excluding finance charges)	\$ 894.50	\$ 894.50
Accured interest charges	0	\$ 847.97
Total Past Due Amount	\$ 894.50	\$ 1,742.47
Interest Rate	18%	18%
Yearly Interest on Past Due Amount	\$ 161.01	\$ 313.64
Number of Days in the Year	365	365
Per Diem Interest on Past Due Amount	\$ 0.44	\$ 0.86
Number of Days past due	36	36
Interest Charge	\$ 15.88	\$ 30.93

Violation #4 – Incorrect Late Charges

When several months of past due balances have accrued with interest, the late charge does not calculate properly with the calculation the Utility uses. As illustrated in Table 2, the past due amount of \$1,742.47 for this customer was the amount that the Utility should have used. Instead, the Utility used \$894.50 that did not include accrued interest to calculate the interest charge. The Utility should use ALL past due amounts including accrued interest to calculate the proper late charge/finance charge for customers. The Utility reviewed the table in QuickBooks and saw that accumulated interest was not part of the calculation. The table was updated to correctly calculate the appropriate late charge for the May 26, 2019 late charge processing.

RECOMMENDATION:

The billing process with the current late charge calculation has not been reviewed. The Division recommends further review of the late charges on the billed accounts for the next several months.

Annual Reports:

The Commission’s rule R746-400-4 B (1) states:

“The Division shall design report forms that clearly state the due date for the report and shall provide, as needed, directions, definitions and other information that will assist a reporting entity in completing a report form.”

Annual Reports to the Commission are due March 31 of each year. The Utility filed its 2017 Annual Report on November 18, 2018. The Utility filed its 2018 Annual Report on May 7, 2019. The Utility requested an extension of time for the 2018 Annual Report until May 31, 2019 which was granted. The Utility appears to have corrected problems regarding the filing of the annual report and is now in compliance. The Division finds no significant violations concerning the report.

QuickBooks:

On April 29, 2019 the Division conducted a site visit to gather additional information from the accounting records. Utility personnel provided facts and access to information in the QuickBooks software used for billing the customers. Both staff were knowledgeable regarding the software, very cooperative, and provided the information needed to determine interest calculations and customer account histories. The Division makes no significant violations concerning the Utility's use of QuickBooks.

Steed & Duchesne Land Property Charges:

Prior to January 1, 2019, 125 lots were owned by the developer, Duchesne Land, LLC, and were not charged a monthly standby fee. Nor was water usage charged for the cabin owned by the Steeds [REDACTED]. The Utility stated in an email dated November 21, 2018:

“The Developer owned lots were not separately billed for standby fees or water use at the Steed cabin. However, the Developer did pay amounts much greater than these fees for the benefit of the Utility. Unsold lots owned by the Developer were not assessed the monthly standby fees of the Utility, inasmuch as the Developer incurred all the capital construction costs for the water system and subsidized the monthly operations of the Utility for many years until a sufficient number of lots were sold that could begin to generate revenues to assist in the monthly operation costs.”

The tariff clearly states:

“the standby service charge applies to lots where service mains are in place and where water service is available, but no water service has been connected and no water service is used; of [sic] where water service has been disconnected by the Utility at the request of the customer or involuntarily by the Utility after proper notice to the customer. ”

The tariff states water service rates are:

“Applicable in entire service area to water service for culinary purpose at one point of delivery. Rates as herein set forth shall apply to each consumer unit. A consumer unit is defined as a single dwelling, or any store, service station, cafe, factory, shop, processing plant...”

The Commission’s rule R746-330-6 states “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 system.”

Violation #5 – Past Developer and Owner Charges

Standby fees were not charged or paid by the Developer and Owner of 110 lots that had water service but were not connected to the system, yet all other customers in the same situation were charged standby fees. The amount owed to the Utility from July 1, 2012 to December 1, 2018 is \$128,700.00 ($\$15 \times 12 \text{ months} \times 6.5 \text{ years} \times 110 \text{ lots}$) for standby fees not billed or paid.

Water charges for the Steed cabin were not charged nor paid. The meter log notes that UMR Lot 14 used 5,763,590 gallons of water. If spread over 15.25 years (August 15, 2003 to December 15, 2018) the minimum amount would be \$7,320 ($\$40 \times 12 \times 15.25 \text{ years}$). The maximum would be \$ 7,320 for the first 10,000 gallons each month and \$7,801.18 for the excess water usage totaling \$15,121.18.

RECOMMENDATION: The amount owed to the Utility from the Developer is \$128,700.00 for standby fees. The amount owed to the Utility from the Steed cabin UMR 14 is \$15,121.18 for water service. The Division did not calculate the late charges that would have accrued on these accounts. The Division recommends the Commission order the Utility to pay the amount owed.

Water Purity Standards:

The Commission’s rule R746-330-2 states “Water furnished by utilities for culinary purposes shall be agreeable to sight and smell and be free from disease-producing organisms and injurious chemical or physical substances. The standards to be applied in meeting these criteria shall be those of the Board.” “Board” means the Utah Drinking Water Board.

On May 16, 2019 the Division received an Administrative Order “Not Approved” Determination for the Utility from the Division of Drinking Water. The water system was downgraded on April 22, 2019 to “Not Approved” because of two violations. On January 8, 2019 the Utility did not provide public notice to all customers of a dewatering event. The Utility failed to meet the terms, conditions and deadlines agreed upon in the Utility’s April 2013 Corrective Action Plan (“the CAP”). The CAP’s significant violation related to not providing a minimum of 20 PSI within its system.

The Utility stated it provided notice on the evening of the January 9, 2019 incident to the yearly residents by phone, personally, and by hand-delivered notices. The Utility also provided bottled water to those who needed water during the night and after.

The Utility stated the CAP was developed with Mr. Steed prior to his death. Frank Steed died on June 14, 2014. Utility personnel are working with Jones and DeMille Engineering to resolve the PSI violation. The Utility provided public notice to customers regarding the “Not Approved” status of the water system and said it is current on all of their notices and CAP issues.

Maintaining water pressure within the distribution system is vital to prevent cross-connection events, contamination, water stagnation, and ensure public health. Please refer to Exhibits I and II for the Division of Drinking Waters reports.

Violation #6 – Water Purity Standard

The Utility failed to provide written notice to all the customers when a major break in the water system drained a storage tank and water in a large portion of the system. The Utility failed to meet the conditions of the Division of Drinking Water’s CAP to correct the low pressure to all connections dated April 23, 2013. The Utility violated the Commission rule for a period of time.

RECOMMENDATION:

The Division recommends the Utility correct the violations within the next 30 days. The Division also recommends a penalty should be imposed for each day of violation.

Conclusion

The Division found six (6) violations. They require:

- correcting a customer's account;
- amending the tariff;
- using improved collection practices;
- verifying the late charge/finance charge calculation is correct;
- charging all customers' appropriate standby and water charges including having the Developer and Owner billed and pay fees; and
- correcting the violations outlined by the Division of Drinking Water.

The Division also recommends penalties for each day a violation had been committed, as appropriate.

cc: Joan Steed, Owner, Duchesne Land LLC and South Duchesne Culinary Water
Jeff Schnar, Water Operations Manager, South Duchesne Culinary Water
Patricia Schmid, Utah Assistant Attorney General
David J Crapo, CRAPO | DEEDS PLLC, Attorney for Utility