



State of Utah
Department of Commerce
Division of Public Utilities

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Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Artie Powell, Director

Brenda Salter, Utility Technical Consultant Supervisor

Shauna Benvegna-Springer, Utility Technical Consultant

Gary Smith, Utility Technical Consultant

Bhavana Venjimuri, Utility Analyst

Date: June 29, 2020

Re: **Docket No. 20-2372-01**, Request of South Duchesne Culinary Water, Inc. to Cancel its Certificate of Public Convenience and Necessity

Recommendation: Cancel Certificate

The Division of Public Utilities (“Division”) recommends the Public Service Commission (“Commission”) cancel South Duchesne Culinary Water, Inc.’s (“Company”) Certificate of Public Convenience and Necessity (“CPCN”) No. 2372. The Division recommends the Commission dismiss the suspended penalty of \$14,175¹ and its order that the Company file a general rate case² issued in Docket No. 18-2372-01. The new ownership structure of the Company only provides services to its members, and does not serve the public generally,

¹ Public Service Commission Docket No. 18-2372-01, Investigation of South Duchesne Culinary Water, Inc.’s Compliance with Applicable Administrative Rules and Tariff, Order, September 4, 2019, page 2, paragraph 1.

² Public Service Commission Docket No. 18-2372-01, Investigation of South Duchesne Culinary Water, Inc.’s Compliance with Applicable Administrative Rules and Tariff, Order to File a General Rate Case, February 20, 2020, Page 9, paragraph 3.

therefore, the Division recommends the Commission issue a Letter of Exemption to the Company.

Issue

On May 29, 2020, the Company filed a letter with the Commission explaining it had retained new counsel and the Company was now owned by Utah Mini Ranches Homeowners Association and Duchesne Mini Ranches Homeowners Association (together “HOA’s”). The HOA’s requested the Commission cancel the Company’s CPCN. The Commission issued an Action Request to the Division on May 29, 2020.

Background

The Division of Public Utilities (“DPU”) has had discussions with Kriss Kofford, President of Duchesne Mini Ranches Homeowners Association (“DMR”), Tyler Haveard, President of Utah Mini Ranches Homeowners Association (“UMR”), and Adam Long, attorney at Smith Hartvigsen and gathered the following.

On March 14, 2020, members from both HOAs and Joan Steed (“Developer”) with her attorney, Mr. David Crapo, held a meeting to discuss the transfer of ownership of the Company to the HOAs. A “Buy and Sell Agreement” was executed by the Developer and the HOA’s on March 14, 2020. As part of the agreement, the HOAs released all claims against the Developer (and related entities) and the Developer (and related entities) released all claims and interest that it may have against the Company. These releases served to cancel any amounts owed by the Developer for unpaid water and standby fees, and any loans or other debts owed by the Company to the Developer. The agreements between the parties effectively sever all ties between the Company and the Developer and leave the Developer in the same position as any other property owner within the HOAs. The acquisition of the Company was approved by the respective boards of each HOA. On March 19, 2020, a new Board of Directors was appointed for the Company by the HOA’s.

On June 12, 2020, the Division received the Annual Report for the period ending December 31, 2019, for the Company.

On June 25, 2020, the Division received additional information from the HOAs. The DMR corporate entity expired as of August 27, 2019. The DMR filed the appropriate forms with the Division of Corporations on May 29, 2020, to reinstate the entity. UMR is as a non-profit entity registered with the Division of Corporations.

Previously, the South Duchesne Culinary Water was a for-profit corporation. The Company's reorganization to a non-profit status was approved by the unanimous consent of all Company shareholders (HOAs) on March 19, 2020. The Company will file the appropriate paperwork with the Division of Corporations once the CPCN is canceled. The transfer of ownership has not, and is not, expected to negatively impact the culinary water service to the Company's water users (HOAs members). The Company is working with the Division of Drinking Water to correct issues relating to the Company's water system. The Company has not made any significant changes to rates or policies.

Discussion

The Company is now only serving its members and not the public generally. Since ownership has transferred to the members that are being served, the Company can self-regulate as it has agreed to do. With the debt reported on the Annual Report removed, and the management of the Company changed, the financial stability of the Company is expected to improve.

Conclusion

The Division recommends the Commission cancel the Company's CPCN No. 2372. The Division recommends the Commission dismiss the suspended penalty of \$14,175 and withdrawing the order to file a general rate case. The Division recommends the Commission issue a Letter of Exemption to the Company.

cc: Kriss Kofford, President, DMR HOA
Tyler Haveard, President, UMR HOA
Adam Long, Attorney at Smith Hartvigsen
Patricia Schmid, Assistant Attorney General