

Before the Public Service Commission of Utah

IN THE MATTER OF THE APPLICATION OF LEGACY SWEETWATER, INC. FOR APPROVAL OF A GENERAL RATE INCREASE	DOCKET NO. 25-2280-03 LEGACY SWEETWATER, INC. EXHIBIT NO. 22
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DIRECT TESTIMONY OF MARK LONG

For Legacy Sweetwater, Inc.

1 **IDENTIFICATION OF WITNESS**

2 **Q. Please state your name, occupation, and for whom you are providing**
3 **testimony.**

4 A. My name is Mark Long. I am an independent consultant. Legacy Sweetwater,
5 Inc. (Legacy) has retained me to provide expert guidance in the current docket.

6 **Q. Do you have previous experience in water company regulation and rate**
7 **setting? Please describe.**

8 A. Yes. I was employed by the Division of Public Utilities (DPU) from 2009 to 2024,
9 a period of 15 years. I was promoted from Utility Analyst to Utility Consultant. I
10 was responsible for writing the information used in Utah Administrative Rule
11 R746-700-50, Information for a General Rate Case Application for a Water
12 Corporation. I prepared several unique forms to help water companies apply for a
13 rate increase, submit an application for a CPCN, and request an exemption.
14 During that time, I served as the lead Consultant on 14 water rate cases,
15 participated in several other rate cases, and made recommendations for dozens
16 of exemptions and numerous complaints.

17 **Q. In addition to on-the-job training, did you receive any formal training**
18 **regarding water regulation and rate setting?**

19 A. Yes. I attended the National Association of Regulatory Utility Commissioners
20 (NARUC) training, specifically in water regulation and rate design.

21 **PURPOSE OF TESTIMONY**

22 **Q. What was your specific role in this docket?**

23 A. My role in this docket is to utilize the information submitted to the Public Service
24 Commission (PSC) through Annual Reports and the supplemental exhibits
25 submitted to support this rate increase request. I will also provide exhibits and
26 testimony to support the rate recommendations.

27 **Q. Have you audited the source documents or records of Legacy?**

28 A. No, I have not audited the source documents. I used information in the Annual
29 reports and supplemental exhibits submitted. I reviewed the information provided

to ensure it appeared reasonable and consistent with other filings. Furthermore, when amounts differed from those typically reported by other regulated water companies of similar size, I sought clarification from Legacy personnel and advised them to provide further details for certain figures.

RATE-MAKING POLICIES

Q. Will you please briefly describe the rate case process for regulated water companies?

A. Yes. Let me first remind interested parties that customers are not only paying for water; they are also paying for the infrastructure and services required to receive a clean, reliable water supply. Fresh, pure water is expensive to pump, store, treat, and transport to the tap.

Since public utility ratemaking is prospective, rates are set in advance of consumer use. The rates are intended to allow the utility to fully recover all costs prudently incurred for current and future services. Therefore, an estimate of future service costs is based on a historical or forecast “test year” that includes operations and maintenance expenses, upcoming projects, reserves or savings, return on investment, and taxes. Test year’s costs can be adjusted to account for known and measurable changes, such as infrastructure repairs and replacements. Additionally, test years’ costs are normalized to provide a precise estimate of future expenses. Consumers are responsible for reimbursing the company at rates that cover its costs, contribute to a capital reserve, and allow for a return on investment in infrastructure.

CONSERVATION

Q. Please describe how the proposed rate model encourages water conservation.

A. This model uses increasing tiers for water usage rates based on variable costs. Utah Code Section 73-10-32.5(1) states that a retail water provider shall establish a culinary water rate structure that incorporates increasing block units

of water used and increases the rate charged for additional block units of water used as usage increases from one block unit to the next.

I suggest a conservation usage rate model with five tiers, where rates increase by 5,000 gallons each. The first 5,000 gallons will be supplied to the customer at Legacy's cost of \$2.00 per 1,000 gallons, which is minimal. The following tiers will increase by a factor of 2 (100%) from the previous tier. This tier structure makes the first several tiers affordable for low-water users.

The base rate does not include any water usage gallons, encouraging each connection to conserve water.

This tier system not only encourages conservation but also requires customers who use more water, causing more wear and tear on the water system, to pay more for the funding needed to repair and replace that infrastructure.

FINANCIAL SUSTAINABILITY

Q. Please describe how the proposed rate model promotes the goal of financial sustainability.

A. This rate model promotes this goal through the following three principles.

1. Customer rates should generally be set to recover all reasonable and prudent costs that the water company incurs in providing the service. Full-cost pricing refers to ensuring that the rates generate a revenue stream that adequately covers the company's ongoing operations and maintenance expenses, reserves or savings, return on investment, and taxes. The main benefit of full-cost pricing is that it allows the company to consistently meet all ongoing operational, maintenance, and capital costs, thereby maintaining a high level of service. It is also crucial that utilities do not operate at a loss, continuously deplete cash reserves, or rely on subsidies. Operating below full-cost pricing often leads to a degraded system, which can compromise the quality of service provided.

Rate-making principles generally discourage the practice of relying on developer subsidies to recover costs. One possible deviation from this would be for a new company in the initial years of providing service that may need a developer subsidy until enough residents support the company.

2. Fixed costs are normally recovered through fixed rates. Generally, water companies should limit recovering fixed costs through volumetric rates. Fixed system expenses are paid by all customers, including both standby and connected customers. Rates are designed to cover all appropriate and justifiable fixed costs through base rates charged to every customer. This model guarantees that even if no water is delivered, the Company can recover all fixed expenses. Connected customers pay a higher percentage of the fixed costs than the stand-by customers. Stand-by fees are charged to unconnected customers for ready access when they connect to the system.

3. The establishment and continued funding of a capital reserve account.

CAPITAL RESERVE ACCOUNT

Q. Please explain what the capital reserve account is and how it is funded.

A. The capital reserve account is a fund primarily used for the repair and replacement of infrastructure. According to a 2024 report on water infrastructure from Utah State University, the average failure age of water mains is 53 years. It's not a question of whether these pipes will fail, but when. Failing to prepare for infrastructure failure by not saving and proactively replacing water pipes is much more expensive in the long run.

It is funded from two sources.

First, the capital reserve account is funded through base rates equal to the depreciation expense. It is included in the rate base as a fixed cost and is therefore financed by both standby and connected customers' rates. These funds should be deposited into a reserve account after each billing period.

The second funding source is from amounts billed in conservation tiers over and above the incremental variable cost of providing service.

Q. How does the capital reserve account contribute to the water company's financial sustainability?

A. The establishment and funding of a capital reserve account allows the water company to respond quickly to emergencies and reduce the need for special assessments or expedited rate cases in the event of infrastructure failure. The account also reduces the need for excessive borrowing of money to repair and replace infrastructure. Setting aside reserves is critical to developing and maintaining financial stability. It can mean the difference between a self-sustaining system and one that may fall victim to disrepair or become financially unstable during even a relatively minor emergency.

The targeted minimum amount to be set aside annually for capital reserves is equal to the company's annual depreciation expense before making any adjustments for Contributions in Aid of Construction (CIAC). Ideally, the capital reserve account funding would be based on the projected replacement value of the infrastructure, which would better reflect the actual costs of replacing the infrastructure. However, due to cost considerations resulting in higher rates, I recommend setting the reserve funding at original costs rather than replacement costs. The Company should closely monitor its reserve balance to ensure it has adequate funds to meet its needs. The PSC has the authority to require any public utility to establish such an account, for example, under Utah Code Section 54-4-24.

RATE INCREASE

Q. Why is this such a significant rate increase?

A. The significant increase is due to three main reasons.

1. Legacy hasn't raised its rates since 2006. Justifiable and necessary fixed costs based on the 2006 rates now cover less than 10% of the current fixed costs. Moving forward, I recommend that Legacy regularly

144 review its expenses and revenues and request a rate increase when
145 needed.

146 2. For the past several years, Legacy has been heavily subsidized by its
147 owners.

148 3. Legacy needs funds to support pressing essential infrastructure repairs
149 and replacements. Included in the rate increase request is a loan for
150 \$2.3 million which will adequately cover these costs.

151 **Q. You listed some reasons for the significant increase, but in general, why**
152 **are these rates so high compared to other water systems?**

153 A. One factor that contributes to higher rates is the lack of economies of scale.
154 Larger water systems can spread their fixed costs—such as infrastructure
155 maintenance, administrative staff, and treatment facilities—over more customers,
156 reducing the cost per user. Conversely, small systems with fewer ratepayers face
157 higher fees for each customer. Customers residing in exclusive areas with large
158 lots and limited users often face higher water rates.

159 It should be noted; While the infrastructure throughout Legacy's service area is
160 fully developed, only approximately 26% of possible connections are presently
161 being utilized by customers. As additional connections are established and
162 standby rates transition to connected rates, overall rates for all Legacy customers
163 will decrease, thereby alleviating some of the financial burden on existing
164 customers.

165 Another factor is that private water companies are funded solely by their
166 customers. Privately owned water systems generally have higher water prices
167 and are less affordable than municipal water utilities. A recent article in The Salt
168 Lake Tribune states that most Utahns pay low water rates because property
169 taxes heavily subsidize most Utah water districts. Without subsidies from any
170 source, private water companies rely entirely on rates and fees paid by their
171 customers for funding.

172 **Q. Legacy previously mentioned that it was seeking repayment of over**
173 **\$800,000 that it has subsidized the Company with since 2022 in this rate**
174 **case. Are Legacy owners still requesting that \$800,000 be repaid?**

175 A. No. The owners are highly mindful about increasing customer rates and wish to
176 minimize the financial impact on their customers. As a result, they have chosen
177 to write off this obligation and will not pursue repayment for these expenses.

178
179 **SUPPORTING EXHIBITS**

180 **Q. What exhibits did you prepare to support the rates and fees you are**
181 **proposing?**

182 A. Exhibits 15 through Exhibit 15.8 show the analysis of the proposed rates.

183 1. **Exhibit 15 – Rates.** This lists the monthly rates for both connected and
184 standby customers, covering all fixed costs. This also shows the tiered
185 rate model for water consumption. The first tier of 5,000 gallons is sold
186 at the company's cost. Each following tier increases to cover increased
187 wear and tear on equipment and for conservation purposes.

188 2. **Exhibit 15.1 – Adjusted Expenses.** These expenses, in large part,
189 were taken from the current year of the Company's 2025 Income
190 Statement, Exhibits 7 and 8. Select adjustments were influenced by the
191 2026 pro-forma Income Statement.

192 Please be advised, salaries, payroll taxes, and employee pension and
193 benefits were carefully examined by Legacy to ensure that only direct
194 labor costs related to the water company were included in these
195 categories. This examination led to labor costs being lowered
196 significantly from the amounts reported in its 2024 Water Annual
197 Report. The 2025 Water Annual Report will reflect these lowered costs.

198 Please note that on, or about, line 42 of this exhibit, a \$2,300,000 loan
199 for infrastructure repairs is included. This loan has a 4% interest rate
200 and a term of 30 years. The annual payment of \$131,772 is derived by
201 multiplying the monthly payment of \$10,981 by 12 months.

- 202 3. **Exhibit 15.2 – Revenues and Expenses.** This shows the revenues
203 that must be generated to cover the Company's fixed expenses. The
204 projected over-earning is immaterial and is due to the rounding in
205 Exhibit 15.
- 206 4. **Exhibit 15.3 – Capital Reserve.** This amount is based on the
207 depreciation expense for the year.
- 208 5. **Exhibit 15.4 – Depreciation Expense.** This exhibit contains a list of all
209 capital investments in the water utility, including investments made by
210 the company and assets donated by the developer. It also includes the
211 calculation of annual depreciation expense, accumulated depreciation,
212 and the ending balance of each asset. Please be aware, depreciation
213 expense will increase after the infrastructure is in place, funded by the
214 requested loan amount. While not increasing rate base, it will
215 considerably increase the capital reserve expense that is funded by
216 rates, therefore increasing rates by the additional depreciation expense.
- 217 6. **Exhibit 15.5 CIAC.** The investments (donations) contributed by the
218 developer, such as the original infrastructure, are not allowed to earn a
219 rate of return. These investments are accounted for in Exhibit 15.5,
220 Contribution in aid of Construction (CIAC), and Amortization of CIAC,
221 and are deducted from the rate base in Exhibit 15.6.

222 The CIAC schedule in the Water Annual Report is missing an entry for
223 "Wells and Springs," which was part of the original development and
224 was presumably donated by the original developer. Once an asset is
225 designated as CIAC, its status remains unchanged even after the water
226 utility is sold. The Public Service Commission's rule, R746-330-6, states
227 that there is a rebuttable presumption that the value of the original utility
228 plant and assets has been recovered when lots in a development are
229 sold. This means that the original utility plant should be classified as
230 CIAC and excluded from the rate base. The utility does not earn a rate
231 of return on these original assets.

Also, an increase in CIAC corresponding to the depreciation expense will offset related depreciation expenses in rate base, thereby ensuring that Legacy does not earn a return in subsequent rate cases. This is because the proposed loan will be funded by the ratepayers rather than the water company or its owners.

7. **Exhibit 15.6 – Rate Base.** The Rate Base is the investment that Legacy has in its company and represents an opportunity to earn a rate of return.

8. **Exhibit 15.7 – Return on Investment.** A rate of return of 10% is applied to the Rate Base.

9. **Exhibit 15.8 – Taxes.** This exhibit estimates federal and State income taxes by applying a tax gross-up factor as recommended by the NARUC's Rate Case and Audit Manual.

TARIFF

Q. Is a new tariff included in this case?

A. Yes. An updated tariff, including terms, definitions, fees, and rates, is included in this rate case submission. See Exhibit 18. This tariff aligns with recent tariffs for other water utilities that have been recommended by the DPU and approved by the PSC.

Q. Do you have any comments regarding Legacy's current tariff?

A. Yes. Historically, Legacy has not performed customer meter readings as stipulated by its current tariff, which became effective on September 26, 2006. Consequently, all customers were essentially provided with an unrestricted supply of water for a monthly flat rate of \$25. Due to financial constraints arising from low fixed rates and insufficient tiered rates, Legacy determined that incorporating meter reading was not economically viable. Moving forward, Legacy acknowledges its responsibility to adhere to the requirements of its effective tariff and is advised to consult with the Division of Public Utilities should

any questions or concerns arise regarding tariff compliance. Legacy's proposed tariff, 9.d. regarding the reading of meters, gives clear instructions,

9.d. If the meters are inaccessible to read, for example, during winter months, Customers shall be billed at the minimum usage amount. The actual winter usage, should it exceed the minimum usage amount during the winter months, will be billed in total on the first billing, which corresponds to the first meter reading taken in the calendar year.

Additionally, Legacy's proposed tariff, item 15. Requires monthly reading, weather permitting. Bills covering the charges shall be due within thirty (30) days after being issued.

INTERIM RATES

Q. Why is Legacy seeking an interim rate?

A. Legacy Sweetwater's currently approved Tariff rates are inadequate to cover its monthly operating expenses, even without the proposed loan for needed repairs. These rates are insufficient to support the Company's ongoing operations while awaiting the Commission's final order in the general rate case. Due to pressing infrastructure requirements, Legacy Sweetwater faces monthly net losses under the present rate structure. This financial shortfall leaves the Company unable to cover its operating expenses, let alone allocate funds for future replacement or repair of essential capital infrastructure.

Q. Why the urgent need for Interim Rates?

A. In the past several years, Legacy's owners have contributed substantial funds to cover its monthly fixed expenses and required repairs and maintenance. All owner subsidies have ended. Without significant subsidies as in the past, current Legacy Sweetwater rates fall short of covering even basic fixed expenses.

Q. What potential outcomes may arise if the Public Service Commission does not approve interim rates in a timely manner?

288 A. Significant underfunding presents a substantial risk to Legacy's financial stability,
289 as well as its ability to continue to provide a reliable and uncontaminated water
290 supply. Currently, revenues account for only approximately 10% of the necessary
291 expenses, and losses at this scale raise concerns about the ongoing viability of
292 operations.

293 **Q. Do the interim rates proposed in this rate case more accurately represent**
294 **actual costs compared to the current rates?**

295 A. Yes.

296 **Q. What Utah Code describes the evidence necessary for the PSC to approve**
297 **an interim rate?**

298 A. Utah Code Subsection 54-7-12(4)(a)(iii) states,

299 *The evidence presented in the hearing held pursuant to this*
300 *Subsection (4) need not encompass all issues that may be*
301 *considered in a rate case hearing held pursuant to*
302 *Subsection (2)(d), but shall establish an adequate prima facie*
303 *showing that the interim rate increase or decrease is justified.*

304 **Q. Has Legacy supported its case for an Interim Rate?**

305 A. Yes. Based on the documents filed in support of this docket, Legacy asserts it
306 has made more than an adequate prima facie showing that the current rates are
307 inadequate and the interim rates are justified and are more likely to reflect actual
308 costs than current rates.

309 **Q. Please comment on rate shock and why Legacy is not seeking a gradual**
310 **rate increase in this docket.**

311 A. Legacy owners acknowledge that the substantial rate increase is not ideal. Like
312 many municipal and privately-owned water utilities, they face challenges in
313 replacing and upgrading aging infrastructure. Legacy has additional
314 complications because its water service area was originally designed for
315 seasonal, summer use. As more customers began using water throughout the
316 year, the system's classification shifted from seasonal to year-round use. The
317 owners and water engineer explain that the original water mains and branches

318 were installed at shallow depths with materials suitable for summer, not
319 continuous, year-round operation. Legacy's engineer stated that he is confident
320 that the infrastructure repair will solve most of the customer complaints reported
321 in the past. The rates set in Docket No.06-2280-T01 were based on much
322 different criteria than the current needs and requirements.

323 Legacy owners have initiated upgrades to infrastructure necessary for year-round
324 operation by installing deeper, improved piping at their own expense, with
325 expenditures estimated at approximately \$800,000 to date. Nevertheless,
326 significant portions of the infrastructure still require additional improvements.
327 Public Service Commission Docket No. 26-2280-01 raises concerns regarding
328 whether Legacy's current rates are sufficient to maintain the provision of safe,
329 reliable, and adequate service to its customers.

330 A large expenditure requested in this rate case is a loan to complete Legacy's
331 infrastructure upgrade. This loan is \$2.3 million, with 4% interest for 30 years.
332 One alternative to fund this amount is requesting a one-time special assessment
333 from the Commission for its customers to pay for the required infrastructure
334 repair. The special assessment needed to cover the repair (loan amount) would
335 be about \$25,057 for connected customers and \$7,516 for standby customers, if
336 standby was 30% of the connected customers. Rather than potentially assessing
337 its customers with this large amount, Legacy is requesting the amount to be paid
338 over 30 years. This infrastructure repair will make the rates safe, reliable, and
339 provide adequate service, not to mention rate stability and rate predictable in the
340 future.

341 Ideally, a rate increase of this size would be phased in over time to mitigate rate
342 shock for customers. However, the persistent infrastructure deficiency has
343 remained unaddressed for an extended period. Legacy has been significantly
344 subsidized for many years, resulting in artificially low rates that are unsustainable
345 for ongoing operations. Implementing only a gradual rate increase could delay
346 necessary repairs for several years, which will compromise the company's
347 objective of delivering safe, reliable, and adequate service.

The Home Owner's Association is aware of the improvements needed and generally supports the increase.

CONCLUSION

Q. Are you familiar with the rate design used by the DPU, and do these objectives align with the DPU's?

A. Yes. The DPU rate model has similar objectives and uses the same rate model.

Q. Does Legacy's current rate model and structure accomplish these goals?

A. No. My analysis shows that the current rates and rate structure do not cover fixed costs, have no reserves, and do not have an effective conservation rate with an increasing tiered rate structure (increasing block unit) as authorized in Utah Code 73-10-32.5(1). The rates and rate structure no longer result in just and reasonable rates and are no longer in the public interest.

Q. Do the proposed rates and rate structure in the General Rate Case and Interim Rate Case allow for the opportunity for financial sustainability and promote conservation?

A. The analysis shows that the proposed rates and rate structure cover all fixed costs, fund the reserve account, and have an effective conservation rate structure with increasing tiered rates as authorized by Utah Code Section 73-10-32.5(1). The Division concludes that these rates and rate structure result in just and reasonable rates and are in the public interest.

FINAL WORDS

In conclusion, Legacy believes that the expenses listed in the General and Interim rate cases are necessary and prudent. The proposed rates are just, reasonable, adequate, and in the public interest. They will maintain the financial integrity of Legacy while safeguarding the long-term interests of its customers in receiving continued quality and sufficient levels of service at the lowest possible cost.