

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of DANNY)
STEVENS, dba SHADOW MOUNTAIN)
ESTATES for a Certificate of Convenience and)
Necessity to Operate as a Public Utility Service)
or for an Exemption from PSC Regulation)
)

DOCKET NO. 01-2370-01
REPORT AND ORDER
CERTIFICATE NUMBER 2370

ISSUED: December 11, 2003

By the Commission:

PROCEDURAL HISTORY

This matter was initiated in June 2001 by an application from Danny Stevens for a certificate of public convenience and necessity to operate a water utility. The application indicated that Mr. Stevens had been operating the utility without authority for about 14 years. The application was incomplete and the Division of Public Utilities ("Division") attempted to obtain additional information from Mr. Stevens. When that information was not forthcoming, an Order to Show Cause was issued, and a hearing was held in Central Valley, Utah on the application and the Order to Show Cause.

On December 6, 2001, an Interim Order was issued in this matter. Numerous deficiencies in the status and operation of the utility were found. In that strongly worded order Mr. Stevens was ordered to:

1. Form a corporation to hold and operate all the assets of the water system, and transfer all those assets to the corporation.
2. File written reports detailing efforts to settle outstanding disputes over water rights and well ownership.
3. File written reports, including timetables and financing sources, for doing what was necessary to qualify the system for approved status from the Division of Drinking Water.

Each of these requirements had specific, short, time limits. On June 5, 2002, the Division filed a memorandum with the Commission regarding the status of the system and Mr. Steven's compliance with the order. As of that date Mr. Stevens had only partially complied with the Commission's order. There was also, as of that date, an outstanding Notice of Violations from the Division of Drinking Water. An additional status memorandum from the Division was filed on July 22, 2003, stating that more progress had been made, but that significant issues remained to be resolved. The Division recommended that the Commission take no action at that time.

On July 31, 2003, the Division again reported on the status of this water system. The Division stated that Mr. Stevens had made considerable progress and had substantially complied with the Commission's order. The Division recommended that a certificate of public convenience and necessity be granted to the newly formed corporation, Shadow Mountain Estates, Inc. ("Shadow Mountain"). However, the water system had not, as of that date, been rated "approved" by the Division of Drinking Water. According to a memorandum filed by the Division on September 12, 2003, this last hurdle has been cleared, and the system has been rated as "approved" by the Division of Drinking Water.

DISCUSSION

Although it took much longer to bring this water company and system up to the standards set to protect its customers,

this is a success story. What was a situation in disarray has been corrected, and a functioning, compliant water company and system is now present. It took much longer than anticipated, but the needed results were achieved. The water company can now move forward as a functioning utility. We will issue a certificate of public convenience and necessity to Shadow Mountain Estates, Inc.

The filings in this matter indicate that the homeowners/customers of the company may also desire to take ownership of the system. As the Division noted in its most recent memorandum "[t]he water system is probably in as good condition as one can reasonably expect at this time and would support the homeowners assuming ownership and operation of the water company as an exempt mutual water company." We agree, and if the homeowners do create such a mutual water company they may request an exemption from regulation from this Commission.

Fines: Two financial matters remain outstanding. The first is the issue of fines from this Commission. Our previous order found that Mr. Stevens had been operating an unauthorized utility since 1988. In our previous order we did not impose fines, but noted that we were ready to do so if Mr. Stevens did not meet his responsibilities in remedying this situation and complying with Commission orders. Though it took much longer than anticipated, Mr. Stevens accomplished what this Commission directed him to do. In this situation it would not be in the interests of the customers of the water company, or conducive to the public interest, to impose fines on Mr. Stevens.

Rates: The second financial matter outstanding is approval of rates for Shadow Mountain Estates, Inc. The homeowners in the area have been operating the system for several years and have been collecting the following rates: \$20.00 per month for usage up to 25,000 gallons, and \$1.00 per 1,000 gallons for usage over 25,000 gallons per month. The Division has reviewed the books and states that the financial results justify the existing rates. The Division recommends that those rates be approved. We will do so.

The Company has historically charged \$2,500.00 for a Connection Fee, plus the actual hook-up cost to the system, which varied. The Division recommends that a standard charge of \$3,000.00 be implemented, with \$2,500.00 of that charge for the right to connect to the system, and \$500 for the actual connection costs. We find that recommendation reasonable and in the public interest, and will so order.

This ends years of effort by Mr. Stevens to bring this system into compliance. While the length of time it took to accomplish this was much longer than ideal, he is to be commended for accomplishing those things necessary to bring the system into compliance with legal requirements.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. SHADOW MOUNTAIN ESTATES, INC. is hereby granted Certificate of Convenience and Necessity No. 2370 to operate as a water corporation serving the Shadow Mountain Estates Subdivision in Sevier County, State of Utah, as more particularly described in the Application in this matter.
2. Shadow Mountain's rates of \$20.00 per month for usage up to 25,000 gallons, and \$1.00 per 1,000 gallons for usage in excess of 25,000 gallons per month, are approved.
3. The proposed connection fee of \$3,000, with \$2,500 of that amount designated as payment for the right to connect to the system, and \$500 for the costs of connection, is also approved.
4. Shadow Mountain shall comply with all requirements of the Utah Division of Drinking Water.
5. Shadow Mountain shall file a tariff within 30 days of the date of this Order.
6. Any person aggrieved by this Order may petition the Commission for review/rehearing pursuant to the *Utah Administrative Procedures Act, Utah Code Ann. §63-46b-1 et seq.* Failure so to do will preclude judicial review of the grounds not identified for review. *Utah Code Ann. §54-7-15.*

DATED at Salt Lake City, Utah, this 11th day of December, 2003.

/s/ Douglas C. Tingey
Administrative Law Judge

Approved and Confirmed this 11th day of December, 2003, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/Julie Orchard
Commission Secretary