

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Legacy Sweetwater, Inc., Request for Rates, Rules and Regulations for Water Service)))))	<u>DOCKET NO. 06-2280-T01</u> <u>REPORT AND ORDER</u>
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ISSUED: September 26, 2006

By The Commission:

PROCEDURAL HISTORY

On April 19, 2006, Legacy Sweetwater Water Company (“Legacy Sweetwater” or “Company”) filed for approval by the Commission a proposed tariff (“Proposed Tariff”) seeking, along with other changes, to increase its rates for monthly water service, connection fee, standby fee, and turn-on service fee.

On August 8, 2006, the Division of Public Utilities (“Division”) filed a memorandum recommending the Commission approve the Proposed Tariff as modified by the Division.

On September 20, 2006, hearing in this matter was held before the Administrative Law Judge. Roger Sanders appeared for Legacy Sweetwater. Nicole Sorenson, President of Legacy Sweetwater, testified on behalf of the Company. Patricia Schmid, Assistant Attorney General, appeared for the Division. Mr. Bruce Moio, Division utility analyst, testified on behalf of the Division. Don Walker, a prospective Legacy Sweetwater customer, testified regarding some difficulties he has encountered in establishing service with the Company. He did not take a position concerning the proposed rates and fees, except to state his belief that since he has been

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attempting to establish service for the past several months any fee increases should not be applicable to his connection to the water system.

On September 21, 2006, the Company filed with the Division a revised tariff (“Revised Tariff”) reflecting the changes recommended by the Division at hearing. The Division reviewed the Revised Tariff and, also on September 21, 2006, filed a memorandum stating the Revised Tariff complies with all Division suggested changes and recommending its approval.

BACKGROUND AND DISCUSSION¹

The Division notes the Company received its Certificate of Public Convenience and Necessity to operate as a water utility on July 21, 1999, in Docket No. 99-2280-01. By Commission Order in that docket, the Legacy Sweetwater’s rates were set at a \$500 connection fee and a flat rate of \$20 per month for water usage. At that time, the Legacy Sweetwater was in its developing stages with few potential users and no connections to the system. Legacy Sweetwater management is affiliated with the company developing the land that comprises Legacy Sweetwater’s service territory. The Company is now ready to connect users to its system and is seeking to have a new tariff approved.

In issuing its recommendation regarding the Proposed Tariff, the Division noted Legacy Sweetwater is a corporation in good standing and currently has 112 approved lots in its current service area. It’s Proposed Tariff requested the following rates:

¹Although we now have before us the Revised Tariff reflecting all Division recommendations in this matter, we nonetheless herein examine the terms of the Proposed Tariff originally filed by the Company, as well as the Division’s recommendations regarding the Proposed Tariff, to provide a context and factual basis for our decision announced herein approving the Revised Tariff as filed.

Monthly Water Usage Rate

\$25 per month for the First 5,000 gallons

\$5 per 1,000 gallons for 5,001 to 7,500 gallons

\$7 per 1,000 gallons for 7,501 and above

Connection Fee – \$3,000 for 1” service to property line

Standby Fee – \$25 per month

Turn-on Fee – \$200 where meter is already in place

In addition, the Company sought to require “that all customers install at customers cost a 1,000 gallon storage tank on their premises” while also requiring an impact fee of \$15,000 for lot owners within the footprint of the Legacy Mountain Development who purchased their lot with a .25 acre foot of water conveyance provision to connect to the system. Any lot owners outside of the footprint area would pay a \$30,000 impact fee to connect to the system.

The Division believed the proposed \$200 turn-on fee is excessive, noting the typical turn-on fee for a water utility in Utah is \$100. The Division therefore recommended the Commission approve a \$100 turn-on fee. The Company concurred with this recommendation.

The Division also analyzed the proposed impact fees. Using system costs of \$1,394,226 for the 112 lots currently in Legacy Sweetwater’s service territory, the Division calculated the impact fee should be \$12,450. The Division also recommended the Company clearly specify in its modified tariff that this impact fee is only applicable to Willow Glen lots 5 through 9 and North Ridge lots 2,5 and 7 through 14 since only these lots were sold prior to construction of the water system. No other lots in the Company’s current service territory should

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be charged this impact fee since system costs for these lots will be recouped in the purchase price for the lots. The Company concurred with this recommendation.

The Division also noted the Proposed Tariff would require customers to install, at their own expense, a 1,000 gallon water tank on their property to provide water in the event of a service disruption. The Division believed that such a requirement would cause an undue financial burden on customers and that requiring customers to provide their own back-up system is not just and reasonable. The Company concurred with this recommendation.

Finally, because Legacy Sweetwater is affiliated with the developer and other companies, the Division recommended Commission approval of the Proposed Tariff as modified be conditioned on the companies' cooperation in making their books and records available for reasonable inspection by the Division. Ms. Sorenson, who represented that she is authorized to speak on behalf of Legacy Sweetwater, the developer, and other affiliated companies, agreed all said companies will abide by this condition.

Having reviewed the Company's financial data, the Division noted the proposed rates would result in a revenue requirement shortfall of \$536 per year based on a 12% rate of return. The Division believes the proposed rates are just and reasonable and recommends Commission approval of the same.

We concur with the Division's recommendation and find the proposed rates to be just and reasonable. Having reviewed the Revised Tariff filed post-hearing, we find and conclude that the recommendations made by the Division at hearing and discussed above have been incorporated into the Revised Tariff. We therefore approve the Revised Tariff.

Wherefore, based on the foregoing information, and for good cause appearing, the Administrative Law Judge, having been fully advised in the matter, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Legacy Sweetwater Water Company is a certificated water corporation operating in the State of Utah, subject to Commission jurisdiction.
2. The rates and fees proposed by the Company, as modified by the Division and reflected in the Company's Revised Tariff filed September 21, 2006, are just and reasonable, and in the public interest.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Legacy Sweetwater Water Company's proposed rates and fees are approved as reflected in the Company's revised tariff filed September 21, 2006, and set forth *supra*, said approval being conditioned upon the continuing cooperation of Legacy Sweetwater Water Company, the developer and all affiliates in making their books and records available for reasonable inspection by the Division of Public Utilities and this Commission.

2. The approved rates and fees shall be and are effective the date of this Order.

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or

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rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

Dated at Salt Lake City, Utah, this 26th day of September, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 26th day of September, 2006, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard,
Commission Secretary
G#50609