
In the Matter of the Application for a Certificate of Convenience and Necessity to Operate as a Public Utility Rendering Water Service of NEW PARIA WATER COMPANY.)	<u>DOCKET NO. 96-2223-01</u>
Applicant)	<u>REPORT AND ORDER</u>
		and
		<u>CERTIFICATE</u>

ISSUED: February 9, 1998

SYNOPSIS

Applicant having demonstrated its fitness to serve, and no opposition to the application appearing, we grant the certificate.

By the Commission:

PROCEDURAL HISTORY

The instant application for water utility authority was filed November 29, 1996. Since no other provider operates in the proposed service area, and few customers are being served by the system, the matter appears ripe for adjudication without hearing; accordingly we choose to convert the matter to an informal proceeding. The Administrative Law Judge, having been fully advised in the premises, now enters the following Report, containing proposed Findings of Fact, Conclusions of Law, and the Order based thereon.

FINDINGS OF FACT

1. Applicant is a non-profit corporation in good standing with the applicable law. It proposes to serve a new subdivision known as New Paria Subdivision, located in Kane County, Utah.
2. Since the project is serving less than 15 connections, the State Department of Environmental Quality has not evaluated the system. The applicant owns, or will own by the time this Order is issued, sufficient water rights to meet the requirements of local authorities.

3. The Commission has granted the Applicant a letter of exemption from regulation; however, the Developer will retain voting control of Applicant until a majority of lots are sold.

CONCLUSIONS OF LAW

Applicant has sustained its prima facie burden of demonstrating need for the service and its own fitness to meet that need. Owing to the Developer's voting control of Applicant, there exists a diversity of interest between customers and service provider; this compels us to assume jurisdiction under applicable law. The exemption letter heretofore granted should be canceled as having been improvidently issued. Since there is no other entity capable of serving the proposed service area, and there are no present customers, potential meritorious protest appears improbable to the vanishing point. A hearing thus appears superfluous. Accordingly, the matter should be converted to an informal proceeding, and the Application should be granted.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

This matter be, and it hereby is, converted to an informal proceeding pursuant to §§ 63-46b-4 and 63-46b-5, UCA 1953, as amended.

NEW PARIA WATER COMPANY be, and it hereby is, granted Certificate of Convenience and Necessity as follows:

To operate as a water corporation serving the following-described area: State of Utah: New Paria Subdivision, Kane County, according to the official plat thereof recorded in the records of Kane County.

The letter of exemption heretofore granted said Applicant be, and it is, canceled and annulled effective the date of this Order.

Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure so to do will forfeit the right to such review as well as the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 9th day of February, 1998.

/s/ A. Robert Thurman

Administrative Law Judge

Approved and Confirmed this 9th day of February, 1998, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

(SEAL) /s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary