

-----

In the Matter of the Application for a Cer-	)	<u>DOCKET NO. 97-2240-01</u>
tificate of Convenience and Necessity to	)	
Operate as a Public Utility Rendering Water	)	
Service of HIDDEN CREEK WATER	)	
COMPANY	)	<u>REPORT AND ORDER</u>
Applicant	)	

-----

ISSUED: November 23, 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 June 26, 1997. Since no other provider operates in the proposed service area, and no 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 Utah non-profit corporation in good standing with the applicable law. It proposes to serve an area in Utah County, Utah, more particularly described in Appendix A, annexed hereto and incorporated herein by this reference. Subdivisions within the service area are being developed by Five Star Financial, a limited partnership (hereafter "the Developer").
2. The utility plant currently in place meets the requirements of the Utah Department of Environmental Quality. 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 Developer claims plant costs of \$513,000, already paid, and an additional \$150,000 in future costs to complete the next phase. Title to all plant has been transferred to Applicant. Aside from a \$1,550 connection fee, all other developer expenses are to be recouped through lot sales.
4. Applicant's initial rates have been set at \$33 per month to cover fixed costs (in effect an access charge) plus varying commodity charges based on usage. A standby fee has been set at \$20 per month. The Division of Public Utilities, Utah Department of Commerce, recommends we find the proposed charges just and reasonable, and we so find.

5. Applicant's pro forma operating statement shows an initial operating loss--understandable since the project is in its inception. However, in our estimation, the Developer's commitment to lend Applicant needed operating capital until the system has a customer base sufficient to sustain it renders Applicant financially fit to provide the proposed service. Projected expenses appear reasonable.

6. Present water users on the system, only two, have filed letters expressing no interest in attending a hearing on the application.

#### CONCLUSIONS OF LAW

Applicant has sustained its prima facie burden of demonstrating need for the service and its own fitness to meet that need. 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.

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

To operate as a water corporation serving the area located in Utah County, Utah, described in Appendix A.

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 23rd day of November, 1998.

/s/ A. Robert Thurman  
Administrative Law Judge

[NOTE: For a copy of Appendix A Contact the Commission]