
In the Matter of the Application for a Certificate of Convenience and Necessity to Operate as a Public Utility Rendering Water Service of COLOR COUNTRY OWNERS ASSOCIATION))	<u>DOCKET NO. 97-2243-01</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 July 14, 1997. The Application was originally in the name of Flying L Ranch Water Company. Subsequently, the Developer transferred the water system and all water rights into the homeowners association, and we consider that entity the applicant at this time. Since no other provider operates in the proposed service area, and only three customers, including the developer, 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 three new subdivisions known as Flying L Ranch, Phases I, II, and III, being developed by Darwin Lamb (hereafter "the Developer"). When approximately three-quarters of the lots have been sold, control of the applicant will devolve into the hands of the homeowners. In the interim, control of the applicant will be in the hands of the developer, creating the diversity of interest between the provider and customers necessary for our regulatory jurisdiction.
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. Title to all plant has been transferred to Applicant. All other developer expenses are to be recouped through lot sales.
4. Applicant's initial rates have been set at \$20 per month for connected users, and \$10 per month standby fee. 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.

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.

COLOR COUNTRY OWNERS ASSOCIATION 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: Flying L Ranch Subdivision, Units I, II, and III, according to the official plats thereof as recorded in the Records of Iron County, Utah.

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