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In the Matter of the Application for a	)	
Certificate of Convenience and Necessity	)	<u>DOCKET NO. 99-2280-01</u>
to Operate as a Public Utility Rendering	)	
Water Service of LEGACY SWEET	)	<u>REPORT AND ORDER</u>
WATER, INC.	)	<u>Certificate No. 2280</u>
Applicant	)	

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ISSUED: July 21, 1999

SYNOPSIS

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

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By the Commission:

PROCEDURAL HISTORY

The instant application for water utility authority was filed June 18, 1999. 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 corporation in good standing with the applicable law. It proposes to serve new subdivisions, located in Sanpete County, Utah, known as "Phase 1-B, The Meadows"; Phase 1-B Skyline Heights"; Phase 1-A Willow Glen"; Phase 1-A South Ridge"; and "Phase 1-A North Ridge." The property is being developed by Skyline Heights, Inc. (hereafter "the Developer").
2. The utility plant currently in place meets the requirements of the Utah Department of Environmental Quality for 50 connections. The applicant owns, or will own by the time this Order is issued, sufficient water rights to meet the requirements of local authorities for the same number of connections.
3. Title to all existing 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 with a \$500 connection fee. Water use is, by restrictive covenant, limited to indoor culinary use only. 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.

LEGACY SWEET WATER, INC. be, and it hereby is, granted Certificate of Convenience and Necessity No. 2280 as follows:

To operate as a water corporation serving the following-described area: "Phase 1-B, The Meadows"; Phase 1-B Skyline Heights"; Phase 1-A Willow Glen"; Phase 1-A South Ridge"; and "Phase 1-A North Ridge" subdivisions, all according to the official plat or plats thereof of record in the records of Sanpete County, Utah.

Notwithstanding the generality of the foregoing grant, the same is issued subject to all restrictions and conditions, including limitations on the number of connections to be served, imposed by the Utah State Division of Drinking Water and cognizant local authorities.

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 21st day of July, 1999.

/s/ A. Robert Thurman  
Administrative Law Judge

Approved and Confirmed this 21st day of July, 1999, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary