

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

ADMINISTRATIVE LAW JUDGE ANGELA K. MINKIN, presiding

Fred Coleman, Steven Wallace, Larry)	PREHEARING
L. Vaughn and Ruth Dargitz,)	CONFERENCE
)	
Complainants,)	
)	
vs.)	
)	Case
Odd Fellows Sierra Recreation)	12-03-017
Association,)	
)	
Defendant.)	

REPORTER'S TRANSCRIPT
San Francisco, California
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Reported by: Thomas C. Brenneman, CSR No. 9554

1 SAN FRANCISCO, CALIFORNIA

2 FEBRUARY 5, 2013 - 10:00 A.M.

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4 ADMINISTRATIVE LAW JUDGE MINKIN: This
5 is the time and place for a telephonic status
6 conference in Case 12-03-017, Coleman, et
7 al., versus Odd Fellows Sierra Recreation
8 Association.

9 I am Administrative Law Judge Angela
10 Minkin. And Commissioner Sandoval is the
11 assigned Commissioner for this matter.

12 We have confirmed that Mr. Coleman
13 and Mr. Trujillo are on the phone.

14 Mr. Coleman, can you please explain
15 who is with you in the room today.

16 MR. COLEMAN: Yes. The three other
17 Complainants, Ruth Dargitz, Larry Vaughn, and
18 Steve Wallace, and then Patty Jones, who is
19 Charles Varvayanis's wife. And Charles
20 Varvayanis is here because he has a lot of
21 information, documents of the rec
22 association. And he has been helping me to
23 file electronically because I am computer
24 brain dead and he does that for a living. So
25 he wanted to be here to listen to see if he
26 could offer us any advice or come up with any
27 documents we might need.

28 ALJ MINKIN: Okay. Mr. Trujillo, I had

1 said that it's fine for the other two to be
2 in the room and to observe but not
3 participate in this prehearing conference.
4 Do you have any objections?

5 MR. TRUJILLO: No, your Honor.

6 ALJ MINKIN: Very good. And I want to
7 let you know that with me today in the
8 hearing room is Ravi Kumra. That's
9 K-u-m-r-a. He is a Senior Utilities Engineer
10 in the Division of Water and Audits. And I
11 have asked him to review some of the
12 materials that the parties have filed. So he
13 is here today, and I'm going to ask him to
14 provide some information in just a little
15 bit.

16 But before we go on, I want to
17 remind every one that since this is a
18 telephonic prehearing conference and it is
19 being transcribed that it would be very
20 helpful if you identify yourselves before you
21 speak so we know who is speaking, speak
22 slowly, clearly, and loudly and please do not
23 speak over each other.

24 So the purpose of this prehearing
25 conference is really to determine where we
26 are in this proceeding and how to move
27 forward. We've almost hit the year mark
28 since the Complaint was filed, and I'm not

1 sure if the parties are aware, but the
2 Commission has a statutory obligation to
3 resolve cases like this that are categorized
4 as adjudicatory cases within 12 months of the
5 filing date.

6 Now, I issued a ruling that stayed
7 this proceeding while Defendants were
8 investigating forming a community services
9 district. So obviously several months have
10 elapsed. And I can prepare an order for the
11 Commission's determination that extends that
12 statutory deadline.

13 So we're okay there, but we do need
14 to figure out how we're going to move
15 forward. And I think the first bit of
16 information that will help us in that regard
17 is to hear from you, Mr. Trujillo. Where are
18 you with the community services district
19 formation?

20 MR. TRUJILLO: Yes, your Honor. Thank
21 you. Can you hear me fine?

22 ALJ MINKIN: I can. Thank you.

23 MR. TRUJILLO: Yes, your Honor. So
24 despite the claims of the Complainants in
25 this matter, we did -- we have filed
26 everything that the LAFCO has asked for, with
27 one exception, and I did note that in my
28 status report. They had asked for some

1 information, further information on the
2 roads. We had it prepared in mid-January,
3 and then we decided to spread the costs over
4 five years rather than a shorter period of
5 time. And then we resubmitted it to the
6 surveyor, who has been advising us. And that
7 has now been completed and is ready to be
8 filed with the LAFCO. All other information
9 they asked for has been provided. And that
10 will be provided within two days.

11 ALJ MINKIN: Within two days. Okay.

12 MR. TRUJILLO: I just spoke to the
13 surveyor right before this conference.

14 ALJ MINKIN: Okay. And so at that
15 point the LAFCO will have all of the
16 information that it has requested. And do
17 you have any idea when they anticipate making
18 a decision?

19 MR. TRUJILLO: I do not know, your
20 Honor.

21 ALJ MINKIN: Okay. So that's what
22 worries me here. I mean I think we need to
23 have some fallback positions. And I know
24 that, Mr. Coleman, you and your fellow
25 Complainants have indicated a desire to be --
26 to have the water services regulated by the
27 Tuolumne Utilities District rather than
28 forming a community services district; is

1 that correct?

2 MR. COLEMAN: Yes, your Honor. Fred
3 Coleman. And the reason for that is their
4 costs that they have reported are way, way
5 out of line. They're reporting \$327,993.12
6 per year or \$901.08 per lot owner. And it's
7 raw water. It's not treated. There is no
8 justification for this exorbitant cost.

9 ALJ MINKIN: Okay. Before we get to
10 the costs, and I want to indicate -- hold on
11 one moment, Mr. Coleman. Hold on one moment.
12 This is a prehearing conference. We're not
13 proving anything today. We're not
14 establishing anything related to the costs.
15 It's really a status conference to figure out
16 whether I'm going to lift the stay, if so,
17 what are the issues and the schedule to be
18 addressed in this proceeding.

19 So we're not going to get into the
20 evidentiary basis of the costs claimed either
21 way. All right? That, if we do do that,
22 that will be done at a hearing in person,
23 okay, and we'll set a time for that.

24 And I'm going to get to the costs in
25 just a minute, but I just want to verify that
26 Complainants would prefer Tuolumne Utilities
27 District taking over the water service rather
28 than the community service district.

1 MR. COLEMAN: Yes. That is correct,
2 your Honor.

3 ALJ MINKIN: Okay. And so we've talked
4 about this before, but either way, whether
5 it's a community services district or whether
6 the water system is regulated by the Tuolumne
7 Utilities District, this Commission, the
8 California Public Utilities Commission does
9 not have jurisdiction over those two
10 entities. And so I'm trying to figure out
11 how we're going to proceed here and how to
12 move forward.

13 Has any one gotten in touch with the
14 Tuolumne Utilities District?

15 MR. COLEMAN: Yes, your Honor. Fred
16 Coleman. Steve Wallace and I have talked to
17 the Tuolumne Utility District a couple of
18 times, and they told us basically what they
19 would have to do, which is what they told the
20 rec association. And I think that's why they
21 brought the engineering firm in. TUD told us
22 that they would have to send an engineer in
23 to take a look at the system to make
24 recommendations to see what might have to be
25 done.

26 And the fellow we talked to, I don't
27 remember his name, your Honor, but he was an
28 engineer or a head of some department. And

1 he told us that there was an engineering firm
2 that did that sort of thing, that the rec
3 association had talked to him, and he was
4 going to recommend that engineering firm to
5 do the same thing that TUD would have to do.

6 So yes, we have talked to him, and
7 we do have a schedule of their water rates
8 for treated water as well as the raw water
9 which we receive in the park.

10 ALJ MINKIN: Okay. And Mr. Trujillo,
11 has your client spoken with Tuolumne
12 Utilities District?

13 MR. TRUJILLO: Yes, your Honor.

14 ALJ MINKIN: Okay. And what is your
15 assessment?

16 MR. TRUJILLO: I don't think we have
17 any further information than Mr. Coleman has,
18 but again, your Honor, if this is something
19 that the Complainants want us to pursue, I
20 mean frankly I think we'd be willing to allow
21 the Complainants to -- you know, we could set
22 up a committee. They can serve on the
23 committee, and they are more than welcome to
24 pursue this. But we're not foreclosed to
25 doing, going with the TUD, and if it makes
26 more sense, I mean it would be something we
27 would very seriously look at.

28 So if that's something the

1 Complainants are very serious about and are
2 willing to invest their time, effort, and
3 energy into that, I think my clients are
4 willing to set up a committee, put them on
5 the committee and let them run with it. I
6 mean we're not forestalled from looking at
7 that option. It seems like it's a viable.
8 But I don't think we have enough information
9 we could even make a recommendation to the
10 rec association at this point in time.

11 ALJ MINKIN: Okay. And so again, this
12 Commission doesn't have jurisdiction over
13 either of those entities. And so I'm
14 wondering what to do with this complaint. It
15 sounds like there's movement on either the
16 community services district idea or could be
17 movement on the Tuolumne Utilities District
18 idea. And I know that you had a civil
19 engineering firm look at your system or
20 prepare a report on your system, or your
21 client's system, Mr. Trujillo. And I know
22 Complainants have some concerns with that
23 report. Mr. Kumra has some questions about
24 the various costs that have been filed.

25 But there's one approach that I
26 think perhaps could be helpful. And whether
27 or not the recreation association actually
28 becomes regulated by this Commission, Mr.

1 Kumra has offered to closely review the costs
2 as submitted by both sides and to actually
3 come out and take a look at the system and
4 meet with both Complainants and Defendant and
5 provide his expertise based on years with the
6 Commission and working with Class D water
7 utilities. And that's what this sort of
8 water system would be. It would be a Class D
9 water utility if it were regulated by the
10 Commission.

11 Now, in that case I want to be clear
12 that there are some expenses that could be
13 included by the water utility if it were
14 organized as a Class D water utility that
15 would include regulatory expenses, would also
16 include either a rate of return on ratebase,
17 or if that can't be computed, the division
18 experts would assess return on margin. And
19 as I understand it, that can be up to 20
20 percent or so. Is that correct, Mr. Kumra?

21 MR. KUMRA: Slightly over 23 percent.

22 ALJ MINKIN: Slightly over 23 percent.
23 So that would be applied -- how is that
24 calculated? Can you tell us that?

25 MR. KUMRA: Sure.

26 ALJ MINKIN: Speak loudly.

27 MR. KUMRA: This is Ravi Kumra. What
28 happens is that we find out -- we figure out

1 what the expenses are and what the revenues
2 are, and we try to figure out what are net
3 revenue requirements of the utility for that
4 particular year. And what there are, the
5 revenues that are required to be born by the
6 ratepayers, you apply a margin on that, which
7 is in simple terms a profit, if you will, for
8 the operation of the utility. And depending
9 on the size of the utility, and in this case
10 it is less than 500 connections. So it would
11 be close to 23 percent. And that's how we
12 would compute it.

13 ALJ MINKIN: So do you understand how
14 that would work? So that means that in
15 addition to sort of the bottom line revenue
16 requirement that would be born by the
17 ratepayers, there would be an additional up
18 to 23 percent assessment of profit if the
19 California Public Utilities Commission were
20 to regulate this water system. So it does
21 seem to me --

22 I'm sorry. Did you want to say
23 something else, Mr. Kumra?

24 MR. KUMRA: Yes. If I could, Judge.
25 It would also involve on a going-forward
26 basis that the utility would have to file
27 certain reports, the annual report with us,
28 and it would be subject to scrutiny, and we

1 would go through the books and make sure that
2 it stays whole and it is able to provide the
3 service that it is intended to provide.

4 ALJ MINKIN: Thank you. Complainants
5 and Defendant, do you have any questions
6 about that? I really want to be clear that
7 it's not an easy undertaking. To be
8 regulated by this Commission, it obviously
9 delivers certain guarantees, but it also
10 means that there are certain additional
11 expenses. Do you have any questions?

12 MR. COLEMAN: Fred Coleman, your Honor.
13 No. I think in a previous conference, maybe
14 the first one, Defendant stated that their
15 first choice was CSD. Their second choice
16 was TUD. Third choice was a mutual. And the
17 last choice was to be regulated by the CPUC.

18 I don't think we agree with that
19 order, but I think the Complainants would
20 rather not be under CPUC regulation either,
21 but we had to come to you based on the need
22 to continue getting water in the subdivision.

23 ALJ MINKIN: Okay. So I think what
24 that means is that really this particular
25 complaint should not go forward, but how can
26 we ensure that water does continue to be
27 provided and that the lot owners continue to
28 pay the water assessment while this is all

1 sorted out? Mr. Trujillo.

2 MR. TRUJILLO: Yes, your Honor. And of
3 course you understand of course the payment
4 for us is obviously a concern.

5 ALJ MINKIN: Yes.

6 MR. TRUJILLO: Now, I want to -- can I
7 just back up, your Honor?

8 ALJ MINKIN: Sure.

9 MR. TRUJILLO: Were you suggesting that
10 perhaps the PUC would be willing to do a kind
11 of review of our financial or the information
12 that we provided and the water system?

13 ALJ MINKIN: Yes.

14 MR. TRUJILLO: On an informal basis?

15 ALJ MINKIN: On an informal basis. And
16 Mr. Kumra would be willing to meet with both
17 Complainants and Defendant to sort of come to
18 an agreement as to what is reasonable and
19 what should be in place going forward. And
20 then I think that could be a very amicable
21 way of resolving this matter.

22 MR. TRUJILLO: And your Honor, I would
23 just add that we would welcome that. I think
24 that would be -- that's fantastic, and I
25 appreciate the PUC being willing to do that.
26 And we would welcome that. That would be
27 very -- I think that would be a great way to
28 kind of reach a resolution on this.

1 ALJ MINKIN: Okay.

2 MR. TRUJILLO: As you might understand,
3 our primary concern is obviously to make sure
4 that we get paid. And there aren't that
5 many -- we're down to like I think about 17
6 people that haven't actually paid anything.
7 So I mean it's fairly small out of the 360.
8 But the question I'm going to have for your
9 Honor is going to be what do I do with these
10 17 people that haven't paid anything despite
11 numerous notices, etcetera, that we have sent
12 to them?

13 ALJ MINKIN: Well, I think, you know,
14 the provision of water is a health and safety
15 issue, and that's what concerns me.

16 MR. TRUJILLO: And I recognize that,
17 your Honor. I'm not -- I'm just --

18 ALJ MINKIN: And are these --

19 MR. TRUJILLO: At some point do I say
20 enough?

21 ALJ MINKIN: Yeah. Are these full-time
22 homeowners? Do they live in the homes full
23 time? Are they vacation owners?

24 MR. TRUJILLO: I believe that
25 approximately -- and I'm just estimating,
26 your Honor, looking on a list here. I
27 believe that five are actually full-time
28 owners and the other 12 are, you know,

1 vacation owners or they're a vacant lot.

2 ALJ MINKIN: Or they're vacant lots.
3 Do the vacant lots get water service?

4 MR. TRUJILLO: I believe so, yes, your
5 Honor.

6 ALJ MINKIN: Why would they get water
7 service?

8 MR. TRUJILLO: There's a water
9 connection there, your Honor. That's what I
10 understand. And I don't know what -- if they
11 use it, or I'm not sure how that works.

12 ALJ MINKIN: Well, presumably, you
13 know, if this were a CPUC-regulated entity,
14 there would be a tariff in place that would
15 address how, I guess disconnection for lack
16 of service. Is that correct, Mr. Kumra?

17 MR. KUMRA: Basically the -- and you
18 are correct, your Honor. Basically what it
19 is is that there would be a tariff in place,
20 which is nothing but the definition of how
21 the charges would be. And normally that is
22 there is a fixed connection fee and a usage
23 fee. In this case my understanding is that
24 there are no meters.

25 ALJ MINKIN: Correct.

26 MR. KUMRA: So everything has to be
27 divided amongst all the lot owners. So some
28 thought should be given to what to do with

1 people or those lots which are vacant and
2 which are not utilizing the service. So
3 obviously since the infrastructure is in
4 place, they have to pay some portion of the
5 total bill, but it would not be appropriate
6 to charge them the same as what a user would
7 be doing. So that's something that for the
8 Complainants as well as the Defendants should
9 probably look into to resolve that issue as
10 we move along.

11 MR. TRUJILLO: Your Honor, I think that
12 would be something that we would be very
13 willing to look at. And obviously, we would
14 need some assistance in coming up with what
15 would be a fair number for those individuals.

16 ALJ MINKIN: Okay.

17 MR. COLEMAN: Your Honor?

18 ALJ MINKIN: Yes.

19 MR. COLEMAN: Your Honor?

20 ALJ MINKIN: Yes.

21 MR. COLEMAN: Ruth Dargitz indicated to
22 me that she would like to comment on that.
23 Can she do that?

24 ALJ MINKIN: Certainly.

25 MS. DARGITZ: This is Ruth Dargitz. I
26 am a vacation cabin owner. I'm not a rec
27 board member or belong to Odd Fellows or the
28 Rebekah's. I have owned my cabin 30 years.

1 We use it on occasion. The most time it gets
2 used is like at Christmas time, Labor Day,
3 Memorial Day, something like that. It might
4 get used a couple of times a month if that.
5 Should I pay the full amount as the
6 established homeowners here within the park,
7 or should vacation home people be paid a
8 little less?

9 Also if we go -- will I as a lot
10 owner and a cabin owner have any voting
11 rights or say over this water issues?

12 ALJ MINKIN: Do you mean if a community
13 service district is formed or if it's
14 regulated by the Tuolumne Utilities District?
15 Is that your question?

16 MS. DARGITZ: That's one of my
17 questions.

18 ALJ MINKIN: And I have to say I don't
19 know. I don't know. I am not familiar with
20 the law regarding community services
21 districts. And the Tuolumne Utilities
22 District is a municipal utilities district.
23 So I'm not sure what their regulations are
24 regarding this sort of water system.

25 But I think what Mr. Kumra was
26 saying is because -- if there were meters in
27 each of the homes, it would be a little bit
28 different. You would pay according to what

1 you use. If there are no meters, then
2 somehow there's a flat rate and it has to be
3 allocated properly. And that's what I think
4 Mr. Kumra is willing to meet with both
5 Complainants and Defendants to discuss.

6 But you raise good questions, Ms.
7 Dargitz. I don't think we have any answers
8 here today, but we're trying to figure out a
9 way forward.

10 Mr. Kumra.

11 MR. COLEMAN: Your Honor.

12 ALJ MINKIN: I'm sorry. Mr. Kumra has
13 something to say. So hold on one moment, Mr.
14 Coleman.

15 MR. COLEMAN: Okay. Sorry, your Honor.

16 MR. KUMRA: I'm wondering, has the
17 homeowner associates looked into the
18 possibility of installing meters on each of
19 these lots, just an estimate so that you have
20 a feel for what would be involved if you were
21 to switch over from a -- switch over to a
22 metered rate, then that would definitely
23 help. Of course you have to look at the
24 costs involved. So probably, even though a
25 civil engineering firm might be able to help
26 you to get some estimates on that. That's
27 the first thing that comes to mind in this
28 case.

1 ALJ MINKIN: Thank you.

2 Mr. Coleman.

3 MR. COLEMAN: Yes, your Honor. Two
4 items. Number one, I can kind of address
5 what Ruth Dargitz asked you about TUD.

6 ALJ MINKIN: You know what, I'm going
7 to ask you to do that offline because that
8 really doesn't impact what we do here.

9 MR. COLEMAN: Okay, your Honor. And I
10 can respond to the item about the homeowners
11 association. There is no homeowners
12 association. That's the problem. There was
13 a homeowners association for roughly 25
14 years, and there was only one member. That
15 was the rec association. So there really
16 isn't a homeowners association. If there
17 was, we wouldn't be having this problem right
18 now with water because if we did have an
19 active homeowners association that owned the
20 water system, they could sell water to the
21 homeowners without any interference from any
22 one. So it would be nice if we did have a
23 homeowners association that was active with
24 CC&Rs, but we do not have that.

25 ALJ MINKIN: Okay. So it's possible
26 that you could form a homeowners association
27 going forward, but again, that's not what
28 we're talking about here.

1 I think for now what I would like to
2 do is lift the stay on this proceeding for
3 the purpose of allowing Mr. Kumra to review
4 the books and records to a certain extent, to
5 meet -- to come to Long Barn and meet with
6 you and come up with a game plan for going
7 forward. And really in a way I think that
8 this is going to help you figure out where
9 you want to go with this. And what I would
10 actually expect is that both Complainant and
11 Defendant will be able to contact me and say
12 that this matter is resolved and they would
13 like this complaint simply dismissed.

14 That's my hope because it really
15 sounds like all of you agree that regulation
16 by this Commission is not where you want to
17 go. And whether it's the community services
18 district or the Tuolumne Utilities District
19 or even formation of a mutual water company,
20 again, none of those are regulated by this
21 Commission.

22 Does that sound acceptable?

23 MR. COLEMAN: This is Fred Coleman
24 again. I think we can discuss that, and I
25 think it can be worked out. In fact, the
26 four of us did try to do something like that
27 earlier. When we were serving on the
28 homeowners board for a short time, we tried

1 to -- we had a letter of intent where the
2 homeowners association was going to take over
3 the water and everything in the park just as
4 what they're doing now with the CSD. And the
5 rec association rejected that idea, which
6 would have been a much less expensive and
7 cleaner way for doing it.

8 So yes, we are interested in looking
9 at options, your Honor.

10 ALJ MINKIN: Okay.

11 MR. COLEMAN: And trying to solve --
12 resolve this. That's basically what we've
13 been trying to do from day one without any
14 cooperation from the other side. But if
15 they're willing to cooperate, we are too.

16 ALJ MINKIN: It sounds like they're
17 very willing to cooperate, and it sounds like
18 we have a way of moving forward.

19 Now, we do -- I do want to be sure
20 that water does continue to be provided. And
21 to the extent that you're not getting any
22 payment at all for your client, Mr. Trujillo.
23 Has this happened in the past? Do you know?

24 MR. TRUJILLO: I think it has happened
25 in the past, your Honor. I think on a
26 slightly smaller scale. I think we're
27 talking, you know, five to eight, maybe,
28 possibly. That's the numbers I have looked

1 at historically.

2 MR. COLEMAN: Your Honor, Ruth Dargitz
3 was the treasurer of the defunct homeowners
4 association. She can address that.

5 ALJ MINKIN: Okay.

6 MS. DARGITZ: For unpaid assessment it
7 was roughly around 17 to 19 people that
8 hadn't been paying for years.

9 ALJ MINKIN: Had not paid for years?

10 MS. DARGITZ: They hadn't been. They
11 had just been charged a monthly fee of like
12 \$25, and that's it.

13 MR. COLEMAN: Late fee.

14 MS. DARGITZ: Late fee.

15 ALJ MINKIN: And then what happened
16 with the water?

17 MS. DARGITZ: They still got water.

18 ALJ MINKIN: They still got water. So
19 they -- they have learned that they don't
20 have to pay and they can get water.

21 MS. DARGITZ: But your Honor?

22 ALJ MINKIN: Yes.

23 MS. DARGITZ: By law there is no such
24 thing as a homeowners association here due to
25 the fact that homeowners don't own anything.
26 We don't. All we own is our lots. That's
27 it. We don't own buildings. We don't own
28 properties. We don't own nothing.

1 UNIDENTIFIED SPEAKER: The homeowners
2 didn't join the association.

3 MS. DARGITZ: And the homeowners did
4 not join the association.

5 ALJ MINKIN: Okay. So I understand
6 that there's some complexities, but still, I
7 mean if you get right down to it, if a
8 service is being provided, it does have to be
9 paid for. And I'm not sure if Mr. Kumra has
10 any information about disconnections for
11 Class D water utilities?

12 MR. KUMRA: I could not, but I could
13 look it up in our Public Utilities Code.

14 ALJ MINKIN: Okay.

15 MR. KUMRA: And see under what
16 circumstances the disconnection would occur.
17 But again, that would be for utilities that
18 we regulate.

19 ALJ MINKIN: That we regulate.
20 Exactly.

21 MR. KUMRA: So I can give it a shot and
22 see what it is. I am not an attorney. So I
23 cannot give any legal advice.

24 ALJ MINKIN: Right, right. And neither
25 of us are giving legal advice. But I do
26 think that during the pendency of this
27 proceeding until we figure out how we're
28 going forward, I do think that water needs to

1 be provided. Now, if your client can come up
2 with an assessment that allocates a lesser
3 cost to vacant lot holders, perhaps a lesser
4 cost to vacation lot owners. I don't know.
5 I believe Mr. Kumra was planning to come to
6 your area in April. Is that right?

7 MR. KUMRA: Probably third week of
8 April or so. Would that work out?

9 ALJ MINKIN: Probably the third week of
10 April. Will that work for you?

11 MR. COLEMAN: Your Honor, this is Fred
12 Coleman.

13 ALJ MINKIN: Yes.

14 MR. COLEMAN: It probably will work
15 with me, but let me find out what's going on
16 with my health. I have an appointment at
17 9:30 Thursday with a heart specialist in
18 Redwood City. I have to have open heart
19 surgery and a valve replaced. I hope it's
20 done right away. If it's done right away, I
21 should -- if I make it through the surgery, I
22 should be able to meet the third week in
23 April.

24 ALJ MINKIN: Okay.

25 MR. COLEMAN: If your Honor would
26 permit it, once I know when my surgery is
27 taking place and I come out of it, I'll let
28 you know. I will send you an e-mail stating

1 when my surgery is going to take place. And
2 then when I am home I will send you another
3 e-mail to tell you the progress. That way if
4 we needed to move it a little later than the
5 third week in April we could possibly do that
6 if it would be okay with your Honor.

7 ALJ MINKIN: That's fine. Is that okay
8 with you, Mr. Kumra?

9 MR. KUMRA: Yes.

10 ALJ MINKIN: I certainly hope your
11 surgery is successful and that everything
12 goes well.

13 All right. Well, let's keep it at
14 this point for now. Let's say that Mr. Kumra
15 will come out to your area sometime in late
16 April or early May to review the books and
17 records and to see if you can all come to an
18 agreement.

19 Mr. Kumra actually has a question,
20 and perhaps, Mr. Trujillo, you can answer
21 this. Who owns the pipes?

22 MR. TRUJILLO: The rec -- the
23 Defendant, your Honor.

24 ALJ MINKIN: The Defendant. Okay. And
25 who does the repairs?

26 MR. TRUJILLO: The Defendant, your
27 Honor.

28 ALJ MINKIN: The Defendant. Okay.

1 Okay. Thank you.

2 So you're going to see a couple of
3 things come out of the PUC, of this PUC, and
4 that is I'm going to issue a ruling that
5 lifts the stay and sets a date for hearing
6 probably in June or early July just because I
7 think we need to have that on the books. And
8 I'm going to -- it will be a sort of a
9 abbreviated scoping memo ruling that states
10 that this is an adjudicatory proceeding,
11 which a complaint is, that we're really
12 looking at the regulation of this water
13 system going forward and that we're going to
14 be sorting out the cost to a certain extent
15 but that we expect that since the preferred
16 approach is regulation that would not occur
17 by this Commission that we expect that this
18 complaint will be resolved by a settlement or
19 an agreed-upon approach for going forward.

20 And Mr. Kumra will be asking written
21 questions. We call them data requests here.
22 And he's going to be sending them out to both
23 the Complainant and the Defendant in order to
24 prepare for the visit. And it's nothing to
25 really worry about. It will just help him
26 sort out what's what. Is that okay?

27 MR. COLEMAN: Yes, your Honor.

28 MR. TRUJILLO: Yes, your Honor. This

1 is Tim Trujillo.

2 ALJ MINKIN: Great, great. And then
3 you're also going to see a order extending
4 the statutory deadline, and that's what I was
5 talking about early on in this prehearing
6 conference. We just need to do that to keep
7 everything moving along properly on our side.

8 So I think we have a game plan here,
9 and I really do think that this will be
10 resolved amicably, and I'm very glad to hear
11 that you're all cooperating with each other.

12 Mr. Trujillo, in terms of providing
13 water, I think I need to ask that your client
14 continue to do that. And we will try to get
15 you some information on tariffs that address
16 disconnection in appropriate circumstances.
17 All right?

18 MR. TRUJILLO: Very well, your Honor.

19 ALJ MINKIN: All right. Any other
20 questions before we close today?

21 MR. COLEMAN: Yes, your Honor. I have
22 a couple of items.

23 ALJ MINKIN: Okay.

24 MR. COLEMAN: I have a concern about
25 Mr. Trujillo and Defendant continuing to
26 bring up the fact that we owe assessments for
27 other things than water since it's -- you've
28 stated a number of times that this is

1 specifically dealing with water. And I don't
2 think there's a need to drag up assessments
3 which Mr. Trujillo know are illegal because
4 we do not have CC&Rs on our property.

5 And the other thing is in one of his
6 recent filings he singled out the four of us
7 showing that we owe money and late fees,
8 which is illegal under the law concerning
9 collecting debts. It's called the Fair Debt
10 Collection Practices Act. And it states
11 you're prohibited in publishing the
12 consumer's name or address on a bad debt
13 list, which is sort of what he did with the
14 CPUC and turning it over to LAFCO, because
15 you're -- the documents going to the CPUC
16 become public. So now people can look at
17 that and say these people aren't paying their
18 debts, which the debts were illegal to begin
19 with, your Honor. And think I Defendant
20 needs to stop that sort of activity.

21 ALJ MINKIN: And have you paid your
22 water assessment, Mr. Coleman?

23 MR. COLEMAN: I paid it through the
24 last quarter. When the next quarter is due
25 in February, instead of paying it upfront,
26 I'm paying it like all utilities like PG&E or
27 anything else. I'm paying it after it's been
28 used.

1 ALJ MINKIN: So I want to explain one
2 thing about that, and I think actually Mr.
3 Kumra can explain something about that. But
4 often with small water utilities, Class D
5 water utilities, the assessment is paid
6 either in an annual assessment or perhaps a
7 quarterly assessment, but it is often done
8 upfront.

9 MR. COLEMAN: Okay, your Honor. Thank
10 you.

11 ALJ MINKIN: It is often done upfront.
12 Okay. And so I think this is something that
13 you all can probably work out and agree to
14 not publish the late fees or work out a way
15 of managing this. I think it's something
16 that you all can agree on. Okay.

17 MR. COLEMAN: I think what the
18 Defendant needs to stop doing is continuing
19 to beat us around in each filing by saying,
20 well, they haven't paid their assessment,
21 when the assessment is like a thousand 24
22 dollars. Part of that was water as
23 determined by your Honor at the last
24 conference.

25 ALJ MINKIN: We did talk about just the
26 water piece. And in forming the community
27 services district, obviously, that would be
28 addressing all of the services, not just

1 water. But for our purposes we're only
2 addressing water and the charges for water.
3 And I think that's one piece that Mr. Kumra
4 will be looking at, whether the costs are
5 properly allocated.

6 So Mr. Trujillo, can you work with
7 Mr. Coleman and the Complainants and come to
8 an accommodation here?

9 MR. TRUJILLO: I'm not sure exactly
10 what they're asking for. Are they saying
11 they're going to pay the monies that are due?

12 ALJ MINKIN: I think so. So Mr.
13 Coleman, after hearing how water usage or
14 water fees are assessed for small water
15 utilities, do you intend to pay your water
16 charges?

17 MR. COLEMAN: I was planning on paying
18 my next water charge at the end of February,
19 but if your Honor directs us to pay upfront,
20 I will do that.

21 ALJ MINKIN: Okay. Yes, please do
22 that.

23 MR. TRUJILLO: Your Honor, there would
24 be no water due by Mr. Coleman, so.

25 ALJ MINKIN: So I think that he's
26 referring to the \$75 late fee. Is that
27 right, Mr. Coleman? So I think that's the
28 concern here.

1 MR. COLEMAN: But in one of the filings
2 Mr. Trujillo for the Defendant put in the
3 fact that we had late fees on the other
4 assessment, and he brought out the total
5 assessments, which is not something that
6 we're required to pay. As Mr. Trujillo
7 pointed out to us, he agreed with that when
8 we had the conference with Mr. Trujillo and
9 Mr. Wallace, and then the Complainants, Mr.
10 Steve Wallace, Ms. Dargitz, Mr. Vaughn and
11 myself. We don't have CC&Rs, and they can
12 charge us under, I can't probably pronounce
13 this Latin term, quantus marelis [phonetic].
14 But they'd have to take us to court for that
15 and prove that we asked for these services.
16 But to put in a filing that becomes public
17 information --

18 ALJ MINKIN: I understand the concern.
19 I understand the concern.

20 MR. COLEMAN: -- goes on the web site.
21 These four people are singled out for not
22 paying these assessments, and they blacked
23 out everybody else. I think that's a little
24 over the line, your Honor.

25 ALJ MINKIN: I understand the concern.
26 And perhaps it's because it's providing
27 information related to the complaint, but I
28 think that it's a fair request to keep

1 customer information private, which is what
2 you're talking about here. But it sounds
3 like it actually won't be an issue going
4 forward because the Complainants are going to
5 pay these fees upfront.

6 Mr. Kumra had another question, and
7 that is whether sewage service is combined
8 with the water charges?

9 MR. TRUJILLO: No, your Honor.

10 ALJ MINKIN: No. It's separate. Okay.
11 Okay. Thank you.

12 MR. COLEMAN: Your Honor.

13 ALJ MINKIN: Yes, Mr. Coleman.

14 MR. COLEMAN: Each property in here has
15 their own sewer system, a septic tank, and is
16 taken care of by each individual.

17 ALJ MINKIN: Okay. Thank you very
18 much.

19 All right. Are there any other
20 questions before we close today?

21 (No response)

22 ALJ MINKIN: No. Hearing none.

23 MR. TRUJILLO: No, your Honor. This is
24 Tim Trujillo.

25 ALJ MINKIN: Okay.

26 MR. COLEMAN: I looked at the other
27 three Complainants, and I don't think we have
28 anything else, your Honor.

1 ALJ MINKIN: All right.

2 MR. COLEMAN: I appreciate this time.

3 ALJ MINKIN: Thank you. I appreciate
4 you all taking part so respectfully. And Mr.
5 Kumra will be in touch with you. I have the
6 appropriate e-mails. And I think I'll just
7 have him e-mail you and set up dates and ask
8 the questions that he needs to ask if that's
9 all right. Okay?

10 MR. COLEMAN: And your Honor?

11 ALJ MINKIN: Yes.

12 MR. COLEMAN: Fred Coleman. I can send
13 you an e-mail on the status of my surgery and
14 recovery.

15 ALJ MINKIN: Okay. Very good, very
16 good. Thank you.

17 MR. COLEMAN: Is that appropriate?

18 ALJ MINKIN: That's fine. And all the
19 best. I hope it all goes well.

20 And we're adjourned.

21 (Whereupon, at the hour of 10:45
22 a.m., this prehearing conference was
concluded.)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

Fred Coleman, Steven Wallace, Larry)	
L. Vaughn and Ruth Dargitz,)	
)	
Complainants,)	
)	Case
vs.)	12-03-017
)	
Odd Fellows Sierra Recreation)	
Association,)	
)	
Defendant.)	

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Thomas C. Brenneman, Certified Shorthand Reporter No. 9554, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on February 5, 2013.

I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 5th day of February, 2013.

Thomas C. Brenneman
CSR No. 9554