



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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In the Matter of Application of Odd Fellows Sierra Recreation Association, a California corporation, and Sierra Park Water Company, Inc., a California corporation, for Certificate of Public Convenience and Necessity to Operate a Public Utility Water System near Long Barn, Tuolumne County, California and to Establish Rates for Service and For Sierra Park Water Company, Inc. to Issue Stock.

Application 13-09-023
(Filed September 20, 2013)

Fred Coleman, Steven Wallace, Larry L. Vaughn and Ruth Dargitz,

Complainants,

vs.

Odd Fellows Sierra Recreation Association,

Defendant.

Case 12-03-017
(Filed March 14, 2012)
(CONSOLIDATED)

**PETITION OF SIERRA PARK WATER COMPANY FOR MODIFICATION OF
DECISION NO. 16-01-047 (DECISION RESOLVING A COMPLAINT AND
AUTHORIZING A CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY AS MODIFIED)**

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June 9, 2016

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Pursuant to Rule 16.4 of the Commission’s Rules of Practice and Procedure, Sierra Park Water Company (“Water Company”) files this Petition for Modification of Commission Decision No. 16-01-047 (“Decision”), which was issued on January 29, 2016. This Petition is therefore filed less than one year of the effective date of the Decision. (See Rules 16.4(c) and (d).)

As will be explained below, Water Company respectfully requests the Commission to modify Ordering Paragraph 3.a of the Decision.

1. Background.

The Decision conditionally granted Water Company a certificate of public convenience and necessity conditioned on certain transfers described in Ordering Paragraph 1. As pertinent to this Petition, the Decision also ordered certain refunds to be made. Ordering Paragraph 3.a on page 36 of the Decision provides:

Water Company must refund \$ 157,756, allocated as follows: \$133,150 to the improved lots and \$24,606 to the unimproved lots as the lots are shown in the Division of Water and Audits Staff Report (Attachment A to this decision). The Water Company must also refund to customers their proportionate share of the overpayments, if any, made for Fiscal Years 2015-2016 according to the formula set forth in the decision and used to compute the Fiscal Year 2013 and 2014 refunds. Water Company must make the refund in quarterly payments over five years (for a total of twenty payments) to customers. These payments are due for 2016, 2017, 2018, 2019 and 2020 by the following dates: March 31, June 30, September 30 and December 31. Water Company may offset the costs of the engineering study set forth in Ordering Paragraph 4 below from this refund.

The Decision also requires the Water Company to implement a surcharge of \$124 per connection to fund the costs of retaining an engineering consultant (Ordering Paragraph 4) and to implement tariffs described in Ordering Paragraph 6.

As the Commission knows, Water Company is new to Commission regulation. Water Company has worked diligently to implement the Decision and comply with its Ordering Paragraphs. Since the Decision issued, on April 4, 2016, Water Company filed Advice Letter No. 1 with the required tariffs. Three protests were filed to Advice Letter No. 1. In a disposition letter dated June 1, 2016, signed by Program Manager Bruce DeBerry (“Disposition”), DWA approved Advice Letter No. 1. The Water Company therefore now has tariffs in place.

Water Company has made one set of refunds to date. As noted on page 4 of the Disposition, Water Company and a Protestant have agreed upon a recommended methodology for computing refunds. Because one set of refunds has already been made, the Disposition notes that Water Company will adjust its next set of refunds, due on June 30, 2016, using that methodology. Water Company has also responded to all complaints from customers in the manner required by its tariffs, issued an RFP for the required engineering study and met with those who responded to the RFP, and retained a California licensed professional engineer to review the proposals.

The Disposition also discusses (at pages 4-5) the issue of providing refunds to customers

who either paid no water bills or only partially paid. The Disposition noted that Water Company intended to file this Petition, but that Water Company must comply with Ordering Paragraph 3.a until it is modified.

Below Water Company will explain that compliance with Ordering Paragraph 3.a in its current form results in refunding more money than was actually collected in water bill payments and provides a windfall for customers who paid either none or only some of their bills. The Decision specifically recognized this possibility but did not reflect it in Ordering Paragraph 3.a.

2. Ordering Paragraph 3.a Should Be Modified to Reflect That Refunds from Water Company May Not Be Required, or May Be Smaller, for Customers Who Did Not Pay at All or Who Paid Less Than the Amount Billed.

Ordering Paragraph 3.a states specific dollar amounts to be refunded by Water Company: \$133,150 to improved lots and \$24,606 to unimproved lots, for a total of \$157,756. (Decision, p. 36.) These specific dollar amounts were based on amounts billed by Water Company. (See Decision, p. 25; Attachment A to Decision, p. 25, Table 3, dollar amounts stated in 3rd and 4th Rows in Column labeled “Total.” These two numbers total \$321,422, the dollar amount stated in the Decision on p. 25.)

However, Water Company did not collect all amounts it billed. The Decision recognizes that fact in stating customers who did not pay the actual rates charged “would not be entitled to a refund.” (Decision, p. 24.) The Decision also recognizes that “the actual refund amount” may be “less than what we order” because customers who did not pay in full would not be entitled to a refund. (Decision, p. 24.)

Unfortunately, this recognition is not reflected in Ordering Paragraph 3.a. As a result, under current Ordering Paragraph 3.a, despite the clear intent reflected on page 24 of the Decision that customers who either paid nothing or less than they should have not receive refunds of money they did not pay, such customers will receive such refunds. This would lead to an unfair result for customers who properly paid their water bills, and preferential treatment – in fact a windfall – for customers who did not.

Water Company requests Ordering Paragraph 3.a be revised to reflect the intent reflected on page 24 of the Decision, to make it clear refunds need be made only up to the total amount actually collected. That would take into account the fact that customers who did not pay in full or at all should and would receive a smaller or no refund. Water Company suggests rewording Ordering Paragraph 3.a as follows (additions are in bold type):

Water Company must refund **up to** \$ 157,756, allocated as follows: **up to** \$133,150 to the improved lots and **up to** \$24,606 to the unimproved lots, **subject to amount collected**, as the lots are shown in the Division of Water and Audits Staff Report (Attachment A to this decision). The Water Company must also refund to customers their proportionate share of the overpayments, if any, made for Fiscal Years 2015-2016 according to the formula set forth in the decision and used to compute the Fiscal Year 2013 and 2014 refunds. Water Company must make the refund in quarterly payments over five years (for a total of twenty payments) to customers. These payments are due for 2016, 2017, 2018, 2019 and 2020 by the following dates: March 31, June 30, September 30 and December 31. Water Company may offset the costs of the engineering study set forth in Ordering Paragraph 4 below from this refund.

For the Commission's ease of comparison, Water Company has also reproduced Ordering Paragraph 3.a from the Decision and as Water Company proposes to modify it in attached Appendix A.

Upon a grant of this Petition, Water Company will calculate refunds as shown in the spreadsheet in attached Appendix B. Those calculations are according to footnote 17 on page 22 of the Decision,¹ except the offset permitted in the last sentence of Ordering Paragraph 3.1 for the \$124 surcharge for the engineering study required by Ordering Paragraph 4 was included in the calculation. These calculations are for refunds only to customers who paid in full. Those who did not pay at all or only partially paid are being rebilled as if the rates adopted by the Commission were already in place. If those customers pay the new bills, they will have paid the amount they should have and no more, and thus will not be entitled to a refund. Water Company will follow its tariffs for any customers who do not pay these newly issued bills.

3. Conclusion.

Water Company respectfully requests the Commission to grant this Petition for

¹ Footnote 17 states: "For both FY 2013 and 2014, the Water Division computed the refund to the improved lots (305 lots) should be \$273,181. After deducting the easement payments to the improved lots from \$273,181, \$186,707 remains. 25 percent of \$186,707 is \$46,677. Thus, the refund amount to the improved lots is \$133,150 (the full easement amount of \$86,474, plus 25 percent of the remaining balance, or \$46,677). With respect to the unimproved lots (59), the Water Division computed the refund amount should be \$48,241. After deducting the easement payments to the unimproved lots from \$48,241, \$31,513 remains. 25% of \$31,513 is \$7,878. Thus, the refund amount to the unimproved lots is \$24,606 (the full easement amount of \$16,728, plus 25 percent of the remaining balance, or \$7,878)."

Modification and modify Ordering Paragraph 3.a in Decision No. 16-01-047 as requested above.

Dated: June 9, 2016

Respectfully submitted,

SIERRA PARK WATER COMPANY

By: /s/ William Ordwein
William Ordwein
Chief Operating Officer

APPENDIX A

D.16-01-047, Ordering ¶ 3.a	Requested Modifications to D.16-01-047, Ordering ¶ 3.1
<p>Water Company must refund \$ 157,756, allocated as follows: \$133,150 to the improved lots and \$24,606 to the unimproved lots as the lots are shown in the Division of Water and Audits Staff Report (Attachment A to this decision). The Water Company must also refund to customers their proportionate share of the overpayments, if any, made for Fiscal Years 2015-2016 according to the formula set forth in the decision and used to compute the Fiscal Year 2013 and 2014 refunds. Water Company must make the refund in quarterly payments over five years (for a total of twenty payments) to customers. These payments are due for 2016, 2017, 2018, 2019 and 2020 by the following dates: March 31, June 30, September 30 and December 31. Water Company may offset the costs of the engineering study set forth in Ordering Paragraph 4 below from this refund.</p>	<p>Water Company must refund up to \$ 157,756, allocated as follows: up to \$133,150 to the improved lots and up to \$24,606 to the unimproved lots, subject to amount collected, as the lots are shown in the Division of Water and Audits Staff Report (Attachment A to this decision). The Water Company must also refund to customers their proportionate share of the overpayments, if any, made for Fiscal Years 2015-2016 according to the formula set forth in the decision and used to compute the Fiscal Year 2013 and 2014 refunds. Water Company must make the refund in quarterly payments over five years (for a total of twenty payments) to customers. These payments are due for 2016, 2017, 2018, 2019 and 2020 by the following dates: March 31, June 30, September 30 and December 31. Water Company may offset the costs of the engineering study set forth in Ordering Paragraph 4 below from this refund.</p>

APPENDIX B

FY 2015 Calculations

Lots	Number lots	FY 2015 billed	FY 2015 CPUC	FY 2015 over-billed per lot	FY 2015 over-billed	FY 2015 Easement collected	FY 2015 over-billed minus actual collected easement	25% of FY 2015 over-paid	FY2015 refund before engineer	FY 2015 refund per lot before engineer	FY 2015 \$124 engineer sur-charge per lot	FY 2015 refund per lot	FY 2015 total refund
Improved	305	955	531	424	129,320	39,059	90,261	22,565	61,624	202	124	78.05	23,804
Unimproved	59	909	531	378	22,302	3,475	18,827	4,707	8,182	139	124	14.67	866
					151,622	42,534					248		24,670

Total Refunds

Ordered FY 2013 & 2014 refund *	Total Refunds	Refund per Customer	Ordered number refund payments	Refund per customer per quarter
133,150	156,954	514.60	20	25.73
24,606	25,472	431.72	20	21.59
157,756	182,426			

* D16.01.047 Ordering Paragraph 3.a. Calculated per D16.01-047, footnote 17 on p. 22, adjusted to offset \$124 surcharge to pay for engineering study required by Ordering Paragraph 4 and permitted in last sentence of Ordering Paragraph 3.a.