

**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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January 26, 2016

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OF THE STATE OF CALIFORNIA**

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.

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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 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 1 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 stated:

¶ 4.1 pg. 6: As determined in this decision, we can only grant a CPCN to Water Company if Odd Fellows modifies its transactions and transfers to Water Company, at no expense to Water Company's customers, all of the relevant water service-related **assets including land and legal rights**, which were instead contemplated to be transferred to Service Company. (Bold added for clarity; footnote omitted)

¶ 6.2 pg. 13: Therefore, as a condition of the CPCN, Odd Fellows or the Service Company if it owns any of these assets, must transfer to the Water Company at no expense to Water Company customers all water utility-related **assets including land**, water rights, and any equipment used for providing water service that Odd Fellows owns or which it assigned for transfer to Service Company at the time of forming the Service Company and Water Company. (Bold added for clarity)

Ordering ¶ 1 pg 35 of the Decision: It is Ordered that: A Certificate of Public Convenience and Necessity is conditionally granted to Sierra Park Water Company, Inc. (Water Company), provided that Odd Fellows Sierra Recreation Association (Odd Fellows) transfers to Water Company, at no expense to Water Company customers, **all of the assets it used** when it provided water service as an uncertificated utility in and near Long Barn, California. Odd Fellows and Water Company must file a Tier 2 Advice Letter to demonstrate the completion of the asset transfer. **The assets to be transferred are as described in the Division of Water and Audit's April 15, 2015 Staff Report** (Attachment A to this decision) and incorporated herein. (Bold added for clarity)

April 15, 2015 Staff Report Executive Summary pg.5 #4: The Recreation Association should provide the Water Company **unfettered access**, and water rights at no charge, to existing water supply sources located in the Subdivision. If it is unwilling to do so, then it should continue to provide water services under its own license with the Water Board. In that event, the Water Company may operate as a wholly owned subsidiary of the Recreation Association. (Bold added for clarity)

As the Commission knows, Water Company is new to CPUC regulation. Water Company has worked with staff in the Division of Water and Audits to implement the Decision and comply with its Ordering Paragraphs. Since the Decision issued, on December 13, 2016, Water Company filed Advice Letter No. 2 with copies of an Executed Bill of Sale and Filed Grant Deeds. Two protests were filed to Advice Letter No. 2. On January 12, 2017, a notice advising that Advice Letter 2 was suspended due to protests, need for more information and more time.

The Odd Fellows and the Water Company fully expected to be able to comply with all conditions in D.16.01.047 but ran into difficulty when attempting to complete the transfers of all assets. The Corp Yard building, used for storing pipe, valves and other things that are used for repair and maintenance of the water system, and Block Building/Shop, used for storing hand tools, pumps, gauges and to prepare small replacement valve/tee subassemblies, were

transferred, but not the land on which they are located. The Water Company believes that land was not actually used to provide water service, only the buildings. The Water Company and Odd Fellows do agree with Staff Report that unfettered access is needed to the Corp Yard building and Block Building/Shop. Additionally, while not actually used to distribute water, the Water Company uses the Lodge for the Water Company's office for filing water records and reports, the Board Room for Board of Directors meetings, the large meeting room for annual and other customer meetings and the rest rooms.

In seeking to carry out the transfers, it was discovered that due to the way the original property was purchased by the Odd Fellows it was impractical and financially onerous to transfer the land for the Corp Yard building and Block Building/Shop and fuel tanks and the Lodge. As will be explained next, a little history is needed to understand the issues and problems.

Originally, a number of people who were all members of the Independent Order of Odd Fellows originally purchased approximately 700+ acres of mostly timberland in Tuolumne County, California. The purchase contained a number of parcels. In 1949 when the original purchasers decided to create a residential subdivision, they surveyed and filed individual lots with Tuolumne County. The surveyed lots were in essence cut out of the several sub-parcels that made up the approximately 700+ acres. The sub-parcels together make up the larger, and are part of, the approximately 700+ acres originally purchased. They cannot be individually sold, because historically, long before any issues arose regarding whether a regulated water utility existed for this community, and while everyone in the community cooperated and worked together, irreversible uses across sub-parcel boundaries were undertaken. Examples of multiple uses across parcels are: logging, recreation, nature preserve as well as residential. The only way to sell or otherwise transfer property that is part of the original purchase is to individually survey and file with Tuolumne County, just as was recently done for the wells and water tank farms transferred by the Odd Fellows Sierra Recreational Association to the Water Company. The cost for surveying, filing etc. is estimated to be over \$10,000 for each property to be sold or transferred. This is money neither the Odd Fellows nor Water Company has to spend. Even if the Water Company had those funds, they will be much better spent providing reliable service to Water Company customers. In addition, it is possible that the zoning for the property needs to be changed as the portion of the approximately 700+ acres that was not surveyed and rezoned as residential is still zoned for timbering and other uses. Rezoning is only done twice a year in Tuolumne County, which, besides the costs, could add further delays in transfer.

After discovering this information, the Odd Fellows agreed to review other options that would provide unfettered access to the Corp Yard, Shop and Lodge (hereafter together called the “premises”) at no cost to Water Company’s customers. After reviewing options, it was determined that either long term no-charge lease or easement were options that could work. Either would guarantee unfettered access for the term of the lease or easement, while avoiding the expense and difficulty faced by seeking to transfer the property “in fee.”

Below Water Company will explain that compliance with Ordering Paragraph 1 will result after requested changes to D.16.01.047 are made.

2. Requests:

The Odd Fellows and the Water Company request that the Commission modify D.16.01.047 to allow, at no cost to the Water Company’s customers, unfettered access through property transfers, which may include long-term leases or easements.

Proposed Modification of Paragraph 4.1, Pg. 6:

As determined in this decision, we can only grant a CPCN to Water Company if Odd Fellows modifies its transactions and transfers **through any transfer, including long-term leases or easements**, to Water Company, at no expense to Water Company’s customers, all of the relevant water service-related assets including land and legal rights , which were instead contemplated to be transferred to Service Company.¹ (Bold added for clarity)

Proposed Modification of Paragraph 6.2, Pg. 13:

Therefore, as a condition of the CPCN, Odd Fellows or the Service Company if it owns any of these assets, must transfer **through any transfer, including long-term leases or easements**, to the Water Company at no expense to Water Company customers all water utility-related assets including land, water rights, and any equipment used for providing water service that Odd Fellows owns or which it assigned for transfer to Service Company at the time of forming the Service Company and Water Company. (Bold added for clarity)

Proposed Modification of Ordering Paragraph 1. Pg. 35:

It is Ordered that: A Certificate of Public Convenience and Necessity is conditionally granted to Sierra Park Water Company, Inc. (Water Company), provided that Odd Fellows Sierra Recreation Association (Odd Fellows) transfers **through any transfer, including long-term leases or easements**, to Water Company, at no expense to Water Company customers, all of the assets it used when it provided water service as an uncertificated utility in and near Long Barn, California. Odd Fellows and Water Company must file a Tier 2 Advice Letter to demonstrate the completion of the asset transfer. The assets to be transferred are as described in the Division of Water and

Audit's April 15, 2015 Staff Report (Attachment A to this decision) and incorporated herein. (Bold added for clarity)

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

3. Conclusion.

Water Company respectfully requests the Commission to grant this Petition for Modification and modify Decision No. 16-01-047 as requested above and set forth in Appendix A.

Dated: January 26, 2017

Respectfully submitted,
SIERRA PARK WATER COMPANY

By: /s/ William Ordwein
William Ordwein
Chief Operating Officer
Sierra Park Water Company

APPENDIX A

<p align="center">D.16-01-047, ¶ 4.1 Pg. 6:</p>	<p align="center">Requested Modifications to D.16-01-047, ¶ 4.1, Pg. 6:</p>
<p>As determined in this decision, we can only grant a CPCN to Water Company if Odd Fellows modifies its transactions and transfers to Water Company, at no expense to Water Company’s customers, all of the relevant water service-related assets including land and legal rights, which were instead contemplated to be transferred to Service Company.¹</p>	<p>As determined in this decision, we can only grant a CPCN to Water Company if Odd Fellows modifies its transactions and transfers through any transfer, including long-term leases or easements, to Water Company, at no expense to Water Company’s customers, all of the relevant water service-related assets including land and legal rights, which were instead contemplated to be transferred to Service Company.¹ (Bold added for clarity)</p>
<p align="center">D.16-01-047, ¶ 6.2 Pg. 13:</p>	<p align="center">Requested Modifications to D.16-01-047, ¶ 6.2, Pg. 13:</p>
<p>Therefore, as a condition of the CPCN, Odd Fellows or the Service Company if it owns any of these assets, must transfer to the Water Company at no expense to Water Company customers all water utility-related assets including land, water rights, and any equipment used for providing water service that Odd Fellows owns or which it assigned for transfer to Service Company at the time of forming the Service Company and Water Company</p>	<p>Therefore, as a condition of the CPCN, Odd Fellows or the Service Company if it owns any of these assets, must transfer through any transfer, including long-term leases or easements, to the Water Company at no expense to Water Company customers all water utility-related assets including land, water rights, and any equipment used for providing water service that Odd Fellows owns or which it assigned for transfer to Service Company at the time of forming the Service Company and Water Company. (Bold added for clarity)</p>
<p align="center">D.16-01-047, Ordering ¶ 1 Pg. 35:</p>	<p align="center">Requested Modifications to D.16-01-047, Ordering ¶ 1, Pg. 35:</p>

<p>It is Ordered that: A Certificate of Public Convenience and Necessity is conditionally granted to Sierra Park Water Company, Inc. (Water Company), provided that Odd Fellows Sierra Recreation Association (Odd Fellows) transfers to Water Company, at no expense to Water Company customers, all of the assets it used when it provided water service as an uncertificated utility in and near Long Barn, California. Odd Fellows and Water Company must file a Tier 2 Advice Letter to demonstrate the completion of the asset transfer. The assets to be transferred are as described in the Division of Water and Audit's April 15, 2015 Staff Report (Attachment A to this decision) and incorporated herein.</p>	<p>It is Ordered that: A Certificate of Public Convenience and Necessity is conditionally granted to Sierra Park Water Company, Inc. (Water Company), provided that Odd Fellows Sierra Recreation Association (Odd Fellows) transfers through any transfer, including long-term leases or easements, to Water Company, at no expense to Water Company customers, all of the assets it used when it provided water service as an uncertificated utility in and near Long Barn, California. Odd Fellows and Water Company must file a Tier 2 Advice Letter to demonstrate the completion of the asset transfer. The assets to be transferred are as described in the Division of Water and Audit's April 15, 2015 Staff Report (Attachment A to this decision) and incorporated herein. (Bold added for clarity)</p>
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