



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIF

FILED
2-06-17
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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)

**RESPONSE OF COMPLAINANTS TO PETITION OF SIERRA PARK WATER COMPANY
FOR MODIFICATION OF DECISION NO. 16-01-047.**

FOR COMPLAINANTS
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February 3, 2017

Water Company to have a reasonable opportunity to operate successfully and independently.¹ Water Company, with their current Petition to Modify, is attempting to eviscerate a decision that gives the Water Company a chance to be viable and independent. Complainants think Water Company filed the Petition to Modify in order to assist and protect Odd Fellows to the detriment of itself, Water Company, and its customers.²

2. Information

Concerning water assets being transferred to Water Company from Odd Fellows, Water Company argues that the buildings which were formerly used by Odd Fellows for the delivery of water should be transferred with ownership of the land to be retained by Odd Fellows. Water Company maintains that it is not necessary for Odd Fellows to transfer to Water Company the real property on which these buildings are located. Rather, Water Company suggests that long term leases will suffice instead of the land transfers mandated in the Decision. One concern, should leases be allowed, is that Water Company fails to state what it considers a long term lease. In the Proposal to Modify, Water Company states that the transfer of the land where the buildings are located would cost \$10,000 each.³ It maintains that neither Odd Fellows nor Water Company has the money to spend on these land transfers. Such a statement by Water Company is totally fallacious since Water Company knows that the Decision requires Odd Fellows to bear the full financial burden of all property transfers⁴ and Water Company is not required to pay for any asset transfers, including land.

The Decision makes it clear that the Commission formulated and approved a decision giving Water Company a reasonable opportunity to operate successfully and independently.⁵ The Decision states: “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

¹ Page 2 of Decision

² Decision No. 16-01-047 requires Odd Fellows to bear the financial burden of all transfers. However, Water Company, by engaging an attorney to file this Petition for Modification, is supporting Odd Fellows by spending money concerning the transfers to the financial detriment of itself and its customers. Should the decision be modified as requested, the only winner is Odd Fellows, not Water Company or its customers.

³ Page 3 Proposal to Modify

⁴ Page 3 of Decision

⁵ Page 2 of Decision

expense to Water Company's customers, all of the relevant water service-related assets including land and legal rights..."⁶ Nothing in the Decision considered the financial status of Odd Fellows but rather the wellbeing of Water Company and its customers. Water Company goes on to say that it thinks that the land where these buildings are located was not actually used to provide water service.⁷ Using the same rational, it could be argued that the land where the water tanks are located was not actually used to provide water. However, this land was transferred just as the land where the buildings are located should be transferred. The Commission, in its decision, ruled that all assets used by Odd Fellows to provide water, including land, had to be transferred as was done concerning the land where the water tanks are located. The Decision never made provision for Water Company to enter into any leases concerning real property but required all assets, including land, to be legally transferred to Water Company at no cost to its customers. Complainants argue that ALJ Smith in formulating the Decision and the Commission in approving it have much more experience in addressing the needs and long range health of water companies than a company that has only been in operation for a relatively short time. The Decision states that all assets for water service need to be held by Water Company separately from both Odd Fellows and Service Company.⁸ In the Decision, the Commission goes on to state that by ensuring that Water Company has all of the related water service assets under its control, we reduce the risk of unfair or unreasonable costs from Service Company or the residual Odd Fellows entity.⁹ The Commission goes on to say that we see no benefit to a structure whereby the Water Company leases assets necessary for water service from a different company, whether it is Odd Fellows or the Service Company.¹⁰

3. Conclusion

It is clear that the Commission, in Decision No. 16-01-047, made a concerted effort to give Water Company a chance to be independent of other corporations and a fair chance to

⁶ Page 6 of Decision

⁷ Page 3 of Proposal to Modify

⁸ Page 14 of Decision

⁹ Page 14 of Decision

¹⁰ Page 20 of Decision.

survive.¹¹ Based on the Commission's experience in dealing with small water companies, it required Odd Fellows to transfer all water related assets to Water Company, including land. Therefore, it would weaken Decision No. 16-01-047 and diminish Water Company's future ability to succeed if the land where assets previously used in the delivery of water were leased rather than transferred.

The Proposal to Modify should be rejected on the basis of the information discussed above and the Commission's strong language in the Decision ordering the transfer of the land. Rejection will maintain a strong pro-Water Company decision. It will also do what the Commission wanted to happen with the implementation of their decision as originally issued; that is providing Water Company with a reasonable opportunity to operate successfully and independently. Modifying the Decision to allow leases on the real property while transferring the buildings will only lead to problems and uncalled for expenses in the future. Now is the time to transfer the land along with the buildings. If leases are approved and they do not work out in the future, then Water Company will be forced to condemn the land being leased. Condemning the leased land in the future will be at great expense to Water Company and its customers. However, rejecting the Petition to Modify would allow the land to be transferred immediately to Water Company and its customers at no expense and as the Decision mandates. The opportunity now exists to make all of the transfers ordered in the Decision. The Commission should not allow this opportunity to slip away because, if it does, it will never be regained. It will be too late for Water Company and more importantly its customers.

Dated: February 3, 2017

Respectfully Submitted,

FOR COMPLAINANTS

By: /s/ Fred Coleman

Fred Coleman

¹¹ It must be noted that Odd Fellows recently took out a loan of approximately \$100,000 with their property being used to guarantee the loan. This includes the property Water Company is suggesting leasing instead of transferring. Should a new owner(s) acquire this property through default on the loan, the Water Company could face serious future problems concerning leases if the Commission approves the Petition to Modify. All property should be transferred at this time to protect the Water Company and its customers. Future condemnation of property that could be transferred now, could seriously damage Water Company and cause it to fail.