



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

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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)

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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 RESPONSE OF SIERRA PARK WATER  
COMPANY TO ADMINISTRATIVE LAW JUDGE'S RULING TO SUPPLEMENT THE  
RECORD**

FOR COMPLAINANTS  
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April 24, 2017

**BEFORE THE PUBLIC UTILITIES COMMISSION 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.	( <td style="width: 35%; vertical-align: top;">                 Application 13-09-023                  (Filed September 20, 2013)             </td>	Application 13-09-023 (Filed September 20, 2013)
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**RESPONSE OF COMPLAINANTS TO RESPONSE OF SIERRA PARK WATER COMPANY TO ADMINISTRATIVE LAW JUDGE’S RULING TO SUPPLEMENT THE RECORD**

Pursuant to the February 10, 2017 ruling of Administrative Law Judge (“ALJ”) Eric Wildgrube to Supplement the Record (“Ruling”) and the Commission’s Decision in Case 12-03-017, Complainants file a Response to the Response filed by Sierra Park Water Company on April 11, 2017.

**1. Background**

On December 13, 2016 the Sierra Park Water Company submitted Advice Letter No. 2 to the Public Utilities Commission of the State of California. On December 29, 2016 Complainants filed a Protest to Advice Letter No. 2 submitted by the Sierra Park Water Company on December 13, 2016. The Protest was submitted due to the failure of the Sierra Park Water

Company (Water Company) and the Odd Fellows Sierra Recreation Association (Odd Fellows) to comply with provisions of Decision No. 16-01-047 such as the transfer from Odd Fellows to Water Company of certain real property used in the delivery of water. Easements required for the delivery of water were also left out of Advice Letter No. 2. On January 26, 2017 Water Company filed a petition to modify Decision No. 16-01-047. On February 2, 2017 Complainants filed a response to the Water Company's petition to modify the Decision. The Administrative Law Judge on February 10, 2017 issued Administrative Law Judge's Ruling to Supplement the Record. Water Company, on April 11, 2017, filed a response to Administrative Law Judge's Ruling to Supplement the Record. Complainants are now filing a response to the April 11, 2017 response of Water Company.

**2. Response to Block Building/Shop and the Corp. Yard Real Property Transfers**

The buildings, block building and corp. yard building, were transferred earlier. With the recent transfer of the real property on which these buildings are located and the removal of all liens, Water Company has complied with an important part of Decision No. 16-01-047.

**3. Response to Inquiries Which Would Involve the "Lodge"**

In Advice Letter No. 2 filed by Water Company on December 13, 2016, the Recreation/Lodge Hall was never addressed. The Recreation/Lodge Hall first appeared in the January 26, 2017 Petition for Modification filed by Water Company. In the Petition for Modification Water Company states on page three that the Recreation/Lodge Hall is not actually used for the distribution of water. However, Water Company claimed in the Petition for Modification January 26, 2017 that the Water Company used the Recreation/Lodge Hall for an office, certain meetings, etc. Water Company is now requesting the CPUC grant approval of a ninety-nine lease between Water Company and Odd Fellows for the Recreation/Lodge Hall.

On page two of the Declaration of William Ordwein (referred to as the Ordwein Decl. by Water Company on Page four of its "Response") some information is not accurate. The Ordwein Decl. was drafted and submitted as an attachment to Water Company's Response submitted on April 11, 2017. On page two of the Orwein Decl. it states the following: "The Lodge has existed for over 50 years. The Lodge contains an office, a conference room, an

auditorium, and a kitchen.”<sup>1</sup> The following is the correct information and a true description of what is contained in the Recreation/Lodge Hall:

- a. What is referred to as an office by the Ordwein Decl. is a small attic space that was cleaned out and renovated during the 2003-2004 fiscal year by the two caretakers, Gary Scarborough and Mike Caropreso.<sup>2</sup> There is approximately 100 square feet of usable space in this small second story attic “office”. It was used to store water records and other material, unrelated to water, belonging to the Recreation Association (Odd Fellows). Some of the material stored there belonged to the now defunct Odd Fellows Lodge which met in the Recreation/Lodge Hall. There was also a desk used when needed by the caretaker(s). It was not an office for water customers and was never staffed. This is the office as described in the Ordwein Decl. Today, this so called office, is never open to water customers nor is it staffed. It is only open on those rare occasions when the water employee happens to go up there. Instead of calling this attic room an office, a better description would be storage room.
- b. The Ordwein Decl. mentions a conference room. In the past this room served as the board room for the Recreation Association (Odd Fellows) and the meeting room for the now defunct Odd Fellows Lodge. It is approximately twelve feet by twenty feet with a long table and chairs. There is room for approximately fifteen people which includes guests and board members. It is used today as the board room where Water Company, Service Company, and Recreation Association (Odd Fellows) hold their three quarterly meetings.
- c. There are two restrooms which were not mentioned in the Ordwein Decl.
- d. There is one large room containing a kitchen and a dining hall. The dining hall is approximately 1,000 square feet and is used as a meeting hall for annual meetings of Water Company, Service Company, and Recreation Association (Odd Fellows). It is a misnomer to label the dining/meeting hall an auditorium as is done in the Ordwein Decl.

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<sup>1</sup> The Recreation/Lodge Hall was dedicated on July 5, 1959

<sup>2</sup> Fred Coleman was President of the Recreation Association Board during this time and oversaw this work.

The Recreation/Lodge Hall is over fifty years old. It was used by Odd Fellows for monthly meetings of its board of directors and its annual meetings when Odd Fellows was operating in the subdivision.<sup>3</sup> They also refurbished the now defunct Odd Fellow Lodge storage area and made it into a storage area and quasi office for the caretaker(s). Since June 2013, the board room has been used by the Water Company, Sierra Park Service Company, and Odd Fellows for three quarterly board meetings each. The dining hall has been used by the three corporations for their annual May shareholder's meetings. The Service Company has taken over and promoted the non-business/non-official functions previously promoted by Odd Fellows. All such activities took place/take place in the dining hall. Some of these activities which took place in the past are still promoted by the Service Company today. The activities for which the Recreation/Lodge Hall was used in the past as well as the present are:

- a. December holiday dinner-potluck
- b. Saint Patrick's Day dinner
- c. Labor Day BBQ
- d. October Fest
- e. Wine Tasting
- f. Yoga Classes
- g. Baked goods sale
- h. Rebekah meeting –Lodge now defunct
- i. Odd Fellow Lodge meeting – Lodge now defunct
- j. Odd Fellow Potluck when lodge still active
- k. Ladies exercise three times a week
- l. Movie night
- m. Bingo night
- n. Retirement party – Fee Charged
- o. Anniversary party – Fee Charged
- p. Birthday party – Fee Charged

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<sup>3</sup> A pending court cast will rule on the legality of the Recreation Association's (Odd Fellows) operation of the subdivision.

- q. Family reunion – Fee Charged
- r. Wedding –Fee Charged
- s. Other events – Fee Charged

Complainants agree that the Recreation/Lodge Hall has been used for various events and is rented out for others. Such use by certain residents of the subdivision does not justify Water Company signing a ninety-nine year lease on an old building and agreeing to assume the responsibility for all maintenance, insurance, repairs, utilities, assessments, and taxes on what is an extremely old building.<sup>4</sup> The proposed lease agreement would allow the continuation of these events. The only difference, should the lease be approved, would be that Water Company customers would be paying for all expenses for the site where the activities take place. Sierra Park Water Company is a purveyor of water, not a provider of ancillary services such as potlucks, parties, holiday dinners, etc. Putting such a burden on Water Company customers is unreasonable and uncalled for. Transferring the Recreation/Lodge Hall to Water Company is not required since, as Water Company admits, it was never used in the delivery of water which was the perquisite of Decision No. 16-01-047 concerning property transfers to Water Company. The lease also provides for the Odd Fellows to use the building when required by Odd Fellows. The Service Company and Odd Fellows hold meetings in the Recreation/Lodge Hall. Such use by these two for profit corporations is not fair to Water Company customers since they assume all responsibility for the expenses related to the Recreation/Lodge Hall once the proposed lease is approved.

Instead of a ninety-nine year lease, there is a less expensive and more palatable solution for Water Company and its customers. The water employee already has a desk and file cabinet in the block building used as a shop. Any other file cabinet(s) containing Water Company records could be moved to that location. If more space is needed, then a small office in the building at the corp. yard can be constructed. There is also the storage container in the corp. yard where items could be stored. The Odd Fellows have been charging a fee of \$100 to rent the Recreation/Lodge Hall for the events listed above.<sup>5</sup> Since the Water Company only holds

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<sup>4</sup> See Attachment F Lease of Response of Sierra Park Water Company April 11, 2017

<sup>5</sup> See Exhibit "1" Rental Contract

three quarterly meetings and one annual meeting the fee for such meetings would total \$400 per year. If the Water Company paid the standard rental fee only when a meeting was held, Water Company could substantially reduce its costs over the proposed ninety-nine year lease. Paying a rental fee only when the facility is used is much cheaper and more cost effective than paying for all utilities<sup>6</sup>, all insurance, all maintenance, assessments, and taxes on a building over fifty years of age. For example, a new roof could cost Water Company \$20,000 or more. It is incumbent on all involved with this proposal to do what is best for those paying the bills, the Water Company customers. Neither ownership of the Recreation/Lodge Hall nor a lease of that building are in the best interest of the rate payers.

#### **4. Safety and Other Concerns about Using the Recreation/Lodge Hall**

Other issues need to be addressed and resolved prior to transferring the Recreation/Lodge Hall property to the Water Company, Water Company Leasing Recreation/Lodge Hall, or Water Company even renting it on a per use basis. The following issues need to be addressed and resolved concerning the Recreation/Lodge Hall prior to the approval of a lease:

- a. The office/storage space is located in an attic accessed by a set of stairs. There is no fire escape. There is only one way in and one way out should a fire occur in the kitchen below. This area should be checked by an officer with the Tuolumne County Fire Department to determine the fire departments parameters for using this space, especially as an office.
- b. The office/storage area is accessed by a set of stairs and is not handicap accessible. Therefore, as an office for the Water Company and its customers it could not be used unless brought up to the required standards for handicap use.
- c. The dining hall/meeting room also needs to be checked by an officer from the Tuolumne County Fire Department to determine the maximum capacity for this room. Since there are approximately 365 lot owners invited to the Water Company

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<sup>6</sup> One month when the Women's exercise group, approximately 5-10 women, was active the propane bill was \$1,200

annual meeting, the capacity of the meeting room must be determined prior to the next meeting.<sup>7</sup>

- d. The rear ingress/egress at the dining hall/meeting room is not handicap accessible.
- e. The Board Room should also be checked and certified for maximum occupancy.
- f. The restrooms are not handicap accessible.

As a public utility, Water Company must comply with all fire regulations concerning maximum capacity and other fire safety regulations. Following all regulations concerning the handicapped is also required in Title 24. Until these issues are resolved, there should be no further action concerning the ninety-nine year lease on the Recreation/Lodge Hall.

#### **5. Other Issues Brought Out in Complainants December 29, 2016 Protest**

There are other issues which were brought up in the December 29, 2016 Protest (the Protest) to the Advice Letter submitted to the Commission by Sierra Park Water Company on December 13, 2016 and never addressed by Water Company:

- a. On page three, item two of the Protest the fuel tank was addressed. Water Company's filing on April 10, 2017 Exhibit "C" does not show the fuel tank. Why was it left off?
- b. The following was on page five, item seven of the Protest: "A protest is made to the Road Easement for Tank Parcel Number 1, David Tank Farm, on Exhibit "C". There is an omission and a violation of the Commission's Decision. The map fails to show that the easement continues across John and Ruth Steward's property to Wheeler Road. If the easement ends at the Steward property, then the AL has omitted part of what is required to be transferred to Water Company and is in violation of the Commission's Decision". Has this issue been resolved? If not, why not? It needs to be resolved in order to comply with the Commission's Decision in this case.
- c. On page six, item eleven asked, "Are there water rights retained by the Odd Fellows that need to be transferred to Water Company?" There are water rights that need to be transferred. Proof of water rights are found in the January 31, 2014 filing Joint Reply of Applicants in Exhibit "R-3". Exhibit "R-3" is a deed of trust. On the second page of this

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<sup>7</sup> Exhibit "1" Rental Contract A-5 limits the occupancy of the Recreation Hall to seventy-five (75). That would seem to indicate that seventy-five is the maximum number allowed in that facility. This would make it unfeasible for use as a meeting hall for annual Water Company meetings. Thus, the lease should be rejected.



exhibit under 17<sup>th</sup> water rights are conveyed. Have these water rights been conveyed to Water Company by Odd Fellows? If not, why not? Water rights must be conveyed to Water Company per Commission's Decision 16-01-047.

Complainants laud Water Company and Odd Fellows for working together to follow Commission's decision concerning the transfer of the required real property to Water Company. Such a transfer will help Water Company in its attempts to succeed as a small water company. Despite this positive move, it would be disastrous financially to this small water company to take on all of the expenses of the Recreation/Lodge Hall either through ownership or the proposed lease. The Recreation/Lodge Hall is the Odd Fellow's financial responsibility, not that of the Water Company and its customers. The lease proposal should be rejected and less expensive avenues, like those presented by Complainants, should be taken. However, one problem with using the Recreation/Lodge Hall is due to the seventy-five maximum person capacity limit placed on the dining/meeting hall by the Odd Fellows Rental Agreement. Other issues with leasing this building relate to handicap access and fire safety. Due to these issues, it would seem that the Recreation/Lodge Hall does not meet the needs nor standards required by Water Company. Also, the fuel tank issue, the easement to the David Tanks, and water rights all need the Commission's attention and action. These things need to be resolved in favor of the water company before this goes any further. The Commission's Decision 16-01-047 requires Odd Fellows to pay all expenses relating to the transfers. It seems as though Water Company is bearing part of this financial burden.

Dated: April 24, 2017

Respectfully Submitted,

FOR COMPLAINANTS

By: /s/ Fred Coleman

Fred Coleman