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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

JUN 09 2000

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

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IN THE MATTER OF THE APPLICATION OF
SUN LEISURE ESTATES UTILITIES COMPANY,
INC. FOR AN EMERGENCY SURCHARGE.

DOCKET NO. W-02386A-00-0139

DECISION NO. 62622

OPINION AND ORDER

DATE OF HEARING: March 30, 2000
PLACE OF HEARING: Phoenix, Arizona
PRESIDING OFFICER: Marc E. Stern
APPEARANCES: Wade Noble, Attorney at Law, on behalf of Sun Leisure
Estates Utilities Company, Inc.; and
Robert Metli, Staff Attorney, Legal Division, on behalf
of the Utilities Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

On March 2, 2000, Sun Leisure Estates Utilities Company, Inc. ("Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for an emergency surcharge of \$382 per customer.

On March 10, 2000, the Commission, by Procedural Order, scheduled a hearing on the above-captioned matter to determine if an emergency existed that would require the relief requested by Applicant. The Commission's Procedural Order also required Applicant to provide notice to each customer by mailing and posting a copy of the notice in a public place so that the Company's customers were aware of the proceeding.

On March 30, 2000, a full public hearing was commenced before a duly authorized Hearing Officer of the Commission at its offices in Phoenix, Arizona. Both the Company and the Commission's Utilities Division ("Staff") appeared with counsel. Customers of the Company appeared to make public comment. After a full public hearing, the matter was taken under advisement pending submission of a recommended Opinion and Order to the Commission.

* * * * *

Having considered the entire record herein and being fully advised in the premises, Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. Pursuant to authority granted by the Commission in Decision No. 52398 (August 21, 1981) Applicant is an Arizona non-profit corporation which provides public water utility service to approximately 55 customers near the City of Yuma, Yuma County, Arizona.¹

2. On March 2, 2000, Applicant filed an application which requests Commission approval for an emergency surcharge of \$382 per customer to cover the costs of drilling a new well, installing a new pump and to make repairs to its present well which is in a state of deterioration.

3. Pursuant to the Commission's Procedural Order, notice of the Company's application and hearing thereon was provided to its customers.

4. Applicant's existing well is over 20 years old and was operated for a number of years without problems; however, approximately ten years ago, a slight earthquake in the area caused well to start producing water with sand in it.

5. Yuma Pump and Drilling Company ("Yuma Pump") believes that the problem was caused by a shift of gravel pack material or a crack in the casing of Applicant's well at a level where sand is found.

6. Yuma Pump indicates that this has been an ongoing problem over the years and that it has been required to clean sand from the Company's storage tank and pressure tank on three occasions and has removed an estimated twelve yards of sand. An official with Yuma Pump believes that "this has created a void or cavity around the casing which could lead to a caving-in of the well from the top in the future."

7. Although Yuma Pump has taken remedial steps to ensure the well's continued

¹ Applicant is owned by the members of the Sun Leisure Estates Homeowners Association, Inc. ("Association"), also an Arizona non-profit corporation, that is comprised of the 56 lot owners in the Sun Leisure Estates Subdivision ("Subdivision"). The Company provides water only to the lots within the Subdivision and to one of adjacent property owner whose property is located within Applicant's certificated service area and who has been receiving water from Applicant since its inception. This property owner has no voting rights in the Association, but he has charged the same tariff rates as the members of the Association.

1 operation, it is recommending that Applicant drill another well approximately 60 feet from the
2 existing well to be used as a primary well and to use the existing well as a backup.

3 8. In November 1999 the Company began experiencing more severe problems with sand
4 in its system and with the failure of its pump.

5 9. Applicant's secretary, Mrs. Dorothy Weidner, testified that the Company's pump has
6 been replaced three times in 18 months, and as a result on December 1, 1999, a special meeting of the
7 Association was called where a Yuma Pump representative spoke to the members and explained the
8 situation.

9 10. After a discussion at that meeting where it was explained that the Company's
10 customers would be without water for at least two weeks, if Applicant's well collapsed, the members
11 voted to approve the drilling of a new well and to refurbish the existing well.

12 11. Yuma Pump estimates that it will cost \$18,250 to construct the new well and an
13 additional \$6,000 to refurbish Applicant's existing well for a total of \$24,250.

14 12. Prior to the problems with the well that required the replacement of three pumps, the
15 Company had been operating with approximately a \$400 per month surplus and had almost \$7,000 in
16 its bank account.

17 13. After paying for the replacement of the three pumps, Applicant was left with
18 approximately \$4,000 in its surplus account. The Company plans to apply \$3,240 towards the
19 payment for the new well and for the repairs to the old well leaving it with approximately \$750 for
20 emergencies.

21 14. Applicant's board planned to pay the remaining estimated balance of \$21,010 for the
22 construction with either a community block grant or a loan financed through Norwest Bank ("Bank").
23 The Bank denied their request for this loan because its analysis revealed that Applicant had
24 "insufficient earnings to support repayment of existing and proposed debt." Individuals connected
25 with the block grant suggested that Applicant utilize a one-time assessment of its customers.

26 15. Subsequently, the Company determined that, to pay the \$21,010 balance, it would
27 seek Commission approval for a \$382 per customer surcharge for the 55 customers in order to fund
28 the new well construction and to fund the repairs to the existing well.

1 16. Although Applicant prefers that customers make a one time only payment of \$382.
2 Applicant is willing to provide customers the option of taking up to one year to pay their surcha
3 off in monthly installments, if they are experiencing financial difficulties.

4 17. Two members of the Association who participated during the proceeding raised
5 concerns about questions they had concerning the Company's ownership of the existing well. These
6 individuals also submitted a petition signed by 25 members of the Association who oppose the
7 requested surcharge.

8 18. There is evidence that a Certificate of Registration was issued to the Company by the
9 Arizona Department of Water Resources ("ADWR") in 1982. This document indicates that
10 Applicant owns the "land on which well is located."

11 19. Upon the filing of the application herein, Staff performed a thorough review of the
12 Company's request.

13 20. Staff believes that it would be prudent for Applicant to develop another source of
14 water and to keep the existing well as a standby source of water.

15 21. Staff's review of the cost analysis for Applicant's required repairs and the
16 development of the new well indicates that the estimated costs are reasonable.

17 22. Staff further indicates that, in the event a secondary source of supply is not developed
18 and the existing well collapses, it may be rendered unusable in the future and Applicant's customers
19 would be without a readily available source of water.

20 23. Staff further indicates that it would be prohibitively expensive (in excess of \$200,000)
21 to interconnect Applicant's distribution system with the nearest water utility which is approximately
22 two miles away in order to have a backup source of water.

23 24. After reviewing the Company's application, the manager of Staff's Revenue
24 Requirement Analysis Group testified that he found the Company met the requirement for emergency
25 rate relief consistent with Attorney General Opinion No. 71-17 because he believes Applicant's
26 ability to maintain service pending a formal rate determination is in serious doubt.²

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28 ² According to Attorney General Opinion No. 71-17 interim or emergency rates are proper when eit.
all or any of the following conditions occur: when sudden change brings hardship to a Company; when the Company is

1 and should be approved.

2 6. The surcharge should be collected by means of 12 monthly installments of \$31.83 per
3 customer.

4 7. Applicant should establish a separate account for the collection of the surcharge
5 authorized herein and file quarterly statements which reflect the deposits and expenditures made
6 therefrom with the Director of the Commission's Utilities Division.

7 8. Applicant should file, within 30 days of the total surcharge being collected, an
8 application for rate review together with certification that the monies collected in the surcharge
9 account have been expended to repair the Company's existing well and to drill a new well.

10 **ORDER**

11 IT IS THEREFORE ORDERED that the application of Sun Leisure Estates Utilities
12 Company, Inc. for a \$382 per customer surcharge be, and is hereby approved.

13 IT IS FURTHER ORDERED that the surcharge approved herein shall be interim and subject
14 to refund pending the review by Staff of an application for rate review.

15 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall collect
16 the surcharge authorized hereinabove in 12 monthly installments of \$31.83 per customer.

17 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall establish
18 a separate account for the surcharge authorized herein and file quarterly statements which reflect the
19 deposits and expenditures made therefrom with the Director of the Commission's Utilities Division.

20 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall file,
21 within 30 days of the total surcharge being collected, an application for rate review and certification
22 that the monies collected have been expended to repair the Company's existing well and to drill a
23 new well.

24 IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall file on or
25 before June 30, 2000, a tariff authorizing it to collect the \$382 per customer emergency surcharge in
26 12 monthly installments of \$31.83.

27 IT IS FURTHER ORDERED that the surcharge authorized hereinabove shall be effective
28 all service provided on and after July 1, 2000.

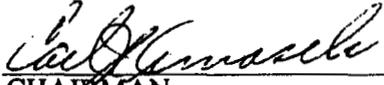
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IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall notify its customers of the emergency surcharge authorized herein and the effective date of same by mailing, within 5 days of the effective date of this Decision, notice to its customers of the surcharge.

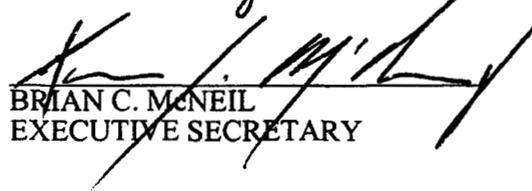
IT IS FURTHER ORDERED that Sun Leisure Estates Utilities Company, Inc. shall file, within 10 days of the effective date of this Decision, a copy of the notice mailed to its customers.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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| CHAIRMAN | COMMISSIONER | COMMISSIONER |

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 9th day of June, 2000.



BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
MES:bbs

1 SERVICE LIST FOR: SUN LEISURE ESTATES UTILITIES COMPANY
2 INC.

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