



NEW APPLICATION

Arizona Corporation Commission

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AZ CORP COMMISSION
DOCKET CONTROL

W-02886A-10-0369

Dear Arizona Corporation Commission,

Pursuant to Department of Law Opinion Number 71-17, we hereby respectfully request an interim emergency rate increase for Kohl's Ranch Water Company ("KRWC").

In 1995, ILX Resorts Incorporated ("ILX") acquired both Kohl's Ranch Lodge (the "Lodge") in Payson, Arizona and KRWC, and the water company that provides water to the Lodge and the 124 homes in the surrounding area. When ILX acquired KRWC, the tariffs established in 1972 were in effect, and KRWC has continued to operate under these tariffs ever since. These tariffs result in revenue that is insufficient to cover the actual cost of operating KRWC, and ILX has been subsidizing the utility with cash, labor, parts, supplies, and services.

On March 2, 2009, ILX and certain of its subsidiaries filed for protection from creditors under Chapter 11 of the US Bankruptcy Code. On July 23, 2010, the US Bankruptcy court approved a Plan of Reorganization and a Sale Order, which provide for the sale of substantially all of the assets of ILX. The remaining assets of ILX after wind-up of its affairs will be distributed to unsecured creditors.

Until shortly before the Sale Order date, ILX expected the Buyer of the assets of ILX (including the Lodge) would acquire and operate KRWC (contingent upon Commission approval). However, the Buyer of the Lodge has determined that it is unwilling to assume the risks and obligations of operating a water company, and refuses to acquire or operate KRWC. Since the Buyer is going ahead with the purchase of the rest of the ILX assets, KRWC will now have to operate as a stand-alone entity.

An emergency now exists as ILX will no longer be in a position to subsidize the KRWC operations. KRWC must begin to generate revenue and cash flow through its tariffs sufficient to fund operations in order to continue to provide water service to its customers. Therefore, KRWC makes this request for emergency interim rate relief.

In summary, based on the existing 1972 tariffs, KRWC cannot cover its costs and maintain service to its customers. KRWC was able to operate until now through subsidization from ILX. A sudden change has occurred because the Plan of Reorganization for ILX does not provide the ongoing subsidy of KRWC operations, and because the Buyer of the Lodge has refused to acquire KRWC, thereby necessitating that KRWC stand on its own financially. To do so, KRWC must immediately begin charging rates that will cover its costs.

KRWC is submitting three schedules with this request to support its position: a multi-column income statement including Proforma adjustments (SSR-1), details of how those adjustments were determined (SSR-2), and the surcharge calculation (SSR-3).

- SSR-1 – Column 1 contains actual operations information as reported on the 2009 annual report. That amount is then adjusted by column 2 to include utility expenses that were paid by ILX, which result in the actual 2009 cost to operate the utility during 2009 in column 3. Column 4 then adjusts those numbers for third party services to run the utility once ILX is closed, resulting in the estimated annual cost to run this utility as a stand-alone entity in column 5.
- SSR-2 – This schedule explains the 13 proforma adjustments to the income statement reflected on SSR-1.
- SSR-3 – Details of the surcharge calculation and resulting revenue are contained on this schedule.

Currently, all customers pay \$5.75 monthly for 5,000 gallons of water, and \$.50 per 1,000 gallons in excess of that. Although the resort uses substantially more water than the residential customers, KRWC only has a tariff rate for a 5/8 by 3/4-inch meter, resulting in the resort paying an average of \$65.52 for 124,542 gallons per month. Under the Company's proposal, the flat monthly surcharge would result in a much more equitable average cost per 1,000 gallons between the residential customers and the resort. In addition, this emergency surcharge will provide the company with the constant revenue it needs during this transition to a stand-alone utility.

We appreciate your attention to this emergency request, which will enable KRWC to continue to meet its financial obligations while continuing to provide water to its customers. Our consultant in this matter is Sonn Rowell of Desert Mountain Analytical Services, PLLC, so please feel free to contact her with questions on the application at 480.961.5484 or sonncpa@cox.net.

Very truly yours,



Nancy J. Stone
President

Kohl's Ranch Water Company, Inc.
2009 Statement Of Income and Loss Including Proforma Adjustments

Acct	Description	<u>1</u> Reported - Year Ended 31-Dec-09	<u>2</u> 2009 Expenses Paid by ILX	Ref	<u>3</u> 2009 Actual Utility Operations	<u>4</u> Adjustments to Stand Alone Entity	Ref	<u>5</u> 2009 Incl Proforma Adjustments
Operating Revenues:								
461	Metered Water Revenue	\$ 10,011			\$ 10,011	\$ 79,488	5	\$ 89,499
474	Other Water Revenue	-			-			-
474	Surcharge Revenue	-			-			-
Total Operating Revenue		\$ 10,011	\$ -		\$ 10,011	\$ 79,488		\$ 89,499
Operating Expenses:								
601	Salaries & Wages	\$ 4,264			\$ 4,264	\$ (4,264)	6	-
610	Purchased Water	-			-			-
615	Purchased Power	225			225	1,795	7	2,020
618	Chemicals	-			-			-
620	Repairs & Maintenance	4,315	2,004	1	6,319	996	8	7,315
621	Office Supplies and Expense	-	1,778	2	1,778			1,778
630	Outside Services	-	48,379	3	48,379	16,621	9	65,000
635	Water Testing	2,805			2,805			2,805
641	Rental Expense	-			-			-
650	Transportation Expense	-			-			-
657	Insurance - General Liability	2,810			2,810			2,810
659	Insurance - Health and Life	-			-			-
665	Regulatory Commission Exp	-			-			-
666	Rate Case Expense	-			-	2,500	10	2,500
675	Miscellaneous Expense	337	(208)	4	129			129
403	Depreciation & Amortization	833			833	977	11	1,810
408	Taxes Other Than Income	694			694	(694)	12	-
408	Property Taxes	402			402			402
409	Income Taxes	-			-	611	13	611
Total Operating Expenses		\$ 16,685	\$ 51,953		\$ 68,638	\$ 18,541		\$ 87,179
OPERATING INCOME/(LOSS)		\$ (6,674)	\$ (51,953)		\$ (58,627)	\$ 60,947		\$ 2,320
Other Income/(Expense):								
419	Interest and Dividend Income	\$ -			\$ -			\$ -
427	Interest Expense	-			-			-
Total Other Income/(Exp)		\$ -	\$ -		\$ -	\$ -		\$ -
NET INCOME/(LOSS)		\$ (6,674)	\$ (51,953)		\$ (58,627)	\$ 60,947		\$ 2,320

Adjustments 1 through 13 are explained on Schedule SSR-2

Kohl's Ranch Water Company, Inc.
Summary of Income Statement Adjustments

- Adjustment 1 Increase for repairs and maintenance labor provided by ILX.
- Adjustment 2 Increase to include reclassified expenses and office supplies provided by ILX.
- Adjustment 3 Increase for current daily operations, meter reading, billing and accounting, tax preparation and reporting, and management.
- Adjustment 4 Reclassify expenditures as office supplies.
- Adjustment 5 Proposed surcharge revenue as calculated on Schedule SSR-3.
- Adjustment 6 Adjust salaries and wages as utility no longer has employees.
- Adjustment 7 Increase purchased power per following calculation:
- | | |
|---|------------------------|
| Total Gallons (in thousands) | 5,049 |
| Estimated pumping cost per thousand gallons | <u>\$ 0.40</u> |
| Estimated annual pumping cost (stand-alone) | <u><u>\$ 2,020</u></u> |
- Adjustment 8 Increase repairs and maintenance to adjust ILX amount of \$2,004 to third party estimated amount of \$3,000.
- Adjustment 9 Increase outside services expense per estimated future costs:
- | | Monthly
Amount | Annual
Amount |
|---|---------------------------|--------------------------------|
| Daily Operator | \$ 1,750 | \$ 21,000 |
| Billing/Accounting/Management | 3,000 | 36,000 |
| Annual Reporting/Tax Returns | | 2,000 |
| Legal Expenses | 500 | <u>6,000</u> |
| Proposed Annual Outside Services | | <u><u>\$ 65,000</u></u> |
- Adjustment 10 Increase for estimated cost of emergency rate proceeding.
- Adjustment 11 Increase depreciation expense for 8" meter installed to serve resort and other related areas. (\$7,812 cost times 12.5% annual depreciation)
- Adjustment 12 Adjust payroll taxes as utility no longer has employees.
- Adjustment 13 Include income taxes for Federal and Arizona on \$2,931 income.

Kohl's Ranch Water Company, Inc.
 Calculation of Proposed Emergency Surcharge

	2009 Avg Monthly Gallons	Current Rates			Proposed Monthly Surcharge	Proposed Rates		
		Monthly Cost	Cost Per Gallon	Cost Per 1,000 Gals		Monthly Cost	Cost Per Gallon	Cost Per 1,000 Gals
Residential	2,389	\$ 5.75	\$ 0.0024	\$ 2.41	\$ 36.00	\$ 41.75	\$ 0.0175	\$ 17.48
Resort	124,542	\$ 5.75						
		<u>59.77</u>						
		\$ 65.52	\$ 0.0005	\$ 0.53	\$ 2,160.00	\$ 2,225.52	\$ 0.0179	\$ 17.87

Estimated monthly surcharge revenue from residential customers¹ \$ 4,464

Estimated monthly surcharge revenue from resort 2,160

Total estimated monthly surcharge revenue \$ 6,624

Total estimated annual surcharge revenue \$ 79,488

¹ 2009 year-end customer amount of 124 used.