



**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 ODD FELLOWS SIERRA RECREATION ASSOCIATION 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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June 29, 2016

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OF THE STATE OF CALIFORNIA**

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Pursuant to Rule 16.4 of the Commission’s Rules of Practice and Procedure, Odd Fellows Sierra Recreation Association (“Odd Fellows”) files this Petition for Modification of 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, Odd Fellows respectfully requests the Commission modify Ordering Paragraph 3.b of the Decision.

1. Background.

The Decision conditionally granted Sierra Park Water Company, Inc. (“Water Company”) a certificate of public convenience and necessity conditioned on certain transfers by Odd Fellows described in Ordering Paragraph 1. As pertinent to this Petition, the Decision also ordered certain refunds to be made by Odd Fellows. Ordering Paragraph 3.b on page 37 of the Decision provides:

Odd Fellows must make a full refund of \$109,432, allocated proportionately to the improved and unimproved lots as otherwise shown in the Division of Water and Audits Staff Report, its adjusted share prior to spinning-off Water Company. Odd Fellows must make the refund over five years (for a total of twenty payments by the dates set forth in Ordering Paragraph 3.a above by paying Water Company who, in turn, must refund customers as proposed in the Division of Water and Audits Staff Report. Additionally, Odd Fellows must refund to the Water Company no later than June 30, 2016, \$1,200 to reflect the \$600 per year it received from the Water Company for the use of easements on six miles of pipe for Fiscal Years 2013 and 2014, and any monies received from Water Company for the six miles of pipe easements for Fiscal Year 2015.

As the Commission knows, Water Company and Odd Fellows are new to Commission regulation. Water Company and Odd Fellows have worked diligently to implement the Decision and comply with its Ordering Paragraphs.

Odd Fellows completed the asset transfers as ordered in Ordering Paragraph 1. The required transfers occurred on or about March 31, 2016.

Odd Fellows has also refunded to the Water Company \$1,200 to reflect the \$600 per year it received from the Water Company for the use of easements on six miles of pipe for Fiscal Years 2013 and 2014, and any monies received from Water Company for the six miles of pipe easements for Fiscal Year 2015 as required by Ordering Paragraph 3.b. Such refunds occurred in June 2016.

Odd Fellows has made one set of refunds to date to customers in March 2016. Thereafter, on April 4, 2016, Water Company (on behalf of itself and Odd Fellows) filed Advice Letter No. 1 with the required tariffs. Three protests were filed to Advice Letter No. 1. In a disposition letter dated June 1, 2016, signed by Program Manager Bruce DeBerry (“Disposition”), DWA approved Advice Letter No. 1.

The Disposition also discusses (at pages 4-5) the issue of providing refunds to customers

who either paid no water bills or only partially paid. The Disposition noted that Odd Fellows must comply with Ordering Paragraph 3.b until it is modified.

Below Odd Fellows will explain that compliance with Ordering Paragraph 3.b in its current form results in refunding more money than was actually collected in water bill payments for FY 2012 and provides a windfall for customers who paid less than the specific dollar amount “backcast” by the Water Division for FY 2012 and/or either paid none or only some of their bills. The Decision specifically recognized this possibility but did not reflect it in Ordering Paragraph 3.b.

2. Ordering Paragraph 3.b Should Be Modified to Reflect That Refunds from Odd Fellows May Not Be Required, or May Be Smaller, for Customers Who Paid Less Than the Amount “Backcast” by the Water Division, Did Not Pay at All or Who Paid Less Than the Amount Billed by Odd Fellows for FY 2012.

Ordering Paragraph 3.b states specific dollar amounts to be refunded by Odd Fellows: \$109,432, allocated \$94,957 for improved lots and \$14,475 for unimproved lots for FY 2012. (Decision, p. 20 and p. 37.) These specific dollar amounts were “backcast” by the Water Division for FY 2012 (See Decision, p. 17; Attachment A to Decision, p. 25, Table 3, dollar amounts stated in 3rd and 4th Rows in Column labeled “Total.”)

Odd Fellows recognizes that the Water Division was attempting to determine a reasonable rate for water for FY 2012 by “backcasting”. However, Odd Fellows did not bill \$825 for water for improved lots or \$759 for water for unimproved lots in FY 2012 as set forth in Attachment A to Decision, p. 25, Table 3. **Instead, Odd Fellows actually billed \$571.60 for water for all (improved and unimproved) lots for FY 2012.**¹ As Odd Fellows did not collect (or bill) \$825 for water for improved lots or \$759 for water for unimproved lots, if Odd Fellows were to refund \$109,432, this would result in a windfall of \$253.40 for improved lots and \$187.40 for unimproved lots for FY2012!

Furthermore, Odd Fellows did not collect all amounts it billed for FY2012 (at a rate of \$571.60). The Decision recognizes that fact in stating customers who did not pay the actual rates charged “would not be entitled to a refund.” (Decision, p. 24.)

¹ See February 14, 2013, Joint Scoping Memo Ruling of Assigned Commissioner and Administrative Law Judge filed in C-1203017, p. 4., subparagraph 3. See also, “Report of the Odd Fellows Sierra Recreation Association” filed on December 7, 2012, in C-1203017, p. 2-3.

Finally, the Decision also recognizes that “the actual refund amount” may be “less than what we order” because customers who did not pay in full would not be entitled to a refund. (Decision, p. 24.)

Unfortunately, the foregoing are not reflected in Ordering Paragraph 3.b. As a result, under current Ordering Paragraph 3.b, despite the clear intent of the Decision, customers will receive windfalls unless Ordering Paragraph 3.b is revised. This would lead to an unfair result.

Odd Fellows therefore requests that Ordering Paragraph 3.b be revised to make it clear refunds need be made subject to the amount actually collected for each customer for water for FY 2012. Odd Fellows kept very detailed records of all payments made by customers for FY 2012 and therefore is able to determine the customers who fully paid the amount billed (\$571.60), made partial payments or made no payments at all. Odd Fellows suggests rewording Ordering Paragraph 3.b as follows (additions are in bold type):

Odd Fellows must make a refund of **up to \$109,432, subject to amount collected as its** adjusted share prior to spinning-off Water Company. Odd Fellows must make the refund over five years (for a total of twenty payments by the dates set forth in Ordering Paragraph 3.a above). **Odd Fellows may prepay all or any portion of the refund payments then due in full at any time.** Additionally, Odd Fellows must refund to the Water Company no later than June 30, 2016, \$1,200 to reflect the \$600 per year it received from the Water Company for the use of easements on six miles of pipe for Fiscal Years 2013 and 2014, and any monies received from Water Company for the six miles of pipe easements for Fiscal Year 2015.

For the Commission’s ease of comparison, Odd Fellows has also reproduced Ordering Paragraph 3.b from the Decision and as Odd Fellows proposes to modify it in attached Appendix A.

Upon a grant of this Petition, Odd Fellows will calculate refunds as shown in the spreadsheet in attached Appendix B. These calculations are for refunds only to customers who paid in full (\$571.60). Those who did not pay at all or only partially paid will be rebilled as if the rate adopted by the Commission for FY 2012 (\$514) was already in place. If those customers pay the new bills, they will have paid the amount they should have and no more, and thus will not be entitled to a refund.

3. Conclusion.

Odd Fellows respectfully requests the Commission grant this Petition for Modification and modify Ordering Paragraph 3.b in Decision No. 16-01-047 as requested above.

Dated: June 29, 2016

Respectfully submitted,

ODD FELLOWS SIERRA RECREATION
ASSOCIATION

By: /s/ Del Wallis
Del Wallis
President

APPENDIX A

D.16-01-047, Ordering ¶ 3.b	Requested Modifications to D.16-01-047, Ordering ¶ 3.b
<p>Odd Fellows must make a full refund of \$109,432, allocated proportionately to the improved and unimproved lots as otherwise shown in the Division of Water and Audits Staff Report, its adjusted share prior to spinning-off Water Company. Odd Fellows must make the refund over five years (for a total of twenty payments by the dates set forth in Ordering Paragraph 3.a above by paying Water Company who, in turn, must refund customers as proposed in the Division of Water and Audits Staff Report. Additionally, Odd Fellows must refund to the Water Company no later than June 30, 2016, \$1,200 to reflect the \$600 per year it received from the Water Company for the use of easements on six miles of pipe for Fiscal Years 2013 and 2014, and any monies received from Water Company for the six miles of pipe easements for Fiscal Year 2015.</p>	<p>Odd Fellows must make a refund of up to \$109,432, subject to amount collected as its adjusted share prior to spinning-off Water Company. Odd Fellows must make the refund over five years (for a total of twenty payments by the dates set forth in Ordering Paragraph 3.a above). Odd Fellows may prepay all or any portion of the refund payments then due in full at any time. Additionally, Odd Fellows must refund to the Water Company no later than June 30, 2016, \$1,200 to reflect the \$600 per year it received from the Water Company for the use of easements on six miles of pipe for Fiscal Years 2013 and 2014, and any monies received from Water Company for the six miles of pipe easements for Fiscal Year 2015.</p>

APPENDIX B

FY 2012 Calculations

Lots	Number lots	FY 2012 billed	FY 2012 CPUC Recommended	FY 2012 over-billed per lot	FY 2012 over- billed	FY 2012 refund per lot	FY 2012 total refund
Improved	305	571.60	514	57.60	17,568	57.60	17,568
Unimproved	59	571.60	514	57.60	3,398.04	57.60	3,398.04
					20,966.40		20,966.40

FY 2012 Total Refunds

Ordered FY 2012 refund	Total Refunds	Refund per Customer	Ordered number refund payments	Refund per customer per quarter
94,957	17,568	57.60	20	2.88
14,475	3,398.04	57.60	20	2.88
109,432	20,966.40			