

ITEM NO. CA11

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 13, 2003**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____

DATE: October 30, 2003

TO: Lee Sparling through Marc Hellman and Rebecca Hathhorn

FROM: Michael Dougherty

SUBJECT: SEVENTH MOUNTAIN GOLF VILLAGE WATER COMPANY: (Docket No. UI 217) Application for Approval of a Property Management Agreement between Seventh Mountain Golf Village Water Company and Canterbury Property Management LLC.

STAFF RECOMMENDATION:

The Commission should approve Seventh Mountain Golf Village Water Company's (SMGV) application for approval of a Property Management Agreement (Agreement) with Canterbury Property Management LLC (Canterbury), an affiliated interest, subject to the following conditions:

1. The Agreement cost does not exceed \$360 per month for calendar year 2003 and the annual escalation rate for contract renewals for subsequent years does not exceed 2.5%.
2. SMGV shall provide the Commission access to all books of account, as well as documents, data, and records of SMGV and B&B Properties' affiliated interests that pertain to this transaction.
3. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or alternative form of regulation.
4. SMGV shall notify the Commission in advance of any substantive changes to the Property Management Agreement including any material change in price other than the escalation increase. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.

DISCUSSION:

Background

SMGV filed this application on September 25, 2003, pursuant to ORS 757.495 and OAR 860-036-0730. SMGV is an approved corporation in the State of Oregon whose stock is wholly owned by Dale and Karen Bernards. Canterbury is also an approved corporation in the State of Oregon and is wholly owned by Dale and Karen Bernards; therefore, the two corporations are affiliated interests under ORS 757.015.

SMGV requests Commission authorization for Canterbury to provide property management services including preparation of service contracts, preparation of repair contracts, regulatory reporting and accounting / bookkeeping services. Under the Agreement, SMGV would pay the minimum of \$400 per month or four percent of gross monthly income; whichever is greater, for the services on a monthly basis. The Agreement was executed September 1, 2003, and will expire December 31, 2003. The Agreement automatically renews for additional periods of one year.

Public Interest Compliance

SMGV did not use a competitive procurement process in obtaining property management services. Per SMGV, a competitive procurement process was not used because the owner of SMGV is in the real estate business including property management.

Staff does not agree that SMGV's statement of management service costs of \$400 per month or four percent of gross monthly income; whichever is greater, is the lower of cost or market. Transactions with affiliated interests are governed by the Commission Transfer Pricing Policy, which states, "When services or supplies are sold to a regulated activity by a nonregulated activity, sales shall be recorded in regulated accounts at the nonregulated activity's cost or the market rate, whichever is lower."

"Market rate" is defined as the lowest price that is available from nonaffiliated suppliers for comparable services or supplies. To determine market rate, Staff used the median hourly wage of property managers for Multnomah County¹, which is listed at \$12.45 per hour. By adding an estimated loading² of 50%, loaded labor would equal \$18.67 per hour. Based on Canterbury's estimate of 10.5 hours per month required to perform

¹ Median Hourly Wages (50 Percentile) were taken from the Oregon Labor Market Information System (olmis.org), which is produced by the Oregon Employment Department. Staff used Multnomah County figures instead of Deschutes County figures since the management company is located in Multnomah County.

² Loadings would include such items as taxes, benefits, pension, workers compensation, facility and other overhead.

these services, monthly costs would equal \$196. Staff also added an allocated portion of the Canterbury's time to perform regulatory reporting activities in computing costs and recommends that the Agreement be limited to \$360 per month.

Although real estate business charges are frequently based on a percentage of gross monthly income, Staff believes that the lower of cost or market standard takes precedence over real estate business standards. As a result, the Agreement cost should be set as a fixed rate and not a variable rate, which was included as part of the Agreement.

Staff also recommends that annual escalation costs listed under Schedule B of the Agreement be limited to 2.5%. Staff computed the escalation rate (2.5%) based on the U.S. Department of Labor, Bureau of Labor Statistics', Consumer Price Index, All Urban Consumers (CPI-U) average for the years 1993 – 2002. The CPI-U ten-year average is 2.23%. Staff did not have any concerns with the other terms and conditions of the Agreement.

Records Availability, Audit Provisions and Reporting Requirements

The proposed ordering condition No. 2 provides the necessary records access to SMGV's relevant books and records.

The Company agreed to Staff's findings and based on the Company's acceptance of Staff's findings, Staff concludes the following:

1. With the inclusion of Condition No. 1, SMGV has met the requirements of the Commission's transfer pricing policy for affiliate transactions;
2. The Commission will have the necessary records access to SMGV's books and records; and
3. The application involves an affiliated interest transaction that is fair and reasonable and not contrary to the public interest, with the inclusion of the proposed ordering conditions.

PROPOSED COMMISSION MOTION:

The Seventh Mountain Golf Village affiliated interest application, UI 217, be approved, subject to the four recommended conditions stated in this memorandum.