

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 7, 2009**

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

DATE: March 17, 2009

TO: Public Utility Commission

FROM: Marion Anderson

THROUGH: Lee Sparling, Marc Hellman, and Michael Dougherty

SUBJECT: RL WATER LLC: (Docket No. UP 248) Application for an Order authorizing the sale of its water system to DWF Round Lake Park & Utilities LLC.

STAFF RECOMMENDATION:

The Commission should approve the sale of all water utility real property by RL Water LLC (RL) to DWF Round Lake Park & Utilities LLC (DWF) under the following conditions:

1. DWF shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to the transfer of utility properties.
2. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or earnings review under an alternative form of regulation.
3. DWF shall notify the Commission in advance of any substantive changes to the transfer of utility properties, including any material changes in price. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein shall be submitted for approval in an application for a supplemental order (or other appropriate format) in this docket.
4. DWF must file a rate application and associated tariffs with the Commission within ninety days of the issuance of the order for this docket.
5. DWF will provide written notification to the Commission upon receipt of all relevant documentation from the seller.

DISCUSSION:

This application was filed on February 25, 2009, pursuant to ORS 757.480(5). However, the statute dictates Commission notification within 60 days following the sale date. This transaction occurred on December 5, 2008, and is therefore not in compliance. Further under the other relevant authority, OAR 860-027-0025, there are application requirements that are not satisfied hereby.

Staff investigated the following issues:

Scope and Terms of the Real Estate Sales Agreement

The property designated for sale consists of real property, well, water tower, power lines, and piping. No legal descriptions and/or deed were submitted. The application also lists attachments with documentation of all necessary easements and water rights. No attachments were included because the seller has failed to produce these documents to date.

Public Interest Compliance

The sale price listed is \$65,000.

DWF states it has financial sufficiency and extensive managerial experience of real estate and mobile home parks. A certified water operator has been retained for the system. No sale benefits or effects are claimed in the application. There is a Staff perceived benefit to the ownership exchange. The seller has consistently submitted sub-par financial reports and requests for clarification have not been responded to. Further, the Commission Customer Service unit has 71 complaints recorded from 40 ratepayer households. In addition, with reference to recommended Order Condition No. 4, the rate application requirement will allow Staff to make a thorough examination of the Company's records. That examination will result in a Staff recommendation to the Commission for the setting of just and reasonable rates for all customer classes.

Records Availability, Audit Provisions, and Reporting Requirements

Order Condition Number 1, listed previously in the Staff recommendation, affords the necessary Commission examination.

PROPOSED COMMISSION MOTION:

The sale of the RL Water LLC water system to DWF Round Lake Park & Utilities LLC be approved with the conditions stated in this memorandum.