

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION
Water Utilities Branch

RESOLUTION W-3936
September 7, 1995

R E S O L U T I O N

(RES. W-3936), TAHOE KEYS PROPERTY OWNERS' ASSOCIATION (TKPOA). ORDER AUTHORIZING TKPOA TO BE EXEMPTED FROM COMMISSION JURISDICTION.

BY LETTER, FILED ON JULY 19, 1995, AND BY AFFIDAVIT, DATED AUGUST 8, 1995.

SUMMARY

This Resolution approves TKPOA's request for exemption from Commission jurisdiction.

BACKGROUND

By letter to the Water Utilities Branch (Branch), dated July 17, 1995, Mr. Edison C. Robinson, the General Manager of the Tahoe Keys Property Owners Association, a nonprofit mutual water benefit corporation, requested that the Commission delete TKPOA from the list of regulated water utilities. This request was reviewed by the Commission's Legal Division and by Branch. The Legal Division concurred that TKPOA could be classified as not under the Commission's jurisdiction, but recommend that the association provide an affidavit, under penalty of perjury, to support the claims in the letter. That affidavit was provided, dated August 8, 1995, by Mr. Robinson.

TKPOA had been a private water company, called Tahoe Keys Water Company, certificated by Decision (D.) 64682, December 18, 1962. It was purchased by the Tahoe Keys Property Owners' Association in June of 1977, as authorized by D.87368, May 24, 1977, and operated under its new name, but was not deregulated at that time. The decision does not address the issue of the transferred company not falling under Commission jurisdiction.

TKPOA serves some 1560 property owners in the area of South Lake Tahoe. The last rate increase was authorized by Resolution W-2786, February 18, 1981. It provided a \$27,210 or 23.6% increase in revenues for a rate of return of 5.4%.

DISCUSSION

TKPOA is a nonprofit mutual benefit corporation whose purpose is to own, repair, maintain, manage common areas, and to discharge other lawful duties pursuant to its Covenants, Conditions, and Restrictions. Section 2701 of the Public Utilities Code refers to any person, firm, or corporation who sells water as being under the jurisdiction of the Commission. TKPOA asserts that it is not a person, firm, or corporation. After review, the Commission's Legal Division agrees that TKPOA is not a person, firm, or corporation as it applies to Section 2701.

Although TKPOA falls within the terms of Section 204 and as a corporation under Section 2701, Branch and Legal Division believe it is exempt from regulation pursuant to Section 2705, which states in part:

"Any corporation or association which is organized for the purposes of delivering water to its stockholders and members at cost, ...is not a public utility, and is not subject to the jurisdiction, control or regulation of the commission."
(emphasis added)

TKPOA delivers water only to its members who are owners of units in the Tahoe Keys development; and, since it is a non-profit corporation, delivers water at cost.

PROTESTS

Because the affected parties (the owner-customers) have not been formally notified of this request, we will direct TKPOA to work with Branch to develop a notice to its owner-customers that explains the consequences of deregulation. After the customers have been properly noticed, and after the 30-day protest period has elapsed, and if there are no well-founded protests, we will allow TKPOA to be deregulated. If there are well-founded protests, Branch will take whatever action is appropriate, including taking action to have the Commission open an investigation and setting this matter for hearing.

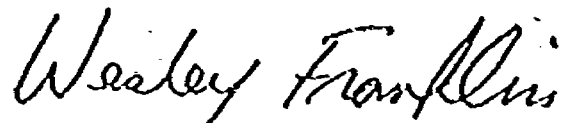
FINDINGS

THE COMMISSION FINDS, after investigation by the Water Utilities Branch and given the record available, that Tahoe Keys Property Owners' Association is an association owning and operating TKPOA and that TKPOA is exempt from Commission regulation.

THEREFORE, IT IS ORDERED that:

1. Tahoe Keys Property Owners' Association will develop, with assistance from the Water Utilities Branch, a notice informing its customers of this action and the consequences.
2. Tahoe Keys Property Owners' Association will mail this notice to each of its customers.
3. After the proper protest period, Branch will evaluate the protests and inform Tahoe Keys Property Owners' Association of the results.
4. If Branch determines that there are no well-founded protests, Tahoe Keys Property Owners' Association shall file an Advice Letter in accordance with General Order 96-A that:
 - a. Requests cancellation of its tariffs.
 - b. Remits to the Commission the Public Utilities Commission Reimbursement Fees collected as of five days after the Advice Letter is filed.
 - c. Requests agreement that Tahoe Keys Property Owners' Association should be classified as not regulated by the Commission.
5. Branch shall inform the utility by letter if it has complied with this order within 5 days of receipt of the Advice Letter. This order and that letter shall constitute proof that the utility is no longer regulated by this Commission.
6. This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 7, 1995. The following Commissioners approved it:



WESLEY M. FRANKLIN
Acting Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners