

Order No.2190

PROVINCE OF BRITISH COLUMBIA
OFFICE OF THE DEPUTY COMPTROLLER OF WATER RIGHTS

IN THE MATTER OF the *Water Utility Act* and
the *Utilities Commission Act*

and

IN THE MATTER OF

an Application by

Parr Utilities Ltd.

For

**Certificate of Public Convenience & Necessity (CPCN) Approval,
Interim Water Rates Effective September 1, 2009 and
Interim Water Tariff No. 3**

DECISION AND ORDER

Dated this 4th day of May, 2009

BEFORE:

Pieter J. Bekker, Deputy Comptroller of Water Rights
PO Box 9340 STN PROV GOV'T, Victoria, BC V8W 9M1

File: 0321093

1.0 Background

1.0.1 The Comptroller of Water Rights

The Comptroller of Water Rights (“Comptroller”) is an independent quasi-judicial regulator and responsible for the regulation of water utilities under the *Water Utility Act* and the *Utilities Commission Act*. Under the *Water Act*, Comptroller includes a Deputy Comptroller.

The primary responsibility in the regulation of water utilities under its jurisdiction is to ensure that the rates charged for water are fair, just and reasonable, and that utilities provide safe, adequate and secure service to their customers. The Utility Regulation Section of the Water Stewardship Division, Ministry of Environment, delivers to the Comptroller all the necessary information, advice and recommendations required to support approvals, decisions and orders with respect to the utilities regulated.

1.0.2 Financial Viability

In order for a utility to be a viable business entity and to provide adequate service to meet its customers’ needs, it must receive sufficient revenues to pay operating costs and to provide for the replacement of system components by way of a replacement reserve, contribution or access to financing. To achieve a minimum level of viability, the owners of private utilities are expected to subsidize the operation until there are enough rate-paying customers for the utility to become self-sufficient. The subsidy may be perpetual for small utilities, and may include some or all of the following through contributions of assets, undertakings, funding, irrevocable letter of credit (“ILOC”), performance bonds and/or insurance:

- Contribution of the water works system
- Donation of time and resources
- Revenue Deficit Reserve Fund (RDRF)
- Construction Reserve Fund (CRF)
- Replacement Reserve Fund (RRF)
- Deferred Capacity Reserve Fund (DCRF)

A Certificate of Public Convenience and Necessity (“CPCN”) application must provide evidence of financial capability (debt and equity), operating capability and long term economic viability of the utility. The financial information must include:

1. Financial projections for 10-20 years depending on build-out and economic viability. A minimum of build-out plus 5 years is required and must include:
 - a. Original Cost of Facilities
 - b. Income Statement
 - c. Cumulative Revenue Deficiency before Contributions
 - d. Balance Sheet
 - e. Cash Flow

- f. Developer and Customer Contributions
 - g. Cost of Capital
 - h. Return on Equity
2. Financial projections of various build-out scenarios to assess risk and the level of developer contributions and financial support.
 3. Evidence of debt and equity financing of the project and the utility.
 4. Contingency plans.
 5. Rate Comparisons.
 6. Proposals for reserve funds, bonds, funding, ILOC and insurance.

In addition, pro-forma tariffs are required to be filed and approved prior to a CPCN being issued.

1.0.3 Contribution of Water Works

Section 13.1 of the Guide to Applying for a CPCN states “Building a utility plant to serve an area having no customers initially and financing that plant to receive a return on investment is clearly uneconomic. Construction may be feasible, however, if the person or company who benefits from the construction is prepared to contribute (with no expectation of a return on investment) the entire cost of installing the necessary waterworks. For that reason, it is a widely accepted practice for real estate developers to contribute to the utility the cost of constructing the waterworks to serve the land they wish to market as serviced lots.”

In circumstances where a developer must build a private water utility, the developer may be required to contribute part or all of the capital plant, or water works, that will service the development. This may be the only way to create a financially viable and stable water utility operation. The required developer contribution may also include underwriting operating costs and/or providing security to fund future replacement costs.

The original cost of the facilities is to be recorded in the appropriate asset accounts of the utility and the total value is treated as a Contribution in Aid of Construction.

1.0.4 Parr CPCN Background

On May 10, 1967 Parr received its first CPCN and subsequently received amended CPCNs for extensions of service to serve a total of 109 bare land strata lots and a 106 lot RV Unit Campground by June 2007 when approval was granted for the transfer of shares of Parr to 1294671 Alberta Inc. Additional CPCN amendments were issued on July 25, 2007 (36 strata lots), and on October 7, 2008 (37 strata lots: 21 for Swansea Road subdivision plus 16 for Pedley Heights phase 3 subdivision). The RV Park was reduced to 38 on October 7, 2008 and lawn irrigation eliminated. On November 6, 2008 another CPCN amendment was approved for 7 additional strata lots.

The main extensions approved in the granting of the above referenced CPCN Amendments are not currently receiving water service, as the existing water supply is not currently compliant with Interior Health requirements. Once the core water facilities are complete and in service (specifically a water treatment plant that will provide filtered and treated water, a balancing reservoir, connecting and core pipelines, the main extensions previously approved, and the developer main extensions requested in this application) they will be connected to the upgraded water supply.

1.1 The Applicant

Parr first made contractual commitments for the construction of the supply, pumping treatment and transmission facilities on June 19, 2007 and commenced construction in April 2008.

On September 12, 2008 an initial amended and preliminary CPCN Application was submitted by Parr Utilities Ltd. ("Parr", the "Utility"), a water utility and a subsidiary of 1294671 Alberta Ltd., which in turn is owned by Hank Swartout, the developer. The CPCN Application was for a proposed 52 lot bare land strata development plus a 107 room hotel constructed by the Resort at Copper Point.

On December 10, 2008 the Comptroller, through his representative FSI Strategies, requested additional information to facilitate review of the CPCN Application and to ensure the financial filing requirements of the Comptroller are met. The Comptroller also requested additional technical information under separate cover. The financial requirements were reiterated in the FSI Strategies January 13, 2009 letter and in a subsequent letter on February 18, 2009 outlined the minimum requirements necessary for the Comptroller to make a determination and issue an Interim Decision and Order with respect to a proposed rate increase, tariffs and financing.

On March 25, 2009 the Utility applied for an Interim Order for a CPCN Amendment and water tariff rate schedule changes with rate increases. A letter with an Information Request (IR1) was sent to the Utility on April 9, 2009 and the Utility replied on April 20 (IR 1.1), April 22 (Financial Projections) and April 24, 2009 (IR 1.2) with additional information, including financial projections and supporting schedules (collectively called the "Application"). Responses to some information requests are outstanding.

1.2 Tariffs (Rate Structure, Rates, Charges)

The proposed Tariff Rate Amendments originally filed were:

Original Proposed Tariff Rate Amendments

Schedule	Existing	Proposed
B – Contribution in Aid of Construction	\$3,000.00	\$3,800.00
C – Domestic Service Flat Rate	\$26.73	\$50.00
F – RV Flat Rate	\$6.73	\$25.00
G – Availability Charge	\$160.38	\$400.00

The Utility has requested an effective date of January 1, 2009 for the interim tariff for Contributions in Aid of Construction (CIAC) and for water rates to become effective when filtered and treated water becomes available, projected to be September 1, 2009.

Parr revised the proposed charges and rates in the IR responses and financial projections as set out below.

Original Proposed Tariff Rate Amendments

Schedule	Existing	Proposed
B – Contribution in Aid of Construction	\$3,000.00	\$3,500.00
C – Domestic Service Flat Rate	\$26.73	\$50.00
E – Wholesale Rate per mo. per unit	n.a.	\$37.50
F – RV Flat Rate	\$6.73	\$25.00
G – Availability Charge	\$160.38	\$300.00

Determination:

The interim tariffs are approved as set out below.

Approved Interim Tariff Rate Amendments

<i>Schedule</i>	<i>Effective Date</i>	<i>Existing</i>	<i>Approved</i>
<i>B – Contribution in Aid of Construction</i>	<i>March 25, 2009</i>	<i>\$3,000.00</i>	<i>\$3,500.00</i>
<i>C – Domestic Service Flat Rate per mo.</i>	<i>September 1, 2009</i>	<i>\$26.73</i>	<i>\$50.00</i>
<i>E – Wholesale Rate per m3</i>	<i>September 1, 2009</i>	<i>n.a.</i>	<i>\$1.3896</i>
<i>F – RV Flat Rate per mo. (Apr – Dec)</i>	<i>September 1, 2009</i>	<i>\$6.73</i>	<i>\$25.00</i>
<i>G – Availability Charge per yr.</i>	<i>September 1, 2009</i>	<i>\$160.38</i>	<i>\$300.00</i>

The rates and charges will remain interim and refundable with interest subject to the final decision of the Comptroller.

Parr is to provide customers with notification of the interim increase and interim rates as soon as practicable.

Parr is to notify the Comptroller for approval when filtered and treated water becomes available and file interim tariffs with the Comptroller with the effective date, if different from the approved effective date of September 1, 2009.

2.0 Interim Approval and Subdivision Approval

2.1 Application

In the Application dated March 25, 2009, Parr stated:

Parr Utilities Ltd (Parr) hereby applies under Sections 45 and 46 of the Utilities Commission Act for interim approval of a Certificate of Public Convenience and Necessity (CPCN) Amendment to construct and operate developer related main extensions that will provide potable water service to a 52 lot bare land strata subdivision being developed by Point Developments (Point Phase 1). In addition, the Point Phase 2 and Cooper Road main extensions will provide potable water service to the Resort at Copper Point, a 107 room hotel. Parr forecasts that the developer main extensions will cost approximately \$907,000 and will be funded through developer contributions. The main extensions for which Parr is seeking interim approval, is in addition to and separate from a larger set of core water works required to provide existing and future customers on the east side of Lake Windermere with filtered and treated water, compliant with recent Interior Health 4-3-2-1-0 Guidelines. The forecast cost of the core water works, which will be the subject of a CPCN application to be filed in July 2009, is \$6,764,000 as shown in Table 2 below.

Table 2 – Forecast Costs for Developer and Core Works

Line	Facility Description	Forecast Cost
	Developer Related Mains	
1	Point Phase 1 Water Main	\$354,000
2	Point Phase 2 Water Main	422,000
3	Cooper Road Water Main	131,000
4	Total Developer Related Mains	\$907,000
	Core Water Works	
5	Water Treatment Plant	\$4,105,000
6	940 Reservoir	728,000
7	Reservoir Connecting Pipeline	402,000
8	Core Water Mains	1,529,000
9	Total Core Water Works	\$6,764,000
10	Total Forecast Costs of Water Works	\$7,671,000

The following table is developed from the Parr financial projections submitted April 22, 2009.

Table 2.1 – Forecast Costs for Developer and Core Works – Financial Projections

<i>Line</i>	<i>Facility Description</i>	<i>Forecast Cost</i>
	<i>Water Supply Plant</i>	
1	<i>Intakes</i>	<i>\$180,000</i>
2	<i>Supply Mains</i>	<i>755,000</i>
3	<i>Total Water Supply Plant</i>	<i>\$935,000</i>
	<i>Pumping Plant</i>	
4	<i>Pumping Equipment</i>	<i>\$889,643</i>
	<i>Water Treatment Plant</i>	
5	<i>Water Treatment System</i>	<i>\$4,351,602</i>
	<i>Transmission & Distribution Plant</i>	
6	<i>Reservoirs & Standpipes</i>	<i>\$1,473,528</i>
7	<i>Transmission Mains</i>	<i>3,988,381</i>
8	<i>Distribution Mains</i>	<i>1,332,200</i>
9	<i>Total Transmission & Distribution Plant</i>	<i>\$6,794,109</i>
10	<i>General Plant / Equipment</i>	<i>\$50,000</i>
11	<i>Construction Overheads</i>	<i>\$643,604</i>
12	<i>Total Forecast Costs of Water Works</i>	<i>\$13,663,957</i>

In response to IR 1.1.5, Parr stated:

The September 12th CPCN application and supplemental submissions included detailed engineering design drawings and cost estimates for the core facilities which include the supply, pumping and treatment plant. Parr confirms that the core works are a key component of the CPCN application and are necessary for the provision of water service to the hotel and 52-lot subdivision. If required, Parr will resubmit the application for those facilities later this year, but as stated, this equipment will be necessary for the safe, reliable supply of potable water under Interior Health Guidelines.

The capacity of the treatment facilities is 7,666 m³/day and the current water license is 2,200 m³/day.

Determination:

The Application is to include all of the facilities or works required to provide service. The total facility costs underlying the financial projections are \$13.7 million, excluding distribution mains and meters.

A Decision with Reasons and Order will be issued based on the Application and Evidentiary Update following the review and hearing process.

2.2 Application and Evidentiary Update Requirements

Determination:

In the Application and Evidentiary Update, Parr is to include, but not limited to, the following:

- ***Revenue and statistics for RV service***
- ***Costs and calculations for Wholesale water service***
- ***Costs for all facilities including facilities such as Meters and contributed Distribution Mains and associated CIAC***
- ***Functionalization of Operating, Maintenance and Administrative expenses***
- ***Plant accounts by appropriate plant account***
- ***Identification of General Plant requirements***

The Evidentiary Update is to be filed no later than September 18, 2009. However, the Applicant is encouraged to file soon as possible. The Comptroller will set the hearing schedule upon receipt of the Application and Evidentiary Update.

The outstanding responses to the information requests (IR1) are to be filed no later than June 1, 2009. Additional IRs will be issued as needed on the information filed in response to the IRs.

Parr is to file a CPCN Amendment Application for all service extensions, including wholesale water service.

3.0 Financial Requirements

In the preceding 2 years and as at December 31, 2008, Parr had accumulated deficits of approximately \$367,000. The interim financial projections provided by Parr forecast further deficits of approximately \$700,000 before the revenues recover costs, assuming that the growth projections are achieved.

The cost of the Property Plant & Equipment, excluding distribution mains and meters, is forecast to be \$13,664,000 upon completion in 2010.

As of the date of this decision, Parr has filed the following information required for subdivision approval:

- a. *Proposed interim rate schedules.*
- b. *Letter of Contribution of all of the utility assets at no cost, including the costs to complete the proposed facilities to provide service to existing customers and the proposed 52 lot bare land strata, 115 strata unit hotel and 3 fee simple lots.*
- c. *Demonstration/evidence that the companies involved (Point Developments Inc., Parr Utilities Ltd., Windermere Water & Sewer Company Inc., WWSC Holdings Inc.) are all in good standing.*
- d. *A letter from the shareholder confirming the subsidization of all Revenue Deficiencies (Revenue Requirement shortfalls), including funding of the accumulated Retained Earnings Deficit as at December 31, 2008 (approximately \$358,000).*
- e. *A completed Irrevocable Letter of Authority ("ILA") for a Revenue Deficit Reserve Fund Account funding in the amount of \$1,400,000 and a bank confirmation form.*
- f. *A completed Irrevocable Letter of Authority ("ILA") for a Revenue Deficit Reserve Fund with a deposit of \$1,000 and a bank confirmation form.*
- g. *A letter from the shareholder confirming financial support (funding) for the working capital requirements of the Utility.*
- h. *Filing of an Irrevocable Letter of Authority ("ILA") for a Replacement Reserve Trust Fund and bank confirmation form in a format acceptable to the Comptroller (Previously on file).*
- i. *A letter from the shareholder confirming that the Replacement Reserve amounts equal to the forecast annual depreciation expense will be deposited into the Replacement Reserve Trust Fund Account in quarterly installments with a correction to the actual amount at the end of each year.*
- j. *Irrevocable Letter of Credit ("ILOC") for Construction Deficiencies (\$1,970,640) for the Construction reserve Fund.*
- k. *A letter from the shareholder confirming financial support for the completion of the facilities required to provide service as incorporated into the financial projections.*

Determination:

Parr has filed the documents listed above required for consideration of subdivision approval.

Parr is hereby ordered to file:

- a. Proposed complete Interim Water Tariff No. 3 terms & conditions by June 1, 2009.***
- b. Draft notice and bill inserts to advertise the proposed tariff amendments by June 1, 2009.***
- c. A chart and description of ownership and corporate affiliations, including utilities, development companies, holding companies and ownership structures by June 1, 2009.***
- d. Solicitor's undertaking confirming that the SROW will be registered on the property upon completion of the reservoir and final survey to confirm location.***

The tariff, rates, a refundable contribution, if any, and the level and form of financial support for revenue deficiencies will be considered or confirmed in the final decision following the Evidentiary Update, review and hearing.

Having considered all of the evidence affecting the Applicant's CPCN Application and proposed interim rates, IT IS HEREBY DECIDED AND ORDERED THAT the Applicant comply with all determinations and directives in this Decision and Order.

Dated at the City of Victoria, in the Province of British Columbia, this 4th day of May, 2009.



Pieter J. Bekker
Deputy Comptroller of Water Rights

File: 0321093