

Decision No. R22-0572

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 22AL-0192W

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IN THE MATTER OF THE ADVICE LETTER NO. 8 FILED BY DALLAS CREEK WATER COMPANY TO INCREASE UTILITY RATES AND FEES, TO BECOME EFFECTIVE JUNE 1, 2022.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
G. HARRIS ADAMS  
APPROVING SETTLEMENT**

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Mailed Date: September 27, 2022

**I. STATEMENT**

1. On April 29, 2022, Dallas Creek Water Company (Dallas Creek) filed Advice Letter No. 8. Dallas Creek seeks to increase its rates and fees for water service. This filing commenced Proceeding No. 22AL-0192W.

2. By Decision No. C22-0332, issued May 27, 2022, the Commission set for hearing the tariffs filed under Advice Letter No. 8, as amended for formatting purposes, suspended their effective date, referred to an administrative law judge (ALJ), and established notice and an intervention period.

3. The entire procedural history of this proceeding is provided in previous decisions and is repeated here only to the extent necessary to put this Recommended Decision in context.

4. On June 17, 2022, Trial Staff of the Colorado Public Utilities Commission (Staff) timely intervened as of right in this proceeding.

5. By Decision No. R22-0465-I, issued August 4, 2022, Loghill Village Home and Property Owners Association (Loghill), Fairway Pines Estate Owners Association, Inc. (Fairway),

and Fisher Canyon South Property Owners Association (Fisher) (collectively, the Associations) were each granted intervenor status in this proceeding.

6. By Decision No. R22-0417-I, issued July 18, 2022, the undersigned ALJ further suspended the effective date of tariff sheets, established procedures, and scheduled a hearing. In part, parties were specifically encouraged to review, and address to the extent appropriate in the presentation of their respective cases, the active body of public comment filed in the proceeding.

7. On August 12, 2022, the Notice of Comprehensive Settlement in Principle and Unopposed Motion to Vacate the Deadlines for Answer and Rebuttal Testimony and set Deadlines for Settlement Testimony was filed by Staff.

8. By Decision No. R22-0482-I, an opportunity was provided for Dallas Creek and Staff to reduce their agreement to writing and confer with the remaining parties to determine whether they would join the settlement. Deadlines were also established for filing testimony in support of, or in opposition to, the settlement.

9. On September 9, 2022, the Unopposed Notice and Joint Motion to Approve Unanimous Comprehensive Settlement Agreement was filed by Dallas Creek, Staff, and the Associations (each a Settling Party and collectively the Settling Parties). All parties to this proceeding have joined the Unanimous Comprehensive Settlement Agreement and support its approval.

10. By Decision No. R22-0549-I, issued September 15, 2022, the evidentiary hearing scheduled in this matter for October 4, 2022, and remaining procedural deadlines were vacated.

## **II. SETTLEMENT**

### **A. Terms of Settlement Agreement**

11. The Settlement Agreement, attached to this Recommended Decision as Appendix A, explains that the Settling Parties negotiated a resolution of all disputed issues in the proceeding.

12. In addition to the specific agreements discussed below, the Parties also agreed to numerous General Provisions in the Settlement Agreement, including that the provisions of the Settlement Agreement and the negotiation process undertaken to reach it are just, reasonable, and consistent with and not contrary to the public interest and should be approved by the Commission.

13. Staff also filed the Testimony of Christopher L. Duncan in Support of Settlement and Attachments. Hearing Exhibit 200-201. In sum, Staff recommends the Commission approve the Settlement Agreement without modification. Staff believes the settlement properly balances the interests of the utility and its ratepayers by allowing for just and reasonable rates at a reasonable return, and that the settlement agreement is in the public interest.

### **B. Revenue Requirement**

14. The Settling Parties agree that Dallas Creek's revenue requirement is \$1,200,211.00 and their Operating Ratio is set at 87 percent.

15. In its revenue requirement, Dallas Creek shall recover a Manager salary expense increase of \$10,000.00 per year, which is inclusive of any payroll tax impact. Dallas Creek shall not recover the requested \$42,042.00 in "dividends in arrears" expense. Dallas Creek shall also recover an Administrative salary expense increase of \$11,236.00 per year, which is inclusive of any payroll tax impact.

16. Dallas Creek shall not recover the requested \$70,000.00 per year in legal fees. Rather, Dallas Creek shall recover \$70,000.00 in legal fees amortized over a 4-year period, or \$17,500.00 per year.

**C. Rate Design**

17. The Settling Parties agree that for Dallas Creek's rate design, the Base Service Fee shall be set at \$56.50 and the Meter In Service Fee shall be set at \$46.00. Dallas Creek shall also impose a tiered volumetric rate for water usage.

18. The In Meter Volumetric Rate for consumption up to 10,000 gallons shall be set at \$11.65 per thousand gallons. The In Meter Volumetric Rate for all consumption greater than 10,000 gallons shall be set at \$16.30 per thousand gallons.

19. The tap transfer fee will be set at \$300. The Settling Parties anticipate this will result in an additional \$15,000 in revenue for Dallas Creek.

20. The remainder of Dallas Creek's Advice Letter and rate design proposal is unchanged.

**D. Customer Notice**

21. The Settling Parties agree that Dallas Creek shall publish a notice in the newspaper of general circulation notifying customers about the results and decisions of this proceeding within 10 days of a final Commission decision.

22. Dallas Creek shall publish a notice in the newspaper of general circulation notifying its customers of all future rate proceedings. The notice will comply with the terms agreed upon in the Settlement Agreement. Dallas Creek shall also publish notice on its public website in a conspicuous manner, pursuant to C.R.S. § 40-3-104(1).

23. Dallas Creek shall additionally notify its rate payers of all future rate proceedings by insertion of an advisory message in its billing statements contemporaneous with the filing of any future rate proceeding. The advisory message shall be given to all rate payers, either in the monthly written billing statement, or in the monthly electronic billing notice given to rate payers

who have selected electronic billing. The notice shall advise the rate payers how to access information pertaining to the rate proceeding.

**E. Future Rate Case**

24. The Settling Parties agree that Dallas Creek is precluded from filing a rate case before June 1, 2024.

**III. FINDINGS AND CONCLUSIONS**

25. The Settling Parties have the burden of proving by a preponderance of the evidence that the Settlement Agreement is just and reasonable and in the public interest. In reviewing the terms of the Settlement Agreement, the ALJ applied the Commission's directions and policy with respect to a review of settlement agreements as found in, e.g., Decision No. C06-0259 in Proceeding No. 05S-264G issued March 20, 2006.

26. The Commission has an independent duty to determine matters that are within the public interest. *See Caldwell v. Public Utilities Commission*, 692 P.2d 1085, 1089 (Colo. 1984).

27. The undersigned ALJ has reviewed the full administrative and evidentiary record, including: the public comments filed in this proceeding; the settlement testimony filed by Staff; and the terms and conditions of the Settlement Agreement. Notably, the parties representing diverse interests were able to reach a unanimous comprehensive settlement in the matter. The ALJ has duly considered the positions of all parties in this matter and weighed the evidence presented.

28. Based on the entire record, the ALJ finds that approval of the Settlement Agreement without modification is in the public interest. The Settlement Agreement proposes a fair and timely resolution of all contested issues and substantial evidence shows that its terms will benefit Dallas Creek, the Settling Parties, and customers.

29. The ALJ further finds that the parties have established by a preponderance of the evidence that the Settlement Agreement is just, reasonable, in the public interest, and should be accepted by the Commission.

#### IV. **ORDER**

##### **A. It is Ordered That:**

1. The Joint Motion to Approve Unanimous Comprehensive Settlement Agreement filed Trial Staff of the Colorado Public Utilities Commission (Staff) on September 9, 2022, is granted, consistent with the discussion above.

2. The Settlement Agreement filed by Staff on September 9, 2022, and attached to this Recommended Decision as Appendix A, is approved without modification, consistent with the discussion above.

3. The tariffs attached to Advice Letter No. 8 filed by Dallas Creek Water Company (Dallas Creek) on April 29, 2022, are permanently suspended and may not be further amended.

4. Dallas Creek shall subsequently make a new advice letter and tariff compliance filing on not less than three business days' notice consistent with this Recommended Decision. The advice letter and tariff shall be filed as a new advice letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariff must comply in all substantive respects to this Recommended Decision in order to be filed as a compliance filing on shortened notice.

5. Dallas Creek shall comply with, and make all filings required by, the Settlement Agreement and this Recommended Decision.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

G. HARRIS ADAMS

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean, Director



BEFORE THE PUBLIC UTILITIES COMMISSION  
STATE OF COLORADO

Proceeding No. 22AL-0192W

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IN THE MATTER OF ADVICE LETTER NO. 8 FILED BY DALLAS CREEK WATER COMPANY TO INCREASE UTILITY RATES AND FEES, TO BECOME EFFECTIVE JUNE 1, 2022.

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**UNANIMOUS COMPREHENSIVE SETTLEMENT AGREEMENT**

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**INTRODUCTION AND IDENTIFICATION OF PARTIES**

This Unanimous Comprehensive Settlement Agreement (“Settlement Agreement” or “Agreement”) is filed on behalf of Dallas Creek Water Company, Inc. (“Dallas Creek” or the “Company”), Trial Staff (“Staff”) of the Colorado Public Utilities Commission (“Commission”), and the homeowners’ associations Loghill Village Home and Property Owners Association, Fisher Canyon South Property Owners Association, and Fairway Pines Estates Owners Association, Inc (collectively, the “Associations”) (each a “Settling Party” and collectively the “Settling Parties”). There are no parties in this proceeding outside of the Settling Parties.

This Settlement Agreement is intended to resolve all issues (the “Settled Issues”) raised by the Settling Parties in this Proceeding with respect to the Company’s Advice Letter No. 8 dated April 29, 2022, as amended on May 3 and May 23, 2022 (the “Advice Letter”) requesting an increase in utility rates and fees and tariff changes.

## **SETTLEMENT AGREEMENT**

The following terms comprise the Settlement Agreement reached by the Settling Parties. All other provisions of the Advice Letter not altered by this Settlement Agreement, shall have their plain meaning, and shall become effective upon a final decision.

### **I. Revenue Requirement**

The Settling Parties agree to the following terms for Dallas Creek's revenue requirement.

1. Dallas Creeks' revenue requirement is \$1,200,211.
2. Dallas Creek's Operating Ratio is set at 87 percent.
3. In its revenue requirement, Dallas Creek shall recover a Manager salary expense increase of \$10,000 per year. This increase is inclusive of any payroll tax impact. Dallas Creek shall not recover the requested \$42,042 in "dividends in arrears" expense.
4. In its revenue requirement, Dallas Creek shall recover an Administrator salary expense increase of \$11,236 per year. This increase is inclusive of any payroll tax impact.
5. In its revenue requirement, Dallas Creek shall not recover the requested \$70,000 per year in legal fees. Rather, Dallas Creek shall recover \$70,000 in legal fees amortized over a 4-year period, or \$17,500 per year.

### **II. Rate Design**

The Settling Parties agree to the following terms for Dallas Creek's rate design.

1. The Base Service Fee shall be set at \$56.50.
2. The Meter In Service Fee shall be set at \$46.00.
3. Dallas Creek shall impose a tiered volumetric rate for water usage.

4. The In Meter Volumetric Rate for consumption up to 10,000 gallons shall be set at \$11.65 per thousand gallons.
5. The In Meter Volumetric Rate for all consumption greater than 10,000 gallons shall be set at \$16.30 per thousand gallons.
6. The tap transfer fee will be set at \$300. The Settling Parties anticipate this shall result in an additional \$15,000 in revenue for Dallas Creek.
7. The remainder of Dallas Creek's Advice Letter and rate design proposal is unchanged.

### **III. Customer Notice**

The Settling Parties agree to the following terms for future customer notice.

1. Dallas Creek shall publish a notice in the newspaper of general circulation notifying customers about the results and decisions of this proceeding within 10 days of a final Commission decision.
2. Dallas Creek shall publish a notice in the newspaper of general circulation notifying its customers of all future rate proceedings. The notice shall be published at least once each week for two consecutive weeks during the first twenty days of the thirty-day period prior to the effective date of the increase or change. Pursuant to C.R.S. § 40-3-104(1), Dallas Creek shall also publish notice on its public website in a conspicuous manner.
3. Additionally, Dallas Creek shall notify its rate payers of all future rate proceedings by insertion of an advisory message in its billing statements contemporaneous with the filing of any future rate proceeding. The advisory message shall be given to all rate payers, either in the monthly written billing statement, or in the monthly electronic

billing notice given to rate payers who have selected electronic billing. The notice shall advise the rate payers how to access information pertaining to the rate proceeding.

#### **IV. Future Rate Case**

The Settling Parties agree to the following terms for Dallas Creeks' next rate case.

1. Dallas Creek is precluded from filing a rate case before June 1, 2024.

### **GENERAL PROVISIONS**

1. Except as expressly set forth herein, nothing in this Settlement Agreement is intended to have precedential effect or bind the Settling Parties with respect to positions they may take in any other proceeding regarding any of the issues addressed in this Settlement Agreement. No Settling Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Settlement Agreement. Furthermore, this Settlement Agreement does not constitute agreement, by any Settling Party, that any principle or methodology contained within or used to reach this Settlement Agreement may be applied to any situation other than the above-captioned proceeding, except as expressly set forth herein.
2. The Settling Parties agree the provisions of this Settlement Agreement, as well as the negotiation process undertaken to reach this Settlement Agreement, are just, reasonable, and consistent with and not contrary to the public interest and should be approved and authorized by the Commission.
3. The discussions among the Settling Parties that produced this Settlement Agreement have been conducted in accordance with Rule 408 of the Colorado Rules of Evidence.
4. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement.
5. The Settling Parties agree to support, or not oppose, all aspects of the Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation

or enforcement of its terms and conditions. Each Settling Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no formal action in any administrative or judicial proceeding that would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement. However, except as expressly provided herein, each Settling Party expressly reserves the right to advocate positions different from those stated in this Settlement Agreement in any proceeding other than one necessary to obtain approval of, or to implement or enforce, this Settlement Agreement or its terms and conditions.

6. The Settling Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement but agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations, if necessary, to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.
7. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party. There are no terms, representations or agreements among the parties which are not set forth in this Settlement Agreement.
8. This Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) days of the date of the Commission order. In the event a Settling Party exercises its right to withdraw from the Settlement Agreement,

this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.

9. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.
10. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Agreement with respect to the issues addressed by this Settlement Agreement. This Settlement Agreement may be executed and delivered electronically and the Settling Parties agree that such electronic execution and delivery, whether executed in counterparts or collectively, shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such facsimile signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

Dated this 8th day of September 2022.

Agreed on behalf of:

**DALLAS CREEK WATER COMPANY, INC.**

By: /s/ James A. Willey  
James A. Willey  
President,  
Dallas Creek Water Company, Inc.

Approved as to form:

**ATTORNEY FOR DALLAS CREEK WATER  
COMPANY, INC.**

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Agreed on behalf of:

**Trial Staff of the Colorado Public Utilities Commission**

Approved as to form:

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Agreed on behalf of:

**Loghill Village Home and Property Owners Association,  
Fairway Pines Estates Owners Association, Inc., and  
Fisher Canyon South Property Owners Association**

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9-8-22  
Date

*Attorneys for Intervenors Loghill Village Home and Property Owners Association,  
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