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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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3 WASHINGTON UTILITIES AND )  
4 TRANSPORTATION COMMISSION, )  
5 Complainant, ) Docket No. UW-110220  
6 vs. )  
7 SUMMIT VIEW WATER WORKS, LLC, ) Pages 33-49  
8 Respondent. )

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SETTLEMENT HEARING, VOLUME III

10

Pages 33-49

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ADMINISTRATIVE LAW JUDGE PATRICIA CLARK

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9:55 A.M.

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August 26, 2011

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1300 South Evergreen Park Drive SW

16

Olympia, Washington

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

PATRICIA CLARK  
Washington Utilities and  
Transportation Commission  
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ALSO PRESENT:

AMY I. WHITE, MBA, MPA  
  
EUGENE K. ECKHARDT  
  
KIRK RATHBUN (Appearing telephonically)

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1 OLYMPIA, WASHINGTON; AUGUST 26, 2011

2 9:55 A.M.

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4 P R O C E E D I N G S

5 JUDGE CLARK: Good morning. It's approximately 9:55  
6 on August 26, 2011, in the Commission's hearing room in  
7 Olympia, Washington. This is the time and the place set for  
8 hearing in the matter of Washington Utilities and  
9 Transportation Commission vs. Summit View Water Works, LLC,  
10 given Docket No. UW-110220.

11 Patricia Clark, Administrative Law Judge for the  
12 Commission, presiding.

13 This matter came before the Commission on January  
14 27, 2011, when the Company proposed revisions to Tariff WN U-1,  
15 First Revised Sheet 24, with a stated effective date of March  
16 1, 2011. The filing proposed to remove an annual flat fee for  
17 irrigation services of \$400 per customer and a new base outlet  
18 fee of \$250 per customer and add a \$300 per-acre charge for  
19 irrigation service. Both parties filed prefiled testimony in  
20 this case.

21 On August 12, 2011, the parties filed a settlement  
22 agreement resolving all issues in this case. The public  
23 comment hearing was held in Kennewick, Washington on August 17,  
24 2011.

25 At this time, I'll take appearances on behalf of the

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1 parties. Appearing on behalf of Commission Staff?

2 MR. CEDARBAUM: Thank you, Your Honor. Robert  
3 Cedarbaum, Assistant Attorney General.

4 JUDGE CLARK: Thank you, Mr. Cedarbaum.

5 Appearing on behalf of Summit View Water Works?

6 MR. FINNIGAN: Richard Finnigan.

7 JUDGE CLARK: Thank you, Mr. Finnigan.

8 And just as a preliminary matter, it's my  
9 understanding that the parties' settlement agrees to the  
10 admission of all prefiled testimony and exhibits in this  
11 proceeding. If there is no objection, I would call the two  
12 witnesses in this matter as a panel so that either could  
13 respond to inquiry from the Bench. And Mr. Kirk Rathbun is  
14 appearing telephonically on the Commission's bridge line.

15 Is there any objection to that process?

16 MR. CEDARBAUM: No.

17 MR. FINNIGAN: No objection.

18 JUDGE CLARK: All right. Thank you.

19 At this time, then, I will swear in the witnesses.  
20 Mr. Rathbun, again, I'm going to have to rise while I  
21 administer the oath, so I'll try to speak loudly enough so you  
22 can hear me.

23 MR. RATHBUN: Okay.

24 JUDGE CLARK: Please rise and raise your right hand.

25

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1                   AMY I. WHITE and KIRK RATHBUN,  
2           witnesses herein, having been first duly sworn on oath,  
3           were examined and testified as follows:

4           MS. WHITE: I swear.

5           MR. RATHBUN: I do.

6           JUDGE CLARK: Thank you, Mr. Rathbun, Ms. White.  
7           Mr. Cedarbaum?

8           MR. CEDARBAUM: Thank you, Your Honor.

9           To expedite matters, with your permission, I would  
10          just like to offer what have been marked for identification  
11          with respect to exhibits -- well, first of all, the settlement  
12          agreement itself; the public comment exhibit, which I provided  
13          you this morning before we went on the record; and then with  
14          respect to Ms. White, her direct testimony and attached  
15          exhibits, which are exhibits AW-1T through AW-6.

16          JUDGE CLARK: Thank you.

17                 (Exhibits 1 and 2; Exhibits AW-1T and AW-2 -  
18                 AW-6 offered.)

19          JUDGE CLARK: Mr. Finnigan?

20          MR. FINNIGAN: Your Honor, we'll offer Mr. Rathbun's  
21          testimony and supporting exhibits.

22          JUDGE CLARK: All right.

23                 (Exhibits KR-1T and KR-2 - KR-5 offered.)

24          JUDGE CLARK: The prefiled testimony of Amy White  
25          and Kirk Rathbun, as well as the settlement agreement with

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1 attachments and the public comment exhibit are admitted.

2 (Exhibits 1 and 2; Exhibits AW-1T - AW-6;

3 Exhibits KR-1 - KR-5 admitted into evidence.)

4 MR. CEDARBAUM: With that, Your Honor, I have no  
5 preliminary questions for Ms. White, and she's available for  
6 your questions.

7 JUDGE CLARK: All right.

8 Do you have any preliminary questions for  
9 Mr. Rathbun?

10 MR. FINNIGAN: No, Your Honor. He's available for any  
11 questions the Bench might have.

12 JUDGE CLARK: Thank you very much. I would like to  
13 note because the settlement, the prefiled responsive testimony  
14 of the Commission Staff, forms the basis of support for the  
15 settlement agreement reached by the parties, and I would like  
16 the record to reflect that that testimony is well written and  
17 clear, and therefore, I have minimal questions regarding this.  
18 The settlement itself is also well written and clear, so most  
19 of the questions that I would ordinarily have, have already  
20 been resolved.

21

22 E X A M I N A T I O N

23 BY JUDGE CLARK:

24 Q. I just want to touch briefly really on a couple of  
25 topics. One is that it's my understanding that in the



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1 Commission Staff's review of the operations of Summit View  
2 Water Company -- and I'm referring specifically to page 25 --  
3 that there was a modification of the rate for the outstanding  
4 debt to comply with the formula ordinarily used by the  
5 Commission; is that correct?

6 A. (White) Are you referring to the interest rate?

7 Q. I'm referring to the interest rate. I'm on page 25,  
8 and I'm on approximately lines 11 and 12, where Staff indicates  
9 "Since all debt is among affiliated parties, it should earn a  
10 return of 5.25 percent."

11 A. (White) That is correct.

12 Q. And I just want to confirm that that is not an actual  
13 interest rate, but rather a rate that Staff has reviewed and  
14 determined to be reasonable given the affiliated interest  
15 relationship between the parties.

16 A. (White) That is correct.

17 Q. Thank you.

18 The only other topic I really have is that during  
19 the public comment hearing, really all of the comments on the  
20 filings in this case were related to the modification to the  
21 irrigation rate, and specifically, most of the comments from  
22 the customers focused on two topics: One was that the flat  
23 rate of \$400 had been instituted when they bought their lots,  
24 and they didn't feel that the rates should go up.

25 Can either Ms. White or Mr. Rathbun let me know the

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1 last time that the utility filed a request to increase its  
2 rates?

3 A. (Rathbun) I believe as far as the irrigation rates go,  
4 the utility has never filed an application for an increased  
5 rate on irrigation.

6 Q. All right. And do you know the date that the initial  
7 irrigation rate was approved by the Commission?

8 A. (Rathbun) I don't know the exact date.

9 Q. I don't need an exact date, Mr. Rathbun. If you could  
10 give me an estimate, that would be great.

11 A. (White) I can --

12 MR. RATHBUN: Maybe Amy knows better.

13 Q. All right. Ms. White?

14 A. (White) I actually do know that the current tariff  
15 that is in effect went into effect in 2006.

16 Q. All right.

17 A. (White) And the original tariff memorializes the  
18 conditions that were in effect at the time that the Company  
19 came under regulation. Summit View, I do believe, did file to  
20 have a change in the irrigation rate, I believe in 2006 -- no,  
21 about 2007, just shortly after I came to work for the  
22 Commission, but that filing was withdrawn.

23 Q. Right. And I do recall your testimony indicating that  
24 that filing was withdrawn.

25 A. (White) Yes.

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1 A. (Rathbun) That is correct.

2 Q. But the Company has not sought any modification based  
3 on increased costs or any other change in circumstances for at  
4 least five years?

5 A. (White) Since becoming regulated, that's correct.

6 Q. Great. Thank you.

7 The other topic that was raised during the public  
8 comment hearing in Kennewick, Washington was that some of the  
9 lots, due to the topography of the lots, do not -- the entire  
10 lot is not irrigable land, and they were arguing that some  
11 distinction should be made on lots to distinguish between the  
12 irrigable and nonirrigable portion of the property.

13 In that regard, I'm looking at page 26 of  
14 Ms. White's testimony, and it's my understanding that Staff did  
15 consider this particular issue when preparing testimony and  
16 determined that it would be very difficult to make a  
17 distinction in order to make that calculation; is that correct,  
18 Ms. White?

19 A. (White) That is correct.

20 Q. If you could elaborate perhaps a little bit more, and  
21 then I would also be interested in hearing from Mr. Rathbun  
22 about the difficulty there would be for the Company to actually  
23 make that distinction.

24 A. (White) The Company does have a very complete record  
25 of lot size for all the customers and potential customers in

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1 Summit View. Using those records, I actually was able to  
2 compare differences, adjusting those lot sizes to account for  
3 the minimum house size that was required under the different  
4 restrictive covenants in the different phases of the  
5 development, along with an arbitrary adjustment for other  
6 inirrigable surfaces such as driveways.

7           The final analysis there showed maybe a \$2  
8 difference per year, and remember, Summit View's irrigation  
9 rates are an annual rate. So it's a \$2 difference per year per  
10 customer in the final Staff analysis between an adjusted rate  
11 and a nonadjusted rate to account for unirrigable surfaces.

12           I could see that having to account for construction  
13 of sheds, construction of pools, any other construction for  
14 dealing with differences in topography among the lots would be  
15 extremely burdensome for the Company and cost far more than the  
16 \$2 in potential savings per customer per year, and so I -- at  
17 that point, I felt it was simply -- those administrative costs  
18 would of course be passed along to the customers as well, and  
19 so I felt that it was simply impractical and burdensome to  
20 impose that kind of record-keeping and analysis demands on the  
21 Company.

22           Q. All right. Mr. Rathbun, do you have anything further  
23 you would like to add on that topic?

24           A. (Rathbun) I think Amy pretty well covers it. The  
25 preference for irrigation amongst customers is quite diverse,

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1 and the cut of -- the homeowner turnover creates -- obviously  
2 changes those preferences with the new homeowner, so the  
3 Company would be tasked with going through and trying to do a  
4 survey, either annually or semiannually, or possibly even more  
5 often than that to survey each lot as to how much irrigation is  
6 actually being done, and the cost of that type of a program we  
7 felt would be -- would be somewhat prohibitive.

8 Q. All right. Thank you, Mr. Rathbun.

9 And my understanding is that, right now, the  
10 settlement is based on a modification in the rates based on the  
11 acreage, not on the irrigable portion of that acreage, and that  
12 is a formula that can be easily verified through county  
13 records; is that correct?

14 A. (Rathbun) That is correct.

15 JUDGE CLARK: All right. I believe that's all the  
16 questions I have. Let me take just a quick look.

17 That's all the questions that I have.

18 Mr. Cedarbaum, do you have any additional inquiry?

19 MR. CEDARBAUM: I have just a couple of questions,  
20 Your Honor, if I may.

21 JUDGE CLARK: Please.

22

23 D I R E C T E X A M I N A T I O N

24 BY MR. CEDARBAUM:

25 Q. Ms. White, isn't it correct that the current

0046

1 irrigation charges are based on acreage; is that right?

2 A. (White) The current irrigation charge of \$400 per year  
3 is a flat fee for all customers.

4 Q. Okay. I'm mistaken. So it's no matter how large or  
5 small the lot is?

6 A. (White) That is correct.

7 Q. And then the -- with respect to your questioning  
8 involving the Company's history of rate increases, you  
9 indicated the Company came under Commission regulation in 2006,  
10 correct?

11 A. (White) That's correct.

12 Q. Is it correct that under Commission rules, the rates  
13 in effect at that time, the unregulated rates in effect at that  
14 time, become the regulated rates going forward once regulation  
15 occurs?

16 A. (White) In the initial tariff, that's correct.

17 Q. So when the Company in 2006 came under regulation by  
18 the Commission, whatever it was charging at the time became its  
19 tariffed rates?

20 A. (White) That's correct.

21 MR. CEDARBAUM: Thank you.

22 JUDGE CLARK: All right. Anything further in the form  
23 of clarification or inquiry, Mr. Finnigan?

24 MR. FINNIGAN: Your Honor, just to make sure everybody  
25 is clear on the record. We had previously -- the Company had

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1 previously filed a purchase and sale agreement as an affiliated  
2 transaction. As part of the settlement agreement, we're going  
3 to be filing a promissory note, assuming the settlement is  
4 adopted by the Commission, and we will also file a revised  
5 purchase and sale agreement that comports with the agreement on  
6 what to put in the promissory note, and that will be part of  
7 the filing.

8 JUDGE CLARK: Thank you. That is my understanding  
9 from my review of Ms. White's testimony as well.

10

11 E X A M I N A T I O N

12 BY JUDGE CLARK:

13 Q. Just one additional follow-up question based on  
14 Mr. Cedarbaum's inquiry of you, Ms. White. And that is that,  
15 am I correct that your testimony describes the distinction  
16 between the former flat rate rate structure and the current  
17 per-acreage rate structure in order to more fairly distribute  
18 the costs of the irrigation services per customer?

19 A. (White) That is correct.

20 JUDGE CLARK: All right. Thank you. I have no  
21 further questions.

22 Is there anything further that should be considered  
23 on this record?

24 MR. CEDARBAUM: Not from Staff, Your Honor.

25 MR. FINNIGAN: No, Your Honor.

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1                   JUDGE CLARK:  Then thank you both, Ms. White and  
2  Mr. Rathbun, for your testimony this morning, and we are  
3  adjourned.

4                                   (Proceedings adjourned at 10:10 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON  
COUNTY OF KING

I, Lisa Buell, a Certified Shorthand Reporter and Notary Public in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings on August 26, 2011, 2011, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 8th day of September, 2011.

LISA BUELL, RPR, CRR, CCR

My commission expires:  
DECEMBER 2014