



Rob McKenna

## ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

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January 9, 2012

David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

RE: *Utilities and Transportation Commission v. Lowper, Incorporated*  
Docket UW-110892

Dear Mr. Danner:

Enclosed for filing in the above-referenced docket in response to the Commission's Notice of Ex Parte Communication (Notice) served December 28, 2011, are the original and five copies of three emails. The first email, dated December 20, 2011, is addressed to Jim Ward of Commission Staff from John Anderson. The second email, dated December 23, 2011, is a response to the first email, with the attachments omitted. The third email, dated January 6, 2012, is addressed to Mr. Anderson from Mr. Ward and is a response to the email from Mr. Anderson dated December 26, 2011, that is attached to the Commission's Notice.

Sincerely,

JENNIFER CAMERON-RULKOWSKI  
Assistant Attorney General

JCR/emd  
Enclosures  
cc: Parties

**Ward, Jim (UTC)**

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**From:** John Anderson <jda@nikola.com>  
**Sent:** Tuesday, December 20, 2011 1:37 PM  
**To:** Ward, Jim (UTC)  
**Subject:** Lower Profit And Loss

Mr. Ward:

I received the cost info today.  
For the year 2010 costs shown:

Meter Services \$780 I read the meters in 2010 at no cost.

Testing \$1950 The only testing required is one bacterial test per year, nitrates every 3 years and a yearly backflow test.  
In 2005 this cost was reported as \$840 and Dorland wrote that monthly water testing was being done.

Maintenance and repairs \$1925 All this water system does is receive and distribute PUD water.  
It has no moving parts and should require almost no maintenance.

I judge these costs to be unreasonable.

John Anderson

## Ward, Jim (UTC)

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**From:** Ward, Jim (UTC)  
**Sent:** Friday, December 23, 2011 3:33 PM  
**To:** John Anderson  
**Cc:** Shutler, Dennis (UTC); Stillwell, Suzanne (UTC); Cameron-Rulkowski, Jennifer (UTC); Eckhardt, Gene (UTC); Fassio, Michael (UTC); UTC DL Records Center  
**Subject:** Lower, Incorporated - Mr. Anderson's comments  
**Attachments:** Ward Letter - Responses to DR 3 (081911).pdf; RE: Lower Incorporated charges for connection to the water system; RE: Lower, Incorporated water system; RE: Docket UW-110892 - Lower, Incorporated - Data Request 1a; Lower Incorporated charges for connection to the water system; DR1a\_110892.docx; DR1\_110892.docx; Lower 5 09 - 5 11.xlsx; Work Papers (051311).pdf; Ward.ltr070611-DR1a (Attachments).pdf; Ward.ltr070611-DR1a.pdf; Tariff connection charges summary - Lower Incorporated.pdf; Lower Contract.pdf; Evergreen Commercial.pdf; DR2\_110892\_110871.docx; Ward.ltr080111.pdf; DR3\_110892.docx; Lower Inc. - Balance Sheet; Ward Letter - Responses to DR 3 (081911).pdf; DR4\_110892.docx; RE: Docket Nos. UW-110892 and UW-110871 - Lower, Incorporated - Data Request 4; Ward.ltr080111-DR-4.pdf; Lower, Incorporated UW-110892; DR5\_110892.docx; Lower Balance Sheet - Revised Sept 7 2011.pdf; DR5.15.pdf; DR5.14.pdf; DR5.13.pdf; DR5.12.pdf; DR5.11.pdf; Balance Sheet - Revised.pdf

Dear Mr. Anderson,

I have looked at your allegations below and have explained my analysis pertaining to each issue.

From the email sent December 20, 2011 from Mr. Anderson.

I received the cost info today.

For the year 2010 costs shown:

1. Meter Services \$780 I read the meters in 2010 at no cost.

Lower provided a copy of invoice 44069, which you received in response to your public records request. This invoice documents expenses associated with meter reading, among other things, in 2010 in the amount of \$780.28. Specifically, the invoice description of service is: "Check for leaks, verify customer meter readings, check all meters for proper operation, or replace. Labor a[nd] Ferry tickets." It is reasonable for a water company to have expenses associated with meter reading. Meter reading is an ongoing expense, and so I included the expense in my analysis of whether Lower's current monthly rates were appropriate.

2. Testing \$1950 The only testing required is one bacterial test per year, nitrates every 3 years and a yearly backflow test. In 2005 this cost was reported as \$840 and Dorland wrote that monthly water testing was being done.

This amount was mislabeled as "testing" in Lower's profit and loss statement, which you received in response to your request for public records. The actual testing expense was \$100 and the remainder was for a repair. I have attached these invoices to this email. How exactly the company labels a cost or enters it into the record keeping system does not affect my analysis of whether the expense should be disallowed.

3. Maintenance and repairs \$1925 All this water system does is receive and distribute PUD water. It has no moving parts and should require almost no maintenance.

This expense is another case of mislabeling. A water management services company, Solmar Water System Inc., provides contract management services to Lower. Lower provided invoices from Solmar reflecting a flat service charge for

water management services plus additional costs for additional labor or other services. Again, I do not disallow an expense based on how the company categorizes it. I have attached these invoices to this email.

I judge these costs to be unreasonable.

In general, these expenses are to recover the cost a customer causes the Company to incur to provide water service. The water system currently has seven customers. Staff concludes these expenses are appropriate because it reflects a reasonable and prudent charge for the service rendered, and these expenses are consistent with the charges of other UTC-regulated companies.

I analyzed each expense category to determine whether each expense was documented, was a reasonable and prudent business expense and one that should be borne by ratepayers.

Based on your expanded and more detailed questions in your email, I have included additional material to supplement my response. Please see first PDF attachment labeled Ward Letter - Responses to DR 3 (081911). In addition, I have attached all of the remaining documents that I gathered from the Company and the PUD for this investigation. After consideration of your comments and my overall review of this filing, these expenses and the settlement revenue requirement are reasonable. The rates as published in the company's tariff are designed to generate the appropriate revenue requirement for this company.

Sent December 23, 2011.

Jim Ward  
Regulatory Analyst  
Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250  
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This email/letter states the informal opinions of commission staff, offered as technical assistance, and are not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.

## Ward, Jim (UTC)

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**From:** Ward, Jim (UTC)  
**Sent:** Friday, January 06, 2012 12:22 PM  
**To:** John Anderson  
**Cc:** Eckhardt, Gene (UTC); Vasconi, Mark (UTC); Stillwell, Suzanne (UTC); Cameron-Rulkowski, Jennifer (UTC); Shutler, Dennis (UTC)  
**Subject:** Response to email of December 26, 2011 - Lower Water System

Dear Mr. Anderson,

I am writing to respond to your email of December 26<sup>th</sup>, 2011. You have commented on the contract with Solmar for SMA services, the meter services expense, the accounting treatment of the four-inch check valve replacement expense, and Lowerper's total 2010 expenses, and you asked about the Commission's involvement in a prospective transfer of the Lower water system to the PUD. Below I explain my analysis of each of these issues.

### SMA contract expense

In my opinion, it is reasonable for Lowerper to contract with an SMA. In analyzing the Lowerper cost, I allowed \$1,775 for SMA expenses, which is the amount recorded in the company's general ledger. SMA expenses are supported by invoices, and I consider the SMA expenses to be reasonable. Furthermore, I disallowed additional expenses listed for meter services (see "meter services expense" below).

### Meter services expense

I agree that this expense should not be allowed because Solmar provides these services under an SMA contract. When I analyzed Lowerper's expenses, I actually disallowed the entire \$780 expense. I apologize that I overlooked this fact in my last email to you. When I reviewed these issues this week, I realized that I had not included the \$780 expense in rates and that I had responded to you incorrectly. I apologize for that oversight.

### Four-inch check valve expense

Because this expense (\$1,850) was a significant expense for Lowerper and involved a replacement part with an extended life, I capitalized the expense and applied a five-year recovery period. This expense is now part of the annual depreciation schedule. This means that one fifth of the expense (\$370) is appropriate to be recovered in rates. The remainder (\$1,480) is considered an asset and is used to determine the company's appropriate return.

### Total 2010 expenses

You list Lowerper's total 2010 expenses as \$8,896, which is incorrect, although I note that this number is consistent with the profit and loss statement attached to your December 20<sup>th</sup> email to the commissioners (which was attached to the Commission's Notice of Ex Parte Communication issued December 28, 2011). Please see the profit and loss statement dated May 11, 2011, that the Commission provided to you December 16, 2011, in response to your request for public records, and which also is attached to this email; the statement dated May 11, 2011, shows operating expenses and depreciation totaling \$13,051.63. This is the more complete statement because it includes depreciation and is the one I used in my investigation. Following standard ratemaking principles, I allowed depreciation expenses, but I adjusted the company's number downward to \$2,327 consistent with my depreciation analysis.

### Transfer of the Lowerper system to the PUD

The Commission has no jurisdiction or control over the sale of a regulated water company to the PUD. Therefore, Commission staff is not involved in this transaction.

I hope that this response is helpful. I will follow up with a phone call to you later today.

Jim Ward

Regulatory Analyst  
Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250  
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This email/letter states the informal opinions of commission staff, offered as technical assistance, and are not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.