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Utilities and Transportation Division

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December 30, 2002

Carole Washburn, Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504

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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

Re: Frog Pond Waters, Inc., Settlement Agreement
Docket No. UW-021140 and UW-020822

Dear Ms. Washburn:

Enclosed for filing in the cases listed above is a Revised Settlement Agreement between Frog Pond Waters, Inc. (Frog Pond) and Commission Staff. The copy being filed was sent to the Company by facsimile for review and signature, and contains the signature of the company president and myself as representative of the Commission Staff. Staff will present the Settlement Agreement to the Commission at the December 31, 2002, Open Meeting. The Company president will attend the meeting, and we will at that time obtain his signature on an original of the Revised Settlement Agreement, and file the original at that time.

If you have any questions, please contact me at (360) 664-1220.

Very truly yours,

MARY M. TENNYSON
Sr. Assistant Attorney General

cc: Frog Pond Waters, Inc.
Gene Eckhardt
Jim Ward



**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET NO. UW-021140
TRANSPORTATION)	DOCKET NO. UW-020822
COMMISSION)	
)	
Complainant,)	
)	
v.)	
)	
FROG POND WATERS, INC.,)	
)	REVISED
Respondent.)	SETTLEMENT AGREEMENT
.....)	

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BACKGROUND AND FACTS

- 1 On June 24, 2002, Frog Pond Waters, Inc., (Frog Pond Waters or Company) filed tariff revisions with the Commission in Docket UW-020822. The filing proposes a general rate increase of \$34,393 (25 percent) of annual revenue. Frog Pond Waters received its last increase in June 1997. Frog Pond Waters serves approximately 493 customers in the Seabeck area of Kitsap County.
- 2 The Company states that the increase is to help recover the cost of capital investments made over the last few years and to cover increased operating costs since its last rate filing. Several ancillary charges are being added together with proposed increases in the Disconnect Visit Charge and Non-Sufficient Funds Check Charge.
- 3 On July 26, 2002, the Commission issued an order in Docket UW-020822 suspending the tariff revisions pending investigation by Commission Staff. During this investigation, Commission Staff noted that the Company had not installed meters as required in its last rate case in 1997, Docket UW-970919, effective June 6, 1997.

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- 4 As a result of this discovery, the Commission issued a *Complaint for Violation of Statute Requiring Company to Charge Rates in Approved and Effective Tariff*, Docket UW-021140. The Commission's Order in this docket, issued September 11, 2002, provides notice that the Commission may assess a penalty up to the amount of \$22,000, and may assess the Company for the cost of the investigation, pursuant to RCW 80.20.020, in the amount of \$1,355.
- 5 Before a prehearing conference was held in this case, the Company and Commission Staff conferred, and agreed to present a settlement agreement to the Commission to attempt to resolve the case without necessity of an adjudicative hearing. The Company has also agreed to file revised rates in Docket UW-020822.
- 6 The Company concurs that no additional meters have been installed since the date of the prior order. In addition, the Company admits that despite the tariff page expiring, the Company continued to charge customers at the flat rate since January 1, 1999.
- 7 The Company acknowledges that it is in violation of its current tariff and began billing its customers at the meter base rate effective November 1, 2002, effectively reducing its current rates from \$22.50 to \$16.50 per month.

TERMS OF AGREEMENT

- 8 The terms of the settlement agreement are as follows:
- 9 (I) Staff and Frog Pond Waters agree to the following in Docket UW-020822:
- Test year period of calendar year 2001.
 - Rate base is set at \$245,539 for the year ending December 31, 2001.
 - Assets are \$496,394 at end of year. Accumulated depreciation is adjusted to \$167,908.
 - CIAC is set at \$127,690, and accumulated amortization is adjusted to \$44,743.
 - Depreciation is set at \$13,406 per year.
 - Interest expense is set at \$39 per year.
 - Employee loan Bad Debt is not recognized.

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- Rate case costs are set at \$4,073, recovered over a three-year period, or \$1,358 per year. Because \$1,358 will be embedded in rates, the Company agrees to file a new rate case no later than three years from the date of this settlement agreement.
- The capital structure used to calculate the appropriate rate of return will be Frog Pond Waters' actual capital structure. Frog Pond Waters' overall rate of return is set at 10.95%.

10 (II) The total effect of the agreements set forth in section (I) will increase the Company's annual revenue requirement by \$25,735 (19 percent). Rates required to implement this agreement are:

11 Monthly Rates

Meter base with zero allowance	\$15.00
Usage (per 100 cubic feet)	1.15
Flat rate	26.85
Ready to Serve	11.55

12 (III) Frog Pond Waters did from January 1, 1999, to October 31, 2002, charge a rate that was not approved. Under RCW 80.28.080, only published rates may be charged. Frog Pond Waters agrees to violations of RCW 80.28.080 and agrees to penalties in the amount of \$10,000.

13 (IV) Frog Pond Waters agrees to the following timeline for meter installation and payment of penalties in Docket UW-021140:

a. Before March 1, 2003, the Company will pay a penalty in the amount of \$2,000. If the Company makes the payment as required, the Commission will postpone \$8,000 of the agreed \$10,000 penalty as incentive for the Company to meet the requirements set forth in paragraphs b. and c. below.

b. No later than April 1, 2003, the Company will have installed meters, begun reading meters, and begun billing 250 customers at the metered rate. If the Company meets this requirement, the Commission will postpone the remaining \$8,000 penalty, pending completion of the requirements set forth in paragraph c. However, if the Company fails to

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meet this requirement, the Company must immediately pay \$4,000 of the \$8,000 penalty with the remaining \$4,000 postponed pending completion of the requirements set forth in paragraph c. Further, if the Company fails to pay the \$4,000 penalty prior to April 15, 2003, the entire \$8,000 penalty balance will be immediately due and payable. Also, from April 1, 2003, forward, the Company must refund \$11.85 (the difference between the \$15.00 meter base rate and the \$26.85 flat rate) per month to each customer for whom the Company failed to install a meter, until such time that the Company installs a meter.

c. No later than July 1, 2003, the Company will have installed meters, begun reading meters, and begun billing all customers at the metered rate. As of July 1, 2003, all customers must have a meter and be billed using the metered rates. If the Company meets this requirement, the Commission will waive all remaining penalty amounts. If the Company fails to meet this requirement, the Company must immediately pay all remaining penalty amounts: \$8,000 if the Company met the requirements of paragraph b. or \$4,000 if the Company failed to meet the requirements set forth in paragraph b. and has already paid \$4,000 in penalty. Also, from July 1, 2003, forward, the Company must refund \$11.85 (the difference between the \$15.00 meter base rate and the \$26.85 flat rate) per month to each customer for whom the Company failed to install a meter, until such time that the Company installs a meter.

14 (V) To ensure the terms contained in section IV of this agreement are met as intended and to monitor the transition to metered rates, Frog Pond Waters will prepare the following monthly reports, through September 2003, and file them with the Commission on a quarterly basis within 21 days of the end of each quarter:


- a. Income Statement
- b. Balance Sheet
- c. Accounts Receivable, aging, and customer count
- d. Customer meter usage data and billing information.


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15 (VI) The parties acknowledge that the procedural schedule for this case will be cancelled and that this Settlement Agreement will be scheduled for presentation. The parties intend that this matter will be resolved in order for the new rates to be effective on January 1, 2003.

DATED this 27th day of Dec., 2002.


MARY M. TENNYSON
Sr. Assistant Attorney General
Counsel for Commission Staff


DAVID SYMINGTON
Representative for
Frog Pond Waters, Inc.