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June 12, 2020

**VIA E-FILING**

Mr. Mark L. Johnson, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

Re: Blue Rock Water Company, LLC

Dear Mr. Johnson:

The purpose of this letter is to request an informal ruling from the Commission as to whether the events surrounding the change in ownership of Iliad Water Company, LLC ("Iliad Water") to Blue Rock Water Company, LLC ("Blue Rock" or the "Company") constitutes a transfer of property under RCW 80.12.020 or not. There is a good faith dispute between Commission Staff and the Company as to whether or not the provisions of RCW 80.12.020 applies to this situation. Because of the need to resolve this matter quickly, the request for an informal ruling is being made rather than pursuit of a formal Declaratory Order.

BACKGROUND

Iliad, Inc. was the owner of the membership interest in Iliad Water. A membership interest for a limited liability company is the equivalent to the stock of a corporation.

The primary owner of Iliad, Inc., Dave Dorland died on October 11, 2015. The estate was entered into probate. Over time the estate became contested. The matter was submitted to binding mediation. The heirs of Dave Dorland, his children, were all represented in the binding mediation and the matter was presented before a retired judge. Based on the judge's ruling, a Nonjudicial Binding Agreement ("NJBA") was entered and filed in court under RCW 11.96A.230. A copy of the NJBA is attached as Exhibit 1.

As stated in the court document, upon filing with the court the terms of the NJBA become binding on the parties and are deemed approved by the court. Pursuant to Section II, Paragraph 4 of the NJBA, Iliad, Inc. as the sole owner of the membership interests in Iliad Water, agreed to transfer all of that ownership interest to Blue Rock Management, LLC.

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There is language in Section II, Paragraph 4a. of the NJBA that describes the assets that are included in the transfer of ownership. This language could be read to say that there is a transfer of those assets separate and apart from the ownership interest. However, that makes no sense. The entity Iliad Water still existed. There is no transfer from one entity to another entity. Instead the ownership interest of Iliad Water was transferred from Iliad, Inc. to Blue Rock, LLC. There has been no bill of sale or any other transfer of assets separate and apart from transfer of the ownership of the entity Iliad Water.

Under Section II, Paragraph 4d. of the NJBA, there is a requirement to change the name of Iliad Water. The name cannot include "Iliad" or "Dorland."

Upon receiving the ownership interest of Iliad Water, Blue Rock, LLC changed the name of Iliad Water to Blue Rock Water Company, LLC. The Commission was informed of the name change. A notice to all customers informing them of the name change and other contact information changes was reviewed by Commission Staff and was sent out to the customers on or about April 22, 2020. A copy of the customer notice is attached as Exhibit 2.

Commission Staff had taken the position that this is a transfer of property and application for that approval of that transfer is required. Blue Rock, LLC requested a review of that position and received an email from Mr. Kermode which states as follows: "If however probate gave Iliad Water to them – there is an ownership change and notice should be given to the Commission." A copy of the email is attached as Exhibit 3.

Based on this information, it appeared that what was being said is that there was a transfer of security for which notice is required. Compare RCW 80.08.040 requiring notice of issuance of security with RCW 80.12.020 requiring an order for transfer of property. Although the ownership interest in Iliad Water was an already outstanding issued security, nonetheless a notice was provided under RCW80.08.040. A copy of that notice is attached as Exhibit 4.

#### ISSUE

Commission Staff continues to assert that an application for approval of transfer of property is required. In addition, Commission Staff is now saying that they do not recognize the name Blue Rock Water Company, LLC and the old name of Iliad Water must be used. To do that would place the owners of Blue Rock in violation of the provisions of the NJBA. In essence, they would be in contempt of court. As a result, an expeditious clarification of this matter is required.

To the Company's reading, for there to be a transfer of property under RCW 80.12.020, there needs to be a transfer from the regulated public service company to another entity. That

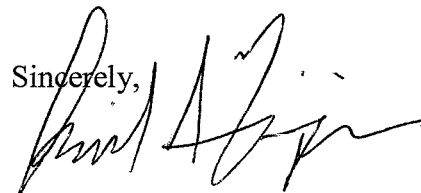
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has not happened in this case. There has been a change of ownership interest, but the regulated entity has remained the same entity.<sup>1</sup> It is the same entity just with a new name. There has been no transfer of assets.

However, if the Commission believes that a transfer of property application is required, the Company commits that it will attempt to file something as quickly as possible. Note that it would appear that if that needs to be done, Iliad, Inc., a nonregulated entity, needs to be a party to the transfer which may cause some delay.

The Company respectfully requests that the Commission issue an informal ruling that the situation describe above is not a transfer of property under Chapter 80.12 RCW.

Thank you for your attention to this matter.

Sincerely,  


RICHARD A. FINNIGAN

RAF/cs  
Enclosure

cc: David Danner (via e-mail)  
Ann Rendahl (via e-mail)  
Jay Balasbas (via e-mail)  
Sally Brown (via e-mail)  
Greg Kopta (via e-mail)  
Jim Ward (via e-mail)  
Mike Young (via e-mail)  
Danny Kermode (via e-mail)  
Client (via e-mail)

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<sup>1</sup> RCW 80.12.020 arguably requires an order for a transfer of control of a gas or electric company. However, that portion of the statute does not apply to a water company.