



Memorandum

To: Gene Eckhardt
CC: Mary Tennyson
From: Danny Kermode 
Date: October 14, 2002
Re: Current Status of Docket UW-001029 Iliad Water Service Inc.

I agree. Please close this docket.


On July 14, 2000, the Commission issued an Order Instituting Investigation against Iliad Water Services, Inc., (Iliad Water) in Docket No. UW-001029. Iliad Water, according to the Company, owns three water systems, serving a total of 86 connections. The Company reported revenues of \$24,508 for 2001.

The purpose of the this investigation was to obtain a refund for a customer (Kerry Rutter) for a water hookup fee not included in Iliad Water Service's tariff and a over charge of \$164 for a service connection fee that was tarified. Also, Staff was to investigate if the Company improperly charged the connection fee or hookup fee to any other customers. Lastly, Staff was to investigate the Company's failure to respond to Commission inquires.

Results of the investigation:

Refund to Customer - Iliad Water refunded Mr. Rutter the amount of the service connection fee overcharge plus interest. Iliad Water also refunded the water hookup fee collected with interest. However Iliad Water made it clear to Mr. Rutter that the construction company would be seeking to recover the same refunded amount.

Charges to Other Customers - Review of the records that were obtained from the Company found no indication that the water company had charged anyone else a connection fee greater than what was included in the Company's tariff. Nor did Staff find any indication that the water company had collected any other hookup fees. The investigation did reveal however that the owners of the water company normally collect the "hookup fee" through their construction company and not through the water company. Iliad Water had simply blundered by charging Mr. Rutter the connection fee through the water company.

Failure to Respond to Commission Inquires - Between April 7, 1998 and May 17, 2000, staff made at least seven inquiries or requests, some by telephone and others in writing, for information regarding the Rutter complaint to the Company. The Company failed to respond with any written justification until January 29, 2000. The written response failed to provide the information requested. The Company advised Staff that the reason for the failure was a communication breakdown between the certified operator,

RMS

David Dorland (Derek's father), and himself. The Company assured the Staff that the problem had be corrected and would not happen again.

Current Resolution

On May 4th, 2001 Staff met with Mr. Derek Dorland, president of Iliad Water, and Mr. Finnigan, its attorney. Staff was successful obtaining from the Company assurances to refund Mr. Rutter overcharges with interest. The Staff was also successful in getting assurance from the Company that it will respond to Commission enquiries in a timely manner.

However Staff was not successful in its attempts to reach a negotiated settlement regarding payment of penalties and Staff investigation costs. When the Company was faced with the opening of a formal Investigation and docket which could lead to a formal hearing, Mr. Finnigan, Iliad Water's attorney, indicated that in his opinion Iliad Water should have never been regulated in the first place. His opinion was based on the Company's assertion that Iliad Water filed tariffs with the Commission prior to becoming legally jurisdictional¹. Mr. Finnigan claims that because of the filing of tariff was done prematurely, the Commission is prohibited from asserting regulatory control over Iliad Water. Mr. Finnigan also suggested that the Company may not recognize the Commission's jurisdiction in the future. However, in should be noted that the Company is currently paying its annual fee and responding to Consumer Affairs inquiries.

Staff is of the opinion that the purpose of the investigation has been fulfilled, albeit not to its full satisfaction. The customer has received his refund and the Company has become more responsive to Commission inquires.

Recommendation:

Close docket as completed.

Other issues:

The investigation indicated that the Dorland family may control a number of water companies that presently are not under regulation but, it can be argued that under the "control" clause of RCW 80.04.010, these systems should be regulated. The Staff may consider opening an investigation to determine the degree, if any, in which the Dorland family has avoided regulation by "managing" water systems.

¹ The Company asserts that the Company was not at the average revenue threshold, a fact that is disputed by Staff, nor was the Company serving 100 or more customers. According to the Company, the tariff was filed in expectation of exceeding the revenue threshold which never occurred.