

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

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UW-030496
)	
Complainant,)	ORDER NO. 01
)	
v.)	ORDER APPROVING
)	SETTLEMENT, DISMISSING
KAYAK POINT WATER CO., INC.,)	PROCEEDING LIFTING
)	SUSPENSION, AND ALLOWING
Respondent.)	TARIFF TO GO INTO EFFECT.
.....)	

1 **Synopsis:** *The Commission approves the settlement agreement between the Company and Commission Staff as a full resolution of the issues in this proceeding. Accordingly, the Commission dismisses the proceeding, lifts the tariff suspension, and allows the tariff revisions to go into effect.*

2 **Proceeding:** This matter concerns tariff revisions filed by Kayak Point Water Co., Inc., that adds language to implement a Cross Connection Control Program and related charges for inspections. The Commission suspended the operation of the tariff revisions pending hearing concerning the charges, and their justness and reasonableness.

3 **Parties:** Richard A. Finnigan and Seth Bailey, attorneys, Olympia, WA, represent Kayak Point Water Company, Inc. (Kayak Point or Company). Mary M. Tennyson, Senior Assistant Attorney General and Lisa Watson, Assistant Attorneys General, Olympia, WA, represent the staff of the Washington Utilities and Transportation Commission (Commission Staff).

4 **Settlement Agreement:** On September 19, 2003, during a prehearing conference, Commission Staff and Kayak Point entered an oral settlement agreement into the

record that recognizes that Staff's issue related to the reasonableness of the disconnection and reconnection charge is not part of the tariff revisions that are the subject of this proceeding. The settlement agreement commits the parties to attempt to reach consensus on a reasonable charge for disconnection and reconnection. The parties request that the Commission approve the settlement agreement, dismiss the proceeding, lift the tariff suspension, and allow the tariff revisions to go into effect.

I. MEMORANDUM

5 **Background.** On April 11, 2003, Kayak Point filed with the Commission certain tariff revisions designed to add language to implement a Cross Connection Control Program and related charges for inspections. On April 30, 2003, the Commission suspended the tariff revisions pending hearing to determine whether the proposed increases are fair, just, and reasonable.

6 Kayak Point's proposed Cross Connection Control Program (Program), mandated by the Washington State Department of Health, addresses potential cross connection hazards in water systems. *WAC 246-290-490*. A cross connection hazard is a source of potential contamination to the public water supply that occurs from the customer's own water pipes. In order to determine if such a hazard exists on the customer's piping, Kayak Point's Program will require each customer to respond to a survey designed to gather information about each customer's piping. The information from the surveys will allow Kayak Point to evaluate the potential for backflow into public drinking water systems. Commercial customers will receive a mandatory on-site inspection for cross connection evaluation.

7 Customers who fail to respond to the initial survey will be sent a second survey. If the customer fails to respond to the second survey, then the Company may respond with one of its non-response options, including a site visit letter

followed by a site visit (\$35.00) and a premise inspection (\$65.00 per hour), installation of approved backflow prevention assembly at customer's expense, Company installation of backflow prevention assembly with charges based on time and materials, or notice of disconnection of service. Kayak Point will re-survey its customers not less than every three years.

8 In addition, Kayak Point's tariff revisions propose that if a potential hazard related to cross connection is detected, the customer will be required to take appropriate remedial action as directed by the water Company to minimize the potential hazard. If the customer fails to install a back-flow prevention device as required, the Company may do so at the customer's expense, or the Company may notify the customer of disconnection of service.

9 On September 19, 2003, the Commission convened a prehearing conference before Administrative Law Judge Karen Caillé (ALJ). As the first order of business, the parties asked to enter a settlement into the record. Based on the settlement, the parties asked that the proceeding be dismissed, the suspension lifted, and the tariff allowed to go into effect. In addition, the parties agreed to waive an initial order, and to present the matter directly to the Commission for final decision. *RCW 34.05.050*.

10 **Settlement Terms.** Counsel for Commission Staff explained that Staff's concern with the proposed tariff revisions lies with the Company's charges for disconnection and reconnection, since one of the remedies for noncompliance with Kayak Point's Cross Connection Control Program is disconnection. In reviewing the tariff, Commission Staff discovered that charges for disconnection and reconnection are not part of the tariff revisions before the Commission. Charges for disconnection and reconnection are in a separate part of the Company's tariff that has not been formally reviewed by the Commission in the past because it was part of the Company's initial tariff filing. Staff represents that the Company has committed to working with Staff to arrive at a reasonable

charge for disconnection and reconnection. Staff notes that this issue is not one over which the Commission has jurisdiction in this proceeding.

- 11 Counsel for Kayak Point states that the new owners of the water system agree that the tariff rate for disconnection and reconnection appears on its face to be higher than it should be, and have agreed that they would enter into discussions with Staff to try and come up with an appropriate rate. Kayak Point has provided some information to Staff. Staff has requested additional information. The Company has agreed to gather the additional information, and is hopeful that it will reach an agreement on the appropriate rate in the near future.
- 12 The parties ask the Commission to approve the settlement terms, dismiss the proceeding, lift the suspension, and allow the tariff revisions to go into effect.

II. DISCUSSION AND DECISION

- 13 The Commission acknowledges that the issue of the reasonableness of charges for disconnection and reconnection is not an issue properly before the Commission since it is not part of the tariff filing that is the subject of this proceeding. The Commission accepts the parties' commitment to pursue discussions to resolve the disconnection/reconnection issue as a reasonable way to address the issue, and commends the parties for their efforts to resolve the dispute without litigation. The Commission finds that the settlement terms are fair and consistent with the public interest, and should be approved and adopted as a full resolution of the issues pending in Docket No. UW-030496. Consistent with this finding, the Commission dismisses the proceeding, lifts the tariff suspension, and allows the tariff revisions to go into effect.

III. FINDINGS OF FACT

- 14 Having discussed above all matters material to our decision, and having stated our general findings, the Commission now makes the following summary findings of fact. Those portions of the proceeding discussion that include findings pertaining to the ultimate facts of the Commission are incorporated by this reference.
- 15 (1) The Washington Utilities and Transportation Commission (Commission) is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, and accounts of public service companies including water companies.
- 16 (2) Kayak Point Water Co., Inc. is a water company subject to regulation by the Commission pursuant to RCW 80.01.040(3) and RCW 80.04.010.
- 17 (3) On April 11, 2003, Kayak Point filed with the Commission certain tariff revisions designed to add language to implement a Cross Connection Control Program and related charges for inspections.
- 18 (4) On April 30, 2003, the Commission suspended the tariff revisions pending hearing to determine whether the proposed increases are fair, just and reasonable.
- 19 (5) On September 19, 2003, during a prehearing conference, Commission Staff and Kayak Point entered an oral settlement agreement into the record that resolves the issues in this proceeding.

IV. CONCLUSIONS OF LAW

20 Having discussed above in detail all matters material to this decision, and having
stated general findings and conclusions, the Commission now makes the
following summary conclusions of law. Those portions of the preceding detailed
discussion that state conclusions pertaining to the ultimate decisions of the
Commission are incorporated by this reference.

21 (1) The Washington Utilities and Transportation Commission has jurisdiction
over the subject matter of and the parties to, this proceeding. *RCW*
80.01.040, Chapter 80.04 RCW, Chapter 80.28 RCW.

22 (2) Kayak Point Water Co., Inc. is a public service company as defined in
RCW 80.04.010.

23 (3) The issue of the reasonableness of the disconnection and reconnection
charges is not properly before the Commission in this proceeding.

24 (4) The settlement terms entered into the record by the parties at the
prehearing conference on September 19, 2003, fully and fairly resolve the
issues in this proceeding, is consistent with the public interest, and should
be approved and adopted by the Commission. *RCW 80.01.040, WAC 480-*
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25 (5) The Commission should dismiss the proceeding, lift the tariff suspension,
and allow the tariff revisions to go into effect.

26 (6) The Commission should retain jurisdiction over the subject matter of and
the parties to this proceeding to effectuate the provisions of this Order.
Title 80 RCW.

V. ORDER

- 27 (1) The settlement terms entered into the record during the prehearing
conference on September 19, 2003, are approved and adopted.
- 28 (2) The proceeding in Docket No. UW-030496 is dismissed.
- 29 (3) The April 30, 2003, suspension of the tariff revisions filed by Kayak Point
on April 11, 2003 is lifted.
- 30 (4) The tariff revisions filed by Kayak Point on April 11, 2003, are allowed to
go into effect upon the entry of this Order.
- 31 (5) The Commission retains jurisdiction over the subject matter and the
parties to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this 14th day of October, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).