

Agenda Date: August 29, 2019  
Item Number: A2

**Docket:** UW-190454  
Company Name: Burton Water Company, Inc.

Staff: Jim Ward, Regulatory Analyst  
John Cupp, Consumer Protection Staff

### **Recommendation**

Issue an order approving the cost recovery surcharge filed by Burton Water Company, Inc. on May 31, 2019, as revised on August 19, 2019, to become effective September 1, 2019, by operation of law, subject to conditions set forth below.

### **Discussion**

On May 31, 2019, Burton Water Company, Inc. (Burton Water or company), filed with the Utilities and Transportation Commission (commission) a proposed tariff to add a well field protection surcharge that would generate \$15,264 (5.5 percent) in additional annual revenue. The monthly rate would be \$3.18 per customer. The originally proposed effective date was July 1, 2019 but the company extended the effective date several times in order to respond to commission staff (staff) data requests. The current proposed effective date is September 1, 2019.

The company provides water service to approximately 415 customers near Burton on Vashon Island in King County. The company's last general rate increase was effective September 1, 2018, for \$40,300 (16 percent) additional annual revenue.

The purpose of the \$3.18 per month surcharge is to reimburse the company for expenses incurred in well field protection efforts. In 2018, a major road construction project left debris in the area of the company wells that was supposed to be taken off-island for disposal. The surcharge reimburses the company for expenses, and also covers additional well field testing for the next five years.

The company-claimed expenses, as originally filed, include wages for company personnel of \$11,920, legal consultation of \$11,277, lab testing costs of \$607, ongoing well field monitoring for five years for \$6,075 and surcharge filing notice and attorney costs of \$1,680. The total amount of \$31,560 when grossed up for surcharge carrying cost at five percent and taxes results in a final recovery of \$45,792 over the three-year recovery period. The company's calculation for 400 customers equates to \$3.18 per month.

Staff and the company have agreed on a revised amount for the surcharge. The revised total collection will be \$19,350, for a monthly surcharge of \$1.30 for three years. The revised well field protection surcharge that would generate \$6,450 (2.3 percent) in additional annual revenue. This revised collection amount includes attorney fees, rate case costs and annual testing for a period of five years.

## **Background**

Between May 14, 2018, and August 7, 2018, King County, through a contractor and subcontractor, removed asphalt from Vashon Highway SW between SW 210th Street and the Vashon Island North-End Ferry Terminal in a project that the County calls the Vashon Highway SW Paving Program (the “Paving Program”). This Paving Program generated waste asphalt millings when the old pavement was removed by grinding. Grindings or ‘millings’ are the ground up asphalt that is removed from a road surface, by machining the surface into small pieces, before new layers of asphalt can be placed on the road surface.

Milling materials, sometimes referred to as RAP (recycled asphalt pavement) is widely used to resurface roadways and driveways as part of the mixture of the surface material. According to a staff member of King County Department of Permitting and Environmental Review, extra care needs to be taken with millings on Vashon Island due to the island’s designation as a critical aquifer recharge area.

On June 7, 2018, a town hall meeting was held on the island to provide information to residents about the Paving Program.

On August 2, 2018, the owners of Burton Water witnessed asphalt millings from the Paving Program being spread at Misty Isle Farms, which is part of the Burton Water watershed recharge area according to the water company.

These millings were claimed to be stockpiled in various locations and graded into driveways and private roads. The water company claims that stockpiling and roadway paving occurred in an area considered to be Burton’s watershed area that provides the clean water that Burton Water Company distributes to its 415 connections by virtue of holding the senior water right in this hydrogeological basin.

## **History**

Previously in 2001, Misty Isle Farms was part of an issue with nitrate contamination of the company’s aquifer which provides water to the well field area. At that time, the company researched and prepared an article titled *Susceptibility to Contamination*. This brief article noted the vulnerability of the company’s aquifer. In 1998, the company prepared and published its 50-page *Wellhead Protection Plan* which identified the agricultural land to the north (encompassing Misty Isle Farms) as a likely source of nitrate contamination in its wellhead protection area. By 2000, the nitrate levels in the company’s system had risen from 0.17 ppm in 1977 to 5 ppm in 2000. The nitrate issue was subsequently addressed and resolved.

On November 6, 2017, the Washington State Department of Health (DOH) completed a Sanitary Survey of the Burton Water system as provided for in WAC 246-290. The purpose of the sanitary survey is to inspect water system facilities, review operations and maintenance, and discuss ideas to help ensure the drinking water system will continue to be safe and reliable for years to come.

DOH strongly noted that the water sources known as well points and dug wells are vulnerable to surface water contaminants. It is a high priority for DOH to replace the well points and dug wells with multiple drilled wells. DOH recommended that Burton Water work with their engineer and submit a design and construction schedule to replace them.

Currently, commission staff has not been informed of any plans to finance and construct drilled wells. This lack of prudent company management, noting dug wells are more vulnerable to surface contamination (as shown by this filing) and DOH encouragement for replacement of the dug wells as soon as feasible, prompts commission staff to question the need for this surcharge recovery from customers. This point of dug well replacements was repeated several times in the sanitary survey documents by DOH.

Staff has reviewed the company's supporting financial documents and cost estimates for the reimbursements of the surcharge filing. Commission staff concludes the revised surcharge should be approved to allow the company to collect reimbursement for annual well water testing, surcharge filing expenses, customer notice costs and outside legal counsel expenses, and that the revised surcharge is fair, just, reasonable, and sufficient.

Staff recommends that commission approval of the surcharge should be subject to the following conditions:

- a) The surcharge applies to all water customers served by the company. The surcharge expires on September 30, 2022, or upon recovery of \$19,350 for principal and taxes, whichever occurs first.
- b) Funds received from the surcharge, including interest earned on the funds while held in a reserve account must be treated as contributions-in-aid-of-construction (CIAC).
- c) Surcharge funds collected and interest earned upon such funds must be held in a separate well field protection surcharge reserve account by the company for the benefit of customers. Such funds do not become the property of the company or company owners and may not be disbursed, alienated, attached, or otherwise encumbered by the company or its owners. In the event of a sale or transfer of the company, the trust obligations established in WAC 480-110 regarding any unspent surcharge funds will be transferred to the new owners of the company.
- d) The company must report the following information to the commission within 60 days of the end of each calendar quarter per WAC 480-110-455(4):
  - i. Beginning balance;
  - ii. Amounts received, detailed by source;
  - iii. Amounts spent, detailed by project or expense;
  - iv. Ending balance;
  - v. Reconciliation of bank balance to general ledger.

- e) The company will immediately deposit all monthly payments received and related to the surcharge in the same separate reserve account specified in condition (c) above.
- f) Upon completion of the surcharge recovery from customers, the company shall provide the commission with a complete accounting of all expenses. The company will also submit a budget detailing future expenses to be covered by the remaining balance of the well field protection surcharge account. The company must file the report no later than 60 days after completion of recovery and annual testing so the surcharge amount can be adjusted, if needed, to the actual cost of the remaining testing expenses.

The monthly surcharge proposed and revised are summarized in the table below.

**Rate Comparison**

Service	Current Rate	Proposed Rate	Revised Rate
Well Field Protection Surcharge	NA	\$3.18 *	\$1.30 **

\*The surcharge will expire on the earlier of the collection of \$45,792 or June 30, 2022.

\*\* The surcharge will expire on the earlier of the collection of \$19,350 or September 30, 2022.

**Customer Comments**

On May 31, 2019, the company notified its customers of the proposed surcharge by mail. Customers were notified that they may access relevant documents about this surcharge on the commission’s website, and that they may contact John Cupp at 1-888-333-9882 or john.cupp@utc.wa.gov with questions or concerns. Staff received four comments from customers, one opposed and three in favor of the proposed surcharge. The company also provided two comments it had received from customers in favor of the surcharge.

**General Comments**

Staff met with company representatives on July 11, 2019. At that meeting, company representatives stated that many customers support the company’s actions and the surcharge. Prior to this meeting of July 11, 2019, staff had received only one customer comment, which was opposed to the proposed surcharge. He felt the company did what was necessary to protect the water resource, but believes the company should not automatically pass the costs on to customers when it was the county that failed to make sure asphalt millings were disposed of properly.

Since the July 11, 2019, meeting between the company and staff, staff received three additional comments, all in favor, and the company forwarded to staff two additional comments in favor. The commenters generally believed the company took appropriate action when it discovered the asphalt millings, and should be able to recover their costs.

Staff also received a comment from a member of the Vashon-Maury Island Groundwater Protection Committee, who is not a customer of Burton Water. He believes the company

“acted responsibly and urgently” and was proactive in protecting the health of the water source, and that a surcharge to customers is appropriate.

### **Staff Response**

Staff has taken all comments into consideration.

### **Conclusion**

The company has not supported the requested amount of surcharge funding. Staff has completed its review of the company’s expenses and finds a lower amount is justified and should be recovered from customers by this surcharge.

### **Recommendation**

Issue an order approving the cost recovery surcharge filed by Burton Water Company, Inc. on May 31, 2019, as revised on August 19, 2019, to become effective September 1, 2019, by operation of law, subject to conditions set forth above.