

Agenda Date: February 26, 2009
Item Number: A5

Docket: UW-090154
Company Name: South Bainbridge Water System, Inc.

Staff: Jim Ward, Regulatory Analyst
Dennis Shutler, Consumer Protection Staff

Recommendation

Issue a Complaint and Order Suspending the Tariff Revisions filed by South Bainbridge Water System, Inc.

Background

On January 28, 2009, South Bainbridge Water System, Inc., (South Bainbridge or company), filed with the Utilities and Transportation Commission (commission) tariff revisions that would generate \$225,804 (47.7 percent) in additional annual revenue. The company serves 1,238 customers on the south end of Bainbridge Island in Kitsap County. The proposed rates are prompted by increases in labor, testing and operating expenses. The proposed effective date is March 1, 2009. The company's last general rate increase became effective in February 1999. The company's unaudited 2007 Annual Report shows the company lost \$47,848 on \$468,031 revenue.

The company's transmittal letter states:

“Importantly, the Company is requesting interim rate relief with temporary rates put into place subject to refund. The Company requests that interim rates producing approximately \$7,000.00 per month be established. This level of interim rates will allow the Company to be able to pay its bills in a timely manner. Attached are samples of NSF notices that the Company has received. These do not constitute all of the NSF notices. In addition, the Company's owners have been foregoing portions of their salary since the Company's revenues do not allow it to meet expenses on a current basis. The interim rates would be set at an increase of \$5.72 per month and would apply to all of the base rates and the Ready to Serve charge. The base rates include the base rate for metered service, master metered service and additional charges for master metered service.”

The commission has ruled that interim rate relief "constitutes an extraordinary remedy under the law of this state."¹ It should be granted "only upon a reasonable showing that an emergent condition exists and that without affirmative relief the financial integrity and ability of the company to continue to obtain financing at reasonable costs will be compromised and placed in

¹ *Utilities and Transp. Comm'n v. Pacific Northwest Bell Tel Co.*, Cause No. U-75-40, 11 PUR 4th 166, 168 (2d Supp. Order, September 26, 1975).

jeopardy."² In granting interim rate relief, the Commission has "consistently relied upon and reaffirmed without expansion"³ the following six criteria:⁴

- 1) The Commission has authority in proper circumstances to grant interim rate relief to a utility but this should be done only after an opportunity for an adequate hearing.
- 2) An interim rate increase is an extraordinary remedy and should be granted only where an actual emergency exists or where necessary to prevent gross hardship or gross inequity.
- 3) The mere failure of the currently realized rate of return to equal that approved as adequate is not sufficient, standing alone, to justify the granting of interim relief.
- 4) The Commission should review all financial indices as they concern the applicant, including rate of return, interest coverage, earnings coverage and the growth, stability or deterioration of each, together with the immediate and short term demands for new financing and whether the grant or failure to grant interim relief will have such an effect on financing demands as to substantially affect the public interest.
- 5) Interim relief is a useful tool in an appropriate case to fend off impending disaster. However, the tool must be used with caution and applied only where not to grant would cause clear jeopardy to the utility and detriment to its ratepayers and stockholders. That is not to say that interim relief should be granted only after disaster has struck or is imminent, but neither should it be granted in any case where hearing can be had and the general case resolved without clear detriment to the utility.
- 6) The commission must reach its conclusion with its statutory charge to "Regulate in the public interest" in mind. This is our ultimate responsibility and a reasoned judgment must give appropriate weight to all salient factors.

The commission has not set similarly specific standards approved temporary rate increases, subject to refund.

More recently, in solid waste and water cases when staff has completed its audit and negotiated a revised revenue requirement and revised rate design, the commission has allowed temporary rates to become effective, subject to refund, to provide customers, who had commented on the company's original proposed rates, an opportunity to comment on the revised rates.

In this case, the company requests that the commission allow a portion of the total rate request to become effective on a temporary basis, before staff has completed its audit. Making recommendations in the absence of a complete audit renders them vulnerable to criticism, even if

² *Utilities and Transp. Comm'n v. Washington Natural Gas Co.*, Cause No. U-80-111 (2d Supp. Order, March 3, 1981) at 5.

³ *Washington Utilities and Transportation Commission v. Richardson Water Companies*, Docket No. U-88-2294-T

⁴ The six conclusions were originally announced in *Utilities and Transp. Comm'n v. Pacific Northwest Bell Tel. Co.*, Cause No. U-72-30 tr, supra note 2, at 13.

implementation is subject to refund. Staff fully expects to complete its audit and analysis in time to bring this matter before the commission for decision at the March 26, 2009, open meeting.

On January 28, 2009, the company notified its customers of the rate increase, including its request that the commission approve an immediate temporary increase, by mail. The commission has received numerous customer comments on this filing.

Customer Comments

A total of 47 customer comments have been received to date; 42 opposed and five undecided. Some comments that may impact the rates will not be responded to until the audit is complete.

Consumer Protection staff advised customers that they may access company documents pertinent to this rate case at www.utc.wa.gov, and www.utc.wa.gov/water and that they may contact Dennis Shutler at 360-664-1108 with questions or concerns.

Filing Documents and Methodology Comments

- Thirteen customers questioned a 47.73 percent increase in just one year and the company's lack of details justifying the increase. They feel basing the increase upon inflation would be more reasonable.
- Eight customers believe they are being required to supplement the company's costs and losses in its association with the company's Blossom Hill commercial development project.

Staff Response

Regulatory staff is unable to respond to these comments until the audit is complete.

Staff posted all company-provided materials to the commission's Web site and advised customers who have requested that information of its availability.

- Two customers inquired about the duration of this "temporary" increase.

Staff Response

The customers were advised that the rate would be temporary until the commission makes it permanent, which may be at the next open meeting or at a future open meeting. The rates may become permanent, however, any such rate approved at this meeting would be temporary. However, staff does not support the company's request for temporary rates.

Business Practices Comments

- One customer asked if the water company can sell more service connections than the system can serve.

Staff Response

The customer was advised that the Department of Health (DOH) has primary jurisdiction

over service connections, water quality and quantity, and provided the DOH's toll-free telephone number, 1-800-521-0323.

General Comments

- Seventeen customers believe the amount of the increase is unacceptable and unaffordable, mentioning the high cost of living and the current economic conditions as the basis for their opposition.

Staff Response

Customers were advised that state law requires rates to be fair and reasonable for customers, but sufficient to allow the company the opportunity to recover operating expenses and earn a return on investment.

Rate Comparison

Monthly Rate	Current Rate	Temporary Rate	Proposed Rate
Residential			
Temporary Surcharge	NA	\$5.72	NA
Ready-to-Serve	\$17.50	\$17.50	\$25.85
Base Meter (3/4 Inch Meter, Zero Allowance)	\$20.00	\$20.00	\$29.55
0 - 500 Cubic Feet, Per 100 Cubic Feet	\$0.70	\$0.70	\$1.03
501 – 1,200 Cubic Feet, Per 100 Cubic Feet	\$1.15	\$1.15	\$1.70
1,201 – 1,800 Cubic Feet, Per 100 Cubic Feet	\$3.00	\$3.00	\$4.43
1,801 – 3,200 Cubic Feet, Per 100 Cubic Feet	\$4.00	\$4.00	\$5.90
Over 3,200 Cubic Feet, Per 100 Cubic Feet	\$4.90	\$4.90	\$7.25
Master Metered Units			
Base Meter	\$20.00	\$20.00	\$29.55
Each additional Unit	\$18.00	\$18.00	\$26.60

Average Monthly Bill Comparison, Residential Customers

Monthly Rate	Current Rate	Temporary Rate	Proposed Rate
852 Cubic Feet Estimate			
Base Meter	\$20.00	\$20.00	\$29.55
500 Cubic Feet	\$3.50	\$3.50	\$5.15
352 Cubic Feet	\$4.05	\$4.05	\$5.98
Temporary Surcharge	NA	\$5.72	NA
Average Monthly Bill	\$27.55	\$33.27	\$40.68
Increase From Current Rates		(20.7%)	(47.7%)

Conclusion

The company's last general rate increase became effective in February 1999. The company's unaudited 2007 Annual Report shows the company lost \$47,848 on \$468,031 revenue. Commission staff has not yet completed its review of South Bainbridge's supporting financial documents, books and records, but expects that it will complete its review in time to present this to the commission for decision at the March 26, 2009, open meeting. Staff does not believe the circumstances of this case warrant the commission taking an extraordinary action to approve the requested temporary rates and recommends the commission not approve the request.

Recommendation

Issue a Complaint and Order Suspending the Tariff Revisions filed by South Bainbridge Water System, Inc.