

Agenda Date: August 14, 2008  
Item Number: A2

**Docket:** UW-081416  
Company Name: Aquarius Utilities, LLC

Staff: Chris Mickelson, Regulatory Analyst  
Dennis Shutler, Consumer Protection Staff

### **Recommendation**

Take no action on this filing at this time to allow for customer comments.

### **Discussion**

On July 30, 2008, Aquarius Utilities, LLC, (Aquarius or company), filed with the Utilities and Transportation Commission (commission) a surcharge tariff to service \$2,056,214 in Drinking Water State Revolving Fund (DWSRF) loans approved by the Public Works Board (PWB). Proceeds from the loans will be used for capital improvement projects on each of the company's four water systems. The company serves 880 customers located in Clallam, Kitsap and Mason counties.

The loan contracts are low interest (1.5 percent), 20-year loans approved by the PWB with the condition that, prior to September 9, 2008, Aquarius obtains commission approval of rates to repay the loans. This surcharge, if approved, filing meets that condition.

Today's presentation allows customers or other parties to make comments to the commission. No action is required by the commission. Although the proposed rates are scheduled to become effective September 15, 2008, staff will make its recommendation to the commission at the open meeting on August 28, 2008, so the commission may take action prior to the next PWB board meeting on September 9, 2008. The company has a pending general rate increase in Docket UW-080926, also scheduled for this open meeting, in which the commission will consider whether to make permanent the temporary rates that the commission approved, subject to refund, that became effective on July 14, 2008.

### **Customer Comments**

On July 28, 2008, the company notified its customers of the surcharge and rate increase by mail. The commission has received five customer comments (three in support, two opposed) on this filing as of August 11, 2008. The following is staff's summary of the customer comments that staff believes warrant an early response:

- **Customer Comment** – The surcharge request does not seem to merit being classified as mandatory; therefore, that would make it a voluntary surcharge, which would require a vote from the water users. I wonder why this is going to be heard in Olympia as a surcharge hearing and where does our vote come in.

**Staff's response** – Staff respectfully disagrees with the customer's interpretation. Voluntary surcharges apply to capital improvements that customers want that are not required to meet Safe Drinking Water Act requirements (such as secondary contaminants - iron, manganese, etc.) or not required by government (such as fire flow that the Fire Marshall does not require or backup generators that the Department of Health (DOH) does not require). Voluntary surcharges normally affect one water system and require customers to vote to voluntarily pay the surcharge. This proposed surcharge is appropriate for a "mandatory" surcharge because these projects are part of a water system plan approved by the DOH.

WAC 480-110-455(2)(a)(i) Future water utility plan states: "This surcharge allows the company to collect money from current customers to fund a reserve in order to pay for future capital projects that are part of a long-range plan. The project must be approved by the department of health as a part of a long-range plan, or required by the department of health to assure compliance with federal or state drinking water regulations, or to perform construction or maintenance required by the department of ecology to secure safety to life and property under RCW 43.21A.064(2)."

- **Customer Comment** – How can Aquarius change the surcharge from a special construction account (with Diamond Point being given priority to start on our pipe replacements) going to being used to pay off loans for all water systems, with no mention of any pipe replacement. Two plus million dollars is too much money for us to pay back while we still do not get the improvements we need.

**Staff's response** – Aquarius has never proposed a pipe replacement surcharge. The company filed for, but did not receive, a DWSRF loan for the Diamond Point Distribution System Replacement Project (i.e., pipe replacement). On August 29, 2007, the PWB sent a letter explaining the project did not score high enough to receive funding this year, and encouraged the company to reapply next year.

- **Customer Comment** – On March 11, 2008, Diamond Point (DP) customers, Aquarius and DOH representatives met discuss the company's Water System Plan (WSP) and DOH's approval. Only five customers agreed with the WSP, while the remaining 44 customers opposed it. The surcharge projection in Chapter 5 of the WSP was presented as a project to fund aging distribution infrastructure, not to pay DWSRF loans to install storage tanks at all four Aquarius water systems. The company's general rate case is still open (Docket UW-080926). Now the company is requesting a surcharge to fund DWSRF loans for storage projects that are secondary to the customer needs for replacement of aging pipe infrastructure. This new tariff is in violation of Washington Administration Code (WAC) 246-290-100(8) both for the revisions of the WSP presented at the public meeting and the current revisions under way to change how a surcharge would be used and collected.

**Staff's response** – The DOH has jurisdiction over water system plans, and the scope and design of water system requirements. DOH has the ability to enforce its own rules and requirements. The commission does not have jurisdiction to enforce DOH's rules.

The proposed surcharge will fund approved DWSRF loans for projects identified in the company's WSP. DOH reviewed the loan applications for those projects and recommended the PWB approve the loans. The company filed for, but did not receive, a DWSRF loan for the Diamond Point Distribution System Replacement Project (i.e., pipe replacement).

Staff has forwarded the customers' comments to the DOH and the PWB.

**Surcharge Rate Schedule**

<b>Time Period</b>	<b>Proposed Surcharge Rate</b>
<b>Monthly Surcharge</b>	
September 15, 2008 – December 31, 2008	\$4.00 per month
January 1, 2009 – December 31, 2028 * Or until the loans are paid in full, whichever occurs first.	\$8.70 per month
<b>One-time payment</b> (Within 30 days of filing approval.)	\$1,639.14 one-time

Commission staff has not yet completed its review of the company's supporting financial documents, books and records.

**Conclusion**

Take no action on this filing at this time to allow for customer comments.