

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET UW-080926
)	
Complainant,)	ORDER 01
)	
v.)	
)	COMPLAINT AND ORDER
AQUARIUS UTILITIES, LLC,)	SUSPENDING TARIFF; APPROVING
)	REVISED RATES ON A TEMPORARY
Respondent.)	BASIS, SUBJECT TO REFUND, ON
)	LESS THAN STATUTORY NOTICE
.....)	

BACKGROUND

- 1 On May 23, 2008, Aquarius Utilities, LLC, (Aquarius or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-1 requesting an increase in its general rates for \$106,055 (24.7 percent) of additional revenue per year. Aquarius serves 880 customers located in Clallam, Kitsap and Mason counties. Aquarius’s proposed increase in rates is prompted by higher costs for labor, benefits, insurance and new plant (pumps and pipes). Aquarius’s last general rate increase became effective on March 14, 2002.
- 2 Aquarius notified its customers of the original increase by mail on March 23, 2008. The Commission received 94 customer comments on this filing, all opposed to Aquarius’s proposed increase. Staff summarized the customers’ comments as follows. Customers object to the requested rate increase until they can audit the rate-related expenditures and several discrepancies between the Company’s financial statements. They ask for an explanation of the advantage that “Single Tariff Pricing” would provide to Diamond Point customers. Customers object to Aquarius’s proposed \$5 per month surcharge to fund a proposed \$1.6 million pipeline replacement project for the Diamond Point System. Customers believe that Aquarius misled readers of its Drinking Water State Revolving Fund loan application regarding a Franchise Agreement with Clallam County. Diamond Point customers believe that Aquarius has failed to uphold an agreement with customers to fix continuing drainage problems on customers’ properties, to make tank upgrades, and to correct other Diamond Point water system design problems.

- 3 Commission Staff (Staff) responded to the customers' comments in more detail in its July 10, 2008, memorandum, which Staff sent to every customer who commented on the proposed rate increase. The following summarize Staff's responses to the customers' comments: Staff conducts its own independent audit of the Company's financial records and the Company's financial information has been available for customers to review. Staff believes the "Single Tariff Pricing" distributes risks and costs among all ratepayers and results in rates that are fair, just and reasonable. Although the Company discussed filing a \$5 surcharge, Aquarius did not propose a surcharge. A dispute regarding a county franchise agreement and Company statements made in a State Revolving Fund application are not relevant to the Commission's review of the proposed rate increase. Both the county and the Public Works Board are capable of managing and enforcing their respective processes and requirements. Aquarius signed a franchise agreement and Staff included the annual expense and set-up fee, which was capitalized, as appropriate expenses in the rate case. The Department of Health has jurisdiction over water system design, construction and operation, and has the ability to enforce its own rules and requirements.
- 4 Staff reviewed Aquarius's books, records and supporting documents and concluded Aquarius has a revenue deficiency of \$31,584, or 7.3 percent.
- 5 The Company agreed to a lower revenue requirement and Staff's recommended revised rate design. On July 1, 2008, Aquarius filed revised rates at the Staff's recommended levels. Staff believes the proposed revised rates are fair, just, reasonable and sufficient, based on Aquarius's supporting documentation. Staff's revised rate design is significantly different from the Company's original rate design provided to customers. Staff's revised rate design adjusts the water usage blocks, increases usage rates in each usage block, adds separate rate schedules for meters that are larger than three-fourths of an inch, increases the rate for ready-to-serve customers, and decreases the rate for the base charge. Customers using less than 950 cubic feet of water will pay less than the Company originally proposed in its rate design and customers using more than 950 cubic feet of water will pay more than the Company originally proposed in its original rate design.
- 6 RCW 80.28.060 and WAC 480-80-121 require tariff changes to be filed with the Commission thirty days prior to the effective date. The tariff sheets bear an issue date of May 21, 2008, and an effective date of July 14, 2008. This date recognizes the required

thirty day statutory notice. The Company filed revised rates on July 1, 2008, at the Staff recommended levels. Because the revised rates result in increases for some customers as compared to the original proposed rates, the statute and rule require the Company to file those changes with the Commission thirty days prior to the effective date. The Company requests, however, less than statutory notice as permitted by WAC 480-80-122, so that the revised tariff revisions become effective on July 14, 2008, the proposed effective date of the original filing. The Company requests less than statutory notice to allow it to begin recovering the revenue that it has demonstrated it needs as originally scheduled.

- 7 WAC 480-110-425 requires notice to customers or publication of the increase sought in this filing. Granting the Company's less than statutory notice request also requires an exemption from WAC 480-110-425. The Company seeks an exemption from the customer notice requirements to allow it to begin recovering the revenue that it has demonstrated that it needs as originally scheduled.
- 8 Customers who have submitted comments to the commission deserve to know about, and comment on, the proposed revised rates. The Commission should consider all information, including any additional customer comments on the revised rates, in deciding whether to conduct an evidentiary hearing on the revised rates. Therefore, the Commission finds Aquarius has not yet demonstrated the revised rates are fair, just, reasonable and sufficient.
- 9 The Commission accepts the revised rates as temporary rates and approves those revised rates to become effective on July 14, 2008, on a temporary basis, subject to refund, on less than statutory notice. The Commission may hold public hearings to determine whether the proposed changes are fair, just, reasonable and sufficient.

FINDINGS AND CONCLUSIONS

- 10 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including water companies.
[RCW 80.01.040](#), [RCW 80.04](#), [RCW 80.08](#), [RCW 80.12](#), [RCW 80.16](#) and [RCW 80.28](#).

- 11 (2) Aquarius is a water company and a public service company subject to Commission jurisdiction.
- 12 (3) This matter came before the Commission at its regularly scheduled meeting on July 10, 2008.
- 13 (4) The tariff revisions Aquarius filed on July 1, 2008, would increase charges and rates for service Aquarius provides, and might injuriously affect the rights and interest of the public.
- 14 (5) Aquarius is subject to RCW 80.28.060 and WAC 480-80-121, which require water companies to file changes in any rate or charges with thirty days' notice. For good cause shown, however, the Commission may allow changes without requiring thirty days' notice by order specifying the changes to be made and the time when it shall take effect. RCW 80.28.060 and WAC 480-80-122.
- 15 (6) Under WAC 480-110-215, the Commission may grant an exemption from the provisions of any rule in WAC 480-110, if consistent with the public interest, the purposes underlying regulation and applicable statutes. *See also* WAC 480-07-110.
- 16 (7) Staff has reviewed Aquarius's request in Docket UW-080926 and recommends the Commission grant the Company's request for less than statutory notice. Staff further recommends the Commission grant an exemption from the customer notice requirements of WAC 480-110-425.
- 17 (8) Although Aquarius has not yet demonstrated that the tariff revisions would ultimately result in rates that are fair, just, reasonable and sufficient, the Commission finds it reasonable, based on Staff's analysis, to approve the revised rates to become effective July 14, 2008, on a temporary basis, subject to refund, on less than statutory notice.
- 18 (9) In order to carry out the duties imposed upon the Commission by law, and as authorized in [RCW 80.04.130](#) and [RCW 80.04.220](#), the Commission finds it necessary to investigate this tariff filing, which may involve an investigation of Aquarius's books, accounts, practices and activities, to make a valuation or

appraisal of Aquarius's property and to investigate and appraise various phases of Aquarius's operations.

- 19 (10) As required by [RCW 80.04.130 \(4\)](#), Aquarius bears the burden of proof to show that the proposed increases are fair, just, reasonable and sufficient. Nothing in this Order is intended to limit the issues as to the fairness, justness, reasonableness and sufficiency of the proposed increases.
- 20 (11) In addition, the Commission invokes the rights, remedies and procedures contained in the reparations statute, [RCW 80.04.220](#), to the extent the Commission finds that any rate subject to this investigation is excessive or exorbitant.
- 21 (12) Aquarius may be required to pay the expenses reasonably attributable and allocable to such an investigation, consistent with [RCW 80.20](#).

ORDER

THE COMMISSION ORDERS:

- 22 (1) The tariff revisions Aquarius Utilities, LLC, filed on May 23, 2008, are suspended.
- 23 (2) After the effective date of this Order, Aquarius Utilities, LLC, is granted an exemption from WAC 480-110-425, which requires a thirty day notice to customers of proposed changes to increase charges or restrict access in service.
- 24 (3) The revised tariff Aquarius Utilities, LLC, filed on July 1, 2008, shall become effective on July 14, 2008, on less than statutory notice, on a temporary basis, subject to refund if the Commission determines that different rates will be fair, just, reasonable and sufficient.
- 25 (4) The Commission may hold hearings at such times and places as may be required.
- 26 (5) Aquarius Utilities, LLC, must not change or alter the tariffs filed in this docket during the suspension period, unless authorized by the Commission.

- 27 (6) The Commission may institute an investigation of Aquarius Utilities, LLC's books, accounts, practices, activities, property and operations as described above.
- 28 (7) Aquarius Utilities, LLC, shall pay the expenses reasonably attributable and allocable to the Commission's investigation, consistent with RCW 80.20.

DATED at Olympia, Washington, and effective July 10, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner