

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

SARAH HAND AND GRETCHEN HAND,
a married couple

Complainant,

v.

RAINIER VIEW WATER COMPANY, INC.,

Respondent.

DOCKET UW 170924

**SARAH HAND'S EXHIBIT 51 TO
CROSS EXAMINATION**

EXHIBIT 51

TO CROSS EXAMINATION OF BOB BLACKMAN AND RACHEL STARK

July 25, 2018

2008 MOU between DOH and UTC

ATTACHMENT B
to Staff's Response to Bench Request No. 1
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STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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February 4, 2009

WASH UTILITIES AND TRANSPORTATION COMMISSION
ATTN: DAVID W. DANNER
PO BOX 47250
OLYMPIA, WA 98504

RE: DOH CONTRACT #N17629

Enclosed is one fully executed copy of the above-referenced contract with the State of Washington, Department of Health, for your permanent file.

Any questions should be sent to the DOH Program Manager: Kristin Bettridge
360.236.3153
MS: 47822

Sent by: DOH Office of Contracts Management
P.O. Box 47905
Olympia, Washington 98504-7905

Enclosures

cc: Kristin Bettridge

Connie Dunn
(360) 236-3166
ODW Finance Mgr

MEMORANDUM OF UNDERSTANDING

January 2008

Between the Washington Department of Health (DOH)
and the Washington Utilities and Transportation Commission (UTC)

Related to the

COORDINATION OF THE DEPARTMENT OF HEALTH'S OFFICE OF DRINKING
WATER PROGRAM
AND THE UTILITIES AND TRANSPORTATION COMMISSION'S WATER
REGULATION PROGRAM
FOR THE STATE OF WASHINGTON

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I. PURPOSE AND SCOPE

This Memorandum of Understanding (MOU) is made and entered into by and between the Washington Department of Health (DOH) and the Washington Utilities and Transportation Commission (UTC) to improve effectiveness in completing their respective missions pursuant to the authorities granted them by statute.

This MOU identifies authorities, roles and responsibilities for each agency, establishes a framework for enhanced coordination and provides clear lines of communication between DOH and UTC. Both agencies recognize that some issues fall outside current statutory authorities.

The UTC, through the investor-owned utility water program, regulates in the public interest the rates, services, facilities, and practices of jurisdictional investor-owned water companies that supply water service to the public.

DOH's Office of Drinking Water (ODW) assures all public water systems, including those owned by UTC regulated companies, meet or exceed federal (Group A) and state (Group B) drinking water regulations.

II. MISSIONS

The Department of Health, Office of Drinking Water

The mission of the Department of Health Office of Drinking Water is to protect the health of the people of Washington by assuring safe and reliable drinking water.

Utilities and Transportation Commission

The mission of the Washington Utilities and Transportation Commission is to protect consumers by ensuring that utility and transportation services are fairly priced, available, reliable and safe.

III. AUTHORITY

The Department of Health, Office of Drinking Water Authority

The ODW regulates public water systems, which means any system providing water for human consumption through pipes or other constructed conveyances. ODW regulates approximately 4,000 water systems that meet the federal definition: those that serve 15 or more connections, or regularly serve 25 or more people daily for 60 or more days per year. ODW regulates the water systems that meet the federal definition under a formal agreement with the U.S. Environmental Protection Agency (EPA), called "primacy", to carry out the ~~Drinking Water Act (SDWA)~~ (SDWA) (Public Law 93-523, 99-339 and 104.182). These Group A systems serve approximately 5.3 million of the state's approximate 6.4 million population. The SDWA includes water quality standards, sampling, treatment, operator certification, source water assessment and protection and public notification requirements. Washington State has had primacy since 1976 and negotiates and renews its commitments to EPA every two years. As a condition of primacy, the state must adopt and administer state rules that are at least as stringent as the federal requirements. Under the primacy agreement, the state receives a grant to pay a portion of the cost of administering the SDWA. If the state did not administer the SDWA requirements, EPA would directly enforce the federal requirements in Washington.

ODW also regulates approximately 13,000 smaller systems (referred to as Group B systems) that do not meet the federal definition threshold, but are subject to State Board of Health requirements. Group B systems serve approximately 110,000 residents.

The remaining residents (approximately one million) get their water from either individual wells or "family farm" water systems, which are both exempt from federal and state drinking water regulations.

ODW has developed a program-prioritization process it calls "strategic directions" that optimizes public health protection using available resources.

ODW Statutory Authority

The authority for the ODW program comes from the statutes listed below. Federal statutes apply to Group A water systems, those that meet the federal definition of a public water system. The state has also adopted Group B regulations, through the Department of Health and the State Board of Health authorities, which apply to public water systems that do not meet the federal definition threshold.

- RCW 43.20.50 - Powers and duties of state board of health-State public health report-Delegation of authority-Enforcement of rules
- RCW 43.70.250 - License fees for professions, occupations, and businesses
- Chapter 43.70 RCW - Public water supply systems-operators
- Chapter 70.119A RCW - Public water systems-penalties and compliance
- Chapter 70.119 RCW - Public water supply systems-operators
- Chapter 70.116 RCW - Public water system coordination act of 1977
- Chapter 70.142 RCW - Chemical contaminants and water quality

Utilities and Transportation Commission Authority

The UTC is governed by Title 80 RCW and regulates private, investor-owned water companies that:

- Serve 100 or more customers, and / or
- Charge average annual gross revenue per customer that exceeds \$471.¹

The water companies regulated by the UTC changes over time. UTC regulates private, investor-owned water companies that (1) serve 100 or more customers or (2) charge rates above the revenue jurisdictional threshold. The UTC must approve the transfer and sale of a regulated water company's assets to other private, investor-owned entities. The commission does not regulate the transfer and sale of company assets to public entities (e.g. cities, towns, PUDs, water districts, home owners associations, etc.). UTC regulated water companies that no longer meet the jurisdictional thresholds may petition the UTC to remove them from regulation. UTC regulated companies must obtain UTC approval to discontinue business.

The UTC currently regulates 64 water companies that operate 470 water systems, serve approximately 50,000 customers, and generate approximately \$19.7 million in annual revenues.

UTC Statutory Authority

¹ The UTC can adjust this revenue threshold pursuant to RCW 80.04.010 and WAC 480-110-255.

Title 80 RCW - Public Utilities:

Rates (RCW 80.28.010(1)): Regulated companies are entitled to recover reasonable, prudently incurred expenses and an opportunity to earn a reasonable return on their investment. The UTC establishes rates that are fair, just, reasonable, and sufficient. The result balances the customers' interest (pay low rates) with the investors' interest (charge high rates). Regulatory principles developed over 130 years of litigation at the state commissions, state courts, and federal courts help to ensure this balance.

Services (RCW 80.28.010(2)): The UTC regulates terms and conditions of service.

Facilities (RCW 80.28.010(3)): The UTC regulates system infrastructure (plant) and equipment used to provide regulated water utility service. The UTC lacks staff expertise in the following subject areas and defers to ODW if technical questions arise:

- Water system design, construction, operation or maintenance.
- Water quality, including, but not limited to testing, filtration and treatment.
- Water quantity.
- Water emergency plans contained in the WSP and SWSMP.

IV. GENERAL ROLES AND RESPONSIBILITIES

The Department of Health Office of Drinking Water:

- Reviews and approves new systems.
- Ensures water systems, which intend to stop providing service, notify all customers, and the UTC if the water system is regulated, in writing at least one year prior to terminating service.
- Informs/educates water system purveyors about the requirements for owning and operating a water system.
- Provides training and guidance materials to assist purveyors in their responsibility of providing safe and reliable drinking water.
- Reviews and approves planning and engineering documents that identify a system's capacity to achieve and maintain compliance with applicable regulations.
- Notifies purveyors when they violate a regulation and informs them of the required actions needed to address it.
- Provides technical assistance in how to provide safe and reliable water.
- Provides funding opportunities so systems can make needed improvements.
- Establishes partnerships with many Local Health Jurisdictions via Joint Plans of Operations (i.e., agreements) to carry out the regulation of Group B systems.
- Uses an efficient graduated compliance program that prioritizes use of resources based upon perceived threat to public health.
- Provides UTC with the compliance status and other areas of concern about water systems owned by UTC regulated water companies.

The Utilities and Transportation Commission Water Section:

- Determines if companies are jurisdictional (regulated or not regulated).
- Regulates the sale of UTC regulated water systems to other private, investor-owned entities (but not public entities such as cities, towns, PUDs, water districts, homeowners association, etc.), discontinuance of water service to customers and the disbandment of a regulated company.
- Audits regulated company's financial and operating records to determine reasonable, prudently incurred costs, rate base, and a reasonable return on investment.
- Advises the Commissioners in setting rates that are fair, just, reasonable and sufficient. Advice may be provided informally through the Commission's Open Meeting process or formally through written testimony in a formal, adjudicative proceeding.
- Analyzes tariff filings to identify public policy issues and ensure compliance with the Commission's laws, rules and regulations.
- Assists customers of UTC regulated companies to resolve complaints regarding billing disputes, service and management issues.
- Educates UTC regulated companies, customers served by UTC regulated companies, government employees, non-UTC jurisdictional companies and customers, and others on UTC's regulations and rate setting process.*
- In cooperation with ODW:
 - Reviews water companies' financial documents for financial viability and feasibility.
 - Identifies emerging issues with both UTC regulated and nonregulated companies.
 - Prioritizes capital improvement projects for UTC regulated water companies.
 - Provides UTC Commissioners information regarding a water company's compliance status with ODW rules in connection with rate and system acquisition filings and hearings.
 - Audits non-municipal water systems, as referred by DOH pursuant to RCW 80.04.110(4).

V. PROCEDURAL AGREEMENTS

Both parties agree to develop and implement processes and procedures, which identify action steps needed and applicable deadlines for the following functions (contained as an Attachment A to this document):

1. Reviewing UTC regulated water companies' Water System Plans and Small Water System Management Programs, developed in accordance with WAC 246-290-100 and 105.
2. Transmitting information in UTC regulated water companies' Project Reports and Construction Documents, developed in accordance with WAC 246-290-110 and 120.

3. Auditing non-municipal water systems as requested by ODW.
4. Sharing information when a UTC regulated company requests a rate increase, proposes to sell a water system to a UTC jurisdictional entity, proposes to disband the company, or when there is a formal complaint proceeding before the UTC.
5. Registering and forwarding customer complaints on rates, service, water quality, water quantity or health issues.
6. Coordinating respective regulatory authorities on enforcement (compliance) actions.
7. Pursuing a receivership action on a regulated company's system(s).
8. Coordinating on responses on proposed legislation and policy documents, which affect drinking water regulations.

VI. MOU AND PROCEDURES OVERSIGHT, REVIEW, AND UPDATE

DOH and UTC will discuss implementation, maintenance, and improvement of processes and procedures when necessary.

DOH and UTC agree to review this MOU and update as necessary.

Both agencies will identify a staff person responsible for upkeeping these procedures, including the practice of modifying an existing procedure and/or developing new procedures.

VII. GOOD FAITH AND DISPUTE RESOLUTION

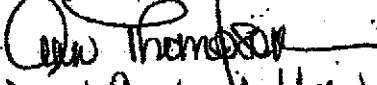
DOH and UTC agree to assume good faith of the other party as a general principle; to openly share information when relevant; to notify the other party if any problems arise and work together to resolve those issues; and, through improved coordination and communication, demonstrate effective interagency cooperation and trust.

DOH and UTC agree to work together to resolve issues of concern. The agencies agree that ongoing dialog will be necessary because of our distinct missions.

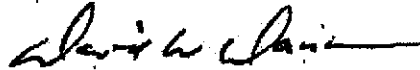
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The undersigned, on behalf of their respective agencies, hereby execute this Memorandum of Understanding, which becomes effective when signed by all parties.

For the Washington Department of Health:


Doh Contract Mgr
2/2/09

For the Washington Utilities and Transportation Commission Staff:


David W Danner
Executive Director and Secretary

For the Department of Health Contracts Office:

PROCEDURES IDENTIFIED IN ODW/UTC MOU (Draft- February 14, 2008)

ATTACHMENT A

1) Procedure: Reviewing UTC regulated water companies' Water System Plans (WSP) and Small Water System Management Programs (SWSMP)

Action By	Action
1 ODW	Schedule WSP or SWSMP pre-planning conference (when necessary) with UTC regulated water company and invite UTC. Advise the company that for OWD to review the plan, it must contain a statement from the submitting Professional Engineer that "The proposed capital improvement projects achieve the critical objectives at a reasonable cost."
2 UTC	Attend pre-planning conference and distribute and explain required content of Financial Program in the WSP or SWSMP for UTC regulated companies.
3 ODW	After receipt of UTC regulated company's WSP or SWSMP, forward copy of document to UTC.
4 UTC	Provide OWD and the company with written comments on the company's financial viability and its planning document feasibility within 30 days of receipt.
5 ODW	Incorporate UTC comments into review letter to the UTC regulated company.
6 ODW	Copy UTC on all WSP and SWSMP reviews and approval correspondence.

2) Procedure: Reviewing a UTC regulated water company's project documentation and plans.

Action By	Action
1 ODW	Inform UTC regulated company that submitted project documentation and plans (WSP, SWSMP, Project Report, and Construction Document) must contain a statement from the submitting Professional Engineer that "The proposed capital improvement projects achieve the critical objectives at a reasonable cost."
2 ODW	Review project documentation and plans (WSP, SWSMP, Project Report, and Construction Document) submitted by the UTC regulated company to confirm they comply with established design and construction standards and contain the required engineer's statement.
3 ODW	Copy UTC on project report and construction document correspondence.
4 UTC	When analyzing rate filings received from UTC regulated companies, UTC staff will recommend that the UTC Commissioners accept, for rate making purposes, appropriate costs for projects approved by ODW that are identified in a current approved WSP or SWSMP and that also contain a statement from the submitting Professional Engineer that "The proposed capital improvement projects achieve the critical objectives at a reasonable cost."

Note: This does not, however, mean that staff will recommend the commission approve the rates filed by a UTC regulated company (e.g., appropriateness of costs and a proposed rate are different issues).

PROCEDURES IDENTIFIED IN ODW/UTC MOU (Draft- February 14, 2008)

3) Procedure: Auditing non-municipal water systems.

Action By	Action
1 ODW	Notify UTC of a non-municipal water system that may require an audit.
2 ODW and UTC	Meet to discuss case and to define the purpose, scope, objective, and timeline of the audit (e.g., Ownership or identification of system(s), operational and management effectiveness, financial viability, if system is subject to UTC jurisdiction, etc.).
4 ODW	Send administrative order to water system requiring it to submit to a UTC audit.
5 UTC	Conduct audit and submit results to ODW within the agreed time frame.
6 ODW	Take follow up action; e.g., issue order to the system or hold a public meeting.
7 UTC	Participate in public meetings or legal proceedings, if requested by ODW.

4) Procedure: Sharing information when a UTC regulated company:

- Requests a rate increase;
- Proposes to sell and transfer water company assets to another UTC regulated company;
- Proposes to disband the company; and
- Has a formal complaint proceeding before the UTC.

Action By	Action
1 ODW HQ Support Staff	Maintain current county engineering assignments on ODW website.
2 Regulated company	Submits to UTC a rate increase, petition to sell and transfer water company assets, or a filing to disband the company.
3 UTC	Completes information as directed on the Information Request Form (IRF) and forwards to ODW regional office, requesting return of IRF no earlier than 15 days.
4 ODW	Regional Office Compliance Manager and Regional Engineer complete IRF, as directed. If ODW believes it is important to testify at the UTC open meeting, customer public meeting or hearing notify the Regional Office Assistant Manager for concurrence and scheduling.
5 ODW	Forward completed IRF to UTC within specified due date. Notify UTC if ODW has a desire to testify.
6 UTC	Request ODW to testify (if applicable).
7 ODW	If desired by either agency, attend open meeting, customer public meeting, or hearing or testify via phone bridge.

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PROCEDURES IDENTIFIED IN ODW/UTC MOU (Draft- February 14, 2008)

5) Procedure: Registering and forwarding customer complaints on rates or service, water quality, water quantity or health issues.

1	<p>UTC</p> <ul style="list-style-type: none"> a) Receives complaint from customer and logs it into UTC's Consumer Contact System (reference UTC Consumer Affairs Procedure Manual). b) Determine if system providing service is owned by a regulated company. c) If customer is not served by a regulated company, forward complainant to ODW d) If customer is served by a regulated company, document complaint and determine the type of complaint (e.g., rates, service, quality, quantity or health issue). e) If the complaint concerns rates or service, process complaint internally, if the complaint concerns quality, quantity or health issue refer to ODW. f) UTC will conduct formal hearings as appropriate and UTC staff will consult with ODW in assessing formal complaints regarding the purity, quality, volume and pressure of water pursuant to RCW 80.04.110, 80.28.030, or 80.28.040.
2	<p>ODW</p> <ul style="list-style-type: none"> a) Receive and document customer complaint. b) Determine the type of complaint (e.g., rates, service, quality, quantity or health issue). c) Determine if system is owned by a regulated company. d) If customer is not served by a regulated company, process complaint internally. e) If customer is served by a regulated company and the complaint concerns rates and or service, forward complaint to UTC f) If customer is served by a regulated company and the complaint concerns water quality, quantity or a health issue, process complaint internally. g) ODW will conduct formal hearings as appropriate and ODW staff will consult with UTC in assessing formal complaints regarding the purity, quality, volume and pressure of water.

PROCEDURES IDENTIFIED IN ODW/UTC MOU (Draft- February 14, 2008)

6) Procedure: Coordinate enforcement (compliance actions)

Step	Action
1	<p>ODW</p> <p>a) Copy UTC on all compliance correspondence when water system is owned or operated by a UTC regulated water company.</p> <p>b) Provide UTC information on individual complaints and summary data (e.g., received, resolved, and outstanding) on request for regulated companies.</p> <p>c) Notify UTC when ODW intends to pursue formal compliance (e.g., conduct hearing, issue penalties, etc.), and invite UTC to attend, present testimony and to discuss coordinating each agency's compliance authority.</p>
2	<p>UTC</p> <p>a) Copy ODW on all enforcement actions levied against a UTC regulated water company, including affected water system(s) names and locations.</p> <p>b) Provide ODW, at its request, information on individual complaints and summary data (received, resolved and outstanding) for UTC regulated companies.</p> <p>c) Notify ODW when UTC staff intends to recommend the commission pursue formal compliance (e.g., conduct hearing, issue penalties, etc.), and invite ODW to attend, present testimony and to discuss coordinating each agency's compliance authority.</p>

7) Procedure: Pursuing receivership on a system owned by a UTC regulated company.

Step	Action
1	<p>UTC</p> <p>Conduct hearing on its own motion or if 25 system customers (or at least 25% of customers if the system serves fewer than 100 customers) file a complaint.</p>
2	<p>UTC</p> <p>After consulting with ODW, and if determined to be appropriate, order water company to make improvements or complete other actions (e.g., monitoring water quality).</p>
3	<p>RIOU</p> <p>Fail to comply with conditions in the order.</p>
4	<p>UTC</p> <p>May request ODW to petition the court to place a UTC regulated company in receivership.</p>
5	<p>ODW</p> <p>Consult with UTC. Per RCW 43.70.195, petition the court to place a UTC regulated company's water system(s) in receivership.</p>
6	<p>ODW</p> <p>Oversee the receivership process.</p>
7	<p>UTC/ODW</p> <p>Consult on disposition plan of water system after determination of permanent receiver.</p>

PROCEDURES IDENTIFIED IN ODW/UTC MOU (Draft- February 14, 2008)

8) Procedure: Coordinating legislative issues, including proposed legislation and policy documents, which affect drinking water regulations or each others' respective programs.

No.	Agency	Description
1	ODW Management	Identify ODW Legislative Contact Person
2	UTC Management	Identify UTC Legislative Contact Person
3	Agency Contacts	Coordinate and share information concerning legislation or policy documents that may have an impact on either agency.