

May 12, 2010

David Danner
Executive Director
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

RE: Bethel School District's Supplemental Comments to Proposed Rate Increase and Tariff Revisions Docket # UW-091466 Rainier View Water Company, Inc.

Dear Director Danner:

This firm represents the Bethel School District ("Bethel" or the "District") with respect to the above proposal, and hereby submits this letter and attachments as formal supplemental comments regarding the above-referenced rate increase and tariff revisions proposed by Rainier View Water Company, Inc. ("Rainier View"). On September 15, 2009, Rainier View filed a proposed rate increase and tariff revision. Last week, on May 3, 2010, Rainier View filed revised rate increases and tariff revisions with the Commission (the "May 3 Revised Rates"). Bethel is opposed to the May 3 Revised Rates on the following grounds:

1. Bethel is disproportionately impacted by the rate increases in a manner that is unfair, unjust, and unreasonable;
2. The shouldering of the rate increase by a public school district is not in the public interest;
3. The tariff revision's characterization of Bethel as "commercial" does not take into account the District's non-commercial and essential public service nature or the unique nature of its water use and needs;
4. Bethel previously transferred 167.5 acre-feet/year of water rights to Rainier View for service of the District, and as such any Tacoma Water rate differentiation is not relevant to the District's use demand; and
5. Rainier View did not provide adequate or required notice of the May 3 Revised Rates.

Bethel previously submitted comments in opposition to the rate increase and tariff revision by letter dated February 8, 2010. Bethel incorporates by

reference the comments set forth in its prior letter. Bethel remains opposed to the rate increase and tariff revisions, and, based on the comments below, is opposed to the revised rates filed by Rainier View on May 3, 2010.

Background

The Bethel School District operates on approximately 202 square miles of property in southeast Pierce County. The population area served by the District has grown in the past decade, and Bethel's student population has expanded by nearly 5,000 students in the past 10 years alone. Bethel is now the 13th largest district in the state with an enrollment of about 17,500.¹ Rainier View serves and provides the water supply to a majority of the District.

Bethel's water needs are unique and include both domestic and irrigation water to serve its student population and the community at large, including irrigation of its fields, which are used by its students and the public alike for school and community events, and youth sporting activities including youth baseball, softball, soccer, football and similar activities.

On September 15, 2009, Rainier View filed proposed rate increases and tariff revisions with the UTC. In its corresponding Customer Notice, Rainier View noted that "[t]he overall effect will produce an additional \$164,487 in annual revenue for the Company or an increase of 3.40% compared to 2008 revenues."^{2, 3} Based on the September 2009 proposal, Bethel's February 8, 2010 comment letter and attachments noted an estimated increase to Bethel *alone* to be in excess of \$103,000, an increase of approximately 86% from its current rates.

After initial staff review, the Commission issued an Order suspending the tariff revisions.

On May 3, 2010, Rainier View filed revised proposed rate increases and tariff revisions with the UTC. The May 3 Revised Rates provide for \$363,611 in additional revenue to Rainier View, and increase of 8.1%. See May 13, 2010

¹ Bethel has 17 elementary schools (K-6), five junior high schools (7-9), three comprehensive senior high schools (10-12), an alternative junior high/high school (8-12), a transportation center, and an online academy.

² See September 14, 2009 Customer Notice.

³ Contrary to Rainier View's claims and Customer Notice, UTC Staff have now found that Rainier View's September 2009 would have generated \$739,971 in additional revenue. See May 13, 2010 Staff Memo at 1.

Staff Memo at 1. Rainier View did not provide statutory or any adequate notice of this revision.

Bethel submits the attached modified spreadsheets as representative examples of Bethel's water use and costs for an elementary school (North Star Elementary School), a junior high school (Frontier Junior High School) and a high school (Graham Kapowsin High School) based upon a 2" or 3" meter (depending upon the school).⁴ The attached summary sheet shows that the September 2009 proposed rates and tariff revisions would have resulted in almost an 86% increase in costs to Bethel for all schools served by Rainier View. Based on the sample schools, Bethel estimates that the May 3 Revised Rates will now result in over 150% total rate increase for the three sample schools analyzed. Bethel now estimates that the May 3 Revised Rates have the effect of increasing Bethel's Rainier View water rates by 160%, and resulting in district-wide rate increase in excess of \$191,000. Based on Bethel's estimations, this will result in a nearly 40% increase over Rainier View's previously noticed revision.

Based on estimations, the May 3 Revised Rates proposes a rate increase that nearly doubles the impact on the District from even the original September 2009 proposal, which Bethel objected to.

UTC Staff issued its memorandum on May 10, 2010, recommending the Commission approve the May 3 Revised Rates. UTC Staff Memorandum did not address Bethel's comments or the significant impact on its rates, and by extension, its budget and ability to serve its students and the community.

Disproportionate Impact

The proposed tariff as submitted by Rainier View is not fair, just, or reasonable. UTC statutes, rules, and regulations all mandate that tariff rates must be fair, just, and reasonable. RCW 80.28.270; see *also* chapters 480-110 and 480-80 WAC. See *also* RCW 80.04.130(4) ("the burden of proof to show that such increase is just and reasonable shall be upon the public service company"). In regard to Bethel, these rates do not meet that standard. Both the September 2009 proposal and, now, to an even greater extent, the May 3 Revised Rates raise the cost far in excess of current rates, placing a significant and substantial new financial burden on the District and in turn its ability to budget for critical educational needs.

⁴ Spreadsheets showing additional detail were included as attachments to the District's February 8, 2010 comment letter.

While not addressing the drastic impact to the District, the Staff Memo reveals the disproportionate impact. The Staff Memorandum concludes that "average" bills for residential customers will actually *decrease* by 2.4%, and for commercial customers will increase by 52.1%. At this same time, Rainier View proposes increasing the District's rates by 160% and at a cost of nearly \$200,000. Thus, while the claimed "average" residential bill will decrease by just over \$3.00 a month, and the "average" commercial bill will increase by only \$24.00 a month, the District is left as an isolated entity responsible for nearly all of Rainier View's desired additional revenue. On its face, this proposed structure is unfair, unjust, and unreasonable.⁵

Public Interest

A central component of this Commission's consideration of whether the proposed revisions are fair, just, and reasonable, is whether the proposed revisions are in the public interest. RCW 80.01.040(3). Bethel has not been immune to the local and state budget issues facing our communities, and specifically, our local school districts. Of note, just this month, the Bethel School Board was compelled to authorize the use several million dollars from the District's reserve fund to prevent further budget reductions, protect student programs, and minimize the need for a reduction in force for certified staff.

Rainier View's proposal requests these rates go into effect immediately, and would be implemented beginning June 1. Simply put, it would be impossible for Bethel, given its strict budgetary process, to budget for the dramatic increase proposed to its rates. The District and community use of the Bethel fields serves a vital public interest, and a 158% rate increase would directly impede and disrupt that interest. Further, any rate increase would come directly out of the classrooms and critical educational needs.

This serious public interest concern warrants denial of proposed rate increases and tariff revisions, and, if necessary, consideration of an alternative rate design or structure that both serves the public interest and is fair, just, and reasonable.

⁵ By establishing a rate structure that unfairly and unjustly imposes a disproportionate burden on the District, Rainier View's proposed tariff revision runs afoul of RCW 80.28.090 ("No . . . water company shall make or grant any undue or unreasonable preference or advantage to any person, corporation, or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. (Emphasis added.) RCW 80.28.100.

Commercial

The Rainier View tariff, while recognizing that schools are not "commercial" enterprises, nevertheless, categorizes them as such without differentiation, applying the strict commercial rate. It is indisputable that public schools and public school districts are not typical "commercial" entities, in any sense of the word, and should not be treated as such. This is evident both in their essential public purpose and in the nature of their operations. First, as is self-evident, school districts maintain no profit motive, do not operate as a commercial enterprise, and do not generate any income or revenue from their operations or water use. They serve the public and communities, and are compelled to respond to population growth to meet the educational needs of our state's children. Second, their operations are unlike typical commercial users. Most typical commercial water users are businesses, office buildings, warehouses, and commercial operations. They have relatively minor irrigation needs, and if their water use increases, it is likely because their business needs and operations are growing, such that additional revenue is being generated. On the contrary, school districts operate and maintain playfields, sport fields, and expansive grounds that serve the public and are a central component of school-life and community expectations. While Bethel conservatively monitors and regulates its irrigation using sound practices, as the population of southeast Pierce County grows, so too must the District. Any increase in domestic and irrigation water use is a component of mandated growth, and not unwise practices.

Based on the above, Bethel requests this Commission carefully consider the non-commercial nature of the District. Rainier View's classification of Bethel as a commercial water user is neither fair nor reasonable, and runs counter to the public interest in which the UTC is to regulate rates. Absent a rejection of the tariff revision, Bethel respectfully requests the Commission mandate Rainier View remove Bethel from its "commercial" classification and adopt a rate structure that is fair and reasonable given the District's needs and constraints.

Tacoma Water Rate Increase

The Staff Memorandum relies, in part, on the assertion that in peak summer months, Rainier View's demand exceeds its source production and it must purchase water from Tacoma Water to meet demand, and when it does it currently purchases water at a rate higher than it is charging its customers. See May 13, 2010 Staff Memo at 3. While on its face, this fact may be compelling to justify a rate increase for residential and some commercial

customers, it is not relevant to Bethel. Bethel previously transferred significant water rights, authorizing use of 167.5 acre-feet per year, so that Rainier View could serve the District, and meet the District's future growth needs. Those water rights authorized a total of approximately 419 ERUs. As Bethel provided Rainier View with water to serve it, and Rainier View uses this water to serve the District, purchased water from Tacoma Water is not relevant to Bethel's use or demands, and should not be a factor supporting any rate increase.

Notice Requirements

Finally, the May 3 Revised Rates--which lead to a significant increase to and impact on the school District--were not properly or timely noticed, and the District has not had sufficient notice, time, and opportunity to review and comment on these revisions. Bethel has not been provided the due process required under the UTC's own rules and regulations, and otherwise provided by law, with respect to this proposal.⁶

UTC regulations mandate that "[t]he commission must receive tariff changes not less than thirty days in advance of the requested effective date," WAC 480-80-121, and further that "[c]ustomers must receive notice thirty days before the requested effective date when a water company proposes to . . . increase rates . . . [or] [c]hange the terms and/or conditions of an existing service. WAC 480-110-425(3). While Rainier View writes that it proposes to "communicate" with the classes of customers so that they are "aware in advance before they are billed at the higher rates,"⁷ this does not satisfy the regulatory requirements or purpose behind such notice. This notice is provided to ensure customers have sufficient time, notice, and opportunity to review the proposal, raise questions with the UTC, and provide comments on the proposal. See WAC 480.110-425(4)(d) and (e). Here, just 10 days before the open meeting and request for Commission action, Rainier View filed proposed rate changes and tariff revisions, revisions that appear likely to result in an estimated 160% rate increase to the District, and relevant here, a 40% rate increase over the previously noticed changes.

Bethel respectfully requests this Commission deny the May 3 Rate Revisions on this ground, suspend Rainier View's proposed rate increase and tariff revision, and remand to Staff for further consideration. If necessary, Bethel

⁶ The lack of notice has prejudiced Bethel's ability to review and comment on the proposed rate increase. Bethel submits these comments, and moves the Commission to shorten time and permit them to be added to the record, while reserving its rights and argument that the notice provided was inadequate and prejudicial.

⁷ See May 3, 2010 Letter from Counsel for Rainier View to David Danner, Executive Director of WUTC.

requests the Commission schedule a prehearing conference and hearing on this matter, as may be required.

Conclusion

Bethel recognizes the ability and right of Rainier View to achieve a reasonable rate of return. However, Bethel asks this Commission not to approve a rate structure and tariff that places the vast majority of that desired revenue burden on the District. The current May 3 Rate Revision provides that average residential rates will decrease by 2.4% and commercial rates will increase by 52%. As a public school district, serving children and student populations, Bethel asserts that its nature is much more akin to residential than any sort of commercial structure. Accordingly, Bethel would be willing to accept a reasonable and fair rate structure that increases its rates in the mid-range of the proposed residential and commercial structure, in the range of 25-30%. Further, given the District's strict budgetary process and associated educational planning, the District requests the adoption of a phased rate increase that would permit rate increases of no more than 10% per year until the final approved rate increase is reached. Absent such a fair and modified structure, Bethel's ability to both pay the increased rates and meet the critical educational and community needs that it serves would be not just burdensome, it would be devastating.

Thank you for your time and careful consideration of this issue.

Sincerely,



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JR:en

Enclosures: Summary Comparison: Existing to Proposed Tariff
Four (4) spreadsheets

cc: Jim Ward, Regulatory Analyst
Dennis Shulter, Consumer Protection Staff
Jim Hansen, Director of Construction and Planning
Catherine Carlson, Facilities Planner

SUMMARY COMPARISON
Existing to
Proposed Tariff
(Domestic and Irrigation)

(Estimated from 2009 Use)

School	Billing Time Period	Current Tariff Charge	Estimated Sept 2009 Proposed Tariff Charge	Estimated Percent of Increase	Estimated May 2010 Proposed Tariff Charge	Estimated Percent of Increase	Total Due Under School District Proposal	Estimated Percent of Increase
North Star Elementary	Jan thru Dec 2009	\$4,808.14	\$9,665.30	101%	\$14,105.28	193%	5606.33	30%
Frontier Junior High	Jan thru Dec 2009	\$10,866.46	\$21,121.26	94%	\$28,478.30	162%	13239.29	30%
Graham Kapowsin High School	Jan thru Dec 2009	\$12,789.84	\$21,096.60	62%	\$28,495.83	123%	17736.65	30%
	Example Totals	\$28,464.44	\$51,500.14	81%	\$71,079.41	150%	\$36,582.27	30%
8 Elementary Schools in RV Service Area	Jan thru Dec 2009	\$38,465.12	\$77,314.89		\$112,702.80		\$50,004.66	
4 Junior High Schools in RV Service Area	Jan thru Dec 2009	\$43,465.84	\$84,323.73		\$113,880.50		\$56,505.59	
2 High Schools Transportation Center in RV Service Area	Jan thru Dec 2009	\$38,369.49	\$62,158.57		\$85,563.96		\$49,880.34	
TOTAL IMPACT TO BETHEL SCHOOL DISTRICT (Estimated)	1 Year	\$120,300.45	\$223,797.19	86%	\$312,147.26	160%	\$156,390.59	30%

**FRONTIER JR HIGH
Domestic and Irrigation
Proposed Tariff
May 2010**

(Estimated from 2009 Usage)

	A	B	C	D	L	M	N
1						Total Due Under Sept 2009	Total Due Under May 2010 Proposal
2	Statement Date	Use*	Meter	Water (Usage)	Total Due Under Current Tariff	Proposal - 94% Rate Increase	162% Rate Increase
3	1/1/09	Dom & Irr	384081	8400	330.12	\$506.03	\$561.14
4	2/1/09	Dom & Irr	384081	10800	350.52	\$550.43	\$652.34
5	3/1/09	Dom & Irr	384081	12500	364.97	\$581.88	\$728.84
6	4/1/09	Dom & Irr	384081	10400	347.12	\$543.03	\$634.34
7	5/1/09	Dom & Irr	384081	13500	373.47	\$600.38	\$773.84
8	6/1/09	Dom & Irr	384081	185300	1832.29	\$3,778.68	\$5,207.75
9	7/1/09	Dom & Irr	384081	260300	2469.79	\$5,166.18	\$6,820.25
10	8/1/09	Dom & Irr	384081	268800	2542.04	\$5,323.43	\$7,003.00
11	9/1/09	Dom & Irr	384081	11400	355.62	\$561.53	\$679.34
12	10/1/09	Dom & Irr	384081	90000	1022.24	\$2,016.63	\$3,158.80
13	11/1/09	Dom & Irr	384081	32400	532.64	\$950.03	\$1,624.34
14	12/1/09	Dom & Irr	384081	10400	345.64	\$543.03	\$634.34
15							
16					\$10,866.46	\$21,121.26	\$28,478.30

**NORTH STAR ELEMENTARY
Domestic
Proposed Tariff
May 2010**

(Estimated from 2009 Usage)

	A	B	C	D	M	N	O	P
1								
2	Statement Date	Use	Meter	Water (Usage)	Total Due Under Current Tariff	Total Due Under Sept 2009 Proposal - 58 % Rate Increase	Total Due Under May 2010 Proposal - 65% Rate Increase	Total Due Under School District Proposal - 30% Rate Increase
3	1/1/09	Domestic	1547015	4700	\$228.43	355.14	\$348.84	\$243.88
4	2/1/09	Domestic	1547015	7500	\$252.23	406.94	\$429.84	\$274.82
5	3/1/09	Domestic	1547015	6700	\$245.43	392.14	\$405.84	\$265.98
6	4/1/09	Domestic	1547015	5500	\$235.23	369.94	\$369.84	\$252.72
7	5/1/09	Domestic	1547015	7500	\$252.23	406.94	\$429.84	\$274.82
8	6/1/09	Domestic	1547015	7500	\$250.75	406.94	\$429.84	\$273.84
9	7/1/09	Domestic	1547015	4400	\$224.40	349.59	\$348.84	\$239.09
10	8/1/09	Domestic	1547015	1300	\$198.05	292.24	\$348.84	\$204.83
11	9/1/09	Domestic	1547015	1500	\$199.75	295.94	\$348.84	\$207.04
12	10/1/09	Domestic	1547015	6400	\$241.40	386.59	\$396.84	\$261.19
13	11/1/09	Domestic	1547015	5500	\$233.75	369.94	\$369.84	\$251.24
14	12/1/09	Domestic	1547015	6900	\$245.65	395.84	\$411.84	\$266.71
15								
16					\$2,807.30	\$4,428.18	\$4,639.08	\$3,016.16
17								
18	Rate Increases represent the total increase of meter charges and water usage charges							

NORTH STAR ELEMENTARY
Irrigation
Proposed Tariff
May 2010

(Estimated from 2009 Usage)

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
1					Metered Rate Service											
2	Statement Date	Use	Meter	Water (Usage)	3" Meter Charge	0 - 9000 Cubic Ft	9001 - 45,000 Cubic Ft	Over 45,000 Cubic Ft	Total Usage Charge	Treatment Surcharge	Generator Surcharge	Total Due Under Current Tariff	Under Sept 2009 Proposal - 81% Rate Increase	Total Due Under May 2010 Proposal - 373% Rate Increase	Total Due Under School District Proposal - 30% Rate Increase	
3	1/1/09	Irrigation	2431956	0	\$86.63	\$0.00	N/A	N/A	\$86.63	\$1.81	\$0.00	\$19.70	\$111.61	\$175.07	\$24.44	
4	2/1/09	Irrigation	2431956	0	\$86.63	\$0.00	N/A	N/A	\$86.63	\$1.81	\$0.00	\$19.70	\$111.61	\$175.07	\$24.44	
5	3/1/09	Irrigation	2431956	0	\$86.63	\$0.00	N/A	N/A	\$86.63	\$1.81	\$0.00	\$19.70	\$111.61	\$175.07	\$24.44	
6	4/1/09	Irrigation	2431956	800	\$86.63	\$76.50	N/A	N/A	\$163.13	\$1.81	\$0.00	\$22.25	\$122.16	\$328.07	\$27.76	
7	5/1/09	Irrigation	2431956	6100	\$86.63	\$76.50	N/A	N/A	\$163.13	\$1.81	\$0.00	\$67.30	\$220.21	\$328.07	\$86.32	
8	6/1/09	Irrigation	2431956	21000	\$86.63	\$76.50	\$180.00	N/A	\$523.13	\$1.81	\$0.00	\$192.47	\$495.86	\$868.07	\$249.49	
9	7/1/09	Irrigation	2431956	55300	\$86.63	\$76.50	\$539.99	\$221.45	\$1,243.11	\$1.81	\$0.00	\$484.02	\$1,130.41	\$2,169.49	\$628.50	
10	8/1/09	Irrigation	2431956	66500	\$86.63	\$76.50	\$539.99	\$462.25	\$1,243.11	\$1.81	\$0.00	\$579.22	\$1,337.61	\$2,410.29	\$752.26	
11	9/1/09	Irrigation	2431956	10100	\$86.63	\$76.50	\$16.50	N/A	\$196.13	\$1.81	\$0.00	\$99.82	\$294.21	\$377.57	\$129.04	
12	10/1/09	Irrigation	2431956	52500	\$86.63	\$76.50	\$539.99	\$161.25	\$1,243.11	\$1.81	\$0.00	\$460.22	\$1,078.61	\$2,109.29	\$597.56	
13	11/1/09	Irrigation	2431956	0	\$86.63	\$0.00	N/A	N/A	\$86.63	\$1.81	\$0.00	\$18.22	\$111.61	\$175.07	\$22.96	
14	12/1/09	Irrigation	2431956	0	\$86.63	\$0.00	N/A	N/A	\$86.63	\$1.81	\$0.00	\$18.22	\$111.61	\$175.07	\$22.96	
15																
16																
23	Grand Total											\$2,000.84	\$5,237.12	\$9,466.20	\$2,590.17	
24	Rate Increases represent the total increase of meter charges and water usage charges															

GRAHAM KAPOWSIN HIGH SCHOOL
Domestic and Irrigation
Proposed Tariff
May 2010
(Estimated from 2009 Usage)

	A	B	C	D	M	N	O
1						Total Due Under Sept 2009 Proposal - 65% Rate Increase	Total Due Under May 2010 Proposal - 123% Rate Increase
2	Statement Date	Use*	3" Meter	Water (Usage)	Total Due Under Current Tariff		
3	1/1/09	Dom & Irr	70136641	1700			
4	1/1/09	Dom & Irr	136641	100			
5					\$552.75	\$639.49	\$625.74
6	2/1/09	Dom & Irr	70136641	1300			
7	2/1/09	Dom & Irr	136641	0			
8					\$548.50	\$630.24	\$621.49
9	3/1/09	Dom & Irr	70136641	100			
10	3/1/09	Dom & Irr	136641	1400			
11					\$550.20	\$633.94	\$623.19
12	4/1/09	Dom & Irr	70136641	200			
13	4/1/09	Dom & Irr	136641	1500			
14					\$551.90	\$637.64	\$624.89
15	5/1/09	Dom & Irr	70136641	400			
16	5/1/09	Dom & Irr	136641	2236			
17					\$559.86	\$654.96	\$632.85
18	6/1/09	Dom & Irr	70136641	178500			
19	6/1/09	Dom & Irr	136641	5706			
20					\$2,101.72	\$4,014.00	\$6,185.28
21	7/1/09	Dom & Irr	70136641	141600			
22	7/1/09	Dom & Irr	136641	3021			
23					\$1,765.25	\$3,281.68	\$4,808.73
24	8/1/09	Dom & Irr	70136641	255900			
25	8/1/09	Dom & Irr	136641	5700			
26					\$2,759.57	\$5,445.79	\$9,030.24
27	9/1/09	Dom & Irr	70136641	110500			
28	9/1/09	Dom & Irr	136641	3381			
29					\$1,503.96	\$2,712.99	\$3,680.24
30	10/1/09	Dom & Irr	70136641	28600			
31	10/1/09	Dom & Irr	136641	1883			
32					\$795.08	\$1,170.13	\$1,015.78
33	11/1/09	Dom & Irr	70136641	100			
34	11/1/09	Dom & Irr	136641	1612			
35					\$550.52	\$637.86	\$647.41
36	12/1/09	Dom & Irr	70136641	100			
37	12/1/09	Dom & Irr	136641	1613			
38					\$550.53	\$637.88	\$647.44
39							
40					\$12,789.84	\$21,096.60	\$28,495.83