

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

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	DOCKET NO. UW-031284 &
	)	DOCKET NO. UW-010961
Complainant,	)	(consolidated)
	)	
v.	)	
	)	
AMERICAN WATER RESOURCES,	)	
INC.,	)	
	)	
Respondent.	)	
.....	)	
	)	DOCKET NO. UW-031596
In the Matter of the	)	(consolidated)
	)	
Penalty Assessment Against Virgil R.	)	ORDER NO. 10
Fox, President, American Water	)	
Resources, Inc., in the amount of	)	ORDER REJECTING COMPLIANCE
\$3,700.00	)	TARIFF FILING
	)	
.....	)	

**BACKGROUND**

1 On November 1, 2004, the Commission entered its Order No. 08, Final Order Dismissing Complaint Against Rates in Part, Ordering Refund of “Docket Account” Set-Aside and Denying Application For Mitigation of Penalties (the Order). Among other things, the Order directed American Water Resources (AWR) “to file a tariff five days after the entry of the Order that would refund to customers \$4.40 per customer per month until the Docket Account Balance of \$125,113 plus interest is reduced to zero, at which timer the Company should file

to terminate the tariff schedule.”<sup>1</sup> The Commission granted an extension of time for AWR to file its tariff until November 12, 2004.

2 On November 15, 2004, AWR filed Sixth Revision of Tariff No. 17.1. Rather than filing a tariff in compliance with the Commission’s Order, AWR filed a tariff under which AWR would issue an immediate credit in the amount of \$34.00 to each customer from the funds that are currently in the Docket Account. The remaining amounts to be refunded would be paid out via a monthly credit of \$4.40, beginning with the monthly bills to be issued in late December. The proposed tariff bears an effective date of December 19, 2004, and expiration upon repayment of \$73,773 principle plus interest at 7.53%.

3 On November 16, 2004, AWR filed a petition for review of the Commission’s Order No. 8 in Docket Nos. UW-031284, UW-010961 and UW-031596 (consolidated) with the Superior Court of Lewis County.

4 In response to concerns raised by Commission Staff in its review of the November 15 tariff filing, on November 19, 2004, AWR filed substitute Fifth Revision of Sheet No. 2, Sixth Revision of Sheet No. 17.1, and Fourth Revision of Sheet No. 18.1. The sheets are substantively similar to those filed on November 15, 2004, bear an effective date of December 19, 2004, but do not contain an automatic expiration provision.

5 On November 19, 2004, Commission Staff filed its response to AWR’s compliance filing. Based on its review, Commission Staff concluded that AWR’s substitute tariff filing made on November 19, 2004, meets the requirements of the Commission’s Order No 08.

6 On December 3, 2004, AWR filed a corrected Sixth Revised Sheet No. 17.1 and corrected Fourth Revised Sheet No. 18.1. The sheets contain a \$34.00 refund per

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<sup>1</sup> Order No. 8, Par. 162

customer for the November 2004 billing period only, state that the sheets are filed in compliance with the Commission order under Docket Nos. UW-031284 and UW-010961, and bear an effective date of December 19, 2004.

- 7 The Commission rejects the tariff revisions filed by AWR with the Commission on December 3, 2004, because the filing is inconsistent with the Commission's Order No. 08. As this matter is on appeal before the Superior Court of Lewis County, the Commission has lost jurisdiction to amend its Order No. 8, and cannot entertain AWR's alternative tariff proposal. The Commission directs AWR to file its tariffs, within 10 days of entry of this order, as stated in Commission Order No. 8.

**ORDER**

- 8 THE COMMISSION ORDERS That the tariff revisions refiled by American Water Resources on December 3, 2004, are rejected because they are not in compliance with Order No. 08 in this proceeding.
- 9 THE COMMISSION ORDERS FURTHER That AWR file tariffs consistent with Commission Order No. 08, within 10 days of entry of this order.

DATED at Olympia, Washington, and effective this 20th day of December, 2004.

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner