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BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

ILIAD WATER SERVICES, INC.,

Respondent.

DOCKET UW-060343

REPLY TO PETITION FOR REVIEW AND
CLARIFICATION OF INTERLOCUTORY
ORDER 04

By a Petition filed March 9, 2007, Commission Staff has requested that the Commission review and clarify, and in some ways reverse, the Commission's Interlocutory Order 04. Iliad Water Services, Inc. ("Iliad" or "Company") does not have the resources to devote a great deal of time responding to yet another round of pleading in this docket. However, Iliad will offer general observations.

In summary, Commission Staff seems to have two concerns, one short term and another long term. The short term concern is the deadline of May 1, 2007. Iliad can understand a concern about meeting a May 1, 2007 deadline. Iliad is willing to work with Commission Staff and, if some delay is needed by Commission Staff, Iliad does not object to that extension.

On the larger scale, Iliad is very disappointed in Commission Staff's Petition. The Commission's Interlocutory Order 04 presented Commission Staff with a wonderful opportunity to be creative in fashioning an approach to working with small water companies. The Commission has given

1 Commission Staff the opportunity to work in cooperation with Iliad to find ways to be sure that the
2 customers are well served. Instead of greeting that opportunity with enthusiasm, Commission Staff
3 returns to traditional rate of return, rate base regulation. If anything is clear, it is that the traditional
4 regulatory concepts are strained to the breaking point when applied to small water companies.¹

5 A. Rate Review.

6 The Commission Staff complains about the direction to work with the company to determine
7 whether additional rates are needed. Commission Staff believes this is contrary to traditional regulatory
8 concepts. From Iliad's perspective, Commission Staff should welcome the opportunity to work
9 cooperatively to determine what is in the best interest of the customers. By working cooperatively,
10 Commission Staff is not giving up its role of recommending to the Commission what it believes may be
11 "fair, just, reasonable and sufficient." There are two ways to look at customer interest. One is short run
12 -- trying to keep the rates as low as possible based on traditional regulatory concepts. The second is
13 long run -- attempting to ensure that the customers receive good, quality service with a safe product at
14 rates that are affordable, albeit perhaps higher than the rates that might be offered by a larger system.
15

16 B. Management Review.

17 The Commission Staff implores the Commission to redefine what Staff is to do by redefining
18 that task in terms of traditional regulatory terminology. Iliad wonders why that is needed. For example,
19 Staff expresses concern about what its role is in reviewing the management relationships of Iliad;
20 decrying the ability to do a management audit. From a common sense perspective, it seems clear that
21 because the record shows that Mr. Derek Dorland is both the manager of Iliad and an employee of Iliad,
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25 ¹ Iliad notes with some irony Commission Staff's position that it lacks sufficient resources to undertake what the Commission
26 has requested, yet has sufficient resources to prepare a well-written, well-footnoted petition defending traditional regulation
concepts.

1 Inc., a rational question is whether there is sufficient management time being devoted to the operation of
2 Iliad. That is a reasonable inquiry that Iliad welcomes. Another issue that seems apparent from the
3 Commission's Interlocutory Order 04 would be whether there is sufficient staffing devoted to Iliad's
4 operations and whether the ratepayers might be better off with slightly higher rates and a larger staff.
5 Again, those are questions that Iliad welcomes. A redefinition of the objective in traditional regulatory
6 terminology is not needed.
7

8 C. Affiliated Relationships.

9 Commission Staff expresses some confusion over what the Commission has requested related to
10 Iliad, Inc. From Iliad's perspective, this is an issue that Iliad does not find that hard to understand. The
11 Commission's Interlocutory Order 04 appears to seek a more detailed explanation of the relationship
12 between Iliad, Inc. and Iliad Water Services, Inc. than is currently in the record before the Commission.²
13 Again, this is a reasonable request that Iliad has no problem responding to.³
14

15 D. Surcharge Analysis.

16 Iliad had proposed to work on the surcharge with the best information available to provide
17 answers as soon as possible. Iliad made its suggestion with the concept that numbers would need to be
18 tried up as information became certain. Certainly, Commission Staff has done a detailed analysis of the
19 surcharge request as is evidenced by the many exhibits submitted by Mr. Kermode. That work and the
20 work the Company has done to date could serve as a starting point for moving forward.
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23 ² Iliad does not interpret the Commission's request to be an audit of Iliad, Inc., which would be of questionable authority.

24 ³ The people who were staff members at the Commission Staff and Department of Health at the time are no longer serving
25 those agencies. However, one thing of note is that the structure of Iliad Water Services, Inc. and its relationship to Iliad, Inc.
26 were discussed with both Commission Staff and DOH prior to Iliad Water Services being formed. It was only after receiving
an affirmation that the structure and relationship would fit with the regulatory goals of those two agencies, at least at that
time, was Iliad Water Services formed. That history does not prevent a reexamination of the relationship and a more fuller
explanation for the Commission's edification.

1 This is certainly the first time that Iliad has ever heard that it was Staff's expectation that the
2 Company would not make a new tariff filing until perhaps as late as the fall of 2008.⁴ Iliad made a tariff
3 filing in 2004 for this surcharge. Commission Staff identified concerns about the filing and the
4 Company withdrew that filing to try to address those concerns. A second filing was then prepared and
5 submitted. This filing was initially supported by Commission Staff, but the Commission raised
6 significant questions which caused a more thorough review and led us, ultimately, to the Interlocutory
7 Order 04. Now Commission Staff apparently does not want to seize the opportunity to work
8 cooperatively with the Company. Instead, in Staff's view, the Company is to go through the traditional
9 process and make a filing after everything is known sometime in 2008. This third trip to the rock pile to
10 find the rock that fits is difficult to contemplate.

11
12 Iliad is also concerned about the possible effect of the Commission's Order on the Department of
13 Health (DOH). As the Commission is aware, Iliad is under a DOH construction order. The concern is
14 that if the message is sent that the whole Commission regulatory process must start up anew, sometime
15 in the future, then DOH will enforce its construction order against Iliad and require the immediate
16 construction of the facilities. This would take away the availability of the Safe Drinking Water
17 Revolving Fund. Iliad is trying to coordinate its relationship with DOH with the Commission's
18 regulatory process. Iliad believes the best way to do that is through the process that the Commission set
19 out in its Interlocutory Order 04.⁵
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24 ⁴ Staff Petition at ¶10.

25 ⁵ This is not to suggest that Iliad does not understand that it should have undertaken this effort earlier. That message is very
26 clear to Iliad. The Company is trying to make sure it never repeats its prior mistakes. However, the current situation is the
reality that Iliad must deal with today.

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CONCLUSION

Iliad suggests that the Commission grant Commission Staff's short-term concern about the May 1 reporting date. Iliad does not have a specific date to recommend, but instead suggests that the Commission direct Commission Staff and Iliad to meet to determine a recommended date.

Iliad respectfully requests that the Commission deny the remainder of Commission Staff's Petition.

Respectfully submitted this 15th day of March, 2007



Richard A. Finnigan, WSB #6443
Attorney for Iliad Water Services, Inc.