

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of

ILIAD WATER COMPANY, LLC,

Applicant,

For the Sale and Transfer of Assets to
BLUE ROCK, LLC

DOCKET UW-200378

ORDER 01

GRANTING APPLICATION FOR
SALE AND TRANSFER OF ASSETS;
ADOPTING TARIFF

BACKGROUND

- 1 On April 22, 2020, Iliad Water Company, LLC, (Iliad Water or Company) and Blue Rock, LLC, (Blue Rock) (collectively, the Companies) filed with the Washington Utilities and Transportation Commission (Commission) an application for sale and transfer of assets pursuant to the provisions of RCW 80.12. (Application).
- 2 Iliad Water serves approximately 900 customers on 23 water systems located in Clallam, Kitsap, Snohomish, Pierce, King, Island, Jefferson and Lincoln County. Blue Rock intends to acquire the water system assets of Iliad Water. If the Commission approves the sale and transfer of Iliad Water to Blue Rock, Blue Rock will be subject to any obligations the Commission imposed on Iliad Water.
- 3 The transfer of ownership is the result of a non-judicial binding agreement (Binding Agreement) in which ownership of Iliad Water is transferred from Iliad, Inc., to Blue Rock. The Companies explained several benefits of the sale and transfer of assets. First, Blue Rock desires to own and operate water systems on an ongoing basis and Iliad Water's current owners no longer desire to own and operate the water system. Second, Blue Rock Water has retained current field employees who perform operations and maintenance, and its staff is familiar with the Company's operations.
- 4 Iliad Water notified its customers of the change in ownership in a mailing on April 22, 2020. That notice also included a proposed name change from Iliad Water Company, LLC, to Blue Rock Water Company, LLC, along with new addresses and contact information. The name change was also a condition of the Settlement Agreement.

The closing date of the transfer per the Binding Agreement was April 22, 2020. The transfer of assets and real property includes plant, equipment, and land or easements for all water systems owned by Iliad Water.

5 Commission staff (Staff) reviewed the documents filed and determined that RCW 80.12.020 requires that the Commission authorize the ownership transfer under. The statute provides as follows:

(1) No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public service company, without having secured from the commission an order authorizing it to do so.

6 The Company disagrees with Staff that the change in ownership falls under 80.12, and instead characterizes the ownership change as a transfer of securities under RCW 80.08.040, which does not require Commission authorization.¹ After further discussion between the Company and Staff, the Company filed a request for an “informal ruling from the Commission as to whether the events surrounding the change in ownership of Iliad Water to Blue Rock constitutes a transfer of property under RCW 81.12.020 or not.”² Staff interprets RCW 81.08.040 to govern only the issuance of stock and stock certificates, and therefore does not believe that it applies to LLCs. The Binding Agreement itself states that:

Property Included in the Transfer. In addition to transferring its ownership interests in Iliad Water Co., Iliad will transfer all of Iliad Water Co.’s assets, including but not limited to easements, franchises, wells, all pumps and appurtenances, cash, bank account information, water rights, receivables, customer accounts and records, job files, maps, master water systems files, contracts, accounting records, databases, meter reading equipment, bank statements, financial statements, tax returns, assets on hand or held in financial accounts as of January 13, 2020 (the date of the CR 2A Agreement) to the New Entity, with the exception of the items described in Paragraph 4(b) below

¹ Letter from Richard Finnigan to Mark Johnson, dated May, 29, 2020.

² Letter from Richard Finnigan to Mark Johnson, dated June 12, 2020.

(“**Transferred Items**”).³

Therefore, Staff recommends the Commission find that the transfer of ownership of Iliad Water to Blue Rock requires Commission authorization under RCW 80.12.020.

7 Pursuant to RCW 80.12.020 and WAC 480-143-170, applicants proposing a transaction of this sort must “at least demonstrate no harm to the public interest.”⁴ The Commission also looks to the new Company’s financial and managerial fitness to run the operations.⁵

8 Commission Staff has reviewed the application and determined that the Companies have sufficiently demonstrated there are substantial benefits to the transfer. Accordingly, Staff recommends the Commission authorize the transfer of ownership.

9 Blue Rock also proposes to change the name of the entity providing water service to customers from Iliad Water Company, LLC, to Blue Rock Water Company, LLC. Staff recommends the Commission authorize the name change and require the Company to update the Company tariff to reflect the new name, address, and contact information.

DISCUSSION

10 As a threshold matter, we find that the transfer of ownership from Iliad, Inc., to Blue Rock requires Commission authorization. Like Staff, we interpret RCW 81.08.040 to apply only to a corporation’s issuance of stocks, stock certificates, bonds, notes, or other evidence of interest, ownership, or indebtedness. Here, Iliad Water made no such issuance. Rather, the Companies seek approval of a wholesale transfer of *all* of Iliad Water Co.’s assets to Blue Rock. The transfer clearly falls within the scope of RCW 81.12.020(1), which provides that public service companies may not sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties, or facilities that are necessary or useful to performing its public duties.

11 We agree with Staff’s recommendation and authorize the ownership transfer. Based on Staff’s review, it appears the transaction exceeds the “no harm” standard and is in the public interest. Blue Rock is a water company subject to Commission regulation that has

³ Nonjudicial Binding Agreement, No. 15-4-06410-7 SEA starting on page 5, line 15

⁴ *In Re Application of Monterra, Inc. and Cascadia Water, LLC*, Docket UW-190116, Order 01, approving application for Sale and Transfer of Assets: Adopting Tariff and Approving Corporate Restructuring at 7 (April 11, 2019).

⁵ *Id.*

retained current field employees who perform operations and maintenance and its staff is familiar with Iliad Water's operations. We note that this Order approves only the change in ownership and transfer of assets, and neither approves nor disapproves the reasonableness of any fees, charges, rates, or accounting allocations related to the transaction. The Commission reserves the right to review those fees, rates, or accounting allocations in a future rate proceeding.

12 We further agree that under new ownership, a name change is appropriate and in the public interest.

FINDINGS AND CONCLUSIONS

- 13 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including water companies.
- 14 (2) Iliad Water is an investor-owned water company and is a public service company subject to Commission jurisdiction.
- 15 (3) On April 22, 2020, Iliad Water notified its customers by mail of the change in ownership and name change, and provided updated contact information.
- 16 (4) Blue Rock Water will retain all of the water system assets of Iliad Water.
- 17 (5) As a result of this ownership and name change, Blue Rock Water will adopt Iliad Water's rates and charges under its tariff.
- 18 (6) This matter was brought before the Commission at its regularly scheduled meeting on June 25, 2020.
- 19 (7) The proposed transfer and tariff rate adoption will have an effective date of April 17, 2020. For accounting purposes, the Company's accounting records will be transferred and effective on April 17, 2020.
- 20 (8) The application meets the requirements of RCW 80.12 and the rules and regulations of the Commission WAC 480-143.

- 21 (9) Blue Rock must file by September 1, 2020, a new tariff in the name of Blue Rock Water Company, LLC, that reflects new and correct contact information.
- 22 (10) After reviewing the filing by Iliad Water in Docket UW-200378 on April 22, 2020, and giving due consideration, the Commission finds that the Application of the Sale and Transfer of Assets by Iliad Water to Blue Rock Water is consistent with, and demonstrates no harm to, the public interest and should be approved.

ORDER

THE COMMISSION ORDERS:

- 23 (1) The Commission authorizes the change in ownership and transfer of the assets of Iliad Water Company, LLC, to Blue Rock, LLC, consistent with the Application filed on April 22, 2020, and consistent with RCW 80.12.020. No material change, revision, or amendment to the Application shall become effective without the Commission's prior written approval.
- 24 (2) The Commission approves the name change of Iliad Water Company, LLC, to Blue Rock Water Company, LLC, and authorizes the Company's adoption of Iliad Water, LLC's rates and charges under its tariff to be effective on the date of this Order.
- 25 (3) Blue Rock Water Company, LLC, must file by September 1, 2020, a new tariff in the name of Blue Rock Water Company, LLC.
- 26 (4) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it. Nor shall this Order be construed as an agreement to any estimate or determination of costs, or any valuation of property claimed or asserted.
- 27 (5) The Commission retains jurisdiction over the subject matter and Iliad Water Company, LLC, and Blue Rock Water Company, LLC, to effectuate the provisions of this Order.
- 28 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective June 25, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary