

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET UW-090819
)	
Complainant,)	ORDER 02
)	
v.)	ORDER DISMISSING COMPLAINT AND ORDER SUSPENDING TARIFF REVISIONS; ALLOWING TARIFF REVISIONS; REQUIRING RECORD KEEPING; GRANTING EXEMPTIONS FROM RULES
AQUARIUS UTILITIES, LLC,)	
)	
Respondent.)	
.....)	

BACKGROUND

- 1 On May 26, 2009, Aquarius Utilities, LLC (Aquarius or Company), filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-1.
- 2 The Company serves 879 water customers in Clallam, Kitsap and Mason counties. The proposed rates are prompted by increases in operating and administrative costs such as payroll and benefits, insurance and county permitting fees since the last rate increase. The Company’s last general rate increase became effective on August 15, 2008.
- 3 On June 25, 2009, the Commission entered a Complaint and Order Suspending Tariff Revisions pending an investigation to determine whether the revisions are fair, just, reasonable and sufficient.
- 4 After review and discussions, Staff and the Company agreed to a revised revenue requirement of \$21,150 (4.7 percent) in additional annual revenue and revised rates. On September 9, 2009, the Company filed revised rates at Staff recommended levels. Staff and the Company agreed to an October 13, 2009, effective date so as to coincide with the Company’s normal billing cycle.
- 5 Staff’s revised rate design is significantly different from the Company’s original proposal to customers. Staff’s revised rate design adjusts the water usage blocks, increases usage

rates in each usage block, removes the fourth usage block, and decreases the rate for the base charge.

- 6 A customer using 566 cubic feet of water per month (the calculated Company-wide average water usage) would pay \$1.60 (3.7 percent) more per month using the revised rates instead of \$4.50 (10.4 percent) more using the original rates proposed by the Company.
- 7 The Company leases a facility in Poulsbo, Washington, from Mr. Roats, owner of Aquarius Utilities, LLC, at \$2,100 per month. Affiliated interest transactions have long been subject to particular scrutiny in utility regulation. The lack of an arms-length relationship between contracting affiliates, and the resulting temptation to avoid hard bargaining that might be available in a competitive market may result in higher expenses to the business that must be paid for by the ratepayers.
- 8 This Commission has consistently used RCW 80.16.030 to protect ratepayers from possible harm from affiliated transactions. The regulated company bears the burden of demonstrating that the payment for services to an affiliated interest is reasonable. The standard for determining a reasonable price is the lower of the competitive market price or the affiliate's costs plus a fair return. *Washington Utilities and Transportation Commission v. Washington Natural Gas Co.*, Docket No. UG-911236, Third Supplement Order (September 1992). Absent proof of reasonableness, the commission may disallow in whole or in part the payment to the affiliate.
- 9 Staff adjusted to a lower amount, the per-books lease payments paid by the Company to Mr. Roats. This new lease payment is based on a competitive market price for like facilities within the same area. The Company and Mr. Roats have agreed to this new lease payment of \$1,325 per month.
- 10 Repayments of the Company's four Drinking Water State Revolving Fund (DWSRF) loans rely on separate revenue sources. The revenue sources are:
 - Monthly surcharges paid by current and future customers;
 - Facilities charges paid by future customers; and
 - Future equity investment by the owner.

- 11 Staff's examination of the Company's supporting financial documents, books and records found the following issues relating to the Company's management of DWSRF surcharges and facility charges it collected from customers:
- The Company co-mingled their accounting records, making it very difficult to separate daily operations from DWSRF loan projects;
 - DWSRF surcharge funds were held between 30 and 60 days before being deposited into a separate DWSRF loan reserve bank account; and
 - Billing errors by the Company resulted in the wrong tariff rates and DWSRF surcharge amounts being collected from customers. DWSRF loan repayment fund levels are now insufficient to service the four DWSRF loans and operate appropriately in the future.
- 12 Staff recommends that the company be subject to maintain DWSRF records of both revenues and expenses in a manner that will allow the company to provide in their next rate case a detailed breakdown, by account, separate from the normal daily operating costs because of the above-mentioned circumstances.
- 13 Staff intends to open an investigation into the Company's business practices to resolve possible tariff violations, and will bring back any resulting recommendations to the Commission for its consideration.
- 14 The Company is seeking to increase its facilities charge from \$1,450 to \$2,950, which is in line with other companies the Commission regulates and historical construction cost indexes. A facilities charge is a one-time charge assessed to new customers to pay for capital improvements required to serve new customers. Under Order 01 in Docket UW-081416, the company applies the facilities charge revenues to repayment the DWSRF loans. It has been 15 years since the facilities charge has been updated.
- 15 Aquarius notified its customers of the rate increase by mail, on May 22, 2009. The Commission received eleven (11) customer comments on this filing; ten are opposed, and one supports the proposed increase.

16 Under WAC 480-110-425, a water company must provide each affected customer a notice at least thirty days before the requested effective date of the proposed rate increase. The Company seeks such an exemption from customer notice requirements, so that the tariff revisions become effective on October 13, 2009. The Company originally notified customers of the proposed rates filed on May 26, 2009, and requests waiver of customer notice of the revised rates. The Company proposes to notify customers on their next billing.

FINDINGS AND CONCLUSIONS

- 17 (1) The Washington Utilities and Transportation 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. *RCW 80.01.040, RCW 80.04, RCW 80.08, RCW 80.12, RCW 80.16 and RCW 80.28.*
- 18 (2) Aquarius is a water company and a public service company subject to Commission jurisdiction.
- 19 (3) This matter came before the Commission at its regularly scheduled meeting on September 24, 2009.
- 20 (4) The tariff revisions presently under suspension are fair, just, reasonable and sufficient because Aquarius has demonstrated that they require additional revenue and have filed revised rates at Staff's recommended levels.
- 21 (5) Staff's examination of the Company's supporting financial documents, books and records found the following issues relating to the Company's management of DWSRF surcharges and facility charges it collected from customers:
- The Company co-mingled their accounting records, making it very difficult to separate daily operations from DWSRF loan projects;
 - DWSRF surcharge funds were held between 30 and 60 days before being deposited into a separate DWSRF loan reserve bank account; and

- Billing errors by the Company resulted in the wrong tariff rates and DWSRF surcharge amounts being collected from customers. DWSRF loan repayment fund levels are now insufficient to service the four DWSRF loans and operate appropriately in the future.
- 22 (6) Staff recommends that the company be subject to maintain DWSRF records of both revenues and expenses in a manner that will allow the company to provide in their next rate case a detailed breakdown, by account, separate from the normal daily operating costs because of the above-mentioned circumstances.
- 23 (7) After reviewing the tariff revisions Aquarius filed in Docket UW-090819 and giving due consideration, the Commission finds it is consistent with the public interest to dismiss the Complaint and Order Suspending Tariff Revisions in Docket UW-090819, dated June 25, 2009, and allow the tariff revisions Aquarius Utilities, LLC, filed in this docket on May 26, 2009, for facilities charges; and revised tariff revisions filed in this docket on September 9, 2009, to become effective on October 13, 2009.
- 24 (8) WAC 480-110-425 requires water collection companies to provide customers with thirty days notice of a proposed rate increase. WAC 480-07-110 authorizes the Commission to grant an exemption from the provisions of any rule in WAC 480-110, if consistent with the public interest, the purposes underlying regulation and applicable statutes.

O R D E R

THE COMMISSION ORDERS:

- 25 (1) The Complaint and Order Suspending Tariff Revisions in Docket UW-090819, entered on June 25, 2009, is dismissed.
- 26 (2) The tariff revisions Aquarius Utilities, LLC filed in this docket on May 26, 2009, for facilities charges; and revised tariff revisions filed in this docket on September 9, 2009, shall become effective on October 13, 2009.

- 27 (3) After the effective date of this Order, Aquarius Utilities, LLC is granted an exemption from WAC 480-110-425, concerning customer notice requirements. Aquarius Utilities, LLC, shall notify customers on their next billing.
- 28 (4) After the effective date of this Order, Aquarius Utilities, LLC is required to maintain the DWSRF records of both revenues and expenses in a manner that will allow the company to provide in their next rate case a detailed breakdown, by account, separate from the normal daily operating costs.

DATED at Olympia, Washington, and effective September 24, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner