



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

August 22, 2016

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Solmar Water System, Inc.*

Commission Staff's Response to the Notice of Opportunity to Respond to Request for Review of Docket UW-160533

Dear Mr. King:

On July 27, 2016 the Company submitted a Petition for Administrative review, requesting reconsideration of Order 01. In its petition, Solmar requests that the Commission "reconsiders the discussion to deny my hearing and evaluate UTC's electronic filing system."

Solmar's petition asks that the Commission reconsider its denial of the Company's request for a hearing on the Company's failure to timely file its annual report. The Company further requests that the Commission conduct a review to evaluate the Commission's electronic filing system. The Company charges that the commission is in violation of WAC 480-07-140(1)(a) by not having a system for companies to file documents electronically. The Company alleges that companies cannot "file" documents electronically; rather, companies can only "submit" documents electronically.

Staff does not believe the Company's concerns require a hearing. Despite any good-faith attempts the Company may have taken to submit its annual report before the May 2, 2016, deadline, the Company's annual report was not submitted to the Commission until June 15, 2016. As stated in Order 01, "no issues of law or fact are in dispute" and, therefore, no issues of law or fact require consideration of evidence and resolution in hearing. In its petition, the Company provided no new information regarding a dispute of law or fact. Therefore, Staff recommends that the Commission uphold its decision to deny a hearing.

Regarding Solmar's allegation that the commission is in violation of its own rules, and by way of background, WAC 480-07-140(1)(a) provides that a company can file documents with the Commission electronically using the Commission's records center web portal if that submission

is not part of an adjudicative proceeding. WAC 480-07-140(1)(b) permits sending documents electronically to the Commission using the web portal if the submission is part of an adjudicative proceeding. As the annual report required under WAC 480-110-505 is not an adjudicative matter, WAC 480-07-140(1)(a) is the pertinent administrative code in this case.

The Company's allegation is false. Any company can file its annual report using the Commission's records center web portal – more than 280 companies have done so this year. Contrary to the Company's assertion in its petition, when a company "submits" its annual report through the web portal, that company has in fact "filed" its annual report with the Commission.¹ Solmar did not "submit" (or, equivalently, "file") its annual report to the commission until six weeks after the filing deadline.

Solmar's difficulty using the commission's e-filing system notwithstanding, commission rules 480-07-140(d) clearly state that the commission will also accept filing or submission received via e-mail.² Staff notes that filings and submissions can be mailed to the records center or hand delivered. Even though Solmar received an email on April 29, 2016, indicating that it had not submitted the required annual report,³ the Company failed to remedy the situation by submitting the required documents to the commission through one of the other available avenues.

It is Staff's recommendation that the request for hearing is denied and that the findings in Order 01 are upheld.

If you have any questions regarding this recommendation, please contact Sean Bennett, Regulatory Analyst, at (360) 664-1157, or sbennett@utc.wa.gov.

Sincerely,



Sondra Walsh, Director
Administrative Services

¹ This language and process can be found in WAC 480-07-140.

² WAC 480-07-140(1)(d). This subsection is relevant in this case, since the company submitted its annual report via email on June 15, 2016.

³ The Commission's records center web portal automatically confirms with the submitter what documents have been filed and submitted with the Commission. The web portal sends an email, confirming receipt of the e-filing submission including a confirmation ID number and a summary of the documents included in the submitted filing.