

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

WASHINGTON UTILITIES AND	)	DOCKET UW-060343
TRANSPORTATION COMMISSION,)	
	)	ORDER 08
Complainant,)	
	)	AMENDED INITIAL ORDER
v.	)	REJECTING INITIAL TARIFF
	)	FILING; APPROVING AND
ILIAD WATER SERVICE, INC.,	)	ADOPTING AMENDED
	)	SETTLEMENT AGREEMENT;
Respondent.	)	REQUIRING COMPLIANCE
	)	FILING; GRANTING IN PART
	)	MOTION TO AMEND
	)	SETTLEMENT AGREEMENT
	)	AND ORDER 07
.....)	

1 ***SYNOPSIS:** This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Amended Order would approve and adopt the parties’ Amended Settlement Agreement resolving the contested issues in this proceeding, and grant in part the parties’ motion to amend Order 07. This Order denies the parties’ request that the Order become the final order in this proceeding. In addition, the Commission will separately consider the Company’s compliance filing.*

MEMORANDUM

2 **PROCEEDING:** Docket UW-060343 involves a request for a tariff revision by Iliad Water Service, Inc. (Iliad Water or Company), to assess its customers a surcharge to fund the installation of a water chlorination system.

3 **APPEARANCES.** Richard A. Finnigan, attorney, Olympia, Washington, represents Iliad Water. Michael Fassio, Assistant Attorney General, Olympia, Washington,

represents the Washington Utilities and Transportation Commission's (Commission) regulatory staff (Commission Staff or Staff).¹

- 4 **BACKGROUND AND PROCEDURAL HISTORY.** Iliad Water serves approximately 91 customers on three water systems: Alder Lake near Elbe in Pierce County, Western Stavis II and III near Silverdale in Kitsap County, and Cascade Crest near Marysville in Snohomish County.
- 5 In December 2000, the Department of Health (DOH) concluded that the wells serving the Alder Lake water system were vulnerable to contamination from surface water pathogens such as *Giardia* and *Cryptosporidium* and required Iliad Water to take certain steps, including a chlorination system, to address the contamination. The Alder Lake system serves 38 customers.²
- 6 DOH approved the Company's plan to chlorinate the water system in January 2002.³ In January 2003, the Company received a commitment from a lender to fund the project, and in August 2004, issued an invitation to bid to four companies.⁴ In October 2004, the Company filed a tariff revision with the Commission proposing a surcharge for the costs associated with the proposed chlorination system. The Company withdrew this filing in May 2005.
- 7 On March 1, 2006, Iliad Water filed tariff revisions in this docket requesting a surcharge effective April 1, 2006, to increase rates to fund the installation of a DOH-ordered water chlorination system on its Alder Lake water system. Specifically, Iliad Water requested recovery of \$132,795 through a one-time flat rate assessment of \$3,405, payable at the customer's option at \$46.26 per month for ten years. The amount of the surcharge was based on a financing commitment from a third-party private lender for a ten-year loan at 11 percent interest.

¹ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*.

² Order 07 reflected that the Alder Lake system had 40 customers. After discovering an error in the number of active and ready to serve customers, the parties identify the correct number of customers as 38. *See* Joint Motion at 1.

³ June 2007 Staff Investigation Report at 8.

⁴ *Id.*

- 8 The Commission suspended the tariff at its March 29, 2006, open meeting. The Commission convened an evidentiary hearing before Administrative Law Judge Patricia Clark on November 8 and 9, 2006, in Olympia, Washington. The Commission also held a hearing in Eatonville, Washington, on November 16, 2006, to receive public comment.
- 9 After the parties filed post-hearing briefs, Judge Clark entered Order 04, an initial order, on January 10, 2007. The Initial Order rejected the proposed tariff finding the Company had not demonstrated that the proposed rates were fair, just and reasonable, and that the Company had not acted prudently in delaying action for six years on the chlorination system or failing to consider lower cost alternative financing through the Drinking Water State Revolving Fund (DWSRF). The Commission served a notice of possible review and the Company waived the February 1, 2007, suspension date for 30 days. The Company sought administrative review, to which Commission Staff filed a response.
- 10 On February 28, 2007, the Commission entered Order 05, an interlocutory order in this proceeding, upholding the Initial Order. The Order directed Staff to conduct an investigation into the financial viability, management and organization of Iliad Water and report its conclusions by May 1, 2007. At the Company's suggestion, the Commission continued suspension of the tariff filing pending the investigation and Staff report and a determination as to whether funding was available under a DWSRF loan.⁵
- 11 On March 9, 2007, Staff filed a Petition for Review and Clarification of the Interlocutory Order, to which Iliad Water filed a Reply. On April 27, 2007, the Commission issued Interlocutory Order 06, accepting the Petition for Review, denying Staff's request that a final order be entered in the docket, providing clarification of the ordered investigation, and granting an extension to June 29, 2007, of the deadline to file Staff's report. The Commission later extended the deadline to July 10, 2007.
- 12 On May 14, 2007, DOH fined Iliad Water \$3,200 for noncompliance with its requirement that the Company build the chlorination plant.⁶

⁵ See Order 05, ¶ 6.

⁶ Narrative Supporting Settlement Agreement (Narrative), ¶ 9.

- 13 Staff filed its Investigation Report concerning Iliad Water on July 10, 2007. Staff addressed the issues the Commission identified in Orders 05 and 06, concluding that Iliad Water was not financially viable and recommending that the Company: (1) file for rate relief, (2) negotiate with Iliad, Inc., and other creditors to discharge existing debt, and (3) file an Equity Investment Plan demonstrating the Company's plans to build and maintain a positive capital structure.
- 14 On August 20, 2007, the Commission issued a Notice of Appointment of Settlement Judge and a Notice of Status Conference to facilitate final resolution of the issues in this proceeding. The Commission appointed Administrative Law Judge Dennis J. Moss as settlement judge. Judge Moss convened the status conference, as scheduled, with representatives from the Company, Staff, DOH and the Public Works Board (PWB), which administers the DWSRF.
- 15 On September 17, 2007, Iliad Water filed a general rate case in Docket UW-071885 seeking additional revenue. On November 28, 2007, the Commission suspended the filing and allowed temporary rates to go into effect, subject to refund. The Commission granted Staff's and Iliad Water's request that settlement negotiations in the general rate case be consolidated with ongoing negotiations in this docket.
- 16 As a result of settlement discussions, Staff and Iliad Water agreed to a resolution of all disputed issues in this docket and in Docket UW-071885. The parties filed a settlement agreement with the Commission in Docket UW-071885 on April 8, 2008,⁷ and the Settlement Agreement (Settlement) and accompanying Narrative Supporting Settlement Agreement (Narrative) in this proceeding on April 15, 2008, resolving all remaining issues in dispute. The Settlement is attached to this Order as Appendix 1.
- 17 On May 8, 2008, Iliad Water and Staff filed a Joint Motion to Amend Settlement Agreement and Order 07, requesting the Commission amend the Settlement Agreement to reflect revised surcharges amounts due to a corrected customer count for the Alder Lake system, deem the order approving the motion as a final order, and approve the tariff sheets filed with the motion as the Company's compliance filing. The Joint Motion is attached to this Order as Appendix 2.

⁷ An Initial Order accepting the Settlement Agreement in Docket UW-071885 was entered on April 17, 2008. The Commission entered a Notice of Finality on April 24, 2008, allowing the Initial Order to go into effect by operation of law, and approved the Company's compliance filing on April 25, allowing rates to become effective on May 1, 2008.

- 18 **JOINT MOTION.** In a joint motion requesting the Commission to amend the Settlement Agreement and Order 07, the parties notified the Commission that the Company miscalculated the number of customers in the Alder Lake system, requiring a change in the amounts of the per-customer monthly and one-time surcharges set out in the Settlement Agreement and Order 07. The parties filed a list of customers on the system, a plat map verifying the number of customers, and a revised Attachment B to the Settlement reflecting the corrected surcharge amounts. If the Commission grants the motion, the parties also requested the Commission deem the Settlement Agreement amended to reflect the surcharge amounts in the motion, deem the order approving the motion as the final order and approve the tariff sheets filed with the motion.
- 19 The Commission grants that portion of the motion requesting that the Settlement Agreement be deemed amended and that Order 07 be amended to reflect the Amended Settlement. As discussed below, the change in the surcharge amounts resulting from the change in the customer count is necessary for the Company to recover the amount required to finance construction of the water chlorination system. The Amended Settlement should be approved as the rates and charges are fair, just, reasonable and sufficient and.
- 20 The Commission denies the parties' request to deem this amended order the final order in this matter. As the parties have indicated in the motion their waiver of any administrative review rights, the Commission will enter an expedited Notice of Finality in this case if the Commission does not seek review of the decisions in this Order. After a Notice of Finality is issued, the Commission will consider by letter the tariff revisions filed with the motion as a compliance filing.
- 21 **SUMMARY OF STAFF INVESTIGATION REPORT.** In Orders 05 and 06, the Commission agreed to hold this docket open pending answers to a number of questions, including whether (1) DOH intended to forbear action on the system; (2) state-subsidized funds will be made available for the project; (3) the parties can identify the proper cost of the project; (4) Iliad Water is financially viable; (5) the Company is prudently managed; (6) Iliad Water and Iliad, Inc., should be considered a unified management; and (7) whether the current organizational structure is prudent. The Commission directed Staff to investigate these issues and file a report.

22 Staff addressed the Commission's questions and concerns in its report, making the following findings and recommendations:

- Iliad, Inc., does not assert the degree of control identified in WAC 480-110-235 over Iliad Water to consider the companies combined under a unified management.
- A reasonable estimate of the cost of the chlorination system, adjusted for known changes, would be \$120,436 if private financing is used, and \$151,890 if financed through a DWSRF loan.
- There is no evidence to indicate the Company's bid process was improper, but use of Iliad, Inc., to administer the bid creates an issue with the appearance of independence and may be a conflict of interest, which will be determined if the Company succeeds in obtaining a DWSRF loan.
- Only customers of the Alder Lake water system should pay for the cost of the chlorination system and the Company's proposed surcharge is the proper cost recovery method. The proposed one-time charge is appropriate only if the Company uses "high-cost" private financing to finance the system.⁸
- As equity financing is unavailable to the Company due to its large negative retained earnings, a DWSRF loan is the only available form of financing that provides reasonable rates. Contributions in aid of construction received through surcharges would provide a reasonable method of servicing financing through a DWSRF or private loan.
- Iliad Water is not a viable company and there is substantial doubt as to its ability to continue as a going concern with its current financial structure.
- Staff recommends that Iliad Water (1) file for rate relief, (2) negotiate with its creditors to discharge the Company's debt, and (3) file an Equity Investment Plan showing its intention to build and maintain a positive equity capital structure.

23 **AMENDED SETTLEMENT AGREEMENT.** The parties request in their Joint Motion that the Settlement Agreement be deemed amended to include the revised customer count and surcharge information included in the motion and Exhibit 2 to the Motion, which is a revised Attachment B to the Settlement. For the reasons discussed below, the parties' request is granted.

⁸ Staff does not define the meaning of "high-cost" in reference to private financing.

24 Based in part on the findings in the Staff's Investigation Report, Staff and Iliad Water agree to a financing plan for the ordered chlorination system, the rates and structure for customer surcharges to recover the costs of building the system, and of the costs of the Company's rate case. The parties also agree that Iliad Water will make equity investments in the chlorination project, the Company will report to the Commission about the payment status of agreed-upon surcharges, and that Iliad Water has partially satisfied recommendations included in Staff's Investigation Report.

25 **Financing.** Although Iliad Water has applied for a DWSRF loan with the PWB and been found eligible for such a loan, the parties agree it is unlikely that the Company can meet all of the conditions the PWB requires in order to secure this loan. As an alternative, Iliad Water agrees to finance the construction of the chlorination system through a private loan secured with Iliad, Inc., at an interest rate of five percent over twenty years.⁹

26 **Surcharges.** Under private financing, the parties agree that the cost of building the required water chlorination system on the Alder Lake water system should be recovered only from Alder Lake customers through a monthly surcharge or a one-time surcharge, at the customers' option.¹⁰ The monthly surcharge would amount to \$20.25 per month,¹¹ for a period of 240 months (20 years) or until a principal amount of \$116,575 (minus any additional capital investment by the Company over time) has been recovered. Alternatively, customers could choose to pay a one-time surcharge of \$3,067.76.¹² All one-time payments will be used to immediately pay down the principal amount due to Iliad, Inc.¹³

27 Similarly, the parties agree that Iliad Water may recover from Alder Lake system customers the rate case costs incurred in this docket through either (1) a monthly surcharge of \$4.34 per month,¹⁴ for a period of 36 months (3 years) or until the

⁹ See Settlement Agreement (Settlement), ¶¶ 15-16; see also Attachment A to Settlement.

¹⁰ Settlement, ¶ 17.

¹¹ This amended surcharge amount reflects an increase of \$1.02 from the original Settlement Amount of \$19.23. See Revised Attachment B to Settlement.

¹² See Revised Attachment B to the Settlement. This amended one-time surcharge amount reflects an increase of \$153.38 from the original Settlement Amount of \$2,914.38.

¹³ Settlement, ¶ 19.

¹⁴ This amended surcharge amount reflects an increase of \$0.21 from the original Settlement Amount of \$413. See Revised Attachment B to the Settlement.

Company has recovered its \$5,940 in rate case costs, or (2) a one-time surcharge of \$156.32, at the customer's option.¹⁵

- 28 Within 15 days after the Commission approves the Settlement, Iliad Water will give notice to customers of the chlorination system and rate case surcharges. Customers will have 30 days after receiving notice to select their preferred surcharge option for both the chlorination system and the rate case costs.¹⁶ Iliad Water will make a compliance filing with the Commission reflecting the agreed surcharges after the 30-day period has elapsed.¹⁷ Customers who select the monthly payment option may prepay or pay off the balance due on either the water chlorination or rate case costs at any time during the life of the surcharge, with no prepayment penalty.¹⁸
- 29 ***Equity Investment in the Chlorination Project.*** Iliad Water agrees to make capital investments in the chlorination project by: (1) installing service meters, which are estimated to cost \$9,975, and (2) installing new well house piping and appurtenances, which are estimated to cost \$10,450. The Settlement does not preclude Iliad Water from making other additional capital investments in the chlorination project as the opportunity arises.¹⁹
- 30 ***Reporting.*** Iliad Water agrees to file a report with the Commission concerning both the chlorination system surcharge and rate case cost surcharge within 60 days after the date customers are required to select their preferred surcharge alternative.²⁰ Iliad Water also agrees to file annual reports, due each year on the anniversary of the date the Commission approves the Settlement, detailing the repayment status of the chlorination project loan and the rate case costs.²¹

¹⁵ Settlement, ¶ 18; *See also* Revised Attachment B to the Settlement. This amended one-time surcharge amount reflects an increase of \$3.82 from the original Settlement Amount of \$148.50. There are no interest charges associated with the rate case amounts.

¹⁶ Settlement, ¶¶ 20-21.

¹⁷ *Id.*, ¶ 22.

¹⁸ *Id.*, ¶¶ 23-24.

¹⁹ *Id.*, ¶ 25; *see also* Attachment A to the Settlement.

²⁰ Settlement, ¶ 26. The report must identify how many customers chose the one-time payment option and how many customers chose the monthly payment option, as well as the remaining loan balance due to Iliad, Inc., after Iliad Water applies all one-time payments to the loan balance due to Iliad, Inc.

²¹ *Id.*, ¶ 27. The annual reports must identify all revenues collected from the surcharges, an amortization showing amounts paid toward interest and principal, and a loan balance due to Iliad, Inc.

31 ***Satisfaction of Staff Recommendations.*** The parties agree that Iliad Water has addressed, in large part, Staff’s recommendations in its Investigation Report. Specifically, Iliad Water has filed for and obtained rate relief in Docket UW-071885. Iliad Water has written off a significant amount of the debt owed to Iliad, Inc.²² While Iliad Water has not filed a formal Equity Investment Plan with the Commission, it has agreed to make equity investments in the chlorination project and may invest additional capital to improve the Company’s capital structure and reduce project costs subject to surcharge.²³ Further, Iliad Water has pledged to seek a buyer or find other investors if it does not have a positive capital structure within five years.²⁴

32 **DISCUSSION AND DECISION:** In considering settlement agreements, the Commission “may accept the proposed settlement, with or without conditions, or may reject it.”²⁵ The Commission must “determine whether a proposed settlement meets all pertinent legal and policy standards.”²⁶ The Commission may approve settlements “when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.”²⁷

33 The proposed Settlement Agreement, as amended, not only resolves the disputes over Iliad Water’s proposed tariff filing for a chlorination system surcharge, but also substantially addresses the Commission’s concerns about the Company and Staff’s recommendations in the Investigation Report.

34 Unlike other settlements, the settlement in this proceeding does not result in early resolution of the parties’ disputes, but does conserve valuable party and Commission resources that would otherwise be devoted to continuing to litigate a thorny issue that has been before the Commission for over two years (or three and a half years counting from the first filing, which was withdrawn). It is in the Company’s, customers’, and the Commission’s best interest to finally resolve the question of how

²² *Id.*, ¶ 29; *see also* Attachment C to the Settlement.

²³ Settlement, ¶ 30.

²⁴ *See* Attachment D to the Settlement.

²⁵ WAC 480-07-750(2).

²⁶ WAC 480-07-740.

²⁷ WAC 480-07-750(1).

to pay for the necessary water chlorination system and allow the Company to build the system.

- 35 There is a substantial record concerning the disputed issues in this proceeding: The evidentiary record admitted during the November 2006 hearing, the parties' briefs and petitions for review, Commission orders, the Commission Staff Investigative Report, and the Settlement and Amended Settlement, with attachments, and the Narrative filed in support of the Settlement. The record demonstrates the need for the chlorination system and the need for alternative private financing in order to build the chlorination system. The record also supports the need for Iliad Water to address its financial viability and management of its water systems. The terms of the Amended Settlement provide for appropriate financing and surcharges to pay for the required chlorination system, and demonstrate that Iliad Water has begun to address the financial and managerial issues the Commission and Staff have identified.
- 36 The primary issue in this case is whether the proposed financing and customer surcharge is fair, just and reasonable. The Initial Order rejected the Company's original proposal finding the financing unreasonable given the availability of low-cost loans through the DWSRF. The Commission acknowledged with approval the Initial Order's concerns and questioned whether a customer surcharge should be spread across all of Iliad Water's customers rather than just on the Alder Lake customers.
- 37 Staff contends a customer surcharge for only Alder Lake customers is most appropriate, as only the Alder Lake customer will benefit from the project.²⁸ Through negotiation, the parties discovered that Iliad Water may not be able to meet the conditions for a DWSRF loan and that, even with such a loan, additional costs for a performance bond would increase the cost to customers to an extent that a private low interest loan appears to be just as reasonable. A comparison of the Company's proposal in its initial tariff filing, financing under a DWSRF loan, and under the Amended Settlement is set forth in Table 1.

²⁸ Investigation Report, ¶¶ 22-26.

Table 1: Comparison of Cost of Financing Water Chlorination System²⁹

Financing Options	Interest Rate	Term of Loan	One-Time Payment	Monthly Payment	Total Payments
Initial Tariff Filing	11 %	10 years	\$3,405	\$46.26	\$5,551.20
DWSRF ³⁰	1.5 %	20 years	\$4,102.21	\$19.80	\$4,750.81
DWSRF, including rate case, performance bond costs	N/A	3 years 1 year	\$4,351.68	\$31.90	\$5,000.29
Amended Settlement Proposal	5 %	20 years	\$3,067.76	\$20.25	\$4,859.01
Amended Settlement, including rate case costs	N/A	3 years	\$3,224.08	\$24.59	\$5,015.33

38 The financing and surcharge proposal in the Company’s initial filing remains the most expensive option. The Initial Order’s decision to reject the filing, previously upheld by the Commission, should not be disturbed. Of the two remaining alternatives, the DWSRF loan and Amended Settlement proposal, the Amended Settlement proposal would result in a lower one-time payment and, when combined with other costs, a lower monthly payment. Given the likelihood that the Company cannot satisfy the conditions for a DWSRF loan, the private financing and surcharge proposal agreed to in the Amended Settlement is fair, just, and reasonable.

39 The Settlement Agreement also addresses the Company’s financial viability. The Company has agreed to make capital improvements of \$20,425 in the water chlorination system, and may make additional equity investments in the system over time, improving the Company’s capital structure. In addition, the Company has worked with Iliad, Inc., to write off certain debt and has filed for and obtained rate relief to allow the Company the revenues necessary to properly operate its three water

²⁹ The amounts in Table 1 are derived from factual information in the record, including Revised Attachment B to the Settlement. The Company’s initial filing is based on a project cost of \$132,795, while the other options are based on estimated costs, with the Settlement option including Company capital investment.

³⁰ Financing for the DWSRF loan is based on the total estimated cost of the project of \$155,884, without any capital investment by Iliad Water.

systems. The parties agree that these steps satisfy one of Staff's recommendations and partially satisfy another. The Company has not yet filed a formal Equity Investment Plan, but does commit to improving the Company's capital structure or seeking a buyer or other investors within five years. The Settlement's terms and Iliad Water's efforts should make the Company more financially viable. Such actions are in the public interest, as a financially viable company can better serve its customers in providing clean, safe water at a reasonable cost.

40 While we strongly disapprove of Iliad Water's delay in obtaining appropriate financing or seeking rate relief to fund the required chlorination system, as well as its failure to act to protect its customers over the last eight years, we commend the Company for working constructively with Staff to find a solution to this long standing issue. We also commend Staff for its efforts in identifying and working to improve the Company's financial and managerial situation. Given the parties' efforts and that the financing arrangements for the chlorination system and rate case costs appear reasonable and will work to ameliorate the Company's financial condition, we approve the surcharge proposal under the Amended Settlement Agreement, and the terms of the Settlement as a whole.³¹

41 Consistent with WAC 480-07-750, the Commission finds that its approval and adoption of the Amended Settlement Agreement is in the public interest, that the Amended Settlement Agreement is supported by an appropriate record, and that approving the agreement is lawful. The Commission concludes that it should approve and adopt the Amended Settlement Agreement to resolve the issues pending in this proceeding.

³¹ Although the Settlement is clear about how the surcharge will be applied, the customer notice should be very clear. The Settlement is silent about the surcharge option that will apply if a customer fails to make a choice within 30 days. The customer notice should clearly state that customers will be liable only for the monthly amount if they fail to make a choice, rather than the full balance. Similarly, the Settlement does not specify whether the customer notice will state that customers retain the option to prepay or pay off of the balance due for the chlorination system or rate case costs following the 30-day period. The customer notice should also include this information.

FINDINGS OF FACT

42 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

43 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate the rates, rules, regulations, practices, and accounts of public service companies, including water companies.

44 (2) Iliad Water is a “public service company” and a “water company,” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. Iliad Water is engaged in Washington in the business of supplying water services to the public for compensation.

45 (3) On March 1, 2006, Iliad Water filed revisions to its currently effective tariffs for water service to fund the installation of the water chlorination system required by the Department of Health.

46 (4) The Commission suspended the filing and set the matter for hearing.

47 (5) Administrative Law Judge Patricia Clark entered an Initial Order on January 10, 2007, rejecting the tariff filing.

48 (6) In subsequent interlocutory orders, the Commission upheld the Initial Order, but continued to suspend the filing to allow Staff to conduct an investigation into the Company’s financial, managerial and organizational status.

49 (7) After Staff issued its Investigation Report, the Commission directed the parties to engage in settlement discussions and appointed a settlement judge to facilitate the negotiation process.

- 50 (8) Iliad Water has obtained rate relief in Docket UW-071885, in which the
Commission approved a settlement allowing the Company to increase rates for
all three water systems.
- 51 (9) Iliad Water has written off a significant amount of debt owed to Iliad, Inc.
- 52 (10) On April 15, 2008, the parties filed a Settlement Agreement in this matter that,
if approved, would resolve all pending issues in the proceeding.
- 53 (11) On May 8, 2008, the parties filed a Joint Motion to Amend Settlement
Agreement and Order 07, to reflect a change in the surcharge amounts due to a
change in customer counts for the Alder Lake water system.
- 54 (12) The existing rates for water service Iliad Water provides are insufficient to
allow the Company to construct the ordered water chlorination system,
demonstrating a need for a customer surcharge for this project and for a
surcharge to recover the costs of the rate case.

CONCLUSIONS OF LAW

- 55 Having discussed above all matters material to this decision, and having stated
detailed findings, conclusions, and the reasons therefore, the Commission now makes
the following summary conclusions of law, incorporating by reference pertinent
portions of the preceding detailed conclusions:
- 56 (1) The Washington Utilities and Transportation Commission has jurisdiction over
the subject matter of, and parties to, these proceedings.
- 57 (2) The surcharges and underlying financing proposed in tariff revisions Iliad
Water filed March 1, 2006, and suspended by prior Commission order, were
not shown to be fair, just or reasonable and should be rejected.
- 58 (3) The existing rates for water service that Iliad Water provides in Washington
are insufficient to allow the Company to construct the required water
chlorination system on the Alder Lake water system.

- 59 (4) The Settlement Agreement the parties filed in this proceeding on April 15, 2008, as amended by the parties' May 8, 2008, Joint Motion, if approved, would result in rates for Iliad Water's Alder Lake system customers that are fair, just, reasonable and sufficient, and that are neither unduly preferential nor discriminatory.
- 60 (5) Iliad Water has begun to address the Commission's and Staff's concerns about the Company's financial viability through obtaining rate relief and writing off a significant amount of debt. The terms of the Amended Settlement Agreement will allow the Company to further address these concerns.
- 61 (6) The Commission should approve the Settlement Agreement, attached as Appendix 1 to this Order, as amended by the parties' May 8, 2008, Joint Motion, attached as Appendix 2, and incorporated by reference as if set forth here, as a reasonable resolution of the issues presented.
- 62 (7) Approval and adoption of the Amended Settlement Agreement is lawful, supported by an appropriate record, and is in the public interest.
- 63 (8) Iliad Water should be authorized and required to make a compliance filing to recover the surcharges reflected in the Amended Settlement Agreement to effectuate the terms of this Order. *WAC 480-07-880(1)*.
- 64 (9) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order. *WAC 480-07-170; WAC 480-07-880*.
- 65 (10) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *RCW Title 80*.

ORDER

THE COMMISSION ORDERS:

- 66 (1) The proposed tariff revisions Iliad Water Service, Inc., filed with the
Commission on March 1, 2006, and suspended by prior Commission order, are
rejected.
- 67 (2) The parties' Joint Motion to Amend Settlement Agreement and Order 07, filed
on May 8, 2008, is granted in part to amend the Settlement Agreement and
amend Order 07 to reflect the change in the surcharge amounts, and denied
with respect to the request that this Order be deemed the final order in this
matter.
- 68 (3) The Settlement Agreement the parties filed on April 15, 2008 (Appendix 1), as
amended by the parties' May 8, 2008, Joint Motion (Appendix 2), both of
which are attached as appendices to this Order and incorporated by reference
as if set forth in full here, is approved and adopted in full resolution of the
issues in this proceeding.
- 69 (4) Iliad Water Service, Inc., is authorized and required to make a compliance
filing including such new and revised tariff sheets as are necessary to
implement the requirements of this Order.
- 70 (5) The Commission Secretary is authorized to accept by letter, with copies to all
parties to this proceeding, a filing that complies with the requirements of this
Order.
- 71 (6) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington and effective May 12, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order, any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such an answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and (8) copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Appendix 1

Appendix 2