

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

ILIAD WATER COMPANY,
LLC,

Respondent.

DOCKET UW-190613

ORDER INSTITUTING SPECIAL
PROCEEDING; COMPLAINT
SEEKING TO IMPOSE
PENALTIES

and

NOTICE OF HEARING
(Set for January 2, 2020,
at 9:30 a.m.)

- 1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

II. PARTIES

- 2 The Commission is an agency of the state of Washington authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including water companies.
- 3 Iliad Water Company, LLC, (Iliad Water or Company) is a “public service company” within the meaning of RCW 80.04.010(23), and a “Water Company” within the meaning of RCW 80.04.010(30).

III. BACKGROUND

- 4 Iliad Water registered in the state of Washington as a limited liability company on February 4, 2016. Washington Secretary of State records list David Dorland as the governor and registered agent. Washington Department of Revenue (DOR) records show the Company as an active limited liability company, first opened on January 1, 2016, and lists David Dorland as the governing person.
- 5 According to Washington Department of Health (DOH) records, there are 870 active connections with 916 approved connections for Iliad Water’s 23 Commission-regulated water systems. DOH lists David Dorland Jr. as the owner, and Jared Hays as the manager for all 23 water systems. Iliad Water’s 2018 annual report indicates that it is a

Class B regulated water company serving 896 customers throughout 23 Commission-regulated water systems.

6 A review of Iliad Water’s complaint history reveals eight informal consumer complaints filed against the Company between November 2, 2016, and February 13, 2019.¹

7 As a result of an informal complaint, Staff concluded an investigation was necessary to determine whether Iliad Water was in compliance with state laws and rules administered by the Commission, as well as the Company’s Commission-approved tariff. Staff reviewed Company records from June 1, 2017, to March 1, 2019, and documented a total of 2,824 violations between October 17, 2017, and March 1, 2019.

8 The following allegations are based on the Staff Investigation Report filed in this docket.

I. JURISDICTION

9 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, 80.01.060, RCW 80.28.050, RCW 80.28.080, WAC 480-110-431, and Chapter 480-80 WAC.

IV. COMPLAINT

10 RCW 80.28.080(1)(a) states that no water company may “charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time ...”

11 Iliad Water’s tariff does not permit the company to charge a credit/debit card processing fee or an online payment fee.

12 Staff discovered 2,784 instances in which customers were charged these unauthorized fees.²

13 Iliad Water’s Commission-approved tariff has never allowed the Company to charge a \$25 backflow non-compliance fee. Schedule No. 8 of Iliad Water’s tariff only allows

¹ Staff Investigation Report at 5-7.

² *Id.* at 11.

- the Company to provide a notice of disconnection if its customers fail to provide annual reports for approved backflow prevention assemblies.
- 14 Staff discovered nine instances in which customers were charged unauthorized fees for backflow non-compliance.³
- 15 Iliad Water's Commission-approved tariff did not allow the Company to charge backflow assembly, testing, and inspection charges between March 20, 2017, and May 4, 2019.⁴
- 16 Staff discovered 22 instances in which customers were charged these unauthorized fees for backflow assembly, testing, and inspection.⁵
- 17 From March 20, 2017, to May 4, 2019, Iliad Water's Commission-approved tariff allowed the Company to assess a \$20 disconnection visit charge when an employee is dispatched to disconnect service, but does not disconnect the service because the customer pays the delinquent balance to the employee. The tariff also allowed Iliad Water to assess a \$20 reconnection visit charge when its employee is dispatched to reconnect service. The Company's Commission-approved tariff has never allowed Iliad Water to assess both disconnection visit charges and reconnection visit charges for the same delinquent account.
- 18 Staff discovered seven instances in which customers were charged these unauthorized disconnection and reconnection fees.⁶
- 19 Under WAC 480-110-355(3)(b), a water company must provide a second notice "that is no less than twenty-four hours after the time of delivery that allows the customer until 5 p.m. of the following day to comply" or mail a second notice.
- 20 In two cases, Iliad Water failed to properly notify customers of pending disconnections. The second disconnection notice placed on each customer's door did not allow the customer until 5 p.m. of the following day to comply with the notice.

3 *Id.*

4 On Oct. 1, 2018, Iliad Water proposed an \$85 backflow assembly testing and inspection charge in its tariff revision in Docket UW-181055; however, the Company withdrew the proposed charge in the same docket on March 26, 2019. Iliad Water eventually added a \$45 backflow assembly testing and inspection charge to its tariff; however, this charge did not go into effect until May 5, 2019.

5 Staff Investigation Report at 11-12.

6 *Id.* at 12.

V. REQUEST FOR RELIEF

- 21 Staff requests that the Commission impose a penalty of up to \$28,240 for the violations alleged above. While the law allows the Commission to assess a penalty of up to \$1,000 per violation,⁷ Staff believes the full penalty would be overly burdensome. Staff's recommendations for penalties are based on the Commission's enforcement policy.⁸
- 22 To Staff's knowledge, Iliad Water has corrected the practices that led to the violations identified in this report. Based on the Company's reported revenue, a reduced penalty should be sufficient to ensure future compliance, which is a primary goal of the Commission's penalty assessments.
- 23 Staff recommends the Commission issue a formal complaint against Iliad Water, and assess a penalty of up to \$28,240 for 2,824 violations of state laws and rules administered by the Commission, as follows:
- Up to \$27,840 for 2,784 violations of RCW 80.28.080, for charging customers credit/debit card processing fees and/or online payment fees not authorized by tariff.
 - Up to \$220 for 22 violations of RCW 80.28.080, for failing to charge customers published rates for backflow assembly, testing, and inspection.
 - Up to \$90 for nine violations of RCW 80.28.080, for failing to charge customers published rates for backflow non-compliance.
 - Up to \$70 for seven violations of RCW 80.28.080, for failing to charge customers published rates for disconnection and reconnection of service.
 - Up to \$20 for two violations of WAC 480-110-355(3)(b)(i), for failing to deliver a second disconnection notice that allows the customer until 5 p.m. of the following day to comply.
- 24 In addition to these penalties, Staff recommends the Commission order the Company to remit to affected customers a total refund of \$3,859.50 for the following violations:
- \$1,874.50 for charging customers credit/debit card processing fees and online payment fees, in violation of RCW 80.28.080.
 - \$1,630 for charging customers backflow assembly testing and inspection fees, in violation of RCW 80.28.080.

7 RCW 80.04.380

8 Staff Investigation Report at 15-17; Docket A-120061.

- \$175 for charging customers backflow non-compliance fees, in violation of RCW 80.28.080.
- \$100 for charging customers disconnection visit charges and reconnection visit charges, in violation of RCW 80.28.080.
- \$80 for charging customers both disconnection visit charges and reconnection visit charges from an invalid service disconnection, in violation of WAC 480-110-355(3)(b)(i).

- 25 Staff will provide Iliad Water with the names, service addresses, and refunds due to each affected customer at the conclusion of this investigation.
- 26 Staff further requests that the Commission order such other relief as is appropriate under the circumstances.

VI. PROBABLE CAUSE

- 27 Based on a review of Staff's investigation report and all supporting documents, and consistent with RCW 80.01.060, RCW 81.01.010, and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

VII. ORDER AND NOTICE OF BRIEF ADJUDICATIVE PROCEEDING

- 28 The Company has the right to request a hearing in this matter. Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission schedules a hearing on its own initiative and determines that a brief adjudicative proceeding is appropriate to determine whether the Commission should assess penalties for violations of the Commission's regulations.
- 29 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to, RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 30 **THE COMMISSION GIVES NOTICE That it will hold a brief adjudicative proceeding in this matter at 9:30 a.m. on Thursday, January 2, 2020, in the Commission's Richard Hemstad Hearing Room, 621 Woodland Square Loop SE, Lacey, Washington.**

31 THE COMMISSION ORDERS Iliad Water Company, LLC, to appear before the Commission in this proceeding on January 2, 2020, in the Commission’s Richard Hemstad Hearing Room, 621 Woodland Square Loop SE, Lacey, Washington, to give testimony and evidence under oath.

32 The record in this case will consist of any documents regarding the matters that are considered by or prepared for the presiding officer for the brief adjudicative proceeding and a transcript of any oral statements given at the hearing, which statements will be given under oath.

33 Written notice of any other stage in the proceeding or other formal proceedings that the Commission may deem appropriate will be given during the course of this case. The Commission will provide at its offices in Lacey, Washington copies of documents in the current record for use by the parties or others who may want to review them.

34 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07- 450.**

35 The names and mailing addresses of all known parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Representative: Nash Callaghan
Office of the Attorney General Utilities and
Transportation Division
P.O. Box 40128
Olympia, WA 98504-0128
nash.callaghan@utc.wa.gov

Respondent: Iliad Water Company LLC
1107 S. Bailey Street
Seattle, WA 98108

Representative: Unknown

- 36 The Administrative Law Judge Rayne Pearson, from the Commission's Administrative Law Division, will preside during this proceeding.⁹
- 37 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective October 16, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Gregory J. Kopta
GREGORY J. KOPTA
Administrative Law Judge

⁹ Judge Pearson can be reached by phone at (360) 664-1136 or by email at rayne.pearson@utc.wa.gov.

NOTICE

PLEASE NOTE: Hearing facilities are accessible to interested people with disabilities. Smoking is prohibited. If limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Mark Johnson, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION.)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter?

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____