

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UW-160533
SOLMAR WATER SYSTEM, INC.	ORDER 02
in the amount of \$1,000	FINAL ORDER

**BACKGROUND**

- 1 Washington Administrative Code (WAC) 480-110-505 requires regulated water companies to file annual reports and pay regulatory fees by May 1 of each year, or the first business day thereafter. Solmar Water System, Inc. (Solmar or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 13, the Commission assessed a penalty of \$1,000 against Solmar, calculated as \$100 per business day from May 2 to May 16.
- 2 On June 24, 2016, Solmar responded to the Commission’s penalty assessment, requesting a hearing and disputing the violations. The Company explained that it attempted to file its annual report electronically on April 29, but was unable to verify that the report was received. The Company criticized the Commission’s “substandard” electronic filing system, and argued that its report was timely filed.
- 3 On July 7, 2016, Commission staff (Staff) filed a response recommending the Commission assess a reduced penalty of \$25 per day, or \$250, because the Company has no prior violations of 480-110-505. Staff noted that the Company filed only a “request for company electronic contact information” and paid its regulatory fee on April 29. The Company’s annual report was neither filed nor received by the Commission until June 15.
- 4 On July 13, 2016, the Commission issued Order 01 denying the Company’s request for hearing and the Company’s contest of violations because the Company did not file its annual report until June 15. The Commission granted the Company’s request for mitigation, in part, and assessed a reduced penalty of \$25 per day, or \$250.
- 5 On July 27, 2016, Solmar filed with the Commission a petition requesting a hearing and review of Order 01 (Petition). In its Petition, the Company argues that the Commission’s

web portal, which allows for documents to be “submitted,” but not “filed,” violates WAC 480-07-140(1)(a).<sup>1</sup> The Company requests the Commission create an electronic filing system that allows companies to file annual reports electronically and provides verification of receipt.

6 On August 19, 2016, the Commission issued a Notice of Opportunity to Respond to Request for Review, which permitted Staff to file a response to the Company’s Petition.

7 On August 22, 2016, Staff filed a response to the Company’s Petition opposing the Company’s request for a hearing. Staff notes that because Commission records show the Company’s annual report was not received until June 15, no issue of law or fact is in dispute, and a hearing is unnecessary. Moreover, the Company did not provide any new information in its Petition for the Commission to consider.

8 With respect to the Company’s allegation that the Commission is violating WAC 480-07-140(1)(a) by only accepting electronic “submissions” but not electronic “filings,” Staff notes that more than 280 companies electronically filed annual reports using the Commission’s web portal this year. When a company “submits” its annual report through the web portal, it has effectively “filed” its report with the Commission. In addition, the Commission’s web portal sends an email confirming receipt of the e-filing that provides both a confirmation number and a summary of the documents received.

### DISCUSSION

9 As a preliminary matter, we deny the Company’s request for hearing. In Order 01, the Commission denied the Company’s request for hearing because there are no issues of law or fact that require consideration of evidence and resolution in hearing. That remains true despite the Company’s repeated attempt to blame its late filing on the alleged failure of the Commission’s electronic filing system. The undisputed facts demonstrate that the Commission received the Company’s annual report on June 15, 2016, well past the May 2 deadline.

10 We also uphold the findings in Order 01 related to mitigation of the penalty. In its initial request for mitigation, the Company stated it attempted to electronically file its annual

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<sup>1</sup> WAC 480-07-140(1)(a) provides that, “[y]ou may *file* documents electronically using the commission’s records center web portal (see WAC 480-07-125) if you are submitting documents that are not part of an adjudicative proceeding.” (Emphasis in original).

report on April 29, 2016, but was unable to verify that the filing was received. Staff noted in its initial response that the Company filed only a “request for company electronic contact information” on April 29, and that no report was received until June 15. In its Petition, the Company again alleges that it is impossible to electronically file annual reports. As Staff noted in its response to the Petition, that allegation is false. Moreover, the Company had other means to file its annual report, including via email, US mail, overnight delivery, or in-person at the Commission’s headquarters. In light of these factors and absent the introduction of new and compelling circumstances, there is no evidentiary basis to reverse our earlier decision.

- 11 Neither do we believe that Order 01 is unjust. The Company failed to submit a complete annual report until June 15, 2016, despite being notified via email on April 29 that its filing was not received. The Commission nevertheless exercised its discretion to assess a reduced penalty of \$250 based on the Company’s history of compliance and the fact that the Company had since come into compliance. We concur with the finding in Order 01 that the \$250 penalty is appropriate in light of these factors.

**ORDER**

THE COMMISSION ORDERS That Order 01 in this Docket is **AFFIRMED**.

DATED at Olympia, Washington, and effective August 26, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner