

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

SUMMIT VIEW WATER WORKS,

Respondent.

DOCKET UW-240589

ORDER 04

DOCKET UW-250194

ORDER 01

ORDER APPROVING SETTLEMENT;
GRANTING PETITION FOR
EXEMPTION SUBJECT TO
CONDITIONS

BACKGROUND

- 1 **Procedural Background.** On July 31, 2024, Summit View Water Works (Summit View or Company) filed with the Washington Utilities and Transportation Commission (Commission) tariff revisions that would generate approximately \$514,000 (54 percent) in additional annual revenue. Summit View provides regulated water service to approximately 630 domestic and 680 irrigation customers. The Company's last general rate filing became effective November 1, 2018.
- 2 The Company extended the proposed effective date from September 1, 2024, to October 1, 2024. This matter came before the Commission during a regularly scheduled Open Meeting and was suspended for adjudication on September 26, 2024.
- 3 The Commission convened a virtual prehearing conference on October 18, 2024, before Administrative Law Judge Connor Thompson. On October 21, 2024, the Commission issued Orders 02 and 03, establishing a procedural schedule and setting forth a protective order in this docket.

- 4 On November 21, 2024, Commission staff (Staff)¹ filed a Settlement Stipulation and Agreement (Settlement) and supporting testimony, which was agreed to by Staff and Summit View (Settling Parties). The Settlement stipulates that the parties agree to a lower revenue requirement increase of \$325,000, resolves other items previously in dispute between Staff and Summit View, and places conditions on Summit View's next general rate case filing. The Public Counsel Unit of the Attorney General's Office (Public Counsel) did not sign on to the Settlement but has not opposed the Settlement.
- 5 On January 30, 2025, the Commission held a virtual Public Comment Hearing before Administrative Law Judge Connor Thompson.
- 6 On February 21, 2025, Public Counsel filed Exhibit BR-1 in this Docket, detailing the public comments submitted. Public Counsel notes that there were 121 comments submitted, all of which were opposed to the rate increase as filed.²
- 7 On March 23, 2025, Summit View filed a Petition for Exemption (Petition), pursuant to WAC 480-80-015, WAC 480-110-215, and WAC 480-07-110. In its Petition, Summit View requests a temporary exemption from issuing bills to irrigation customers on April 1, 2025, alleging that having to issue bills by April 1st would cause the Company to forego a significant portion of its annual revenue, which it would then not be able to collect until April 1, 2026.³
- 8 **Party Representatives.** Michael S. Howard and David W. Wiley, of Williams, Kastner & Gibbs PLLC, represent Summit View Water Works. Colin O'Brien, Assistant Attorney General, Olympia, Washington, represents Staff. Tad Robinson O'Neill, Assistant Attorney General, Seattle, Washington, represents Public Counsel.
- 9 **Settlement Agreement:** The filed Settlement is agreed to by both Staff and Summit View. Staff witness Sharbono asserts that the Settlement is consistent with the public interest and should be approved.⁴

¹ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

² Bench Ex. 1, at ¶ 4; *see also* UTC Matrix Attachment A.

³ Petition, at ¶¶ 8-12.

⁴ Sharbono, Exh. BS-1T at 2:16-18.

10 In the Settlement, the Settling Parties stipulate to a revenue requirement increase of \$325,000, a decrease of \$189,000 from what was originally filed.⁵ The Settlement's rate design allocates 80 percent of the increase in costs to irrigation customers and 20 percent to domestic customers.⁶ The Settlement states that the revenue requirement includes \$112,368 in rate case costs incurred by Summit View during this case, amortized over five years, and that any unamortized balance left unrecovered by the time Summit View files its next general rate case may be recovered in that case.⁷ The Settlement also includes the following five conditions:

1. Summit View shall provide a new billing option for irrigation customers, under which irrigation customers shall have the option to subscribe to irrigation services using monthly payments in addition to existing options.⁸ Further, the new billing option will include terms which disallow cancelling the subscription during the subscribed period, but allow cancellation of any future periods during the current billing period.⁹
2. Should Eagle Butte Vineyards, an affiliate of Summit View, exist during the test year of the next rate case, Summit View will submit evidence demonstrating that Eagle Butte Vineyards was properly charged at irrigation tariff rates for its entire acreage.¹⁰
3. Summit View shall submit a representative sample of manager time tracking demonstrating the hours worked for Summit View and affiliate companies. As part of this Settlement, Staff and the Company have agreed to a template for that time tracking, which is submitted as BS-2.¹¹
4. Summit View shall submit its next rate case with a filing date no later than January 1, 2027.¹²

⁵ Settlement, at ¶ 5.

⁶ *Id.*

⁷ *Id.*

⁸ Settlement, at ¶ 6.

⁹ *Id.* The term includes an explanation that irrigation services are based on a flat fee per acre, and the new option ensures customers will pay the same regardless of which billing option is selected.

¹⁰ Settlement, at ¶ 7(C)(1).

¹¹ Settlement, at ¶ 7(C)(2).

¹² Settlement, at ¶ 7(C)(3).

5. Should Public Counsel exercise its right to oppose this Settlement, Summit View may recover additional rate case expenses specifically incurred due to that opposition.¹³

11 Witness Sharbono provides support for the conditions and Settlement as outlined below.

DISCUSSION

- 12 In considering settlement agreements, the Commission “may approve the settlement, with or without conditions, or may reject it.”¹⁴ The Commission must “determine whether they comply with applicable legal requirements and whether approval of the agreements is consistent with the public interest.”¹⁵ The Commission may approve a settlement “if it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.”¹⁶
- 13 The Settling Parties’ Settlement, attached to and made part of this Initial Order by this reference, would fully resolve the issues pending in this docket. The issues are limited to the appropriate increase in rates for service to customers of Summit View’s water system.
- 14 Further, Staff has reviewed the filing, the Company’s books and supporting records, and provided testimony supporting the Settlement. Specifically, Staff believes that the Settlement is in the public interest, in part because the Settlement’s revenue requirement is significantly less than what was filed by Summit View.¹⁷ Further, Sharbono testifies that the Settlement ends accumulation of rates case costs and limits Summit View’s recovery of legal and consulting expenses.¹⁸

¹³ Settlement, at ¶ 8.

¹⁴ WAC 480-07-750(2).

¹⁵ WAC 480-07-740.

¹⁶ WAC 480-07-750(2).

¹⁷ Sharbono, Exh. BS-1T at 3:1-5.

¹⁸ Sharbono, Exh. BS-1T at 3:5-10.

- 15 Staff also notes that the conditions agreed to will provide additional supporting data in the next general rate filing and allow Staff to address concerns raised through public comments.¹⁹
- 16 Staff provides that at the time of filing this rate case and in prior cases, Summit View allocated 73 percent of its expenses to irrigation customers and 27 percent to domestic service. Staff's review showed an allocation of 93 percent to irrigation customers and 7 percent to domestic customers was more appropriate based on the pumped gallons attributable to each service. To alleviate rate shock, Staff and Summit View agreed to the proposed 80 percent allocation to irrigation customers and 20 percent to domestic customers as being fair and justified.²⁰
- 17 In the interest of gradualism, the Commission finds that an 80/20 allocation reasonable and finds the allocation in the public interest.
- 18 Staff further provides that irrigation customers currently have two billing options, a one-time annual payment and a two-time biannual payment. Staff supports adding a third payment option, monthly payments, to alleviate rate shock from the rate increase contained in the Settlement and notes that the rate would be calculated by dividing the annual flat fee by twelve, so that each customer would be charged consistently.²¹
- 19 The Commission agrees that a monthly billing option is in the public interest for the reasons provided by Staff. Accordingly, the Commission finds the condition is in the public interest and Summit View shall implement the new billing mechanism as contemplated by the Settlement.
- 20 Regarding the condition that Summit View provide documentation regarding billing to Eagle Butte Vineyards, Sharbono states a concern of Staff and customers is the treatment of affiliated interests. Sharbono argues that the condition may be unnecessary as Summit View has indicated Eagle Butte Vineyards is closing, but the condition will ensure that if Eagle Butte Vineyards does not close, Summit View will

¹⁹ Sharbono, Exh. BS-1T at 3:11-19.

²⁰ Sharbono, Exh. BS-1T at 6:1-9.

²¹ Sharbono, Exh. BS-1T at 6:11-23.

have an affirmative obligation to demonstrate the affiliate is not being treated preferably.²²

21 The Commission agrees this condition is necessary and in the public interest to ensure Summit View does not discriminate against or treat preferentially any customer being served under Summit View's tariff.

22 Next, Sharbono provides testimony that requiring Summit View to track time for managers, using the timesheet provided in BS-2, will provide Staff a basis for adjusting management wages in future rate filings.²³

23 The Commission agrees this condition is in the public interest and is consistent with our requirements that adjustments such as increases to wages be supported by evidence showing that the adjustment is necessary and that the basis for the adjustment is known and measurable.

24 Staff also provides that requiring Summit View to file a new general rate case no later than January 1, 2027, will allow the Company to collect more information regarding operations, remove affiliated interests, and prevent continual over and under earnings.²⁴

25 The Commission agrees that the condition is in the public interest for the reasons outlined by witness Sharbono.

26 Finally, Sharbono provides that under the conditions, Summit View has agreed to limit rate case expenses to those incurred through September 2024, and those expenses will be amortized over five years. Sharbono asserts this is in the public interest and that the Company is willingly foregoing additional legal and consulting expense.²⁵

27 The Commission agrees that this condition is in the public interest and notes that Public Counsel has not opposed the Settlement. Accordingly, recovery of legal and

²² Sharbono, Exh. BS-1T at 7:4-17.

²³ Sharbono, Exh. BS-1T at 7:19-8:9.

²⁴ Sharbono, Exh. BS-1T at 8:11-20.

²⁵ Sharbono, Exh. BS-1T at 3:21-4:13.

consulting fees shall be limited to those incurred through September 2024 and recovered in the manner described in the Settlement. The Commission notes that Summit View's counsel has attended a Public Comment Hearing and filed the Petition subject to this Order since that time in addition to negotiating the Settlement and commends the Company for agreeing to forgo recovery of those costs and limit the impact to customers.

28 Staff provides testimony that the Settlement is lawful, supported by the record, and is in the public interest. Based on the testimony provided and our review of the Settlement, we find that the Settlement is lawful and in the public interest and is supported by the record.

29 The Commission finds that early resolution of the parties' dispute conserves valuable party and Commission resources that would otherwise be devoted to litigating Summit View's rate case.

30 Finally, regarding Summit View's Petition, the Commission notes and is concerned with the actions of Summit View.²⁶ The suspension date for this Docket is August 1, 2025. The Commission is acting well before that deadline. The Company's timing in filing its rate case made the possibility of not having the docket resolved prior to April 1, 2025, a very real and probable possibility.²⁷ Despite these concerns, the Commission is acting prior to April 1, 2025.

²⁶ The Commission notes that since filing of the Settlement, Summit View and its representatives have zealously advocated for expedited treatment of this matter and repeatedly inquired as to when the Commission would take action on Summit View's Settlement. This occurred during the Open Meeting and consistently after a Settlement was filed. Companies and their representatives are permitted to zealously advocate for their client. However, the Commission notes that the management of dockets and the triaging of orders for issuance is the sole province of the Commission. The repeated pressure by any party regarding the status and timing of an order could be interpreted as an attempt to influence the disposition of an ongoing Commission proceeding, undermining public faith and confidence in the impartiality of the proceeding. While perhaps not rising to this level in the context of this case, the Commission cautions against similar actions in future proceedings. Again the Commission notes that a substantial number of customers have filed public comments in this Docket, approximately one-sixth of all customers served and each one was opposed. Further, the filing of a last minute petition to estop foreseeable issues based on the statutory suspension date is not an appropriate method to accelerate Commission decision making.

²⁷ *But See* Petition, at ¶ 9 (“When the Company made its initial filing on July 31, 2024, nor when the Company settled this case with staff on November 21, 2024, it did not reasonably anticipate that the proceeding would continue through April 1, 2025, when annual irrigation bills are normally issued pursuant to Schedule 4 of its Tariff.”)

31 Accordingly, the Commission finds good cause to grant the limited relief sought by Summit View on less than statutory notice. The Commission grants Summit View a limited exemption as requested until May 1, 2025, giving time for the Company to make compliance filings consistent with this Order, and for customers to be informed of the option to be billed monthly. This treatment ensures a balance between customers and the Company's position.

32 Since the Commission grants an exemption with less than statutory notice, the Commission finds good cause to require Summit View to (1) notify customers of the modification and (2) prorate rates billed to customers, accounting for the fact that on April 1, 2025, the currently effective rates will still be in effect. The Commission recognizes that Summit View is requesting immediate relief from billing customers on April 1, 2025, however, pursuant to RCW 80.28.050 and 80.28.060, no utility may charge rates not currently in effect and published in its tariffs. Even assuming Summit View is able to make compliance filings on the date of this Order, pursuant to Commission rules, Staff and other parties will have five days to review said filings. Accordingly, it is impossible that rates can become effective prior to April 1, 2025. Pursuant to Summit View's existing tariffs, irrigation season begins April 1, 2025. Accordingly, Summit View shall prorate its May 1, 2025, bills to account for current rates charged for the month of April before Settlement rates go into effect.²⁸

FINDINGS AND CONCLUSIONS

33 (1) The 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.

34 (2) Summit View is a water company and a public service company subject to Commission jurisdiction.

35 (3) Summit View filed tariff revisions that would generate approximately \$514,000 (54 percent) in additional annual revenue, on July 31, 2024.

²⁸ Summit View shall prorate biannual and monthly bills accordingly. For example, biannual bills shall be calculated using current rates for April, plus remaining months under Settlement rates, and divided by two. Similarly, monthly bills shall be calculated in a similar manner.

- 36 (4) The Commission suspended the tariff revisions on September 26, 2024, pending investigation and hearing.
- 37 (5) On November 21, 2024, the parties filed a Settlement Agreement that, if approved, would resolve all pending issues in the proceeding and result in a reduced revenue requirement increase of \$325,000.
- 38 (6) The Settlement, attached as Appendix A to this Order, and incorporated by reference, should be approved by the Commission as a reasonable resolution of the issues presented in this matter.
- 39 (7) Approval and adoption of the Settlement and the conditions contained therein is lawful, supported by an appropriate record, and is in the public interest.
- 40 (8) Summit View should be authorized and required to file its revised tariff sheets consistent with this Order and the terms as agreed to and approved in the Settlement.
- 41 (9) On March 23, 2025, Summit View filed a Petition for Exemption, asking to be allowed to delay sending bills to irrigation customers on April 1, 2025.
- 42 (10) Summit View's Petition should be granted, allowing Summit View to extend billing irrigation customers for this year alone until May 1, 2025, to bill customers, prorating those bills to account for the month of April in which current rates remain in effect, and Summit View shall file a letter with the Commission no later than May 7, 2025, affirming that bills have been sent and prorated consistent with this Order.

ORDER

THE COMMISSION ORDERS:

- 43 (1) The Settlement filed by the parties on November 21, 2024, which is attached as Appendix A to this Order, is approved and adopted in full resolution of the issues in this proceeding.
- 44 (2) Summit View Water Works 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 within ten (10) days of the effective date of this Order.

- 45 (3) Summit View Water Works' Petition for Exemption is GRANTED.
- 46 (4) Summit View Water Works shall send bills to irrigation customers on May 1, 2025, prorating those bills to account for the month of April during which current rates remain in effect, and shall submit a compliance letter noting bills have been sent no later than May 7, 2025.
- 47 (4) The Commission Secretary is authorized to accept filings that comply with the requirements of this Order.

DATED at Lacey, Washington, and effective March 28, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Connor A. Thompson
CONNOR THOMPSON
Administrative Law Judge

NOTICE TO 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 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) 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 answer.

RCW 80.01.060(3) 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.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).

**APPENDIX A
Settlement Agreement**