

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty Assessment
Against

NEWAUKUM WATER SYSTEM, INC.

In the Amount of \$1,000

DOCKET UW-144112

In the Matter of the Penalty Assessment
Against

NEWAUKUM WATER SYSTEM, INC.

In the Amount of \$2,200

DOCKET UW-150045

SETTLEMENT AGREEMENT

I. INTRODUCTION

1 This settlement agreement (Agreement) is entered into by both parties to this proceeding for the purpose of resolving all issues raised in dockets UW-144112 and UW-150045. The two dockets share nearly identical issues of fact and law, and the Parties propose this Agreement as a full settlement of all issues in both dockets. This Agreement is subject to approval by the Washington Utilities and Transportation Commission (Commission) and is not effective before such approval.

II. PARTIES

2 The parties to this Agreement are Newaukum Water System, Inc. (Newaukum or Company) and the Staff of the Washington Utilities and Transportation Commission (Staff)

(collectively, “the Parties”).

III. BACKGROUND

A. UW-144112

3 On December 19, 2014, the Commission issued Penalty Assessment UW-144112 against Newaukum in the amount of \$1,000, alleging that the Company had charged customers a rate higher than the rate published in its tariff in violation of RCW 80.28.080. On January 5, 2015, Newaukum filed a request for hearing. On January 9, 2015, the Commission issued notice of a brief adjudicative proceeding (“BAP”) for Docket UW-144112 to be held on February 11, 2015.

B. UW-150045

4 On January 13, 2015, the Commission issued Penalty Assessment UW-150045 against Newaukum in the amount of \$2,200, alleging that the Company had charged customers a rate higher than the rate published in its tariff in violation of RCW 80.28.080. On January 27, 2015, Newaukum filed a request for hearing. On January 28, 2015, the Commission issued notice of a brief adjudicative proceeding (“BAP”) for Docket UW-144112 to be held on February 11, 2015.

5 The Parties subsequently entered into settlement discussions and reached an agreement. The full settlement is memorialized in this Agreement.

IV. AGREEMENT

6 The Parties have reached a full settlement on the issues raised in the above dockets and present their agreement for the Commission’s consideration and approval. The Parties voluntarily enter this Agreement without hearing or adjudication of any issues of fact or law to resolve the matters in dispute. The Parties therefore adopt the following Agreement to

resolve all matters in dispute between them and to expedite the orderly disposition of this proceeding.

Newaukum admits forty-four (44) violations of RCW 80.28.080. The Company admits to billing each of its twenty-two customers \$75.00, or \$20.00 more than its published tariff rate, on two separate occasions.

The Parties agree to suspend the entire \$3,200¹ in proposed penalties on the condition that Newaukum's future customer bills do not deviate from the Company's published tariff rates. Provided Newaukum adheres to its tariff, the parties agree to waive the entire penalty at the end of twelve months.² If Newaukum bills customers more than its published tariff rate within those twelve months, the full penalties of \$3,200 shall be due and payable immediately. The Parties recognize that Newaukum's published tariff rate is not static and may change within the relevant period; the Parties intend that the Company may only charge the published tariff rate in effect and on file with the Commission at the time a bill is sent to customers.

The Parties agree that Newaukum will credit all overcharges for services in November 2014 and December 2014 to its customers within four billing cycles immediately following the effective date of this Agreement. The Company overcharged each of its 22 customers by \$20 on two occasions, for a total overcharge of \$40 per customer. The Company will credit each customer's bill by \$10 over consecutive months until the full \$40 has been credited to each customer in full. If Newaukum fails to reimburse or credit each of

¹ The Penalty Assessment in Docket UW-144112 imposed \$1,000 in penalties. The Penalty Assessment in Docket UW-150045 imposed \$2,200 in penalties. The Agreement suspends the entirety of both penalties, or \$3,200 in total.

² For purposes of calculating twelve months, the first month shall begin on the first day of the first month immediately following the effective date of this agreement.

its customers as outlined in this Agreement, the full penalties of \$1,000 and \$2,200 shall be due and payable immediately.

V. GENERAL PROVISIONS

7 The Parties agree that this Agreement is in the public interest. The Parties further agree that this Agreement reflects the settlement of all contested issues between them in Dockets UW-144112 and UW-150045. The Parties understand that this Agreement—including any admissions contained herein—is not binding unless and until accepted by the Commission. If the Commission does not accept this Agreement, including all of its terms and conditions without change, then the Parties shall be free to assert their pre-settlement positions and agree that neither this Agreement nor any statements or admissions contained herein shall be admissible or used for any purpose in this docket or any other proceeding for any purpose; provided, however, that either Party may disclose the existence or terms of the Agreement when required to do so by law.

8 This Agreement does not preclude the Commission from pursuing penalties for violations of Commission rules and statutes unrelated to the subject matter of this Agreement or for subsequent violations of the rules and statutes stated above.

9 Nothing in this Agreement shall limit or bar any other entity from pursuing legal remedies against Newaukum or limit Newaukum's ability to assert defenses to such claims.

10 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

11 The Parties agree (1) to provide each other at least two business days to review in advance of publication any and all announcements or news releases that the other party intends to make about the Agreement with the right of review to include a reasonable opportunity to request changes to the text of such announcements and (2) to include in any news release or announcement a statement that the Staff's recommendation to approve the settlement is not binding on the Commission itself.

12 The Parties have entered into this Agreement voluntarily to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission Order adopting those terms. This Agreement shall not be construed against either party because it was a drafter of this Agreement.

13 By executing this Agreement, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed in arriving at the terms of this Agreement, nor shall any Party be deemed to have agreed that any provision of this Agreement is appropriate for resolving issues in any other proceeding, except to the extent expressly set forth in the Agreement.

14 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.

15 The Parties may execute this Agreement in counterparts and as executed shall

constitute one agreement. A signed signature page sent by facsimile or email is as effective as an original document.

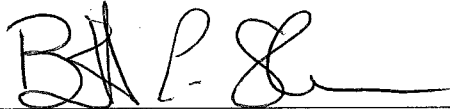
16 The Parties shall take all actions necessary as appropriate to carry out this Agreement.

17 In the event that the Commission rejects all or any portion of this Agreement, or accepts the settlement upon conditions not proposed in this Agreement, and the Parties cannot agree on revised terms to incorporate the Commission's decision, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 business days of the Order rejecting part or all of this Agreement or imposing conditions not proposed in this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and the Parties agree to request the prompt reconvening of a prehearing conference and to cooperate in developing a procedural schedule.

18

DATED this 13th day of February 2015.

ROBERT W. FERGUSON
Attorney General



BRETT P. SHEARER
Assistant Attorney General
Counsel for Washington Utilities and
Transportation Commission Staff

Respectfully submitted,

NEWAUKUM WATER SYSTEM.
INC.

Maurice Kurtz, Chairman
Newaukum Board of Directors

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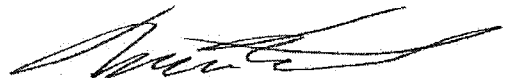
DATED this _____ day of February 2015.

ROBERT W. FERGUSON
Attorney General

BRETT P. SHEARER
Assistant Attorney General
Counsel for Washington Utilities and
Transportation Commission Staff

Respectfully submitted,

NEWAUKUM WATER SYSTEM.
INC.



Maurice Kurtz, Chairman
Newaukum Board of Directors