

Agenda Date: September 24, 2009
Item Number: A36

Docket: **UW-090819**
Company Name: Aquarius Utilities, LLC

Staff: Chris Mickelson, Regulatory Analyst
Dennis Shutler, Consumer Protection Staff

Recommendation

1. Dismiss the Complaint and Order Suspending the Tariff Revisions filed by Aquarius Utilities, LLC.
2. Approve staff recommended revised rates as filed by the company on September 9, 2009, to become effective October 13, 2009.
3. Grant the company's request for an exemption from WAC 480-110-425, Customer Notice, to allow the company to notify customers of increases in the next billing cycle.
4. Require the company to maintain the DWSRF records of both revenues and expenses in a manner that will allow the company to provide in their next rate case a detailed breakdown, by account, separate from the normal daily operating costs.

Background

On May 26, 2009, Aquarius Utilities, LLC, (Aquarius or company), filed with the Utilities and Transportation Commission (commission) tariff revisions that would generate \$50,000 (11.0 percent) in additional annual revenue. The company serves 879 water customers in Clallam, Kitsap and Mason counties. The proposed rates are prompted by increases in operating and administrative costs such as payroll and benefits, insurance and county permitting fees. The company's last general rate increase became effective on August 15, 2008.

On June 25, 2009, the commission issued a complaint and order suspending the proposed tariff revisions filed by the company on May 26, 2009.

After review and discussions, staff and the company agreed to a revised revenue requirement of \$21,150 (4.7 percent) in additional annual revenue and revised rates. On September 9, 2009, the company filed revised rates at staff recommended levels. Staff and the company agreed to an October 13, 2009, effective date so as to coincide with the company's normal billing cycle.

Staff's revised rate design is significantly different from the company's original proposal to customers. Staff's revised rate design adjusts the water usage blocks, increases usage rates in each usage block, removes the fourth usage block, and decreases the rate for the base charge.

A customer using 566 cubic feet of water per month (the calculated company-wide average water usage) would pay \$1.60 (3.7 percent) more per month using the revised rates instead of \$4.50

(10.4 percent) more using the original rates proposed by the company (see “Average Bill Comparison” table below).

Discussion

Affiliated Transactions – Facilities Lease

The company leases a facility in Poulsbo, Washington, from Mr. Roats, owner of Aquarius Utilities, LLC at \$2,100 per month. Affiliated interest transactions have long been subject to particular scrutiny in utility regulation. The lack of an arms-length relationship between contracting affiliates, and the resulting temptation to avoid hard bargaining that might be available in a competitive market may result in higher expenses to the business that must be paid for by the ratepayers.

The commission has consistently used RCW 80.16.030 to protect ratepayers from possible harm from affiliated transactions. The regulated company bears the burden of demonstrating to the commission that the payment for services to an affiliated interest is reasonable. The standard for determining a reasonable price is the lower of the competitive market price or the affiliate’s costs plus a fair return.¹ Absent proof of reasonableness, the commission may disallow in whole or in part the payment to the affiliate.

Staff adjusted, to a lower amount, the per-books lease payments paid by the company to Mr. Roats. This new lease payment amount is based on a competitive market price for like facilities within the same area. The company and Mr. Roats have agreed to a lease payment of \$1,325 per month.

DWSRF

Repayments of the company’s four Drinking Water State Revolving Fund (DWSRF) loans rely on separate revenue sources. The revenue sources are:

- Monthly surcharges paid by current and future customers;
- Facilities charges paid by future customers; and
- Future equity investment by the owner.

Staff’s examination of the company’s supporting financial documents, books and records found the following issues relating to the company’s management of DWSRF surcharges and facility charges it collected from customers:

- The company co-mingled their accounting records, making it very difficult to separate daily operations from DWSRF loan projects;
- DWSRF surcharge funds were held between 30 and 60 days before being deposited into a

¹ Washington Utilities and Transportation Commission v. Washington Natural Gas Co., Docket No. UG-911236, Third Supplement Order (September 1992).

separate DWSRF loan reserve bank account; and

- Billing errors by the company resulted in the wrong tariff rates and DWSRF surcharge amounts being collected from customers. DWSRF loan repayment fund levels are now insufficient to service the four DWSRF loans and operate appropriately in the future.

Staff recommends that the company be subject to maintain DWSRF records of both revenues and expenses in a manner that will allow the company to provide in their next rate case a detailed breakdown, by account, separate from the normal daily operating costs because of the above-mentioned circumstances.

Staff intends to open an investigation into the company's business practices to resolve possible tariff violations, and will bring back any resulting recommendations to the commission for its consideration.

Facilities Charge

A facilities charge is a one-time charge assessed to new customers to pay for capital improvements required to serve new customers. Under Order 01 in Docket UW-081416, the company applies facility charge revenues to repayment of the DWSRF loans for current capital improvements approved by the Public Works Board (PWB). In this docket, the company is seeking to increase its facilities charge from \$1,450 to \$2,950, which amount is in line with the facilities charge of other companies the commission regulates together with historical construction cost indexes. It has been 15 years since the company's facilities charge has been updated.

Customer Notice Exemption

The company requests an exemption from WAC 480-110-425, which requires the company to notify customers thirty days prior to a rate increase taking effect. The company proposes to notify customers in the next billing cycle of the increases that will result from the commission approving staff recommended revised rates, which are different from what the company originally noticed to customers.

Customer Comments

On May 22, 2009, the company notified its customers of the rate increase by mail. The commission has received eleven customer comments on this filing; ten are opposed, and one supports the proposed increase. Staff's open meeting memorandum, dated June 25, 2009, summarized and responded to those customers' comments. No new issues have been brought forth since that open meeting.

Rate Comparison

Ancillary Charges	Current Rate	Proposed Rate
Facilities Charge	\$1,475	\$2,950

Monthly Rate	Current Rate	Proposed Rate	Revised Rate
Flat Rate (Unmetered) ¹	\$51.55	\$56.50	\$46.38
Ready-to-Serve (RTS) ¹	\$22.50	\$27.00	\$15.73
Base Rate (¾-inch meter) ¹	\$22.50	\$27.00	\$15.73
0 – 461 Cubic Feet ^{1,2}	\$3.55	\$3.55	\$4.92
462 – 500 Cubic Feet ^{1,2}	\$3.55	\$3.55	\$6.13
501 – 900 Cubic Feet ^{1,2}	\$4.55	\$4.55	\$6.13
901 – 1,125 Cubic Feet ^{1,2}	\$5.55	\$5.55	\$6.13
1,126 – 1,600 Cubic Feet ^{1,2}	\$5.55	\$5.55	\$7.50
Over 1,600 Cubic Feet ^{1,2}	\$7.85	\$7.85	\$7.50

¹ – Based on ¾-inch meter classification, see company’s tariff for upsize meter classification, usage blocks and rates.

² – Based on “per 100 cubic feet”.

Average Bill Comparison

Average Monthly Usage 566 cubic feet³	Current Rate	Proposed Rate	Revised Rate
Base Rate (¾-inch meter)	\$22.50	\$27.00	\$15.73
0 – 461 Cubic Feet	\$16.37	\$16.37	\$22.68
462 – 500 Cubic Feet	\$1.38	\$1.38	\$2.39
501 – 566 Cubic Feet	\$3.00	\$3.00	\$4.05
Average Monthly Bill	\$43.25	\$47.75	\$44.85
Increase from Current Rate		10.4%	3.7%

³ – Based on a company-wide average customer water usage.

Commission staff has completed its review of the company’s supporting financial documents, books and records. Staff’s review shows that the revised expenses are reasonable and required as part of the company’s operations. The customer’s comments do not change staff’s opinion that the company’s financial information support the revised revenue requirement and the revised rates and charges are fair, just, reasonable, and sufficient.

Conclusion

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