

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of
STROH'S WATER COMPANY, INC.,

Applicant,

For the Sale and Transfer of Assets to
WASHINGTON WATER SERVICE
COMPANY

DOCKET UW-220614

STAFF'S PETITION FOR
RESCISSION OF ORDER 01

I. INTRODUCTION

1 The Commission recently approved the sale and transfer of the assets of Stroh's
Water Company, Inc. (Stroh's) to Washington Water Service Company (WWSC). A
customer complained about the notice he received, and Staff discovered through
investigation that the complaint has merit.

2 Staff requests through this petition that the Commission rescind Order 01 in this
docket, the order approving the sale and transfer of assets, to allow: (1) Stroh's to notify its
customers of the proposed sale, and (2) Stroh's customers an opportunity to provide
comment at the Commission's December 22, 2022, open public meeting.

3 Stroh's had not completed the sale and transfer of assets authorized by Order 01 at
the time of the customer's complaint. After discussions with Staff, Stroh's paused the sale to
allow for this petition, and the Company has no objection to rescinding Order 01 and setting
this matter for further proceedings.

II. RELIEF REQUESTED

4 Staff asks the Commission to rescind Order 01 in this docket to allow for further
proceedings.

III. STATEMENT OF FACTS

5 On August 5, 2022, Stroh’s and WWSC filed a joint application for the sale and
transfer of Stroh’s assets to WWSC.¹ Stroh’s provided notice of the sale and transfer to its
customers in a letter dated August 31, 2022.²

6 The Commission approved the sale and transfer at its regularly scheduled open
public meeting held on September 15, 2022.³

7 On October 21, 2022, one of Stroh’s customers filed an informal complaint with the
Commission and the Washington State Attorney General’s Office.⁴ In that complaint, the
customer alleged that Stroh’s had failed to provide notice that complied with WAC 480-143-
210, because the August 31, 2022 letter provided less than the 30-days’ notice called for by
the rule.⁵

8 Staff investigated the complaint and determined that it had merit.⁶

9 Staff discussed the complaint with Stroh’s, and the company agreed that the notice it
had provided did not comply with WAC 480-143-210.⁷ It agreed to halt the sale and transfer
of assets so that it could provide rule-compliant notice, allowing customers to provide
comment at the December 22, 2022, open meeting, at which the Commission would again
consider the application for sale and transfer of its assets.⁸

¹ *In re Application of Stroh’s Water Company, Inc.*, Docket UW-220614, Order 01, 1 ¶ 1 (Sept. 15, 2022) (Order 01).

² Decl. of John Cupp at 1 ¶ 7.

³ *See generally* Order 01.

⁴ Decl. of John Cupp at 1 ¶ 6.

⁵ Decl. of John Cupp at 1 ¶ 4. The complaint also raises concerns about potential rate shock. Decl. of John Cupp at 1 ¶ 3. Because the granting of this petition would rescind the order allowing the transfer, and because WWSC has pledged to adopt Stroh’s tariffs, that contention appears either moot or meritless.

⁶ Decl. of John Cupp at 1 ¶ 7.

⁷ Decl. of John Cupp at 2 ¶ 8.

⁸ Decl. of John Cupp at 2 ¶ 8.

IV. STATEMENT OF ISSUES

10 Should the Commission rescind Order 01 in this docket?

V. EVIDENCE RELIED UPON

11 Staff relies upon the declaration of John Cupp and the evidence on file in this docket.

VI. ARGUMENT

12 Stroh’s properly acknowledges that it did not provide the requisite notice to its customers. It has agreed to remedy the notice defect by pausing the sale and transfer of its assets to allow proper notice, and thus to alert its customers to their opportunity to comment about the sale at an open public meeting. But that notice and those comments will be pointless absent rescission of the order approving the sale. The Commission should thus rescind that order.

13 The Commission possesses the power to modify its final orders, a power that it may exercise in response to a petition.⁹ Specifically, “the [C]ommission may at any time, upon notice to the public service company affected, and after opportunity to be heard . . . rescind, alter or amend any order or rule made, issued, or promulgated by it.”¹⁰ Any order making such an amendment “ha[s] the same effect” as an “original order[.]” upon service on the affected public service company.¹¹

14 Chapter 80.12 RCW governs the sale or transfer of public service companies’ property. The chapter requires such companies to obtain the Commission’s approval before they “sell, lease, assign, or otherwise dispose of the whole or any part of [their] franchises, property or facilities whatsoever, which are necessary or useful in the performance of [their]

⁹ WAC 480-07-875(1).

¹⁰ RCW 80.04.210; WAC 480-07-875(1).

¹¹ RCW 80.04.210.

duties to the public.”¹² The Commission requires any public service company filing an application under chapter 80.12 RCW to provide notice to customers “thirty days before the [C]ommission’s open meeting date when the application is scheduled for action.”¹³

15 Stroh’s is a water company,¹⁴ and thus a public service company.¹⁵ It needed to provide notice of the transfer of its assets to WWSC 30 days before the September 15, 2022, open meeting at which the Commission approved the sale and transfer. It did not.

16 The notice defect has, however, not created any permanent prejudice to Stroh’s customers. The company has, as mentioned, agreed to halt the sale and transfer and provide notice that complies with the 30-day requirement of WAC 480-143-210. This will allow customers to receive that notice and then provide comment to the Commission at the December 22, 2022, open meeting.

17 That notice and opportunity for comment, however, will be futile unless the Commission rescinds the Order approving the sale and transfer. The Commission should do so by granting this petition.

VII. CONCLUSION

Commission Staff respectfully requests that the Commission rescind Order 01 in this docket to allow Stroh’s to provide notice to its customers and an opportunity for them to comment about the transfer at its December 22, 2022, open public meeting.

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¹² RCW 80.12.020; WAC 480-143-120.

¹³ WAC 480-143-210(1).

¹⁴ RCW 80.04.010(30)(a).

¹⁵ RCW 80.04.010(23).

DATED this 31st day of October 2022.

Respectfully submitted,

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