

Agenda Date: August 28, 2008  
Item Number: A4

**Docket:** UW-081416  
Company Name: Aquarius Utilities, LLC

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

### **Staff's Summary of Customer Comments Broken-down by Category and Staff's Responses**

#### **1. Water System Plan, Pipe Replacement, Public Works Board and Department of Health Customer**

**Comments:** Here is a sample of the 36 customer comments received that are related to the subject matters of the company's Water System Plan (WSP), Pipe Replacement, Public Works Board (PWB) and Department of Health (DOH).

- a. On March 11, 2008, Diamond Point (DP) customers, Aquarius Utilities, LLC (Aquarius) and Department of Health (DOH) representatives met discuss the company's Water System Plan (WSP) and DOH's approval. Only five customers agreed with the WSP, while the remaining 44 customers opposed it. The surcharge projection in Chapter 5 of the WSP was presented as a project to fund aging distribution infrastructure, not to pay Drinking Water State Revolving Fund (DWSRF) loans to install storage tanks at all four Aquarius water systems. Now the company is requesting a surcharge to fund DWSRF loans for storage projects that are secondary to the customer needs for replacement of aging pipe infrastructure. This new tariff is in violation of Washington Administration Code (WAC) 246-290-100(8) both for the revisions of the WSP presented at the public meeting and the current revisions under way to change how a surcharge would be used and collected.
- b. The DOH approved WSP has been strongly disputed and many of its features outright rejected. The process Aquarius and DOH agreed to with the DP community has not been followed; worse, the DOH did not follow its own rule. As such, this proposal fails to address what has been our most pressing problem, aging, brittle distribution piping.
- c. How can Aquarius change the surcharge from a special construction account (with Diamond Point being given priority to start on our pipe replacements) going to being used to pay off loans for all water systems, with no mention of any pipe replacement. Two plus million dollars is too much money for us to pay back while we still do not get the improvements we need.
- d. I most strongly protest the proposed surcharge. We don't need new storage tanks right now, our real problem is our failing water pipes. This proposal is very bad for DP water customers. New water tanks are not going to help failing water pipes and we already experience frequent pipe failures. Agate West, Lynch Cove and Island Lake have sufficient water pipe systems in place to realize the long-term potential benefits of the proposed new tanks. However, DP customers will be saddled with this 20-year loan repayment for non-essential storage tanks when we have a water pipe failure emergency. These water pipes will not last 20 years! Aquarius admitted we already have a 20 percent leakage rate yet

- they refuses to even discuss our concerns. Ignoring this problem will be much more costly if not disastrous to the Concerned Citizens of Greater Diamond Point (CCoGDP). I strongly oppose the proposed surcharge.
- e. Aquarius had planned surcharges to replace DP's distribution system and others, spanning two decades, with a long series of incremental steps. Where else can a privately held company depend on committing its customers to ever-increasing water rates, for periods of over 20 years and does not have the buy-in of the very community it "serves" or considerations for its customer's ability and willingness to pay. We have a brand new surcharge, not for pipe replacement but for enabling Aquarius to collect loan repayment money on four DWSRF loans. This leaves us with a certain system failure of the pipe system as stated previous by DOH.
  - f. For the 8 years we have owned our home, I have watched this company make very little real improvements to the system. Throughout the time I have lived here, we have been continually lied to, our system has been mismanaged and loans that could have helped us fix the poor-quality pipes have been lost due to the simple lack of keeping up with paperwork needed by the state. Aquarius lost some excellent low-interest loans that could have helped fix our failing pipe-system because they did not comply with state mandates to have their 5-year water plan in place. We constantly have ridiculously low water pressure, to the point where all our guests ask us if something is wrong with our water. We have been told that if the pressure were increased to a good level for us, that the pipes would probably break - what kind of a system is that? We have just barely the minimum water pressure reading - and it is noticeably problematic by anyone who comes into our house. Please do not reward poor service and poor management by giving Aquarius Utilities this surcharge.
  - g. I object to the purpose of this surcharge. No notice was given to customers that the surcharge was changed from replacement of pipes with DP receiving priority to paying off 20-year loans with DP receiving no pipe replacement for their antiquated pipes. Extend the surcharge rate until customers have at least 30-days to respond. DP only received notice from Aquarius of the surcharge on July 30, 2008. The August 14, 2008, open meeting date is only two weeks' notice. The surcharge to support DWSRF loans does not support service to customers.
  - h. I am strongly opposed to the proposed "temporary" surcharge rate. Temporary is not for 19 to 20 years; three months fits that category, not 20 years. DP residents do not need, nor want additional storage tanks. There are no swimming pools, no fancy lawns that require a storage capacity increase. There are leaky pipes that waste over 20 percent of its pumped water. We need a replacement of the old piping infrastructure. The road in front of my house is showing two sunken areas, the turn-around island has sunk and my driveway developed cracks where there was none; of course, Aquarius denied this has anything to do with leaky pipes. The same denial of a previous leak underground at Bluff Lane that was first blamed on a septic problem west of the road, then on a septic system east of the same road and finally blamed on an underground leak located in a pierced 1-inch black pipe that is listed on "as built" drawings as 2-inch pipe. Is the larger storage capacity fixing my problem? No! The latest

rates we recently received have rewarded our water conservation efforts. Now our savings will go for storage we do not need nor want and support the same in three areas not even in the same county. Focus Aquarius's attention on water losses from its bad pipes in DP. Finally, the “temporary surcharge” was in the original WSP for collecting funds to solve DP's piping problems. Now it is used for pre-paying four DWSRF loans that have not yet been finalized for projects not wanted and not executed. This is like paying for a car loan before buying the car, would anybody do that. So why are we asked to do so by Aquarius and the Commission? I would hope the Commission has a similar evaluation review as the PWB and reach the same conclusions we arrived at, as described according to a rating scale on PWB site. The board may adjust the ranked list in consideration of the following factors: (1) Geographical balance, (2) Economic distress, (3) Type of projects, (4) Type of jurisdiction, and (5) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement. Answer to the rating scale as applied to DP: (1) DP is not in the same county as the other three systems, DP should be a stand-alone, (2) While the county is not listed as a distressed area, in 2003, DP qualified for low income interest rates and we should so again, (3) Storage tanks vs. water distribution, DP has a significant piping problem. New tanks will not improve service to the majority of DP, (4) Not sure what that means or how it pertains to DP, and (5) With Aquarius's track record as we see it, Aquarius is failing on that score. Aquarius did not complete the 2003 loan packages and the loans were pulled.

**Staff's response** – The DOH has jurisdiction over water system plans, and the scope and design of water systems. DOH has the ability to enforce its own rules and requirements. The commission does not have jurisdiction to enforce DOH's rules.

The PWB has the ability to operate its program and enforce its own rules and requirements. The commission does not have jurisdiction to enforce PWB's rules.

The proposed surcharge will fund approved DWSRF loans for projects identified in the company's WSP. DOH reviewed the loan applications for those projects and recommended the PWB approve the loans. The company filed for, but did not receive, a DWSRF loan for the Diamond Point Distribution System Replacement Project (i.e., pipe replacement).

Aquarius has never proposed a pipe replacement surcharge. The company filed for, but did not receive, a DWSRF loan for the Diamond Point Distribution System Replacement Project (i.e., pipe replacement). On August 29, 2007, the PWB sent a letter explaining the project did not score high enough to receive funding this year, and encouraged the company to reapply next year.

2. **Mandatory vs. Voluntary Surcharge Customer Comments:**

- a. The surcharge request does not seem to merit being classified as mandatory; therefore, that would make it a voluntary surcharge, which would require a vote from the water users. I wonder why this is going to be heard in Olympia as a surcharge hearing and where does our vote come in.
- b. The timeframe allotted by Aquarius for the DP community to reach for a “voluntary surcharge” vote is insufficient.

**Staff's response** – Staff respectfully disagrees with the customer’s interpretation. Voluntary surcharges apply to capital improvements that customers want that are not required to meet Safe Drinking Water Act requirements (such as secondary contaminants - iron, manganese, etc.) or not required by government (such as fire flow that the Fire Marshall does not require or backup generators that the DOH does not require). Voluntary surcharges normally affect one water system and require customers to vote to voluntarily pay the surcharge. This proposed surcharge is appropriate for a “mandatory” surcharge because these projects are part of a water system plan approved by the DOH.

WAC 480-110-455(2)(a)(i) Future water utility plant states: “This surcharge allows the company to collect money from current customers to fund a reserve in order to pay for future capital projects that are part of a long-range plan. The project must be approved by the department of health as a part of a long-range plan, or required by the department of health to assure compliance with federal or state drinking water regulations, or to perform construction or maintenance required by the department of ecology to secure safety to life and property under RCW 43.21A.064(2).”

3. **Single-Tariff Pricing Customer Comments:**

- a. I have had issues with our water company for some time. They were just before you for a rate increase and your agency did an audit of their finances to support that increase. As a consumer, your agency is our contact to do these checks of the water company and we appreciate your support. Your audit made changes to his financials. Now Aquarius is requesting a surcharge, over 20 years, to complete projects that are not a priority for the consumers at DP. We were not provided a way to make our input known until after the PWB and DOH had approved the Aquarius WSP on March 4, 2008. We (consumers at DP) made our concerns known at the public meeting held on March 11, 2008, with most of the consumers at that meeting not wanting storage tank loans, but replacement of our aging distribution system. Why should we be saddled for repayment of loans for projects not necessary for our system? How are we going to pay in the future for other necessary repairs? Aquarius says in their surcharge case that they will pay \$10,000 per year towards these loans, how will that be possible when they say they are not making any money. I realize that it is not only for our water system but also for Aquarius' other water systems. The single tariff makes us responsible for all projects for their water systems, not

just our own. I feel that we are being inequitably charged when most projects are for other systems. Please listen to the consumers and speak for us.

- b. I do not agree with the proposed surcharge as the distribution of funds among the four water systems Aquarius owns and operates is unfairly distributed across the customer base. While the DP water system has approximately one-third of Aquarius's customer base, it receives less than 18 percent of the proposed funding. Once again, we are faced with the "Rich get Richer" result of single tariff pricing. As noted in an EPA report on Consolidated Water Rates: Issues and Practices in Single-Tariff Pricing, dated September 1999, the practice unfairly penalizes some users to benefit others. Some of the inequities enumerated appear to apply to Aquarius' proposal. They include: (1) Subsidizes high cost customers, (2) Discourages conservation and efficient water use, (3) Encourages growth in high cost areas, (4) Encourages over investment, (5) Provides unnecessary incentives, (6) Costs outweigh benefits, and (7) Considered inappropriate without interconnection. While there are certainly arguments for Single-Tariff Pricing, in some cases, the inequities appear to outweigh the benefits in the case of Aquarius vis-à-vis the DP water system. Perhaps consideration should be given to severing the DP system from the Single-Rate Tariff with the other systems and treat it as a separate entity served by Aquarius.

**Staff's response** – Staff recommended, and the commission adopted, a policy to set rates using a single rate. Staff believes the "Single Tariff Pricing" does result in rates that are fair, just and reasonable. This is a public policy issue and is best explained as similar to an insurance pool or postage stamps – the risks and costs are distributed to all customers and every customer pays the same rate. Washington was one of the first states to adopt single tariff pricing in the early 1990s. The US EPA later endorsed single tariff pricing and most other states have adopted that policy. Also, see staff's response to question one, two and three.

4. **Amount of Increase Customer Comments:**

- a. Aquarius has a never-ending desire to constantly raise our water rates. This is done via Olympia. When Aquarius applies for various funds to improve our water system, Aquarius only has to fill out the appropriate paper work and Olympia approves the loan thereby increasing the cost of our water. Problem: As the Aquarius projects are presented, they usually are for more than one water system; therefore, there is no checks and balances as to where or if the funds are expended. Olympia does not have the personnel or funds to check on these projects in progress. In addition, they do not have the desire to get intimately involved, nor do they have the desire to take over Aquarius. No on any further rate increases! Aquarius is not addressing our needs, which are new pipes!
- b. We do not support the surcharge presented by Aquarius. We get a very small percentage of the loan funds and we have the most users. Aquarius seems to put all their emphasis on storage tanks and ignores pipe replacement and water hydrants.

**Staff's response** – Although staff understands the customers' concerns regarding the amount of the increase, we do not explicitly consider the amount of the increase in preparing recommendations. Staff's goal is to recommend the "right" rates that will allow the company to recover reasonable operating expenses and provide an opportunity to earn a reasonable return on investment. The PWB staff is responsible for managing the loan disbursements and requires the company to submit receipts for expenses. Commission staff also audits the company's books and records to verify costs and the company's management of funds collected and used to service the debt.

**5. Supporting Customer Comments:**

- a. I am writing in support of Aquarius Utility's request for a surcharge rate increase. I understand the reason for this increase will be to make possible the pressing need to upgrade this aging water system. I also understand that without this proposed rate increase the loans that are necessary to facilitate these improvements will be withheld. How can there be any other choice than a resounding "YES!"
- b. I wish a surcharge were not necessary, especially on the heels of a recent rate increase, aging infrastructure is a problem all across the country, not just in our water system. Our main concern, as I see it, is to continue to have safe and reliable drinking water. The cost of replacing old infrastructure must be shared between our customers and our company, who will contribute as well.
- c. I am registering a YES to the proposed surcharge in order to pay for much needed water system improvements. This proposal seems to be the most fair and equitable way to pay for the projects.
- d. I am in favor of the surcharge rate increase. The DWSRF loans that are approved, are important for the company to do the four water systems improvements. All four projects are important to continue providing good pressure and good water quality. I feel the loans have a good interest rate and there are not other loans available for private public water systems with these terms.

**Staff's response** – Staff acknowledges the customers' comments in support of the surcharge.

**6. Opposing Customer Comments:**

- a. I do not support the surcharge by Aquarius.
- b. We are weekend residents (once a month) for over fifteen years. We have had to pay a very high monthly water bill in spite of never going over the minimum cubic foot usage. They have promised upgrades for years, and we have seen nothing. We do not support any extra charges.
- c. I use Aquarius at my property on North Street at DP. I do not support the surcharge.
- d. We do not support the proposed surcharge on our water bill from Aquarius. The proposed spending of funds for a storage tank does not make sense to the residents of DP when we see the immediate need of replacing pipelines in our community.

**Staff's response** – Staff acknowledges the customers' comments opposed of the surcharge.