

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the Proper
Carrier Classification of:

LOWPER, INCORPORATED d/b/a
LOWPER CORPORATION, a/k/a
“LOWPER WATER COMPANY” and
“ILIAD, INC. d/b/a LOWPER WATER
SYSTEM”

and

In the Matter of the Penalty Assessment
Against LOWPER, INCORPORATED, in
the Amount of \$10,500

DOCKET UW-091006

DOCKET UW-110213

MOTION FOR CONSOLIDATION

I. MOTION

1 Staff of the Washington Utilities and Transportation Commission (Commission Staff) moves to consolidate the special proceeding in Docket UW-091006¹ with the hearing on the Penalty Assessment in Docket UW-110213² for hearing and determination.

II. MEMORANDUM

2 Pursuant to WAC 480-07-320, the Commission has discretion to consolidate proceedings that involve related facts and principles of law. The common facts and legal

¹ *In the Matter of Determining the Proper Carrier Classification of Lowper, Inc. d/b/a Lowper Corporation, a/k/a “Lowper Water Company” and “Iliad Inc. d/b/a Lowper Water System”, Docket UW-091006.*

² *In the Matter of the Penalty Assessment Against Lowper, Inc. in the Amount of \$10,500, Docket UW-110213.*

issues in each of these proceedings satisfy the standard for consolidation. Moreover, consideration of the issues may most efficiently be accomplished on a common record.

3 In the special proceeding in Docket UW-91006, the Commission will determine whether Lowper, Incorporated d/b/a Lowper Corporation (Lowper) is subject to regulation under RCW 80.28 and is performing any act requiring approval of the Commission without securing such approval.³ In its Order 01, the Commission alleged that Lowper may be engaged in business as a water company without having filed a tariff as required by RCW 80.28.050 and WAC 480-110-433(3). As set forth in law, upon proof of such allegations, the Commission may issue such orders as may be necessary to require Lowper to comply with Title 80 RCW and the Commission's rules adopted under that title. Hearing is set for April 27, 2011.

4 In Docket UW-110213, on February 14, 2011, the Commission issued a penalty assessment against Lowper for multiple violations of WAC 480-110-433(3). Lowper filed a request for hearing on February 23, 2011. On March 8, 2011, the Commission set the matter for hearing on April 27, 2011, to coincide with the hearing in Docket UW-091006. As set forth in the Notice of Hearing, "the ultimate issues include whether the penalty should be mitigated and what actions are necessary for Lowper to maintain future compliance, pursuant to statutory provisions of RCW 80.04."⁴

5 Both matters have in common an Investigation Report prepared by Commission Staff that has been filed within the dockets. The matters share common facts and legal principles, and consolidation will promote judicial economy. Accordingly, Commission Staff

³ See Order 01, Order Instituting Special Proceeding, Subpoena and Notice of Hearing (issued February 14, 2011), in Docket UW-091006.

⁴ See Notice of Hearing, ¶ 5, in Docket UW-110213.

respectfully moves the Commission for an order consolidating Docket UW-091006 with
Docket UW-110213.

DATED this 22nd day of March, 2011.

Respectfully submitted,

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