

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UW-110892
TRANSPORTATION COMMISSION,	)	
	)	ORDER 02
Complainant,	)	
	)	
v.	)	PREHEARING CONFERENCE
	)	ORDER; NOTICE OF HEARING
	)	(Set for February 29, 2012)
LOWPER, INCORPORATED,	)	
	)	
Respondent.	)	
	)	
.....	)	

1 **NATURE OF PROCEEDING.** On May 13, 2011, Lowper, Incorporated (Lowper or Company) filed with the Washington Utilities and Transportation Commission (Commission) an initial tariff and supporting financial information in Docket UW-110871. The tariff became effective May 14, 2011. Commission Staff (Staff) conducted an initial review of the Company’s financial information filed in Docket UW-110871 and determined that the rates in the Company’s tariff may generate more revenue than the Company requires to pay reasonable operating expenses and earn a reasonable return. Thus Lowper’s rates may be unjust and unreasonable.

2 On June 14, 2011, the Commission issued Order 01 – Complaint Against Rates in Docket UW-110892 for the following purposes:

1. To determine whether Lowper’s current rates and charges provide the Company with an excessive return.
2. To determine whether the Commission should set new rates and charges for Lowper and require Lowper to file revised tariffs that reflect those new rates and charges.
3. To determine whether Lowper should be required to refund to customers any portion of rates charged after the effective date of this order.

4. To make any other determinations and enter orders as may be just and reasonable.

3 **CONFERENCE.** The Commission convened a prehearing conference in this docket at Olympia, Washington on September 7, 2011, before Administrative Law Judge Gregory J. Kopta.

4 **APPEARANCES.** Richard A. Finnigan, Olympia, Washington, represents Lowper. Michael A. Fassio and Jennifer Cameron-Rulkowski, Assistant Attorneys General, Olympia, Washington, represent the Commission's regulatory staff (Commission Staff or Staff).<sup>1</sup> Contact information for the parties' designated representatives is attached as Appendix A to this order.

5 **PETITIONS FOR INTERVENTION.** No party appeared at the conference seeking to intervene.

6 **PROTECTIVE ORDER.** The parties ask that the Commission enter a protective order in this docket under RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 480-07-423 to protect the confidentiality of proprietary information. The request was granted and a protective order will be entered in this docket.

7 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

8 **PROCEDURAL SCHEDULE.** The parties agreed on a procedural schedule during the conference. The Commission adopts this procedural schedule, which is attached to this Order as Appendix B.

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

9 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter beginning **February 29, 2012, at 9:30 a.m.**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus six (6) copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

11 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

12 An electronic copy of all filings must be provided through the Commission's Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail delivery to [records@utc.wa.gov](mailto:records@utc.wa.gov). Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

13 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus six (6) paper copies, of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. WAC 480-07-145(6). Parties may submit documents electronically through the Commission's Web Portal ([www.utc.wa.gov/efiling](http://www.utc.wa.gov/efiling)) or by e-mail to [records@utc.wa.gov](mailto:records@utc.wa.gov). Finally, to perfect filing, parties must simultaneously provide e-mail courtesy copies of filings to the presiding administrative law judge at [gkopta@utc.wa.gov](mailto:gkopta@utc.wa.gov) and to the parties to the proceeding.

- 14 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.
- 15 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective September 8, 2011.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA  
Administrative Law Judge

**APPENDIX A**

**PARTIES' REPRESENTATIVES  
DOCKET UW-110892**

<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>FACSIMILE</b>	<b>E-MAIL</b>
Lowper	Richard A. Finnigan Attorney at Law 2112 Black Lake Blvd. SW Olympia, WA 98512	(360) 956-7001	(360) 753-6862	<a href="mailto:rickfinn@localaccess.com">rickfinn@localaccess.com</a>
Commission Staff	Michael A. Fassio Jennifer Cameron-Rulkowski Assistant Attorneys General 1400 S. Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1192 (360) 664-1186	(360) 586-5522 (360) 586-5522	<a href="mailto:mfassio@utc.wa.gov">mfassio@utc.wa.gov</a> <a href="mailto:jcameron@utc.wa.gov">jcameron@utc.wa.gov</a>

**APPENDIX B**  
**PROCEDURAL SCHEDULE**  
**DOCKET UW-110892**

<b>EVENT</b>	<b>DATE</b>
Commission Staff Direct Testimony and Exhibits	November 17, 2011
Lower Responsive Testimony and Exhibits	January 5, 2012
Commission Staff Rebuttal Testimony and Exhibits	February 9, 2012
Evidentiary Hearing	February 29, 2012