

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UW-143980
TRANSPORTATION COMMISSION,)	(Consolidated)
)	
Complainant,)	ORDER 03
)	
v.)	
)	
PELICAN POINT WATER COMPANY,)	
)	
Respondent.)	
)	
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)	
WASHINGTON UTILITIES AND)	DOCKET UW-150548
TRANSPORTATION COMMISSION,)	(Consolidated)
)	
Complainant,)	ORDER 03
)	
v.)	INITIAL ORDER APPROVING
)	SETTLEMENT AGREEMENT
JILL GOODRICH,)	
)	
Respondent.)	
)	
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BACKGROUND

1 On April 23, 2015, the Washington Utilities and Transportation Commission (Commission), entered Order 01, Order of Consolidation, Complaint for Penalties; Notice of Brief Adjudicative Proceeding. The Complaint alleges that Pelican Point Water Company (Pelican or Company) and its owner and authorized representative, Jill Goodrich, each violated Washington Administrative Code (WAC) 480-110-505 a total of 1,360 times by failing to file annual reports and pay regulatory fees as required for the 2012 and 2013 reporting years. The Commission also issued a *Subpoena and Subpoenas Duces Tecum for Production of Documents* (Subpoenas) to the Company and Ms. Goodrich requiring Ms. Goodrich to appear before the Commission at a brief adjudicative

proceeding scheduled for June 2, 2015, at 1:30 p.m., and to bring the documents specified in the Subpoenas.

2 On May 26, 2015, the Commission continued the brief adjudicative proceeding, and on June 23, the Commission rescheduled the hearing for August 27. On August 19, the Commission's regulatory staff (Staff)¹ notified the Commission that the parties had reached a settlement in principle. On September 1, Staff filed a settlement agreement on behalf of the parties (Settlement Agreement).

3 As part of the settlement, Staff agrees to dismiss the allegations against Ms. Goodrich, and the Company admits to each of the 1,360 violations of WAC 480-110-505 alleged in the Complaint. The Company agrees to file, and has since filed, annual reports for the 2010, 2011, 2012, 2013, and 2014 reporting years, and has since paid \$2,938.52 for all of its past due regulatory fees.²

4 The parties agree that the Commission should assess a penalty of \$34,000, a \$31,500 portion of which should be suspended until June 30, 2017, and then waived, provided the Company meets its annual reporting and regulatory fee requirements for the 2015 and 2016 reporting years, and complies with the terms of this settlement agreement. The parties agree that the remaining \$2,500 portion of the penalty should be ordered due and payable within 10 business days of the effective date of this Order.

5 Christopher Casey, Assistant Attorney General, Olympia, Washington, represents Staff. Jeff Earl, Earl & Earl, Inc. PS, Moses Lake, Washington, represents Pelican and Ms. Goodrich.

¹ 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 the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

² On May 20, 2015, the Commission issued a penalty assessment in the amount of \$1,000 against Pelican in Docket UW-150789 for failing to file its 2014 annual report by the May 1, 2015, deadline. The Company's 2014 annual report was filed as part of the settlement agreement in these dockets, and the \$1,000 penalty was paid in full on August 31, 2015.

DISCUSSION AND DECISION

6 WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.” Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

7 We approve the Settlement Agreement without condition. The parties made concessions relative to their respective litigation positions to arrive at end results that are supported by the evidence in the record. Pelican admits that its conduct violated WAC 480-110-505, and has since come into compliance by filing its annual reports and paying regulatory fees for the 2010, 2011, 2012, 2013, and 2014 reporting years. The Settlement Agreement supports the Commission’s goal of compliance by permitting the Company to pay a reduced penalty of \$2,500, and suspending, then waiving, the \$31,500 remainder of the penalty conditioned on the Company timely filing its annual reports and paying its regulatory fees for the 2015 and 2016 reporting years, and timely paying the remaining \$2,500 portion of the penalty.

8 The terms of the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. Although the Company’s history of compliance is poor, the risk of incurring the substantial suspended penalty should ensure timely filings going forward. Given these factors, we find the Settlement Agreement is consistent with the public interest and should be approved as filed.

ORDER

THE COMMISSION ORDERS:

- 9 (1) The Settlement Agreement is approved without condition, is attached as Exhibit A to, and incorporated into, this Order, and is adopted as the final resolution of the disputed issues in this docket.
- 10 (2) Pelican Point Water Company is assessed a penalty of \$34,000, a \$31,500 portion of which is suspended, until June 30, 2017, and then waived, provided the Company files its complete annual report and pays its required regulatory fees no later than May 1, 2016, for the 2015 reporting year, and no later than May 1, 2017, for the 2016 reporting year. If Pelican Point Water Company fails to file its complete annual report and pay its required regulatory fees by either May 1, 2016, or May 1, 2017, the \$31,500 suspended portion of the penalty will immediately become due and payable without further action by the Commission.
- 11 (3) The remaining \$2,500 portion of the penalty is due and payable within 10 business days of the effective date of this Order. If Pelican Point Water Company fails to pay the \$2,500 portion of the penalty within 10 business days of the effective date of this Order, the \$31,500 suspended portion of the penalty will immediately become due and payable without further action by the Commission.
- 12 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective September 9, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **five (5)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

**Exhibit A
Settlement Agreement**