

Agenda Date: August 13, 2003
Item Number: **C2 and C3**

Dockets: **UW-010961, UW-031284**
Company Name: American Water Resources, Inc.

Staff: Jim Ward, Regulatory Analyst

Recommendations:

Issue an Order Reopening Docket No. UW-010961 and Issue a Complaint Against Rates in Docket No. UW-031284 for American Water Resources, Inc.

Discussion:

On December 18, 2001, the Commission entered an Order Approving Settlement Agreement (Order) in Docket No. UW-010961. The Order incorporated the terms of a settlement agreement between American Water Resources, Inc., (AWR) and Commission Staff. AWR is located in Onalaska and serves approximately 1,500 customers in Lewis, Thurston, Mason, Kitsap, Pierce, and Grays Harbor Counties.

The Order approved an increase to AWR's annual revenue requirement above the test year level by \$89,250.00 (11.27%), or \$3.47 per customer per month. That amount was added to the base rate each customer pays.

The Order required AWR to deposit \$4.40 per month from each customer payment received into a separate account named the "Docket 010961 Account." The Commission limited the purposes for which AWR could spend the money deposited into the Docket 010961 Account to those purposes set forth in the Settlement Agreement and the Order.

The increase was granted to allow the Company to hire the additional employees it asserted it needed and to cover the costs associated with increasing its employee base.

The Order required that AWR file quarterly reports regarding the funds in the Docket 010961 Account. The reports were to show the amounts required to be deposited, the amounts actually deposited, and budget variance reports. AWR has complied with the quarterly report requirement. Those reports demonstrate that AWR failed to deposit the required amounts into the Docket 010961 Account during August, September, October, and November 2002. The reports show that AWR used the funds for unauthorized purposes, such as paying for employee costs that did not exceed the levels anticipated in the Order and paying taxes on the gain resulting from the sale of a water system.

Commission Staff reviewed AWR's books and records for the period of April 2002 to September 2002. Staff's review indicated that AWR used funds from the Docket 010961 Account without meeting the criteria set forth in the Commission's Order. A summary of Staff's findings is contained in the chart below:

Month / 2002	Total Salary Expense	Amount Exceeding \$17,447	Amount Used From Docket 010961 Account
April	\$16,556	None	None
May	\$16,693	None	None
June	\$17,148	None	\$364.45
July	\$18,140	\$693	\$1,849.23
August	\$18,190	\$743	\$2,596.07
September	\$18,366	\$919	\$1,638.57
		\$2,355 Total overage	Total used: \$6,448.32 Excess used from account: \$4,093.32

In addition, the quarterly reports indicate that AWR periodically made additional deposits to compensate for the deficit caused by failure to make the required deposits in a timely fashion. Despite the additional deposits, the Docket 010961 Account remains in arrears. As of June 2003, AWR has failed to deposit \$9,290.00 of the required funds into the account.

Since the Commission entered its Order in December 2001, the number of customers served by the company has decreased from 1,876 to 1,471 due to the sale of one of the Company's water systems. AWR will not likely need additional employees or incur additional expenses at the level anticipated by the Order. Therefore, AWR's rates may be excessive.

AWR customers may be paying excessive rates in the amount of the set-aside ordered in the Commission's Order Accepting Settlement. Docket No. UW-010961 should be reopened to amend the Order Accepting Settlement to place a refund condition on the collection of the set-aside funds.

The Order Accepting Settlement should be amended to require AWR to refund or credit its customers those funds collected that are required to be deposited into the Docket 010961 Account, but not used for the purpose for which they were collected. If refunds are ordered, the Commission will determine the date from which the refunds will be calculated.

As a result of the decrease in the number of customers served, AWR's current rates may be at a level in excess of what the Company currently requires to obtain a sufficient return. Thus, AWR's rates may be unjust and unreasonable, in which case the Commission should require AWR to make a new tariff filing to reduce rates.

AWR failed to deposit amounts required into the Docket 010961 Account. In addition, AWR used funds from the Docket 010961 Account for unauthorized expenditures. The purpose for the \$4.40 set-aside amount will likely never be fulfilled due to the decrease in the number of customers served by AWR. The Commission should cancel the set-aside requirement.

Conclusion:

Regulatory Services has reviewed the information provided by the Company. Staff recommends that the Commission issue an order to Reopen Docket No. UW-010961 and issue a Complaint Against Rates in UW-031284 for American Water Resources, Inc.