

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

RAINIER VIEW WATER COMPANY,
INC.,

Respondent.

DOCKET NO. UW-041384

SETTLEMENT AGREEMENT

The Parties, defined below, enter into the following settlement agreement to resolve all issues raised in this docket.

I. PARTIES

1.1 The Parties to this Agreement are the Staff of the Washington Utilities and Transportation Commission (Staff) and Rainier View Water Company, Inc., (RVWC or Company), collectively, "the Parties".

II. BACKGROUND

2.1 On July 30, 2004, RVWC filed a conservation tariff that proposes raising the charge for water usage over 3,000 cubic feet from \$0.85 per 100 cubic feet

to \$5.00 per 100 cubic feet.¹ The proposed conservation rate would be in effect each year from May 1 through September 30. As proposed, the proposed conservation rate would apply to all customers using over 3,000 cubic feet per month during the effective period.

2.2 The Commission suspended operation of the tariff revision pending hearing to determine whether the proposed revision would result in fair, just and reasonable rates.²

2.3 The intent behind the proposed conservation tariff is to reduce peak usage. Over the last two summers, the Company's customers have used more than RVWC's current Equivalent Residential Unit (ERU) allotment determined by the Washington Department of Health (DOH). If RVWC does not take steps to manage the customer usage within its current allotment, DOH will adjust RVWC's allotment, resulting in RVWC having fewer connections available to persons seeking water service. RVWC believes that the proposed conservation rate, in addition to customer education, will cause customers to reduce the amount of water they use to an appropriate level.

¹ Hereinafter, the current tarified rate of \$0.85 per 100 cubic feet used over 3,000 cubic feet will be referred to as "the \$0.85 rate." The proposed conservation rate of \$5.00 per 100 cubic feet used over 3,000 cubic feet will be referred to as "the proposed conservation rate."

² *WUTC v. Rainer View Water Company, Inc.*, Docket No. UW-041384, Complaint and Order Suspending Tariff Revisions (August 25, 2004) (Order No. 01).

2.4 Staff's review of the Company's data shows a need for a conservation tariff. High-volume residential customers using over 3,000 cubic feet of water a month have caused RVWC's peak day demand to dramatically increase from 800 gallons per day per customer (gpd/customer) in 1996, to 1,000 gpd/customer during 2000 and subsequent years. During peak demand, this high usage can adversely affect the entire system's water pressure. A conservation tariff would help curtail the excessive water usage of the high-volume residential user.

2.5 Certain non-residential customers also use more than 3,000 cubic feet per month. Although those customers use more than one ERU, RVWC currently classifies them as one customer and one ERU. Rather than imposing a conservation tariff on those customers, RVWC is currently working with its non-residential customers to reconfigure the ERU allocation to more accurately reflect the usage.

III. SPECIFIC TERMS

3.1 The Parties agree that the conservation tariff should apply to only residential customers and should not apply to non-residential customers at this time.

3.2 The Parties agree that 3,000 cubic feet per month is the proper threshold above which to apply the proposed conservation rate. Three thousand cubic feet per month is 101 cubic feet of water used per day per customer. This

amount is consistent with RVWC's target peak day demand of 800 gpd/customer, which is equivalent to 107 cubic feet of water used per day per customer and is about twice the average day demand.

3.3 The Parties agree that the conservation tariff should be \$5.00 per 100 cubic feet used above 3,000 cubic feet. The Parties believe that \$5.00 per 100 cubic feet used in excess of 3,000 cubic is reasonable. Seattle charges \$8.55 per 100 cubic feet used in excess of 1,800 cubic feet. Duvall charges \$5.16 per 100 cubic feet used in excess of 8,000 cubic feet, and Bothell charges \$5.15 per 100 cubic feet used in excess of 2,500 cubic feet.

3.4 The Parties agree that the conservation tariff will be in effect from May 1 through September 30 each year.

3.5 Implementing the proposed conservation rate will likely cause some high-volume customers to decrease their usage; however, it is also likely that RVWC's overall revenue will increase as a result of the proposed conservation rate. RVWC recognized this possibility in its initial filing and suggested measures to mitigate such a result. Some of those measures are incorporated in this Agreement. Both Parties recognize that it is not in the ratepayers' interest to allow the Company to impose an aggressive water conservation rate and accumulate significant additional revenues without providing a means to benefit the customer. It is also

not in the Company's interest to implement a conservation rate if the Company has a high risk of material loss in operating revenues. Thus, the Parties agree that excess revenue created by the conservation tariff should be set aside and used for the benefit of the ratepayers by supporting new water conservation programs and water sustainability goals. Examples of how RVWC could use the excess revenue include, but are not limited to, funding a comprehensive engineering review to determine whether RVWC has system characteristics that encourage excess water use and to identify new programs or improvements consistent with conservation and sustainability; constructing improvements in mains to improve hydraulic continuity for the delivery of service to customers; retaining leak detection firms to search for wasted water; distributing usage control devices to customers on a "free" or reduced-cost basis; or bringing in consultants to speak with customer groups on efficient irrigation techniques and other conservation measures. RVWC shall not use the excess revenue to fund ongoing conservation efforts, conservation efforts that RVWC has undertaken in the past, or RVWC's daily operations.

Calculation of Excess Revenue

3.6 For purposes of this Settlement Agreement, excess revenue is defined as the amount of actual revenue for the period that exceeds the amount RVWC would have recognized had the conservation tariff not been in effect.

3.7 The Parties agree to use a revenue benchmark to calculate excess revenue for each month the conservation tariff is in effect (May through September). The revenue benchmark should be a three-year average of RVWC's revenue from those residential customers using more than 3,000 cubic feet per month. Including only the residential customers using more than 3,000 cubic feet per month protects RVWC from changes in revenue related only to the conservation tariff.

3.8 The three-year period used to calculate the benchmark should be calendar years 2002, 2003 and 2004. Using a three-year average also mitigates the effect of yearly weather variances. The Benchmark Operating Revenue Per Customer (Sch A, L14)³ is equal to the Per Customer Three-Year Average Usage over 3,000 cubic feet, divided by 100, multiplied by the \$0.85 rate. The Benchmark Operating Revenue Per Customer (Sch A, L14) multiplied by the Three-Year Average Customers (Sch A, L5) equals the Benchmark Operating Revenue (Sch A, L16), which is the amount of revenue that RVWC would expect to receive if the proposed conservation rate is not implemented.

3.9 Excess Revenue (Sch A, L34) for each period is equal to Total Revenue for Usage Over 3,000 cubic feet, minus the Operating Revenue (the amount

³ Schedule A is found in Attachment A of this Settlement Agreement.

expected if conservation rates were not implemented) as adjusted by Benchmark Operating Revenue Adjustment (any adjustment needed to allow RVWC to recover the Benchmark Operating Revenue).

3.10 The Total Revenue for Usage Over 3,000 cubic feet (Sch. A, L28) is Usage Over 3,000 cubic feet (Sch A, L21) divided by 100, multiplied by \$5.00 (proposed conservation rate).

3.11 Operating Revenue (the amount expected if proposed conservation rates were not implemented) is equal to the Benchmark Operating Revenue Per Customer (Sch A, L14) multiplied by the actual number of Customers Using Over 3,000 cubic feet (Sch A, L20).

3.12 Under the Parties' methodology, a revenue floor is developed to protect RVWC from decreased customer usage. The Benchmark Operating Revenue (Sch A, L16) is equal to the Benchmark Operating Revenue Per Customer (Sch A, L14) multiplied by the Three-Year Average Customers (Sch A, L5) using more than 3,000 cubic feet of water per month during calendar years 2002, 2003 and 2004. The Operating Revenue (Sch A, L30) is equal to the Benchmark Operating Revenue Per Customer (Sch A, L14) multiplied by the actual number of customers using over 3,000 cubic feet (Sch A, L20). If the amount of Operating Revenue generated from the proposed conservation rate is less than the Benchmark

Operating Revenue floor, RVWC can, to the extent funds are available, recover the difference from the Excess Revenue or Conservation CIAC account (Sch A, L32).

3.13 The Parties agree that all Excess Revenue generated by the proposed conservation rate will be recorded in a separate CIAC sub-account (considered as advances for future CIAC expenditures) with an offsetting debit to Revenue. As amounts are expended to meet water conservation and water sustainability goals (as described in Paragraph 3.5), the CIAC sub-account will be reduced and the General CIAC and Total Plant in Service accounts increased for the amount capitalized. For expenditures that are not subject to capitalization, the amounts shall be recorded as operating expenses with offsetting amortizations, reducing the CIAC sub-account by the amounts of the expenditures.

3.14 The Parties agree that the requirement to record the Excess Revenue in a CIAC sub-account and to spend the funds contained in such account for particular purposes (as described in Paragraph 3.5) creates a regulatory liability consistent with FASB 71, Paragraph 11(b).

3.15 The Parties agree that, for ratemaking purposes, RVWC's rate base will not be reduced by the CIAC generated by the proposed conservation rate and recorded in the CIAC sub-account until such amounts are capitalized in the Company's Total Plant in Service account.

3.16 The Parties agree that RVWC will make bi-annual reports to the Commission using the same format and information as reflected in Schedule A of Attachment A to this Settlement Agreement. The Parties also agree that RVWC will provide a bi-annual report of the cash account titled "Conservation Funds – Docket UW-041384."

IV. GENERAL TERMS

4.1 The Parties agree that this Settlement Agreement resolves the contested issues between them in this proceeding. Parties understand that the Specific Terms of the Agreement do not apply unless the Commission approves them.

4.2 The Parties have entered into this Agreement voluntarily to avoid further expense, inconvenience, uncertainty, and delay of litigation.

4.3 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for adoption, in compliance with WAC 480-07-730. The Parties agree to use their best efforts to secure Commission approval of the Specific Terms of this Agreement in proceedings before the Commission through testimony or briefing. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

4.4 The Parties recognize that this Agreement represents a compromise of the positions the Parties may otherwise assert in this proceeding. As such, conduct, statements and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission Order adopting those terms. The term “documents” shall not mean documents required to be submitted in rate proceedings before the Commission, including (but not limited to) income statements, balance sheets, usage data, and water system plans.

4.5 This Agreement shall not be construed against either party because it was the drafter of the Agreement.

4.6 The Parties have negotiated this Agreement as an integrated resolution of the issues. This Agreement supersedes all prior oral and written agreements on issues addressed herein. The Parties recommend the Commission adopt this Agreement in its entirety.

4.7 The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. Copies sent by facsimile are effective as original documents

4.8 The Parties shall take all actions necessary and appropriate to carry out this Agreement.

4.9 In the event that the Commission rejects all or any portion of the Specific Terms of this Agreement or conditions approval of the Specific Terms on material revisions to its terms and conditions, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 days. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and both parties shall be entitled to seek reconsideration of the Order rejecting all or part of the Agreement. Additionally, the Parties will jointly request a prehearing conference be reconvened for purposes of establishing a procedural schedule to complete the case, if needed.

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