



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
 Utilities and Transportation Division
 PO Box 40128 • Olympia WA 98504-0128 • (360) 664-1183

January 28, 2022

Amanda Maxwell, Executive Director and Secretary
 Washington Utilities and Transportation Commission
 621 Woodland Square Loop SE
 P.O. Box 47250
 Olympia, WA 98504-7250

RE: *Washington Utils. and Transp. Comm'n v. Queen Anne Water Works, LLC*
 Docket UW-171034

Dear Ms. Maxwell:

On December 16, 2019, the Utilities and Transportation Commission issued Order 02 in Docket UW-171034. In Order 02, the Commission directed Queen Anne Water Works, LLC (“Queen Anne Water” or “Company”) to:

[F]ile a memorandum in this docket by February 14, 2020, which must include the following information:

- (a) Whether and when a receiver has [been] or will be appointed;
- (b) The effect of the receivership on the Company’s filed tariff; and,
- (c) Whether the Commission retains jurisdiction over the Company.

To date, the Company has not filed the required update in this docket. In the time since the Commission issued Order 02, the Mason County Superior Court matter involving Queen Anne Water has been reviewed by the Washington State Court of Appeals.¹ On September 1, 2020, the Court of Appeals issued an unpublished opinion reversing the Mason County Superior Court’s Order and Judgment, and directing the Superior Court to give effect to an oral settlement agreement that was read into the record, but never formally finalized.² Staff notes that at least two of the settlement’s terms, as reflected in the Court of Appeal’s opinion, concern the rates the Company will charge for water service:

¹ *Hrudkaj v. Queen Anne Water Works LLC*, 14 Wn. App.2d 1027 (2020). A copy of the opinion has been filed with this letter as Attachment A.

² Attachment A at 20.

Received
 Records Management
 01/28/22 16:38
 State Of WASH.
 UTIL. AND TRANSP.
 COMMISSION

ATTORNEY GENERAL OF WASHINGTON

Amanda Maxwell
January 28, 2022
Page 2

The parties agreed that the Protective Covenants, Declaration of Water Service, and Beneficiary Contract were applicable to the settlement of the matter and that Fitzpatrick [Company owner] will abide by the terms of those agreements. . . . The parties further agreed to . . . (2) accepting the September 30, 2012 water rate increase to \$42, which will become effective on the date of the signing of the agreement with no retroactive payments; . . . (4) having the November 2015 water rate increase go through the process outlined in the applicable documents, and if no agreement can be reached, the matter will proceed to a dispute resolution process outlined in the beneficiary contract.³

On June 7, 2021, the Washington State Supreme Court denied review of the Court of Appeals opinion.⁴

Commission Staff (Staff) has maintained contact with the Company during the appeal process, and has communicated with the Company regarding the need to comply with the Commission's direction in Order 02 and to resolve the Superior Court remand regarding its settlement agreement. While Staff has no reason to doubt the Company's good intentions, the Company has neither complied with the Commission's Order nor resolved the Superior Court matter on remand. Although parts (a) and (b) of the status update required by Order 02 may now be moot, given that the Superior Court Order placing the Company into a receivership has been reversed by the Court of Appeals, the issue of whether the Company remains within the Commission's jurisdiction is still outstanding. That is, given that the settlement contemplated by the Court of Appeals contained provisions regarding the rate the Company would charge for water service, the ultimate outcome of the settlement process may affect whether the Company remains subject to the Commission's jurisdiction under RCW 80.04.010(30)(b) and WAC 480-110-255.

As such, Staff requests that the Commission convene a status hearing to determine whether the Company remains subject to the Commission's jurisdiction as soon as practicable. If the Commission declines to schedule a status conference, Staff will proceed with the filing of a complaint against Queen Anne Water for penalties for failure to comply with Order 02.

Respectfully submitted,

/s/ Harry Fukano, WSBA No. 52458
Assistant Attorney General
Office of the Attorney General
Utilities and Transportation Division
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1225
Harry.fukano@utc.wa.gov
cc: Parties

³ Attachment A at 7-8.

⁴ *Hrudkaj v. Queen Anne Water Works LLC*, 197 Wn.2d 1011 (2021).