

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

TFL ASSOCIATES, LLC, CALIBER
COMPANY, INC., and JACOBSON
CONSTRUCTION & DEVELOPMENT,
INC.,

Complainants,

v.

RAINIER VIEW WATER COMPANY,
INC., and SILVER CREEK
DEVELOPMENT COMPANY,

Respondents.

DOCKET NO. UW-010683

COMMISSION STAFF'S
COMMENTS ON THE PARTIES'
PROPOSED SETTLEMENT
AGREEMENT

The Staff of the Washington Utilities and Transportation Commission submits the following Comments in response to the Motion to Accept Settlement Agreement, filed by the various Complainants and Respondents in this matter.

Commission Staff received a copy of this Motion, which references a Development Agreement that was not attached on October 15th. On or about October 16th or 17th Staff received a copy of the Development Agreement, which includes several amendments and exhibits. As of this writing, Staff has not had an adequate opportunity to review and analyze all of the documents involved in this proposed settlement.

Staff would not oppose the Complainant's voluntary withdrawal of their Complaint.

Staff does, however, have two concerns about the parties' proposal that the Commission accept the parties' settlement agreement: (1) that the Commission's acceptance of the agreement may be perceived as prejudgment of underlying issues related to future ratemaking (e.g., the appropriate amount of facilities fees to be paid for service extension, and accounting related to contributions in aid of construction, etc.), and (2) that the Commission's acceptance of the settlement may be viewed as an assertion by the Commission of jurisdiction over all matters addressed in the settlement agreement including the resale of water availability letters.

If the Commission chooses to accept the settlement agreement in this case, Staff urges the Commission to provide in its order that:

- (1) Nothing in the order shall be construed to waive or otherwise impair the jurisdiction of the Commission over the rates, services, accounts and practices of Rainier View, nor to constitute a determination of ratebase treatment of any plant involved in this matter, nor shall anything herein be construed as an acquiescence in any estimate or determination of cost or any valuation of property claimed or asserted.
- (2) The Commission accepts the Settlement Agreement as to those matters over which it has jurisdiction. (Modification to proposed order par. 1, at page 1, line 21, par. 9, at page 4, line 22, and to par. 18, page 6, line 23.)
- (3) Add to paragraph 7 of proposed order (page 4, lines 13-14): Commission staff does not oppose the Settlement Agreement, but expressed some concerns about the Commission's approval of the Agreement in its entirety.

- (4) This order shall not be used or cited as precedent on the issue of whether the Commission has jurisdiction over transactions between customers of a regulated water company, nor the priority of connections to a water system.

With these stipulations, Staff supports the proposed settlement as consistent with the public interest.

DATED this 18th day of October, 2001.

CHRISTINE O. GREGOIRE
Attorney General

JONATHAN C. THOMPSON
Assistant Attorney General