

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	DOCKET NO. UW-021667
	)	
Complainant,	)	
	)	THIRD SUPPLEMENTAL ORDER;
v.	)	ORDER APPROVING AND
	)	ADOPTING SETTLEMENT
THOMAS WATER SERVICE, INC.,	)	AGREEMENT
	)	
Respondent.	)	
.....	)	

1 **Synopsis: The Commission approves and adopts a proposed Settlement between the Company and Commission Staff as a reasonable resolution of the issues in Thomas Water’s general rate filing.**

2 **PROCEEDINGS:** This is a general rate case filing by Thomas Water Service, Inc. that proposes an annual increase in revenues of \$49,010 (100%). Thomas Water serves approximately 67 customers in Meadow Ridge subdivision, and nearby territory north of Arlington in Snohomish County. The Company's original proposal would result in an average customer monthly bill of approximately \$120.00.<sup>1</sup>

3 **PARTIES:** Richard A. Finnigan, attorney, Olympia, Washington represents Thomas Water Service, Inc. Mary M. Tennyson, Senior Assistant Attorney General, Olympia, Washington represents the staff of the Washington Utilities and Transportation Commission (Commission Staff).

4 **SETTLEMENT AGREEMENT:** On May 8, 2003, the parties filed a proposed settlement agreement with the Commission that would resolve all the issues in this proceeding. The proposal would increase the Company’s gross revenue by approximately \$11,000 (20%) per year. The negotiated proposal would result in an

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<sup>1</sup> This amount includes charges for the Water System Plan.

average customer monthly bill of \$74.07, plus the \$11.59 Water System Plan surcharge through May 2004, for a total of \$85.66.

## I. BACKGROUND

### Historical Background

- 5 Thomas Water Service, Inc. (Thomas Water or Company) was established in 1990 as a water utility by Myron Thomas. Around 1996 Thomas Water was sold to Tom McDermott who also owned Buckskin Ranch Corporation, the owner/developer of property adjacent to the Meadow Ridge subdivision originally known as Ironwood Ranch, and now known as Kackman Creek.
- 6 In February of 1997, the Washington Department of Ecology approved Thomas Water's application to change the water rights place of use and points of withdrawal to allow new wells to be drilled. Four new wells were drilled on Kackman Creek property—one for the exclusive use of Meadow Ridge and three for the exclusive use of Kackman Creek. The new wells address Meadow Ridge customer concerns over water quality and provide sufficient quantity to serve the existing Meadow Ridge and an additional 143 hook-ups.
- 7 In 1998, upon Mr. McDermott's death, a major creditor, Bryon W. and Alice L. Lockwood Foundation, took ownership and control of both Thomas Water and Kackman Creek development.
- 8 During a 1998-1999 rate filing, Thomas Water's Water System Plan<sup>2</sup> approved by the Department of Health in May 1998 showed that Thomas Water was to provide service to three water systems: Meadow Ridge (67 customers), Meadowbrook (14 customers), and Ironwood Ranch (not developed, potential 143 customers). Since then, the Commission approved the sale of the Meadowbrook water system to the Meadowbrook Homeowner's Association (Docket No. UW-991327). Independent of Thomas Water and not subject to Commission jurisdiction, the Lockwood foundation turned over the partially developed Ironwood Ranch and the water system to the Kackman Creek Homeowner's Association. Thomas Water now serves only the Meadow Ridge water system.

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<sup>2</sup> Water System Plans are required by Department of Health and are used to establish the size, operating procedures, and planning requirements for the water system during a six-year period.

**Procedural History**

- 9 On December 17, 2002, Thomas Water filed proposed tariff revisions designed to effect a general increase in its rates for water service. The cumulative effect of the tariff filing would be to increase annual revenues by approximately \$49,010.00 (100%). The Commission, by Order entered February 28, 2003, suspended the operation of the tariff revisions pending hearing or hearings concerning the proposed changes and the justness and reasonableness thereof.
- 10 On Staff's recommendation, on February 28, 2003, Thomas Water filed for a surcharge to recover the costs of the portion of the Water System Plan attributable to the Meadow Ridge water system. The proposal would remove the costs associated with the Water System Plan from this rate case. On March 26, 2003, the Commission approved the surcharge at a rate of \$11.59 per customer per month. The surcharge will expire May 31, 2004.
- 11 The Commission convened a prehearing conference in this matter in Olympia, Washington, on April 11, 2003, before Administrative Law Judge Karen M. Caillé. Among other things, the Commission established a procedural schedule, invoked the discovery rule, and entered a protective order. The parties informed the Commission of their intention to resolve issues through settlement discussions.
- 12 On May 8, 2003, prior to filing any testimony, the parties filed a proposed settlement agreement for the Commission's approval under WAC 480-09-465 as a full resolution of all issues in this proceeding. *Joint Exhibit No. 1. (Settlement Agreement)*. The parties agreed to an overall revenue requirement increase for Thomas Water's operations of \$11,000.
- 13 On May 19, 2003, the Commission convened a hearing on the settlement before Administrative Law Judge Karen Caillé (ALJ) in Arlington, Washington, to explore the terms and conditions of the proposed settlement agreement, and to consider whether the proposal is consistent with the public interest and whether the proposed rates appear to be fair, just, reasonable, and sufficient. Jim Ward, on behalf of Commission Staff, presented the terms and conditions of the Settlement Agreement. The parties waived the entry of an Initial Order by the ALJ, and agreed to have the Commission enter a final order.

- 14 Following the formal hearing on the proposed Settlement Agreement, Commission Staff and Thomas Water held a Question/Answer forum to offer customers the opportunity to ask questions about the Settlement Agreement and related issues.
- 15 Later that evening, the ALJ conducted a public hearing to receive into the record comments from ratepayers and other members of the public who expressed an interest in the outcome of this general rate case. Twenty-six customers attended the public hearing, ten of whom presented oral comments. Commenters objected to the increase in rates, asserted that they should be compensated for the water rights transferred from Thomas Water to Kackman Creek, questioned the allocation of costs among the three water systems, and the prudence of operations by the owner.<sup>3</sup>
- 16 Specifically, customers contend that the \$264,635.85 net plant value is incorrect based on invoices that, they contend, appear to have been incorrectly charged to Meadow Ridge. Thus, customers assert that they are required to pay a return on an invalid investment amount.
- 17 Customers ask the Commission to remove term Number 4 from the Settlement Agreement and address the water rights issue by disallowing the 10.2% ROI on the current Utility Plant figure or readjust it for the value of the water rights, somewhere between \$100,000 and \$150,000. Alternatively, customers ask the Commission to reject the Settlement Agreement, address the water rights issue prior to any rate increase, and investigate the invoice discrepancies customers have documented in their comments.
- 18 Customers also challenge the prudence of using a management agency that charges the Company \$900 per month to maintain the water system versus a certified operator. Customers request that the Commission delay any increase in rates from going into effect until after August 30, 2003, because of the effect the change in rates may have on negotiations with Thomas Water for purchase of the system.<sup>4</sup>

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<sup>3</sup> Customers filed written comments prior to the suspension of the tariff filing, and following the public hearing on May 19, 2003. All of the written customer comments are contained in Exhibit 3 – Customer Comments.

<sup>4</sup> Several customers expressed concerns that a UTC Staff member informed customers that Meadow Ridge customers would be charged for the Company's legal fees if the case were not settled. The customers may not have understood that the legal expenses, if prudently incurred, are recoverable through rates. Therefore, by settling this rate case, the Company, and in turn the ratepayers, avoid litigation expenses.

19 Customer comments proposed removal of term Number 4, relating to water rights from the Settlement Agreement. Commission Staff explained that the provision only applies to this settlement, at this time, and thus forecloses no issues in future proceedings.

## II. SETTLEMENT AGREEMENT

20 The Settlement Agreement filed by Commission Staff and Thomas Water would resolve the issues in the current rate case. The Settlement Agreement is attached as Appendix A to this Order. As further explanation of the Settlement Agreement, the parties submitted Joint Exhibit 2, Discussion on Settlement, consisting of a discussion of the Company adjustments, Staff adjustments, a rate design table and a spreadsheet, attached as Appendix B to this Order.

21 Under the terms of the Settlement Agreement, the average customer bill for water service will increase from \$62.25 to \$85.66 per month. A surcharge of \$11.59 for the Water System Plan is included in the \$85.66, and that surcharge will expire May 31, 2004. Thereafter, the average customer bill will be \$74.07.

22 The base rate for metered service with a  $\frac{3}{4}$  inch meter will be set a \$47.00 per month, with no usage included. Rates for the first 800 cubic feet of water used per month will be set at \$2.75 per 100 cubic feet. For water usage in excess of 800 cubic feet per month, the rate will be \$4.35 per 100 cubic feet.

23 These rates will result in an increase in the Company's gross revenue of approximately \$11,000 per year or 20%. Thus, based on the settlement, the Company will have a revenue requirement of \$59,556 per year.

24 The current rate base of the company is approximately \$197,816 and with a return on investment of 10.20%, the allowed return would be approximately \$20,000.

25 The Company will shift to bi-monthly billing, which will reduce the Contract Service-Billing by \$2,231.

26 The parties intend that the new rates become effective June 1, 2003.

27 Provision Number 4 of the Agreement states that the issues of water rights and affiliated interests are considered resolved for the purposes of this proceeding. Further, provision Number 4 provides that, based upon the information available to Staff at this time, Staff will not raise those issues and will not seek a complaint for those issues alone.

### III. DISCUSSION AND DECISION

28 The ultimate determination to be made by the Commission in this proceeding is whether the Settlement Agreement is consistent with the public interest and whether under the terms of the Settlement Agreement the proposed rates are fair, just, reasonable, and sufficient, pursuant to RCW 80.28.020.<sup>5</sup> We resolve these questions by reviewing the Settlement Agreement and the record developed in this proceeding to assess whether the proposal appears fair in determining the Company's adjusted results of operations during the test year, establishing the fair value of the Company's property-in-service (rate base), determining the proper rate of return permitted the Company on that property, and establishing the appropriate spread of rates charged customers to recover that return.

29 We commend Commission Staff and the Company for their efforts to resolve the issues presented by this rate case. The parties negotiated a substantial reduction of the original requested annual revenue requirement amount. The agreement results in lower monthly customer bills as compared to the original filing, and allows the Company to recover costs of the Water System Plan through a surcharge. On expiration of the surcharge in May 2004, customer monthly bills will decrease.

30 We acknowledge the customer sentiment expressed in written comments and at the public meeting in Arlington. Customers did not intervene in this proceeding and were not included in the settlement negotiations. Through comments, Customers have expressed their opposition to the Settlement Agreement and have raised concerns over the value of water rights, discrepancies in invoices, and management of the water system. We consider customer comments as part of the record in reaching our decision whether to approve the Settlement Agreement. We weigh those comments, the terms of the Settlement Agreement, and the benefits of avoiding litigation to determine whether the Settlement Agreement is in the public

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<sup>5</sup> Appendix C provides statutory provisions and rules that establish standards that govern the Commission's determinations in this general rate proceeding.

interest. We note that this settlement does not dispose of the issue of water rights, nor does it preclude investigation into the Company's books and records in the future. Thus, these issues could come before the Commission at another time. On balance, we believe the Settlement Agreement provides a fair resolution to the issues in this rate case.

31 Based on the record developed in this proceeding we find the issues pending in the Thomas Water rate case are adequately addressed and resolved by the terms of the Settlement Agreement. Under the circumstances we are satisfied that the proposed rates are fair, just, reasonable and sufficient, the Settlement Agreement is consistent with the public interest, and should be approved and adopted as a full and final resolution of all issues pending in Docket UW-021667. The Commission determines that it is appropriate that Thomas Water be authorized to file compliance tariffs by noon on May 30, 2003, to be effective on June 1, 2003.

#### IV. FINDINGS OF FACT

32 Having discussed in detail both the oral and documentary evidence concerning all material matters inquired into, and having previously stated findings and conclusions based thereon, the following summary of the facts is now made. The portions of the proceeding detailing findings and discussion pertaining to the ultimate facts are incorporated by this reference.

- 33 (1) The Washington Utilities and Transportation Commission (Commission) is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, and accounts of public service companies including water companies.
- 34 (2) Thomas Water Service, Inc. provides water service to approximately 67 customers in the Meadow Ridge subdivision along with an equestrian area north of Arlington, in Snohomish County.
- 35 (3) On December 17, 2002, Thomas Water filed with the Commission certain tariff revisions designed to effect an increase in its rates for water service.
- 36 (4) Thomas Water's currently effective rates are insufficient to yield reasonable compensation to Thomas Water for the services rendered.

- 37 (5) The rates proposed by Thomas Water's tariff revisions that are the subject of the Commission's complaint and inquiry in this proceeding, if implemented, would not be just and reasonable.
- 38 (6) The rates that result from the application of the Settlement Agreement are just, reasonable, and compensatory.
- 39 (7) The rates that result from the application of the Settlement Agreement are neither unduly preferential nor discriminatory.

## V. CONCLUSIONS OF LAW

40 Having discussed above in detail all matters material to this decision, and having stated general findings and conclusions, the following provides summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Order are incorporated by this reference.

- 41 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of and the parties to, this proceeding. *RCW 80.01.040, Chapter 80.04 RCW, Chapter 80.28 RCW.*
- 42 (2) Thomas Water Service, Inc. is a public service company as defined in RCW 80.04.010.
- 43 (3) The Settlement Agreement (Appendix A to this Order) fully and fairly resolves the issues pending in this proceeding, is consistent with the public interest, and should be approved. *RCW 80.01.040, WAC 480-09-466*
- 44 (4) The Settlement Agreement (Appendix A to this Order) results in rates for prospective application that are just reasonable, and compensatory; and that are neither unjustly discriminatory nor unduly preferential. *RCW 80.28.010, .020, .090, .100.*
- 45 (5) The Commission should retain jurisdiction over the subject matter of and the parties to this proceeding to effectuate the provisions of this Order.



**VI. ORDER**

- 46 (1) The Washington Utilities and Transportation Commission has jurisdiction  
over the subject matter of and the parties to this proceeding.
- 47 (2) The proposed tariff revisions filed by Thomas Water on December 17, 2002,  
and suspended by prior Commission order, are rejected;
- 48 (3) The Settlement Agreement (Appendix A to this Order) is approved, adopted,  
and made part of this Order;
- 49 (4) Thomas Water Service, Inc. is authorized to make appropriate compliance  
filings no later than close of business May 30, 2003, to effectuate the terms of  
the Settlement Agreement and this Order;
- 50 (5) The Commission Secretary may approve by letter the compliance filing;
- 51 (6) The Commission retains jurisdiction over the subject matter and the parties to  
effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this 30th day of May, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

**NOTICE TO PARTIES:** This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).