

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

MARBELLO WATER COMPANY,

Respondent.

DOCKET NO. UW-040366

MOTION TO DISMISS  
COMPLAINT

1           Commission Staff hereby moves for an order dismissing the Commission's  
complaint in Docket UW-040366 as to the reasonableness of the rates and charges of  
Marbello Water Company.

2           A March 25, 2004, stipulation between Staff and the Company, accepted by  
the Commission in its Order No. 02, required Marbello to file with the Commission  
an initial tariff, on or before April 1, 2004, in compliance with WAC 480-110-295.  
The Stipulation further provided that the docket would remain open and that, after  
the Company filed its tariff, Staff could, as it deemed appropriate, either (1) move  
for dismissal of the proceeding if it concluded that the tariffed rates were just and  
reasonable, or (2) go forward with evidence to establish rates different than those

set out in the Company's initial tariff if it concluded the tariffed rates were not just and reasonable.

3 Marbello filed an initial tariff in accordance with Order No. 2 on March 31, 2004, to be effective April 1, 2004.

4 The Company subsequently filed, on June 28, 2004, a second tariff to increase the rates set out its initial tariff. The Commission suspended the filing on July 28, 2004, and the matter was set for hearing in Docket UW-041181. The complaint in Docket UW-040366 and the suspended rate increase filing in Docket UW-041181 were consolidated by an order of August 10, 2004.

5 Staff has obtained two continuances of this matter in the interest of attempting to reach settlement with the Company as to the level of rates to be in effect going forward.

6 The results of Staff's analysis of the Company's financial information shows that current rates produce annual revenues of \$73,574, which is \$1,594 (2.2%) greater than the \$71,980 revenue level Staff's analysis indicates as the appropriate revenue level. The return on the total rate base of \$109,706 under current rates is 10.52%, whereas Staff's analysis indicates an actual cost of capital of 9.29%. Decl. of Kermode at ¶ 4.

7 The additional costs of litigation that the company would incur defending an action by the Staff to reduce rates by \$1,594 (2.2%) makes this difference immaterial.

Therefore, it is Staff's view that the present rates are fair just reasonable and sufficient. *Id.* at ¶ 5. Staff does, however, have remaining concerns about financial risk to the Company under the present rate design and would support revenue-neutral changes to the rate design if proposed by the Company. *Id.* at ¶ 6.

8           Staff's analysis shows that a rate increase is not required and Staff intends to oppose the Company's request for a rate increase. In that proceeding, the Company will have the burden of showing that the new rates it proposes are fair, just, reasonable and sufficient.

9           If Staff's request is granted, Docket UW-040366 can be severed from Docket UW-041181 and closed. The issue of the Commission's jurisdiction over Marbello—the only other issue in Docket UW-040366—was resolved by the Stipulation of the parties, which the Commission accepted in its Order No. 2 of March 29, 2004.

DATED this 10<sup>th</sup> day of September, 2004.

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