

September 24, 2024

UW-240589

Received
Records Management
Sep 24, 2024

Chair Dave Danner, Commissioner Ann Rendahl, and Commissioner Milton H. Doumit
Washington Utilities and Transportation Commission
601 Woodland Square Loop SE
Lacey, Washington 98503

Re: WUTC v. Summit View Water Works, Docket UW-240589

Dear Commissioners:

Summit View Water Works (SVWW or Company) submits this letter for the Commissioners' consideration ahead of the September 26, 2024, open meeting. SVWW seeks to call the Commissioners' attention to the protracted, difficult history of the Company's rate case filing and to request that the Commission place conditions on any suspension of this filing.

SVWW is a rural water company with approximately 630 domestic customers and 680 irrigation customers. It has been seeking a revenue requirement increase at the UTC for more than three years. Despite submitting pre-filed testimony from Ann LaRue, CPA and Danny Kermode, CPA, the Company still faces substantial opposition and unreasonably burdensome data requests from Commission staff (Staff). Summit View has timely responded to more than 135 questions by Staff and Public Counsel, a majority of which were served on the company in just the last four weeks. Yet Staff has again requested that the Company extend the effective date of its proposed rate increase, or Staff will suspend the filing.

In its initial filing, SVWW requested a 54 percent rate increase spread over a two-year rate plan, for domestic customers. SVWW now requests a 42 percent rate increase, effective October 1, 2024, as noted in its responses to Public Counsel's informal data requests (IDRs) #1-12, attached here as Exhibit A.

I. The procedural history of this filing and the earlier rate case in Docket UW-230555

The Company filed its previous rate case in Docket UW-230555. As Company co-owner Kirk Rathburn explains, the Company tried to obtain a "pre review" from Staff before filing, but the Company was unable to obtain this meeting with Staff. Rathburn, Exh. KR-01T at 9:13-25.

The Company retained the services of Ms. LaRue, CPA and owner of Kalahiki Consulting LLC. As Ms. LaRue explained at the Commission's February 22, 2024, open meeting, the Company faced two years of documented frustrations with Commission staff (Staff), four voluntary extensions of the effective

September 24, 2024

Page 2

date by the Company, and the untimely passing of its attorney Richard (Rick) Finnigan. SVWW withdrew its general rate case filing in UW-230555 in the face of the protracted difficulties with Staff.

Following the February 2024 open meeting, the Company retained Ms. LaRue and Mr. Kermode to prepare a new rate case filing. Ms. LaRue and Mr. Kermode went to significant efforts to address any historical infirmities in the Company's regulatory bookkeeping and recordkeeping. Ms. LaRue and Mr. Kermode also took the additional step of submitting pre-filed testimony supporting this water company rate case, before the case was even suspended, to address any difficulties in advance. Ms. LaRue offered several times to come to the Commission and walk Staff through this rate case, but Staff did not accept this offer.

Ms. LaRue also reached out to Staff before filing this new rate case. Ms. LaRue notes that she spent four months emailing with Neiri Carrasco, Regulatory Services Director, to set up a meeting with Water & Transportation staff to better understand the roadblocks that had made it impossible for staff to make a recommendation on SVWW's general rate case under docket UW-230555. Unfortunately, those efforts were futile, and Ms. LaRue abandoned that effort in June 2024, to focus on completing and submitting this rate case.

On July 30, 2024, Ms. LaRue spoke to Ms. Carrasco informing her of the general rate case filing in the present docket. Unfortunately, a few hours later, Mike Young, Water & Transportation Interim Section Manager, indicated by email that Staff's review would not be completed by September 1, 2024, asking SVWW to voluntarily change the effective date to October 1, 2024, prior to submission.

SVWW filed the preset rate case on July 31, 2024, with a September 1, 2024 effective date, and received Staff's first set of informal data requests three days later. The Company provided responses to these requests on August 7, 2024 and August 9, 2024. And SVWW responded to additional follow up questions on this first set of IDRs on August 12, 2024.

On August 13, 2024, Benjamin Sharbono sent an email asking the Company to extend the effective date, so he could complete his review. SVWW responded highlighting that the company has needed a rate increase for many years and again requested that Staff complete its review in a timely manner, for the August 29, 2024 open meeting. The following Tuesday, however, Staff noted that it had not completed its review. Staff even went so far as to assert that the Company had not been cooperative.

On August 21, 2024, Ms. LaRue sent another email asking about the status of SVWW's rate case review for which Mr. Sharbono responded saying that the case would be suspended since the Company did not wish to extend the effective date. The Company agreed to extend the effective date by one month, to October 1, 2024.

September 24, 2024

Page 3

Later that same day, August 21, 2024, Staff sent a second set of informal data requests (IDRs), to which SVWW responded on August 29, 2024.

On August 26, 2024, Public Counsel sent an email asking for a meeting with the company. SVWW met with Public Counsel via zoom on August 30th, and at Public Counsel's request, SVWW sent all previously provided staff IDR responses to Public Counsel.

On August 27, 2024, **Staff sent a third set of IDRs**. The Company responded to these requests on September 2, 2024.

On September 5, 2024, **Staff sent its fourth set of IDRs** and Public Counsel sent its first set of IDRs. The Company responded to Staff's IDRS on September 9, 2024 and to Public Counsel's IDRs on September 13, 2024.

On September 13, 2024, SVWW reached out to Mr. Sharbono. Mr. Sharbono responded that he could not complete his review and asked the company to extend the effective date again. SVWW requested a phone call with Mr. Young or Mr. Sharbono the following business day.

On September 16, 2024, **Staff sent its fifth set of IDRs** containing 19 additional requests, bringing the total IDRs sent by staff to 51. Many of Staff's IDRs contained subparts and follow-up questions, which resulted in more than 85 questions from Staff. About a quarter of the IDRs asked for information that had previously been provided by SVWW, either in its case in chief or in response to previous IDRs. Staff gave the Company three days to respond to its fifth set of IDRs.

SVWW attaches examples of Staff's IDRs as Exhibit B to this letter. Staff and Public Counsel repeatedly asked the Company for information provided in testimony or other data request responses. **Staff even asked the Company for Staff's own workpapers** supporting Staff's recommendations from an earlier docket, UW-180801.

Staff also asked the Company to explain why irrigation services were not metered (Staff IDR 5-13) and why 0.133681 was being used to convert gallons to cubic feet (Staff IDR 5-17), despite both of these being a common practice in the water industry.

Staff asked for invoices reaching back years before the historical period. For instance, Staff asked for invoices for "all assets" placed in service after November 1, 2018. This question also suggested that Staff was departing from its historical practice of "audit sampling" (the accepted practice of verifying a sampling of relevant data rather than verifying *all* of the costs recorded in the company's books) and holding SVWW to a stricter standard than it had in past proceedings.

Nevertheless, SVWW responded to Staff's fifth set of IDRs on September 18, 2024, only two days after the IDRs were received.

On September 19, 2024, Public Counsel sent its second set of IDRs containing seven additional requests, bringing the total IDRs sent by Public Counsel to 27, many of which also contained subparts and follow-up questions, which resulted in more than 50 questions from Public Counsel. SVWW responded to these IDRs on September 23, 2024.

On September 20, 2024, six days before the open meeting, SVWW reached out again to Mr. Sharbono inquiring about the status of the rate case review. Mr. Sharbono responded that he was still reviewing information and that he would need to confer with Mr. Young. **Staff then sent its sixth set of IDRs**, with four more data requests. The Company responded to these requests on September 24, 2024.

On September 23, 2024, Public Counsel submitted comments to the Commission arguing that the Company's case should be **rejected** because it did not provide cost of capital testimony. Public Counsel raises other objections to the Company's filing with which the Company does not agree.

II. Summit View Water Work's concerns at this time

Water company rates should be based on an appropriate record. Staff and Public Counsel should have a reasonable opportunity to investigate the Company's filing. But when the regulatory process entails significant delays, withdrawn filings, and overly burdensome IDRs, this will place greater costs on customers, and it will risk financial harm to the Company from years of lost revenue. None of this is in the public interest.

The Company wishes to highlight five concerns for the Commissioners attention at this time:

- **Staff declined to provide the Company with a "pre review" or a "post mortem" meeting of its last rate case, and declined invitations for a "walk through" of the new rate case filing.** The Company sought technical assistance through a "pre review" meeting and was denied and its request for a "post mortem" was refused. Additionally, Ms. LaRue was repeatedly stymied in her attempts to explain the Company's new rate case filing to Staff. The Commission should inquire why Staff has declined to provide the same technical assistance to water companies that it has in the past.
- **Excessive delays in Staff's review of the Company's rate case filings are undermining the Commission's preference for "gradualism" in rate increases.** A more collaborative, informal

approach to water company rate cases would likely have allowed the Company to recover additional expenses through more gradual rate increases over the last four years.

- **Public Counsel invites the Commission into error, by arguing that the Company’s rate case should be rejected outright because the Company did not provide cost of capital testimony in a water company rate case.** The Commission has applied a 12 percent return on equity (ROE) in water company rate cases for more than 20 years. Water companies have not historically presented their own cost of capital witnesses. Public Counsel invites the Commission to act in an arbitrary and capricious manner by requiring SVWW, without prior warning, to have presented a cost of capital witness.
- **Staff and Public Counsel have had access to the Company’s direct case for nearly two months.** If the Commission decides to suspend this matter for adjudication, the next logical deadline in the schedule is the filing for responsive testimony. Setting a schedule based on a full, 11-month calendar invites unnecessary delay and additional rate case expenses.
- **Staff has already issued multiple sets of unreasonably burdensome data requests.** These requests demand responses on shortened timelines, seek information already provided in testimony, seek information from years before the historical test year, and depart from the historical Commission practice of “audit sampling.” The Commission should take reasonable, proactive steps to limit the scope of discovery. King County Superior Court and many other courts limit parties’ total number of discovery requests in such a manner. Although these limits may not be common practice before the Commission, they are justified given the history of this particular case, and Staff’s new rate review practice.

III. The Company’s requests for relief at the September 26, 2024, open meeting

The Company requests that the Commission allow its proposed revenue requirement, as amended in response to Public Counsel’s IDRs #1-12, to take effect October 1, 2024. The Company should be permitted to prepare revised tariff sheets as a compliance filing following the open meeting.¹

¹ If the Commission allows the proposed rates to take effect, there is no requirement for Staff to receive five business days to review the compliance filing. Staff only receives five business days to review compliance filings following a “final order,” WAC 480-07-880(4), and a “final order” is defined as an order entered by the commissioners resolving the disputed issues in an adjudication, not an open meeting. *See* WAC 480-07-820(1)(b).

September 24, 2024

Page 6

In the alternative, the Commission should suspend this matter for adjudication subject to the following five (5) conditions:

- The adjudication will proceed as an “expedited rate filing,” with an initial order entered by February 26, 2024.
- The Administrative Law Division shall notice a prehearing conference within 20 calendar days of this open meeting;
- The assigned administrative law judge shall adopt a procedural schedule with response testimony from Staff and any other parties being the first required filing from the parties;
- The Company shall receive reasonable opportunities for rebuttal testimony and the cross-examination of Commission witnesses; and
- Staff and Public Counsel may issue up to a combined total of 20 additional data requests to SVWW during this proceeding, inclusive of any data requests issued from September 23, 2024, forwards. The assigned administrative law judge may grant Staff and Public Counsel additional data requests, subject to a joint limit for both statutory parties, based on a showing of good cause. This condition shall not be construed as prejudging any specific data requests issued by Staff or Public Counsel or any potential objections raised by the Company in response.

These conditions are intended to place “guard rails” on the proceeding, which are entirely reasonable given the limited number of disputed issues, the pre-filed testimony already in the record, and the discovery already conducted so far. SVWW thanks the Commissioners for their attention to the important issues in this docket.

Very truly yours,

Michael S. Howard
(206) 628-6652
mhoward@williamskastner.com