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Washington Utilities
and Transportation
Commission

Investigation Report

Iliad Water Company, LLC

UW-190613

**Jason Hoxit
Compliance Investigations**

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PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine whether Iliad Water Company, LLC (Iliad Water or Company) is in compliance with Washington Utilities and Transportation Commission (commission) laws and rules outlined in Washington Administrative Code (WAC) 480-110 and Revised Code of Washington (RCW) 80.28, and to determine whether Iliad Water is in compliance with its commission-approved tariff.

Scope

The scope of this investigation focuses on Iliad Water's business practices between Oct. 17, 2017, and March 1, 2019, provided by Iliad Water in response to staff's data request.

Authority

Staff undertakes this investigation pursuant to RCW 80.01.040, which directs the commission to regulate water companies in the public interest. In addition, RCW 80.04.070 grants the commission specific authority to conduct such an investigation.

Staff

Jason Hoxit, Compliance Investigator
(360) 664-1320
Jason.Hoxit@utc.wa.gov

EXECUTIVE SUMMARY

As a result of informal complaint CAS-24019-Z9W8S0, staff determined an investigation was necessary to determine whether Iliad Water is in compliance with state laws and rules administered by the commission, as well as the Company's commission-approved tariff. Staff reviewed Company records from June 1, 2017, to March 1, 2019, and documented a total of 2,824 violations between Oct. 17, 2017, and March 1, 2019. Staff found Iliad Water violated the following state laws and rules:

- RCW 80.28.080, Published Rates to be Charged
- WAC 480-110-355(3)(b)(i), Discontinuing of Service

Penalty Recommendation

While the law allows the commission to assess a penalty of up to \$1,000 per violation, staff believes the full penalty would be overly burdensome based on the Company's reported revenue. The recommended penalty provides a significant incentive to avoid repeat violations. Staff recommends the commission issue a formal complaint against Iliad Water, and assess a penalty of up to \$28,240 for 2,824 violations of state laws and rules, as follows:

- Up to \$27,840 for 2,784 violations of RCW 80.28.080, for failing to charge customers published rates for credit/debit card processing fees and/or online payment fees.
- Up to \$220 for 22 violations of RCW 80.28.080, for failing to charge customers published rates for backflow assembly testing and inspection.
- Up to \$90 for nine violations of RCW 80.28.080, for failing to charge customers published rates for backflow non-compliance.
- Up to \$70 for seven violations of RCW 80.28.080, for failing to charge customers published rates for disconnection and reconnection of service.
- Up to \$20 for two violations of WAC 480-110-355(3)(b)(i), for failing to deliver a second disconnection notice that allows the customer until 5:00 p.m. of the following day to comply.

In addition to these penalties, staff recommends the commission order the Company to remit to affected customers a total refund of \$3,859.50 for the following violations:

- \$1,874.50 for charging customers credit/debit card processing fees and online payment fees, in violation of RCW 80.28.080.
- \$1,630 for charging customers backflow assembly testing and inspection fees, in violation of RCW 80.28.080.
- \$175 for charging customers backflow non-compliance fees, in violation of RCW 80.28.080.
- \$100 for charging customers both disconnection visit charges and reconnection visit charges, in violation of RCW 80.28.080.
- \$80 for charging customers both disconnection visit charges and reconnection visit charges from an invalid service disconnection, in violation of WAC 480-110-355(3)(b)(i).

Staff will provide Iliad Water with the names, service addresses, and individual refunds due to each affected customer at the conclusion of this investigation.

BACKGROUND

Company Information

Washington Secretary of State (SOS) records indicate Iliad Water registered in the state of Washington as a limited liability company on Feb. 4, 2016. SOS records list David Dorland as the governor and registered agent.¹ Washington Department of Revenue (DOR) records show the Company as an active limited liability company, first opened on Jan. 1, 2016, and lists David Dorland as the governing person.²

According to Washington Department of Health (DOH) records, there are 870 active connections with 916 approved connections for Iliad Water's 23 commission-regulated water systems. DOH lists David Dorland Jr. as the owner, and Jared Hays as the manager for all 23 water systems.³ Iliad Water's 2018 annual report indicates that it is a Class B regulated water company serving 896 customers throughout 23 commission-regulated water systems.⁴

Recent annual reports filed by Iliad Water reflect the following gross revenues:

Annual Report Year	Date Filed	Gross Operating Revenue	Utility Operating Income
2016	May 1, 2017	\$321,663	-\$114,001
2017	April 26, 2018	\$615,426	-\$197,035
2018	May 1, 2019	\$694,051	-\$334,400

COMMISSION-REFERRED COMPLAINTS

A review of Iliad Water's complaint history reveals eight informal consumer complaints filed against the Company between Nov. 2, 2016, and Feb. 13, 2019, as follows:

November 2016 Consumer Complaint CAS-19921-R1H8M5

On Nov. 2, 2016, a consumer filed a customer service complaint against Iliad Water concerning a \$15 monthly "non-user" fee. The results show that the customer was charged a ready to use service charge in accordance with the Company's tariff. No violations were discovered during this complaint, and the final disposition was company upheld.

March 2017 Consumer Complaint CAS-20624-P3F4N8

On March 2, 2017, a consumer filed a disconnect complaint against Iliad Water pertaining to a

¹ See Attachment A for a copy of SOS records, captured on July 18, 2019.

² See Attachment B for a copy of DOR records, captured on July 18, 2019.

³ See Attachment C for a copy of DOH records, captured on July 18, 2019.

⁴ See Attachment D for a copy of Iliad Water's 2018 annual report, filed on May 1, 2019.

swapped service meter, as well as receiving a disconnection notice for not providing the Company proof that the water line was connected to the correct meter. The results show that all parties agreed to back-bill to the time the error was found in December 2016, and Iliad Water switched the meter numbers for the two properties in its accounting system. No violations were discovered during this complaint, and the final disposition was company upheld with arrangements.

March 2017 Consumer Complaint CAS-20666-X8H0Q5

On March 8, 2017, a consumer filed a customer service complaint against Iliad Water regarding a swapped service meter. The results show that all parties agreed to back-bill to the time the error was found in December 2016, and Iliad Water switched the meter numbers for the two properties in its accounting system. No violations were discovered during this complaint, and the final disposition was company upheld with arrangements.

July 2017 Consumer Complaint CAS-21388-R7R0X1

On July 11, 2017, a consumer filed a disputed bill complaint against the Company after receiving an invoice from Iliad Water for repairs. The results show that the Company repaired the water leak on the customer’s property without properly notifying the customer, and reversed the \$1,111.85 in repair charges, usage charges, and late fees. One violation was discovered during this complaint, and the final disposition was consumer upheld. Staff cited Iliad Water for the following violation:

Violation	Number of Violations
WAC 480-110-375(1)(d): Iliad Water Company issued the customer an invoice for work performed on the customer's private property without the customer's consent.	1

August 2018 Consumer Complaint CAS-23496-Q4L5V6

On Aug. 13, 2018, a consumer filed a disputed bill complaint against Iliad Water concerning inaccurate meter reads. The results show that the meter reads were inaccurate for consecutive billing cycles, and the Company implemented a new system for the meter reader on the Fragaria water system to take pictures of the meter reads. Two violations were discovered during this complaint, and the final disposition was consumer upheld. Staff cited the Company for the following violations:

Violation	Number of Violations
WAC 480-110-375(1)(h): Iliad Water failed to include the correct current and previous meter readings on the June and July 2018 billing statements.	2

December 2018 Consumer Complaint CAS-24019-Z9W8S0

On Dec. 3, 2018, a consumer filed a disconnect complaint against Iliad Water concerning a disputed high bill that resulted in disconnection of service. The results of the complaint show that the disconnection was improper due to insufficient notice to the customer, and the Company did not charge the customer for reconnection of service.

Staff discovered 2,575 violations during this complaint, and the final disposition was company upheld with violations. Staff cited the following violations:

Violation	Number of Violations
RCW 80.28.080(1)(a): Iliad Water charged its customers charges not authorized in its approved tariff on file with the commission.	2,551
RCW 80.28.080(1)(a): Iliad Water mailed 20 monthly billing statements for an assessment charge not included in its approved tariff.	20
WAC 480-110-355(3)(b)(i): The second disconnection notice did not allow the customer until 5 p.m. of the following day to pay delinquent charges to avoid disconnection of service.	1
WAC 480-110-375(1)(h)(i): Iliad Water's billing statements do not contain the tax percentage rate as required.	1
WAC 480-110-355(1)(b)(i): The second disconnection notice was non-compliant and therefore the customer's service was improperly disconnected.	1
WAC 480-110-355(3)(a)(ii): Requiring the customer to pay current charges and late charges to avoid disconnection of service.	1

During the informal complaint, staff discovered numerous violations of Iliad Water’s commission-approved tariff that affected other customers. As a result of complaint CAS-24019-Z9W8S0, staff concluded that an investigation was necessary to determine whether Iliad Water is in compliance with state laws and rules administered by the commission, as well as the Company’s commission-approved tariff.

February 2019 Consumer Complaint CAS-24442-W9H9B1

On Feb. 13, 2019, a consumer filed a disconnect complaint against Iliad Water alleging that the Company did not provide proper notice for a disconnection. The results of the complaint show that Iliad Water provided appropriate notice for the February 2019 disconnection. No violations were discovered during this complaint, and the final disposition was company upheld.

DOCKET HISTORY

Docket UW-160784

On May 31, 2016, Iliad Water Services, Inc., and Iliad Water filed a joint application to merge Iliad Water Services, Inc., into Iliad Water. In this filing, Iliad Water filed a Tariff Adoption Notice.⁵ On June 23, 2016, the commission issued Order 01, Order Granting Application for Merger and Adopting Tariff.

Order 01 approved the joint application of Iliad Water Services, Inc., and Iliad Water to transfer control of Iliad Water Services, Inc., to Iliad Water; approved Iliad Water’s adoption of Iliad

⁵ See Attachment E for a copy of Iliad Water’s application and tariff adoption notice in Docket UW-160784, dated May 31, 2016.

Water Services, Inc.’s tariffs, effective July 1, 2016, and stated, “Iliad Water will continue to use the same operations and billing staff who are familiar with each of the utility’s operations.”⁶

Docket UW-161155

On Oct. 21, 2016, Iliad Water filed revisions to its tariff. This was Iliad Water’s first general rate filing after the merger. The proposed general rate increases applied to 10 water systems: Alderlake, Cascade Crest, Cherry Creek, Fragaria Landing, Hunt I & II, Lowper, Marbello, Northwest, Stavis I, and Sunwood Graham.⁷

On Dec. 22, 2016, the commission issued Order 01, Complaint and Order Suspending Tariff Revisions. Order 01 suspended the tariff revision filed on Oct. 21, 2016, ordered Iliad Water not to change or alter the tariffs filed in the docket during the suspension period unless authorized by the commission, and instituted an investigation of the Company’s books, accounts, practices, activities, property, and operations.⁸ On March 20, 2017, Iliad Water filed revisions to the Company’s Oct. 21, 2016, tariff filing.

On March 29, 2017, the commission issued Order 02, Order Dismissing Complaint and Order Suspending Tariff Revision; Allowing Revised Rates to Become Effective. Order 02 dismissed Order 01 in the docket; approved Iliad Water’s tariff revision filed on Oct. 21, 2016, and revised on March 20, 2017, to go into effect April 1, 2017; required Iliad Water to file a tariff revision within 60 days to bring 13 unregulated water systems into regulation;⁹ and required the Company to file a general rate case for all 23 water systems with an effective date no later than 15 months from the date that all 23 water systems were listed in the Company’s tariff.¹⁰

Schedule A of Iliad Water’s tariff, effective April 1, 2017, did not include credit/debit card processing fees, online payment fees, backflow assembly testing and inspection charges, or backflow non-compliance fees.¹¹ Schedule No. 8 of the Company’s tariff, effective April 1, 2017, stated:

“If the customer has an Approved Backflow Prevention Assembly installed the assembly must be tested annually by a certified Backflow Assembly Tester (BAT) specialist. The Utility will maintain a list of certified BAT specialists that are acceptable to the Utility and the customer may choose from any such BAT specialist on the Utility’s list. The customer will provide a copy of the acceptable annual report from the BAT specialist. If the annual report is not provided within thirty days of the anniversary date of the installation of the Approved Backflow Prevention Assembly, then the Utility will provide a notice of disconnection pursuant to WAC 480-110-355(3)(a).”

⁶ See Attachment F for a copy of Order 01 in Docket UW-160784, dated June 23, 2016.

⁷ Sunwood Graham and Northwest water systems had not previously been regulated by the commission.

⁸ See Attachment G for a copy of Order 01 in Docket UW-161155, dated Dec. 22, 2016.

⁹ 85 Acres, State/Marysville, Cliftonwood, Hunt III, Parkwood, Skyview, Stilliridge, Suddenview, Sunland Shores, Sunnyhills, Tala Pt., Vashon, and Vista Glen.

¹⁰ See Attachment H for a copy of Order 02 in Docket UW-161155, dated March 29, 2017.

¹¹ See Attachment I for a copy of Original Sheet No. 60, Canceled by First Revision of Sheet No. 60 on May 5, 2019.

Schedule No. 8 of Iliad Water's tariff, effective April 1, 2017, allowed the Company to provide a notice of disconnection if its customers failed to provide annual reports for approved backflow prevention assemblies, but did not allow Iliad Water to charge backflow non-compliance fees.¹²

Docket UW-170351

On May 9, 2017, Iliad Water filed a tariff revision to comply with Order 02 in Docket UW-161155. The revision to the Company's tariff brought the 13 previously unregulated water systems into regulation, effective June 1, 2017.

Docket UW-181055

On Oct. 1, 2018, Iliad Water filed revisions to its tariff to comply with Order 02 in Docket UW-161155. This filing proposed a general rate increase for all 23 commission-regulated water systems, proposed several ancillary charge increases, and included capital assessment surcharges for three water systems.

The ancillary charges proposed in Schedule A of Iliad Water's tariff included an \$85 backflow assembly testing and inspection charge, a \$2 credit/debit card processing fee, and a \$0.50 online or autopay payments (per payment) charge. On March 26, 2019, Iliad Water withdrew the proposed ancillary charges in Schedule A.¹³

On April 25, 2019, the commission issued Order 01, Order Conditionally Approving Surcharge; Allowing Tariff Revisions to Become Effective by Operation of Law. Order 01 approved the Company's request for a monthly surcharge on its Parkwood water system for treatment plant improvements, and allowed the tariff revisions filed by Iliad Water on Oct. 1, 2018, as revised on March 26, 2019, and April 17, 2019, to go into effect May 1, 2019.¹⁴

Schedule No. 8 of the Company's tariff does not include backflow non-compliance fees.¹⁵

Docket UW-190256

On April 4, 2019, Iliad Water filed revisions to the ancillary charges in the Company's tariff. Iliad Water's April 4 advice letter in the filing stated, "[t]hese charges were filed in Docket No. 181055, but were withdrawn by agreement with Commission Staff."¹⁶

¹² See Attachment J for a copy of Original Sheet No. 30, Canceled by First Revision of Sheet No. 30 on May 1, 2019; Original Sheet No. 31; and Original Sheet No. 32, Canceled by First Revision of Sheet No. 32 on May 1, 2019.

¹³ See Attachment K for a copy of Iliad Water's Request to Withdraw First Revised Sheet No. 60, filed on March 29, 2019.

¹⁴ See Attachment L for a copy of Order 01 in Docket UW-181055, dated April 25, 2019.

¹⁵ See Attachment M for a copy of First Revised Sheet No. 30, Original Sheet No. 31, and First Revised Sheet No. 32, captured from Iliad Water's current tariff on Aug. 13, 2019.

¹⁶ See Attachment N for a copy of the Company's advice letter, dated April 4, 2019.

The proposed ancillary charges in Schedule A of Iliad Water's tariff appeared on the no-action agenda at the commission's April 25, 2019, open meeting, and went into effect without action by the commission on May 5, 2019.

Schedule A of the Company's tariff, effective May 5, 2019, includes a \$45 "Backflow Assembly Testing and Inspection" charge, but does not include credit/debit card processing fees, online payment fees, or backflow non-compliance fees.¹⁷

INVESTIGATION

Data Request

On March 28, 2019, staff requested the following records from Iliad Water:

1. A list of all customers in Washington state who were disconnected from service for non-payment from June 1, 2017, through March 1, 2019, with associated account numbers, and sorted by month.
2. For each customer listed, provide a document or worksheet that shows the account history, including dates of first notices, second notices, late fees, current charges, payments, disconnect fees, reconnect fees, etc., and the balance owing after each application.
3. A list of all customers in Washington state who were assessed an online payment transaction fee, and/or a phone payment convenience fee from June 1, 2017, through March 1, 2019, with associated account numbers, the number of occurrences the customers were charged these fees, and sorted by month.
4. For each customer listed, provide a document or worksheet that shows the account history, including current charges, late fees, payments, online payment transaction fees, phone payment convenience fees, etc., and the balance owing after each application.
5. A copy of Iliad Water's customer complaint record for the period of April 1, 2018, through March 1, 2019, including the complainant's name and address, date and nature of the complaint, action taken, and the final result.
6. The name, title, telephone number, and e-mail address of the Company's contact person that commission staff can work with directly for questions that may arise concerning any details of the data.

¹⁷ See Attachment O for a copy of First Revised Sheet No. 60, captured from the Company's current tariff on August 13, 2019.

The Company was requested to provide all information and documents no later than April 11, 2019.¹⁸ Iliad Water requested, and was granted, an extension until 5 p.m., April 30, 2019.

On April 26, 2019, Iliad Water submitted to staff two Excel spreadsheets and 705 pages of Company records for the period of June 1, 2017, through March 1, 2019. Iliad Water provided a list of customers who were disconnected from service for non-payment, a list of customers that were assessed an online payment transaction fee and/or a phone payment convenience fee, customer account histories, and customer complaint records. Silvia Rosas, an accountant for Iliad Water, was identified as the contact person for the investigation.

During the investigation, staff requested clarification and additional documentation from Iliad Water on 29 separate occasions between June 24, 2019, and July 29, 2019, regarding a number of issues found upon review of the Company's original response. Iliad Water was very responsive to staff's requests.

Staff used the documents and information furnished from the original data request, all subsequent responses from Iliad Water, and commission records to conduct this investigation of the Company's business practices.

Published Rates to be Charged

Investigation

RCW 80.28.080 requires that no water company "charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time ..."

Credit/debit card processing fees and online payment fees

Iliad Water's commission-approved tariff has never allowed the Company to charge a \$2 credit/debit card processing fee or a \$0.50 online payment fee.

On Oct. 1, 2018, Iliad Water proposed these ancillary charges in its tariff revision in Docket UW-181055; however, the Company withdrew the proposed fees in the same docket on March 26, 2019.

Backflow non-compliance fees

Iliad Water's commission-approved tariff has never allowed the Company to charge a \$25 backflow non-compliance fee. Schedule No. 8 of Iliad Water's tariff only allows the Company to provide a notice of disconnection if its customers fail to provide annual reports for approved backflow prevention assemblies.

Backflow assembly testing and inspection charges

Iliad Water's commission-approved tariff did not allow the Company to charge backflow assembly testing and inspection charges between March 20, 2017, and May 4, 2019.

On Oct. 1, 2018, Iliad Water proposed an \$85 backflow assembly testing and inspection charge in its tariff revision in Docket UW-181055; however, the Company withdrew the proposed

¹⁸ See Attachment P for a copy of the data request, dated March 28, 2019.

charge in the same docket on March 26, 2019. Iliad Water eventually added a \$45 backflow assembly testing and inspection charge to its tariff; however, this charge did not go into effect until May 5, 2019.

Disconnection visit charges and reconnection visit charges

From March 20, 2017, to May 4, 2019, Iliad Water’s commission-approved tariff allowed the Company to assess a \$20 disconnection visit charge when its employee is dispatched to disconnect service and service is not disconnected due to the customer paying the delinquent balance prior to disconnection; and allowed Iliad Water to assess a \$20 reconnection visit charge when its employee is dispatched to reconnect service after service had been disconnected.

The Company’s commission-approved tariff has never allowed Iliad Water to assess both disconnection visit charges and reconnection visit charges for the same delinquent account.

Findings

Iliad Water failed to charge customers in accordance with its commission-approved tariff on numerous occasions between Oct. 17, 2017, and March 1, 2019. The Company charged 413 customers credit/debit card processing fees and/or online payment fees not allowed in its tariff on 2,784 occasions;¹⁹ charged seven customers backflow non-compliance fees not allowed in its tariff on nine occasions;²⁰ charged seven customers both disconnection visit charges and reconnection visit charges for the same delinquent account;²¹ and charged 19 customers backflow assembly testing and inspection charges not allowed in its tariff on 22 occasions.²²

Description	RCW	Violations	Customer Refunds
Failing to charge customers published rates for credit/debit card processing fees and online payment	80.28.080	2,784	\$1,874.50
Failing to charge customers published rates for backflow non-compliance.	80.28.080	9	\$175
Failing to charge customers published rates for backflow assembly testing and inspection.	80.28.080	22	\$1,630
Failing to charge customers published rates for disconnection and reconnection of service.	80.28.080	7	\$100 ²³
	Total	2,822	\$3,779.50

¹⁹ See Attachment Q for copies of customer account histories with credit/debit card processing fees and/or online payment fees.

²⁰ See Attachment R for copies of customer account histories with backflow non-compliance fees.

²¹ See Attachment S for copies of customer account histories with both disconnection visit charges and reconnection visit charges.

²² See Attachment T for copies of customer account histories with backflow assembly testing and inspection charges.

²³ This customer refund amount does not include the refunds under “Discontinuance of Service,” located on pages 13-14.

Discontinuance of Service

Investigation

WAC 480-110-355 requires that a water company notify its customers before disconnecting service except in case of danger to life or property. In all other cases, the company must not disconnect service until it serves a written disconnection notice on the customer, either by mail, or, at the company's option, by personal delivery of the notice to the customer's address, attached to the primary door.

The notice must have a delinquent date that is no less than eight business days after the date of personal delivery and must include all pertinent information about the reason for the disconnection notice and how to correct the problem.

In addition, a second disconnection notice must be delivered to the customer's primary door. The second disconnection notice must contain a deadline for compliance that is no less than 24 hours after the time of delivery that allows the customer until 5:00 p.m. of the following day to comply.

Iliad Water's tariff, Rule 17 - Discontinuance of Service, is specific on how the Company is to administer notification to customers for discontinuance of service.

Findings

Staff finds that Iliad Water failed to properly notify two customers of pending disconnections. The second disconnection notice placed on each customer's door did not allow the customer until 5:00 p.m. of the following day to comply with the notice. Iliad Water stated that "disconnects were previously scheduled for anytime after noon. [Staff] informed us that this was incorrect. Policy has changed."²⁴

Customer	Water System	Street	1st Shut Off Notice Mailed	2nd Notice via Door Tag	Disconnect Date
Customer A	Suddenview	190th Street NE	5/10/2018	5/23/2018	5/24/2018
Customer B	Vista Glen	72nd Drive NW	11/9/2018	11/27/2018	11/28/2018

Both customers were assessed a \$20 disconnection visit charge and a \$20 reconnection visit charge for these invalid disconnections.²⁵

²⁴ See Attachment U for a copy of the email with Iliad Water concerning disconnect notices, dated July 29, 2019.

²⁵ See Attachment S for copies of customer account histories with both disconnection visit charges and reconnection visit charges.

Description	WAC	Violations	Customer Refunds
Failing to deliver a second disconnection notice that allows the customer until 5:00 p.m. of the following day to comply.	480-110-355(3)(b)(i)	2	\$80 ²⁶
	Total	2	\$80

Recommendation

Staff recommends that the commission issue a formal complaint against Iliad Water, and recommends the commission assess penalties in the amount of \$28,240 for the following 2,824 violations:

- 2,822 violations of RCW 80.28.080, Published Rates to be Charged.
- Two violations of WAC 480-110-355(3)(b)(i), Discontinuing of Service.

In addition to these penalties, staff recommends the commission order the Company to remit to affected customers a total refund of \$3,859.50 for the following violations:

- \$1,874.50 for charging customers credit/debit card processing fees and online payment fees, in violation of RCW 80.28.080.
- \$1,630 for charging customers backflow assembly testing and inspection fees, in violation of RCW 80.28.080.
- \$175 for charging customers backflow non-compliance fees, in violation of RCW 80.28.080.
- \$100 for charging customers both disconnection visit charges and reconnection visit charges, in violation of RCW 80.28.080.
- \$80 for charging customers both disconnection visit charges and reconnection visit charges from an invalid service disconnection, in violation of WAC 480-110-355(3)(b)(i).

Staff will provide Iliad Water with the names, service addresses, and individual refunds due to each affected customer at the conclusion of this investigation.

²⁶ This customer refund amount is not included in the refunds under “Published Rates to be Charged,” located on page 12.

SUMMARY OF RECOMMENDATIONS

Penalty

Upon finding, at the conclusion of an inspection or investigation, that a company has violated an applicable statute, rule, order, or tariff, the commission will consider whether an enforcement action, beyond technical assistance, is appropriate and, if so, which action to take.

Staff typically recommends a “per violation” penalty against a regulated company where the violations result in serious harm to the consumer; for repeat violations of a rule after the company receives technical assistance; or for intentional violations of commission laws or rules.

The commission has the authority to assess penalties of \$100 per violation, per day.²⁷ The commission also has the authority to assess penalties of up to \$1,000 per violation, per day, through a formal complaint process.²⁸

In this investigation, staff documented 2,824 violations of state laws and rules administered by the commission. Staff considered the following factors to determine the recommended penalty amount:²⁹

1. How serious or harmful the violations are to the public.

Staff believes the violations cited in this report caused serious harm to Iliad Water’s customers. A significant number of customers, unbeknownst to them, were being charged for rates and services that the Company was not allowed to charge per its commission-approved tariff.

2. Whether the violations were intentional.

On May 31, 2016, Iliad Water filed a joint application to merge Iliad Water Services, Inc., into Iliad Water in Docket UW-160784. In this docket, Iliad Water filed a tariff adoption notice for all tariffs filed with the commission by Iliad Water Services, Inc. On June 23, 2016, the commission granted the Company’s application for merger and adoption of Iliad Water Services, Inc.’s tariff.

On Oct. 21, 2016, Iliad Water filed revisions to its tariff in Docket UW-161155. This filing proposed a single tariff rate across the Alderlake, Cascade Crest, Cherry Creek, Fragaria Landing, Hunt I & II, Lowper, Marbello, Northwest, Stavis, and Sunwood Graham water systems. On March 29, 2017, the commission granted Iliad Water’s single tariff to become effective on April 1, 2017, and required the Company to bring 13 unregulated water systems into regulation.

²⁷ RCW 80.04.405 allows the commission to assess an administrative penalty for any violation by a regulated company of a statute, rule, the company’s own tariff, or commission order.

²⁸ RCW 80.04.380 allows the commission to assess a penalty of up to \$1,000 for each violation following a hearing.

²⁹ Docket A-120061 – Enforcement Policy of the Washington Utilities and Transportation Commission – Section V.

On May 9, 2017, Iliad Water filed a tariff revision in Docket UW-170351 to add 85 Acres, Marysville, Cliftonwood, Hunt III, Parkwood, Skyview, Stillridge, Suddenview, Sunland Shores, Sunnyhills, Tala Point, Vashon, and Vista Glen water systems to the Company's tariff. These 13 water systems were added to Iliad Water's tariff, effective June 1, 2017.

Iliad Water filed four additional tariff revisions with the commission between Sept. 8, 2017, and April 4, 2019.

Despite Iliad Water's numerous tariff revisions, the Company continued to charge its customers for services and rates in conflict with its commission-approved tariff. Continued failure to follow Tariff No. WN U-1 creates an inference that the violations are intentional.

3. Whether the Company self-reported the violations.

The Company did not self-report any of the violations cited in this report.

4. Whether the Company was cooperative and responsive.

On March 28, 2019, staff sent a data request to Iliad Water to provide all information and documents no later than April 11. On April 1, Iliad Water requested, and was granted, an extension until April 30. On April 26, Iliad Water submitted the requested information and documents to staff.

During the investigation, staff requested clarification and additional documentation from Iliad Water on 29 separate occasions between June 24 and July 29, regarding a number of issues found upon review of the Company's original response.

Iliad Water was very cooperative and responsive to staff throughout the entire investigation.

5. Whether the Company promptly corrected the violations and remedied the impacts.

The Company appears to have corrected the violations identified in this report as a result of informal complaint CAS-24019-Z9W8S0, and discussions with regulatory staff. The last violation cited in this report dates back to January 2019.

6. The number of violations.

Staff documented 2,822 violations of Chapter 80.28 RCW and two violations of Chapter 480-110 WAC. The number of documented violations in this report are less than what has actually occurred to date, due to staff only citing violations from Oct. 17, 2017, to January 2019.

7. The number of customers affected.

The violations documented in this report affected 428 Iliad Water customers. This is a significant number of customers when considering that the Company reported serving 896 customers throughout 23 commission-regulated water systems in 2018.

8. The likelihood of recurrence.

Staff does not know if Iliad Water is likely to repeat the violations identified in this report; however, the Company was responsive and cooperative with staff, and appears to have corrected the violations.

9. The Company's past performance regarding compliance, violations, and penalties.

There have been eight informal consumer complaints filed against the Company, three of which staff has discovered violations of Chapter 480-110 WAC and/or Chapter 80.28 RCW. Iliad Water has no history of penalties with the commission.

10. The Company's existing compliance program.

Staff is unaware of a compliance program in place at Iliad Water.

11. The size of the Company.

Iliad Water is a Class B regulated water company serving 896 customers throughout 23 commission-regulated water systems. The Company reported a gross operating revenue of \$694,051 in 2018.

Penalty Recommendation

While the law allows the commission to assess a penalty of up to \$1,000 per violation, staff believes the full penalty would be overly burdensome based on the Company's reported revenue, and based on the appearance that the Company has corrected the violations identified in this report. Staff is recommending a lesser penalty as a result; however, staff believes a penalty is warranted to provide an incentive for the Company to avoid repeat violations. Staff recommends the commission issue a formal complaint against Iliad Water, and assess a penalty of up to \$28,240 for 2,824 violations of state laws and rules administered by the commission, as follows:

- Up to \$27,840 for 2,784 violations of RCW 80.28.080, for failing to charge customers published rates for credit/debit card processing fees and/or online payment fees.
- Up to \$220 for 22 violations of RCW 80.28.080, for failing to charge customers published rates for backflow assembly testing and inspection.
- Up to \$90 for nine violations of RCW 80.28.080, for failing to charge customers published rates for backflow non-compliance.
- Up to \$70 for seven violations of RCW 80.28.080, for failing to charge customers published rates for disconnection and reconnection of service.
- Up to \$20 for two violations of WAC 480-110-355(3)(b)(i), for failing to deliver a second disconnection notice that allows the customer until 5:00 p.m. of the following day to comply.

In addition to these penalties, staff recommends the commission order the Company to remit to affected customers a total refund of \$3,859.50 for the following violations:

- \$1,874.50 for charging customers credit/debit card processing fees and online payment fees, in violation of RCW 80.28.080.

- \$1,630 for charging customers backflow assembly testing and inspection fees, in violation of RCW 80.28.080.
- \$175 for charging customers backflow non-compliance fees, in violation of RCW 80.28.080.
- \$100 for charging customers both disconnection visit charges and reconnection visit charges, in violation of RCW 80.28.080.
- \$80 for charging customers both disconnection visit charges and reconnection visit charges from an invalid service disconnection, in violation of WAC 480-110-355(3)(b)(i).

Staff will provide Iliad Water with the names, service addresses, and refunds due to each affected customer at the conclusion of this investigation.