

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,	)	DOCKET NO. UW-031284 &
	)	DOCKET NO. UW-010961
Complainant,	)	(consolidated)
)	
v.	)	ORDER NO. 07
)	
AMERICAN WATER RESOURCES,	)	ORDER OF CONSOLIDATION
INC.,)	
)	
Respondent.)	

.....

In the Matter of the	)	DOCKET NO. UW-031596
)	
Penalty Assessment Against Virgil R.	)	ORDER NO. 02
Fox, President, American Water)	
Resources, Inc., in the amount of)	
\$3,700.00	)	ORDER OF CONSOLIDATION
	)	AND PREHEARING
.....	)	CONFERENCE ORDER

1 **Nature of Proceeding:** Docket No. UW-031596 is a penalty assessment against Virgil R. Fox, President of American Water Resources, Inc. (AWR) for failure to deposit required amounts in the "Docket 010961 Account" and for unauthorized use of funds in the Docket 010961 Account. Mr. Fox filed an application for mitigation of the penalty amount.

2 **Conference.** The Commission convened a prehearing conference in this docket at Olympia, Washington on January 22, 2004, before Administrative Law Judge Karen M. Caillé.

3 **Appearances.** Virgil R. Fox, President of AWR, Onalaska, WA appeared *pro-se*. Lisa Watson, Assistant Attorney General, Olympia, WA, represents the staff of the Washington Utilities and Transportation Commission (Commission Staff). Contact information provided at the conference for the parties' representative is attached as Appendix A to this order.

4 **Consolidation.** Mr. Fox requested by letter and during the prehearing conference that the Commission postpone this proceeding until after the AWR complaint/rate case, Dockets No UW-031284 and UW-010961 (consolidated), or consolidate this proceeding with the complaint/rate case. In support of his request, Mr. Fox states that the issues related to the penalty assessment and the rate case are intertwined. Mr. Fox contends that there should not be a penalty, and that that will be apparent during the course of the rate case. Mr. Fox also suggests that consolidation would allow for more efficient use of AWR's limited resources, and the Commission's resources, as well.

5 Commission Staff opposes the request to postpone the penalty assessment proceeding, or to consolidate it with the complaint/rate case. According to Staff, the issues in the penalty assessment are discrete and do not overlap with those in the complaint/rate case. Staff acknowledges that the facts overlap because both cases address the Docket 010961 Account.

6 The Commission concludes that that it would be more efficient for the two cases to be combined since there are underlying facts and parties in common.

ORDER OF CONSOLIDATION

7 Pursuant to WAC 480-07-320, the Commission finds that the facts and the principles of law to be applied in Docket No. UW-031596 and Docket Nos. UW-031284 and UW-010961 may be related and that consideration of the issues in the three dockets may most efficiently be accomplished on a common record.

Therefore, the Commission consolidates the three dockets for purpose of hearing and deliberation.

8 The Commission retains the discretion to sever the consolidated proceedings when doing so appears appropriate, and retains the discretion to enter separate orders in each docket on any or all matters put at issue.

9 **Hearing Schedule.** The parties agreed at the prehearing conference that the pleadings filed to date are sufficient for the matter to go to hearing. Accordingly, the evidentiary hearing for the penalty mitigation proceeding will be held in conjunction with the evidentiary hearing on the complaint/rate case, which is scheduled to begin April 26, 2004.

10 **Filing Requirements; Copies of Materials.** Parties must file with the Commission an original plus **10** copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

11 All filings must be mailed to the Commission Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or delivered by hand to the Commission Executive Secretary at the Commission's records center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. Both the post office box and street address are required to expedite deliveries by U.S. Postal Service.

12 An electronic copy of all filings must be provided by e-mail delivery to <records@wutc.wa.gov>. Alternatively, parties may furnish an electronic copy

by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format.

- 13 **Alternate dispute resolution.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call Bob Wallis, Director, Administrative Law Division, at (360) 664-1142.

Dated at Olympia, Washington, and effective this 2nd day of February, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objections, this prehearing conference order will control further proceedings in this matter subject to Commission review.

APPENDIX A

**DOCKET NOS. UW-010961/UW-031284/UW-031596
PARTIES' REPRESENTATIVES**

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