



Investigation Report

Lowper, Inc.

UW-091006

UW-110213

Rayne Pearson
Compliance Investigations

February 2011

PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine whether Lower, Inc. is conducting business subject to regulation under Revised Code of Washington (RCW) 80.28 and is performing any act requiring approval of the Washington Utilities & Transportation Commission (commission) without securing such approval.

Scope

The scope of this investigation includes an analysis of information related to whether Lower, Inc. is providing water services to the public, and, if so, whether those services are subject to the commission's jurisdiction.

Authority

Staff undertakes this investigation under the authority of the RCW 80.04.110 authorizing staff investigations; and RCW 80.28 and WAC 480-110, which give the commission regulatory authority over the operations of companies that provide water services.

Staff

Rayne Pearson, Compliance Investigator
(360) 664-1111
rpearson@utc.wa.gov

BACKGROUND

Company

Lower, Inc. was incorporated on November 29, 1989, and Iliad, Inc. was incorporated on October 23, 1975. David K. Dorland is the sole governing individual for both Lower, Inc. and Iliad, Inc. Both companies currently have an “active” status with the Washington Secretary of State.¹

Neither Iliad, Inc. nor Lower, Inc. have ever been regulated by the commission.

On November 3, 2003, the Clallam County Public Utility District contracted with Iliad, Inc. d/b/a “Lower Water System” to purchase water from the district for resale.² The contract allowed Iliad to provide water to 21 lots in Clallam County.

Lower, Inc. uses the name “Lower Water Company” on its billing statements and “Lower Water System” on customer correspondence regarding rates.

Investigation

In May 2009, commission Consumer Protection staff received an inquiry from a consumer regarding a rate increase for water services provided by Lower, Inc. (Lower). The consumer was concerned that Lower was not regulated by the commission.

Consumer Protection staff confirmed that Lower was not regulated by the commission, and referred the matter to Regulatory Services. An investigation was opened on June 23, 2009, under Docket No. UW-091006. That same day, Regulatory Services staff sent a jurisdictional letter to Lower inquiring about the company’s business practices.³

On July 2, 2009, David Dorland responded to the commission’s letter with the following information:

“The Lower water system is a Class B system serving (7) customers.”

“The water company purchases its water from Clallam County PUD to supply the system.”

“We are in the process of negotiating the sale of Lower water system to a Water purveyor in Clallam County. The sale should be complete within 60-90 days. We will keep you informed of the progress and the information on the new owner.”⁴

On January 20, 2010, consumer protection staff received information from another Lower

¹ See Attachment A, Washington State Department of Licensing and Secretary of State records for Lower, Inc. and Iliad, Inc.

² See Attachment B, “Water Agreement.”

³ See Attachment C, June 23, 2009, letter to David Dorland from the commission.

⁴ See Attachment D, July 2, 2009, letter to the commission from David Dorland.

customer regarding rates and service. That same day, Regulatory Services staff sent a follow-up letter to David Dorland inquiring about the status of his company.⁵ On February 24, 2010, David Dorland responded that the Clallam County PUD had called “last week” and stated it wanted to exercise its option to purchase Lower, per the agreement.⁶ Based on this information, Regulatory Services staff closed the investigation.

In late June 2010, Consumer Protection staff received a phone call from a Lower customer informing staff that Lower had not, in fact, been purchased by the Clallam County PUD, and was continuing to administer services. On July 9, 2010, Regulatory Services re-opened this investigation and referred the matter to Compliance Investigations to determine whether Lower’s business activities were subject to regulation.

⁵ See Attachment E, January 20, 2010, letter to David Dorland from the commission.

⁶ See Attachment F, February 24, 2010, letter to the commission from David Dorland.

INVESTIGATION

WAC 480-110-255(1) provides that the commission only regulates investor-owned water companies that:

(a) Own, operate, control, or manage one or more water systems; except that control or management does not include management by a satellite management agency as defined in chapter 70.116 RCW if the satellite management agency is not an owner of the water company.

(b) Meet jurisdictional thresholds of one hundred or more customers, or have average revenue of more than four hundred seventy-one dollars per customer per year.

| If a water company serves customers | and has average annual revenue per customer | commission regulation |
|--------------------------------------------|----------------------------------------------------|------------------------------|
| 99 or less | \$471 or less | No |
| 99 or less | more than \$471 | Yes |
| 100 or more | \$471 or less | Yes |
| 100 or more | more than \$471 | Yes |

On July 27, 2010, Consumer Protection staff received copies of monthly bills for June 2010 from five of Lowerper's seven customers.⁷ The bills each reflected a base charge of \$59.15 plus a PUD master meter charge of \$22.32 (calculated as daily rate), totaling \$81.47 in monthly minimum charges.

A letter from David Dorland to all seven Lowerper customers dated March 4, 2009, states that "the Lowerper Water Company finds it necessary to increase the water rates to cover the increase[d] costs of operation and maintenance ... 2009 water rate charges will be as follows: Base rate \$59.15, PUD Master Meter rate \$0.72 cents per customer per day⁸, water usage at .0235 per cu ft."⁹

Standard average monthly charges of \$81.05 (\$59.15 base rate plus \$21.90 average master meter rate) per customer total an annual minimum charge of \$972.60 per customer, well above the \$471 threshold requiring commission regulation, without accounting for usage.

⁷ See Attachment G, customer bills for June 2010.

⁸ Totaling a Master Meter charge of \$21.60 per month for months with 30 days, and \$22.32 per month for months with 31 days, or \$262.80 per year (\$0.72 x 365), for an average monthly charge of \$21.90.

⁹ See Attachment H, March 4, 2009, letter to Lowerper customers from David Dorland.

WAC 480-410-433(3) provides:

Initial tariffs - when a company becomes jurisdictional.

(a) An initial tariff must be filed in a standard tariff format. The commission will provide illustrations of the standard format upon request.

(b) The tariff must be accompanied by a cover letter describing the filing as an initial tariff.

(c) Customers must be notified before the commission receives the filing.

(d) The filing must be accompanied by supporting financial data justifying the proposed rates. See WAC 480-07-530(General rate proceedings -- Water companies).

Pursuant to the rule, Lowper should have filed a tariff to become effective on the date its revenues met the threshold for jurisdiction under WAC 480-110-255, which was at least October 4, 2009, when the rates outlined in the letter of March 4, 2009 (not including usage), totaled more than \$471 per customer in a 12-month period.

Recommendation

Staff recommends the commission issue an order initiating classification proceedings under RCW 80.04.015 to determine whether Lowper is conducting business subject to regulation under Title 80 RCW and WAC 480-110 and is performing any act requiring approval of the commission. If it is determined that Lowper is conducting such business, staff recommends the commission issue such orders as may be necessary to require the company to comply with Title 80 RCW and the commission's rules adopted under that title.

Staff further recommends penalties in the amount of \$10,500, calculated at \$100 per customer (seven customers, or \$700) per month for a total of 15 months, for failure to file a tariff with the commission as required by RCW 80.28 and WAC 480-110-433(3). The 15-month period reflects the time between the date Lowper's rates met the jurisdictional threshold under WAC 480-110-255 (October 4, 2009), and the date of this report.

ATTACHMENT A

Search

BUSINESS & PROFESSIONAL LICENSES

License Details

License Information:

Entity Name: LOWPER, INCORPORATED

Firm Name: LOWPER CORPORATION

License Type: Washington State Business

Entity Type: Profit Corporation

UBI: 601215155 Business ID:001 Location ID:0001

Status: To check the status of this company, go to [Secretary of State](#).

Location Address:
8501 EASTVIEW
EVERETT, WA, 98208

Mailing Address:
8501 EASTVIEW
EVERETT, WA, 98208

Governing People:

DAVID K DORLAND

Information Current as of 01/27/2011 4:33AM Pacific Time

[New Search](#)

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LOWPER, INCORPORATED

| | |
|------------------------------|------------------|
| UBI Number | 601215155 |
| Category | REG |
| Profit/Nonprofit | Profit |
| Active/Inactive | Active |
| State Of Incorporation | WA |
| WA Filing Date | 11/29/1989 |
| Expiration Date | 11/30/2011 |
| Inactive Date | |
| Registered Agent Information | |
| Agent Name | SONDRA LEBARON |
| Address | 1107 S BAILEY ST |
| City | SEATTLE |
| State | WA |
| ZIP | 98108 |

Special Address Information

| |
|---------|
| Address |
| City |
| State |
| Zip |

Governing Persons

| Title | Name | Address |
|--------------|-------------------|----------------------------------|
| ALL Officers | DORLAND , DAVID K | 4803 37TH AVE SW SEATTLE , WA |

Search

BUSINESS & PROFESSIONAL LICENSES

License Details

License Information:

Entity Name: ILIAD, INC.

Firm Name: ILIAD, INC.

License Type: Washington State Business

Entity Type: Profit Corporation

UBI: 600176653 Business ID:001 Location ID:0001

Status: To check the status of this company, go to [Secretary of State](#).

Location Address:

PO BOX 20098
SEATTLE, WA, 98102

Mailing Address:

PO BOX 20098
SEATTLE, WA, 98102

Governing People:

DAVID DORLAND

Registered Trade Names:

ILIAD, INC.

Information Current as of 01/27/2011 4:33AM Pacific Time

[New Search](#)

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ILLIAD, INC.

| | |
|------------------------------|------------------|
| UBI Number | 600176653 |
| Category | REG |
| Profit/Nonprofit | Profit |
| Active/Inactive | Active |
| State Of Incorporation | WA |
| WA Filing Date | 10/23/1975 |
| Expiration Date | 10/31/2011 |
| Inactive Date | |
| Registered Agent Information | |
| Agent Name | ROCK E CALEY |
| Address | 1107 S BAILEY ST |
| City | SEATTLE |
| State | WA |
| ZIP | 98102 |
| Special Address Information | |
| Address | PO BOX 20098 |
| City | SEATTLE |
| State | WA |
| Zip | 98102 |

Governing Persons

| Title | Name | Address |
|--------------|-----------------|------------------------------|
| ALL Officers | DORLAND , DAVID | PO BOX 20098 SEATTLE , WA |

ATTACHMENT B
WATER AGREEMENT

THIS AGREEMENT is made and entered into this 3 day of Nov, 2003, by and between Public Utility District No. 1 of Clallam County, Washington (the "DISTRICT") and Iliad, Inc. d/b/a Lower Water System ("ILIAD").

WHEREAS ILIAD wishes to purchase water from the DISTRICT for resale by ILIAD to its Lower Water System customers and the DISTRICT is willing to sell water to ILIAD, for resale, under the terms of this Agreement;

WHEREAS ILIAD, at its own expense, will cause a distribution water main to be installed to connect the DISTRICT'S Evergreen water system to ILIAD'S Lower Water System, in accordance with the DISTRICT's November 15, 2001 letter, attached hereto as **Exhibit A** and incorporated by this reference.

WHEREAS, it is the desire of ILIAD and the DISTRICT to have ILIAD own and operate the Lower Water system independent of the District. Iliad, Inc. can keep the water system or turn over the ownership to the DISTRICT after ILIAD recovers its capital costs from the lot owners.

WHEREAS, the DISTRICT is entitled to recover general facilities charges for each residence lot within the Lower Water System Service Area.

WHEREAS, it is the desire of the DISTRICT to provide for a method by which the connection fees due to it are actually paid prior to the Lower Water Company allowing any lot owner to physically connect to the water system.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1 - Definitions

As used in this Agreement, the following words and phrases shall have the meanings indicated below unless the context shall clearly indicate that another meaning is intended.

- a) Cubic Foot shall mean a unit of measurement of water equal to 7.48 gallons.

b) Equivalent Residential Unit ("ERU") shall mean the volume of water demand and use deemed by the District to be characteristic of a single family residential unit, which shall equal an average water consumption of 1,000 cubic feet (one cubic foot is equal to 7.48 gallons) per month and 33.0 cubic feet per day.

c) General Facilities Charge ("GFC") shall represent the proportionate share of the DISTRICT's cost of source, storage and transmission facilities necessary to supply an ERU. The GFC shall be the sum of the DISTRICT's standard hook-up charge (currently \$2,500) and the DISTRICT's standard capital facilities charge (currently \$300*) for its Evergreen Water system. The General Facilities Charge shall be the same as that established for the DISTRICT's Evergreen Water System, except as otherwise provided herein.

d) LIAD/Lower Water System Service Area shall mean that area consisting of the property described as follows:

LOTS 1 AND 2 OF SHORT PLAT RECORDED UNDER AUDITOR'S FILE NO. 654140 IN VOLUME 22, PAGE 2 OF SHORT PLAT PREVIOUSLY TRACT 1 OF SURVEY AS RECORDED IN VOLUME 16 OF SURVEYS, PAGE 49;
LOTS 1 AND 2 OF SHORT PLAT RECORDED UNDER AUDITOR'S FILE NO. 654139 IN VOLUME 22, PAGE 1 OF SHORT PLAT PREVIOUSLY TRACT 2 OF SURVEY RECORDED IN VOLUME 16 OF SURVEYS, PAGE 49;
LOTS 1 AND 2 OF SHORT PLAT RECORDED UNDER AUDITOR'S FILE NO. 646969 IN VOLUME 21, PAGE 31 PREVIOUSLY TRACT 4 OF SURVEY AS RECORDED IN VOLUME 16 OF SURVEYS, PAGE 49;
LOTS 1 AND 2 OF SHORT PLAT RECORDED UNDER AUDITOR'S FILE NO. 646262 IN VOLUME 21, PAGE 21 OF SHORT PLAT PREVIOUSLY TRACT 6 OF SURVEY RECORDED IN VOLUME 16 OF SURVEYS, PAGE 49;
LOTS 1 AND 2 OF SHORT PLAT RECORDED UNDER AUDITOR'S FILE NO. 646260 IN VOLUME 21, PAGE 20 OF SHORT PLAT PREVIOUSLY TRACT 7 OF SURVEY AS RECORDED IN VOLUME 16 OF SURVEYS, PAGE 49;
LOTS 1 AND 2 OF PARLOW SHORT PLAT RECORDED UNDER AUDITOR'S FILE NO. 2001 1060291 IN VOLUME 29, PAGE 81 OF SHORT PLATS.
LOTS 1, 2, 3, AND 4 OF SHORT PLAT RECORDED UNDER AUDITOR'S FILE NO. 706522 IN VOLUME 26, PAGE 50 OF SHORT PLAT PREVIOUSLY TRACTS 8 AND 9 OF SURVEYS AS RECORDED IN VOLUME 16 OF SURVEYS, PAGE 49.

TRACTS 3, 5 AND 10 AS RECORDED IN VOLUME 16 OF SURVEYS, PAGE 49, ALL LOCATED IN NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 30 NORTH, RANGE 3 WEST W.M. RECORDS OF CLALLAM COUNTY.

ALL LOTS 3, 4, 5 AND 6 OF SANTA BARBARA DEL NORTE #1 SURVEY, RECORDED MARCH 6, 2000 IN VOLUME 44 OF SURVEYS, PAGE 9 UNDER CLALLAM COUNTY RECORDING NUMBER 2001043833. ALL LOCATED IN NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 30 NORTH, RANGE 3 WEST W.M., CLALLAM COUNTY, WASHINGTON.

(THE LEGAL DESCRIPTION FOR EACH INDIVIDUAL LOT LOCATED WITHIN THE ABOVE LEGAL DESCRIPTION IS MORE SPECIFICALLY IDENTIFIED BY THE BELOW DESCRIBED CLALLAM COUNTY ASSESSOR NUMBERS THE LEGAL DESCRIPTIONS ASSOCIATED THEREWITH BEING INCORPORATED HEREIN AS THOUGH FULLY SET FORTH.)

| | | |
|---------------|---------------|---------------|
| 033033-210030 | 033033-219040 | 033033-240130 |
| 033033-210050 | 033033-219050 | 033033-240150 |
| 033033-210060 | 033033-219060 | 033033-249010 |
| 033033-219000 | 033033-219070 | 033033-249020 |
| 033033-219010 | 033033-220200 | 033033-249030 |
| 033033-219020 | 033033-229000 | 033033-249040 |
| 033033-219030 | 033033-229010 | 033033-249050 |

- e) May shall mean permissive.
- f) Master Meter shall mean the water volume measuring device and appurtenances placed in the DISTRICT's water main at the point of connection with the Lower Water System. The Master Meter shall be located on Elk Pass Road. The Master Meter site marks the location of delivery between the DISTRICT's water system and the Lower Water System.
- g) Shall shall mean mandatory.

Section 2 - Delivery and Use of Water

- a) The DISTRICT shall commence delivery of water supply to the Lower Water System through the Master meter when the following conditions have been met:
- i) completion by ILIAD of the required water system extension in accordance with **Exhibit A** and payment of any amounts due thereunder;
 - ii) ILIAD's payment to the DISTRICT of the General Facilities Charge ("GFC") for residential service connections as provided in Section 4 below; and
 - iii) installation of a Washington State approved double check backflow assembly to DISTRICT standards. ILIAD shall be responsible for initial and annual testing of such backflow assembly.
- b) Water supply delivered to the Lower Water System under this Agreement is intended for single-family residential domestic supply only, to serve an anticipated twenty-two (22) total number of residential connections. GFCs

have been established by the DISTRICT based upon an assumption that each connection shall equal one ERU.

Section 3 - Water Rate and Billing

- a) The water rate to be paid by ILIAD to the DISTRICT shall be per 100' cubic feet ("CCF") of water, delivered to the Lower Water System at the Master Meter.
- b) The water rate to be paid by ILIAD to the DISTRICT per CCF shall be as provided in the DISTRICT's Water Rate Schedule WE-24, as it may be amended from time-to-time.
- c) The period of billing for water supplied under this Agreement shall be monthly, beginning with the month during which the Lower Water System first uses water via the Master Meter. The Master Meter shall be read by the DISTRICT and the results recorded in accordance with the DISTRICT's applicable reading cycle. Payment to the DISTRICT shall become due within ten (10) days of issuance of the billing invoice. Collection of delinquent amounts shall be in accordance with DISTRICT policy. DISTRICT remedies for delinquency include but are not limited to disconnection of service.

Section 4 - General Facilities Charge: Payment of Total GFC

- a) The GFC for ILIAD shall be Two Thousand Eight Hundred and No/100 Dollars (\$2,800.00) per ERU in 2003, and shall be subject to adjustment as provided in Section 1.
- b) ILIAD shall pay to the DISTRICT an initial payment of Eleven Thousand Two Hundred and No/100 Dollars (\$11,200.00), which represents payment for four (4) ERUs at the 2003 GFC of Two Thousand Eight Hundred and No/100 Dollars (\$2,800.00) per ERU. ILIAD shall make the initial payment to the DISTRICT prior to water service being made available to the Lower Water System. The GFCs due the DISTRICT hereunder for each of the remaining eighteen (18) residential service connections shall be paid to the DISTRICT by ILIAD as each additional service connection to the Lower Water System is made. Each GFC payment shall be delivered to the DISTRICT not later than ten (10) days following hook-up by ILIAD of a new service connection. In making any of the above required payments to the DISTRICT, each payment shall be identified to the particular lot for which payment is being made by Clallam county Assessor tax account number.

¹ *Item subject to change

- c) ILIAD shall supply the DISTRICT an annual report by January 15th of each year detailing the current customer list including name, address, assessor's parcel number, and date attached to the Lower Water System. If ILIAD fails to submit the required report, a thirty percent (30%) surcharge shall be added to its monthly billing beginning with the first billing after the January 15 deadline and continuing until the completed report has been submitted.
- d) In the event that a connection is made to the system without the required GFC payment as detailed in section d) above, ILIAD shall be directly obligated to pay the sum due plus interest at the rate of twelve percent (12%) per annum from and after the date that the new, unpaid connection was made. The DISTRICT shall use the annual report supplied by ILIAD and the DISTRICT's electrical customer database to assist in determining whether an unpaid connection was made to the system.
- e) Should ILIAD fail to produce the required annual report upon more than one occasion; or should ILIAD fail to pay when due each required GFC payment, then the DISTRICT may declare ILIAD in default and all remaining GFC payment amounts shall become due and payable upon declaration of default.
- f) All payments due under this Agreement shall be deemed delinquent if more than ten (10) days past due. Delinquent GFC payment amounts and unpaid service billings shall accrue interest on the unpaid balance, from the date of delinquency until paid, at the rate of 1% per month, or 12% per year.
- g) The GFC is non-refundable under any and all circumstances.

Section 5 - Master Meter

- a) All water supply delivered by the DISTRICT to the Lower Water System shall be delivered and measured through the Master Meter to be installed by ILIAD in accordance with DISTRICT specifications in conjunction with the line extension installation. The water meter will be installed in the cul-de-sac on Chelsamish Drive. The water meter installation and water main extension to the water meter location shall be transferred to the DISTRICT by Bill of Sale attached as **Exhibit B** together with an easement as shown on **Exhibit C**. The line of demarcation and "point of delivery" between the DISTRICT and the Lower Water System shall be immediately downstream of the master meter and immediately upstream of the double check valve backflow assembly and as described in Section 1(f). The obligation for installation, ownership, annual testing and operation of the Washington State approved backflow assembly shall be solely that of ILIAD.

- b) Access to the Master Meter and appurtenances shall be made available to ILIAD at all reasonable times. The Master meter shall be checked for accuracy by the DISTRICT as part of normal maintenance, and Master Meter test data shall be available to ILIAD at all reasonable times, upon request.

Section 6 - Water Quality

The water supplied by the DISTRICT to ILIAD under this Agreement shall be of the same standard and quality as that normally delivered by the DISTRICT to all its customers. ILIAD, to the extent allowed by law, shall be responsible for maintaining water quality beyond the point of delivery; and ILIAD shall hold the DISTRICT harmless from and against any claims, losses, or damages arising from or relating to the introduction into its System of water or other substances beyond the point of delivery.

Flushing of Lower Water System and Customer water systems is recommended upon water system changeover from the current groundwater source of supply to the DISTRICT's water supply. ILIAD shall be solely responsible for all necessary water system flushing and all customer notices, if provided. Customer notice is recommended.

ILIAD will administer a cross-connection program as strict or stricter than that administered by the DISTRICT.

Section 7 - Quantity, pressure and Reliability

- a) The DISTRICT shall use best reasonable efforts to provide water to the Lower Water System. The DISTRICT's system will have sufficient storage and hydraulic capacity to supply water at the rate that meets or exceeds the water carrying capacity of Lower Water System, subject to conditions beyond the reasonable control of the DISTRICT.
- b) It shall be the sole obligation of ILIAD to install and maintain pressure reducing and pressure relief valves and appurtenances as may be needed to regulate the pressure to protect and to conform to the needs of the Lower Water System distribution system and its water service customers. Multiple installation of both types of pressure control valves may be required at various locations in the Lower Water System. Failure to install and maintain proper pressure control valves may result in damage to the Lower Water System or customer water systems. The DISTRICT shall not be responsible for any loss or damage related to failure of ILIAD to install and maintain all pressure control valves required for system and customer protection. ILIAD shall defend and indemnify the DISTRICT from and against any and all claims arising from or related to ILIAD's failure to install and properly maintain any and all necessary pressure reducing and pressure relief valves.

- c) The DISTRICT's system will be designed, maintained and operated by the DISTRICT in a manner consistent with municipal water system standards, prudent utility practices, and applicable rules and regulations in order to provide maximum reliability of service to the Lower Water System. However, it is understood and agreed that the DISTRICT can make no guarantee as to pressure, quantity or continuity of service because of the possibility of accidents or unforeseen failures to the DISTRICT's water systems. Therefore, the DISTRICT shall not be held liable for losses or damage from a deficiency or failure to supply water due to accidents, acts of God, and any conditions beyond the reasonable control of the DISTRICT. In the event of an emergency or other necessity that may disrupt service to the Lower Water System, the DISTRICT shall notify ILIAD through verbal or telephone contact, and shall restore service and make water available as soon as it can reasonably do so.

In the event of scheduled maintenance, alterations, extensions or connections, the District shall provide notification to ILIAD, and schedule such work to minimize the potential impacts of disruption of service to the Lower Water System.

- d) ILIAD will disconnect the existing well from the existing water main after the connection is made to the DISTRICT.
- e) In the event of water supply or capacity problem, ILIAD agrees to implement a water shortage response plan as strict or stricter than that administered by the DISTRICT.

Section 8 - Resolution of Disputes

Any dispute that arises out of the interpretation, performance, enforcement, or any other aspect of this Agreement, shall be resolved by submitting the same to binding arbitration which shall proceed according to the Superior Court Mandatory Arbitration Rules (MAR) for a case assigned for arbitration in Clallam County; provided that each party shall select a nominating person within ten (10) days of notice of the dispute from any party to the others. The two nominating persons shall then meet and promptly select the arbitrator. If the nominating persons do not select a person who agrees to serve as arbitrator within thirty (30) days of the first notice, the arbitrator shall be selected by a superior Court Judge of Clallam County. Attorneys fees and the arbitrator's fees shall be paid by the party that the arbitrator determines was the unsuccessful party.

Section 9 - Term

This Agreement shall be effective from the date of execution by authorized representatives of both parties hereto and shall continue in effect through 2008 and

thereafter upon a year to year basis unless terminated by mutual agreement or upon default by either party.

Section 10 - Further Agreement

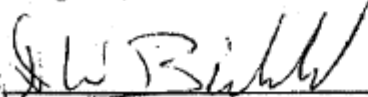
It is understood that before the end of twenty (20) years from the date of entry into this Agreement ILIAD agrees to offer the Lower Water system to the DISTRICT at no cost.

The DISTRICT agrees to consider that transaction at the time, any offer will be without cost to the DISTRICT of a fully maintained and operational system.

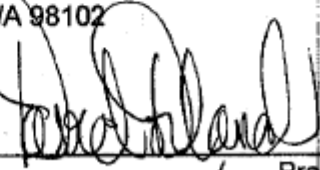
This Agreement may be amended at any time upon mutual written agreement of the parties. Notice shall be given by certified mail to the official mailing address of each party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed this 3 day of November, 2003.

Public Utility District No. 1
of Clallam County
PO Box 1090
Port Angeles, WA 98362

By: 
Dennis Bickford, General Manager
Date: 11/3/03

ILIAD Inc. d/b/a Lower Water System
PO Box 20098
Seattle, WA 98102

By: 
President
Date: 10/20/03

ATTACHMENT C



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

June 23, 2009

Ref: UT 4-1250

Lowper Water Company
PO Box 20429
Seattle, Washington 98102

Subject: Water System Questionnaire

Dear Water Purveyor:

The Washington Utilities and Transportation Commission (Commission) has received information that you serve water to several customers near Sequim on a water system named Lower Water Company. To help us understand your current situation, please complete and return the enclosed questionnaire, which will enable us to determine your jurisdictional status.

If you have any questions, please contact me at (360) 664-1250 or jward@wutc.wa.gov or please visit our website at www.wutc.wa.gov for additional information.

Sincerely,

A handwritten signature in cursive script that reads "Jim Ward".

Jim Ward
Regulatory Analyst, Water

Enclosure

WATER SYSTEM QUESTIONNAIRE

The following assumes that the water systems are in operation and serving one or more customers. If a question is not applicable, so state. Add any information you feel will help provide a better understanding of the situation.

1. For each water system owned, operated or controlled by you or the utility, please list by Washington State Department of Health ID # each water system and whether you own, operate or control the water system.

2. Is (are) the water system(s) owned, operated and controlled by a proprietorship, partnership or corporation?

3. Are the water system(s) owned, operated or controlled by a Co-op, homeowner's association or non-profit organization?
 - a. Must all customers also be members?

 - b. Is there any language in the articles of incorporation or the bylaws that would indicate any intention to dedicate the property to public use?

4. If owner is a nonprofit organization, registered with the office of the Washington Secretary of State, please provide full name, address and registration number (UBI#).

5. For each water system owned, operated, or controlled by you, is control exercised directly by the owner or owners of the utility?

6. Does the utility reserve the right to serve particular individuals of its own choice?

7. How many customers of each system actually receive water or whose application to receive water has been accepted by the utility?

Are all customers listed above using water and have houses on lot. Yes / No
What number of customers actually uses water? _____

8. For each water system, please list the maximum number of connections allowed by Department of Health or other government agency.

9. Does the utility have any service applications that it cannot connect at this time?

10. What are the rates/charges for each system? (If multiple rates/systems use additional sheets)
- Monthly Flat Rate \$ _____ (No meter) Number of Customers _____
- Monthly Metered Basic Rate \$ _____ Number of Customers _____
- Water Allowance with basic charge _____ (gallons/cubic feet)
- Usage Block _____ (gallons/cubic feet) Rate \$ _____ per _____ (gallons/cubic feet)
- Usage Block _____ (gallons/cubic feet) Rate \$ _____ per _____ (gallons/cubic feet)
- Usage Block _____ (gallons/cubic feet) Rate \$ _____ per _____ (gallons/cubic feet)
- Billing Frequency: Monthly _____ Bi-monthly _____ Other: _____
- Irrigation Services: Rate \$ _____ Monthly _____ Bi-monthly _____ Other: _____
- Any larger than normal size meters? _____ If so what size(s)? _____
- Ancillary Charges: Service connection charge (new customer) \$ _____
 Reconnection charge (customer caused disconnection) \$ _____
 Account Set Up charge (new customer, not a new connection) \$ _____
 Other charge(s) _____ \$ _____
11. What is the average yearly revenue per customer for each water system? \$ _____
- What is the average monthly water consumption per customer for each water system?
 _____ Gallons or Cubic feet
12. If any of the water systems serve only a subdivision in which it has an interest or with which it is associated, is there a covenant in the land contract or deed obligating the utility to provide water for each lot or purchaser of each lot?
13. Under what name(s) is the system(s) or utility being operated?
14. Does the water company own all the assets used to provide water service?
15. Please provide a contact phone number and e-mail address if the Commission has additional questions.

Signature _____ Date _____

ATTACHMENT D

LOWPER WATER SYSTEM
PO BOX 20429
SEATTLE, WA 98102
800-928-3750

RECEIVED

JUL 07 2009

WASH. UT. & TP. COMM

July 2, 2009

WUTC
PO Box 47250
Olympia, WA 98504-7250

VIA EMAIL
MAIL

Attn: Jim Ward

Re: Water System Questionnaire for Lower Water System, Clallam County

Dear Mr. Ward:

The Lower water system is a Class B system serving (7) seven customers.

The Water Company purchases its water from Clallam County PUD to supply the system.

We are in the process of negotiating the sale of Lower water system to a water purveyor in Clallam County. The sale should be complete within 60-90 days. We will keep you informed of the progress and the information on the new owner.

If you have any questions, please call me at (206) 282-4200.

Sincerely,



David Dorland

ATTACHMENT E



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8293

January 20, 2010

Ref: UT 4-1250

David Dorland
Lower Water Company
PO Box 20429
Seattle, Washington 98102

Subject: Water System Questionnaire

Dear Mr. Dorland:

The Washington Utilities and Transportation Commission (Commission) has received information that you continue to serve water to several customers near Sequim on a water system named Lower Water System. To help us understand your current situation, please complete and return the enclosed questionnaire, which will enable us to determine your jurisdictional status.

If you have any questions, please contact me at (360) 664-1250 or jward@wutc.wa.gov or please visit our website at www.wutc.wa.gov for additional information.

Sincerely,

A handwritten signature in cursive script that reads "Jim Ward".

Jim Ward
Regulatory Analyst, Water

Enclosure

WATER SYSTEM QUESTIONNAIRE

The following assumes that the water systems are in operation and serving one or more customers. If a question is not applicable, so state. Add any information you feel will help provide a better understanding of the situation.

1. For each water system owned, operated or controlled by you or the utility, please list by Washington State Department of Health ID # each water system and whether you own, operate or control the water system.
2. Is (are) the water system(s) owned, operated and controlled by a proprietorship, partnership or corporation?
3. Are the water system(s) owned, operated or controlled by a Co-op, homeowner's association or non-profit organization?
 - a. Must all customers also be members?
 - b. Is there any language in the articles of incorporation or the bylaws that would indicate any intention to dedicate the property to public use?
4. If owner is a nonprofit organization, registered with the office of the Washington Secretary of State, please provide full name, address and registration number (UBI#).
5. For each water system owned, operated, or controlled by you, is control exercised directly by the owner or owners of the utility?
6. Does the utility reserve the right to serve particular individuals of its own choice?
7. How many customers of each system actually receive water or whose application to receive water has been accepted by the utility?

Are all customers listed above using water and have houses on lot. Yes / No
What number of customers actually uses water? _____
8. For each water system, please list the maximum number of connections allowed by Department of Health or other government agency.
9. Does the utility have any service applications that it cannot connect at this time?

10. What are the rates/charges for each system? (If multiple rates/systems use additional sheets)
- Monthly Flat Rate \$ _____ (No meter) Number of Customers _____
- Monthly Metered Basic Rate \$ _____ Number of Customers _____
- Water Allowance with basic charge _____ (gallons/cubic feet)
- Usage Block _____ (gallons/cubic feet) Rate \$ _____ per _____ (gallons/cubic feet)
- Usage Block _____ (gallons/cubic feet) Rate \$ _____ per _____ (gallons/cubic feet)
- Usage Block _____ (gallons/cubic feet) Rate \$ _____ per _____ (gallons/cubic feet)
- Billing Frequency: Monthly _____ Bi-monthly _____ Other: _____
- Irrigation Services: Rate \$ _____ Monthly _____ Bi-monthly _____ Other: _____
- Any larger than normal size meters? _____ If so what size(s)? _____
- Ancillary Charges: Service connection charge (new customer) \$ _____
 Reconnection charge (customer caused disconnection) \$ _____
 Account Set Up charge (new customer, not a new connection) \$ _____
 Other charge(s) _____ \$ _____
11. What is the average yearly revenue per customer for each water system? \$ _____
- What is the average monthly water consumption per customer for each water system?
 _____ Gallons or Cubic feet
12. If any of the water systems serve only a subdivision in which it has an interest or with which it is associated, is there a covenant in the land contract or deed obligating the utility to provide water for each lot or purchaser of each lot?
13. Under what name(s) is the system(s) or utility being operated?
14. Does the water company own all the assets used to provide water service?
15. Please provide a contact phone number and e-mail address if the Commission has additional questions.

Signature _____ Date _____

ATTACHMENT F

LOWPER WATER COMPANY
PO BOX 20429
SEATTLE, WA 98102
(800) 928-3750

RECEIVED
FEB 25 2010
WASH. UT. & TP. COMM

February 24, 2010

WUTC
PO Box 47250
Olympia, WA 98504-7250

VIA EMAIL
MAIL

Attn: Jim Ward

Re: Status of Lowper Water System Sale, Clallam County

Dear Mr. Ward:

Sorry for the delay to your request for information on the above system. We have been waiting for Clallam County PUD's response to their option to purchase the Lowper Water System.

Last week they called and want to exercise their option per agreement.

Once the paperwork is prepared and approved Clallam County PUD will be operating the Lowper Water System. Mr. Finnigan will be representing our legal work.

If you have any questions, please call me at (206) 282-4200.

Sincerely,

David Dorland 

Cc: Mr. Finnigan

ATTACHMENT G

Lower Water Company
 PO Box 20429
 Seattle, WA 98102

INVOICE

RECEIVED

Invoice Number: 553
 Invoice Date: Jun 30, 2010
 Page: 1

Voice: 800-928-3756
 Fax: 206-784-3848

JUL 27 2010

WASH. UT. & TP. COMM

Bill To:
 John Diane Anderson
 PO Box 3547
 Sequim, WA 98382

Ship to:
 540 Chevalier Dr
 Sequim

| | | | |
|---------------------|------------------------|----------------------|-----------------|
| Customer ID | Customer PO | Payment Terms | |
| 40005000 | | Net 30 Days | |
| Sales Rep ID | Shipping Method | Ship Date | Due Date |
| | Airborne | | 7/30/10 |

| Quantity | Item | Description | Unit Price | Amount |
|----------|------|------------------------------------------------------------|------------|--------|
| 1.00 | | Water Bill Meter Readings 5/25/10-6/25/10 (40533-41235) | | |
| 1.00 | | Base | 59.15 | 59.15 |
| 1.00 | | PUD Master Meter x \$0.72 | 22.32 | 22.32 |
| 1.00 | | 702 cu ft x .0235 | 16.50 | 16.50 |
| 1.00 | | State Tax .05029 | 4.93 | 4.93 |

| | |
|-------------------------------|---------------|
| Subtotal | 102.90 |
| Sales Tax | |
| Total Invoice Amount | 102.90 |
| Payment/Credit Applied | |
| TOTAL | 102.90 |

Check/Credit Memo No:

Lower Water Company
 PO Box 20429
 Seattle, WA 98102

RECEIVED

JUL 27 2010

WASH. UT. & TP. COMM

7/17/10

INVOICE

Invoice Number: 550
 Invoice Date: Jun 30, 2010
 Page: 1
 Duplicate

Voice: 800-928-3750
 Fax: 206-764-3848

Bill To:
 Sula/Sisk
 270 Chelsamish Dr
 Sequim, WA 98382

Ship to:

| Customer ID | Customer PO | Payment Terms | |
|--------------|-----------------|---------------|----------|
| 40001000 | | Net 30 Days | |
| Sales Rep ID | Shipping Method | Ship Date | Due Date |
| | US Mail | | 7/30/10 |

| Quantity | Item | Description | Unit Price | Amount |
|----------|------|------------------------------------------------------------|------------|--------|
| 1.00 | | Water Bill-Meter Readings 5/25/10-6/25/10 (33762-34235) | | |
| 1.00 | | Base | 59.15 | 59.15 |
| 1.00 | | PUD Master Meter 31 Days X \$0.72 | 22.32 | 22.32 |
| 1.00 | | 473 cu ft X .0235 | 11.12 | 11.12 |
| 1.00 | | State Tax .05029 | 4.66 | 4.66 |

Check/Credit Memo No:

| | |
|------------------------|--------------|
| Subtotal | 97.25 |
| Sales Tax | |
| Total Invoice Amount | 97.25 |
| Payment/Credit Applied | |
| TOTAL | 97.25 |

Lower Water Company

PO Box 20429
Seattle, WA 98102

INVOICE

Invoice Number: 555
Invoice Date: Jun 30, 2010
Page: 1

Voice: 800-928-3750
Fax: 206-764-3848

Bill To:
Wills/Harper
360 Chelsamish Dr.
Sequim, WA 98382

Ship to:
360 Chelsamish Dr.
Sequim, WA

| | | | |
|---------------------|------------------------|----------------------|-----------------|
| Customer ID | Customer PO | Payment Terms | |
| 40070000 | | Net 30 Days | |
| Sales Rep ID | Shipping Method | Ship Date | Due Date |
| | US Mail | | 7/30/10 |

| Quantity | Item | Description | Unit Price | Amount |
|----------|------|------------------------------------------------------------|------------|------------------------|
| | | Water Bill-Meter Readings 5/25/10-6/25/10 (52987-53962) | | |
| 1.00 | | Base | 59.15 | 59.15 |
| 1.00 | | PUD Master Meter 31 Days x \$0.72 | 22.32 | 22.32 |
| 1.00 | | 975 cu ft x .0235 | 22.91 | 22.91 |
| 1.00 | | State Tax .05029 | 5.25 | 5.25 |
| | | | | <i>+ 4.10 TAX</i> |
| | | | | <i>- # 85.53 / 100</i> |
| | | | | <i>BASE CHARGE</i> |
| | | | | <i>PD 7/7/10</i> |
| | | | | <i>CK # 1787</i> |
| | | | | <i>#10963</i> |
| | | Subtotal | | 109.63 |
| | | Sales Tax | | |
| | | Total Invoice Amount | | 109.63 |
| | | Payment/Credit Applied | | |
| | | TOTAL | | 109.63 |

Check/Credit Memo No:

Lower Water Company

PO Box 20429
Seattle, WA 98102

INVOICE

Invoice Number: 554
Invoice Date: Jun 30, 2010
Page: 1

Voice: 800-928-3750
Fax: 206-764-3848

| |
|-----------------------------------------------------|
| Bill To: |
| David/Alicia Kwok PO Box 879 Sequim, WA 98382 |

| |
|-----------------------------|
| Ship to: |
| 590 Chelsamish Dr Sequim |

| | | | |
|---------------------|------------------------|----------------------|-----------------|
| Customer ID | Customer PO | Payment Terms | |
| 40006000 | | Net 30 Days | |
| Sales Rep ID | Shipping Method | Ship Date | Due Date |
| | US Mail | | 7/30/10 |

| Quantity | Item | Description | Unit Price | Amount |
|----------|------|------------------------------------------------------------|------------|--------|
| 1.00 | | Water Bill-Meter Readings 5/25/10-6/25/10 (45191-46102) | | |
| 1.00 | | Base | 59.15 | 59.15 |
| 1.00 | | PUD Master Meter x \$0.72 | 22.32 | 22.32 |
| 1.00 | | 911 cu ft x .0235 | 21.41 | 21.41 |
| 1.00 | | State Tax .05029 | 5.17 | 5.17 |

| | |
|------------------------|---------------|
| Subtotal | 108.05 |
| Sales Tax | |
| Total Invoice Amount | 108.05 |
| Payment/Credit Applied | |
| TOTAL | 108.05 |

Check/Credit Memo No:

Lower Water Company
 PO Box 20429
 Seattle, WA 98102

INVOICE

Invoice Number: 552
 Invoice Date: Jun 30, 2010
 Page: 1

Voice: 800-928-3750
 Fax: 206-764-3848

LAST Billing Period

| |
|----------------------------------------------------------|
| Bill To: |
| Claude Fontaine 382 Chelsamish Dr Sequim, WA 98382 |

| |
|-----------------|
| Ship to: |
| |

| | | | |
|---------------------|------------------------|----------------------|-----------------|
| Customer ID | Customer PO | Payment Terms | |
| 40004000 | | Net 30 Days | |
| Sales Rep ID | Shipping Method | Ship Date | Due Date |
| | US Mail | | 7/30/10 |

| Quantity | Item | Description | Unit Price | Amount |
|----------|------|------------------------------------------------------------|------------|--------|
| 1.00 | | Water Bill-Meter Readings 5/25/10-6/25/10 (46354-47036) | | |
| 1.00 | | Base | 59.15 | 59.15 |
| 1.00 | | PUD Master Meter 31 Days x \$0.72 | 22.32 | 22.32 |
| 1.00 | | 682 cu ft x .0235 | 16.03 | 16.03 |
| 1.00 | | State Tax .05029 | 4.90 | 4.90 |

*PR 7/13/10
 CK#2159*

| | |
|------------------------|---------------|
| Subtotal | 102.40 |
| Sales Tax | |
| Total Invoice Amount | 102.40 |
| Payment/Credit Applied | |
| TOTAL | 102.40 |

Check/Credit Memo No:

ATTACHMENT H

LOWPER WATER COMPANY
PO BOX 20429
SEATTLE, WA 98102
(800) 928-3750

March 4, 2009

Dear Water Customer:

The Lower Water Company finds it necessary to increase the water rates to cover the increase costs of operation and maintenance.

Clallam County PUD has provided us with their rate increases for 2009 and 2010.

2009

Water usage .0235 per cur ft
PUD Meter charge \$5.03 per day

2010

Water usage .0260 per cu ft
PUD Meter usage \$5.63 per day

We have attached the Lower water Company operational statements for 2006, 2007 and 2008 for your review. As noted the income statement is based on amount billed not collected.

There are still (3) three existing customers that have not paid the PUD Master Meter fees. These fees are due and owing. We have enclosed current statement showing balance owing, please bring your account current.

Based on our operational costs less the PUD charges and utility taxes the water company will have to charge the existing (7) seven water customers a base rate of \$59.15 per month plus PUD charges and utility taxes. This rate will be adjusted as more customers connect to the water system.

2009 water rate charges will be as follows:

Basic rate \$59.15
PUD Master Meter rate \$0.72 cents per customer per day water usage at .0235 per cu ft
Utility tax .05029

The new rate will go into effect 30 days from customer notice.

If you have any questions or need further information, please call me at (800) 928-3750
or (206) 282-4200.

Sincerely,



David Dorland