

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET UW-140595
)	
Complainant,)	COMPLAINT
)	
v.)	
)	NOTICE OF PREHEARING
EASTWOOD PARK WATER CO., INC.)	CONFERENCE
)	(Set for Thursday, October 2, 2014,
Respondent.)	at 9:30 a.m.)
)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. BACKGROUND

2 Eastwood Park Water Co., Inc. (Eastwood Park or Company) is a Class C water company subject to Commission regulation, serving 87 customers in the Eastwood Park neighborhood of Graham, Washington.

3 On April 18, 2013, the Commission received an informal complaint from a customer of Eastwood Park regarding a disputed bill. Commission Staff (Staff) conducted an investigation of the complaint, and recorded multiple violations of Commission rules and the Company’s tariff. While the complaint was ultimately resolved in the Company’s favor, Staff initiated a broader investigation into the business practices of Eastwood Park in June 2013, to determine if the Company is in compliance with Commission rules and its tariff.

4 During its investigation, Staff reviewed the Company’s billing records of all customers assessed a fee from March 1, 2013, through June 1, 2013, provided by the Company in response to a Staff data request, as well as records subsequently provided by the Company. Staff found multiple violations of state laws and Commission rules,

as described below. Staff also found that a number of customers were overcharged or improperly charged rates, as described below.

II. PARTIES

5 The Washington Utilities and Transportation Commission is an agency of the State of
Washington, authorized by state law to regulate the rates, services, practices and
facilities of public service companies, including water companies, under RCW Title
80.

6 Eastwood Park is a water company subject to regulation by the Commission under
RCW Title 80.

III. JURISDICTION

7 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW
80.04.110, RCW 80.04.380, chapter 80.28 RCW, and chapter 480-110 WAC.

IV. FIRST CAUSE OF ACTION

(Violation of WAC 480-110-375, related to form of bills)

8 The Commission, through its Staff, realleges the allegations contained in paragraphs
2-7 above.

9 WAC 480-110-375 provides the requirements for form of bills sent to customers, with
which all water companies must comply.

10 WAC 480-110-375(1)(b) requires that customer bills show a reference to the
applicable rate schedule.

11 WAC 480-110-375(1)(h) requires that customer bills include the current and previous
meter readings, the current read date, and the number and kind of units consumed.

12 Eastwood Park violated WAC 480-110-375(1)(b) when the July 1, 2013, customer
bills issued by Eastwood Park failed to include a reference to the applicable rate
schedule, WN U-1, Second Revised Sheet 2, Schedule No. 2. Staff documented 97
non-compliant bills.

- 13 Eastwood Park violated WAC 480-110-375(1)(h) when the July 1, 2013, customer bills issued by Eastwood Park failed to specify the date the meter was read. Staff documented 97 non-compliant bills.

**V. SECOND CAUSE OF ACTION
(Violations of RCW 80.28.080, failure to properly charge in
accordance with the company's published tariff)**

- 14 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-13 above.
- 15 RCW 80.28.080 requires that no water company “shall 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.”
- 16 Eastwood Park’s published tariff, WN U-1, sets forth monthly rates for water usage, including a base rate. Revised rates became effective April 1, 2013, pursuant to the Commission’s Order 02 in Docket UW-121904. Under the revised tariff, the monthly base rate increased from \$30 to \$31, and monthly usage rates for more than 500 cubic feet of usage also increased. Because the Company bills customers for monthly usage that has already occurred, rates effective April 1, 2013, apply to customer usage beginning April 1, 2013, and should be first reflected on May 2013 bills.
- 17 Eastwood Park violated RCW 80.28.080 by improperly charging 50 customers the base rate and usage rates that went into effect April 1, 2013, for the March 1 – March 31, 2013, period. The total amount of overcharges associated with this violation is approximately \$40.71.
- 18 Eastwood Park’s published tariff, WN U-1, First Revised Sheet No. 9, provides that the Company may charge a \$5 late fee for past due accounts. Eastwood Park violated RCW 80.28.080 31 times between March 1, 2013, and June 1, 2013, and a total of 264 times from January 1, 2011 to June 1, 2013, by improperly overcharging customers a \$10 late fee for past due accounts. The total amount of overcharges associated with this violation is approximately \$1,320.

- 19 Eastwood Park's published tariff, WN U-1, does not include a fee for insufficient funds (NSF Fee). Eastwood Park violated RCW 80.28.080 on six occasions in 2011 and three occasions in 2013 by charging customers \$35 NSF Fees that are not provided for in the Company's tariff. The total amount of overcharges associated with this violation is approximately \$315.
- 20 Eastwood Park's published tariff, WN U-1, includes a \$25 "reconnection charge." Eastwood Park violated RCW 80.28.080 by overcharging 25 customers in 2011, 2012, and 2013, a reconnection charge of \$50. The total amount of overcharges associated with this violation is approximately \$975.
- 21 Eastwood Park's published tariff, WN U-1, does not include a "turn off fee" or a fee for service disconnection or a disconnection visit. Eastwood Park violated RCW 80.28.080 between April 1, 2013, and June 1, 2013, by improperly charging five customers who did not have service disconnected a \$50 "turn off fee" that is not provided for in the Company's tariff. The total amount of overcharges associated with this violation is approximately \$250.

VI. THIRD CAUSE OF ACTION
(Violation of RCW 80.28.100, rate discrimination)

- 22 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-21 above.
- 23 RCW 80.28.100 prohibits rate discrimination, and provides that no water company, "shall, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge" a greater or lesser amount for water services to one person than the amount charged to all other persons for a like or contemporaneous service under the same or substantially similar circumstances or conditions.
- 24 Eastwood Park violated RCW 80.28.100 by issuing a credit to one customer for incorrect water rates charged on the customer's April 1, 2013, bill, but not crediting 49 other customers similarly affected by incorrect water rate charges.
- 25 Eastwood Park violated RCW 80.28.100 by charging some customers \$5 late fees and other customers \$10 late fees on May 1, 2013, for a total of 12 customers affected.

26 Eastwood Park violated RCW 80.28.100 by charging some customers \$5 late fees and other customers \$10 late fees on June 1, 2013, for a total of 12 customers affected.

VII. FOURTH CAUSE OF ACTION
(Violation of WAC 480-110-355, disconnection of service rules)

27 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-26 above.

28 WAC 480-110-355 provides rules for disconnection of water utility service. WAC 480-110-355(3) describes the notice that companies are required to provide prior to disconnecting service.

29 Specifically, WAC 480-110-355(3)(a) provides that the water company must serve 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. Under WAC 480-110-355(3)(a)(i), each disconnection notice must include a delinquent date that is no less than eight business days after the date of personal delivery or mailing if mailed from inside the State of Washington.

30 WAC 480-110-355(b) provides that, in addition to the notice required by WAC 480-110-355(a), a second notice must be provided by one of two methods: delivered or mailed. Under WAC 480-110-355(b)(i), notice delivered to the customer and attached to the customer's door 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.

31 WAC 480-110-355(c)(iii) requires that disconnection notices must expire after 10 business days from the first day that the company may disconnect service, unless other mutually agreed upon arrangements have been made and confirmed in writing by the company.

32 Eastwood Park violated WAC 480-110-355(3)(a) by failing to provide a first notice of disconnection to a customer during the review period.

33 Eastwood Park violated WAC 480-110-355(3)(a)(i) by failing to provide a customer with eight days to pay before issuing a second notice.

- 34 Eastwood Park violated WAC 480-110-355(3)(b) by failing to provide a second notice of disconnection to a customer during the review period.
- 35 Eastwood Park violated WAC 480-110-355(3)(b)(i) by failing to deliver a second notice to the customer with 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.
- 36 Eastwood Park violated WAC 480-110-355(3)(c)(iii) by failing to allow a disconnect notice to expire after 10 business days from the first day that the Company may disconnect service, or make formal payments confirmed in writing by the Company.

VIII. APPLICABLE LAW

- 37 A public service company that violates any order or rule of the Commission or any provision of RCW Title 80 is subject to a penalty up to \$1,000 for each violation. RCW 80.04.380. Under the statute, every violation is considered a separate and distinct offense, and, in the case of a continuing violation, every day's continuance represents a separate and distinct violation. *Id.*
- 38 Under RCW 80.04.230, if the Commission finds that the public service company charged an amount for any service rendered in excess of the lawful rate in force at the time such charge was made, the Commission may order that the public service company refund the amount of overcharges.

IX. REQUEST FOR RELIEF

- 39 Staff requests that the Commission find that Eastwood Park committed violations of Commission rules and state laws set forth in the allegations above.
- 40 Staff requests that the Commission, pursuant to its authority under RCW 80.04.380, impose monetary penalties on Eastwood Park for violations of Commission rules and state laws.

41 Staff requests that the Commission require the Company to refund charges
improperly billed to customers for water usage, late fees, reconnection fees and “turn
off” fees set forth in the allegations above.

42 Staff further requests that the Commission order such other or further relief as
appropriate under the circumstances.

X. PROBABLE CAUSE

43 Based on a review of Staff’s investigation report and all supporting documents, and
consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds
probable cause exists to issue this complaint.

XI. NOTICE OF PREHEARING CONFERENCE

44 The COMMISSION GIVES NOTICE That it will hold a prehearing conference in
this matter at 9:30 a.m., on Thursday, October 2, 2014, in Room 139, First Floor,
Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia,
Washington.

45 The Commission will hear this matter under the Administrative Procedure Act (APA),
particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the
APA that relate to this proceeding include, but are not limited to RCW 34.05.413,
RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW
34.05.452. The Commission will follow its procedural rules in WAC 480-07 in this
proceeding.

46 The purpose of the prehearing conference is to consider requests for intervention,
resolve scheduling matters including establishing dates for distributing evidence and
workpapers, to identify the issues in the proceeding and determine other matters to
assist the Commission in resolving the matter, as listed in WAC 480-07-430.

47 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene
in writing at least three business days before the date of the prehearing conference.
See WAC 480-07-355(a). The Commission will consider oral petitions to intervene
during the conference, but strongly prefers written petitions to intervene. Party

representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2).

48 Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

49 **The COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

50 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Michael A. Fassio
Assistant Attorney General
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1192

Respondent: Eastwood Park Water Co., Inc.
PO Box 340
Spanaway, WA 98387
Robert Green
(253) 380-8421

51 Administrative Law Judge Rayne Pearson, from the Commission's Administrative Law Division, will preside during this proceeding

52 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective September 8, 2014.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge
Director, Administrative Law Division

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?:

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____