

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
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 WASHINGTON UTILITIES AND) DOCKET NO. UW-051444
 TRANSPORTATION COMMISSION,)
)
 Complainant,)
)
 v.) SETTLEMENT AGREEMENT
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)
 KAYAK ESTATES WATER, LLC,)
)
 Respondent.)
 _____)

1 This Settlement Agreement is entered into by both parties to this proceeding for the purpose of resolving all issues raised in the above docket.

I. PARTIES

2 The parties to this Agreement are Kayak Estates Water, LLC, (Kayak) and the Staff of the Washington Utilities and Transportation Commission (Staff) (collectively, “the Parties”).

II. BACKGROUND

3 On September 26, 2005, Kayak filed with the Commission a tariff revision proposing a general rate increase effective October 27, 2005. Kayak sought to revise Tariff WN U-1, the tariff in effect at the time, and designated its proposed tariff as First Revised Sheet No. 26 canceling Original Sheet No. 26.

4 At the Commission’s Open Meeting on October 26, 2005, Staff discussed a number of concerns, including service quality, customer service, and the lack of information provided by the company in support of a rate increase. Customers had filed comments opposing the rate increase. In general, customers expressed unhappiness with the presence of iron and manganese, secondary contaminants, in the water; low water pressure; company response time on repairs and customer complaints; and that the previous rate increase had not improved service or water quality and quantity.

- 5 Regarding water quality, Staff determined that the company had taken some measures to address this issue, that there are no easy, inexpensive fixes, that problems with secondary contaminants are not required to be remedied, and that the Department of Health can best address these issues. Regarding water quantity, the Department of Health currently requires Kayak to read its well-head meter daily during the drier, summer months, which enables the company to identify any problems with water pressure from one day to the next. Staff found that Kayak had addressed the problem of low water pressure in the system by installing additional pumping equipment. Regarding company response time, the Commission has received three complaints since 2000. One complaint record showed that the company had responded within 24 hours, and no violations were issued on the others. Consequently, Staff did not determine that there was any pattern or practice of poor response time. Finally, regarding the effect of the previous rate increase, Staff noted that what customers perceived as a rate increase was actually a change from a flat rate schedule to a meter rate schedule and, actual consequences for some customers aside, was not intended to raise rates. Furthermore, the Commission has not approved a rate increase since the company filed initial tariffs in 1994.
- 6 On October 26, 2005, the Commission filed a complaint and order suspending tariff revisions. In the complaint, the Commission found that Kayak had not yet demonstrated that the tariff revisions would result in rates that are fair, just, and reasonable, and ordered a staff investigation of Kayak.
- 7 On February 7, 2006, the Parties participated in a pre-hearing conference, and Judge Theodora M. Mace issued a procedural schedule for the proceeding. In accordance with the schedule, Kayak filed direct testimony, and Staff filed responsive testimony. It was at this procedural point that the Parties negotiated a settlement.

III. AGREEMENT

A. Preliminary matters

- 8 The Parties have reached agreement on the issues raised in the above docket and wish to present their agreement for the Commission's consideration and approval. The Parties therefore adopt the following Settlement Agreement, which the Parties enter into voluntarily to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding.
- 9 The Parties agree to cooperate in presenting this Settlement Agreement so as not to hinder the new rates from going into effect May 1, 2006.

B. Rates

- 10 Commission Staff and Kayak agree to a general rate increase as set out in the initial tariff filing made by Kayak on September 26, 2005. In addition, the Parties concur in the rate design proposed in Kayak's initial tariff filing.
- 11 Accordingly, base rates would increase from \$17.00 per month to \$22.75 per month. Also, for rates based on usage, the charge for use of 0 to 1,000 cubic feet would increase from \$0.75 per 100 cubic feet to \$.95 per 100 cubic feet. Rates for usage over 1,000 cubic feet would remain unchanged.

C. Revenue Requirement and Rate of Return

- 12 The rates proposed reflect a revenue requirement of \$157,786, which represents a 23.34% increase over test year revenue, and generate an expected rate of return of 9.19%.

D. Contributions in Aid of Construction

- 13 The Parties agree to the handling of contributions in aid of construction (CIAC) as follows:
- (1) The total amount of CIAC as of the end of the test year, December 31, 2004, is \$470,221;
 - (2) The accumulated amortized CIAC as of the end of the test year, December 31, 2004, is \$324,150;
 - (3) For purpose of the test year and on a going-forward basis, the amortization period for the CIAC shall be thirty nine years. This produces an amortization rate of 2.56411% and an annual amortization amount of \$12,057.

The Parties agree that any future tariff revisions filed by Kayak and any recommendations of Commission Staff regarding such proposed tariff revisions filed by Kayak will reflect the above amounts, rates and amortization period. Any future plant that is financed through CIAC will be amortized over the useful life of that plant. Any future CIAC that is not tied to a specific plant shall be amortized over the composite useful life of all plant in service.

E. Daily Well-Head Meter Reading Expense

- 14 The Department of Health requires Kayak to read its well-head meter daily during certain months of the year. This requirement was issued after the end of the test year. The Parties agree that Kayak may file and Staff will support a tariff providing for a surcharge to be effective during the periods required by the Department of Health, and to terminate as soon as the Washington Department of Health no longer requires a daily well-head meter read. As soon as the Department of Health no longer requires a daily well-head meter read during any months of the year, Kayak agrees to notify the Commission and to withdraw the surcharge tariff.

IV. GENERAL PROVISIONS

- 15 The Parties agree that this Settlement Agreement is a settlement of all contested issues between them in this proceeding. The Parties understand that this Settlement Agreement is not binding unless and until accepted by the Commission.
- 16 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.
- 17 The Parties agree that neither the settlement discussions nor the terms of this Agreement, with the exception of paragraph 13 above as it applies to the handling of accumulated CIAC for Kayak, creates any precedent in terms of methodology, theory, result or in any other manner, for Kayak or any other company.
- 18 The Parties agree (1) to provide each other the right to review in advance of publication any and all announcements or news releases that the other party intends to make about the Agreement (with the right of review to include a reasonable opportunity to request changes to the text of such announcements) and (2) to include in any news release or announcement a statement that the Commission Staff's recommendation to approve the settlement is not binding on the Commission itself.
- 19 Nothing in this Agreement shall limit or bar any other entity from pursuing legal remedies against Kayak or Kayak's ability to assert defenses to such claims.
- 20 The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission order fully adopting those terms. This Agreement shall not be construed against either party because it was a drafter of this Agreement.
- 21 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.
- 22 The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. Copies sent by facsimile are as effective as original documents.
- 23 The Parties shall take all actions necessary as appropriate to carry out this Agreement.

24 In the event that the Commission rejects all or any portion of this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 days of the Order rejecting part or all of this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and either party shall be entitled to seek reconsideration of the Order. Additionally, the Parties will jointly request a pre-hearing conference be reconvened for purposes of establishing a procedural schedule to complete the case.

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

ROB MCKENNA
Attorney General

JENNIFER CAMERON-RULKOWSKI
Assistant Attorney General
Counsel for the Utilities and
Transportation Commission

Dated: _____, 2006.

KAYAK ESTATES WATER, LLC

DAVID K. DORLAND

Dated: _____, 2006.

RICHARD A. FINNIGAN
Counsel for Kayak Estates Water, LLC

Dated: _____, 2006.