

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UW-051444
)	
Complainant,)	ORDER NO. 04
)	
v.)	
)	FINAL ORDER APPROVING
KAYAK ESTATES WATER, LLC,)	SETTLEMENT
)	
Respondent.)	
.....)	

Synopsis: The Commission approves the settlement agreement submitted by the parties resolving all issues in dispute in this proceeding.

1 **NATURE OF PROCEEDING.** Docket No. UW-051444 involves the filing by Kayak Estates Water, LLC (Kayak Estates) of revisions to its Tariff WN U-1 and the suspension of the revised tariff by order of the Commission dated October 28, 2005.

2 **APPEARANCES.** Richard A. Finnigan, attorney, Olympia, Washington, represents Kayak Estates. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (“Commission Staff” or “Staff”).

3 **BACKGROUND.** On September 26, 2005, Kayak Estates filed with the Commission a revised tariff calling for an increase in base rates from \$17.00 per month to \$22.75 per month; increased usage rates for use of 0 to 1,000 cub feet from \$0.75 per 100 cubic feet to \$0.95 per cubic feet and would have increased revenues by \$31,561 over test year revenues of \$126,255, an increase of 23.24 percent.

4 At the Commission’s Open Meeting on October 26, 2005, Commission Staff raised a number of concerns, and indicated that customers had filed comments in opposition to the rate increase. Staff’s concerns related to service quality, customer service, and lack of information supporting the rate increase request. Customer concerns related to the presence of secondary contaminants – iron and manganese – in the water; low water pressure; company response time; and failure of the previous rate increase to

improve service, water quality or water quantity. At the Open Meeting, the Commission suspended Kayak Estates rate increase request and filed a complaint stating that the company had not yet shown that its proposed rates were fair, just, reasonable and sufficient.

5 On February 7, 2006, the parties participated in a prehearing conference before Administrative Law Judge Theodora M. Mace and established a schedule for the proceeding. The company and Staff filed testimony in accord with that schedule, and then became engaged in settlement negotiations with the assistance of Administrative Law Judge Dennis Moss.

6 On April 13, 2006, the parties filed a Settlement Agreement (Settlement) and Narrative Supporting Settlement (Narrative) that completely resolve the contested issues in the case.

7 **TERMS OF SETTLEMENT.** The parties ask that the Commission review this Settlement on a paper record, waive entry of an initial order and ask that the Commission enter a final order so that new rates may go into effect on May 1, 2006. *Settlement*, ¶9.

8 The salient features of the Settlement include agreement to: 1) the initially filed rate increase request; 2) an appropriate current and going forward treatment for contributions in aid of construction; and 3) institution of a surcharge to cover post-test year daily well-head meter reading required by the Washington State Department of Health (DOH).

9 The general rate increase and rate design agreed to in the settlement are the same as set out in the initial tariff filing made by Kayak Estates on September 26, 2005. The base rates would increase from \$17.00 per month to \$22.75 per month. Rates based on usage for use of 0 to 1,000 cubic feet would increase from \$0.75 per 100 cubic feet to \$0.95 per 100 cubic feet. Rates for usage over 1,000 cubic feet would remain the same. The rates proposed represent increased revenues of \$31,561 over test year revenues of \$126,255, an overall increase of 23.24 percent. The rates proposed reflect a revenue requirement of \$157,786, and generate an expected rate of return of 9.19 percent. *Id.*, ¶¶ 10-13.

- 10 The parties agree to the handling of contributions in aid of construction (CIAC) both for this rate case and on a going forward basis, using an amortization period of thirty-nine years, an amortization rate of 2.56411 percent and an annual amortization amount of \$12,057. *Id.*, ¶ 13. Any future plant financed by CIAC will be amortized over the useful life of that plant. Any future plant not tied to specific plant will be amortized over the composite useful life of all plant in service. *Id.*
- 11 The parties agree that the company may institute a surcharge tariff to cover the costs of DOH mandated daily well-head meter reading during certain months of the year, the surcharge tariff to be withdrawn when the DOH no longer requires such readings during any months of the year. *Id.*, ¶ 14.
- 12 With regard to water quality concerns raised by customers of Kayak Estates, Staff points out that there are no easy fixes to problems with secondary contaminants in the water supply. *Id.*, ¶ 5. The DOH has jurisdiction over water quality and does not provide for removal of secondary contaminants such as iron and manganese. However, DOH is addressing water quantity issues by requiring Kayak Estates to perform well-head meter readings. In addition, Kayak Estates has installed pumping equipment to improve water pressure. *Id.* With regard to the company's response time in addressing complaints, Staff found no violations had been issued. *Id.* In all, Staff found that customer concerns either could not be addressed under the current regulatory framework or were being addressed by the DOH or Kayak Estates itself. *Narrative, pp. 4-5.*
- 13 **DISCUSSION.** The Commission reviews settlement agreements under WAC 480-07-730 and WAC 480-07-740 to determine whether the settlement meets "all pertinent legal and policy standards" and whether the settlement serves the public interest. Under these rules, the Commission has the discretion to review settlements without conducting a hearing if the nature of the settlement and circumstances warrant it.
- 14 The Settlement submitted by the parties to this case meets the requirements set forth in the rules. The Settlement meets the Commission's policy of encouraging settlements of contested issues when the settlement serves the interests of the parties, the Commission and the public. Approval of the Settlement would avoid further expense, inconvenience and delay for the parties and the Commission. The terms of

the settlement would permit the company to charge rates that would allow continued and improved service to the public. We are persuaded that by statements in the Settlement and supporting Narrative that customer concerns about water quantity and water pressure are being addressed. We note that Kayak Estates appears to handle customer complaints properly and encourage the company to continue its practice in dealing with these matters. We conclude that approval of the settlement would serve the public interest.¹

ORDER

- 15 THE COMMISSION ORDERS That the Settlement Agreement filed by the parties on April 13, 2006 is approved and that the rates included in the Settlement shall become effective on May 1, 2006.

Dated at Olympia, Washington, and effective April 19, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

¹ We note that in the Narrative, the parties state that Snohomish County PUD expressed an interest in purchasing Kayak Estates and contacted Staff urging the Commission not to proceed with this settlement pending a sale transaction. *See Narrative, p. 2, fn. 1.* Snohomish County PUD filed no appearance in this case, and there is nothing in the record that would permit us to take any action on its request.

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.