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Mr. Steven V. King, Director and Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive SW  
Olympia, WA 98504-7250

May 10, 2017

Re: H&R Waterworks, Inc. - Docket Nos. 161035 & 170216  
Comments of Castlewood Estates at Talcott Ridge Homeowners Association  
Supporting withdrawal of the Water Budget proposal (without stipulations included in  
staff report), and opposing approval of the proposed tariff as not in the public interest

Dear Mr. King:

This letter is to submit comments in the above-referenced matters on behalf of my client Castlerock Estates at Talcott Ridge Homeowners Association ("Castlerock"). The matters involving a tariff proposal and water conservation program proposed by H&R Waterworks ("H&R") are based on incorrect assumptions; are not supported by adequate analysis of costs and revenues; are inconsistent with both health and safety considerations and water right allocations; and are contrary to the public interest. For these reasons, we respectfully ask the Commission to (1) remand the proposed tariff proposal to H&R for further analysis and modification of the inverted block rate structure; (2) officially withdraw H&R's Water Budget proposal; and (3) because the proposals relate to matters within the jurisdiction of the Washington Department of Ecology and Washington State Department of Health as well as UTC, order mediation between the parties and extend an invitation to those agencies to discuss the common goal of wise use of water resources.

**ADDITIONAL ANALYSIS AND JUSTIFICATION OF TARIFFS IS REQUIRED TO MEET STATED GOALS**

With respect to tariffs, H&R has not provided adequate supporting analysis for the proposal, including information about projected costs, expected revenues, and the methodology for its determination of proposed tariff levels and charges. In addition, in order to support the actual water needs in the community, H&R should include a fourth tier at a higher rate that incentivizes homeowners to meet conservation goals, while maintaining lower tiers at affordable rates to support continuing reasonable use at those levels.

**Rates have not been justified**

In its notice to the homeowners, H&R stated that it was following an "economic approach" to establishing the tiered rate structure. Yet H&R fails to follow an "economic approach" in developing its rate structure, that is, it does not base its tariff structure on estimated future demands and costs, and revenues at each tier level. H&R justifies the absence of this analysis by asserting that demand and revenue projections are not possible. This is not consistent with the staff report filed today that shows that H&R is able to estimate future revenues with the proposed

rate structure. It is also not consistent with the experience of other utilities that have established inverted block rate structures. While it is understandable that certain assumptions must be made in such an analysis, a water service provider of the experience of H&R should be expected to undertake an analysis of aggregate data of past use, estimates of future use, the needs of households, and the water system's expected revenues, in relation to capital and operating expenses. If the initial assumptions underlying the analysis do not bear out in future, the rates can be adjusted to reflect actual, rather than estimated use at each tier level. However, an initial analysis can and should be done to ensure that the tariffs are in the public interest.

**An additional tier should be included to achieve conservation goals**

An economic approach to rate setting should not only provide incentives for conservation; it must take into account the reasonable needs of homeowners, many of whom have more than three residents in the household, and the capital and operational needs of the water system. The proposed tiered rate structure hits too hard at users of moderate quantities of water, does not take into account the specific water needs of the community, and does not adequately support the goal of incentivizing conservation.

Tariffs at the three lower tiers should support the reasonable use of water by both small and large households. A fourth tier should be designed at a sufficiently high monthly volume to incentivize conservation, with a higher tariff perhaps in the range of \$5.00/ccf.

**H&R'S WATER BUDGET PROPOSAL SHOULD BE OFFICIALLY WITHDRAWN FROM THE COMMISSION'S DOCKET**

The tone of H&R's March 17 letter indicates the unfortunate relationship of H&R with its customers, and frankly, H&R's inability to work cooperatively with its ratepayers to design programs that work for both the water system and the customer. In its letter, H&R describes customers as "guilty" of "abuse of the water system ..." Similarly, in the same letter, H&R says that it doesn't understand UTC staff's "inability to wrap their minds around" the concept "for some reason". There are many reasons why the Water Budget concept is not in the public interest and should be rejected.

**The water budget is unjustified and burdensome**

Establishing a water budget for each household for every month of the year is unjustified. It is not necessary to establish limits in winter, because winter use is generally consistent; the homeowner should not be penalized if a large group of family members happen to come for a visit in February. In summer, water use will depend on weather and size of parcels.

This proposal would place unreasonable administrative costs on the company and unreasonable and burdensome demands on ratepayers. Just some of the elements of the program include attending to "indoor water budget adjustment applications"; accounting for numbers of people in household, licensed home care, medical needs, etc.; tracking water use and taking action in response; identifying when customers exceed their "budget", triggering installation of flow restrictors; installation of restrictor within 24 hours, and restoration within 24 hours... The list goes on and on.

The company admits that “This program will require the company to spend a great deal of time working with customers in an effort to make the Water Budget program a success”. In the recent power outage caused by last week’s intense storm, H&R was not able to deliver timely effective notice of a boil water order to its customers. Without further description of the much more complex administrative elements and costs of a proposed conservation program, how can homeowners now have confidence that the program can be effectively carried out at a reasonable cost?

This unnecessarily complex program requires unreasonable levels of tracking and implementation by the utility and would incur huge administrative costs, which have not been identified or justified and which should not be passed on to the customer.

**Program requirements are beyond H&R’s authority and are unenforceable.**

H&R has not demonstrated that it has the authority or the capability to enforce this proposal, which intrudes into the privacy of customers; interferes in the business and personal activities of customers; cuts-off of water without adequate justification, endangering public health and safety; and requires installation of flow restrictors that threaten public health and safety.

**Incorrect assumptions are the basis for the Water Budget**

In a worksheet filed with UTC that apparently serves as the basis for the water budget allocation, critical assumptions are incorrect. For example, the total square footage of the entire subdivision (2-1/2 million square feet) is assumed to be planted in turf. This assumption is patently incorrect and results in a completely unrealistic calculation of water demand, which in turn, is the incorrect basis for allocations under the water budget. The calculation is also inconsistent with the Department of Ecology’s standard methodology for calculating water rights.

**Flow restrictors are a threat to public health and safety.**

Proposed control of water use by installation of flow restrictors that limit use to 3 gallons per minute could threaten the public health and safety, contrary to the public interest. This element of the proposal apparently has not been reviewed or approved by Department of Health, which has jurisdiction over engineering aspects of water system planning and management.

**Use of funds is not justified**

H&R has not explained the rationale for a dedicated conservation fund. If the purpose of the fund is to fund “conservation equipment” and other program costs, additional information about such equipment and costs must be documented and justified.

Without the burdensome, labor-intensive Water Budget proposal, the proposed separate fund would not be necessary. The tariff schedule discussed above must be designed to support the realistic capital and operations costs justified by the water system. Additional support is needed to justify both the tariff schedule and any conservation program undertaken by the utility.

**Less burdensome programs have been successfully implemented to meet conservation goals**

Common-sense conservation programs implemented by other utilities have proven very effective. Such programs include outreach to customers to emphasize the importance of establishing a voluntary schedule of watering on odd and even numbered days, and if necessary, establishing mandatory conservation in the event of drought or water emergency. Incentives or

rebates for low-flow toilets, showerheads, hose spray heads and irrigation systems, voluntary trainings and audits for homeowners have also been effective and are a constructive use of ratepayer funds, as opposed to funds being used to impose penalties on customers.

The public interest would be served – and ratepayer funds spent more constructively - by establishing educational programs and voluntary measures as a first step. As necessary, mandatory cutoff of irrigation and other nonessential uses would be established and enforced by the water system operator only in *critical, defined* circumstances, such as low water storage levels, declared drought, temperature thresholds exceeding certain levels over an identified period of time such as number of days or weeks, etc.

**Water use does not justify the proposed burdensome measures**

The principal justification that H&R uses to justify both the tariff and Water Budget proposals is that water rights are at or within 95 % of limits of the water right. Castlerock's water rights were intended to serve the needs of the subdivision and were calculated and granted by the Department of Ecology on that basis. The subdivision is fully built out, and therefore there will be no new development to place additional demands on the system in the future.

We understand that Castlerock's water rights are not identified as a concern by Ecology. In addition, my client is concerned that H&R may be planning to take water rights from Castlerock that the homeowners have the right to use. This should not be allowed, and Ecology should be brought in to this conversation at a mediation. Wise use of water resources is a goal shared by my client, with the caveat that any conservation savings should inure to the benefit of my client, and not be transferred to other subdivisions, which we understand may be one of H&R's goals. If that is an H&R goal, we object to it as inconsistent with Ecology's grant of water rights specifically intended for use by Castlerock homeowners.

**SPECIFIC COMMENTS ON STAFF RECOMMENDATIONS POSTED TO THE UTC WEBSITE ON MAY 10, 2017**

With respect UW-161035:

**The withdrawal of the Water Budget proposal should be without stipulation or condition.**

We question UTC's stipulation that H&R report monthly water use, since water use requirements are already addressed in the reporting and planning requirements of the Departments of Ecology and Health, and in this instance such tracking appears to be a "back-door" means of supporting a future "water budget" proposal and physical water restrictors, which are unjustified and possibly contrary to health and safety regulations and water laws. As has been pointed out in the discussion above, other, less costly and less burdensome methods of conservation have been successfully implemented elsewhere and should be the first approach.

**No conservation rate should be approved** without a thorough analysis of a reasonable tier structure and expected revenues, and estimated program design and costs. The latter should be based on tested, successful conservation programs, rather than the water budget approach, which H&R says has been tried elsewhere, but for which they cannot provide any examples.

With respect to UW- 170216:

**No conservation rate should be approved** without (1) a thorough analysis of the appropriate volume for each tier, including a higher cutoff for each of the lower tiers to account for reasonable residential use and consideration of an additional, higher-volume tier at which the higher cost per unit (\$5.00 per cc) would kick in; (2) expected revenues for each tier; and (3) estimated program design and costs. Program design and costs should not be based on the proposed water budget approach, but on tested conservation programs that have been successfully implemented elsewhere at reasonable cost to utilities and customers.

Since the Commission had previously ordered a mediation in this matter and the flaws in the tariff proposal have not been remedied, the mediation should go forward, in cooperation with the Departments of Ecology and Health, to discuss water rights, health and safety, and the appropriate design of conservation programs and tariff structure. Castlerock stands ready and willing to go to mediation as a means of avoiding further appeals or going to trial, and believe such a step is consistent with H&R's stated goal of working together to achieve a satisfactory result and avoiding the cost of litigation.

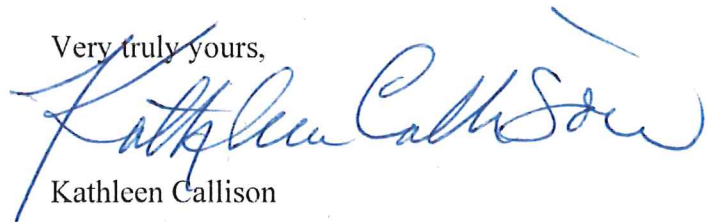
**CONCLUSION AND REQUEST FOR COMMISSION ACTION**

We understand from H&R's letter of March 29, 2017 that the water budget proposal had been modified and the company has proposed "several tariff language revisions and budget calculations." We also understand that H&R has requested withdrawal of the Water Budget program. Going forward, H&R's tariff structure and conservation programs should be based on correct assumptions and appropriate analysis, and should focus on incentivizing reduction in high volume use, rather than placing intrusive and unenforceable burdens on customers that H&R has not demonstrated that it can carry out at reasonable cost.

We respectfully request that the Commission (1) formally withdraw the Water Budget proposal from further consideration by the Commission as not in the public interest, without conditions or stipulations; (2) remand H&R's tariff proposal for adequate analysis and for incorporation of *proven* programs, as appropriate, to encourage and support wise use of water resources; and (3) order and schedule a mediation session for the purpose of discussing appropriate conservation programs and tariff structure. Because matters within the jurisdiction of the Departments of Ecology and Health are at issue, in addition to considerations of the public interest within the Commission's jurisdiction, we respectfully request that the Commission coordinate and schedule a mediation with the involvement of Ecology and Health.

Thank you for the opportunity to provide comments on behalf of Castlerock Estates Homeowners Association.

Very truly yours,



Kathleen Callison

KC:sdr

cc: Mr. Ward, Mr. Cupp, Mr. Reese (via email); client file