

Agenda Date: November 14, 2014
Item Number: A2

Docket: UW-143617
Company Name: T&T Professional Services

Staff: Jim Ward, Regulatory Analyst
John Cupp, Consumer Protection Staff

Recommendations

This matter is before the commission for discussion only.

History

On May 1, 2005, in Docket UW-050504, the commission approved the sale and transfer of the Piper Water System ID #00887P, Pinewood Water System ID #45507P, and Lightmoor Court Water System ID #66934K from Gamble Bay Water, Inc. (Gamble Bay), to T&T Professional Services¹ (company or T&T). The three water systems are located mainly in the Bremerton, Poulsbo areas and serve approximately 22 customers. The company's last rate change was effective November 10, 1994, under a prior owner.

The water systems were transferred to T&T at no cost and T&T acquired all customers, operations and property related to the three water systems. At the time Gamble Bay Water was getting out of the water business and T&T desired to own and operate water systems.

Background

On June 17, 2014, T&T sent a notice to its customers that T&T would transfer ownership and operations of the water system to the customers served by each water system. After discussions between commission staff and the Kitsap Public Health District (KPHD), KPHD sent T&T a Notice and Order to Correct Violation. KPHD pointed out that under Department of Health (DOH) WAC 246-291-250 and Bremerton-Kitsap County Board of Health Ordinance 1999-6, section 13.C.1.(i), that T&T violated the rules that require a minimum of one year's written notice prior to the transfer of ownership or managerial responsibilities or termination of service.

On July 25, 2014, T&T gave notice that T&T would continue operations and ownership until June 17, 2015, at which time T&T would no longer own and operate the three water systems. June 17, 2015, will be one year after the original June 17, 2014, notice to cease operations and deeding ownership to the customers/homeowners.

Customer Comments

On June 17, 2014, and subsequently on July 25, 2014, the company notified its customers of the proposed action to transfer the water systems to the customers. The notices contained the name

¹ Department of Health approved manager for water systems.

and billing address for each of the company's customers, sorted by water system. Staff sent a letter to each listed address to notify them of the November 14, 2014, open meeting, invite them to provide comments and inform them the commission has opened an investigation. The investigation is to better understand the company's plan and the effect it may have on customers. The letter also informed customers the commission would like to hear their concerns about the company owners' plan to cease water company operation.

General Comments

- Several customers expressed concern about the poor condition of their water system. They are concerned they may be responsible for taking over systems that may need expensive improvements.

Staff Response

Staff explained these questions should be answered in the course of this investigation, and a representative of the Kitsap Public Health District should be present at the November 14, 2014, open meeting.

Rates for the three water systems are shown below.

Rate Comparison

Monthly Rate	Current Rate
Piper Water	
Flat Rate	\$30.00
Lightmoor and Pinewood Water	
Base Rate, 3/4-Inch Meter	
With 400 cubic feet allowance	\$26.00
400 – 1,000 CF ¹ , Per CCF ²	\$2.74
Over 1,000 CF ¹ , Per CCF ²	\$3.00

1 – CF – Cubic Feet, 2 - CCF - 100 Cubic Feet.

Discussion

While T&T has now given one year notice under DOH rule WAC 246-291-250 for termination of service of the three water systems, there may be additional public interest concerns.

Staff's opinion as to the relevant statutory provisions are as follows:

RCW 80.01.040 – General Powers and Duties of commission

RCW 80.01.040(3) grants the commission authority to “regulate the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation.” A utility abandoning its assets and obligation to serve is probably not in the public interest. If the commission were to issue an order requiring

T&T to take or not take any specific action with regard to its property, the commission would be able to pursue penalties against the company and its officers for failure to comply with the order.

RCW Chapter 80.12 – Transfers of Property

RCW 80.12.010 states, “No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever . . . without having secured from the commission an order authorizing it to do so.” T&T has neither received nor requested such an order from the commission. Therefore, once the company disposes of its assets through abandonment, the commission could pursue penalties against the company and its officers. *See* RCW 80.04.380 through RCW 80.04.405.

RCW 80.28.030(1) allows the commission to order improvements to service if the company is not currently meeting DOH standards. The statute requires the commission to hold a hearing and find that the purity, quality, volume, and pressure of water, supplied by the company is insufficient, impure, inadequate or inefficient, and order improvement in the storage, distribution or supply of water, or in the methods employed by such water company, as will in the commission’s judgment be efficient, adequate, just and reasonable. The statute requires the commission to consult and coordinate with the department of health, and, in the event that a water company fails to comply with an order of the commission within the deadline specified in the order, the commission may request that the department petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

RCW 80.28.040 allows the commission to order improvements to service. Some service is presumably an improvement over no service. The statute requires a hearing and requires the commission to coordinate with the Department of Health in ordering service requirements.

Staff believes these options are not mutually exclusive. First, the commission could pursue a complaint and hearing against T&T under RCW 80.28.030 and/or RCW 80.01.040. Second, the commission could pursue actions against the owners if abandonment is sought.

Staff can also meet with the various parties to:

1. Ensure the company owners understand:
 - a. The statutes require the company to obtain commission approval to dispose of assets,
 - b. The company has an obligation to provide water service to meet Department Of Health standards and the commission may order the company to make improvements, and
 - c. Violation of the statutes or commission order may result in penalties against the company and its officers.
2. Determine the nature, extent and cost of maintenance or repairs needed for each water system.
3. Explore alternate ownership.