

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,</p> <p>Complainant,</p> <p>v.</p> <p>WATER OF BETHEL, LLC</p> <p>Respondent.</p>

<p>DOCKET UW-220621</p> <p>ORDER 01</p> <p>REJECTING AFFILIATED INTEREST AGREEMENT</p>
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BACKGROUND

- 1 On August 15, 2022, Water of Bethel, LLC, (Bethel or Company) filed with the Washington Utilities and Transportation Commission (Commission) an affiliated interest agreement (Agreement) between Bethel and Loncar Construction, LLC.
- 2 Under the Agreement, Loncar Construction, LLC, will provide water system management and services to Bethel. The companies share common ownership.
- 3 During Bethel’s last general rate case in Docket UW-220428, Commission staff (Staff) reviewed the Agreement. Staff determined that the payment structure within the Agreement was not fair, just, reasonable, or sufficient. At that time, Staff recalculated the amounts and allowed only \$49,286 of the \$70,200 amount that the Agreement calculated. This revised rate became effective on September 1, 2022, by operation of law.
- 4 At the conclusion of the Company’s last general rate case, Staff informed Bethel that the Agreement constitutes an affiliated interest agreement and advised the Company to file the Agreement pursuant to RCW 80.16.010 in a new docket. Bethel subsequently filed the Agreement in Docket UW-220621. Bethel did not, however, update the calculated rate in the Agreement consistent with the rates authorized in Docket UW-220428. Because Staff found that the rates were not just, fair, reasonable, and sufficient in the Company’s last general rate case and Bethel failed to update the Agreement to reflect the authorized payment structure, Staff recommends the Commission reject the Agreement.

DISCUSSION

- 5 Under RCW 80.16.020, any time after receipt of the contract of arrangement, the Commission may institute an investigation and disapprove (*i.e.*, reject) the contract, arrangement, modification, or amendment thereto if the Commission finds the public service company has failed to prove that it is reasonable and consistent with the public interest.
- 6 In 1998, the Legislature amended RCW 80.16.020 to remove the requirement that the Commission approve of affiliated interest contracts before such contracts become effective. The Historical House Bill Report (HB 2663) explains in the summary of the bill that revised RCW 80.16.020 was intended to eliminate the requirement for prior Commission approval of affiliated interest contracts and that “the contract, arrangement, or modification will take effect unless disapproved by the [Commission].” As under current law, in a rate case or other proceeding, the Commission may disallow all or part of the compensation or other payments made by a public service company to an affiliated interest under a contract or arrangement, unless the company establishes the reasonableness of the payments. The Commission may require satisfactory proof of the cost to the affiliated interest in performing its obligations under the contract or arrangement.
- 7 An affiliated interest arrangement results in pressures for profit, which creates a risk to ratepayers that management may shift the costs and burdens of company operations so that beneficial aspects flow to the affiliate (while benefiting the same stockholders) and burdensome aspects flow to the regulated company (and ultimately to ratepayers). In other words, any affiliated transaction poses a risk to ratepayers.
- 8 In order to approve the Agreement, the Commission must find that that the transaction provides a significant, measurable benefit to ratepayers at a cost that is reasonable in relation to the benefit. Here, the Company has not met that burden. The Company failed to incorporate the payment structure authorized in the Company’s last general rate case, and thus failed to establish that the Agreement is reasonable or consistent with the public interest. Accordingly, the Commission rejects the Agreement.

FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities,

transfers of property and affiliated interests of public service companies, including water companies.

- 10 (2) Bethel is a water company and a public service company subject to Commission jurisdiction.
- 11 (3) This matter came before the Commission at its regularly scheduled meeting on October 13, 2022.
- 12 (4) In the Company's last general rate case in Docket UW-220428, Staff determined the Agreement filed in this Docket would result in rates that are not fair, just, reasonable, or sufficient. Bethel did not update the Agreement to reflect the rates authorized in Docket UW-220428, and thus failed to establish that the Agreement is reasonable and consistent with the public interest.
- 13 (5) After reviewing the Agreement and giving due consideration, the Commission finds it is consistent with the public interest to reject the Affiliated Interest Agreement filed in Docket UW-220621, dated January 1, 2022.

ORDER

THE COMMISSION ORDERS:

- 14 (1) The Affiliated Interest Agreement in Docket UW-220621, Between Water of Bethel, LLC, entered on January 1, 2022, with Loncar Construction, LLC, is rejected.
- 15 (2) The Commission retains jurisdiction over the subject matter of this proceeding and Water of Bethel, LLC, to effectuate the terms of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective October 13, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
Executive Director and Secretary