

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

WASHINGTON UTILITIES AND)	DOCKET UW-071885
TRANSPORTATION COMMISSION,)	
)	ORDER 05
Complainant,)	
)	INITIAL ORDER DISMISSING
v.)	COMPLAINT AND ORDER
)	SUSPENDING TARIFF;
ILIAD WATER SERVICE, INC.,)	APPROVING AND ADOPTING
)	SETTLEMENT AGREEMENT;
Respondent.)	REQUIRING COMPLIANCE
)	FILING
.....)	

1 **SYNOPSIS:** *This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order would approve and adopt the parties’ Settlement Agreement increasing Iliad Water Service, Inc.’s, rates by \$21,401, a 75.1 percent increase in revenues.*

MEMORANDUM

2 **PROCEEDINGS:** Docket UW-071885 involves a filing by Iliad Water Service, Inc. (Iliad Water or Company), to revise its currently effective Tariff WN-U-1 to increase the Company’s basic service rates for customers on three water systems.

3 **BACKGROUND AND PROCEDURAL HISTORY.** Iliad Water serves approximately 91 customers on three water systems: Alder Lake near Elbe in Pierce County, Western Stavis II and III near Silverdale in Kitsap County, and Cascade Crest near Marysville in Snohomish County.

4 On September 17, 2007, Iliad Water filed tariff revisions in this docket with the Washington Utilities and Transportation Commission (Commission) requesting increases to the Company’s basic service rates that would have resulted in a \$32,324,

or 113 percent,¹ increase in additional revenues to the Company for the three water systems. The stated effective date was November 1, 2007. The Company requested the increase to cover increased operating costs. Iliad Water's last general rate increase was in August 1992.

5 On October 2, 2007, the Company extended the effective date of the tariff to December 1, 2007, at Staff's request.

6 The Commission invited customer comment on the proposed tariff revisions at its October 10, 2007, open meeting. On October 22, 2007, Iliad Water filed a letter and water quality report for the Alder Lake water system in response to customer comments regarding water quality issues on the Company's systems.

7 Prior to the Commission's November 28, 2007, open meeting, Staff concluded that Iliad had a revenue deficiency of \$18, 026 and recommended a three-tiered rate design and other adjustments. On November 27, 2007, Iliad Water filed replacement pages to its tariff revisions reflecting revised rates at Staff's recommended levels, using a system average.

8 At the November 28, 2007, open meeting, the Commission, at Staff's recommendation, issued a Complaint and Order suspending the tariff and approving the revised rates on a temporary basis, subject to refund, pending a hearing. In the Complaint, the Commission found that the Company had not yet demonstrated that the tariff revisions would result in rates that are fair, just, and reasonable, and ordered a staff investigation into the rates.

9 The Commission convened a prehearing conference in this docket at Olympia, Washington, on January 9, 2008, before Administrative Law Judge Ann E. Rendahl. The Commission, at the parties' request, appointed Administrative Law Judge Dennis J. Moss as a settlement judge to assist the parties in their settlement negotiations.

10 On April 8, 2008, the parties file a proposed Settlement Agreement and Narrative Supporting Settlement Agreement, requesting the Commission consider the proposed Settlement on a paper record, rather than hold a hearing.

¹ Paragraph 3 of the Settlement Agreement states that the Company's initial filing would result in a 143 percent increase. In a joint letter the parties filed on April 14, 2008, the parties clarified

- 11 **APPEARANCES.** Richard A. Finnigan, attorney, Olympia, Washington, represents Iliad. Michael Fassio, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).²
- 12 **SETTLEMENT AGREEMENT:** The underlying dispute in this matter concerns the tariff revisions Iliad Water filed on September 17, 2007. Iliad Water filed for a rate increase in response to a Staff finding in a separate matter, Docket UW-060343, that the Company was not financially viable and a recommendation that Iliad Water address its financial condition by filing for rate relief.³ In addition to the Settlement filed in this matter, the parties have also filed a separate settlement resolving all remaining issues in Docket UW-060343.
- 13 In the Settlement in this proceeding, Staff and Iliad Water agree to a general rate increase that is higher than the revised rates the Commission approved on a temporary basis, subject to refund, on November 28, 2008. The rates agreed to in the Settlement reflect a revenue requirement of \$49,899, which represents a \$21,401 (75.1percent) increase over test year revenues, and would generate an expected rate of return of 9.73 percent.⁴
- 14 As with the Commission-approved temporary rates, the parties agree to a conservation rate design for metered systems, with a base charge that includes no water use, and three usage blocks.⁵ The parties agree to a flat monthly rate for customers on the unmetered systems (Alder Lake and Western Stavis II and III). The Company intends to install meters on the Western Stavis II and III systems within approximately two months, and on the Alder Lake system as a part of the construction package in the settlement under consideration in Docket UW-060343.⁶ These rates are reflected in a Table 1, below, which compares the Company's existing rates, and rates under the Company's initial and revised filings, with the Settlement rates.⁷

that the percentage should more appropriately be characterized as 113 percent.

² In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "ex parte wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*.

³ See Narrative Supporting Settlement Agreement, ¶ 5.

⁴ Settlement Agreement, ¶ 15.

⁵ *Id.*, ¶ 11.

⁶ *Id.*, ¶ 14.

⁷ See Joint Response to Bench Request No. 1.

**TABLE 1: COMPARISON OF EXISTING, PROPOSED
AND SETTLEMENT RATES**

Monthly Rates, all systems, when metered	Current Rate Per 100 cf	Company's Proposed Rate Per 100 cf	Staff Revised Rate Per 100 cf	Settlement Rate per 100 cf.
Flat Rate Service, Alder and Stavis	\$23.13	\$56.19	\$43.50	\$46.50
Flat Rate Service, Cascade	\$26.26	\$59.52	NA	N/A
Metered Rate Service – 500 cf allowance	\$23.13	\$56.19	NA	N/A
Metered Rate Service – Zero Allowance	NA	NA	\$35.50	\$35.75
0-600 cf	NA	\$0.76	\$0.75	\$1.15
601 – 1200 cf	NA	\$0.76	\$0.86	\$1.40
Over 1200 cf	NA	\$0.76	\$1.04	\$1.65
Over Base allowance shown above	\$0.76	\$0.76	NA	N/A
“Start of Development” Ready To Serve (Alder & Stavis)	\$11.57	\$44.63	\$27.00	\$27.00
“Start of Development” Ready To Serve (Cascade)	\$13.13	\$46.39	\$32.50	\$27.00
Company-wide Average Bill	\$28.13	\$62.02	\$45.90	\$50.22

cf = cubic feet (1 cubic foot = 7.48 gallons of water)
All usage rates are per 100 cubic feet of water used.

15 **DISCUSSION AND DECISION:** In considering settlement agreements, the Commission “may accept the proposed settlement, with or without conditions, or may reject it.”⁸ The Commission must “determine whether a proposed settlement meets all pertinent legal and policy standards.”⁹ The Commission may approve settlements “when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.”¹⁰

⁸ WAC 480-07-750(2).

⁹ WAC 480-07-740.

¹⁰ WAC 480-07-750(1).

- 16 The parties' Settlement Agreement, attached to and made part of this Initial Order by this reference, would fully resolve the issues pending in this docket. The issues are limited to the appropriate increase in rates for service to customers of Iliad Water's three water systems.
- 17 Early resolution of the parties' dispute conserves valuable party and Commission resources that would otherwise be devoted to litigating Iliad Water's request for a rate increase. As important, the rate increase provided for in the Settlement Agreement, if approved, should allow Iliad Water to begin to address the Commission's concerns about the Company's financial viability and undercapitalization, identified in Docket UW-060343. As the parties' note in their Narrative Statement, Staff's investigation demonstrates that Iliad Water requires this rate increase, the first after 15 years, to continue to provide service and cease operating at loss.¹¹
- 18 Commission Staff's open meeting memoranda, the parties' Settlement Agreement, Narrative Statement, and subsequent clarifying letter and response to Bench Request No. 1 demonstrate that Staff conducted a considerable investigation into the records and operations of the Company, culminating in the agreement between the parties. The agreed upon rates retain the three-tiered conservation rate design for all metered systems, with a zero allowance in the base rate, requiring customers to pay for only the water they use. The Company also agrees to install meters on the unmetered water systems, which may also lead to greater water conservation on those systems.
- 19 Consistent with WAC 480-07-750, the Commission finds that its approval and adoption of the Settlement Agreement is in the public interest, that the Settlement Agreement is supported by an appropriate record, and that approving the agreement is lawful. The Commission concludes that it should approve and adopt the Settlement Agreement as its resolution of the issues pending in this proceeding.

FINDINGS OF FACT

- 20 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters

¹¹ Narrative Statement, ¶ 12.

the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

- 21 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate the rates, rules, regulations, practices, and accounts of public service companies, including water companies.
- 22 (2) Iliad Water is a “public service company” and a “water company,” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. Iliad Water is engaged in Washington in the business of supplying water services to the public for compensation.
- 23 (3) Iliad Water filed certain revisions to its currently effective tariffs for water service by its three water systems, with a November 1, 2007, effective date. The Company later changed the effective date to December 1, 2007.
- 24 (4) The Commission suspended the operation of the proposed tariff revisions on November 28, 2007, and approved temporary rates subject to refund pending an investigation and hearing.
- 25 (5) On April 8, 2008, the parties filed a Settlement Agreement that, if approved, would resolve all pending issues in the proceeding.
- 26 (6) The existing rates for water service Iliad Water provides are insufficient to yield reasonable compensation for the services rendered.

CONCLUSIONS OF LAW

27 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 28 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.

- 29 (2) The rates proposed by tariff revisions filed by Iliad Water on September 17, 2007, and suspended by prior Commission order, were not shown to be fair, just or reasonable and should be rejected.
- 30 (3) The existing rates for water service that Iliad Water provides in Washington are insufficient to yield reasonable compensation for the services rendered.
- 31 (4) Iliad Water requires relief with respect to the rates it charges for service provided to customers of its three water systems in Washington.
- 32 (5) The Settlement Agreement filed by the Parties to this proceeding on April 8, 2008, if approved, would result in rates for Iliad Water that are fair, just, reasonable and sufficient, and are neither unduly preferential nor discriminatory.
- 33 (6) The Settlement Agreement, attached as an appendix to this Order, and incorporated by reference as if set forth here, should be approved by the Commission as a reasonable resolution of the issues presented.
- 34 (7) Approval and adoption of the Settlement Agreement on condition, is lawful, supported by an appropriate record, and is in the public interest.
- 35 (8) Iliad Water should be authorized and required to make a compliance filing to recover its revenue deficiency of \$21,401 as reflected in the Settlement Agreement to effectuate the terms of this Order. *WAC 480-07-880(1)*.
- 36 (9) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order. *WAC 480-07-170; WAC 480-07-880*.
- 37 (10) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *RCW Title 80*.

ORDER

THE COMMISSION ORDERS:

- 38 (1) The proposed tariff revisions Iliad Water Service, Inc., filed with the Commission on September 17, 2007, and suspended by prior Commission order, are rejected.
- 39 (2) The Settlement Agreement filed by the parties on April 8, 2008, which is attached as an appendix to this Order and incorporated by reference as if set forth in full here, is approved and adopted in full resolution of the issues in this proceeding.
- 40 (3) Iliad Water Service, Inc., is authorized and required to make a compliance filing including such new and revised tariff sheets as are necessary to implement the requirements of this Order.
- 41 (4) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 42 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington and effective April 17, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN RENDAHL
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order, any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such an answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and (8) copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

ATTACHMENT