

Agenda Date: September 11, 2014
Item Number: A2

Docket: UW-110436
Company Name: Olympic Water and Sewer, Inc.

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

Recommendations

1. Dismiss the Complaint and Order Suspending the Tariff Revisions filed by Olympic Water and Sewer, Inc., in Docket UW-110436 dated April 10, 2014.
2. Allow the revised rates and tariff revisions filed by Olympic Water and Sewer, Inc., on August 22, 2014, to become effective September 15, 2014.
3. Issue an Order Allowing Deferral of Well No. 17 drilling and partial legal cost to be included in the replacement source of supply for the North Aquifer Well System.

Background

More detailed background is available in Staff's memo of August 28, 2014. On March 7, 2014, Olympic Water and Sewer, Inc. (Olympic or company), filed a proposed general rate increase that would generate \$52,124 (7.8 percent) additional annual revenue. This general rate increase is in the form of a surcharge and is filed pursuant to Order No. 1 issued in docket UW-110436 granting deferral of certain costs associated with drilling Well No. 17 discovered in April 2009. Olympic serves 1,608 mixed use customers near Port Ludlow in Jefferson County. The company's last rate change was effective May 22, 2008.

On March 7, 2011, Olympic filed a petition in Docket UW-110436 requesting an accounting order authorizing deferred accounting treatment for costs associated with drilling Well No. 17, and the investigation and remediation of soil contamination discovered while drilling that well in April 2009. Costs would include, but are not limited to, actual well drilling, consulting, engineering, legal fees, testing and other costs associated with the investigation and remediation of soil contamination discovered while drilling Well No. 17.

On April 10, 2014, the commission suspended the tariff revision pending further investigation.

Cost Recovery

Since the April 10, 2014, the company and customers met several times to discuss the surcharge filing. Commission staff attended one public meeting with customers held at Port Ludlow. The company has reached a compromise on cost recovery with the Port Ludlow Village Council.

The following table shows the originally proposed cost recovery for well No. 17 with revisions and deferred items that were the product of meetings with stakeholders and commission staff.

Cost Recovery

Well No. 17	Proposed Cost	Revised Cost	Deferred Cost
Well Drilling	\$ 31,115	--	\$ 31,115
Site Investigation	\$ 69,844	\$ 69,844	--
Legal	\$ 47,475	\$35,606	\$ 11,869
Notice & Mailing	\$ 788	\$ 788	--
Utility Tax	\$ 4,543	\$ 1,737	--
Interest	\$ 13,398	\$ 9,534	--
Total	\$ 165,059	\$ 117,514	\$ 42,983
Annual Surcharge Amount	\$ 52,124	\$ 37,110	--
Monthly Surcharge Rate*	\$2.70**	\$1.92***	

* Annual Surcharge Amount ÷ 1,608 customers' ÷ 12 months

**Surcharge expires June 30, 2017, or upon recovery of \$165,059, whichever occurs first.

*** Surcharge expires October 31, 2017, or upon recovery of \$117,514, whichever occurs first.

The compromise proposal is:

- Well No. 17 drilling cost: Defer all of the \$31,115 cost for future capitalization and recovery associated with a future new water supply source for the North Aquifer service area.
- Site Investigation cost: Recover all of the \$69,844 in the revised surcharge.
- Legal cost: Recover \$35,606 (75 percent) in the revised surcharge and defer \$11,869 (25 percent) for future capitalization and recovery associated with a future new water supply source for the North Aquifer service area.
- Notice & Mailing: All costs included in revised surcharge. (No change)
- Utility Tax: Adjusted to apply to revised costs in the revised surcharge.
- Interest: Adjusted to apply to revised costs in the revised surcharge.

Total amount in the revised proposal is \$117,514 for the current surcharge and \$42,983 deferred for future capitalization and recovery associated with a future new water supply source for the North Aquifer service area.

The revised surcharge would expire October 31, 2017, or upon recovery of \$ 117,514 whichever occurs first. Costs include principal, plus interest charges and state excise taxes. Customers could choose to pay, within 90 days of effective date, a one-time \$67.06 payment to avoid interest cost.

Customer Comments

On March 07, 2014, the company notified its customers of the proposed surcharge by mail. Staff received 51 comments regarding the proposed surcharge; 40 opposed to the surcharge and 11 in favor.

During the open meeting of August 28, 2014, several issues were presented regarding the Model Toxic Control Act (MTCA) under RCW 70 and property ownership of the site at 781 Walker Way, Port Ludlow, Washington.

Staff has reviewed these issues and found:

1. MTCA

- Staff reviewed RCW 70.105D and WAC 173
- Under RCW 70.105D.040(1) the following persons are liable with respect to a facility
 - (a) The owner or operator of the facility. Staff interprets that to be Olympic Water and Sewer.
 - (b) Any person who owned or operated the facility at the time of disposal or release of the hazardous substances. Staff interprets that to be Pope Resources.
 - Under RCW 70.105D.040 (2) Each person who is liable under this section is strictly liable, jointly and severally, for all remedial action costs...
- MTCA does not determine cost allocation or direct cost responsibility.

2. Property ownership at 781 Walker Way

- Staff received a brief history from the Jefferson County Assessor's office that stated in part; the parcel in question was purchased by Pope Resources in April 1968 from Pope and Talbot. It was then transferred by Quit Claim Deed in 1998 to Pope's wholly owned subsidiary, Olympic Water & Sewer Inc. That is the only ownership/sales for this parcel.
- Pope Resources was owner in 1990 when USTs were removed.
- Olympic Water and Sewer was the property owner in 2009 when Well No. 17 was drilled.

Additionally, staff's review does not consider the negotiated shared investigation cost and legal expenses to represent a new or modified buy/sell agreement from 2001. Olympic Water and Sewer, Inc. is a separate corporation and its stock ownership does not automatically shift liabilities to the stock owner. Cost recovery for any company can be passed on to the customers through the price of the product. Olympic Water and Sewer has requested to recover costs through a \$1.92 monthly surcharge for a 38-month period.

Conclusion

The company has filed to recover costs, under condition 8a of Order 01, that were deferred upon the commission approving the petition for accounting order on September 17, 2011.

Commission staff has reviewed the company's filing to recover the cost of drilling Well No. 17, investigation costs after the contamination was discovered, legal costs for reviews and negotiations, and the cost of the company's notice to customers. Staff has also reviewed the compromise letter between the company and the Port Ludlow Village Council in support of the revised filing.

Staff recommends approving the revised filing that will reduce the Well No. 17 surcharge from \$2.70 per month to \$1.92 per month for a period of 38 months.

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