

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	DOCKET NO. UW-040366
TRANSPORTATION COMMISSION,)	
)	ORDER NO. 02
Complainant,)	
)	ORDER DETERMINING
v.)	JURISDICTION; AND
)	REQUIRING FILING OF TARIFF
MARBELLO WATER COMPANY,)	AND SUPPORTING
)	DOCUMENTATION
Respondent.)	
.....)	

1 *Synopsis: The Commission accepts the stipulation of the parties, finds that Marbello Water Company is subject to Washington Utilities and Transportation Commission jurisdiction, and requires Marbello Water Company to file a tariff and supporting financial data.*

2 **Nature of Proceeding.** The Washington Utilities and Transportation Commission (Commission) initiated a special proceeding pursuant to RCW 80.04.015 to determine whether Marbello Water Company (Marbello) is subject to regulation under Chapter 80.28 RCW and WAC 480-110-255, and, if so, to require it to comply with the statutes and rules that govern a jurisdictional water company.

3 **Appearances.** Mark Nyhus and Richard Finnigan, attorneys, Olympia, represent Marbello. Jonathan Thompson, Assistant Attorney General, represents Commission Staff.

4 **Memorandum.** Marbello is a water company that serves customers in Snohomish County, Washington. The two primary issues in this case are: 1) whether the Commission has jurisdiction over Marbello’s operations pursuant to RCW 80.04.010 and WAC 480-110-255; and, if so, 2) whether rates Marbello charges for its service are fair, just, reasonable and sufficient pursuant to RCW 80.28.020.

5 The Commission's jurisdiction over water companies is triggered under WAC 480-110-255 when a company serves 100 or more customers, or receives annual average revenue per customer of \$429. Marbello appears to meet the requirement for jurisdiction by virtue of a September 2003 rate change that resulted in a metered base rate of \$32.85 plus a \$0.04 per cubic foot of usage above 750 cubic feet.¹ The rate change appears to have caused the annual average revenue per customer to rise to \$1,114, and thus to exceed the \$429 jurisdictional threshold.

6 **Stipulation of the parties.** At the prehearing conference convened on March 25, 2004, the parties stipulated as follows:

- 1) Marbello falls under the Commission's jurisdiction;
- 2) If ordered to do so, pursuant to Commission order, Marbello will file a tariff on or before April 1, 2004, in compliance with the requirements of WAC 480-110-295;
- 3) If ordered to do so, pursuant to Commission order, Marbello will file separately its supporting financial data justifying the proposed rates as required under WAC 480-110-295 on or before April 30, 2004
- 4) Marbello would be subject to enforcement of the order to file a tariff and supporting documentation through penalties issued under the normal process for pursuing such penalties against public service companies.

7 The parties further agreed that the docket would remain open to allow Commission Staff to review the filed tariff and supporting documentation. After review of the tariff, Staff could move to dismiss the complaint; go forward to establish different rates than those in the tariff; go forward to establish rates if the company fails to file a tariff; or seek penalties if the company fails to file a tariff or supporting documentation as required.

8 **Discussion and decision.** The Commission is persuaded that it is reasonable to accept, and does accept, the stipulation of the parties which appears to be fully

¹ See, Notice of Hearing at 2.

supported by the facts recited. Proceeding in this way will avoid the need for litigation on the issue of jurisdiction and will conserve the resources of the company and the Commission. Furthermore, it will facilitate a speedy view to determine whether Marbello's water rates are fair, just, reasonable and sufficient.

ORDER

- 9 THE COMMISSION Accepts the stipulation and orders Marbello to file a tariff on or before April 1, 2004 in compliance with the requirements of WAC 480-110-295(3)(a) through (c). The Commission further orders Marbello to file supporting financial data justifying its proposed rates, as required by WAC 480-110-295(3)(d), on or before April 30, 2004.

DATED at Olympia, Washington, and effective this 29th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner