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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,)
5 Complainant,) Docket Nos. UW-110107
6 vs.)
7 SUMMIT VIEW WATER WORKS, LLC,) Pages 40-57
8 Respondent.)

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SETTLEMENT HEARING, VOLUME III

10

Pages 40-57

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ADMINISTRATIVE LAW JUDGE PATRICIA CLARK

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9:30 A.M.

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August 26, 2011

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1300 South Evergreen Park Drive SW

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Olympia, Washington

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A P P E A R A N C E S

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ALSO PRESENT:

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EUGENE K. ECKHARDT

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KIRK RATHBUN (Appearing telephonically)

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OLYMPIA, WASHINGTON; AUGUST 26, 2011

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9:30 A.M.

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P R O C E E D I N G S

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JUDGE CLARK: Good morning. It's approximately 9:30 a.m. August 26, 2011, in the Commission's hearing room at Olympia, Washington. This is the time and the place set for a settlement hearing in the matter of Washington Utilities and Transportation Commission vs. Summit View Water Works, LLC, given Docket No. UW-110107.

Patricia Clark, Administrative Law Judge for the Commission, presiding.

This matter came before the Commission on January 12, 2011, when Summit View Water Works filed revisions to its currently effective tariff, WN U-1, Original Sheet Nos. 25 and 26, with a stated effective date of February 12, 2011. The Company proposed a facilities construction charge of \$11.60 per month for all customers and a one-time \$1,000 facilities surcharge for all new customers.

The Commission suspended that filing and set this matter for hearing. Both parties filed prefiled testimony in this case on August 12th, 2011. The parties filed a settlement agreement resolving all issues in this case. A public comment hearing was held in Kennewick, Washington on August 17th, 2011.

At this time, I'll take appearances on behalf of the

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1 parties. Appearing on behalf of the Commission Staff?

2 MR. CEDARBAUM: Robert Cedarbaum, Assistant Attorney
3 General.

4 JUDGE CLARK: Thank you, Mr. Cedarbaum.

5 And appearing on behalf of Summit View Water Works?

6 MR. FINNIGAN: Richard Finnigan.

7 JUDGE CLARK: Thank you, Mr. Finnigan.

8 Just as a preliminary matter, what is my intent is
9 to call the witnesses as a panel in this case. Mr. Rathbun is
10 appearing telephonically, and I think that we can probably
11 expedite the hearing if we hear those witnesses as a panel, so
12 we'll call those as a panel, if there's no objection from
13 counsel.

14 MR. FINNIGAN: No objection.

15 MR. CEDARBAUM: No.

16 JUDGE CLARK: All right. And it's my understanding
17 that the parties have agreed to the admission of all prefiled
18 testimony in this case, so as a preliminary matter, I would
19 admit that testimony as well.

20 MR. CEDARBAUM: That's correct, Your Honor.

21 JUDGE CLARK: All right.

22 Then if you would like, we can proceed to the
23 testimony portion of this case.

24 Mr. Cedarbaum, would you call your witness, please.

25 MR. CEDARBAUM: As part of the panel, the Staff calls

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1 Amy White.

2 JUDGE CLARK: All right. Ms. White, can you take the
3 witness stand, and if you would take the far chair, then I'll
4 be able to see you through the court reporter.

5 All right. At this time, Mr. Rathbun, I'm going to
6 need to swear in both you and Ms. White. You may have a little
7 bit of difficulty hearing me because I'm going to be standing
8 up and away from a microphone, so I'll try to speak loudly. If
9 you would rise and raise your right hand, please.

10

11 AMY I. WHITE and KIRK RATHBUN,

12 witnesses herein, having been first duly sworn on oath,

13 were examined and testified as follows:

14

15 MS. WHITE: I swear.

16 MR. RATHBUN: I do.

17 JUDGE CLARK: Thank you, Mr. Rathbun.

18 All right. Mr. Cedarbaum?

19 MR. CEDARBAUM: Your Honor, did you want me to go
20 through preliminary questioning to sort of identify Ms. White
21 or just -- I'm okay just to offer the panel as well without
22 doing that.

23 MR. FINNIGAN: We would be willing to offer the panel
24 to address any questions that you might have. The testimony
25 has been admitted, and we have --

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1 JUDGE CLARK: Well, it hasn't been admitted yet.

2 MR. FINNIGAN: Oh, I'm sorry, I thought you had done
3 that.

4 JUDGE CLARK: I said we are going to do that. We're
5 not quite there yet. I would like to move this along, but
6 that's a little speedier than I can do. Okay. No, that's
7 fine.

8 MR. CEDARBAUM: Your Honor, I could just -- I think
9 with Mr. Finnigan's agreement -- just offer the marked exhibits
10 into evidence in their entirety.

11 JUDGE CLARK: All right. That's fine.

12 And do you want to also offer the public comment
13 exhibit that was on the record that was distributed before we
14 went on the record this morning?

15 MR. CEDARBAUM: I do.

16 (Exhibits offered into evidence.)

17 JUDGE CLARK: Thank you. All right.

18 I have Exhibit No. 1, which is the full settlement
19 agreement of the Commission Staff and Summit View Water Works;
20 Exhibit No. 2, which is the public comment exhibit in this
21 proceeding; Exhibits KR-1T and KR-2 through 5, Exhibit No.
22 AW-1T and AW-2 are admitted in evidence without objection.

23 (Exhibits 1 and 2; Exhibits KR-1T and KR-2 - KR-5;
24 Exhibits AW-1T and AW-2 admitted into evidence.)

25 JUDGE CLARK: Just as a preliminary matter, Ms. White,

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1 I'm going to ask you, I do have your revised testimony, and I
2 would just ask if you have any additions, corrections or
3 deletions to that testimony?

4 MS. WHITE: Not at this time.

5 JUDGE CLARK: Mr. Rathbun, I'll ask you the same
6 question. Do you have any additions, corrections or deletions
7 to your prefiled testimony?

8 MR. RATHBUN: No, I do not.

9 JUDGE CLARK: All right.

10 I would like to say that I understand that the
11 prefiled testimony, responsive testimony of the Commission
12 Staff, forms the basis of the support for the settlement in
13 this proceeding, and I think it's appropriate for the record to
14 reflect that this testimony is well written and it's clear, as
15 well as the settlement being well written and clear, and
16 therefore, I have a minimum of questions regarding these
17 topics.

18

19 E X A M I N A T I O N

20 BY JUDGE CLARK:

21 Q. My questions on -- the first question is actually for
22 Mr. Rathbun, and I just want to explore a little bit about the
23 need for the new well.

24 In the initial testimony you filed -- and I'm on
25 page 1 of that testimony -- at approximately line 17 through

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1 21, you noted that the new well was needed to allow for growth
2 in your system, as well as to provide reliability. And I just
3 want some indication from you if you feel that the system will
4 be reliable with or without this new well for existing
5 customers.

6 A. (Rathbun) The system will be more reliable once the
7 new well is online, if I'm understanding your question
8 correctly.

9 Q. I think you are.

10 And my understanding was one of the purposes of
11 drilling the new well was to serve as backup for the existing
12 well; is that correct?

13 A. (Rathbun) Yes, that's correct. It will be there to
14 serve as backup. It is intended -- our original purpose in
15 drilling the well was to actually drill a well larger than the
16 current well we have, and so the current well would actually
17 end up being backup to the new well because of the size
18 differential.

19 Q. Oh, okay. All right.

20 Ms. White, on page 3 of your testimony -- and I'm at
21 approximately your answer on lines 16 through 18 -- according
22 to your testimony, the capacity of the existing well would
23 serve approximately 100 -- has the capacity to serve up to
24 approximately 100 domestic water service customers, and the
25 capacity that you've indicated in your testimony is different

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1 from the capacity indicated by Mr. Rathbun. So perhaps -- I
2 believe if my memory serves me correctly, he indicated the
3 capacity could serve 125 customers.

4 A. (White) My estimate of the hundred customers I believe
5 is tied to review of the water rights of the Department of
6 Ecology. That seems to be the allowed capacity by Ecology.

7 Q. All right.

8 Mr. Rathbun, can you confirm that the capacity of
9 the existing well would be a hundred customers if consistent
10 with the water rights?

11 A. (Rathbun) I believe the -- I believe the Ecology water
12 rights allow for so many acre feet per year, and in the water
13 system plan, the calculations were done based on the allowable
14 acre feet per year. And when you look at the average daily
15 demand of the Summit View customers, the current well at its
16 existing capacity, I believe -- I don't remember this off the
17 top of my head. I didn't review the water system plan -- but I
18 believe that well is capable of supplying 140-plus customers,
19 based on what Summit View Water Works' specific customers are
20 using for average daily demand.

21 Q. All right. And that would be the existing well,
22 correct?

23 A. (Rathbun) That's the existing well, yes.

24 Q. All right. Thank you.

25 The next question I have, Ms. White, is on page 5 of

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1 your testimony, and my understanding that the financing for the
2 well will be provided by two affiliated companies, Tri-City
3 Development Corporation and Candy Mountain, LLC, and so I just
4 am interested if evaluation of that filing complied with the
5 Commission's affiliated interest standards?

6 A. (White) I have not yet seen financing paperwork among
7 the affiliates, and the construction of the well began this
8 spring while the case was still being debated, while the
9 analysis was still going on, and Staff has not yet seen any
10 financing paperwork. My understanding is that Ken --
11 Mr. Rathbun will have to correct me on the exact arrangements,
12 but which affiliate is financing the construction is still
13 something that we've not viewed.

14 Q. All right. Mr. Rathbun, first, do you want to answer
15 that, about which of the affiliates would be financing the new
16 well?

17 A. (Rathbun) Yeah. Candy Mountain -- excuse me -- yeah,
18 Candy Mountain, LLC is currently financing the construction of
19 the new well.

20 Q. All right. Thank you.

21 And my understanding is that the Company will be
22 providing, after construction is complete, more detailed
23 information regarding the cost of that new well that will be
24 subject to review by Staff; is that correct?

25 A. (Rathbun) That is correct, yes.

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1 Q. All right.

2 Ms. White, I'm on page 7 of your prefiled testimony
3 at approximately line 7, and this regards the financing by
4 Candy Mountain, LLC at 6.5 percent interest rate for 15 years,
5 and I wanted to know if you've reviewed the financing terms and
6 conditions and find them reasonable.

7 A. (White) We have reviewed financing terms and
8 conditions that were stated in the original filing. Since any
9 financing arrangement in this case is amongst affiliates, Staff
10 would allow prime rate plus 2 percent. 6.5 percent would then
11 be viewed as excessive.

12 Q. Right. And so if I look at page 9 of your testimony,
13 it appears that using the calculation that you have just
14 described on the record, that the percentage rate would
15 actually be 5.25 percent financing; is that correct?

16 A. (White) That is correct.

17 Q. All right.

18 All right. I just have one additional question
19 regarding the settlement, and that is that in the settlement,
20 the parties request that the Commission waive Commission rule
21 and allow collection of the surcharge exclusively from new
22 customers. Mr. Rathbun and Ms. White have explained the
23 capacity of the existing well to serve the current customers,
24 so -- and I believe the testimony of Ms. White is that the new
25 well would be used to serve primarily -- primarily used to

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1 serve new customers, so I just want a little further
2 explanation if you could provide it regarding the storage
3 capacity if there's an outage. Ms. White or Mr. Rathbun or
4 both?

5 A. (Rathbun) I guess I can probably answer that one. Are
6 you referring to domestic water storage capacity in case of an
7 outage of the system as it currently exists or the system once
8 the new well is online?

9 Q. The system as it currently exists.

10 A. (Rathbun) The system as it currently exists, we are --
11 we have changed our operating capacity, or excuse me, our
12 operating levels. We have -- Summit View has a 160,000 gallon
13 reservoir on site at this time, and the operating levels have
14 been adjusted in that reservoir currently within the last --
15 actually within the last few months in order to allow for
16 closer monitoring of the well. And the purpose would be to
17 leave more water in the reservoir at all times in case of an
18 outage so we would have to allow to have time to go in and make
19 any emergency repairs that are needed.

20 Q. And what is the current usage in comparison to the
21 160,000 gallon capacity storage?

22 A. (Rathbun) Current usage on a daily basis or --

23 Q. Please. Daily basis.

24 A. (Rathbun) You know, I -- I can do some quick
25 calculations here for you based on what the average daily

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1 demand numbers are just on that.

2 Q. That would be great. Thank you.

3 A. (Rathbun) These numbers are going to be plus or minus
4 maybe 3 to 5 percent, but I believe the current number of
5 customers in the system is about 108, and the average daily
6 demand is -- I believe it's 222 gallons per day per customer,
7 and so that equates to about 23,976 gallons per day.

8 Q. All right. Thank you.

9 And I thought that was my last question, but your
10 answer just prompted one more. If my memory serves me
11 correctly, the prefiled testimony said there was 85 customers,
12 but you've indicated there are 108?

13 A. (Rathbun) Yeah. At the time of the filing, I believe
14 there were 85 customers. The system is currently growing and
15 grows at some amount per month. And, yeah, currently we're --
16 I believe we're at 108 customers.

17 Q. And those are domestic water users, not irrigation
18 users, correct?

19 A. (Rathbun) That is correct.

20 JUDGE CLARK: Thank you so much. I don't have any
21 additional questions.

22 Do either of the parties have additional matters for
23 these witnesses?

24 MR. CEDARBAUM: I have a couple of areas. It should
25 be short.

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1 JUDGE CLARK: Thank you, Mr. Cedarbaum.

2 MR. CEDARBAUM: And this is primarily for Ms. White,
3 but, Mr. Rathbun, if you have an answer, you're welcome to
4 chime in.

5

6 D I R E C T E X A M I N A T I O N

7 BY MR. CEDARBAUM:

8 Q. The first question involves the current capacity
9 figures that were discussed earlier for the existing well. In
10 your testimony, you included 100 customers as the existing
11 capacity, and Mr. Rathbun indicated that might be higher. My
12 question is, to the extent that the capacity of the new well --
13 of the existing well is higher than 100 customers, wouldn't
14 that further support your conclusion that the new well is
15 primarily there to serve new customers?

16 A. (White) Yes, I believe that's correct.

17 Q. And that would be because more customers could be
18 served by the existing well, making the new well less important
19 to them?

20 A. (White) Yes, that's correct.

21 Q. With respect to the loan and your discussion with the
22 judge at page 9 of your testimony, the \$1402 charge that you
23 developed and the Company has agreed to in settlement was based
24 upon your assumption that there would be a loan between Candy
25 Mountain and the Company that would -- with interest -- would

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1 total the \$353,000 figure that you show on line 6 of page 9; is
2 that correct?

3 A. (White) That is correct.

4 Q. So that was your assumption, but do you know whether
5 or not there has, in fact, been a written loan agreement made
6 between Candy Mountain and Summit View for that amount or any
7 amount?

8 A. (White) No, I do not know of a written loan agreement
9 at this time.

10 Q. And to the extent that a written loan agreement is
11 entered into and that would need to be filed with the
12 Commission, then you would review it at that time?

13 A. (White) Yes. It should be an affiliated interest
14 filing with the Commission.

15 MR. CEDARBAUM: Thank you. Those are all my
16 questions.

17 JUDGE CLARK: Thank you, Mr. Cedarbaum.

18 Mr. Finnigan?

19 MR. FINNIGAN: Your Honor, just for the record, the
20 Company has agreed to file the appropriate documentation for
21 the loan at the interest rate the Staff is recommending,
22 assuming there is an order approving the settlement, and it
23 would be filed shortly after that as an affiliated interest
24 transaction.

25 JUDGE CLARK: Thank you. I appreciate that

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1 clarification. And then my understanding is that the true-up
2 for the actual costs would not come until a filing sometime
3 after the construction is complete; is that correct?

4 MR. FINNIGAN: That is correct.

5 JUDGE CLARK: All right. Thank you.

6 Is there anything further to be considered on this
7 record?

8 MR. CEDARBAUM: Not from Staff.

9 MR. FINNIGAN: No, Your Honor.

10 JUDGE CLARK: All right. Hearing nothing, we are
11 adjourned.

12 (Proceedings adjourned at 9:50 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Lisa Buell, a Certified Shorthand Reporter and Notary Public in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings on August 26, 2011, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 8th day of September, 2011.

LISA BUELL, RPR, CRR, CCR

My commission expires:
DECEMBER 2014