

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET UW-110436
)	
Complainant,)	ORDER 02
)	
v.)	ORDER DISMISSING COMPLAINT
)	AND ORDER SUSPENDING TARIFF
OLYMPIC WATER AND SEWER, INC.,)	REVISION; ALLOWING REVISED
)	RATES TO BECOME EFFECTIVE;
Respondent.)	ALLOWING DEFERRAL OF WELL
.....)	NO. 17 DRILLING COST
)	

BACKGROUND

- 1 On March 7, 2014, Olympic Water and Sewer, Inc. (Olympic or Company), filed with the Washington Utilities and Transportation Commission (Commission) a proposed general rate increase that would generate \$52,124.80 (7.8 percent) additional annual revenue. The surcharge was filed pursuant to UW-110436 Order No. 1 granting deferral of certain costs associated with drilling Well No. 17, and the investigation and remediation of contamination discovered while drilling that well 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.
- 2 **Procedural History.** On September 15, 2010, Olympic filed a revision to its currently effective tariff in Docket UW-101543 proposing a rate increase that would generate \$182,097 (25 percent) additional annual revenue. Commission staff (Staff) reviewed Olympic’s books, records, and supporting documents, and found that a large portion of the proposed rate increase resulted from the \$32,794 in construction costs and \$18,500 in legal costs related to drilling Well No. 17, and the investigation of the soil contamination discovered while drilling. Well No. 17 was ultimately deemed unusable for production due to the soil contamination discovered during the drilling process.
- 3 Staff removed the investigation costs from the 2010 rate case because they were unknown and ongoing at that time. The result of these adjustments and other allocations showed that the Company had not demonstrated its need for additional revenue. On March 9, 2011, the Company requested that the Commission dismiss the Complaint and Order Suspending the Tariff Revision in Docket UW-101543 and allow Olympic to

withdraw its tariff revision. The withdrawal letter filed by the Company was conditioned upon the Commission approving the accounting petition filed in this docket. The withdrawal was allowed and the rates for water service remained unchanged.

4 On March 7, 2011, Olympic filed a petition in this docket requesting an accounting order authorizing deferred accounting treatment for costs associated with drilling Well No. 17, and the resulting investigation and remediation of soil contamination. Costs would include, but not be limited to, actual well drilling, consulting, engineering, legal fees, testing, and other costs associated with the investigation and remediation. Deferred accounting treatment would preserve Olympic's ability to seek recovery of those costs at a later time.

5 Staff concurred with the Company's request for deferred accounting treatment, subject to certain conditions. The Company is now seeking cost recovery under Section 8(a) of Staff's conditions, which provides, "The Company may file tariff revisions to recover Well No. 17 drilling and soil contamination investigation costs when the costs are known and measurable and the responsibilities for costs have been finalized between any insurance provider or other third party."

6 The Company is not seeking funds for any remediation or future costs not yet known or measurable. The Company is only seeking repayment of costs associated with drilling Well No. 17 and the investigation and legal costs resulting from the discovery of soil contamination.

7 **Discussion.** Since April 10, 2014, the Company and its customers have met several times to discuss the surcharge filing, and have reached a compromise on recovery costs.¹ The Company presented the compromise to the Port Ludlow Village Council (PLVC), and received a letter of support in return.²

8 The compromise proposal is as follows: 1) the Well No. 17 drilling cost of \$31,115 will be deferred for future capitalization and recovery associated with a future new water supply source for the North Aquifer service area; 2) the site investigation cost of \$69,844 will be part of the revised surcharge recovery; 3) the legal costs totaling \$47,475 will be split as \$35,606 (75 percent) in the revised surcharge recovery, and \$11,869 (25 percent)

¹ A copy of the letter from the Company is attached to Staff's August 28, 2014, memo filed in this docket.

² A copy of the letter from the PLVC is attached to Staff's August 28, 2014, memo filed in this docket.

will be deferred, and its recovery associated with a future new water supply source for the North Aquifer service area; 4) the total amount to be deferred is \$42,983 for future capitalization and recovery associated with a future new water supply source for the North Aquifer service area.

9 The surcharge is set to expire on October 31, 2017, or upon recovery of \$117,514, whichever occurs first. The total cost includes principal, plus interest charges and state excise taxes. The surcharge may be paid (within 90 days of the effective date) in a one-time payment of \$67.06 per customer to avoid paying interest.

10 The table below illustrates the Company's summary of cost recovery for Well No. 17.

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.

11 At the Commission's August 28, 2014, open meeting, several issues were raised regarding liability for the costs of remediation under Title 70 RCW, the Model Toxic Control Act (MTCA), and ownership of the site located 781 Walker Way in Port Ludlow, Washington, at critical junctures.

12 RCW 70.105D.040(1)(a) provides that the owner or operator of a facility is liable for hazardous waste cleanup at that facility. Staff's position is that Olympic is liable for the cleanup under this provision.

- 13 RCW 70.105D.040(1)(b) provides that any person who owned or operated the facility at the time of disposal or release of the hazardous substances is also liable for cleanup costs. Staff's position is that Pope Resources is liable for the cleanup under this provision.
- 14 RCW 70.105D.040 (2) provides that, "each person who is liable under this section is strictly liable, jointly and severally, for all remedial action costs..." The statute does not determine cost allocation or direct cost responsibility. In sum, both Olympic and Pope Resources are jointly and severally liable under the MTCA.
- 15 With respect to property ownership at 781 Walker Way, Staff received a brief history from the Jefferson County Assessor's office stating that 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 and Sewer, Inc. These are the only ownership and sales records for this parcel. Therefore, Pope Resources owned the parcel in 1990 when USTs were removed, and Olympic was the property owner in 2009 when Well No. 17 was drilled.
- 16 Staff's review did not consider the negotiated shared investigation cost and legal expenses to represent a new or modified buy/sell agreement from 2001. Olympic 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.
- 17 **Staff Recommendation.** 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 agreement between the Company and the Port Ludlow Village Council in support of the revised filing. Staff recommends approving the compromise agreement that will reduce the Well No. 17 surcharge from \$2.70 per month to \$1.92 per month for a period of 38-months.

FINDINGS AND CONCLUSIONS

- 18 (1) The Washington Utilities and Transportation Commission is an agency of the
State of Washington vested by statute with the authority to regulate the rates,
rules, regulations, practices, accounts, securities, transfers of property and
affiliated interests of public service companies, including water companies.
- 19 (2) Olympic is a water company and a public service company subject to Commission
jurisdiction.
- 20 (3) This matter came before the Commission at its regularly scheduled meeting on
September 11, 2014.
- 21 (4) The tariff revision presently under consideration is fair, just, reasonable, and
sufficient because the Company has demonstrated the need for additional annual
revenue.
- 22 (5) After reviewing the revised tariff revision Olympic filed in Docket UW-110436
and giving due consideration, the Commission finds it is consistent with the public
interest to: dismiss the Complaint and Order Suspending Tariff Revision in
Docket UW-110436, dated April 10, 2014; allow the revised rates and tariff
revisions, filed on August 22, 2014, to become effective on September 15, 2014;
and allow the deferral of Well No. 17 drilling cost to be included in the
replacement source of supply for the North Aquifer Well System.

ORDER

THE COMMISSION ORDERS:

- 23 (1) Order 01, the Complaint and Order Suspending Tariff Revision, in Docket
UW-110436, entered on April 10, 2014, is dismissed.
- 24 (2) The tariff revision Olympic Water and Sewer, Inc., filed in this docket on
August 22, 2014, shall become effective on September 15, 2014.
- 25 (3) The deferral of \$42,983 in drilling costs for Well No. 17 – comprised of \$31,115
in drilling costs and \$11,869 in legal costs – in replacement source of supply for

the North Aquifer Well System is allowed. The total deferred amount of \$42,983 will not earn or accrue interest.

DATED at Olympia, Washington, and effective September 11, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner