

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

WASHINGTON UTILITIES AND)	DOCKET UW-100642
TRANSPORTATION COMMISSION,)	
)	ORDER 04
Complainant,)	
)	
v.)	INITIAL ORDER CANCELLING
)	HEARING, AND APPROVING
DEER MEADOWS WATER)	AND ADOPTING SETTLEMENT
COMPANY, INCORPORATED,)	STIPULATION
)	
Respondent.)	
.....)	

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. If this Initial Order becomes final, the Settlement Agreement entered into between Deer Meadows Water Company and the Commission Staff will be approved and adopted. The Settlement establishes the rates customers will pay on a prospective basis beginning on the 20th day of the month after the Commission approves the Settlement. These new rates would increase annual revenues by \$11,227; the overall rates for water service would increase by 7.8 percent, and the rates for the average residential customer would increase by 11.2 percent.*

INTRODUCTION

2 **Nature of Proceeding.** On April 20, 2010, Deer Meadows Water Company, Incorporated (Deer Meadows or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-1 to be effective on May 21, 2010. The Company proposed to increase rates and charges for water service provided to customers in the state of Washington by \$114,234 annually or approximately 80 percent. Deer Meadows also proposed to establish a new Non-Sufficient Fund (NSF) check charge of \$25.00 and a new Site

Visit charge of \$75.00. The Company proposed to increase the Reconnection charge from \$25.00 to \$75.00. Deer Meadows serves 357 customers in Lincoln County.

- 3 **Background and Procedural History.** The Commission, by Order 01, entered on May 13, 2010, suspended operation of the tariff revisions to determine if the proposed rates and charges were fair, just, reasonable and sufficient. By Notice entered July 15, 2010, the Commission scheduled a prehearing conference in this matter and appointed Administrative Law Judge, Patricia Clark, to hear this matter.
- 4 The prehearing conference convened, as scheduled, at Olympia, Washington on August 2, 2010. During the prehearing conference, the Commission established a procedural schedule including a public comment hearing. On September 14, 2010, the Company and the Commission's regulatory staff (Commission Staff or Staff)¹ filed a Settlement Stipulation (Settlement), which they propose the Commission adopt in resolution of all issues. On September 28, 2010, the parties requested that the public comment hearing be cancelled and that the customers be given the opportunity to submit written comments on the rates proposed in the Settlement. By Notice dated September 30, 2010, the Commission granted the request and afforded customers the opportunity to file written comments until October 15, 2010. On November 9, 2010, Staff filed into the docket the written comments received regarding the Settlement.²
- 5 **Written Comments.** The Commission received written comments on the Settlement from 18 customers.³ Seventeen of the written comments were in opposition to the terms of the Settlement. One comment concluded that an 11.2 percent rate increase appeared reasonable for the size of the utility and its operations.

¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See RCW 34.05.455.*

² A portion of these comments were informally placed in the docket on October 18, 2010.

³ The Commission received a total of 73 written comments from customers from April 20, 2010, to October 15, 2010. However, the comments received prior to September 14, 2010, were in response to the Company's original request for rate relief rather than the Settlement.

6 **Appearances.** Richard A. Finnigan, Olympia, Washington, represents Deer Meadows. Michael A. Fassio, Assistant Attorney General, Olympia, Washington, represents Commission Staff.

7 **Commission Decisions.** The Commission finds that the Settlement and the accompanying testimony of Jim Ward and Chuck Spencer, in support of the Settlement, adequately explain the Settlement's terms and conditions. Accordingly, it is unnecessary to convene a settlement hearing and the hearing is cancelled. The Commission further determines on the basis of the evidence presented that Deer Meadows requires rate relief and that the Settlement results in rates that are fair, just, reasonable and sufficient. The Commission accordingly approves and adopts the Settlement in full resolution of the issues in this proceeding.

Discussion and Decision

8 **Discussion.** On April 20, 2010, Deer Meadows filed revisions to its current tariffs designed to increase annual revenue by \$114,234 or 80 percent, and proposed that the rate increase be effective May 21, 2010. The Company's initial request included:

- A total annual revenue increase of \$114,234.
- An overall rate increase of 80 percent.
- An NSF check charge of \$25.00.
- A Site Visit charge of \$75.00.
- An increase in the Reconnection charge from \$25.00 to \$75.00.

9 **Settlement.** On September 14, 2010, the parties filed a Settlement they propose the Commission approve and adopt in full resolution of the issues in this proceeding. Attached to the Settlement as Appendix A are tariff sheets that would implement the terms of the Settlement. Also on September 14, 2010, the Commission Staff and the Company filed testimony in support of the Settlement.

- 10 In the Settlement, which is attached to this Order as Appendix 1, the parties agree that Deer Meadows should be authorized to implement rate changes designed to increase its annual revenues from customers by \$11,227, or 7.8 percent, based on test year revenues of \$144,759.⁴ The parties agree that the rate changes in the Settlement should be effective on the 20th day of the month after the Commission approves the Settlement.⁵
- 11 The Settlement presents the following tables⁶ which identify the current rates for service, the rates initially proposed by the Company, the Settlement rates, and the effect of these rates for residential customers.

For customers served by a ready-to-serve charge:

Monthly rate \$24.00

For Customers Served by a 3/4 Inch Meter

Usage per 1,000 Gallons	Current Rate	Proposed Rate	Settlement Rate
Base Charge	\$26.25	\$48.25	\$24.00
0 – 4,600 Gallons	\$0.46	\$1.06	\$0.50
4,601 – 15,840 Gallons	\$0.46	\$1.06	\$1.00
Over 15,840 Gallons	\$0.46	\$1.06	\$1.60

⁴ Settlement at 3 and Ward, Exh. No. JW-1T at 6.

⁵ *Id.*

⁶ Settlement at 3 -4.

For Customers Served by a 4 Inch Meter

Usage per 1,000 Gallons	Current Rate	Proposed Rate	Settlement Rate
Base Charge	\$438.38	\$438.38	\$400.80
0 – 76,820 Gallons	\$0.46	\$1.06	\$0.50
76,820 – 264,528 Gallons	\$0.46	\$1.06	\$1.00
Over 264,528 Gallons	\$0.46	\$1.06	\$1.60

The effects of these rates for residential customers are shown in the table below.

Average Bill Comparison for 3/4 Inch Meter

Average Monthly Usage 15,300 Gallons	Current Rate	Proposed Rate	Settlement Rate
Base Rate (3/4 inch meter)	\$26.25	\$48.25	\$24.00
4,600 gallons	\$ 2.10	\$ 4.88	\$ 2.30
10,700 gallons	\$ 4.92	\$11.34	\$10.70
Average Monthly Bill	\$33.27	\$64.47	\$37.00
Increase From Current Rates			11.2 %

- 12 Staff concludes that the Settlement rates are reasonable and reflect the Company’s need for additional revenue to offset additional expenses for property taxes, rate case costs, and transportation.⁷ For customers served by a “ready-to-serve charge,” a charge that applies to any property owner who has a completed, signed, and accepted water service application, who has paid all applicable fees for meter service connection, and for whom the Company has installed the direct connection from the

⁷ Staff reviewed the Company’s books and records regarding these expenses and concluded that Deer Meadows’ prudently incurred these expenses. Ward, Exh. N. JW-1T at 7.

water system to the customer's property line, the monthly rate is \$24.00.⁸ Deer Meadows does not provide water service to property subject to a "ready-to-serve" charge.

- 13 In its initial filing, the Company proposed two new charges; an NSF check charge of \$25.00 and a Site Visit charge of \$75.00.⁹ The NSF check charge was designed to compensate the Company for the cost to process NSF check charges and the administrative cost to re-deposit the check, correct Company records, and notify the customer of non-payment for services.¹⁰ The Site Visit charge was designed to compensate the Company for the costs associated with a service technician visiting a customer's property as well as the administrative costs associated with completing Company records regarding the visit and notifying customers of completed services.¹¹
- 14 In its initial filing, Deer Meadows also proposed to increase the Reconnection charge from \$25.00 to \$75.00 for the costs associated with a service technician visiting a customer's property to reconnect service as well as the administrative costs associated with updating Company records and notifying the customer that service had been completed.¹²
- 15 Staff was unable to review the NSF check charge, the Site Visit charge, or the increased level of the Reconnection charge because the Company did not provide any documentation to substantiate the proposed charges.¹³ Therefore, the proposed charges are not included in the Settlement.

⁸ Ward, Exh. No. JW-1T at 8.

⁹ *Id.* at 10.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

- 16 For reporting and accounting purposes, the parties agree that the Company will use an overall rate of return of 9.8 percent and a return on equity of 12 percent.¹⁴ The overall rate of return on rate base is a function of the total capital structure and the weighted cost of capital.¹⁵ Deer Meadows' owners hold all of the Company's debt, so the weighted cost of debt was calculated using an imputation policy previously established by the Commission.¹⁶ Staff used a 12 percent return on equity as established by the Commission in a previous water company rate case involving over 16,000 customers.¹⁷ Staff used Deer Meadows' actual capital structure which is 113.6 percent debt and a negative 13.4 percent equity to calculate an overall rate of return of 9.8 percent consistent with Commission rules and practices.¹⁸
- 17 Staff concludes that the Settlement is in the public interest and should be adopted. The Company states that it is willing to accept the Settlement to avoid "the cost and expense of going to hearing" and to that extent, it concludes that the Settlement is in the public interest.¹⁹ However, the Company states that it believes that it is entitled to higher rates than those set forth in the Settlement.²⁰
- 18 **Applicable Law.** WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, 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."

¹⁴ Ward, Exh. No. JW-1T at 11.

¹⁵ *Id.*

¹⁶ *Id.* at 12 – 13.

¹⁷ *Id.* at 12 citing Docket UW-010877 involving Rainier View Water Company.

¹⁸ *Id.*

¹⁹ Spencer, Exh. No. CS-1T at 1.

²⁰ *Id.*

19 Thus, the Commission considers the individual components of the Settlement Stipulation under a three-part inquiry. We ask:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

20 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to condition(s).
- Reject the proposed settlement.

21 **Decision.** In general, and as discussed below, the Settlement terms proposed by the parties are consistent with law and policy, and reasonably resolve the issues in this proceeding. The parties made compromises relative to their respective litigation positions to arrive at end results that are fair, just and within an acceptable range of possible outcomes supported by the evidence in the record.

22 While the Commission acknowledges the opposition to any rate increase expressed by members of the public through oral and written comments, its decisions must be made in accordance with law, policy and the factual record before it. The Commission must determine an appropriate balance between the needs of the public to have reliable water service at reasonable rates and the financial ability of the utility to provide such services. With respect to the utility, the rates must allow the Company to cover its expenses and earn a reasonable return on its investment.

23 The Commission next considers the Settlement terms that address the revenue requirement that Deer Meadows will be entitled to recover from its customers and the rate design under which the Company actually recovers the increased rates. First, the overall revenue requirement is reasonable in light of the original request made by the

Company and the evidence demonstrating the analysis performed by the Commission Staff. It appears that Commission Staff conducted an extensive review of the Company's accounting records, documentation for expenses, and documents relating to the Company's plant and assets. Staff also reviewed Deer Meadows' financial statements, annual reports filed with the Commission, the tax return for the test period, water usage data, and the current tariff. In addition, Staff issued 11 data requests to the Company and Staff reviewed the responses to those data requests. The Settlement terms reflect this analysis, which, after review, the Commission believes lead to a balanced and just result. For these same reasons, the Commission accepts the parties' agreement allowing the Company to recover an additional \$11,227 in annual revenue. This additional revenue appears necessary to compensate Deer Meadows for increased expenses for property taxes, rate case costs, and transportation.

- 24 While the Settlement provides the Company with the opportunity to earn an overall rate of return of 9.8 percent and a 12 percent return on equity, the Commission notes that these returns will be used for rate case reporting and accounting purposes. The Company's actual capital structure is 113.6 percent debt and a negative 13.4 percent equity.
- 25 As to rate spread and rate design, the Commission accepts the parties' agreement to allow Deer Meadows to recover its revenue requirement through a zero allowance, three block, conservation-oriented rate design. According to this rate design, each customer will pay a base rate that does not include any water usage. For water usage, there are three rate blocks, and the rate for water escalates with each block of usage. This is commonly referred to as an inverted rate structure and encourages conservation because the rates for water increase as usage increases.
- 26 The Settlement appropriately rejects the initially proposed NSF check charge, the Site Visit charge, and the increase in the Reconnection charge. In order for a utility to incorporate new rates and charges or increase the rates for current services, it must provide sufficient documentation demonstrating that these charges are warranted. In this case, it appears that the Company did not provide documentation supporting these charges.

27 Finally, it is reasonable to allow the new rates to take effect on the 20th day of the month after the Commission approves the Settlement. It would be appropriate to approve the tariff sheets filed with the Settlement as Appendix A as effective on the 20th day after the Commission issues a Final Order in this case or issues a Notice of Finality.

28 **Conclusion.** In summary, both parties to this proceeding support the Settlement because it produces reasonable rates while providing the Company a sufficient increase in revenues to ensure that it will continue to be able to provide reliable service. The Commission concludes that the Settlement is lawful and consistent with public policy. The evidence supports the Settlement terms as being reasonable resolutions of the issues. Considering all of the information available in the record, the Commission's approval and adoption of the Settlement is in the public interest.

FINDINGS OF FACT

29 Having discussed above in detail the evidence received in this proceeding concerning all material matters the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

30 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including water companies.

31 (2) Deer Meadows is a "public service company" and a "water company" as those terms are defined in RCW 80.04.010 and as those terms otherwise are used in Title 80 RCW. Deer Meadows supplies utility services and commodities to the public for compensation in Washington.

32 (3) The parties propose to resolve the issues in this proceeding via the Commission's approval and adoption of their Settlement Stipulation filed on September 14, 2010, which is attached as Appendix 1 and made a part of this Order.

- 33 (4) The existing rates for water service provided in Washington by Deer Meadows are insufficient to yield reasonable compensation for the services rendered. Deer Meadows requires prospective relief with respect to the rates it charges for water service provided in Washington.
- 34 (5) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation that is attached to this Order as Appendix 1 results in rates for Deer Meadows that are fair, just, reasonable, and sufficient.
- 35 (6) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation are neither unduly preferential nor discriminatory.
- 36 (7) Deer Meadows requires relief with respect to the rates it charges for water service provided in Washington.

CONCLUSIONS OF LAW

- 37 Having discussed above all matters material to this decision, and having stated its findings, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- 38 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *Title 80 RCW.*
- 39 (2) The rates proposed by tariff revisions filed by Deer Meadows on April 20, 2010, and suspended by prior Commission order, were not shown to be fair, just or reasonable and should be rejected. *RCW 80.28.010.*
- 40 (3) Deer Meadows' existing rates for water service provided in Washington are insufficient to yield reasonable compensation for the service rendered. *RCW 80.28.010; RCW 80.28.020.*
- 41 (4) The Commission determines that the rates resulting from adoption of the Settlement Stipulation filed by the parties to this proceeding are fair, just,

reasonable, and sufficient rates that are to be observed and in force under Deer Meadows' tariffs prospectively from the 20th day of the month after the Commission issues final approval of the Settlement, for water service the Company provides to customers in Washington. *RCW 80.28.020*.

- 42 (5) Deer Meadows should be authorized to recover its revenue deficiency of \$11,227 for water service, consistent with the terms of this Order and the Settlement Stipulation attached to this Order as Appendix 1.
- 43 (6) The Settlement attached to this Order as Appendix 1 and incorporated by prior reference, should be approved and adopted.
- 44 (7) The Commission's approval and adoption of the Settlement Stipulation attached to, and discussed in, the body of this Order are in the public interest.
- 45 (8) The rates, terms, and conditions of service that will result from this Order are neither unduly preferential nor discriminatory. *RCW 80.28.020*.
- 46 (9) The rates, terms, and conditions of service that will result from this Order are fair, just, reasonable, and sufficient. *RCW 80.28.010; RCW 80.28.020*.
- 47 (10) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, the revised tariff sheets attached to the Settlement Stipulation as Appendix A.
- 48 (11) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS THAT:

- 49 (1) The proposed tariff revisions Deer Meadows filed on April 20, 2010, which were suspended by prior Commission order, are rejected.

- 50 (2) The Settlement Stipulation attached and incorporated into this Order by prior reference, is approved and adopted.
- 51 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, the revised tariff sheets attached to the Settlement Stipulation as Appendix A.
- 52 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective November 10, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
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*. Section (3) of the rule identifies what you must include in any petition as well as other requirements for a petition. 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 the Commission enters 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. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

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 either by operation of law or on administrative review.

You must serve on each party of record one copy of any Petition or Answer filed with the commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and eleven (11) copies of your Petition or Answer by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

Appendix 1

Docket UW-100642

Settlement Stipulation