

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper  
Classification of:

SUNRISE ACRES WATER SERVICES,  
LLC

DOCKET UW-180886

ORDER 03

IMPOSING PENALTY

**BACKGROUND**

- 1 On January 2, 2019, the Washington Utilities and Transportation Commission (Commission) initiated a special proceeding in the captioned docket to determine if Sunrise Acres Water Services, LLC, (Sunrise Acres or Company) was subject to regulation under Chapter 80.28 of the Revised Code of Washington (RCW) and was performing any act requiring Commission approval without securing such approval. The Commission alleged that Sunrise Acres may be engaged in business as a water company, as defined by RCW 80.04.010 and Washington Administrative Code (WAC) 480-110-255, without having filed a tariff as required by RCW 80.28.050 and WAC 480-110-433.
- 2 The Commission convened an evidentiary hearing in this matter on February 28, 2019, before Administrative Law Judge Nelli Doroshkin. The Commission subsequently entered Order 02 on March 6, 2019, classifying Sunrise Acres as a water company and requiring the Company to file a tariff or, in the alternative, a sale agreement documenting that William “Tom” Harrison no longer owned Sunrise Acres by April 8, 2019.
- 3 On April 11, 2019, Commission staff (Staff) filed a letter (Motion) stating that, as of that date, Sunrise Acres had submitted neither a tariff nor a sale agreement and that the Company was therefore in violation of Order 02. Thus, on June 12, 2019, the Commission convened a hearing to determine whether Sunrise Acres had violated Order 02, and, if so, what the proper penalty should be for the violation. During the hearing, Staff presented the testimony of Susie Paul, compliance investigator. Tom Harrison, owner, testified on behalf of Sunrise Acres. Staff proposed at the hearing that the Commission impose a penalty of \$30,000 on Sunrise Acres for violating Order 02, a \$25,000 portion of which would be suspended conditioned on the Company’s compliance with Order 02.

4 On June 27, 2019, Staff filed a letter in this docket stating that Tom Harrison had filed a tariff for Sunrise Acres on June 14 and that the Company thus had complied with Order 02 as of June 14, 2019.

### DISCUSSION AND DECISION

5 We find that Sunrise Acres violated the terms of Order 02 and impose a \$5,000 penalty that Sunrise Acres must pay immediately or file jointly with Staff a mutually agreeable payment arrangement within 20 days of the effective date of this Order. Sunrise Acres did not submit a tariff to the Commission until 67 days after the April 8 deadline established by Order 02.

6 Under RCW 80.04.380, public service companies that violate Commission orders shall be subject to a penalty of up to \$1,000 for every offense. In the case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct offense.<sup>1</sup> In the case of Sunrise Acres, the Company committed 67 violations of Order 02 by failing to timely file a tariff. Thus, Sunrise Acres could be subject to a penalty of a much higher magnitude than that imposed by this order.

7 Staff proposed at the June 12 hearing that the Commission impose an immediate penalty of \$5,000 on Sunrise Acres for violating Order 02, with an additional \$25,000 suspended conditioned on the Company's compliance with Order 02. We find that Staff's recommended penalty amount is appropriate for the violation at hand; however, because the Company has since complied with Order 02 by filing a tariff, assessing and suspending an additional \$25,000 is no longer necessary to motivate the Company to achieve compliance.

8 Although the Company has filed a tariff, as required by Order 02, a penalty is nonetheless appropriate because the Company's compliance was unjustifiably delayed for a significant period of time. Staff met with Mr. Harrison to provide technical assistance on the tariff filing requirements set out in WAC 480-110 as early as April 2018.<sup>2</sup> Staff also provided Mr. Harrison with a template tariff for Sunrise Acres and communicated with the Company's certified public accountant after the meeting regarding the tariff filing.<sup>3</sup>

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<sup>1</sup> In Order 02, the Commission determined that Sunrise Acres is a "public service company." Order 02 at ¶ 17.

<sup>2</sup> Paul, Exh. No. SP-1 at 5.

<sup>3</sup> *Id.*

- 9 Sunrise Acres submitted its tariff two days after the June 12 hearing on Staff's Motion. Thus, it appears that the Company could have made the requisite filing as soon as two days after Order 02 was issued. Order 02 nevertheless granted Sunrise Acres 33 days to file its tariff. In comparison, under RCW 34.05.110, agencies must provide only seven calendar days to correct paperwork violations before imposing fines, civil penalties, or administrative sanctions for a violation of a state law or agency rule by a small business.<sup>4</sup>
- 10 Nor did Mr. Harrison provide any justification for the Company's substantial delay in compliance, only mentioning at the June 12, 2019, hearing that a sale of the Company was in progress. Mr. Harrison also argued at the February 28, 2019, hearing that he was in the midst of selling Sunrise Acres, but he did not provide any documentation of a sale at either hearing. Thus, where there is an ongoing disregard of Commission rules with no mitigating factors, a penalty is appropriate.

**ORDER**

THE COMMISSION ORDERS THAT:

- 11 (1) Sunrise Acres Water Services, LLC, has violated Order 02 in Docket UW-180886.
- (2) Sunrise Acres Water Services, LLC, must pay a \$5,000 penalty or file jointly with Commission staff a mutually agreeable payment arrangement within 20 days of the effective date of this Order.

DATED at Lacey, Washington, and effective July 9, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NELLI DOROSHKIN  
Administrative Law Judge

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<sup>4</sup> See also *In re Lowper, Inc. d/b/a Lowper Corp., a/k/a Lowper Water Co. and Iliad Inc. d/b/a Lowper Water Sys.*, Docket UW-091006, Order 03, ¶¶ 26-28 May 18, 2011) (Lowper, Incorporated filed its tariff 11 calendar days after entering into a stipulation with Staff agreeing to do so).