

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of the Application
Of WaterPro, Incorporated, for
Culinary Water Rate Case.

Docket No. 12-2443-01

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HEARING AND PROCEDURAL ORDER  
ADMINISTRATIVE LAW JUDGE REIF  
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PLACE: Heber M. Wells
160 East 300 South
Salt Lake City, UT

DATE: May 29, 2013

TIME: 10:00 a.m.

REPORTED BY: Kellie Peterson, RPR

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APPEARANCES

FOR THE DIVISION:

Patricia Schmid, Esq.

OFFICE OF THE ATTORNEY GENERAL

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FOR THE APPLICANT:

Darrin Jensen-Peterson,

WaterPro

ALSO APPEARING:

Mark Long

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1 Hearing and Procedural Order

2 May 29, 2013

3 PROCEEDINGS

4 ADMINISTRATIVE LAW JUDGE REIF: Good
5 morning, everyone. I am Melanie Reif, the administrative law
6 judge for the Utah Public Service Commission, and this is the
7 date and time for the hearing in docket 12-2443-01, entitled, "In
8 the Matter of the Application of WaterPro, Inc., for a Culinary
9 Water Rate Case."

10 This hearing was rescheduled from an earlier date
11 to today, May 29th, at 10:00. And, specifically, this matter
12 concerns a follow up on an application that WaterPro had filed
13 requesting, in part, a fire service user fee, which the
14 Commission allowed the Company to come back within a certain
15 period of time and provide notice, and at that time, we agreed
16 that a hearing would be held to address that very issue.

17 So let's start by taking appearances, starting with
18 the Company first.

19 MR. JENSEN-PETERSON: Darrin Jensen Peterson.

20 MS. SCHMID: Patricia Schmid with the Attorney
21 General's Office, and with me is the Division's witness, Mark A.
22 Long.

23 ADMINISTRATIVE LAW JUDGE REIF: Thank you.
24 Mr. Jensen, this is your request to the Commission. I'll let you
25 go first to address your supplemental application.

1 MR. JENSEN-PETERSON: Okay. And I don't
2 know--again, I'm no attorney by any means. We, you know, we
3 met a few months ago and went over the fire service user fee,
4 and it was indicated that, you know, we didn't did not send out
5 proper notice to the customers that this would affect, and since
6 then, we have. We have notified all 113 customers that this will
7 actually affect.

8 It's a fire user--fire service user fee, and what this
9 entails, as buildings and larger homes require to have sprinklers
10 inside, whether it be a business or in their residence, there's a
11 lot more administration that goes on than just a regular
12 residence.

13 We do have to, one, the pipe size going into their
14 home or business needs to be completely up-sized to handle the
15 flow. We have to do additional testing to make sure that the
16 flow is there, it continues. It's a yearly test that we check to
17 make sure that there is no, you know, blockage. So there is an
18 impact. And instead of affecting all of our customers with this,
19 we are impacting just those who have this extra fire service
20 going into protection into their residence or facility business.

21 The total revenue coming into the company, as of
22 today, for the 113 is only 84--well, it's \$8,451.50 annually, so
23 it's a very small, but it does take care of the extra administration
24 of the company and one of our technicians has to do. We did
25 send out notification that we were applying to the Commission,

1 sent it out individually and posted it on our website. Once we
2 had the hearing date, then we sent out an additional notification
3 saying there was a hearing and that was today, and if they had
4 any questions, they could either call the Division or contact us
5 directly, and we have not heard from one residence, nor
6 business owner since then.

7 So I don't know, that is all, really all I have. It's a
8 pretty minimal fee, but, again, we feel like it's an impact, that it
9 should be applied to them and not all of our residents.

10 ADMINISTRATIVE LAW JUDGE REIF: Thank you,
11 Mr. Jensen. Ms. Schmid, do you have any questions for Mr.
12 Jensen?

13 MS. SCHMID: No.

14 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mr.
15 Jensen, just a few questions for you, please. You've identified
16 that there is a total of 113 customers affected by this rate
17 change, and attached to your filing, which was filed with the
18 Commission on April 25th, is a letter to the customer. It says,
19 "Dear customer," it says, "March 11th," is that the date that
20 each customer was notified?

21 MR. JENSEN-PETERSON: We mailed it out on
22 March 11th.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay.

24 MR. JENSEN-PETERSON: And they, roughly, had
25 it by the 12th or the 13th.

1 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
2 this letter identifies the different fees based on the pipe size
3 that serves each one of those customers?

4 MR. JENSEN-PETERSON: It's the size of their
5 meter.

6 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
7 would each customer know which category they fall in or is that
8 identified here for them?

9 MR. JENSEN-PETERSON: We actually, on each of
10 the letters that we sent out, we highlighted and indicated on
11 which one that affected them.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. So,
13 for example, if you were a customer receiving this and your pipe
14 size was eight inches, you would have highlighted the line
15 pertaining to the eight-inch pipe size?

16 MR. JENSEN-PETERSON: That is correct.

17 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
18 the same with all of the other sizes, as well?

19 MR. JENSEN-PETERSON: Yes. We did.

20 ADMINISTRATIVE LAW JUDGE REIF: Okay, very
21 good. Now attached to the March 11, 2013 letter is a list, and
22 at the top of the list, it says, "Fire lines." Can you explain to me
23 what this list is, what it represents?

24 MR. JENSEN-PETERSON: We pulled this directly
25 off of our billing register, and this is all the residents. It has our

1 account number, the name of the company or individual, the
2 address and phone number that we have on record, that we sent
3 this out to each individual. Those--there are a few on the very
4 back page, and this was just generated, and there's a few on
5 the very last page, five of five, that have master 55, but nothing
6 is indicated. That is just a blank record that we have. That is
7 just pulled off when we ran this--

8 ADMINISTRATIVE LAW JUDGE REIF: Okay.

9 MR. JENSEN-PETERSON: --list.

10 ADMINISTRATIVE LAW JUDGE REIF: Okay. In
11 fact, there are, I believe, seven of those that are blank there.

12 MR. JENSEN-PETERSON: Yes.

13 ADMINISTRATIVE LAW JUDGE REIF: Okay.

14 When I tallied up these accounts or addresses, I tallied a total
15 of 120, and you stated earlier that 113 customers are being
16 affected by this potential change?

17 MR. JENSEN-PETERSON: Correct.

18 ADMINISTRATIVE LAW JUDGE REIF: Is that
19 possibly explained by duplicates?

20 MR. JENSEN-PETERSON: Yes.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay.

22 MR. JENSEN-PETERSON: Yes.

23 ADMINISTRATIVE LAW JUDGE REIF: Okay. So,
24 perhaps, more than one company would own more than one
25 parcel or more than one individual?

1 MR. JENSEN-PETERSON: And they are only being
2 charged once for those. That is correct.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay. I'm
4 sorry, so if they own more than one parcel, they are only
5 charged once?

6 MR. JENSEN-PETERSON: It's based on they could
7 have, they could have a bunch of parcels or a bunch of
8 buildings, okay? There are some that two meters will feed into
9 one building but that one building will only be charged one fire
10 service fee because their water system may be running through
11 their--let's take this building for example, and let's say there's
12 two meters going on here but only one of these meters are
13 actually affected, runs all the sprinkler lines. We are going to
14 charge that building only one, not for both of them, because the
15 other meter, in essence, is running different things other than
16 the fire system. Does that make sense?

17 ADMINISTRATIVE LAW JUDGE REIF: It does, but
18 if you have a customer, whether it be a commercial customer or
19 a residential customer who owns property that is being served at
20 different locations, they would be potentially susceptible to more
21 than one fee; is that correct?

22 MR. JENSEN-PETERSON: If they have fire lines in
23 each one of those buildings, that is correct, yes.

24 ADMINISTRATIVE LAW JUDGE REIF: All right,
25 thank you. The other thing that I wanted to ask you is, and the

1 Division will get into this to some extent, there appears to be a
2 correction that was made in the Division's filings noting the total
3 number of customers being affected by this change, correcting it
4 from a total of 92 to 113?

5 MR. JENSEN-PETERSON: Yes.

6 ADMINISTRATIVE LAW JUDGE REIF: Do you
7 acknowledge that change?

8 MR. JENSEN-PETERSON: Yes.

9 ADMINISTRATIVE LAW JUDGE REIF: And is that a
10 correct reflection of the customers who will be affected by the
11 change?

12 MR. JENSEN-PETERSON: That is correct. Do you
13 want me to explain that?

14 ADMINISTRATIVE LAW JUDGE REIF: Certainly.

15 MR. JENSEN-PETERSON: Okay. When we first
16 filed, this was actually a report and something we put together
17 several years ago, knowing that when we did this, we thought,
18 you know, let's look to see exactly what the impact is going to
19 be. We did not then file with the Public Utility Commission
20 because it was such a small amount, and thought we will
21 just--excuse me, we will just worry about this when we have a
22 rate increase to all of our customers.

23 So when we did have a rate increase this last year,
24 that is when we filed this, but yet, we did not update our records
25 to see exactly because, again, we didn't send out notifications

1 to each one of the residents or business owners, so we just
2 stayed with the same report that we had that was done back in
3 2007. And so when we--after it came back and you asked,
4 "Please notify all your customers," when we did that, that is
5 when we noticed we really do have 113 as of date and that is
6 when we notified, that is when we sent the notifications out to
7 them and as you can see in table 3.

8 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
9 you very much. This may be a bit redundant because I think
10 you addressed part of this already when you sent out your
11 March 11, 2013 letter to your customers notifying them of this
12 change; did you receive any responses?

13 MR. JENSEN-PETERSON: None.

14 ADMINISTRATIVE LAW JUDGE REIF: And,
15 subsequently, when the hearing was set and then rescheduled,
16 did you receive any inquiries once you let the customers know
17 when the hearing would occur?

18 MR. JENSEN-PETERSON: None.

19 ADMINISTRATIVE LAW JUDGE REIF: Okay. And
20 how did you let them know of the hearing date?

21 MR. JENSEN-PETERSON: We sent out another
22 notification, just indicating, you know, you were notified back on
23 March 11th regarding our application to the Public Utilities
24 Commission. There has been a hearing set--because in here, it
25 indicates that there would be a hearing--the hearing has been

1 set, you know, for this day. Please contact us or the Division or
2 look to our website. And it was also posted on our website, as
3 well.

4 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
5 as far as you know, has there been any opposition raised
6 pertaining to this rate increase request?

7 MR. JENSEN-PETERSON: No.

8 ADMINISTRATIVE LAW JUDGE REIF: Okay. Is
9 there anything else you wish to add concerning your pending
10 application?

11 MR. JENSEN-PETERSON: I don't, thank you.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. Mr.
13 Jensen, thank you very much for the information. It is very
14 helpful.

15 Ms. Schmid?

16 MS. SCHMID: Thank you. The Division would like
17 to call Mr. Mark A. Long as its witness. He has previously been
18 sworn in this docket.

19 EXAMINATION

20 BY-MS.SCHMID:

21 Q. Mr. Long, are you the same Mr. Long that provided
22 testimony earlier in this docket?

23 A. Yes.

24 Q. Did you prepare and cause to be filed a
25 memorandum, dated May 6, 2013, entitled, "In the matter of the

1 application of WaterPro, Inc., for a culinary water rate case,
2 docket No. 12-2443-01, supplement supporting notification of
3 customers and the addition of customer numbers subject to the
4 private fire service user fee?

5 A. Yes, I did.

6 Q. Do you have any changes or corrections to that
7 memo?

8 A. No, I don't.

9 Q. The Division would like to ask the Commission to
10 take administrative notice of that fire suppression memo.

11 ADMINISTRATIVE LAW JUDGE REIF: Any
12 objection, Mr. Jensen?

13 MR. JENSEN-PETERSON: No. The only question I
14 have, and I noticed this yesterday and I apologize for--but on
15 the very last paragraph where it indicates, unless I'm reading it
16 incorrectly, it indicates that the net income will be \$15,414.

17 ADMINISTRATIVE LAW JUDGE REIF: Yes.

18 MR. JENSEN-PETERSON: And that is actually,
19 that I could see, that we added the original 92 customers and
20 now the 113, but the total net revenue really is just the
21 \$8,451.50; does that make sense?

22 MR. LONG: Yes, it does, and the reason that is
23 different is on the original recommendation prior to adding the
24 \$6,477, there was like an \$8000 net income. I can look that up
25 and give you exact--

1 MR. JENSEN-PETERSON: No, that clarifies, thank
2 you.

3 ADMINISTRATIVE LAW JUDGE REIF: Mr. Long,
4 just for clarification, so is the clarification itself included in that
5 sentence where you identify a couple of figures? Do those
6 figures, are those the figures that make up the \$15,414?

7 A. Yes, plus the original net income on the original
8 recommendation. I can get that exact amount if--I have it in my
9 records here. As you recall, the original recommendation was
10 supplemented later on by adding the 92 fire user fees and then
11 also the additional 21 now, so those three amounts is what is
12 making up the total net revenue on this.

13 ADMINISTRATIVE LAW JUDGE REIF: Okay. Are
14 you in agreement with that, Mr. Jensen?

15 MR. JENSEN-PETERSON: I am.

16 ADMINISTRATIVE LAW JUDGE REIF: Okay.
17 Please proceed, Ms. Schmid.

18 BY MS. SCHMID:

19 Q. Mr. Long, do you have a brief summary of the
20 memo you would like to present very--be brief. For example,
21 does the Division recommend approval of the fire service fee as
22 it pertains to 122 customers as presented by the Company and
23 by your memo?

24 A. Yes, we do. We were initially concerned that
25 adding these number of customers would affect the overall

1 excess earnings, and in taking a look at that, it really increased
2 the earnings over the revenue requirement by 0.04 percent,
3 making the overall over earnings over the revenue requirement
4 .2929, which is still very close and immaterial.

5 Q. Is it the position of the Division that the fire service
6 rates requested herein are just and reasonable rates?

7 A. Yes, it is.

8 Q. And that the rates for the company as a whole,
9 including these, are just and reasonable rates?

10 A. That's correct.

11 MS. SCHMID: That's all I have for Mr. Long.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay, thank
13 you. One followup question for you, Mr. Long.

14 MR. LONG: Okay.

15 ADMINISTRATIVE LAW JUDGE REIF: Along the
16 same line of what you were just testifying to; is it also the
17 Division's position that the fire service user fee and the rate that
18 is applied, that is just and reasonable and in the public's
19 interest?

20 MR. LONG: Yes, it is.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. I
22 don't have any further questions for you. I do want to address
23 the question of admitting this or taking judicial notice of this. I
24 think under the circumstances, I would like to admit it as an
25 exhibit that we will attach to the transcript, unless there is any

1 objection.

2 Mr. Jensen, do you have an extra copy that you can
3 provide to the court reporter?

4 MR. JENSEN-PETERSON: I Will get a clean copy
5 for the court reporter.

6 ADMINISTRATIVE LAW JUDGE REIF: Okay, that
7 would be great. Mr. Jensen, I'm going to jump around here a
8 little bit. We didn't address this in part and I want to clarify; you
9 are being represented pro se today, meaning you do not have
10 an attorney present; is that correct?

11 MR. JENSEN-PETERSON: That's correct.

12 ADMINISTRATIVE LAW JUDGE REIF: Okay. So
13 let's back up just one second and address the filings that you
14 made, as well. There were filings made on the 25th of April
15 requesting to have this matter heard, in which your March 11
16 filing was attached. And there was also another filing that was
17 made, a subsequent filing on April 30, 2013; do you wish to
18 have those documents admitted into evidence as part of this
19 record?

20 MR. JENSEN-PETERSON: That would be fine.

21 ADMINISTRATIVE LAW JUDGE REIF: Okay. Is
22 there any objection to that?

23 MS. SCHMID: No objection.

24 ADMINISTRATIVE LAW JUDGE REIF: Okay. Do
25 you by chance have additional copies of those with you, too,

1 today?

2 MR. JENSEN-PETERSON: I do.

3 ADMINISTRATIVE LAW JUDGE REIF: Okay.

4 Would you please provide those to the court reporter so she can
5 include them in the transcript?

6 MR. JENSEN-PETERSON: I will.

7 ADMINISTRATIVE LAW JUDGE REIF: Okay. So,
8 Mr. Long, just to be clear, I'm understanding your exhibit to your
9 filing on the last page, the amount, the \$8,451.50 that is the
10 revised amount for the rates that will be charged for this
11 particular service; is that correct?

12 MR. LONG: That is correct.

13 ADMINISTRATIVE LAW JUDGE REIF: And that
14 results from the change from the 92 customers to the 113
15 customers; is that correct?

16 MR. LONG: That is correct.

17 ADMINISTRATIVE LAW JUDGE REIF: Okay, very
18 good. All right. I don't have any further questions. I do wish to
19 ask Mr. Jensen, Mr. Jensen, it is noted here in your request that
20 the public commission hold a hearing and authorize this change
21 so you can make it affective June 1st, which is only just a very
22 few days away. Is that still your request?

23 MR. JENSEN-PETERSON: If that works for the
24 Commission. We're happy to start July 1st. In fact, yeah, we
25 would have to now. Our bills go out on Thursday, and so...

1 ADMINISTRATIVE LAW JUDGE REIF: With that, I
2 was going to suggest we take a few minutes' recess and I can
3 come back and, perhaps, give you a ruling and which may help
4 facilitate you doing that. So if you please excuse me, we will be
5 in recess and off the record for a few minutes. Thank you.

6 (A discussion was held off the record.)

7 ADMINISTRATIVE LAW JUDGE REIF: Thank you
8 for that tiny break and we are back on the record. Is there
9 anyone here today who wishes to object to the application and
10 the increase that is requested by WaterPro, Inc., for an increase
11 to provide fire service user fee? Hearing no objection, the
12 Commission grants the request. You can consider this a bench
13 ruling and a written order will be forthcoming.

14 So with that, that should accommodate you for your
15 request of the June 1, 2013 deadline. And does anyone have
16 any questions before we conclude today?

17 MR. JENSEN-PETERSON: No, and thank you and
18 thank you again for the reschedule.

19 ADMINISTRATIVE LAW JUDGE REIF: You are very
20 welcome. Thank you.

21 (The hearing was concluded at 10:25 a.m.)
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REPORTER'S CERTIFICATE

State of Utah)
)
County of Salt Lake)

This is to certify that the foregoing proceedings were taken before me, KELLIE PETERSON, a Registered Professional Reporter and Notary Public in and for the State of Utah;

That the proceeding was reported by me in stenotype and thereafter caused by me to be transcribed into typewriting, and that a full, true, and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages;

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

KELLIE PETERSON, RPR