

<b>BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH</b>	
IN THE MATTER OF THE APPLICATION OF WATERPRO INC. FOR A CULINARY WATER RATE CASE	Docket No. 12-2443-01

**SETTLEMENT STIPULATION**

This Settlement Stipulation (Stipulation) is entered into in Docket No. 12-2443-01 by and among WaterPro Inc. (“WaterPro” or “the Company”) and the Division of Public Utilities (“Division”), the parties whose signatures appear on the signature page(s) hereof (collectively referred to herein as the “Parties” and individually as a “Party”).

1. Over the past few months, the Parties have discussed the matters presented below, and have recently entered into settlement discussions. There were no requests to intervene in this docket.

2. The Parties recommend that the Public Service Commission of Utah (“Commission”) approve the Stipulation and all of its terms and conditions. The Parties request that the Commission make findings of fact and reach conclusions of law based on the evidence filed in this proceeding and the two prior orders in this docket, and on this Stipulation, and issue an appropriate order thereon.

## BACKGROUND

3. Draper Irrigation Company (“DIC”) was established in 1888 and later became a Utah non-profit irrigation company.

4. Much more recently, WaterPro was “created to perform the management and operations of DIC as well as the regulated culinary water distribution system that WaterPro refers to as Draper Water Services (“DWS”).<sup>1</sup> WaterPro allocates its expenses between DWC and DIC.<sup>2</sup>

5. WaterPro sought and received a certificate of public convenience and necessity in 2005. The Company sought a rate increase in 2006, and the request was granted in 2007.<sup>3</sup>

6. On July 2, 2012, WaterPro filed an application for a rate increase requesting a 4 percent increase for all rate classes and requesting the establishment of a Fire Service User Fee.

7. Testimony was filed by the Company and by Mr. Mark Long from the Division. WaterPro also filed a technical memorandum regarding the proposed Fire Service User Fees, which was followed by a related supplemental letter.

8. A duly noticed hearing was held on January 29, 2013 where the general rate increase issues and the proposed Fire Service User Fee were discussed.

---

<sup>1</sup> See. In the Matter of the Application of WaterPro Inc. for a Culinary Water Case, Report and Order Granting Rate Increase, Docket No. 12-2443-01 (“Order”), at p. 3.

<sup>2</sup> Id.

<sup>3</sup> WaterPro also filed a rate case in 2009, but later withdrew the application.

9. On February 22, 2013, the Commission issued its Order granting the requested 4 percent rate increase and a ordering a second hearing to be held regarding the proposed Fire Service User Fees.

10. As a result of the duly noticed second hearing, in an order dated June 13, 2013, the Commission approved WaterPro charging certain Fire Service User Fees.

11. Consistent with Commission procedure, WaterPro later filed tariff sheets to implement the tariff rates and fees approved by the Commission in the two orders.

12. Upon review of the filed tariff sheets, the Division found some discrepancies between the approved tariff rates and fees in this docket, certain revised tariff sheets previously filed, and actual rates and fees being charged WaterPro customers.

#### DISCUSSION

13. South Mountain

During its review, the Division found that WaterPro was charging customers in the Little Valley on South Mountain pressure zone different rates than those approved by the Commission in its Order. Table 1 details the differences:

<b>Little Valley on South Mountain Zone</b>		<b>Incorrect Rates Being Charged</b>	<b>Correct Rates That Should be Charged</b>
Base Rate	Each Month	\$18.72	\$18.72
Tier 1	Per 1,000 Gallons - 0 gpmo to 18,000 gpmo	1.60	1.38
Tier 2	Per 1,000 Gallons - 18,001 gpmo to 57,000 gpmo	2.21	2.07
Tier 3	Per 1,000 Gallons - 57,001 to 150,000 gpmo	2.86	2.80
Tier 4	Per 1,000 Gallons - Above 150,000 gpmo	4.04	3.90

After researching the issue and discussing findings with the Division, WaterPro stated that it inadvertently had charged erroneous rates, caused by a mistake in the rate case application which became a final rate in the order issued February 22, 2013. WaterPro indicated it mistakenly charged the rates that it had believed had been submitted in the application and approved in the Order, instead of the rates actually approved. The amount overcharged from January 1, 2009 to December 31, 2014 is approximately \$14,744.50.

14. Fees

During its review of the updated tariff sheets filed in June 2013 the Division found, that WaterPro was charging connection fees and other miscellaneous fees that had not been approved by the Commission. After discussing the issue with the Division and investigating the matter, WaterPro stated that it had inadvertently charged an incorrect Engineering Fee because the previously approved tariff fee contained a typographical error unbeknownst to the Company, and WaterPro had been charging the “correct” amount. WaterPro collects the Engineering Fee from the customer and passes it through to WaterPro's contracted engineering firm. In addition, WaterPro maintained the Division was mistaken that other improper fees and charges had been collected.

15. Tariff

As a regulated public utility, WaterPro is required to have on file with the Commission a tariff that complies with the Commission’s rules and requirements as outlined in Administrative Rule R746-405. Additionally, WaterPro must make a copy of

the tariff available for public inspection in its office. WaterPro stated that it is working with the Division to provide a correct tariff to the Commission and the public.

## SETTLEMENT TERMS

For purposes of this Stipulation, the Parties agree and recommend that the Commission approve the following:

### Specific Terms

#### 16. South Mountain

The Parties agree that for the period January 1, 2009 through December 31, 2013, WaterPro will refund to certain customers a total of approximately \$14,744.50. This amount was over collected from customers in the South Mountain pressure zone because incorrect higher rates were inadvertently charged. No interest will be charged or paid on the over collected amount. The refund will be executed through a one-time credit to the WaterPro account currently associated with a particular South Mountain physical address and will be reflected as part of the standard account bill prepared by WaterPro and sent to the current account holder. Each account will be credited with the actual amount overpaid at that particular South Mountain physical address. Given the practical difficulty of locating past owners and the relatively small amount of the refunds, it is in the public interest to refund the money to the current account holder for the property where the overcharged service was provided.

#### 17. Fees

The Parties agree that WaterPro has reviewed and revised its tariff to reflect only those fees and charges approved by the Commission. WaterPro will file

these revised tariff sheets with the Commission no later than December 1, 2014.

Should WaterPro need to change the Engineering Fee set forth in the tariff, WaterPro will provide each of its customers notice of the proposed change and 30 days later file for Commission approval a request to approve the new Engineering Fee. WaterPro's filing will contain both a cover letter explaining the need for the change and a tariff sheet reflecting the requested new fee, which should generally reflect only the actual engineering cost WaterPro incurs.

#### 18. Tariff

The Parties agree that no later than December 1, 2014, WaterPro will file a current and correct tariff with the Commission, and WaterPro will make the same available at its office for public viewing.

#### General Terms

19. The Parties agree that no part of this Stipulation or the formulae and methodologies used in developing the same or a Commission order approving the same shall in any manner be argued or considered as precedential in any future case except with regard to issues expressly called-out and resolved by this Stipulation. This Stipulation does not resolve and does not provide any inferences regarding, and the Parties are free to take any position with respect to any issues not specifically called-out and settled herein.

19. Not all Parties may agree that each aspect of this Stipulation is supportable in isolation. Utah Code Annotated Section 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result.

While the Parties may not be able to agree that each specific component of this Stipulation is just and reasonable in isolation, all Parties agree that this Stipulation as a whole is just and reasonable in result and is in the public interest.

20. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation, and in accordance with Utah Administrative Code R746-100-10.F.5, neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgement by any Party of the validity or invalidity of any principle or practice of regulatory accounting or ratemaking; nor shall they be construed to constitute the basis of an estoppel or waiver by any Party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party except in a proceeding to enforce this Stipulation.

21. If requested by the Commission, the Company and the Division will make one or more witnesses available to explain and offer further support for this Stipulation. As applied to the Division, the explanation and support shall be consistent with its statutory authority and responsibility.

/

/

/

/

/

/

22. This Stipulation may be executed by individual Parties through two separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

DATED this \_\_\_\_\_ day of November, 2014.

---

Darrin L. Jensen  
C.E.O./General Manager  
WaterPro Inc.  
12421 South 800 East  
Draper, UT 84020

---

Chris Parker  
Director  
Division of Public Utilities  
500 Heber Wells Building  
160 East 300 South, 4th Floor  
Salt Lake City, UT 84111