

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of WaterPro )  
Inc. for a Culinary Water Rate Case )

DOCKET NO. 12-2443-01

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)  
REPORT AND ORDER  
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ISSUED: January 9, 2015

SYNOPSIS

The Commission approves the settlement stipulation between the Division and WaterPro Inc.

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BACKGROUND

1. On November 7, 2005, the Commission granted WaterPro Inc. (WaterPro) a certificate of public convenience and necessity to provide culinary water services and approving certain rates.<sup>1</sup>

2. On July 2, 2012, WaterPro filed an application to increase its culinary water rates by 4 percent.<sup>2</sup> On December 17, 2012, WaterPro requested to supplement its application for a rate increase to include a fire service user fee.<sup>3</sup>

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<sup>1</sup> See Report and Order, issued November 7, 2005, available at:

<http://www.psc.utah.gov/utilities/water/05orders/Nov/04244301RO.pdf>.

<sup>2</sup> See WaterPro Application for Culinary Water Rate Case (rate increase), filed July 2, 2012, available at:

<http://www.psc.utah.gov/utilities/water/12docs/12244301/230850Cover%20Letter%207-2-2012.pdf>.

<sup>3</sup> See Letter from WaterPro to Commission, filed December 17, 2014, available at:

<http://www.psc.utah.gov/utilities/water/12docs/12244301/240364Supplement%20to%20Docket%20Re%20Fire%20Service%20User%20Fee%2012-17-2012.pdf>.

3. On February 22, 2013, the Commission approved WaterPro's requested 4 percent rate increase,<sup>4</sup> and on June 13, 2013, the Commission granted WaterPro's request for a fire service user fee.<sup>5</sup>

4. On November 25, 2014, the Division of Public Utilities (Division) and WaterPro filed a settlement stipulation. On December 16 and 19, 2014, respectively, the parties filed a Motion for Amendment of Pending Settlement Stipulation and Amendment, and Motion for Second Amendment of Pending Settlement Stipulation and Second Amendment.

Collectively, these filings are referred to here as the Stipulation.

5. The Stipulation provides, in part, as follows:

11. . . . WaterPro . . . filed tariff sheets to implement the tariff rates and fees approved by the Commission in the two orders [referenced in paragraph 3 of this Order above].

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.<sup>6</sup>

#### 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 [February 22, 2013,] Order. . . .

After researching the issue and discussing findings with the Division, WaterPro stated that it inadvertently had charged

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<sup>4</sup> See Report and Order Granting Rate Increase, issued February 22, 2013, available at: <http://www.psc.utah.gov/utilities/water/waterindx/documents/24200912244301ROgri.pdf>.

<sup>5</sup> See Report and Order Granting Rate Increase for Fire Service User Fee, issued June 13, 2013, available at: <http://www.psc.utah.gov/utilities/water/waterindx/documents/24476712244301ROgriffsuf.pdf>.

<sup>6</sup> See Settlement Stipulation, filed November 25, 2014. See also Certificate of Service, filed November 26, 2014.

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, 201[3] 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.

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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. 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 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.

...

[20]. ...[A]ll Parties agree that this Stipulation as a whole is just and reasonable in result and is in the public interest.

Stipulation at 3-4, ¶¶ 11-14; 5-6, ¶¶ 16-17 (as amended)<sup>7</sup>; and 7, ¶ 20.

6. On December 17, 2014, the Commission held a hearing at which WaterPro and the Division provided testimony on whether the proposed Stipulation is just and reasonable and in the public interest.<sup>8</sup> Darrin L. Jensen appeared *pro se* on behalf of WaterPro.<sup>9</sup> Patricia E. Schmid represented the Division, and was accompanied by Mark Long, utility analyst.

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<sup>7</sup> See *supra* ¶ 4.

<sup>8</sup> See Notice of Hearing, issued December 2, 2014, available at: <http://www.psc.utah.gov/utilities/water/waterindx/documents/26227712244301noh.pdf>.

<sup>9</sup> Transcript of Hr'g at 3:25; 4:1-2.

7. Both WaterPro and the Division testified that the settlement stipulation is just and reasonable in result, and in the public interest.<sup>10</sup>

DISCUSSION, FINDINGS AND CONCLUSIONS

As set forth by statute and as previously noted by the Commission in other orders, settlements of matters before the Commission are encouraged at any stage of the proceedings.<sup>11</sup> The Commission may approve a settlement proposal after considering the interests of the public and other affected persons, if it finds the settlement proposal in the public interest.<sup>12</sup> In addition, the Commission may adopt a settlement stipulation if the Commission finds that the settlement proposal is just and reasonable in result, and the evidence contained in the record supports a finding that the settlement proposal is just and reasonable in result.<sup>13</sup>

Given that the stipulation is uncontested and that the parties to the stipulation each testified that it is just and reasonable, and in the public interest, the Commission approves the stipulation.

ORDER

The Commission approves the Stipulation. Additionally, consistent with the Commission's January 7, 2015, order suspending proposed tariff, we note that the proposed updated tariff filed by WaterPro on December 19, 2014, is pending further review.

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<sup>10</sup> See id. at 41:5-21; 59:2-6 (testimony of Darrin L. Jensen). See also id. at 61:22-25; 62:1-12; 65:9-12 (testimony of Mark Long).

<sup>11</sup> See Utah Code Ann. § 54-7-1 (LexisNexis 2010).

<sup>12</sup> See Utah Code Ann. § 54-7-1(2)(a).

<sup>13</sup> See Utah Code Ann. § 54-7-1(3)(d)(i)(A)-(B).

DOCKET NO. 12-2443-01

- 6 -

DATED at Salt Lake City, Utah this 9<sup>th</sup> day of January, 2015.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#262936

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 9<sup>th</sup> day of January, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Darrin L. Jensen ([jensen@waterpro.net](mailto:jensen@waterpro.net))  
C.E.O.  
WaterPro Inc.

Patricia Schmid ([pschmid@utah.gov](mailto:pschmid@utah.gov))  
Justin Jetter ([jjetter@utah.gov](mailto:jjetter@utah.gov))  
Utah Assistant Attorneys General

By Hand-Delivery:

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160 East 300 South, 4<sup>th</sup> Floor  
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Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, Utah 84114

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Administrative Assistant