

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Community Water Company
for Approval of General Rate Increase and
Special Charge for Major Plant
Upgrade/Repair

DOCKET NO. 17-098-01
ORDER DENYING REQUEST FOR
INTERIM RATES

ISSUED: October 30, 2017

1. Background and Discussion

On September 14, 2017, Community Water Company (“CWC”) filed an Application to Approve Proposed Water Service Schedules and Rates (“Application”). CWC seeks a general rate increase and authorization to impose a “one-time special charge” to fund the approximately \$500,000 cost to replace a failed water tank. (Application at 6.) The Application included a request to impose these charges on an interim basis pending final approval after a hearing on the merits.

Title 54 provides a mechanism for the imposition of interim rates, and states “[a] request for interim rates shall be made within 90 days after the day on which a public utility files a complete filing for a general rate increase or a general rate decrease.” Utah Code Ann. § 54-7-12(4)(a)(i). The statute continues:

The [Public Service Commission (“PSC”)], on its own initiative or in response to an application by a public utility or other party, may, after a hearing, allow any rate increase or decrease proposed by a public utility, or a reasonable part of the rate increase or decrease, to take effect on an interim basis within 45 days after the day on which the request is filed, subject to the [PSC’s] right to order a refund or surcharge.

Id. at § 54-7-12(4)(a)(ii). “The evidence presented in the hearing [on interim rates] need not encompass all issues that may be considered in a [general] rate case hearing ... but shall establish

an adequate prima facie showing that the interim rate increase or decrease is justified.” *Id.* at § 54-7-12(a)(iii).

The PSC held a scheduling conference on October 3, 2017 and established an adjudication schedule for the Application, including a hearing on the request for interim rates on October 19, 2017 and a full hearing on the merits on April 10, 2018.

On October 19, 2017, the PSC conducted the hearing on the interim rates request, receiving testimony from witnesses on behalf of CWC, the Division of Public Utilities (“DPU”) and the following homeowners associations representing interests of CWC customers: the Hidden Creek Homeowners Association, the Red Pine Homeowners Association and the Park West Village Plat B&D Homeowners Association (collectively, the “HOAs”).

Although its Application seeks some reimbursement for “nominal” additional operations and maintenance expenses, CWC’s primary request for additional revenue relates to extensive, necessary infrastructure spending. Much of this spending will be financed through a loan administered by the state’s Division of Drinking Water (“DDW”). The DDW loan will finance approximately \$3.6 million in infrastructure spending, amortized over 20 years at 3.39 percent interest. CWC’s first payment under the loan will be due on January 1, 2020. CWC testified the DDW loan was anticipated to close in April 2018. Funding for the replacement water tank was initially planned to be included in the loan, but CWC withdrew its request for such funds because it believed the need to replace the tank was urgent and CWC did not believe the DDW loan process would be sufficiently expeditious. While CWC previously made representations to its customers that financing from its parent company may be available for the water tank, CWC testified at hearing that it could not ensure the availability or terms of such financing. CWC asks

the PSC to approve a single one time charge, based on an Equivalent Residential Units (“ERU”), of \$1,103.75 and to be payable within 15 days of this PSC’s approval of the interim charge. (Application at 7.)

The DPU’s witnesses testified in opposition to the interim rate request, emphasizing the following: (1) CWC has not presented information sufficient to show the interim rate is justified; (2) the DPU believes the use of ERUs raises potential discrimination issues and “[a]n interim rate request is not the appropriate vehicle for fundamentally altering how rates are to be imposed”; and (3) allowing recovery of the requested one-time charge to fund the purchase of a replacement water tank is inconsistent with standard utility ratemaking principles and, among other problems, results in generational inequities. The DPU asserts costs for capital improvements, such as the replacement water tank, should be amortized over the life of the asset.

Recognizing the need to replace the failed water tank, the DPU stated in filed testimony that the “PSC should include in its order the ability for CWC to increase its base rate by approximately \$7.73/month upon completion of construction of the new tank after review by the DPU.” To calculate this increase, the DPU assumed an investment in the water tank of \$525,000 with repayment conditions of 20 years at 3.39 percent. The DPU calculated monthly principal and interest payments of \$3,015 for an annual cost of \$36,180. The DPU further added \$10,500 to additional revenue requirement for depreciation based on a 50 year depreciable asset life, recommending an increased revenue requirement totaling \$46,680. At hearing, the DPU slightly modified its calculation because it believed the water tank would have a 30 year, rather than 50 year, appreciable life. The presiding officer asked the DPU’s witness whether allowing a utility to recover both the principal payments on financed infrastructure and depreciation in the same

year was consistent with standard ratemaking principles. The DPU's witness replied he did not know.

The HOAs testified in opposition to an increased general rate but expressed their willingness to pay for an increase sufficient to service debt CWC incurs to replace the failed water tank on a loan amortized over even a short term basis, 12 or 18 months.

2. Order and Further Guidance

The PSC finds CWC has not presented evidence sufficient to justify the implementation of its request for interim rates. The request for an increase in general rates has been calculated under an unorthodox methodology, ERUs, which both the DPU and the HOAs find highly objectionable. Additionally, the first payment on CWC's DDW loan is not due until 2020, and CWC characterizes its requested increase for operations and maintenance expenses as merely "nominal." Moreover, the PSC finds no basis in fact or law to grant CWC's request to force its customers to finance the entirety of CWC's capital investment in a new water tank within 15 days of this order. The PSC notes the extremely unusual nature of this request, which would effectively require CWC's current customers to gift it a \$500,000 asset.

To be clear, the PSC finds the evidence demonstrates an increase in revenue sufficient to allow CWC to obtain *reasonable* financing to fund infrastructure spending is justifiable. We find the interest rate and 20 year amortization schedule for the pending DDW loan to be reasonable. Unfortunately, the record is unclear as to what financing sources are available with respect to the failed water tank and how much of an increase will be required based on the terms of such financing. We cannot adopt the DPU's recommendation because the PSC is concerned it overestimates increased revenue requirement by allowing recovery of both depreciation and the

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principal portion of debt service, and the DPU could not defend this portion of the recommendation. Nevertheless, to the extent any prospective lender requires additional action from the PSC to provide assurance as to the recoverability (through rates) of reasonable debt service on necessary infrastructure spending, the PSC will work to expedite any request for relief.

While we deny the request for interim rates, the PSC recognizes the urgent need for CWC to obtain financing to replace the failed water tank and to make the other capital improvements to be financed by the DDW loan. As noted, Title 54 allows the PSC “on its own initiative or in response to an application by a public utility or other party ... [to] allow any rate increase or decrease proposed by a public utility, or a reasonable part of the rate increase or decrease, to take effect on an interim basis within 45 days after the day on which the request is filed.” We further note the statute contemplates such a request will be made within 90 days of the general rate case, or, here, until December 13, 2017.

We encourage the parties through cooperative effort or otherwise to seek relief from the PSC that will appropriately facilitate and expedite replacement of the failed water tank.

DATED at Salt Lake City, Utah, October 30, 2017.

/s/ Michael J. Hammer
Presiding Officer

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#297656

CERTIFICATE OF SERVICE

I CERTIFY that on October 30, 2017, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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