

Formal Complaint of Joshua Craigle, Paige Guion, Kris Patten, John Concannon, William A. Whitaker, Daniel Ross, Lynn Kelley, Jeffrey & Julie Arrington, Susan Booth, Kristine Weston, Maria Solorio, Dillon Morrison, and Rodney Gibb against Wanship Water Company, LLC

DOCKET NO. 24-067-01  
ORDER DISMISSING COMPLAINT

ISSUED: July 29, 2024

**1. Procedural Background**

On April 15, 2024, Joshua Craigle, Paige Guion, Kris Patten, John Concannon, William A. Whitaker, Daniel Ross, Lynn Kelley, Jeffrey and Julie Arrington, Susan Booth, Kristine Weston, Maria Solorio, Dillon Morrison, and Rodney Gibb (“Complainants”) filed a formal complaint with the Public Service Commission (PSC) against Wanship Water Company, LLC (“Wanship”). Complainants submitted an email (“Supplemental Filing”) on April 26, 2024, offering additional explanation regarding their Complaint.

The Division of Public Utilities (DPU) submitted comments on May 15, 2024, indicating DPU “has no recommendation regarding this docket.” On May 20, 2024, Wanship submitted its Response to Formal Complaint and Request for Agency Action. Later, on May 28, 2024, Wanship submitted a Corrected Response to Formal Complaint and Request for Agency Action, including a redlined version of its initial filing to highlight certain corrections. Hereafter, this Order refers exclusively to the latter filed response as “Wanship’s Response.”

On June 3, 2024, Complainants submitted their Reply to Wanship's Response ("Complainants' Reply").

## **2. Factual Background and Parties' Positions**

Complainants are generally aggrieved about a rate increase the PSC approved last year in Wanship's general rate case ("Last GRC").<sup>1</sup> Complainants dispute "the more than 700% increase in [their] monthly water rates[,]" which they characterize as "the highest monthly base rate for culinary water in the state."<sup>2</sup> They ask the PSC order "rates [that] mirror fair market prices."<sup>3</sup> The Complaint, Supplemental Filing, and Complainants' Reply demand answers regarding certain questions Complainants have about Wanship's finances and costs the PSC approved for recovery in the Last GRC (e.g. a loan Wanship's owner made to the company and perceived irregularities concerning Wanship's sale to its current owner). Complainants also allege "several of [them]" did not receive notice from Wanship regarding the GRC.<sup>4</sup>

Wanship's Response asks the PSC to dismiss the Complaint, arguing "the Complaint is an impermissible collateral attack" on the PSC's final order in the Last GRC.<sup>5</sup> Wanship emphasizes the rates approved in the Last GRC were "reviewed and assessed" by the DPU, which recommended the rates to be "just, reasonable, and

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<sup>1</sup> See *Wanship's Request for a Rate Increase*, Docket No. 23-067-01 (hereafter, "Last GRC").

<sup>2</sup> Complaint at 2-3.

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

<sup>4</sup> Complainants' Reply at 6.

<sup>5</sup> Wanship's Response at 2.

adequate' given the unique needs of the Wanship water system.”<sup>6</sup> In fact, the rates approved in the Last GRC were the product of a settlement stipulation, which the DPU negotiated and signed.

Wanship also emphasizes the sale of Wanship to its current owner “was proper under [PSC] rules, publicly noticed, and endorsed by both [the] DPU and the [PSC].”<sup>7</sup> Wanship represents “Complainants were provided ample and regular due process to bring their concerns and participate in the [Last GRC]” and argues they simply “chose not to” do so.<sup>8</sup>

### **3. Discussion, Findings, and Conclusions**

- a. *The PSC is statutorily prohibited from further entertaining the Complaint and must dismiss it on that basis.*

Utah law is clear: the PSC does not have jurisdiction to consider individual ratepayers' complaints regarding the reasonableness of their rates. The law states: “No request for agency action shall be entertained by the [PSC] concerning the reasonableness of any rates or charges of any [utility]” unless certain qualifying conditions are met.<sup>9</sup> For the PSC to have jurisdiction to consider such a complaint, it must be signed by either (1) certain statutorily enumerated public officials; or (2) “not less than 25 consumers or purchasers” of the utility’s service.<sup>10</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Utah Code Ann. § 54-7-9(3).

<sup>10</sup> *Id.*

The statute reflects prudent public policy. Rates are set in general rate cases, thorough proceedings that require significant investment on the part of the utility, state regulators, and any other participating stakeholders. Allowing every customer who may disagree with a rate to initiate an administrative proceeding would result in redundant and needless litigation. Significantly, the legal and accounting costs utilities incur in such administrative proceedings are ordinarily recoverable in rates. Therefore, endless administrative litigation over rates would not only be impractical; it would unnecessarily increase costs for customers.

Here, Complainants do not allege Wanship violated any specific statute, administrative rule, order of the PSC, or provision of Wanship's tariff. Rather, Complainants' allegations exclusively concern matters that were fully adjudicated and decided in the Last GRC.

Because the Complaint is solely concerned with rates established in Wanship's Last GRC, is not alleged to have been signed by one or more of the statutorily enumerated, qualifying public officials, and is not signed by at least 25 customers, the PSC has no authority under Utah law to further consider the Complaint. On that basis alone, the PSC must dismiss the Complaint.

- b. *The PSC recognizes Complainants have experienced an unusually large rate increase, but even if the PSC had legal authority to further adjudicate the Complaint, the facts alleged in the filings thus far do not suggest Wanship has committed any violation to sustain the Complaint.*

As an initial matter, the PSC appreciates Complainants experienced dramatic rate shock associated with the significant increase in their rates after Wanship's Last GRC. Prior to the Last GRC, Wanship's ratepayers appear to have paid only \$19 per month. In the Last GRC, pursuant to a stipulation the DPU negotiated and signed, the PSC approved an increase to \$153 per month. This is, undoubtedly, a very substantial increase.

The context of the increase, however, cannot be ignored.

First, Wanship's service is unmetered. That is, Wanship does not appear to measure the quantity of water a customer consumes and charge an additional amount for each unit consumed. Complainants may be correct in alleging their "community has the highest monthly base rate for culinary water in the state[,]” but in most instances this is an inapposite comparison.<sup>11</sup> Most residents in Utah receive water service that is metered. Generally, their total bill is the sum of some "base" or fixed fee plus a volumetric charge based on the amount of water they consume. The sum of the volumetric charges will often significantly exceed the base rate under metered billing.

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<sup>11</sup> In fact, Wanship's tariff does not appear to use the term "base rate" but rather identifies the \$153 charge as the fee for "Unmetered water for connected customers."

Second, the recent rate increase appears to be the first in over 30 years. The PSC found “record evidence demonstrates that Wanship’s [prior] rates, rate structure, and fees [were] inadequate to meet its fixed costs and required capital reserve account.”<sup>12</sup> DPU testified it was “mindful of the magnitude of the recommended increase” and that it “may be frustrating to customers[,]” but DPU represented it was necessary because “a reasonable rate [was] needed for Wanship to provide safe, adequate, and reliable service.”<sup>13</sup> Thus, the DPU negotiated and signed the settlement stipulation, which the PSC later approved.

The PSC appreciates Complainants’ frustration as they truly have seen a dramatic increase in their rate. Unfortunately, the record in the Last GRC makes clear the increase was necessary because, under prior ownership, Wanship had undercharged for many years, leaving the company in a situation where it could not be responsibly maintained in the absence of a significant increase.

Aside from objecting to the amount of their rate increase, Complainants raise allegations about the adequacy of notice regarding the Last GRC and a loan the new owner made to Wanship that was deemed recoverable in rates. With respect to notice, Complainants’ allegations are vague, alleging only that “[s]everal of [them] did not receive the many notices that [Wanship] claims to have sent to all of [its] customers.”<sup>14</sup>

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<sup>12</sup> Last GRC, Order Approving in Part Settlement Stipulation and Associated Tariff Changes, issued Nov. 29, 2023, at 13.

<sup>13</sup> *Id.* at 10.

<sup>14</sup> Complainants’ Reply at 6.

The PSC infers, therefore, that Complainants concede some number of them did receive the notices, which tends to corroborate Wanship's representations about the notices it sent. Regardless, under applicable law, a petition for review or rehearing must be filed within 30 days of the PSC's order.<sup>15</sup> The PSC issued its final order in Wanship's Last GRC on November 29, 2023, making the new rates effective December 1, 2023, and plainly disclosing the deadline by which any petition for review or rehearing was due.<sup>16</sup> However, Complainants did not file their Complaint until April 15, 2024, far past the time the law allows for review or rehearing and several months after the new rates had been in effect.

Finally, Complainants raise suspicions about the propriety of a loan Wanship's new owner made to Wanship. Again, however, this issue was reviewed during Wanship's Last GRC with DPU testifying "Wanship ha[d] been reliant on loans from [the new owner] to purchase equipment and services to maintain a safe and reliable water source and to meet the Division of Drinking Water requirements."<sup>17</sup> The PSC duly approved recovery of these loan payments in the Last GRC.

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<sup>15</sup> Utah Code §§ 63G-4-301, 54-7-15.

<sup>16</sup> Last GRC, Order Approving in Part Settlement Stipulation and Associated Tariff Changes, issued Nov. 29, 2023, at 16 (citing governing law and explaining "a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order").

<sup>17</sup> *Id.* at 4.

In sum, even if the PSC had lawful authority to further consider the Complaint, the facts alleged do not suggest Wanship has committed any violation of applicable statute, rule, tariff, or order of the PSC.

**4. Order**

For the foregoing reasons, the Complaint is dismissed.

DATED at Salt Lake City, Utah, July 29, 2024.

/s/ Michael J. Hammer  
Presiding Officer

Approved and Confirmed July 29, 2024, as the Order of the Public Service  
Commission of Utah.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D. Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#334878



Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this 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 PSC does not grant a request for review or rehearing within 30 days after the filing of the request, it is deemed denied. Judicial review of the PSC'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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on July 29, 2024, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Joshua Craigle/Paige Guion ([craiglejosh@gmail.com](mailto:craiglejosh@gmail.com))  
Kris Patten ([kristerrapath@gmail.com](mailto:kristerrapath@gmail.com))  
John Concannon ([jtcon945@gmail.com](mailto:jtcon945@gmail.com))  
William A. Whitaker ([slcappraiser@hotmail.com](mailto:slcappraiser@hotmail.com))  
Daniel Ross and Lynn Kelley ([danielgossross@gmail.com](mailto:danielgossross@gmail.com), [dlynnkelleyphd@gmail.com](mailto:dlynnkelleyphd@gmail.com))  
Jeffrey and Julie Arrington ([jeffarrington@me.com](mailto:jeffarrington@me.com))  
Susan Booth ([sbooth103@gmail.com](mailto:sbooth103@gmail.com))  
Kristine Weston ([kristineweston@gmail.com](mailto:kristineweston@gmail.com), [craneklann1@gmail.com](mailto:craneklann1@gmail.com))  
Maria Solorio ([mariasolorio@infowest.com](mailto:mariasolorio@infowest.com))  
Dillon Morrison ([dillon.morrison88@gmail.com](mailto:dillon.morrison88@gmail.com))  
Rodney Gibb ([kgibb@utah.gov](mailto:kgibb@utah.gov))  
Complainants

Grady Kohler ([grady@wincre.com](mailto:grady@wincre.com))  
Wanship Water Company, LLC

Patricia Schmid ([pschmid@agutah.gov](mailto:pschmid@agutah.gov))  
Patrick Grecu ([pgrecu@agutah.com](mailto:pgrecu@agutah.com))  
Assistant Utah Attorneys General

Madison Galt ([mgalt@utah.gov](mailto:mgalt@utah.gov))  
Division of Public Utilities

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Administrative Assistant