

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 16, 2024**

REGULAR **CONSENT** **EFFECTIVE DATE** May 17, 2024

DATE: May 1, 2024

TO: Public Utility Commission

FROM: Scott Shearer

THROUGH: Bryan Conway and Russ Beitzel **SIGNED**

SUBJECT: ROATS WATER SYSTEM, INC.:
(Docket Nos. UI 273, UI 466, UI 468)
Requests approval of Affiliated Interest Agreements with William K. Roats, Michelle Roats-Berg, and William C. Roats.

STAFF RECOMMENDATION:

Staff recommends that the Oregon Public Utility Commission (the Commission) approve Roats Water System, Inc.'s (Roats or the Company) supplemental Applications for updated Affiliated Interest (AI) Employment Agreements with William K. Roats (WKR), Michelle Roats-Berg (MRB), and William C. Roats (WCR), subject to the following conditions:

1. The Company will provide the Commission access to all books of account as well as all documents, data, and records that pertain to any payments made from the Company to Affiliates.
2. The Commission reserves the right to review, for reasonableness, all financial aspects of this transaction in any rate proceedings or alternative form of regulation.
3. The Company will notify the Commission in advance of any substantive changes to the Agreement, including any material changes in price. Any such changes shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
4. The Company will report to the Commission, as part of its annual affiliated interest report, a summary of Affiliate costs charged to the Company.

5. The value related to these AIs will be decided in the concurrent rate case Docket No. UW 198.

DISCUSSION:

Issue

Whether the Commission should grant the Company's request to enter into revised AI Agreements with WKR, MRB, and WCR, for the provision of AI services to Roats.

Applicable Law

Pursuant to ORS 757.015(1) and (2), a corporation or person has an affiliated interest relationship with a public utility when it owns or holds, directly or indirectly, in any chain of successive ownership, at least five percent of the voting securities of that public utility. Further, the Statute states that a corporation that is owned by any corporation or person owning at least five percent of the voting securities of a public utility also has an affiliated interest relationship with the public utility. ORS 757.015(3). Lastly, according to ORS 757.015(5), every corporation that has two or more officers or two or more directors in common with a public utility has an affiliated interest with the public utility.

ORS 757.495(1) and OAR 860-036-2210(2) require that when a public utility enters into a contract with an affiliated interest, it must seek Commission approval of the contract within 90 days of execution of the contract. The contract shall be deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier. ORS 757.495(6) requires the Commission to enter an order on the matter within 90 days after the matter has been submitted to the Commission for consideration.

Pursuant to ORS 757.495(3), the Commission will approve affiliated interest agreements if the terms are fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all financial aspects of the agreement for ratemaking purposes and may reserve that issue for subsequent proceedings.¹

Pursuant to OAR 860-036-2230(2)(e), when services or supplies are sold to a water utility by an affiliate, sales must be recorded in the water utility's accounts at the lower of the affiliate's cost or the market rate. The affiliate's cost must be calculated using the water utility's most recently authorized rate of return.

¹ See Order No. 11-071 in Docket No. UI 306.

Analysis

Background

Roats is a privately owned, fully regulated water utility, serving approximately 4,000 customers in the vicinity of Bend, Oregon. WKR is the majority shareholder and President/CEO. MRB is a minority shareholder and General Manager, and WCR is a minority shareholder, Vice-President, and Plant Supervisor.

Roats filed supplemental applications seeking Commission approval of revised agreements for the provision of AI services to the Company by WKR, MRB, and WCR. The Commission previously approved AI service agreements between Roats and WKR, MRB, and WCR, related to their individual roles with Roats.²

The Company filed said supplemental applications on February 28, 2024, pursuant to ORS 757.495(2) and OAR 860-036-2210(2).

UI 273 – William K Roats Affiliated Interest

WKR is a majority share owner and is considered to have affiliated interest relationships with Roats pursuant to ORS 757.015. There is no formal contract between Roats and WKR. WKR maintains a position as President/CEO within the company, providing direct services through said employment.

Staff investigated the affiliate status, the services provided by the affiliate, and the appropriate salary comparisons.

Per the Staff report submitted as a part of Order No. 07-398, WKR's duties include:

- Management, planning, coordinating, and administering all activities of the water system;
- Short and long range strategy of the organization;
- Water Development planning and Hydraulic System planning;
- Capital Program development;
- Direction and administration of Operations/Maintenance, functions of Source and Supply, Water Quality, Water Control, Transmission and Distribution; and
- Maintenance and Process Control.

UI 466 – Michelle Roats-Berg Affiliated Interest

MRB is a minority share owner and is considered to have affiliated interest relationships with Roats pursuant to ORS 757.015. There is no formal contract between Roats and

² See Order Nos. 07-398, 22-121, and 22-123.

MRB. MRB maintains a position of General Manager within the company, providing direct services through that employment.

Staff investigated the affiliate status, the services provided by the affiliate, and the appropriate salary comparisons.

Per the revised Application, filed in UI 466, MRB's duties include:

- Responsible for office and field administration, planning, reporting, and policy administration.
- Hires and terminates employees and determines compensation. Responsible for public relations and compliance policies. Reports directly to CEO/President, board of directors and supervises contracts, office, distribution, and operations employees.
- Manage and supervise administrative duties of company office functions.
- Directly manage all team members, including training, assigning and directing work, evaluating performance, disciplining as necessary, and addressing employee concerns and grievances.
- Responsible for company human relations management.
- Provide team members with regular feedback on performance, including frequent informal feedback, annual performance reviews, assisting with professional development, and making recommendations for employee separations, promotions, or special assignments.
- Manage recruitment of new employees, including interviewing and making hiring recommendations/decisions and compensation recommendations.
- Disseminate, implement, and enforce organization and team standards, policies, and procedures, including providing proper guidance to those carrying out related duties.
- Develop office policies and procedures and ensure implementation as appropriate.
- Supervises daily office-and-field staff planning, coordination, and operations.
- Customer Service and utility billing supervisor—plan, organize, supervise, and direct the work of customer services and utility billing.
- Manage IT infrastructure and contract vendor.
- Identify opportunities for process and office management improvements and design and implement new systems.
- Analysis and manages daily operations including bookkeeping, payroll, billing, and other related company functions.
- Communications and public relations manager.
- Primary liaison for government, public agency program and compliance management.

- Evaluates complex technical and/or financial information and alternatives related to policy development and strategic planning.
- Cross Connection Control program manager and OHA certified Cross Connection Specialist.
- Supervises company's cross connection control program in compliance with Federal and State rules and regulations.
- Supports budget development and monitoring, and other fiscal and purchasing/procurement-related tracking and recording.
- Assumes accountabilities for all expenses within company management.
- Addresses complex, sensitive, or escalated customer issues.
- Ensures adherence to policies, procedures, and accurate work.
- Implements special projects as required.
- Complies with safety requirements of the position and actively promotes safe work practices.
- In an emergency event or an officially declared State of Emergency, responds as directed to ensure the restoration of essential public services, facilities, and infrastructure.

UI 468 – William C Roats Affiliated Interest

WCR is a minority share owner and is considered to have affiliated interest relationships with Roats pursuant to ORS 757.015. There is no formal contract between Roats and WCR. WCR maintains a position of Vice-President and Plant Supervisor within the company, providing direct services through that employment.

Staff investigated the affiliate status, the services provided by the affiliate, and the appropriate salary comparisons.

Per the revised Application, filed in UI 468, WCR's duties include:

- Acts as the Direct Responsible Charge (DRC) for the system's water distribution operation. As such, this position requires a Distribution II certification with greater/more complex specialized knowledge and certifications than field service members.
- Responsible for all aspects of the water operations, process controls, delegation of shift duties, and human resource and evaluation recommendations for employees.
- Coordinates with general manager, board and consults to make decisions regarding system upgrades or modifications. Responsible for compliance and monitoring reports.
- Possesses State of Oregon Water Distribution II operator's license.
- High level responsibility and decision-making authority.

- Develops and implements procedures to improve efficiency of field operations and maintenance activities; assesses, monitors, and evaluates service delivery methods and procedures; directs and implements quality assurance and other various programs to ensure compliance with Federal, State and Local laws, permits, and regulations.
- Evaluates complex technical and/or financial information and alternatives related to policy development, strategic planning, and designs of new or upgraded treatment facilities.
- Performs a variety of skilled management and working level functions in the maintenance and repair of the district's water distribution system to ensure the safety and quality of the domestic and irrigation water supplies.
- Supervise all tasks and personnel of the water transmission and distribution functions.
- Directs, trains, and supervises field and mechanic service team.
- Operates, monitors, and controls the operational activities of the water systems and associated equipment such as pumps, disinfection equipment, electric motors, at wells, reservoir, and booster sites in accordance with department operating plans and procedures.
- Conducts inspections of the water system and related equipment including pumps and water tank; monitors water tank levels, water quality, and functioning of equipment. Locates and repairs leaks in water main and/or service lines.
- Obtains water and/or chlorine samples in accordance with regulatory requirements.
- Maintains and operates water system and water production equipment.
- Responsible for repair and maintenance on all types of valves, pumps and equipment including chlorinators, evaporators, and hydraulic valves, and fans; repairs raw water booster pumps and chlorine injection pumps used in the disinfection of water.
- Manages repairing and maintaining fire hydrants, valves, and chlorine analyzers.
- Provides assistance to contractors, developers, and landowners in locating water, power and sewer lines; assists customers and/or the public regarding water related issues and complaints.
- Conducts installations/inspections of new service lines, water main extensions, and/or meter installations.
- Reads water meters and reports usage for billing purposes; re-reads meters as requested.
- Performs service order work including turning on new service, disconnecting service for repairs, and changing out meters.
- Prepares and maintains a variety of departmental reports, records, and documentation.

- Promotes and observes safe work methods and uses safety equipment; secures work sites as necessary; attends safety committee meetings, actively participates in and may conduct tailgate trainings
- Oversees and manages telemetry system and coordinates with outside programming contractor.
- Manages the utility field operations, including strategic direction and goals, operational execution, and program development for maintaining and repairing inground and above ground infrastructure.
- Directs and monitors employee activity and equipment operations to ensure safe practices; ensures that facilities maintain operational reliability. Provides regular feedback on performance, including frequent informal feedback, performance reviews, assists with professional development, and makes recommendations for employee separations, promotions, or special assignments.
- Manages the efficiency and effectiveness of the department's service to its customers.
- Complies with safety requirements of the position and actively promotes safe work practices.
- In an emergency event or an officially declared State of Emergency, responds to ensure the restoration of essential public services, facilities, and infrastructure.
- Coordinates and responds to emergency utility situations, after-hours calls, or special requests as needed.

Terms and Conditions

As stated above, there are no formal contracts between Roats and WKR, MRB, or WCR. All are considered 'employees at-will' in terms of employment status. Staff notes that while there are some overlaps in various duties between WKR, MRB, and WCR, this is not unusual as most owners/managers of small utilities such as Roats, are required to cover various duties of other employees at any given time.

Transfer Pricing

Staff reviewed the affiliate costs related to WKR, MRB, and WCRs' positions and market value direct salary comparators provided by the American Water Works Association (AWWA) related to each position.³

As employees of Roats, WKR, MRB, and WCR's total compensation would be considered an affiliate cost. Because OAR 860-036-2230(2)(e) requires affiliated interest transactions to be recorded in the water utility's accounts at the lower of the affiliate's cost or the market rate, if the Company intends to record these transactions

³ 2022 AWWA Compensation Survey: Small Water and Waste Water Utilities, October 2022.

using the affiliate cost, the affiliate cost must be lower than the equivalent market rate for the goods and services to be transacted.

At this time, Staff is approving the updated relationships between all three owner/employees and will defer any amounts to include in future rates to the concurrent rate case, UW 198. Staff expects Roats to provide detailed information regarding 1) the costs of providing services under the Agreements and 2) the market costs of those services in the same general rate case.

Given the safeguards provided by Condition 2, Staff believes the contracts are reasonable, without making a determination on the prudence of each component cost, potential impact on rates, or compliance with the Commission's cost-versus-market rule. Unless and until the Commission approves higher rates, the risk of the component costs is borne by utility shareholders, which should provide incentive for these affiliate relationships to be managed with an eye toward prudence in the immediate future.

Public Interest Compliance

As listed above, WKR, MRB, and WCR all show significant knowledge and experience in water system operations and regulatory compliance, and with the inclusion of Staff recommendations, Staff believes the agreements are fair and reasonable, and not contrary to the public interest.

Conclusion

Based on the review of this application, Staff concludes the following:

1. The proposed affiliated interest agreements are fair, reasonable, and not contrary to the public interest; and
2. Necessary records are available.

The Company has reviewed a draft of this memo and voiced no concerns.

PROPOSED COMMISSION MOTION:

Approve Roats Water System, Inc.'s supplemental Applications for approval of AI Employment Agreements with William K. Roats, Michelle Roats-Berg, and William C. Roats, subject to Staff's conditions identified in the Staff Recommendation section of Staff report.