

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UW 119

4 In the Matter of

5 AGATE WATER COMPANY Request for an  
6 increase in total annual revenues of \$202,800  
or 45.7%

STAFF'S POST-HEARING BRIEF

7 **INTRODUCTION**

8 While the Public Utility Commission of Oregon Staff (Staff) and Agate Water Company  
9 (Company) have entered into a stipulation resolving all matters in this proceeding, numerous  
10 intervening parties (collectively "Intervenors") have filed testimony in opposition to the filed  
11 stipulation in this case. In Staff's direct testimony in support of the stipulation, Staff addressed  
12 many of the Intervenors' assertions. Due to the wide array of issues raised by the Intervenors,  
13 Staff submitted a trial brief. Staff submits the following post-hearing brief to supplement the  
14 trial brief and clarify issues raised by the Intervenors.

15 **DISCUSSION**

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17 2. Staff's proposed rate design, consisting of a base rate and a two-tier variable rate is  
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19 The Intervenor state that Staff's proposed rate structure does little to promote the sale of  
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23 Unfortunately, using \$1.38 single variable rate cannot achieve the stipulated revenue  
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25 circumstance laid out by the Intervenor, must be \$1.43 per 100 cf. In Table 1 below, Staff has  
26 calculated what the impact would be on customers' monthly bill at different usages with a single

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 2 Staff's stipulated two-tier rate design monthly bill. Column 1 shows the various consumption  
 3 usages, Column 2 shows the monthly bill at the stipulated rate design with a two-tier variable  
 4 rate, and Column 3 shows what the monthly bill would be, calculated at a one variable rate of  
 5 \$1.43 rate design.

6  
 7 **Table 1**

Consumption	Proposed Rates as Stipulated	Proposed Rates w/one tier at \$1.43
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8 **WITH SDC**

0	\$26.63	\$26.63
1000	\$36.64	\$40.90
<b>1312</b>	<b>\$39.77</b>	<b>\$45.35</b>
1500	\$41.65	\$48.03
2000	\$46.66	\$55.16
<b>Consumption</b>	<b>Proposed % Increase as Stipulated</b>	<b>Proposed % Increase at 1-Tier Rate</b>
3000	\$72.22	\$69.43
000	\$97.79	\$83.69
5000	\$123.36	\$97.96
6000	\$148.93	\$112.22
8000	\$200.06	\$140.76
10000	\$251.20	\$169.29

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 17 **NO SDC**

0	\$34.27	\$34.27
1000	\$44.28	\$48.54
<b>1312</b>	<b>\$47.41</b>	<b>\$52.99</b>
1500	\$49.29	\$55.67
2000	\$54.30	\$62.80
3000	\$79.86	\$77.07
4000	\$105.43	\$91.33
5000	\$131.00	\$105.60
6000	\$156.57	\$119.86
8000	\$207.70	\$148.40
10000	\$258.84	\$176.93

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1 As can be seen from the above table, the single variable rate of \$1.43 per 100 cf would  
 2 increase rates considerably for customers whose consumption is average or close to average  
 3 consumption. Large quantity users would see a lower rate than that proposed by Staff.

4 The impact of changing the rate design is illustrated in Table 2. This table shows the  
 5 percentage increases or decreases between Staff's stipulated rate design monthly bill and the  
 6 Intervenors' recommended rate design at a single tier rate monthly bill.

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 8 **Table 2**

<b>Consumption</b>	<b>Proposed % Increase as Stipulated</b>	<b>Proposed % Increase at 1-Tier Rate</b>
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9 **WITH SDC**

0	13.08%	13.08%
1000	20.73%	34.75%
<b>1312</b>	<b>22.47%</b>	<b>39.65%</b>
1500	23.40%	42.31%
2000	25.59%	48.48%
3000	32.16%	27.04%
4000	35.54%	16.00%
5000	37.60%	9.27%
<b>Consumption</b>	<b>Proposed % Increase as Stipulated</b>	<b>Proposed % Increase at 1-Tier Rate</b>
6000	38.99%	4.74%
8000	35.22%	-4.86%
10000	33.09%	-10.31%

18 **NO SDC**

0	9.87%	9.87%
1000	16.56%	27.76%
<b>1312</b>	<b>18.19%</b>	<b>32.10%</b>
1500	19.08%	34.50%
2000	21.22%	40.21%
3000	28.21%	23.72%
4000	32.14%	14.47%
5000	34.65%	8.54%
6000	36.39%	4.42%
8000	33.49%	-4.62%
10000	31.80%	-9.91%

1 As can be seen in the percentage increases or decreases in the customers' monthly bills,  
2 using a single variable rate of \$1.43 per 100 cf, as shown in Table 2, places a larger revenue  
3 burden upon the majority of customers who use average or close to average usage, while  
4 providing the highest users with lower increases and even decreases in their monthly bills. This  
5 is not fair or equitable across customers. Using Staff's proposed two-tier rate provides more  
6 balance and spreads the increase more equitably across all customers.

7 3. A 36-month "stay out" provision in not appropriate in the UW 119 rate case.

8 The Intervenors have requested a 36-month "stay out provision" before any part of  
9 Staff's stipulation in UW 119 may be placed into effect by the Commission. A "stay out"  
10 provision in UW 119 rate case is not in the Stipulation. In fact, the Intervenors did not stipulate  
11 to any issues at the Settlement Conference. As mentioned several times in Staff's testimony, the  
12 decision to request a rate increase rests with the Company. (Any party with standing, or Staff  
13 could request the Commission open an investigation on rates.) A company could agree to a  
14 stay-out provision as part of settlement and stipulation, but such a provision can not be mandated  
15 by the Commission, absent Company agreement. Otherwise, a company is allowed to submit a  
16 rate filing at its own discretion.

17 4. The Company has upgraded its system to provide its customers with more reliable  
18 water service and fire flow.

19 The Intervenors have stated concern over their property values and fire danger. They  
20 state that the lack of lawns and landscaping in the neighborhood decreases their property values  
21 and increases the fire hazard. The Intervenors claim it is the Company's fault because water  
22 rates are too high. In the capital construction project, fire flow service was provided to  
23 customers by the Company.

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1           5. Staff did allow full discovery on all disputed items in this case. Staff responded to  
2 every question or request from the Intervenors. Verification of documentation of  
3 reported income, expenses, plant, etc., is the responsibility of the Staff and the  
4 Intervenors during discovery.

5           The Intervenors state Staff did not allow full discovery on all disputed items without  
6 making it very inconvenient or expensive for qualified Intervenors to obtain needed information.  
7 Intervenors state that they have been burdened with the task of trying to sort out accurate  
8 information from the inaccurate information provided by the Company.

9           As testified at the Evidentiary Hearing, Staff sent out data requests and asked the  
10 Company informal clarifying questions. As previously mentioned, when Staff was not satisfied  
11 with the Company's response, Staff researched deeper.

12           At the Public Comment Meeting, Staff explained the ratemaking process, the steps  
13 involved, and Intervenor responsibilities in the rate case. It was explained that Intervenors could  
14 ask questions of Staff, or the Company, during the discovery time. All the information Staff  
15 received was available to the Intervenors. Staff encouraged the Intervenors to review Staff's  
16 documentation and work.

17           Staff explained the purpose of the Settlement Conference to the six Intervenors attending  
18 the Settlement Conference. Staff had documentation and summary worksheets for income,  
19 consumption, expenses, and plant available for the Intervenors review at the Settlement  
20 Conference. The Intervenors at the Settlement Conference did not bring up specific issues, no  
21 Intervenor appeared to look at Staff's summaries or documentation, no Intervenor requested any  
22 copies from Staff at that time. It was only after the Settlement Conference during Testimony that  
23 Intervenors raised issues to Staff.

24           6. Staff's position is not the Company's position.

25           Intervenors claim that Staff only supports the Company's position. The Company's  
26 position was stated in its application. Staff's result of operations analysis is not the Company's  
27 position. It is Staff's position, which was agreed to and accepted by the Company even though

1 Staff's analysis resulted in a lower revenue requirement and resulting customer rates than that  
2 requested in the Company's filing.

3 The Intervenors have made vague claims of Staff's "gross errors." They talk about Agate  
4 contracting out duties, laying off employees, frivolous spending and abuse, and unethical  
5 practices. Yet they have not provided Staff with any report, survey, evidence, or documentation  
6 disproving Staff's analysis. While the burden of proof remains with the Company, the burden of  
7 persuasion shifts during the proceeding.

8 7. The Intervenors state in their post-hearing brief that they still have unanswered  
9 concerns about the information used to arrive at the stipulation.

10 Staff contends that if the Intervenors have unanswered questions, it is not by the fault of  
11 Staff. The adopted Schedule allowed Intervenors the opportunity to make inquiries and review  
12 documentation during the discovery process, during the Settlement Conference, and at the  
13 Evidentiary Hearing. Staff has provided everything requested by the Intervenors in a  
14 professional and timely manner.

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1 **CONCLUSION**

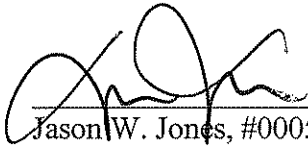
2 The stipulation entered into between Staff and the Company establishes overall just and  
3 reasonable rates. Staff takes this opportunity to file a Post-Hearing Brief in order to further  
4 illuminate the analysis underlying the stipulated rates. In addition, Staff takes this opportunity to  
5 respond to the questions raised in Intervenors' Post-Hearing Testimony.

6 For the foregoing reasons, Staff respectfully urges the Commission to adopt the  
7 stipulation in its entirety.

8 DATED this 15<sup>th</sup> day of May 2007.

9 Respectfully submitted,

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11 HARDY MYERS  
12 Attorney General

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15 Jason W. Jones, #00059  
16 Assistant Attorney General  
17 Of Attorneys for Staff of the Public Utility  
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1 variable rate of \$1.43 per 100 cf. Staff compares the single variable rate design monthly bill to  
 2 Staff's stipulated two-tier rate design monthly bill. Column 1 shows the various consumption  
 3 usages, Column 2 shows the monthly bill at the stipulated rate design with a two-tier variable  
 4 rate, and Column 3 shows what the monthly bill would be, calculated at a one variable rate of  
 5 \$1.43 rate design.

6  
 7 **Table 1**

Consumption	Proposed Rates as Stipulated	Proposed Rates w/one tier at \$1.43
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8 **WITH SDC**

0	\$26.63	\$26.63
1000	\$36.64	\$40.90
<b>1312</b>	<b>\$39.77</b>	<b>\$45.35</b>
1500	\$41.65	\$48.03
2000	\$46.66	\$55.16
Consumption	Proposed % Increase as Stipulated	Proposed % Increase at 1-Tier Rate
3000	\$72.22	\$69.43
000	\$97.79	\$83.69
5000	\$123.36	\$97.96
6000	\$148.93	\$112.22
8000	\$200.06	\$140.76
10000	\$251.20	\$169.29

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 17 **NO SDC**

0	\$34.27	\$34.27
1000	\$44.28	\$48.54
<b>1312</b>	<b>\$47.41</b>	<b>\$52.99</b>
1500	\$49.29	\$55.67
2000	\$54.30	\$62.80
3000	\$79.86	\$77.07
4000	\$105.43	\$91.33
5000	\$131.00	\$105.60
6000	\$156.57	\$119.86
8000	\$207.70	\$148.40
10000	\$258.84	\$176.93

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As can be seen from the above table, the single variable rate of \$1.43 per 100 cf would increase rates considerably for customers whose consumption is average or close to average consumption. Large quantity users would see a lower rate than that proposed by Staff.

The impact of changing the rate design is illustrated in Table 2. This table shows the percentage increases or decreases between Staff’s stipulated rate design monthly bill and the Intervenor’s recommended rate design at a single tier rate monthly bill.

**Table 2**

<b>Consumption</b>	<b>Proposed % Increase as Stipulated</b>	<b>Proposed % Increase at 1-Tier Rate</b>
<b>WITH SDC</b>		
0	13.08%	13.08%
1000	20.73%	34.75%
<b>1312</b>	<b>22.47%</b>	<b>39.65%</b>
1500	23.40%	42.31%
2000	25.59%	48.48%
3000	32.16%	27.04%
4000	35.54%	16.00%
5000	37.60%	9.27%
<b>Consumption</b>	<b>Proposed % Increase as Stipulated</b>	<b>Proposed % Increase at 1-Tier Rate</b>
6000	38.99%	4.74%
8000	35.22%	-4.86%
10000	33.09%	-10.31%
<b>NO SDC</b>		
0	9.87%	9.87%
1000	16.56%	27.76%
<b>1312</b>	<b>18.19%</b>	<b>32.10%</b>
1500	19.08%	34.50%
2000	21.22%	40.21%
3000	28.21%	23.72%
4000	32.14%	14.47%
5000	34.65%	8.54%
6000	36.39%	4.42%
8000	33.49%	-4.62%
10000	31.80%	-9.91%

1 As can be seen in the percentage increases or decreases in the customers’ monthly bills,  
2 using a single variable rate of \$1.43 per 100 cf, as shown in Table 2, places a larger revenue  
3 burden upon the majority of customers who use average or close to average usage, while  
4 providing the highest users with lower increases and even decreases in their monthly bills. This  
5 is not fair or equitable across customers. Using Staff’s proposed two-tier rate provides more  
6 balance and spreads the increase more equitably across all customers.

7 3. A 36-month “stay out” provision in not appropriate in the UW 119 rate case.

8 The Intervenors have requested a 36-month “stay out provision” before any part of  
9 Staff’s stipulation in UW 119 may be placed into effect by the Commission. A “stay out”  
10 provision in UW 119 rate case is not in the Stipulation. In fact, the Intervenors did not stipulate  
11 to any issues at the Settlement Conference. As mentioned several times in Staff’s testimony, the  
12 decision to request a rate increase rests with the Company. (Any party with standing, or Staff  
13 could request the Commission open an investigation on rates.) A company could agree to a  
14 stay-out provision as part of settlement and stipulation, but such a provision can not be mandated  
15 by the Commission, absent Company agreement. Otherwise, a company is allowed to submit a  
16 rate filing at its own discretion.

17 4. The Company has upgraded its system to provide its customers with more reliable  
18 water service and fire flow.

19 The Intervenors have stated concern over their property values and fire danger. They  
20 state that the lack of lawns and landscaping in the neighborhood decreases their property values  
21 and increases the fire hazard. The Intervenors claim it is the Company’s fault because water  
22 rates are too high. In the capital construction project, fire flow service was provided to  
23 customers by the Company.

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1           5. Staff did allow full discovery on all disputed items in this case. Staff responded to  
2 every question or request from the Intervenors. Verification of documentation of  
3 reported income, expenses, plant, etc., is the responsibility of the Staff and the  
4 Intervenors during discovery.

5           The Intervenors state Staff did not allow full discovery on all disputed items without  
6 making it very inconvenient or expensive for qualified Intervenors to obtain needed information.  
7 Intervenors state that they have been burdened with the task of trying to sort out accurate  
8 information from the inaccurate information provided by the Company.

9           As testified at the Evidentiary Hearing, Staff sent out data requests and asked the  
10 Company informal clarifying questions. As previously mentioned, when Staff was not satisfied  
11 with the Company's response, Staff researched deeper.

12           At the Public Comment Meeting, Staff explained the ratemaking process, the steps  
13 involved, and Intervenor responsibilities in the rate case. It was explained that Intervenors could  
14 ask questions of Staff, or the Company, during the discovery time. All the information Staff  
15 received was available to the Intervenors. Staff encouraged the Intervenors to review Staff's  
16 documentation and work.

17           Staff explained the purpose of the Settlement Conference to the six Intervenors attending  
18 the Settlement Conference. Staff had documentation and summary worksheets for income,  
19 consumption, expenses, and plant available for the Intervenors review at the Settlement  
20 Conference. The Intervenors at the Settlement Conference did not bring up specific issues, no  
21 Intervenor appeared to look at Staff's summaries or documentation, no Intervenor requested any  
22 copies from Staff at that time. It was only after the Settlement Conference during Testimony that  
23 Intervenors raised issues to Staff.

24           6. Staff's position is not the Company's position.

25           Intervenors claim that Staff only supports the Company's position. The Company's  
26 position was stated in its application. Staff's result of operations analysis is not the Company's  
position. It is Staff's position, which was agreed to and accepted by the Company even though

1 Staff’s analysis resulted in a lower revenue requirement and resulting customer rates than that  
2 requested in the Company’s filing.

3 The Intervenors have made vague claims of Staff’s “gross errors.” They talk about Agate  
4 contracting out duties, laying off employees, frivolous spending and abuse, and unethical  
5 practices. Yet they have not provided Staff with any report, survey, evidence, or documentation  
6 disproving Staff’s analysis. While the burden of proof remains with the Company, the burden of  
7 persuasion shifts during the proceeding.

8 7. The Intervenors state in their post-hearing brief that they still have unanswered  
9 concerns about the information used to arrive at the stipulation.

10 Staff contends that if the Intervenors have unanswered questions, it is not by the fault of  
11 Staff. The adopted Schedule allowed Intervenors the opportunity to make inquiries and review  
12 documentation during the discovery process, during the Settlement Conference, and at the  
13 Evidentiary Hearing. Staff has provided everything requested by the Intervenors in a  
14 professional and timely manner.

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1 **CONCLUSION**

2 The stipulation entered into between Staff and the Company establishes overall just and  
3 reasonable rates. Staff takes this opportunity to file a Post-Hearing Brief in order to further  
4 illuminate the analysis underlying the stipulated rates. In addition, Staff takes this opportunity to  
5 respond to the questions raised in Intervenors' Post-Hearing Testimony.

6 For the foregoing reasons, Staff respectfully urges the Commission to adopt the  
7 stipulation in its entirety.

8 DATED this 15<sup>th</sup> day of May 2007.

9 Respectfully submitted,

10  
11 HARDY MYERS  
12 Attorney General

13 /s/ Jason W. Jones  
14 Jason W. Jones, #00059  
15 Assistant Attorney General  
16 Of Attorneys for Staff of the Public Utility  
17 Commission of Oregon  
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1 **CERTIFICATE OF SERVICE**

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3 I certify that on May 15, 2007, I served the foregoing upon all parties of record in this  
4 proceeding by delivering a copy by electronic mail and by postage prepaid first class mail or by  
5 hand delivery/shuttle mail to the parties accepting paper service.

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