

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UW 110

In the Matter of)	
)	
LONG BUTTE WATER SYSTEM, INC.)	ORDER
)	
Application for authorization to increase)	
the company's total annual revenues by)	
\$97,354.00, or 78 percent.)	

DISPOSITION: MOTION FOR INTERIM RATE RELIEF DENIED

On September 29, 2005, Long Butte Water System, Inc. (Long Butte), filed a motion with the Public Utility Commission of Oregon (Commission). The motion requests that the Commission issue an order authorizing Long Butte to implement interim rates pending resolution of its application for a permanent rate increase.

In support of its motion, Long Butte states that current rates do not adequately meet the operational expenses, and that additional revenues are required on an interim basis to enable the company to meet those expenses. Long Butte states that the proposed interim increase is amply supported by the tariff sheets and other documentation already filed in conjunction with the permanent rate increase. These materials, it contends, disclose a strong likelihood that the proposed rate increase will be approved.

Long Butte also alleges that the progress of this docket has been delayed as a result of continuances requested by intervenors. Long Butte maintains that it has been “unduly burdened and prejudiced by the resulting delay” occasioned by these continuances in the procedural schedule.

Finally, Long Butte asserts that its customers will be adequately protected by ORS 757.215(5) if any portion of the proposed interim increase is determined to be unjustified. That statute provides that the Commission shall order refunds to customers in that instance.

On October 5, 2005, the Public Utility Commission Staff (Staff) filed a reply opposing Long Butte’s motion for interim relief. On October 11, 2005, Intervenors Dan Rey and Lisa Roberts (Intervenors) also filed a reply in opposition to the company’s motion. These parties make the following arguments:

(a) ORS 757.215(5) contemplates that a utility will request interim rate relief when it files its permanent rate increase application and any interim relief will be authorized in a suspension order. In this case, Long Butte did not request interim rates when it made its rate case filing in Advice No. 05-032, but instead seeks to obtain such relief several months into the process of reviewing its general rate filing. Although the Commission could amend its original suspension Order No. 05-820 to authorize interim rates, Staff and Intervenors maintain that Long Butte's request does not meet the criteria for interim relief.

(b) In general, Commission policy is to grant interim rate relief only where the utility demonstrates that it faces severe financial distress, jeopardizing the continuing operation of the utility. In past cases, the Commission has recognized that water utilities typically have more limited access to capital markets than larger utilities and can easily become cash deficient. Accordingly, it has authorized interim relief where circumstances disclose that such rates are necessary to ensure safe and adequate service and protect the financial integrity of the utility.¹

(c) Although Long Butte's application may support the requested permanent rate increase, the appropriate level of that increase has yet to be determined. Furthermore, certain aspects of Long Butte's request involve projected operating expenses (e.g., salaries, payroll taxes, health benefits) for events that have not yet occurred. Since these are future expenses, Long Butte does not require additional revenues at this time. Moreover, Long Butte's proposed infrastructure fee essentially involves contributions in aid of construction. Long Butte is not currently making any major capital improvements that warrant additional cash flow.

(d) The fact that customers may be protected by the refund provisions of ORS 757.215(5) is irrelevant to the determination of whether interim rates are warranted. Interim rates are not intended to replace the traditional role of tariff suspension and review, and should not be used merely to expedite implementation of a proposed permanent rate increase. While the standards for water utilities may be more relaxed than standards for other utilities, the water utility still needs to demonstrate that it does not have ready cash to provide safe and adequate service or to fund needed capital improvements.

(e) The continuances received by Intervenors in this case have not resulted in an extension of this docket. The six-month suspension authorized in Order No. 05-820 does not expire until January 31, 2006, leaving the Commission with ample time to issue a final order prior to expiration of the initial suspension period. Thus, while there have been a few minor changes to the procedural schedule, those changes have not burdened or prejudiced Long Butte.

¹ See, for example, dockets UW 81 and UW 102 (interim relief authorized to offset increase in purchased water expense); UW 91 (interim relief authorized to avoid immediate shut-off because of non-payment of purchased water bill); and UW 106 (interim relief authorized to provide sufficient cash to complete fire flow project).

On October 19, 2005, Long Butte filed a reply. The reply includes an affidavit setting forth additional reasons why interim relief should be granted. Since this information was not submitted with the motion for interim relief, the Staff and Intervenors have been deprived of the opportunity to contest the validity of the facts set forth in Long Butte's reply. Because of this procedural defect, the reply has not been considered by the Commission.

Commission Decision

Upon review of the motion and replies, the Commission concurs with the arguments advanced by Staff and Intervenors. To begin with, Long Butte's request does not meet the criteria established by the Commission for interim rate relief. Unlike other situations where the Commission has authorized interim rates, Long Butte does not purchase water, does not have significant accounts payable, and does not face immediate increases in operating expenses. Further, Long Butte is not undergoing significant capital expenditures and does not cite any cash flow shortages it is experiencing.

We also agree with Staff and Intervenors that interim rate relief is not intended to replace the normal regulatory procedures of suspension and Commission review. Interim rate relief acts as a safety valve in circumstances where there is an important reason for deviating from the normal suspension and review process. Since Long Butte's request does not satisfy the criteria established by the Commission for interim relief, the subject to refund provisions of ORS 757.215(5) are irrelevant.

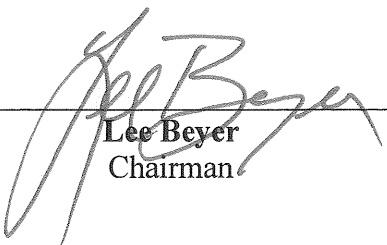
As a final matter, we agree with Staff and Intervenors that Long Butte has not been burdened or prejudiced by the changes made in the procedural schedule. A review of the file in this matter reveals that there have only been a couple of minor scheduling adjustments to accommodate the Intervenors. None of these continuances will impact the Commission's ability to issue a final order in a timely manner.

Accordingly, the Commission finds that Long Butte's motion for interim rate relief should be denied.

ORDER

IT IS THEREFORE ORDERED that the motion for interim rate relief filed by Long Butte Water System, Inc., on September 29, 2005, is denied.

Made, entered, and effective OCT 25 2005.



Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.