

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 29th day of June 2015.

CASE NO. 15-0674-WS-D
WEST VIRGINIA-AMERICAN WATER COMPANY
Application to change depreciation rates.

CASE NO. 15-0675-S-42T
WEST VIRGINIA-AMERICAN WATER COMPANY
Rule 42T tariff filing to increase sewer rates and charges.

and

CASE NO. 15-0676-W-42T
WEST VIRGINIA-AMERICAN WATER COMPANY
Rule 42T tariff filing to increase water rates and charges.

COMMISSION ORDER

The Commission grants the petition to intervene filed by the Advocates for a Safe Water System (ASWS).

BACKGROUND

On April 30, 2015, West Virginia-American Water Company (WVAWC) tendered for filing revised tariff sheets reflecting increased water rates and charges of approximately \$35,472,154 annually (a 28.18 percent increase) for furnishing potable water to approximately 168,000 customers in Boone, Braxton, Cabell, Clay, Fayette, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, Mercer, Putnam, Raleigh, Roane, Summers, Wayne and Webster Counties, to become effective on May 30, 2015.

On the same date, WVAWC filed revised tariff sheets reflecting increased sewer rates and charges of \$176,895 annually (a 22.3 percent increase) for furnishing sewer utility service to 1,050 customers in Fayette County, to become effective on May 30, 2015, and an application to increase depreciation rates effective on the same date that its revised water and sewer rates go into effect.

On May 1, 2015, the Commission Consumer Advocate Division (CAD) petitioned to intervene in these cases to represent the interests of residential water and sewer customers.

On May 22, 2015, the Kanawha County Commission and the Kanawha County Regional Development Authority (KCC/RDA), filed a petition to intervene.

By Order issued May 27, 2015, the Commission (i) made WVAWC a respondent in these proceedings, (ii) consolidated the three cases, (iii) suspended the proposed increased rates and charges through Wednesday, February 24, 2016, (iv) granted a waiver to allow WVAWC additional time to provide individual notice, (v) established the completion date for individual customer notice; (vi) set an intervention date of July 29, 2015, and (vii) granted a request to intervene from CAD.

On June 12, 2015, ASWS petitioned to intervene.

By Order issued June 26, 2015, the Commission granted the KCC/RDA petition to intervene.

DISCUSSION

In their June 12, 2015, petition to intervene, ASWS asserted its reasons why it believed it should be granted intervenor status. ASWS stated five points in support of its intervention:

(a) to ensure that the Commission receives and considers all information relevant to protecting public access to safe drinking water; (b) to assist the Commission in its evaluation of the petition; (c) to ensure that WVAWC customers are not burdened with inequitable or unnecessary costs; (d) to ensure that when the PSC takes action it is cognizant of and responsive to the concerns and interests of the water-consuming public; and (e) to advocate that any changes in rates improve the safety of the water system and otherwise promote the public interest.

On June 22, 2015, WVAWC filed a response to the ASWS petition to intervene. In objecting to the ASWS intervention, WVAWC argued (i) ASWS offers no particular interest or ratemaking expertise distinct from that of the CAD that would justify its participation, (ii) the Commission routinely denies requests by individual customers and groups to intervene in utility rate cases because they are unable to show that their interests "cannot adequately be addressed by CAD" citing Monongahela Power Company and The Potomac Edison Company, Case Nos. 06-0960-E-42T and 06-1426-E-D (Commission Order dated January 26, 2007) at 3-4, 6, (iii) ASWS has shown no unique or particular interest justifying intervention, (iv) the water safety issues raised by ASWS would unduly broaden the scope of these cases in contravention of Rule 12.6.a.1 of the

Commission Rules of Practice and Procedure (Procedural Rules), 150 C.S.R. 1, (v) the ASWS suggested focus on water safety would not be reasonably pertinent to revenue requirement and depreciation issues at issue in these cases, (vi) water safety concerns are primarily the province of the Bureau for Public Health, not the Commission, and (vii) WVAWC has declined to seek recovery of spill-related costs in this rate case, so ASWS opposition to recovery of those costs is not relevant.

The first four points stated by ASWS are not interests unique to the customers represented by ASWS. Those interests are shared by all customers of WVAWC and are considered by CAD and Commission Staff as parties to this case. The final point raised by ASWS asks that any change in rates improve the safety of the system.

Water safety is the subject of a general investigation currently before the Commission. The Commission initiated Case No. 14-0872-W-GI, General Investigation into the Actions of WVAWC in Reacting to the January 9, 2014 Chemical Spill to review the events following the spill of the chemical MCHM into the Elk River by Freedom Industries. ASWS is a party to the general investigation and to that discovery. That general investigation is currently on hold pending appointment of a third Commissioner, but thus far the parties have engaged in vigorous discovery.

The Commission is concerned about the ASWS petition to intervene and the potential that issues extraneous to the rate case will be introduced (or attempted to be introduced) by ASWS in the rate cases. In the rate cases, WVAWC carries the burden to justify its proposed increase based on its cost of service during the test period. Further and notably, WVAWC is not requesting recovery of spill-related costs in its rate cases. Direct Testimony of Jeffery L. McIntyre at 1 and 11-13.

Procedural Rule 12.6.a.1 regarding intervention states in part, "Leave will not be granted except on allegations reasonably pertinent to the issues already presented and which do not unduly broaden them." In effect, parties permitted to intervene are limited to the scope of the issues in the rate application and direct testimony of the applicant, WVAWC. Because of its familiarity with the operations of WVAWC and because it is represented by counsel, the Commission will grant the ASWS petition to intervene. This intervention is specifically subject to the understanding that recovery of spill-related costs are not at issue, and ASWS will not be permitted to broaden the scope of these cases.

FINDING OF FACT

ASWS filed a petition to intervene.

CONCLUSION OF LAW

The petition to intervene filed by ASWS should be granted because it has stated a legal interest in these cases. Intervention is granted to ASWS subject to the understanding that recovery of spill-related costs are not at issue and ASWS will not be permitted to broaden the scope of these cases.

ORDER

IT IS THEREFORE ORDERED that the Petition to Intervene filed by the Advocates for a Safe Water System is granted subject to the understanding that recovery of spill-related costs are not at issue and ASWS will not be permitted to broaden the scope of these cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, on other parties by United States First Class Mail and on Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell
Executive Secretary

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