

**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 28th day of January 2014.

CASE NO. 12-1649-W-42T

WEST VIRGINIA-AMERICAN WATER COMPANY,
Rule 42T application to increase water rates and charges.

COMMISSION ORDER

The Commission denies a Petition for Reconsideration filed by the Utility Workers Union of America, AFL-CIO and UWUA Local No. 537.

BACKGROUND

On December 14, 2012, West Virginia-American Water Company (WVAWC or Company) made tariff filings for its sewer utility and water utility as described more fully in the final Commission Order entered on September 26, 2013. The cases were not consolidated, but were sufficiently related that the Commission addressed both cases in one order.

On October 4, 2013, the Utility Workers Union of America, AFL-CIO and UWUA Local No. 537 (UWUA) filed a Request for Reconsideration of the September 26, 2013 Commission Order in Case No. 12-1649-W-42T. The UWUA requested that the Commission reconsider its decision to approve rate relief without requiring the WVAWC to (i) enforce minimum staffing levels required in Case No. 11-0740-W-GI and (ii) submit quarterly reports it was directed to submit in Case No. 11-0740-W-GI. The UWUA argued that the Commission, in the general investigation, sought to ensure proper oversight of the Company going forward by directing that WVAWC's quarterly monitoring reports explain, among other things, "any reductions in the number of employees below 288" and directing WVAWC "to continue the valve programs and level of outside plant crews discussed in the Commission Order." West Virginia-American Water Company, Case No. 11-0740-W-GI, Commission Order February 2, 2012, at 5.

On October 7, 2013, WVAWC filed a response in opposition to the UWUA Request for Reconsideration. WVAWC argued that the UWUA is merely rearguing its case and, therefore, the petition should be denied.

On December 26, 2013, the UWUA filed a letter requesting that the Commission docket in Case No. 12-1649-W-42T a copy of the Ninth Further Joint Staff Memorandum filed in Case No. 11-0740-W-GI and consider the Staff memorandum as a part of the petition for reconsideration.

DISCUSSION

The UWUA request for reconsideration of the final Commission Order does not ask for reconsideration of the rates approved by the Commission in this rate case. Instead, the UWUA argued that the Commission failed to consider relevant evidence on allegations of understaffing and valve maintenance when deciding the WVAWC request for rate relief and abandoned prior Commission orders, apparently referencing the October 11, 2011, and February 2, 2012 orders in Case No. 11-0740-GI. The Commission fully addressed the UWUA evidence, and its arguments, in the final Commission Order. See, September 26, 2013 Order at 8 and 9. The testimony of UWUA witness Gregory Lanham included hearsay that the Commission did not find persuasive. Furthermore, the testimony of both Mr. Lanham and Ms. Bonnette was anecdotal and focused on a few individual incidents rather than management of the entire WVAWC system. The staffing and valve maintenance arguments have been addressed at length by this Commission in Case No. 11-0740-W-GI.

In reviewing the testimony in this rate case, the UWUA did not present any new evidence that would persuade this Commission to address again issues already addressed in the general investigation.¹

FINDINGS OF FACT

1. The UWUA filed a Petition for Reconsideration requesting that the Commission reconsider its decision to approve rate relief without requiring the WVAWC to (i) enforce minimum staffing levels required in Case No. 11-0740-W-GI and (ii) submit quarterly reports it was directed to submit in Case No. 11-0740-W-GI.

2. The UWUA request for reconsideration of the final Commission Order does not ask for reconsideration of the rates approved by the Commission in this rate case.

3. Staffing and reporting issues raised by the UWUA were addressed by prior Commission Orders in Case No. 11-0740-W-GI.

¹ A petition to reopen Case No. 11-0740-W-GI for the limited purpose of continuing the quarterly metrics reporting was filed by the Consumer Advocate Division of the Commission. The Commission anticipates ruling that petition in the near future.

CONCLUSIONS OF LAW

1. There is no basis for the UWUA claim that the Commission Orders in Case No. 11-0740-W-GI have been abandoned.

2. The UWUA did not present any new evidence that would persuade this Commission to address again issues already addressed in the general investigation.

3. It is reasonable to deny the Petition for Reconsideration because the UWUA does not seek relief regarding the rates that were the subject of this case.

ORDER

IT IS THEREFORE ORDERED that the Request for Reconsideration filed by the Utility Workers Union of America, AFL-CIO and UWUA Local No. 537 on October 4, 2013, is hereby denied and the September 26, 2013 Order issued in this case remains the final Order of the Commission.

IT IS FURTHER ORDERED that on entry of this Order this case shall be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that for continuity of the Commission's docket the Executive Secretary will file a copy of this order in Case No. 12-1648-S-42T.

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, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery

A True Copy, Teste,

Ingrid Ferrell
Executive Secretary

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