

2013.09.05 10:41:07
Kansas Corporation Commission
/S/ Kim Christensen
Received on

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

SEP 04 2013

by
Kansas Corporation Commission
Kansas

In the Matter of the Application of Suburban Water,)
Inc., d/b/a Suburban Water Company, for Approval)
of the Commission to Make Certain Changes in its)
Rates for Water Service)

Docket No. 13-SUBW-700-RTS

JOINT MOTION TO APPROVE STIPULATION AND AGREEMENT

Suburban Water, Inc., d/b/a Suburban Water Company ("Suburban"), Staff of the State Corporation Commission of the State of Kansas (respectively, "Commission" and "Staff") and Citizens' Utility Ratepayer Board ("CURB") (collectively, "Joint Movants") respectfully move the Commission for an order approving the Stipulation and Agreement ("Stipulation") filed concurrently with this Motion, pursuant to K.A.R. 82-1-230a. The Stipulation is attached as Attachment 1.

1. The Joint Movants resolved the issues in this docket and have reached agreement settling all matters and are filing the Stipulation with the Commission for approval.
2. The Stipulation is a "unanimous settlement agreement" as defined by K.A.R. 82-1-230a(a)(2).
3. Joint Movants respectfully request the Stipulation be approved.
4. Joint Movants do not believe a hearing is necessary and request this motion be placed on the Commission's consent calendar at the earliest possible date for determination. Further, Joint Movants ask for waiver of the remainder of the procedural schedule.

Standard of Review

5. In Docket No. 08-ATMG-280-RTS, the Commission espoused a five factor test it would follow to determine whether a proposed settlement agreement should be approved. The five

factors were condensed from Kansas administrative and public utility law. The five factors represent due process requirements an appellate court would utilize to determine whether a Commission Order was proper.

6. The five factors are:
 - a. Whether there was an opportunity for the opposing party to be heard on their reasons for opposition to the stipulation and agreement.
 - b. Whether the stipulation and agreement is supported by substantial competent evidence in the record as a whole.
 - c. Whether the stipulation and agreement conforms to applicable law.
 - d. Whether the stipulation and agreement results in just and reasonable rates.
 - e. Whether the results of the stipulation and agreement are in the public interest, including the interests of customers represented by the parties not consenting to the agreement.

Statement of Facts

7. No party has opposed the Stipulation; therefore the first factor is not implicated in this matter.

8. Joint Movants agree the record is sufficient and the Stipulation is supported by substantial competent evidence.

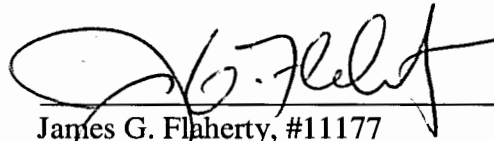
9. Joint Movants agree that the Stipulation conforms to applicable law.

10. The parties to this docket represent diverse interests. CURB represents residential customers and small commercial customers. Staff represents the public generally and is responsible for advancing Commission policy as ordered. Suburban represents the interests of its shareholders and its customers. Because all parties to this docket have reviewed the filings and

have reached an agreement based on all available information, Joint Movants agree the Stipulation results in just and reasonable rates. The rates are a reflection of the balancing of all Joint Movant interests.

11. Joint Movants agree that the Stipulation is in the public interest. All parties affected by the Stipulation were either represented, or had the opportunity to participate.

WHEREFORE, Joint Movants respectfully request the Commission approve the Stipulation as proposed by the signatory parties thereto. Further, Joint Movants request waiver of the remainder of the procedural schedule.



James G. Flaherty, #11177
ANDERSON & BYRD, LLP
216 S. Hickory, P. O. Box 17
Ottawa, Kansas 66067
(785) 242-1234, telephone
(785) 242-1279, facsimile
jflaherty@andersonbyrd.com
Attorneys for Suburban Water, Inc., d/b/a Suburban
Water Company


Michael Neeley, #25027
Judy Jenkins, #23300
Litigation Counsel
Kansas Corporation Commission
1500 S. W. Arrowhead Road
Topeka, Kansas 66604
(785) 271-3196, telephone
(785) 271-3167, facsimile

have reached an agreement based on all available information, Joint Movants agree the Stipulation results in just and reasonable rates. The rates are a reflection of the balancing of all Joint Movant interests.

11. Joint Movants agree that the Stipulation is in the public interest. All parties affected by the Stipulation were either represented, or had the opportunity to participate.

WHEREFORE, Joint Movants respectfully request the Commission approve the Stipulation as proposed by the signatory parties thereto. Further, Joint Movants request waiver of the remainder of the procedural schedule.

James G. Flaherty, #11177
ANDERSON & BYRD, LLP
216 S. Hickory, P. O. Box 17
Ottawa, Kansas 66067
(785) 242-1234, telephone
(785) 242-1279, facsimile
jflaherty@andersonbyrd.com
Attorneys for Suburban Water, Inc., d/b/a Suburban
Water Company



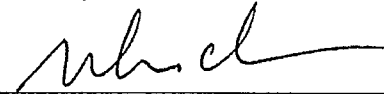
Michael Neeley, #25027
Judy Jenkins, #23300
Litigation Counsel
Kansas Corporation Commission
1500 S. W. Arrowhead Road
Topeka, Kansas 66604
(785) 271-3196, telephone
(785) 271-3167, facsimile

JOINT MOTION TO APPROVE
STIPULATION AND AGREEMENT
Docket No. 13-SUBW-700-RTS
Page 4

m.neeley@kcc.ks.gov

j.jenkins@kcc.ks.gov

Attorneys for Staff



David R. Springe, #15619
Niki Christopher, #19311
C. Steven Rarrick, #13127
Citizens' Utility Ratepayer Board
1500 S. W. Arrowhead Road
Topeka, Kansas 66604
(785) 271-3200, telephone
(785) 271-3116, facsimile
n.christopher@curb.kansas.gov

STATE OF KANSAS, FRANKLIN COUNTY, ss:

James G. Flaherty, of lawful age, being first duly sworn deposes and says that he is attorney for Suburban Water, Inc., d/b/a Suburban Water Company; that he has read the above and foregoing Joint Motion to Approve Stipulation and Agreement; and the statements therein contained are true.



James G. Flaherty

SUBSCRIBED AND SWORN to before me this 4th day of September, 2013.



Notary Public

Appointment/Commission Expires:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing was served by electronic service on this 4th day of September, 2013, to the following parties who have waived receipt of follow-up hard copies.

Niki Christopher
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
n.christopher@curb.kansas.gov

Andrew French
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027
a.french@kcc.ks.gov

C. Steven Rarrick
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
s.rarrick@curb.kansas.gov

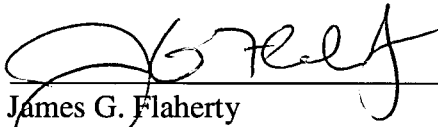
Judy Jenkins
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027
j.jenkins@kcc.ks.gov

Della Smith
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
d.smith@curb.kansas.gov

Michael Neeley
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027
m.neeley@kcc.ks.gov

Shonda Smith
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
sd.smith@curb.kansas.gov

David Springe
Consumer Counsel
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
d.springe@curb.kansas.gov



James G. Flaherty

ATTACHMENT 1

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Suburban Water,)
Inc., d/b/a Suburban Water Company, for Approval)
of the Commission to Make Certain Changes in its)
Rates for Water Service) Docket No. 13-SUBW-700-RTS

STIPULATION AND AGREEMENT

As a result of discussions between Suburban Water, Inc., d/b/a Suburban Water Company ("Suburban"), the Staff of the State Corporation Commission of the State of Kansas ("Staff") and Citizens' Utility Ratepayer Board ("CURB") (referred to collectively as "the Parties"), the Parties hereby submit to the Kansas Corporation Commission ("Commission") for its consideration and approval pursuant to K.A.R. 82-1-230a, the following Stipulation and Agreement ("Stipulation"). This Stipulation is a "unanimous settlement agreement" as defined by K.A.R. 82-1-230a(a)(2).

I. SUBURBAN'S APPLICATION

1. On May 17, 2013, Suburban filed an Application with the Commission to make certain changes in its rates and charges for water service under the Commission's abbreviated rate case filing regulation (K.A.R. 82-1-231(b)(3)), which was docketed as the above captioned proceeding. Pursuant to a Commission order, the effective date of this Application was suspended until January 12, 2014.
2. The schedules filed with Suburban's Application indicated a gross revenue deficiency of \$35,030.00, and relied on the cost of service set during Suburban's last rate case (Docket No. 12-SUBW-359-RTS), as adjusted (1) for the increased cost of water from BPU; and (2) the cost of the rate case. Suburban's rate filing also addressed several non-rate issues, which the Commission asked Suburban to discuss in this rate case filing.
3. In support of its Application, Suburban also filed the testimony of two witnesses.

II. STAFF AND OTHER PARTIES' PREFILED POSITIONS

4. On August 16, 2013, Staff filed its Report and Recommendation in the above docket, recommending a rate increase of \$21,398 for Suburban. Staff also found that Suburban was complying with the requirement specified in the Commission's orders in Docket Nos. 05-SUBW-104-RTS and 12-SUBW-359-RTS.

5. On August 27, 2013, Suburban filed its Response to Staff's Report and Recommendation. Suburban's response included copies of invoices which supported an additional \$6,689 in rate case expense that was not included in Staff's Report and Recommendation. Accounting for the additional rate case expense increased the increase in revenue requirement to \$23,628 and the commodity rate increased from Staff's recommended \$7.98 per 1,000 gallons of water to \$8.00. Suburban also asked permission to discontinue its monthly compliance filings.

6. On August 29, 2013, CURB filed its Response to Staff's Report and Recommendation and to Suburban's Response to Staff's Report and Recommendation. CURB indicated it had reviewed Suburban's request to recover the rate case expense not captured by Staff and agreed those expenses should be included in the utility's revenue requirement. CURB also recommended Suburban should be allowed to discontinue its monthly compliance filings.

7. Subsequently, on August 29-30, 2013, Suburban, Staff and CURB exchanged electronic mail to discuss the possible settlement of the issues in this matter.

III. TERMS OF THE STIPULATION

The Parties have unanimously agreed upon the following terms that settle all issues raised in this case.

A. STIPULATED REVENUE REQUIREMENT

8. The Parties agree that Suburban's overall annual revenue increase will be \$23,628.00.

B. RATE DESIGN

9. The Parties agree the monthly customer charge shall remain at \$20.00 per month and the commodity charge shall be increased from \$7.74 per 1,000 gallons (for usage above the first 1,000 gallons) to \$8.00 per 1,000 gallons (for usage above the first 1,000 gallons).

C. COMPLIANCE ISSUES

10. The Parties agree the Commission should find Suburban is complying with the requirements specified by the Commission's orders in Docket Nos. 05-SUBW-104-RTS and 12-SUBW-359-RTS.

11. The Parties also agree that subject to Suburban complying with the filing requirements set forth in paragraph 12 herein relating to Suburban's groundwater plan, the Commission should find that Suburban no longer is required to file monthly compliance reports in Docket No. 13-SUBW-175-CPL ("175 Docket").

12. The Parties further agree the Commission should find that Suburban shall file its ground water plan in the 175 Docket no later than September 30, 2013, and shall make semi-annual filings updating its plan, with the first update being due on April 1, 2014.

D. PROCEDURE IN SUBMITTING THIS STIPULATION TO THE COMMISSION

13. This Stipulation is a unanimous settlement agreement as defined by K.A.R. 82-1-230a(a)(2).

14. The Parties have agreed to waive hearing on the Joint Motion for Approval of the

Stipulation and Agreement and request the Stipulation be placed upon the Commission's consent calendar for determination at the earliest possible date.

IV. MISCELLANEOUS PROVISIONS

A. THE COMMISSION'S RIGHTS

15. Nothing in this Stipulation is intended to impinge or restrict, in any manner, the exercise by the Commission of any statutory right, including the right of access to information, and any statutory obligation, including the obligation to ensure that Suburban is providing efficient and sufficient service at just and reasonable rates.

B. WAIVER OF CROSS-EXAMINATION AND ADMISSION OF PREFILED TESTIMONY, SCHEDULES AND EXHIBITS; STAFF'S REPORT AND RECOMMENDATION AND RESPONSES TO STAFF'S REPORT AND RECOMMENDATION

16. The Parties waive cross-examination on all testimony filed prior to the filing of this Stipulation. The Parties agree that all such prefiled testimony may be incorporated into the record without objection. The Parties also agree Staff's Report and Recommendation, including all schedules attached to the Report and Recommendation and all Responses to Staff's Report and Recommendation may be incorporated into the record without objection.

C. NEGOTIATED SETTLEMENT

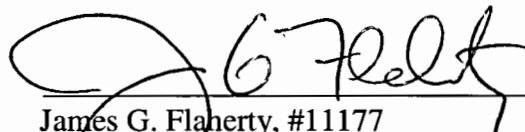
17. This Stipulation represents a negotiated settlement that fully resolves the issues in this docket among the Parties. The Parties represent that the terms of this Stipulation constitute a fair and reasonable resolution of the issues addressed herein. Except as specified herein, the Parties shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this

proceeding should the Commission decide not to approve this Stipulation in the instant proceeding. If the Commission accepts this Stipulation in its entirety and incorporates the same into a final order without material modification, the Parties shall be bound by its terms and the Commission's order incorporating its terms as to all issues addressed herein and in accordance with the terms hereof, and will not appeal the Commission's order on these issues.

D. INTERDEPENDENT PROVISIONS

18. The provisions of this Stipulation have resulted from negotiations among the Parties and are interdependent. In the event that the Commission does not approve and adopt the terms of this Stipulation in total, it shall be voidable and none of the Parties shall be bound, prejudiced, or in any way affected by any of the agreements or provisions hereof. Further, in such event, this Stipulation shall be considered privileged and not admissible in evidence or made a part of the record in any proceeding.

IN WITNESS WHEREOF, the Parties have executed and approved this Stipulation and Agreement, effective as of the 3rd day of September, 2013, by subscribing their signatures below.



James G. Flaherty, #11177
ANDERSON & BYRD, LLP
216 S. Hickory, P. O. Box 17
Ottawa, Kansas 66067
(785) 242-1234, telephone
(785) 242-1279, facsimile
jflaherty@andersonbyrd.com

Attorneys for Suburban Water, Inc., d/b/a Suburban
Water Company



Michael Neeley, #25027
Judy Jenkins, #23300
Litigation Counsel
Kansas Corporation Commission
1500 S. W. Arrowhead Road
Topeka, Kansas 66604
(785) 271-3196, telephone
(785) 271-3167, facsimile
m.neeley@kcc.ks.gov
jjenkins@kcc.ks.gov
Attorneys for Staff



David R. Springe, #15619
Niki Christopher, #19311
C. Steven Rarrick, #13127
Citizens' Utility Ratepayer Board
1500 S. W. Arrowhead Road
Topeka, Kansas 66604
(785) 271-3200, telephone
(785) 271-3116, facsimile
n.christopher@curb.kansas.gov

LAW OFFICES OF
ANDERSON & BYRD

A Limited Liability Partnership

JOHN L. RICHESON
JAMES G. FLAHERTY
R. SCOTT RYBURN
KEITH A. BROCK

216 S. HICKORY, P. O. BOX 17
OTTAWA, KANSAS 66067
(785) 242-1234, *Telephone*
(785) 242-1279, *Facsimile*
www.andersonbyrd.com

ROBERT A. ANDERSON
(1920-1994)
RICHARD C. BYRD
(1920-2008)

September 4, 2013

Sent by Facsimile
Original Mailed 9/4/13

Ms. Kim Christiansen
Executive Director
Kansas Corporation Commission
1500 S. W. Arrowhead Road
Topeka, Kansas 66604-4027

Re: Suburban Water, Inc.
Docket No. 13-SUBW-700-RTS

Dear Ms. Christiansen:

Please file the enclosed Joint Motion to Approve Stipulation and Agreement on behalf of Suburban Water Company, Staff and CURB in the above captioned matter. I would appreciate receiving a file stamped copy of this cover letter as well as a file stamped copy of the Joint Motion for my files. A return envelope is included.

Thank you for your assistance. If you have any questions, please call.

Sincerely,

James G. Flaherty

James G. Flaherty
jflaherty@andersonbyrd.com

JGF:rr
Enclosure



SEP 04 2013

By
Kansas Corporation Commission