

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
Christi Water System, Inc. for an Increase ) Case No. 09-569-WW-AIR  
in Rates and Charges. )

OPINION AND ORDER

The Commission, considering the above-entitled application, hereby issues its opinion and order in this matter.

APPEARANCES:

Marc F. Warncke, 419 Fifth Street, Suite 2000, Defiance, Ohio 43512, on behalf of Christi Water System, Inc.

Richard Cordray, Ohio Attorney General, by Duane W. Luckey, Section Chief, and John H. Jones and Sarah Parrot, Assistant Attorneys General, Public Utilities Section, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215, on behalf of the Staff of the Public Utilities Commission of Ohio.

HISTORY OF THE PROCEEDING:

The applicant, Christi Water System, Inc. (Christi Water) is an Ohio corporation and a public utility supplying water service to approximately 192 residential customers in Defiance, Ohio. Christi Water has a purchased water agreement with the City of Defiance, Ohio. Christi Water's current base rates and charges were established by order of the Commission on May 8, 1986, in Case No. 85-859-WW-AIR.

On July 7, 2009, the applicant filed an abbreviated application for authority to increase rates for water service within its service area. In that application, Christi Water requested a test year beginning January 1, 2008, and ending December 31, 2008, with a date certain of December 31, 2008. By entry issued on July 29, 2009, the Commission approved the requested test year and date certain and accepted the application for filing as of July 7, 2009. The Commission's entry additionally granted Christi Water waivers of Section 4909.18(A) through (E), Revised Code. The Commission's entry also directed Christi Water to commence publication of a description of the application, pursuant to the requirements of Section 4909.19, Revised Code. On April 5, 2010, Christi Water filed proof of publication of the application.

Pursuant to Section 4909.19, Revised Code, Commission staff conducted an investigation of the matters set forth in Christi Water's application. On December 30, 2009,

the staff filed its written report of investigation with the Commission. Copies of the staff report were served as required by statute. On January 28, 2010, Christi Water filed a request that it be allowed to offer a reduced minimum charge of \$20.00 per month if a customer's water usage for that month is below 50 ccf or when there is no water used by the customer. Christi Water stated that this minimum charge would allow for the revenue generation necessary for maintenance expenses while offering the customer a fair reduction in rates when not using an amount of water comparable to the regular minimum usage of 310 ccf per month. On January 29, 2010, the Office of the Ohio Consumers' Counsel (OCC), while declining to intervene in the case, filed recommendations with respect to the staff report. By entry issued on January 8, 2010, a local public hearing was scheduled for March 9, 2010, and the applicant was ordered to publish notice of the local public hearing. The local public hearing was held as scheduled. Three individuals gave sworn testimony in opposition to Christi Water's proposed rate increase.

#### COMMISSION REVIEW AND DISCUSSION:

On March 23, 2010, a stipulation and recommendation (stipulation) was filed on behalf of the parties in this case to resolve all issues. An evidentiary hearing reviewing the stipulation was held on March 24, 2010.

#### SUMMARY OF STIPULATION

*The stipulation provides that:*

- (1) The value of Christi Water's property used and useful in the rendition of water service (rate base) is \$27,346.
- (2) Christi Water's total adjusted operating revenues for the test year are \$85,775; its total adjusted operating expenses are \$116,975; and its net operating income is (\$31,200).
- (3) A net operating income of (\$31,200) is insufficient to provide Christi Water with reasonable compensation for water service rendered to its customers.
- (4) A just and reasonable increase in Christi Water's revenue requirement is \$42,098.
- (5) Christi Water is entitled to an overall rate of return of 10 percent.
- (6) The parties agree that the following block rate structure is reasonable and should be implemented: Any customer using 0-50 cubic feet (cf) of water a month will pay a base

rate of \$10, in addition to a \$10 purchased water rate for 2008, or a \$12 purchased water rate for 2010. Those customers who use 51-310 cf a month will pay a base rate of \$.0330 per cf, plus a purchased water rate of \$.033 per cf (2008) or \$.0395 per cf (2010). For customers using 311-1500 cf, the base rate is \$.0537 per cf, with purchased water rates of \$.017 per cf (2008) and \$.0204 per cf (2010). Finally, customers using over 1500 cf will pay a base rate of \$.0600 per cf, with purchased water rates of \$.012 per cf (2008) and \$.0145 per cf (2010).

While the parties recognize that Christi Water's purchased water rates have increased twice since the application was filed, the purchased water rates and revenue used in this proceeding are based on the test year of January 1, 2008, to December 31, 2008. The parties note for clarification that the rates that will be filed in the final tariffs in this proceeding will contain the base rate revenue authorized in this proceeding along with the purchased water revenue authorized in *In the Matter of the Application of Christi Water System, Inc. for a Purchased Water Adjustment to its Rates under Section 4909.171, Revised Code*, Case No. 10-25-WW-PWA. Due to the rate design change recommended by the parties in this proceeding, the purchased water rates approved in Case No. 10-25-WW-PWA will be changed but the authorized purchased water revenue will remain unchanged.

- (7) The parties agree that the new rates are based upon the joint settlement of the issues raised by the application, which was predicated upon a test year of January 1, 2008, to December 31, 2008, and a date certain of December 31, 2008, and staff's investigation.
- (8) The parties agree that no provision in the stipulation precludes Christi Water from filing a future application for a rate increase pursuant to Sections 4909.18 and 4909.19, Revised Code.
- (9) New tariff pages that comprise the final compliance tariff pages reflecting the parties' agreements on tariffs terms are attached as Stipulation Exhibit B.

- (10) With regard to the recommendations contained in the staff report, the parties have stipulated as follows:
- (a) \$400 in service deposits, which represent a non-investor supplied source of funds, should be deducted from rate base (Stipulation Ex. A, Sched. B-6).
  - (b) \$2,084 of imputed shareholder interest should be removed from operating expenses (Stipulation Ex. A, Sched. C-2).
  - (c) Christi Water will modify tariff language to reflect that it may request, but cannot require, the owner of rental property to put all service of the rental property in the name of the owner. Christi Water may not require the owner to pay a tenant's bill.
  - (d) Christi Water will also modify language on the customer bills to indicate that a 5 percent late fee will be assessed on unpaid balances after the due date. The customer bills will also include contact information for the Commission and OCC.
  - (e) Christi Water's complaint procedures, as found in Original Sheet No. 10 of its proposed tariff (Stipulation Ex. B), will be modified to require Christi Water to inform customers of their right to contact the Commission and OCC and to provide customers with the Commission's and OCC's contact information.
  - (f) Christi Water will also modify its proposed Notification of Customer Rights to specify that, under certain conditions, service shall be restored when proper certification of special danger to health is made by the customer.

REVIEW OF THE STIPULATION:

Rule 4901-1-30, Ohio Administrative Code (O.A.C.), authorizes parties to Commission proceedings to enter into a stipulation. Although not binding on the Commission, the terms of such an agreement are afforded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St. 3d 123, at 125, citing *Akron v. Pub. Util. Comm.* (1978), 55 Ohio St. 2d 155. This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. See, e.g., *The Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (December 30, 1993); *The Cincinnati Gas & Electric Co.*, Case No. 92-1463-GA-AIR, et al. (August 26, 1993); *Ohio Edison Co.*, Case No. 89-1001-EL-AIR (August 19, 1993); *The Cleveland Electric Illuminating Co.*, Case No. 88-170-EL-AIR (January 31, 1989); and *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.* (1994), 68 Ohio St. 3d 559, citing *Consumers' Counsel*, supra, at 126. The court stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission (*Id.*).

During the March 24, 2010, evidentiary hearing, Syeda Choudhury, a utility specialist with the Commission's Accounting and Electricity Division, supported the stipulation and affirmed that the stipulation was the product of serious negotiations between knowledgeable and capable parties. Ms. Choudhury noted that each party was represented by counsel and technical experts. She also testified that the stipulation

benefited customers because it resulted in lower costs in resolving this case, and that the rate increase also benefited customers because the rate increase was necessary for Christi Water to continue to provide services to its customers. Ms. Choudhury also stated that the stipulation did not violate any significant regulatory principles or practices (Tr. at 8-10).

Based on our three-pronged standard of review, we find the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is clearly met. Christi Water and staff have been involved in previous cases before the Commission, including a number of cases involving rate issues. Further, a review of the terms of the stipulation and the schedules and tariffs attached thereto shows that the parties engaged in comprehensive negotiations prior to signing the agreement. The stipulation also meets the second criterion. As a package, it benefits the public interest by providing the company the opportunity to recover expenses and earn a reasonable return on equity while maintaining service and water quality for consumers at a fair price without incurring the time and expense of extensive litigation. Finally, the stipulation meets the third criterion because it does not violate any important regulatory principle or practice. Indeed, the Commission finds that the application, as modified by the stipulation, complies with the procedural requirements for these types of cases and, in fact, no party has argued that the applicant has violated any statutory or rule requirements concerning these types of applications. Our review of the stipulation indicates that it is in the public interest and represents a reasonable disposition of this proceeding. Therefore, we adopt the stipulation in its entirety.

#### RATE BASE

The following information presents the value of Christi Water's property used and useful in the rendition of water services as of the December 31, 2008, date certain, as stipulated by the parties (stipulation Ex. A, Sched. B-1):

Plant in Service	\$79,824
Less: Depreciation Reserve	<u>\$59,004</u>
Net Plant in Service	\$20,820
Construction Work in Progress	0
Working Capital Allowance	\$ 6,843
Other Rate Base Items	<u>(317)</u>
Rate Base	\$27,346

The Commission finds the rate base stipulated by the parties to be reasonable and proper and adopts the valuation of \$27,346 as the rate base for the purposes of this proceeding.

OPERATING INCOME

The following information reflects Christi Water's operating revenue, operating expenses, and net operating income for the 12 months ended December 31, 2008 (stipulation Ex. A, Sched. C-1):

<u>Operating Revenue</u>	
Water Sales	\$84,704
Other	<u>1,071</u>
Total Operating Revenue	\$85,775
 <u>Operating Expenses</u>	
Operation and Maintenance	\$109,852
Depreciation	1,434
Taxes, Other Than Income	9,327
Federal Income Taxes	<u>(3,638)</u>
Total Operating Expenses	\$116,975
 <u>Net Operating Income</u>	 \$(31,200)

The Commission finds Christi Water's operating revenue, operating expenses, and net operating income as stipulated to be reasonable and proper. The Commission will, therefore, adopt these figures for purposes of this proceeding.

RATE OF RETURN AND AUTHORIZED INCREASE

A comparison of Christi Water's total operating revenue of \$85,775 with total operating expenses of \$116,975 indicates that, under its present rates, Christi Water would have net operating income of \$(31,200). Applying this figure to the rate base of \$27,346 results in a rate of return of negative 114.09 percent. A rate of return of negative 114.09 percent is insufficient to provide the applicant with reasonable compensation for the water service it renders to its customers.

The stipulation recommends that rates be approved that would enable Christi Water to earn a rate of return of 10 percent. The Commission believes that 10 percent is fair and reasonable. We will, therefore, authorize a rate of return of 10 percent for purposes of this case.

Applying a rate of return of 10 percent to the rate base of \$27,346 results in net operating income of approximately \$2,736. Allowing for adjustments for certain taxes, we find that Christi Water is entitled to place tariffs in effect which will generate \$127,873 in total operating revenue. This represents an increase of \$42,098 in revenue over the

revenue that would be realized under Christi Water's current rate schedules, an increase of 49.08 percent.

### RATES AND TARIFFS

As part of its investigation in this matter, the staff reviewed Christi Water's various rates and charges, and the provisions governing terms and conditions of service. By way of the stipulation, the parties have resolved all outstanding issues resulting in tariff changes being filed as stipulation Exhibit B. These proposed tariffs would produce revenues authorized by this order and are in conformance with the changes agreed to by the parties. The Commission finds the tariff sheets filed as stipulation Exhibit B are reasonable and are approved as part of the stipulation.

### CUSTOMER NOTICE AND EFFECTIVE DATE

The parties have also prepared and submitted a proposed customer notice (stipulation Ex. B). The parties recommend that Christi Water send the notice to its customers after the issuance of an opinion and order from the Commission approving the stipulation and prior to the issuance of any bills containing the rates set forth in the stipulation. The parties agree that the rates will go into effect with bills rendered after Commission approval of the stipulation and Christi Water files the final compliance tariffs.

The recommendations of the parties relative to the customer notice and the effective date of the increase are reasonable and shall be approved. Christi Water should be aware that, before the tariffs can become effective, four complete final copies of the approved tariffs must be filed. The new tariffs will become effective for all bills rendered on or after the effective date of the tariffs.

### FINDINGS OF FACT:

- (1) On July 7, 2009, Christi Water filed an abbreviated application for an increase in rates. In that application, the company requested a test year beginning January 1, 2008, and ending December 31, 2008, with a date certain of December 31, 2008. By Commission entry issued July 29, 2009, the test year and date certain were approved.
- (2) On December 30, 2009, staff filed its written report of investigation with the Commission.
- (3) The local public hearing was held on March 9, 2010, in Defiance, Ohio. A total of three public witnesses gave testimony at the local public hearing.



- (4) On March 23, 2010, an unopposed stipulation was filed on behalf of all parties in this case to resolve all issues. On March 24, 2010, an evidentiary hearing reviewing the stipulation was held.
- (5) The stipulation is the product of serious bargaining between knowledgeable parties, benefits ratepayers, advances the public interest, and does not violate any important regulatory principles or practices.
- (6) The value of all of the company's property used and useful for the rendition of water service to customers affected by this application, determined in accordance with Section 4909.15, Revised Code, is not less than \$27,346.
- (7) A comparison of Christi Water's total operating revenue of \$85,775 with total operating expenses of \$116,975 indicates that, under its present rates, Christi Water would have net operating income of \$(31,200).
- (8) This net annual revenue of \$(31,200) represents a rate of return of negative 114.09 percent on the jurisdictional rate base of \$27,346.
- (9) A rate of return of negative 114.09 percent is insufficient to provide Christi Water with reasonable compensation for the water service rendered to its customers.
- (10) A stipulated revenue increase of \$42,098 will result in a return of \$2,736. This return of \$2,736 when applied to the rate base of \$27,346 yields a rate of return of approximately 10 percent.
- (11) The allowable gross annual revenue to which Christi Water is entitled for purposes of this proceeding is \$127,873.
- (12) The proposed revised tariffs and notice to customers are consistent with the discussion and findings set forth in this opinion and order and shall be approved. Christi Water's present tariffs governing water service to its customers affected by this opinion and order should be withdrawn and canceled.

CONCLUSIONS OF LAW:

- (1) Christi Water's application was filed pursuant to, and this Commission has jurisdiction of the application under, the provisions of Sections 4909.17, 4909.18, and 4909.19, Revised Code, and the application complies with the requirements of these statutes.
- (2) A staff investigation was conducted and a report duly filed and mailed, and a public hearing held herein, the written notice of which complied with the requirements of Sections 4909.19 and 4903.083, Revised Code.
- (3) The stipulation submitted by the parties is reasonable and, as indicated herein, shall be adopted in its entirety.
- (4) The existing rates and charges for water service are insufficient to provide Christi Water with adequate net annual compensation and return on its property used and useful in the provision of water service.
- (5) A rate of return of 10 percent is fair and reasonable under the circumstances of this case and is sufficient to provide Christi Water just compensation and return on its property used and useful in the provision of water service to its customers.
- (6) Christi Water is authorized to withdraw its current tariffs and to file, in final form, revised tariffs which the Commission has approved herein.

ORDER:

It is, therefore,

ORDERED, That the stipulation and recommendation filed on March 23, 2010, is approved in accordance with this opinion and order. It is, further,

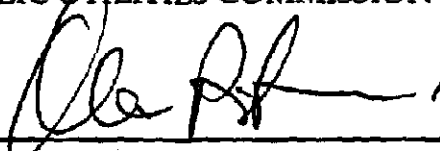
ORDERED, That the application of Christi Water System, Inc. for authority to increase its rates and charges for water service is granted to the extent provided in this opinion and order. It is, further,

ORDERED, That the customer notice is approved and Christi Water is authorized to file in final form four complete, printed copies of tariffs consistent with this opinion and order, and to cancel and withdraw its superseded tariffs. It is, further,

ORDERED, That the effective date of the new tariffs shall be a date not earlier than both the date of this opinion and order and the date upon which four complete, printed copies of final tariffs are filed with the Commission. The new tariffs shall be effective for bills rendered on or after such effective date. It is, further,

ORDERED, That a copy of this opinion and order be served on all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Alan R. Schriber, Chairman  
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Paul A. Centolella  
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Ronda Hartman Fergus  
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Valerie A. Lemmie  
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Cheryl L. Roberto

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Entered in the Journal

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Renee J. Jenkins

Renee J. Jenkins  
Secretary