



# AUC

Alberta Utilities Commission

## **Langdon Waterworks Limited**

**Interim Rate Request**

**August 19, 2014**



**The Alberta Utilities Commission**  
Decision 2014-240: Langdon Waterworks Limited  
Interim Rate Request  
Application No. 1610617  
Proceeding No. 3258

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## 1 Introduction

1. On May 28, 2014, Langdon Waterworks Limited (LWW) filed an application with the Alberta Utilities Commission (AUC or the Commission) requesting, among other items, approval of an interim rate increase to be effective July 1, 2014. LWW's current rates and proposed interim rates are set out in the following table:

**Table 1. Current rates and proposed interim rates**

	Effective date	Fixed charge per month	Consumption charge per cubic meter
Current rates		\$37	\$1.213
Interim rates	July 1, 2014	\$60	\$1.347

Source: Exhibit No. 1, page 23.

2. On June 24, 2014, the Commission held a public information session in the Hamlet of Langdon, where the Commission provided information on how individuals affected by the application, could participate in the application review process.

3. The Commission issued a notice of application for this proceeding on June 26, 2014. The notice specified that any party who wished to intervene in this proceeding was to submit a statement of intent to participate (SIP) by July 10, 2014.

4. The Commission received SIPs from various parties who are customers of LWW, the names of whom are included in Appendix 1 of this decision. One of the registered parties to the proceeding, Andrew Kucy, indicated that he had been asked by numerous residents of Langdon to represent their interests. On July 16, 2014, the Commission issued a letter setting out the following process schedule to review LWW's request for interim rates:

Interim rate request process step	Deadline date
Intervener comments on LWW's request for interim rates	2 p.m., July 28, 2014
LWW reply to intervener comments	2 p.m., August 1, 2014

5. The Commission received comments on LWW's interim rate application from Geoffrey Schulmeister and Loraine Zorn (Schulmeister/Zorn) on July 16 and July 20, 2014, and Andrew Kucy (Kucy) on July 28, 2014. LWW filed its reply to intervener comments on July 29, 2014.

6. In reaching the determinations set out within this decision, the Commission has considered all relevant materials comprising the record of this proceeding, including the comments and reply comments provided by each party, in respect of LWW's request for interim rates. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record with respect to that matter.

## 2 Background

7. With respect to interim rates, LWW indicated the following:

The original GRA [general rate application] was submitted on March 3, 2014. LWW was hoping for an expedited processing of the GRA such that final rates could be effective June 2014. LWW now recognizes that even the most optimistic scenario would only see interim rates being effective July 2014. In that respect, LWW proposes new interim rates, effective July 1, 2014, based on the applied for rates for the 2014 fiscal year. When final rates are approved for each of 2014 and 2015 test years, LWW will determine the true up based on the approved costs for the 2014 test year and will determine a rider to recover the true up over a 6-month period. As the 2014 forecast was prepared in the summer of 2013 and does not include any actual costs, the proposed 2014 rates would meet the spirit of prospective rate making.

LWW requests Commission approval to charge interim rates consisting of a fixed monthly charge of \$60 and a consumption rate of \$1.347 per m<sup>3</sup> effective July 1, 2014. The derivation of the interim rates can be found in Schedule 5.

The rationale for the interim rate application is as follows.

- LWW has incurred significant revenue deficiencies over the past several years that prompted its accountants to question the continued financial viability of the company. New rates are required to restore LWW's financial health.
- For the 2014 fiscal year (August 1, 2013 to July 31, 2014), using currently approved rates, LWW estimates it will incur a revenue deficiency of approximately \$450,000.
- The approval of the interim rates will alleviate rate shock when final rates are approved.<sup>1</sup>

## 3 Views of the interveners

8. In their statement of intent to participate,<sup>2</sup> and by letter dated July 16, 2014, Schulmeister/Zorn raised the following concerns:

- (a) The relationship between LWW, Rocky View Utility Corporation (RVUC), and Sim-Flow Systems (SFS).

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<sup>1</sup> Exhibit No. 1, application, page 19.

<sup>2</sup> Exhibit No. 33, Schulmeister/Zorn SIP.

- (b) LWW's proposed developer fees were too high and LWW did not refund overpayments as directed by the Commission in Decision 2009-108 (Errata).<sup>3</sup>
- (c) Increases in operating and maintenance (O&M) expenses, the lack of underlying support and the relationship of RVUC and LWW.
- (d) LWW's proposed depreciation rates and the lack of support other than LWW experience.
- (e) Proposed rates in respect of promoting water conservation.
- (f) The appropriateness of LWW's management fee and deficiency rider proposals.

9. Schulmeister/Zorn submitted that it was impossible to consider interim rates without addressing the above noted issues. In addition to the above, Schulmeister/Zorn expressed concerns with the increase in costs related to operating and maintenance (8.0 per cent) and general and administrative expenses (59 per cent) and the underlying lack of support. On this basis, Schulmeister/Zorn argue that LWW's proposal for interim rates must be rejected until proper and complete backup information is available.<sup>4</sup>

10. In response, LWW submitted that the issue related to the refunding of overpayments to developers as directed by the Commission in a previous decision need not be resolved in approving interim rates. Respecting the other issues, LWW submitted that the other issues delineated by Schulmeister/Zorn should not impede LWW's request for interim rates. Specifically, in reply LWW indicated that:

- (a) It has provided the ownership and relationship of LWW, RVUC, and SFS in its application.
- (b) The issues raised regarding O&M expenses, are either immaterial or irrelevant.
- (c) The increase in depreciation rate expense from 2013 to 2014, is negligible.
- (d) The proposed management fee merely compensates LWW for its role as asset manager. Further, the deficiency rider is not included in interim rates.
- (e) LWW's rate making methodology should be adopted.<sup>5</sup>

11. Referring to Table 5 in the application,<sup>6</sup> Schulmeister/Zorn submitted that given the size and density of Langdon, a more fair comparison was required. Therefore, Schulmeister/Zorn provided a water bill comparison table, which compared Langdon's monthly rates and total bills, to towns in southern Alberta.<sup>7</sup> Schulmeister/Zorn submitted that monthly total bills for comparative small water utilities ranged from \$30 to \$55 dollars, with Rocky View Water Co-op coming in at \$40/month. Using LWW's current rates, Schulmeister/Zorn stated that LWW is already at the high end of the range with the total monthly bill in the area of \$60/month.

12. LWW noted that none of the rates in the table provided by Schulmeister/Zorn were on the AUC's website. Further, LWW indicated that there are differences between it and other water utilities (investor-owned and municipally owned), and submitted that while comparisons do

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<sup>3</sup> Decision 2009-108 (Errata): Langdon Waterworks Limited Water Rates for Langdon Waterworks Limited Rule 011 – Rate Application Process for Water Utilities, Application Nos. 1508905 and 1508928, July 28, 2009.

<sup>4</sup> Exhibit No. 46, Schulmeister/Zorn comments, page 3.

<sup>5</sup> Exhibit No. 49, LWW reply comments.

<sup>6</sup> Exhibit No. 1, LWW application, page 23, Table 5, "provides a comparison of rates charged by small investor owned water utilities regulated by the AUC and the water bill assuming a usage rate of 19.05 cubic meters/month."

<sup>7</sup> Exhibit No. 47, Schulmeister/Zorn comments, page 2.

provide a benchmark, LWW's rates must be justified based on its own circumstances. LWW submitted that comparative water rates have no impact on its interim rate application.<sup>8</sup>

13. In a submission, dated July 28, 2014, Mr. Kucy submitted that:

- (a) An interim rate increase, where the proposed rates are identical to the proposed rates for the 2014 fiscal year, would imply a presumption of acceptance of the rates in the GRA application.
- (b) LWW should revise its proposed rates to reflect a higher variable charge and a lower fixed charge to encourage water conservation. With this in mind, Mr. Kucy further noted that LWW's proposed 2015 fiscal year water rates reflect a lower variable charge than 2014 fiscal year rates.
- (c) There are concerns with LWW's proposed deficiency rider.
- (d) Questioned whether increased rates alone would ensure the future financial health and viability of LWW.

14. Mr. Kucy requested that the Commission refuse LWW's interim rate request as the issues that were outlined relate directly to the interim rates but will not be addressed until they are reviewed and tested in the GRA.<sup>9</sup>

15. In reply to Mr. Kucy's comments, LWW submitted that:

- (a) Approval of interim rates does not presume approval of LWW's GRA because interim rates are subject to true-up pending final approval of LWW's GRA.
- (b) If the monthly fixed charge is reduced, the consumption charge must increase in order for the revenue requirement to be met.
- (c) The deficiency rider is not a part of the interim rate application.
- (d) Activities outlined in the application that will be undertaken as well as rates that are appropriately set would allow LWW to recover prudently incurred costs and provide the necessary incentive to provide safe and reliable service to the residents of Langdon in a cost effective and efficient manner.<sup>10</sup>

16. In summary, LWW submitted that its forecast 2014 fiscal year revenue deficiency was material and imposes additional hardship on a company that is already financially stressed. LWW also submitted that the Schulmeister/Zorn and Kucy issues do not need to be resolved prior to approving LWW's interim rate request as they are either immaterial or irrelevant. Furthermore, LWW argued that interim rates are subject to true-up pending final approval of the GRA and approval of interim rates does not presume approval of LWW's GRA. Based on the foregoing, LWW requested Commission approval of its applied-for interim rates, to be effective July 1, 2014.

#### 4 Views of the Commission

17. One of the purposes of interim rates is to provide a smooth rate transition for customers to new rates, in order to minimize rate shock. Another purpose of interim rates is to provide

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<sup>8</sup> Exhibit No. 49, LWW reply comments, comparative water rates, pages 3 and 4.

<sup>9</sup> Exhibit No. 48, Kucy comments.

<sup>10</sup> Exhibit No. 49, LWW reply comments, page 4.

additional cash flow to the utility to cover increased costs while its rate case is being tested. In approving interim rates the Commission considers, among other things, the impact of the proposed rates and any shortfall in revenue to the utility.

18. The Commission notes LWW's interim rate proposal is to increase the fixed charge from \$37/month to \$60/month, and increase the variable charge to \$1.347 per cubic meter (m<sup>3</sup>) from \$1.213/m<sup>3</sup>, effective July 1, 2014. However, the proposed final rates would result in a decrease to an average customer's monthly bill in comparison to the applied-for interim rates. The Commission recognizes that if final rates are implemented as proposed, customers would experience significant rate shock. Notwithstanding, the Commission finds that the proposed interim rates do not result in a smooth transition to final rates.

**Table 2. Total bill comparison of LWW's current and proposed interim rates based on average consumption of 19.05 m<sup>3</sup> per month**

Community	Monthly fixed charge	Consumption charge	Estimated total bill
		(\$)	
Current rates	37	1.213	60.11
Interim rates	60	1.347	85.66
Final rates	60	1.171	82.30

19. The Commission acknowledges LWW's submission that the 2014 fiscal year forecast revenue deficiency of approximately \$450,000 is material and imposes additional hardship on a company that is already financially stressed. On this basis, the Commission considers that some form of interim rates would be justified. However the Commission is reluctant to rely solely on LWW's forecast revenue requirement as justification for interim rates.

20. After considering all the information provided by LWW, and the submissions received from customers, the Commission is not persuaded that the interim rates as proposed by LWW is in the public interest at this time. However, the Commission is of the view that interim rates of some nature are appropriate to help lessen rate shock that may occur if the rates in LWW's GRA are approved and to assist with the financial viability of the utility.

21. The Commission is of the view that an incremental increase in both the monthly fixed charge and the consumption charge over current rates is appropriate. An interim rate which consists of a \$40 fixed charge and a consumption charge of \$1.347 will serve to provide increased financial viability to the utility and will assist with any possible rate shock for customers by providing for a smaller increase than what LWW is seeking in its application while still increasing somewhat in the event that LWW's final rates are approved as applied for.

22. LWW has requested that the interim rates be effective July 1, 2014. However, as provided by the Alberta Court of Appeal in the decision of *Calgary (City) v Alberta (Energy and Utilities Board)*:

Retroactive ratemaking "establish[es] rates to replace or be substituted to those which were charged during that period":[citation removed]. Utility regulators cannot retroactively change rates [citation removed] because it creates a lack of certainty for

utility consumers. If a regulator could retroactively change rates, consumers would never be assured of the finality of rates they paid for utility services.<sup>11</sup>

23. As a result, the Commission is of the view that it would not be appropriate to make the interim rates effective July 1, 2014, a date which has already passed and for which consumers have already been charged existing rates. Rather, any interim rates approved should be effective the earliest prospective date after the decision of the Commission. Therefore, the interim rates will appear on LWW's customers next utility bill and will apply to water consumed after September 1, 2014, that has not previously been billed.

24. The table below shows the approved monthly interim rates to be paid by Langdon Waterworks Limited customers. The rates will appear on customers' next utility bill and will apply to water consumed after September 1, 2014, which has not been previously billed.

**Table 3. Approved monthly interim rates for Langdon Waterworks Limited**

Fixed charge (per customer per month)	\$40.00
Consumption charge (\$/cubic meter)	\$ 1.347

## 5 Order

25. It is hereby ordered that:

- (1) Langdon Waterworks Limited's interim water rates, consist of a \$40 fixed charge and a \$1.347 consumption charge, effective September 1, 2014, and applies to water consumed on or after September 1, 2014, which has not been previously billed.

Dated on August 19, 2014.

### The Alberta Utilities Commission

*(original signed by)*

Neil Jamieson  
Commission Member

<sup>11</sup> *Calgary (City) v Alberta (Energy and Utilities Board)*, 2010 ABCA 132 at paragraph 47.

**Appendix 1 – Proceeding participants**

<b>Name of organization (abbreviation) counsel or representative</b>
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A.S. Cheung & Associates Ltd. A. Cheung
1485176 Alberta Ltd. H. Benkovsky K. Snyder J. Benkovsky
Boulder Creek Golf Course T. Mathewson
Robert and Shirley Cox
Mr. Lee Graham
Ms. Myrna Griffin
Phillip and Sharon Grimison
Mr. Wes Howe
Mr. Andrew Kucy
John and Donna Mills
Stephanie Perras and Tanner Dakin
Steve Rushton and Patricia White
Mr. Geoffrey Schulmeister
Paul and Joanne Stevens
Ms. Kathleen Thies
Ms. Lori L. Tremblay
Mr. Chad Walsh
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