



Horse Creek Water Services Inc.

Complaint Regarding Metered Service

March 8, 2017

Alberta Utilities Commission

Decision 22318-D01-2017

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Proceeding 22318

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1 Introduction

1. The Alberta Utilities Commission received a complaint from Mr. Gordon Baux on January 6, 2017. Mr. Baux stated that he received a letter from Horse Creek Water Services Inc. (HCWS) dated December 12, 2016, demanding that he install a water meter within 30 days or his water service would be turned off. Mr. Baux requested that the AUC put an order in place to prevent HCWS shutting off service until the AUC rules on the matter.
2. The Commission issued a letter on January 9, 2017, setting out a short written process to deal with the complaint. The process allowed HCWS to respond to the complaint by January 16, 2017, followed by a reply submission from Mr. Baux by January 23, 2017.
3. The Commission advised that it would determine what, if any, further process was required following the submissions, and that it may proceed to rule on this matter without any further notification. In addition, the Commission directed HCWS to continue to provide water service to Mr. Baux.
4. The Commission has received and reviewed the response from HCWS and the reply submission from Mr. Baux. Based on this information, the Commission has determined there is sufficient evidence on the record to rule on this matter.

2 Background

5. Decision 2011-061,¹ contains the following background and Commission findings on the terms and conditions (T&Cs) of service for Regional Water Services Limited (RWSL), the predecessor of HCWS, which are relevant to the disposition of this complaint:

282. In its revised application, RWSL proposed some amendments to the T&Cs approved in Decision 2008-060.^[2] RWSL explained that the primary purposes for making the proposed amendments were the elimination of the flat rate service option, to ensure customers have a meter and are provided meter service, and to eliminate the maximum monthly charge provisions.

283. The changes to the T&Cs were summarized as follows:

- Section 3.8.2 Service Connection Charge was amended to eliminate flat rate service.

¹ Decision 2011-061: Regional Water Services Ltd., 007-2010 General Tariff Application, Proceeding 358, Application 1519777-1, February 18, 2011.

² Decision 2008-060: Regional Water Services Ltd., Interim Approval of General Terms and Conditions of Service, Proceeding 16918, Application 1564834-1, July 16, 2008.

- Section 3.9 .1 was amended to specifically reflect that Optional Facilities must be requested by the customer. This was a concern expressed by the Commission.
- Section 3.9.3 Water Availability Charge was amended to provide a service to contractors/developer prior to the installation of a meter. In these circumstances the contractor/developer would pay a one time Water Connection Charge of \$300.00 as well as a monthly Water Availability Charge of \$120.00.
- Schedule A was amended to provide for the elimination of the flat rate service option.
- Schedule B was amended to eliminate the flat rate service and the related connection charge for that service.
- Schedule C was amended to provide for the new proposed three block usage rate and to eliminate the maximum amount chargeable per month.

Commission findings

284. The revised T&Cs were not addressed by parties in argument or reply argument. In Decision 2008-060, RWSL was required by the Commission to amend Section 3.9.1 to include wording recognizing that “Optional Facilities must be specifically requested by a customer before they will be considered by the company.” During the information request phase of this application, AUC-RWS-061 made note of RWSL’s omission of this language in its proposed T&Cs. RWSL stated that the procedural order did not stipulate a date by which RWSL was to revise its application, but subsequently filed the revisions before the close of record. The Commission finds that RWSL complied with this direction and there were no objections by the interveners with respect to the change to Section 3.9.1 of the proposed T&Cs.

285. Accordingly, the general terms and conditions of service, as revised and filed on February 26, 2010, are approved by the Commission, subject to the changes to Schedule B and Schedule C of the T&Cs. RWSL is directed to reflect these changes in its refiling. [footnotes omitted]

3 Submissions

3.1 Baux complaint

6. Mr. Baux argued that installation of water meters is not a requirement for existing customers in Decision 2011-061 or in HCWS’ approved T&Cs:

- In both the ruling 2011-061 and the TC’s nowhere does it state that the pre-existing option of a non-metered residence has been removed. Sections 282 and 283 state that the option for a new non-metered customer has been removed. For example, 3.8.2 Service Connection Charge, 3.9.1 Operational Facilities and 3.9.3 Water Availability Charge were all revised by 2011-061, these changes were all in regards to new services not existing services. Schedule A & B was changed to eliminate the meter installation for an existing customer and is only showcasing the cost for a new water meter. Schedule C was amended for three block usage rate, but nothing was outlined regarding a change to flat rate service.³

7. Further, in HCWS’ current rate application (Proceeding 21340), revenue from non-metered customers is forecast as part of the revenue requirement.

³ Exhibit 22318-X0003, Baux email to AUC re: Corrected Letter.

8. In terms of the cost for a meter installation, and comparing the historic rate of \$500 and the current rate of \$800 for meter installation, Mr. Baux contacted HCWS on December 16, 2016, and received an offer “to half the cost of a meter install to \$400.” Mr. Baux submitted that if the AUC rules against his complaint, he should be charged \$400 for the installation.

9. Mr. Baux also raised the issue of historical overbilling on sewage rates:

4. I know that this is out of the scope of the AUC. The conversation with HCWS started when I initiated an email to HCWS regarding their Sewer rates. Upon review of Proceeding 21340 and a letter written by Mr. Swartout dated October 17, 2016, it stated that Sewage rates are limited to the Water Consumption. As my sewer rate is \$125/month versus my water rate is \$117/month. I requested a refund based on this letter for my historical overpayments. Instead of dealing with my overbilling, HCWS responded by an email dated November 9, 2016, that I brought my non-metered location to their attention and that they will be forwarding me a letter in regards to installing a meter. As stated in my previous comments in Section 2, HCWS knew and forecasted “Fixed Rate Customers” that they were servicing.⁴

3.2 HCWS response

10. HCWS referred the Commission to paragraph 283 of Decision 2011-061, which in turn refers to RWSL’s final argument (Exhibit 0099.02.RSWL-358) in that proceeding. Paragraph 65 of RWSL’s final argument clearly states the intention of eliminating the flat rate service and moving **all** customers to a meter:

The primary purpose of the amendments as proposed are the elimination of the flat rate service option and to ensure that all customers have a meter and are provided metered service ...

11. HCWS intends to demand that all customers have a working meter within their premises.

12. HCWS stated the inclusion of “Fixed Rate Customers” in the forecasted revenue in Proceeding 21340 was for comparison purposes only and was intended to compare similar streams of revenue. As there is no information for usage for the two non-metered locations, it was simply included separately for calculations. This in no way removes the requirement for all locations to be metered. The T&Cs and schedules B and C do not reference a non-metered rate, except for temporary “Construction Water Charges.”

13. With regard to Mr. Baux’s request that in the event the AUC rules against his claim he be charged \$400, HCWS stated that the charge to convert to a metered rate from a non-metered rate should be ruled on by the AUC.

14. In relation to the sewer issue raised by the complaint, HCWS stated that Horse Creek Sewer Services Inc. (HCSS) is a separate company from HCWS. Unlike water rates, which are regulated by the AUC, waste water rates are not regulated. There has been no overbilling of Mr. Baux’s waste water by HCSS. Mr. Baux has refused to move to metered water rates, and as such, Mr. Baux’s waste water usage cannot be estimated. For an offside, non-metered water customer, the sewage rates are set at a fixed amount of \$125 per month. This is in no way tied to the water rates.

⁴ Exhibit 22318-X0003, Baux email to AUC re: Corrected Letter.

15. If Mr. Baux has an issue with the flat rate that is being charged by HCSS, then it is advised that he move towards installing a water meter as soon as possible to ensure that the waste water rates are being charged accurately. There will be no refund to Mr. Baux for waste water charges as he has been charged rates in accordance with the unregulated HCSS T&Cs.

3.3 Baux reply

16. According to Mr. Baux, Decision 2011-061, by which the Commission accepted the changes to T&Cs, did not stipulate that all non-metered sites must be metered.

17. Mr. Baux submitted that if RWSL's intent was to eliminate the flat rate service option, then it should have acted upon Decision 2011-061 and eliminated all non-metered sites. The fact that RWSL was in the midst of bankruptcy does not change this fact, which should have encouraged RWSL to eliminate the non-metered sites if it was costing RWSL.

18. Given that HCWS purchased the water utility in May 2014, it should not have taken HCWS 2.5 years to demand that a water meter be installed.

19. Further, if it was the intent of the AUC's ruling to have metered sites, the AUC would not have advised Mr. Baux on October 23, 2013, to send a letter to RWSL to rebuke its demand for an install of a water meter when he moved into his residence. According to Mr. Baux, the AUC indicated that if a favourable response was not received from RWSL, he could resend the letter with a carbon copy to the AUC. While, this step was not needed, Mr. Baux indicated that he did not have the name of the person at the AUC who advised him that RWSL was offside in regard to demanding a metered site.

20. Mr. Baux further argued that, based on HCSS and HCWS variable rates for water and sewage, the non-metered and metered sewage rates should be the same and fixed at \$117/month.

4 Commission ruling

4.1 Is Mr. Baux required to have a meter?

21. Mr. Baux asserted that Decision 2011-061 did not stipulate that pre-existing non-metered sites must be metered, and that the changes to the T&Cs approved in Decision 2011-061 were with regard to new services and not existing services. The Commission does not agree with this interpretation.

22. The Commission, in Decision 2011-061, stated the following:

282. In its revised application, RWSL proposed some amendments to the T&Cs approved in Decision 2008-060. RWSL explained that the primary purposes for making the proposed amendments were the elimination of the flat rate service option, to ensure customers have a meter and are provided meter service, and to eliminate the maximum monthly charge provisions. [underlining added; footnote removed]

23. Decision 2011-061 does not contain any directions on who should have been included or exempted from the flat rate service. The primary purpose of the proposed amendments to the T&Cs that were approved in Decision 2011-061 was the elimination of the flat rate service

option. This, in turn, means that all current and future customers had to receive metered service and were required to have a meter.

24. Mr. Baux raised some concerns with the delay in implementation of Decision 2011-061. The Commission notes that, regardless of the passage of time, Decision 2011-061 still applies and the utility has the obligation to implement the findings and directions of the Commission. In this case, the utility bears the risk of lost revenue that may have resulted from the delay in having meters installed by all of its customers.

25. Further, in relation to Mr. Baux's submission that he received direction from the AUC to "rebuke their demand for an install of a water meter" as support that a meter is not required, it is the Commission's practice to encourage all customers to first attempt to resolve their concerns directly with the utility. If the customer is not successful in achieving their desired outcome, the customer may bring the issue to the Commission's attention. The Commission then deals with the matter, which may involve a ruling, based on the applicable law and any approvals granted to the utility.

26. Based on these findings, the Commission is of the view that Mr. Baux is required to have a meter.

4.1.1 Timing and cost responsibility

27. Mr. Baux stated that he had negotiated with HCWS and received an offer to "half the cost of a meter install to \$400." On the basis that HCWS has not requested the full cost of the meter installation, and has left the determination of cost responsibility to the Commission, the Commission considers that Mr. Baux and HCWS should share equally in the total cost of the water meter installation up to \$800. Any amounts over \$800 will be the responsibility of Mr. Baux.

28. Further, the Commission is of the view that Mr. Baux should have a meter installed within 30 days of the date of this decision.

4.1.2 Historical overbilling on sewage rates

29. Both parties acknowledged that the sewage rate issue raised by Mr. Baux is beyond the scope of this complaint. Also, HCSS did not participate in this proceeding and was not provided with the opportunity to make submissions. Consequently, the Commission will not make any determinations with regard to this issue.

5 Order

30. It is hereby ordered that:

- (1) Mr. Gordon Baux shall have a meter installed within 30 days of the date of this decision, the cost of which is to be shared equally by Mr. Baux and Horse Creek Water Services Inc. up to \$800, with any remaining costs to be the responsibility of Mr. Baux.
- (2) Horse Creek Water Services Inc. shall continue to provide service to Mr. Gordon Baux as per the current terms and conditions of service.

Dated on March 8, 2017.

Alberta Utilities Commission

(original signed by)

Neil Jamieson
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
Gordon Baux
Horse Creek Water Services Inc. (HCWS)

Alberta Utilities Commission
Commission panel N. Jamieson, Commission Member
Commission staff K. Dumanovski (Commission counsel) C. Burt