

October 18, 2017

Eivor Donahue Reidar Ilvedson Superlon Plastics 2116 Taylor Way Tacoma, WA 98421-4302 (First Class & Electronic Mail Delivery) Jessica Ludwig, Sr. Account Executive Jennifer Collins Ramos CS Supervisor Tacoma Public Utilities 3628 S. 35th Street Tacoma, WA 98409-3192 (Interoffice & Electronic Mail Delivery)

Re: Superlon Plastics Co., Inc. v. Tacoma Public Utilities File No. HEX 2017-019 (CA #100229357)

Dear Parties,

In regard to the above referenced matter please find enclosed a copy of the Hearing Examiner's Order Denying Reconsideration entered on October 18, 2017.

Sincerely.

Louisa Legg

Office Administrator

Enclosure (1) – Order Denying

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through City of Tacoma Mail Services to the parties or attorneys of record herein. I certify under penalty of perjury under the laws of the State of Washington that

the foregoing is true and correct.

DATED October 18 201+, at Tacoma, WA

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OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

SUPERLON PLASTICS CO., INC., a Washington corporation,

Appellant,

v.

TACOMA PUBLIC UTILITIES,

Respondent.

HEX NO. 2017-019 (CA # 100229357)

ORDER DENYING RECONSIDERATION

SUPERLON PLASTICS CO., INC., a Washington corporation ("Superlon"), appeared before the City of Tacoma's Hearing Examiner on September 7, 2017 contesting, among others, its denial of ratchet relief for demand/delivery charges for electric power service at its business in the city of Tacoma. The office of the Hearing Examiner issued its decision in this matter on September 28, 2017 (the "Decision").

On October 13, 2017, Superlon filed with the office of the Hearing Examiner a request for reconsideration of the Decision. Section 1.23.140 of the Tacoma Municipal Code ("TMC"), entitled "Reconsideration of Hearing Examiner decisions and recommendations" requires that, "A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation." [Emphasis added].

Superlon's filing exceeded the required deadline by one day.

ORDER DENYING RECONSIDERATION



City of Tacoma
Office of the Hearing Examiner
Tacoma Municipal Building
747 Market Street, Room 720
Tacoma, WA 98402-3768

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TMC Section 1.23.140 goes on to state that, "The requirements set forth herein
regarding the time limits for filing of motions for reconsideration and contents of such
motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed
with the Office of the Hearing Examiner or do not set forth the alleged errors shall be
dismissed by the Examiner." [Emphasis added].

The office of the Hearing Examiner must comply with its enabling legislative authority—in this instance, TMC 1.23.140. Substantial compliance, as opposed to strict compliance, with filing deadlines is not accounted for in the TMC or in controlling case law.

THEREFORE, IT IS HEREBY ORDERED that Superlon's request for reconsideration is hereby dismissed for failure to file in compliance with the requirements of Tacoma Municipal Code Section 1.23.140.

DATED this 18th day of October, 2017.

JEFF H. CAPELL, Hearing Examiner

ORDER DENYING RECONSIDERATION

