

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UW-040366
)	
Complainant,)	ORDER NO. 03
)	
v.)	
)	PREHEARING CONFERENCE
MARBELLO WATER COMPANY,)	ORDER
)	
Respondent.)	
.....)	

1 **NATURE OF PROCEEDING.** Docket No. UW-040366 is a special proceeding convened by the Commission pursuant to RCW 84.04.015 to determine whether Marbello Water Company (Marbello or Company) is subject to regulation under Chapter 80.28 RCW and is performing any act requiring approval of the Commission without securing such approval.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on March 25, 2004, before Administrative Law Judge Theodora Mace.

3 **APPEARANCES.** Mark Nyhus and Richard Finnigan, attorneys, Olympia, Washington, represent Marbello. Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (“Commission Staff” or “Staff”).¹

¹ In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the

Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order

4 **PETITIONS FOR INTERVENTION.** No petitions to intervene were filed in writing or presented orally at the prehearing conference.

5 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

6 **PROTECTIVE ORDER.** The parties request that the Commission enter a protective order in this docket pursuant to RCW 34.05.446, RCW 80.04.095, WAC 480-07-420, and WAC 480-07-423 to protect the confidentiality of proprietary information. The Commission grants the request and will separately enter a protective order.

7 **ISSUES.** The parties stipulated to the Commission's jurisdiction in this case and agreed to entry of a Commission order requiring Marbello to file a tariff and supporting financial documentation, according to the schedule shown below.

8 **PROCEDURAL SCHEDULE.** The parties agreed upon a procedural schedule during the conference. The Commission adopts this procedural schedule, which is attached to this Order as Appendix B, and incorporated into the body of this Order by this reference.

9 The schedule includes a date for Staff to file a Motion to Dismiss the special proceeding and complaint based upon Staff review of Marbello's filed tariff.

proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

Staff's motion should be accompanied by affidavits describing the result of Staff's review and should include a recommendation for Commission action, if such action is required.

- 10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus nine copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 11 All filings must be mailed or delivered by hand to the Commission Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 12 An electronic copy of all filings must be provided by e-mail delivery to <records@wutc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to organize and identify electronic files as specified in WAC 480-07-140(5).
- 13 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited

ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1142.

14 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 30th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET NO. UW-040366**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Marbello Water Company	MARK NYHUS PO Box 20429 Seattle, WA 98102	1-800-828-3750		mnyhus@ywave.com
Commission Staff	JONATHAN THOMPSON Asst. Attorney General 1400 S Evergreen Park Drive SW PO Box 40128 Olympia, WA 98504-0128	360-664-1225	360-586-5522	jthompson@wutc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET NO. UW-040366

EVENT	DATE	INTERVAL
Marbello tariff filing	April 1, 2004	
Marbello supporting documentation	April 30, 2004	
Commission Staff Motion to Dismiss with supporting affidavits	June 11, 2004	
Status Conference	June 15, 2004	