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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In re Application No.)
GA-078930 of ROBIN D. CARPER) Docket No. TG-001567
4 doing business as Rob's) Volume I
Demolition for a Certificate) Pages 1 to 27
5 of Public Convenience and)
Necessity to Operate Motor)
6 Vehicles in Furnishing Solid)
Waste Collection Service.)
7 _____)

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9 A prehearing conference in the above matter
10 was held on February 27, 2001, at 1:20 p.m., at 1300
11 South Evergreen Park Drive Southwest, Room 207, Olympia,
12 Washington, before Administrative Law Judges MARJORIE A.
13 SCHAER and TRE HENDRICKS.

14 The parties were present as follows:

15 THE COMMISSION, by JONATHAN THOMPSON,
Assistant Attorney General, 1400 South Evergreen Park
16 Drive Southwest, Olympia, Washington 98504-0128.

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18 ROB'S DEMOLITION, by ROB CARPER, Owner, 8420
East Woodland Park Drive, Spokane, Washington 99217.

19

20 WASTE MANAGEMENT OF WASHINGTON, by POLLY
MCNEILL, Attorney at Law, 1505 Westlake Avenue North,
Suite 300, Seattle, Washington 98109.

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22 WASHINGTON REFUSE AND RECYCLING ASSOCIATION,
by JAMES SELLS, Attorney at Law, 9657 Levin Road
Northwest, Silverdale, Washington 98383.

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24 Joan E. Kinn, CCR, RPR

25 Court Reporter

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P R O C E E D I N G S

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JUDGE SCHAER: We're here this afternoon for

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a prehearing conference in Docket Number TG-001567.

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This matter arises from Application Number GA-078930

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filed by Robin D. Carper doing business as Rob's

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Demolition for a Certificate of Public Convenience and

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Necessity to Operate Motor Vehicles in Furnishing Solid

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Waste Collection Service. Today is February 27th, 2001.

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We are appearing today in Room 207 in the Commission

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headquarters building in Olympia. I'm Marjorie Schaer,

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and Tre Hendricks who is seated to my left and I are the

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Administrative Law Judges assigned by the Commission to

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this proceeding.

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I would like to start this afternoon by

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taking appearances from all parties starting with the

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Applicant, so please at this time state for the record

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your full name, who you represent, your address,

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telephone number, fax number, and E-mail number if you

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have one available. Go ahead, sir.

20

MR. CARPER: My name is Rob Carper,

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C-A-R-P-E-R, doing business as Rob's Demolition. I live

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at 8420 East Woodland Park Drive in Spokane, Washington

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99217. My phone number is (509) 993-1719. My fax

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number is (509) 534-9404. My E-mail address is

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housewreck@aol.com.

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1 JUDGE SCHAER: Okay. And then just proceed
2 around the room. Would you like to go next,
3 Ms. McNeill.

4 MS. MCNEILL: Thank you, my name is Polly L.
5 McNeill. I'm an attorney at Summit Law Group, 1505
6 Westlake Avenue North, Suite 300, Seattle, Washington
7 98109. My phone number is area code (206) 281-9881. My
8 fax number is area code (206) 281-9882. My E-mail
9 address is pollym@summitlaw.com.

10 JUDGE SCHAER: Thank you.
11 Mr. Thompson.

12 MR. THOMPSON: I'm Jonathan Thompson,
13 Assistant Attorney General, appearing for the Commission
14 Staff. My address is 1400 South Evergreen Park Drive
15 Southwest, Olympia, Washington 98504. My phone number
16 is (360) 664-1225. E-mail address is jonat@atg.wa.gov,
17 and the fax number is (360) 586-6552.

18 JUDGE SCHAER: And is that the fax number for
19 all the attorneys in your section now?

20 MR. THOMPSON: Yes, it is.

21 JUDGE SCHAER: Okay, Mr. Trotter couldn't
22 remember his at our morning hearing, so perhaps the
23 court reporter can note that and use it for the other
24 transcript as well. Thank you, Mr. Thompson.

25 Mr. Sells.

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1 MR. SELLS: If Your Honor please, James
2 Sells, attorney, appearing on behalf of Protestant
3 Washington Refuse and Recycling Association. The
4 specific members involved are Sunshine Disposal, Inc.,
5 Permit Number G-199 and the Waste Management companies
6 who are independently represented. My address is 9657
7 Levin Road Northwest, Suite 240, Silverdale, 98383,
8 telephone (360) 307-8860, fax (360) 307-8865, E-mail
9 jimsells@rsu. and I believe it's net, but it may be com,
10 but I will call that in.

11 JUDGE SCHAER: All right, thank you.

12 Before we go any further, I should note just
13 so everyone is on the same page, there is a mistake in
14 the caption that is on the notice of prehearing
15 conference that was sent out. In the final line, it
16 says I believe it's furnishing solid waste service --

17 JUDGE HENDRICKS: Compact.

18 JUDGE SCHAER: Furnishing compacting service
19 and it should be saying furnishing solid waste
20 collection service. So that's how the caption will
21 appear on further information from the Commission. And
22 if anyone was confused by that, that was a clerical
23 mistake in our office.

24 The caption is this section up here,
25 Mr. Carper, that we put on different things, and so if

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1 you got the notice of hearing, most people don't read
2 it, which is probably why it didn't get proofread very
3 well by those of us at this end of the table.

4 MR. CARPER: Oh, okay.

5 JUDGE SCHAER: But if anyone is confused by
6 that, that is how it should read, it should be Robin
7 D.R. Carper doing business as Rob's Demolition for a
8 Certificate of Public Convenience and Necessity to
9 Operate Motor Vehicles in Furnishing Solid Waste
10 Collection Service.

11 And since all counsel present at the table
12 have spoken, I guess the answer is no, but is there
13 anyone here who wishes to intervene in this proceeding?

14 Hearing no response to that, we will move on.
15 Are there any preliminary matters that any party wishes
16 to bring before us at this point?

17 And hearing nothing there again, I would like
18 to talk about what issues the parties seek presented and
19 to use that as part of the information that we use in
20 discussing how information between the parties is going
21 to be shared and presented to the Commission and how
22 hearings might need to be structured and how much time
23 we might need for those.

24 So I think we will start at your end this
25 time, Mr. Sells, and go around the table asking what

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1 issues that you see presented.

2 MR. SELLS: Thank you, if Your Honor please,
3 this appears at least on its face to be a classic
4 application whereas the two issues of public convenience
5 and necessity, is there a necessity for this authority
6 to be granted, and based moving backwards I guess from
7 that, is the service -- is the public being served
8 properly by the existing certificated holders of which
9 there are two. How the Commission's new rules regarding
10 CDL are going to play into this hearing and subsequent
11 hearings, I don't know. I guess we'll have to kind of
12 wait and see, but to me, the issues are the same as in
13 any application, are we providing, we being the two
14 certificated holders, providing service to the
15 satisfaction of the Commission.

16 JUDGE SCHAER: And you used the phrase CDL,
17 why don't you tell us what that stands for since this is
18 the first time it's been used this afternoon, if you
19 can, otherwise we will ask --

20 MR. SELLS: Well, it's construction
21 demolition and land clearing, I believe; is that
22 correct? I had it wrong for many years.

23 JUDGE SCHAER: All right, thank you.

24 Mr. Thompson.

25 MR. THOMPSON: Well, I would concur those are

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1 important issues, but I also think there is maybe an
2 issue of whether or the extent to which a certificate
3 may even be required for what's being proposed here.
4 Because it seems to me just based on the limited amount
5 of information that I have from the application that
6 some of this is -- some of what is being proposed is in
7 conjunction with the demolition business, and there's
8 also issues of recycling the material that would be
9 hauled away too, so those being the two exceptions to
10 the certificate requirement that may need to be explored
11 a bit.

12 JUDGE SCHAER: So you're talking about the
13 extent to whether a certificate is required, and the two
14 subparts of that were whether this is incidental to
15 another business; is that right?

16 MR. THOMPSON: Right.

17 JUDGE SCHAER: And then the second was how
18 much is recycling and how much is solid waste; is that
19 -- restate what you said for me, please.

20 MR. THOMPSON: Well, whether what is proposed
21 is recycling versus waste hauling I guess. I don't know
22 if that's the right term of art, but.

23 JUDGE SCHAER: Okay.

24 Ms. McNeill.

25 MS. MCNEILL: Well, I'm glad you started at

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1 that end, thank you, Your Honor. I actually don't think
2 that there are any other issues beyond what has been
3 identified by Mr. Sells and Mr. Thompson as issues that
4 we need to explore with Mr. Carper's application.

5 JUDGE SCHAER: And then Mr. Carper.

6 MR. CARPER: I was just thinking maybe we
7 should clear up -- what I am trying to get is probably a
8 restricted permit.

9 JUDGE SCHAER: Okay.

10 MR. CARPER: I'm not going to be hauling
11 anything different than I haul already, what you call
12 demolition debris. All I'm trying to do is make it a
13 more clean and economical situation for me where I use
14 the drop boxes, rather than what they do a lot of times
15 now is they just throw it on the ground, I come back and
16 load it up with the machine. Well, I'm trying to keep
17 it from being all over the place. Basically I'm keeping
18 the same accounts that I have had for 20 something
19 years. I'm not trying to expand into any place where I
20 have a permanent drop box. I would like to just have a
21 temporary for the duration of the job. I don't want to
22 have it where it's a monthly collection or anything like
23 that. That's not the type of permit I'm after. I don't
24 want to haul garbage or refuse, basically just the
25 demolition debris. And I put construction debris

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1 because a lot of times a contractor will be tearing out
2 and building at the same time, and some of the new
3 construction debris gets mixed in with it.

4 JUDGE SCHAER: What kind of equipment do you
5 use now just in general terms?

6 MR. CARPER: In my demolition or --

7 JUDGE SCHAER: In the service you want to
8 provide under the application.

9 MR. CARPER: Right now I have one truck with
10 6 brand new drop boxes, 30 yarders. We have a swap
11 loader, a hook that the driver doesn't have to get out.
12 He just goes, picks up, and, you know, you don't have to
13 lift a heavy hook or anything. And it's a brand new
14 swap loader that we had put on there, and the boxes are
15 brand new.

16 JUDGE SCHAER: Okay, so you have --

17 MR. CARPER: Or they're a year old now I
18 should say.

19 JUDGE SCHAER: Okay, so you have --

20 MR. CARPER: But I bought them new.

21 JUDGE SCHAER: And where do you haul the
22 items that you collect?

23 MR. CARPER: We haul into our yard with these
24 boxes, and then we pull the recycleables out, any of the
25 pallets, any clean wood that can go to the grinder and

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1 go off as -- for energy, any of the metal, the iron, the
2 tin. Anything that we can recycle, we take out, then we
3 crush up, and we haul in our big trucks to Waste
4 Management. I believe I'm Waste Management's largest
5 account in Spokane.

6 JUDGE SCHAER: Okay, so does everyone agree
7 that those are pretty much the issues that we're looking
8 at addressing as we go forward?

9 Okay. And then looking at how information,
10 what you do and what you want to propose is going to be
11 presented to the Commission, Mr. Carper, what kind of
12 plan did you have in mind for presenting that
13 information when we get to a hearing?

14 MR. CARPER: I'm not real sure. You said you
15 wanted witnesses. I have witnesses in Spokane that are
16 willing to say they -- that I provide a good service for
17 them and that it's a needed service. They like the fact
18 that I recycle. I'm not actually trying to get any new
19 accounts. I have plenty of old accounts. I have been
20 in business for 24 years. I have a great deal of
21 accounts.

22 JUDGE SCHAER: Okay. Well, it is likely that
23 we would have any hearings in this matter in Spokane so
24 that you would -- because that is the county where you
25 propose to provide the service, and that, as you have

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1 indicated, is the county where your witnesses in large
2 part reside.
3 MR. CARPER: Did you say you could have it in
4 Spokane?
5 JUDGE SCHAER: Certainly.
6 MR. CARPER: Okay.
7 JUDGE SCHAER: That would be our plan, yes.
8 MR. CARPER: Okay.
9 JUDGE SCHAER: Have you had a chance to look
10 over the document that is entitled Appendix A?
11 MR. CARPER: Mm-hm.
12 JUDGE SCHAER: And review the kinds of things
13 that you might need to present at a hearing?
14 MR. CARPER: Mm-hm.
15 JUDGE SCHAER: And if you were to bring in
16 witnesses and present that information, do you have an
17 estimate of how much time that would take?
18 MR. CARPER: I wouldn't think it would take
19 over an hour or so.
20 JUDGE SCHAER: Okay.
21 MR. CARPER: I'm kind of unfamiliar at how
22 long these things take.
23 MS. MCNEILL: Longer than you ever think.
24 MR. CARPER: So far you're right. I started
25 in October, I think.

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1 JUDGE SCHAER: And what kind of case were you
2 looking at presenting, Ms. McNeill; do you have in mind?

3 MS. MCNEILL: Well, you know, the legal
4 question, well, there are some threshold jurisdictional
5 questions that I think might be best developed by
6 testimony from Mr. Carper himself. These are the
7 questions that Mr. Thompson raised as to whether what
8 you're performing as a service is incidental to your
9 main business. And therefore that's, I don't want to
10 brush over a fairly complicated question, but that's a
11 factual question that we will have to develop in terms
12 of asking you questions about your business as a whole.

13 And then the other threshold jurisdictional
14 issue is whether you are, in fact, performing recycling
15 services, which are not required to have a permit from
16 the Commission. And that, I think that there need to be
17 an opportunity to ask you questions about your service
18 again and also to cross-examine your witnesses about
19 what kinds of handling practices they have,
20 expectations, and intents with the material.

21 The other bulk of the evidence then, putting
22 aside those threshold questions, would have to do with
23 whether Waste Management for our part is already
24 currently able to provide the service that you're
25 suggesting you would like to have authority for. And I

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1 would develop that through my own witness,
2 Mr. Patterson, who would talk about the collection
3 services that we offer in the Spokane area, and also
4 probably through cross-examination of your witnesses
5 themselves to find out whether or to what extent they
6 have attempted to contact my client about providing the
7 service that you're seeking.

8 MR. CARPER: A lot of times a bid will come
9 out, and the contractors -- say we're tearing just one
10 wing of this, say a school, tearing one portion of it
11 down, and then they're going to gut the rest of it or
12 tear the inside out of the rest of it. He will want me
13 to tear the building down and then provide the services
14 for all the waste debris that they take out of the
15 inside. A lot of times it's easy for the contractor to
16 do his own inside demolition, because he has to put it
17 back, and he knows where he wants it cut exactly so he
18 can match it back in.

19 JUDGE SCHAER: So --

20 MR. CARPER: And a lot of the service that I
21 provide is in conjunction with work we already have on
22 that particular job.

23 JUDGE SCHAER: So part of the work that your
24 company does is the actual demolition; is that correct?

25 MR. CARPER: Right.

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1 JUDGE SCHAER: Okay.

2 MR. CARPER: That's our main business is
3 demolition.

4 JUDGE SCHAER: Okay. Why don't you tell me
5 just a little bit more about that.

6 MR. CARPER: As far as what we normally --
7 what we do is we tear down any type of structure and
8 land clearing and buildings. I believe like Thursday
9 we're going to start the Pennington Hotel, which is part
10 of the Davenport Hotel, which is a famous hotel down
11 there. And that, we will tear down and haul away to
12 Waste Management.

13 JUDGE SCHAER: So you will take down the
14 entire hotel?

15 MR. CARPER: Not put it in drop boxes, put it
16 in our regular semi trucks.

17 JUDGE SCHAER: Put it in your semi trucks.

18 MR. CARPER: And haul it.

19 JUDGE SCHAER: And drive your semi trucks to
20 Waste Management.

21 MR. CARPER: Directly to the land fill. We
22 reached -- on my own job, we pretty much separate the
23 recycleables on the site.

24 JUDGE SCHAER: Okay. And about what
25 percentage, if you could give me a rough percentage, of

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1 your business is this straight demolition?

2 MR. CARPER: Part of my other business, get
3 on here a little, we do a lot of underground tanks and
4 environmental work, and that part is about a 50/50
5 split.

6 JUDGE SCHAER: So 50% demolition?

7 MR. CARPER: 50% of it is demolition, and 50%
8 is environmental and underground tanks. I'm a licensed
9 site assessor and have all the bells and whistles as far
10 as Hazmat and all of that stuff on our crew.

11 JUDGE SCHAER: Okay, and then you -- what do
12 you do with the hazardous materials that --

13 MR. CARPER: We ship it off to the proper
14 spot. Some of it is Waste Management. Some of it is --
15 I can't think of the name of it. Safe and Clean gets a
16 lot of it. Wherever it's allowed to go legally.

17 JUDGE SCHAER: And who does the hauling on
18 the Hazmat?

19 MR. CARPER: They do, Safety Clean will come
20 pick it up on the hazardous type material.

21 JUDGE SCHAER: Okay.

22 MR. CARPER: We haul the contaminated dirt,
23 we haul it ourselves, we haul it to Waste Management
24 also.

25 JUDGE SCHAER: Okay.

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1 MR. CARPER: Both the local side and Columbia
2 Ridge.
3 JUDGE SCHAER: Okay. And then the Safety
4 Clean picks up what would be more --
5 MR. CARPER: The hazardous.
6 JUDGE SCHAER: -- the hazardous?
7 MR. CARPER: Yeah.
8 JUDGE SCHAER: Okay.
9 MR. CARPER: There's contaminated and
10 hazardous, and we're getting a little off of what my
11 permit application is for, but that's part of my
12 business.
13 JUDGE SCHAER: Okay.
14 MR. CARPER: Sometimes we do the interior
15 demolition ourselves, and I think then it's -- I don't
16 need a license, my understanding, to do it if I'm doing
17 it myself; is that correct, if we're taking it out and
18 putting it on my own drop boxes? Okay.
19 JUDGE SCHAER: Actually, I think in that
20 instance you would probably need a permit from us, but
21 it's probably an 8180 permit, or perhaps not if it's
22 just incidental to his own business.
23 MR. CARPER: Okay.
24 JUDGE SCHAER: I'm not ready to rule on that
25 today. I'm just trying to keep track of where we are

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1 and what parts of your business relate to this
2 application and which do not, thank you.

3 MR. CARPER: With all the tank work, I have
4 so many licenses and permits I can't keep track.

5 JUDGE SCHAER: So, Mr. Thompson, what kind of
6 case does Staff contemplate putting on?

7 MR. THOMPSON: I don't think we would be
8 contemplating putting on any case at this point, but I
9 guess we reserve the opportunity to put on, I don't
10 know, half an hour testimony if needed.

11 JUDGE SCHAER: And how about your client,
12 Mr. Sells?

13 MR. SELLS: Well, thank you, Your Honor. The
14 factual issues on this thing are going to be I think
15 very important, because they're going to lead us to
16 probably some legal conclusions that we can draw fairly
17 quickly into the hearing and perhaps eliminate them.

18 Mr. Carper is right, as far as we're
19 concerned, if he is doing the demolition job, then it's
20 his garbage, and he can haul it away. Whether or not he
21 needs an 8180 permit, I don't know, but he doesn't need
22 a solid waste permit to do that, and we don't have any
23 problem with that at all.

24 Whether or not some or all of this material
25 or any material is being hauled for recycling is going

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1 to be a factual issue, but as Your Honor well knows,
2 that kind of a factual issue can rapidly develop into a
3 legal issue, and we're in the Ninth Circuit on at least
4 one case on that very issue right now.

5 As far as our testimony is concerned,
6 Sunshine Disposal's permit in that area is limited to
7 drop boxes, so this is of great concern to this
8 particular company. We will present one operating
9 witness, either Mr. Mark or Mr. Michael Torre, and
10 possibly one or two other witnesses, but I don't see
11 that part of our presentation taking very long. I don't
12 think that the normal sorts of testimony that we have in
13 these hearings are what's going to take the time in
14 this. I think it's going to be flushing out those
15 factual issues and turning them into legal issues and
16 going from there.

17 JUDGE SCHAER: Okay. Well, now that there's
18 some idea among counsel of what the issues are going to
19 be and what kind of information you may need to develop,
20 what kind of information exchange do you think you may
21 need?

22 Mr. Carper, we tend to call an exchange of
23 information between parties discovery, and we have a
24 rule that can be triggered that allows for discovery
25 through means of data requests and other written queries

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1 back and forth between parties. That sometimes is
2 triggered and sometimes is not depending on what kind of
3 information people think they may need to get from the
4 other parties in order to prepare for the hearing.

5 MR. CARPER: I'm willing to give them
6 whatever they need. I don't have any secrets.

7 MR. SELLS: Well, you won't when you're done
8 with this.

9 JUDGE SCHAER: Well, then let me ask the
10 other counsel. What kind of discovery, if any, do you
11 think you might need coming out of today?

12 MS. MCNEILL: Thank you. Actually, I guess
13 my thinking on this would be that we really wouldn't
14 need any discovery, that we could go straight to the
15 testimony of the witnesses themselves. And that partly
16 out of efficiencies, it seemed to me that that would be
17 the most direct route to resolving and exploring the
18 factual issues that we've got. And if we have the
19 hearing over in Spokane where the witnesses are located
20 and Mr. Carper is located, then it seems to me in terms
21 of convenience to all of the parties that that's the
22 most direct route to the outcome.

23 JUDGE SCHAER: Okay.

24 MS. MCNEILL: That had been my thinking. I
25 would be interested to hear what others may have to say

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1 about it.

2 JUDGE SCHAER: Mr. Thompson.

3 MR. THOMPSON: I guess I would agree with
4 that approach too. I don't know, I think we can
5 probably get the same information, probably better, in
6 person with cross-examination rather than through
7 something like data requests or something like that.

8 JUDGE SCHAER: Okay.

9 Mr. Sells.

10 MR. SELLS: I agree, I think it takes all the
11 fun out of it when you have discovery. This is not an
12 enforcement petition where you do want to look at a lot
13 of discovery, and I don't see any reason since we're
14 going to be there why anything we need can't be obtained
15 during a break or something like that. So I think we
16 can just go in there and have our hearing and see what
17 happens.

18 JUDGE SCHAER: Okay, well, having heard from
19 all of you, at this time I'm going to rule that we will
20 not trigger the discovery rule in WAC 480-09-480. So if
21 at some later point there develops a problem in this
22 area, that is something we will deal with then, but I
23 agree with you that it doesn't appear to be appropriate
24 in this proceeding to have more elaborate discovery
25 measures available.

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1 (Discussion off the record.)

2 JUDGE SCHAER: The next thing we talk about
3 sometimes at this point is whether there's going to be
4 any need for a protective order, and what the protective
5 order would do is if somebody asked somebody else a
6 question where that party thought the information that
7 provided the answer was confidential, then it would
8 allow that claim of confidentiality to be made. The
9 information would still have to be provided, but it
10 would be provided in a way that it could be protected
11 from becoming public in accordance with the
12 confidentiality rules that are in our procedural rules.

13 So if anyone can think of anything that we
14 might need that for, let's talk about it now, because
15 it's nice to have that in place when you need it. It
16 takes some time to get it otherwise, but if you're not
17 going to be doing discovery, I'm having trouble thinking
18 of how it might be needed.

19 MR. CARPER: I don't have anything that I --
20 I'm open to anybody wants to see anything I have. I'm
21 not trying to hide anything or protect anything.

22 MR. SELLS: No --

23 MS. MCNEILL: Just for the, excuse me, just
24 for the benefit of Mr. Carper, thinking imaginatively,
25 the only thing that I can conceive of, which I don't

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1 have any reason to think it is an issue presently, but
2 is the adequacy of your tariffs and whether we would
3 want to look at the financial underpinnings of those
4 tariffs and if you would want any of that information to
5 be confidential. That's the only thing that I can
6 possibly see as being relevant.

7 MR. CARPER: I think I put the tariffs that I
8 charge in the application.

9 MS. MCNEILL: It's more what's behind the
10 tariffs, what your equipment costs are, things like
11 that.

12 MR. CARPER: Oh, okay.

13 JUDGE SCHAER: Okay.

14 MR. CARPER: Most everybody in it knows what
15 a drop box costs.

16 JUDGE SCHAER: Another thing that --

17 MS. MCNEILL: I don't see that as an issue
18 right now. I just wanted to make sure that since we're
19 trying to explore every possibility that I brought it
20 up.

21 JUDGE SCHAER: Another kind of information
22 that may come up in this proceeding that other kinds of
23 companies sometimes get very protective about is
24 identity of your customers if there was some kind of a
25 customer list sought.

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1 MR. CARPER: I'm actually in such a high
2 profile on most of my jobs that they got signs all over
3 the place. There again, I personally don't have
4 anything, if they want to talk to my customers or
5 anything, I don't have a problem.

6 JUDGE SCHAER: Okay, well, then I'm going to
7 decide at this time that there will not be a protective
8 order issued in this case. If at any point anyone sees
9 a need for that, please contact me as quickly as you
10 can. If there is information being exchanged informally
11 and there is something that people would want to have
12 protected, please contact me to get the wheels rolling
13 on a protective order, but then please cooperate
14 informally to share information and to take what steps
15 to protect that you think might be needed.

16 So at this point, I think we're ready to talk
17 about when we would want to schedule a hearing. And I
18 think what I would suggest that we do at this point is
19 go off the record for a few minutes so people can talk
20 about their calendars and what's coming up, and we can
21 try to find a date when it would work well for all of us
22 to do this. So let's be off the record to have a
23 discussion of scheduling.

24 (Brief recess.)

25 JUDGE SCHAER: Back on the record after our

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1 afternoon recess. During the time that we were off the
2 record, almost all of us were able to check our
3 calendars and with our clients and to confirm that the
4 dates of March 20 and 21 will work for the hearing in
5 Spokane. Ms. McNeill is still waiting to hear from her
6 witness, and so if there is any problem with that date,
7 we will expect you to let us know immediately and
8 probably also give you the task of finding out another
9 date that works for all of the parties.

10 MS. MCNEILL: I think that's very fair, and I
11 will send an E-mail within 24 hours to all of the
12 parties confirming the date, if you would like me to, or
13 barring that offering up some dates that we could
14 reschedule.

15 JUDGE SCHAER: Why don't we do that, and we
16 will hold the order for at least 24 hours before it goes
17 out.

18 MS. MCNEILL: Thank you.

19 JUDGE SCHAER: If there is anything that
20 needs to be filed with the Commission during this case,
21 if there are any motions or other items that should come
22 up, I don't expect any, but if there are, I will want
23 you to look at our rules about filing information. And
24 basically our rules require that, let me find the right
25 piece of paper here, if you file anything with the

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1 Commission, you need to either have mail delivery here
2 or hand delivery by messenger or yourself or someone.
3 You need to use the Commission's mailing address of Post
4 Office Box 47250 plus the street address, and we would
5 need an original plus six copies of anything that is
6 filed.

7 We would like you, if you're able to do so,
8 along with the filing of the copies to also file a 3.5
9 inch diskette including the text of the filed documents
10 in either Word or Word Perfect format, and also if you
11 have the ability to do both in a PDF format. And if you
12 have some other form of word processing other than those
13 two and you would like to be able to file in those, then
14 please call the Commission records center, and talk with
15 them, and we will figure out how to make that work as
16 well.

17 If there's anything quick that we decide to
18 do at some later stage in the proceeding, we can then
19 perhaps use electronic filing, but things can only be
20 filed electronically if you have received advanced
21 permission from Judge Hendricks or me.

22 The Commission does encourage use of
23 alternative dispute resolution, so if there is any
24 glimmer of hope that the parties may be able to resolve
25 this matter outside of the hearing room, I encourage you

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1 to keep talking to each other and to explore those
2 possibilities. If there is some kind of proposal that
3 you think the Commission might be able to help with
4 through providing a judge to act in the role of a
5 settlement judge or through providing mediation, please
6 look at our rules WAC 480-09-465 and 466. These are in
7 the procedural rule packet that I gave to you,
8 Mr. Carper. And those will tell you how to proceed.

9 Is there anything else that needs to come
10 before the Commission this afternoon?

11 Okay, then going forward from today, we're
12 going to hear from Ms. McNeill by 2:15 tomorrow about
13 whether or not the March 20 and 21 dates pose a conflict
14 for her client. And if it does, she will propose
15 alternative dates, and we will then work together to
16 find another two days that will work. Absent that, we
17 will next meet on March 20 and 21 in Spokane.

18 A notice of hearing will issue giving the
19 location. That notice may come out in less than 20 days
20 notice, because if my staff is not able to find a
21 hearing location by tomorrow, it will necessarily come
22 out in the early part of March. So the prehearing
23 conference order will come out as a result of this
24 conference, and the parties should look at that order.
25 You have ten days to object to anything in there that

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1 you don't think is appropriate, and otherwise that order
2 will govern the remainder of this proceeding subject to
3 Commission review.

4 Is there anything further we need to discuss?

5 Thank you ladies and gentlemen. We will be
6 off the record.

7 (Hearing adjourned at 2:20 p.m.)

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