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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)

4)
Complainant,)

5)

6 vs.) DOCKET NO. TC-001846

7 BREMERTON-KITSAP AIRPORTER,) Volume I

8 INC., C-903,) Pages 1 - 14

9)

Respondent.)

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A prehearing conference in the above matter
11 was held on April 3, 2001, at 9:39 a.m., at 1300 South
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge MARJORIE R. SCHAER.
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The parties were present as follows:

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THE WASHINGTON UTILITIES AND TRANSPORTATION
17 COMMISSION, by SALLY G. JOHNSTON and JONATHAN THOMPSON,
Assistant Attorneys General, 1400 South Evergreen Park
18 Drive Southwest, Post Office Box 40128, Olympia,
Washington 98504.

19

BREMERTON-KITSAP AIRPORTER, INC., by DON COX,
20 Certified Public Accountant, 1590 Bay Street, Port
Orchard, Washington 98366.

21

BREMERTON-KITSAP AIRPORTER, INC., by RICHARD
22 E. ASCHE, President/Owner; JERRY DANSKIN, General
Manager, 5748 Bethel Road, Post Office Box 1255, Port
23 Orchard, Washington 98366.

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25 Kathryn T. Wilson, CCR
Court Reporter

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P R O C E E D I N G S

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JUDGE SCHAER: Let's be on the record. We are here this morning for a hearing in Docket No. TC-001846. This is a filing by Bremerton-Kitsap Airporter, Inc., seeking an increase in tariff rates. We are in the Commission's hearing room 108 in the Commission headquarters building in Olympia, Washington. Today is April 3rd, 2001. I'm Marjorie Schaer, and I'm the administrative law judge assigned by the Commission to this proceeding.

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I would like to start by taking appearances from all of the parties. I'm going to start with the Company, please, and you, Mr. Asche, can give the information for just yourself, or each one of you can provide the information, however you prefer to do that, and also at this point, you would indicate that Mr. Sells is going to be representing you. So what I would like you to do is provide your name, who you represent, your address, your telephone number, your fax number, and your e-mail address, if you use one.

MR. ASCHE: My name is Richard E. Asche, A-s-c-h-e, the president and owner of Bremerton-Kitsap Airporter, Inc. Our address of the company is 5748 Bethel Road Southeast, Port Orchard, Washington, 98366.

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1 The mailing address is P.O. Box 1255 at that same
2 address. My home telephone number, do you want that?

3 JUDGE SCHAER: I don't need your home phone,
4 just business telephone.

5 MR. ASCHE: (360) 876-1737, and my fax number
6 is (360) 876-5521. My e-mail address is
7 reasche@aol.com, and Jim Sells is our legal
8 representative.

9 MR. DANSKIN: Jerry Danskin, general manager
10 for the Kitsap Airporter. Do you want the same
11 information again?

12 JUDGE SCHAER: You can just tell us it's the
13 same.

14 MR. DANSKIN: Information is the same for
15 address and telephone number. E-mail address would be
16 jerry@kitsapairporter.com.

17 JUDGE SCHAER: You, sir?

18 MR. COX: My name is Don Cox. My address is
19 1590 Bay Street. That's Port Orchard, 98366. My phone
20 number is (360) 876-3838. My fax is (360) 876-0823,
21 and e-mail is don@coxluca.net.

22 JUDGE SCHAER: What Commission will do is
23 take appearances from all three of you, but when we
24 have a case, we allow there to be one official contact
25 person in order to know that we've served something

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1 officially or in order for the other parties to know
2 who to contact. Would you like that to be you, Mr.
3 Asche, or should that be Mr. Sells?

4 MR. ASCHE: Mr. Sells.

5 JUDGE SCHAER: When we take a break, I can
6 get his address and phone numbers, unless you have them
7 with you.

8 MR. ASCHE: I have his phone number and
9 address. He's in Silverdale. Mr. Sells' telephone
10 number is (800) 481-8861 or (360) 307-8860.

11 JUDGE SCHAER: Then for the Commission staff,
12 please.

13 MS. JOHNSTON: Sally G. Johnston, assistant
14 attorney general. My business address is 1400 South
15 Evergreen Park Drive Southwest, Olympia, Washington,
16 98504. My telephone number is area code
17 (360) 664-1193. My fax number is area code (360)
18 586-5522. My e-mail address is sjohnston@wutc.wa.gov.

19 MR. THOMPSON: I'm Jonathan Thompson,
20 assistant attorney general for Commission staff. My
21 mailing address is the same as Ms. Johnston's as is the
22 fax number. My telephone number is 664-1225, and my
23 e-mail address is jthompso@wutc.wa.gov.

24 JUDGE SCHAER: Which one of you will be the
25 contact person in this proceeding?

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1 MS. JOHNSTON: Mr. Thompson.

2 JUDGE SCHAER: Are there any preliminary
3 matters to come before the Commission at this time? I
4 don't hear that there are any, and I note there is also
5 no one else in the room who has not been previously
6 identified, other than Mr. Colbo, who is a member of
7 Commission staff, so I think that makes it clear there
8 are no intervenors this morning, and I will so note.

9 I'd like to spend a few moments at this point
10 talking about what the issues are going to be in the
11 proceeding, and we can start at either end. Would you
12 prefer to speak to that first, Mr. Danskin or
13 Mr. Asche, or would you prefer to hear from Staff
14 first?

15 MR. ASCHE: We would prefer to hear from
16 Staff.

17 MR. THOMPSON: From Staff's perspective, the
18 main issue in this case is the amount of the chief
19 executive's salary that the Company asked the
20 Commission to allow as part of its revenue requirement,
21 and Staff's view is that what the Company is asking for
22 this salary amount is basically far too high.

23 Linked to that issue is what method is to be
24 used to determine the Company's overall revenue
25 requirement, and the Commission has traditionally used

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1 operating ratio method for motor carriers, and
2 basically what's been used is a ratio of 93 percent of
3 expenses to revenue, and based on that standard and on
4 an appropriate adjustment to executive officer salary,
5 basically, Staff's position is that a rate increase is
6 not in order, and in fact, a rate decrease is in order.

7 There may be discovery that may yield other
8 issues, but those are the ones we identified at this
9 point.

10 JUDGE SCHAER: Mr. Thompson, does Staff
11 believe that the notice that has been issued in this
12 matter is broad enough to allow the Commission, should
13 it find that a rate decrease is appropriate, to make
14 such a decrease?

15 MR. THOMPSON: Yes.

16 JUDGE SCHAER: Which of you gentlemen wishes
17 to speak?

18 MR. COX: All I would say is I agree that the
19 issue will be the appropriate compensation for the
20 chief executive officer. I'm surprised -- I'm stunned
21 to hear that they are proposing a rate decrease to a
22 company who has not had a rate increase for 10 years,
23 but I do agree that the issue is going to be regarding
24 the level of compensation of the chief executive
25 officer.

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1 JUDGE SCHAER: Are there other issues that
2 the Company will be bringing up that you are aware of?

3 MR. COX: There may be other issues that come
4 up.

5 JUDGE SCHAER: The next thing I would like to
6 discuss is whether there is going to be a need for a
7 protective order in this proceeding. As we discussed
8 before we went on the record, a protective order would
9 be used to allow the Company to indicate that certain
10 information is confidential as described in other
11 categories that can be so described and set out the
12 Commission rule, and what that would do is the
13 Commission would treat those materials as confidential.
14 If there should be a public records request for those
15 materials, then the Commission would contact the
16 Company and let the Company know that there has been
17 such a request. The Company would decide whether they
18 wanted to oppose that request or whether they did not.

19 MR. COX: Since the major issue is going to
20 be the compensation for Mr. Asche, I think that we
21 would request that the information that's provided
22 regarding that issue be subject to that order.

23 JUDGE SCHAER: Commission staff, do you have
24 any --

25 MS. JOHNSTON: I would venture to guess that

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1 Mr. Sells would also request a protective order.

2 JUDGE SCHAER: Any objection?

3 MS. JOHNSTON: No objection.

4 JUDGE SCHAER: The next thing I would like to
5 discuss is the schedule for the proceeding, and as part
6 of that discussion, it's sometimes useful to, as I
7 indicated when we were off the record, to discuss the
8 discovery and the time lines for discovery so you have
9 an idea how much time is going to be needed for
10 information exchange before you have to write something
11 down and send it to the Commission and to the other
12 party, and as part of that discussion, sometimes we
13 look at whether a discovery cutoff date would be
14 appropriate, whether you want to say, We will answer
15 questions up to this point and then we need a period of
16 time to get ready for the next stage of the proceeding.

17 So I think that as part of all this, I would
18 like to discuss and see if we can all agree on what the
19 suspension date is in this matter, and if Staff is
20 ready to speak to that, we can go ahead, or if you
21 would like a few minutes off the record to talk to each
22 other, we can go ahead with that.

23 The purpose of a suspension date is the way
24 that the statutes that govern the Commission are
25 written. When you request a rate increase, that rate

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1 increase will go into effect within 30 days, unless the
2 matter is suspended, which this matter was suspended by
3 order of the Commission, and then after a suspension,
4 then there is a period of time by which the Commission
5 would need to decide the case in order to have a
6 different result, and if it's not decided within that
7 time frame, then you would have a tariff as filed go
8 into effect.

9 So the Commission is quite diligent about
10 making sure the cases that are before it get decided
11 before the suspension date. If there is a problem, as
12 there is at times with getting everything done in that
13 time frame -- people want to have more time before
14 certain stages in the proceeding -- then often, the
15 party who has the tariff that's suspended can waive
16 that date and have the case take a few months longer,
17 if that seems to be the way to go, but that would be
18 your decision.

19 So with that background in mind, I'm going to
20 suggest we go off the record for a few minutes to allow
21 the parties to discuss schedule and discovery and then
22 come back, unless you are ready to discuss the
23 suspension date now.

24 MS. JOHNSTON: I would suggest that we go off
25 the record for a few minutes and discuss it.

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1 JUDGE SCHAER: All right. Why don't we take
2 about a ten-minute recess.

3 (Recess.)

4 JUDGE SCHAER: Let's be back on the record.
5 During the recess, we had an extensive discussion of
6 scheduling and of discovery and how that would work in
7 with the scheduling, and it's my understanding that the
8 parties wish to have the discovery provisions in WAC
9 480-09-480 available in this proceeding; is that
10 correct?

11 MS. JOHNSTON: That's correct.

12 JUDGE SCHAER: Is that correct for you also,
13 Mr. Asche?

14 MR. ASCHE: That would be correct.

15 JUDGE SCHAER: Then I'm going to ask
16 Ms. Johnston to read the schedule into the record that
17 the parties have agreed upon. Before I do that, I just
18 want to confirm the schedule is based on a suspension
19 date of December 1st, 2001, and it's my understanding
20 that the Bremerton-Kitsap Airporter has agreed to waive
21 the suspension for a period and allow it to be extended
22 to that date and that you have checked by telephone
23 with your counsel, and he has agreed that's
24 appropriate. Is that correct, Mr. Asche?

25 MR. ASCHE: Yes.

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1 MS. JOHNSTON: The hearing schedule that
2 we've determined is as follows: The Company will
3 prefile its direct testimony on May 15th, 2001.
4 Commission staff will prefile its direct testimony on
5 June 7th, 2001. The Company will prefile its rebuttal
6 testimony on June 26th, 2001. Hearings in this matter
7 will be held July 19th and 20th, 2001, and finally, the
8 parties have agreed to submit post-hearing briefs on
9 August 6th, 2001.

10 JUDGE SCHAER: Thank you. Did you want to
11 discuss the discovery turnaround times that you've
12 agreed to in order to have this schedule work?

13 MS. JOHNSTON: Yes. The parties have agreed
14 to shorten the turnaround time for responding to data
15 requests throughout the discovery period in this case.
16 By that, I mean that any discovery requests that
17 Commission staff issues to the Company will be
18 responded to within five days, and likewise, any data
19 requests that are submitted from the Company to
20 Commission staff will be responded to within five days.

21 JUDGE SCHAER: Those are five working days;
22 is that correct?

23 MS. JOHNSTON: That's correct.

24 JUDGE SCHAER: Is that also your
25 understanding, Mr. Asche?

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1 MR. ASCHE: That's correct.

2 JUDGE SCHAER: All right. Then at this
3 point, I'm going to tell you there are filing
4 requirements for how you should file information with
5 the Commission, and particularly, you are encouraged to
6 file with anything you file in paper copy also an
7 electronic version, and the details on those filing
8 requirements will be included in the prehearing
9 conference order.

10 I will be issuing a prehearing conference
11 order that reflects what we've discuss this morning,
12 such as the schedule set out, the understandings on
13 waiver of the suspension period, discovery turnaround
14 time. When we set out the filing requirements, it will
15 set out the number of copies the parties need to file
16 when they file things. Data request responses should
17 be made only to the Commission staff and not to
18 Commission secretary or to me. All other items should
19 be sent to the attention of the Commission secretary,
20 and I will get a copy through the records center, or
21 you may send me a courtesy copy, which would be
22 appreciated.

23 So that is what's going to happen from here.
24 A prehearing conference order will be issued. In
25 accordance with the WAC, you will have ten days after

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1 that order comes out to raise any concerns that you may
2 have with the order. Otherwise, that order will govern
3 our proceedings from this time forward. Ms. Johnston?

4 MS. JOHNSTON: I think we also should make a
5 record of the fact that the parties have agreed to
6 shorten the time for the filing of petitions for
7 administrative review and the replies thereto.

8 JUDGE SCHAER: Go ahead, please.

9 MS. JOHNSTON: I believe that we've agreed to
10 shorten the period of time for filing petitions for
11 administrative review from 20 days to 15 days, and
12 those are business days, and also shortened the time
13 for responding to any such petitions for administrative
14 review to seven business days.

15 JUDGE SCHAER: My understanding is that
16 usually the 15 days would not be business days but
17 would be calendar days.

18 MS. JOHNSTON: That's fine.

19 JUDGE SCHAER: I think you might find that 15
20 business days is longer than the 20 calendar days in
21 the rule, depending on where your weekends lie, and
22 then on the responses, I thought I had understood that
23 to be either five business days or seven calendar days.

24 MS. JOHNSTON: I think we should be
25 consistent and stick with seven calendar days.

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1 JUDGE SCHAER: Is that your understanding
2 also, Mr. Asche?

3 MR. ASCHE: Yes.

4 JUDGE SCHAER: Thank you. Is there anything
5 further to come before the Commission this morning?
6 Hearing nothing, thank you all, and we will be off the
7 record. Notice of hearing will issue before our
8 hearing and will give you the time and place we are
9 going to get together.

10 (Prehearing concluded at 11:09 a.m.)

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