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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,) DOCKET NO. UW-030496
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11 A pre-hearing conference in the above matter
12 was held on September 19, 2003, from 1:30 p.m to 1:40
13 p.m., at 1300 South Evergreen Park Drive Southwest, Room
14 108, Olympia, Washington, before Administrative Law
15 Judge KAREN M. CAILLE.

16 The parties were present as follows:

17 THE COMMISSION, by MARY M. TENNYSON, Senior
18 Assistant Attorney General, 1400 South Evergreen Park
19 Drive Southwest, Post Office Box 40128, Olympia,
20 Washington, 98504-0128, Telephone (360) 664-1220, Fax
21 (360) 586-5522, E-Mail mtennyso@wutc.wa.gov; and by LISA
22 WATSON, Assistant Attorney General, 1400 South Evergreen
23 Park Drive Southwest, P.O. Box 40128, Olympia,
24 Washington 98504-0128, Telephone (360) 664-1186, Fax
25 (360) 586-5522, E-Mail lwatson@wutc.wa.gov.

24 Joan E. Kinn, CCR, RPR
25 Court Reporter

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1 KAYAK POINT WATER COMPANY, INCORPORATED, by
2 RICHARD A. FINNIGAN, Attorney at Law, 2405 Evergreen
3 Park Drive Southwest, Suite B-1, Olympia, Washington
4 98502, Telephone (360) 956-7001, Fax (360) 753-6862,
5 E-mail rickfinn@ywave.com; and by SETH BAILEY, Attorney
6 at Law, 2405 Evergreen Park Drive Southwest, Suite B-1,
7 Olympia, Washington 98502, Telephone (360) 956-7211.
8 Fax (360) 753-6268, E-mail sbailey@ywave.com.
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1 P R O C E E D I N G S

2 JUDGE CAILLE: We are here today for the
3 first pre-hearing conference in a proceeding in Docket
4 Number UW-030496 entitled Washington Utilities and
5 Transportation Commission versus Kayak Point Water
6 Company, Incorporated, and this matter concerns tariff
7 revisions designed to add language to implement a Cross
8 Connection Control Program and to implement charges for
9 inspections. The Commission suspended the operation of
10 the tariff revisions pending hearing concerning such
11 charges, and the justness and reasonableness of those
12 charges and changes.

13 My name is Karen Caille, and I am the
14 presiding Administrative Law Judge in this proceeding.
15 Today is September the 19th, and we are convened in a
16 hearing room in Olympia, Washington. I would like to
17 start today just by taking appearances, if you will --
18 well, everyone here knows how to do it, and let's begin
19 with the company.

20 MR. FINNIGAN: Richard A. Finnigan on behalf
21 of the company. The phone number is, phone number, the
22 address is, sure I know how to do this, the address is
23 2405 Evergreen Park Drive Southwest, Suite B-1, Olympia,
24 Washington 98502. The phone number is, my phone number
25 is (360) 956-7001, fax is (360) 753-6862, e-mail is

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1 rickfinn@ywave.com. With me today is Seth Bailey. The
2 information for Mr. Bailey is the same with the
3 exception of the phone number, which is (360) 956-7211,
4 and Mr. Bailey's e-mail address, which I will let him
5 put on the record since I am not sure I know it.

6 MR. BAILEY: My e-mail address is
7 sbailey@ywave.com.

8 JUDGE CAILLE: Thank you.

9 And for Commission Staff.

10 MS. TENNYSON: Thank you, I'm Mary Tennyson,
11 Senior Assistant Attorney General. Address is 1400
12 South Evergreen Park Drive Southwest, Post Office Box
13 40128, Olympia, Washington 98504-0128. Telephone is
14 (360) 664-1220, fax is (360) 586-5522, e-mail is
15 mtennyso@wutc.wa.gov. With me and taking over the case
16 if anything changes from what we plan to do today is
17 Assistant Attorney General Lisa Watson, and I'm going to
18 let her put her telephone number and e-mail in the
19 record.

20 MS. WATSON: My telephone number is (360)
21 664-1186, and my e-mail is lwatson@wutc.wa.gov.

22 JUDGE CAILLE: All right, thank you. Let the
23 record reflect there are no other appearances.

24 It looks like there's no petitioners to
25 intervene.

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1 Any motions?

2 MS. TENNYSON: Not exactly a motion.

3 MR. FINNIGAN: I think what we would like to
4 do is to enter a settlement into the record and ask that
5 on the basis of that settlement the suspension be lifted
6 and the tariff be allowed to go into effect.

7 MS. TENNYSON: And then we would waive
8 initial order and go directly to final order on that.

9 MR. FINNIGAN: Correct.

10 MS. TENNYSON: And I can give you a little
11 bit of background on it. As you indicated in the
12 opening statement, this is a tariff to implement a Cross
13 Connection Control Program and charges for certain
14 aspects of that program. There are various charges
15 within that. It's a program that is mandated by
16 Department of Health requirements that all water
17 companies institute. The Commission has sort of a
18 generic tariff that most companies have implemented. In
19 looking at this tariff, Staff had some concerns about
20 some of the charges this company proposed, and one of
21 the charges that Staff still has concerns about is the
22 dollar amount of the company's charge for disconnection
23 and reconnection.

24 The Cross Connection Control Program, the
25 tariff rules include several circumstances in which if

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1 the customer does not take certain actions, then the
2 remedy the company has is disconnection. And for
3 example, if the company sends out a survey to find out
4 if there is a need for a cross connection control device
5 on the customer's premises and if the customer does not
6 respond, the remedy is disconnection.

7 In looking at the tariffs and discussing it
8 with Mr. Finnigan this week, I realized that the charge
9 for disconnection is not actually part of the tariff
10 that is before the Commission. It is in a separate part
11 of the company's tariff, has not been I guess formally
12 reviewed by the Commission in the past because it was
13 part of the company's initial tariff filing.

14 Staff is in discussions with the company, and
15 we understand that they are providing information to
16 justify the charges or to change the charges. If that
17 does not happen or doesn't happen in a manner as timely
18 as Staff would like, Staff always has the remedy of
19 asking the Commission to initiate a complaint against
20 that part of the tariff, but that is not at issue in
21 this case.

22 Therefore, we believe the appropriate remedy
23 would be to dismiss this proceeding and to allow the
24 tariff for the Cross Connection Control Program to go
25 into effect.

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1 MR. FINNIGAN: And from the company's
2 perspective, as you know, this water system has recently
3 been the subject of a purchase and sale transaction, so
4 technically the party before you is the old company.
5 But be that as it may, the new owners of the water
6 system agree that the tariff rate for the
7 reconnect/disconnect rate appears on its face to be
8 higher than it should be and have agreed with Staff that
9 they would enter into discussions to try and come up
10 with the appropriate rate. There has been some
11 information provided to Staff. Staff has asked for
12 additional information, and the company has agreed to
13 gather that information, and we hope we would be able to
14 reach an agreement on the appropriate rate in the very
15 near future.

16 So this is not something the company is
17 resisting at all. It has agreed with Staff that yes,
18 the rate does appear to be higher than it should be. So
19 we think that's an appropriate way to resolve this
20 particular matter, and we were willing to put on the
21 record the company's commitment to work towards trying
22 to arrive at a rate that all parties can agree is
23 appropriate.

24 JUDGE CAILLE: All right, sounds good. So
25 procedurally, were you thinking that just this oral

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1 statement on the record would be enough to dismiss
2 the --

3 MS. TENNYSON: We're hopeful of that, because
4 it just essentially is not something we properly have
5 jurisdiction over I think is where we are.

6 MR. FINNIGAN: And if we hadn't reached this,
7 quite frankly we would be moving to dismiss the
8 proceedings as a matter of law. But I mean we won't --
9 since we have agreed, you know, with Staff that we need
10 to look at this issue, we thought it would be better if
11 we just try and cooperate and get this part of it taken
12 care of. In particular, since there are no interveners
13 and this is a program required by the Department of
14 Health, it doesn't make sense to have a settlement
15 hearing. In my mind it doesn't make sense to have a
16 settlement hearing or try and schedule a public hearing
17 to see if anybody wants to come and comment on it. So
18 Ms. Tennyson and I thought that by putting the
19 settlement agreement on the record verbally this
20 afternoon and then asking the Commission to act on that
21 might be the quickest and cleanest way to solve what is
22 admittedly a puzzling procedural issue.

23 JUDGE CAILLE: Yes.

24 MS. TENNYSON: Yes, we discussed it, and then
25 I guess we could have asked to postpone the pre-hearing

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1 conference so that we could take it back to the public
2 meeting, which would be the other avenue to proceed, but
3 since we had this proceeding scheduled already --

4 JUDGE CAILLE: Oh, I think this is a great
5 way of handling it, I just wanted to -- and you have
6 waived the initial order?

7 MS. TENNYSON: Yes.

8 MR. FINNIGAN: Yes, the company does.

9 JUDGE CAILLE: Is there some need for this to
10 be done quickly?

11 MR. FINNIGAN: I don't think so.

12 JUDGE CAILLE: What I'm looking for is can I
13 wait until I get the transcript?

14 MR. FINNIGAN: Yes.

15 MS. TENNYSON: Yes.

16 JUDGE CAILLE: Okay. If you wanted it
17 earlier, if you wanted to do a written motion to
18 dismiss, that would --

19 MR. FINNIGAN: Well, I think to save the
20 company some money, I think they're willing to wait
21 until you have time to deal with it.

22 JUDGE CAILLE: All right, good.

23 All right, then I don't have anything else
24 because of this, I don't have anything else to discuss.
25 Is there anything further from any of the parties?

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1 MS. TENNYSON: Staff has nothing.

2 MR. FINNIGAN: The company has nothing
3 further.

4 JUDGE CAILLE: All right, thank you very
5 much, we're off the record

6 (Hearing adjourned at 1:40 p.m.)

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