

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)
Vs.) Docket No. UW-951483
ROSARIO UTILITIES, LLC,) Volume 1
Respondent.) Pages 1-14
-----)

A hearing in the above matter was held on
May 29, 1996 at 2:00 p.m., at 1300 South Evergreen Park Drive
Southwest, Commission's Hearing Room, Second Floor, Olympia,
Washington, before Administrative
Law Judge C. ROBERT WALLIS.

The parties were present as follows:

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION by
ANN E. RENDAHL, Assistant Attorney General, 1400 South Evergreen
Park Drive Southwest, Olympia, Washington, 98504.

ROSARIO UTILITIES by LANAE ROSSI, Assistant to Mr. Dan
Donahoe, 5141 North 40th Street, Suite 200, Phoenix, Arizona,
85018.

ORCAS HIGHLANDS ASSOCIATION, VUSARIO MAINTENANCE
ASSOCIATION, ROSARIO HOMEOWNERS ASSOCIATION by ROBERT E.
LUNDGAARD, 2400 Bristol Court Southwest, Olympia, Washington,
98502.

Margaret Bustos, CSR
Court Reporter

P R O C E E D I N G S

JUDGE WALLIS: Let's be on the record, please. The conference will please come to order.

The Washington Utilities and Transportation Commission has set for hearing at this time and place upon due and proper notice to all interested parties a pre-hearing conference in Docket No. UW-951483 involving Rosario Utilities, LLC.

This pre-hearing conference is being held before Administrative Law Judge Bob Wallis of the Washington Utilities and Transportation Commission at Olympia, Washington on May 29, 1996.

I will note for the record that the company is appearing by telephone today, and the other parties are present in the hearing room.

Let's take appearances at this time, please, and let's begin with the company if we could, please.

Ms. Rossi, would you state your name and your business address and your affiliation with the respondent, please.

MS. ROSSI: Certainly my name is Lanae Rossi. My business address is 5141 North 40th Street, Suite No. 200, Phoenix, Arizona. And I'm the assistant to Mr. Dan Donahoe.

JUDGE WALLIS: And, Ms. Rossi, I'm going to ask you again if you could hold the telephone instrument very close to your mouth, it would help us to hear.

MS. ROSSI: Okay.

JUDGE WALLIS: For Commission Staff.

MS. RENDAHL: Ann Rendahl, Assistant Attorney General, representing the Commission Staff. My address is 1400 South Evergreen Park Drive Southwest, Olympia, Washington, 98504.

JUDGE WALLIS: And for Petitioners for Intervention.

MR. LUNDGAARD: Robert E. Lundgaard. Attorney at Lundgaard and Akin, 2400 Bristol Court Southwest, Olympia, Washington, 98502.

I'm not sure why your zip is different than mine.

MS. RENDAHL: I don't know.

JUDGE WALLIS: We're the State, so we have our own.

I'm going to start off and ask Mr. Lundgaard to identify the petitioners for intervention and state briefly the basis for the petition, and then we'll ask the parties for responses.

Mr. Lundgaard.

MR. LUNDGAARD: Thank you. I have filed a petition to intervene on behalf of Orcas Highlands Association, Vusario Maintenance Association, and Rosario Homeowners Association that was pre-filed on May 20th.

Orcas Highlands Association and Vusario Maintenance Association are bulk receivers of water from the Rosario Utilities, LLC. Orcas Highlands has seventy-five customers, and in addition there are eight residences in a plat called Otter's Lair, and they provide water to those eight people as well. They have their own distribution and storage system, and, as I indicated, receive water in bulk.

Vusario Maintenance Association is a non-profit

corporation, and it provides water in bulk -- or receives water in bulk from the Rosario Utilities and has its own storage and distribution system. And it provides water to eight parties.

The third group is the Rosario Homeowners Association. It's a voluntary, non-profit group made up of home owners who are within the service area of Rosario Utilities and are not included in either of the two bulk providers. And they are home owners in various plats within the service area of Rosario Utilities. Since they are all receivers of water from the company, they have a direct interest in these proceedings and the rates that will result from the hearing.

We do not intend to broaden the issues, but we are seeking to intervene to participate in the proceeding and to present witnesses and to cross-examine the witnesses of both the complainant and the respondent.

JUDGE WALLIS: Responses from others.

Ms. Rossi?

MS. ROSSI: No response.

JUDGE WALLIS: Do you have any objection to the intervention?

MS. ROSSI: No, we don't.

JUDGE WALLIS: Very well.

Ms. Rendahl?

MS. RENDAHL: Staff has no objection.

JUDGE WALLIS: Very well. There being no objection, the petitions for the intervention are granted, and the three named parties are parties to the proceeding.

Let's move on to scheduling. Let me ask if the parties have previously discussed the scheduling amongst themselves?

MS. RENDAHL: Yes, your Honor. I've discussed scheduling both with Mr. Donahoe and with Mr. Lundgaard and understand that the company is available for hearing on August 15th and 16th. Whether that be in Rosario or Olympia, we can discuss later.

The Staff prefers instead of having all testimony be presented at the hearing, that there be pre-filed testimony in this case.

The Company, as I understand it -- and Ms. Rossi you can correct me if I'm wrong. Mr. Donahoe indicated he preferred written pre-filed testimony. And as I understand it from Mr. Lundgaard he does not object to that. And I have a proposed schedule for pre-filing.

JUDGE WALLIS: Very well. Let me confirm on the record that parties are amenable to pre-filed testimony.

MR. LUNDGAARD: Yes. It's not my preference, but I understand under the circumstances that that's probably the most expedient.

JUDGE WALLIS: Very well.

Ms. Rossi?

MS. ROSSI: Yes, that is fine.

JUDGE WALLIS: Very well.

Ms. Rendahl.

MS. RENDAHL: The schedule that I propose, and we can discuss exact dates right now, is for the week of June 24th through 28, that the Company pre-file its testimony at that time.

For the week of July 15th through 19, that the Staff and Intervenors would pre-file their testimony. And that the week of July 29th the Company would have an opportunity to provide rebuttal pre-filed testimony.

The dates at this point -- any time in that week would be acceptable to Staff, and so if the Company or Intervenors have suggested dates, I would be more than happy to listen to those suggestions.

MR. LUNDGAARD: Yes, if I may. I would like to first have the opportunity to make data requests and wondered if that needs to have some type of time frame as well.

We are just in this matter formally and now have an opportunity to make requests, which we will -- and we want to take advantage of that.

The -- I would prefer that the Company's pre-filed testimony, depending on the data request schedule, to be by the 24th, and then move up Staff's and Intervenors' to the 17th -- or 15th of July.

I will be gone for that entire week of the 15th through the 19th, and for that reason I would like to have their testimony a little earlier.

Also because if we wait until June 28th, that's a Friday, and the next week has the 4th of July on a Thursday, and knowing that a lot of people will take Friday off as well, that leaves us only a three day week.

And for that reason I would prefer that the Company provide their pre-filed testimony by June 24th, and we could provide ours by the 12th of July.

I wouldn't have any objection to the Staff taking longer if they so desire.

MS. RENDAHL: I don't believe that would be a problem.

MR. LUNDGAARD: Okay.

MS. RENDAHL: And then --

JUDGE WALLIS: Let's get Ms. Rossi's response.

MS. ROSSI: That's fine. Those dates are fine.

JUDGE WALLIS: Okay.

MS. RENDAHL: In terms of data requests, I guess at this time it would be best to invoke the discovery rule or at some point invoke the discovery rule and set time deadlines for responses to data requests by both parties.

JUDGE WALLIS: Very well.

MR. LUNDGAARD: I would -- if we're having an informal conference on the 3rd of June, we could have our request to the Staff and the Company by the 6th of June and would ask that we get the responses by the 17th.

JUDGE WALLIS: Would that be acceptable?

MS. ROSSI: That's acceptable.

MS. RENDAHL: That's acceptable to Staff.

JUDGE WALLIS: Very well.

MS. RENDAHL: Is a rebuttal date for the Company of July 29th still acceptable, or are you proposing, Mr. Lundgaard, to move that up as well?

MR. LUNDGAARD: No, I would have no reason to move that.

JUDGE WALLIS: So the rebuttal would be due on July 29th?

MS. RENDAHL: As I understand it, yes.

JUDGE WALLIS: And, Ms. Rossi, that's okay with you?

MS. ROSSI: That's okay.

JUDGE WALLIS: Okay. Very good.

MS. RENDAHL: I have -- in terms of the hearing date on the 15th and 16th, your Honor --

JUDGE WALLIS: Yes.

MS. RENDAHL: -- I do believe -- or Staff believes it's preferable to have the hearing up in Rosario or on Orcas Island so that the customers would have an opportunity to be present and provide whatever testimony they wish to provide.

I do have a concern, however, that we may not be able to find room on Orcas Island at that time, so my alternate proposal if it's not possible for Staff and the Intervenors and even for the Company to have the people they need to be there for the hearing and find space available on the island is to have the cross-examination hearings here in Olympia and have a day of public testimony up at Rosario.

And so I don't know how you would like to proceed with that, but that's just a scheduling suggestion.

JUDGE WALLIS: The first preference would be to hold the entire proceeding I think in the territory -- in the service territory in light of the proposed schedule and the transportation requirements that would be involved if we're going to have the matter on the 15th and 16th.

It's going to take at least a half day and probably some excess of that for travel, and it would be difficult I think to begin the proceeding here in Olympia on the 15th and move it successfully to Orcas Island on the 16th.

I would suggest that perhaps folks look into the availability of facilities on San Juan Island. If it's a sunny day, we could always go up to Mount Constitution. And perhaps Anacortes would be available for scheduling convenience.

MR. LUNDGAARD: Would you mean Anacortes for our accommodations or for the actual hearing?

JUDGE WALLIS: For the cross-examination. If at all possible it would be I think the Commission's preference to have the hearing for public testimony on the island itself.

MS. RENDAHL: So we'll -- I assume the Commission will advise the parties of the availability of a room on those days, and then we will be able to figure out our accommodations likewise.

JUDGE WALLIS: It's likely that the parties will have a better handle on what is available up there than the

Commissioner's support staff who ordinarily make the scheduling arrangements.

So I'm going to suggest perhaps, Ms. Rendahl, you could talk both with the Company and with Mr. Lundgaard, and among the three of you see what might be available and go ahead and see if arrangements can be made.

MS. RENDAHL: I will do that.

JUDGE WALLIS: In the past we've used school facilities if the district is amenable. We've used libraries. We've been really flexible in terms of where we've held hearings. We've even held hearings in the dance hall part of Deb's Cafe and Dance Hall.

MS. RENDAHL: We'll be creative.

JUDGE WALLIS: Okay. Is there anything further for us to discuss today?

MS. RENDAHL: The only thing I can see, your Honor, is a briefing date should we need that after hearing. And I propose no later than August 30th given the time needed for preparation of initial orders and petitions for administrative review and preparation of final order. I would prefer the 26th myself, but I don't know what others' schedules are.

MR. LUNDGAARD: My concern would be when the record would be available if we're holding the hearing on August 15th and 16th. Assuming that it's ready within -- you know, by Tuesday of the following week, that -- you're saying your preference was the 26th rather than the 30th?

MS. RENDAHL: Correct. Or the 28th is fine as well.

MR. LUNDGAARD: I would prefer to use all of that time depending on when we get the record. I think the 30th would be more appropriate.

JUDGE WALLIS: Well, why don't we call it for the 30th but retain the flexibility. It may be that the issues will be simplified by agreement among the parties, and it may be that the issues as they are actually presented at the hearing are simple enough that we can advance that date in a manner acceptable to the parties either to the 26th or the 28th. But we will say that the outside date would be the 30th.

Mr. Lundgaard, we could also make a tape recording and see that that's available to you for preparation purposes as well. And that could be available virtually immediately. So we'll attempt to work with you to simplify and to expedite matters.

MR. LUNDGAARD: Thank you.

JUDGE WALLIS: Ms. Rossi, is all this acceptable to you?

MS. ROSSI: That's acceptable.

JUDGE WALLIS: Now is there anything further?

MS. RENDAHL: No, your Honor.

JUDGE WALLIS: All right. There will be an order entered shortly that will memorialize what has happened today, and with that let's adjourn this pre-hearing conference.

And I wish the parties well in their continuing discussions. Thank you, very much for appearing today.

MS. ROSSI: Thank you.

MR. LUNDGAARD: Thank you.

MS. RENDAHL: Thank you.

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