

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UW-121408
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	ORDER 05
	)	
v.	)	
	)	INITIAL ORDER GRANTING
SANDY POINT IMPROVEMENT	)	MOTION TO DISMISS WITHOUT
COMPANY,	)	PREJUDICE
	)	
Respondent.	)	
	)	
.....	)	

1     The Washington Utilities and Transportation Commission (Commission) initiated a special proceeding in this docket, pursuant to RCW 80.04.015, on November 21, 2012, to determine whether, and the extent to which, Sandy Point Improvement Company (Sandy Point or Company) is subject to Commission regulation under Chapter 80.28 RCW and is performing any act requiring approval of the Commission without securing such approval. In addition, the Commission initiated a complaint proceeding against Sandy Point pursuant to RCW 80.04.110 and RCW 80.28.020. The complaint alleges that the rates and charges being collected by Sandy Point are unfair, unjust, and unreasonable, or unreasonably discriminatory or unduly preferential, and may otherwise be unlawful. Finally, the Commission initiated a complaint proceeding for penalties pursuant to RCW 80.04.110 and RCW 80.04.380, alleging that Sandy Point’s failure to file tariffs with the Commission constitutes a violation of RCW 80.28.050. Per RCW 80.04.380, each day of such failure is a separate violation and subject to a separate monetary penalty.

2     On May 24, 2013, the Commission’s regulatory staff (Staff)<sup>1</sup> filed a motion with the Commission seeking an order to dismiss this special proceeding and the Commission’s complaints against Sandy Point, without prejudice. The motion states that this docket,

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<sup>1</sup> In a formal proceeding, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

among other things, “involves application of WAC 480-110-255(2)(e) and (f), which describe certain entities that are exempt from Commission regulation.” Based on the issues raised in this docket in cross-motions for summary determination, and otherwise, Staff is concerned that the rule may be interpreted more broadly than justified and, thus, may be read to exempt entities that should not be exempt. After thorough consideration, Staff concludes that it is preferable for the Commission to dismiss this docket without prejudice, and address the rule via a rulemaking proceeding. Staff requests that the Commission delay any further classification of Sandy Point until the rulemaking is concluded. Staff states that if there is a subsequent classification proceeding brought with respect to Sandy Point, it will not seek remedies against the Company for conduct before May 2013.

- 3 Sandy Point supports Commission Staff’s motion under the conditions it outlines. Mr. Steven Lockwood, an intervenor in this proceeding, informed the Commission informally that he also supports the motion to dismiss.
- 4 The Commission determines, for good cause shown, that it is in the public interest to grant Staff’s motion, terminate this special proceeding, and dismiss the complaints against Sandy Point, without prejudice.

**ORDER**

- 5 THE COMMISSION ORDERS that this proceeding is dismissed without prejudice.

Dated at Olympia, Washington, and effective June 6, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEPHANY A. WATSON  
Administrative Law Judge

## **NOTICE TO THE PARTIES**

This is an initial order. The action proposed in this initial order is not yet effective. If you disagree with this initial order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this initial order, and you would like the order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (3) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(4) states that any party may file an answer (Answer) to a Petition within 10 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order, any party may file a petition to reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final either by operation of law or on administrative review.

You must serve on each party of record one copy of any Petition or Answer filed with the Commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and three copies of your Petition or Answer by mail delivery to:

Attn: Steven V. King, Acting Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250