

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND	)	DOCKET NO. UW-040366
TRANSPORTATION COMMISSION,)	
)	
Complainant,	)	ORDER NO. 05
)	
v.)	
)	
MARBELLO WATER COMPANY,)	
	)	DOCKET NO. UW-041181
Respondent.)	
)	
.....	)	ORDER NO. 02
)	
WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,	)	ORDER CONSOLIDATING
	)	CASES; ESTABLISHING DATE
Complainant,	)	FOR AND GIVING NOTICE OF
	)	PREHEARING CONFERENCE
)	
v.)	
	)	(August 27, 2004, at 9:30 a.m.)
MARBELLO WATER COMPANY,)	
)	
Respondent.)	
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket No. UW-040366 is a special proceeding convened by the Washington Utilities and Transportation Commission (Commission) pursuant to RCW 84.04.015 to determine whether Marbello Water Company (Marbello or Company) is subject to regulation under Chapter 80.28 RCW and is performing any act requiring approval of the Commission without securing such approval. Docket No. UW-0401181 is a proceeding to investigate

Marbello's requested rate increase, filed on June 28, 2004, and suspended by the Commission at its open meeting on July 28, 2004.

2 **APPEARANCES.** Richard Finnigan, attorney, Olympia, Washington, represents Marbello. Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff ("Commission Staff" or "Staff").¹

3 **REQUEST FOR CONSOLIDATION.** On July 29, 2004, Commission Staff requested consolidation of the two above-captioned dockets.² Staff made this request pursuant to WAC 480-07-320 which permits the Commission, at its discretion, to consolidate proceedings in which facts or principles of law are related.

4 The Commission initiated Docket No. UW-040366 on March 1, 2004. The purpose of the docket was to determine whether Marbello was a water company subject to regulation under Chapter 80.28 RCW, and if so, to require the company to file a tariff. Marbello subsequently admitted it was subject to Commission jurisdiction and filed a tariff reflecting its current rates as of April 1, 2004.

¹ In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

² Staff also requested a continuance of the schedule in Docket No. UW-040366. The requested continuance was granted on July 30, 2004.

5 Later, on June 28, 2004, Marbello also filed a request to increase its rates above those filed on April 1, 2004. The Commission suspended the request on July 28, 2004, and initiated tariff suspension Docket No. UW-041181.

6 Staff states that the parties are negotiating a settlement of both dockets; that consolidation will cause the combined dockets to be subject to the ten-month statutory deadline applicable to suspended tariff filings; and that the company will carry the burden of proof. Staff states the issues in the two cases are identical – both dockets require a determination whether Marbello’s rates are just, reasonable, and sufficient. Staff believes consolidation of the cases would conserve both Commission and Company resources.

7 Marbello does not object to consolidation.

8 **DISCUSSION AND DECISION.** The Commission finds it reasonable and in the public interest to consolidate two cases when the subject of the cases is the same, as is the case here, where the reasonableness of Marbello’s rates is at issue in each docket. Moreover, consolidating the cases may aid in achieving settlement and ultimately in conserving both company and Commission resources.

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ORDER

- 9 The Commission orders that Docket Nos. UW-040366 and UW-041181 are consolidated and that a prehearing conference is to be convened on August 27, 2004, to determine a schedule for the consolidated proceedings and such other matters as may arise in their determination.

DATED at Olympia, Washington, and effective this 10th day of August, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge