

Docket No. UT-220774 - Vol. I

WUTC v. NW Fiber, LLC

November 30, 2022



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND) DOCKET UT-220774
TRANSPORTATION COMMISSION,)
)
Complainant,)
)
vs.)
)
NW FIBER, LLC,)
)
Respondent.)

VIRTUAL PREHEARING CONFERENCE
Pages 1-8
ADMINISTRATIVE LAW JUDGE GREGORY KOPTA
VOLUME I

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington 98503

(All participants appeared via videoconference.)

DATE TAKEN: NOVEMBER 30, 2022
REPORTED BY: ROSE DETLOFF, RMR, CRR, CCR #21036100

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1 A P P E A R A N C E S
2 ADMINISTRATIVE LAW JUDGE:
3 GREGORY KOPTA
4
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13 ALSO PRESENT:
14 RYAN SMITH
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1 LACEY, WASHINGTON; NOVEMBER 30, 2022
2 1:30 p.m.
3 -o0o-
4 P R O C E E D I N G S
5
6 JUDGE KOPTA: Let's be on the record in
7 Docket UT-220774 captioned Washington Utilities and
8 Transportation Commission v. NW Fiber, LLC.
9 We are here ostensibly for a prehearing
10 conference in a complaint brought by the Commission
11 against this company, and we will begin by taking
12 appearances after I announce that it is Greg Kopta. I
13 am the Administrative Law Judge who is presiding in this
14 proceeding.
15 And so we will begin with appearances from --
16 starting with Commission Staff.
17 MR. ROBERSON: Good afternoon, Judge Kopta.
18 My name is Jeff Roberson. I'm an AAG representing
19 Staff. My contact information is listed in the
20 complaint in this docket. With me at counsel table is
21 one of Staff's regulatory analysts.
22 JUDGE KOPTA: All right. Thank you,
23 Mr. Roberson.
24 I don't see that anyone from the company is on
25 the line, but I will give an opportunity just in case

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1 we're missing them.
2 Is anyone from the company with us this
3 afternoon? Hearing nothing, we will proceed.
4 As I said, this is ostensibly a prehearing
5 conference which would resolve various procedural issues
6 including setting a schedule for this proceeding, but
7 that's not something that obviously is possible without
8 the company's participation.
9 At this point, Mr. Roberson, would you like to
10 make a motion?
11 MR. ROBERSON: Indeed, Judge Kopta. At this
12 point, Staff would move for the entry of an order of
13 default. RCW 34.05.443 and WAC 480-07-450 both allow
14 the Commission to enter a default where a respondent or
15 other party fails to appear at the place and time
16 designated for hearing.
17 I note that the complaint and notice of
18 prehearing conference at -- I believe it's Page 4,
19 paragraph 28 -- inform the company that the failure to
20 appear at this hearing could result in a default. The
21 company has failed to appear at the place and time
22 designated for hearing.
23 So Staff would ask that you enter an order of
24 default and resolve the substantive matters at issue in
25 the complaint.

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1 JUDGE KOPTA: And it's my understanding that
 2 the company is actually dissolved; is that correct?
 3 MR. ROBERSON: They are. And I have two
 4 thoughts about that.
 5 One is we could invite testimony here about
 6 that. The screen-captures of the relevant records are
 7 posted in the docket here, but given that those are
 8 government publications and government records -- one is
 9 a FERC order and one is a filing with the Secretary of
 10 State -- it would be simple and proper for the
 11 Commission to simply take administrative notice of
 12 those.
 13 RCW 34.05.452 5A allows the Commission to take
 14 administrative notice of any judicially cognizable fact.
 15 WAC 480-07-495 2A basically has the same provision: The
 16 Commission can take judicial notice of any judicially
 17 cognizable fact, and the courts roundly agree that
 18 government records and administrative orders are
 19 properly subject to judicial or administrative notice.
 20 And so Staff's preference would be for the
 21 Commission to simply take notice of those facts and
 22 enter a default order.
 23 JUDGE KOPTA: Well, that is my understanding
 24 of the law as well. And it's also my understanding that
 25 Staff -- neither Staff nor you have had any contact with

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1 the company since the complaint was issued?
 2 MR. ROBERSON: None at all.
 3 JUDGE KOPTA: Do you happen to know whether
 4 the company is in bankruptcy?
 5 MR. ROBERSON: I do not. I simply know that
 6 it voluntarily dissolved. I believe it was a year ago.
 7 I think it was in August of 2021.
 8 JUDGE KOPTA: The only reason I say that is
 9 because we've been down this road before with a company
 10 that was in bankruptcy, and the automatic stay may
 11 prevent us from doing anything with respect to their
 12 authority until the bankruptcy court were to rule.
 13 So I just, you know, would like to be more
 14 comfortable that nothing like that has happened, but it
 15 doesn't sound like this is the type of company that
 16 would be in those sorts of circumstances or that they
 17 would even file for bankruptcy if they've gone through
 18 dissolution.
 19 But do you have any thoughts?
 20 MR. ROBERSON: No. I do note that -- I've
 21 read the FERC order, and there's no reference to a
 22 bankruptcy. It's just -- the company defaulted on its
 23 obligations. So as far as I know, they are not in
 24 bankruptcy.
 25 JUDGE KOPTA: Okay. Well, I think the

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1 Commission can go ahead and act as it sees appropriate,
 2 and if a bankruptcy court actually has jurisdiction over
 3 this matter, then they will let us know.
 4 MR. ROBERSON: Most certainly.
 5 JUDGE KOPTA: All right. Is there anything
 6 further, Mr. Roberson?
 7 MR. ROBERSON: Not from Staff.
 8 JUDGE KOPTA: Okay. Those were the
 9 questions that I had. I will grant the motion, and
 10 we'll issue -- or enter an order in due course to that
 11 effect.
 12 So unless we have anything further, then I
 13 believe that takes care of what we have for today unless
 14 you have anything else.
 15 MR. ROBERSON: I do not.
 16 JUDGE KOPTA: All right. Thanks very much.
 17 Then we are adjourned.
 18 (Proceedings adjourned at 1:37 p.m.)
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1 CERTIFICATE
 2
 3 STATE OF WASHINGTON
 4 COUNTY OF KING
 5
 6 I, Rose Detloff, a Certified Court Reporter in
 7 and for the State of Washington, do hereby certify that
 8 the foregoing transcript is true and accurate to the
 9 best of my knowledge, skill and ability.
 10
 11
 12
 13 ROSE DETLOFF, RMR, CRR, CCR #21036100
 14
 15 My commission expires:
 16 DECEMBER 6, 2023
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