

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET PG-080097
TRANSPORTATION COMMISSION,)	
	)	ORDER 01
Complainant,)	
	)	PREHEARING CONFERENCE
v.	)	ORDER ESTABLISHING
	)	PROCEDURAL SCHEDULE AND
CITY OF ENUMCLAW,	)	SCHEDULING HEARINGS.
	)	(Evidentiary Hearing set for
Respondent.	)	July 22, 2009)
	)	(Public Comment Hearing set for
	)	July 20, 2009)
.....)	

1 **NATURE OF PROCEEDING:** On February 10, 2009, the Washington Utilities and Transportation Commission (Commission) issued a complaint against the City of Enumclaw (City) for alleged violations of the Commission’s statutes and rules governing pipeline construction, maintenance, and safety. The total violations, if proven, could result in \$11 million in penalties.

2 **CONFERENCE.** The Commission convened a prehearing conference in this proceeding at Olympia, Washington on March 11, 2009, before Administrative Law Judge Patricia Clark.

3 **PARTY REPRESENTATIVES:** Michael A. Fassio, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).¹ Michael J. Reynolds, City Attorney, represents the City of Enumclaw. A complete list of party representatives and their contact information is attached to this Order as Appendix A.

¹ In formal proceedings, such as this, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties 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 regulatory staff. *RCW 34.05.455*.

- 4 **PROCEDURAL SCHEDULE.** During the prehearing conference, the presiding officer informed the parties that, given the seriousness of the alleged violations and the potential for risk to the public, an expedited procedural schedule would be adopted in this proceeding. The parties agreed on an expedited procedural schedule. The procedural schedule includes a public comment hearing in Enumclaw. The Commission adopts the procedural schedule proposed by the parties. The procedural schedule is set forth in Appendix B to this Order.
- 5 **STATUS CONFERENCE.** During the prehearing conference, the parties stated their intent to work diligently toward reaching a settlement of all issues in this proceeding. The parties are required to report the results of their settlement negotiations to the presiding officer. Therefore, a status conference is scheduled to convene on **May 6, 2008, beginning at 9:30 am**, in Room 108, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. If you are unable to attend the status conference in person, you may attend via the Commission's teleconference bridge line at **(360) 664-3846**.
- 6 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning **July 22, 2009**, at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 7 **NOTICE OF PUBLIC COMMENT HEARING.** In proceedings involving investor-owned public service companies, any penalties assessed by the Commission may not be collected from ratepayers. In this case a municipality, the City of Enumclaw, provides utility service. Therefore, the group of ratepayers and tax payers in Enumclaw overlap to some extent. That is, many of the same individuals who pay the City for natural gas public utility service as ratepayers are the same individuals who provide revenue to the City as taxpayers. If, at the conclusion of this proceeding, the Commission determines it is appropriate to assess penalties, the source of revenue to discharge that financial obligation would be revenue collected from the City's taxpayers. Accordingly, it is reasonable to provide an opportunity for ratepayers/taxpayers to comment orally on the record of this proceeding. The Commission will accept written comments after the public comment hearing until July 23, 2009.

8 **NOTICE IS HEREBY GIVEN That a public comment hearing in this matter is tentatively scheduled to convene on Monday, July 20, 2009, from 6:00 p.m. to 7:30 p.m., in the City Council Chambers, 1339 Griffin Avenue, Enumclaw, Washington 98022. This hearing may be vacated or rescheduled to a different date and time.**

9 **DISCOVERY.** During the prehearing conference, the parties requested that the Commission's rules governing discovery be invoked. This proceeding meets the criteria in WAC 480-07-400(2)(b) and discovery will be conducted in accordance with the Commission's discovery rules in WAC 480-07-400 – 425.

10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **8 copies** of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and 1 copy of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

11 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

12 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Electronic versions of all documents must be filed in accordance with WAC 480-07-140(6). Specifically, all documents must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word, .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format.

13 A copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to <records@utc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a

separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

- 14 According to WAC 480-07-145(6), the parties may electronically submit documents to the Commission provided the electronic submission is received by 3:00 pm on the filing deadline and the Commission receives the original and required number of copies by 12:00 pm on the following business day. Parties must submit documents through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to records@utc.wa.gov, and file an original, plus **8 paper copies**, of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to the presiding administrative law judge at pclark@utc.wa.gov and to the parties to the proceeding.
- 15 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. During the prehearing conference, the parties requested that the Commission provide the services of a mediator at the Settlement Conference scheduled to convene on April 30, 2009. The Director, Administrative Law Division, will take that request under advisement and apprise the parties of the availability of those services at a later date.
- 16 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective March 12, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge

APPENDIX A

Docket PG-080097

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Commission Staff	Michael A. Fassio 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664- 1192	360-586-5522	mfassio@utc.wa.gov
City of Enumclaw	Michael J. Reynolds City of Enumclaw 329 East Main Street Auburn, WA 98002	253-939-4556	253-939-4559	mjrlaw@hotmail.com

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET PG-080097**

<u>EVENT</u>	<u>DATE</u>	<u>INTERVAL</u> (Days)
Settlement Conference (Parties Only)	April 30, 2009	79 days
Status Conference (Telephonically)	May 6, 2009	6 days
Commission Staff Direct Testimony and Exhibits	May 22, 2009	16 days
City of Enumclaw Responsive Testimony and Exhibits	June 22, 2009	31 days
Commission Staff Rebuttal Testimony and Exhibits	July 6, 2009	14 days
Public Comment Hearing	July 20, 2009	14 days
Evidentiary Hearing	July 22, 2009	2 days