

00001

1

BEFORE THE WASHINGTON UTILITIES AND

2

TRANSPORTATION COMMISSION

3

WASHINGTON UTILITIES AND ) Docket No. UW-010877  
TRANSPORTATION COMMISSION, ) Volume I

4

) Pages 1 to 19

Complainant, )

5

)

vs. )

6

)

RAINIER VIEW WATER COMPANY, )  
INC., )

7

)

)

8

Respondent. )

)

9

10

11

A prehearing conference in the above matter

12

was held on September 20, 2001, at 9:30 a.m., at 1300

13

South Evergreen Park Drive Southwest, Room 108, Olympia,

14

Washington, before Administrative Law Judge MARJORIE R.

15

SCHAER.

16

The parties were present as follows:

17

THE COMMISSION, by MARY M. TENNYSON, Senior  
Assistant Attorney General, 1400 South Evergreen Park  
Drive Southwest, Olympia, Washington 98504-0128.

19

RAINIER VIEW WATER COMPANY, INC., by GWYN ANN  
TAYLOR, Attorney at Law, 2405 Evergreen Park Drive  
Southwest, Suite B-3, Olympia, Washington 98502.

21

22

23

24

Joan E. Kinn, CCR, RPR

25

Court Reporter

00002

1

P R O C E E D I N G S

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

JUDGE SCHAER: Let's be on the record. We're here this morning for a hearing in Docket Number UW-010877. This is a filing by Rainier View Water Company requesting a general rate increase. We are in the Commission's Hearing Room 108 in the Commission headquarters building in Olympia, Washington. Today is September 20th, 2001. I'm Marjorie Schaer, and I'm the Administrative Law Judge assigned by the Commission to this proceeding.

I would like to start by taking appearances from all the parties, and please state for the record your name, your client, your address, telephone, fax, and E-mail address if you use one, and we will start with you, Ms. Taylor.

MS. TAYLOR: My name is Gwyn Ann Taylor. I'm appearing on behalf of Richard Finnegan, who is the attorney representing Rainier View Water. I don't have my -- I just started working with Mr. Finnegan, and my phone number information is in my car.

MS. TENNYSON: (Indicates.)

MS. TAYLOR: Okay, thank you.

His phone number is 756-7001, fax number 753-6862, at 2405 Evergreen Park Drive Southwest, Olympia, Washington 98502, and that is Suite B-1.

00003

1 JUDGE SCHAER: Okay. And you had indicated  
2 that you're appearing for Mr. Finnegan.

3 MS. TAYLOR: Yes.

4 JUDGE SCHAER: Would you explain that; are  
5 you another attorney in the firm?

6 MS. TAYLOR: Yes, I am.

7 JUDGE SCHAER: And who is your client? I'm  
8 sure it's not Mr. Finnegan.

9 MS. TAYLOR: No, it's Rainier View Water.

10 JUDGE SCHAER: Thank you.

11 Ms. Tennyson.

12 MS. TENNYSON: Thank you. My name is Mary M.  
13 Tennyson, Senior Assistant Attorney General, appearing  
14 for Commission Staff. My address is 1400 South  
15 Evergreen Park Drive Southwest, Post Office Box 40128,  
16 Olympia, Washington 98504-0128. My telephone number is  
17 (360) 664-1220, fax number is (360) 586-5522, E-mail is  
18 mtennyso@wutc.wa.gov.

19 JUDGE SCHAER: Okay, thank you.

20 And I had some indication in the file that  
21 Public Counsel might be involved. Do you know if they  
22 are planning to participate?

23 MS. TENNYSON: I do not believe they are.

24 JUDGE SCHAER: All right, thank you.

25 Are there any preliminary matters to come

00004

1 before the Commission at this time?

2 MS. TENNYSON: No, there are not.

3 JUDGE SCHAER: Okay, then this morning, we  
4 need to review the issues presented in the matter and  
5 develop a schedule for resolving the issues. We will  
6 talk about whether there is a need for a protective  
7 order. We will talk about discovery. We will talk  
8 about a couple of issues that are raised by your  
9 transmittal letter, Ms. Taylor, regarding whether there  
10 needs to be a rule waiver of the filing rule. And at  
11 the end of this matter, we will talk about how you file  
12 things. We will talk a bit about alternative dispute  
13 resolution. And when we finish, hopefully we will have  
14 a procedural outline for how we're going to go forward  
15 and get this case decided.

16 So first thing I would like to take up is  
17 whether there's going to be a need for a protective  
18 order, and in this question, I note that in your  
19 transmittal letter, Ms. Taylor, your client already has  
20 filed its work papers with a confidential designation.  
21 Are you going to be asking the Commission to enter a  
22 protective order?

23 MS. TAYLOR: Yes, we are.

24 JUDGE SCHAER: Does the Staff have any  
25 objection to having a protective order in this

00005

1 proceeding?

2 MS. TENNYSON: No, Staff does not object.

3 JUDGE SCHAEER: Okay, then a protective order  
4 will be issued.

5 The next item I notice in your transmittal  
6 letter is that the final paragraph, Ms. Taylor, contains  
7 what may be a request for waiver of the requirements of  
8 WAC 480-09-337, and I would like to discuss that for a  
9 moment to see what, if anything, in particular you had  
10 in mind and find out what, if anything, that does to our  
11 ability to get this case done in an expeditious manner.  
12 If there are things that should have been filed, that  
13 should be before the Commission at the beginning of this  
14 proceeding that we don't have yet and that's going to  
15 push out time lines, I would like to know that before we  
16 talk about what the suspension date should be and talk  
17 about a schedule. So do you know what that paragraph is  
18 referring to, or would you like just a moment to review  
19 that?

20 MS. TAYLOR: Yes, please. Is that the  
21 discovery rule?

22 JUDGE SCHAEER: Actually, that is the  
23 Commission filing requirements. If you don't have a  
24 copy of that rule available, I can get one for you.

25 MS. TAYLOR: 480?

00006

1 JUDGE SCHAER: It's 480-09-337, and it's  
2 referenced in the last paragraph of your client's  
3 transmittal letter. And actually, looking at my rules,  
4 I'm a little bit confused about even what you're  
5 referring to in the letter.

6 MS. TENNYSON: I believe I could shed some  
7 light on that.

8 JUDGE SCHAER: Okay, Ms. Tennyson, go ahead,  
9 please.

10 MS. TENNYSON: There had been an earlier  
11 filing by the company of a general rate case in which  
12 the Commission Staff rejected the filing because it did  
13 not have adequate supporting information, did not have  
14 the schedules and detail behind it that the rule  
15 requires the filing for a general rate case to contain.  
16 And I believe that the request for waiver was primarily  
17 a cautionary measure by the company to attempt to avoid  
18 a rejection of the filing out of hand.

19 There were some items that Staff felt should  
20 have been included in the filing and were not, and I  
21 believe that many of those items have been obtained from  
22 the company at this point by requests, oral or written.  
23 I have, in fact, in my file a transmittal letter. One  
24 of the things that I spoke directly with Mr. Finnegan  
25 about was that the filing did not include a copy of the

00007

1 notice sent to customers, and he did send that,  
2 including a written transmittal letter so that we have a  
3 record that it was provided.

4           So I believe that was the nature of it. I  
5 think any other items that were not included in the  
6 filing and Staff still feels are important, we are  
7 prepared to issue data requests shortly after this  
8 hearing, presuming the discovery rule is invoked without  
9 objection, that would fill out the information that we  
10 need.

11           MS. TAYLOR: And we would like to invoke the  
12 discovery rule.

13           JUDGE SCHAER: I guess the first thing that  
14 I'm having a problem with is that the letter refers to  
15 WAC 480-09-337, and in looking for that rule, I don't  
16 have one in my book, so I have just confirmed that there  
17 isn't one in the WAC volume either, so let's first make  
18 sure we're all talking about the same rule.

19           MS. TAYLOR: That's quite a good question.

20           JUDGE SCHAER: I think that might be a good  
21 place to start our discussion. Was that intended to be  
22 a reference to WAC 480-09-330, Ms. Taylor? And again,  
23 if you need a copy, I can provide it, and we will look  
24 for one.

25           MS. TAYLOR: I believe it is.

00008

1 JUDGE SCHAER: Okay.

2 MS. TAYLOR: I'm looking at my copy of the  
3 rules, and I don't see the reference that you cited, but  
4 I do see 330 regarding general rate increases.

5 JUDGE SCHAER: Okay, and have you filed all  
6 of the information that you have filed in electronic  
7 format as well as a paper format?

8 MS. TAYLOR: I do not know at this time.

9 JUDGE SCHAER: Okay, I'm going to tell you  
10 that if you have not, I am not going to waive the  
11 requirements of WAC 480-09-331 sub B. And if you have  
12 not filed your materials electronically, I would like  
13 those to be filed electronically within the week,  
14 please. And we will be discussing filing requirements  
15 later in this prehearing conference, but I would like  
16 both parties to strictly adhere to the requirements for  
17 electronic filing of documents.

18 MS. TAYLOR: I will confirm that.

19 JUDGE SCHAER: Thank you.

20 And then perhaps, Ms. Tennyson, do we have  
21 the detailed portrayal of restating actual and pro forma  
22 adjustments included; are you aware of that from your  
23 review?

24 MS. TENNYSON: Yes, I believe we do. I don't  
25 believe we have it from the company in electronic format



00009

1 at this point, but we do have hard copy.

2 JUDGE SCHAER: All right, and that's required  
3 to be in the work papers, and I don't believe they are  
4 required to be filed electronically. Actually, they  
5 are, excuse me, looking at the rules, so those matters  
6 should be provided electronically as well then.

7 Are there any studies that the company relies  
8 on that differ in their methodology from studies that  
9 have been used in prior rate proceedings? I know the  
10 Commission has had particular problems in that area of  
11 seeing new studies that use a different methodology but  
12 not having the studies required by our rule that use the  
13 former methodology and then the description of what in  
14 the studies had changed. I'm trying to avoid some of  
15 the problems that has caused in other proceedings by  
16 addressing that up front in this one. Perhaps as part  
17 of your review, Ms. Taylor, you could check into that as  
18 well.

19 MS. TAYLOR: I will do that.

20 JUDGE SCHAER: Thank you.

21 Is there anything more that we need to  
22 discuss in terms of the filing rules?

23 MS. TENNYSON: I don't believe there is.

24 JUDGE SCHAER: Thank you.

25 I will point out that the items that the

00010

1 company files in response to data requests go to Staff  
2 but do not come to the Bench.

3 MS. TAYLOR: Okay.

4 JUDGE SCHAER: And so one of the reasons I  
5 like to make sure that what's supposed to be in the file  
6 which is available to me is complete is that sometimes  
7 there are materials that the Bench needs that the  
8 parties have access to the Bench does not have access  
9 to.

10 MS. TAYLOR: Including the electronic  
11 filings?

12 JUDGE SCHAER: Yeah, I use the electronic  
13 materials extensively.

14 MS. TAYLOR: So I copy you on that?

15 JUDGE SCHAER: Actually, if they are filed in  
16 the case, then they will be available to me as part of  
17 the filing.

18 MS. TAYLOR: Okay.

19 JUDGE SCHAER: Then I believe that you have  
20 indicated, Ms. Tennyson, it is your intention to ask  
21 that the discovery provisions of WAC 480-09-480 be  
22 triggered and that all of those discovery methods be  
23 available in this proceeding; is that correct?

24 MS. TENNYSON: Yes, it is.

25 JUDGE SCHAER: And do you have any objection

00011

1 to that, Ms. Taylor?

2 MS. TAYLOR: No objection.

3 JUDGE SCHAER: Okay, then that rule will be  
4 triggered, and those discovery methods are available.  
5 Encourage the parties, it sounds like you have already  
6 begun informal discovery, I would encourage you to  
7 continue informal discovery as if the written prehearing  
8 conference order were already issued triggering that  
9 rule and to work as cooperatively as you can in  
10 exchanging information.

11 MS. TAYLOR: Can you give me that cite again,  
12 480-09?

13 JUDGE SCHAER: 480.

14 Okay, then the next topic I would like to  
15 take up is a schedule for the remainder of the  
16 proceeding, and I believe that you indicated,  
17 Ms. Tennyson, that this is a topic that the parties have  
18 discussed previously. I think perhaps it would be wise  
19 if we were to go off the record for a few moments to  
20 discuss the schedule and what the suspension date is and  
21 how that works into the schedule, so let's go off the  
22 record for a moment for that purpose.

23 (Discussion off the record.)

24 JUDGE SCHAER: Let's be back on the record  
25 after a scheduling discussion and also a discussion of

00012

1 the water rules and the Commission's filing  
2 requirements. I would first like to note that there is,  
3 in fact, a WAC 480-09-337 and that it was adopted and  
4 became effective December 31st, 1999, and is not yet in  
5 certain rule books but is certainly the filing rule that  
6 governs this proceeding.

7 And looking at that rule, I would like to be  
8 sure that the parties review this rule and that the  
9 matters that are required are provided, and I have asked  
10 Rainier View to review the items that are listed here  
11 and to make electronic copies of those items available  
12 as part of its filing in this matter.

13 In a few moments, we will be discussing  
14 filings that are required and how they should be filed,  
15 and I will be seeking to have anything that's filed with  
16 the Commission in this matter filed electronically  
17 simply because that makes our work more efficient and  
18 also helps us to avoid any missing of items that we can  
19 not use search engines for when they are not available  
20 electronically. It helps us make sure that what we do  
21 is both efficiently done and is complete and accurate.

22 In terms of a schedule for the remainder of  
23 the proceeding, parties had discussed this before the  
24 hearing, which I commend you for, and I believe,  
25 Ms. Tennyson, that you have that schedule available. I

00013

1 would ask you to read it into the record at this point.

2 MS. TENNYSON: Thank you. Rainier View Water  
3 will pre-file its direct testimony and supporting  
4 exhibits on October 26th. The Commission Staff will  
5 pre-file its direct testimony and supporting exhibits on  
6 December 5th. Rainier View will file its rebuttal  
7 testimony and exhibits on December 21st. The hearing  
8 dates will be January 14th and 15th, 2002. And the  
9 parties will submit simultaneous briefs on January 31st,  
10 2002.

11 JUDGE SCHAER: Thank you. And I believe as  
12 part of our discussion, we discussed the benefits of the  
13 parties preparing an outline at the end of the hearing  
14 that each will follow in writing the briefs so that  
15 issues that are disputed between the parties are clearly  
16 framed and can be discussed in a way that we're talking  
17 apples to apples in making comparisons and making  
18 decisions, and I believe you indicated that the parties  
19 would be willing to provide that outline at the end of  
20 the hearings. Is that correct, Ms. Tennyson?

21 MS. TENNYSON: That is correct.

22 JUDGE SCHAER: And do you agree with that,  
23 Ms. Taylor?

24 MS. TAYLOR: Yes.

25 JUDGE SCHAER: And with the rest of the

00014

1 schedule as well?

2 MS. TAYLOR: Yes.

3 JUDGE SCHAER: Thank you.

4 Okay, the next item on my agenda for this  
5 hearing is a discussion of filing requirements and  
6 copies of materials. As we discussed a moment ago, I  
7 find it very useful to have electronic copies of all  
8 matters that are filed, and it is the Commission's  
9 request that all filings should be directed to the  
10 Commission's secretary at the Commission's address,  
11 which will be provided in the order, or by hand delivery  
12 to the Commission's secretary through the Commission's  
13 records center.

14 An original plus 10 copies of all pleadings,  
15 motions, briefs, and other pre-filed materials must be  
16 filed with the Commission. We determine the number of  
17 copies by reviewing the Commission's internal  
18 distribution list and finding out how many copies we're  
19 actually going to need to distribute in the building and  
20 then give you that number so that you will not need to  
21 make the usual original plus 19. We don't want to waste  
22 paper. We also don't want the records center to have to  
23 make extra copies of things that come in, so that  
24 original plus 10 will be adequate for our needs in this  
25 matter.

00015

1                   We also ask the parties to furnish separately  
2 a 3.5 inch IBM formatted high density diskette including  
3 the filed documents in PDF format, Microsoft Word 97 or  
4 later, or Word Perfect 6.0 or later format.

5                   Filings by facsimile may be allowed on  
6 request by a party or required by the Bench if necessary  
7 to expedite a particular process. In general, filing by  
8 facsimile is not available unless it is approved in  
9 advance. When filing by facsimile is allowed or  
10 required, please use the Commission's facsimile number,  
11 which is (360) 586-1150.

12                   Are there any questions about those filing  
13 requirements?

14                   MS. TAYLOR: No questions.

15                   JUDGE SCHAER: Thank you.

16                   MS. TENNYSON: Your Honor, I think it would  
17 be also appropriate to specify a format for spreadsheets  
18 since we are talking accounting adjustments, and  
19 certainly I know the format we use here at the  
20 Commission is in Excel format, and many times companies  
21 do not keep their books in that format, so we would ask  
22 that electronic copies of any spreadsheets or exhibits  
23 be filed in Excel format.

24                   JUDGE SCHAER: And do you have that format  
25 available to you, or does your client, Ms. Taylor; do

00016

1 you know?

2 MS. TAYLOR: I believe so; I will confirm

3 that.

4 JUDGE SCHAER: Okay, thank you.

5 MS. TAYLOR: But I believe we do.

6 JUDGE SCHAER: If you do, then please use  
7 that. If there is a problem ever with format, then  
8 please do contact Ms. Tennyson, and we do have some very  
9 good computer support at the Commission and can figure  
10 out how to resolve some problems of working with one  
11 format and converting it to another if we can get the  
12 right people talking to each other, and we're happy to  
13 do that.

14 MS. TAYLOR: Sounds great, thank you.

15 JUDGE SCHAER: I would like a brief  
16 discussion at this point of the issues that parties see  
17 coming before the Commission. I understand that this is  
18 a general rate filing and that there are probably going  
19 to be many adjustments proposed, and Staff may not know  
20 yet which ones of those it will have concerns about.  
21 But are there some bigger issues that are going to be  
22 presented that the parties are familiar with at this  
23 point?

24 Ms. Tennyson, would you like to go first?

25 MS. TENNYSON: Certainly. We have had some



00017

1 meetings with the company representatives and  
2 Mr. Finnegan to discuss some of them, and I have also  
3 had a brief discussion with Mr. Finnegan yesterday that  
4 we might meet again sometime in the next couple of weeks  
5 to try to reach agreement, stipulated most of the  
6 numbers, have reached stipulations on those.

7 I think there's a couple of major issues and  
8 then some other minor adjustments, but the major issues  
9 relate to imputation of taxes to the company. This  
10 company is a Sub Chapter S corporation, and therefore  
11 the corporation does not pay income taxes, and the  
12 company's rates, proposed rates, include imputed income  
13 taxes for the company, and Staff does dispute that.

14 There is an issue of treatment of ready to  
15 serve revenues that the company has been collecting.  
16 The company has not included those in its regulated  
17 revenues but has treated them as non-regulated revenues.  
18 Staff believes those should be included in the operating  
19 income of the company, and that therefore affects the  
20 rates.

21 I believe there are some issues relating to  
22 salary amounts for particular individuals affiliated  
23 with the corporation and amounts of rent paid by the  
24 corporation for its offices.

25 And certainly there's other minor

00018

1 adjustments, but I believe those would be the major  
2 issues we would be contesting.

3 JUDGE SCHAER: And are you aware of other  
4 major issues, Ms. Taylor?

5 MS. TAYLOR: I'm not aware of any other major  
6 issues.

7 JUDGE SCHAER: Okay. I will refer both  
8 parties to the Commission rules about alternative  
9 dispute resolution and settlement and indicate that it  
10 is the Commission's policy to encourage alternative  
11 dispute resolution where it is useful and can resolve  
12 issues or partially resolve issues and encourage you to  
13 continue your discussion about stipulations that may  
14 remove the need for fact findings on numbers that the  
15 parties can agree to or other matters that the parties  
16 can agree to.

17 I will also indicate that the Commission will  
18 make available on request services of an administrative  
19 law judge, probably a judge other than me unless I would  
20 then not be doing the rest of the proceeding, to discuss  
21 either in the role of a settlement judge or a mediator  
22 whether there is possible resolution of any other issues  
23 that you might want to frame and bring to us in that  
24 way. So I am pleased to hear that you have had  
25 conversations ongoing and would encourage you to

00019

1 continue those, and the Commission can be useful to the  
2 parties in helping reach some kind of a resolution.  
3 Please know that those kinds of services are available  
4 and that we are willing and happy to help resolve what  
5 we can.

6           So at this point, we have triggered the  
7 discovery rule, we will have a protective order, we have  
8 a schedule for the remainder of the proceeding, we have  
9 discussed filing requirements, we have discussed in  
10 general the issues that are before the Commission. Is  
11 there anything further that needs to come before the  
12 Commission this morning?

13           MS. TENNYSON: Staff does not have anything.

14           MS. TAYLOR: Rainier does not have anything  
15 else.

16           JUDGE SCHAER: All right, then thank you for  
17 your participation and cooperation, and this hearing  
18 will be adjourned.

19           (Hearing adjourned at 10:15 a.m.)

20

21

22

23

24

25

