

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 _____

4 THE WASHINGTON UTILITIES AND)
5 TRANSPORTATION COMMISSION,)
6)
7 Complainant,) DOCKET NOS. UW-961042,
8) UW-961043, UW-961044,
9 vs.) UW-961141 and UW-961545
10) Volume II
11 SOUND WATER COMPANY,) Pages 28 - 52
12 INCORPORATED,)
13)
14 Respondent.)

15 _____

16 A pre-hearing conference in the above
17
18 matter was held on March 11, 1997, at 10:40 a.m., at
19
20 1300 South Evergreen Park Drive Southwest, Olympia,
21
22 Washington, before Administrative Law Judge JOHN
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24 PRUSIA.
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The parties were present as follows:

THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION STAFF, by MARY M. TENNYSON, Senior
Assistant Attorney General, 1400 South Evergreen Park
Drive Southwest, Olympia, Washington 98504;

SOUND WATER COMPANY, INCORPORATED, by
ROBERT E. LUNDGAARD, Attorney at Law, 2400 Bristol
Court Southwest, Suite B, Olympia, Washington 98502.

Wendy Sara Durrow, CCR
Court Reporter

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I N D E X

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WITNESSES:

DIRECT

CROSS

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PETTIT

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EXHIBITS

MARKED

ADMITTED

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1 P R O C E E D I N G S

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3 (Exhibit Nos. 1 through 7

4 marked.)

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6 CHAIRMAN PRUSIA: The hearing
7 will please come to order. This is a consolidated
8 docket encompassing five contracts between Sound
9 Water Company & Developers for extension of Sound
10 Water Company's water system to provide domestic
11 water service and fire flow to specified
12 subdivisions.

13 The Washington Utilities and Transportation
14 Commission has suspended the operation of the
15 contracts pending a hearing concerning their justness
16 and reasonableness.

17 The Commission has set for this time and place,
18 upon due and proper notice to all interested parties,
19 a hearing on that matter.

20 The hearing is being held at Commission
21 headquarters in Olympia, Washington, on March 11th,
22 1997. The time is approximately 10:45. My name is
23 John Prusia. I am the administrative law judge
24 assigned to this proceeding today.

25 I'll further identify the five dockets as

1 follows: In Docket No. UW-961042 the contract is for
2 an extension to provide domestic water service and
3 fire flow to Capstone Homes/Springwood Estates
4 Division II, consisting of fifty-seven lots.

5 In Docket No. UW-961043, the contract is for an
6 extension to provide domestic water service and fire
7 flow to Horton Meadows consisting of thirty-four
8 lots. In Docket No. UW-961044, the contract is for
9 an extension to provide domestic water service and
10 fire flow to Plum Ridge consisting of 103 lots.

11 The Docket No. UW-961141 contract is for an
12 extension to provide domestic water service and fire
13 flow to Rainier Vista-Chennes Park -- spelled
14 C-h-e-n-n-e-s -- consisting of 145 lots.

15 And the Docket No. UW-961546 contract is for an
16 extension to provide domestic water service and fire
17 flow to the Commons Apartments.

18 I'll take appearances at this time beginning
19 with the company, Mr. Lundgaard. Please state your
20 name and who you represent.

21 MR. LUNDGAARD: Robert E.
22 Lundgaard, Lundgaard & Aitken, Attorney at Law,
23 representing Sound Water Company.

24 CHAIRMAN PRUSIA: And for
25 Commission staff?

1 MS. TENNYSON: Mary Tennyson,
2 Senior Assistant Attorney General, for Commission
3 staff.

4 CHAIRMAN PRUSIA: Thank you.

5 Is there anyone else present who wishes to make
6 an appearance in this matter? Let the record reflect
7 that there's no response.

8 Before we went on the record, I marked for
9 identification seven exhibits, and I'll identify
10 those now. Marked for identification as Exhibit No.
11 1 is the contract between Sound Water Company and
12 Springwood II.

13 Marked for identification as Exhibit No. 2 is
14 the contract between Sound Water Company and Horton
15 Meadows. Marked for identification as Exhibit No. 3
16 is the contract between Sound Water Company and Plum
17 Ridge.

18 Marked as Exhibit No. 4 is the contract between
19 Sound Water Company and Rainier Vista-Chennes Park.
20 Marked as Exhibit No. 5 is the contract between Sound
21 Water and Bill Barrett Builder, Inc., concerning the
22 Commons Apartments.

23 Marked for identification as Exhibit No. 6 is a
24 December 18th, 1996 letter from the Department of
25 Health to the Board of Directors of Sound Water

1 Company. And marked for identification as Exhibit
2 No. 7 is a January 7th, 1997 letter from the
3 Department of Health to Mr. Phil Pettit of Sound
4 Water Company.

5 Are there any other preliminary matters we need
6 to discuss before we hear the testimony?

7 MS. TENNYSON: Yes, Your Honor.

8 The parties have reached a stipulation on the first
9 four contracts, for UW-961042, 961043, 961044, and
10 961141.

11 The staff has agreed to stipulate that the
12 amounts and the terms of these contracts are just and
13 reasonable, and we recommend that these contracts be
14 approved.

15 CHAIRMAN PRUSIA: Did you have
16 anything to add to that, Mr. Lundgaard?

17 MR. LUNDGAARD: No. We, of
18 course, would concur with that stipulation.

19 CHAIRMAN PRUSIA: Did you plan to
20 submit a written stipulation?

21 MS. TENNYSON: If you would
22 prefer one, we can do that. We had not planned to do
23 it.

24 CHAIRMAN PRUSIA: I would prefer
25 if you would follow up your oral stipulation with a

1 short, written stipulation --

2 MS. TENNYSON: We can do that.

3 CHAIRMAN PRUSIA: --

4 memorializing that. And then there is no stipulation
5 concerning the fifth contract --

6 MS. TENNYSON: That's correct.

7 CHAIRMAN PRUSIA: -- which is the
8 Bill Barrett --

9 MR. LUNDGAARD: Yes.

10 CHAIRMAN PRUSIA: -- Commons
11 Apartment contract.

12 MS. TENNYSON: With regard to
13 that contract, there are some concerns that may be
14 addressed through testimony. I have discussed it
15 with Mr. Lundgaard and would like to put some
16 testimony on the record about that; in particular,
17 Exhibits 6 and 7 relate to that contract.

18 There was -- the Department of Health had given
19 an approval and has then withdrawn that approval for
20 service to be provided under those contracts.

21 I understand that Mr. Pettit has some additional
22 information and may be looking to submit an exhibit
23 before closing the record, but is not -- does not
24 have that exhibit today.

25 CHAIRMAN PRUSIA: All right. Did

1 you have anything else to add in the way of opening
2 statement before we hear the testimony?

3 MS. TENNYSON: I do not.

4 CHAIRMAN PRUSIA: Mr. Lundgaard?

5 MR. LUNDGAARD: No, I have none.

6 Just ready to proceed.

7 CHAIRMAN PRUSIA: Very well,
8 then. Mr. Lundgaard, please call -- I understand you
9 just have one witness.

10 Is that correct?

11 MR. LUNDGAARD: Yes.

12 CHAIRMAN PRUSIA: Please call
13 that one witness.

14 MR. LUNDGAARD: Phil Pettit, come
15 forward, please.

16
17 PHIL PETTIT, having been first duly
18 sworn, was called as a
19 witness and was examined and
20 testified as follows:

21

22 DIRECT EXAMINATION

23 BY MR. LUNDGAARD:

24 Q State and spell your name for the record.

25 A My name is Phil Pettit; P-h-i-l, last name is

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1 P-e-t-t-i-t.

2 Q And your business address?

3 A 9418 204th Street, Graham, Washington 98338.

4 Q And the name of your business?

5 A Sound Water Company.

6 Q Okay. And what is your position with that company?

7 A Manager/owner.

8 Q Okay. And you're familiar with the day-to-day
9 operations of the company?

10 A Yes, I am.

11 MR. LUNDGAARD: I assume the
12 exhibits have been admitted.

13 CHAIRMAN PRUSIA: We have not
14 been moved to be admitted.

15 MR. LUNDGAARD: I would move for
16 the admission of Exhibits 1 through 7.

17 MS. TENNYSON: No objection.

18 CHAIRMAN PRUSIA: Very well. The
19 exhibits that have been marked for identification as
20 Exhibits 1 through 7 will be admitted into the
21 record.

22 (Exhibit Nos. 1 through 7
23 admitted.)

24

25 Q (By Mr. Lundgaard) Showing you a copy of Exhibit 5,

1 is that the contract that was entered into regarding
2 the Commons Apartments with Bill Barrett?

3 A Yes, it is.

4 Q And there has been a portion of that, in paragraph
5 one, under the agreement, that was stricken out and
6 initialed.

7 Is that initialed by you and Mr. Barrett?

8 A Yes, it was.

9 Q And at the time that this contract was drawn up,
10 your contract included Federal Contribution in Aid of
11 Construction Tax; is that correct?

12 A Yes.

13 Q And that developed a cost figure that's shown in
14 paragraph two as being \$190 for each lot connection;
15 is that correct?

16 A That's correct.

17 Q And in actuality, that tax is no longer in existence
18 and so there's no need or justification for
19 collecting the \$65 portion of the \$190; is that
20 correct?

21 A That's correct.

22 Q And the \$65 is the amount of the tax?

23 A The tax itself.

24 Q Okay. Since submitting Exhibit 5 to the Commission
25 for approval, you have prepared a new contract form

1 which has deleted any reference to the Contribution
2 in Aid of Construction Tax; is that correct?

3 A Yes, we have.

4 Q And the amount that you are asking for approval now
5 is \$125 for the lot connection?

6 A Yes.

7 Q And in addition, paragraph three covers the service
8 meter cost of \$528.50, and that's already built into
9 your tariff which has been approved by the
10 Commission?

11 A Yes.

12 Q Okay. You intend to have Mr. Barrett either sign a
13 new contract or delete the portion of paragraph two,
14 starting with the sentence, This amount includes the
15 Federal Contribution in Aid of Construction Tax; is
16 that correct?

17 A Yes.

18 MR. LUNDGAARD: And we would like
19 to submit a late-filed exhibit, which would be,
20 probably, a brand-new contract that would clean up
21 and delete the language relating to the Federal tax,
22 and ask that we be given an exhibit number so that we
23 can submit that to you within the next ten days.

24 CHAIRMAN PRUSIA: Very well. At
25 the end of the hearing, if you'll remind me, you can

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1 get a number for that.

2 MR. LUNDGAARD: Okay. Fine.

3 CHAIRMAN PRUSIA: And you said it
4 would be submitted within ten days?

5 MR. LUNDGAARD: Yes.

6 CHAIRMAN PRUSIA: We'll have to
7 give Commission staff an opportunity to take a look
8 at it and see if they have any objection.

9 MS. TENNYSON: Yes.

10 MR. LUNDGAARD: All right.

11 Q (By Mr. Lundgaard) Mr. Pettit, in the course of
12 getting your approvals, do you obtain an approval
13 from the Department of Health?

14 A In the very beginning, yes, we do.

15 Q And explain generally what the process is in getting
16 these approvals.

17 A Well, normally first it comes to us and wants a
18 subdivision to start, so we get a blueprint drawn up
19 in order to submit to the Department of Health for
20 their approval for construction.

21 Then the Department of Health sends us back a
22 letter saying, Yes, you are approved for
23 construction. At that time, we take that letter we
24 get from the Department of Health and go into a
25 contract with the developer, which we have approved

1 by the Washington State Utilities Commission.

2 And then, after the water line's all been put
3 in the ground and everything, then we resubmit to the

4 Department of Health for final approval on the
5 contract, after the water line's been put in
6 properly, and at that time we get final approval of
7 the water system to accept the new customers.

8 Q And so Exhibit 6, the December 18th letter from the
9 Department of Health, is a letter that indicates that
10 the project's been completed according to plans and
11 specs, and they have indicated their approval by
12 their department?

13 A Uh-huh. (Witness answers affirmatively.)

14 Q Then, subsequent to that, a letter was sent out to
15 you dated January 7th, which is Exhibit 7, indicating
16 they had withdrawn that approval; is that correct?

17 A Yes.

18 Q And could you explain what the problem was?

19 A What happened was the Department of Health hadn't
20 notified the Department of -- Pierce County Fire
21 Prevention that they were accepting it, and Fire
22 Prevention decided that there was not enough water in
23 the water main to build all these apartments.

24 And when we went back and refilled all of our
25 fire hydrants, we found out that we did have some

1 valves turned off by another developer.

2 So we turned them back on, retested, and now
3 they are in good shape. And the Department of --
4 Pierce County Fire Prevention, they have all that
5 information.

6 Q So if I understand you, the test was for fire flow
7 and the County felt it was not sufficient?

8 A Sufficient, yes.

9 Q And the reason that you discovered why that test
10 wasn't acceptable was because there were valves that
11 had been shut off which prevented the water to loop
12 through the system?

13 A To loop throughout the system, yes.

14 Q And fire flow is a requirement for approval of these
15 projects?

16 A Yes. This project here happened to be a commercial
17 system, and they needed more fire protection than a
18 normal housing development system do.

19 Q And so you did, then, run a new fire flow test and
20 the Pierce -- is it Pierce County?

21 A Pierce County Fire Marshal's office does have it.

22 Q And they, then, approved that test?

23 A Yes.

24 Q And so they have actually allowed the contractor to
25 obtain building permits --

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1 A Yes.

2 Q -- which would indicate their approval of the system?

3 A Yes.

4 Q Without their approval of the fire flow testing, they
5 would not have issued the permits, I take it.

6 A No, they will not issue a building permit. No, they
7 will not.

8 MR. LUNDGAARD: So, Your Honor,
9 we would ask for another exhibit to be reserved to be
10 submitted, again, within ten days, which will be a
11 letter from the Department of Health correcting their
12 -- so to speak, their January 7th letter will be a
13 letter indicating that fire flow has been approved.

14 CHAIRMAN PRUSIA: Are you
15 reasonably certain that ten days will be sufficient
16 for that?

17 MR. LUNDGAARD: My client thinks
18 he can get that faxed out in a day. I'm not
19 certain. So we think ten days will be sufficient.

20 CHAIRMAN PRUSIA: That would be a
21 Department of Health letter, then?

22 MR. LUNDGAARD: Yes.

23 CHAIRMAN PRUSIA: Very well. The
24 record will be kept open for those late-filed
25 additions. If you need additional time, be sure to

1 let us know.

2 MR. LUNDGAARD: There was one
3 other exhibit I failed to have marked in advance that
4 I'd like to have marked at this time.

5 CHAIRMAN PRUSIA: Let's be off
6 the record for just a minute.

7 (Discussion off the record.)

8
9 CHAIRMAN PRUSIA: I have been
10 handed a seven-page document. The first sheet of it
11 says, at the bottom, Exhibit A, and at the top of
12 that first sheet it says, Sound Water Company, Inc.,
13 I guess is what it's supposed to be.

14 MR. LUNDGAARD: Yeah.

15 CHAIRMAN PRUSIA: I will marked
16 that seven-page document with indication of Exhibit
17 No. 8.

18 (Exhibit No. 8 marked.)

19

20 MR. LUNDGAARD: Thank you.

21 Q (By Mr. Lundgaard) Mr. Pettit, showing you a copy of
22 what's been marked for identification as Exhibit 8,
23 is this a cost estimate for the main tank three that
24 was submitted some years ago to the Utilities and
25 Transportation Commission staff for their approval?

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1 A Yes, it was.

2 Q And does that include the bids and the costs that
3 were obtained by your company for the construction of
4 that project?

5 A Yes, it is.

6 Q And the last page is a summary of those costs and
7 indicating the per-connection charge of \$190 with a
8 breakdown of cost per connection of 125 and the
9 Federal CIA tax of \$65, for the figure of \$190 that
10 you had in your contracts?

11 A Yes, it is.

12 Q And the new contract, because the CIA tax is no
13 longer in effect, the cost per connection will be the
14 \$125 and not the 190?

15 A That's true.

16 Q Okay. And this is the material that was submitted to
17 the Department for approval of all of the contracts
18 that you have had previously approved and the four
19 that were approved here by stipulation today; is that
20 correct?

21 A That's correct.

22 MR. LUNDGAARD: Okay. I would
23 offer Exhibit 8.

24 MS. TENNYSON: I have no
25 objection.

1 CHAIRMAN PRUSIA: Exhibit 8 will
2 be admitted.

3 (Exhibit No. 8 admitted.)

4

5 MR. LUNDGAARD: I have no further
6 questions.

7 CHAIRMAN PRUSIA: I just had a
8 clarification to ask. You said, Submitted to the
9 Department.

10 Did you mean to the Commission or --

11 MR. LUNDGAARD: Yes. To the
12 staff, the Washington Utilities Commission staff.

13 CHAIRMAN PRUSIA: Very well.

14 Thank you.

15 Ms. Tennyson, do you have any cross-examination
16 of this witness?

17 MS. TENNYSON: I have a couple of
18 questions.

19

20

21 CROSS-EXAMINATION

22 BY MS. TENNYSON:

23 Q Mr. Pettit, with regard to the Department of Health
24 withdrawing the approval for the Commons Apartments,
25 you indicated that you now have approval from the

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1 Pierce County Fire Department.

2 A We have it from Fire District 21, which does fire
3 flow tests. Yes, I do have that in our office.

4 Q Okay. And will that information be conveyed to the
5 Department of Health?

6 A The fire district is supposed to convey it
7 themselves. That's their job.

8 Q And you're reasonably certain that the Department of
9 Health will provide you with this approval?

10 A Yes.

11 Q Can you tell us how close these apartments are to
12 being built and actually needing to have a water
13 system?

14 A I would say they're probably breaking ground already;
15 close to it.

16 Q So occupancy would be sometime later this year?

17 A Yeah.

18 Q And did I understand you, on your testimony relating
19 to Exhibit 8, that the first four contracts that we
20 have not had testimony about, the cost per connection
21 will be \$125 and not the 190 that's reflected in
22 there?

23 A Yes, it will 125.

24 Q I don't have a full copy of the exhibits, but you did
25 submit revised letters, a revised version of that, to

1 the Commission staff?

2 A Yes, I did.

3 MS. TENNYSON: I have no further
4 questions.

5 MR. LUNDGAARD: I have nothing
6 further.

7 CHAIRMAN PRUSIA: Just following
8 up on the last question, the exhibits that I have --
9 1, 2, 3, and 4 -- still seem to indicate a charge of
10 \$190 per lot.

11 Was there going to be some sort of revised
12 exhibit?

13 MS. TENNYSON: Stapled to each of
14 those exhibits there is a letter.

15 CHAIRMAN PRUSIA: Okay. Very
16 well.

17 MS. TENNYSON: Our written
18 stipulation will reflect the staff recommends
19 approval as revised by the letter.

20 CHAIRMAN PRUSIA: And then I also
21 had a question about representations that were made
22 in a declaration that was filed by Mr. Pettit and the
23 answer to a Motion For Reconsideration.

24 Is there any reason the parties see to put those
25 representations on the record? There was a

1 commitment that Rainier View Water Company will have
2 no further responsibility for additional supply,
3 storage, et cetera.

4 The commitment that Mr. Pettit will perform
5 insulation of the meters at no cost for Rainier View
6 if insulation occurs after the transfer of assets to
7 -- from Sound Water to Rainier View, is that matter
8 being handled elsewhere or does that need to -- do
9 those commitments need to be put on the record in
10 this proceeding?

11 Let's be off the record to discuss it.

12 (Discussion off the record.)

13

14 CHAIRMAN PRUSIA: The parties
15 were examining the language that I referred to, and,
16 again, I would ask for response of the parties
17 whether either feels a need to put that on the record
18 in this proceeding or whether that's being addressed
19 elsewhere.

20 MS. TENNYSON: The Commission
21 staff does not believe that this needs to be part of
22 the record here. It goes beyond the scope of this
23 hearing and the significant factors contained in that
24 have already been covered in his testimony.

25 CHAIRMAN PRUSIA: Very well.

1 Thank you.

2 Did you have anything to add, Mr. Lundgaard?

3 MR. LUNDGAARD: No. I agree with
4 Counsel.

5 CHAIRMAN PRUSIA: Well,
6 Mr. Lundgaard, do you have any other witnesses for
7 Sound Water?

8 MR. LUNDGAARD: No. The company
9 rests.

10 CHAIRMAN PRUSIA: Thank you.

11 Ms. Tennyson, does Commission staff have any
12 witnesses to call?

13 MS. TENNYSON: At this time,
14 Commission staff does not have a need to call any
15 witnesses. What we would like to reserve is
16 additional exhibits have been reserved for
17 information to be presented.

18 We would like an opportunity to present a
19 written rebuttal or statement with regard to those
20 exhibits, if it is necessary.

21 We anticipate, however, that if those exhibits
22 are submitted, as represented to the Commission
23 staff, then the Commission staff would have no
24 objection to the approval of these contracts.

25 CHAIRMAN PRUSIA: Very well.

1 Then I will reserve Exhibit Nos. 9 and 10 to be the
2 next two in order. Exhibit No. 9 will be reserved
3 for the revised contract with Bill Barrett Builder,
4 and the Exhibit No. 10 will be reserved for the
5 Department of Health letter.

6 And Commission staff will be given an
7 opportunity to respond to the exhibits and indicate
8 whether they have any objections to them. And also,
9 if you feel there's a need at that point to request
10 that the hearing be reopened, I would entertain a
11 request at that point.

12 MS. TENNYSON: Okay.

13 MR. LUNDGAARD: Okay.

14 CHAIRMAN PRUSIA: I guess the
15 other matter would be -- perhaps it's premature right
16 now, but -- the other question would be whether you
17 want to waive an initial order and proceed directly
18 to a final order in the proceeding.

19 MR. LUNDGAARD: We would so
20 stipulate.

21 MS. TENNYSON: Yes.

22 CHAIRMAN PRUSIA: I don't know if
23 you want to stipulate to that now or wait until after
24 the final exhibits are in.

25 MR. LUNDGAARD: I'm satisfied. I

1 feel comfortable that we can do that at this time.

2 MS. TENNYSON: Yes, I agree.

3 CHAIRMAN PRUSIA: Very well.

4 Then I'll note your waiver of an initial order, and
5 we'll proceed to a final order after the record is
6 closed.

7 Is there anything else to come before us this
8 morning?

9 MS. TENNYSON: I have nothing.

10 MR. LUNDGAARD: We have nothing
11 more.

12 CHAIRMAN PRUSIA: Very well,
13 then. The hearing will be adjourned and we'll be off
14 the record.

15

16 (Proceedings adjourned at

17 11:15 a.m.)

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C E R T I F I C A T E

As Court Reporter, I hereby certify that the foregoing transcript is true and accurate and contains all the facts, matters, and proceedings of the hearing held on March 11th, 1997.

Wendy Sara Durrow
Byers & Anderson, Inc.
Court Reporters & Records Collection

MS.

CHAIRMAN PRUSIA: Very well.
Then I'll note your waiver of an initial order, and we'll proceed to a final order after the record is closed.

Is there anything else to come before us this

