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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,)

5 Complainant,)

6 vs.)

7 WTI, LLC,)

8 Respondent.)

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10 A prehearing conference in the above matter
11 was held on April 8, 2009, at 1:32 p.m., at 1300 South
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge DENNIS MOSS.

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15 The parties were present as follows:

16 WASHINGTON UTILITIES AND TRANSPORTATION
17 COMMISSION, by MICHAEL A. FASSIO, Assistant Attorney
18 General, 1400 South Evergreen Park Drive Southwest,
Post Office Box 40128, Olympia, Washington 98504;
telephone (360) 664-1192.

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24 Kathryn T. Wilson, CCR

25 Court Reporter

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

2 JUDGE MOSS: We are convened in the matter
3 styled, Washington Utilities and Transportation
4 Commission against WTI, LLC. This is a complaint
5 proceeding brought on the Commission's complaint
6 alleging violations of various provisions of the
7 Washington Administrative Code related to the lack of
8 provisions of telephone service.

9 The first order of business will be to take
10 appearances, and we will start with the complaining
11 party, Commission staff.

12 MR. FASSIO: Thank you, Your Honor. Michael
13 Fassio, assistant attorney general appearing on behalf
14 of Commission staff. My address is Box 40128, Olympia,
15 Washington, 98504; phone number, (360) 664-1192; fax,
16 (360) 586-5522. E-mail address is mfassio@wutc.wa.gov.

17 JUDGE MOSS: All right. Is there anyone here
18 to appear for WTI, LLC? Obviously not here in the room
19 but perhaps on the conference bridge line? Apparently
20 not. Mr. Fassio, in light of the absence of the
21 Respondent, I'm open to your suggestions as to how we
22 proceed.

23 MR. FASSIO: Thank you, Your Honor. Staff
24 requests that the Commission do set this matter for
25 hearing. We expect possibly by the evidence that

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1 counsel or the Company is not here today that it may be
2 the Company is held in default at that hearing, but
3 Staff would like to proceed with a hearing on the
4 merits of this case.

5 However, today, Staff is not prepared to
6 present its evidence on the merits of the case or
7 evidence to support a default motion, so we would
8 entertain a default motion at the time of the hearing
9 itself and then proceed on the merits.

10 JUDGE MOSS: Okay. Are we going to have any
11 particular need for live testimony, do you think?

12 MR. FASSIO: I believe that we will need to
13 have some live testimony. Staff would like an order
14 setting forth the Staff's requested relief on the
15 merits of the Complaint, and so we would need to have
16 testimony of Staff setting for the basis of the
17 violations that are alleged, so we would like to
18 request live testimony.

19 JUDGE MOSS: You don't believe the Staff's
20 report is sufficient in this regard?

21 MR. FASSIO: Staff's testimony would support
22 its report.

23 JUDGE MOSS: The report is, as usual, very
24 thorough. I have gone through it this morning. I
25 can't say I've read it verbatim, but I went through its

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1 principle parts. It appears to me that it's well
2 documented in terms of providing the record of
3 Commission's interaction with the various complainants
4 and the Company itself.

5 I don't mind setting the date for hearing,
6 but the drift of what I'm saying is if we can do this
7 on a paper record, I think that would be an efficient
8 way to proceed, and we can do it in a motion for
9 default judgement in the absence of an answer, which I
10 understand was not filed. The Respondent is not
11 present today, which under the statutes and rules can
12 result itself in a default judgment.

13 So I would ask that you consider carefully
14 whether there is any need for live testimony. I
15 suspect that to the extent you need to some way
16 supplement what's in the Staff investigation report,
17 you could perhaps do so by a sworn declaration as
18 opposed to live, and this will save time and effort on
19 everyone's part, and money. How does that sound to
20 you?

21 MR. FASSIO: Can I have a moment off the
22 record with my client?

23 JUDGE MOSS: Sure.

24 (Discussion off the record.)

25 JUDGE MOSS: We've had some off-the-record

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1 discussion between the counsel and the Bench, and we
2 have decided that the most efficient way to proceed
3 will be to have Staff prepare and file a motion either
4 seeking default judgment or a summary determination as
5 counsel deems appropriate, or pleading in the
6 alternative, I suppose, and that we would in terms of
7 the record, we already have the Staff's investigation
8 report as part of the probable cause determination and
9 the Complaint. The report is very thorough in my view.
10 I have read it, and I believe if that is adequately
11 sponsored by its author through a sworn declaration,
12 and we can simply accept that into evidence, and it
13 will be sufficient for determination of the issues.

14 MR. FASSIO: That is agreeable to Staff.

15 JUDGE MOSS: With that then, we will go off
16 the record. Thank you very much for being here today.

17 (Prehearing adjourned at 1:46 p.m.)

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