

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	DOCKET NO. UW-951483
Complainant,)	
)	
v.)	
)	THIRD SUPPLEMENTAL
ROSARIO UTILITIES, LLC,)	ORDER ON PREHEARING
)	CONFERENCE
Respondent.)	
)	
.....)	

CONFERENCE: Judge C. Robert Wallis convened a prehearing conference on August 8, 1996 at Olympia, Washington upon due and proper notice to all parties.

APPEARANCES: The respondent, Rosario Utilities, LLC, appeared by telephone by Don Donohoe, its authorized representative. Intervenors Orcas Highlands Association, Vusario Maintenance Association, and Rosario Homeowners Association appeared by Robert E. Lundgaard, attorney, Olympia. The Commission Staff appeared by Ann Rendahl and Jeffrey D. Goltz, Assistant Attorneys General, Olympia.

INTRODUCTORY: Intervenors represented by Mr. Lundgaard filed a petition for prehearing relief on August 2, 1996. The Commission scheduled and held a prehearing conference on August 8 to discuss the petition and other pending matters.

INTERVENTION: The late-filed petition for intervention of David and Teri Morrison was not opposed and was granted.

DISCOVERY: Mr. Lundgaard asked for an order directing the Company to answer intervenors' discovery request No. 3, seeking information about the ownership of specified businesses. Intervenors modified the request at the conference, as follows:

Intervenors Data Request #3 A. 2 is modified to delete a request for individual persons' names. The response will be satisfied by providing the percentage of ownership by Rosario Resort limited partnership in Rosario Utilities LLC and the ownership by Daybreak Investments in Rosario Utilities LLC.

3 B. 2 request dropped by Intervenors.

The Commission has entered a protective order on its own motion addressing information that the parties may designate as confidential.

The amended motion is granted. The requested information is relevant or may lead to the discovery of relevant information; no sufficient legal reason for withholding the information has been presented; and no provision of law identifying any right of privacy that might justify withholding the information has been cited. The respondent is directed to provide the information requested in Intervenor's Data Request #3, as modified, to intervenor's counsel no later than 5:00 p.m. on Monday, August 12, 1996. Commission Staff does not request the information and it need not be provided to Commission Staff. Any questions regarding admissibility of documents or information may be addressed at the hearing if the information is claimed to be confidential and if it is offered into evidence.

MOTION TO STRIKE: Intervenor's moved to strike the prefiled documents entitled Statement of Daniel J. Donohoe and Exhibits RU-1 and RU-2, for lack of technical compliance with rules and failure to file the required number of copies with the Commission.

The motion is denied. Respondent was making a good faith effort to comply with reasonable and pertinent requirements. The documents will be sponsored and a witness available for questions about them. No party is hurt by the format.

EXTENSION OF TIME: Intervenor's request for an extension of time for data requests became moot. Intervenor's withdrew the request.

WITNESS AVAILABILITY: Mr. Donohoe advised the parties that witness Thorson will be not be physically present at the hearing. He will sponsor her prefiled testimony and exhibits. Ms. Thorson will be accessible for teleconference appearance.

ORDER OF PROCEDURE: At the hearing, the Company will present its evidence first, including its rebuttal exhibits; intervenor's second; and Commission Staff third.

HEARING SCHEDULE: Because of ferry schedules and accommodation scarcity, some adjustment of the starting time on Thursday may be needed. The hearing will begin no earlier than the noticed 9:30 a.m. starting time and no later than 10:30 a.m. If Commission Staff resolves its travel difficulties, it will advise all participants that it will be available for a 9:30 starting time. It is possible that the hearing may not be concluded in two days. Arrangements for any continued session will be made at the hearing.

COUNSEL: Mr. Donohoe advised conference attendees that respondent will engage Mr. Frederickson to represent it at the hearing. Parties are asked to serve both Mr. Donohoe and Mr. Frederickson until further notice.

TRAVEL ARRANGEMENTS: Commission Staff offered as an economy measure to provide transportation for the presiding officer between Anacortes and the ferry, and on-island, to and from the hearing. No party voiced objection.

CONDUCT OF THE HEARING: It is absolutely essential that hearings be conducted with fairness and in a way that all participants perceive fairness in the hearing. Washington State's administrative procedure act, or APA, governs the conduct of administrative hearings. The Commission's rules also provide standards for conducting hearings.

At the prehearing conference, Mr. Donohoe described some of the practical concerns faced by a small business in learning and complying with technical procedural requirements that have arisen in the context of utility rate cases involving many thousands or millions of dollars.

Fortunately, the legislature has provided considerable flexibility in the Administrative Procedure Act. It has indicated in instructions to the Office of Administrative Hearings that hearings are to be conducted with the greatest degree of informality consistent with fairness and the nature of the proceeding.¹

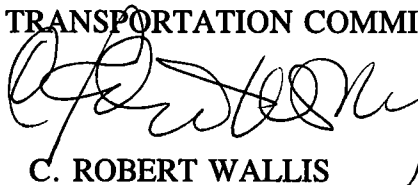
The determination of utility rates is in some ways technically complex. It is still possible to accommodate fairness and APA compliance in a flexible manner and to satisfy legal requirements in a cost-effective way. A Commission policy statement has indicated its concerns that proceedings be conducted efficiently and without unnecessary cost burdens on parties. Doing so appears to benefit all participants and the Commission.

The hearing will be conducted first with a view toward fairness and compliance with law, and then with regard for accomplishing and resolving matters in a practical and straightforward manner. All parties are asked to cooperate in that endeavor.

NOTICE TO PARTIES: Any objection to the provisions of this order must be filed within ten days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Because the hearing will be conducted before that time, parties should state any objections to this order no later than the close of business on Tuesday, August 13. In the absence of objections, this prehearing conference order will control the course of the hearing.

DATED at Olympia, Washington, and effective this 8th day of August 1996.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



C. ROBERT WALLIS
Administrative Law Judge

¹RCW 34.12.010.