

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

SARAH HAND AND GRETCHEN HAND,
a married couple

Complainant,

v.

RAINIER VIEW WATER COMPANY, INC.,

Respondent.

DOCKET UW 170924

**SARAH HAND'S EXHIBIT 37 TO
CROSS EXAMINATION**

EXHIBIT 37X

TO CROSS EXAMINATION OF BOB BLACKMAN AND RACHEL STARK

July 25, 2018

UTC Hearing Transcript dated 06-16-2017

David Danner: 00:03 Good morning. This is the June 15, 2017 open meeting of the Utilities and transi- uh Utilities and Transportation Commission. I'm David Danner, I'm chair of the commission and I'm joined by my colleagues commissioner Anne Rendahl and commissioner Jay [inaudible 00:00:18] Mr. Vasconi are there any changes to the agenda?

Mark Vasconi: 00:22 Good morning chairman. Good morning Commissioners. This is Mark Vasconi, director of Regulatory Services. There are no changes to today's agenda.

David Danner: 00:29 All right. Thank you very much. Excuse me. Is there anyone who wishes to comment on any item uh on the no action agenda. We'd like to have a no action consent agenda item moved to the regular portion of the agenda for discussion. Okay hearing nothing. We will take no action. Is there a motion on the consent agenda?

Ann Rendahl: 00:48 Yes, there is I move that the items on the consent agenda be approved as proposed and that the secretary be directed to sign the letter or order implementing the commission's d- commission's action as to each item consistent with this decision.

Jay: 01:02 Second.

David Danner: 01:03 All right, thank you. So it has been moved and seconded, and the motion carries. So we can move right into uh, the only item we have on the agenda today, which is item A1 Rainier View Water Company. So, Mr. Seivel? Good morning.

Scott Sievel: 01:22 Good morning commissioners? I'm Scott Sievel, representing Regulatory Services for agenda item A1. Docket UW 170375, general rate case, filed by Rainier View Water Company Inc. On May 15, 2017 Rainier View filed tariff revisions with the commission, that would generate approximately \$430000 in additional revenue or 6.7% increase. After staffs review, the proposed filing will generate approximately \$367000 or a 5.8% increase, in additional annual revenue.

The company serves approximately 18000 customers, in Pearson Kitsap County. This filing was prompted by increases in labor, health care, and recover capital investment in plant. The company's last general rate case became effective on January 1 of 2015. I have completed my review of the company's supporting financial documents and records. The company has

demonstrated the proposed rates are fair, just, reasonable and sufficient. Therefore, I recommend take no action allowing the tariff revisions filed by Rainier View Water Company Inc on May 15, 2017 as revised, June 7, 2017 to become effective on June 16, 2017 by operation of law. I am available for questions and three company representatives are here.

David Danner: 02:54 All right, I see that and three have signed in, if we have questions for them? Um, all right, so um, are there any questions for Mr. Sievel?

Mr. Rasmus: 03:10 May I ask a question?

David Danner: 03:12 Uh, yeah sir, we'll, we'll get to you in a moment. Uh I'm asking of, of my colleagues the Commissioners.

Ann Rendahl: 03:18 Um, I just have a question. Um in the memo, um Mr. Sievel we- there is a customer concern about the use of um, the base rate for 1 inch meters. Um, and um, the staff response is that only 30 customers are served by one inch meters. Can you explain uh, our our most customers served by the 3/4 inch meters?

Scott Sievel: 03:46 That is correct. Uh, the residential customers, I think it's about 17500 of them are served by 3/4 inch.

Ann Rendahl: 03:53 Okay, and so the proposal was instead of putting um all of the increase in the base, as the company had proposed, that the staff's proposal is to um include a bit of a base increase but then, um also an increase in the uh, 0 to 600 cubic feet uh block, but not change any of the remaining blocks.

Scott Sievel: 04:20 That's correct at this time.

Ann Rendahl: 04:21 Okay, but there's also an increase in the base for the other, the other size meters.

Scott Sievel: 04:27 Correct all ... The bases for every meter size were, were increased, and adjusted by the factor of ... The capacity factor of the, of the um meter size compared to three quarter inch.

Ann Rendahl: 04:38 Okay. So basically the difference, the main difference between the staff's and the company's proposals, instead of putting it all in the base, it's base plus the first, uh the first block.

Scott Sievel: 04:48 That's correct.

Ann Rendahl: 04:48 Okay, thank you.

David Danner: 04:51 So for those, those 30 customers we'll see an increase and um, uh, that's a little bit larger than what the ... Actually significantly larger than what the uh, uh customers with the 3/4 inch pipe would see.

Scott Sievel: 05:08 That is correct. When I reviewed the uh one-inch meter size, the ratio factor in the previous rate case, it was, it was held down. I can't remember the reason before that. I hope [inaudible 00:05:20]

David Danner: 05:20 Uh it was. It was, it was pushed into the, the group below.

Scott Sievel: 05:28 Well, it would have been pushed into all meters.

David Danner: 05:30 Okay.

Scott Sievel: 05:30 Anyone that wasn't a one inch.

David Danner: 05:33 Okay. Um and can you tell me about uh, there was a complaint about uh Manganese in the water. You had a little, a little bit of history with that. It looks like um, there was a uh ... There was a well with a Manganese problem and that is being addressed, or is it... Has it been addressed?

Scott Sievel: 05:55 Um for the technical details on that, I'll refer to the company, and they can tell you exactly what they have done, and what they plan on doing in the future. But we do have a surcharge in place to address the treatment of Manganese, and I did confirm that the company is using that surcharge to implement, uh treatment and I believe uh, Mr. John Cup also asked DOH and uh, the customer complaints to DOH over Manganese issues has decreased um from year to year.

David Danner: 06:27 Okay. Um, so I'll ask the company about that. Can you tell me when the last rate change ... We know there were ... The last company rate change was 2015, how often before that had there been rate increases?

Scott Sievel: 06:44 I don't know that off the top of my head.

David Danner: 06:48 Okay maybe Mr. Finniga would know that. All right. Any other questions here? All right, Mr. Rasmus.

Mr. Rasmus: 06:54 Um, Mr. Sievel what was the amount of the last general rate case that took effect on January 1, 2015?

Scott Sievel: 07:01 That increase was a 3.3% increase, which was approximately \$183000.

Mr. Rasmus: 07:08 And uh in the current proposed rate case here, what kind of investment in plant is the company um, uh asking to recover?

Scott Sievel: 07:20 The investment in plant um, when looking at the past appreciation tables to the current depreciation tables, there's about \$5 Million of original asset cost increase, part of that's in CIAC. I mean we can parse it all the way down, but there's been significant increase in original cost of plant that's been put in service.

David Danner: 07:43 Okay. All right, thank you any other questions for Mr. Sievel this morning? All right, thank you very much, um, maybe Mr. Finniga or, or a company representative, just have some questions uh, uh I think ... Hank?

Richard Finniga: 07:59 Their names?

David Danner: 08:00 Well, actually the first question I had was uh, rate cases before the 2015 rate, how frequently? We had a, uh customer saying there are frequent rate cases, I tried to get an idea of how many, we're, we're talking about.

Richard Finniga: 08:12 Uh, the, the one before was 2013, uh before that ... By the way, Rick Finnega on behalf of the company. Uh before that I think it was several years prior. I- I- I'm trying to remember but we ... There was a period where we went several years before there was an increase, but there was been ... There has been 2013-2015 and now 2017. So ...

David Danner: 08:35 Okay, so they're sort of coming in on a biannual basis now.

Richard Finniga: 08:39 Right.

David Danner: 08:39 Previously it would have been four or five, or ten years.

Richard Finniga: 08:42 Uh, not 10 but yes, four or five. I'd, I would think, um, and it's a, it's a matter of the company has been making more investments and trying to improve plant, and, and to serve customers. So it's, it's ... That's one of the largest drivers for the, for the company.

David Danner: 08:57 Yeah, and then I'm looking here, obviously, there meters, uh wages, uh insurance increases in capital investment, as well as the operating costs.

Richard Finniga: 09:06 Right.

David Danner: 09:06 So and it looks like we've scrapped those pretty well.

Richard Finniga: 09:09 Yeah. Yes, sir, I think you did. Um, one of the things that Rainier View faces is keeping uh qualified employees, and there's a number of private water companies in the area, and so they have to keep their wages competitive.

David Danner: 09:25 Okay. Um, thank you then whoever might want to talk about Manganese?

Richard Finniga: 09:30 Mr. Blackman will do that.

David Danner: 09:31 All right. Mr. Blackman.

Robert Blackman: 09:34 Good morning. Bob Blackman, Rainier View Water, General Manager.

David Danner: 09:42 So, um, basically you can you tell me, um years ago, we had an issue with Manganese in the water. I don't think that to the customers, they see it as, Manganese, they see it as discolorization and ...

Robert Blackman: 09:54 Correct.

David Danner: 09:55 And uh something they don't want to necessarily ingest. Um, what have you done to address that and where are we?

Robert Blackman: 10:04 Well over the past years we have installed 10 different Iron Manganese removal systems on what ... Wells on several systems as well, um, [inaudible 00:10:14] cells would ... System which is in Grams Family area. A couple of the other outlying little systems, we also install them but uh, since I was here last uh December, I believe it was we said we were going- we were installing additional water treatment plants. We've installed and constructed three, uh, they're operational, we're waiting for final approval from the Department of Health to actually turn them online.

David Danner: 10:43 Okay is, is the Fur Meadows well, um, is that still shut down?

Robert Blackman: 10:48 Yes, it is shut down.

David Danner: 10:49 It is shut down.

Robert Blackman: 10:50 It is ... It is operational the final construction reports have been submitted to uh Department of Health for their approval.

David Danner: 10:58 Okay.

Robert Blackman: 10:59 And once we get that acknowledgment letter back, we can turn it online.

Ann Rendahl: 11:02 Okay. So, so the treatment plant is for the Fur Meadows well, and once you get the approval you'll turn it... You'll be able to use the, the treatment, turn on the well?

Robert Blackman: 11:13 Correct.

Ann Rendahl: 11:13 Okay, thanks.

David Danner: 11:17 All right, and there are no other uh problems with Manganese, whether other health issues with with ...

Robert Blackman: 11:24 I'm not aware of any health issues, uh State considers them secondary contaminants, and that it's uh aesthetics.

David Danner: 11:31 Right, so, so even with Manganese in the water, it's not a health issue is simply ... All right. An aesthetics issue and um ...

Robert Blackman: 11:40 Yeah.

David Danner: 11:40 Okay. All right. Thank you very much. Um questions for Mr. Blackman?

Jay: 11:46 Mm-hmm (affirmative) Good morning Mr. Blackman. Uh can you just give me, maybe give just a short kind of history of the timeline of uh addressing the Manganese issues and how long been working on them. And then, and what's your um kind of going forward timeline to deal with this?

Robert Blackman: 12:03 The ... Um, right now I can go back 30 years if you want (laughs). Um I've been with the company for 35 years, and we have ... There's always been, any well out in that area does have iron and manganese in it. Uh about ten years ago, we installed our first treatment on the highest producing, Iron Manganese producing well, um that has been working ever since, and we

have been trying to work on the, the highest Manganese wells first, so we can start working them, and we're down ... I say we've got 10 in place now. So, uh, we got a fourth one, another one that's planned for this, uh later this summer, it's under construction now, so ...

- David Danner: 12:48 All right. Thank you. Um, I have no further questions of you. Now, I want to um ask if there's anybody on the uh, the bridge line, or on the telephone, uh, who wishes to comment on this matter?
- Nigel Malden: 13:03 Yes.
- David Danner: 13:04 Thank you, sir. Go ahead identify yourself, please.
- Nigel Malden: 13:08 My name is Nigel Malden. I'm an attorney in Tacoma, and I represent Sarah and Gretchen Hand who are residents. Um and uh consumers, customers of Rainier Water. They uh reside in Springwood Estates, and there are a couple of questions that I have. Uh, my first question is that as I understand it, the law requires Rainier to send written notice to every resident, every customer affected by ... May have an interest in this hearing, or by the rate increase and I want to know whether the commission has required Rainier to provide proof of mailing. I know that they include in their accounting statement, and item claiming that they spent \$10000 sending out mail to people, but my clients assure me have never gotten notice of uh, these hearings from Rainier in the mail.
- The only notice they get is secondhand from others, and then they have to follow up and check and I wonder really how many residents, how many customers of Rainier Water actually even have notice of this hearing. I would uh, I mean I'm curious whether Rainier is required to submit a statement under oath, verifying that on this and this day, we submitted written notification in the mail to each and every resident. That's the standard that's required in a legal case to prove you mailed something. And um I think Rainier should be held to that standard. Um, secondly, I want to make sure the commission understands that Rainier Water is taking the position that they are immune from suit in a court of law. That if a resident believes they're receiving substandard water, that's unfit to drink or use, they can't do anything about it other than go to the WUTC.

In other words, uh Rainier is operating free from competition free from any market influence, and they're going to try, and make the most money they possibly can, spending the least amount of money they possibly can on their customers. And that's what's happened with this Manganese debacle. Uh, Sarah and Gretchen Hand, since the time they moved into the community, a year and a half ago experience on the daily basis, dirty contaminated water that's unfit to drink, unfit to use for cooking and cleaning, and washing. This is not the time for Rainier to be asking or pay raises. They should be giving rebates to customers because they've been selling them substandard water at inflated prices for a long time, and it should stop.

- David Danner: 16:23 All right, um ... Oh you got more.
- Nigel Malden: 16:27 One final thing. One final thing as I may have just one more minute. I know the commission has asked Rainier on several occasions. "Is this a health problem? Is it a health problem?" And says, "No uh excessive amounts of Manganese in the water. It's a secondary con- contaminant. It looks bad. It's an aesthetic issue, but it's not a health issue." And it seems as though people are willing to dismiss it on that basis. Well, I'm here to tell you. It's unfit to drink. It's dirty discolored water, and it's fine for Rainier to get up here and say, "Don't worry. You can drink it by the gallon it won't kill you." But it will make ... It may very well make you sick to your stomach to drink just looking at it. So this, and I must point out that the Washington State law says. For the private water company does have to be held accountable for not only if there's toxic substances in the water, but if its aesthetic quality does not meet a proper standard. Uh, thank you very much. Those are my comments.
- David Danner: 17:39 All right. Thank you. Mr. Malden. Um first of all, Mr. Cup, maybe you can come and clarify what the procedures are. We do require uh as Mr. Malden said that the company provide notice. Um, evidently, uh, uh, Sarah and Gretchen Hand did not uh according to their attorney, did not receive the mailing, and the question is did the mailing get made? And what kind of certification do we have from the company that the mailing was made?
- John Cup: 18:11 Yes. Good morning Commissioners. John cup with consumer protection. Um, there is a requirement that in, in a rate case such as this one that the company provide 30-day notice, 30 days prior to the effective date of the increase. Um, there is no

requirement for the company to provide proof that it mailed such notices.

David Danner: 18:36 Okay. So how do we know that those mailings were done?

John Cup: 18:42 Well, um, I guess take the company's word for it. I know that we've gotten ... Well in this case 28 comments, which is a pretty typical amount for um, for cases Rainier View Water's company rate cases.

David Danner: 18:58 All right, so we know that a mailing was done, we just uh ...

John Cup: 19:01 Right.

David Danner: 19:01 We don't have a way of knowing that a mailing was done to Sara and Gretchen Hand.

John Cup: 19:05 Correct.

David Danner: 19:06 Um, all right, or if, if a mailing was done to them whether they received it.

John Cup: 19:12 Um, Mr. Finnega, why don't you come forward and, and tell us what the processes are?

Richard Finniga: 19:19 Rick Finniga on behalf of Rainier View. The uh ... Your rules require that in the advice letter that accompanies the uh filing, that a copy of the um, customer notice be provided as an attachment to the advice letter, and uh, it's standard ... My standard practice to include a statement in the advice letter, uh saying that, that the mailing had occurred on, or before the date of the advice letter.

David Danner: 19:49 Okay, is that a advice letter signed?

Richard Finniga: 19:51 Yes.

David Danner: 19:51 Okay by, by ... By it was a representative of the company?

Richard Finniga: 19:54 Yes. So I'm putting my word forward. (laughs)

David Danner: 19:58 Right, right.

Richard Finniga: 19:59 The mailing has ... That the mailing has occurred.

David Danner: 20:01 Okay. Um, I know that you are not under oath, but you are nonetheless standing here before tribunal making that statement, and you have a letter in the record.

Richard Finniga: 20:11 Yeah. I- I view this just as, just as if I'd be in open court making a statement to a judge.

David Danner: 20:17 Uh huh.

Richard Finniga: 20:18 I-I don't view it any different. I'm I'm, acting as an attorney in a professional capacity.

David Danner: 20:24 Okay.

Richard Finniga: 20:25 I do want ... There's one thing I, I want to say. Um, he, he didn't quite clarify it in a statement. He said he represents, uh, uh M-the Hands, they have actually filed suit against Rainier View. That matter is pending, so I'm not gonna discuss the issues (laughs) that are related. There is a summary judgment uh motion that is now scheduled, I believe for July 14, where the attorneys for Rainier View are seeking, uh severing judgment on the issue. So just thought it would be important for you to have that background as well.

David Danner: 21:03 Okay. So what, what Mr. Malden s- said is that the company claims that it is immune from suit. Is that what your claim is?

Richard Finniga: 21:12 Um, there are a number of defense's that have been raised. One of which is the tariff provisions on limitations of liability, that the commission has approved 20 years ago. Uh, another is uh, alleging the doctrine of primary jurisdiction, that the matter needs to come before the commission, as opposed to being filed in court as a matter of first instance, and there are number of other uh defenses that are raised as well.

David Danner: 21:39 All right. Okay, thank you. Um, I would like to um, then clarify perhaps uh with Mr. Seivel or perhaps. Mr. Ward just about um, our regulation of the health of the water, the quality of the water. Um, uh, in fact DOH has defined Manganese as a secondary contaminant, um uh so the, the issue that Mr. Malden is, if I uh ... The gist of what I heard from him is that regardless of what DOH calls it this water is dirty and discolored and unfit to drink, and um, uh, that's not what the customers have signed up for, and yet they don't have any other recourse for forgetting clean drinkable water. Um is uh, what is the UTC's jurisdiction over the health, and quality of the water.

- Richard Finniga: 22:49 From my understanding that's [inaudible 00:22:51] regulatory services. Um, my understanding is quality and quantity is solely underneath the regulation of Department of Health. Uh, we as a commission though to take notice of these comments and forward them to Department of Health that ... And let them know if there's concern that they haven't heard of. We can do that and we can also as we've done put in place with a surcharge, with a plan to address the issue and uh which company is clearly doing. So as far as our jurisdiction, I don't think we have any other.
- David Danner: 23:27 All right. So other than basically making sure that the company has the economic means to get its water cleaned up of the Manganese. Uh, uh we, we don't ... We can't find the company for having Manganese and its water. We can't uh, uh, uh, uh issue a penalty against the company for, for having manganese in the water. Is that you understanding?
- Richard Finniga: 23:52 My understanding is that we cannot do any of that for something that isn't deemed a, a health risk.
- David Danner: 23:58 Okay. Um, and is it in fact with the surcharge, and with these changes, um, how long is it going to be before our customers are, uh going to have water that is not discolored by Manganese?
- Richard Finniga: 24:16 I'd have to refer back to the company on exactly what the, the plan and which wells. There is no guarantee, unfortunately on, on having 100% bottled water quality water delivered to the home through the piping. The City Tacoma has the same issue, all the utilities, uh, do have sediment in their water lines. So every time there's a fire hydrant opened up, every time there's uh issue of disruption in service, you will receive discolored water. I live in City of Tacoma. I get discolored water once in a while when, when they're doing flu- they do flushing just like we do.
- David Danner: 24:58 So, um, I think the question for me is um, do you have customers who are receiving on a sustained basis, or a regular basis discolored water? So they turn on the taps what they get is going to be dirty looking water. When they try to fill the bathtub, or the washing machine it's going to be dirty water?
- Richard Finniga: 25:22 I don't think it's continuous. I think it's a sporadic, on- once in a while, and if we get a call we go out we do some flushing form uh ...

David Danner: 25:30 And what do you- what is, what is once in a while?

Richard Finniga: 25:33 Uh, whenever they call. I mean it's, it's hard to say. I mean, I ... you know, it's ...

David Danner: 25:38 Do you people who call once in a while like every day?

Richard Finniga: 25:40 No.

David Danner: 25:41 Okay. [crosstalk 00:25:43]

Richard Finniga: 25:43 Respect the ...

David Danner: 25:44 I mean is once in a while, we're talking about, you know twice a year, thrice a year?

Richard Finniga: 25:47 A couple of times I think the worst case scenarios are the Hans for example. I think we got several calls in a week, and then haven't had a call for a couple months. So it, it is something that we, we don't ... We can't see it going down the line. We don't know, what's, what's what's occurring until we get a phone call. Uh, we'd love to just provide 100% pure water without the sediment, but that's not reality.

David Danner: 26:17 All right. Thank you any questions for Mr. Blackman and Mr Finniga? Any questions for staff? Okay. Um, all right. Is there anyone else on the bridge line who wishes to speak to this matter? All right. Thank you then I'm ready to- for any discussion on this. Um, anyone wish to start the discussion?

Ann Rendahl: 26:41 Well, this isn't no action item, so we technically don't vote on this but um, I um, I do support the staff's recommendation, and the um the modification to the proposal in terms of the rate impact, and appreciate the information from the company on what it's doing in terms of using the surcharge to address the Manganese um, and uh I'm willing to take no action.

David Danner: 27:12 All right, and, and I agree. I'm willing to take no action. Let's let this uh, uh, let this rating [inaudible 00:27:19] go into effect. Of course, there was litigation ongoing. I don't want to step into that. However, I want to make sure that the UTC is doing its job within its jurisdiction, uh and authorities to um give the company the wherewithal to take care of the, of the Manganese problems. Um, and uh, uh we'll be, we'll be monitoring this as we go forward. So with that, um, I think we have just taken

action, and uh with that unless there's anything else to come before the commission? I believe ...

Ann Rendahl: 27:51 Its been recessed.

David Danner: 27:52 We have a recessed item. So we- we're in recess uh until um Monday, June 26 which time we'll take up energy and balance market, uh body of state regulators meeting in UE ... In docket UE160334. Right, thank you. We're in recess.