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May 16, 2005

Carole Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504-7250

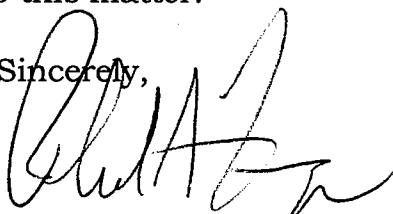
Re: Docket No. UW-042132 – Roche Harbor Water System

Dear Ms. Washburn:

Enclosed for filing are an original and ten copies of a Petition for Commission Review of that Portion of the Order of the Administrative Law Judge Establishing the Hearing Location or in the Alternative Motion for Reconsideration and Certificate of Service.

Thank you for your attention to this matter.

Sincerely,



RICHARD A. FINNIGAN

RAF/km  
Enclosures

cc: David Gibbs (w/encl.)  
Lisa Watson (w/encl.)

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RECORDS MANAGEMENT  
05 MAY 16 PM 4:25  
OFFICE OF WASH  
UTILITIES TRANSPORT  
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7 **BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

8 WASHINGTON UTILITIES AND  
9 TRANSPORTATION COMMISSION,

10 Complainant,

11 v.

12 ROCHE HARBOR WATER SYSTEM,

13 Respondent.  
14

DOCKET NO. UW-042132

PETITION FOR COMMISSION REVIEW OF  
THAT PORTION OF THE ORDER OF THE  
ADMINISTRATIVE LAW JUDGE  
ESTABLISHING THE HEARING  
LOCATION OR IN THE ALTERNATIVE  
MOTION FOR RECONSIDERATION

15 In Order No. 01 in this docket, the Prehearing Conference Order, the Administrative Law  
16 Judge addressed an issue that was raised at the prehearing conference -- the location of the hearing.  
17 In Order No. 01, the Administrative Law Judge concluded, "It would best serve the public interest  
18 to schedule the evidentiary hearings in Olympia, Washington." In addition, the public hearing was  
19 scheduled for Burlington, Washington.

20 Both of these decisions impose a severe hardship on the customers of Roche Harbor Water  
21 System ("Roche Harbor" or "Company") and place the proceedings in this matter in a position that  
22 is contrary to the public interest. For these reasons, Roche Harbor respectfully requests that the  
23 Commissioners review the basis for the decision of the Administrative Law Judge. In the  
24 alternative, Roche Harbor respectfully requests that this matter be reconsidered.

25  
26 PETITION FOR COMMISSION REVIEW - 1

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1  
2 BASIS FOR REVIEW

3 1. Evidentiary Hearing.

4 The Administrative Law Judge used the following rationale in Paragraph 10 of Order No. 01  
5 to schedule a hearing in Olympia, Washington: "In this case, Roche Harbor will present two  
6 witnesses at most in the evidentiary hearing. Staff proposes two or three witnesses. In light of the  
7 small number of witnesses attending the evidentiary hearing, and the expense of bringing an  
8 administrative law judge, a reporter, Staff counsel and Staff witnesses to an off-site hearing  
9 location, it is concluded that it would best serve the public interest to schedule the evidentiary  
10 hearing in Olympia, Washington." Roche Harbor respectfully disagrees with this conclusion.

11 The statement that Roche Harbor will present two witnesses "at most" is an inappropriate  
12 assumption. At the prehearing conference, Roche Harbor estimated that it would have one or two  
13 witnesses, but really does not know how many witnesses it will need to present until it sees Staff's  
14 testimony. It is possible that there will be more than the two witnesses referenced by the  
15 Administrative Law Judge.

16 However, the number of witnesses is really not the basis upon which this decision should be  
17 made. This is a case that is very important to all of the customers of Roche Harbor. This is a case  
18 where the customer interest is quite high. Customers have indicated to Roche Harbor that they  
19 desire to observe the evidentiary phase of this case. Quite frankly, the customer base is hard  
20 pressed to understand why the Commission Staff is even taking this matter to hearing. This is a  
21 proposal from Roche Harbor that the customers of Roche Harbor strongly support.

22 Holding the hearings in Olympia presents an extreme hardship for the customers. The only  
23 way that they would be able to attend is to drive down the day before. It is a several hour drive,  
24 including the ferry ride, from Roche Harbor to Olympia. In addition, the roundtrip ticket on the  
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1 ferry now costs approximately \$50.00. On the other hand, the Commission, for a reasonable fee,  
2 could charter a plane from San Juan Island Airways to accommodate the administrative law judge,  
3 reporter, Commission Staff attorney and Commission witnesses. It sometimes costs a little money  
4 to serve the interests of justice and the public interest. In this case, the customers of Roche Harbor  
5 should not be denied the opportunity to observe and understand the evidentiary proceedings in this  
6 matter.

7 2. Public Hearing.

8 Holding the public hearing in Burlington is the same thing as saying to the customers that  
9 the Commission does not wish the customers to attend the public hearing. It is approximately  
10 \$50.00 for the roundtrip ticket for customers to purchase a ferry commute to and from Anacortes.  
11 Further, there is then a drive into Burlington from Anacortes. Despite the statement in Order No. 01  
12 that Burlington is near the Anacortes ferry dock, that is not an accurate statement. In any event,  
13 holding the hearing outside of Roche Harbor is inappropriate. There is a hearing room in Roche  
14 Harbor that is available to the Commission without charge. In order to have a meaningful public  
15 hearing, there is only one location that the public hearing can be held. That location is in Roche  
16 Harbor.

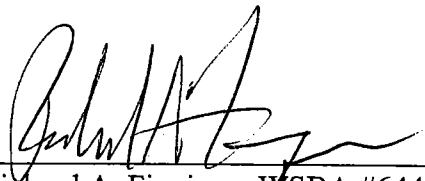
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18 CONCLUSION

19 While Roche Harbor understands the constraints that exist on the Commission's budget,  
20 public interest appears to be best served by holding both the evidentiary and public hearings in  
21 Roche Harbor. There is a room that is available for the Commission use that can accommodate the  
22 evidentiary and public hearings. That room is available at no charge to the Commission.  
23 Commission resources can be efficiently utilized through a charter of a flight through San Juan  
24 Airlines.

1 Quite frankly, the customer base and Roche Harbor, for that matter, has yet to understand  
2 why Commission Staff is contesting this matter. For Commission Staff to bring this matter forward  
3 for hearing and then not want to stand the test of presenting its case where the customers can hear  
4 that case and see for themselves the reasons presented by the Commission Staff is difficult to  
5 understand for the customers and the Company.

6 The Company respectfully requests that the evidentiary and public hearings in this matter be  
7 scheduled for Roche Harbor.

8 DATED this 16<sup>th</sup> day of May, 2005.

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12 Richard A. Finnigan, WSBA #6443  
13 Attorney for Roche Harbor Water System  
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**CERTIFICATE OF SERVICE**

**UW-042132**

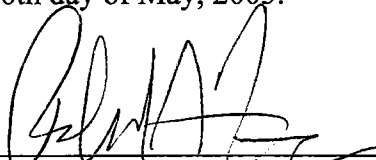
I hereby certify that I have this day served a copy of the attached Petition for Commission Review of that Portion of the Order of the Administrative Law Judge Establishing the Hearing Location or in the Alternative Motion for Reconsideration by hand delivery to the following parties or attorneys of parties:

Lisa Watson  
Office of the Attorney General  
1400 S. Evergreen Park Drive SW  
Olympia, WA 98504

I further certify that I have this day served an original and ten copies of the attached Petition for Commission Review of that Portion of the Order of the Administrative Law Judge Establishing the Hearing Location or in the Alternative Motion for Reconsideration by hand delivery to the following:

Carole J. Washburn  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504

Dated at Olympia, Washington, this 16th day of May, 2005.

  
\_\_\_\_\_  
Richard A. Finnigan, OSB #96535  
Attorney for Roche Harbor Water System