

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
4 Complainant,)
vs.) Hearing No. UW-951483
5 ROSARIO UTILITIES, LLC,) Volume 2
Respondent.) Pages 15 - 43
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7 A pre-hearing conference in the above matter
8 was held on August 8, 1996 at 8:15 a.m., at 1300 South
9 Evergreen Park Drive, Olympia, Washington, before
10 Administrative Law Judge Robert Wallis.

11 The parties were present as follows:

12
13 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION STAFF, by Jeffrey D. Goltz and Ann E.
14 Rendahl, Assistant Attorney Generals, 1300 South
Evergreen Park Drive Southwest, Olympia, Washington
15 98504.

16 INTERVENORS, Orcas Highlands Association,
Vusario Maintenance Association, Rosario Homeowners
17 Association, by Robert E. Lundgaard, Attorney at Law,
2400 Bristol Court S.W, Suite B, Olympia, Washington,
18 98502.

19 ROSARO UTILITIES, by Daniel Donahoe,
President, 5151 North 40th Street, Phoenix, Arizona,
95293.

20 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by Al Jones, Staff Engineer, 1300 South
21 Evergreen Park Drive S.W., Olympia, Washington, 98504.

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24 Michael P. Townsend, CSR
Court Reporter

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

2 JUDGE WALLIS: The conference will please
3 come to order. This is a pre-hearing conference of the
4 Washington Utilities and Transportation Commission
5 in the matter of Rosario Utilities, LLC, Docket No.
6 UW-951483. This is a pre-hearing conference being held
7 on due and proper notice to all interested parties on
8 August 8, 1996, at Olympia, Washington.

9 I'm going to ask each of the
10 representatives of the parties who are here this
11 morning to identify themselves for the record, and I
12 would like to begin with Mr. Donahoe, who is appearing
13 this morning via teleconference connection. Mr.
14 Donahoe, would you just state your name and your
15 business address for our court reporter, please.

16 MR. DONAHOE: Yes, it is Dan Donahoe,
17 D O N A H O E. I'm at 5141 North 40th Street, Phoenix,
18 Arizona 95253.

19 JUDGE WALLIS: Thank you very much. For
20 the Commission staff.

21 MR. GOLTZ: My name is Jeff Goltz with the
22 Attorney General's Office, 1400 South Evergreen Park
23 Drive, Olympia, and Ann Rendahl is here also from the
24 Attorney General's Office.

25 JUDGE WALLIS: And for the Intervenors?

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1 MR. LUNDGAARD: Robert Lundgaard, 2400
2 Bristol Court Southwest, Olympia, Washington, 98502.
3 I'm the attorney representing the Intervenors.

4 JUDGE WALLIS: I'm going to ask everybody
5 who is in the room to keep their volume up so that Mr.
6 Donahoe can hear us.

7 MR. GOLTZ: I might just add that Ms.
8 Rendahl has been representing the Commission staff to
9 date, but because of a potential conflict in schedules,
10 I will be substituting for her at the hearing, although
11 Ms. Rendahl will continue to work on the case between
12 now and then.

13 JUDGE WALLIS: Thank you, Mr. Goltz. Let's
14 begin with the motion that was filed, and I'm going to
15 ask Mr. Lundgaard to go through the items in the motion
16 one by one and describe for the benefit of the record
17 and for Mr. Donahoe's benefit basically what you are
18 asking for and why you are asking for it. Then we'll
19 have responses.

20 MR. LUNDGAARD: Thank you. The first item
21 is a request to compel the answer to that request No.
22 3A-2, which was a request regarding Rosario Utilities
23 LLC, and the request was for the names of the members
24 or shareholders and percentage of ownership of each, to
25 which the company objected. And I would like to just

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1 Utilities, LLC, and there is a dispute as to the rate
2 that the resort would pay the utility for the water,
3 and there is a dispute as to the amount of water that's
4 attributed to the Rosario Resort. I believe that this
5 is similar to an affiliated interest question because
6 obviously they are so intertwined that we need to know,
7 we have reason to believe that Rosario Resort
8 Limited Partner being the customer owns in excess of 90
9 percent of the units or shares of the utility, and we
10 are concerned about the other customers of the utility
11 subsidizing the resort, and this is borne out by the
12 exhibits that have been offered as pre-filed testimony
13 where there is a significant dispute as to the number
14 of equivalent residential units that are attributed to
15 the resort, and obviously, if the lower number is
16 accepted as proposed by exhibits sponsored by the
17 utility, then that means a greater burden of any rate
18 increase would be borne by the other customers of the
19 utility, and I believe we are entitled to show this
20 relationship of the customer with the utility.

21 JUDGE WALLIS: Does that conclude your --

22 MR. LUNDGAARD: That concludes my remarks
23 as it relates to the motion to compel responses to the
24 data request.

25 JUDGE WALLIS: Mr. Donahoe, does the

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1 company continue to oppose providing that information?

2 MR. DONAHOE: Yes, it does, for the reason
3 that was stated in the response to that question by our
4 attorneys in Seattle as not being relative to this
5 issue as it relates to the privacy matter in this area.
6 I might add that the company will be prepared at the
7 hearing with expert witnesses that have already
8 submitted their testimony to clear up this point and
9 make certain that there is, in fact, no preferential
10 treatment, and above all, that each customer in each
11 category -- each customer is being treated identically
12 and fairly.

13 JUDGE WALLIS: Are you able to specify the
14 nature of any privacy interest that you are asserting?

15 MR. DONAHOE: I think the principal has two
16 facets, really. No. 1, the management company, Red
17 Rock Resorts, is a third party independent corporation
18 and licensed to do business in Washington and has
19 nothing to do whatsoever with this case, and as a
20 result, its shareholders and percent of owner of each
21 in our opinion is of consequence. The same goes for
22 Daybreak Investments, it is a general partner of the
23 partnership which owns the resort has also been hired
24 by the utility as its manager and as such is in effect
25 a hired gun.

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1 Most importantly, the limited partners of
2 the partnership of the resort do desire to have
3 privacy, and that's the reason they are limited. They
4 again are limited partners with nothing to do with the
5 operation of the resort, they are simply partners in
6 the ownership, and are very sensitive about their
7 privacy, and they are not interested, if at all
8 possible, in disclosing who they are and what their
9 percentage of ownership in the partnership is.

10 JUDGE WALLIS: Are you aware of any legal
11 right that they have to prevent the disclosure of
12 their identities?

13 MR. DONAHOE: I'm not a lawyer, so no, I do
14 not.

15 JUDGE WALLIS: Okay. Does the Commission
16 staff have any comments on this question?

17 MR. GOLTZ: This is Jeff Goltz. I think
18 that the issue is probably not one of privacy, but the
19 issue is whether or not this information either is
20 relevant or could lead to any relevant evidence to be
21 produced at the hearing, and in that regard, I think
22 that the issue that Mr. Lundgaard raises is a valid
23 one, that is to say, whether or not the resort is
24 being favored at the expense of the other customers of
25 the utility, but whether or not there is some joint

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1 ownership or some affiliations. I think the issue
2 remains the same, if there is some sort of fair
3 treatment given to the utility, --

4 MR. DONAHOE: I think that's the whole
5 point of the hearing on Thursday, as I understood it,
6 is we are there to show and to prove that not only is
7 there not any favored treatment, but, in fact, the
8 resort is paying its fair share as a commercial
9 customer.

10 MR. GOLTZ: And I guess I was going to say
11 that even if it's a -- let's assume either scenario,
12 either it is jointly owned, affiliated in some manner,
13 or assume that it is completely separate, completely
14 independent ownership. I think that the issue remains
15 the same, the standards of proof remain the same, and
16 either way, there would be evidence presented and
17 perhaps disputed as to whether or not the resort is
18 being subsidized by the remaining ratepayers in an
19 unfair fashion.

20 So in that regard, I'm not sure that it
21 is -- I guess I don't quite see the relevancy of the
22 request, but I'm not sure it is a function of privacy
23 or not privacy.

24 MR. DONAHOE: Like I said, I'm not a
25 lawyer, so I have no way of responding to the

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1 legality of this.

2 JUDGE WALLIS: Mr. Donahoe, I have taken
3 the liberty of asking the Commission to enter a
4 protective order in this proceeding, and that means
5 that any party may designate information as
6 confidential. As to information that is designated as
7 confidential, it could be given only to persons who
8 have signed a pledge that they will not share or
9 release that information. If Mr. Lundgaard signs
10 that commitment, would the company be willing to
11 provide the information?

12 MR. DONAHOE: Quite frankly, I would like
13 to ask our attorneys as to that because they are the
14 ones that made the response to Mr. Lundgaard's request
15 for privacy. I just don't know how that would work. I
16 can't respond until we talk to them.

17 JUDGE WALLIS: Would Commission staff ask
18 to receive a copy of that information?

19 MR. GOLTZ: Well, if it's going to be used
20 at the hearing, the answer to that is, you know, yes,
21 but we haven't asked for that information, and, of
22 course, we don't think it is necessary to have that
23 information in order to present our case.

24 MS. RENDAHL: And, in fact, if that
25 information were provided subject to the protective

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1 order, I don't see how it could be presented in the
2 hearing unless every member in the hearing room signed
3 the protective order or we closed down the hearing as
4 for confidential information. I just don't know how it
5 would be practical.

6 JUDGE WALLIS: We could, I think, cross
7 that bridge when we come to it, if we come to it.

8 MR. GOLTZ: May I suggest that perhaps what
9 might be done is to defer, to request that Mr.
10 Donahoe -- or if you are going to rule today, the
11 ruling could be limited to requiring Mr. Donahoe to
12 bring that information with him to the hearing and then
13 between now and the hearing, Mr. Donahoe can consult
14 with his attorneys, and then that can be one of the
15 first items ruled upon at the commencement of the
16 hearing. So then Mr. Donahoe would have a better sense
17 as to what protections the protective order would
18 provide the shareholders whose names he wishes to
19 withhold.

20 JUDGE WALLIS: Mr. Lundgaard, would that
21 satisfy your interests?

22 MR. LUNDGAARD: Well, I think I will modify
23 my request as it relates to the limited partners if I
24 knew the cumulative number of shares or percent of
25 ownership by the Rosario Resort Limited Partners without

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1 their names, that would satisfy that request. I'm
2 interested in the percentage of ownership rather than
3 who the individual people are.

4 JUDGE WALLIS: The percent of ownership of?

5 MR. LUNDGAARD: Of Rosario Utilities owned
6 by Rosario Resort Limited Partnership. But I think
7 with Mr. Donahoe, as he has indicated, Daybreak is the
8 general partner, he is president of the general
9 partner, he is president of the manager of both
10 utilities. He is the president and the same secretary
11 Mr. Powell is -- Mr. Donahoe and Mr. Powell are
12 president and secretary of Red Rock Resort, which is
13 the manager of the --

14 JUDGE WALLIS: Hello? Mr. Donahoe?

15 MR. DONAHOE: Yes, people need to quit
16 moving those wires.

17 JUDGE WALLIS: Nobody was touching a wire
18 up here this time.

19 MR. DONAHOE: It just clicked off, I don't
20 know what happened.

21 JUDGE WALLIS: Okay. We were worried you
22 ran out of quarters.

23 MR. DONAHOE: No, I've taken care of that.
24 I heard Mr. Lundgaard's point, and I can certainly talk
25 to my attorney about that. I think that helped

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1 mitigate our problems in terms of just disclosing names
2 of the billing.

3 JUDGE WALLIS: He is not interested, as I
4 heard him, in the names but only the percentage of
5 ownership of Rosario Utilities owned by Rosario Limited
6 Partnership; is that correct?

7 MR. LUNDGAARD: Yes, the percentage --
8 because I understand Daybreak Investments is also a
9 shareholder, I would like to know the number in
10 percentage of shares or number of shares, let's see,
11 the percentage of the shares owned by Daybreak
12 Investments in Rosario Utilities LLC, and also then
13 the number of shares or units owned by the group of
14 limited partners of Rosario Resort in the Rosario
15 Utilities, and LLC's generally do not have shares, but
16 have units or memberships. So I want to know and
17 identified by groups, at least, the total ownership of
18 the utility.

19 MR. DONAHOE: I understand. I might add
20 that, again, whether there is, you know, whatever the
21 ownership is, I have understood this process to be
22 that the entire thrust of it is that rates are fair no
23 matter who owns what, and certainly that's what we are
24 there to prove and to show next Thursday. And the
25 ownership, I understand your concern about there might

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1 be some conflict, but I think that if we can protect
2 the names of the people, I think that will go a long
3 way towards resolving the issue, because I think that
4 whatever the outcome is going to show, whether one
5 party owns all of it, none of it, or whatever, the
6 real issue, if my understanding of this process is
7 correct, are the rates fair and equitable to all
8 classes of customers, and that's what we intend to
9 prove.

10 JUDGE WALLIS: Mr. Lundgaard, would it
11 satisfy your interest to have that information brought
12 to the hearing, or are you asking for disclosure prior
13 to the hearing?

14 MR. LUNDGAARD: Well, I would like to have
15 it prior to because it's part of my preparation of
16 my case. I would like to hand that to my witnesses
17 prior to the time that they testify. I might add in
18 relation to this question of fairness, you have
19 proposed an exhibit that shows ERU's of 89 attributed
20 to the resort. We have witnesses who have exhibits
21 attributing 146 ERU's, and the water system plan shows
22 109, and at this point, that's what the staff has used.

23 So I think there is a big issue here on fairness,
24 and I think we are entitled to show that there may be a
25 motivating factor here in terms of ownership.

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1 MR. DONAHOE: Well, Mr. Lundgaard, I
2 understand that's why we are having the hearing at
3 this time.

4 JUDGE WALLIS: And I would like to confine
5 our discussions just to the specific questions. What's
6 the last date on which that information would be
7 effectively useful for you, Mr. Lundgaard? We are
8 getting close to the hearing.

9 MR. LUNDGAARD: Monday.

10 JUDGE WALLIS: By close of business on
11 Monday?

12 MR. LUNDGAARD: Yes.

13 JUDGE WALLIS: Very well. I'm going to
14 rule on this now, and I'm going to grant the motion as
15 it has been modified today, and I'm going to ask Mr.
16 Lundgaard before he leaves to write that out, and I'm
17 going to enter a memorandum, pre-hearing conference
18 order, and have that faxed to parties either today or
19 first thing in the morning. The reason that I'm
20 granting that is that the information appears to me
21 either to be relevant or to be of a sort that is
22 potentially leading to relevant information, and I
23 think it qualifies under the pertinent standard in
24 Washington law for disclosure. I'm not aware of any
25 privacy interest that any of the shareholders have

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1 that would, under Washington law, excuse the company
2 from providing the information.

3 As modified, I believe that there is no
4 privacy interest that is sought, however, we have
5 entered a protective order, and if the company wants to
6 designate that information as confidential at this
7 point, then we can have that provided on that basis.
8 As to whether it would be useable at the hearing,
9 that's a bridge that we can cross at the hearing.

10 MR. LUNDGAARD: So there is no
11 misunderstanding, my agreement to modify relates to Mr.
12 Donahoe's objection to the limited partners being
13 disclosed. My request or motion to compel deals also
14 with Daybreak Investments, Inc., which is a
15 corporation, and with Red Rock Resorts, Inc., and my
16 agreement to just indicate percentages relates only to
17 Rosario Utilities, LLC, and does not relate to the
18 other two corporations. I'm still asking for a number
19 of shareholders and the names of shareholders and
20 percentage of ownership of Daybreak Investment and Red
21 Rock Resorts, Inc.

22 JUDGE WALLIS: Very well. That's
23 understood, and again, Mr. Lundgaard, I'm going to ask
24 you just to write down the exact request that you have
25 as you have stated it here so that we can recite it in

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1 the order and everybody knows exactly what it is that
2 you are asking for.

3 MR. GOLTZ: This is Jeff Goltz. Am I
4 correct that the request is re-modified only as to the
5 date -- response date of request 3B-2?

6 MR. LUNDGAARD: 3A-2, Rosario Utilities,
7 names of members or shareholders and percentage of
8 ownership of each. I'm excluding now the names of the
9 members and shareholder.

10 MR. GOLTZ: So 3A-2 is modified, the ones
11 in 3B, 3C, and 3D have not been modified?

12 MR. LUNDGAARD: Right. Excuse me, I stand
13 corrected, 3B is -- I'm not interested in the names of
14 the limited partners, so 3B-2 would be -- is modified,
15 as well.

16 MR. GOLTZ: Meaning 3B-2?

17 MR. LUNDGAARD: Yes.

18 JUDGE WALLIS: Thank you. Let's move on to
19 your next --

20 MR. DONAHOE: Could I ask, I don't know if
21 you've got the sheets in front of you, I understood
22 that the business of modifying this so we don't
23 disclose the names of the partnerships, I'm still not
24 sure if I understand Mr. Wallis' point about -- or his
25 order, whatever you call it, to also -- I'm also forced

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1 to disclose the shareholders and the percent of shares
2 between Daybreak as well as Red Rock, or is it just
3 functioning on the names of the partnerships?

4 JUDGE WALLIS: Mr. Lundgaard?

5 MR. LUNDGAARD: I'm asking for an order to
6 disclose the names and percent of ownership of
7 shareholders in Daybreak Investments, Inc., and Red
8 Rock Resorts, Inc.

9 MR. DONAHOE: I understand that you
10 modified your request so that we can not disclose the
11 names of the limited partnership, I still question the
12 relevancy of Red Rock for certain -- and Daybreak
13 particularly, in light of the fact that you will then
14 know who the shareholders are, this goes through the
15 terms -- I should say the shareholders having
16 percentage ownerships of the partnership itself.

17 JUDGE WALLIS: We understand your concern,
18 Mr. Donahoe, and I think we have addressed it in saying
19 that I believe that the information is either relevant
20 or has potential to lead to relevant information,
21 "relevant" meaning something that would affect the
22 Commission's consideration of the request, the
23 company's request. So again, we have heard what you
24 have said, and my view of Washington law is that the
25 information is something that's properly subject to

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1 discovery.

2 MR. LUNDGAARD: In the next item, the next
3 portion of my motion is a motion to strike the
4 documents filed June 24 by the applicant which are
5 labeled "Statement of Daniel J. Donahoe" and Exhibits
6 RU-1 and RU-2. These documents are not in testimony
7 form, there is no sponsoring witness to cross examine,
8 they do not comply with WAC 480.09.736. There is the
9 exhibits attached to the unsigned statement by --
10 attributed to Mr. Donahoe includes exhibits without
11 any foundation as to Mr. Donahoe's expertise to sponsor
12 those exhibits.

13 I have been advised that he did not file 19
14 copies with the Utility Commission, he did not serve my
15 office, or me, or any of the Intervenors with copies of
16 that testimony or those exhibits, and I use the word
17 "testimony" loosely. We were required to get that
18 information directly from the staff. I understand also
19 that Mr. Donahoe was provided with examples of
20 testimony so he would know how to present it, and one
21 evidence of that is the fact that his cover page says
22 "Interim rate relief," which apparently was the style
23 of the example that was sent to Mr. Donahoe.

24 I would object to that being really evidence
25 in this matter, and as a result, what really happened

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1 is that they put their case on in rebuttal, and all of
2 their testimony by witnesses is in their rebuttal. And
3 I would raise that point now when we get to the issue
4 of the order of presentation of testimony at the
5 hearing.

6 JUDGE WALLIS: Mr. Donahoe, do you have a
7 response to that?

8 MR. DONAHOE: Well, I certainly do. Is Ann
9 Rendahl there?

10 MR. RENDAHL: Yes, I am.

11 MR. DONAHOE: Ann, you remember this
12 conversation. Mr. Wallis --

13 JUDGE WALLIS: I'm going to suggest that we
14 go off the record here for some discussion, and then we
15 can return to the record and state the result of the
16 discussion.

17 (Discussion held off the record.)

18 JUDGE WALLIS: During some off-record
19 discussion, the company through Mr. Donahoe indicated
20 that it prepared the documents in a good faith effort
21 to comply with regulation, and that Mr. Donahoe is
22 prepared to sponsor the documents at the hearing.
23 Commission staff indicated that it would not object to
24 the documents, and also indicated that the documents
25 are used in the Commission staff case as the basis for

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1 some of its evidence. Mr. Lundgaard renewed his
2 objection and believes that he is entitled to the
3 relief that he asks.

4 Does anyone want to supplement the
5 statement that I made?

6 MR. GOLTZ: Only to clarify on behalf of
7 Commission staff that I believe what we said was that
8 we believe that the documents should not be stricken.
9 We may have some relevancy objections or some other
10 objections at the hearing, but not as to the form, and
11 I believe the motion to strike was the basis of -- they
12 don't comply with the form.

13 JUDGE WALLIS: Commission staff opposes the
14 motion; is that correct?

15 MR. GOLTZ: That's correct.

16 JUDGE WALLIS: Very well. I'm going to
17 deny the motion. I believe that the Commission is very
18 concerned about the realities of operating small
19 companies such as water companies, and it recognizes
20 that it's not always possible for things to be done
21 perfectly in terms of technical compliance with
22 requirements. It's significant that later filings were
23 done in compliance, and I believe that there is no
24 substantial harm to any party by proceeding in this
25 manner.

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1 Mr. Lundgaard, you also are requesting an
2 extension of time for data request?

3 MR. LUNDGAARD: Yes, and I had filed the
4 data request so that that was already in the hands of
5 the company, and so that in the event that you ruled
6 favorably on that motion, that they would have an
7 opportunity to review it, and I thought I understood
8 Mr. Donahoe to say that they are working on that and
9 maybe that information is in the mail; is that correct,
10 Mr. Donahoe?

11 MR. DONAHOE: Yes, sir, it is. Again, I
12 apologize if I'm not in the loop here, but three people
13 are pulling -- three entities are pulling together
14 these three things, one from Washington, one from
15 Arizona, and one from Winthrop. The Friday Harbor one
16 from Orcas Island and one from Phoenix. So it's my
17 understanding that that's going to be in your hands
18 with a copy to the Attorney General's office by today
19 or no later than tomorrow morning.

20 MS. RENDAHL: Mr. Donahoe, this is Ann
21 Rendahl, may I clarify your response? I have received
22 two faxes, one from Rosario Utilities from Chris
23 Verathal having to do with invoices for completed
24 projects for the Rosario Water Systems; is that one of
25 the responses?

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1 MR. DONAHOE: Yes, it is.

2 MS. RENDAHL: And then there was a response
3 that came in yesterday indicating it was work papers;
4 is that also a response?

5 MR. DONAHOE: I don't know. Work papers?

6 MS. RENDAHL: Yes, purporting to be work
7 papers of Darlene Thorson.

8 MR. DONAHOE: Okay. Yes, that would be
9 Phoenix, yes, that's correct, that's something,
10 whatever that was, was a request that Mr. Lundgaard
11 asked for, that's one of those. So you've got them,
12 and Mr. Lundgaard, did you get yours?

13 MR. LUNDGAARD: No, I have not.

14 MR. DONAHOE: Well, that's typical.

15 MS. RENDAHL: Well, I can make sure that
16 Mr. Lundgaard receives copies after the pre-hearing
17 conference.

18 MR. DONAHOE: If you could do that, if
19 that's satisfactory, that would take care of two of
20 them, and then the engineering firm is pulling together
21 the answer to your other request, third request, and
22 that is the one that's going out either today or no
23 later than tomorrow morning.

24 MR. LUNDGAARD: Are hard copies also being
25 mailed in addition to the fax or how --

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1 MR. DONAHOE: No, I asked them to do it, I
2 don't know what they are doing.

3 MR. LUNDGAARD: Because sometimes these
4 faxes are very difficult to read.

5 MR. DONAHOE: Yes, let me make sure that
6 they do mail out hard copies.

7 MR. LUNDGAARD: Well, what I'm looking at
8 that Ms. Rendahl handed me appears to be the faxes
9 you have sent and these are legible.

10 MR. DONAHOE: Those are okay?

11 MR. LUNDGAARD: Yes.

12 JUDGE WALLIS: All right. So apparently
13 that issue has been resolved; is that correct, Mr.
14 Lundgaard?

15 MR. LUNDGAARD: Yes.

16 JUDGE WALLIS: Very well. There are a
17 couple of other matters pending. There has been a
18 motion to intervene by parties named Morrison, and no
19 ruling has been made on that. Is there any objection
20 to that request for intervention?

21 MR. DONAHOE: Not from me.

22 JUDGE WALLIS: Very well. That request
23 will be granted, and that will be included in the
24 pre-hearing order. As to the starting time of the
25 hearing, is there any objection to delaying that? What

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1 time would staff suggest?

2 MR. GOLTZ: Well, the morning ferry gets in
3 at 9:35. Assuming the ferry system is punctual, and I
4 know it is about, if we hurry, it's about a 20-minute
5 drive to East Sound, and so that would get us to 10:00,
6 and I'm just suggesting 10:30. Maybe if everyone is
7 there before then, we could start, but I just worry
8 about, you know, some set-up -- if there is some set-up
9 problems, layout problems, that sort of thing, 10:30
10 would be a comfortable time.

11 JUDGE WALLIS: Mr. Donahoe, would you have
12 any objection to that?

13 MR. DONAHOE: No.

14 JUDGE WALLIS: I'm going to suggest that we
15 set the starting time for 10:30 on Thursday. However,
16 I'm going to ask that people get there as soon after
17 10:00 as they can, and if we have the opportunity,
18 we may want to have either a formal or informal
19 pre-hearing conference and talk about some of the
20 procedural issues and some of the matters that are
21 likely to come up during the hearing so that we don't
22 have to spend time during the hearing talking about
23 those things.

24 MR. GOLTZ: Now, one caveat to that, and
25 maybe we can leave this open until Monday, but we had

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1 attempted to -- it was impossible to get two days
2 lodging in a row on Orcas Island, so we are staying the
3 night before in Anacortes, which is the reason for
4 catching the morning ferry. In the event we do find
5 accommodations on Orcas Island, so we would then go
6 over the night before, could we possibly revisit this
7 issue so we could start earlier then? We would try to
8 find lodging, those alternate accomodations yet this
9 week, and then we would know by Monday. Is that
10 possible to revisit this, then?

11 JUDGE WALLIS: Is everyone comfortable
12 with the idea that we'll not -- perhaps not resolve
13 this this morning, but leave it flexible for a
14 potential further change? Mr. Donahoe, is that okay
15 with you?

16 MR. DONAHOE: That's fine.

17 JUDGE WALLIS: It will be no earlier than
18 the 9:30 that was stated in the notice, and if
19 necessary, it will be -- in order to accomodate travel,
20 it will be no later than 10:30. Very well. The other
21 matter that Commission staff has suggested we address
22 this morning is the sequence of presentation. I'm
23 going to suggest we go off the record for a discussion
24 of that.

25 (Discussion held off the record.)

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1 JUDGE WALLIS: Let's be back on the record,
2 please. We have engaged in some scheduling
3 discussions. It has been determined that the order of
4 proceeding at the hearing will have the company
5 presenting its case in totality first, including its
6 rebuttal presentation. Then the Intervenors will make
7 their presentation, and the staff will conclude with
8 its presentation.

9 It's been indicated that witness Thorson
10 will not be physically present at the hearing site, and
11 Mr. Donahow intends to sponsor Ms. Thorson's pre-filed
12 evidence. Mr. Donahoe is also committed to have Ms.
13 Thorson available for telephonic communication in the
14 event that that is necessary. The pre-filed evidence
15 did not include a reference to Exhibit DET-9, and Mr.
16 Donahoe is going to run that down and see that copies
17 are provided today or tomorrow to staff and the
18 Intervenors.

19 The hearing may run longer than the two
20 days that were allotted. We certainly will be
21 encouraging the parties to complete it within the two
22 days and will be doing all that we can to facilitate
23 that, but in the event that we cannot do that, we will
24 have in mind contingency plans for completing the
25 hearing. Mr. Goltz at the outset raised a potential

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1 question regarding travel. As he indicated, he and I
2 have not discussed travel plans. If it is necessary
3 for one reason or another that I ride with the
4 Commission staff, if that appears to be a preferred
5 option, does the Company or do the intervenors have
6 any objection to that with the understanding that there
7 would be no discussion whatsoever of any matter
8 relating to this proceeding?

9 MR. LUNDGAARD: Intervenors have no
10 objection.

11 MR. DONAHOE: Nor does the company.

12 JUDGE WALLIS: Thank you very much. Was
13 there anything further?

14 MR. GOLTZ: I just might add that the
15 reference to DET-9 may, in fact, be a typographical
16 error in the testimony. It may really mean DET-4. So
17 maybe that could be --

18 MR. DONAHOE: I think that might be the
19 case, because I know when that was being put together,
20 there was some confusion. Let me double-check that, it
21 might be a typo.

22 JUDGE WALLIS: Very well. So the company
23 will confirm that to the parties; is that correct?

24 MR. DONAHOE: Yes.

25 JUDGE WALLIS: All right. It appears there

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1 is nothing further. Let me just ask to make sure. I
2 see no affirmative indications, and on that basis we
3 will conclude this pre-hearing conference. Thank you
4 all for attending.

5 (Conference adjourned at 10:00 a.m.)

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