

0001

1

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2

COMMISSION

3

WASHINGTON UTILITIES AND)

4

TRANSPORTATION COMMISSION,)

5

)

6

Complainant,)

7

)

8

vs.)

DOCKET NO. UW-091034

9

) Volume I

10

SJM WATER SERVICES, INC.,)

Pages 1 - 11

11

)

12

Respondent.)

(Continued on next page)

13

14

15

A prehearing conference in the above matter

16

was held on March 24, 2010, at 1:30 p.m., at 1300 South

17

Evergreen Park Drive Southwest, Olympia, Washington,

18

before Administrative Law Judge MARGUERITE FRIEDLANDER.

19

20

The parties were present as follows:

21

WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by JENNIFER CAMERON-RULKOWSKI, Assistant
Attorney General, 1400 South Evergreen Park Drive
Southwest, Post Office Box 40128, Olympia, Washington
98504; telephone, (360) 664-1186.

22

SJM WATER SERVICES, INC.; FRAGARIA LANDING
WATER COMPANY, INC.; ILIAD WATER SERVICE, INC; MARBELLO
WATER COMPANY, INC., by RICHARD A. FINNIGAN, Attorney
at Law, 2112 Black Lake Boulevard Southwest, Olympia,
Washington 98512; telephone, (360) 956-7001.

23

24

Kathryn T. Wilson, CCR

25

Court Reporter

0002

1 (continued from Page 1)
2 WASHINGTON UTILITIES AND)
3 TRANSPORTATION COMMISSION,)
4)
5 Complainant,)
6)
7 vs.) DOCKET NO. UW-091035
8) Volume I
9 FRAGARIA LANDING WATER) Pages 1 - 11
10 COMPANY, INC.,)
11)
12 Respondent.)

13 WASHINGTON UTILITIES AND)
14 TRANSPORTATION COMMISSION,)
15)
16 Complainant,)
17)
18 vs.) DOCKET NO. UW-091036
19) Volume I
20 ILIAD WATER SERVICE, INC.,) Pages 1 - 11
21)
22 Respondent.)

23 WASHINGTON UTILITIES AND)
24 TRANSPORTATION COMMISSION,)
25)
26 Complainant,)
27)
28 vs.) DOCKET NO. UW-091037
29) Volume I
30 MARBELLO WATER COMPANY, INC.,) Pages 1 - 11
31)
32 Respondent.)

19
20
21
22
23
24
25

0003

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

2 JUDGE FRIEDLANDER: Good afternoon. My name
3 is Marguerite Friedlander, and I'm the administrative
4 law judge presiding over this matter. We are here
5 before the Washington Utilities and Transportation
6 Commission on Wednesday, March 24th, at approximately
7 1:30 for a prehearing conference regarding tariff sheet
8 revisions filed by SJM Water Services, Inc., Fragaria
9 Landing Water Company, Inc., Iliad Water Service, Inc.,
10 and Marbello Water Company, Inc., which are Docket Nos.
11 UW-091034, UW-091035, UW-091036, and UW-091037,
12 respectively, and these dockets have been consolidated
13 for hearing and determination by the Commission.

14 The purpose of this prehearing conference
15 today is to take appearances of the parties, discuss
16 the schedule for the Commission's consideration of the
17 dockets, and any other procedural matters which the
18 parties may raise. Before we begin, let's go ahead and
19 take appearances; name, address, phone and fax, as well
20 as e-mail address. So appearing on behalf of staff?

21 MS. CAMERON-RULKOWSKI: Jennifer
22 Cameron-Rulkowski, assistant attorney general, 1400
23 South Evergreen Park Drive Southwest, Olympia,
24 Washington, 98504. Telephone number is (360) 664-1186.
25 Fax is (360) 586-5522. E-mail is jcameron@utc.wa.gov.

0004

1 JUDGE FRIEDLANDER: Appearing on behalf of
2 SJM Water Services, Inc.?

3 MR. FINNIGAN: Just to shorten it up, this is
4 Richard Finnigan appearing on behalf of each of the
5 four companies. My address is 2112 Black Lake
6 Boulevard Southwest, Olympia, Washington, 98512. Phone
7 number is (360) 956-7001. Fax is (360) 753-6862.
8 E-mail is rickfinn@localaccess.com.

9 JUDGE FRIEDLANDER: Thank you. Is there
10 anyone appearing on the conference bridge who wishes to
11 enter an appearance? Hearing nothing. I guess my
12 first question is are the parties going to want to
13 invoke the discovery rules for this proceeding?

14 MS. CAMERON-RULKOWSKI: Yes.

15 JUDGE FRIEDLANDER: How about any protective
16 orders?

17 MR. FINNIGAN: We should have the standard
18 protective order, Your Honor.

19 JUDGE FRIEDLANDER: Just confidential or
20 highly?

21 MR. FINNIGAN: Just confidential.

22 JUDGE FRIEDLANDER: I did ask off the record
23 before we got started whether or not the parties had
24 had an opportunity to discuss procedural schedules for
25 these matters, and you had not. So unless there is

0005

1 anything we need to talk about before we go off the
2 record, then let's go ahead and go off the record.

3 MS. CAMERON-RULKOWSKI: Before we go off the
4 record, I will simply note that we have had some
5 settlement negotiations. The other thing that I would
6 note as we go forth to set a procedural schedule is
7 that we have a current effective date in this case of
8 September 1, 2009.

9 JUDGE FRIEDLANDER: Thank you. If there is
10 nothing else, then let's go ahead and go off the
11 record.

12 (Discussion off the record.)

13 JUDGE FRIEDLANDER: Let's be back on the
14 record. Who would like to go first in explaining what
15 the procedural schedule you have all come up with is?

16 MS. CAMERON-RULKOWSKI: I will explain.
17 Because of the short amount of time, we talked about
18 having a live evidentiary hearing as opposed to
19 prefilings testimony, and you may have some things to
20 add to the procedural schedule, but the other
21 assumption that we were operating under is there is
22 going to be an initial order in this case and we would
23 need to build in time for that to become final before
24 the suspension date; is that correct?

25 JUDGE FRIEDLANDER: Yes. That's what I was

0006

1 envisioning. My only other suggestion would be if
2 either or both of you wanted to waive your right to an
3 initial order and just go to a final order, and that
4 might allow you a little more time. I'm sure that the
5 commissioners then if they were going to be signing the
6 order would want to sit in on the evidentiary hearing
7 though, and it might be a little more involved trying
8 to schedule around their availability dates.

9 MR. FINNIGAN: That wasn't known as a
10 possibility. If the commissioners wanted to sit in on
11 the case, we would be willing to accommodate that, but
12 we didn't have that in our discussion so we don't have
13 a schedule to do that.

14 JUDGE FRIEDLANDER: I understand that
15 completely, and I'm sure there are pros and cons to
16 both approaches, the one con being that without an
17 initial order, that kind of limits your bites at the
18 apple, so to speak.

19 MS. CAMERON-RULKOWSKI: Your Honor, I think
20 logistics is driving this schedule, and 20 days, I
21 think, doesn't buy us enough time to have prefiled
22 direct, prefiled responsive, and prefiled rebuttal.

23 MR. FINNIGAN: I was thinking we would have
24 just live testimony. If the commissioners want to ask
25 questions, they can ask questions. They are there.

0007

1 Since it was their idea that this be suspended.

2 JUDGE FRIEDLANDER: It certainly is one
3 possibility. I guess if it's not enough time,
4 eliminating an initial order and going straight to a
5 final order doesn't allow us to have prefiled
6 testimony. I guess from my perspective, it probably
7 doesn't add a whole lot because -- unless you guys need
8 the additional 20 days for discovery, it might not be
9 --

10 MR. FINNIGAN: Both sides are trying to keep
11 this as inexpensive as possible while still getting the
12 issues fully out there. So having live testimony in
13 front of the commissioners, if that would make sense,
14 that makes sense. Otherwise, we can go ahead with what
15 we've got here.

16 JUDGE FRIEDLANDER: Why don't you guys
17 explain to me what you came up with and then we will go
18 from there.

19 MS. CAMERON-RULKOWSKI: Working backwards, we
20 have July 1 as the suspension date, and then 20 days
21 back from that, if we did an initial order, we would
22 need to have an order out by June 11th, and then we
23 scheduled simultaneous posthearing briefs to be due May
24 14. Then the proposed dated for the evidentiary
25 hearing is April 21, and that's it, and we thought,

0008

1 Your Honor, that you might have some time before the
2 evidentiary hearing for any sort of prehearing
3 organizational purposes.

4 I would add that I think we could keep the
5 schedule as we have it proposed, and then the
6 commissioners could decide to sit or not, and that
7 could be decided later. Although, perhaps we would
8 need to consult the calendar to see if they were
9 available to see if that would be an option.

10 JUDGE FRIEDLANDER: I don't want to add
11 confusion to the mix. The only reason I even suggested
12 that the commissioners sit would be to buy you guys
13 additional time. I don't think this is something the
14 commissioners need or truthfully are in any particular
15 desire to sit on for one reason or another. I was just
16 adding that in case it would buy you guys additional
17 time, so we can go with the additional order schematic
18 if that is amenable to both of you guys.

19 MR. FINNIGAN: That's fine, Your Honor. I do
20 want to make sure that it's on the record that the
21 reason we are agreeing to this schedule is premised
22 upon the idea that each side will disclose to the other
23 what their theory of the case is in advance so that
24 each side can prepare for the oral hearing. Otherwise,
25 we don't want to substitute depositions for prefiled

0009

1 testimony.

2 JUDGE FRIEDLANDER: Understood.

3 MR. FINNIGAN: It's on obligation that runs
4 both ways, but in order to do this and be fair to both
5 sides, we've got to have each side disclose to the
6 other side their theory and why they are raising that
7 theory.

8 JUDGE FRIEDLANDER: Ms. Cameron-Rulkowski,
9 did you have anything to add?

10 MS. CAMERON-RULKOWSKI: One thing we did
11 discuss was because of the brief amount of time we have
12 for discovery was the possibility of shortened response
13 times, and I believe that Mr. Finnigan will make an
14 effort to get any discovery responses back on a
15 shortened schedule, if possible, and we had asked for
16 five days, and my understanding is that he would try
17 for that unless it was a more complicated question.

18 MR. FINNIGAN: My commitment was that we will
19 try to make a five-business-day turnaround, but the
20 Company has one staff person. All companies, the four
21 companies have essentially the same staff person who
22 also is responsible for some 30 to 40 other companies,
23 and so the workload can be very daunting for that
24 individual. That said, we will make our best
25 commitment. I just can't live with it as an absolute

0010

1 deadline.

2 JUDGE FRIEDLANDER: We do have it in the
3 record on behalf of both of you, and if you have any
4 discovery disputes, please feel free to bring them
5 forward. Hopefully, there won't be any. At this
6 point, I don't anticipate there will be because you
7 have an amenable schedule.

8 Let me just go over the schedule that I have
9 to double check that I got this right. April 21st
10 would be the evidentiary hearing, and looking at my
11 schedule, I don't have anything that would conflict
12 with that. Are we looking at morning or afternoon, or
13 does anyone have a preference?

14 MS. CAMERON-RULKOWSKI: No preference from
15 staff, Your Honor.

16 MR. FINNIGAN: It's probably safer to have it
17 in the morning just in case it goes slightly longer.

18 JUDGE FRIEDLANDER: Let's go ahead and plan
19 on that being at 9:30, and I will try to get this room
20 as opposed to 108 because it's a little more
21 comfortable. May 14th would be the posthearing briefs
22 simultaneously filed. June 11th would be the projected
23 initial order, and July 1st as the suspension date.
24 Did I miss anything?

25 MR. FINNIGAN: No.

0011

1 JUDGE FRIEDLANDER: Great. Did we have
2 anything else that the parties wished to discuss today
3 before we adjourn?

4 MR. FINNIGAN: Not from us.

5 MS. CAMERON-RULKOWSKI: Not from staff.

6 JUDGE FRIEDLANDER: Thank you. In this
7 proceeding, it would be helpful if the parties would
8 file an original and five. That would be covering our
9 distribution list. So if there is nothing further,
10 then we are adjourned, and I will go ahead and issue
11 the prehearing conference order shortly.

12 (Prehearing conference adjourned at 2:05 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25