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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND)	DOCKET UW-110107
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	Volume I
vs.)	Pages 1-13
)	
SUMMIT VIEW WATER WORKS,)	
)	
Respondent.)	
_____)	

10 This is the Prehearing Conference in the above matter
11 held on Monday, May 9, 2011, at 1:30 p.m., at 1300 South
12 Evergreen Park Drive Southwest, Olympia, Washington, before
13 Administrative Law Judge PATRICIA CLARK.

14 The parties were present as follows:

15 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by
16 Robert Cedarbaum, Assistant Attorney General, Heritage Plaza
17 Building, 1400 South Evergreen Park Drive, Southwest, Olympia,
Washington, 98504. Telephone number is (360) 664-1188.

18 SUMMIT VIEW WATER WORKS, by Richard Finnigan, Attorney
19 at Law, 2112 Black Lake Boulevard SW, Olympia, Washington,
98512. Telephone number is (360) 956-7001.

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25 Lesley E. Kay, CCR No. 3244
Court Reporter

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P R O C E E D I N G S

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JUDGE CLARK: It is approximately 1:30 p.m. on May 9th, 2011, in the Commission's hearing room in Olympia, Washington. This is the time and place set for a Prehearing Conference in the matter of the Washington Utilities and Transportation Commission, Complainant, vs. Summit View Water Works, Respondent, in Docket No. UW-110107, Patricia Clark, Administrative Law Judge with the Commission, presiding.

This matter came before the Commission on January 12, 2011, when Summit View Water Works filed revisions to its currently effective Tariff WNU-1, Original Sheet Nos. 25 ad 26 with a stated effective date of February 12th, 2011. The Commission suspended that tariff filing to allow the Commission to conduct proceedings and to determine if the rates that would result from that tariff revision are fair, just, reasonable and sufficient.

At this time I'll take appearances on behalf of the parties.

Appearing on the behalf of the Commission's staff?

MR. CEDARBAUM: Thank you, Your Honor.

My name is Robert Cedarbaum, Assistant Attorney General, appearing for Commission staff. My business address is the Heritage Plaza building, 1400 South Evergreen Park Drive Southwest, Olympia, Washington, 98504. The direct dial telephone number is (360) 664-1188. E-mail is

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1 bcedarba@utc.wa.gov. The fax number is (360) 586-5522.

2 JUDGE CLARK: Thank you.

3 Appearing on behalf of Summit View Water Works?

4 MR. FINNIGAN: Thank you.

5 Richard Finnigan. The mailing address is 2112 Black
6 Lake Boulevard Southwest, Olympia, Washington, 98512. The
7 telephone is (360) 956-7001. Fax is (360) 587-3852. Email is
8 rickfinn@localaccess.com.

9 JUDGE CLARK: Thank you, Mr. Finnigan.

10 As a preliminary matter I would like to discuss the
11 potential consolidation of this proceeding with the proceeding
12 that we had scheduled for a Prehearing Conference at 2:30.
13 That would be in Docket UW-110220. I'm interested in the
14 parties' positions regarding consolidation of these two dockets
15 to see if before we commence with matters like discovery and
16 protective orders and a procedural schedule to see if it would
17 facilitate resolution of this issue into one proceeding rather
18 than two.

19 Mr. Cedarbaum, do you have an opinion?

20 MR. CEDARBAUM: Yes, Your Honor. We have had
21 discussions internally on that issue and came to our
22 conclusion -- for what it's worth -- that staff would not seek
23 consolidation. The case, as while there might be some
24 overlapping facts, didn't appear to us to be any sufficient
25 common issues or questions of fact that would warrant

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1 consolidation. Also, we didn't see any administrative
2 proficiencies by doing that either. It may be when we get to
3 scheduling we would schedule the hearings for the two cases in
4 the same block of time, that sort of thing, but we didn't see
5 any particular efficiencies from doing that nor any sufficient
6 common issues of fact or law to make it really worth
7 consolidating so we're not proceeding that they be
8 consolidated.

9 JUDGE CLARK: All right.

10 Mr. Finnigan?

11 MR. FINNIGAN: We would have no objection to
12 consolidation. I think there are some efficiencies that could
13 be gained at least in the hearing stage so you don't have to
14 have the witnesses go through one hearing, adjourn that hearing
15 and convene another hearing with, presumably, separate starting
16 times set. Although it might be scheduled for the same day it
17 would take more time to do it that way than if you had it
18 together.

19 As far as I'm concerned, my client would have no
20 objection to consolidation

21 JUDGE CLARK: Well, I think Mr. Cedarbaum is correct.
22 I don't see commonality of issues. I see two very separate and
23 distinct tariff revisions.

24 What I was thinking of is the classic rape case, for
25 lack of a better term, where you have a number of tariff

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1 revisions that are all considered by the Commission at the same
2 time, although they may be different tariff sheets addressing
3 completely different topics, and I was just thinking that
4 perhaps the same witnesses would be testifying on behalf of
5 each party in each proceeding that perhaps one set of testimony
6 rather than two could be filed.

7 I'm certainly not wedded to conducting this either
8 way. If you would like a few minutes to consult with Mr.
9 Finnigan and see if you can discuss that off record I'm
10 amenable to that as well.

11 MR. CEDARBAUM: I didn't hear anybody pushing for it
12 so I don't know that there's any benefit to taking a break to
13 discuss it.

14 I agree that we have the hearing on the same day and
15 if we have the same witness testifying on both cases then maybe
16 there's some efficiency there. On the other hand, they're
17 going to have testimony on one subject matter from one
18 proceeding and another subject matter from another proceeding
19 and the only efficiency is perhaps we don't have to swear them
20 in twice for two separate sets of testimony. I don't see what
21 we gain from that and since the issues are sufficiently
22 separate I don't see the benefit to it.

23 JUDGE CLARK: Other preliminary matter I have, then,
24 in that case I am disinclined to consolidate the proceedings.

25 The next issue I have is whether the not the parties

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1 would like the Commission to invoke the discovery rules.

2 Mr. Cedarbaum?

3 MR. CEDARBAUM: I think everyone probably understands
4 that staff does.

5 We would like the normal discovery procedures under
6 the Commission's rule to be invoked.

7 We also -- and perhaps this is better said after a
8 scheduling discussion -- but we have given consideration to
9 asking the Commission to reduce the turnaround time after the
10 company files its direct case from the ten business day
11 turnaround to five business days. We're happy to come back to
12 that discussion after we get into scheduling but at least it
13 seemed like that would be appropriate to do again but once the
14 company files the direct case and not until then and the
15 turnaround time would apply to all testimony filed in the case
16 to reply to the company and the staff.

17 JUDGE CLARK: Mr. Finnigan?

18 MR. FINNIGAN: This hasn't been brought up.

19 What strikes me is that in my case we're going to have
20 lay witnesses, people who have other jobs and trying to shorten
21 the turnaround time will make it real difficult to respond, I
22 think, in many cases. That doesn't strike me off the bat as a
23 good idea.

24 MR. CEDARBAUM: I would add that when we've done this
25 even on the ten-day rule when we reduced turnaround times it's

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1 always the best efforts approach. There's an understanding
2 that if the witness can't respond within the time-frame that
3 Counsel or the other parties or party, if that's the case, then
4 we come up with an alternative that is reasonable.

5 JUDGE CLARK: Are you talking about five business days
6 or five calendar days, Mr. Cedarbaum?

7 MR. CEDARBAUM: Business days.

8 The concern, Your Honor, is that unless you advise
9 otherwise at least it's our assumption going forward that the
10 Commissioners are not sitting on the case. I don't know if
11 that's true or not.

12 JUDGE CLARK: That is correct.

13 MR. CEDARBAUM: So we have an issue of allowing
14 sufficient time at the end of the case for initial order and
15 petitions for administrative review and rely, so that crunches
16 things up a bit which might warrant accelerating the filing of
17 testimony as early on in the case and having faster discovery
18 turnaround time seems to make sense to us.

19 JUDGE CLARK: Well, I'll grant that request. There
20 are only two tariff revisions at issue in this docket. I'm
21 hopeful it'll be relatively simple and straightforward to
22 respond to any discovery requests regarding those two tariff
23 revisions. Honestly, hopefully, there will be need for little
24 discovery and the bulk of the information will be produced in
25 the direct testimony of the exhibits of the company.

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1 MR. FINNIGAN: Your Honor, this is going to be
2 difficult. We've been responding to a number of informal data
3 requests. I don't think, other than one exception, that I was
4 able to respond to any of those within five business days just
5 because of the demands on my client's time.

6 My past experience is not very optimistic that that
7 will be worked out. I understand what Mr. Cedarbaum said, that
8 this is the best efforts, but I'm just saying it's going to be
9 difficult.

10 JUDGE CLARK: Well, I understand that but I've already
11 ruled. If it does create a problem for you you can certainly
12 seek modification from the Commission, but at this juncture
13 after the filing of direct testimony the turnaround time will
14 be five business days.

15 The next question I have for the parties is whether or
16 not you feel the need for a protective order.

17 MR. FINNIGAN: Yes, Your Honor.

18 JUDGE CLARK: Does the company seek the standard
19 protective order or one that would govern a highly confidential
20 information?

21 MR. FINNIGAN: Standard order will work.

22 JUDGE CLARK: Any objection, Mr. Cedarbaum?

23 MR. CEDARBAUM: No.

24 JUDGE CLARK: I will issue the Commission's standard
25 protective order.

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1 Next item on my agenda is the procedural schedule.

2 Have the parties had an opportunity to confer
3 regarding a procedural schedule?

4 MR. CEDARBAUM: We have.

5 JUDGE CLARK: Would you like that opportunity?

6 MR. CEDARBAUM: I think staff would.

7 JUDGE CLARK: All right. Then we're going to be at
8 recess until further call to give the parties an opportunity to
9 informally discuss a procedural schedule. I'll be in my
10 office.

11 MR. CEDARBAUM: Can I interject one other point while
12 you're taking a break? Maybe you can think of this or look
13 into it

14 JUDGE CLARK: Yes.

15 MR. CEARBAUM: I've been advised from the Consumer
16 Affairs Section that there have been a fair number of public
17 comments coming in, both on this filing and the second filing
18 today. Staff will be requesting a public hearing in the
19 Kennewick area. I wanted to bring that up so you're aware of
20 that request. We'll work on that part of the schedule as well.

21 JUDGE CLARK: Thank you. I appreciate that. If you
22 could also propose a date for that. We might have to have some
23 flexibility regarding that to determine when the Commission
24 finds a location, presuming you can reach some agreement
25 regarding that, and we'll address that when I come back and

0010

1 rule on it.

2 The Commission is amenable to holding public comment
3 hearings and proceedings that would draw a significant amount
4 of public interest.

5 MR. CEDARBAUM: I can't guarantee how many people will
6 show up at the hearing, obviously. I'm just saying there's a
7 fair amount of input thus far in terms of written public
8 comments.

9 JUDGE CLARK: I understand.

10 Anything further before we go off the record?

11 We're at recess until further call.

12 (Short break was taken in the proceedings.)

13 JUDGE CLARK: We're back on the record.

14 During the recess have the parties had an adequate
15 opportunity to consult regarding the procedural schedule?

16 MR. CEDARBAUM: We have, Your Honor.

17 If you'd like me to read that into the record I can.

18 JUDGE CLARK: Yes. That would be excellent. Thank
19 you, Mr. Cedarbaum.

20 MR. CEDARBAUM: We did this without knowledge of the
21 Commission's schedule whatsoever.

22 JUDGE CLARK: I understand.

23 MR. CEDARBAUM: The schedules that the company's
24 direct case would be filed on June 10th.

25 Staff response case, July 15th.

0011

1 Company's rebuttal case, August 8th.

2 Hearings on the 25th and 26th. We set two days
3 because we anticipate that in the next case to be heard this
4 afternoon we would use the same block of hearing dates. So
5 August 25th and 26th for hearings.

6 Briefs, if necessary, September 14th.

7 We would propose that there be a public hearing during
8 the week of August 15th at the Commission's convenience.

9 That schedule was constructed with the help that it
10 leaves enough time for the orders and any petitions for
11 administrative review and replies to occur prior to the end of
12 the suspension period which is December 12th.

13 JUDGE CLARK: Correct.

14 All right. I'm looking at the Commission's calendar
15 for August. I see nothing that would conflict with the
16 requested hearings dates for either the public comment hearing
17 or for the evidentiary hearing in the matter.

18 I believe the schedule proposed by the parties is
19 reasonable and I adopt it. It will be reflected in the
20 Prehearing Conference Order issued in this matter.

21 I've consulted with the records center. The number of
22 copies that will be required in this proceeding is an original
23 and 11.

24 Are there any other matters that we should address
25 during this afternoon's Prehearing Conference?

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1 MR. FINNIGAN: No, Your Honor.

2 MR. CEDARBAUM: No.

3 JUDGE CLARK: Hearing nothing, we're adjourned.

4 (Conclusion of proceedings.)

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Certificate

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