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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

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3 CITY OF WOODINVILLE,) DOCKET TR-143902
4 v.) (Consolidated)
5) Pages 1-15
6)
7 Petitioner,)
8)
9 EASTSIDE COMMUNITY RAIL, BALLARD)
10 TERMINAL RAIL, PORT OF SEATTLE,)
11 AND WASHINGTON STATE DEPARTMENT)
12 OF TRANSPORTATION,)
13)
14 Respondents.)

9 -----)
10 CITY OF WOODINVILLE,) DOCKET TR-143903
11 v.) (Consolidated)
12) Pages 1-15
13)
14 Petitioner,)
15)
16 EASTSIDE COMMUNITY RAIL, KING)
17 COUNTY, BALLARD TERMINAL RAIL,)
18 AND WASHINGTON STATE DEPARTMENT)
19 OF TRANSPORTATION,)
20)
21 Respondents.)

16 PREHEARING CONFERENCE, VOLUME I
17 Pages 1-15
18 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

19 10:32 A.M.
20 March 19, 2015

21 Washington Utilities and Transportation Commission
22 1300 South Evergreen Park Drive Southwest, Room 206
23 Olympia, Washington 98504-7250

24 REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028
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4 RAYNE PEARSON
Washington Utilities and
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23 (Continued...)

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OLYMPIA, WASHINGTON, MARCH 19, 2015

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10:32 A.M.

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P R O C E E D I N G S

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JUDGE PEARSON: Let's be on the record in Docket

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TR-143902, captioned: City of Woodinville v. Eastside Community

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Rail, Ballard Terminal Rail, Port of Seattle, and Washington

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State Department of Transportation, and Docket TR-143903,

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captioned: City of Woodinville v. Eastside Community Rail, King

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County, Ballard Terminal Rail, and Washington State Department

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of Transportation.

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My name is Rayne Pearson. I'm the administrative law

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judge presiding over this case. And today is Thursday, March

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19, 2015, at approximately 10:30 a.m., and we are here for a

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prehearing conference to establish a procedural schedule in

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these dockets.

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So let's begin by taking full appearances. We'll

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start with Staff, and then continue in this direction. And once

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we are finished identifying everyone in the room, and I will ask

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if anyone is on the bridge line who wishes to identify

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themselves for the record.

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So, please, when it's your turn, state your name,

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spelling your last name for the court reporter, who you

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1 represent, your address, phone number, e-mail address, and fax
2 number.

3 Mr. Beattie?

4 MR. BEATTIE: Thank you, Judge Pearson.

5 My name is Julian Beattie, B-e-a-t-t-i-e. I'm with
6 the Attorney General's Office. I represent Commission Staff in
7 these dockets.

8 My mailing address is: PO Box 40128, Olympia,
9 Washington 98504-0218. Phone number: 360.664.1225; e-mail:
10 j-b-e-a-t-t-i-e @utc.wa.gov.

11 JUDGE PEARSON: Okay. And fax number? Did you have
12 that?

13 MR. BEATTIE: 360.586.1150.

14 JUDGE PEARSON: Thank you.

15 Go ahead.

16 MR. ENGLE: My name is Doug Engle, E-n-g-l-e. I'm
17 with Eastside Community Rail. My address is...

18 MR. RUBSTELLO: Cannot hear that person.

19 JUDGE PEARSON: Is your microphone turned on? The
20 red light should be on.

21 Is it on now?

22 MR. ENGLE: It is on now.

23 JUDGE PEARSON: Okay. Okay.

24 MR. RUBSTELLO: Excellent.

25 MR. ENGLE: Okay. Doug Engle, Eastside Community

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1 Rail.

2 My mailing address is: 1340 Lombard Street, No. 606,
3 San Francisco, California 94109; my phone number is:
4 425.891.4223; my e-mail is: doug.engle@escrailorg, and I don't
5 have a fax.

6 JUDGE PEARSON: Okay. Thank you.

7 Go ahead.

8 MR. COLE: So my name is Byron Cole; B-y-r-o-n,
9 C-o-l-e. I'm the founder, one of the founders, and the general
10 manager of the Ballard Terminal Railroad Company, LLC. It was
11 formed in about 1962.

12 The address of the company is: 4725 Ballard Avenue
13 Northwest, Seattle, Washington 98107.

14 JUDGE PEARSON: Phone number?

15 MR. COLE: The office phone in Seattle is
16 206.782.1447.

17 JUDGE PEARSON: E-mail? Do you have an e-mail
18 address?

19 MR. COLE: byroncole@comcast.net.

20 JUDGE PEARSON: Okay. And do you have a fax number?

21 MR. COLE: Fax is: 206.782.7724.

22 JUDGE PEARSON: Thank you.

23 MR. COLE: Do you want the cell number?

24 JUDGE PEARSON: Oh, that's fine.

25 Which number would you prefer us to contact you at?

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1 That's the one that we should have.

2 Is the office number okay?

3 MR. COLE: It's a good idea to know my cell phone
4 number --

5 JUDGE PEARSON: Okay. Go ahead.

6 MR. COLE: -- because it's in my pocket a lot and I'm
7 not in the office that much.

8 JUDGE PEARSON: Okay.

9 MR. COLE: So that number is: 206.947.2120.

10 JUDGE PEARSON: Thank you.

11 Okay. And so I understand the City of Woodinville is
12 on the phone.

13 Would you like to enter an appearance next?

14 MR. RUBSTELLO: Okay. My name is Greg Rubstello.

15 That's R-u-b-s-t-e-l-l-o. I'm the city attorney for

16 Woodinville.

17 My mailing address is: 901 Fifth Avenue, Suite 3500,

18 Seattle, Washington 98164. My telephone number is:

19 206.447.7206. It's my direct dial. Fax: 206.447.2291.

20 JUDGE PEARSON: Do you have an e-mail address?

21 MR. RUBSTELLO: Yes. It's g-r-u-b-s-t-e-l-l-o

22 @omwlaw.com.

23 JUDGE PEARSON: I'm sorry. O-m-w?

24 MR. RUBSTELLO: Law, l-a-w.

25 JUDGE PEARSON: Okay.

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1 MR. RUBSTELLO: Dotcom.

2 JUDGE PEARSON: And your last name, are you saying
3 R-u, "b," as in boy, or "v," as in Victor?

4 MR. RUBSTELLO: "B," as in boy.

5 JUDGE PEARSON: Okay. Thank you.

6 MR. RUBSTELLO: There are two staff people from
7 Woodinville here in the room with me, so for your record, Tom
8 Hansen, the public works director, and Rick Roberts, the
9 assistant public works director.

10 JUDGE PEARSON: Okay. Thank you.

11 Is there anyone else on the bridge line who wishes to
12 enter an appearance today?

13 MR. MARCUSE: Yes, there is.

14 Go ahead, Isabel.

15 MS. SAFORA: Okay. This is Isabel Safora;
16 I-s-a-b-e-l; last name is "S," as in Sam, "a," "f," as in Frank,
17 o-r-a. And I'm the deputy general counsel for the Port of
18 Seattle.

19 My address is: PO Box 1209, Seattle, Washington
20 98111; and the telephone is: 206.787.3216; fax is:
21 206.787.3205; and my e-mail address is:
22 safora.i@portseattle.org.

23 JUDGE PEARSON: Okay.

24 MR. MARCUSE: And appearing for King County, this is
25 Andrew Marcuse. I filed a notice of appearance in this matter,

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1 so I think you have my contact information.

2 JUDGE PEARSON: That's fine.

3 MR. MARCUSE: All right. Thank you very much.

4 JUDGE PEARSON: Is there anyone else on the bridge
5 line?

6 Okay. Hearing nothing. Let's move on to --

7 MR. NIZAM: We have one more appearance, Your Honor.

8 JUDGE PEARSON: Oh, I'm sorry.

9 MR. NIZAM: Hi, my name is Ahmer Nizam. It's spelled
10 A-h-m-e-r; N-i-z-a-m. I'm representing the Washington State
11 Department of Transportation.

12 My mailing address is: PO Box 47329, Olympia,
13 Washington 98504-7239; my phone number is: 360.705.7271; my
14 e-mail address is: nizama@wsdot.wa.gov; and my fax number is
15 360.705.6815.

16 JUDGE PEARSON: And I apologize for that. I'm not
17 used to turning my head that way, so...

18 Okay. So let's move on to the issue of
19 consolidation.

20 Are there any parties that are opposed to
21 consolidating these two dockets?

22 Okay. Hearing nothing, I will consolidate the two
23 dockets in the prehearing conference order.

24 Are there any parties that are seeking intervention?

25 JUDGE PEARSON: Okay. Hearing nothing, it appears

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1 that no one is seeking intervention.

2 Do the parties want the discovery rules to be
3 available in this case? I assume that they do.

4 MR. BEATTIE: Staff would like the discovery rules to
5 be available, please.

6 JUDGE PEARSON: Okay.

7 MR. RUBSTELLO: The City of Woodinville requests the
8 same.

9 JUDGE PEARSON: Okay. We'll make those available to
10 the parties.

11 And do each of the parties consent to electronic
12 service if the Commission decides to serve documents in that
13 matter?

14 MR. COLE: Yes.

15 MR. BEATTIE: Yes, consent.

16 MR. RUBSTELLO: Yes, Woodinville agrees.

17 MS. SAFORA: Yes.

18 JUDGE PEARSON: Okay. Thank you.

19 And that brings us to the schedule. I assume that
20 the parties will need a recess to discuss a procedural schedule?

21 MR. BEATTIE: Correct.

22 JUDGE PEARSON: Okay. So we will go off the record.
23 I will be in my office. And if you just want to give me a call
24 when you have decided on a schedule. And I will have my
25 calendar, as well as the Commission's hearing room calendar here

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1 with me to check availability when we come back on the record.

2 Okay. Let's be off the record. Thank you.

3 (A break was taken from 10:42 a.m.
4 to 11:17 a.m.)

5 (Ms. Safora and Mr. Marcuse left the
6 proceedings during the recess.)

7 JUDGE PEARSON: Okay. Let's be back on the record.

8 During the break, the parties agreed on a procedural
9 schedule which I will ask Mr. Beattie to now read into the
10 record.

11 MR. BEATTIE: Thank you, Judge. The parties
12 conferred and agreed on the following procedural schedule:

13 The parties are seeking a mediated settlement
14 conference on Tuesday, April 7, 2015. Following mediation,
15 should further proceedings be necessary, the Petitioner's direct
16 testimony and exhibits would be due Tuesday, May 5th; Staff and
17 Respondent responsive testimony and exhibits would be due
18 Tuesday, May 19th; Petitioner rebuttal testimony, as well as
19 Staff and Intervenor -- although I suppose we don't have any
20 Intervenor, so Staff cross-answering would be due June 2, 2015;
21 a final settlement conference would be scheduled for Tuesday,
22 June 16, 2015.

23 And should we be proceeding to hearing, nonetheless,
24 cross-examination exhibits would be due one week before the
25 hearing on Tuesday, July 7th, with an evidentiary hearing

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1 scheduled for Tuesday, July 14th, proceeding on to Wednesday,
2 July 15th, if necessary, with simultaneous briefs due from all
3 participants in the hearing on Tuesday, August 4, 2015.

4 JUDGE PEARSON: Okay. Thank you. So I will look
5 into the facilitated mediation availability of a mediator for
6 the parties, and I will reserve a room at the Commission for
7 both days of the hearing like I stated when we were off the
8 record, and it's incumbent upon the parties to find a facility
9 in Woodinville to host the hearing and to notify me of that
10 location at least 45 days before the hearing date. Otherwise,
11 we will hold the hearing in this room. So please make sure that
12 you notify me directly when you secure the location.

13 MR. RUBSTELLO: And that's a matter of agreement
14 among all the parties; is that --

15 JUDGE PEARSON: Well, it sounds like we've agreed
16 that it's just a matter of you confirming whether or not the
17 council chambers is available and whether it can be set up --

18 MR. RUBSTELLO: All right.

19 JUDGE PEARSON: -- in the fashion that we need it to
20 be.

21 MALE SPEAKER: Are there some particular requirements
22 that you need, house setup or some recording facilities, that
23 would be unusual? We do record. We have capability to record
24 audio and record video in the council chamber.

25 Do you have any other requirements above and beyond

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1 that or how it's set up?

2 JUDGE PEARSON: We need microphones and a PA system,
3 right?

4 MR. RUBSTELLO: Sure.

5 MALE SPEAKER: Sure, we have those available to you.

6 JUDGE PEARSON: Okay. So it sounds like that will
7 work provided that you can confirm those dates.

8 MALE SPEAKER: Okay. We just wanted to make sure
9 there was nothing physical that we had to have that we don't
10 already have.

11 JUDGE PEARSON: I don't think so. There's a certain
12 way that we like the room set up with tables and chairs, but we
13 can figure that out later.

14 MALE SPEAKER: Okay.

15 MR. RUBSTELLO: Okay.

16 JUDGE PEARSON: Okay. So I assume that, obviously,
17 the mediated settlement conference will be facilitated by
18 another ALJ, but the second settlement conference on June 16th
19 is parties only; is that correct?

20 MR. BEATTIE: We did not discuss that, but I would
21 say that that would be parties only for now, although I suppose
22 if maybe we could reserve that discussion to a future date.

23 JUDGE PEARSON: As a second facilitated mediation?
24 Okay. That sounds good.

25 Okay. Is there anything else that we need to discuss

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1 while we're here today?

2 Okay. I will issue an order reflecting what was
3 decided, and we are adjourned. Thank you.

4 (Proceeding concluded at 11:20 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
and Notary Public in and for the State of Washington, do hereby
certify that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
this 30th day of March, 2015.

SHELBY KAY K. FUKUSHIMA, CCR

My commission expires:
June 29, 2017

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