

BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

TFL ASSOCIATES, LLC, CALIBER)
COMPANY, INC., and JACOBSON)
CONSTRUCTION & DEVELOPMENT,)
INC.,) DOCKET NO. UW-010683
Complainants)
v.) ORDER ACCEPTING
RAINIER VIEW WATER COMPANY,) SETTLEMENT AGREEMENT
INC., and SILVER CREEK) (PROPOSED)
DEVELOPMENT COMPANY,)
Respondents.)
_____)

SYNOPSIS

1 This is a complaint brought by three developers who have plats for which they seek water service from Rainier View Water Co., Inc. ("Rainier View"). The parties, other than Commission Staff, have submitted a motion asking the Commission to accept a Settlement Agreement reached by the moving parties. The Commission accepts the Settlement Agreement.

MEMORANDUM

2 **Parties:** Steven G. Jones, Joseph A. Brogan and Thomas M. Pors, attorneys, Seattle, Washington, represents TFL Associates, LLC, Caliber Company, Inc., and Jacobson

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Construction & Development Inc. Richard A. Finnigan, attorney, Olympia, Washington, represents Rainier View Water Company, Inc. ("Rainier View "), Kim D. Stephens, attorney, Seattle, Washington, represents Pageantry XIX/E-P LLC ("Silver Creek") and Marcia Newlands, attorney, Seattle, Washington, represents Lehman Brothers Holdings Inc., Property Asset Management Inc. and LB Silver Creek LLC (collectively "Lehman Brothers").

3 **Procedural History:** On May 4, 2001, TFL, Caliber and Jacobson filed with the Commission a complaint against Rainier View and Silver Creek. The complaint alleges, inter alia, that the development agreement entered into between Rainier View and Silver Creek constitutes an undue and unreasonable preference, failure to provide reasonable service, failure to furnish service when demanded, unjust and unreasonable sale of product. Rainier View and Silver Creek each answered the complaint and each denied its allegations. Lehman Brothers petitioned to intervene as an interested party with security interest in Silver Creek property.

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4 The Commission convened a prehearing conference on August 20, 2001. Among other things, the Commission granted Lehman Brothers' motion to intervene, established a procedural schedule, invoked the discovery rule (WAC 480-09-480), and entered a Protective Order (August 2, 2001). Evidentiary hearing proceeding were scheduled for December 13-14, 2001.

5 On August 31, 2001, Lehman Brothers filed a substitution of parties. This substitution was to reflect the reorganization within Lehman Brothers as it relates to the Silver Creek Properties. The Commission granted Lehman Brothers' substitution of parties and set a revised procedural schedule on September 6, 2001.

6 On October 12, 2001, all parties to the proceeding, except Commission staff, filed a proposed Settlement Agreement and a motion asking the Commission at accept the Settlement Agreement. As part of that motion, the moving parties waived entry of an Initial Order in this matter. In addition as part of the motion, the moving parties waived oral presentation of the Settlement Agreement and requested expedited treatment of the motion.

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DISCUSSION AND DECISION

7 The parties to the Settlement Agreement ask that the Commission accept the Settlement Agreement on an expedited basis. At least two of the Complainants face expiration of their preliminary plat approval and potentially substantial increases in costs for the development of their properties. Acceptance of the Settlement Agreement may avoid the expiration of the preliminary plat approvals for those Complainants. All parties to the Settlement Agreement support the acceptance of the Settlement Agreement by the Commission. The Commission staff does not oppose the Settlement Agreement.

8 The Settlement Agreement is attached hereto as Exhibit 1. The Commission has reviewed the Settlement Agreement and observes that it appears to resolve all matters between the parties to the Settlement Agreement.

9 The Commission grants the Motion and accepts the Settlement Agreement.

FINDINGS OF FACT

10 Having discussed above all matters material to our decision, and having stated our general acceptance of the

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Settlement Agreement, the Commission now makes the following summary findings of fact. Those portions of the proceeding discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by reference.

- 11 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate public water companies offering service to the public for compensation.
- 12 (2) Rainier View Water Co., Inc. is engaged in providing water service for hire to the public within the State of Washington as a public service company subject to the jurisdiction of this Commission.
- 13 (3) The facts as stated in the Motion for Acceptance of Settlement Agreement and as set forth in the Settlement Agreement, Exhibit 1, demonstrate that acceptance of the Settlement Agreement is in the public interest.

CONCLUSIONS OF LAW

14 Having discussed above all matters material to our
decision, and having stated our general acceptance of the
Settlement Agreement, the Commission now makes the
following summary conclusions of law. Those portions of the
proceeding discussion that include conclusions pertaining
to the ultimate decisions of the Commission are
incorporated by reference.

15 (1) The Washington Utilities and Transportation Commission
has jurisdiction over the parties and subject matter
of this proceeding. *RCW 80.04, RCW 80.28*

16 (2) The Motion for acceptance of Settlement Agreement
should be granted.

17 (3) The Settlement Agreement as contained in Exhibit 1 is
in the public interest.

ORDER

THE COMMISSION ORDERS:

18 (1) The Motion to have the Commission accept the
Settlement Agreement is granted.

19 (2) The complaint in this matter is hereby dismissed and
this docket is closed.

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Dated at Olympia, Washington and effective this __,
day of October, 2001.

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK OSHIE, Commissioner

NOTICE OF PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-09-760.

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