

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	DOCKET NO. UW-042132
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER NO. 03
)	
v.)	
)	INTERLOCUTORY ORDER
ROCHE HARBOR WATER SYSTEM,)	DENYING CHANGE IN
)	HEARING LOCATION
Respondent.)	
.....)	

1 **Synopsis:** *The Commission denies petitioner’s request for an interlocutory order directing that evidentiary and public comment hearings in this matter be held on San Juan Island. The Commission directs that a hearing scheduled in Burlington, Washington, for public comment be cancelled in lieu of the opportunity for telephone bridge line access, unless the parties agree otherwise and advise the Commission within ten days after the date of this order.*

2 **NATURE OF PROCEEDING.** Docket No. UW-042132 is a complaint proceeding that concerns a Roche Harbor Water System (Roche Harbor) proposed tariff revision establishing an Improvement Charge to new customers depending on the size of the customer’s meter.

3 **PREHEARING CONFERENCE ORDER.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on May 2, 2005, before Administrative Law Judge Theodora M. Mace. Judge Mace entered an order on May 12, 2005 that determined, among other things, the location of the hearing.

4 **APPEARANCES.** Richard A. Finnigan, attorney, Olympia, WA, represents Roche Harbor, the respondent. Lisa Watson, Assistant Attorney General,

Olympia, WA, represents the Commission's regulatory staff ("Commission Staff" or "Staff").

- 5 **Petition for Interlocutory Review.** The Company petitions for interlocutory review of the initial order's determination of the hearing location.
- 6 **Hearing location issues.** Roche Harbor asked that the Commission convene both the evidentiary and the public comment hearings on San Juan Island, where Roche Harbor and its customers are located. Commission Staff opposed the request, citing budgetary limitations, and asked that the matter be set in Olympia. Staff noted that because the Company's proposed charge would apply only to new service, no existing customers would be affected; the exception would be existing customers who require additional facilities.
- 7 The initial order attempted to meet the interests of both participants. It discussed factors relevant to hearing scheduling, ruling that the evidentiary hearing should be held in Olympia but that a hearing would be scheduled for public comment in Burlington, Washington. Burlington is near the mainland terminal of the ferry route serving San Juan Island, where the company is located. The proposal would minimize travel costs for Commission Staff and the Company's counsel, while allowing access for public witnesses.
- 8 The Company seeks review of the decision. It argues that the proposed locations impose a severe hardship on customers of the Company; that the Company's estimate of the number of its witnesses could exceed the two that it mentioned at the prehearing conference; and that customer interest in the proposal is very high and strongly in support of the Company proposal. The Company notes that the cost of a round-trip ferry ride alone for a company customer would be about \$50 per auto and driver. The Company suggests that the Commission could economically charter an airplane to bring its counsel, witnesses, judge, and court reporter to the hearing. The Company urges that a meaningful hearing could only be held on San Juan Island, and states that a room is available without charge for the purpose.
- 9 Commission Staff answers the petition, opposing it. Staff notes that the Commission does its best to schedule an opportunity for public comment that is convenient to customers, but in doing so it may select a single location that is

inconvenient for many customers. Staff reiterated that the proposed charge would not affect current service, so existing customers would have few ill effects if the charge were approved. Staff is unaware of precedent for moving an evidentiary hearing to the location of a utility company, and urges that if the hearing for public comment is not convenient for customers, it should be rescheduled for Olympia, where a bridge line is available that would allow customers to call in to participate, which could be accomplished with minimum expense to customers.

- 10 **Commission decision.** While the Commission has on occasion convened evidentiary and public hearing sessions outside Olympia for water company proceedings, doing so has depended on available funding and the circumstances of the proceeding. The initial order appears to have weighed the interests of all participants and offered a creative proposal that would balance those interests within the agency's budget constraints.
- 11 As Staff notes, this is not a situation in which customers are faced with a large increase. Instead, customers' current service will not be affected. Under the proposed arrangement, customers who want to observe the hearing may do so by listening to it via the Commission's bridge line. Customers wishing to express support to the Commission for the Company proposal could do so either in writing or by traveling to the Burlington location, scheduled at a time and place when ferry schedules would allow customers to attend without the need to stay overnight.
- 12 We are sympathetic to the needs and preferences of customers. However, the agency has received no letters from customers seeking the opportunity to comment. Company Counsel cites one existing commercial customer that expects to require additional service and thus to pay the proposed charge. Considering the availability of bridge line access to the evidentiary hearing, the expense of holding the hearing in San Juan County, the lack of adverse effect to existing customers if the tariff were allowed to become effective, and the lack of indicated customer interest in the proceeding, we find no flaw in the initial order's recommendation and we deny the motion for interlocutory review.
- 13 It does appear that the proposed public hearing location may be less effective at facilitating public comment than would scheduling a time when public witnesses

could comment via the telephone bridge line. Company counsel demonstrated that accessibility to a Burlington hearing would be questionable for company customers. Therefore the Commission will cancel the proposed Burlington hearing and direct the administrative law judge to schedule a time for telephone and in-person comments in Olympia, unless the parties agree otherwise and advise the Commission within ten days after the date of this order.

- 14 **Conclusion.** The Commission denies the petition for interlocutory review. The Commission directs that the Burlington hearing for public comment be cancelled in lieu of bridge line telephone access for public comments unless the parties agree otherwise and so advise the Commission within ten days following the date of this order.

Dated at Olympia, Washington, and effective this 6th day of June, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO 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 480-07-810.