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1 BEFORE THE WASHINGTON

2 UTILITIES AND TRANSPORTATION COMMISSION

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4 WASHINGTON UTILITIES AND )

TRANSPORTATION COMMISSION, )

5 )

Complainant, )

6 ) Docket Nos. UW-143181

v. ) and UW-143330 (Consolidated)

7 ) - Volume II

NEWAUKUM WATER SYSTEM, INC.; )

8 )

Respondent. )

9 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

)

10 THE MATTER OF THE REQUEST OF )

NEWAUKUM WATER SYSTEM FOR )

11 REMOVAL FROM REGULATION. )

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STATUS CONFERENCE, VOLUME II

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Pages 21 - 28

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ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

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16 1:29 P.M.

JANUARY 5, 2015

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1 OLYMPIA, WASHINGTON; JANUARY 5, 2015

2 1:29 P.M.

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5 JUDGE PEARSON: Let's go ahead and be on

6 the record in Docket UW-143181, captioned Washington

7 Utilities and Transportation Commission versus

8 Newaukum Water System, and Docket UW-143330, which is

9 a petition filed by Newaukum Water System to be

10 removed from jurisdiction. Today is Monday,

11 January 5th, 2015, at 1:30 p.m., and we are here for a

12 status conference to discuss the parties' motions for

13 summary determination and other procedural issues. My

14 name is Rayne Pearson, I am the administrative law

15 judge presiding over this case.

16 Let's just get started by taking brief

17 appearances, so just your name and who you represent,

18 and we will begin with Commission Staff.

19 MR. SHEARER: Brett Shearer,

20 S-H-E-A-R-E-R, Assistant Attorney General,

21 representing Commission Staff.

22 JUDGE PEARSON: Thank you.

23 For the Company?

24 MR. KURTZ: Maurice Kurtz, K-U-R-T-Z --

25 JUDGE PEARSON: Thank you.

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1 MR. KURTZ: -- for Newaukum.

2 JUDGE PEARSON: All right. Thank you.

3 I convened this status conference today to

4 notify the parties of my decisions on the

5 cross-motions for summary determination and to make

6 any adjustments that might be needed to the procedural

7 schedule. I will be issuing an order this week

8 denying the Company's motion for summary determination

9 and granting Staff's motion, and I will briefly

10 explain how I arrived at that decision.

11 The first question was whether Newaukum meets

12 the definition of water company under RCW

13 80.04.010(30)(a) and WAC 481-10-245, which I find that

14 it does. The definition under both of these sections

15 is very broad and includes every type of corporation

16 that owns, controls or operates or manages a water

17 system for hire in Washington, and this necessarily

18 includes nonprofit corporations.

19 The second question is whether Newaukum meets

20 the jurisdictional threshold by charging its customers

21 on average more than $557 per year. This issue is not

22 in dispute.

23 The third and final question is whether

24 Newaukum qualifies for any of the exemptions from

25 regulation available under WAC 480-110-255, which I

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1 find it does not. I agree with Staff's analysis that

2 WAC 480-110-255(2)(f) does not apply because, by the

3 Company's own admission, it serves two customers who

4 have declined board membership. Staff is correct that

5 the Company may not unilaterally bestow ownership

6 status on its customers. Under the current

7 circumstances, the Company is jurisdictional. If

8 those circumstances change or can be changed, then it

9 would make sense to remove the Company. The law is

10 what it is, so we will dispose of this issue on the

11 grounds that I just discussed and move forward with

12 the Commission's complaint against the Company's

13 rates, which brings us to the schedule.

14 Currently Staff is scheduled to file testimony

15 by January 16th, and the Company is scheduled to file

16 testimony by February 18th. And so what I want to

17 know is if the parties are still comfortable with that

18 schedule, or, in light of my ruling on the

19 jurisdictional issue, if the parties wish to schedule

20 settlement conferences or mediation. And if you need

21 a recess just let me know.

22 MR. SHEARER: Yes, Your Honor, it might

23 be best to go off the record and take a recess.

24 JUDGE PEARSON: Okay. We can go ahead

25 and take a break.

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1 (A brief recess.)

2 JUDGE PEARSON: Let's be back on the

3 record.

4 During the break it sounds like the parties

5 agreed on a new procedural schedule. Mr. Shearer, if

6 you want to read that into the record.

7 MR. SHEARER: Yes, Your Honor, that's

8 correct. Staff proposes a settlement conference for

9 January 23rd, 2015, with Staff prefiled testimony then

10 due on March 27th, 2015.

11 JUDGE PEARSON: Okay.

12 MR. SHEARER: Company's reply testimony

13 due April 24th, 2015, Staff's rebuttal due 5/19/2015,

14 a discovery cutoff for June 4th, with an approximate

15 hearing date -- obviously, Your Honor, we haven't been

16 able to check the availability of the hearing room or

17 your calendar --

18 JUDGE PEARSON: Sure.

19 MR. SHEARER: -- but an approximate

20 hearing date of June 18th, 2015.

21 JUDGE PEARSON: Okay.

22 MR. SHEARER: With briefs then due

23 July 17th, and reply briefs due August 5th.

24 JUDGE PEARSON: Okay. That sounds good.

25 I am assuming the settlement is parties only,

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1 the settlement conference?

2 MR. SHEARER: It will be party only --

3 JUDGE PEARSON: Okay.

4 MR. SHEARER: -- but we may allow

5 interested parties to partake.

6 JUDGE PEARSON: Sure. Okay.

7 I will issue an order this week reflecting

8 both my decision and the revised procedural schedule.

9 If that is all we have, then we can be

10 adjourned.

11 MR. SHEARER: I have nothing else, Your

12 Honor.

13 JUDGE PEARSON: Okay. Thank you.

14 (Status conference concluded 1:51 p.m.)

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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6 I, Sherrilyn Smith, a Certified

7 Shorthand Reporter in and for the State of Washington,

8 do hereby certify that the foregoing transcript is

9 true and accurate to the best of my knowledge, skill

10 and ability.

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17 SHERRILYN SMITH

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