

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON & IDAHO RAILWAY
INC.,

Complainant,

v.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Respondent.

DOCKET TR-143978

COMMISSION RAILROADS
MOTION TO REOPEN RECORD
FOR THE REDUCING PENALTY
AMOUNT OWED ON PAST DUE
ANNUAL REPORTS AND
REGULATORY FEES.

I. MOTION

In accordance with WAC 480-62-300 Every railroad company that operates in Washington State must file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission each year by May 1. The Washington and Idaho Railway (“Railroad”) requests that the Washington Utilities and Transportation Commission (“Commission”) exercise its discretion either on its own motion or on this motion to “reopen the record to allow receipt of evidence that is essential to a decision and that was unavailable and not reasonably discoverable with due diligence at the time of the hearing or for any other good and sufficient cause.”¹ For good cause, the Railroad requests that the Commission waive the requirement that this motion be made prior to the final order in this case.² The Commission may modify the application of its procedural rules under WAC 480-07-110. It should do so here.

¹ Though, as always, Commission Staff stands ready to supplement the record in response to Commission bench requests.

² “[T]he provision in this rule stating that ‘[a]ny party may file a motion to reopen the record at any time after the close of the record and before entry of the final order’ is not meant to be exclusive and does not imply that the record in a proceeding cannot be reopened after entry of a final order. Indeed, RCW 34.05.476(2)(i) provides that an order on reconsideration is part of the official agency record in a proceeding. It follows that every filing that might precede and lead to an order on reconsideration can be considered for inclusion in the record on a party’s motion, or the Commission’s own motion, to reopen the record after a final order. Reopening the record is an act of

II. ARGUMENT

The Washington and Idaho Railway provided improper records on annual reports for the years of 2010-2014. There was a discrepancy on intrastate vs interstate revenue by the Washington and Idaho Railway. (1) Railroad Motion to Reconsider filed DOCKET TR-143978 on August 21, 2015.

On September 9, 2015 the commission approved a settlement agreement between Commission and Washington & Idaho Railway Inc DOCKET TR-143978. The settlement is centered around the company's failure to file their 2010, 2011, 2012, and 2014 annual reports. These reports have subsequently been filed and the company has been paying according to the terms of the agreement.

In February 2016, while performing an audit and compiling data for the 2015 annual report filing, the Washington and Idaho Railway had discovered it have overstated their 2010-2014 Intrastate revenue by including Interstate revenue as well, thus the original settlement amount agreed upon in September 9, 2015 was incorrect. The Washington and Idaho Railway has been working with the staff at the Washington Utilities and Transportation Committee to determine the proper amount that should have been reported. The Washington and Idaho Railway provided all financial documents to the Commission and it was determined that the original settlement amount should be re-opened and discussed by the committee.

The original settlement was for the Washington and Idaho Railway to pay \$108,405.77 for past due regulatory fees, and \$34,000 penalty assessment fees for a total of \$142,405.77.

Commission discretion, as expressly provided in RCW 34.05.476.” *In the Matter of the Petition of Puget Sound Energy, Inc., For Approval of a Power Purchase Agreement for Acquisition of Coal Transition Power, as Defined in RCW 80.80.010, and the Recovery of Related Acquisition Costs*, Docket UE-121373, Order 08, *Order Granting, In Part, And Denying, In Part, Puget Sound Energy, Inc.’s, Petition For Reconsideration And Granting Motion To Reopen Record*, pp. 23-24 at ¶ 40 (June 25, 2013).

The new revised settlement based on the discovery in the audit and working with the Commission came to a conclusion that the original settlement agreement should have been \$50,869.81 for past due regulatory fees, and \$34,000 for penalty assessment for a total due of \$84,869.81. The results in a difference of \$57,535.96 from the current settlement amount to what the new revised settlement amount should be.

III. CONCLUSION

It is imperative that the Commission reopen the record in this proceeding to establish the correct, valid revenue requirement for the Company. By reopening the record, the Commission will be able to make the necessary changes to the previous settlement and implement new guidelines under the current revised settlement negotiations with the staff. Moreover, reopening the record would not prejudice any party. This is so even if the Commission's review results in a properly revised revenue requirement. No party can claim to be harmed by Commission action correcting a calculation.

It is well settled that the formulation of a revenue requirement is directly impacted intrastate vs. interstate revenue calculations. Without question, the Commission has full authority to reopen the record to supplement the evidence affecting its revenue requirement decision, and to make changes to DOCKET TR-143978 consistent with the revised record. The Washington and Idaho Railway strongly recommends that it do so.

DATED this 31th day of August 2016.

Respectfully submitted,

Daniel Degon
General Manager
Washington & Idaho Railway Inc.