

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET NO. TC-001846
)	
Complainant,)	
)	
v.)	ORDER ALLOWING WITHDRAWAL OF RATE FILING; CONVERTING PROCEEDING TO COMPLAINT BY COMMISSION; ESTABLISHING SCHEDULE
BREMERTON-KITSAP AIRPORTER, INC., C-903,)	
)	
Respondent.)	
.....)	

1 On November 27, 2000, Bremerton-Kitsap Airporter, Inc., filed with the Commission tariff revisions designed to effect an increase in its rates for passenger express service as an auto transportation company in this state. The total effect of such tariff revisions would have been an increase in revenues of approximately \$230,000 (14.2%) annually. The operation of such tariff revisions was suspended by order of the Commission pending hearing or hearings concerning such changes and the justness and reasonableness thereof.

2 The Commission held a prehearing conference in this matter in Olympia, Washington on Tuesday, April 3, 2001. The prehearing conference was held before Administrative Law Judge Marjorie R. Schaer.

3 The parties identified two major issues during the conference: “first, whether the executive salaries allocated to ratepayers are set at an appropriate level, and second, whether the Company’s overall rates are too high.” Docket No. TC-001846, *WUTC v. Bremerton-Kitsap Airporter, Inc.*, C-903, First Supplemental Order, p. 1 (April 4, 2001). On April 28, 2001, the Commission served an amended notice of hearing, giving notice of the ultimate issues in this proceeding. The notice indicated that one of the ultimate issues in the proceeding is whether the Company’s “existing rates are fair, just, reasonable, and sufficient, and in the public interest.” Docket No. TC-001846, *WUTC v. Bremerton-Kitsap Airporter, Inc.*, C-903, Amended Notice of Hearing, p. 2 (April 26, 2001).

4 The Company submitted a request on May 14, 2001, to withdraw its rate proposal. Commission Staff answered, opposing the request, citing the Commission's standard that dismissal is optional and should be granted only when it is consistent with the public interest. Staff contended that the filing raised questions involving the public

interest and that the Commission should deny the dismissal and pursue those issues at hearing. The Company replied, arguing that a complaint by the Commission would be a more appropriate vehicle in which to explore whether the Company's rates are too high. The Company also argued that dismissal is granted as a matter of right in Superior Court litigation

5 The Company's motion to dismiss was denied in an order entered July 25, 2001. The order determined that resolving whether the Company's existing rates are fair, just, reasonable, and sufficient, and in the public interest is in the public interest. The order also scheduled a second prehearing conference for August 9, 2001.

6 At the August 9, 2001, prehearing conference the parties agreed to proceed in the following manner: 1) the Company's request to withdraw its tariff increase filing will be granted; 2) this proceeding will be converted into a complaint proceeding by the Commission Staff against the Company in accordance with WAC 480-09-600 and RCW 34.05.070; 3) the first prehearing conference order entered April 4, 2001 continues to frame the current issues; 4) the protective order entered April 20, 2001 continues in effect; 5) any refund that might be sought by Staff will relate back to the date of August 9, 2001; 6) the parties will answer outstanding discovery requests by August 17, 2001, otherwise the discovery provisions of the prehearing conference order continue in effect; 7) the order clause of this order may contain a provision indicating that the Commission may seek to exercise its rights pursuant to RCW 81.20.020 to assess the cost of investigation against the company and 8) once the tariff filing is withdrawn then there is no longer a suspension date associated with this proceeding.

7 ALJ Schaer ruled on the record that this proceeding was converted from a rate increase proceeding to a complaint case by the Commission Staff against the Company, and that any refunds sought by the Commission Staff would relate back to the date of August 9, 2001. ALJ Schaer also ruled that this matter going forward would be governed by the agreements of the parties, as outlined in paragraph 6 of this order. The April 4, 2001 prehearing conference order will continue to govern procedural matters other than those outlined in this order.

8 The following schedule was agreed to by the parties, and will govern the remainder of this proceeding:

Staff prefiles its testimony and exhibits	October 3, 2001
Company prefiles its testimony and exhibits	November 9, 2001
Staff prefiles its rebuttal	November 27, 2001
Hearings	December 12—14, 2001
Briefs, with proposed findings of fact and conclusions of law	February 1, 2002

9 In all other respects, the provisions of the First Supplemental Order; Prehearing Conference Order continue to govern this proceeding .

ORDER

IT IS ORDERED That

- 10 (1) Docket No. TC-001846, *WUTC v. Bremerton-Kitsap Airporter, Inc.*, C-903 is converted from a rate case to a Commission complaint in accordance with WAC 480-09-600 and RCW 34.05.070
- 11 (2) Bremerton Kitsap Airporter, Inc., C-903 may be required to pay the expenses reasonably attributable and allocable to the investigation to the extent the requirements for such payment are consistent or authorized by chapter 81.20 RCW.

DATED at Olympia, Washington, and effective this day of September, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARJORIE R. SCHAER
Administrative Law Judge