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BEFORE THE WASHINGTON

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UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)

5

Complainant,)

) DOCKET UW-121408

6

v.)

7

SANDY POINT IMPROVEMENT)
COMPANY,)

8

Respondent.)

9

10

PREHEARING CONFERENCE, VOLUME I

Pages 1 - 30

11

ADMINISTRATIVE LAW JUDGE DENNIS MOSS

AND

12

ADMINISTRATIVE LAW JUDGE STEPHANY A. WATSON

13

14

1:30 P.M.

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JANUARY 14, 2013

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Washington Utilities and Transportation Commission

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

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* * * * *

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1 JUDGE MOSS: Good afternoon. My name is
2 Dennis Moss, I'm an administrative law judge with the
3 Washington Utilities and Transportation Commission.
4 With me at the bench is Stephany Watson, who is also
5 an administrative law judge with the Commission. She
6 has just joined us, as of January 2. She will be the
7 lead presiding officer in this case. I am conducting
8 today's prehearing conference, because the short
9 duration of her stay with us has not even allowed her
10 to witness a single proceeding yet. I thought it
11 would be best if I conducted today's conference and
12 then she will be the one before whom you appear
13 throughout the proceeding. I will remain available to
14 her as a resource, and I will be participating in the
15 ultimate processes in the case. Between the two of
16 us, you should be in good hands.

17 JUDGE WATSON: Thank you.

18 JUDGE MOSS: We are convened in the
19 matter styled WUTC against Sandy Point Improvement
20 Company, Docket UW-121408. This is a two-part
21 proceeding, I guess. We have a so-called special
22 proceeding to determine whether Sandy Point
23 Improvement Company has been conducting itself in such
24 a manner as to bring it within the Commission's
25 jurisdiction, and in addition, the Commission's

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1 Order 1 in this case states the Commission's complaint
2 on probable cause against the rates and charges
3 assessed by Sandy Point Improvement Company, and the
4 complaint suggests penalties may be in order.

5 Let's begin by taking our appearances. We
6 will start with the respondent, Sandy Point.

7 MR. REHBERGER: Thank you, Your Honor.
8 My name is Joseph Rehberger, Cascadia Law Group,
9 representing Sandy Point Improvement Company. Here
10 with me, just if I could make an introduction, is one
11 of the board members, the director of Sandy Point,
12 Jack Smith.

13 JUDGE MOSS: Welcome, Mr. Smith.

14 Oh, yes, I should mention, when you are
15 speaking -- some of you haven't been before this
16 Commission before. When you speak, the microphone
17 light should be illuminated.

18 Mr. Rehberger, this being the first
19 appearance, I will just confirm with you that your
20 physical address is 606 Columbia Street Northwest,
21 Suite 212, Seattle, Washington 98501.

22 MR. REHBERGER: It's Olympia.

23 JUDGE MOSS: It is Olympia. All right.
24 Well, there we go. See, it's a good thing I checked.

25 And I have your phone as (360) 786-5062.

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1 MR. REHBERGER: That's correct.

2 JUDGE MOSS: Although we never use
3 facsimile anymore, I do have your facsimile number as
4 (360) 786-1835.

5 MR. REHBERGER: I had to check, but yes,
6 that's correct.

7 JUDGE MOSS: I don't think we even have
8 a machine anymore.

9 And then I have your e-mail as your initial J,
10 your name, Rehberger, and @cascadialaw.com.

11 MR. REHBERGER: That's correct.

12 JUDGE MOSS: That's all correct. Okay,
13 very good.

14 Mr. Trotter?

15 MR. TROTTER: Thank you, Your Honor.
16 For the Commission Staff, my name is Donald T.
17 Trotter, assistant attorney general. My address is
18 1400 South Evergreen Park Drive Southwest, PO Box
19 40128, Olympia, Washington 98504-0128. My phone
20 number is (360) 664-1189. The fax I believe is same
21 area code, 753-5522. My e-mail is
22 dtrotter@utc.wa.gov.

23 JUDGE MOSS: Thank you very much.

24 Now, Mr. Lockwood is sitting at the counsel
25 table. Mr. Lockwood, is it your intention to seek to

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1 intervene in this proceeding and become a party?

2 MR. LOCKWOOD: Yes, it is.

3 JUDGE MOSS: All right. We can take
4 that up in a moment. I do want to point out to you,
5 before we take that up, that we do have another status
6 for persons who take an interest in proceedings such
7 as this, that we call an interested person. That
8 keeps the interested person in the loop, in terms of
9 all the notices and other papers, orders, what have
10 you, that come out in connection with the case.

11 As I say, if you want to participate as a
12 party, we will take your petition here momentarily,
13 but in the meantime, if you could, please, state your
14 full name for the record, your address, your phone
15 number, we won't need a facsimile number, but if you
16 have an e-mail, that would be helpful.

17 MR. LOCKWOOD: My name is Stephen L.
18 Lockwood. That's S-T-E-P-H-E-N, middle initial L,
19 last name Lockwood. I live at 4097 Puffin Road,
20 Ferndale, Washington 98248. The phone number that I
21 have for cell phone, my only number, is (360)
22 303-7523, and my e-mail is stevelockwood@comcast.net.

23 JUDGE MOSS: Very good, thank you.

24 Is there anyone else that wishes to enter an
25 appearance, either present in the room or on the

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1 conference bridge line?

2 All right. Hearing none, we will assume we
3 have the full assemblage before us here.

4 Let's do take up your petition to intervene.
5 Have you familiarized yourself with the Commission's
6 procedural rules and the standards for intervention?

7 MR. LOCKWOOD: Yes.

8 JUDGE MOSS: Okay. Perhaps you can tell
9 us what your substantial interest in this proceeding
10 is.

11 MR. LOCKWOOD: First of all, I support
12 the UTC's actions against Sandy Point Improvement
13 Company. My hope is to be able to intervene to
14 correct any information that is possibly incomplete or
15 inaccurate on the part of the attorney for Sandy Point
16 Improvement Company. I can give a little further
17 explanation, if you need.

18 JUDGE MOSS: Was it your intention,
19 then, to appear as a witness and give evidence?

20 MR. LOCKWOOD: If I hear something other
21 than what I believe to be completely accurate.

22 JUDGE MOSS: And are you going to be
23 represented by counsel, or are you going to proceed
24 without counsel?

25 MR. LOCKWOOD: I will proceed without

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1 counsel.

2 JUDGE MOSS: All right.

3 Let's hear from Mr. Rehberger and see what
4 Sandy Point has to say about a petition to intervene.

5 MR. REHBERGER: Thank you, Your Honor.

6 This is the first we have heard of it. I
7 don't think there were any papers filed. We weren't
8 apprised of this before this instance.

9 JUDGE MOSS: That's true. We do prefer
10 written petitions, but we do allow oral petitions.
11 Let's go ahead with that.

12 MR. REHBERGER: My only comments would
13 be that it doesn't seem to be raising any new issues
14 that haven't already been raised by the UTC. I think
15 his interests, if he has them, are inadequately
16 protected by the UTC and the UTC staff regarding
17 correcting information that may or may not be
18 presented.

19 It is difficult to speak to what that may or
20 may not be, but I would say that it seems like he
21 really is asking to be called as a fact witness in
22 this case, as opposed to raising legal arguments.

23 JUDGE MOSS: Which brings me to you,
24 Mr. Trotter. I would like to hear what you think in
25 terms of Mr. Lockwood's intervention, given the stated

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1 interests he has.

2 MR. TROTTER: First of all, I think -- I
3 don't believe Mr. Lockwood has appeared before the
4 Commission anytime before now and may not be familiar
5 with these procedures. I believe he is a customer of
6 the company. He didn't state that as his interest,
7 but that may be what his interest is.

8 JUDGE MOSS: I just assumed that,
9 Mr. Trotter.

10 MR. TROTTER: Okay.

11 JUDGE MOSS: I appreciate you clarifying
12 it for the record.

13 MR. TROTTER: It might be good for the
14 record for him to explain that.

15 At this point, Staff was planning to get --
16 you know, develop information through the normal
17 channels and was not intending at this point in time
18 calling any customer witnesses. It's always possible
19 that that could happen, but that's not our plan at the
20 current time. I can't say right now whether I would
21 or would not call a customer, and if I did, whether
22 that would be Mr. Lockwood.

23 I think his motion should rise or fall on its
24 own merits for his interest in the proceeding.

25 JUDGE MOSS: Let me ask you this. If we

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1 were to not allow Mr. Lockwood to intervene, would
2 Staff be in a position to and willing to maintain a
3 communication, an open line of communication with him,
4 in the event he observed our hearing and brought to
5 your attention perhaps something that he thought was
6 not quite right, in terms of a fact or whatnot?

7 MR. TROTTER: Well, I cannot commit to
8 that. It depends on -- you know, if, for example, he
9 wants to pursue an issue that Staff does not see fit
10 to pursue --

11 JUDGE MOSS: All right.

12 MR. TROTTER: -- then we are not going
13 to pursue it.

14 JUDGE MOSS: I'm not asking you to
15 represent him, I'm just asking you if you would
16 maintain an open communication with him, and you could
17 tell him no.

18 MR. TROTTER: Well, I could tell him no.
19 Just in terms of -- if this case proceeds the
20 way I anticipate, we will be issuing data requests,
21 perhaps. We haven't talked about that yet. There may
22 be a need for depositions, I don't know. It would be
23 unusual for us to be cc'g nonparties or inviting
24 nonparties to participate and attend depositions, that
25 sort of thing. It presents a unique, unusual

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1 situation for us.

2 I know Mr. Lockwood has been very interested
3 in this issue for sometime. He is a customer. I just
4 suggest his intervention be addressed on its merits.

5 JUDGE MOSS: I don't recall ever having
6 conducted a special proceeding in which we had an
7 intervenor. I checked in the procedural rules quickly
8 just now, and I don't see anything in there that gives
9 me any guidance.

10 You are an old hat at this, Mr. Trotter. Do
11 you have any familiarity with a provision of law that
12 would inform us here?

13 MR. TROTTER: I can't think of any prior
14 examples one way or the other. I haven't had a
15 classification case for a while myself. I think you
16 are very experienced in interventions and so on and
17 just apply that.

18 JUDGE MOSS: Thank you, Mr. Trotter. I
19 appreciate that.

20 Mr. Lockwood, I will confirm for the record,
21 you are in fact a customer of Sandy Point?

22 MR. LOCKWOOD: Yes, I am. There are two
23 subjects that I have noted here that might be
24 considered intervention. If I can mention those?

25 JUDGE MOSS: Sure, go ahead.

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1 MR. LOCKWOOD: One of the issues has to
2 do with the term "charges" versus "surcharges." Now,
3 in my original complaint that I submitted to the UTC,
4 I did not bring up the topic of surcharges. It was
5 suggested to me that should Sandy Point Improvement
6 Company fall under the jurisdiction of the UTC, the
7 subject of surcharges would be dealt with after that.
8 I just want to be sure that happens.

9 JUDGE MOSS: All right.

10 MR. LOCKWOOD: The other one has to do
11 with this recent response from SPIC, it's often called
12 SPIC, in place of Sandy Point Improvement Company,
13 having to do with the \$557. I, for instance, over
14 three of the last four years had charges on my home of
15 \$706 for one year, 993 for another, and the prior year
16 before that was \$800. I would be asking for some
17 proof from Sandy Point Improvement Company of the
18 actual number they came up with. I had tried to get
19 that previously from SPIC, but they refused to provide
20 it or failed to respond to my requests.

21 JUDGE MOSS: Before I rule on this
22 motion to intervene, I'm going to jump ahead a little
23 bit here, because I think the manner in which we are
24 going to conduct this case has some bearing on this
25 question.

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1 We have a motion from Sandy Point that was
2 styled Motion to Bifurcate and for a Stay. The gist
3 of that is that Sandy Point would like us to first
4 resolve the question of jurisdiction, and to the
5 extent we find jurisdiction, then we would take up the
6 Commission complaint for penalties. Mr. Trotter filed
7 on Friday, Staff's response, which essentially says,
8 yeah, that sounds like a pretty good idea. I think
9 it's a pretty good idea, too. Certainly, if we don't
10 have jurisdiction, we don't need to be putting parties
11 to the trouble and expense of defending things they
12 don't need to be defending, or putting Staff to the
13 trouble of developing a case on such matters.

14 That brings me to the question of whether, as
15 between Sandy Point and Staff, your view is -- your
16 common view is that there are no material facts in
17 dispute with respect to that question, and we can
18 resolve it as a matter of law on the cross-motions for
19 summary determination, or if it will be necessary to
20 develop some factual record before we can make a
21 determination.

22 It is Staff's complaint, so I will ask you
23 first, Mr. Trotter.

24 MR. TROTTER: Well, for my part, Your
25 Honor, I suspect that there may not be material facts

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1 in dispute, but we are going to have to develop those
2 facts. Staff has done some investigating so far.
3 Those weren't done under the guise of litigation
4 procedural rules before the Commission. We want to
5 firm some of those facts up. We will look into some
6 things that we did not look into before. We asked for
7 a financial statement; we didn't get one. I believe
8 we want one now, if we didn't ask for one. We would
9 like to take a look at some financial statements and
10 things like that. And then even a more specific
11 description of the service area. You know, various
12 facts like that, which we don't think should be
13 controversial. We do have some work to do.

14 JUDGE MOSS: All right.

15 And for your part, Mr. Rehberger, is the
16 Company willing to be cooperative with Staff in
17 developing facts, perhaps even to the point of
18 presenting stipulated facts along with cross-motions?

19 MR. REHBERGER: I think that's very
20 likely a possibility. Mr. Trotter and I have had
21 conversations to that effect leading up to this
22 prehearing.

23 I would agree that probably all the facts that
24 might be necessary aren't yet in the record. Again, I
25 see most of the ones that we would anticipate

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1 developing. I am thinking of real property documents
2 that show how this company was set up, as being things
3 that wouldn't be disputed.

4 JUDGE MOSS: Right. Okay.

5 MR. REHBERGER: It's difficult to take a
6 firm position on that prior to seeing what facts are
7 going to be presented. I certainly anticipate that is
8 a very likely and prudent course.

9 JUDGE MOSS: We won't put anybody's feet
10 in cement. We will just hope for the best in that
11 regard.

12 Let me ask another question, Mr. Trotter,
13 somewhat related, perhaps. What we have here, of
14 course, is a special proceeding to determine the
15 Commission's jurisdiction, whether the company is
16 doing business subject to our jurisdiction, or
17 conducting itself in such a way. And then we have the
18 other aspect, which is the complaint against, I
19 suppose, whatever the current rates and charges are.
20 There's no tariff, of course. And there's a
21 recommendation for penalties.

22 Let's assume we do all that and find
23 jurisdiction and resolve the question of the justness
24 and reasonableness of the rates and charges. What I
25 am pondering is, well, what happens if we get through

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1 all of this and we find that the company is subject to
2 jurisdiction, but that the rates and charges are not
3 unreasonable, or unjust and reasonable, what then?

4 MR. TROTTER: Well, at that point, the
5 company would file tariffs reflecting their existing
6 rates and be subject to the normal Commission rules,
7 filing an annual report and keeping their books in the
8 required manner, and doing what every other regulated
9 water company does in terms of good business
10 practices.

11 JUDGE MOSS: Of course, penalties would
12 then be a separate question, having to do with the
13 absence of tariffs during the period in which the
14 company was, as a matter of fact, subject to our
15 jurisdiction.

16 MR. TROTTER: Correct.

17 JUDGE MOSS: Now, let's assume the other
18 scenario whereby we get through all of this and we
19 determine that the rates and charges are in some
20 manner unjust and unreasonable. Will we then, the
21 Commission, have the obligation and appropriate body
22 of information to set rates?

23 MR. TROTTER: Well, as part of the rate
24 complaint, which is proposed to be deferred, if we
25 enter that phase, Staff will have to conduct an audit

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1 or an accounting analysis and put together a rate case
2 and determine whether the rates are too high, too low
3 or just right.

4 JUDGE MOSS: So that would be perhaps
5 even another phase of our proceeding, or certainly
6 would broaden the second phase of the proceeding to
7 encompass that sort of ordinary, if you will, rate
8 review.

9 MR. TROTTER: Right. Well, I think that
10 was what Mr. Rehberger called the rate question or
11 rates question.

12 JUDGE MOSS: Okay.

13 MR. TROTTER: I interpret that to mean
14 that the complaint does say the rates are unfair,
15 unjust and unreasonable. We would investigate and
16 determine that in that phase, under that general
17 heading.

18 JUDGE MOSS: Okay. Mr. Lockwood, I am
19 going to phase this proceeding, as the company has
20 recommended and as Staff has agreed would be a good
21 idea, which means that we are going to take up first
22 what is essentially a legal question.

23 You are not a lawyer?

24 MR. LOCKWOOD: (Shakes head.)

25 JUDGE MOSS: No.

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1 I think the best course of action here will
2 be, at this point in time I will grant your
3 intervention on a sort of provisional basis, if you
4 will. I would not expect you to participate fully in
5 this special proceeding aspect of this case, which is
6 the first phase. That's largely going to be a matter
7 of the lawyers arguing. I think we are going to end
8 up with stipulated facts. That's my best guess. If
9 Mr. Trotter elects to do so, or for that matter if
10 Mr. Rehberger elects to do so, they may in some
11 fashion or another talk to you, whether formally or
12 informally, if they believe you have important
13 information that would contribute to the development
14 of that record.

15 I kind of doubt that inquiry is going to be
16 necessary at this first stage. I think this is more a
17 question of looking at the company's books and records
18 and the sorts of things that make a company
19 jurisdictional or not. We will be looking at the
20 corporate structure. There's an allegation in the --
21 I guess it's in the investigation report, to the
22 effect that the form of this company changed at some
23 point in time, from something more akin perhaps to a
24 mutual, or cooperative and into a for profit
25 corporation. I'm not sure about those sorts of

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1 things, but those are largely legal questions, if not
2 exclusively, or at least mixed questions of law and
3 facts.

4 And then when we get to the second phase of
5 the proceeding, that I suspect is a matter in which
6 you are more interested, in any event, which is when
7 we are talking about rates and charges and that sort
8 of thing.

9 Am I basically getting it right, in terms of
10 your interests?

11 MR. LOCKWOOD: Yes, that is correct.

12 JUDGE MOSS: I think that's the better
13 approach at this point in time. Again, I will grant
14 your petition on a professional basis. I will alert
15 you to the fact that in our procedural rules, we must
16 find that you have a substantial interest in the
17 proceeding as a customer. Certainly you have an
18 interest in the outcome of the proceeding, insofar as
19 the rates, terms and conditions of service are
20 concerned, if this company is jurisdictional.

21 An alternative basis for your participation
22 would be that it's in the public interest. I don't
23 mean to sound rude, but I don't think it would be
24 contributing much at the first phase, but perhaps at
25 the second phase that will change. If at some point,

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1 however, I find that your participation in the case is
2 not warranted, the rules do provide for you to lose
3 your intervenor status. That doesn't mean you
4 wouldn't still be able to sit in the room, watch the
5 hearing, listen to the hearing, receive all of the
6 papers and so on and so forth.

7 It is a little unusual to have a customer, or
8 indeed any intervenor in this type of proceeding.
9 That's one reason I'm hesitating a little bit here.
10 I've been doing this for 15 years and this is, I
11 recall, the first time this has ever come up. It is a
12 little unusual. Although, we don't have that many of
13 these proceedings, frankly.

14 I hope that's satisfactory to you.

15 MR. LOCKWOOD: Yes, it is, and I
16 understand what you are saying. I read quite a bit of
17 the materials that were handed to me, or the material
18 I was referred to. I understand.

19 JUDGE MOSS: I appreciate your educating
20 yourself. So often people come in and haven't done
21 that. I really appreciate the fact that you have.
22 Thank you for that.

23 MR. LOCKWOOD: You're welcome.

24 JUDGE MOSS: Now, Mr. Trotter, you
25 mentioned the need to develop some facts, at least in

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1 a formal way, that either you don't have or that you
2 wish to confirm appropriately under the discovery
3 rules, 480-07-400 through 425. I assume by all of
4 that, that you wish to pursue discovery in this case.

5 MR. TROTTER: Yes, I would ask the
6 Commission to invoke that rule, please.

7 JUDGE MOSS: We will certainly cap
8 discovery, then, as seems appropriate to me under
9 those rules that I mentioned.

10 Do we perceive any need for a protective order
11 in this proceeding?

12 MR. REHBERGER: It's a discussion I
13 would like to have with the board. I see that as a
14 possibility, especially if we are going to be
15 disclosing financial information prior to a
16 jurisdictional question being raised.

17 JUDGE MOSS: If it comes up, I will
18 entertain -- or we will entertain, Judge Watson and I
19 will entertain, an appropriate motion. But at this
20 point, we will just skip over that part, unless
21 Mr. Trotter has some contrary notion about it.

22 MR. TROTTER: If counsel is suggesting
23 that if we ask for an annual report, that they are
24 going to hesitate giving that to us because of
25 proprietary information -- we are going to ask for

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1 that. We want to tie the numbers down.

2 JUDGE MOSS: Sure.

3 MR. TROTTER: Then I would just suggest
4 that we issue one, if he confirms that that is going
5 to be a problem.

6 JUDGE MOSS: I wouldn't think an annual
7 report would be a problem, since it's a public
8 document.

9 I think we will just proceed without a
10 protective order for now. I will say that with the
11 caveat that I am expecting cooperation. If it is not
12 forthcoming, then I will take the appropriate steps to
13 get a protective order or whatever I need to do in
14 order for you to get what you need.

15 MR. TROTTER: Thank you.

16 MR. REHBERGER: Thank you. I didn't
17 mean to imply that our position would be that we
18 wouldn't be turning it over.

19 JUDGE MOSS: I didn't take that.

20 MR. TROTTER: Also, the company is not a
21 publicly traded company, so I think it's -- I'm not
22 sure if their financial reports would be public.

23 JUDGE MOSS: We can turn out a
24 protective order in a day. If it becomes necessary,
25 just let me know. It will take a very brief motion.

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1 Let us know.

2 I apologize to you, Judge Watson. I am not
3 that accustomed to presiding with someone else, so I
4 keep saying "me," and things like that.

5 JUDGE WATSON: I understand. I think
6 the parties understand, too. I appreciate it.

7 JUDGE MOSS: What else do we have here?

8 We've actually had some discussion of the
9 issues. I'm not sure there's anything else we need to
10 say in that regard. Anybody?

11 Apparently not.

12 I think the best thing to do would be, if we
13 can go ahead and do that now, would be to set a
14 procedural schedule, allowing some period of time for
15 discovery, and perhaps a development of a stipulated
16 set of facts, and then a date for potential
17 cross-motions for summary determination, if they are
18 deemed to be appropriate after the parties have
19 conducted that process.

20 Does that sound reasonable to you,
21 Mr. Trotter?

22 MR. TROTTER: Yes, your Honor.

23 JUDGE MOSS: Mr. Rehberger, does that
24 sound reasonable to you?

25 MR. REHBERGER: Yes.

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1 JUDGE MOSS: Mr. Lockwood, you are along
2 for the ride --

3 MR. LOCKWOOD: Yes.

4 JUDGE MOSS: -- at least at this point.

5 Do you all want a few minutes to discuss among
6 yourselves what that schedule ought to be? We will go
7 get a drink of water or something and check back with
8 you.

9 MR. TROTTER: Okay.

10 JUDGE MOSS: You know where to find us.
11 We will be down in our area.

12 MR. TROTTER: Okay.

13 JUDGE MOSS: Thank you very much. We'll
14 be off the record.

15 (A brief recess.)

16 JUDGE MOSS: We'll be on the record to
17 discuss the parties' procedural proposal.

18 MR. TROTTER: Yes, your Honor. We agree
19 that there would be a three-month period for
20 developing facts, including stipulated facts, and
21 including settlement probably two months out.

22 JUDGE MOSS: Okay.

23 MR. TROTTER: With a motion -- summary
24 determination motion deadline two weeks after that
25 three-month period.

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1 JUDGE WATSON: Excuse me, Mr. Trotter,
2 I'm a little confused. Three months and then you said
3 two months out?

4 MR. TROTTER: It would be three months
5 for --

6 JUDGE WATSON: Three months from more or
7 less today?

8 MR. TROTTER: Let me start over, I'm
9 sorry. Two months from today, let's say --

10 JUDGE WATSON: Two months?

11 MR. TROTTER: I am revising it.

12 JUDGE WATSON: Okay.

13 MR. TROTTER: Restating it a different
14 way, that might be more chronological.

15 JUDGE WATSON: Thanks.

16 MR. TROTTER: Two months from
17 approximately today would be a settlement conference.
18 Three months from today would be a deadline for
19 developing the facts, discovery and developing
20 stipulated facts. And then three months, plus two
21 weeks, would be the deadline for summary determination
22 motions.

23 JUDGE MOSS: So if I'm following you,
24 that would be about the first week or two of April.

25 MR. TROTTER: Yes.

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1 JUDGE MOSS: Sound reasonable.

2 JUDGE WATSON: Yes, very much so.

3 JUDGE MOSS: That sounds reasonable.

4 Let me ask, if you don't mind, if you could
5 give us a status report around, let's say March 20th,
6 to make sure that we are on track.

7 MR. TROTTER: Yes, your Honor.

8 JUDGE MOSS: Or if something comes up,
9 of course, in the meantime, you could let us know.

10 I am pleased to hear that you have built in
11 some time for settlement. We do normally make
12 settlement discussions a part of our procedural
13 schedule. I won't hold you to a specific date on
14 that, unless you all want to set a specific date, in
15 which case I would let you change it anyway. I will
16 just say that you all should do that when it is an
17 appropriate point in your exchange.

18 All right. That's -- it's a little loose, but
19 that will suffice, I think, for the purposes of this
20 first phase. And then we will have to, at the point
21 in time when we make a decision, if we end up deciding
22 you are a jurisdictional company and we need to
23 proceed to the second part, we will probably have
24 another prehearing conference.

25 Okay. Anything else on that before we move

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1 on? Okay, good.

2 We do allow for electronic submission of
3 documents. When we do set deadlines -- and we are not
4 doing this today, but when we do set deadlines and a
5 procedural schedule for the filing of a document, the
6 date we state is actually the date for submitting it
7 electronically. Our antiquated statutes and rules
8 still require paper. Some day that will change, I'm
9 sure, but for the meantime, the filing must be
10 accomplished by the business day following submission
11 electronically.

12 You can also effect service among yourselves
13 electronically. If you are going to do that, you need
14 to just give us a brief letter for the records center
15 saying that you waive personal service or service by
16 mail. We are still required to do everything by mail,
17 so you will be getting mail from us. We will also
18 provide courtesy copies of anything we put out by
19 e-mail. You will get both. The official document is
20 the one that comes in the mail.

21 We've already talked a little bit about
22 settlement and stipulations, so you all know that the
23 Commission supports those sorts of efforts. In terms
24 of any filings, this would include your motions for
25 summary determination, for example, when they come, we

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1 will need the original plus 12 copies. That is for
2 the internal distribution needs of the Commission. If
3 that number changes, I will let you know. We
4 sometimes have been able to reduce it and sometimes
5 not.

6 In the event you do file a document that
7 includes confidential information under a protective
8 order, I will just go ahead and tell you now that you
9 will need to file the original and 12 copies of the
10 most confidential version, what we call the fully
11 unredacted version, and then just one copy with
12 redactions that can be kept in the publicly available
13 files. If you have any questions about that later on,
14 you can always contact me by e-mail, or telephone for
15 that matter, I encourage e-mail, with copies to the
16 other parties so that everybody is kept in the loop
17 and nobody is concerned about ex parte communications.

18 All the filings need to be made through the
19 Commission's secretary, either by mail to the
20 Commission, WUTC, at P.O. Box 47250, and the physical
21 address, 1300 South Evergreen Park Southwest, Olympia,
22 Washington 98504-7250, or by other means of delivery
23 to the Commission's offices, such as courier.

24 All filings of substance, that is to say any
25 motions, briefs, testimony, what have you, must

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1 include an electronic copy, furnished either by e-mail
2 attachment or via the Commission's web portal, for
3 those of you who are electronically sophisticated, or
4 more so than me anyway. I ask that you always provide
5 me, and in this case Judge Watkins as well, a courtesy
6 copy by e-mail, and if possible in the MS Word word
7 processing format. The rules do require that service
8 on all parties be simultaneous with filing. My e-mail
9 is dmoss@utc.wa.gov and Ms. Watson's is
10 swatson@utc.wa.gov.

11 This has already been long and boring enough
12 for you I'm sure. I won't talk about the requirements
13 for a hearing at this juncture, because we may never
14 have one. If we get closer to that sort of an event,
15 I will talk to you about it at that time, or Judge
16 Watson will talk to you about it, depending.

17 All right. Is there any other business we
18 need to conduct today? Apparently not. I thank you
19 all very much for being here today. I look forward to
20 working with you, as I'm sure does Judge Watson, in
21 bringing this matter to a good conclusion.

22 JUDGE WATSON: Thank you.

23 MR. REHBERGER: Thank you.

24 (Prehearing conference concluded 2:24 p.m.)

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C E R T I F I C A T E

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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I, Sherrilyn Smith, a Certified

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Shorthand Reporter in and for the State of Washington,

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do hereby certify that the foregoing transcript is

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true and accurate to the best of my knowledge, skill

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and ability.

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SHERRILYN SMITH

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