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BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND ) DOCKET NO. UW-040366  
TRANSPORTATION COMMISSION, ) ORDER NO. 05  
Complainant, ) Volume III  
V. ) Pages 22 - 30  
MARBELLO WATER COMPANY, )  
Respondent. )  
\_\_\_\_\_)

WASHINGTON UTILITIES AND ) DOCKET NO. UW-041181  
TRANSPORTATION COMMISSION, ) ORDER NO. 02  
Complainant, )  
V. )  
MARBELLO WATER COMPANY, )  
Respondent. )  
\_\_\_\_\_)

A hearing in the above matter was held on  
September 3, 2004, from 9:30 a.m. to 9:45 a.m., at 1300  
South Evergreen Park Drive Southwest, Room 108, Olympia,  
Washington, before Administrative Law Judge THEODORA  
MACE.

Jennifer Cordner,  
Court Reporter

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1                   The parties were present as follows:

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3                   THE COMMISSION, by JONATHAN THOMPSON, Assistant

4 Attorney General, 1400 South Evergreen Park Drive

5 Southwest, Olympia, Washington 98504-0128. Telephone

6 (360)644-1225, Fax (360)586-5522, Email

7 Thompson@wutc.wa.gov.

8

9                   MARBELLO WATER COMPANY, by BRITA LONG, Attorney

10 at Law, For Richard Finnigan, 2405 Evergreen Park Drive

11 Southwest, Suite B-1, Olympia, Washington 98502.

12 Telephone (360)956-7001, Fax (360)753-6862, Email

13 Blywave.com.

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1 P R O C E E D I N G S

2 JUDGE MACE: Okay. And let's be on the record.

3 Is everybody ready? Let's be on the record.

4 We are here for the consolidated Washington  
5 Utilities and Transportation Commission vs. Marbello Water  
6 Company Docket Numbers UW-040366 and UW-041181. These  
7 cases are -- really both pertain to Marbello's rates. My  
8 understanding is they refer to rates that were filed  
9 pursuant to the earlier Commission order, indicating that  
10 the Commission had jurisdiction, and also to a rate case  
11 that was filed subsequent to that.

12 My name is Theodora Mace. I'm the Administrative  
13 Law Judge who's been assigned to hold the hearings in this  
14 case. And I'd like to have the oral appearances -- oh,  
15 let me reflect that this is September 3rd, 2004, and we  
16 are convened at the offices of the Washington Utilities  
17 and Transportation Commission in Olympia, Washington --  
18 I'd like to have the oral appearances from counsel now  
19 with shorts as well. Have it shortened form from you  
20 Mr. Thompson and --

21 MS. LONG: Brita Long.

22 JUDGE MACE: -- Brita Long. You're an attorney,  
23 right?

24 MS. LONG: Correct.

25 JUDGE MACE: And I'll have a long form for you

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1 which is address, stats, Email, etcetera.

2 MS. LONG: Okay.

3 JUDGE MACE: Mr. Thompson.

4 MR. THOMPSON: Okay. Jonathan Thompson,  
5 Assistant Attorney General, representing the Commission  
6 Staff.

7 MS. LONG: Brita Long on behalf of -- with  
8 Finnigan from Marbello, and the address is 2405 Evergreen  
9 Park Drive Southwest, Suite B-1, Olympia, Washington 98502  
10 and the fax number is (360)753-6862. Rich Finnigan's  
11 number is (360)956-7001.

12 JUDGE MACE: You have -- is there an Email for  
13 you, or is it for the firm that you work for?

14 MS. LONG: The Email is Blywave.com.

15 JUDGE MACE: Okay. I understood from the parties  
16 that there was going to be a settlement filed today, but  
17 that was my earlier understanding, and when I walked in  
18 the hearing room today I was advised that there will not  
19 be a settlement filed. So will one of you fill me in on  
20 what's been happening and what the status of the case is.

21 MR. THOMPSON: Okay. Well, we hoped that we  
22 would be able to settle, and that it would be settled.  
23 But it's less of a -- now. So what Staff would propose at  
24 this point would be as many as three separate cases open  
25 involved with this company in the last few months and

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1 there -- currently we have the complaint case and the  
2 company's rate increase filing which had been  
3 consolidated.

4 Part of the settlement that was reached with the  
5 company earlier was that they would make a regular filing  
6 of their current rates, and that after Staff had an  
7 opportunity to review those rates, we would decide whether  
8 we would request the withdrawal of the complaint or go  
9 forward with the Staff complaint in which we hold the  
10 burden of proof. And we had not thus far requested  
11 withdrawal of the complaint, but at this point we've  
12 decided that we do wish to request that the Commission  
13 would withdraw the complaint.

14 Staff's analysis -- I could go into some detail  
15 on it -- but essentially it shows only about a 1 percent  
16 difference in what Staff's analysis shows the revenue  
17 requirement is for the company and what they are actually  
18 producing under current rates. So we think it's pretty  
19 diminimus and their present rates are fair, just,  
20 reasonable, and sufficient. So we would ask that the  
21 complaint be withdrawn and that if the company wishes to  
22 still proceed with its case for a rate increase that we  
23 just treat it as a rate increase case.

24 JUDGE MACE: And that would be Docket 041181?

25 MR. THOMPSON: Correct.

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1           JUDGE MACE:  And you intend to make a filing  
2 withdrawing the complaint; is that correct?

3           MR. THOMPSON:  If that's what you feel will be  
4 necessary.

5           JUDGE MACE:  I think that will be the best thing,  
6 to have it in writing.  And that way I can enter an order  
7 that would indicate that the Commission has approved it.

8           MR. THOMPSON:  Would you anticipate -- would we  
9 need to have a declaration from the staff members  
10 explaining the facts?

11          JUDGE MACE:  That would be helpful, that would be  
12 very helpful.

13          MR. THOMPSON:  But in any event what I have been  
14 told is that what we could do is to set a schedule today  
15 for the company's rate increase --

16          JUDGE MACE:  Okay.

17          MR. THOMPSON:  -- for that.

18          JUDGE MACE:  Fine.

19                 And I'm just thinking procedurally that what we  
20 have in this would be a schedule for the whole  
21 consolidated case going forward, and as soon as the  
22 Commission puts in an order about the withdrawal then that  
23 will just be the rate case.  Sure.  I'm happy to do that  
24 with you.

25                 It looks like you talked about scheduling and you

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1 have a schedule that you could present to me that I can  
2 present to the Commission to see if it can be approved.

3 MR. THOMPSON: Yes. Actually I brought in this  
4 piece of paper. We have been changing a little --

5 JUDGE MACE: Well, we'll go off the record and  
6 I'll verify what you've got there. Let's be off the  
7 record.

8 (Discussion off the record.)

9 JUDGE MACE: We talked about scheduling of the  
10 rate case. I do understand from Mr. Thompson that you're  
11 going to be filing a request of withdrawal of the  
12 complaint and you'll do that fairly soon; is that  
13 correct?

14 MR. THOMPSON: Yes.

15 JUDGE MACE: All right. And by fairly soon that  
16 means --

17 MR. THOMPSON: By next Friday I can commit to.

18 JUDGE MACE: By next Friday. Okay. September  
19 10th; is that right?

20 MR. THOMPSON: Yes

21 JUDGE MACE: Okay. So that Staff will withdraw  
22 their complaint -- well, request withdrawal of their  
23 complaint by September 10th and then we go forward on the  
24 rate case and the parties have discussed the filing  
25 schedule and it appears reasonable. Any filing of the

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1 company's direct testimony October 8th; filing of Staff  
2 response November 17th; filing of the company's rebuttal  
3 December 3rd; filing of a witness list December 22nd;  
4 prehearing conference January 6th; hearing January 7th;  
5 simultaneous briefs due February 3rd; an additional order  
6 by March 10th; petitions for review March 20th; and the  
7 final date under the statute required for Commission order  
8 is May 29th. And I've agreed that I will send out further  
9 instructions regarding what we will do in the prehearing  
10 conference in terms of exhibits and what -- how the  
11 parties have to designate exhibits and so on so that we  
12 can -- so the prehearing conference will go as smoothly as  
13 possible.

14 Anything else?

15 MR. THOMPSON: (Shakes head.)

16 MS. LONG: No.

17 JUDGE MACE: Well, I encourage you to work  
18 towards settlement. I don't know what's at stake,  
19 obviously, and if, you know, it's the kind of thing where  
20 you're stuck somewhere, the Commission may be able to  
21 provide you with some assistance in mediating the  
22 dispute. I know some things just simply aren't amenable  
23 to settlement, but it's not a large amount in issue. It  
24 will be beneficial to everyone if you will try to settle.  
25 So I just want to leave you with that.



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1                   And then we are adjourned.

2                   (Hearing adjourned at 9:45 a.m.)

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