

00001

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,)
5 Complainant,) DOCKET NO. UW-950883
6 vs.)
7 LARA LEE, INC.,)
8 Respondent.)
9 -----)

10 A pre-hearing conference in the above matter
11 was held on December 14, 1995, at 9:50 a.m., at 1300
12 South Evergreen Park Drive Southwest, Olympia,
13 Washington before Administrative Law Judge JOHN
14 PRUSIA.

15
16 The parties were present as follows:

17 WASHINGTON UTILITIES AND TRANSPORTATION
18 COMMISSION STAFF, by ANN RENDAHL, Assistant Attorney
19 General, 1400 South Evergreen Park Drive Southwest,
20 Olympia, Washington 98504.

21
22
23
24 Cheryl Macdonald, CSR
25 Court Reporter

00002

1

2

P R O C E E D I N G S

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

JUDGE PRUSIA: Let's be on the record. The pre-hearing conference will please come to order. The Commission has set for pre-hearing conference at this time and place docket No. UW-950883, Washington Utilities and Transportation Commission, complainant, versus Lara Lee, Inc., respondent. The Commission entered its notice of pre-hearing conference on November 22, 1995 setting the pre-hearing conference for today which is December 14, 1995.

My name is John Prusia. I'm an administrative law judge for this proceeding. The notice of pre-hearing conference that was sent out indicated that any party who failed to attend or participate could be held in default in accordance with the terms of RCW 34.05.440, and there is no representative of the company who appeared this morning. I do have a representative -- I'm not sure if he is still at this point a representative of the company but the representative who had been indicated, Mr. Stanley Williams. I have him on the telephone. Let me take the appearance of the party who is present for Commission staff, Ms. Rendahl.

MS. RENDAHL: Yes. Ann Rendahl. Assistant

00003

1 attorney general representing Commission staff.

2 MR. WILLIAMS: I can't hear you, ma'am.

3 MS. RENDAHL: Can you hear me now?

4 MR WILLIAMS: Much better.

5 MS. RENDAHL: My name is Ann Rendahl. I'm
6 an assistant attorney general and I represent the
7 Commission staff.

8 JUDGE PRUSIA: Thank you, Ms. Rendahl. Mr.
9 Williams, did you receive the notice of pre-hearing
10 conference?

11 MR. WILLIAMS: I glanced at it. I have it
12 in front of me.

13 JUDGE PRUSIA: Is there any reason why you
14 haven't appeared at the Commission headquarters this
15 morning for the conference?

16 MR. WILLIAMS: Yeah. Where would you like
17 me to start?

18 JUDGE PRUSIA: Wherever you would like to
19 start.

20 MR. WILLIAMS: My recollection is that Mr.
21 Lawrence named me in a request for hearing and I did
22 see a copy of that come across my desk.

23 JUDGE PRUSIA: Are you representing the
24 company at this point in time?

25 MR. WILLIAMS: I think this morning for

00004

1 purposes of this hearing I am, answer that yes.

2 JUDGE PRUSIA: Let me ask, is there anyone
3 from the company who is present in the hearing room
4 this morning?

5 Let the record reflect --

6 MR. WILLIAMS: President of the company is
7 in Wisconsin where he lives.

8 JUDGE PRUSIA: Very well. Let me ask, Ms.
9 Rendahl, what the staff's position is. Do you wish to
10 proceed or do you wish to request that the company be
11 held in default?

12 MS. RENDAHL: At this time I would request
13 that the company be held in default as the company had
14 notice of the hearing, and no representative of the
15 company is here at the hearing. At this time I would
16 move to dismiss this --

17 MR. WILLIAMS: I'm still having difficulty
18 hearing you, Ms. Rendahl.

19 MS. RENDAHL: At this time I would move to
20 dismiss the proceeding filed by Lara Lee, and in
21 accordance with RCW 34.05.440, which provides that if
22 any party fails to attend or participate in a hearing
23 that the presiding officer may serve upon all parties
24 a default or a dispositive ruling, and at this time,
25 since the company had notice and did not choose to

00005

1 participate, and I understand Mr. Prusia has contacted
2 you out of concern that you were not here, that I
3 would move to dismiss the proceeding and request
4 default.

5 JUDGE PRUSIA: Thank you, Ms. Rendahl. Mr.
6 Williams, does the company have any cause for not
7 being here this morning?

8 MR. WILLIAMS: Other than the president
9 being in Wisconsin -- do the rules require an in-
10 person attendance? You're more up to date on that.
11 I'm in attendance by telephone. Sometimes I suppose
12 in administrative hearings these things can be at the
13 discretion of the administrative law judge.

14 JUDGE PRUSIA: It does require in person
15 -- you to be in person unless you had requested ahead
16 of time some accommodation, and you did not.

17 MR. WILLIAMS: Is Ms. Rendahl the lady that
18 I spoke with several weeks ago? It was an assistant
19 attorney general that I spoke with several weeks ago
20 and I don't remember.

21 MS. RENDAHL: Yes, I did speak to you
22 several weeks ago.

23 MR. WILLIAMS: Well, my apologies for not
24 getting back to you previously. I suppose as a legal
25 matter I'm not there; the discretion is what you

00006

1 choose. As far as a matter of representation in
2 the company I'm not particularly interested in
3 pursuing administrative matters. May I have two
4 minutes to reread the notice of pre-hearing
5 conference, please.

6 JUDGE PRUSIA: Yes. Let's be off the
7 record.

8 (Recess.)

9 JUDGE PRUSIA: Let's be back on the record.
10 Continue, Mr. Williams.

11 MR. WILLIAMS: I'm reading page 2 of the
12 notice of pre-hearing conference. In capitals toward
13 the top, "Notice is further given that any party who
14 fails to attend or participate in the hearing set
15 herein ... may be held in default in accordance
16 with the terms of RCW 34.05.440. I do not see that
17 as being mandatory. It uses the word may. Is that
18 the statute that was previously cited?

19 JUDGE PRUSIA: Yes, that is.

20 MR. WILLIAMS: Well, that's not mandatory,
21 at least the way I understand the law.

22 JUDGE PRUSIA: It's not mandatory, and the
23 reason I called you this morning is because the
24 weather is terrible today and I was concerned that
25 perhaps you were on your way but simply hadn't gotten

00007

1 here yet.

2 MR. WILLIAMS: Thank you.

3 JUDGE PRUSIA: However, you're not on your
4 way so that's a different matter.

5 MR. WILLIAMS: I understand that. I
6 don't know where I'm on my way to this morning.

7 JUDGE PRUSIA: Would it be at all helpful
8 if we went off the record for a moment for you to
9 discuss this with Ms. Rendahl with me out of the room?

10 MR. WILLIAMS: May we go off the record?

11 JUDGE PRUSIA: At this point I'm inclined
12 to dismiss the proceeding, but if you think it might
13 be beneficial.

14 MS. RENDAHL: I don't see how at this point
15 I would change my request for a default. The
16 Commission has spent a great deal of resources in
17 getting a reporter and having an administrative law
18 judge here at the hearing. I'm here, staff is here,
19 the notice has been issued, and we have a period of
20 time in which to process the company's request for an
21 increase in rates, and we either go forward with the
22 pre-hearing today and set dates for prefiling and all
23 of that or we dismiss the filing or request the
24 company withdraw the filing.

25 MR. WILLIAMS: I would like to go off the

00008

1 record with Ms. Rendahl.

2 JUDGE PRUSIA: We'll be off the record and
3 I will step out of the room for just a minute.

4 (Recess.)

5 JUDGE PRUSIA: Let's be back on the record.
6 We were off the record for Mr. Williams and Ms.
7 Rendahl to talk about something. What's the position
8 of Commission staff at this point?

9 MS. RENDAHL: Commission staff's position
10 remains the same. We would recommend -- actually
11 there's a slight twist. We would recommend that, Your
12 Honor, that you grant a motion for default, or, in the
13 alternative, I've made a request for the company to
14 simply withdraw the filing, and so I will leave it to
15 the company to respond to that request.

16 MR. WILLIAMS: I missed the last part.
17 Excuse me?

18 MS. RENDAHL: I said the Commission staff
19 in the alternative requests the company to withdraw
20 its filing.

21 MR. WILLIAMS: And?

22 MS. RENDAHL: And I'm leaving it to the
23 company to respond to that motion and request.

24 MR. WILLIAMS: We've had a good discussion
25 with some assistance from staff, and we've been

00009

1 talking here on the phone and this is the electronic
2 age. I do not think a motion for default is
3 appropriate, therefore, resist on that basis although
4 I'm not physically present technically, and as far
5 as the company responding to the motion for default,
6 otherwise -- strike that.

7 As far as the company withdrawing its rate
8 increase, I do not have authority for the company to
9 withdraw the request for rate increase at the present
10 time, under the circumstances that I face, an
11 out-of-state president and various other difficulties
12 that I have been facing with the Lara Lee water
13 system. I understand that there are deadlines that
14 need to be made and I'm very sympathetic with Ms.
15 Rendahl's position in that regard and the staff's
16 position in that regard. Appears that you are simply
17 doing your job.

18 MS. RENDAHL: May I respond, your Honor?

19 JUDGE PRUSIA: Yes, Ms. Rendahl.

20 MS. RENDAHL: Can you hear me?

21 MR. WILLIAMS: Yes.

22 MS. RENDAHL: I guess my question to you,
23 Mr. Williams, is if you don't believe a motion for
24 default is appropriate, is the company willing to go
25 forward in an appropriate time deadline and prosecute

00010

1 this case?

2 MR. WILLIAMS: In an administrative law
3 setting?

4 MS. RENDAHL: Yes, which would involve, you
5 know, the purpose of the prehearing is to set
6 deadlines for testimony in this case. I'm going to
7 request that we use prefiled testimony instead of oral
8 testimony, and that would require the company to file
9 prefiled testimony, the staff to respond, the company
10 to respond to that, and then we have hearings either
11 here at the Commission or up in Kitsap County. It
12 would involve time and effort by the company. Is that
13 something that you are willing and able to do?

14 MR. WILLIAMS: I've been doing it for two
15 years without being paid, Ms. Rendahl, so I will keep
16 at it, so that's a yes. The company will proceed.

17 MS. RENDAHL: Well, your Honor, I would
18 still entertain a motion for default at this time.

19 JUDGE PRUSIA: Very well. At this point I
20 would hold the company in default and I will send out
21 a notice of that default, and the proceeding will be
22 dismissed. The company will be able to refile if they
23 wish to do that and pursue the matter.

24 MR. WILLIAMS: You will send out an order
25 or a notice? Is there a time frame on that?

00011

1 JUDGE PRUSIA: Yes. I should get that out
2 this week.

3 MR. WILLIAMS: It's Thursday now.

4 JUDGE PRUSIA: Right. I should get it out
5 today or tomorrow.

6 MR. WILLIAMS: So I will probably get that
7 in the mail Monday or Tuesday?

8 JUDGE PRUSIA: Right.

9 MR. WILLIAMS: Thank you for your patience.

10 JUDGE PRUSIA: We do expect parties to
11 honor the notices and to appear. When they fail to
12 appear it indicates that they're not taking the
13 proceeding seriously and generally we do hold them in
14 default.

15 MR. WILLIAMS: On the record, thank you.

16 JUDGE PRUSIA: Thank you, Mr. Williams.

17 We'll be off the record.

18 (Hearing adjourned at 10:20 a.m.)

19

20

21

22

23

24

25