

BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

SANDY POINT IMPROVEMENT  
COMPANY,

Respondent.

DOCKET UW-121408

DECLARATION OF JOSEPH A.  
REHBERGER IN SUPPORT OF MOTION  
TO COMPEL

I, Joseph A. Rehberger, hereby declare and state as follows:

1. I am the attorney of record for Respondent Sandy Point Improvement Company. I make this declaration based on my personal knowledge and on review of my firm's records and file in this matter. I am over the age of 18 and competent to testify herein.

2. Attached as Exhibit A is a true and correct excerpted copy of UTC Staff's Response to Point Improvement Company's First Set of Data Requests to WUTC, including UTC Staff's response Data Request No. 3.

3. Attached as Exhibit B is a true and correct excerpted copy of Respondent Sandy Point Improvement Company's First Set of Data Requests to WUTC, including Data Request No. 4.

4. Attached as Exhibit C is a true and correct excerpted copy of UTC Staff's Response to Sandy Point Improvement Company's First Set of Data Requests to WUTC, including UTC Staff's response Data Request No. 4.

5. Prior to serving Data Request No. 4, I conferenced with the Assistant Attorney General representing UTC Staff, Don Trotter, noted that Sandy Point did not receive copies of Attachment I and Attachment J to the Investigation Report, and informally requested the UTC provide the referenced attachments.

6. I hereby certify that prior to filing Respondent Sandy Point Improvement Company's Motion to Compel Production of Documents Responsive to Sandy Point's Data Request No. 4, I again conferred with the Assistant Attorney General representing UTC Staff, Don Trotter, by telephone on February 15, 2013, to discuss the UTC's Staff decision not to produce Attachment I and Attachment J to the Investigation Report in response to Sandy Point's Data Request No. 4. During that telephone conference, we were not able to reach agreement as to the production of the referenced attachments.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 20th day of February, 2013, at Olympia, Washington.

  
\_\_\_\_\_  
JOSEPH A. REHBERGER

# EXHIBIT A

DECLARATION OF JOSEPH A. REHBERGER IN SUPPORT OF  
MOTION TO COMPEL  
EXHIBIT A

CASCADIA LAW GROUP PLLC  
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(360) 786-5057

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF  
RESPONSE TO DATA REQUEST

DATE PREPARED: January 30, 2013  
DOCKET: UW-121408  
REQUESTER: Sandy Point

WITNESS: Undetermined  
RESPONDER: Persons listed  
TELEPHONE: 664-1189

**SANDY POINT DATA REQUEST 3:**

Please identify all individuals with knowledge of facts relating to the UTC's investigation of Sandy Point Improvement Company's jurisdictional status (Docket UW-121408) and describe the substance of their knowledge.

**RESPONSE:**

We assume this data request seeks persons from the UTC or representing the UTC. The UTC Staff is aware that persons associated with Sandy Point Improvement Company also have knowledge, including the company's legal counsel, and please see the documents provided in the UTC Staff's response to your Data Request 2 for the information they provided and who provided it.

The UTC employees (or their representatives) with direct knowledge of facts relating to the UTC's investigation of Sandy Point Improvement Company's jurisdictional status in Docket UW-121408 are Jim Ward, Regulatory Analyst, Lynda Holloway, Compliance Investigator and John Cupp, Regulatory Analyst. Mr. Ward and Ms. Holloway were the persons assigned to investigate the matter. They are familiar with the company's operations, based primarily on information supplied by the company and customers. Mr. Cupp dealt with the complaint filed by Mr. Lockwood.

Gene Eckhardt, Assistant Director, Water and Transportation, is Mr. Ward's supervisor and he supervised Mr. Ward. Sharon Wallace, Assistant Director, Consumer Protection and Communications, is Lynda Holloway's supervisor and she supervised Ms. Holloway. They acquired their knowledge of the investigation by working with Ms. Holloway and Mr. Ward, respectively. Steve King, Director, Safety and Consumer Protection; and Mark Vasconi, Director, Regulatory Services are supervisors of Ms. Wallace and Mr. Eckhardt, respectively, and they have general, more limited knowledge of the matter.

Mr. Trotter worked with each of the foregoing persons and his knowledge is derivative of their knowledge, plus he is the person most knowledgeable about the legal issues in this matter. Mr. Greg Kopta reviewed the investigation report and made the decision to initiate the proceeding.

Other persons at the UTC participated in determining what data bases are available and where to search. These are listed in UTC Staff's response to your Data Requests 5 and 6.

# EXHIBIT B

DECLARATION OF JOSEPH A. REHBERGER IN SUPPORT OF  
MOTION TO COMPEL  
EXHIBIT B

CASCADE LAW GROUP PLLC  
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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
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Complainant,

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SANDY POINT IMPROVEMENT  
COMPANY,

Respondent.

DOCKET UW-121408

RESPONDENT SANDY POINT  
IMPROVEMENT COMPANY'S FIRST  
SET OF DATA REQUESTS TO WUTC

TO: WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  
Complainant

AND TO: DONALD T. TROTTER, Senior Assistant Attorney General

Pursuant to WAC 480-07-400 – 425, Respondent Sandy Point Improvement Company (Sandy Point or Company) requests that the WUTC respond within ten (10) business days of service, to the following first set of data requests.

In answering these data requests, please furnish all information available to you at the time you make your answers, including information in the possession, custody or control of your agencies, consultants, contractors, attorneys, subordinates, employees, and agents. If any

**RESPONSE:**

**SANDY POINT DATA REQUEST NO. 4:**

Please produce Attachment I and Attachment J to the Investigation Report, described respectively as a September 6, 2012 Memo from Donald Trotter, Assistant Attorney General, Utilities and Transportation Division and a September 20, 2012 Memo from Donald Trotter, Assistant Attorney General, Utilities and Transportation Division.

**RESPONSE:**

**SANDY POINT DATA REQUEST NO. 5:**

Please produce all documents related to the UTC's investigation of Sandy Point's jurisdictional status prior to January 1, 2011, including but not necessarily limited to the UTC's investigation of Sandy Point's jurisdictional status in or around 2006 and the UTC's investigation of Sandy Point's jurisdictional status in or around the late 1980s.

**RESPONSE:**

**SANDY POINT DATA REQUEST NO. 6:**

Please identify all individuals with knowledge of facts relating to the UTC's investigation of Sandy Point's jurisdictional status prior to January 1, 2011, including but not necessarily limited to the UTC's investigation of Sandy Point's jurisdictional status in or around 2006 and the UTC's investigation of Sandy Point's jurisdictional status in or around the late 1980s and describe the substance of their knowledge.

**RESPONSE:**

# EXHIBIT C

DECLARATION OF JOSEPH A. REHBERGER IN SUPPORT OF  
MOTION TO COMPEL  
EXHIBIT C

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF  
RESPONSE TO DATA REQUEST

DATE PREPARED: January 30, 2013  
DOCKET: UW-121408  
REQUESTER: Sandy Point

WITNESS: Undetermined  
RESPONDER: Persons listed  
TELEPHONE: 664-1189

**SANDY POINT DATA REQUEST 4:**

Please produce Attachment I and Attachment J to the Investigation Report, described respectively as a September 6, 2012, Memo from Donald Trotter, Assistant Attorney General, Utilities and Transportation Division and a September 20, 2012, Memo from Donald Trotter, Assistant Attorney General, Utilities and Transportation Division.

**RESPONSE:**

The Commission asserts the attorney client privilege and deliberative process privilege for the two documents listed. The two documents are addressed to Mr. Gene Eckhardt, Assistant Director, Water and Transportation. Mr. Trotter, AAG, is the author. Copies of the memos were reviewed by Mr. Eckhardt, Lynda Holloway, Compliance Investigator, Greg Kopta, Director, Administrative Law Division, Jim Ward, Regulatory Analyst, Steve King, Director, Safety & Consumer Protection Division, Sharon Wallace, Assistant Director, Consumer Protection and Communications, and Rayne Pearson, acting Consumer Protection Manager.