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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
4 Complainant,) DOCKET NO. UT-941133
5 vs.) Volume I
6 DIVERSIFIED SERVICE CO.,) Pages 1-11
7 Respondent.)
8 -----)

9 A hearing in the above matter was held on
10 October 14, 1994 at 9:29 a.m., at 1300 South
11 Evergreen Park Drive Southwest, Olympia, Washington,
12 before Administrative Law Judge ALICE L. HAENLE.

13 The parties were present as follows:

14 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION by ANN RENDAHL, Assistant Attorney General,
15 1400 South Evergreen Park Drive Southwest, Olympia,
Washington 98504.

16 DIVERSIFIED SERVICE CO. by MICHAEL T.
17 KENNEDY, Owner/President, North 624 Madelia, Spokane,
Washington 99202.

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24 Lisa K. Nishikawa, CSR, RPR

25 Court Reporter

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I N D E X

2 WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

3 (None.)

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6 EXHIBIT MARKED ADMITTED

7 (None marked.)

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

2 JUDGE HAENLE: The hearing will come to
3 order. The Washington Utilities and Transportation
4 Commission has set for hearing at this time and place
5 Docket Number UT-941133 which is the complaint of the
6 Commission against Diversified Service Co. The notice
7 of hearing was entered on September 7, 1994 setting
8 the hearing for today, which is October 14, 1994, and
9 this is the initial session. The hearing is being
10 held before Administrative Law Judge Alice L. Haenle
11 of the Office of Administrative Hearings.

12 I would like to take appearances at this
13 time, please, beginning with the representative for the
14 Commission. If you would state your name and business
15 address, please.

16 MS. RENDAHL: Ann Rendahl, R E N D A H L.
17 I'm assistant attorney general representing the
18 Commission staff and my business address is 1400 South
19 Evergreen Park Drive Southwest, Olympia, Washington,
20 98504.

21 JUDGE HAENLE: Thank you. And Mr. Kennedy,
22 will you state your full name and your business
23 address, please.

24 MR. KENNEDY: Yes. Michael Thomas Kennedy.
25 Business address is North 624 Madelia, Spokane, 99220.

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1 JUDGE HAENLE: 99220?

2 MR. KENNEDY: Yes.

3 JUDGE HAENLE: Okay. I did have that
4 incorrect. And you are representing Diversified
5 Service Co. today, Mr. Kennedy?

6 MR. KENNEDY: Yes, I am.

7 JUDGE HAENLE: What is your position with
8 that company?

9 MR. KENNEDY: I'm the owner-operator.

10 JUDGE HAENLE: Is it a sole proprietorship
11 or a corporation?

12 MR. KENNEDY: Corporation.

13 JUDGE HAENLE: What is your position with
14 the corporation?

15 MR. KENNEDY: President.

16 JUDGE HAENLE: So you're president and I
17 assume some type of majority stockholder?

18 MR. KENNEDY: Yes.

19 JUDGE HAENLE: Are there other stockholders
20 as well?

21 MR. KENNEDY: Yes. My wife is also a
22 stockholder.

23 I need to add a correction to that address.
24 The zip code is 99202, I'm sorry.

25 JUDGE HAENLE: All right. That's why I

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1 double-check. That's what they had in the master
2 service list and I wanted to be sure it was correct.

3 Is there anyone present in the hearing room
4 who intends to file a petition to intervene in this
5 matter? The record should reflect there is no
6 response.

7 A copy of the notice of hearing was sent to
8 public counsel's office, and I spoke on the phone with
9 Mr. Manifold several days ago. He indicated he would
10 not be participating in this case or the others in
11 the group of similar cases.

12 And in the way of preliminary matters, the
13 issues are stated in the notice of hearing. There are
14 three general issues, first, whether the rates and
15 charges of respondent are unjust, unfair,
16 unreasonable, whether respondent should be subject to
17 civil penalties of up to \$1,000 per day for various
18 violations, and whether respondent has violated the
19 WAC regarding the manner of keeping its records.

20 Has there been any narrowing of the issues,
21 Ms. Rendahl, or may we discuss narrowing of the issues
22 today?

23 MS. RENDAHL: At this time there has been
24 no narrowing of the issues. However, we hope to do so
25 before the hearing on -- before the first hearing

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1 scheduled in this matter.

2 JUDGE HAENLE: And the two of you then have
3 discussed scheduling of the matter and have come up
4 with an agreed schedule, is that right, Ms. Rendahl?

5 MS. RENDAHL: We have.

6 JUDGE HAENLE: Mr. Kennedy?

7 MR. KENNEDY: Yes.

8 JUDGE HAENLE: All right. You've given
9 that to me. Let me read it into the record. I
10 checked it when you gave it to me before we went on
11 the record and I don't find any obvious conflicts.
12 This is subject to my making a room reservation to be
13 sure that a room somewhere is available. The hearing
14 would likely be held in this building, probably either
15 in this room, which is room 250, or downstairs in room
16 140, but if those are taken, we'll find another place
17 to hold the hearing.

18 The schedule that you have agreed on and
19 given to me is the following. Prefiling staff
20 testimony March 16. That is a 16, isn't it?

21 MS. RENDAHL: That is a 16.

22 JUDGE HAENLE: Okay, thank you. Cross of
23 staff testimony April 27. And I note that the notice
24 of hearing that set the initial session for today also
25 set hearings for April 27 and 28. Did I understand

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1 you to say, Ms. Rendahl, that you think that there
2 would be only one day necessary, that is, the 27th, so
3 that the hearing date of the 28th could be cancelled?

4 MS. RENDAHL: That's correct.

5 JUDGE HAENLE: Okay. Prefiling of company
6 testimony June 9. A hearing for cross of company
7 testimony June 21 -- I'm sorry -- July 21. Prefiling
8 of staff rebuttal August 4. A hearing for cross of
9 staff rebuttal August 25. Staff brief due October 6.
10 Company reply brief due November 17 and staff rebuttal
11 brief due December 8. Is that the schedule that you
12 agreed on, Mr. Kennedy?

13 MR. KENNEDY: Yes, it is.

14 JUDGE HAENLE: And Ms. Rendahl?

15 MS. RENDAHL: Yes, it is.

16 JUDGE HAENLE: It sounds fine to me. What
17 I'll do is I will issue a brief prehearing conference
18 order and include the dates in the prehearing
19 conference order.

20 I note that the notice of hearing already
21 invokes the Commission rule on obtaining discovery in
22 adjudicative proceedings, so we don't need to invoke
23 that. That will be in force.

24 I asked the parties before we started
25 whether a protective order was likely to be necessary.

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1 That is, I asked you, Mr. Kennedy, whether it's likely
2 that any of the materials that will be produced in
3 discovery or requested in discovery you would not want
4 to be made part of an open public record. I believe
5 you indicated that was indeed possible, is that
6 correct, sir?

7 MR. KENNEDY: That is correct.

8 JUDGE HAENLE: So the company then would
9 request a protective order, which would mean that only
10 persons who have signed an agreement to be bound by
11 the protective order and who are participants in this
12 matter would have access to that material. Is that
13 what you are requesting?

14 MR. KENNEDY: That is correct.

15 JUDGE HAENLE: Is that all right with you,
16 Ms. Rendahl?

17 MS. RENDAHL: That's fine, your Honor.

18 JUDGE HAENLE: I would request that the
19 Commission issue a protective order as soon as
20 possible. That takes a couple of days, but
21 considering the schedule, I assume that a couple of
22 days' delay won't make any difference.

23 MS. RENDAHL: I don't believe that will be
24 a burden.

25 JUDGE HAENLE: All right. I checked with

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1 the records center and they said that you do indeed
2 need to file an original and 19 copies of all prefiled
3 materials, that is, the testimony, the exhibits and
4 that kind of thing.

5 I asked the parties before we started
6 whether they wanted to, since they are going to --
7 since we're not marking anything this morning, whether
8 they wanted to take a series of numbers to premark
9 their own documents, and they indicated they would
10 like to do that, so I have given the series starting
11 with Exhibit 101 to the Commission staff, and you will
12 begin your series with Exhibit 201, Mr. Kennedy. That
13 means there will be some gaps in it. I'm assuming
14 that the staff won't use 100 exhibits.

15 MS. RENDAHL: I hope not.

16 JUDGE HAENLE: As do I.

17 But that knowing that that's coming up,
18 that will be all right. We'll just count on that.

19 So I caution Mr. Kennedy to be sure to --
20 you'll see what the prefiled testimony from the staff
21 looks like and exhibits, but generally we do the
22 testimony in a question and answer format and
23 documents that are attached as exhibits should be
24 numbered separately so that it's very clear when we're
25 going through them what it is we're referring to.

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1 If you have questions, please call the
2 Commission, Mr. Kennedy. You can contact either me or
3 Ms. Rendahl, I assume, if you need instructions about
4 prefiling that material.

5 MR. KENNEDY: Very good.

6 JUDGE HAENLE: I don't think I have
7 anything else. I assume that this means then, Ms.
8 Rendahl, that you and Mr. Kennedy will be meeting
9 between now and the first day of hearing, which is in
10 April, with regard to narrowing of the issues and
11 discussing potential settlement.

12 MS. RENDAHL: I hope so, yes, your Honor.

13 JUDGE HAENLE: And if you need some
14 participation by me, either one of you, you do need to
15 call me and let me know, otherwise I'll assume that
16 you will be meeting and enthusiastically pursuing
17 settlement, as the Commission would wish.

18 I don't think I had anything else that I
19 knew we needed to cover today. Is there anything else
20 from you, Mr. Kennedy?

21 MR. KENNEDY: No.

22 JUDGE HAENLE: From you, Ms. Rendahl?

23 MS. RENDAHL: No, your Honor.

24 JUDGE HAENLE: All right. I will adjourn
25 the initial session then. I will issue a brief

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1 prehearing conference order including these dates.
2 I'll make the reservations for the room to be sure we
3 have those and include in -- try to include in the
4 order on prehearing conference all of those dates,
5 the room reservation, and there will not -- in that
6 way, we will not need to issue separate notices of
7 hearing for each of those hearing dates.

8 So when you get the prehearing conference
9 order, both of you hang on to it, save it. It will be
10 your only notice of hearing. It will refer to the
11 issues that are already specified in the original
12 notice of hearing, but you will not receive a separate
13 set of notices for each of the hearings that are
14 specified and will be set out in the prehearing
15 conference order.

16 Is there anything else we need to discuss,
17 Ms. Rendahl?

18 MS. RENDAHL: I have nothing further.

19 JUDGE HAENLE: Mr. Kennedy?

20 MR. KENNEDY: Not to my knowledge.

21 JUDGE HAENLE: All right. Thank you, then,
22 for coming, and the hearing will be adjourned.

23 (Hearing adjourned at 9:40 a.m.)

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