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P R O C E E D I N G S

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1           JUDGE CLARK:  It's approximately 1:50 p.m.,  
2  November 1st, 2006, in the Commission's hearing room in  
3  Olympia, Washington.  This is the time and the place  
4  set in the matter of the penalty assessment against  
5  Parkland Water System, Incorporated, in the amount of  
6  \$100 given Docket UW-060985, Patricia Clark,  
7  administrative law judge for the Commission presiding.

8           This matter came before the Commission on  
9  June 30th, 2006, when the Commission assessed a penalty  
10 in the amount of \$100 against Parkland Water System,  
11 Incorporated, for one violation of WAC 480-110-505,  
12 which requires water companies to file annual reports  
13 with the Commission no later than May 1st of each year.

14           On July 6th, 2006, Parkland Water filed an  
15 application for mitigation and a request for hearing.  
16 On July 26th, 2006, the Commission staff filed its  
17 response to the application for mitigation and request  
18 for hearing.  On October 11th, 2006, the Commission  
19 issued a notice of brief adjudication and scheduled the  
20 hearing for November 1st, 2006, and what we are going  
21 to do this afternoon is give each side the opportunity  
22 to make a brief statement.

23           Before we do that, I would ask you to please  
24 state your name and your address and your phone number.  
25 That's called entering an appearance.  That's so that

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1 the court reporter will have an accurate record of the  
2 individuals who are speaking this afternoon. After  
3 that, I will swear you in if you intend to give a  
4 statement this afternoon. The Commission staff witness  
5 has already been sworn in in the previous hearing, and  
6 I will not require her to be resworn. Just a reminder  
7 that she remains under oath.

8 This is intended to be an informal  
9 proceeding. If at any time you do not understand what  
10 is going on or if you have any questions, if you need  
11 anything procedurally clarified, please feel free to  
12 interrupt and ask me. What I will do once I have sworn  
13 you in is ask each side to give a brief oral statement  
14 explaining the facts that you would like the Commission  
15 to take into consideration regarding this particular  
16 matter.

17 Does anyone have any questions? All right.  
18 The first thing I will do is take appearances, and  
19 that's just giving your name and address, and we'll  
20 start with Parkland Water.

21 MR. BURKE: Dennis Burke, B-u-r-k-e. Address  
22 is 6007 Hill Street Northeast, Olympia, 98516.

23 JUDGE CLARK: Thank you, Mr. Burke.  
24 Appearing on behalf of Commission staff?

25 MS. CAMERON-RULKOWSKI: My name is Jennifer

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1 Cameron-Rulkowski, assistant attorney general. The  
2 address is 1400 South Evergreen Park Drive Southwest,  
3 Olympia, Washington, 98504. Telephone is (360)  
4 664-1186. Fax is (360) 586-5522. E-mail is  
5 jcameron@wutc.wa.gov.

6 JUDGE CLARK: Thank you. Mr. Burke, if you  
7 would raise your right hand, please, and I'll swear you  
8 in.

9  
10 Whereupon,

11 DENNIS BURKE,  
12 having been first duly sworn, was called as a witness  
13 herein and was examined and testified as follows:

14

15 JUDGE CLARK: Do you have any questions  
16 before we proceed?

17 MR. BURKE: No.

18 JUDGE CLARK: Then go ahead and make your  
19 statement for the Commission, please.

20 MR. BURKE: I am here not necessarily to  
21 dispute that you have the laws that require an annual  
22 report, and nor do I dispute that I have not filed the  
23 annual report. The fact of the matter is what I  
24 believe is that I should not have to file that annual  
25 report because of the size of the water system,

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1 etcetera, and for the economic issues at stake.

2           I operate probably the smallest water system  
3 in the State of Washington. I serve seven customers,  
4 which is six others besides myself. We charge an  
5 average of about forty dollars a month to each  
6 customer. Our electrical bills just as a minimum  
7 operation of the system that requires the expenditure  
8 of all that money, including the lab samples.  
9 Essentially what I'm doing is a providing a service to  
10 the people so that they have water. In addition to  
11 that, we maintain the system. We install new tanks  
12 when they are broken. We fix the control systems, and  
13 we maintain a reliable service, and we've done that for  
14 ten years.

15           A number of years ago, and I believe it was  
16 about 1998, the Commission enacted a rule that required  
17 the filing of reports with the Commission. I got the  
18 copies of the report, and I have one of the original  
19 ones of December 1, 1998, and I remember opening this  
20 up, and water utilities annual report, and I started  
21 filling it out and going through it, and I looked at  
22 all the things that are required, the revenue and  
23 income statement, the expenses, the operating expense  
24 accounts, depreciation expenses, amortization expenses,  
25 other tax and licenses, income taxes, utility operating

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1 expenses, and utility operating, other income and  
2 reductions, gains, losses from the plant, jobbing and  
3 contract work, interest and dividend income, nonutility  
4 income, miscellaneous nonutility expenses, interest  
5 expenses, ordinary income, and I provided a comparative  
6 balance sheet, which lists the assets, which is a plant  
7 utility that requires an appraisal and evaluation of  
8 what the utility actually is, what was purchased and  
9 sold, accumulated depreciation and amortization.  
10 That's two different items, total plant, acquisition  
11 adjustments.

12           And then you go through the net utility  
13 plant, utility investments, special funds, surcharges,  
14 customer accounts receivable, plant materials and  
15 supplies, prepayment, blah, blah, blah, utility capital  
16 and liability, capital stock, other stocks, long-term  
17 debts, accounts payable, notes payable, customer  
18 deposits, accrued income, on and on, water utility  
19 plant organizations. You have to have the beginning  
20 balance of years, additions and retirement and balance  
21 at the end of the year --

22           Needless to say, I will not burden you with  
23 reading this entire thing. The fact of the matter is  
24 that completing and doing this report and providing the  
25 information that will fulfill the needs of even the

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1 most seasoned bureaucrat would be a tremendous expense  
2 and burden to everyone, and consequently, not wishing  
3 to raise the rates nor wishing to add any more of my  
4 time free of charge and not willing to hire an  
5 accountant to provide all of this information that was  
6 obviously developed for a utility of much greater size  
7 than ours, we have not done it, and nor do I believe  
8 that we should do it. I believe that this is fodder  
9 for the bureaucrats, that that's what they want.

10           We intend to run a utility, to meet the needs  
11 of the people, to provide safe drinking water on a  
12 continuous basis, and not to overburden our customers  
13 such as they cannot afford the water, and some of them  
14 have difficult enough time paying the forty dollars a  
15 month, let alone any greater amount. So we have not  
16 filed the report. If you want to assess a \$100 fine,  
17 do what you wish, but I would ask that you do one other  
18 thing, and that is to request that we provide such data  
19 that is readily available and such data that would meet  
20 some utilitarian purpose.

21           It's a water system of six customers, so you  
22 have to think about what you are doing and what you are  
23 putting people through. So I'm here to tell you that I  
24 no longer want to be a part of this game. I want to do  
25 what I continue to do, and that is provide water to



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1 people at a reasonable cost to them and that is safe  
2 drinking water, and that's all I want to do.

3 JUDGE CLARK: I have just a couple of  
4 questions for you, Mr. Burke. You indicated that you  
5 thought it would be reasonable to provide readily  
6 available data that would serve a utilitarian purpose.  
7 Do you have any idea or concept about some of the data  
8 that you might believe would be readily available?

9 MR. BURKE: Certainly an appraisal of our  
10 system is not readily available. I checked with  
11 economic and engineering services a number of years ago  
12 what it could cost for them to do an appraisal of our  
13 system, and it far outweighed what we would have to  
14 collect over the next ten years. So we are not going  
15 to do an appraisal of the system unless so demanded,  
16 and then we will see what my customers say when we  
17 start charging exorbitant rates.

18 What I consider to be data that we acquire  
19 that is readily available, we read meters, and so we  
20 have the meter readings, and namely how much water we  
21 provide on a monthly basis to each customer. We have  
22 how much we bill them on a monthly basis to each  
23 customer, because some of them have sprinkler systems  
24 that they operate, one in particular.

25 We also keep records of what our expenditures

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1 are. Here are some of the expenditures from this year  
2 that are here. Hundreds of dollars, thousands of  
3 dollars this year was spent on the system. We keep our  
4 lab records, our biological sample records. We keep  
5 other correspondence with the regulatory agencies, but  
6 that is about what we keep.

7           And what we pay for is we pay for  
8 improvements that are necessary, and there is no money  
9 borrowed. Who is going to loan money to a six-customer  
10 utility system? This stuff is all such nonsense. If  
11 something is needed, we don't have a savings account.  
12 I put up the money to do that, and that's the way its  
13 done. So we can provide expenses, plus our meter  
14 readings and our income, and that's about it.

15           JUDGE CLARK: You keep track, I assume then,  
16 of who pays the bills and whether or not they pay them  
17 on time, that kind of information, that your customers  
18 pay to you, to the water system?

19           MR. BURKE: I saved all the invoices that  
20 I've received. It's on my computer. I have invoices  
21 that go back ten years on this.

22           JUDGE CLARK: That just prompted another  
23 question. How long have you been operating the water  
24 system?

25           MR. BURKE: I've been operating the water

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1 system since -- I think at first there was two  
2 customers, so I think it was 1995, roughly.

3 JUDGE CLARK: Thank you.

4 Ms. Cameron-Rulkowski, do you have any questions for  
5 Mr. Burke?

6 MS. CAMERON-RULKOWSKI: I do not, Your Honor.

7 JUDGE CLARK: What will happen next is I will  
8 give the Commission staff the opportunity to make their  
9 statement. Ms. Hoyt, I remind you that you remain  
10 under oath, and you may proceed.

11 MS. CAMERON-RULKOWSKI: Thank you, Your  
12 Honor. As in the previous proceeding, I would ask as a  
13 preliminary matter which documents in this docket are  
14 part of the record, and specifically, I'm interested in  
15 whether the penalty assessment, the application for  
16 mitigation, and the Staff response are included.

17 JUDGE CLARK: Those documents are all  
18 included in the report in this proceeding as well as  
19 the notice of brief adjudication the Commission issued  
20 scheduling this matter this afternoon.

21 MS. CAMERON-RULKOWSKI: Thank you, Your  
22 Honor, and again here, the Company has challenged the  
23 validity of the violation, so I will be examining  
24 Ms. Hoyt about her investigation, and then I will be  
25 asking her some further questions to address the

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1 mitigation arguments, and then I will proceed with the  
2 oral statement on behalf of Staff.

3 JUDGE CLARK: Okay.

4

5

6 DIRECT EXAMINATION

7 BY MS. CAMERON-RULKOWSKI:

8 Q. Would you please state your name and spell  
9 your last name?

10 A. My name is Sheri Hoyt, H-o-y-t.

11 Q. Who is your employer?

12 A. Washington Utilities and Transportation  
13 Commission.

14 Q. What is your position with the Commission?

15 A. I'm a compliance specialist in the business  
16 practices investigation section.

17 Q. Would you please describe your duties as they  
18 relate to this case?

19 A. As a compliance specialist, I conduct  
20 investigations regarding the business practices of  
21 utility and transportation companies. As part of those  
22 duties, I investigate whether regulated companies are  
23 in compliance with the annual report and regulatory fee  
24 requirements contained in Commission staff.

25 Q. What law or rule do you understand to be at

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1 issue in this proceeding?

2 A. RCW 80.04.080, which requires every public  
3 service company to annually furnish a report to the  
4 Commission, and WAC 480-110-405, which requires each  
5 regulated water company to file its annual report and  
6 pay the regulatory fee by May 1 of each year.

7 Q. Are you familiar with Parkland Water System,  
8 Inc.?

9 A. Yes.

10 Q. Please describe how you are familiar with  
11 Parkland Water.

12 A. Each year, business practices investigates  
13 whether regulated companies have filed the annual  
14 report and paid the regulatory fee. To ascertain  
15 compliance, I check Annual Reports Tracking System, or  
16 ARTS.

17 Q. And you checked the record for Parkland in  
18 the ARTS system; is that correct?

19 A. I did.

20 Q. And did Parkland Water file an annual report  
21 for its 2005 operations?

22 A. No.

23 Q. And I believe the Company has admitted that.  
24 When was the last time you checked ARTS?

25 A. This morning.

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1 Q. And Parkland Water had not filed its annual  
2 report?

3 A. No.

4 Q. When was the last time Parkland Water filed  
5 an annual report?

6 A. Their company filed an annual report for its  
7 1997 operations on December 21, 1998.

8 Q. And it has not filed an annual report between  
9 that time and this year.

10 A. Correct.

11 Q. The Company has requested mitigation of the  
12 \$100 penalty. In its application, the Company argued  
13 that preparing and filing the annual report is an  
14 unreasonable burden on a water system with six  
15 customers, and we've heard that argument here today.  
16 Could Parkland contact Staff to request assistance in  
17 preparing the annual report?

18 A. Yes.

19 Q. Who would the Company contact to request  
20 technical assistance in preparing the annual report?

21 A. Jim Ward. He's an accountant in the water  
22 division of the Commission staff. Jim Ward has worked  
23 with other companies to complete annual reports in the  
24 past, and I understand from Jim that he would be  
25 willing to help Parkland prepare the annual report.

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1 He's also worked with water companies on technical  
2 assistance to file rate cases.

3 Q. Are you aware that any staff person has been  
4 contacted by Parkland for assistance in preparing the  
5 Company's annual report?

6 A. I'm not aware of any contact.

7 Q. Does this water company, which apparently has  
8 only seven customers, need to be regulated?

9 A. Possibly not. Commission rules specify which  
10 water companies are subject to regulation based on  
11 revenue per customer. Without current revenue  
12 information, the Commission couldn't make a  
13 determination.

14 Q. So what would Parkland need to do to find out  
15 if it is still subject to regulation?

16 A. We would need the Company to file its 2005  
17 annual report, and then it could petition the  
18 Commission for withdrawal from regulation if it no  
19 longer meets the minimum threshold for regulation.

20 Q. To your knowledge, has the Company made such  
21 a request?

22 A. No.

23 Q. At this time, does Staff have a  
24 recommendation for the Commission regarding Parkland's  
25 application for mitigation?

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1           A.     Yes.  Staff recommends the application for  
2 mitigation of the \$100 penalty be denied.

3                   MS. CAMERON-RULKOWSKI:  Thank you, Ms. Hoyt.  
4 That concludes my examination of Ms. Hoyt, and I will  
5 now make a statement on behalf of Staff.

6                   MR. BURKE:  Could I get a chance to examine  
7 her myself?

8                   JUDGE CLARK:  You will get a chance, but we  
9 will let Ms. Cameron-Rulkowski make her statement  
10 first.

11                   MS. CAMERON-RULKOWSKI:  State law per RCW  
12 80.04.080 requires public service companies to file  
13 annual reports with the Commission.  WAC 480-110-505  
14 specifies that water companies must file annual reports  
15 by May 1 of each year.  Under RCW 80.04.405, a public  
16 service company that violates RCW Title 80 or any rule  
17 of the Commission shall incur a penalty of \$100.

18                   As stated in the penalty assessment, which  
19 issued June 30, 2006, Commission records show that  
20 Parkland did not make the filing by the required date.  
21 Ms. Hoyt has checked Commission records, and the  
22 Company has admitted to not filing the annual report.

23                   In its application for mitigation, Parkland  
24 challenges the validity of the violations claiming that  
25 filing the annual report is an unreasonable burden.



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1 Parkland has not been unfairly singled out for  
2 compliance with annual reporting laws and rules. All  
3 regulated companies are required to bear this burden  
4 and file an annual report.

5 Parkland should not be excused from their  
6 requirement simply because the Company finds the task  
7 onerous. Parkland requests mitigation on the basis  
8 that the annual report is an undue burden on such a  
9 small water company. As set forth in WAC 480-110-255,  
10 the Commission does exempt some small water companies  
11 from regulation. Parkland might no longer be subject  
12 to regulation. Without any accounting information from  
13 the Company, however, it is impossible for the  
14 Commission to evaluate Parkland's regulatory status,  
15 and furthermore, Parkland has not asked the Commission  
16 to make such a determination.

17 Commission staff, specifically water section  
18 accountant Jim Ward, is available to assist Parkland in  
19 preparing its annual report. Parkland has not  
20 contacted staff for assistance. The penalty should not  
21 be mitigated because the Company has a history of  
22 noncompliance. The Company has followed a pattern of  
23 noncompliance since 1998, which was the last time  
24 Parkland filed an annual report, and I note that the  
25 annual report filed then was over half a year late.

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1           A vital purpose of penalties is to encourage  
2 compliance. Parkland still has not filed its annual  
3 report nor has it taken any proactive steps to seek a  
4 Commission determination that the Company is excepted  
5 from Commission regulation. For these reasons, the  
6 \$100 penalty is appropriate and mitigation should be  
7 denied. Thank you. That concludes Staff's statement.

8           JUDGE CLARK: Thank you,  
9 Ms. Cameron-Rulkowski. Mr. Burke, if you have any  
10 questions, you can go ahead and ask them, and I want to  
11 let you know that when you are done asking your  
12 questions, I will give you an additional opportunity to  
13 make an additional oral statement if you wish.

14

15

16                                   CROSS-EXAMINATION

17 BY MR. BURKE:

18       Q.     In the report that was filed 1997, 1998, how  
19 much was paid in there as a fee for the tax or whatever  
20 it is that's charged?

21       A.     I don't have that information. I believe it  
22 was just over \$100 but I don't have that information.

23       Q.     Are you sure it was over \$100 dollars? I  
24 think it was around a dollar.

25       A.     I'm sorry. I don't recall.

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1           JUDGE CLARK: I would like you to know that I  
2 do have the affidavit attached to the Staff response to  
3 the mitigation request, which indicates that \$3.12 was  
4 made.

5           MS. HOYT: Sorry about that.

6           Q. That's a far cry from \$100 dollars, isn't it?

7           A. Yes, it is.

8           Q. And that amount of money reflects how much  
9 revenue you received, right? It's a tax on the  
10 revenue?

11          A. It is a percentage of the revenue, correct.

12          Q. It is a fee based on the revenue?

13          A. Yes.

14          Q. Has Utilities and Transportation ever told or  
15 sent a letter or indicated -- when they did not receive  
16 a timely report, do they ever advise someone, like the  
17 IRS does, that assistance is available, that they  
18 should call Jim Ward? Has the Utility and  
19 Transportation ever done that?

20          A. I'm not a part of the process that sends out  
21 the letters when it's due and such, so I do not know  
22 the answer.

23          Q. It's kind of been asserted here, and  
24 especially with your response to a question, that  
25 somehow or other, a utility should know that Mr. Jim

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1 Ward is available to assist people in doing it. The  
2 implication is that if Parkland Water did not ask, then  
3 that's their fault, by my question to you is do you  
4 provide that type of information to the utilities and  
5 other people that don't file in a timely manner that  
6 perhaps you could assist them in preparing these  
7 reports, especially for a, quote/unquote, small utility  
8 as you indicated?

9 A. I don't believe that there is any mention of  
10 call with questions, but I did speak with Jim Ward, who  
11 is in our water staff, and he has told me that it takes  
12 about an hour. He has been contacted over the years  
13 many times by water companies to help them fill out --

14 Q. But can you understand the fact that that  
15 isn't general knowledge to other people? That's  
16 specific knowledge inside your commission but not  
17 knowledge passed on to the utilities where it could  
18 serve a purpose; is that correct?

19 A. As I said, I'm not part of that process, but  
20 I would say yes.

21 Q. Does the Utility and Transportation provide  
22 notification to water purveyors or utilities of what  
23 the criteria is for regulating their service? In other  
24 words, implication has been made here in certain  
25 questions that somehow or other, Parkland Water might

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1 not have to be covered and may, in fact, be exempt, but  
2 does the Commission provide that information to  
3 somebody who can actually make an assessment?

4 A. Provide in what way?

5 Q. Could you tell me what are the criteria for  
6 exemption and nonexemption?

7 A. That's set out in Washington Administrative  
8 Code, which every water company when it received its  
9 registration gets a copy or can request a copy at any  
10 time of the rule book. It's free of charge. It's in  
11 WAC 480-110-255, and there are minimum thresholds. As  
12 a water company serving 99 customers or less, if you  
13 have an average annual revenue per customer of \$471 or  
14 less, you would not fall within Commission regulation.

15 Q. How often is that value changed?

16 A. I do not know how often the WAC is changed.  
17 I can tell you that this one has been updated several  
18 times in the last years, but I don't know the last  
19 update.

20 Q. Because I believe that Parkland Water was  
21 required to register with the Utility and  
22 Transportation when our fees were at \$30, and a month  
23 which would be \$260 a year, and now you are telling me  
24 that the WAC says \$471. When did that change?

25 A. I'm sorry. I don't have that information.

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1 Bear with me one second. The statutory requirement on  
2 this was filed on April 4, 2005, and effective May 5,  
3 2005, so that's when the last revision to that WAC was  
4 made, but I do not know what revision it was.

5 Q. Do you provide notification to all the  
6 purveyors that that has changed, gone up?

7 A. I do not know.

8 Q. So actually, a utility could go along and  
9 suffering this stuff, and let's say I chose to spend a  
10 couple thousand dollars every year to make this report  
11 out, that they could be going along spending that  
12 money, and you could have changed the rules since they  
13 would not be subjected to it. You don't do anything  
14 about that; right? You don't inform somebody that  
15 maybe they are wasting their time and money?

16 A. I do not know that process.

17 Q. Is there a process?

18 A. I do not know. My job is to verify whether a  
19 company is in compliance with the annual report  
20 requirements. It would not be within my job duties  
21 when a WAC is changed to notify the company. I don't  
22 know if that's done or not. That would probably be  
23 done through an interested parties list.

24 Q. Let's say that I made out this report and  
25 submitted it to you, and it came in that the annual

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1 average revenue was \$432. Would you call up and notify  
2 me or send me a letter saying, Gee, you don't have to  
3 file these reports anymore because you don't need to be  
4 regulated by us?

5 A. I do not believe so. I believe it is up to  
6 the company to petition to withdraw from regulation.

7 Q. But they haven't received notification from  
8 you that they are eligible for a petition, and if they  
9 filed a report, they wouldn't receive notification that  
10 maybe they are eligible or maybe they shouldn't be.  
11 You've kind of indicated here that without accounting  
12 information, you could not determine whether somebody  
13 was ineligible or eligible; is that correct?

14 A. Correct.

15 Q. So my question to you is if you had the  
16 accounting information, that wouldn't necessarily mean  
17 anything because you just got through saying that you  
18 wouldn't notify them; is that correct?

19 A. My comment was to refer to if a company  
20 requested or petitioned for withdrawal from regulation,  
21 the very basic the Commission would need would be an  
22 annual report to determine whether that would be  
23 possible or not, not that it would be the other way  
24 around.

25 Q. Put yourself in my place and tell me if this

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1 logic is correct. I don't know that the dollar value  
2 of income per customer has changed because I haven't  
3 been notified. Therefore, I have no cause, would I, to  
4 call you up and ask for an appeal or revocation of my  
5 requirement to the Commission; is that correct?

6 MS. CAMERON-RULKOWSKI: I'm going to object  
7 that that calls for speculation.

8 JUDGE CLARK: Do you understand why the  
9 assistant attorney general is objecting to your  
10 question, Mr. Burke?

11 MR. BURKE: I can understand. I'm asking her  
12 to put herself in my place, so I guess that's  
13 speculation. Certainly, it's an outlandish request.  
14 I'll just make a statement then and just end it up.

15 It has been implied here, and the assistant  
16 attorney general has made a point of saying that, Gee,  
17 Parkland Water could have contacted Mr. Jim Ward and  
18 had assistance in doing it, but he was negligent in his  
19 part in doing that, and, Gee, Parkland Water may not  
20 have been required to be regulated by Utilities and  
21 Transportation because of the current state, but he  
22 never requested that, and, Gee, Parkland Water if they  
23 had provided accounting data, we would have informed  
24 him, or somehow or other we would have been able to  
25 tell him that he didn't have to be regulated.



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1           The fact is that none of that happened, and  
2 the fact is that Utilities and Transportation, even  
3 though they can produce huge, copious quantities of  
4 paper, and I hate to tell you how many wastepaper  
5 baskets full of paper I've gotten from Utilities and  
6 Transportation on this little six-customer service,  
7 that they can't inform people that maybe they don't  
8 need to be regulated.

9           They can't inform people of what the  
10 regulations are in terms of the dollar value or dollars  
11 per customer requiring regulation. They can't inform  
12 people that they are willing to provide assistance,  
13 even though the nasty IRS will certainly let you know  
14 that they have a hotline to assist you in making out  
15 your income tax returns, and yet they imply that  
16 somehow or other I should clairvoyantly have known that  
17 they do provide assistance, and not only that they do  
18 provide assistance, but that there is a fellow by the  
19 name of Jim Ward that does do that, and I did not avail  
20 myself of his help.

21           So all in all, as far as I'm concerned, what  
22 has happened here and what the real basis of it is is  
23 Utilities and Transportation has come out with a  
24 requirement that somebody provide an annual report  
25 without full consideration of the fact that this is an

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1 extreme burden and cost to a small utility; that, in  
2 fact, by filing this annual report as a small utility  
3 that the small utility would probably not exist any  
4 longer because of the huge fees involved, and that  
5 Utility and Transportation did not provide any notice  
6 to anybody, especially a small utility, saying that you  
7 can have assistance, we can make it less expensive for  
8 you, and by the way, you might not even have to be  
9 regulated by us.

10 None of that was ever done, and on that  
11 basis, the culpable party is Utilities and  
12 Transportation, and whatever fees they want to charge  
13 me should be abated.

14 MS. CAMERON-RULKOWSKI: Your Honor, may I  
15 make a responsive statement?

16 JUDGE CLARK: You may, but I have just a  
17 question or two that I would like to ask Mr. Burke.

18 Did you receive a copy of the Commission  
19 staff response to your request for mitigation and  
20 hearing?

21 MR. BURKE: I did. I'm just trying to  
22 remember exactly what that said. I received a response  
23 to that.

24 JUDGE CLARK: The second question I have is  
25 when Parkland Water obtained a certificate to become a

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1 regulated utility, and I know that was awhile ago so  
2 you may not recall, but do you recall if there was any  
3 requirement that the utility understand the statutes  
4 and regulations that would be applicable to a small  
5 water company?

6 MR. BURKE: No. I was told that I, basically  
7 since I was charging -- we figured out that we couldn't  
8 sustain because of our electrical rates, couldn't  
9 sustain the utility on less than \$30 a month. I think  
10 it was \$25 a month. At that time, the regulation was  
11 \$25 a month, and multiply that by 12, and that's the  
12 annual fee, and we could not sustain that utility on  
13 \$25, so we were charging \$30 a month, and when we  
14 charged \$30 a month, we were told that we had to be  
15 regulated by Utilities and Transportation, and I came  
16 down here, and there was an application form that I had  
17 us fill out. I spent hours screwing around with that,  
18 and I remember being in this building here and meeting  
19 with a number of people for extended periods of time on  
20 that.

21 So as far as I know, there was no choice.  
22 There appeared to me no down side; namely, that I  
23 wasn't going to be burdened by appraisals and  
24 evaluations and all the rest of this stuff, and they  
25 never informed me -- it wasn't until years later that I

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1 got the annual report requirement.

2 JUDGE CLARK: Thank you. If you have  
3 questions for Mr. Burke, that would be okay.

4 MS. CAMERON-RULKOWSKI: Thank you, Your  
5 Honor. I just wanted to make clear that the Company is  
6 responsible for knowing the rules that apply to water  
7 companies, and they are on the Web site, and that's for  
8 future reference as well if you continue to be  
9 regulated, and I will say Judge Clark had asked you if  
10 you received Staff's response and you said that you  
11 did, and attached to that response is a declaration by  
12 Sheri Hoyt, and you should have received that  
13 approximately three months ago, and there is a  
14 suggestion in there that you could contact Commission  
15 staff for help in filling out the annual report, and  
16 also, there is a suggestion in there that Parkland  
17 could ask the Commission to review the Company to see  
18 if it's still subject to regulation.

19 Again, the problem with your suggestion that  
20 the Commission on its own volition make a determination  
21 whether the Company is subject to regulation would be  
22 impossible because there simply isn't any data to go  
23 on, and I don't believe it's a policy of the Commission  
24 to evaluate every single company every year to see if  
25 it's subject to regulation, so that would need to be

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1 filed by the Company.

2 I would like this proceeding to be viewed to  
3 some extent as technical assistance, and we have been  
4 proceeding in a formal manner of question and response  
5 that I see as required to have a proper record and have  
6 the evidence properly entered, but it is also meant to  
7 the informational. One other thing that the Company  
8 could have done would have been to request an extension  
9 of time to file the annual report, and that's also  
10 provided in the rules at 480-110-505, Subsection 4, and  
11 that was included in the notice reminding companies to  
12 file the annual report. That concludes my responsive  
13 statement. Thank you.

14 JUDGE CLARK: Thank you,  
15 Ms. Cameron-Rulkowski. Mr. Burke, do you have further  
16 statements you would like to make?

17 MR. BURKE: Yes. I have a couple of  
18 statements. First of all, the reference is brought up  
19 that the Utility and Transportation has a Web site that  
20 lists all these, but at the time this started, they  
21 didn't have a Web site. That was a long time ago.  
22 There was no Web site.

23 In addition to that, to trudge through the  
24 RCW's and the Web sites and all the rules and  
25 regulations is in and of itself a burden to anybody

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1 that is not an attorney or isn't really doing that. I  
2 have enough trouble checking RCW's out for other  
3 issues, and it's got to be a huge burden to try to  
4 figure out what the rules and regulations are and to  
5 spend all the time reading the rules. I would probably  
6 say that the rules and regulations that you draw from  
7 in this case and others would probably stack up two  
8 feet high on this desk, but that's just a guess on my  
9 part, but indeed, it would be burdensome.

10           The other thing you brought up is that the  
11 staff response, you said that in the staff response,  
12 and I did read that, but I looked on that is after the  
13 fact, that the Utilities and Transportation had already  
14 made up their mind that they were going to fine me or  
15 carry on some kind of legal action in regards to this  
16 and that they said, Well, okay, that assistance was  
17 available. It didn't necessarily mean that assistance  
18 was available at this time to mitigate this issue or  
19 that an extension of time would have, in fact,  
20 mitigated this issue that we are here today on. So  
21 consequently, those were looked upon me as something  
22 that was not particularly beneficial at this time but  
23 maybe at sometime in the future. That's it.

24           JUDGE CLARK: Thank you. I do have just one  
25 additional question for you, Ms. Hoyt, and that is

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1 regardless of the outcome of today's brief adjudicative  
2 proceeding, are members of the Commission staff willing  
3 to assist Parkland Water in completing annual report  
4 forms?

5 MS. HOYT: Yes. In fact, Jim Ward gave me  
6 his card to give to Mr. Burke and ask that if he would  
7 like help filling out the form or talking to him about  
8 withdrawing from regulation, he would be happy to do  
9 so.

10 JUDGE CLARK: That was my second question,  
11 that Mr. Ward would also be, regardless of the outcome  
12 of today's proceeding, be willing to assist Parkland  
13 Water with determining whether or not they are even  
14 required to be regulated anymore?

15 MS. HOYT: Very much.

16 JUDGE CLARK: Is there anything further that  
17 anyone would like to say? The Commission will take  
18 into consideration all of the documents that were filed  
19 by both sides in this proceeding as well as the  
20 transcript from this afternoon's brief adjudicative  
21 proceeding, and we will issue a written decision. I  
22 thank you for your time this afternoon. We are  
23 adjourned.

24 (Brief adjudicative proceeding adjourned at 2:35 p.m.)

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