

00437

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
4 Complainant,) DOCKET NO. UR-950619
5 vs.)
6 US ECOLOGY, INC.,)
7 Respondent.)
-----)
8 Petition of US ECOLOGY, INC.,)
for an Order Regarding the) DOCKET NO. UR-950620
9 Accounting Treatment of the) VOLUME 5
Benton County Property Tax) PAGES 437 - 457
10 Liability)
-----)

11
12 A hearing in the above matter was held
13 at 9:30 a.m. on December 4, 1995, at 1300 South
14 Evergreen Park Drive Southwest, Olympia, Washington
15 before Chairman SHARON L. NELSON, Commissioner RICHARD
16 HEMSTAD, and Administrative Law Judge JOHN PRUSIA.

17
18 The parties were present as follows:

19 US ECOLOGY, INC., by JAMES M. VAN NOSTRAND,
Attorney at Law, 411 108th Avenue Northeast, Bellevue,
20 Washington 98004.

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

23
24 Cheryl Macdonald, CSR
25 Court Reporter

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1 APPEARANCES (Cont.)

2 TELEDYNE WAH CHANG, by RICHARD WILLIAMS,
3 Attorney at Law, 800 Pacific Building, 520 SW Yamhill,
4 Portland, Oregon 97201.

5 PORTLAND GENERAL ELECTRIC COMPANY, by JAY
6 DUDLEY, Attorney at Law, 121 Southwest Salmon Street,
7 Portland, Oregon 97204.

8 PRECISION CASTPARTS, by JAMES C. PAINE,
9 Attorney at Law, 900 Southwest Fifth Avenue, Suite
10 2300, Portland, Oregon 97204.

11 BONNEVILLE POWER ADMINISTRATION, by JAMES T.
12 IRISH, Program Analyst, 3000 George Washington Way,
13 MD 399, Richland, Washington 99352.

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

2 JUDGE PRUSIA: Let's be on the record. The
3 hearing will please come to order. The Washington
4 Utilities and Transportation Commission has set for
5 hearing at this time and place upon due and proper
6 notice to all interested parties a hearing in
7 consolidated docket Nos. UR-950619 and UR-950620.
8 The first docket is captioned Washington Utilities and
9 Transportation Commission versus US Ecology, Inc.

10 Today's hearing is limited to the question
11 whether the Commission should accept the settlement
12 agreement signed by all of the parties that would
13 resolve all remaining issues in these consolidated
14 dockets, that is, would resolve the company's revenue
15 requirement and the petition for accounting order.

16 This hearing is being held at Commission's
17 headquarters in Olympia, Washington on December 4,
18 1995. This hearing is being held before Chairman
19 Sharon L. Nelson and Commissioner Richard Hemstad. My
20 name is John Prusia. I'm an administrative law judge
21 with the Commission. I will take appearances at this
22 time beginning with the company.

23 MR. VAN NOSTRAND: On behalf of US Ecology,
24 James M. Van Nostrand, Bellevue, Washington.

25 JUDGE PRUSIA: You don't need to give your

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1 mailing addresses this morning. For the Commission,
2 Ms. Rendahl.

3 MS. RENDAHL: Ann Rendahl, assistant
4 attorney general on behalf of Commission staff.

5 JUDGE PRUSIA: And for the intervenors
6 we'll go around the table beginning with Mr. Williams.

7 MR. WILLIAMS: Richard Williams for
8 intervenor Teledyne Wah Chang.

9 MR. DUDLEY: Jay Dudley for intervenor
10 Portland General Electric Company.

11 MR. PAINE: James Paine appearing on behalf
12 of Precision Castparts Corp.

13 MR. IRISH: James Irish appearing on behalf
14 of Bonneville Power Administration.

15 JUDGE PRUSIA: Are there any other
16 intervenors present this morning? Let the record
17 reflect that there are none. There are some -- does
18 anyone know why those intervenors are not present,
19 could you indicate for the record.

20 MS. RENDAHL: Your Honor, I believe Les
21 Hutchins is here for Public Service of Colorado but is
22 not represented by counsel. And Mike Noland is here
23 representing the Washington Public Power Supply System
24 but again is not represented by counsel.

25 JUDGE PRUSIA: Thank you, Ms. Rendahl.

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1 Before we went on the record we discussed what the
2 parties intended with regard to prefiled testimony
3 that has not yet been admitted into evidence, that is,
4 the testimony of Ms. Walsh, Mr. Jones and Mr. Drazen.
5 Some of that testimony is referred to in the
6 settlement agreement. My understanding is that the
7 parties stipulate to the admission of the prefiled
8 testimony and exhibits of Sondra Walsh, Albert Jones
9 and Mark Drazen. Is that correct, Mr. Van Nostrand?

10 MR. VAN NOSTRAND: Yes, Your Honor.

11 JUDGE PRUSIA: And Mr. Williams?

12 MR. WILLIAMS: Yes.

13 JUDGE PRUSIA: Mr. Dudley?

14 MR. DUDLEY: Yes, correct.

15 JUDGE PRUSIA: Mr. Paine?

16 MR. PAINE: Yes.

17 JUDGE PRUSIA: Mr. Irish?

18 MR. IRISH: Yes.

19 JUDGE PRUSIA: Ms. Rendahl?

20 MS. RENDAHL: Yes.

21 JUDGE PRUSIA: And it's my further
22 understanding that the parties for purposes of the
23 stipulation agreement agree to waive any right to
24 cross-examination of that testimony. If anyone
25 disagrees with that would they please so indicate.

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1 Let the record reflect that there is no response.

2 Are there any other preliminary matters we
3 need to take up before we have the presentation of the
4 stipulation?

5 Very well then. Several parties have
6 statements to make this morning in support of the
7 proposed stipulation and I believe Mr. -- I believe
8 the company will begin first. Is that correct?

9 MR. VAN NOSTRAND: Yes, Your Honor. Thank
10 you. Did you want to mark or designate the exhibit
11 for the settlement agreement?

12 JUDGE PRUSIA: Yes, I will do that. And
13 before the conclusion of the hearing I will mark the
14 other -- the prefiled testimony, too.

15 MR. VAN NOSTRAND: Okay. Thank you, Your
16 Honor. The parties to this proceeding previously
17 reached agreement on the rate design and ratemaking
18 issues which was filed with the Commission in
19 September and then accepted in October, and following
20 the first round of hearings in this matter and the
21 filing of opposing testimony we again sat down and
22 tried to resolve the remaining issues in this case.
23 And the settlement agreement which we filed last week
24 represents the product of those successful
25 discussions.

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1 I think the resolution of the issues in
2 this proceeding through negotiation rather than
3 litigation stems in large part from the encouragement
4 provided by the Commission towards using alternate
5 dispute resolution methods. Commission seems to have
6 expressed a preference for handling these cases
7 through a nonadversarial exploration of the issues,
8 and the parties have taken that lead and responded
9 accordingly in this proceeding.

10 The collaborative which produced the
11 earlier stipulation was of course directed by the
12 Commission in an earlier order, but the parties built
13 upon that process established in that proceeding and
14 the levels of communication established among the
15 parties to continue working towards settling the
16 remaining issues in the proceeding and the result is a
17 settlement which, when combined with the earlier
18 stipulation, should result in the rates being set for
19 this company for the next six years without a general
20 rate proceeding.

21 The settlement agreement comprises four
22 primary elements. First as to timing it provides that
23 these rates if approved by the Commission will become
24 effective on January 1, 1996, and thereby obviating
25 the use of the interim rates for January and February

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1 1996 which were contemplated under proposal earlier
2 agreed to by the parties.

3 Second, as to revenue requirement, the
4 settlement agreement stipulates a revenue requirement
5 for 1996 of 5.6 million dollars which is substantially
6 less than the 6.5 million dollars requested in the
7 company's filing. Staff is prepared to provide
8 further testimony regarding the basis for this agreed
9 upon revenue requirement.

10 A third component of the settlement
11 agreement concerns the company's proposal to begin
12 collecting a higher amount for the Benton County
13 property tax to cover the assessments which have been
14 imposed on the company and are currently being
15 appealed by the company. The company had proposed to
16 fund the potential 1995 liability under its petition
17 for accounting order and to collect the 1996 liability
18 of about 648,000 dollars through its tax and fee
19 rider. Under the settlement the company will not fund
20 the 1995 liability and will begin collecting in rates
21 subject to escrow and refund in the event its appeal
22 is successful a lower amount of \$140,000, a stipulated
23 figure calculated by the parties.

24 Final issue concerns the expenditures the
25 company is expected to incur in connection with the

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1 site's inclusion in the Hanford RCRA site B permit.
2 Company will be performing an investigation to
3 determine to identify potential releases of hazardous
4 constituents. The company had requested \$750,000 in
5 its filing, amortized over five years, to recover
6 these costs which is the best estimate currently
7 available to the company. The parties have agreed
8 that this cost will not be recovered in this filing
9 and that the company may make a separate filing to
10 recover these costs once they become certain as to
11 amount and timing.

12 Parties to the settlement agreement are
13 present to respond to any questions from the
14 Commission. We're going to swear in a panel of
15 witnesses that will be available to answer questions.
16 The parties respectfully request the Commission to
17 accept the settlement agreement presented today as the
18 basis for settling the remaining issues in this
19 proceeding.

20 JUDGE PRUSIA: Thank you, Mr. Van Nostrand.
21 Does any other party have a statement to make in
22 support of the stipulation?

23 MS. RENDAHL: Yes, Your Honor. Good
24 morning, Your Honor, commissioners. Staff just wanted
25 to make a brief presentation on the revenue

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1 requirement settlement amount of \$5.6 million. Staff
2 approached the settlement with the premise that
3 it did not want to compromise on ratemaking
4 principles, but identified a number of issues on which
5 it could negotiate, and, keeping in mind the interest
6 in trying to resolve cases without extensive
7 litigation, entered into settlement discussions with
8 the company and the intervenors.

9 The result of the settlement is that the
10 company and the staff and intervenors agreed to allow
11 the company for settlement purposes to recover as an
12 expense an amount equal to the first year's projected
13 cost for equipment lease rather than the five-year
14 average amount requested by the company. That's an
15 approximate amount of \$140,000 per year as an expense.

16 In addition another amount that the company
17 and staff and intervenors agreed for settlement
18 purposes that the company should recover in terms of a
19 bad debts expense, .25 percent of the revenue
20 requirement as opposed to .5 percent, the revenue
21 requirement requested by the company. And finally
22 the parties agreed that for settlement purposes 75
23 percent of the corporate overhead should be allocated
24 to the Richland site as opposed to the 100 percent
25 requested by the company.

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1 And if you start with the staff's
2 recommended results of operation in filed testimony
3 and make these adjustments you will arrive at the 5.6
4 million dollars amount, and should you have any
5 specific questions about the calculation of that
6 figure Sondra Walsh of the staff will be available for
7 further questions once we put together a panel, and
8 staff would encourage the Commission to approve the
9 settlement. We believe it's reasonable and in the
10 public interest to finish this case and allow the
11 company to go forward for the next six years and
12 recover the rates that all parties have agreed are
13 reasonable, and so we would encourage you to approve
14 this settlement.

15 JUDGE PRUSIA: Mr. Dudley.

16 MR. DUDLEY: Yes. I would just like to say
17 that this settlement was a product of productive and
18 constructive negotiations by all the parties here, and
19 I want to note the actions of all of them, including
20 the staff, to reach this settlement number. There
21 were motivated discussions that continued after hours
22 by all parties, including the staff, to get to this
23 resolution. Just for the -- I don't know that it's
24 been stated, so I would just like to make the
25 commissioners aware of this. The company filed for a

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1 rate increase for approximately \$6.5 million. The
2 testimony that was filed by the parties, the
3 intervenors, intervenor generators filed testimony
4 supporting adjusted total revenue requirement of
5 approximately \$5.5 million. And the staff filed
6 testimony supporting a revenue requirement of
7 approximately \$5.0 million. And the settlement is at
8 about a 5.6 million dollars level. I would hasten to
9 add that the generator's testimony didn't purport to
10 cover all of the adjustment that could be made, but
11 the ones that were focused by our witness Drazen came
12 up with the approximately \$900,000 reduction off of
13 the revenue requirement.

14 We do support this settlement as fair and
15 just for this company and an equitable basis for
16 continuing with rates that goes -- mates with the
17 settlement we had previously on rate structure
18 earlier, and we would urge the commissioners to adopt
19 this as being in the public interest.

20 JUDGE PRUSIA: Any other parties? Thank
21 you. Before I convene the round table, I have marked
22 the following documents -- the following exhibits and
23 these will be admitted. Exhibit T-40 is the 17-page
24 document, the direct testimony of Sondra Walsh SW-1.
25 Exhibit 41, five-page exhibit of Sondra Walsh, SW-2.

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1 Exhibit 43, three-page -- Exhibit T-42, 15-page
2 testimony of Albert A. Jones. Exhibit 43, three
3 pages, AAJ-2 Exhibit of Albert Jones. Exhibit T-44,
4 multiple page exhibit, testimony and exhibit of Mark
5 Drazen. Those will be admitted into evidence.

6 (Marked and admitted Exhibits T-40, 41,
7 T-42, 43 and T-44.)

8 JUDGE PRUSIA: At this point we will
9 convene a round table to answer questions, and we
10 would like to have couple of the witnesses sworn in.
11 I believe that they were already sworn in and that's
12 Ms. Walsh and Mr. Bede.

13 MS. RENDAHL: Your Honor, did you wish to
14 mark the settlement document as well?

15 JUDGE PRUSIA: I haven't admitted it yet
16 but I will mark that for identification. It's that
17 multi page document. It's the settlement agreement on
18 revenue requirement issues and I will mark that for
19 identification as Exhibit 45.

20 (Marked Exhibit 45.)

21 JUDGE PRUSIA: Ms. Walsh, I believe you
22 were sworn in in a previous hearing, were you not?

23 MS. WALSH: Yes.

24 JUDGE PRUSIA: I will remind both Mr. Bede
25 and Ms. Walsh that you are still under oath. I

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1 believe the commissioners have no questions this
2 morning. However, we do have a couple of questions
3 and let's be off the record just a second while I
4 consult with our advisor.

5 (Discussion off the record.)

6 Whereupon,

7 BARRY BEDE and SONDRAL WALSH,

8 having been previously duly sworn, were called as
9 witnesses herein and was examined and testified
10 further as follows:

11 JUDGE PRUSIA: Let's be back on the record.

12 The Commission has a couple of questions about
13 proforma adjustment PA-7 equipment leases. Because
14 of the rate setting methodology used -- that the
15 company uses, which is an operating ratio methodology,
16 the Commission understandably has concerns about how
17 costs are characterized, particularly the treatment of
18 costs associated with capital items. The Commission
19 understands that this is an overall settlement and is
20 not asking for an explanation of or a justification of
21 this particular item. However, the Commission does
22 want to make sure that the record is clear, and these,
23 then, are the questions and you can decide which
24 witness wishes to answer them.

25 First is are the equipment leases included

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1 in operating expenses and included in revenue
2 requirements.

3 MS. WALSH: Yes, they are.

4 JUDGE PRUSIA: Thank you, Ms. Walsh. Does
5 the treatment of the equipment leases that's been
6 agreed upon put the lease expenses into the total on
7 which the operating margin is calculated?

8 MS. WALSH: Yes.

9 JUDGE PRUSIA: Does that increase the
10 operating margin by an amount related to the lease
11 expenses? Does that increase the operating margin by
12 an amount related to the lease expenses.

13 MS. WALSH: Yes.

14 JUDGE PRUSIA: If the leases had been
15 capitalized, would the lease payments or amortization
16 of the capitalized leases be included in operating
17 expenses which are directly included in revenue
18 requirement.

19 MS. WALSH: No.

20 JUDGE PRUSIA: Also, if the lease had been
21 capitalized would either the lease payments or
22 amortization of the capitalized leases be included in
23 the base on which the margin is calculated.

24 MS. WALSH: No.

25 JUDGE PRUSIA: Thank you. I have no

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1 further questions. Does this raise any additional
2 questions in the minds of the commissioners.

3 COMMISSIONER HEMSTAD: Surprisingly it
4 doesn't.

5 JUDGE PRUSIA: Are there any objections to
6 the admission of what has been marked for
7 identification as Exhibit No. 45 which is the proposed
8 settlement agreement on revenue requirement issues?
9 Let the record reflect that there are no objections.
10 That exhibit then will be admitted.

11 (Admitted Exhibit 45.)

12 JUDGE PRUSIA: Is there anything further to
13 come before us this morning?

14 MR. VAN NOSTRAND: I wondered if it would
15 be appropriate for the parties if there was any
16 concern about the equipment leases if that should be
17 developed further. I mean, some of the discussion as
18 to how we got to where we did.

19 JUDGE PRUSIA: We're not questioning the
20 prudence in this proceeding. I don't believe that
21 there's a need to develop that further.

22 MR. WILLIAMS: Your Honor, may I comment on
23 perhaps in partial response to Mr. Van Nostrand? It
24 may be useful for the Commission to know that the
25 first step in reaching this settlement was an

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1 agreement on a number, a revenue requirement of \$5.6
2 million. At that point the intervenors left it to the
3 company and the staff to decide how those adjustments
4 would be made with the understanding that the
5 paragraph in the settlement agreement which states
6 that this settlement will not have any precedential
7 effect addressed concerns that intervenors had about
8 setting precedents for the future as related to
9 ratemaking principles. So from the intervenors'
10 point of view the treatment of the leases is not a
11 precedent.

12 JUDGE PRUSIA: Thank you, Mr. Williams.

13 Let's be off the record.

14 (Discussion off the record.)

15 JUDGE PRUSIA: Let's be back on the record.

16 Is there anything further to come before us this
17 morning then? Let the record reflect that there is no
18 response. We'll stand adjourned then until this
19 afternoon's public hearing. Thank you.

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AFTERNOON SESSION

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1:30 p.m.

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JUDGE PRUSIA: Let's be on the record.

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This hearing will please come to order. This is a

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hearing before the Utilities and Transportation

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Commission for the purpose of taking public testimony

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for docket No. UR-950619 and UR-950620. Today's

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hearing is limited to the question whether the

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Commission should accept a settlement agreement signed

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by all the parties that would resolve all remaining

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issues in these consolidated dockets. That is, the

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company's revenue requirement and the petition for

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accounting order regarding treatment of the Benton

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County property tax liability.

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The hearing is being held at Commission

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headquarters in Olympia, Washington on December 4,

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1995. My name is John Prusia. I'm an administrative

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law judge with the Commission. To my right is

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Commissioner Hemstad. Chairman Nelson was here a few

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moments ago and can be called back in if we have any

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public witnesses.

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Let me take appearances briefly so that any

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members of the public will know who the participants

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are. Let me begin with the company.

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MR. VAN NOSTRAND: For the company James M.

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1 Van Nostrand.

2 JUDGE PRUSIA: Other appearances,
3 Commission staff.

4 MS. RENDAHL: Ann Rendahl, assistant
5 attorney general representing Commission staff.

6 MR. DUDLEY: Jay Dudley for Portland
7 General Electric Company.

8 MR. IRISH: James Irish for Bonneville
9 Power Administration.

10 JUDGE PRUSIA: Just for the record, there
11 were a number of intervenors involved in this
12 proceeding. However, they were not required to be at
13 this hearing this afternoon. They did appear and
14 participate during other stages of the proceeding.
15 Before I ask Ms. Rendahl to give a summary of these
16 proceedings, I will ask if there are any members of
17 the public who wish to testify.

18 Let the record reflect that there is no
19 response. It is not necessary, therefore, to give a
20 summary of the proceedings. Is there anything that
21 needs to come before us this afternoon? Let the
22 record reflect that there is no response. The
23 commissioners instructed me to advise you that they
24 will accept the settlement agreement and an order will
25 be entered as soon as possible.

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1 MR. VAN NOSTRAND: Thank you.

2 JUDGE PRUSIA: There being nothing further
3 the hearing stands adjourned. Let's be off the
4 record.

5 (Hearing adjourned at 1:33 p.m.)

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