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BEFORE THE WASHINGTON STATE

2

UTILITIES AND TRANSPORTATION COMMISSION

3

4 In the Matter of the Application of) Docket
) UW-143617
5 T & T PROFESSIONAL SERVICE aka) (Consolidated)
WATER AND WASTEWATER MANAGEMENT)
6 SERVICES, LLC, ROBERT THURSTON, and)
CHERI THURSTON)
7)
For an Order Approving the Transfer)
8 of Piper Water System, Pinewood Water)
System, and Lightmoor Court Water)
9 System)
))
10 WASHINGTON UTILITIES AND TRANSPORTATION) Docket
COMMISSION,) UW-150791
11) (Consolidated)
Complainant,)
12 v.)
T & T PROFESSIONAL SERVICE aka WATER)
13 AND WASTEWATER MANAGEMENT SERVICES,)
LLC, ROBERT THURSTON, and CHERI)
14 THURSTON)
))
15 Respondent.)

16

BRIEF ADJUDICATIVE HEARING, VOLUME II (Pages 16-40)

17

ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

18

19

AUGUST 28, 2015 | 9:30 A.M.

20

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest

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Olympia, Washington 98504-7250

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REPORTED BY: LISA BUELL, RPR, CRR, CCR #2204

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A P P E A R A N C E S

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ADMINISTRATIVE LAW JUDGE:

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Transportation Commission
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FOR WASHINGTON UTILITIES AND

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TRANSPORTATION COMMISSION:

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FOR T&T PROFESSIONAL SERVICE
aka WATER AND WASTEWATER
MANAGEMENT SERVICES, LLC:

14

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CHERI THURSTON (Via Bridge Line)
ROBERT THURSTON (Via Bridge Line)
111 Sparrow Court
Port Ludlow, Washington 98365
cheri_thurston@msn.com

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18

19

FOR PIPER WATER SYSTEM:

20

ROBIN MOEUR (Via Bridge Line)

21

FOR LIGHTMOOR WATER SYSTEM:

22

VIVIANNE ALPAUGH (Via Bridge Line)

23

24

* * * * *

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JIM WARD	
Mr. Shearer.	22

0019

1 OLYMPIA, WASHINGTON; AUGUST 28, 2015

2 9:40 A.M.

3

4 JUDGE PEARSON: Let's be on the record.

5 Good morning. We are here today for a brief
6 adjudicative proceeding in Docket UW-143617, which is an
7 application to transfer ownership and cease operations
8 of three water systems, filed by T&T Professional
9 Service, dba Water and Wastewater Management Services
10 and Docket UW-150791, which is a penalty assessment
11 issued by the Commission against T&T Professional
12 Service for failing to timely file an annual report and
13 pay regulatory fees.

14 My name is Rayne Pearson. I'm the
15 Administrative Law Judge presiding over today's
16 proceeding. Today is Friday, August 28th, 2015, and the
17 time is approximately 9:40 a.m. We were scheduled to
18 begin the proceeding this morning at 9:30 a.m.; however,
19 the company has not yet appeared.

20 I do believe that there is a party on the
21 bridge line. If you could identify yourself.

22 MS. MOEUR: Yes. My name is Robin Moeur,
23 last name is spelled M-O-E-U-R. I'm representing the
24 Piper System.

25 JUDGE PEARSON: Okay. Let's just go off the

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1 record for a couple more minutes. I will give the
2 company until about 9:45 to make an appearance, and if
3 they don't, we will go ahead and proceed at that time.

4 So let's be off the record.

5 (A break was taken from
6 9:39 a.m. to 9:43 a.m.)

7

8 JUDGE PEARSON: We will be back on the
9 record. The party has appeared -- I'm sorry, the
10 company has appeared on the bridge line, so we can go
11 ahead and get started.

12 We did originally have four parties that
13 entered appearances, specifically in the UW-143617
14 docket, and those parties were Staff, the company and
15 representatives from both the Lightmoor and the Piper
16 Water Systems. They were both granted intervenor
17 status.

18 And I will have the parties who are present
19 both in the hearing room and on the bridge line identify
20 themselves for the record in just a moment, but I want
21 to first provide a road map of today's proceeding.
22 Staff will present its case first, and then we will hear
23 from the company followed by either -- or perhaps only
24 one intervenor, and when I call on each party to
25 testify, I will swear any witnesses in with the oath of

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1 witness so that anything that you tell the Court will be
2 under oath and will be considered sworn testimony.

3 And for the court reporter's benefit, please
4 speak slowly and clearly, and please be sure to use the
5 microphone. I guess, Mr. Ward, that only applies to
6 you. The people on the telephone can just be sure to
7 speak up, and we will let you know if we can't hear you.

8 Once you are sworn in, you can present your
9 testimony and call any witnesses, and each of the
10 parties will also have the opportunity to ask questions
11 of each other, and I will let you know when it's your
12 turn to do that. And I did not receive any exhibits in
13 advance of today's hearing so I'm assuming that none of
14 the parties will be offering any exhibits today.

15 And finally, I won't be making my decision
16 today. I will take everything that's presented under
17 advisement and issue an order in the near future. Does
18 anyone have any questions before we get started?

19 Okay. Hearing nothing, let's first take
20 brief appearances from each party, beginning with
21 Commission Staff.

22 MR. SHEARER: Good morning, Your Honor. My
23 name is Brett Shearer, S-H-E-A-R-E-R, Assistant Attorney
24 General, and I am here on behalf of Commission Staff.

25 JUDGE PEARSON: Thank you. And for T&T

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1 Professional Service?

2 MS. THURSTON: It's Cheri Thurston.

3 MR. THURSTON: Bob Thurston.

4 JUDGE PEARSON: And for the Piper Water
5 System?

6 MS. MOEUR: Robin Moeur.

7 JUDGE PEARSON: And for the Lightmoor Court
8 Water System?

9 Okay. Hearing nothing, it appears that the
10 Lightmoor Court Water System will not be participating
11 in today's proceeding.

12 So, Mr. Shearer, you may begin when you're
13 ready.

14 MR. SHEARER: Thank you, Your Honor. I'd
15 like to call Staff witness, Mr. Jim Ward.

16 JUDGE PEARSON: Okay. Mr. Ward, if you
17 could please stand and raise your right hand.

18

19 JIM WARD, (Witness sworn.)

20

21 JUDGE PEARSON: Okay, thank you.

22

23 E X A M I N A T I O N

24 BY MR. SHEARER:

25 Q. Good morning, Mr. Ward. Could you please state

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1 your name and spell your last name for the record.

2 A. Jim Ward, W-A-R-D.

3 Q. And, Mr. Ward, what is your position here at the
4 UTC?

5 A. I'm a regulatory analyst in the water and solid
6 waste section.

7 Q. And can you please explain your role in these
8 dockets? I'm speaking to Dockets 143617 and Docket
9 150791.

10 A. My role is to review the sale and transfer
11 applications that were filed recently with this company
12 trying to transfer the systems to the customers.

13 Q. So is it fair to say you have firsthand personal
14 knowledge of both dockets in this case?

15 A. Yes, I do.

16 Q. I'd like to start with Docket 143617 that is the
17 docket for transfer of ownership and transfer of assets.
18 Mr. Ward, can you please explain the relevant background
19 in this docket.

20 A. This docket was an application by the company to
21 the Commission to transfer three of its water systems to
22 the customers, the Piper Water System, the Lightmoor
23 Water System and the Pinewood Water System.

24 Q. And can you please describe or explain the three
25 systems, as you call them.

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1 A. Each of the water systems are owned by T&T
2 Professional Services, also known as Water Wastewater
3 Management. Each of the systems is considered to be a
4 Group B water system by the Department of Health, to my
5 knowledge, and serve less than ten customers on each
6 water system.

7 Q. And can you please explain your recommendation
8 as to the company's petition to transfer these systems
9 and your recommendation for each of those three systems,
10 please.

11 A. It is Staff's recommendation today to deny the
12 transfer since we do not have a willing receiver of each
13 of the water systems. The company and Staff have talked
14 with each of the water systems, and as of yet, we do not
15 have an agreement between each water system and the
16 company.

17 Q. And can you provide the Commission any -- if you
18 have any additional relevant information about the
19 current status of each of these three systems?

20 A. Yes. In the Piper Water System, there is
21 ongoing talks with the customer group. The
22 representative is on the bridge line for that group.
23 This is a transfer to potentially a homeowners
24 association with a transfer then on to a PUD; however,
25 at this point, we do not have agreement on that

0025

1 transfer.

2 The Lightmoor Water System at the last hearing
3 we had, there was an agreement to review a list of seven
4 items. We have not heard any update on that list of
5 seven items. We've received no agreement yet on that
6 water system.

7 On the Pinewood Water System, this water system
8 serves three customers. I did recently receive a
9 preliminary sale and transfer application and request
10 for deregulation. I have reviewed that and provided it
11 back to the company; however, at this time we still do
12 not have an agreement yet with the customers for the
13 transfer of that water system either.

14 Q. So to summarize, given that there's no --
15 there's no concrete agreements or transfers in place at
16 this time, Staff is recommending denial of this
17 petition; is that correct?

18 A. Yes. In all three of the water systems, we do
19 not have a written agreement yet on file; therefore,
20 Staff's recommendation is to deny the request by the
21 company to essentially give the systems to the
22 customers.

23 Q. Okay. Thank you, Mr. Ward.

24 I'd like to move on to the second docket in this
25 case, that is 150791, which is a penalty assessment

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1 relating to annual report filings.

2 Mr. Ward, did this company file a timely 2014
3 annual report?

4 A. No. The company did not meet the deadlines for
5 the annual report for this year for the calendar year of
6 2014.

7 Q. And was the filing more than ten days after that
8 deadline?

9 A. Yes. The filing was after the deadline of May
10 1st.

11 Q. And can you please explain your recommendation
12 for the currently outstanding penalty of \$1,000 in this
13 docket?

14 A. Yes. The company did file its annual report
15 late. It was on June 9th, I believe, that it was
16 received by the Commission. It is Staff's
17 recommendation today that we suspend the \$1,000 penalty
18 for a period of one year and be waived after that if the
19 company can file its 2015 annual report in a timely
20 fashion, which would be due by May 1st of 2016.

21 Q. And to be clear, your recommendation for
22 potential waiver would depend on whether the company
23 still owned these systems at that time or were still
24 subject to regulation, correct?

25 A. Yes.

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1 MR. SHEARER: Thank you, Mr. Ward.

2 I have no additional questions for Mr. Ward,
3 Your Honor.

4 JUDGE PEARSON: Okay. Thank you.

5 Ms. Thurston or Mr. Thurston, do you have
6 any questions for Mr. Ward?

7 MS. THURSTON: No, not at this time. He's
8 working with us. We're having a hard time working with
9 the owners of the Lightmoor Water System. They're not
10 returning our calls, but we do have --

11 JUDGE PEARSON: Okay. You'll have a chance
12 to speak to that in just a moment. Right now --

13 MS. THURSTON: All right. But as far as
14 Mr. Ward, no. He's been wonderful working with us.

15 JUDGE PEARSON: Okay. Thank you.

16 Ms. Moeur, do you have any questions for
17 Mr. Ward?

18 MS. MOEUR: No questions at this time.

19 JUDGE PEARSON: Okay. Thank you.

20 And that's all you have, right, Mr. Shearer?

21 MR. SHEARER: I have no other witnesses,
22 Judge Pearson.

23 JUDGE PEARSON: Okay. So Ms. Thurston and
24 Mr. Thurston, it's your turn. Is one of you going to
25 speak to represent the company or do you both have

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1 testimony this morning?

2 MR. THURSTON: We don't have anything to
3 present this morning.

4 JUDGE PEARSON: You don't have any testimony
5 this morning?

6 MR. THURSTON: No.

7 JUDGE PEARSON: Okay.

8 MS. THURSTON: Well, our testimony was
9 basically about the fine and stuff and Jim addressed
10 that.

11 Also, we are having a hard time
12 communicating with Lightmoor --

13 JUDGE PEARSON: So let me stop you right
14 there, Ms. Thurston. I'd like to swear you in before
15 you proceed.

16 MS. THURSTON: Okay.

17 JUDGE PEARSON: So if you could just, where
18 you are, just stand and raise your right hand.

19 MS. THURSTON: Okay.

20

21 CHERI THURSTON, (Witness sworn.)

22

23 JUDGE PEARSON: Okay. So you can go ahead
24 now if you want to give testimony.

25 MS. THURSTON: Yeah. Well, at the last

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1 hearing, we heard the Piper -- Robin Moeur who was
2 representing Piper system, their progress on it, so I
3 guess we didn't think that we needed to address anything
4 on that because they were handling it. I haven't heard
5 any updates or received any paperwork regarding that.

6 And the Lightmoor system, we've placed phone
7 calls to them and had no response back from them, so
8 we're a little bit confused on how to proceed with the
9 Lightmoor transfer because they're not talking with us,
10 which is odd because there were lots and lots of
11 communication going on before these hearings started.
12 So we're a little bit -- don't know what to do with
13 that.

14 The Pinewood system, I'm working on
15 paperwork for, and I should have that done just --
16 today. I'm just waiting for Don's signature, and so I
17 can get that in to the Commission. So that is all.

18 JUDGE PEARSON: Okay. And did you want to
19 respond to Staff's recommendation regarding suspending
20 the thousand dollar penalty for a one-year period and
21 then waiving it provided the company timely files its
22 2015 annual report?

23 MS. THURSTON: Yes, I agree with that.

24 JUDGE PEARSON: Okay.

25 Mr. Shearer, did you have any questions for

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1 Ms. Thurston?

2 MR. SHEARER: No, Your Honor.

3 JUDGE PEARSON: And Ms. Moeur, did you have
4 any questions for Ms. Thurston?

5 MS. MOEUR: No questions. I'm happy to
6 provide an update.

7 JUDGE PEARSON: Okay. Great.

8 So why don't we go ahead and do that.

9 Ms. Moeur, if you could stand and raise your right hand.

10 MS. MOEUR: Okay.

11

12 ROBIN MOEUR, (Witness sworn.)

13

14 JUDGE PEARSON: Okay. You can proceed with
15 your testimony.

16 MS. MOEUR: Thank you. Judge, just in the
17 way of update -- and Jim ward and --

18 (Telephone interruption as
19 additional party joins the bridge
20 call.)

21 MS. MOEUR: Sorry, can you guys hear me
22 okay?

23 JUDGE PEARSON: Yes.

24 MS. THURSTON: Yeah.

25 MS. MOEUR: Sorry. There was a sound on the

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1 phone.

2 At any rate, we've been working frankly very
3 diligently with Brett Shearer, with the attorney of the
4 KPUD and with Bob Miller, the general manager of the PUD
5 and Jason Thurston on --

6 JUDGE PEARSON: Can you tell me the name of
7 the PUD again? I didn't understand.

8 MS. MOEUR: Oh, I'm sorry, the Kitsap Public
9 Utility District.

10 JUDGE PEARSON: Kitsap, okay. All right.
11 Go ahead.

12 MS. MOEUR: So during the settlement
13 conference in July, we proposed to Bob and Cheri
14 Thurston that the Piper system was setting forth two
15 possible conditions for agreement of transfer. The
16 first condition would be our acceptance of an estimate
17 to be provided from Kitsap Public Utility District for a
18 replacement of our water system. I think the record
19 will probably show in previous detail provided that
20 we've lost 85 percent of capacity on our well and have
21 an obsolete set of appurtenances in the ground, and we,
22 the nine families on Piper systems, started working with
23 Kitsap Public Utility District at the direction of
24 Public Health to determine some options.

25 We petitioned the board of Kitsap Public

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1 Utility District at their regular scheduled meeting in
2 July for approval to start the process of the estimate,
3 and that approval was granted on July 28th, with a
4 deadline for the estimate to be provided to us in the
5 month of September.

6 So the condition was upon acceptance of the
7 estimate, the Thurstons would then be available to
8 transfer the Piper system to a local utility district
9 formed under agreement and in process with Kitsap Public
10 Utilities.

11 If, however, for any reason a majority of
12 the families in the Piper system were to reject the
13 estimate, we were in agreement that we, the nine
14 families, would form a homeowners association with the
15 Secretary of State's office, and the transfer of the
16 Piper system would be to that homeowners association,
17 and that the entire process, regardless of acceptance or
18 denial of the estimate, would be completed no later than
19 December 31st of this year.

20 In the meantime, just for the record, City
21 of Bainbridge Island, through the Director of Public
22 Works -- and his name is Barry Loveless -- intervened
23 with an option for City of Bainbridge Island to provide
24 service to us because we are within the definition of
25 the retail water service area on Bainbridge Island. I

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1 have, however, received communication from them
2 addressed to me and to Bob Miller of the PUD that City
3 of Bainbridge Island is not able to provide that service
4 and has green-lighted the estimate with KPUD to proceed,
5 so they are in the process of finishing the estimate and
6 we expect to see it in September. And at that point, on
7 acceptance, Bob and Cheri agreed in the settlement
8 conference to transfer. Upon rejection, they would
9 transfer to the homeowners association to be formed.

10 JUDGE PEARSON: Okay. Thank you. Is that
11 all you have, Ms. Moeur?

12 MS. MOEUR: Yes.

13 JUDGE PEARSON: Okay. Mr. Shearer, do you
14 have any questions for Ms. Moeur?

15 MR. SHEARER: No, Your Honor.

16 JUDGE PEARSON: Okay. Mr. or Ms. Thurston,
17 do you have any questions?

18 MR. THURSTON: I do.

19 Hi again. This is Bob. What was the --
20 what was the city's offer, the City of Bainbridge
21 Island's offer?

22 MS. MOEUR: The City of Bainbridge Island
23 has created a Comprehensive Water Plan. That plan was
24 created in 1996. Under the conditions of that plan,
25 which they provided to us a couple weeks ago, anybody

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1 requesting water within what's described as the retail
2 water service area apparently is required to ask the
3 city to provide its water before it can pursue an
4 option. However, under further discovery, there are
5 conditions to that, one of which is that it would be a
6 new water system, which as you know, we are not. We are
7 replacement of a private Class B system; and two, there
8 would have to be the threat of potential of the water
9 system going into receivership, and I indicated I didn't
10 believe that was the case. So while they suggested we
11 weren't entirely obliged, it was recommended that we
12 satisfy so that there wouldn't be a future delay by the
13 city wanting to intervene after we started to form the
14 LUD, so we had to formally ask for their ability to
15 service, and they provided written response that they
16 were not, in fact, able to provide water to us and that
17 we should proceed with the PUD.

18 MR. THURSTON: Okay. Thank you.

19 MS. MOEUR: Yeah.

20 JUDGE PEARSON: Okay. And I did hear
21 another party come on the bridge line while Ms. Moeur
22 was testifying. Could you please identify yourself.

23 MS. ALPAUGH: Yes, Vivienne Alpaugh from the
24 Lightmoor Court Water System.

25 JUDGE PEARSON: Okay. So have you spoken to

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1 Mr. Younker?

2 MS. ALPAUGH: Yes. He had -- he's ill and
3 had to rush to the doctor, so...

4 JUDGE PEARSON: Okay.

5 MS. ALPAUGH: I didn't even know what time
6 to call in. I apologize. It sounds like you were under
7 way. I thought it started at ten.

8 JUDGE PEARSON: Yes, we have been under way.
9 So you'll be standing in for Mr. Younker this morning?

10 MS. ALPAUGH: Yes.

11 JUDGE PEARSON: Can you spell your first and
12 last name and give us your address, email address and
13 phone number for the record, please.

14 MS. ALPAUGH: Yes. So it's Vivienne
15 Alpaugh, Vivienne is V-I-V-I-E-N-N-E. Last name is
16 Alpaugh, A-L-P, as in Paul, A-U-G-H, and the address is
17 8411 Northeast Lightmoor Court, Bainbridge Island,
18 Washington 98110, and email address, is that what --

19 JUDGE PEARSON: Yes.

20 MS. ALPAUGH: It's V-V Alpaugh,
21 A-L-P-A-U-G-H@aol.com.

22 JUDGE PEARSON: And your phone number?

23 MS. ALPAUGH: (206) 842-0327.

24 JUDGE PEARSON: Okay. And did you have any
25 testimony that you wanted to give this morning,

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1 Ms. Alpaugh?

2 MS. ALPAUGH: No. I was basically calling
3 in just to monitor. We hadn't provided any exhibit or
4 witness list because we hadn't received anything from
5 the other side, but the (inaudible) has asked me to
6 monitor and see if there was anything that we needed to
7 present or discuss.

8 JUDGE PEARSON: If you have an update, that
9 would be useful, and I would need to swear you in before
10 you gave that, but do you have an update, with respect
11 to the Lightmoor Water System?

12 MS. ALPAUGH: Not since the settlement
13 conference.

14 JUDGE PEARSON: Okay.

15 MS. ALPAUGH: But I know that there were
16 other parties there both calling in and in attendance --

17 JUDGE PEARSON: Right.

18 MS. ALPAUGH: -- from our water system, and
19 so I don't really have an update since then.

20 JUDGE PEARSON: Okay.

21 MS. ALPAUGH: I haven't received anything.

22 JUDGE PEARSON: Okay. So, Mr. Shearer, do
23 you have anything else?

24 MR. SHEARER: I just wanted to make a brief
25 closing statement whenever you -- at your convenience,

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1 Your Honor.

2 JUDGE PEARSON: Okay. I think this would be
3 a good time for that.

4 MR. SHEARER: I just wanted to summarize
5 this case.

6 MR. THURSTON: Not yet.

7 MR. SHEARER: I just wanted to briefly
8 summarize the case and Staff's recommendation.

9 We have, in Docket 143617, a petition to
10 transfer the systems currently, but we don't have any --
11 any formal documentation or formal recipients yet, so
12 Staff is recommending denial of that petition in that
13 docket.

14 I know you heard a lot of discussion today
15 about kind of a parallel track that's going on with at
16 least two of the three water systems, to transfer those
17 and set those up for transfer in the future, and I just
18 want to clarify that those were a parallel track, and
19 Staff is remaining to work with those -- with the owners
20 and the customers, and at least two of the three clearly
21 have a path forward for a future transfer and a future
22 petition or some other request of the Commission. So I
23 just wanted to clarify that those were a separate item
24 that we're working on from what you're deciding here
25 today.

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1 JUDGE PEARSON: Right. Thank you.

2 Does anyone else on the bridge line have
3 anything they would like to say in closing?

4 MS. MOEUR: Judge, this is Robin Moeur. The
5 only other thing I might add with respect to our ability
6 to provide any kind of written contractual agreement
7 referencing the transfer conditions that we reached with
8 Thurstons at the settlement conference is that we were
9 advised by those KPUD attorneys -- and, Brett, you
10 participated in this decision as well -- that in the
11 absence of the actual estimate which conditions the
12 transfer, that we really aren't in a position to ask the
13 Thurstons to sign an agreement based on something that
14 doesn't yet exist because the estimate hasn't been
15 finalized. So I would completely expect that at the
16 point that we receive the written estimate from KPUD in
17 September, that we ought to be able to make a decision,
18 you know, in a relatively timely fashion, and we're
19 doing everything we can, but on advice of counsel, we
20 didn't try to put anything down for signature because we
21 can't condition a transfer on something that doesn't
22 exist.

23 JUDGE PEARSON: Okay. Thank you.

24 Anything else?

25 MR. SHEARER: Nothing from Staff, Your

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1 Honor.

2 JUDGE PEARSON: Okay. Hearing nothing, I
3 want to thank you all for coming today and appearing on
4 the bridge line, and as I stated earlier, I will be
5 taking everything that was heard today under advisement
6 and issuing an order. And if we have nothing further,
7 then we will be adjourned. Thank you.

8 (Hearing concluded at 10:06 a.m.)

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C E R T I F I C A T E

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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6 I, Lisa Buell, a Certified Shorthand Reporter and
7 Notary Public in and for the State of Washington, do
8 hereby certify that the foregoing transcript of the
9 hearing on AUGUST 28, 2015, is true and accurate to the
10 best of my knowledge, skill and ability.

11

IN WITNESS WHEREOF, I have hereunto set my hand
12 and seal this 10th day of SEPTEMBER, 2015.

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LISA BUELL, RPR, CRR, CCR

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18 My commission expires:

19 DECEMBER 2018

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