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Utilities and Transportation Division

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March 18, 1996

Steve McLellan, Secretary  
Washington Utilities and  
Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

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STATE OF WASHINGTON  
UTILITY AND TRANSPORTATION  
COMMISSION

Re: WUTC v. Cascade Natural Gas  
Docket No. UG-951415

Dear Mr. McLellan:

Enclosed are the original and 19 copies of the Answer of Commission Staff to Northwest Natural Gas Company's Objection to Second Supplemental Order on Prehearing Conference. Please accept the same for filing.

Very truly yours,

ANN E. RENDAHL  
Assistant Attorney General

AER/dc

Enclosure

cc: All Parties



BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
CASCADE NATURAL GAS )  
CORPORATION, )  
 )  
Respondent. )  
..... )

Docket No. UG-951415  
  
ANSWER OF COMMISSION STAFF  
TO NORTHWEST NATURAL GAS  
COMPANY'S OBJECTION TO  
SECOND SUPPLEMENTAL ORDER  
ON PREHEARING CONFERENCE

The Staff of the Washington Utilities and Transportation Commission ("Commission") submits this Answer to Northwest Natural Gas Company's ("NNG") Objection to Second Supplemental Order on Prehearing Conference ("Order") and requests the Commission deny NNG's Objection and Motion for Reconsideration.

On January 19, 1996, NNG filed a Petition for Intervention with the Commission stating its interest in the issues of rate design, cost allocation, rate of return, and treatment of special contract revenues raised in the present proceeding. In its petition, NNG indicated it did not intend to raise any issues, submit testimony, or call witnesses, but stated it might cross examine other's witnesses and submit briefs and motions.

Following the prehearing conference held on February 15, 1996, the Administrative

Law Judge issued the Order on February 26, 1996. In the Order, the ALJ denied NNG's Petition for Intervention on the basis of Commission Staff's objection. As stated in the Order, "Commission Staff objected to the intervention on grounds NNG failed to state an interest in this proceeding which would support intervention." Order at 1.

On March 8, 1996, NNG filed an objection to the Order asserting an "undeniable interest in the issues of rate design, cost allocation, rate of return, and the treatment of special contract revenues that are raised in this proceeding." NNG finds it inconceivable that Commission Staff would argue that NNG does not have an interest and complains that NNG was given no prior notice of Commission Staff's objection to the petition for intervention.

Although NNG may find it difficult to believe Commission Staff would object to its petition to intervene, the Commission's procedural rule governing intervention requires that a person requesting intervention must disclose a "substantial interest in the subject matter of the hearing." WAC 480-09-430(3). Merely stating an interest does not suffice.

Both the petition and objection filed by NNG assert only that the Company has an interest in the issues raised in the proceeding. However, NNG does not demonstrate a substantial interest sufficient to justify intervenor status.<sup>1</sup> In fact, NNG shares neither customers nor service territory with Cascade Natural Gas.

A natural gas company regulated by the Commission may have an interest in proceedings involving another regulated natural gas company, as the outcome of such proceedings may establish guidelines on how the Commission may treat similar issues in later

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<sup>1</sup>WAC 480-09-430(3) also allows intervention if participation is in the public interest. No such showing has been made, or even attempted by NNG.

proceedings. However, a rate case is not a rulemaking. The Commission has long recognized each company as separate and distinct from others in the same industry. Should NNG submit its own rate case, the Commission will determine the issues in a manner specific to NNG. Thus, the general interest of NNG does not necessarily translate to a "substantial interest" justifying intervenor status.

Moreover, NNG asserts it will not file testimony or offer any witnesses, and may not cross-examine witnesses and submit pleadings. Its participation as a formal party to this proceeding would therefore, provide little benefit or assistance to the Commission or their parties. NNG can easily follow the issues in this proceeding as an interested person by requesting copies of all documents filed in the case and reviewing any subsequent Commission orders. It is not necessary for NNG to be a formal party in this proceeding.

Finally, NNG complains it received no prior notice of the Commission Staff's objection to their petition for intervention. Prior notice of objection is not required by the Commission's rules. In addition, intervention in Commission hearings is not a matter of right, it is permissive. See WAC 480-09-430(3). The Commission's procedural rule governing prehearing conferences provides:

A party's failure to attend the [prehearing] conference, in the absence of a showing of good cause for that failure, will constitute the party's waiver of all objections to any order or ruling arising out of the conference or any agreement reached at conference. . . .

The disposition of petitions for leave to intervene in the proceeding filed pursuant to WAC 480-09-430 may be ruled upon at a prehearing conference.

WAC 480-09-460(1).

By failing to appear at the February 15, 1996 prehearing conference, NNG has

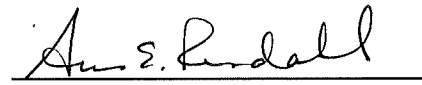
waived any objection to rulings arising out of the prehearing conference, including rulings on petitions to intervene. NNG asserts the staff person assigned to the matter became ill and was not able to attend. If NNG's participation in the proceeding were so important, it could have assigned another staff person or attorney to attend the prehearing conference.

Thus, for the reasons set forth above, Commission Staff renews its objection to the intervention of NNG in this proceeding and requests the Commission deny NNG's motion for reconsideration.

DATED this 18th day of March, 1995.

Respectfully submitted,

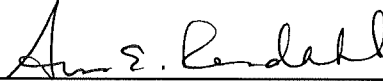
CHRISTINE O. GREGOIRE  
Attorney General

  
ROBERT D. CEDARBAUM  
ANN E. RENDAHL  
Assistants Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon each known party of record in this proceeding by mailing a copy thereof properly addressed to each such party by first class mail, postage prepaid.

DATED this 18th day of March, 1996.



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