

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION,)	
4)	
	Complainant,)	
5)	
	vs.)	DOCKET NO. UG-060256
6)	Volume II
	CASCADE NATURAL GAS)	Pages 35 - 54
7	CORPORATION,)	
)	
8	Respondent.)	

9
10 A prehearing conference in the above matter
11 was held on July 25, 2006, at 9:04 a.m., at 1300 South
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge ANN RENDAHL (via bridge
14 line).

15 The parties were present as follows:

16 THE WASHINGTON UTILITIES AND TRANSPORTATION
17 COMMISSION, by GREGORY J. TRAUTMAN, Assistant Attorney
18 General, 1400 South Evergreen Park Drive Southwest,
19 Post Office Box 40128, Olympia, Washington 98504;
telephone, (360) 664-1187.

20 CASCADE NATURAL GAS CORPORATION, by JAMES M.
21 VAN NOSTRAND, Attorney at Law, Perkins Coie, 1120
Northwest Couch Street, Tenth Floor, Portland, Oregon
97209; telephone, (503) 727-2162.

22 PUBLIC COUNSEL, by JUDITH KREBS, Assistant
23 Attorney General, 900 Fourth Avenue, Suite 2000,
Seattle, Washington 98164; telephone, (206) 464-6595.

24 Kathryn T. Wilson, CCR
25 Court Reporter

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1 THE ENERGY PROJECT, by BRAD M. PURDY (via
2 bridge line), Attorney at Law, 2019 North 17th Street,
3 Boise, Idaho 83702; telephone, (208) 384-1299.

4 COST MANAGEMENT SERVICES, by JOHN A. CAMERON,
5 Attorney at Law, Davis Wright Tremaine, 1300 Southwest
6 Fifth Avenue, Suite 2300, Portland, Oregon 97201;
7 telephone, (503) 778-5206.

8 NORTHWEST INDUSTRIAL GAS USERS, by EDWARD A.
9 FINKLEA (via bridge line), Attorney at Law, Cable
10 Huston Benedict Haagensen & Lloyd, 1001 Southwest Fifth
11 Avenue, Suite 2000, Portland, Oregon 97204; telephone,
12 (503) 224-3092.

13 NORTHWEST ENERGY COALITION, by NANCY GLASER,
14 Senior Policy Associate, 219 First Avenue South, Suite
15 100, Seattle, Washington 98104; telephone, (206)
16 621-0094

17 INTERNATIONAL CHEMICAL WORKERS UNION COUNCIL
18 121-C, by VINCENT DIAZ, Representative, 1095 Makah
19 Place, Fox Island, Washington 98333; telephone, (253)
20 549-0084.

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

2 JUDGE RENDAHL: I'm Ann Rendahl, the
3 administrative law judge presiding over this
4 proceeding. We are here, some of us are here, but for
5 the Washington Utilities and Transportation Commission
6 this morning, Tuesday, July 25th, 2006, for a
7 prehearing conference in Docket No. UG-060256,
8 captioned WUTC versus Cascade Natural Gas Corporation.
9 The purpose of our prehearing this morning is to
10 address whether the recently announced acquisition of
11 Cascade by MDU Resources Group will have any effect on
12 this rate case.

13 So before we go any farther, let's take
14 appearances, and as all of you have given full
15 appearances at the first prehearing conference, if you
16 could just state your name and the party you represent,
17 but if your contact information has changed, if you
18 could please provide that information, and let's begin
19 with the Company; Mr. VanNostrand?

20 MR. VAN NOSTRAND: Thank you, Your Honor. On
21 behalf of Cascade Natural Gas Corporation, James M. Van
22 Nostrand. My new contact information is the law firm
23 of Perkins Coie, LLP, 1120 Northwest Couch Street,
24 Tenth Floor, Portland, Oregon, 97209, and my phone
25 number is (503)727-2162. Fax is (503) 346-2162.

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1 E-mail address is jvannostrand@perkinscoie.com.

2 JUDGE RENDAHL: For Staff?

3 MR. TRAUTMAN: Greg Trautman, assistant
4 attorney general for Commission staff.

5 JUDGE RENDAHL: For public counsel?

6 MS. KREBS: Judy Krebs, assistant attorney
7 general for public counsel.

8 JUDGE RENDAHL: For the Northwest Industrial
9 Gas Users?

10 MR. FINKLEA: Ed Finklea of the law firm
11 Cable Huston attending by the bridge line on behalf of
12 Northwest Industrial Gas Users.

13 JUDGE RENDAHL: Thank you. For the Northwest
14 Energy Coalition?

15 MS. GLASER: Nancy Glaser, senior policy
16 associate.

17 JUDGE RENDAHL: And are you in the room?

18 MS. GLASER: Yes.

19 JUDGE RENDAHL: For The Energy Project?

20 MR. PURDY: Brad Purdy on behalf of The
21 Energy Project on the bridge line.

22 JUDGE RENDAHL: For the Mid Farm Energy
23 Center, is there anyone on the bridge or in the room?
24 Hearing nothing, for Cost Management Services?

25 MR. CAMERON: I'm John Cameron of Davis,

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1 Wright, Tremaine here for CMS, and I'm in the room.

2 JUDGE RENDAHL: For the International
3 Chemical Workers?

4 MR. DIAZ: Vincent Diaz, and I'm in the room.

5 JUDGE RENDAHL: Is there anyone else in the
6 room who is representing a party in this case who I
7 have not taken an appearance from? Just as a warning,
8 I will try to identify myself when I break in, but if
9 you are on the bridge line and you are speaking, for
10 the court reporter, it would be helpful if you could
11 identify yourself.

12 I appreciate that all of you are making time
13 available during your settlement discussions this
14 morning for this conference. The commissioners asked
15 that I hold this prehearing to determine whether the
16 recently announced acquisition of Cascade will have any
17 effect on the case. The reason for raising the issue
18 is due to the Commission's recent experience in the
19 PacifiCorp rate case where the Company was acquired by
20 Mid American Energy Holdings Company while the rate
21 case was pending.

22 In that case, witnesses in response testimony
23 raised concerns about the Company's proposed cost of
24 capital given the proposed merger or acquisition, and
25 then at the eve of hearing, the Commission determined

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1 that there wasn't sufficient evidence in the record to
2 address the effect of the merger, which was raised by
3 the response testimony on the cost of capital, and then
4 requested supplemental testimony, so I would really
5 like to not repeat that crisis in this rate case.

6 While MDU has not yet filed a request for
7 approval for the acquisition with this Commission, I
8 would like your thoughts, beginning with the Company,
9 about whether you see any issues in this case that
10 would be affected by the proposed acquisition, such as
11 cost of capital, and if so, how you recommend we
12 address the issues, including any changes in schedule.
13 So let's begin with Mr. Van Nostrand.

14 MR. VAN NOSTRAND: Thank you, Your Honor. I
15 do understand why the Commission and you wanted to
16 explore this issue given my involvement in the
17 PacifiCorp Mid American docket, and this is quite a bit
18 different. In that case, PacificCorp had filed the
19 case on May 5th, and the plan of action was announced
20 about three weeks later. Here we've had this case on
21 file since February 14th, and the transaction was
22 announced just a couple of weeks ago. So we are well
23 into this process, basically have gotten the discovery
24 done on the Company's direct case.

25 Our view at this point is it's premature to

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1 discuss what impact the transaction might have on the
2 filing. We don't even have an application filed, as
3 you mentioned, and until that application is filed,
4 it's speculative to suggest what impact, if any, the
5 transaction could have on Cascade's operations.

6 Presumably what MDU Resources has in mind or
7 how it intends to operate, that phase will be addressed
8 in the application, but we simply don't have that
9 information before us. And just looking at the time
10 periods involved suggests to me that the transaction
11 will have no impact on the rate case. The test period
12 for the rate case is the 12 months ending September
13 30th, 2005, and the pro forma adjustments are
14 essentially through September 30th, 2006. Rates become
15 effective on January 15th, 2007, or mid January, 2007.

16 As near as I can tell, the application
17 probably won't be filed until, at the earliest, mid to
18 late September, and assuming a ten-month approval
19 process, which is probably about as fast as it can
20 happen, it won't be an application until July of 2007
21 at the earliest, so no impacts at all would occur until
22 the fall of 2007, or about eight or nine months after
23 rates would take effect in this case.

24 I guess turning to the more technical aspects
25 of whether or not everything impacts on the case, I

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1 look to the Commission's standard of the known and
2 measurable adjustment as the basis for pro forma
3 adjustments, and first of all, I don't think you can
4 presume the transaction is necessarily going to be
5 consummated. It's subject to the shareholder's
6 approval by Cascade. It's subject to regulatory
7 approval in six states, including Washington and
8 Oregon, and four MDU states.

9 I don't think we can presume Commission
10 approval of this transaction by this commission that
11 there has been a number of transactions that were
12 announced that were never consummated. I was involved
13 in one involving Northwest Natural to acquire Portland
14 General -- previously water power -- just because an
15 application is announced does not necessarily mean it's
16 going to be consummated, so it's not a known and
17 measurable event if the Commission will approve the
18 transaction.

19 And then I guess even if you could assume
20 Commission approval of the transaction and all other
21 regulatory approval, then you look at whether there is
22 any basis for pro forma adjustments, and the impact on
23 Cascade's profit is certainly not known. There is no
24 certainty as to either timing or amount. There is no
25 effort that's yet been made by MDU or Cascade to

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1 identify any impacts on costs that may arise from the
2 transaction, other than what I mentioned to be some
3 obvious costs of possible central corporate services,
4 and these are the types of issues, to the extent there
5 are potential costs associated with the transaction,
6 that would be addressed in the merger docket and
7 potentially could be addressed through conditions that
8 could be imposed in connection with the approval of the
9 transaction.

10 I guess if anything, it may be appropriate to
11 revisit the issue after an application is filed where
12 we have a better idea of what MDU Resources has in mind
13 for operating Cascade, whether or not they've come any
14 farther in identifying if there are any cost savings
15 that arise from the transaction and what proposal they
16 might propose in the application for addressing
17 possible impacts on costs associated with the
18 transaction. Thank you, Your Honor.

19 JUDGE RENDAHL: Thank you, Mr. Van Nostrand.
20 Mr. Trautman?

21 MR. TRAUTMAN: Yes, thank you. Staff would
22 largely concur with the Company's comments.
23 Essentially, we would agree that it's premature at this
24 point to try to determine what effects there might be
25 from the merger. It is speculative, particularly since

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1 the Company has indicated the application probably
2 won't be filed until probably late September at the
3 earliest, and also we agree that the impacts, whatever
4 those impacts might be, won't take effect until at
5 least mid to late 2007, at least half to three quarters
6 of the way through the rate year.

7 We can't tell what type, if any, pro forma
8 adjustments might need to be made, and we would agree
9 that it's possible that if anything needed to be done,
10 they could be possibly handled by conditions on the
11 merger itself, and if the Commission wanted to revisit
12 the issue after a merger application is filed, that too
13 might be appropriate, but at this point, we think it's
14 too speculative to attempt to account for the merger in
15 the rate case at this point.

16 JUDGE RENDAHL: Okay. Thank you. For public
17 counsel?

18 MS. KREBS: Yes. Judy Krebs for public
19 counsel. I would like to take the opportunity to say
20 we largely agree with the Company and Staff on this.
21 The only concern that we have about what the Company
22 has said today, as well as Staff, is the
23 appropriateness of revisiting this after the merger
24 application is filed.

25 Mr. Van Nostrand has identified that as

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1 September. That would be problematic given that the
2 hearing in this matter is set for October 9th, and we
3 would have possibly, depending on when in September,
4 already finished rebuttal and cross-rebuttal testimony,
5 and it would open up at least another number of rounds
6 of discovery requests and additional testimony.

7 So I think the better way is to essentially
8 finish the rate case and then move on on the schedule
9 discussed by Mr. Van Nostrand, which is filing in
10 September and having it resolved in a 10- or 11-month
11 time period giving full and due consideration of the
12 merger application.

13 I also raise the possibility of looking at
14 this another way, which is that there is nothing that
15 would prevent the admission of relevant evidence in the
16 rate case automatically into the merger proceeding so
17 that for judicial economy, we not have to revisit a
18 number of the issues that we've already to some extent
19 explored and can explore further given the change in
20 time period, and as Mr. Van Nostrand and Mr. Trautman
21 pointed out, the difference in test year that we will
22 be in.

23 So that's some of our comments, and I don't
24 know whether or not, being fairly new to this, that's
25 ever been adopted where a record created in one case

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1 where the evidence is relevant to the subsequent case
2 has been automatically deemed admitted having already
3 been admitted in the prior case. Excuse me; not
4 automatically admitted because the foundation will have
5 been established but not necessarily the relevance, so
6 I raise that as a possibility.

7 JUDGE RENDAHL: We'll get back to that issue
8 in a few minutes. For the Northwest Industrial Gas
9 Users?

10 MR. FINKLEA: We note that there are data
11 requests that the Staff put out just, I believe, last
12 week asking Cascade some of the implications of the MDU
13 acquisition, and our thought going into this morning's
14 session is that we would ask that we have about ten
15 days to file anything; that if based on the responses
16 to those data requests we find that there would be a
17 reason to dovetail the implications of the merger in
18 with this proceeding that we would do so within
19 approximately ten days, and the most that we would see
20 that any schedule would have to change is perhaps a
21 30-day extension, if there is some reason to believe,
22 based on those data request responses, that the
23 implication of the merger should be addressed in this
24 proceeding.

25 I think it's a little early to say for sure

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1 that there aren't any implications or that we run the
2 time risk of a September filing with an October hearing
3 date. So our suggestion this morning would be that,
4 Your Honor, that you give all the parties ten days to
5 respond and that the parties get an opportunity to look
6 at these data request responses before doing so and
7 then --

8 JUDGE RENDAHL: I'm sorry. Are you
9 suggesting ten calendar days or ten business days?

10 MR. FINKLEA: Ten calendar days is fine.
11 Shorter is fine. Towards the end of next week is what
12 I was looking at with my own calendar, given that the
13 data request responses should be answered sometime this
14 week or early next week.

15 JUDGE RENDAHL: We will get to that proposal
16 in a little bit. Is there anything else you want to
17 add?

18 MR. FINKLEA: That's all.

19 JUDGE RENDAHL: Thank you, Mr. Finklea.
20 Ms. Glaser?

21 MS. GLASER: I don't think I really have
22 anything to add. I'm new to the process and really
23 don't see any reason to add any additional information.

24 JUDGE RENDAHL: Mr. Purdy?

25 MR. PURDY: Yeah. I agree with what

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1 Mr. Van Nostrand said and also concur with Ms. Krebs'
2 assessment of the possible timing and procedural
3 issues. I think Mr. Finklea's modification or add-on
4 to that is a good idea, so I would concur on that.

5 JUDGE RENDAHL: Okay. Anything else?

6 Mr. Cameron?

7 MR. CAMERON: Our concerns in this rate case
8 deal with specific rate schedules and don't really seem
9 to relate to the proposed merger, but as a general
10 matter, I would agree with the proposition advanced by
11 Mr. Finklea.

12 JUDGE RENDAHL: Okay. And Mr. Diaz?

13 MR. DIAZ: I have really very little to add
14 at this point in time. Thank you.

15 JUDGE RENDAHL: First, Ms. Krebs, I want to
16 clarify your proposal. Are you suggesting that there
17 would be some discussion in this rate case, some
18 testimony and evidence about the merger that would then
19 go into the merger case, or just simply that the basic
20 rate case, assuming the merger didn't exist, or that
21 the acquisition didn't exist, that any relevant
22 information that would be necessary to figure out cost
23 savings in the merger acquisition docket would then be
24 considered in the merger case?

25 MS. KREBS: The latter, Your Honor. Sorry if

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1 I was unclear.

2 JUDGE RENDAHL: I think that proposal should
3 be taken up in the merger case when the time comes. I
4 don't think it's appropriate at this point to make a
5 decision one way or the other, so I would ask that you
6 hold that thought until the appropriate time.

7 MS. KREBS: Yes, Your Honor.

8 JUDGE RENDAHL: Is there any opposition from
9 the Company to Mr. Finklea's proposal to have any
10 written thoughts on this issue be submitted to the
11 Commission within ten days?

12 MR. VAN NOSTRAND: I think I would point out
13 that the Company has discussed those data requests
14 internally, and I don't believe the answers are going
15 to be all that revealing. It's simply too early in the
16 process to be able to provide responses to most of
17 those questions.

18 I think we will be providing a copy of the
19 merger agreement, things like that, publicly available
20 information, but to the extent those questions ask for
21 more information about cost savings potential impacts,
22 there simply isn't any information available to bear on
23 that, so I don't want to hold out and suggest it's
24 going to be worth waiting for revisiting. If that's
25 the way you want to rule on it, Your Honor, you can. I

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1 just want to put that on the record that I don't think
2 there is going to be all that much light shed on the
3 issues that folks may be anticipating.

4 On the timing issue, I wanted to point out
5 the suggestion that an application is going to be
6 probably in September was really based on my experience
7 about as quickly as it can be done with this Mid
8 American deal announced on May 24th and the application
9 be filed on July 15th, and I'm not aware these
10 discussions have really been had on the MDU or Cascade
11 transaction.

12 The last one that was scheduled was
13 contemplated, but September would be the absolute
14 earliest, and we could be talking months beyond that
15 and likely are, so I don't want people to land on this
16 September date as carved in stone, but it's just me
17 speaking out of turn based on speculation from prior
18 experience.

19 JUDGE RENDAHL: Do parties have any
20 preference? Ten calendar days would be August 4th from
21 today, but I don't know if that's the date we are
22 focusing on, or ten business days would be August 8th
23 from today. I would just leave it as an option for
24 parties. If they wish to file comments on this
25 issue...

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1 MR. VAN NOSTRAND: This would be ten days
2 after the responses are received, Your Honor, I
3 believe, which isn't until next -- Wednesday, August
4 1st is the due date for the data request responses.

5 JUDGE RENDAHL: So it's a preference for ten
6 business days or ten calendar days?

7 MR. FINKLEA: My preference would be the
8 business days. If we are going to see answers on
9 Wednesday, if we could file something by August 8th,
10 that would give people time to digest what they see in
11 the data requests. Otherwise, if we see the responses
12 on Wednesday, then you are basically immediately
13 responding and filing by Friday.

14 JUDGE RENDAHL: Why don't we suggest that if
15 the responses are due -- I have Wednesday, August
16 2nd -- why don't we say Friday the 11th. If you have
17 any comments based on those responses that is different
18 from what you've said here at the prehearing this
19 morning, then you file comments with the Commission by
20 Friday, August 11th.

21 MR. VAN NOSTRAND: The due date is August
22 1st, being a Tuesday.

23 JUDGE RENDAHL: So why don't we just leave it
24 with the 11th, and that gives parties eight business
25 days to respond, and I think that's -- well, actually,

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1 the answering testimony is due on the 15th.

2 MS. KREBS: That would be my concern, Judge
3 Rendahl.

4 JUDGE RENDAHL: Should we stick with the 8th?

5 MR. FINKLEA: We can work with that.

6 JUDGE RENDAHL: So if there is anything that
7 the parties need to let us know about that would
8 suggest a need for change in schedule, you need to file
9 your comments on the data request responses by August
10 8th, I would say, by three p.m. electronically, paper
11 due on the 9th.

12 MS. KREBS: Your Honor, can I just ask a
13 clarifying question? When I heard Mr. Finklea, what I
14 heard was -- I'm not sure what I heard, if it was
15 comments or a motion.

16 JUDGE RENDAHL: I didn't hear the word
17 "motion." If there is a need to change the schedule or
18 parties feel a need to change the schedule, it's always
19 your option to file a motion, but if there is something
20 you need the Commission to know about based on the
21 responses to the data requests, you can file whatever
22 that is you are going to file on the 8th. I'm calling
23 it comments, but if you feel the need to file a motion,
24 we can address it then.

25 MR. FINKLEA: Thank you, Your Honor. That

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1 makes sense to me.

2 JUDGE RENDAHL: Is there anything else that
3 we need to address this morning? I would just caution
4 the parties that given the experience in the PacifiCorp
5 case, it was the mention in the response testimony that
6 there may be an effect that caused the ripple effect in
7 that case. So if you are not intending to put
8 something in the record about the merger, then don't do
9 it because it may have unintended consequences, so just
10 a warning to all of you. We are either going to do
11 this or not, so let's not do anything halfway.

12 MR. CAMERON: Your Honor, if I could be
13 heard. I just wanted to put on the record that we
14 still have a data request that was tendered to the
15 Company in May that has not been answered. We have
16 been quite patient, repeatedly making inquiries, but
17 our Data Request No. 39 remains unanswered. Earlier,
18 there were a number of them in this situation, but the
19 Company responded to all but one. We do need an answer
20 on 39.

21 JUDGE RENDAHL: Are you in the room with
22 Mr. Van Nostrand today?

23 MR. CAMERON: Yes.

24 JUDGE RENDAHL: I would like you to discuss
25 it with Mr. Van Nostrand, and if after today you

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1 haven't resolved the issue, I would like both of you to
2 call me in the morning and we will set up a time to
3 discuss it.

4 MR. CAMERON: Thank you.

5 JUDGE RENDAHL: Is there anything else we
6 need to address this morning? I appreciate the time
7 you've taken out of your settlement conference to
8 discuss this this morning. Is there anyone who needs
9 to order a transcript of the conference who is on the
10 bridge line? For those of you in the room, I will let
11 you work that out with Ms. Wilson.

12 I will enter a prehearing conference order on
13 Wednesday based on the discussion today, specifically
14 the timing for comments, and appreciate your time and
15 thoughts on this, and I will let you go forward with
16 your settlement discussions. We'll be off the record.
17 Thank you.

18 (Prehearing conference adjourned at 9:30 a.m.)

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