

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

)	
THE PUBLIC COUNSEL SECTION OF)	
THE OFFICE OF THE WASHINGTON)	
ATTORNEY GENERAL,)	DOCKET NO. U-030744
)	
Complainant,)	
)	
v.)	
)	
CASCADE NATURAL GAS)	NOTICE OF PREHEARING
CORPORATION, AND PACIFICORP)	CONFERENCE
D/B/A PACIFIC POWER & LIGHT)	(Set for November 21, 2005,
COMPANY,)	1:30 p.m.)
)	
Respondents.)	
.....)	

1 On August 6, 2002, the Yakama Nation passed an ordinance that required utilities providing service within the boundaries of the Yakama Indian Reservation to pay a fee equal to three percent of the utility’s gross operating revenue within the Reservation. Cascade Natural Gas Corporation (“Cascade”) and PacifiCorp filed tariff revisions with the Commission seeking rate recovery of the payments required under the ordinance. On the basis that the payments under the ordinance were most analogous to a local tax, the utilities sought recovery from ratepayers within the taxing jurisdiction. The Commission considered the tariff filing at public meetings on November 27, 2002, December 11, 2002, and January 8, 2003. The Commission heard and considered extensive written and oral comment and argument from various interested persons, some of whom are parties here, and from Commission Staff.

2 The Commission exercised its discretion to take no action and allowed the tariff to take effect by operation of law.

- 3 On January 9, 2003, Elaine Willman and the Citizens Standup! Committee filed a
Petition for Review in Yakima County Superior Court, naming the Commission,
PacifiCorp and Cascade as Defendants.¹
- 4 On May 22, 2003, the Public Counsel Section of the Office of the Attorney
General (Complainant or Public Counsel) filed with the Commission in this
Docket a Complaint against Cascade Natural Gas Corporation, and PacifiCorp
d/b/a Pacific Power & Light Company (Respondents), regarding the same subject
matter.
- 5 On June 5, 2003, the Superior Court denied Plaintiff's Motion for Partial
Summary Judgment and PacifiCorp's and Cascade's cross-motions for summary
judgment. In subsequent orders entered on July 28, 2003, and August 22, 2003,
the Court dismissed Plaintiffs claims, upholding the Commission.
- 6 On September 16, 2003, Elaine Willman and the Citizens StandUp! Committee
appealed the Yakima Superior Court's orders to the Court of Appeals of the State
of Washington, Division III. Cascade cross-appealed in that Court on September
30, 2003. PacifiCorp cross-appealed, also in the Division III Court, on October
1, 2003.
- 7 On October 6, 2003, finding a significant overlap and even an identity of issues in
the matters before the Court of Appeals and in the proceedings pending before
the Commission in this Docket, the Commission entered an order staying these
proceedings pending decision by the Court.
- 8 On July 1, 2004, the Court of Appeals affirmed the Superior Court, upholding the
Commission in a unanimous decision.

¹ *In the Matter of Elaine Willman and the Citizen's Standup! Committee v. Washington Utilities and Transportation Commission, Cascade Natural Gas Corporation, and PacifiCorp, d/b/a Pacific Power and Light Company*, Yakima County Superior Court No. 03-2-00086-7.

9 On July 26, 2004, Elaine Willman and the Citizens StandUp! Committee filed a Petition for Review with the state Supreme Court. On August 11, 2005, the Supreme Court entered its unanimous decision expressly affirming the trial court and the Court of Appeals.

10 **NOTICE IS GIVEN That a prehearing conference in this matter will be held at 1:30 p.m., on Monday, November 21, 2005, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Commission requires in this case that parties appear at the prehearing conference in person through one or more representatives. The Commission's teleconference bridge line will be available for monitoring purposes only.**

11 The purpose of the prehearing conference is to hear from Public Counsel whether it contends any issues raised by its Complaint in this proceeding require further action by the Commission in light of the decisions by the Superior Court, the Court of Appeals, and the Supreme Court that have uniformly upheld the Commission with respect to the matter that is the common subject of the appeals brought by Elaine Willman and the Citizens StandUp! Committee, and by Public Counsel through its Complaint in this proceeding. If Public Counsel contends that issues remain for resolution, the Commission will hear argument from other parties and determine whether to dismiss this proceeding or to establish a schedule for further process.

DATED at Olympia, Washington and effective this 24th day of October, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge