

EXHIBIT NO. _____ (TSL-1T)
DOCKET NO. UG-060256
PRE-FILED DIRECT TESTIMONY OF
THEODORE S. LEHMANN FOR CMS (NON-CONFIDENTIAL)

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Washington Utilities and Transportation
Commission,

Complainant,

v.

Cascade Natural Gas Corporation

Respondent.

Docket No. UG-060256

PRE-FILED DIRECT AND ANSWERING TESTIMONY OF
THEODORE S. LEHMANN ON BEHALF OF COST MANAGEMENT
SERVICES, INC. (NON-CONFIDENTIAL)

August 14, 2006

1 COST MANAGEMENT SERVICES, INC.
2 PRE-FILED DIRECT AND ANSWERING TESTIMONY OF
3 THEODORE S. LEHMANN

4 I. INTRODUCTION AND PURPOSE OF TESTIMONY 2
5 II. RELEVANT TESTIMONY OF MR. STOLTZ 3
6 III. SCHEDULE NOS. 663 AND 664 4
7

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1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2 *Q. Please identify yourself for the record.*

3 A. My name is Theodore S. Lehmann. I am founder and president of Direxx Energy, Inc., a
4 competitive, retail natural-gas marketer, headquartered in Portland, Oregon. In that
5 capacity, I make purchases of natural gas at wholesale for retail sale to industrial and
6 commercial end-user that utilize transportation-only tariff services provided by local
7 distribution companies (“LDCs”).

8 I also serve as a professional consultant on issues relating to gas marketing and the tariff
9 structures of local distribution companies relating to commercial and industrial classes of
10 service. My business address and further details about my education and experience are
11 specified in Exhibit ____ (TL-2).

12 *Q. On whose behalf are you appearing as an expert witness in this proceeding?*

13 A. I am testifying on behalf of Cost Management Services, Inc. (“CMS”), an independent
14 marketer that sells natural gas at retail to industrial and commercial customers, many of
15 which are located within the gas service territory of Cascade Natural Gas Corporation
16 (“Cascade” or “Company”).

17 *Q. What is the interest of CMS in this proceeding?*

18 A. As a gas marketer, CMS has a direct interest in Cascade’s retail sales of natural gas outside
19 this Commission’s statutory oversight and control. My testimony responds to a relevant
20 passage of the prepared direct testimony of Cascade witness, Jon Stoltz, Exhibit __ (JTS-
21 1T). I also address Cascade Schedule No. 663, “Distribution System Transportation
22 Service,” and Schedule No. 664, “Large Volume Distribution System Transportation
23 Service.”

24 *Q. Has the issue of Cascade’s retail gas sales outside Commission oversight and control been*
25 *raised in any other Commission proceeding?*

1 A. Yes, this issue is also before the Commission in Docket No. UG-061256, based on the
2 complaint against Cascade filed by CMS on August 1, 2006. CMS is also addressing the
3 issue in this Cascade rate case because it relates to the testimony of Mr. Stoltz and to
4 language found in Schedule Nos. 663 and 664.

5 **II. RELEVANT TESTIMONY OF MR. STOLTZ**

6 *Q. Please identify the portion of the testimony of Mr. Stoltz that you wish to address.*

7 A. The testimony in question is a narrative explanation in Exhibit __ (JTS-1T) that
8 accompanies Exhibit __ (JTS-4), "Removal of Non-Core Competitive Services Revenues
9 and Gas Cost." Mr. Stoltz is addressing Cascade's proposed removal of certain Company
10 revenues and expenses from the calculation of the Company's cost of service. On page 7,
11 lines 3-18, of Exhibit __ (JTS-1T), Mr. Stoltz makes the following statement:

12 This adjustment removes the revenues, administrative expense and
13 gas cost from the non core competitive services Cascade provides
14 under a Blanket Marketing Certificate, as authorized under 18 CFR
15 Part 284.402 of FERC's regulations. FERC Order No. 547 issued
16 on November 30, 1992 authorized jurisdictional gas sales for resale
17 at market rates, with pre-granted abandonment, to all persons who
18 are not interstate pipelines, except marketing affiliates of non-open
19 access pipelines. The certificates are automatically granted (no
20 application need be filed and no document is issued), and the sale
21 is not restricted by term, price or category of gas. The certificates
22 are limited jurisdictional certificates that do not subject the
23 certificate holder to any regulation under the Natural Gas Act
24 jurisdiction of FERC by virtue of transactions under the certificate.
25 The enactment of Order No. 547 removed the restrictions on local
26 distribution company (LDC) marketing certificates, and allows
LDCs to freely compete in the sale of gas with other marketers. On
Exhibit (JTS-4), the \$30,875,879 for revenue and \$28,268,010 of
gas costs and \$165,332 of administrative expenses are removed
from the test period results. These numbers are also contained in
the Summary Exhibit __ (JTS-2), Schedule 1, Page 2, Lines 1, 5 and
11, Column (c). The FIT and revenue sensitive taxes and fees are
calculated and shown in Column (c).

23 *Q. What do you dispute about this passage of testimony?*

24 A. Mr. Stoltz claims that the Federal Energy Regulatory Commission ("FERC") in its Order
25 No. 547 and in 18 C.F.R. §284.402 has authorized the retail sale of natural gas under
26 blanket marketing certificates. Ultimately, this is a legal issue and I am not a lawyer.

1 Neither is Mr. Stoltz. Even to a non-lawyer, however, 18 C.F.R. §284.402 is clear on its
2 face. It states that it authorizes a certificate holder “to make sales for resale.” That means
3 wholesale, not retail, to professionals in the natural gas industry, lawyers and non-lawyers
4 alike.

5 As president of Direxx Energy, Inc., I routinely purchase gas at wholesale from suppliers
6 acting under FERC blanket marketing certificates. The distinction between wholesale and
7 retail sales is well understood in the industry. I am not aware of any gas supplier active in
8 the Pacific Northwest that claims the right under a FERC blanket market certificate to sell
9 natural gas at retail as well as at wholesale. Thus, I do not believe standard industry practice
10 would support the claim of Mr. Stoltz that this FERC wholesale-gas regulation “allows
11 LDCs to freely compete in the sale of gas with other marketers” at retail.

12 III. SCHEDULE NOS. 663 AND 664

13 *Q. What are your specific criticisms of Schedule Nos. 663 and 664?*

14 *A. Each schedule contains the following statement regarding “Other Services”:*

15 Service under this schedule shall include transportation on the
16 Company’s distribution facilities only. Service under this schedule
17 requires customer to secure both gas supply and pipeline
18 transportation capacity services either through the Company or
19 through third party arrangements. Gas Supplies purchased through
the Company will be in accordance with the FERC regulations.
(18CFR Part 284.402 Blanket Marketing Certificates). [Emphasis
supplied.]

20 If the Commission concludes that 18 C.F.R. §284.402 does not authorize Cascade to make
21 retail sales of natural gas outside this Commission’s oversight and control, then the
22 Commission should order Cascade to delete the underscored language from both Schedule
23 Nos. 663 and 664 because it is deceptive and misleading to the consumer.

24 *Q. Does this conclude your direct testimony?*

25 *A. Yes.*