

FOSTER PEPPER & SHEFELMAN PLLC
ATTORNEYS AT LAW



June 12, 2003

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Petition for Intervention of City of Toppenish
Docket No. U-030744

Dear Ms. Washburn:

Enclosed you will find the original and nineteen copies of the above-referenced Petition.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

FOSTER PEPPER & SHEFELMAN PLLC

P. Stephen DiJulio

PSD:sgb
Enclosures

cc: City of Toppenish
Simon ffitch, AAG
Cascade Natural Gas
Pacifcorp dba Pacific Power & Light Company

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UTIL. AND TRANSP.
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STATE OF WASH.
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**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

The PUBLIC COUNSEL Section of the
Office of the Washington Attorney
General

Complainant,

v.

CASCADE NATURAL GAS CORP.;
PACIFICCORP dba PACIFIC POWER
& LIGHT CO.

Respondents.

Docket No. U-030744

PETITION FOR INTERVENTION
OF CITY OF TOPPENISH

Pursuant to WAC 480-09-430, City of Toppenish ("City") hereby petitions the Washington Utilities and Transportation Commission ("Commission") for leave to intervene in the above-entitled docket. As grounds for this intervention, the City states as follows:

I. CONTACT INFORMATION

All communications with the City should be directed to the following persons:

P. Stephen DiJulio
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II. BACKGROUND INFORMATION

The City is a Washington State municipal corporation located entirely within the reservation boundaries of the Yakama Indian Nation (“Yakama Nation”). The City and its residents are provided certain utility service by Cascade Natural Gas Corporation (“Cascade”), PacifiCorp dba Pacific Power & Light Company (“PacifiCorp”), and other regulated utilities. No hearing or prehearing conference has been scheduled in this docket, and thus this petition is timely pursuant to WAC 480-09-430.

III. INTEREST IN PROCEEDING

The City and its residents have a direct and immediate interest in the subject matters involved in this docket. Pursuant to the Yakama Nation’s Franchise Ordinance (“franchise fee”), the Yakama Nation requires that utilities operating on the reservation enter into franchise agreements in order to continue providing service on the reservation. Unlike Public Counsel, the City does not address the authority of the Nation to require such franchise fees. However, allowing Cascade and PacifiCorp to recharacterize the franchise fees as a municipal tax - and thereby recover the charges from their ratepayers by means of municipal tax additions to be collected from their customers living within the boundaries of the Yakama Nation reservation and/or the city – is not consistent with state law. As a result of this improper treatment, the full burden of the franchise fees falls upon customers living within the reservation boundaries, including the City and its residents.

The interests of the City will therefore be directly affected by the determinations herein. No other party represents the interests of the City in this proceeding. Moreover, the City has independent statutory authority to bring a complaint pursuant to RCW 80.04.110. For these reasons, the City has good cause to intervene in this proceeding, and such intervention is in the public interest.

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IV. SCOPE OF PARTICIPATION

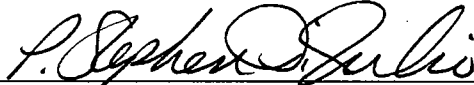
The City's intervention will not broaden the issues to be addressed, burden the record or delay the proceedings. As noted above, the City is interested in resolving the proper regulatory characterization of the Yakama Nation's franchise fee. The City has no interest in addressing the Yakama Nation's authority to impose such franchise fees.

V. RELIEF REQUESTED

WHEREFORE, the City respectfully requests leave to intervene as a party to this proceeding, to file a petition in intervention; with right to discovery; to have notice of and appear at the taking of testimony; to produce and cross-examine witnesses; and to be heard in person or by counsel on brief and at oral argument.

RESPECTFULLY SUBMITTED this 12th day of June 2003.

FOSTER PEPPER & SHEFELMAN PLLC



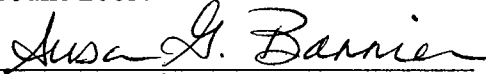
P. Stephen DiJulio, WSBA No. 7139
Jeffery A. Richard, WSBA No. 28219
Attorneys for City of Toppenish

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served this Petition for Intervention of City of Toppenish upon all parties of record in this proceeding via first-class U.S. mail, postage pre-paid delivery.

Dated at Seattle, Washington this 13th day of June 2003.


Susan G. Bannier