

Docket No. UG-210755 - Vol. I

WUTC v. Cascade Natural Gas Corporation

October 25, 2021



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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,) Docket No. UG-210755

Complainant,)

vs.)

CASCADE NATURAL GAS CORPORATION,)

Respondent.)

VIRTUAL PREHEARING CONFERENCE, VOLUME I

Pages 1-24

ADMINISTRATIVE LAW JUDGES RAYNE PEARSON AND SAMANTHA DOYLE

October 25, 2021

11:00 a.m.

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LACEY, WASHINGTON; OCTOBER 25, 2021
11:00 A.M.

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P R O C E E D I N G S

JUDGE DOYLE: Good morning. We are here today for a prehearing conference in Docket UG-210755, which is captioned the Washington Utilities and Transportation Commission versus Cascade Natural Gas Corporation.

Today is Monday, October 25th, 2021, and the time is approximately 11:00 a.m.

My name is Samantha Doyle and with me is Rayne Pearson. We are administrative law judges with the Washington Utilities and Transportation Commission, and we will be copresiding in this matter along with the Commissioners.

Let's start by taking appearances and addressing the petitions for intervention. Let's begin with Cascade, please.

MS. BARNETT: Thank you. Donna Barnett appearing for Cascade Natural Gas. And do you want a full appearance? Do you want -- okay. Donna Barnett from Perkins -- Perkins Coie representing Cascade Natural Gas, and with me is Megan Lin.

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1 JUDGE DOYLE: Thank you.
 2 And for Staff?
 3 MR. CALLAGHAN: This is Nash Callaghan,
 4 Assistant Attorney General, appearing on behalf of
 5 Commission Staff. And Staff has no objection to the
 6 motions to intervene.
 7 JUDGE DOYLE: Okay. And for Public Counsel?
 8 MS. PAISNER: Good morning. This is Ann
 9 Paisner, Assistant Attorney General with the Public
 10 Counsel Unit of the Washington State Attorney General's
 11 Office. We also have no objection to the petitions to
 12 intervene.
 13 JUDGE DOYLE: Okay. Well, we'll address
 14 them all shortly, but thank you.
 15 And Alliance of Western Energy Consumers?
 16 MR. STOKES: Good morning. Chad Stokes from
 17 Cable Huston for the Alliance of Western Energy
 18 Consumers.
 19 JUDGE DOYLE: Thank you.
 20 And Energy Project?
 21 MR. ZAKAI: Good morning, Your Honors.
 22 Yochi Zakai with Shute Mihaly & Weinberger representing
 23 The Energy Project this morning.
 24 JUDGE DOYLE: Great.
 25 And as mentioned, we will discuss the

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1 petitions for intervention. Sounds like there's no
 2 objections to the ones that have already been filed.
 3 Are there any other petitions for intervention other
 4 than the ones filed? Anybody else on the line that I
 5 missed?
 6 Okay. And hearing none, sounds like there's
 7 no objections to the two petitions to intervene on
 8 behalf of AWEC and one on the behalf of The Energy
 9 Project. Did I miss anyone else? Is the Company
 10 satisfied as well?
 11 MS. BARNETT: No objections.
 12 JUDGE DOYLE: Okay. And with that, let's
 13 discuss electronic filing and electronic service. I
 14 want to remind the parties that the Commission requires
 15 electronic filing of documents for formal filings and
 16 will waive the paper filing requirements for this case
 17 due to the ongoing COVID-19 pandemic. Also, the
 18 Commission's rules provide for electronic service of
 19 documents. The Commission will serve the parties
 20 electronically and the parties will serve each other
 21 electronically.
 22 And designating a person for service. If
 23 any party has not yet designated a lead representative
 24 for service, please do so via an email to me and Judge
 25 Pearson as soon as possible. My email is

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1 samantha.doyle@utc.wa.gov. That's Doyle, D-o-y-l-e.
 2 And Judge Pearson's email is rayne.pearson@utc.wa.gov.
 3 That's R-a-y-n-e and Pearson, P-e-a-r-s-o-n.
 4 If anyone would like to add names and email
 5 addresses of other representatives or support Staff who
 6 should receive electronic courtesy copies of all
 7 documents filed in this proceeding, please email that to
 8 us as well.
 9 And regarding data requests, because parties
 10 often request that any document requests and responses
 11 are shared with every other party, it would make it
 12 easier on the parties to include this requirement in the
 13 prehearing conference order. Are there any objections
 14 to including that requirement?
 15 MS. BARNETT: No.
 16 JUDGE DOYLE: Okay. Seeing none. And also
 17 this morning, Staff circulated some additional proposed
 18 language related to data requests that would require
 19 that the requesting party, one, include a list in the
 20 email serving the data request that identifies each
 21 party data request by number in the subject or issue of
 22 each data request being issued; and two, group the data
 23 requests by subject or issue and a cover letter serving
 24 the data request. Does any party object to including
 25 this language in the prehearing conference order?

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1 MS. BARNETT: No.
 2 JUDGE DOYLE: Okay. And I want to clarify
 3 that the petitions for intervention are granted.
 4 And with that, I'm going to turn it over to
 5 Judge Pearson for the procedural schedule.
 6 JUDGE PEARSON: Good morning. So first,
 7 have the parties been able to make any progress with
 8 respect to the procedural schedule?
 9 MS. BARNETT: I think we -- I haven't heard
 10 specifically any -- any specific proposals or objections
 11 or -- or changes from the last correspondence you've
 12 had. I do know that we're -- at least we can delete one
 13 of the alternatives just that calls for a settlement
 14 hearing or settlement conference beginning as early as
 15 November 10th. So I think that should be off the table.
 16 That will take at least a consideration of maybe four,
 17 four potential schedules that we have in front of you.
 18 JUDGE PEARSON: Okay. And, Ms. Barnett,
 19 would you like to address Cascade's request related to
 20 the schedule?
 21 MS. BARNETT: Not specifically. I mean --
 22 okay. We've proposed three of those four that are
 23 remaining and trying to accommodate a couple concerns
 24 that we've heard that essentially it falls down in
 25 between, you know, a shortened schedule and an extended

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1 statutory schedule. And the shortened -- we provide
2 both alternatives. I think Cascade proposed a couple
3 short and then extended as well.
4 Our main concerns are that these are limited
5 issues. We expect to resolve the case without needing
6 the 11-month, and so I would like the schedule to
7 reflect that.
8 Main concerns we have is just the op- -- you
9 know, an opportunity for thorough discovery but a couple
10 of settlement opportunities to resolve it for
11 settlement, but not unnecessarily extending it to use
12 the entire 11 months for what should be limited issues.
13 JUDGE PEARSON: Okay. Thank you.
14 And, Mr. Callaghan, did you want to respond
15 to that?
16 MR. CALLAGHAN: Yes, just briefly, Your
17 Honor. So Staff's proposed schedule is based on the
18 statutory timeline, and that is because the -- this
19 filing includes an increase that is greater than 3
20 percent. And so that, under Commission rules, initiates
21 a general rate proceeding.
22 So Staff proposed this schedule because it
23 gave a longer period of time for the non-Company parties
24 to begin discovery and to have more time at the
25 beginning of the case to focus on settlement

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1 negotiations. Staff is hopeful that we can come to a
2 settlement in this case, but we need time at the
3 beginning of the proceeding to be able to focus on that.
4 Our concern with Cascade's proposed
5 schedules are that there's essentially not enough time
6 between the beginning of the case and the due date for
7 response testimony. At a certain point, Staff and the
8 other non-Company parties need to stop working on
9 settlement negotiations and start working on, you know,
10 drafting and filing response testimony.
11 So that is our concern. That's why we
12 proposed the schedule we did. Staff is open to
13 including a placeholder date for the -- in the event
14 that we are able to reach an early settlement and that
15 early settlement includes an agreement for an earlier
16 rate effective date. So Staff would be open to that
17 possibility and holding that if settlement negotiations
18 are successful.
19 But in general, we think that the procedural
20 schedule should be set just given the possibility that
21 it could be contested. So our hope with this schedule
22 is that we would give the parties some breathing room at
23 the beginning of the case to have time to seriously
24 consider settlement negotiations. Thank you.
25 JUDGE PEARSON: Thank you.

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1 Ms. Paisner, did you want to respond?
2 MS. PAISNER: Yes, thank you. Public
3 Counsel believes that having additional time for
4 discovery is -- enables the parties to more meaningfully
5 participate in any settlement conferences that there may
6 be. And so for that reason, we support what the Staff
7 suggested as -- as being the schedule. And I believe in
8 the document that was provided, I think this is extended
9 alternative 1. So that's the fourth column.
10 So that's what Public Counsel would prefer
11 to have as the schedule. And as Mr. Callaghan provided,
12 I think that, you know, if -- if things end up being
13 that things -- we -- we could always renegotiate the
14 schedule as -- as we go forward if it becomes reasonable
15 to do so.
16 JUDGE PEARSON: Great, thank you.
17 Mr. Stokes?
18 MR. STOKES: Thank you, Your Honor. We --
19 we also -- AWEC also believes that having the extended
20 schedule is the appropriate place to start from. We can
21 always -- if we do come to a settlement, we can agree if
22 it's provided for in the settlement to an earlier rate
23 effect date. Rate effective dates affect customers, so
24 that's -- that's usually a negotiated item in an -- in
25 an early settlement. So and I don't think it's proper

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1 to presuppose we're going to settle and have an earlier
2 rate effective date. So we -- we also support Staff's
3 schedule. Thank you.
4 JUDGE PEARSON: Great, thank you.
5 Mr. Zakai?
6 MR. ZAKAI: Thank you, Judge Pearson. The
7 Energy Project also support Staff's schedule, primarily
8 for the reasons described by the other parties. You
9 know, the filing does, according to the Commission's
10 rules, qualify as a general rate case. Like other
11 parties, we are always open to any proposals that the
12 Company wants to put forward in settlement, and those
13 discussions can happen about accelerating the rate
14 effective date.
15 But at this time, we'd like to make sure
16 that all parties are afforded the opportunity for
17 sufficient discovery in advance of settlement
18 conferences and the need to file testimony.
19 I would also note that the schedule provided
20 by Staff is slightly different, I believe by two weeks
21 from the extended alternative 1 provided by the Company.
22 And we -- The Energy Project has checked and ensured
23 that the schedule provided by Staff is -- is what we
24 support in the -- in the separate document. We would
25 have to check some of the dates in that extended

1 alternative 1 if -- if that's what the Commission would
2 like to go with. Thank you.

3 JUDGE PEARSON: Great, thank you.

4 So we've had an opportunity to review all of
5 the proposed procedural schedules --

6 MS. BARNETT: Judge, sorry. I think -- can
7 I interrupt? Just to clarify. I think the extended
8 alternative 1 was the one Staff proposed, not the one
9 Cascade proposed.

10 But I also have a couple things regarding
11 the -- the data requests and -- and the ability to
12 discovery -- discover if I could respond to the concerns
13 I just heard now.

14 JUDGE PEARSON: Sure.

15 MS. BARNETT: Okay. I just want to point
16 out in the -- again, Cascade is fine with an extended
17 statutory schedule. The one that Staff provided doesn't
18 provide for a second settlement conference, which I
19 think is a departure from usual practice. And I think
20 it's important to have both -- have two opportunities
21 for settlement in there, especially in this case that
22 hopefully it's likely to settle.

23 And I don't know, I would like if we can put
24 in something -- if we use an extended schedule to
25 affirmatively allow an adjustment to the procedural

1 Thank you. That's all.

2 JUDGE PEARSON: Great, thank you.

3 So based on the proposed schedules that we
4 have reviewed and not only what will work best for the
5 majority of the parties, the non-Company parties and the
6 Commission, we plan to adopt the procedural schedule
7 proposed by Staff with several modifications.

8 So the first being that the Commissioners
9 are not available for the proposed hearing dates of June
10 13th and 14th. So we looked at calendars, we determined
11 that there are hearing dates available for either June
12 1st and June 2nd or June 2nd and June 3rd. So working
13 back from that date would make cross-examination lists
14 and time estimates due May 29th and the joint issue
15 matrix due May 22nd.

16 Going forward from the hearing date, the
17 deadline for initial briefs would be June 20th and reply
18 briefs would be due July 5th. So we are also fine with
19 the parties selecting an earlier date for a possible
20 settlement hearing that we can hold on our calendars if
21 the parties want to do that during the break when you
22 all confer. But keep in mind that the soonest rate
23 effective date following a settlement hearing that the
24 Commission could provide would be eight weeks.

25 So at this point, we can take a brief recess

1 schedule. If we don't come to a full settlement or a
2 settlement at least in -- at least a settlement as it's
3 impossible to change the schedule without an affirmative
4 order from the Commission, I think we can only change
5 the schedule if it's a settlement. That's the way I
6 read the procedural rules since the procedural schedule
7 is an order. So even if we all agree to it, I don't
8 think we can just say we can change it unless it's a
9 full settlement. So I think my concern with the
10 extended schedule is that it completely cuts off the
11 ability to have a shorter evidentiary hearing timeline.

12 And I do want to point out that for
13 discovery, we agree that -- you know, that discovery
14 should be started right away and we offer -- we've
15 already started discovery and data requests have already
16 come in. So we offered that back in October 11th to
17 start the discovery process. So to that extent, Cascade
18 is working to get discovery going and quickly.

19 Also, we've offered to reduce the response
20 time from the statutory ten days to seven days, if we
21 have an expedited schedule in order to get those in and
22 out more quickly. But if we do go with the extended
23 schedule and the -- I think that ten-day is appropriate
24 in that case. There's no need to -- to -- to
25 artificially shorten that for an extended schedule.

1 to allow the parties time to check their calendars and
2 discuss their preference between the two sets of hearing
3 dates, so either June 1 and 2 or June 2 and 3, discuss
4 the possibility of a settlement hearing date to be held,
5 and also it sounds like the Company would like to commit
6 to a second settlement conference, and of course we
7 encourage that. So please include that in your
8 discussions as well.

9 So, Mr. Callaghan, could you please alert us
10 when the parties are done with their discussions? We
11 will get off of the call and then we will join back on
12 when you're ready unless anyone has questions for us
13 before we depart.

14 MR. CALLAGHAN: Yes, Your Honor.

15 JUDGE PEARSON: Okay. Well, then, we will
16 be in recess. Judge Doyle and I will leave the meeting,
17 and just let us know when we can come back. Thank you.

18 (A break was taken from
19 11:20 a.m. to 12:00 p.m.)

20 JUDGE PEARSON: So let's be back on the
21 record after a brief recess. I realized while we were
22 on the break that the dates that I was giving for May,
23 the due dates, were based on -- I think I was looking at
24 the 2021 calendar because they're both weekend dates.
25 So those are wrong. I will have to fix those.

1 In any event, Mr. Callaghan, do you want to
2 let us know what the parties were able to decide during
3 the break?

4 MR. CALLAGHAN: Thank you, Your Honor.
5 Ms. Barnett has offered to recite, but she's written
6 down all of the dates that we were able to come to an
7 agreement to.

8 JUDGE PEARSON: Great.

9 MS. BARNETT: All right. Okay. So starting
10 with today, the prehearing conference, the next date,
11 settlement conference No. 1, January 10th, 2022; then
12 the next date for Staff and Public Counsel and
13 intervenors' response testimony, March 15th, 2022, and
14 that will be the day also we start this seven-day
15 turnaround for data requests.

16 The next date Cascade circulates joint
17 issues matrix No. 1 and that will be April 1, 2022; then
18 settlement conference No. 1 -- I'm sorry, No. 2 will be
19 April 5th, 2022.

20 JUDGE PEARSON: Hold on one second. I need
21 to go back. The joint issues -- it's out of order, so I
22 just need a little extra time to move it around. What
23 was the date you said for the first?

24 MS. BARNETT: April 1st, April Fools Day.

25 JUDGE PEARSON: Okay. Perfect. And then

1 JUDGE PEARSON: All right. So -- oh, go
2 ahead.

3 MS. PAISNER: I was just going to ask, if
4 we're moving that cross-estimate -- or I mean
5 cross-exhibits date up by two days, I -- I would request
6 that we also move up the discovery deadline by two days,
7 and that would be to May 11th instead of 13th. That's
8 the Wednesday instead of the Friday of that week if
9 that's okay with the parties.

10 JUDGE PEARSON: Did the parties indicate a
11 positive response? I was looking away.

12 MR. CALLAGHAN: No objection.

13 MS. BARNETT: Yeah, no objection here.

14 JUDGE PEARSON: Okay. Perfect. Okay.
15 Great. And did you all come up with -- the reason I
16 asked you about a settlement hearing date, I was talking
17 with Judge Doyle on the break, and I think that moving
18 forward when -- in any rate case proceeding, we would be
19 fine with the parties holding a potential different date
20 for settlement hearing. Because as we recently
21 experienced with the PacifiCorp PCORC case, we moved the
22 case out to January, the parties said wait, we settled,
23 we want to move it back to December, the date was
24 already gone from the Commissioners' calendar. Their
25 calendars are insane as you all know, and so I just kind

1 the next date was rebuttal and cross-answering?

2 MS. BARNETT: The next date will be -- yeah,
3 settlement conference No. 2 on April 5th; and then
4 Cascade's rebuttal and parties' cross-answering
5 testimony filed April 22, 2022, and that will be the
6 date I marked for five-day turnaround for data requests.
7 Discovery cutoff of May 13th, 2022; then Cascade files
8 joint issues matrix, May 20th, 2022; then cross-exam
9 exhibits, witness list, and time estimates due
10 May 27th, 2022, which is the Friday before that date you
11 requested.

12 JUDGE PEARSON: Which hearing dates did you
13 choose?

14 MS. BARNETT: June 1 and 2.

15 JUDGE PEARSON: Okay. June 1 and 2 and
16 we're going to need more time. We're going to need the
17 cross-examination time estimates or the -- yeah, and the
18 witness list by the 25th of May.

19 MS. BARNETT: That's not a problem with us,
20 yeah.

21 JUDGE PEARSON: Okay. Go ahead.

22 MS. BARNETT: Okay. So then evidentiary
23 hearing, June 1st and 2nd; the initial briefs, June
24 21st; reply briefs, July 5th; and then Staff requested a
25 compliance filing date in there of August 25th.

1 of wanted to -- since we have a lot of players here, let
2 you all know that we are open to that in the future to
3 preserve that for the parties because otherwise it's
4 unlikely to be feasible.

5 MS. BARNETT: Thanks. We appreciate that.
6 We did discuss that, and hopefully with limited issues
7 an hour for a settlement hearing is no problem, right?

8 JUDGE PEARSON: You would think.

9 MS. BARNETT: Appreciate that. We will do
10 our best to -- to settle -- come up with a schedule
11 right away.

12 JUDGE PEARSON: Okay. That sounds great.

13 So other than that, the only other thing
14 that I wanted to address with respect to the schedule,
15 and I did -- I wrote that all down. That should work
16 for the Commission. It will obviously be finalized in
17 the preconference order, but I don't see why we would
18 have any conflicts with any of those dates.

19 And with respect to Staff's proposal to
20 include a compliance filing due date, we're not going to
21 include that. The statute gives the Commission until
22 the day prior to the effective date to issue an order,
23 and the rule gives Staff five business days to review
24 the Company's compliance filing, and we won't be waiving
25 either of those provisions in this case just to be

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1 clear.

2 So with respect to the schedule, again, we

3 will adopt that schedule that was just proposed. And

4 with respect to the public comment hearing -- oh, hold

5 on a second. We have someone trying to get into the

6 meeting.

7 Okay. So I wanted to let the parties know

8 that we have acquired Zoom, the Commission has, and so

9 we'll be conducting the evidentiary hearing via Zoom

10 instead of Microsoft Teams and then also the public

11 comment hearing.

12 So, Ms. Paisner, did you want to just put a

13 placeholder in the prehearing conference order and

14 decide that at least 30 days prior to the date of the

15 public comment hearing?

16 MS. PAISNER: That's been my experience in

17 other cases, to make it to be determined, and that's

18 something that we sort of have negotiated with the

19 Company. So I'm seeing people are nodding. So if

20 anyone had a specific date in mind, I would say we could

21 talk about it, but otherwise if you're -- if -- if the

22 Commission's willing to have it be to be determined,

23 that would be our preference.

24 JUDGE PEARSON: Yes, and we are. We just --

25 like I said, we just need to be able to give customers

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1 at least 30 days' notice. So just please keep us

2 apprised.

3 MS. PAISNER: Okay.

4 JUDGE PEARSON: And then with respect to

5 errata sheets, WAC 480-07-461(b) provides us a deadline

6 for filing errata sheets to exhibits may be established

7 in the prehearing conference order. So does anyone have

8 an objection to setting a deadline a week prior to the

9 evidentiary hearing?

10 MS. BARNETT: No objection.

11 MR. CALLAGHAN: No objection, Your Honor.

12 JUDGE PEARSON: Okay. Great. Then we will

13 incorporate that into the prehearing conference order.

14 Is there anything else that we need to

15 address while we're here today?

16 MS. BARNETT: Just a question. I heard the

17 evidentiary hearing, let's see, Zoom, is that -- is that

18 confirmed regardless of the status of pandemic or is it

19 open to -- okay. I'm hearing yes, it's going to be

20 Zoom, period, no matter what. Got it.

21 JUDGE PEARSON: We are going to be virtual

22 indefinitely going forward.

23 MS. BARNETT: All right.

24 JUDGE PEARSON: All right. Anything else?

25 Okay. Thank you all so much for being here today, and

Page 23

1 we will issue an order either later this afternoon or

2 tomorrow reflecting everything that was discussed and

3 decided today. So thanks again. Everyone have a great

4 day, and we are adjourned.

5 (Adjourned at 12:08 p.m.)

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1 CERTIFICATE

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3 STATE OF WASHINGTON

4 COUNTY OF THURSTON

5

6 I, Tayler Garlinghouse, a Certified Shorthand


7 Reporter in and for the State of Washington, do hereby

8 certify that the foregoing transcript is true and

9 accurate to the best of my knowledge, skill and ability.

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13 Tayler Garlinghouse, CCR 3358

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