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**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

COST MANAGEMENT SERVICES,
INC.,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

Docket No. UG-061256

RESPONDENT'S RESPONSE TO
MOTIONS FOR CLARIFICATION OF
COST MANAGEMENT SERVICES, INC.
AND COMMISSION STAFF

RESPONDENT'S RESPONSE TO MOTIONS
FOR CLARIFICATION

32032-0004/LEGAL13138434.1

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1 1. Respondent Cascade Natural Gas Corporation ("Cascade") respectfully submits this
2 Response to the Motion of Cost Management Services, Inc. for Clarification of Order No. 3
3 in Docket UG-061256 ("CMS's Motion") and to Commission Staff's Motion for
4 Clarification of Order 03 ("Staff's Motion").¹
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9 **INTRODUCTION**

10 2. CMS asks the Commission to do two things in its Motion. First, CMS asks the
11 Commission to enforce Cascade's allegedly "clear" obligation under Order 03 (the "Order")
12 to file its existing gas supply contracts strictly pursuant to the terms of WAC 480-80-143.
13 The Commission should deny this request because the Order did not require Cascade to
14 comply with this rule in filing its existing contracts. Instead, Cascade did precisely what the
15 Order required – it filed all of the contracts with the Commission so the Commission could
16 review them to determine if they raise any concerns that require further proceedings.
17 Indeed, complying with WAC 480-80-143 at this point in time would be impossible. That
18 rule requires special contracts to be submitted for approval *prior to* their effective date. By
19 definition, all of Cascade's *existing* contracts are already effective and cannot be submitted
20 for approval prior to their effective date. The Commission should determine that Cascade
21 fully complied with the Order by filing its existing contracts.
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25 3. Second, CMS asks the Commission to clarify that the Order requires an adjudicatory
26 proceeding with respect to CMS's supposed claims under RCW 80.28.090 and 80.28.100,
27 with Staff apparently having the obligation to file opening testimony reporting the results of
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¹ Complainant Cost Management Services, Inc. ("CMS") further styles its Motion as a "Request That the Commission Direct Cascade To File Its Private Contracts in Compliance With WAC 480-80-143" and a "Request for Consolidation of Docket Nos. UG 061256 and UG-070332." Cascade will address CMS's first additional "request" in this response. On March 22, 2007, Cascade responded to CMS's request, filed March 12, 2007, that the Commission consolidate this docket with Docket No. UG-070332. Cascade will not repeat the arguments it has already made in opposition to this request, but relies on its previous opposition.

1 its investigation into Cascade's existing gas supply contracts. Moreover, CMS asks the
2 Commission to shift the burden to Cascade to prove that these contracts are not unduly
3 discriminatory. CMS also asks that the Commission consolidate this proceeding with
4 Docket No. UG-070332, in which the Commission is considering the tariffs Cascade filed to
5 comply with the Order.
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11 4. The Commission should deny CMS's request for further adjudicatory proceedings in
12 this docket. As discussed in Cascade's Motion for Clarification, CMS's Complaint expressly
13 does not challenge the rates under which Cascade has made its gas supply sales as being
14 discriminatory, anti-competitive, or in any other respect. In fact, CMS does not have
15 standing to make such a claim, nor does the Commission have jurisdiction to hear a claim
16 made by an unregulated competitor challenging Cascade's rates, pursuant to RCW
17 80.04.110(1). Moreover, CMS's allegation that Cascade's sale of gas supply to non-core
18 customers is subsidized by core customers does not even state a claim under either RCW
19 80.28.090 and 80.28.100 that Cascade is unduly discriminating between similarly situated
20 customers. Rather, this sort of allegation raises an issue regarding the justness and
21 reasonableness of rates that is cognizable under RCW 80.28.020, not RCW 80.28.090 or
22 80.28.100. CMS has asserted no such claim in its Complaint, nor does it have standing to do
23 so.
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37 5. The Commission's Order directed Staff to investigate whether it has any concerns
38 about the terms under which Cascade has made its sales of gas supply to non-core
39 customers. Staff has the authority to undertake such an investigation on an informal basis.
40 Thus, in response to Staff's Motion, the Commission should clarify that Staff should
41 undertake an informal investigation into whether Cascade's existing gas supply contracts
42 raise any concerns about possible violations of law. Cascade intends to continue to fully
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1 cooperate with Staff in its investigation. The Commission should allow Staff to conduct its
2 investigation in an informal manner and report to the Commission as to whether it believes
3 formal proceedings are required. If Staff recommends further proceedings to investigate
4 possible violations of law regarding these contracts, then and only then should the
5 Commission require such formal proceedings, and it should do so based on a complaint filed
6 by Staff or another party with standing (which CMS does not have). Finally, the burden of
7 proof in any such proceeding should be on the party making the claim; there is absolutely no
8 basis for CMS's request that the Commission somehow shift the burden to Cascade, in this
9 complaint proceeding brought by CMS, to disprove CMS's unfounded allegations.
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19 DISCUSSION

20 21 **A. Cascade Was Not Obligated to File Its Existing Contracts Pursuant to WAC** 22 **480-80-143**

23 24 **1. The Order did not require Cascade to file its existing contracts pursuant** 25 **to WAC 480-80-143**

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27 6. CMS completely misrepresents the Order when it states repeatedly that the Order
28 "directed Cascade to file its contracts under WAC 480-80-143." CMS Motion at 2.
29
30 Nowhere in the Order did the Commission direct Cascade to file its contracts under WAC
31 480-80-143. Rather, the Commission generally ordered Cascade to "file its existing
32 contracts." Order, ¶ 140. Each time the Order discussed this requirement, it used this
33 general language; not once did the Commission direct Cascade to file its existing contracts
34 under WAC 480-80-143. *See* Order, ¶¶ 2, 8, 93, 95, 98, and 140. Moreover, the
35 Commission never stated that Cascade was required to seek Commission approval for
36 existing contracts under WAC 480-80-143.
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44 7. The only provision of the Order that CMS cites in support of its false assertion that
45 the Commission "directed Cascade to file its contracts under WAC 480-80-143" is
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1 paragraph 58 and n. 88. CMS Motion at 2. Paragraph 58 of the Order simply stated that the
2 Commission's allowing Cascade to cancel its gas supply tariffs in 2004 did not result in a
3 waiver of the Commission's rules requiring the filing of special contracts. Footnote 88
4 simply cited WAC 480-80-143 and described its provisions. Neither of these references
5 directed Cascade to do anything, let alone to file its existing contracts pursuant to WAC
6 480-80-143. Indeed, the relevant ordering paragraph simply states that within 30 days of the
7 Order, Cascade "must file its existing contracts for gas supply services to non-core
8 customers, including contracts for out-of-territory gas sales." Order, ¶ 140.
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17 8. It is plain that the Commission did not require Cascade to file its existing contracts
18 for approval under WAC 480-80-143 and to comply with all the requirements of that rule.
19 Indeed, if the Commission had intended for Cascade to file for approval and comply with all
20 the requirements of that rule, it would have been simple for the Commission to so state. The
21 fact that the Commission simply required Cascade "to file its existing contracts" and did not
22 require Cascade to file them "for approval" or to file them "pursuant to WAC 480-80-143"
23 makes clear that the Order did not obligate Cascade to comply with WAC 480-80-143 when
24 it made its filing in compliance with the Order.
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33 **2. WAC 480-80-143 does not apply to the filing of existing contracts**

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35 9. Not only did the Commission not direct Cascade to file its existing contracts under
36 WAC 480-80-143, it would not have made sense for the Commission to do so because WAC
37 480-80-143 does not apply to the filing of existing contracts. WAC 480-80-143(4) provides
38 that a special contract will become effective on the later of the effective date in the contract
39 or 30 days *after* the contract is filed with the Commission. A party may ask for an earlier
40 effective date, but even in that event "the contract shall not become effective on a date that
41 precedes commission approval." WAC 480-80-143(4). WAC 480-80-143(5) specifies the
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1 information and showings that must be made in an application for Commission approval of a
2 special contract. It is these requirements that CMS excoriates Cascade for not complying
3 with.
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7 10. Cascade's existing contracts are effective by their own terms and because the parties
8 already have been performing under them. The Order did nothing to disturb the
9 effectiveness of these contracts because the Commission denied CMS's request to declare
10 these existing contracts void. In fact, several of these contracts expired by their own terms
11 on March 31, 2007. For all of these reasons, there was no good reason for the Commission
12 to have required Cascade to file for approval of these contracts under WAC 480-80-143.
13 Approval is required only for contracts to become effective; because these contracts were
14 already effective, and several of them would continue to be effective for only a short time
15 after the date Cascade was required to file them, filing under WAC 480-80-143 was not
16 required and would have made no sense.
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19 11. CMS also argues that it would set "an adverse precedent that will allow Cascade (and
20 other gas companies) to evade WAC 480-80-143 in the future" if the Commission were to
21 agree that Cascade was not required to comply with WAC 480-80-143 when it filed these
22 existing contracts pursuant to the Order. Cascade does not see how any party could possibly
23 construe a Commission determination that Cascade was not required to comply with WAC
24 480-80-143 when it filed its existing contracts in compliance with the Order as condoning
25 future violations of that rule. The Commission found in the Order that Cascade violated
26 WAC 480-80-143 by not filing its contracts made after March 1, 2004 pursuant to that rule,
27 and the Commission penalized Cascade for that conduct. This certainly sends a clear
28 message that the Commission will enforce the requirement that public service companies
29 comply with WAC 480-80-143 when they enter contracts for regulated services on terms
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1 that are not found in their tariffs. That message and the Commission's holding would not be
2 compromised in any way by the Commission's also agreeing that Cascade was not required
3 to seek approval under WAC 480-80-143 for the same contracts following their effective
4 dates.
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9 12. Moreover, WAC 480-80-143 has not traditionally applied to Cascade's sales of gas
10 supply, and should not apply to such sales in the future. From November 1988 through
11 March 1, 2004, Cascade had effective tariff sheets governing its sales of gas supply to non-
12 core customers. During that entire period, Cascade was required to file only the current
13 form of contract pursuant to WAC 480-80-141 and was not required to file any contracts for
14 approval pursuant to WAC 480-80-143. In compliance with Order 03, Cascade has filed
15 new proposed tariffs for these non-core gas supply sales, which set forth banded rates under
16 WAC 480-80-112. Banded rate tariffs do not require the filing of special contracts pursuant
17 to WAC 480-80-143; rather, only the standard form of contract is required to be filed under
18 WAC 480-80-141. For these reasons, the Commission's determination of this issue will
19 have an impact only in this docket and will not affect future sales made pursuant to tariff.
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31 **3. Cascade complied with the Order**

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33 13. Cascade filed what it believed to be all of its existing gas supply contracts on
34 February 12, 2007, within 30 days of the Order. Cascade filed those contracts with the
35 Executive Secretary of the Commission, as required by WAC 480-07-145. *See* Exhibit A.
36 On March 7, 2007, following a review, Cascade filed four additional contracts that it had
37 overlooked in its February 12, 2007 filing. Again, these contracts were properly filed with
38 the Executive Secretary of the Commission. *See* Exhibit B. These contracts constitute all of
39 the contracts that the Order required Cascade to file.
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1 14. CMS takes issue with Cascade's filing of these contracts for several unsubstantiated
2 reasons. First, CMS criticizes Cascade's method of filing by stating that Cascade "just
3 dropped off copies of some of its private gas-supply contracts" "at the Commission's front
4 desk." CMS Motion at 6. It is unclear what investigation, if any, CMS did before making
5 this nonsensical allegation. Cascade has complied with all of the Commission's rules in
6 filing these contracts and the Commission should find that Cascade properly filed the
7 contracts.
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14 15. Second, again without any factual basis, CMS accuses Cascade of filing only "some"
15 of its existing contracts, and disputes that Cascade filed all of its existing contracts. *Id.* at 6,
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18 8. CMS goes so far as to request that the Commission direct Cascade to file an affidavit
19 attesting that its contracts have been filed. Cascade's Senior Vice President – Gas Supply &
20 Regulatory has written letters to the Commission filing Cascade's contracts as required by
21 the Order, and updating the initial filing as soon as he discovered it was incomplete. There
22 is no basis on this record to question the accuracy of Cascade's representations or the
23 completeness of its compliance with the Order.
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31 16. Finally, CMS states that "Cascade belatedly provided to the Commission at least
32 some of its 'existing contracts . . .'" CMS Motion at 3. There was nothing "belated" about
33 Cascade's filing. The Order required the filing to be made within 30 days. The 30th day fell
34 on a Sunday and February 12, 2007 was the first business day after that day. Cascade's
35 filing was timely and CMS's baseless accusation is yet another irresponsible misstatement.
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41 WAC 480-07-130(1).
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43 **4. The Commission should not impose further penalties on Cascade**

44 17. CMS also requests that the Commission impose penalties on Cascade for not filing
45 the contracts pursuant to WAC 480-80-143. Penalties are not justified here because Cascade
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1 did not violate the Order in any respect. Moreover, the Commission has already penalized
2 Cascade for not filing its existing contracts in compliance with WAC 480-80-143. Order,
3 ¶ 141. No further penalties or remedies are warranted.
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7 **B. No Further Proceedings Are Required in This Docket**
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9 **1. The Commission has already resolved all of the issues that CMS raised**
10 **in its Complaint and that CMS has standing to raise**
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12 18. CMS asks the Commission to clarify that the Order requires an adjudicatory
13 proceeding with respect to CMS's supposed claims under RCW 80.28.090 and 80.28.100.
14 CMS Motion at 9. CMS also argues that Staff should be required to file opening testimony
15 reporting the results of its investigation into Cascade's existing gas supply contracts. Motion
16 at 1, 12. Moreover, CMS asks the Commission to shift the burden to Cascade to prove that
17 these contracts are not unduly discriminatory. Motion at 11. CMS also asks that the
18 Commission consolidate this proceeding with Docket No. UG-070332, in which the
19 Commission is considering the tariffs Cascade filed to comply with the Order. Motion at
20 10-12.
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29 19. The Commission should deny CMS's request for further adjudicatory proceedings in
30 this docket. As discussed in Cascade's Motion for Clarification, CMS's Complaint does not
31 challenge the rates under which Cascade has made its gas supply sales as discriminatory,
32 anti-competitive, or in any other respect. Moreover, CMS does not have standing to make
33 such a claim nor does the Commission have jurisdiction to hear a claim made by an
34 unregulated competitor challenging Cascade's rates. RCW 80.04.110(1). The Commission
35 must strictly enforce the pleading and standing requirements of RCW 80.04.110. The
36 Commission has already resolved all of the claims that CMS has made, and has standing to
37 make, in its Complaint.
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1 20. CMS's claims continue to morph as this proceeding continues, as CMS continually
2 seeks to expand the scope of this proceeding far beyond the bounds of the issues raised in its
3 Complaint and which CMS has standing to raise. First, as discussed in detail in Cascade's
4 Motion for Clarification, CMS's Complaint expressly did not challenge the rates at which
5 Cascade was making its sales of gas supply. Now, CMS wants to challenge those rates.
6
7 Second, CMS initially claimed those contracts were discriminatory in violation of RCW
8 80.28.090 and 80.28.100. Now CMS argues that the rates are below cost and subsidized by
9 core customers. As discussed below, such a claim is not encompassed by RCW 80.28.090
10 or 80.28.100, as it does not claim discrimination between similarly situated customers.
11
12 Third, in its Motion, CMS seeks to further expand the scope of this docket to fashion
13 remedies that address not just the existing contracts CMS previously sought to put at issue,
14 but also the terms under which Cascade may make these type of sales in the future. CMS
15 Motion at 9. These additional issues should be addressed in Docket No. 070332, not in this
16 complaint proceeding, as further discussed below.
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19 21. Although CMS repeatedly asserts that Cascade's sales of gas supply are subsidized
20 by core customers, CMS has not proffered one shred of evidence to support those charges,
21 and Cascade strenuously denies such unfounded accusations. The Commission should not
22 waste its time and resources, and the time and resources of Cascade and other parties, in a
23 proceeding where CMS has not established the basis for a belief that there was any violation
24 of law, or even pled such a claim. The Commission should not require full-blown
25 adjudicatory proceedings based on claims that CMS has not made and does not have
26 standing to make pursuant to RCW 80.04.110(1), and that the Commission would not have
27 jurisdiction to consider even if such claims were made by CMS.
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1 **2. CMS's allegations of below-cost rates are not encompassed by RCW**
2 **80.28.090 or 80.28.100**

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4 22. CMS's Complaint did not set forth any allegations to support a claim that Cascade
5 violated either RCW 80.28.090 or 80.28.100. All that CMS said was that "Cascade's use of
6 'unregulated' prices other than tariff prices necessarily violates RCW 80.28.090 and
7 80.28.100 because it blocks the Commission from carrying out its duties under those
8 provisions to prevent undue preferences and undue discrimination." Complaint, ¶ 46.
9 Indeed, CMS specifically disclaimed that it was asking the Commission to review the rates
10 at which Cascade was making these sales: "This complaint concerns the fundamental
11 unlawfulness of Cascade's retail sales of natural gas, *not whether Cascade's prices in the*
12 *relevant agreements are just, reasonable, unduly discriminatory, unduly preferential, or*
13 *anticompetitive.*" Complaint, ¶ 45.
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23 23. In its effort to keep this proceeding alive after the Commission has decided the
24 fundamental and only issue properly presented by CMS, CMS now identifies a new concern
25 about the rates at which Cascade has been making its gas supply sales: "Uncertainty exists
26 concerning the scope of further proceedings regarding Cascade's alleged cross-subsidization
27 of gas sales to non-core customers at the expense of the core." CMS Motion at 8-9. Rather
28 than asserting that these contracts unduly discriminate between similarly situated customers,
29 which is the problem that RCW 80.28.090 and 80.28.100 address, CMS is now seeking to
30 make an entirely different type of claim. Cascade has already shown that CMS does not
31 have standing under RCW 80.04.110(1) to complain that Cascade's rates "are unreasonable,
32 unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the
33 complainant, to stifle competition, or to create or encourage the creation of monopoly . . ."
34 CMS's efforts to have this new allegation addressed in this docket are futile for the
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1 additional reason that its allegation that Cascade's sale of gas supply to non-core customers
2 is subsidized by core customers does not state a claim under either RCW 80.28.090 or
3 80.28.100 that Cascade is unduly discriminating between similarly situated customers.
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7 24. It is well established that RCW 80.28.090 and 80.28.100 "are concerned with
8 discrimination within a class of customers rather than between or among different classes of
9 customers." *Re PacifiCorp*, Docket No. UE-981627, Fifth Supplemental Order, 1999 WL
10 1295972 at *10 (Wash. U.T.C. Oct. 14, 1999)(holding that "special contract customers are
11 not similarly situated to general ratepayers" and different treatment of these two groups
12 "does not constitute unlawful discrimination and does not violate RCW 80.28.090 and RCW
13 80.28.100.").

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21 25. CMS is not claiming that the terms of Cascade's gas supply contracts unduly
22 discriminate between or among non-core gas supply customers. Thus, its allegations do not
23 raise any issue under RCW 80.28.090 or RCW 80.28.100. Instead, CMS's current allegation
24 that Cascade's gas supply sales to non-core customers are cross-subsidized by core
25 customers raises an issue regarding the justness and reasonableness of Cascade's rates that is
26 cognizable under RCW 80.28.020, not RCW 80.28.090 and 80.28.100. *See Cole v.*

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33 *Washington Utilities & Transportation Commission*, 79 Wash. 2d 302, 485 P.2d 71 (1971),
34 where the Supreme Court described the appellant's claim that Washington Natural Gas
35 Company's conversion burner leasing program was operated below cost as a claim under
36 RCW 80.28.020 prohibiting noncompensable and unreasonable rates. *Id.*, 485 P.2d at 75.

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41 26. Not only does CMS fail to make allegations of cross-subsidization in its Complaint,
42 CMS does not even mention RCW 80.28.020 anywhere in its Complaint, let alone purport to
43 make a claim based on that statute. Moreover, as an unregulated competitor, CMS has no
44 standing to challenge Cascade's rates as being below cost pursuant to RCW 80.04.110. For
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1 these reasons, the Commission should conclude that no further proceedings are required in
2
3 this docket to consider CMS's recently concocted claim that Cascade's gas supply sales to
4
5 non-core customers are cross-subsidized by core customers.
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7 **C. Commission Staff Should Conduct an Informal Investigation and Report Its**
8 **Conclusions to the Commission**
9

10 27. Both CMS and Staff ask the Commission to clarify the nature of the investigation the
11
12 Commission indicated that Staff would undertake regarding Cascade's existing contracts.
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14 (Cascade's proposed tariffs are already under investigation in Docket UG-070332, and the
15
16 scope of such a proceeding is clear and does not require clarification.) CMS believes that
17
18 this investigation should be in the context of a formal, adjudicatory process and that Staff
19
20 should be required to file testimony reporting the conclusions of its investigation. CMS
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22 cites RCW 80.04.015 in support of its argument; however, that statute plainly does not apply
23
24 to this case. RCW 80.04.015 applies only to investigations to determine whether a person or
25
26 business is conducting a regulated activity without first securing registration with or
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28 approval from the Commission.
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30 28. The Commission's Order directed Staff to investigate whether it has any concerns
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32 about the contracts under which Cascade made its sales of gas supply to non-core customers.
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34 Staff plainly has the authority to undertake such an investigation on an informal basis. Thus,
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36 Cascade believes that the Commission should clarify that Staff should undertake an informal
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38 investigation into whether Cascade's existing gas supply contracts raise any concerns about
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40 possible violations of law. Cascade intends to continue to fully cooperate with Staff in its
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42 investigation. The Commission should allow Staff to conduct its investigation in an
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44 informal manner and report to the Commission as to whether it believes formal proceedings
45
46 are required.
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1 29. If Staff concludes that further proceedings are required with respect to possible
2 violations of law regarding these existing contracts, and Staff is not able to resolve its
3 concerns informally with Cascade, then Staff should be required file a complaint pursuant to
4 WAC 480-07-305. Cascade expects that such a complaint would then be reviewed for
5 probable cause under WAC 480-07-307. Given the fact that CMS has not pled any claim
6 challenging the rates in these contracts, and does not have standing to do so, any formal
7 proceedings based on allegations that the pricing in these contracts is discriminatory or
8 otherwise in violation of the law must be based on a new complaint filed by a party with
9 standing, such as Commission Staff.
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11 30. Moreover, whether the Commission considers such allegations pursuant to CMS's
12 Complaint – despite Cascade's contention that CMS does not have standing to raise such a
13 claim and the Commission does not have jurisdiction to consider such a claim made by CMS
14 – or in a complaint brought by Staff or another party with standing, the burden of proof in
15 such a case should be on the party making the claim. There is absolutely no basis for CMS's
16 request that the Commission somehow shift the burden to Cascade, in this complaint
17 proceeding brought by CMS, to disprove CMS's unfounded allegations.
18

19 **D. The Commission Should Not Consolidate This Proceeding With Docket No.**
20 **070332**

21 31. Finally, CMS requests that the Commission consolidate this case with Docket No.
22 070332 (the "Tariff docket"). On March 22, 2007, Cascade responded to CMS's previously
23 filed request for consolidation, and will not repeat those arguments here. In summary,
24 Cascade opposes this request because (1) the Commission should close this proceeding,
25 (2) the Commission should deny CMS's petition to intervene in the Tariff docket, and (3) the
26 facts or principles of law in these two proceedings are not related.
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1 32. CMS makes the additional argument in its current Motion that, instead of just
2 reviewing Cascade's existing contracts for possible discriminatory rates – which is the only
3 issue the Commission arguably left open for this proceeding – the Commission should also
4 fashion remedies in this docket that address the terms under which Cascade may sell gas
5 supply in the future. CMS Motion at 9. In this way, CMS seeks to further expand the scope
6 of this docket as well as to blur the distinction between the issues raised in this docket and in
7 the Tariff docket. The Commission should reject CMS's invitation to further expand the
8 scope of this proceeding.
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10 33. Even if the Commission chooses not to close this docket at this time, as Cascade
11 requests in its Motion for Clarification, the Commission still should not consolidate this case
12 with the Tariff docket because the two cases have distinctly different subjects. At most, the
13 remaining issues in this case concern whether Cascade's *existing* gas supply contracts
14 discriminate between or among customers in violation of RCW 80.28.090 or 80.28.100.
15 The focus of this case is both narrow and retrospective. In addition, CMS has the burden of
16 proof in this case. The focus of the Tariff docket is entirely different. That case will
17 consider the terms under which Cascade may be allowed to sell gas supply to non-core
18 customers in the *future*. As distinguished from this case, the focus of the Tariff docket is
19 prospective. In addition, Cascade has the burden of proof in that docket. CMS attempts to
20 blur the substantial differences between these proceedings in its effort to persuade the
21 Commission that it should consolidate these cases and shift the burden of proof to Cascade
22 in this case. The Commission should recognize that these cases are distinct and that CMS
23 has no legitimate interest in the terms under which Cascade makes sales to its customers,
24 and should deny CMS's request for consolidation.
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CONCLUSION

34. The Commission has already decided the fundamental issue raised in CMS's Complaint, and the only issue that CMS has standing to raise, and determined that Cascade's gas supply sales must be made pursuant to filed tariffs or contracts. CMS continues to change its theories so that it may continue to persecute Cascade, with the ultimate goal of removing Cascade as a competitor. The Commission should deny CMS's request that Cascade be ordered to re-file the existing contracts pursuant to WAC 480-80-143, and that the Commission further penalize Cascade. The Commission should also conclude that no further proceedings are required in this docket. Rather, Staff should be directed to informally investigate Cascade's current non-core gas supply contracts, report to the Commission, and, if warranted, file a complaint if Staff believes that the pricing of these contracts violates Washington law.

35. The Commission should put an end to CMS's unrelenting campaign to remove its competition. CMS's constant sniping, misrepresentations, and unsubstantiated allegations serve only to consume the valuable time and resources of the Commission, Cascade, and other parties. Once again in its Motion, CMS makes a number of false and irresponsible statements. While CMS purports to be acting in the interests of Cascade's core customers, it is plain that CMS seeks only to advance its own competitive interests, not the interests of Cascade's customers. CMS's continued participation in this matter would extend the scope of this proceeding beyond those issues CMS has standing to raise, and would not be helpful

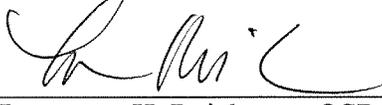
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to Commission Staff in performing its investigation. The Commission should put an end to
CMS's mischief, and close this docket.

DATED: April 9, 2007

Respectfully submitted,

PERKINS COIE LLP

By: 

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We make warm neighbors

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February 12, 2007

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-9022

Re: WUTC Docket UG-061256 – Compliance Filing

Pursuant to the Commission's Order 03 in Docket UG-061256, Cascade herein files copies of its existing contracts for gas supply services to non-core customers, including contracts for out-of-territory gas sales. Cascade has marked its current gas supply contracts **Confidential Per Protective Order In WUTC Docket UG-061256**, copied them on yellow paper and has submitted them to the Commission in a separate envelope. Cascade utilizes the North American Energy Standards Board (NAESB) standard contract as the primary form-of-contract for gas supply services to non-core customers. We have therefore included a generic copy of the NAESB standard contract and have only copied the signature page (page 1) and the actual Transaction Confirmation Exhibit A for all of the current NAESB gas supply contracts, as pages 2 through 9 would be identical for all such contracts.

Any questions regarding this filing should be directed to Katherine Barnard at (206) 381-6824.

Sincerely,

Jon T. Stoltz
Cascade Natural Gas Corporation
Sr. Vice President – Gas Supply & Regulatory

Enclosures



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March 7, 2007

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-9022

Re: WUTC Docket UG-061256 – Contract Filing

Cascade has discovered that its February 12, 2007 submittal of existing contracts for gas supply services to non-core customers was incomplete. A recently completed comparison of Gas Management invoices to our contract submittal disclosed that four gas supply contracts were missing from our February 12, 2007 filing.

Cascade has marked these additional gas supply contracts **Confidential Per Protective Order In WUTC Docket UG-061256**, copied them on yellow paper and is submitting them to the Commission in a separate envelope.

Any questions regarding this filing should be directed to Katherine Barnard at (206) 381-6824.

Sincerely,

Jon T. Stoltz
Cascade Natural Gas Corporation
Sr. Vice President – Gas Supply & Regulatory

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this **RESPONDENT'S RESPONSE TO MOTIONS FOR CLARIFICATION OF COST MANAGEMENT SERVICES, INC. AND COMMISSION STAFF** upon all parties of record in this proceeding by causing a copy to be sent by electronic mail and U.S. mail to:

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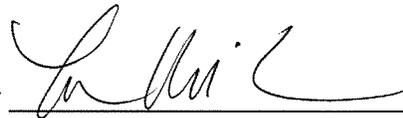
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Dated this 9th day of April, 2007.

PERKINS COIE LLP

By



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