

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
 TRANSPORTATION COMMISSION,) Docket No. UG-940814
 4 Complainant,)
 vs.) Volume I
 5 WASHINGTON NATURAL) Pages 1 - 37
 GAS COMPANY,)
 6 Respondent.)
 -----)

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8 A tape recorded hearing in the above matter
 9 was held on August 10, 1994 at 9:30 a.m., at 1300
 10 South Evergreen Park Drive Southwest, Olympia,
 11 Washington, before Administrative Law Judge LISA
 12 ANDERL.

13 The parties were present as follows:

14 WASHINGTON NATURAL GAS COMPANY by D. Scott
 Johnson, Attorney, 815 Mercer Street, Seattle,
 15 Washington 98109.

16 THE COMMISSION by Robert Cedarbaum and Anne
 Egeler, Assistants Attorney General, 1400 South
 17 Evergreen Park Drive Southwest, Olympia, Washington
 98504.

18 THE PUBLIC by Donald T. Trotter, Assistant
 19 Attorney General, Public Counsel Section, 900 Fourth
 Avenue, Suite 2000, Seattle, Washington 98164.

20 NORTHWEST INDUSTRIAL GAS USERS, ASSOCIATED
 21 GAS SERVICES, INC., and INLAND PACIFIC ENERGY SERVICES
 by Edward Finklea, Attorney, 101 Southwest Main
 22 Street, One Main Place, Suite 1100, Portland, Oregon
 97204.

23

24 Transcribed by Lisa K. Nishikawa, CSR, RPR

25 Court Reporter

1 SEATTLE STEAM COMPANY by Frederick O.
Frederickson, Attorney, 1420 Fifth Avenue, 33rd Floor,
2 Seattle, Washington 98101.

3 PARTNERSHIP FOR EQUITABLE RATES FOR
COMMERCIAL CUSTOMERS by Knoll Lowney, Attorney, 5000
4 Columbia Center, 701 Fifth Avenue, Seattle, Washington
98104.

5 COST MANAGEMENT SERVICES, INC. by Mike
6 Rabin, Director of Sales and Marketing, 4210 85th
Avenue Southeast, Mercer Island, Washington 98040.

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I N D E X

WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

(None.)

EXHIBIT MARKED ADMITTED

T-1 37

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3 through 10 37

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12 through 19 37

BENCH REQUEST NO. PAGE

1 33

1 P R O C E E D I N G S

2 JUDGE ANDERL: Let's be on the record. The
3 Washington Utilities and Transportation Commission has
4 set a prehearing conference in Docket UG-940814 for
5 this time and place. Today's date is August 10, 1994.
6 We're convened in room 140 in the Commission's
7 headquarters. My name is Lisa Anderl. I'm the
8 administrative law judge assigned to preside. I would
9 like to begin by taking appearances at this time.
10 Start with the company.

11 MR. JOHNSON: David Johnson representing
12 Washington Natural Gas Company. My address is 815
13 Mercer Street, Seattle, Washington 98109.

14 JUDGE ANDERL: Staff.

15 MR. CEDARBAUM: Robert Cedarbaum and Anne
16 Egeler, assistant attorneys general. Our business
17 address is 1400 South Evergreen Park Drive Southwest
18 in Olympia, 98504.

19 JUDGE ANDERL: Public counsel.

20 MR. TROTTER: Donald T. Trotter, assistant
21 attorney general, public counsel section. My address
22 is 900 Fourth Avenue, Suite 2000, Seattle, 98164.

23 JUDGE ANDERL: And for the intervenors,
24 proposed intervenors, Mr. Finklea.

25 MR. FINKLEA: Edward Finklea

1 and Paula Pyron, with Ball, Janick & Novack. My
2 business address is 101 Southwest Main Street, One
3 Main Place, Suite 1100, Portland, Oregon, 97204.
4 Appearing on behalf of Northwest Industrial Gas Users,
5 Associated Gas Services, Inc., Inland Pacific Energy
6 Services, petitioners to intervene in this proceeding.

7 JUDGE ANDERL: Thank you. Mr. Frederickson.

8 MR. FREDERICKSON: Frederick O.
9 Frederickson for intervenor Seattle Steam Company,
10 1420 Fifth Avenue, Seattle, Washington, 98101, 33rd
11 Floor, law firm of Graham & Dunn.

12 JUDGE ANDERL: All right. And for PERCC?

13 MR. LONEY: Knoll Loney for the
14 Partnership for Equitable Rates for Commercial
15 Customers. Law firm of Preston Gates & Ellis. My
16 address is 5000 Columbia Center, 701 Fifth Avenue,
17 Seattle, Washington, 98104.

18 JUDGE ANDERL: And will Carol Arnold also
19 be participating as counsel?

20 MR. LONEY: Yes, she will.

21 JUDGE ANDERL: Let's go ahead and take the
22 petitions to intervene. Let's do the easy ones first.
23 Mr. Johnson in his -- some responsive pleadings has
24 indicated he doesn't object to the intervention of
25 Seattle Steam or to PERCC's intervention, is that

1 correct?

2 MR. JOHNSON: We also will not object to --
3 will not object to Northwest Industrial Gas Users.

4 JUDGE ANDERL: Right. Okay. Mr.
5 Cedarbaum, any objections to those petitions?

6 MR. CEDARBAUM: No (inaudible).

7 JUDGE ANDERL: Mr. Trotter?

8 MR. TROTTER: No.

9 JUDGE ANDERL: All right. And did those
10 intervenors have anything they wanted to add to their
11 written petitions at this time? Mr. Finklea?

12 MR. FINKLEA: No.

13 JUDGE ANDERL: Mr. Frederickson?

14 MR. FREDERICKSON: No.

15 JUDGE ANDERL: Mr. Lowney?

16 MR. LOWNEY: No.

17 JUDGE ANDERL: All right. I believe that
18 the written petitions speak for themselves, that they
19 should be granted as to those three intervenors, and
20 they will have party status. I will grant those
21 petitions.

22 Now let's talk about the petitions for
23 Associated Gas and Inland Pacific. Mr. Finklea, you
24 filed petitions to intervene for those two companies
25 or organizations. Mr. Johnson has filed an objection

(COLLOQUY)

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1 to that and, Mr. Finklea, you filed a response. Why
2 don't you, Mr. Finklea, go ahead and summarize your
3 position, and then I'll let Mr. Johnson do the same.

4 MR. FINKLEA: Thank you, your Honor.
5 Associated Gas Services, Inc. and Inland Pacific
6 Energy Services Corporation are both companies that
7 are involved in the providing of marketing services
8 to industrial end users who are customers of
9 Washington Natural. We believe that on that basis
10 alone we have an interest in this policy proceeding of
11 setting rates and terms and conditions for
12 transportation service (inaudible).

13 We received the answer of the Washington
14 Natural Gas Friday. We filed a reply yesterday to
15 explain in a little more detail why it is that
16 (inaudible) we believe that they do have a substantial
17 interest in the proceeding and that it would be in the
18 public interest for them to participate, without
19 repeating all of those, (inaudible).

20 I think the salient points are that these
21 are companies that are in the gas transportation
22 business day in and day out and have expertise that
23 they believe would be helpful to the Commission as it
24 sorts through the various policies and proposals that
25 will no doubt surface as this case proceeds.

1 These are companies that are providing
2 transportation marketing services to the customers of
3 Washington Natural. Their business interests would be
4 affected by the outcome of the case. So on a
5 traditional standing basis, we would have standing.
6 We thought that even more important than
7 the traditional do they have an economic interest, the
8 question should be what would they add to the
9 proceeding. And we get the sense from Washington
10 Natural's pleadings that they don't believe that
11 anything will be added by having the entity involved.

12 My belief is that the entities because of
13 their expertise add to the -- a case like this because
14 the Commission is trying to address fundamental policy
15 questions about how transportation services should be
16 provided by this company. Here are two marketers who
17 day in and day out handle nominations and balancing,
18 many and varied things that we will be talking about
19 and debating as the proceeding progresses.

20 Companies with that level of expertise I
21 would think would be welcome to the table because of
22 the experience they bring. And on that basis they
23 have, I believe met the public interest standard, and
24 on the basis of their economic interest as companies
25 who are providing transportation services whose cost

(COLLOQUY)

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1 of doing business or their ability to provide their
2 services would be affected by the outcome, so they
3 meet the economic standard.

4 The other thing that was raised that we
5 addressed in our reply yesterday is concerned about
6 confidentiality and competitive concerns. First, it
7 is my understanding that Washington Natural's parent
8 no longer owns the marketing affiliate; that company
9 was sold earlier this year. So these two companies
10 and the former affiliate of Washington Natural, while
11 those companies would be competitors today that is no
12 longer a company that is affiliated with Washington
13 Natural, so direct competitive concern Washington
14 Natural might have had when it had its own marketing
15 subsidiary is alleviated by the fact that they've sold
16 that subsidiary.

17 The other competitive concern that I can
18 discern is that the utility somehow thinks the
19 transportation competes with sales service, and we've
20 had debates about that in the past. Our sense is that
21 these marketing companies are not competing with the
22 utility. The utility's customers are making choices
23 between sales and transportation and those that are
24 involved in providing some of the services that those
25 companies choose to acquire are not competing with the

1 utility, they are providing a service to customers of
2 the company. So competitive -- the notion that
3 because they are somehow a competitor, they shouldn't
4 be allowed in the case I don't think stands the test
5 of reason.

6 And then the other concern expressed
7 was because they are in the business there is some
8 concern that what will they be gleaning in terms of
9 information as a result of participating in the case
10 as parties. And I have been authorized by both
11 clients to say that they don't want any information
12 themselves. The employees of the company do not want
13 any confidential information in their hands as a
14 result of data requests or any of the documents that
15 go back and forth in this case. That unlike some of
16 the entities that intervene who then have
17 in-house people who are put on the confidential
18 agreements, these companies wouldn't want any of that
19 information, so if they are allowed as parties in the
20 case, the only individuals who would gain access to
21 any confidential information would be outside counsel
22 and outside consultants, and none of that information
23 will be shared with the employees or the entities
24 themselves. So I think we can work our way around the
25 confidentiality concern that I think is legitimate.

1 There was some concern on Washington
2 Natural's part that confidential information about gas
3 line prices was going to wind up in the hands of
4 marketers as a result of their participating in the
5 case. That's a legitimate concern and I think the way
6 to address that is to make sure that nobody in those
7 companies gets that kind of information and I assure
8 you they don't want that.

9 JUDGE ANDERL: Okay. Mr. Johnson, do you
10 want to summarize your position and then we'll take
11 comments from the other parties if they have any.

12 MR. JOHNSON: Thank you, your Honor. As
13 Mr. Finklea indicated, a petition to intervene on
14 behalf of those entities prompted a written response
15 by us which was filed last Friday. I will also
16 attempt to summarize the arguments that we made and
17 also respond just briefly to some of the points that I
18 heard Mr. Finklea articulate here.

19 We raised three basic arguments. One, that
20 we did not think that there was a substantial interest
21 articulated by either Associated Gas or Inland Pacific
22 to justify intervention under the Commission's
23 regulation permitting intervention. Second, that the
24 public interest would not be served due to issues of
25 potential precedent, participation in this proceeding,

1 and just administration of the public process. And
2 third, that the company would be harmed considerably
3 because of participation by competitors or companies
4 with competitive interests potentially adverse to
5 Washington Natural Gas.

6 The interests with respect to the
7 substantial interest. I've read Mr. Finklea's reply
8 brief and I (inaudible) still do not believe that
9 there is a substantial interest that's been
10 articulated here. As I read the brief, their interest
11 is in issues considering balancing nominations and
12 that interest may well be of interest to the
13 Commission, but it smacks more of a witness-type
14 interest, not a substantial interest in the outcome of
15 the proceedings.

16 In other words, they have chosen -- these
17 two companies have chosen to align themselves with
18 Northwest Natural -- Northwest Industrial Gas Users.
19 There's nothing at all to prevent the Industrial Gas
20 Users from potentially retaining representative of
21 these two companies and articulating an interest as a
22 witness. I don't see, however, that that rises to a
23 level of a substantial interest to justify party
24 status.

25 As we pointed out in our brief, these two

1 organizations are marketing organizations, they are
2 not customers of the company, and I see nothing and
3 I've heard nothing that would justify putting them on
4 the same claim with the same interest as the customer
5 base of Washington Natural Gas. So they may have a
6 casual interest, but I don't think that there's a
7 substantial interest as it states in the WAC
8 regulation.

9 One statement that Mr. Finklea raised in
10 his brief, that their economic interest could be
11 affected by the outcome of this case. I don't know if
12 that's true or not. It's rather speculative of a
13 statement whether they could be or what those
14 interests are. Again, I don't think there's a
15 sufficient level of interest that's been stated here
16 to justify participation.

17 As far as the public process, we are
18 concerned that if not one marketer, if not two
19 marketers, where does the -- where do we stop, either
20 in this proceeding or in other proceedings. Mr.
21 Finklea has not explained why it is necessary to have
22 the interests of two marketers presented in this
23 proceeding as opposed to one as opposed to five.

24 If there's an interest here which again I
25 think would be better served by potentially the

1 witness appearing on behalf of Northwest Industrial
2 Gas Users, I don't see why these two additional
3 parties further the administrative process. And I can
4 see concerns down the road where we get into a
5 situation where in this proceeding or in later
6 proceedings where multiple numbers of parties with
7 perhaps ill-defined interests. That cannot, in my
8 opinion, serve the administrative process.

9 As far as the issue of competitive
10 advantage, Mr. Finklea stated in his brief that
11 intervention was not prompted to achieve a competitive
12 advantage. That may not have been the purpose, but we
13 still believe that there is a potential effect or
14 consequence from that. And Mr. Finklea suggested that
15 a proposal which is repeated here to perhaps deal with
16 that issue. Our concern will still exist because
17 outside consultants of Washington -- or excuse me --
18 of Associated Gas or Inland Pacific -- I believe
19 Associated Gas was listed as a seller of gas. We of
20 course sell gas to our customers, so there is a direct
21 competitive issue right there, sales versus sales.
22 Those consultants who signed confidentiality
23 agreements could be the very same consultants who
24 advise these two companies on gas purchase and sales
25 issues. There's a Chinese wall that Mr. Finklea is

1 trying to create here and I'm not sure it is going to
2 be that effective.

3 But again, our primary arguments here,
4 your Honor, are, one, we don't think that there has been
5 articulated a substantial interest, perhaps a casual
6 interest, perhaps a witness interest, but not a
7 substantial interest equivalent to what customers
8 possess and, two, that the public interest would not
9 be served.

10 I also want to point out I understand that
11 public counsel and staff may have positions they wish
12 to state, although there have not been
13 written positions filed. Thank you.

14 JUDGE ANDERL: Okay, thank you. Yes, Mr.
15 Cedarbaum, did you have any position you wanted to
16 take on these petitions to intervene?

17 MR. CEDARBAUM: Yes, your Honor, just
18 briefly. We would also oppose the petitions to
19 intervene by the two marketing companies for
20 essentially the same reasons that Mr. Johnson just
21 stated. First, there doesn't appear to be an interest
22 that rises to the level of party status. (Inaudible)
23 Commission's rule on intervention. If there's an
24 interest at all, it's an interest of particular
25 customers or those particular companies

1 themselves (inaudible).

2 Secondly, that as I heard Mr. Finklea's
3 argument and read his response, their main concern
4 is providing information to the Commission, which
5 the Commission may find relevant as to the issues in
6 this case. Certainly there's nothing stopping those
7 companies from, if that evidence is otherwise
8 admissible, from presenting witnesses that are gas
9 users and getting that kind of information
10 to the Commission.

11 And third, I think although it's not
12 dispositive of (inaudible) it would be interesting to
13 know if there's an overlap in the gas users and the
14 customers themselves at least (inaudible) maybe it's a
15 wrong assumption, but I'm assuming there's at least
16 some overlap, if not a lot of overlap. And to that
17 extent, it would seem to be those interests can be
18 represented, and will be represented by the gas users,
19 (inaudible) and even if there's not an overlap we can
20 assume there still would be (inaudible) gas users
21 (inaudible) whatever (inaudible) and I guess I would
22 also be interested in knowing, in the past the gas
23 users (inaudible) expert witness. The expert witness
24 (inaudible) appear might possibly presenting testimony
25 (inaudible) the parties (inaudible) last couple

(COLLOQUY)

17

1 (inaudible).

2 JUDGE ANDERL: Okay. Thank you, Mr.

3 Cedarbaum. Mr. Trotter.

4 MR. TROTTER: The petitioner's answer -- or
5 the reply, excuse me, states that they seek to
6 participate largely to provide valuable experience and
7 insights on issues regarding nominating, balancing, et
8 cetera. That struck me also as being, well, if they
9 have expertise, they can be called as an expert and
10 testify as to what those provisions ought to be.

11 (Inaudible) to obtain party status.

12 To the extent they have an economic
13 interest in this proceeding, it must be an
14 economic interest that's required to be considered by
15 the Commission. It does not seem to me the economic
16 interest particularly here is one of importance to the
17 Commission. The Cole case (inaudible) not identical
18 context, but an analagous context, supportive of the
19 Commission declining to allow intervention of
20 customers whose interests the Commission was not
21 required to consider. There are many entities in
22 society affected by Commission decisions,
23 economically, interests the Commission to consider.
24 These two potential intervenors fall into that
25 category. (Inaudible) intervention of the two

1 marketers.

2 JUDGE ANDERL: Okay, thank you. Did the
3 other intervenors have any comments? Mr.
4 Frederickson?

5 MR. FREDERICKSON: We do not object to the
6 intervention of these two companies, but
7 other than that, we have no comment.

8 JUDGE ANDERL: Mr. Lowney?

9 MR. LONEY: We also have no objection.

10 JUDGE ANDERL: Mr. Finklea, one of the
11 themes that the other parties seem to have hit on is
12 that the interests of these two marketers could be
13 represented if all they did was put on a witness
14 through the Northwest Industrial Gas Users. Can you
15 tell me why it's important for them to -- important
16 for them to be parties in that they're seeking party
17 status as intervenors instead of just sponsoring or
18 having their thoughts and expertise and experience
19 conveyed to the Commission through a witness put on
20 through Northwest Industrial Gas Users.

21 MR. FINKLEA: Well, because this is
22 -- is not just a garden variety rate case but instead
23 is a policy case where the Commission, we take it from
24 the September order and then from company's compliance
25 filing is trying to explore the whole (inaudible) of

1 issues surrounding transportation that those
2 companies, these two -- I don't know if there are
3 others out there who chose not to intervene, others
4 out there who show up late (inaudible).

5 These two are very involved day in and day
6 out with transportation Washington Natural's system
7 their business interests be affected by the outcome.
8 We believe that the best for them to participate is to
9 be parties and that because this is the policy case
10 about transportation and they are in the business of
11 providing services to transporters, that it is the
12 case that they should be parties to, not simply called
13 as expert witnesses, although that is something they
14 may have to consider if the company and staff and
15 public counsel (inaudible) keep them out as parties.
16 I don't quite understand from their perspective what
17 the difference is.

18 If you find value to their expertise and
19 they have an economic interest in the outcome of the
20 case because we're in the transportation case, not
21 because the rates are going to simply be affected, but
22 because we're trying to set policy about
23 transportation through this proceeding, that this was
24 a case where those who are involved in providing
25 transportation services should be parties to the case,

1 would be there at the table throughout the course of
2 the proceedings. If we have settlement conferences,
3 that they're at the table in the settlement
4 conferences. That they have party status. They are
5 as affected by this as others and as a result that
6 they (inaudible) and they felt that when they saw
7 this filing that they should be involved in the
8 proceeding as parties. (Inaudible) the
9 rule about substantial interest in the subject matter
10 of the hearing that they certainly have.

11 This is not in my mind analogous to, say,
12 the electric utilities trying to intervene in
13 this case and saying (inaudible) if gas companies
14 start transporting, maybe electric companies will have
15 to transport so, therefore, Puget, Water Power ought
16 to intervene because that's also an interest, or an
17 environmental group came in and said (inaudible)
18 expensive gas (inaudible) gas affected (inaudible)
19 this case. I have seen proceedings like this where
20 people with that tangential an interest are allowed to
21 intervene, but these folks have I think much more
22 substantial interest. This is not just a tangential
23 interest. This is their business.

24 JUDGE ANDERL: Well, let me tell you I am
25 on the fence on this, so I want to take a brief recess

(COLLOQUY)

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1 and think about it for about five or ten minutes,
2 look over these things again, consider the argument
3 that I've heard. I think in fairness I owe you a
4 decision before we go any further so that we know
5 who's a party and who's not. So we'll do that.

6 The other thing is I do have another
7 petition to intervene which I meant to take earlier
8 from Doug Betzold, Cost Management Services. Was
9 anyone served with that? Yes?

10 MR. RABIN: (Inaudible.)

11 JUDGE ANDERL: I see. Are you an attorney?

12 MR. RABIN: No. I work with Doug.

13 JUDGE ANDERL: I guess we'll take you when
14 we come back then. I don't know if your voice even
15 got on the tape recorder, but I will say there's a
16 gentleman sitting towards the back of the room who's
17 representing Cost Management Services, indicated to me
18 that he isn't an attorney. We'll have to find out
19 more about him and that petition to intervene when we
20 come back.

21 MR. TROTTER: Excuse me. That petition
22 was not served on us. If the person has sufficient
23 copies, we would request that we be provided them.

24 JUDGE ANDERL: All right. Why don't you
25 talk to him about that during the break. He's shaking

1 his head no. I have a copy. We can pass it around.

2 Let's be off the record.

3 (Recess.)

4 JUDGE ANDERL: After a brief recess. Mr.
5 Finklea, I have considered the petitions to intervene
6 from Associated Gas and Inland Pacific and my decision
7 on this is to deny those petitions. I don't believe
8 that they state a separate substantial interest as
9 required under WAC 480-09-430 which determines whether
10 a petition for intervention should be granted or not.

11 I was particularly persuaded by Mr.
12 Trotter's citation to the Cole case in terms of
13 economic interests that the Commission is obligated to
14 consider, and I think for those reasons and for the
15 reasons stated by counsel at the hearing today, I will
16 deny those petitions.

17 I think then we need to move on to the next
18 and final, that I know of, petition to intervene from
19 Cost Management Services. Would the gentleman from
20 Cost Management Services please take a seat up at the
21 counsel table and remember to speak up so that the
22 tape recorder gets you.

23 I have here a written petition to intervene
24 from Cost Management Services, Inc., and it is signed
25 by P. Douglas Betzold. Sir, could you state your

1 appearance for the record, please, name, business
2 address.

3 MR. RABIN: Yes. My name is Mike Rabin.

4 JUDGE ANDERL: Spell the last name, please.

5 MR. RABIN: R A B I N. Cost Management
6 Services' address 4210 85th Avenue Southeast, Mercer
7 Island. And I am director of sales and marketing
8 (inaudible) Cost Management Services.

9 JUDGE ANDERL: Did you have anything, Mr.
10 Rabin, that you wanted to add to the written petition
11 to intervene that had been filed?

12 MR. RABIN: I just wanted to bring up a few
13 points that have probably been mentioned on the
14 petition, but I think it's important (inaudible)
15 everybody. Cost Management Services has and has had a
16 very substantial interest in the ongoings of
17 transportation. We've been involved in every rate
18 case since 1991, again, as you know, Doug
19 has been involved in that process. We were a
20 participant in the last filing which led to the order
21 to convene a collaborative effort. Cost Management
22 Services was (inaudible) involved in all of those
23 meetings, I believe 10 or 11 meetings, collaborative
24 effort to transport gas to 12 customers now in
25 Washington Natural Gas tariff area. We also consult

1 with 15 other people who do not transport gas who are
2 in Washington Natural Gas territory (inaudible)
3 natural gas (inaudible) and all of those people have a
4 substantial interest in (inaudible).

5 JUDGE ANDERL: Does the company have a
6 position on this petition?

7 MR. JOHNSON: Your Honor, I just reviewed
8 the petition for the first time, a few minutes ago.
9 I think we would object for several reasons, one of
10 which is that -- the fact that we have not either
11 been served with a petition or had an opportunity to
12 look at it, but having looked at it, makes a couple of
13 statements that I think can be dealt with very quickly
14 in light of your Honor's ruling in the (inaudible)
15 petitions.

16 Cost Management Services states that it
17 serves and represents natural gas companies as the
18 basis for their petition to intervene. I think that
19 again is the same relatively ill-defined interest and
20 at best a casual interest that perhaps some economic
21 impact but not a substantial interest that is required
22 by law and regulations.

23 As far as Cost Management Services
24 participating in prior rate cases, that your Honor is
25 aware, Mr. Betzold has on occasion appeared as a

1 witness for the PERCC organization, and in other cases
2 may have been involved as a consultant, but has never
3 been allowed nor has Cost Management Services ever
4 requested party status, so there's no precedent for
5 what Cost Management Services seeks today, so I would
6 not be, if I were your Honor, persuaded by the
7 so-called participation in prior cases. They have
8 only done so here as a representative of PERCC or as a
9 consultant (inaudible). I haven't heard anything
10 expressed here that suggests that somehow they should
11 now suddenly be entitled to party status. So for the
12 same reasons that we had before on the other petitions
13 as well as what I said here, I think (inaudible).

14 JUDGE ANDERL: Mr. Cedarbaum, any comments?

15 MR. CEDARBAUM: I have an objection for the
16 same reason (inaudible) the reason (inaudible) think
17 that Cost Management also ought to be allowed in. I
18 would only add to that that from looking at the
19 petition to intervene on page 3 under paragraph 7 they
20 are not even sure at this time that they are planning
21 on calling any witnesses to testify, and so we don't
22 even have a situation here as we do with Mr. Finklea's
23 clients that there might be information that they
24 would offer (inaudible) so (inaudible) and also
25 (inaudible).

1 JUDGE ANDERL: Mr. Trotter?

2 MR. TROTTER: Pretty much the same. I
3 don't see them as being that substantial to
4 (inaudible) petition and petitions (inaudible)
5 intervention (inaudible) Cost Management Services
6 are not a participant in (inaudible) collaboratives
7 (inaudible) participate in collaboratives but that did
8 not otherwise rise to party status in a formal
9 proceedings (inaudible). So we would (inaudible) the
10 same reason (inaudible).

11 JUDGE ANDERL: Any comments on this
12 petition from the existing intervenors then, Mr.
13 Finklea?

14 MR. FINKLEA: Oh, I have a
15 comment, your Honor. (Inaudible.) Industrial Gas
16 Users would (inaudible) participation for the same
17 reason. We would object (inaudible) other marketer
18 stating they are (inaudible) similarly situated to the
19 (inaudible).

20 JUDGE ANDERL: Mr. Frederickson?

21 MR. FREDERICKSON: I think I agree with
22 what Mr. Finklea said and I have nothing further to
23 add.

24 JUDGE ANDERL: Mr. Lowney.

25 MR. LONEY: PERCC has no objection.

1 JUDGE ANDERL: Okay, thank you. Mr. Rabin?

2 MR: RABIN: Yes.

3 JUDGE ANDERL: Do you have any comments in
4 response to the objections to your petition to
5 intervene?

6 MR: RABIN: Well, I'm not sure that being
7 a customer is necessarily a requirement to being an
8 intervenor. Perhaps it is but (inaudible), no, we are
9 not a direct customer of gas companies but we
10 represent people who are direct customers and who --
11 we are input in terms of the natural (inaudible) gas
12 users and (inaudible) commercial users of natural gas
13 (inaudible) said (inaudible) gas too so those people
14 rely on us to provide information in this rate case
15 it was stated previously there was a policy setting
16 rate case, quote, not a garden variety type of rate
17 case, so it's important that we at least have the
18 ability to (inaudible) and (inaudible) proceedings.

19 We have a long history or at least a
20 three-year history in terms of interest in all the
21 proceedings. Mr. Betzold has participated although
22 not directly as an intervenor, has participated in
23 lots of the activities that have occurred in the past.
24 Consequently I think we have a different outlook on
25 things that have gone on here. We only participate in

1 the Washington Natural Gas territory. We do not
2 (inaudible) people outside of this area. For those
3 reasons, (inaudible) believe that we should
4 (inaudible) be involved in this.

5 JUDGE ANDERL: Okay. Mr. Rabin, I guess I
6 have to say that I haven't heard anything that would
7 distinguish your interest from the interests of the
8 petitioners whose petitions I just denied, Associated
9 Gas and Inland Pacific. I think that on that same
10 basis I will also deny the petition by Cost Management
11 Services, Inc. to intervene in that they do not state
12 a substantial interest in this hearing and that should
13 they -- should not be or your organization should
14 not be afforded the party status. This is, however, a
15 public hearing and you're welcome to stay.

16 While we are on the record then, I do want
17 to do a couple of other things. Is there anyone else
18 who's here to petition to intervene today? All right.
19 I hear no response to that. Anything else on this
20 subject matter, interventions?

21 Okay. I would like to go ahead and take,
22 while we're on the record then, the motion to
23 consolidate and consider that. Mr. Johnson, I didn't
24 get that until this morning and I just had a chance to
25 look at it. Can you summarize your position for me on

1 that please, very briefly.

2 MR. JOHNSON: Your Honor, the motion to
3 consolidate seeks to consolidate the tariff filing for
4 which we're convened here today with the filing that
5 was made eariler this year on Schedule 50 which is our
6 cost -- our compressed natural gas tariff. The basis
7 for the consolidation is really twofold. One, there's
8 a direct connection between the filings. In the
9 recent tariff filing we are seeking to further develop
10 a cost based rate and that was of course the purpose
11 of the original CNG schedule filing earlier this year.

12 Secondly, would be for administrative
13 efficiency would be promoted so we all don't have to
14 troop down here and have duplicate hearings. There's
15 just a simple economy of the process that we think
16 would be served.

17 JUDGE ANDERL: Mr. Cedarbaum, does staff
18 have any comment on this motion?

19 MR. CEDARBAUM: We have no objection.

20 JUDGE ANDERL: Mr. Trotter.

21 MR. TROTTER: We have no objection. We
22 really don't see the common issue of fact or law which
23 would otherwise justify consolidation (inaudible).

24 JUDGE ANDERL: Do the intervenors have any
25 comment on this? When we were off the record this

1 morning, the intervenors did indicate to me that they
2 did not plan on participating in the compressed
3 natural gas docket that was set for prehearing
4 conference at 1:30 this afternoon, so I guess just in
5 terms of your interests in this docket we're convened
6 in now, Mr. Finklea, do you have any objection to
7 consolidating the CNG filing?

8 MR. FINKLEA: I have no objection to
9 consolidation. I agree with Mr. Trotter (inaudible)
10 common (inaudible) issues of law and fact (inaudible)
11 for efficiency reasons it makes sense. (Inaudible.)

12 JUDGE ANDERL: Mr. Frederickson.

13 MR. FREDERICKSON: We have no objection to
14 consolidation.

15 JUDGE ANDERL: Mr. Lowney.

16 MR. LONEY: Also no objection.

17 JUDGE ANDERL: Mr. Johnson, I don't have
18 your motion before me. Does that motion contain an
19 agreement by the company to waive the suspension date
20 on the compressed natural gas filing to coordinate
21 with the suspension date in this later filing in 814?

22 MR. JOHNSON: Your Honor, we submitted a
23 letter to Mr. McLellan (inaudible) indicating that we
24 did waive the suspension date and consented to an
25 extension of that date, the date in 940814, so, yes,

1 that has been filed.

2 JUDGE ANDERL: Okay, good. And now it's on
3 the record too. I tended to agree with the parties
4 who mentioned that there may not be the commonality of
5 issues, but from an administrative standpoint it does
6 seem to make sense. I will go ahead and order those
7 two dockets consolidated. We will still convene this
8 afternoon for the prehearing conference in 840 to see
9 if there are any petitions to intervene, although I
10 think that that's unlikely.

11 While we're on the subject then of that
12 compressed natural gas filing, do you have prefiled
13 testimony on that?

14 MR. JOHNSON: We don't currently. If your
15 Honor requests prefiled testimony at least (inaudible)
16 would like us to give the opportunity to file
17 testimony just on the Schedule 50 and I don't know
18 whether we will or won't, but it seems appropriate
19 while we're convened here to set a time for that. If
20 we do something like that we should have a time
21 definitely by which to file.

22 JUDGE ANDERL: I was just thinking of
23 something, and I've forgotten it. We can talk about
24 that when we talk about the schedule which we'll be
25 doing a little bit later.

1 Well, actually, it's next on my list, so
2 why don't we go off the record and talk about
3 scheduling and then we'll --

4 MR. FINKLEA: Your Honor, before we go off
5 the record, I would request on the record that
6 (inaudible) there be a written transcript of at
7 least the part of this morning's hearing
8 where there was argument on the interventions
9 (inaudible).

10 JUDGE ANDERL: I'm sure that can be
11 arranged somehow. Okay. Let's be off the record for
12 some discussion of scheduling.

13 (Discussion off the record.)

14 JUDGE ANDERL: After an extensive
15 prehearing conference discussion off the record, we
16 discussed the schedule and a number of other things.
17 I'm just going to run through some of the easy things
18 right now.

19 The discovery rule is invoked in this
20 proceeding. The parties talked about requesting a
21 formal discovery schedule or an alteration of some of
22 the deadlines, but we concluded with the decision that
23 that request would be made by a formal motion or a
24 request later in the proceedings if the parties find
25 it necessary. So right now the discovery schedule

1 will be worked out amongst the parties and the
2 deadlines are going to be as set forth in the rule.

3 The company has asked that a standard form
4 protective order be entered in this case and I will
5 see that that's done.

6 We did mark the prefiled testimony and
7 exhibits which I'll identify in just a minute.

8 As another preliminary matter, I talked to
9 the parties about a cost of service model that's being
10 used in this case. Mr. Johnson has agreed to provide
11 to me as response to bench request number 1 a copy of
12 that cost of service model, the software and
13 explanation book, two copies each, and to arrange a
14 training session either here or in Seattle at which
15 the accounting advisor and policy advisor to the
16 Commission would be able to attend. That is going to
17 be coming in as a confidential exhibit, so certainly
18 you can wait to send me anything until we get the
19 protective order out in this case.

20 (Bench Request No. 1.)

21 With regard to the schedule, there are
22 -- were some motions of course to consolidate and
23 streamline the proceedings or -- and the hearing
24 sessions in this matter. We talked about that for a
25 long time off the record. And what was finally

1 decided amongst all the parties is that we would do
2 what's called a modified Oregon-type hearing schedule
3 which would eliminate the rounds of -- one round of
4 cross-examination.

5 The schedule as it stands right now is that
6 the company is going to prefile its additional
7 testimony on the compressed natural gas tariff on
8 August 24. Mr. Johnson, I think it would be best if
9 you and all the other parties to that proceeding file
10 things under the docket 920840 but reference the newer
11 '94 docket number in the filing. It just seems to me
12 that it's been treated as a part of the old rate case
13 and maybe it's better for it to stay that way. But
14 you can reference the new docket number too so that it
15 all stays tied together.

16 We are scheduled for three days of cross on
17 company's direct case for October 5, 6, and 7. And
18 then we have prefiling dates for the staff, public
19 counsel, and intervenor testimony on November 23rd,
20 1994. Prefiling of the company's rebuttal and what's
21 been called cross rebuttal or surrebuttal in which
22 staff, public counsel, and intervenors will file
23 testimony in response to each other's positions on
24 January 6, 1995. And we have five days of
25 cross-examination scheduled on all that testimony

1 beginning January 30, 1995, continuing through
2 February 3rd, with a brief date of March 3rd.

3 Parties have also agreed to see what they
4 can do about filing a list of stipulated issues, which
5 is something I requested off the record. This was in
6 connection with the request for a settlement
7 conference or issues conference.

8 There was some discussion about why it might
9 be a good idea to order one and why it might be a good
10 idea to just let the parties go ahead with it and what
11 I asked for is, as I said, a list of issues in the
12 hopes that that would facilitate the parties getting
13 together and talking about these things and also help
14 me and the Commissioners focus as we go into the
15 hearing process.

16 (Cassette tape ended.)

17 JUDGE ANDERL: Okay. This is side two of
18 cassette tape number one in the prehearing conference
19 in Docket UG-940814. We were talking about a
20 stipulated issues list. The parties agreed to file
21 one by September 23, 1994. And I also set a deadline
22 for filing of a revised or expanded or updated issues
23 list on January 23, 1995 prior to the second round
24 of cross. Aside from that, no formal settlement
25 conferences or issues conferences are going to be

1 ordered.

2 Again, it was requested and I have decided
3 to allow the filing of that surrebuttal or cross
4 rebuttal which is going to come in on January 6. Some
5 parties expressed concerns about it but I think it's
6 accurate to say that I didn't get any strong
7 objections to it.

8 The request for oral argument, the
9 Commissioners and I will reserve ruling on that and
10 see whether that is something that's going to be
11 helpful.

12 Is there anything else that we've covered
13 off the record that somebody wants to make sure is on
14 the record? Well, okay. I see heads shaking. Again,
15 because we're on tape especially, and because we've
16 covered a lot of ground today, I will be doing a
17 prehearing conference order in this matter and you'll
18 be getting that.

19 I guess I will identify for the record
20 the exhibits that we marked. Exhibit T-1 is Mr.
21 Davis's testimony. Exhibit T-2 is Mr. Feingold's
22 testimony. And exhibits -- Mr. Feingold is apparently
23 sponsoring Exhibits RAF-1 through 8. Those are marked
24 as exhibits 3 through 10 for identification. Mr.
25 Amen's prefiled testimony is Exhibit T-11. He is

(COLLOQUY)

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1 sponsoring exhibits RJA-1 through 8. Those are for
2 identification exhibits 12 through 19.

3 Anything further to come before us today?
4 Mr. Lowney?

5 (Marked Exhibits Nos. T-1, T-2, 3 through
6 10, T-11, and 12 through 19.)

7 MR. LOWNEY: Preston Gates and Ellis
8 represents PERCC and just wanted to put on the record
9 that one of our partners, Tom Allison, is married to
10 Chairperson Nelson. We talked about the potential
11 conflict with all the parties and there has been no
12 objection.

13 JUDGE ANDERL: Okay. Is that correct? I
14 hear no response. There are heads nodding, so I'm
15 going to take that as a waiver of any objection to
16 that.

17 Anything further? Thank you all for
18 attending. We'll stand adjourned.

19 (Adjourned.)

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