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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 MOTION
OF COST MANAGEMENT SERVICES,
INC. FOR LEAVE TO FILE AMENDED
COMPLAINT

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A. The Commission Should Deny CMS's Motion Because the Proposed Amendment Is Futile and Untimely 2

 1. CMS lacks standing under RCW 80.04.110(1) to challenge Cascade's rates, and the Commission lacks jurisdiction to hear the proposed new claims, so the proposed amendment is futile..... 2

 2. CMS's Motion is untimely because the Commission has already resolved the essential matters raised in its Complaint 3

B. The Commission Should Deny CMS's Motion and Close This Docket Because CMS Has Repeatedly Violated Commission Protective Orders and Rules..... 5

 1. CMS has repeatedly violated Commission protective orders and rules..... 5

 2. The appropriate sanction for CMS's violations of the Commission's Protective Order and rules is to deny CMS's Motion and close this docket 7

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TABLE OF AUTHORITIES

Cases

Haselwood v. Bremerton Ice Arena, Inc., 2007 WL 1053826 at *8 (Wash. App. Div. 2, April 10, 2007) 3

Ino Ino, Inc. v. City of Bellevue, 132 Wash.2d 103, 937 P.2d 154 (1997) 4

Travis v. Tacoma Public School District, 120 Wash.App. 542, 85 P.3d 959 (2004)..... 4

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RCW 80.28.090 2

RCW 80.28.100 2

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1. Respondent Cascade Natural Gas Corporation ("Cascade") respectfully submits this Response to the Motion of Cost Management Services, Inc. for Leave to File Amended Complaint, filed April 9, 2007 ("CMS's Motion").

INTRODUCTION

2. After the Commission has resolved all of the issues raised in Complainant Cost Management Services, Inc.'s ("CMS") Complaint against Cascade, CMS now seeks to expand and prolong this litigation by requesting leave to file an amended complaint. The Commission should deny CMS's Motion for two reasons.

3. First, the Commission should deny CMS's Motion because the proposed amendment is futile. CMS lacks standing under RCW 80.04.110(1) to challenge Cascade's rates as unduly discriminatory or unduly preferential, and the Commission lacks jurisdiction to hear such claims, rendering the proposed amendment to the Complaint futile. Washington courts routinely deny motions for leave to amend on this basis.

4. Second, the Commission should deny CMS's Motion and close this docket because CMS has repeatedly violated the Commission's protective orders and the Commission's rules governing the filing of confidential information. CMS's latest violations occurred when it electronically filed purportedly "redacted" documents that included in unredacted form a substantial amount of confidential information produced by Cascade in this proceeding. Through service, CMS also provided this confidential information to Douglas Betzold, President of CMS, also in direct violation of the Protective Order (Order 02).

5. The Commission has already admonished CMS for violating a protective order in its January 12, 2007 Order 03 in this docket (the "Order"), yet CMS recklessly refuses to protect Cascade's confidential information. CMS's recklessness prejudices Cascade by

1
2 placing it at a competitive disadvantage relative to its competitors, including CMS. CMS
3
4 has also provided to CMS's President and exposed to public inspection confidential
5
6 information of Cascade's customers, which Cascade had taken pains to protect. CMS's
7
8 violations of the Protective Order and the Commission's rules are sufficiently egregious to
9
10 merit denying CMS's Motion and closing this docket.

11 DISCUSSION

12 13 14 **A. The Commission Should Deny CMS's Motion Because the Proposed** 15 **Amendment Is Futile and Untimely.**

16 17 **1. CMS lacks standing under RCW 80.04.110(1) to challenge Cascade's** 18 **rates, and the Commission lacks jurisdiction to hear the proposed new** 19 **claims, so the proposed amendment is futile.**

20
21
22 6. CMS seeks to amend its Complaint to bring a claim under RCW 80.04.110(1)
23
24 alleging that Cascade's prices for its gas sales to non-core customers are unduly
25
26 discriminatory or unduly preferential as compared to its sales to core customers. As
27
28 discussed in detail in Cascade's Motion for Clarification of Order 03 (filed March 22, 2007),
29
30 CMS lacks standing under RCW 80.04.110(1) to challenge Cascade's rates as unduly
31
32 discriminatory, unduly preferential, or below cost, and the Commission lacks jurisdiction to
33
34 hear such claims. RCW 80.04.110(1) allows only certain parties to challenge the rates
35
36 charged by public service corporations. As an unregulated competitor, CMS is not among
37
38 them. Moreover, CMS's proposed Amended Complaint fails to state a claim under RCW
39
40 80.28.090 or 80.28.100 because it does not claim discrimination between or among similarly
41
42 situated customers, as discussed more fully in Cascade's Response to Motions for
43
44 Clarification, filed April 9, 2007.¹

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46 ¹ Cascade briefed these matters in detail in its Motion for Clarification of Order 03, filed
47 March 22, 2007, and in its Response to Motions for Clarification, filed April 9, 2007. Cascade will

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7. Washington courts routinely deny motions for leave to amend that are futile. As the Washington Court of Appeals stated recently: "The touchstone for denial of an amendment is the prejudice such amendment would cause the nonmoving party. In determining prejudice, a court may consider undue delay and unfair surprise *as well as the futility of amendment.*" (emphasis added) (internal quotations and citations omitted). *Haselwood v. Bremerton Ice Arena, Inc.*, 2007 WL 1053826 at *8 (Wash. App. Div. 2, April 10, 2007) (denying leave to amend because it would be "meritless, futile, or unfairly prejudicial"). CMS's lack of standing to bring its proposed amended complaint, and the Commission's lack of jurisdiction to decide it, renders the proposed amendment futile, so the Commission should deny CMS's Motion. *United & Informed Citizen Advocates Network v. U.S. West*, Docket No. UT-960659, Third Supplemental Order (WUTC, Feb. 4, 1998) (dismissing claims brought by non-profit corporation against a telephone company for lack of standing under the statutory regime).

2. CMS's Motion is untimely because the Commission has already resolved the essential matters raised in its Complaint.

8. Even if CMS had standing to challenge Cascade's rates for gas sales to non-core customers as unduly discriminatory or unduly prejudicial, and even if the Commission had jurisdiction to hear such a claim, CMS's Motion is untimely in that it seeks to introduce new issues after the Commission has already decided cross-motions for summary adjudication addressing all contested issues. As briefed in detail in Cascade's Motion for Clarification of Order 03, the Commission resolved all of the claims CMS made in its Complaint. Order 03

not burden the Commission by repeating its legal arguments in this Response, but reserves its right to make these arguments in a motion to dismiss the Amended Complaint if the Commission grants CMS's Motion.

1
2 resolved the issue that was at the heart of CMS's Complaint by ruling that Cascade was
3
4 required to make its gas supply sales pursuant to filed tariffs or contracts. The Order also
5
6 addressed, and denied, both aspects of the relief that CMS requested in its Complaint. There
7
8 are no outstanding issues raised by CMS's Complaint that require a decision, so CMS now
9
10 seeks to expand and protract its legal battle against Cascade by seeking leave to amend its
11
12 Complaint. CMS's Motion effectively acknowledges that the claim it now seeks leave to
13
14 pursue is outside the scope of its Complaint, as it was expressly stated to be. Complaint,
15 ¶ 45. Even if CMS had standing to bring its proposed new claim against Cascade, it is too
16
17 late. CMS could have sought to bring this claim before the Commission resolved this
18
19 dispute, and the Commission should not allow CMS to persecute Cascade indefinitely.
20

21 9. Washington courts routinely deny untimely motions for leave to amend. The
22
23 Washington Supreme Court has observed that when considering a motion for leave to amend
24
25 a complaint, a "trial court may consider whether the new claim is futile or untimely." *Ino*
26
27 *Ino, Inc. v. City of Bellevue*, 132 Wash.2d 103, 142, 937 P.2d 154, 176 (1997) (denying
28
29 leave to amend as both futile and untimely). *See also Travis v. Tacoma Public School*
30
31 *District*, 120 Wash.App. 542, 554, 85 P.3d 959, 966 (2004) (denying leave to amend
32
33 complaint after summary judgment procedure when plaintiff did not propose his
34
35 amendments until after the court had ruled on summary judgment). Apparently not satisfied
36
37 that the Commission refused to order Cascade to cease making gas supply sales to non-core
38
39 customers, CMS is inventing a new claim upon which it desires the same relief. The
40
41 Commission should not allow CMS to make such new claims after the Commission has
42
43 decided on cross-motions for summary adjudication the claims CMS chose to make in its
44
45 Complaint.
46
47

1 **B. The Commission Should Deny CMS's Motion and Close This Docket Because**
2 **CMS Has Repeatedly Violated Commission Protective Orders and Rules.**
3

4 **1. CMS has repeatedly violated Commission protective orders and rules.**
5

6 10. CMS has repeatedly violated Commission protective orders as well as the
7
8 Commission's rules governing the procedure for filing confidential information. CMS began
9
10 its pattern of violations when it based its Complaint in this docket on confidential
11
12 information obtained as an intervener in Cascade's rate case, Docket UG-060256, in
13
14 violation of the protective order in that case. The Commission found that CMS had violated
15
16 that protective order, but declined to dismiss CMS's Complaint in response to such tactics.
17
18 Order, ¶ 45. The Commission expressed "concern" about CMS's violation of the protective
19
20 order, but concluded at the time that it did not find "CMS's actions in this instance so
21
22 egregious . . . to merit dismissing the complaint." *Id.*
23

24 11. Unfortunately, the Commission's admonition in the Order failed to register with
25
26 CMS and did not deter CMS from violating the Protective Order in this docket in multiple
27
28 ways. On April 9, 2007, CMS filed its Motion and a proposed Amended Complaint which
29
30 had attached as Exhibit 2 the eight-page Affidavit of Donald W. Schoenbeck. Both the
31
32 proposed Amended Complaint and the Affidavit included a substantial amount of
33
34 confidential information produced by Cascade in this proceeding, including a copy of one
35
36 full customer contract and information derived from a number of customer contracts. CMS
37
38 filed electronic versions of the proposed Amended Complaint and Affidavit, in both
39
40 Confidential and purportedly "Redacted" non-confidential versions. CMS also served these
41
42 documents on the parties to this proceeding, including Douglas Betzold, President of CMS,
43
44 who is not qualified to have access to confidential information.
45
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1
2 12. In keeping with Commission rules governing the filing of documents, CMS
3
4 submitted the proposed Amended Complaint and the Affidavit to the Commission in both
5
6 .pdf (readable via Adobe Acrobat) and Microsoft Word formats. The .pdf version of the
7
8 Affidavit violated the Protective Order and WAC 480-07-160 in that its last page (p. 9 of 9)
9
10 set forth in unredacted form a complete customer contract that was clearly designated
11
12 "Confidential Per Protective Order in WUTC Docket UG-061256." Exhibit 1 at 2, 4. CMS
13
14 violated the Protective Order in a way potentially even more damaging to Cascade and its
15
16 customers when it failed to redact the Word versions of its proposed Amended Complaint
17
18 and the Affidavit effectively. When CMS filed the purportedly "redacted" proposed
19
20 Amended Complaint and the Affidavit with the Commission, it merely highlighted the
21
22 confidential text (which comprises the majority of these two documents) in black. Anyone
23
24 accessing the documents in Word format could simply remove the purported "redaction"
25
26 with the click of a mouse. Exhibit 1 at 1. The Affidavit names at least eight of Cascade's
27
28 gas supply customers, and reveals additional confidential information including prices and
29
30 the volumes purchased under the contracts.

31
32 13. As CMS knew would happen, these documents were promptly posted to the
33
34 Commission's website, exposing Cascade's and its customers' confidential information to all
35
36 persons with Internet access. Moreover, CMS provided these confidential documents
37
38 directly to Douglas Betzold, President of CMS, through service. Cascade had already raised
39
40 with the parties its concern about CMS having access to this confidential, competitively
41
42 sensitive information, which access is expressly prohibited by the Protective Order. CMS's
43
44 actions clearly violated the Protective Order, and Cascade must assume that its competitors,
45
46 including CMS, now know the terms and conditions to beat when competing with Cascade
47

1
2 for future business. Cascade designated this information as confidential also to protect from
3
4 public disclosure information that Cascade's customers consider proprietary and
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6 confidential. The purpose of the Protective Order is to prevent the competitive harm to
7
8 which CMS has now exposed both Cascade and its customers.

9
10 14. Equally troubling is CMS's refusal to acknowledge responsibility for these serious
11
12 violations of the Protective Order and the Commission's rules. When Cascade discovered
13
14 and pointed out CMS's violations, CMS first tried to shift the blame to the Commission's
15
16 Records Center. In an April 10, 2007 email to the Records Center and the parties, counsel
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18 for CMS stated: "The materials were all submitted per instructions from the WUTC records
19
20 center. It appears that a mix-up occurred once the submittal was made." Exhibit 2 at 1.
21
22 Later still, after Cascade pointed out that the problems were due to CMS's filing, CMS
23
24 apologized only for the "confusion" and refused to take responsibility for the so-called
25
26 "glitch." Exhibit 3 at 1. CMS has still refused to acknowledge its violations of the
27
28 Protective Order in connection with its filing and service of ineffectively redacted Word
29
30 versions of the proposed amended complaint and Affidavit. *Id.* CMS's lukewarm apology
31
32 and its utter refusal to take responsibility for these serious violations calls into question its
33
34 reliability in observing the requirements of the Protective Order in the future.

35
36 **2. The appropriate sanction for CMS's violations of the Commission's**
37 **Protective Order and rules is to deny CMS's Motion and close this**
38 **docket.**
39

40
41 15. Despite a previous warning from the Commission, CMS refuses to take its
42
43 obligations under the Protective Order seriously. CMS's violations of the Commission's
44
45 orders and rules have prejudiced Cascade and its customers in ways difficult to measure.
46
47 Cascade relied on the Protective Order in producing confidential documents containing

1
2 valuable competitive information of both Cascade and its customers. Cascade respectfully
3 requests that the Commission teach CMS that protective orders are serious. Denying CMS's
4 Motion and closing this docket should deter such recklessness in the future – they should
5 certainly prevent any such future violations from occurring in this proceeding.
6
7

8
9 16. The Commission has discretion to impose appropriate remedies for violation of the
10 Protective Order and its rules. As demonstrated above, CMS's violations of the
11 Commission's orders reveal a pattern of at least reckless disregard. The Commission should
12 balance the interests of justice with the gravity of CMS's violations. Denying CMS's Motion
13 and closing this docket will not significantly prejudice CMS because the Commission has
14 already adjudicated the issues raised in the Complaint and any claims that CMS has standing
15 to make and the Commission has jurisdiction to hear, so CMS's proposed amendment is
16 futile. This minimal prejudice to CMS is substantially outweighed by the gravity of its
17 violations, which made available to CMS's President and subject to public view
18 competitively sensitive, confidential information of Cascade and its customers in violation
19 of the Protective Order and the Commission's rules.
20
21

22
23 17. Cascade has already requested that the Commission close this docket to avoid
24 subjecting the Commission, Cascade, and the other parties to the burden and expense of
25 further litigation concerning claims that CMS chose not to make in its original Complaint,
26 and which CMS lacks standing to make in any event. *See* Cascade's Motion for
27 Clarification and Response to Motions for Clarification. In its effort to expand and prolong
28 this litigation, CMS has now exposed Cascade and its customers to an additional real
29 prejudice, the disclosure of their confidential information to CMS's President and the public
30 at large. Continuation of this proceeding exposes Cascade and its customers to the real risk
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1 of such further harm. The Commission should prevent any additional risk of such harm by
2 denying CMS's Motion and closing this docket.²
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4

5 **CONCLUSION**
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7

8 18. For the foregoing reasons, Cascade respectfully requests that the Commission deny
9 CMS's Motion and close this docket. The Commission should deny CMS's Motion because
10 the proposed amendments are futile and untimely. The Commission has already decided all
11 of the claims that CMS has made and has standing to make. The Commission should also
12 deny CMS's Motion and close this docket based upon CMS's repeated violations of the
13 Commission's protective orders and rules. Under these circumstances, allowing CMS to
14 proceed in this case pursuant to its proposed Amended Complaint does not "promote fair
15 and just results," WAC 480-07-395(5), so the Commission should deny CMS's Motion and
16 close this docket.
17

18 19. As discussed in its other briefs pending before the Commission, Cascade agrees that
19 Commission Staff has the authority to investigate Cascade's existing gas supply contracts
20 and other matters, and thinks that Commission Staff should continue and complete these
21 investigations in an informal manner. Cascade intends to continue to cooperate fully with
22 Commission Staff in its investigations. There is no need, however, for any of these inquiries
23 to be conducted by or at the behest of CMS. Moreover, there is real danger of prejudice and
24 harm to Cascade and its customers, through the inappropriate disclosure of confidential
25 information, if CMS is allowed to continue its quest to use Commission proceedings to
26 eliminate Cascade as an effective competitor.
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46 ² In the alternative, the Commission should impose penalties on CMS for its violations of the
47 Commission's Protective Order and rules.

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DATED: April 16, 2007

Respectfully submitted,

PERKINS COIE LLP

By: 

Lawrence H. Reichman, OSB No. 86083
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Attorneys for Respondent
Cascade Natural Gas Corporation

Reichman, Lawrence (Perkins Coie)

From: Mike Sommerville [msommerv@wutc.wa.gov]
Sent: Tuesday, April 10, 2007 1:28 PM
To: Reichman, Lawrence (Perkins Coie)
Cc: Ann Rendahl; Douglas Betzold; Chad M. Stokes; Edward A. Finklea; Greg Trautman; Cameron, John; Jon Stoltz; Judy Krebs; Van Nostrand, James M. (Perkins Coie); Kathryn Zsoka; Kippi Walker; records@wutc.wa.gov; Steve Johnson
Subject: RE: URGENT ATTENTION REQUESTED: RE: UG-061256 - CMS' Amended Complaint (REDACTED DOCUMENTS ATTACHED)

Mr. Reichman,

I have verified that by simply opening the document, the redaction can be removed. I have removed the Word versions from our database and the web site will refresh at the top of the hour. I will double check to ensure that they do in fact come off.

Thanks,

Mike Sommerville,
Records Management.

"Reichman,
Lawrence
\\(Perkins Coie\\)" To
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cc
04/10/2007 01:11 PM "Ann Rendahl"
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<records@wutc.wa.gov>, "Steve
Johnson" <stevenj@atg.wa.gov>
Subject
RE: URGENT ATTENTION REQUESTED:
RE: UG-061256 - CMS' Amended

Complaint (REDACTED DOCUMENTS
ATTACHED)

Mike:

I am informed, but have not had a chance to verify, that the Word versions of this affidavit as well as the "Redacted" Amended Complaint that remain on the web site have problems as well, in that the Word versions of Exhibit 2 and the Redacted Amended Complaint simply have the redacted information highlighted with black. I am informed that one only needs to copy the redacted information on to a blank Word sheet and remove the highlight to expose the redacted text, which includes the names of many of Cascade's customers. Please also remove these documents from the website.

Larry Reichman
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-----Original Message-----

From: Mike Sommerville [mailto:msommerv@wutc.wa.gov]
Sent: Tuesday, April 10, 2007 11:17 AM
To: Reichman, Lawrence (Perkins Coie)
Cc: Ann Rendahl; Douglas Betzold; Chad M. Stokes; Edward A. Finklea;
Greg Trautman; Cameron, John; Jon Stoltz; Judy Krebs; Van Nostrand,
James M. (Perkins Coie); Kathryn Zsoka; Kippi Walker;
records@wutc.wa.gov; Steve Johnson
Subject: Re: URGENT ATTENTION REQUESTED: RE: UG-061256 - CMS' Amended
Complaint (REDACTED DOCUMENTS ATTACHED)

I have pulled the document from RMS2 which feeds our web site. I have contacted our help desk and they are running an emergency refresh for our web site. The document should be removed from our web site shortly.

Mike Sommerville,
Records Management.

"Reichman,

Lawrence

\"Perkins Coie\")

To

<LReichman@perkin <records@wutc.wa.gov>

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cc

"Ann Rendahl"

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Johnson" <stevenj@atg.wa.gov>,

"Kippi Walker"

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Subject

URGENT ATTENTION REQUESTED: RE:

UG-061256 - CMS' Amended

It has just come to our attention that the "Redacted" version of Exhibit 2 to the motion for leave to file an amended complaint that CMS filed on 4/9/07, the Affidavit of Donald Schoenbeck, and that has been posted to the Commission's website, includes confidential information. Specifically, Exhibit 1 to that Affidavit is a confidential document subject to the Protective Order, as indicated on its face.

Cascade respectfully requests that the Records Center immediately remove that document from the website and that CMS be required to file an appropriately redacted version. Cascade reserves its right to seek other remedies for CMS's violation of the Protective Order.

Thank you for your attention to this matter.

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Fax: 503.346.2019

From: Prudhomme, Susan [mailto:susanprudhomme@dwt.com] On Behalf Of Cameron, John
Sent: Monday, April 09, 2007 4:51 PM
To: Cameron, John; Chad M. Stokes; Douglas Betzold; Edward A. Finklea; Greg

Trautman; Van Nostrand, James M. (Perkins Coie); Jon Stoltz; Judy Krebs;
Kathryn Zsoka; Reichman, Lawrence (Perkins Coie); Steve Johnson
Subject: UG-061256 - CMS' Amended Complaint (REDACTED DOCUMENTS
ATTACHED)

On behalf of John A. Cameron, attached please find electronic copies of
the
following documents in Docket UG-061256.

CONFIDENTIAL documents are not attached to this email. The complete
filing

will be sent to those listed on the service list via First Class Mail.

Cover letter to the Commission;

Motion of Cost Management Services, Inc. For Leave to File Amended
Complaint;

Amended Complaint (Redacted version);

Exhibit 1;

Exhibit 2 (Redacted version); and

Certificate of Service.

<<UG061256 Amended Complaint Cover Letter 040907.pdf>> <<UG061256
Complaint
Motion 040907.pdf>> <<UG061256 REDACTED Amended Complaint 040907.pdf>>
<<UG061256 Complaint Exhibit 1 040907.pdf>> <<UG061256 REDACTED
Complaint
Exhibit 2 040907.pdf>> <<UG061256 COS amended complaint 040907.pdf>>

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Reichman, Lawrence (Perkins Coie)

From: Cameron, John [johncameron@DWT.COM]
Sent: Tuesday, April 10, 2007 11:16 AM
To: records@wutc.wa.gov
Cc: Ann Rendahl; Chad M. Stokes; Douglas Betzold; Edward A. Finklea; Greg Trautman; Van Nostrand, James M. (Perkins Coie); Jon Stoltz; Judy Krebs; Kathryn Zsoka; Steve Johnson; Kippi Walker; Reichman, Lawrence (Perkins Coie)
Subject: RE: URGENT ATTENTION REQUESTED: RE: UG-061256 - CMS' Amended Complaint (REDACTED DOCUMENTS ATTACHED)

The materials were all submitted per instructions from the WUTC records center. It appears that a mix-up occurred once the submittal was made. Please correct any problem, but comments about any violation of a protective order is unwarranted.

From: Reichman, Lawrence (Perkins Coie) [mailto:LReichman@perkinscoie.com]
Sent: Tuesday, April 10, 2007 11:08 AM
To: records@wutc.wa.gov
Cc: Ann Rendahl; Cameron, John; Chad M. Stokes; Douglas Betzold; Edward A. Finklea; Greg Trautman; Van Nostrand, James M. (Perkins Coie); Jon Stoltz; Judy Krebs; Kathryn Zsoka; Steve Johnson; Kippi Walker
Subject: URGENT ATTENTION REQUESTED: RE: UG-061256 - CMS' Amended Complaint (REDACTED DOCUMENTS ATTACHED)
Importance: High

It has just come to our attention that the "Redacted" version of Exhibit 2 to the motion for leave to file an amended complaint that CMS filed on 4/9/07, the Affidavit of Donald Schoenbeck, and that has been posted to the Commission's website, includes confidential information. Specifically, Exhibit 1 to that Affidavit is a confidential document subject to the Protective Order, as indicated on its face.

Cascade respectfully requests that the Records Center immediately remove that document from the website and that CMS be required to file an appropriately redacted version. Cascade reserves its right to seek other remedies for CMS's violation of the Protective Order.

Thank you for your attention to this matter.

Larry Reichman
PERKINS COIE LLP
LReichman@perkinscoie.com
Tel: 503.727.2019
Fax: 503.346.2019

From: Prudhomme, Susan [mailto:susanprudhomme@dwt.com] **On Behalf Of** Cameron, John
Sent: Monday, April 09, 2007 4:51 PM
To: Cameron, John; Chad M. Stokes; Douglas Betzold; Edward A. Finklea; Greg Trautman; Van Nostrand, James M. (Perkins Coie); Jon Stoltz; Judy Krebs; Kathryn Zsoka; Reichman, Lawrence (Perkins Coie); Steve Johnson

EXHIBIT 2
Page 1 of 2

4/13/2007

Subject: UG-061256 - CMS' Amended Complaint (REDACTED DOCUMENTS ATTACHED)

On behalf of John A. Cameron, attached please find electronic copies of the following documents in Docket UG-061256.

CONFIDENTIAL documents are not attached to this email. The complete filing will be sent to those listed on the service list via First Class Mail.

- Cover letter to the Commission;
- Motion of Cost Management Services, Inc. For Leave to File Amended Complaint;
- Amended Complaint (Redacted version);
- Exhibit 1;
- Exhibit 2 (Redacted version); and
- Certificate of Service.

<<UG061256 Amended Complaint Cover Letter 040907.pdf>> <<UG061256 Complaint Motion 040907.pdf>>
<<UG061256 REDACTED Amended Complaint 040907.pdf>> <<UG061256 Complaint Exhibit 1 040907.pdf>>
<<UG061256 REDACTED Complaint Exhibit 2 040907.pdf>> <<UG061256 COS amended complaint
040907.pdf>>

Susan M. Prudhomme | Davis Wright Tremaine LLP
Assistant to John A. Cameron and John F. McGrory, Jr.

1300 SW Fifth Avenue, Suite 2300 | Portland, OR 97201

Tel: (503) 778-5376 | Fax: (503) 778-5499

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Anchorage | Bellevue | Los Angeles | New York | Portland | San Francisco | Seattle | Shanghai | Washington, D.C.

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.



Davis Wright Tremaine LLP

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April 10, 2007

VIA ELECTRONIC MAIL and UPS

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

Re: In the matter of *Cost Management Services, Inc. v. Cascade Natural Gas Corporation*
Docket No. UG-061256

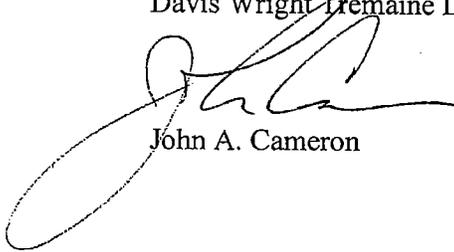
Dear Secretary Washburn:

Enclosed is a new copy of the redacted affidavit of Mr. Don Schoenbeck, including redacted exhibit. The redacted affidavit is Exhibit 2 to the CMS amended complaint, filed yesterday in this docket. The affidavit itself was submitted in redacted form. However, an unredacted version of the single-page exhibit to Mr. Schoenbeck's affidavit was inadvertently attached to that document, rather than the redacted version. I apologize for the confusion.

Please extend my thanks to Mike Summerville for his prompt attention to this glitch.

Very truly yours,

Davis Wright Tremaine LLP



John A. Cameron

JAC:smp
Enclosures
cc: Service List (via email; confidential via US Mail)

CERTIFICATE OF SERVICE

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

John Cameron
Ryan Flynn
Davis Wright Tremain LLP
Suite 2300
1300 SW Fifth Avenue
Portland, OR 97201

Doug Betzold
Cost Management Services, Inc.
2737 - 78th Avenue SE, Suite 101
Mercer Island, WA 98040

Edward A. Finklea
Chad M. Stokes
Cable Huston Benedict
Haagensen & Lloyd LLP
Suite 2000
1001 SW Fifth Avenue
Portland, OR 97204

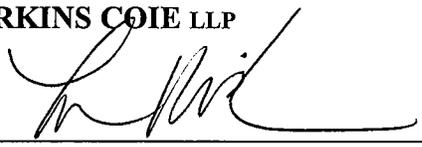
Judy Krebs
Public Counsel Section
Office of Attorney General
Suite 2000
800 Fifth Avenue
Seattle, WA 98104

Greg Trautman
Assistant Attorney General
1400 S. Evergreen Park Dr. SW
P.O. Box 40128
Olympia, WA 98504

Ann Rendahl
Kippi Walker
Washington Utilities and
Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Dated this 16th day of April, 2007.

PERKINS COIE LLP

By 

James M. Van Nostrand, WSBA #15897

Lawrence H. Reichman, OSB #86083

Attorneys for Cascade Natural Gas Corporation