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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

WASHINGTON NATURAL GAS COMPANY,

Respondent.

DOCKET NO. UG-920840

MOTION OF WASHINGTON
NATURAL GAS COMPANY FOR
BRIEFING AND HEARING
SCHEDULE IN CONFORMANCE
WITH COMMISSION RULES

On February 12, 1993, the Staff of the Washington Utilities & Transportation Commission and certain intervenors filed a motion to dismiss Washington Natural Gas Company's ("Company") proposed Public Refueling Station Tracker ("Schedule 117"). As stated by the movants, the motion "is in the nature of a motion for partial summary judgment." Staff Motion at 1.

In this motion, the Company requests that the Commission conform with WAC 480-09 et seq. to allow the Company to file a responsive brief and be heard at a later date regarding Staff's motion.

MOTION FOR BRIEFING AND
HEARING SCHEDULE IN CONFORMANCE
WITH COMMISSION RULES - 1

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1 The Commission's rules regarding motions practice provide:

2 Motions. The practice respecting motions shall
3 conform insofar as possible with the practice in
the superior courts of Washington.

4 WAC 480-09-420(8). Because Staff's motion "is in the nature of a
5 motion for partial summary judgment," the briefing and hearing
6 schedule must be determined by reference to Rule 56 of the Rules for
7 Superior Court.

8 Civil Rule 56(c) provides, in pertinent part:

9 **The motion and any supporting affidavits,**
10 **memoranda of law, or other documentation shall be**
11 **filed and served not later than 21 calendar days**
12 **before the hearing.** The adverse party may file
13 and serve opposing affidavits, memoranda of law
or other documentation not later than 10 calendar
14 days before the hearing. The moving party may
15 file and serve any rebuttal documents not later
16 than 5 calendar days prior to the hearing.

17 The importance and effect of the Commission's rule and the Civil
18 Rule are clear. Civil Rule 56(c) allows a party responding to a
19 motion for summary judgment 21 calendar days before a hearing on such
20 a motion. During that time, the responding party is allowed the
21 opportunity, under Civil Rule 56(c) to "file and serve opposing
22 affidavits, memoranda of law or other documentation. . . ."

23 CR 56(c). These are important procedural protections. First, the
24 rule allows the responding party adequate time to come forward with
25 facts and legal authorities in opposition to a motion for a summary
resolution of the issue at hand. Second, Civil Rule 56 ensures that
the judge or Commission will have before it a complete record upon
which to make a decision.

MOTION FOR BRIEFING AND
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1 The Commission is required by WAC 480-09-420(8) to conform with
2 Rule 56, regarding motions practice, unless that would be impossible.
3 However, in this situation, the Commission can and must conform.

4 There is nothing mandating an immediate resolution of this
5 issue. A rushed judgment is unnecessary. First, Staff and the other
6 movants are not required to file their direct case in this proceeding
7 until April 20, 1993—two months from now. Thus, there is ample time
8 to conform with the schedule set forth in Civil Rule 56. Staff and
9 the other movants will not be prejudiced in the slightest by the
10 Commission's conformance to the rule.

11 Second, the Commission's decision in this proceeding is not
12 required until October 1, 1993—more than seven months from now.
13 During that time, the Commission can **and should** hear from the public,
14 administrative agencies and other interested parties regarding the
15 compressed natural gas Refueling Tracker. Indeed, by taking the time
16 to hear from these parties, the Commission can ensure that it is
17 complying with RCW 80.28.290 which provides:

18 The Commission shall identify barriers to the
19 development of refueling stations for vehicles
20 operating on compressed natural gas, and shall
21 develop policies to remove such barriers. In
22 developing such policies, the Commission **shall**
23 **consider** providing rate incentives to encourage
24 natural gas companies to invest in the
25 infrastructure required by such refueling
stations. (emphasis provided).

MOTION FOR BRIEFING AND
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CONCLUSION

For the reasons set forth above, the Commission should adhere to the schedule for briefing and hearing set forth in Civil Rule 56, as incorporated in WAC 480-09-420(8).


WASHINGTON NATURAL GAS COMPANY:



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and

RIDDELL, WILLIAMS, BULLITT &
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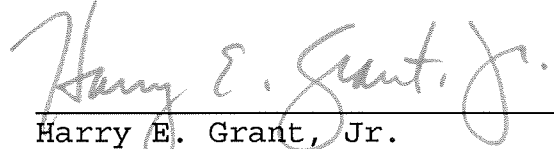
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7 Harry E. Grant, Jr.
8 Attorney for Washington Natural
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CERTIFICATE OF SERVICE
Docket No. UG-920840

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by hand-delivering a copy of the same, to the following:

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MOTION FOR BRIEFING AND
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