

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UG-060256
TRANSPORTATION COMMISSION,)	
)	ORDER 04
Complainant,)	
)	
v.)	PREHEARING CONFERENCE
)	ORDER
CASCADE NATURAL GAS)	
CORPORATION,)	
Respondent.)	
.....)	
)	
COST MANAGEMENT SERVICES,)	DOCKET UG-061256
INC.,)	
)	ORDER 01
Complainant,)	
)	PREHEARING CONFERENCE
v.)	ORDER
)	
CASCADE NATURAL GAS)	
CORPORATION,)	
Respondent.)	
.....)	

- 1 **NATURE OF PROCEEDING.** Docket UG-060256 involves Cascade Natural Gas Corporation’s (Cascade or the Company) request for a general increase in its rates and charges. The Washington Utilities and Transportation Commission (Commission) suspended the proposed tariffs and directed that the proposal be set for hearing.

- 2 Docket UG-061256 involves a complaint by Cost Management Services, Inc. (CMS) against Cascade, asserting Cascade is violating state and federal law by selling natural gas at retail to customers that take transportation-only service.

3 **CONFERENCE.** The Commission convened a prehearing conference in Dockets UG-060256 and UG-061256 at Olympia, Washington on September 14, 2006, before Administrative Law Judge Ann E. Rendahl upon notice to all parties.

4 **APPEARANCES.** The following persons represent parties in both Docket UG-060256 and Docket UG-061256: John Cameron, Davis Wright Tremaine, LLP, Portland, Oregon, represents CMS. James Van Nostrand, Perkins Coie, LLP, Portland, Oregon, represents Cascade. Ed Finklea and Chad Stokes, attorneys, Cable Huston Benedict Haagensen & Lloyd LLP, Portland, Oregon, represent the Northwest Industrial Gas Users (NWIGU). Judith Krebs, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel). Greg Trautman, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).¹ Contact information provided at the conference for the parties’ representatives is attached as Appendix A to this Order.

5 The following persons represent parties only in Docket UG-060256: Nancy Glaser and Danielle Dixon, staff members, Seattle, Washington, represent the NW Energy Coalition. Brad Purdy, attorney, Boise, Idaho, represents the Energy Project. Vincent J. Diaz, Fox Island, Washington, represents the International Chemical Workers Union Council/UFCW Local 121-C. Scott Magie, project director, Longview, Washington, represents the Mint Farm Energy Center LLC. Contact information for these parties is contained in Order 03, a prehearing conference order, in Docket UG-060256.

6 **PETITIONS FOR INTERVENTION.** The Northwest Industrial Gas Users (NWIGU) petitioned in writing to intervene in the docket. No party objected to

¹ In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including advocacy Staff. *RCW 34.05.455*.

NWIGU's petition. The Commission finds that NWIGU has established a substantial interest in this proceeding and that its participation will be in the public interest. NWIGU's petition intervene is granted.

- 7 **CONSOLIDATION.** The Commission has discretion under WAC 480-07-320 to consolidate two or more proceedings where the facts or principles of law are related. CMS raises similar legal issues in Dockets UG-060256 and UG-061256, and the dockets appear to be legally related. The parties argued against consolidating the two dockets, asserting that there are no factual issues in dispute, and that the legal issues should be addressed only in the complaint proceeding. Based on this discussion, the Administrative Law Judge determined not to consolidate the two proceedings.
- 8 While the Commission will not consolidate the two proceedings for hearing, the Commission, in its discretion, may consolidate the dockets at a later date for decision and order.
- 9 **MOTION FOR LEAVE TO FILE REPLY.** On August 28, 2006, CMS filed a motion for leave to file a reply to Cascade's answer, attaching a copy of the reply. On September 5, 2006, CMS left a message with Judge Rendahl inquiring whether the Commission had entered an order on the motion. Judge Rendahl returned the call, notifying counsel for CMS she would address the motion at the scheduled prehearing conference. At the conference, Cascade objected to the motion and to the reply, asserting that WAC 480-07370(d)(ii) provides that a motion to file a reply is deemed denied unless the Commission grants the motion within five business days.
- 10 While recognizing that the procedural rule deems the motion denied, the Administrative Law Judge granted the motion. Neither CMS nor Cascade is prejudiced by granting the motion, as CMS was led to understand the motion would be addressed at the conference, and Cascade will have a full opportunity to address in its motion for summary determination and accompanying brief any issues raised in the reply.

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11 **PROTECTIVE ORDER.** The parties ask that the Commission enter a protective order in this docket under RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 80-07-423 to protect the confidentiality of proprietary information. The request was granted and a protective order will be entered in this docket.

12 **DISCOVERY.** It does not appear that discovery will be required in this proceeding. If the need for discovery becomes apparent later, any party may request by motion that the Commission allow for discovery pursuant to the Commission's discovery rules, WAC 480-07-400 – 425.

13 **PROCEDURAL SCHEDULE.** While discussing the appropriate procedural schedule for the complaint proceeding, the parties agreed that motions for summary determination should be filed consistent with the briefing schedule in the rate case, Docket UG-060256. The parties also agreed to waive their right to an initial order and requested that the Commission enter a final order in the complaint proceeding prior to, or at the same time as, the final order in the rate case. The parties agreed upon the following procedural schedule:

Statement of Undisputed Facts **Friday, November 3, 2006, by 3:00 p.m.**

**Simultaneous Motions for
Summary Determination
and Briefing** **Wednesday, November 15, 2006, by 3:00 p.m.**

**Simultaneous Responses to
Motions and Briefing** **Friday, December 1, 2006, by 3:00 p.m.**

14 The Commission adopts this procedural schedule, which for convenience is attached to this Order as Appendix B.

15 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus **10** copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be

three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

- 16 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 17 An electronic copy of all filings must be provided through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or by e-mail delivery to <records@wutc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a CE or a 3.5-inch IBM-formatted high-density diskette including the filed document(s). Parties should furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to follow WAC 480-07-140(5) in organizing and identifying electronic files.
- 18 **ELECTRONIC SUBMISSION OF DOCUMENTS.** At the request of the parties, the presiding officer granted a one-day extension of the paper-filing requirement, allowing parties to submit documents to the Commission electronically on the filing deadline. Parties may submit documents electronically either through the Commission's Records Center Web Portal (www.wutc.wa.gov/e-filing) or via e-mail to records@wutc.wa.gov, and must file an original, plus **ten** paper copies, of the document with the Commission by the following business day. Finally, to perfect filing, parties must provide courtesy copies to the presiding administrative law judge and advisory staff as well as the parties to the proceeding.
- 19 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1142.

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20 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective September 18, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET UG-061256**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Cost Management Services, Inc.	JOHN A. CAMERON Davis Wright Tremaine LLP 1300 SW Fifth Avenue Suite 2300 Portland, OR 97201	(503) 778-5206	(503) 778-5299	johncameron@dwt.com
	P. DOUGLAS BETZOLD	(206) 236-8808	(206) 236-8807	Cmsinc1@qwest.net
Cascade Natural Gas	JAMES M. VAN NOSTRAND LAURENCE REICHMAN Perkins Coie LLP 1120 NW Couch St. 10 th Floor Portland, OR 97209-4128	(503) 727-2162 (503) 727-2019	(503) 346-2162 (Same)	JVanNostrand@perkinscoie.com LReichman@perkinscoie.com
	JON STOLTZ			jstoltz@cngc.com
Northwest Industrial Gas Users	EDWARD A. FINKLEA CHAD M. STOKES Cable Huston Benedict Haagensen & Lloyd LLP 1001 SW Fifth Avenue Suite 2000 Portland, OR 97204-1136	(503) 224-3092 (503) 224-3092	(503) 224-3176 (503) 224-3176	efinklea@chbh.com cstokes@chbh.com
	JUDY KREBS Public Counsel Section Office of Attorney General 800 Fifth Avenue Suite 2000 Seattle, WA 98104-3188	(206) 464-6595	(206) 389-2079	judyk@atg.wa.gov
Public Counsel	STEVE JOHNSON KATHRYN ZSOKA			stevenj@atg.wa.gov kathrynz@atg.wa.gov

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PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
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Commission Advisory Staff	ANN RENDAHL (Admin. Law Judge) KIPPI WALKER (Administrative Support)	(360) 664-1144 (360) 664-1139	(360) 664-2654 (360) 664-2654	arendahl@wutc.wa.gov kwalker@wutc.wa.gov

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UG-061256**

EVENT	DATE	INTERVAL
Statement of Undisputed Facts	Friday, November 3, 2006	
Simultaneous Cross-Motions for Summary Determination and Briefs	Wednesday, November 15, 2006	12 Days
Simultaneous Answers to Motions and Briefs	Friday, December 1, 2006	16 Days
(Any further procedural stages will be determined following a final order on the motions)		