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WITNESSES: EXAM C EXAM RC
(No witnesses)

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EXHIBITS: MARKED ADMITTED
(No exhibits were marked)

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

2 JUDGE CANFIELD: This hearing will please
3 come to order.

4 This is Docket No. UG-941408, entitled
5 Washington Utilities and Transportation Commission,
6 Complainant, versus Cascade Natural Gas Corporation,
7 Respondent.

8 Today's hearing is being conducted by
9 Administrative Law Judge Elmer Canfield of the office
10 of administrative hearings. Today's date is June 8,
11 1995, it's a Thursday, we're convened in Olympia,
12 Washington.

13 Direct testimony has been received from
14 the respondent and we were going to take testimony of
15 commissioned Staff and the company's rebuttal evidence,
16 but prior to going on the record there was a discussion
17 about a continuation of the hearing, and we're going to
18 discuss that momentarily.

19 Let me take appearances, and there is an
20 appearance by telephone today as well, which we'll come
21 to, but first I'll take appearances of those in the
22 actual hearing room this morning.

23 MR. CEDARBAUM: My name is Robert Cedarbaum.
24 I'm an Assistant Attorney General representing the
25 Commissioned Staff. My business is the Heritage Plaza

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1 Building, 1400 South Evergreen Park Drive Southwest, in
2 Olympia, the zip code is 98504.

3 JUDGE CANFIELD: And with you this morning
4 is Phillip Popoff of commissioned Staff?

5 MR. CEDARBAUM: That's right.

6 JUDGE CANFIELD: Thank you.

7 And the appearance by telephone this
8 morning?

9 MR. WEST: This is John West appearing for
10 Cascade Natural Gas Corporation, my address is 4400 Two
11 Union Square, Seattle, Washington 98101. With me on the
12 telephone is John T. Stoltz, Senior Vice-President of
13 Planning & Rates of Cascade.

14 JUDGE CANFIELD: Thank you.

15 Maybe, Mr. Cedarbaum, you can reflect, you
16 apparently had some contact from the other individuals
17 involved in this matter?

18 MR. CEDARBAUM: That's right, Your Honor.
19 Yesterday I talked with Don Trotter, public counsel
20 section of the Attorney General's office, and
21 Mr. Trotter indicated to me that he had no objection
22 to us working out a continued hearing schedule for the
23 remainder of this case. He gave me some availability
24 dates, and we can talk about that as well. He also
25 indicated that he did not object to waiving a proposed

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1 order in this proceeding so that we could go directly
2 to the commissioned final order.

3 I also exchanged voicemail with Ms. Pyron
4 who represents Northwest Industrial Gas Users, an
5 intervener, and she, from her messages, also indicated
6 she waived the proposed order, similar to Mr. Trotter,
7 and that she had no objection to the continuance of the
8 hearing given the fairly low interest they have in this
9 case -- or I shouldn't say low interest, but the
10 nonactive interest they have in this case. She did not
11 express any preference for a hearing date at all. She
12 didn't anticipate appearing at any continued hearing
13 date, so it didn't really matter to her what date we
14 choose.

15 JUDGE CANFIELD: It was understood that
16 neither of those individuals would be attending at
17 today's session?

18 MR. CEDARBAUM: That's right.

19 JUDGE CANFIELD: That was consistent at
20 least with the message that Paula Pyron left at our
21 office indicating that she had no objection to a
22 continuance, and also she expressed a willingness to
23 waive an initial order in this matter.

24 Maybe since we don't have anything
25 specifically from Paula Pyron or Mr. Trotter on that,

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1 I might request them to confirm that in writing and
2 send in a copy, because I believe that the company and
3 Commissioned Staff were in agreement in waiving an
4 initial order in this matter, maybe I can get that
5 clarified on the record from those individuals present.

6 MR. CEDARBAUM: This is Bob Cedarbaum,
7 that's correct, Your Honor. The Staff does not object
8 to waiving the proposed order.

9 MR. WEST: This is John West, Cascade also
10 is in agreement to waive the proposed order.

11 JUDGE CANFIELD: Okay. We have got that on
12 the record, and maybe just to solidify that I could get
13 that in writing from Mr. Trotter and Ms. Pyron, and I
14 will request that in the letter I send out after today's
15 session.

16 Just before going on the record we did
17 discuss some dates preliminarily, but first let me just
18 ask Mr. Cedarbaum whether he is requesting that this is
19 a joint request for a continuance of this matter?

20 MR. CEDARBAUM: Well, certainly a request by
21 the Staff, and I think it's a joint request with the
22 company.

23 MR. WEST: Cascade joins in this request.

24 MR. CEDARBAUM: We have had over the past,
25 you know, few weeks some settlement talks. There has

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1 been an exchange of information recently in response
2 to Staff data requests that prompted us to seek a
3 continuance so that we could try to pursue the
4 negotiations, and so we wanted to let that play itself
5 out and see where it went. So that was the reason for
6 us to seek the continuance, and we're hopeful that it
7 will be fruitful.

8 JUDGE CANFIELD: So as we talk, these
9 discussions are ongoing and the exchange of information
10 is ongoing?

11 MR. CEDARBAUM: Well, it's been awhile since
12 we actually met face to face, but there has been just I
13 think two days ago a response to some Staff data
14 requests, which I think kind of jump-started the
15 settlement environment again. So we think that
16 continuing the hearing to allow that again to play
17 itself out is worthwhile. It's not to say that it's --
18 you know, we're sure that we're going to get anywhere,
19 but it's certainly seemed worth the effort.

20 JUDGE CANFIELD: And there is going to be a
21 further exchange of information that's anticipated?

22 MR. CEDARBAUM: That's right, Your Honor.
23 What we would propose is that after we go off the record
24 today that Mr. Stoltz and Mr. West stay on the line to
25 discuss exactly what information Staff wants the company

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1 to produce, and just so that we're very clear as to what
2 we're seeking and we're clear as to, you know, when the
3 company will be able to provide us that information so
4 that we don't have to come back again another time and,
5 you know, ask for another continuance.

6 So we would like to have the opportunity to
7 really, you know, discuss with the company what we need
8 and make sure that they're able to provide it in a
9 timely way and go from there.

10 JUDGE CANFIELD: Maybe I can hear from you
11 on that proposal, Mr. West. I guess Mr. Cedarbaum has
12 covered the joint requests for a continuance and also
13 the proposal to continue discussions and clarify what
14 information they're looking for after today's session.
15 So maybe I could get a response on that.

16 MR. WEST: Your Honor, Cascade is in
17 agreement with everything Mr. Cedarbaum had to say.

18 JUDGE CANFIELD: I guess that covers all
19 points there then. Okay.

20 We did have some discussion on dates,
21 maybe I can have you relate those to the record,
22 Mr. Cedarbaum?

23 MR. CEDARBAUM: Sure.

24 Well, I think what we discussed before
25 going on the record, and I believe we have agreed to,

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1 would be to continue the hearing until July 21st, 1995,
2 at which time whatever testimony might have been filed
3 and would need to be offered and cross-examined would
4 occur, if necessary. It may also be that by that time
5 we have come to a settlement of all or some of the
6 issues and we would be presenting the settlement at that
7 hearing date, if the Commissioners are available in
8 which to ask questions about it. If they're not
9 available on that date, we would have to come up with a
10 different date; but at this point we're asking for July
11 21st as a hearing date.

12 We also I think have agreed that July 14th
13 would be the date on which the Staff would file any
14 supplemental testimony that might become necessary based
15 on the information that we will be asking for from the
16 company. Again, that's not to say that we would be
17 filing supplemental testimony, we just want the
18 opportunity to do so, if necessary.

19 Then we also agreed that on August 4th, if
20 it was still necessary to file briefs, because some of
21 the issues are still contested, August 4th would be the
22 briefing date.

23 JUDGE CANFIELD: Mr. West, any response or
24 comments on those dates?

25 MR. WEST: All of the dates related to by

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1 Mr. Cedarbaum are acceptable to Cascade.

2 JUDGE CANFIELD: And the July 14 date, as I
3 understand it, Mr. Cedarbaum, that would be just a date
4 by which Staff was to have filed any supplemental
5 testimony?

6 MR. CEDARBAUM: That's right, Your Honor.
7 It's possible that the information that we would be
8 receiving from Cascade after today might prompt the
9 Staff's position to change. So we would want to have
10 the opportunity to present that to the Commission but
11 give the company sufficient time to know what that
12 position is. So July 14th would be the date on which we
13 would file the supplemental testimony, if necessary. We
14 can certainly file a letter with the Commission on that
15 date saying that we're not going to be filing testimony,
16 if we end up not filing any.

17 MR. WEST: I might ask of the Staff,
18 Mr. Cedarbaum, whether it would be acceptable that
19 Cascade also have a similar right, if there is
20 information that's obtained by Cascade in the meantime
21 from the Staff.

22 JUDGE CANFIELD: Yeah, that was my concern.
23 It was characterized as only a Staff filing mechanism,
24 and now Mr. West indicates that he would like a similar
25 opportunity.

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1 MR. CEDARBAUM: Well, I certainly don't
2 object to the company filing supplemental testimony
3 based on the information, you know, that is exchanged
4 between -- you know, if the company were to provide
5 information to Staff that we would seek to be seeking
6 after today and that prompted the company to file
7 supplemental testimony, that's fine. If what you're
8 saying is that, you know, the company might send off a
9 bunch of data requests to the Staff based on Staff's
10 current case and want to then add to the company's
11 testimony, I'm not quite sure what that avenue means.

12 MR. WEST: Your Honor, it's the former
13 rather than the latter that Cascade is interested in.
14 There have been some things that were furnished to
15 Cascade just yesterday as well and my presumption is
16 that we will not need this right, but it seems to me
17 it's equitable if it becomes necessary based on the
18 further exchange of information or some of the
19 information that was just exchanged this week, that that
20 right be preserved.

21 One other situation is that there might be a
22 change in position as well based on this information.

23 MR. CEDARBAUM: Okay. I guess within those
24 parameters I don't object to that. I just didn't want
25 -- I guess what I was afraid of was the company using

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1 this opportunity to kind of reopen in a universal way
2 the rebuttal testimony that it's filed and --

3 MR. WEST: That's not the company's
4 intention.

5 MR. CEDARBAUM: Okay. That's fine then.

6 JUDGE CANFIELD: So with that understanding,
7 the July 14 date would be a date by which both Staff and
8 Cascade could file supplemental testimony within those
9 parameters then.

10 And the briefing date, if necessary, August
11 4, that was acceptable as well, Mr. West?

12 MR. WEST: Yes. That's acceptable, Your
13 Honor.

14 JUDGE CANFIELD: With that, I'll grant the
15 motion for continuance and we'll reschedule it to Friday
16 July 21, and that will be here in Olympia. I'm assuming
17 a room will be available, we'll have to make that
18 arrangement. And there has been a discussion about a
19 possible shift of that date should the matter need to be
20 presented to the Commissioners, and if they're not
21 available on that date, there is a possibility of
22 shifting it to another date. So as long as that is
23 understood by all that we may have to change it should
24 circumstances warrant. We'll address that as it comes
25 up then.

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1 Anything further, Mr. Cedarbaum?

2 MR. CEDARBAUM: I guess the only thing that
3 comes to mind is if on July 14th we each file
4 supplemental testimony which prompts each of us to want
5 to make data requests of the other based on the
6 supplemental testimony, that we ought to come up with a
7 shortened response time since there is only a week prior
8 to the hearing. So I guess I would propose that we have
9 a two-day turnaround. You know, I don't know if that's
10 going to be necessary or not, but it seems if we file
11 testimony on the 14th and the party wished -- you know,
12 should have a reasonable chance to ask questions of that
13 and to do some discovery and get the answers back in
14 time that is useful, that we need to shorten discovery
15 response time.

16 JUDGE CANFIELD: Yeah. That is a real tight
17 time line we're looking at, Friday to Friday, as far as
18 the dates go, and the data request would have to be
19 almost instantaneous, and you're requesting a two-day
20 response time to those data requests?

21 MR. CEDARBAUM: Maybe I can be more
22 specific. If we file on July 14th, my proposal would be
23 that all data requests must be asked no later than the
24 end of the day on the 17th, and all responses have to be
25 received by the requesting party by noon on the 20th.

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1 JUDGE CANFIELD: That being the date before
2 the July 21 hearing?

3 MR. CEDARBAUM: That's right.

4 JUDGE CANFIELD: Any comment, Mr. West, on
5 that?

6 MR. WEST: I think that is an acceptable
7 procedure, Your Honor, subject to, of course, if it's
8 physically impossible for either party to respond, then
9 we have to reopen the date of the hearing.

10 MR. CEDARBAUM: Yeah. I agree on that. I'm
11 assuming that, you know, the supplemental testimony is
12 not going to prompt 50 data requests. I mean, we're
13 talking about a fairly limited amount that can be
14 responded to. You know, it adds to the work, but it
15 needs to be responded to quickly. But I agree, you
16 know, that this ideal world might break down in
17 practice. So ...

18 MR. WEST: That's fine.

19 JUDGE CANFIELD: Okay. We can certainly
20 look at that, if that becomes a problem, but let's go
21 ahead and set those dates then.

22 Data requests would have to be made by
23 Monday, July 17 at the close of the business day, 5:00
24 p.m., and then responses to be received no later than
25 noon on Thursday, July 20; and as it's set, the hearing

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1 would be 9:30 the following day, July 21, in the
2 Commission's offices in Olympia. We would have to find
3 a hearing room, which would be covered in the letter
4 I'll be sending out to the parties, but let's go ahead
5 and adopt those dates. And as indicated, should the
6 date have to be changed for one reason or another, we
7 can certainly address that at the time.

8 Anything further, Mr. Cedarbaum?

9 MR. CEDARBAUM: I think that covers it,
10 Your Honor.

11 JUDGE CANFIELD: Anything further, Mr. West?

12 MR. WEST: Nothing else, Your Honor.

13 JUDGE CANFIELD: Okay. I will be getting
14 out a letter reflecting essentially what's been
15 discussed at the session today, that the continuance was
16 granted to the date that we've discussed, as well as the
17 pre-filing and deadline dates I'll include that in the
18 letter and send it to all parties of record as well.

19 Maybe before we get off, if a settlement is
20 reached, would that be anticipated to be filed at some
21 point prior to the July 21 hearing date?

22 MR. CEDARBAUM: That's what I would
23 anticipate, that the settlement would be documented and
24 filed with the Commission enough ahead of time that it
25 can be digested by the Commission prior to the hearing,

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1 and maybe what we can shoot for, although I don't want
2 to commit do it, but we could try to, if we do reach a
3 settlement before the 14th, maybe we could use that July
4 14th pre-filing date as a date for filing the settlement
5 if it's in existence by then. We would seek to document
6 it and file it with enough time that the Commission can
7 read it and understand it prior to the hearing, but I
8 don't think we can commit as to what date that would
9 be.

10 JUDGE CANFIELD: Okay. And any further
11 comments on that, Mr. West?

12 MR. WEST: No. That sounds okay to me.

13 JUDGE CANFIELD: Okay. And it's understood,
14 I assume, by all that these filing dates we're
15 discussing are receipt dates. Is that your
16 understanding, Mr. Cedarbaum?

17 MR. CEDARBAUM: Well, they can be. I mean,
18 it's fine with me if they're receipt dates. Usually,
19 you know, I consider them with regard to testimony as
20 filing dates, but we can certainly on the 14th make sure
21 that either by, you know, mail or overnight delivery or
22 fax we get whatever supplemental testimony we might file
23 to the company on that day.

24 JUDGE CANFIELD: And likewise, Mr. West?

25 MR. WEST: Yes, that's agreed.

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1 JUDGE CANFIELD: Yeah. The parties I think
2 have exchanged fax numbers so that would be useful in
3 that regard.

4 MR. CEDARBAUM: I guess the same would be
5 true for any data requests and data requests responses,
6 I consider those dates to be received dates.

7 JUDGE CANFIELD: Yeah, that would make it
8 clear.

9 And as far as the possible supplemental
10 testimony by either Staff or the company, Mr. Cedarbaum
11 at one point mentioned the possibility of sending a
12 letter indicating if they were not going to be filing
13 anything that might at least put some closure to that.
14 Could that be worked in as well, that either there would
15 be supplemental testimony filed or a letter indicating
16 no testimony is being submitted?

17 MR. CEDARBAUM: That's fine from our point
18 of view.

19 MR. WEST: Sure. That's fine, Your Honor.

20 JUDGE CANFIELD: Okay. That is adopted as
21 well then.

22 So with that, I'll conclude today's session
23 if there is nothing further from either side, and I'll
24 get out a letter to the parties reflecting what we have
25 discussed at the session today.

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1 So thank you, Mr. West and Mr. Stoltz.

2 MR. WEST: Thank you, Your Honor.

3 MR. STOLTZ: Thank you.

4 JUDGE CANFIELD: And thank you,

5 Mr. Cedarbaum and Mr. Popoff.

6 MR. CEDARBAUM: Thank you.

7 JUDGE CANFIELD: This session is

8 adjourned.

9 (Hearing adjourned at 9:51 a.m.)

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