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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In the Matter of the)
4 Application of) Docket No. UG-001119
5 CASCADE NATURAL GAS) Volume II
6 CORPORATION,) Pages 24 to 35
7)
8 for a Certificate of Public)
9 Convenience and Necessity to)
10 Operate a Gas Plant for Hire)
11 in the General Area of Grant)
12 County)
13 _____)
14

10 A hearing in the above matter was held on
11 January 30, 2001, at 9:40 a.m., at 1300 South Evergreen
12 Park Drive Southwest, Olympia, Washington, before
13 Administrative Law Judge Marjorie R. Schaer.

14 The parties were present as follows:

15 NORTHWEST INDUSTRIAL GAS USERS, via bridge
16 line, by EDWARD A. FINKLEA, Attorney at Law, Energy
17 Advocates LLP, 526 Northwest 18th Avenue, Portland,
18 Oregon 97209.

19 AVISTA CORPORATION, by TOM DEBOER, Attorney at
20 Law, Paine, Hamblen, Coffin, Brooke & Miller LLP, 717
21 West Sprague Avenue, Suite 1200, Spokane, Washington
22 99201.

23 CASCADE NATURAL GAS, by JOHN L. WEST, Attorney
24 at Law, 1221 Second Avenue, Suite 500, Seattle,
25 Washington 98101.

26 THE COMMISSION, via bridge line, by ROBERT
27 CEDARBAUM, Assistant Attorney General, 1400 South
28 Evergreen Park Drive Southwest, Olympia, Washington
29 98504-0128.

30 Joan E. Kinn, CCR, RPR
31 Court Reporter

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

2 JUDGE SCHAER: We're here this morning for a
3 second prehearing conference in Docket Number UG-00119.
4 This is an application by Cascade Natural Gas
5 Corporation to Amend its Certificate of Convenience and
6 Necessity to Operate a Gas Plant for Hire in Grant
7 County, Washington. Today is January 30th, 2001. We
8 are appearing today in the Commission's hearing room 206
9 in the Commission's headquarter building in Olympia,
10 Washington. I'm Marjorie Schaer, and I'm the
11 Administrative Law Judge assigned by the Commission to
12 this proceeding.

13 I would like to start this morning by taking
14 appearances from all parties starting with the
15 Applicant, Mr. West.

16 MR. WEST: I'm John West, 500 Gallant
17 Building, 1221 Second Avenue, Seattle, Washington 98101.
18 My telephone number is (206) 623-1745, fax number (206)
19 623-7789, E-mail jlw@hcmp.com. I'm appearing on behalf
20 of Cascade Natural Gas Corporation.

21 JUDGE SCHAER: Thank you. Let me indicate to
22 the others, and I should have said this before you
23 perhaps, but we already have a complete appearance from
24 all counsel that gives us their phone numbers and fax
25 numbers and E-mail addresses. So you probably don't

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1 need to provide that again unless something has changed.
2 If something has changed, please do let me know that.

3 So then let's go with Commission Staff,
4 Mr. Cedarbaum.

5 MR. CEDARBAUM: This is Robert Cedarbaum,
6 Assistant Attorney General, and my appearance is
7 previously on before.

8 JUDGE SCHAER: Thank you.
9 Then from Avista, please.

10 MR. DEBOER: Tom DeBoer on behalf of Avista
11 Corporation.

12 JUDGE SCHAER: And then Mr. Finklea.

13 MR. FINKLEA: Edward Finklea on behalf of the
14 Northwest Industrial Gas Users.

15 JUDGE SCHAER: First thing I would like to do
16 this morning is find out if there is any further
17 discussion we need to make of the issues that were
18 framed at the first prehearing conference. And one
19 thing I'm going to ask Mr. West to do is explain to me
20 Cascade's current position in this proceeding, because
21 I'm not sure if they were trying to convert this into a
22 petition for declaratory judgment or if they're trying
23 to expand this to state wide or if somebody put the
24 wrong heading on their brief or what's happening. So
25 why don't you start out, Mr. West, please.

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1 MR. WEST: Thank you, Your Honor. Cascade
2 does not intend to expand this case beyond the four
3 corners of the application. In fact, I think for our
4 present purposes, what we're readdressing is the one
5 customer, which is Basin Frozen Foods, and that's the
6 sole purpose of this application. It's not to create a
7 general right to offer outside our service area. It's
8 only for this one client.

9 JUDGE SCHAER: Okay. Then are there any
10 issues that you see framed that were not discussed at
11 the first prehearing conference?

12 MR. WEST: I don't really think so. I think
13 the same issues apply only on a narrower basis at this
14 point.

15 JUDGE SCHAER: Thank you. Any other party
16 wish to comment on issues before us?

17 MR. CEDARBAUM: Your Honor, this is Bob
18 Cedarbaum. I guess at the prehearing conference, the
19 first prehearing conference, my recollection was that
20 the Company did indicate an intent to provide the
21 service state wide or that it would amend its
22 application state wide if the Commission were to find
23 that the services were jurisdictional. I'm not sure
24 that that's the case. I think the question has been
25 answered by Mr. West's comments. Maybe he can just

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1 clarify for me, if I'm the only one still confused on
2 that, I would appreciate that.

3 And I guess a second point too, we will get
4 into the issue of a schedule for the filing of
5 testimony, and I would like to understand from the
6 Company's perspective whether they intend that testimony
7 to still be directed toward jurisdictional issue,
8 because clearly the Commission in the First Supplemental
9 Order felt that there was some factual issues
10 outstanding, so whether the testimony would be on that
11 issue as well as public convenience and necessity and
12 satisfactory service or if it would just be limited
13 still to the jurisdictional issue. And the reason I
14 bring it up now is it seems to be related to the
15 question you just asked Mr. West.

16 JUDGE SCHAER: Mr. West, did you want to
17 respond to those two questions?

18 MR. WEST: I'm not sure I followed it 100%,
19 because I am having some difficulty hearing. Perhaps I
20 could hear a brief summary. I understood there were two
21 questions.

22 MR. CEDARBAUM: Yeah, I'm sorry, I'm
23 swallowing my telephone, so I don't know how I could be
24 louder. But the first question was whether or not the
25 Company intended -- at the first prehearing conference,

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1 it was my understanding that if the Commission were to
2 find these services to Basin to be jurisdictional
3 services, that is subject to the Commission's
4 jurisdiction, then the Company would amend its
5 application state wide. I don't know if Mr. West's
6 entire response clarified that particular aspect of the
7 question. So that was my -- I need clarification on
8 that.

9 And my second point relates both to that and
10 to the schedule that we will discuss shortly, and that
11 is whether the Company's testimony will be directed
12 still only to the jurisdictional question, which the
13 Commission in the First Supplemental Order believed
14 there was still some outstanding factual issues, or
15 whether the Company intended to both do that and/or go
16 beyond that and go to the normal public convenience and
17 necessity, satisfactory service questions that are
18 contained in the statute.

19 MR. WEST: Okay, I think I got it that time.
20 Sorry, Bob.

21 With respect to the first question, there is
22 no intention in this proceeding to expand the
23 application beyond the particular area in Grant County
24 and this particular client. That might or might not be
25 a subject of a future proceeding, but there is no

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1 intention at this time to amend this proceeding.

2 Secondly, with respect to the questions of
3 what would be addressed, I believe that we will address
4 both the jurisdictional question and the convenience and
5 necessity question at this point.

6 MR. CEDARBAUM: And I guess to follow on to
7 that point, and maybe this is just something for the
8 parties to think about, but if the Company's intention
9 in this case is only to serve Basin, which is
10 geographically speaking much narrower than the
11 application, then this case might be simplified, and I
12 say might, if the Company were to propose a restrictive
13 amendment to the application that would narrow it down
14 geographically to in essence a freeze drip of Basin, and
15 that's not something I'm expecting any resolution of
16 today, but it's just food for thought.

17 MR. WEST: Yes, Cascade is willing to
18 consider that.

19 MR. CEDARBAUM: That's all I have, thank you.

20 JUDGE SCHAER: Anything else, Mr. Finklea?

21 MR. FINKLEA: No, Your Honor.

22 JUDGE SCHAER: The next area that I thought
23 we should address is discovery, and you may recall that
24 at the first prehearing conference, parties did not
25 contemplate needing discovery and had not asked that the

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1 provisions of the discovery rule be triggered. And I'm
2 wondering now that this is going on to another phase if
3 parties would like to have the ability to use the
4 discovery processes set out in that rule.

5 MR. WEST: Yes, Your Honor, Cascade would
6 like to utilize that.

7 JUDGE SCHAER: Anyone object to triggering
8 the discovery rule?

9 MR. CEDARBAUM: No objections for staff.

10 JUDGE SCHAER: Then that will be triggered,
11 and when we talk about schedule, I would like you to be
12 thinking about the time frames set out in that rule and
13 whether with the schedule we develop you might want to
14 change any of those to shorten or lengthen time.

15 Then going right along with discovery, the
16 next question I would have is whether or not there may
17 be a need for a protective order in this proceeding.

18 MR. DEBOER: Your Honor, Tom DeBoer, I guess
19 it would depend on what Cascade had in mind and what
20 data they're requesting whether we would feel the need
21 for a protective order. I can't imagine at this point
22 that we would, but maybe Mr. West could give us an
23 indication if he would be requesting information from
24 Avista in the nature of that.

25 MR. WEST: Your Honor, I have no plan at this

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1 point to request information that is confidential, so
2 that although I don't foresee the need for that at the
3 moment, that may change as the case develops.

4 JUDGE SCHAER: Okay, well, I would like to
5 indicate to the parties that if something is asked for
6 that you consider confidential, it's not my
7 understanding that that is a reason that you can use for
8 not providing the information. So that if something
9 comes up that any party here would like to protect, then
10 we will probably need to get a protective order in
11 place. And if no party sees a need for it now, I won't
12 have one entered now. But if parties contemplate that
13 that may be needed, then I think it would be a good idea
14 to get that process started, because there are some time
15 lines in those orders about filing your experts and
16 letting the other side look at them, and we really don't
17 want to be dealing with one of these kinds of conflicts
18 in the week before somebody's testimony is due.

19 MR. WEST: Your Honor, in light of that,
20 perhaps it would be prudent for all of us to go ahead
21 and have a standard protective order entered so that
22 there wouldn't be a procedural problem at the last
23 moment if discovery does take that direction.

24 JUDGE SCHAER: All right.
25 Then the next item I have is discussing a

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1 schedule, and we had some discussion off the record
2 regarding a schedule, and I believe the parties have
3 come up with an agreed schedule that they think would
4 work well in this proceeding.

5 I would like to ask Mr. West to report out
6 those numbers and make sure I wrote them down correctly
7 the first time, and now that you have had a few minutes
8 to think about these, see if there are any concerns that
9 any party has with the schedule that was talked about
10 off the record.

11 MR. WEST: Yes, Your Honor, the schedule we
12 discussed was for Cascade to file its testimony on
13 February 27th, that the other parties file their
14 testimony on March 27th, and that Cascade file its
15 rebuttal testimony on April 10th, and that there be
16 hearings on these items on the 1st and 2nd of May.

17 JUDGE SCHAER: Thank you. Is that schedule
18 agreeable to everyone?

19 MR. CEDARBAUM: It is for Staff.

20 JUDGE SCHAER: Mr. Finklea.

21 MR. FINKLEA: It is for Industrial Gas Users.

22 MR. DEBOER: It is for Avista as well.

23 JUDGE SCHAER: Thank you. Then that will be
24 the schedule that we will go forward with. Looking at
25 the time lines in that schedule and with your knowledge

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1 of the discovery rules, are there any changes that you
2 might want to make to the time lines on the discovery
3 rule?

4 Mr. Cedarbaum, you're probably the expert on
5 that among counsel.

6 MR. CEDARBAUM: I understand given the month
7 lag between the Company's filing of direct and
8 responsive testimony for that, I'm fairly comfortable
9 just with the current ten day turn around. But if
10 others aren't, I'm not opposed to reducing that time
11 frame either.

12 JUDGE SCHAER: Well, the ten day turn around
13 would be actually 14 days, because it would include
14 weekends, correct?

15 MR. CEDARBAUM: Yeah, I meant ten business
16 days, I'm sorry.

17 JUDGE SCHAER: And how does that affect your
18 client, Mr. West, in terms of the time between the other
19 parties filing and the time for rebuttal? Do you think
20 you have sufficient time to ask your questions and get
21 responses?

22 MR. WEST: I believe so, Your Honor.

23 JUDGE SCHAER: Okay, then we will stay with
24 the time lines set out in the discovery rule, and I will
25 encourage parties to cooperate to the extent that you

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1 can on discovery to expedite things in shorter time
2 periods than set out in the rule if you're able to do so
3 so that we can have a full and fair exchange of
4 information in order to present the record in this
5 proceeding.

6 Is there anything further we need to discuss
7 this morning?

8 Hearing nothing, I will go ahead in a moment
9 and conclude this. A prehearing conference order will
10 be entered. Any objections to the provisions of the
11 order will need to be filed within ten days after the
12 entry of the order. Absent such objections, the order
13 when issued will control further proceedings in this
14 matter subject to Commission review.

15 Thank you all for working together on this
16 this morning, and we're off the record.

17 (Hearing adjourned at 9:55 a.m.)

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