BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. CASCADE NATURAL GAS CORPORATION, Respondent.	DOCKET PG-230800 STAFF'S REPLY TO CASCADE NATURAL GAS'S RESPONSE TO SAPPHIRE'S MOTION TO DISMISS

I. INTRODUCTION

1 Staff filed a complaint for penalties against Cascade Natural Gas Corporation (Cascade or Company) for violations of federal and state pipeline safety laws and regulations. Cascade's contractor, Sapphire Gas Solutions LLC (Sapphire), was granted intervention and filed the present motion to dismiss. Cascade responded to that motion. The Commission should reject the arguments laid out in Cascade's response as they ignore the regulatory scheme of Washington's pipeline safety program and seek to find loopholes in the law where there are none.

II. ARGUMENT

A. The Mobile LNG Site was Being Used for Operation and Maintenance; Cascade did not Have Procedures for Operation of a Mobile LNG Site in its Manual Therefore it Needed to File the Manual Prior to Operation of the Site

2 Cascade improperly argues that it was not required to file its manual 45 days before operation of the mobile LNG site in Toppenish. The Commission should disregard this argument as operation of the mobile LNG site, which was supplying gas and pressure to the part 192 pipeline, was necessarily part of the operation of the gas pipeline per WAC 480-93-

180. Without the mobile LNG site, the part 192 pipeline would not have been operational, as exhibited by the fact that it went offline on September 22, 2023, when the release and ignition of LNG at the site shut down the pipeline.

3 Cascade is required to have and follow a "pipeline plan and procedure manual (manual) for *operation, maintenance,* inspection, *and emergency response activities*" specific to its system.[1] Both state and federal law contain broad definitions of what falls under regulation as a pipeline facility.[2] Forty-five days prior to the pipeline's operation, the manual must be filed with the Commission.[3] Pursuant to Order 05 in Docket PG-150120, Cascade is required to validate the maximum allowable operating pressure (MAOP) of pipeline segments where sufficient documentation of the MAOP was missing.[4]

4 Cascade hired Sapphire to operate the mobile LNG site so Cascade's pipeline could operate during maintenance (the required MAOP validation). Per Order 05 in Docket PG-150120, Cascade is required to validate the MAOP for many different pipeline segments to continue operating those lines. Cascade's claim that these validation efforts were neither operation nor maintenance is confusing and nonsensical, since clearly the purpose of this site was to operate the pipeline and maintain service during testing. Cascade offers no other explanation outside of system operation and maintenance for why the site was being used. Knowing the MAOP of a pipeline is integral to its operation. Using the mobile LNG site to continue service to customers during this testing effort was plainly an effort to *operate* the

[1] WAC 480-93-180(1) (emphasis added).
[2] 49 U.S.C. § 60101(3); *Couser v. Shelby County, Iowa*, 139 F.4th 664, 672-3 (2015) (This case focusses on a preemption issue of a local ordinance on an interstate pipeline, but the discussion of the Pipeline Safety Act, 49 U.S.C. 601, is informative here. In that case the Court discussed the intent of the Pipeline Safety Act to "reach to structures with the potential for use, even in the *future*" and "Congress's intent that the [Pipeline Safety Act] sweep broadly."); RCW 81.88.010(3); WAC 480-93-005(12); WAC 480-93-007(1).
[3] WAC 480-93-180(2).
[4] *See generally Wash. Utils. & Transp. Comm'n v. Cascade Natural Gas Co.*, Docket PG-150120, Order 05 (Jun. 13, 2018).

pipeline during the *maintenance* testing. The Commission is not in the business of ordering long-term, time- and resource-intensive efforts for no apparent reason; the site was required for system operation during validation testing ordered by the Commission, there is no other explanation for its use.

5 Additionally, operation of this site required emergency response procedures given the materials involved, and the fact that numerous failures on September 22, 2023, led to an emergency situation that resulted in human harm and death and the loss of service to regional customers. Moreover, WAC 480-93-180(1) states that the manual needs to apply to Cascades "system" not just its part 192 pipeline. Cascade's (and Sapphire's) continued attempts to add limitations to the rule that do not exist should be promptly disregarded by the Commission as such limitations obviate the purpose of the broader regulatory scheme.

6 The Commission should deny Sapphire's motion to dismiss the sixth cause of action and disregard Cascade's argument as it ignores the plain language of the rule.

B. Cascade Impermissibly Seeks to Add Language to the Rules That Does not Exist

7 The Commission should disregard Cascade's argument that the plain language of WAC 480-93-180(1) does not include every contractor hired by Cascade as such an argument seeks to impermissibly amend the rule and add limitations where none exists.

8 The plain language of WAC 480-93-180(1) states, "and any plans and procedures used by a gas pipeline company's associated contractors." The language includes all associated contractors. Cascade does not get to pick and choose which contractors the rule applies to because the rule does not list exclusions. If Cascade is hiring a contractor to do work on any part of its system (not just a pipeline) then the contractor's policies and procedures need to be in Cascade's manual, and Cascade needs to file the complete manual

with the Commission prior to operation of the work. Cascade's argument that Staff did not allege the manual was not filed annually is irrelevant. If Cascade's manual on file was inaccurate, incomplete, and/or lacking policies and procedures, for the purpose of regulation, it did not have a manual on file prior to operation.

C. Cascade's Framing of the Section 11.4.5.2(C) Causes of Action Seeks to Excuse Substandard Behavior

9 The Commission should disregard Cascade's argument that section 11.4.5.2(c) is not applicable as the requirements are clearly applicable to any competent operator who did its due diligence in reviewing its regulatory obligations.

10 Under Washington law, regulated companies maintain responsibility for their contractors and are subject to any remedies for contractor conduct that violates pipeline safety requirements.[5]

11 Cascade hired Sapphire for the express purpose of setting up and operating a mobile LNG site because Sapphire was a contractor with purported expertise.[6] As an expert, Sapphire should have been aware of the requirements under the NFPA, specifically how the different cross-referenced provisions applied to Sapphire's work. Additionally, it appears that Sapphire did have actual knowledge of its duties under the NFPA, since its policies and procedures did include requirements to chock the wheels of vehicles, even though those procedures were not followed the day of the incident. Section 11.4, resting under the heading "Marine Shipping and Receiving," does not excuse Sapphire's dereliction of duty in understanding its regulatory obligations. Section 2.3.4 clearly references section 11.4 of the NFPA. If Sapphire was really so confused by the obvious typos in the 2001 edition of the

[5] RCW 81.88.064(1) and WAC 480-93-007(3).
[6] *Wash. Utils & Transp. Comm'n v. Cascade Natural Gas Co.*, Docket PG-230800, Answer at 4 ¶ 13 (Apr. 16, 2025).

NFPA, it could have sought clarification from PHMSA well before launching its operations. Neither Sapphire nor Cascade has presented evidence that either company did so. Attempts to avoid responsibility now just highlights Sapphire's, and ultimately Cascade's, neglect of the rules governing mobile LNG. It is Cascade's legal obligation to know what rules and regulations apply to it. It cannot evade enforcement by citing lack of awareness because of an obvious typo. The incident on September 22, 2023, demonstrated severe deficiencies in Cascade's emergency management planning on its system. Cascade's failure to do its due diligence in understanding its legal obligations should not excuse the Company from penalties for its failure.

12 The remainder of Cascade's response is already rebutted in Staff's response filed on July 10, 2025. Cascade presents no new arguments or authority that necessitate reply here.

VI. CONCLUSION

13 Staff respectfully requests that the Commission reject the arguments that Cascade offers in its response, as its arguments improperly portray Commission rule and ignore the clear meaning of the terms and requirements contained within those rules.

DATED this 18th day of July 2025.

Respectfully submitted,

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