

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	In Re the Petition of)	
)	
4	CASCADE NATURAL GAS)	DOCKET NO. UG-950326
	CORPORATION)	VOLUME 1
5)	Pages 1 - 31
	for an Order Determining the)	
6	Rate-making Treatment of)	
	Certain Special Contracts)	
7	-----)	
)	
8	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION,)	DOCKET NO. UG-951415
9)	
	Complainant,)	
10)	
)	
11	vs.)	
)	
12	CASCADE NATURAL GAS)	
	CORPORATION,)	
13)	
	Respondent.)	
14	-----)	

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15 A prehearing conference in the above matter
 16 was held on February 15, 1996, at 9:35 a.m. 1300 South
 17 Evergreen Park Drive Southwest before Administrative
 18 Law Judge TERRENCE STAPLETON.

20 The parties were present as follows:

21 CASCADE NATURAL GAS CORPORATION, by JOHN L.
 22 WEST, Attorney at Law, 4400 Two Union Square, 601
 23 Union Street, Seattle, Washington 98101.

24 ROBERT CEDARBAUM and ANN RENDAHL, Assistant
 25 Attorneys General, 1400 South Evergreen Park Drive
 Southwest, Olympia, Washington 98504.
 Cheryl Macdonald, CSR
 Court Reporter

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A P P E A R A N C E S (CONT.)

FOR THE PUBLIC, ROBERT MANIFOLD and DONALD TROTTER, Assistant Attorneys General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164

NORTHWEST INDUSTRIAL GAS USERS, by PAULA E. PYRON, Attorney at Law, Suite 1100, One Main Place, 101 Southwest Main Street, Portland, Oregon.

P R O C E E D I N G S

1
2 JUDGE STAPLETON: The hearing will come to
3 order, please. This is a hearing in docket No. UG-
4 951415 which is a general rate increase filing by
5 Cascade Natural Gas Corporation. This prehearing
6 conference was set by formal notice of prehearing
7 conference dated January 6, 1996 as amended January
8 31, 1996. The hearing is being convened this 15th
9 day of February, 1996 at Olympia, Washington before
10 Administrative Law Judge Terrence Stapleton.

11 Prior to going on record discussions were
12 had with the parties regarding appearances. I
13 indicated that the parties' first order of business
14 will be taking appearances and then followed by
15 consideration of any motions and petitions to
16 intervene. We will then go off the record to discuss
17 scheduling and other issues. Let's begin with the
18 appearance of the company at this time, please.

19 MR. WEST: My name is John West. My
20 address is 4400 Two Union Square, Seattle, Washington
21 98101. Phone number is 206-622-8484. Fax number
22 206-622-7485. I'm representing Cascade Natural Gas
23 Corporation.

24 JUDGE STAPLETON: Thank you. For
25 Commission staff, please.

1 MR. CEDARBAUM: My name is Robert
2 Cedarbaum. I'm an assistant attorney general. Also
3 appearing for the Commission staff but not here today
4 will be Ann Rendahl, assistant attorney general. Our
5 business address is the Heritage Plaza Building, 1400
6 South Evergreen Park Dive Southwest in Olympia, zip
7 code 98504. My telephone is 753-2282 area code 360.
8 And our fax number is area code 360-586-5522.

9 JUDGE STAPLETON: Public counsel.

10 MR. MANIFOLD: Yes. Robert F. Manifold,
11 assistant attorney general appearing as public
12 counsel. My address is 900 Fourth Avenue, Suite 2000,
13 Seattle, Washington 98164. Telephone number 206-6464-
14 6595. Telefax number 206-464-6451. Also like to note
15 the appearance of Donald Trotter of our office.

16 JUDGE STAPLETON: For Northwest Industrial
17 Gas Users Association.

18 MS. PYRON: Paula Pyron for the Northwest
19 Industrial Gas Users. Ball, Janik and Novack. The
20 address is 101 Southwest Main Street, Suite 1100,
21 Portland, Oregon 97204. The telephone 503-228-2525,
22 and the fax number 503-295-1058. I'd also like to
23 enter the appearance for Edward Finklea, same office,
24 same address and same fax.

25 JUDGE STAPLETON: Thank you. Is there

1 anyone else present who wishes to enter an appearance
2 at this time? First order of business then will be
3 petitions to intervene. Has everyone received the
4 petitions of Northwest Natural Gas Company and the
5 Northwest Industrial Gas Users?

6 Ms. Pyron, do you have anything to add to
7 your petition at this time?

8 MS. PYRON: No, I do not.

9 JUDGE STAPLETON: Is there any objection to
10 the appearance of Northwest Industrial Gas Users?

11 MR. CEDARBAUM: No objection.

12 MR. WEST: No objection.

13 MR. MANIFOLD: Your Honor, I have no
14 objection. I don't recall if the petition stated who
15 the member companies were that take service from
16 Cascade but if it doesn't if that could be provided at
17 some point.

18 MS. PYRON: I would be glad to provide it
19 right now. Subject to our double-checking would be
20 Alcoa, Basic American Foods, Georgia Pacific, Kalama
21 Chemical, Lamb Weston, Seneca Foods and Simplot. We
22 actually forgot to bring a list this morning, but
23 recreated and know that these are the customers on
24 Cascade's system and would like the opportunity to
25 supplement if we need to.

1 MR. MANIFOLD: Thank you.

2 JUDGE STAPLETON: Thank you. Let's be off
3 the record at the moment.

4 (Recess.)

5 JUDGE STAPLETON: Let's be back on the
6 record. While we were off the record we were
7 discussing generally the schedule of this proceeding,
8 and a schedule had been suggested from the bench to
9 which there were no significant problems with the
10 dates as proposed, but there has been an expression of
11 concern about additional elements of the scheduling
12 and perhaps, Mr. West, you will state on the record
13 what your concerns are about the schedule as proposed.

14 MR. WEST: Cascade's concern is that the
15 schedule begins and ends later than what we had hoped
16 for, what we had anticipated, given the length of time
17 we have been involved in discovery in this case.
18 Perhaps as Mr. Cedarbaum says, there is some
19 opportunities involved in that as well, but I think
20 the length of time we've been working on this case
21 would indicate that a final decision ought to be
22 earlier than is indicated by the schedule.

23 JUDGE STAPLETON: Comments?

24 MR. CEDARBAUM: Just in response to Mr.
25 West's comment, I feel at this point in time that

1 there is a benefit in having the case scheduled to
2 fulfill the full statutory time period. The dates
3 that we discussed for hearings in May and in August I
4 felt at this time were appropriate. I also do
5 recognize that if during the course of the case we
6 have significant agreement on issues that lead towards
7 shortening this hearing schedule, we can look into
8 that, and hopefully find some convenient times to do
9 that, but at least in theory -- I think we have to
10 operate in theory right now, and in theory I think we
11 need the whole time. There still are significant
12 issues with regard to the special contracts that are a
13 part of this case and cost of service and rate design
14 issues that I think need a full examination.

15 JUDGE STAPLETON: There have been no
16 agreements reached between the parties on the
17 contracts that came up under docket No. 950326?

18 MR. CEDARBAUM: Not to my knowledge.

19 JUDGE STAPLETON: All right. In regards to
20 scheduling, there is an outstanding motion of the
21 Northwest Industrial Gas Users. Ms. Pyron, would you
22 please state for the record the nature of your motion.

23 MS. PYRON: We had basically three requests
24 for the Northwest Industrial Gas Users for procedural
25 consideration in this case. The first of which is

1 satisfied under this proposed schedule which was to
2 condense the hearings to two, and the second of which,
3 which I think can be accommodated in a couple of
4 different fashions under the schedule that's under
5 consideration, by allowing the filing by the staff,
6 the public counsel, and the intervenors of a cross
7 answering rebuttal testimony in the context of the
8 schedule. It could be accommodated at the point in
9 time of the company's rebuttal filing on July 12
10 or certainly I would think that we could accommodate
11 within the deadlines that are set for the initial
12 direct filing on June 19th.

13 There seems to be adequate time between the
14 May hearing and the August proposed hearing to deal
15 with a sequential filing with adequate time for
16 discovery for all the parties by allowing that
17 additional filing of a cross answering rebuttal.
18 Because of the potential in this case for a settlement
19 possibly of some of the issues I do think, as Mr.
20 Cedarbaum has pointed out, with possibly an emphasis
21 on cost of service special contract rate design issues
22 that may or may not result as a focus in this case,
23 that having the parties have the ability to respond to
24 one another will hone the issues and lead to a much
25 more efficient hearing in August.

1 Having had experience in the Washington
2 Natural Gas case with specifically having had a cross
3 answering rebuttal under similar circumstances where
4 the focus was on a cost of service/rate design issues,
5 the second hearing was sharply reduced in its time
6 from its scheduled five days to I recall something
7 about two and a half days, and because of that even
8 though it's a commitment of resources on those
9 parties's parts I do think it would lead to a more
10 efficient resolution and sharpening of the issues for
11 all concerned.

12 The third thing that we had asked for in
13 the motion was a consideration in the schedule, and
14 counsel -- I've had discussions with counsel about
15 specific dates for the mutual gain settlement
16 conference as part of the schedule, and I know that
17 the parties have different reactions as to whether
18 that should specifically be in the schedule. In
19 asking for the conferences to be scheduled NWIG's
20 concern was just that the schedule provide time for
21 that as well as a provision for filing, taking
22 advantage of the Commission's new rules on partial
23 settlements to the degree that any are reached, just a
24 deadline to be set in advance of the hearings
25 respectively to the degree that those are available to

1 present to the Commission, that the schedule would
2 provide for that.

3 In asking for the conferences to be
4 scheduled we recognize that the parties have met and
5 have a continuing spirit to do so and aren't seeking
6 to have unnecessary meetings or conferences set up. I
7 just think it should be something that we allow time
8 for in the schedule and at that point in time that the
9 parties would then decide for themselves, is this
10 productive or not, not to go through an artificial
11 exercise but to allow that time within the scheduling.

12 JUDGE STAPLETON: Mr. West, any reaction to
13 that?

14 MR. WEST: Your Honor, I don't have any
15 objection to the remaining ideas of focusing issues
16 and allowing time or perhaps even scheduling dates for
17 additional meetings at the parties' mutual agreement
18 at that time. I support the idea and would be willing
19 to work with it.

20 JUDGE STAPLETON: Okay. And the issue of
21 cross rebuttal, you have no problem with that?

22 MR. WEST: I have no difficulty with that.

23 JUDGE STAPLETON: Staff?

24 MR. CEDARBAUM: I have a few comments. I
25 obviously have no objection to having two hearings,

1 one for cross of company and one for cross of
2 everything else, whatever that is. I do, though, have
3 an objection to the cross answering testimony for a
4 number of reasons. One is the motion, as I understand
5 it, asks for cross answering to be filed prior to the
6 company's filing of its rebuttal. It seems to me that
7 that's unnecessary and consistent with precedent that
8 the Commission has used where cross answering has been
9 filed at the same time as the company rebuttal, so if
10 it's going to be allowed I think we ought to be filing
11 cross answering and rebuttal simultaneously.

12 The other reasons, though, I think, are
13 more important which go against cross answering
14 altogether. One is my recollection of how it worked
15 in the Washington Natural rate design case was that I
16 didn't feel it was all that helpful. I don't know
17 that there was a whole lot of benefit gained from it,
18 so on that point I guess I disagree with Ms. Pyron.

19 I would also I guess point to the U S WEST
20 case that just finished hearings. There were cross
21 answering testimony filed in that case and the hearing
22 lasted over three weeks, so there was an awful lot of
23 cross-examination. Now, that's a much bigger case in
24 terms of money involved and issues, but I'm not sure
25 that the parties in that case would feel that cross

1 answering testimony was helpful.

2 The final reason is really a pure and
3 simple workload issue. The staff is in the position,
4 unlike other parties in this case, of having to deal
5 with every issue in the case. To a lesser extent
6 public counsel deals with most issues but usually not
7 all. The gas users usually deal with very few issues
8 in the full context of the case, so when staff has to
9 file cross answering testimony it's a much bigger deal
10 from our perspective. It also comes at a time when we
11 are enforced to have to respond to data requests from
12 other parties, ask data requests of other parties,
13 prepare cross answering testimony. This is all after
14 we filed our direct case and prepare for a hearing.
15 That is doing a lot of things at one time which
16 presents a workload issue for us not only in this
17 case, but when you add to everything else that the
18 staff has to be doing in the energy section, it's a
19 significant issue to us. So we would object to it for
20 those three reasons.

21 Finally with regard to the predetermined
22 dates for settlement conferences I would also object
23 to that predetermined -- actually setting dates for
24 it. I don't think that's necessary in this case.
25 We're having a settlement conference as soon as this

1 hearing is completed. We've had a number of
2 settlement conferences up until now on an informal
3 basis. This group has worked well together, I think,
4 and I don't think we need to have formality added
5 to that process. I think adding the formality to
6 do it just creates more workload problems for us on
7 having to prepare documents as to the result of
8 anything that may come from that settlement
9 conference. I think it is one more layer of process
10 that we don't need. So those are my comments.

11 JUDGE STAPLETON: Mr. Manifold.

12 MR. MANIFOLD: As I understand it, the
13 first point about scheduling two hearings everybody is
14 already agreeing to that. In terms of filing cross
15 answering I would support the motion. We have found
16 that to be useful and would find it to be useful in
17 this instance, and regarding the third thing in terms
18 of -- and for the reasons stated we are often at that
19 point in the case of -- in the situation of having
20 radically different proposals than the gas users and
21 having to draw the differences between that through
22 cross-examination, which I think can be more
23 effectively and succinctly done through the filing of
24 additional testimony, and I think it would save
25 hearing time, and while we will disagree about the

1 substance I think we could agree about the procedure.

2 Finally, on the scheduling the settlement
3 dates, I guess I would kind of support that in that I
4 think it would be useful if we all pencilled in and
5 reserved on our respective calendars a day or half a
6 day two weeks prior to the hearings and then huddled,
7 as Mr. Cedarbaum has indicated, prior to that to see
8 if we actually find that to be a useful thing at the
9 time, but I do agree with the concept with reserving
10 that time on our schedules so that we don't have to
11 actually then scurry around and try and find a common
12 time.

13 MR. CEDARBAUM: If I could just add, I
14 don't have any major problem with that concept. My
15 problem is with the format of it, having the
16 Commission order us to do this, having us to have to
17 come up with a document within, I think the proposal
18 was, a week or two after the settlement conference. I
19 think all those things happen just as a matter of
20 course just on an informal basis especially with this
21 group that I think has worked pretty well together.

22 JUDGE STAPLETON: Is my understanding that
23 the parties have reached consensus on a number of
24 issues raised by the general rate increase filing of
25 Cascade? Is that in fact the case?

1 MR. CEDARBAUM: There are a number of
2 revenue requirement issues that I think the staff and
3 the company are in agreement upon. I don't know about
4 the gas users and public counsel. They've at times
5 just deferred to staff and maybe they will in this
6 case. I just don't know. There are other issues that
7 we want to talk with the company about after the
8 hearing today which are additional revenue requirement
9 issues that we have, which other parties may disagree
10 with, I don't know, and there still are the revenue
11 requirement issues associated with the specialty
12 contracts, but I think we certainly have come a long
13 way from a fully contested revenue requirements case.

14 MR. MANIFOLD: I would agree with that.

15 JUDGE STAPLETON: Well, I'm curious how
16 that will get incorporated into this proceeding. Has
17 any thought been given to that at this point?

18 MR. CEDARBAUM: Well, if we reached a
19 revenue requirement agreement in total in this case
20 then we'll come up with some way of presenting it to
21 the Commission.

22 MS. PYRON: I was going to suggest that the
23 partial settlement mechanism that's in the rules now
24 -- the new label for it is partial settlements --
25 when issues are resolved would be available. That's

1 why I suggested just a deadline for reporting to the
2 Commission any agreement before the hearing on certain
3 issues. Otherwise, I don't see the need to create any
4 document at all before the hearings, just any partial
5 settlements have a deadline for filing.

6 MR. CEDARBAUM: Well, I suppose that's a
7 workable situation, that if we have a list of
8 accounting adjustments that we're all in agreement
9 upon we can let the Commission know about that. I
10 think that would become evidence, though, in the
11 filing of the testimony where witnesses usually state
12 at the beginning of their testimony what issues are
13 uncontested.

14 MS. PYRON: But that might not be apparent
15 in the scheduling until we got to June so that if we
16 had some agreements in May it might be just preferable
17 all the way around to have those out.

18 The other comment I wanted to make, if I
19 could, for the Northwest Industrial Gas Users, back to
20 some of the other suggestions that had been made
21 procedurally, was that we didn't have any trouble with
22 filing of the cross answering testimony if it's
23 allowed at the same time as the company's rebuttal. I
24 think that's a workable solution.

25 JUDGE STAPLETON: I understood that to be

1 your recommendation. All right. Well, I'm very
2 sensitive to staff resource needs because to some
3 extent I share those myself. However, I think that
4 any opportunity for, as Mr. Manifold suggests, for the
5 parties to clarify what needs to be cross-examined at
6 hearing and to reduce the burden of hearing time is
7 something the Commission is very much in favor of. So
8 I would propose that we include cross answering
9 rebuttal filing by all parties on July 12, '96 in
10 addition to the company's rebuttal filing at that
11 time.

12 MR. CEDARBAUM: Are we still talking about
13 the scheduling then?

14 JUDGE STAPLETON: Yes.

15 MR. CEDARBAUM: Could I then make a couple
16 of requests, modifications to the schedule? Before we
17 went on the record I think you had indicated that
18 cross of the company would be May 6 through 8,
19 prefiled staff, June 19, prefiled rebuttal July 12 and
20 then cross August 5 through 9. Now, as I understand
21 it, the July 12 will include a prefiling of cross
22 answering testimony as well. In that case, I would
23 request that the prefiling of the staff, public
24 counsel and intervenor testimonies be moved up a week
25 from June 19 to June 12. I think we need more time in

1 between prefiling of the staff, direct and prefiling
2 cross answering than three weeks that would be
3 originally proposed.

4 I would also ask that after the prefiling
5 of cross answering and rebuttal that we have a shorter
6 turnaround time on responses to data requests from the
7 current rule's 10 day turn around to a five day turn
8 around. Although there are about three weeks in
9 between the July 12 and August 5 through 9 hearing
10 times, when you're doing a lot of stuff and waiting
11 for data requests, those three weeks are going to come
12 up pretty quickly, so I think if we shorten the
13 turnaround time on data request responses we would all
14 benefit.

15 JUDGE STAPLETON: Mr. Manifold, do you have
16 any problem with moving the prefiling date up from
17 June 9 to June 12?

18 MR. MANIFOLD: No. That's fine with me. I
19 think those are good ideas. I was just actually going
20 over trying to count weeks here and thinking that we
21 might want to shorten the time for responding to data
22 requests during the June 12 to July 12 period as well.
23 I calculate that four weeks and two days with the
24 normal 10-day turn around, that's realistically
25 probably one round of data requests and sometimes work

1 to do more than that. I don't know that we need to go
2 all the way to five days but something shorter than 10
3 days would be useful.

4 JUDGE STAPLETON: Ms. Pyron, do you have a
5 problem with moving the prefiling date?

6 MS. PYRON: I don't have a problem with any
7 of those suggestions. I think they're all reasonable.

8 JUDGE STAPLETON: Move the prefiling of
9 staff, public counsel and intervenor testimony to June
10 12, '96. I was confident coming into the room this
11 morning that there would be no need to invoke the
12 Commission's discovery rule. However, I have been
13 apprised of the reality of life, and so I assume that
14 everyone would support invoking the Commission's
15 discovery rule WAC 480-09-480. All right.

16 The suggestion has been raised that a
17 shorter turnaround time than the 10 days required by
18 the rule for responding to data requests, does the
19 company have a problem with that recommendation?

20 MR. WEST: Well, the company also has
21 manpower, person power, concerns. It really depends
22 on the volume of the data requests whether that is
23 something that we can do in every case or not. I
24 think that with the understanding that we'll do the
25 best we can with the ones that we can answer in that

1 time and we'll let you know -- let the requesting
2 party know on the ones that we can't and what our
3 realistic date is, we'll try to accommodate that as
4 best we can.

5 MR. CEDARBAUM: I guess I'm sorry to say
6 this but I just don't think that's good enough. I
7 think we need to have a commitment by the parties that
8 they will respond in five days, five business days. I
9 think we're all in that same boat and I think the
10 staff, as I understand it, is willing to live with
11 that.

12 JUDGE STAPLETON: Does anyone else have a
13 comment about the five day response time? Is seven
14 days a sufficient turnaround time for staff, Mr.
15 Cedarbaum?

16 MR. CEDARBAUM: This would be after?

17 JUDGE STAPLETON: After June 12.

18 MR. MANIFOLD: He was proposing the seven
19 days for the period June 12 to July 12 which would be,
20 quite frankly, I would expect data requests between
21 Ms. Pyron and myself largely probably not affecting
22 the company because they won't have just filed and
23 presumably somewhat affecting staff as well.

24 MR. CEDARBAUM: I don't have any problem
25 with a seven day turn around between June 12 and July

1 12. The five day turn around between July 12 and the
2 hearing I just see as a necessary condition to all of
3 this. I understand the workload problems that we all
4 have, but three weeks when you may have two rounds of
5 data requests in a three-week period of time, it's
6 going to be tough to meet.

7 JUDGE STAPLETON: Mr. West, do you have
8 anything to add?

9 MR. WEST: No, except that the data
10 requests do fall most heavily on the company.

11 MR. CEDARBAUM: It's just been suggested to
12 me as an alternative to all of this that we could go
13 with a seven day turn around -- well, instead of
14 having the prefiling of staff and everybody -- staff,
15 public counsel and intervenor on July 12 we move it to
16 June 5 and then move filing of the cross answering and
17 rebuttal from July 12 to July 5, so move everything
18 back up another week. That leaves more time in
19 between the rebuttal prefiling and the hearing and
20 then have a seven day turn around beginning June 5.

21 MR. MANIFOLD: There's some merit to that
22 because it's been just pointed out to me that five day
23 turn around means you can never leave town for a week,
24 which is something a lot of us like to do on occasion.

25 JUDGE STAPLETON: Especially that time of

1 the year. Ms. Pyron, intervenor prefiling on June
2 5, any problems with that?

3 MS. PYRON: No problems with that on June
4 5, and then July 5 and then the seven business day
5 turn around with recognition that if there's a problem
6 with a particular data request then we'll all discuss
7 that and work that out in the best way possible.

8 JUDGE STAPLETON: Mr. West, a problem with
9 moving your prefiling from the 12th to the 5th of
10 July?

11 MR. WEST: I think that's a good
12 suggestion, Your Honor.

13 JUDGE STAPLETON: All right. Then seven
14 day turnaround time for responses to all data requests
15 throughout the period. Are we agreed to that?

16 MR. CEDARBAUM: Yes.

17 MS. PYRON: Business days, is it working
18 days, business days just so we're clear.

19 MR. MANIFOLD: Business days, I believe.

20 MR. CEDARBAUM: I think we hope working
21 days and business days are the same.

22 MR. MANIFOLD: Days that are not official
23 Washington state holidays.

24 JUDGE STAPLETON: I believe the rule
25 contemplates that neither holidays nor weekends will

1 count in the computation of the response time.

2 MR. MANIFOLD: Your Honor, you just now
3 said seven days throughout the time. You're talking
4 seven days after the --

5 JUDGE STAPLETON: From June 5th until the
6 hearings in August.

7 MR. MANIFOLD: While we're on, before I
8 forget, I may not have heard correctly but when you
9 convened the hearing I thought I only heard docket
10 number and I think there are two that are
11 consolidated.

12 JUDGE STAPLETON: That is correct.

13 MR. MANIFOLD: I wondered if you wanted to
14 make reference to that?

15 JUDGE STAPLETON: I have done that for the
16 administrative convenience of the agency. Rather than
17 having the parties have to include upon all documents
18 all three docket numbers that have been consolidated
19 and in having the convenience for myself being able to
20 find the documents under the rate case which is the
21 principal guiding component in this proceeding, as it
22 has the deadline on it, records center will file all
23 documents under the rate case docket number rather
24 than the earlier docket number, which is their
25 routine. So all documents filed with the Commission

1 just need to bear the one docket number. This is the
2 proceeding involving all three, however.

3 Let me sum for the court reporter here
4 and for the record here, the schedule then as we've
5 agreed upon is cross company testimony May 6 through
6 8, 1996. Prefile staff, public counsel, intervenor
7 testimony June 5, 1996. Prefile company rebuttal
8 testimony and cross answering testimony on July 5,
9 1996. And cross-examine the direct testimony of
10 staff, public counsel intervenor and the company's
11 rebuttal testimony August 5 through 9, 1996 with
12 briefs due September 6, 1996.

13 The Commission will invoke its discovery
14 rule WAC 480-09-480 and will shorten the time for
15 responding to data requests in the period following
16 June 5 to seven days from the rule's requirement of 10
17 days. Does anyone have anything to add to that
18 soliloquy? Thank you.

19 Now we need to take up the matter of the
20 gas users' motion regarding two predetermined dates
21 for settlement negotiations. I can't impart strongly
22 enough the Commission's support for settlement
23 negotiations in all proceedings pending before it, and
24 its considerable efforts to educate people into the
25 use of mutual gains negotiation as an attempt to not

1 only instill that interest but also to provide a
2 framework for doing so. I am, however, personally a
3 little hesitant to force people to lock in to specific
4 dates. I have heard throughout that discussion a
5 willingness on the part of all people to participate
6 in discussions. That there has been no problem with
7 agreeing to meet one another on scheduling needs and
8 to set those times to get together to continue your
9 settlement discussions which have been ongoing since
10 the outset of the mutual gains seminar in June of '95.

11 So I will ask the parties to meet
12 informally to work together to commit to best faith
13 efforts to meet whatever schedule is necessary to
14 bring all of you together to have those discussions.
15 I do believe, however, I will ask that any agreements
16 that resolve any issues which may be part of the
17 cross-examination of the company's testimony on May 6
18 or the testimony of any of the additional parties on
19 August 5 be filed within one week of the date of those
20 hearings. And I guess that I would also like to add
21 for the record that I will put forth the offices of
22 the administrative law judge section of the Commission
23 if there appears to be any recalcitrants or inability
24 to come to agreement about getting together at a time
25 that's convenient for all parties.

1 Would anyone like to offer any comment upon
2 that? Thank you. Do we need to discuss on the record
3 depositions?

4 MR. CEDARBAUM: I think what's worked in
5 the past is that we just leave it open. If we see the
6 need to do it we'll deal with that on our own and
7 contact the ALJ if we need your assistance.

8 JUDGE STAPLETON: Anyone else offer
9 comment? Thank you. Let's be off the record for a
10 moment.

11 (Recess.)

12 JUDGE STAPLETON: Let's be back on the
13 record. While we were off the record we were
14 discussing procedural and substantive matters. Mr.
15 Cedarbaum has requested that the record note that for
16 each special contract that is under review in docket
17 No. 950326 that the Commission acknowledge that the
18 individual docket numbers under which those contracts
19 were originally brought to the Commission be included
20 in the record to the extent that data requests are
21 made upon the company.

22 In addition, the notice of hearing for
23 today's prehearing conference required the company to
24 prefile any direct testimony on the Boise Cascade or
25 any other contract that the company wished to have

1 made a part of this ratemaking treatment in 951415.
2 The company has indicated there is no additional
3 testimony to be provided in the Boise Cascade contract
4 or any other contract that will arise under the
5 consolidated docket numbers in this proceeding.

6 And the company has also predistributed
7 supplemental testimony of Peter A. Schwartz in this
8 matter and it will be filed formally with the record
9 center immediately following the prehearing
10 conference.

11 MS. PYRON: Your Honor, I have a clarifying
12 question. The data requests that we're making
13 reference to as being included, are those from 950326?

14 MR. CEDARBAUM: No. I think my request was
15 that in all of the dockets that relate to the special
16 contracts, which the Commission approved under the
17 special contract rule and that the company is seeking
18 ratemaking treatment in the general rate case, that
19 any of the data requests that we asked in those prior
20 dockets could be included in this record as we saw fit
21 and would be treated on a confidential basis under the
22 protective order if they were submitted to us on a
23 confidential basis. That was my point.

24 MS. PYRON: Okay.

25 MR. CEDARBAUM: On the second point with

1 regard to the Boise Cascade, any supplemental
2 testimony, my concern there was that the notice did
3 require the company to come with any testimony
4 concerning that contract or any contract the company
5 proposed or would propose ratemaking treatment for,
6 Lamb Weston was another example, and there might be
7 others through the course of this case, I don't know.
8 My concern was that if the company wants to rely upon
9 its currently prefiled testimony on the special
10 contracts, that's fine, but any additional testimony
11 that we might see on rebuttal with regard to Boise
12 Cascade or Lamb Weston or others would raise in my
13 mind either the need for surrebuttal by other parties
14 or motions to dismiss on that additional testimony
15 which ought to have been included in the direct case.
16 So those were my concerns.

17 JUDGE STAPLETON: Okay. Discussions off
18 the record with Mr. West, I indicated to him that the
19 Commission did not wish to see new issues raised on
20 rebuttal, and it was my understanding from Mr. West
21 that he understood the Commission's admonition in that
22 regard.

23 MR. WEST: That's correct, Your Honor.

24 JUDGE STAPLETON: Thank you, Mr. West.

25 Anything else to come before us at this time?

1 MR. CEDARBAUM: The motion to intervene by
2 Northwest Natural.

3 JUDGE STAPLETON: And we will discuss that
4 at this point in time.

5 MR. MANIFOLD: Were you going to say
6 anything on the record regarding the public hearings?

7 JUDGE STAPLETON: No, I was not, other than
8 I will say that the Commission will reserve the right
9 to schedule public hearings depending upon whether or
10 not there is the kind of public interest expressed
11 which would require the Commission to do so.

12 We have a request from Northwest Natural
13 Gas Company to intervene. Does the company have any
14 response or any comment upon the petition?

15 MR. WEST: No, Your Honor, we have no
16 comment.

17 JUDGE STAPLETON: Staff?

18 MR. CEDARBAUM: Yes, Your Honor. We would
19 object to the motion to intervene by Northwest Natural
20 Gas Company. First of all, they're not here today to
21 even present it, so I think that absence is grounds
22 enough for the Commission to deny it, but on a more
23 substantive basis under WAC 480-09-430 the
24 intervention rule, a party is required to show a
25 substantial interest in a proceeding in order to

1 intervene. I don't think Northwest Natural has that
2 substantial interest in this case. It doesn't share
3 service territory, it doesn't share customers. This
4 is not a rulemaking that would apply to them per se,
5 so they may have an interest in this case, which they
6 certainly can pursue as an interested person. They
7 can sit in the hearing room and hear what happens and
8 get the testimony, but I don't think that deserves
9 party status. I guess I would also wonder why they
10 would want to be a party in a case that doesn't
11 involve their rates since that would raise at least a
12 specter of them being bound by anything that comes out
13 of this case. I think it's much more arguable that
14 they would be bound than if they stay out and that's
15 maybe something they don't want to have happen to
16 them, so for those reasons I would object.

17 JUDGE STAPLETON: Mr. Manifold.

18 MR. MANIFOLD: We would support the
19 objection of staff.

20 JUDGE STAPLETON: Ms. Pyron.

21 MS. PYRON: NWIG does not have any
22 objection.

23 JUDGE STAPLETON: I'm going to deny the
24 petition for intervention by Northwest Natural Gas
25 Company in this proceeding.

1 Anything else to come before us at this
2 time? We'll stand in recess. Thank you.

3 (Hearing adjourned at 10:50 a.m.)

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As Court Reporter, I hereby certify that
the foregoing transcript is true and
accurate and contains all the facts, matters,
and proceedings of the hearing held
on: 2/11/06

-----Cheryl Macdonald-----
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