

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

DR 23

In The Matter of	)	
	)	
NORTHWEST NATURAL GAS	)	
COMPANY,d/b/a NW NATURAL,	)	RULING
	)	
Petition for a Declaratory Ruling	)	
Regarding Whether Joint Bypass By Two	)	
Or More Industrial Customers Violates	)	
ORS 758.400 Et Seq.	)	

**DISPOSITION: SCHEDULE SET**

On March 2, 2005, a prehearing conference was held. In person, Edward Finklea appeared on behalf of Oremet-Wah Chang (Wah Chang) and Northwest Industrial Gas Users, and Brad Van Cleve appeared on behalf of Oregon Steel Mills, Inc.<sup>1</sup> On the telephone, Timothy Sercombe and Alex Miller appeared on behalf of Northwest Natural Gas Company. For the first part of the conference, Jason Jones appeared on the telephone for Staff; for scheduling, Stephanie Andrus appeared in person for Staff.

On March 1, 2005, Wah Chang filed a motion to stay while the Court of Appeals considered Wah Chang's motions to recall, vacate and dismiss the judgment and order of remand. The basis of Wah Chang's motions are that the Marion County Circuit Court and Oregon Court of Appeals did not have subject matter jurisdiction where the declaratory ruling did not present a justiciable controversy. At the prehearing conference, Mr. Sercombe argued that the Court of Appeals would likely not take long to rule and it would not be efficient to delay this proceeding, but he did not believe it was necessary to respond to Wah Chang's motion to stay. Mr. Van Cleve supported Wah Chang's motion to stay. Mr. Jones expressed concern that proceeding at this time would waste Commission resources.

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<sup>1</sup> Mr. Van Cleve also stated that he represented Ashgrove Cement, but Ashgrove Cement is not a party to this case.

Considering the difficulty in scheduling all of the parties for conferences, a schedule was set beginning after the Court of Appeals rules on the merits of Wah Chang's motion. The schedule is set as follows:

	Oregon Court of Appeals Decision Date
Joint issues list; alternatively, parties' proposed issues lists	+21 days
Response to issues lists	+31 days
Estimated date of ruling	+46 days
First round of simultaneous briefing	+76 days
Second round of simultaneous briefing	+106 days
Estimated date of decision	+136 days.

The parties also proposed a prehearing conference at +41 days to "deliberate" the issues list. However, the parties could not agree whether that was to serve as a conference for the parties to discuss a joint issues list, an opportunity for the administrative law judge (ALJ) to ask questions of the parties, or oral arguments before the ALJ. The parties are encouraged to meet for a workshop to discuss a joint issues list between the decision date and the +21 day mark set for the joint issues list. If there are questions about the issues lists, the ALJ may take action at a later date. Oral argument related to issues lists is unusual, but as the docket proceeds, if a party believes it is necessary, the party may file a motion at that time.

Parties may also brief whether new petitions to intervene may be received in this docket in the same filings in which they brief the issues list at +21 days and +31 days. A ruling finalizing the dates for submission of filings will be issued after the Court of Appeals decision, and the dates for filing are considered "in-hand" dates.

Finally, the Administrative Hearings Procedures for contested case proceedings are located at [www.puc.state.or.us](http://www.puc.state.or.us) under the heading "Commission Overview."

Dated at Salem, Oregon, this 3rd day of March, 2005.

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Christina M. Smith  
Administrative Law Judge