

**ATTACHMENT TO BENCH REQUEST NO. 1**

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS  
CORPORATION,

Respondent.

DOCKET UG-240008

**BRIEF OF COMMISSION STAFF**

January 13, 2025

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## I. INTRODUCTION

1 Staff for the Utilities and Transportation Commission (Staff) presents this brief outlining its position on the impacts of the Initiative 2066 (I-2066) on the Line Extension Allowances term (Term J) of the multiparty settlement currently before the Commission in this docket. While I-2066 and the Climate Commitment Act have substantial impacts on Staff’s work, this brief is focused purely on the interaction between those statutes and Term J. Staff concludes that the recent passage of I-2066 does not affect the Commission’s ability to adopt the settlement with Term J because Term J is not a planning requirement and elimination of the allowances will not make line extensions cost prohibitive. Staff, accordingly, requests that the Commission approve the settlement without condition.

## II. BACKGROUND

2 On March 29, 2024, Cascade Natural Gas Corporation (Cascade or Company) filed a general rate case with the Utilities and Transportation Commission (Commission).<sup>1</sup> The matter was suspended for adjudication by the Commission on April 18, 2024.<sup>2</sup>

3 On October 30, 2024, Staff, the Company, AWEC, and TEP reached a full multiparty settlement in this matter.<sup>3</sup> Term J of this settlement agreement relates to removing allowances for line extensions.<sup>4</sup> Specifically, Term J requires that “[n]o later than March 1, 2027, line extension allowances for rates schedules 503 and 504 shall be reduced to zero.”<sup>5</sup> As explained in Staff testimony, the term “does not eliminate the Company’s ability to offer line extensions, it just

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<sup>1</sup> *Wash. Utils. & Transp. Comm’n v. Cascade Natural Gas Corp.*, Docket 240008, Order 02 at 1 ¶ 1 (Apr. 18, 2024).

<sup>2</sup> *Id.* at 2 ¶ 13.

<sup>3</sup> *Wash. Utils. & Transp. Comm’n v. Cascade Natural Gas Corp.*, Docket 240008, Letter Notifying Commission of Settlement at 1 (Nov. 5, 2024). Public Counsel did not join this settlement, but does not object to the settlement. *Wash. Utils. & Transp. Comm’n v. Cascade Natural Gas Corp.*, Docket 240008, Letter From Public Counsel (Dec. 20, 2024).

<sup>4</sup> *Wash. Utils. & Transp. Comm’n v. Cascade Natural Gas Corp.*, Docket 240008, Full Multiparty Settlement Agreement at 12 ¶ 34 (Dec. 11, 2024).

<sup>5</sup> *Id.*

eliminates the ability for those extensions to new customers to be subsidized by allowances paid for by other rate payers.”<sup>6</sup>

4 On November 5, 2024, local, state, and federal elections took place in Washington (and across the United States). On the Washington Ballot was Initiative 2066, titled “An Act relating to promoting energy choice by protecting access to gas for Washington homes and businesses.”<sup>7</sup> I-2066, which voters enacted,<sup>8</sup> was intended to “ensure that gas utilities and local governments [] provide natural gas to customers who demand it, even if other energy services or energy sources are available”<sup>9</sup> by limiting certain government entities from “prohibiting, penalizing, or discouraging use of gas.”<sup>10</sup> To accomplish those ends, I-2066 amended several Washington energy-related statutes.<sup>11</sup> Among these, I-2066 amended RCW 80.28.425 by adding the mandate that “[t]he commission shall not approve, or approve with conditions, a multiyear rate plan that authorizes a gas company or large combination utility to require a customer to involuntarily switch fuel use either by restricting access to natural gas service or by implementing planning requirements that would make access to natural gas service cost-prohibitive.”<sup>12</sup>

5 The Commission issued Bench Requests on January 6, 2024, with the first request asking the parties to provide briefing on how to consider Term J in the context of I-2066 and the Climate Commitment Act, chapter 70A.65 RCW.<sup>13</sup>

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<sup>6</sup> Hawkins-Jones, Exh. JHJ-1T at 14:20-23.

<sup>7</sup> Laws of 2024, ch. 1, § 4.

<sup>8</sup> [Washington Initiative 2066, Natural Gas Policies Measure \(2024\)](https://ballotpedia.org/Washington_Initiative_2066,_Natural_Gas_Policies_Measure_(2024)), Ballotpedia (Jan. 7, 2025, 11:57 AM), [https://ballotpedia.org/Washington\\_Initiative\\_2066,\\_Natural\\_Gas\\_Policies\\_Measure\\_\(2024\)](https://ballotpedia.org/Washington_Initiative_2066,_Natural_Gas_Policies_Measure_(2024)).

<sup>9</sup> WASHINGTON SECRETARY OF STATE, VOTER’S PAMPHLET WASHINGTON STATE ELECTIONS at 9 (2024).

<sup>10</sup> *Id.*

<sup>11</sup> LAWS OF 2025, ch. 1, § 4.

<sup>12</sup> LAWS OF 2025, ch. 1, § 4(13).

<sup>13</sup> *Wash. Utils. & Transp. Comm’n v. Cascade Natural Gas Corp.*, Docket 240008, Notice of Bench Requests and Additional Briefing at 1-2 (Jan. 6, 2025).

### III. DISCUSSION

6           The bench request asks for an interpretation and application of I-2066’s text to Term J. Because I-2066 passed as an initiative, this requires using the standard rules of construction to “ascertain the collective intent of the voters who, acting in their legislative capacity, enacted the measure.”<sup>14</sup> This involves reading the initiative as a whole and in light of the surrounding statutory scheme.<sup>15</sup> The intended effect of I-2066 is to ensure that “gas utilities and local governments [] provide natural gas to customers who demand it, even if other energy services or energy sources are available.”<sup>16</sup> The initiative limits certain government entities from “prohibiting, penalizing, or discouraging use of gas.”<sup>17</sup>

7           Under Title 80, a gas company is “every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.”<sup>18</sup> The legislature tasked the Commission with “regulat[ing] in the public interest . . . the rates, services, facilities, and practices of all persons engaging within [Washington] in the business of supplying utility service or commodity to the public for compensation.” Those rates must be fair, just, reasonable and sufficient.<sup>19</sup>

8           Cascade is a gas company under Washington law and subject to regulation by the Commission. I-2066’s amendments to RCW 80.28.425 apply to gas companies like Cascade. As such, the mandates of I-2066 apply to the Commission’s disposition of the proposed settlement.

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<sup>14</sup> *Am. Legion Post #149 v. Dept. of Health*, 164 Wn.2d 570, 585, 192 P.3d 306 (2008).

<sup>15</sup> *Id.*

<sup>16</sup> WASHINGTON SECRETARY OF STATE, VOTER’S PAMPHLET WASHINGTON STATE ELECTIONS at 9 (2024).

<sup>17</sup> *Id.*

<sup>18</sup> RCW 80.04.010(14).

<sup>19</sup> RCW 80.28.010, .020.

**A. The Settlement Agreement Does not Require a Customer to Involuntarily Switch Fuel Type**

9 Line extensions do not apply to existing natural gas customers. This term only concerns new lines being run to customer properties that do not currently have gas access. Eliminating the allowances in not will force nor even incent existing customers to explore energy alternatives. As such, the amendments to RCW 80.28.425 do not impact the terms of this settlement.

**B. The Settlement Agreement Does not Create a Planning Requirement nor Create Cost Adders That Cause Line Extensions to be Cost-Prohibitive**

10 Where a statute does not define a term “courts will give the term ‘its plain and ordinary meaning unless a contrary legislative intent is indicated.’”<sup>20</sup> The use of a word that has meaning as a term of art can indicate this contrary legislative intent.<sup>21</sup>

11 In context, I-2066’s amendments to RCW 80.28.425 use the term “planning” as a term of art that relates the long-term planning documents utilities must produce. The voter’s approved I-2066, making significant amendments to Washington’s Decarbonization Act for Large Combination Utilities.<sup>22</sup> That statute touched on or modified, among other things, the planning processes applicable to large combination utilities to put them on a path toward decarbonization.<sup>23</sup> I-2066 also expanded that act to apply to gas companies generally.<sup>24</sup> These processes include utility integrated resource plans, clean energy action plans, and, now for large combination utilities, integrated system plans.<sup>25</sup>

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<sup>20</sup> *State v. Connors*, 9 Wash.App.2d 93, 95-6, 442 P.3d 20 (2019); *Dep’t of Ecology v. Campbell & Gwinn, LLC*, 146 Wash.2d 1, 9-10, 43 P.3d 4 (2002).

<sup>21</sup> *City of Spokane v. Dept. of Revenue*, 145 Wn.2d 445, 452-53, 38 P.3d 1010 (2002).

<sup>22</sup> LAWS OF 2025, ch. 1.

<sup>23</sup> LAWS OF 2024, ch. 351, § 1.

<sup>24</sup> LAWS OF 2025, ch. 1, § 4(13).

<sup>25</sup> See generally LAWS OF 2024, ch. 351.

**1. Line extension allowances, and line extension themselves, are not planning requirements.**

12 While “planning” is a term of art, nothing indicates that “requirements” is used in a technical sense in I-2066, and, as such, the term receives its plain, dictionary meaning.<sup>26</sup> “Requirement” means something wanted or needed, a necessity, and something essential to the existence or occurrence of something else, a condition.<sup>27</sup>

13 Putting those meanings together, “planning requirement” can be understood to be a necessary or essential action for establishing goals, policies, or procedures, for carrying out the long-term planning documents that utilities must produce.

14 Line extension allowances are not specifically contemplated in the planning requirements in Commission rules. Additionally, Staff views neither line extension allowances nor line extensions themselves as key inputs in planning and demand forecasting, and Cascade does not use the line extension allowances as such.

15 It is impossible to say that line extension allowances are a necessary or essential action in establishing the IRP. Within the plain meaning of “planning requirement” these allowances just do not fit the bill. Changing circumstances need to be modeled, but a circumstance changing does not necessarily change a planning requirement.

**2. Eliminating allowances does not make line extensions cost-prohibitive, just subject to the normal economic pressures of any other commodity.**

16 Nothing in the context of I-2066 indicates that “cost-prohibitive” is used in a technical sense,<sup>28</sup> and it is similarly afforded its plain meaning when interpreting I-2066. The dictionary contains three different definitions for cost, the first of which is applicable: the amount or

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<sup>26</sup> *City of Spokane*, 145 Wn.2d at 454.

<sup>27</sup> *Requirement*, Merriam Webster Online Dictionary (Jan. 8, 2025, 1:38 PM), <https://www.merriam-webster.com/dictionary/requirement>.

<sup>28</sup> For example, I-2066 does not point to any technical source for determining what makes something cost prohibitive.



equivalent paid or charged for something, a price.<sup>29</sup> “Prohibitive,” an adjective meant to modify a noun (in this case cost), means tending to prohibit or restrain or preclude use or purchase.<sup>30</sup> The plain meaning of cost prohibitive is a price that precludes or restrains an action.

17           The Commission is charged with setting fair, just, reasonable, and sufficient rates.<sup>31</sup> It must “carefully balance[] investor and consumer interests.”<sup>32</sup> Indeed, the Commission cannot set rates too low or too high. Setting rates too low may lead to an improper confiscation of utility property; a violation of both provisions of chapter 80.28 RCW and the Fourteenth Amendment to the United States Constitution.<sup>33</sup> As affirmed by the Washington Supreme Court, “the customer’s ability to pay and the value of the service to him” are not paramount and controlling in fixing fair and reasonable rates.<sup>34</sup> If rates are set too high “as to yield a greater return on the value of the property used and useful” as compared to other investments with equal risk, the rates are unfair to customers.<sup>35</sup>

18           Eliminating the allowances for line extensions does not impose cost-prohibitive planning requirements. The action itself does not inflate the costs to reach a policy outcome, which is the action I-2066 seeks to avoid; rather, eliminating the allowance reflects the actual cost of line extensions. Whatever price signals result from the true costs of line extension are based solely on the free market and economy. Allowances are funded by ratepayers. Removing them over the

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<sup>29</sup> *Cost*, Merriam Webster Online Dictionary (Jan. 8, 2025, 1:39 PM), <https://www.merriam-webster.com/dictionary/cost>.

<sup>30</sup> *Prohibitive*, Merriam Webster Online Dictionary (Jan. 8, 2025, 1:39 PM), <https://www.merriam-webster.com/dictionary/prohibitive>.

<sup>31</sup> RCW 80.28.020.

<sup>32</sup> *People's Org. for Washington Energy Res. v. Wash. Utils. & Transp. Comm'n*, 104 Wash. 2d 798, 819, 711 P.2d 319 (1985).

<sup>33</sup> *State ex rel. Puget Sound Power & Light Co. v. Dep't of Pub. Works of Washington*, 179 Wash. 461, 467-68, 38 P.2d 350 (1934).

<sup>34</sup> *Id.* at 468. It should be noted that the Commission was bestowed with authority from the legislature to create rates specifically to accommodate low-income customers. RCW 80.28.068.

<sup>35</sup> *Id.*

next two years may result in reduced costs to ratepayers, since the collective ratepayer pool will not be responsible for subsidizing line extensions for individual customers. I-2066 preserves the ability for a customer to choose, and have access to, natural gas, it does not require that the Commission engage in ratemaking or policy practices that makes natural gas line extensions artificially cheaper. As such, I-2066 should not be interpreted to require the Commission to continue a subsidy. This sort of interpretation would result in perverse and impossible outcomes as ratepayer funds cannot subsidize every utility offering. Costs incurred by the utility ultimately have to be paid by someone. This term just eliminates the cost being partially paid by collective ratepayer funds, and instead puts the full cost on the person seeking the line extension.

19           Demand forecasts consider factors such as growth trends, economic trends, building codes, etc.<sup>36</sup> At most, line extensions are like any other factor, such as taxes, costs of materials, and other economic variables that can impact demand forecasting. To say that any of these factors are “planning requirements” under I-2066 would paralyze the ratemaking process, as really any economic fluctuation could have the impact of making something “cost-prohibitive” as rates can go up and down depending on any number of trends. The IRP is the planning requirement, the demand forecast is a requirement of the IRP, the line extensions are a minor, if even considered, input in a forecast. Not to mention that line extensions themselves are not hard inputs in the analysis and, in recent years, have not been considered. The connection is just too attenuated to call the allowances a planning requirement within the meaning and intention of I-2066.

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<sup>36</sup> WAC 480-90-238(3)(a).

**C. Eliminating Line Extension Allowances may Positively Impact Cascade’s Climate Commitment Act Obligations; However, True Results are Unknown**

20 The intersection of the Climate Commitment Act (CCA) and I-2066 is a larger conversation that cannot be effectively explored in this limited briefing. For the purpose of this brief, the focus is how elimination of line extension allowances impacts Cascade’s CCA obligations.

21 In promulgating the CCA, the legislature cited the State’s broader commitment to reducing and limiting greenhouse gas emissions in 2030, 2040, and 2050.<sup>37</sup> The legislature intended to encourage carbon intensive industries to “innovate, find new ways to be more energy efficient, use lower carbon products, and be positioned to be global leaders in a low carbon economy.”<sup>38</sup> The CCA requires the Department of Ecology to set up a program that implements a cap on greenhouse gas emissions from covered entities.<sup>39</sup>

22 Eliminating line extension allowances may impact Cascade’s obligations under the CCA, but that impact entirely depends on how elimination of the allowances impacts those who are contemplating installing extensions. It is possible elimination of the allowances may encourage customers to choose more economical alternatives to gas lines, in which case, it may reduce Cascade’s emissions. Conversely, elimination of the allowances may have minimal to no impact on customers choosing to invest in new line extensions, in which case Cascade’s CCA obligations are not helped and may require the Company to seek emissions reductions elsewhere in order to meet its emissions cap requirements. Again, removing the allowances is not banning extensions, it is just removing a subsidy, making the extensions subject to any sort of market pressure, from building materials to gas prices. In this hypothetical future, without allowances,

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<sup>37</sup> RCW 17A.65.005(3).

<sup>38</sup> RCW 17A.65.005(6).

<sup>39</sup> RCW 17A.65.060(1) and (2)(a).

the appeal of line extensions could fluctuate from year to year and thus the impact on Cascade's CCA obligations may be similarly variable. As such, eliminating the line extensions allowances may impact the broader goal of reducing carbon emissions under the CCA, but it may also be neutral or net negative depending on how the market impacts customers considering new gas line extensions.

#### IV. CONCLUSION

23 I-2066 was a voter initiative designed to ensure that natural gas remained an option for Washington energy customers. Elimination of allowances for line extensions does not jeopardize the ability of customers to choose to bring natural gas to their property. Line extensions themselves, and the currently associated allowances, are not planning requirements, nor do they directly impact planning requirements. Elimination of the allowances would simply require a customer to bear the true cost of a line extension. Additionally, elimination of the allowances may positively influence Cascade's CCA obligations, but it is unknown if such impact will be significant.

Dated this 13<sup>th</sup> day of January, 2025.

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