

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET UG-240008

**CASCADE NATURAL GAS CORPORATION'S
BRIEF IN RESPONSE TO BENCH REQUEST NO. 1**

January 13, 2024

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I. INTRODUCTION

1. Pursuant to the Notice of Bench Requests and Additional Briefing issued on January 6, 2025 in this proceeding, Cascade Natural Gas Corporation (“Cascade” or “the Company”) respectfully submits this brief to the Washington Utilities and Transportation Commission (“Commission”) regarding the approval of Washington Ballot Initiative I-2066 (“I-2066”) and whether it prohibits the Commission from approving, without conditions, the full multiparty settlement stipulation presented in this proceeding (“Settlement Stipulation”). Specifically, Cascade hereby submits concise briefing addressing how the Commission should consider paragraph 34 of the Settlement Stipulation following passage of I-2066, particularly Section 4(13) of I-2066, together with the broader Climate Commitment Act.

II. BACKGROUND

2. As explained in the Settlement Stipulation, Cascade initiated this proceeding when it submitted its first Multiyear Rate Plan on March 29, 2024. The parties in this proceeding¹ engaged in extensive discovery over several months and filed direct and response testimony. All parties participated in a formal settlement conference on August 8, 2024, in accordance with the procedural schedule, and they convened a second formal settlement conference on October 2, 2024.² The parties did not reach a full settlement at those conferences, but the parties participated in several settlement-related calls and correspondence after the formal settlement conferences and convened formally again on October 18, 2024.

3. The Settling Parties ultimately reached a settlement in principle addressing and agreeing on all of the issues as set forth in the Settlement Stipulation and, on October 30, 2024, counsel for Cascade contacted the presiding officer indicating such. Cascade filed a formal letter in the

¹ Cascade, the regulatory staff of the Washington Utilities and Transportation Commission (“Staff”), the Energy Project (“TEP”), the Alliance of Western Energy Consumers (“AWEC”), and the Public Counsel Section of the Washington Attorney General’s Office (“Public Counsel”).

² Settlement Stipulation at ¶¶ 9-10.

docket on November 5, 2024, to inform the Commission that all parties except Public Counsel had reached a settlement in principle. The Commission suspended the procedural schedule, and the Settling Parties submitted the Settlement Stipulation and supporting testimony on December 11, 2024. Public Counsel subsequently filed a letter notifying the Commission that it would not oppose the settlement.

4. Meanwhile, on November 5, 2024, Washington voters approved Initiative I-2066. I-2066 effectively bans state and local governments from discouraging the use of natural gas. Although the election was decisive, litigation has begun over the initiative with plaintiffs seeking to overturn the ballot measure, arguing that it violates the state Constitution.³ As such, the enforceability of I-2066 is in question and will likely remain uncertain for several months or even years. While the parties were aware of I-2066 during the lead-up to the November 5, 2024, election, it is obvious that no party knew the outcome of the election when the Settling Parties reached their agreement in principle in October 2024. Cascade did not know the outcome or impact of I-2066 when it negotiated the settlement and was operating under the information available to it, including agreements made by other utilities such as Puget Sound Energy and Avista Corporation with respect to line extension allowances.

III. ARGUMENT

A. Cascade Supports Approval of the Settlement Stipulation

5. Cascade and all the settling parties have agreed to support the Settlement throughout this proceeding and recommend that the Commission issue an order adopting the Settlement Stipulation in its entirety.⁴ Paragraph 34 of the Settlement Stipulation calls for the gradual

³ See, *Climate Solutions, et al. v. State of Wash.* Complaint for Declaratory Judgment and Injunctive Relief at ¶ 37 (filed in King Co. Sup. Court Dec. 11, 2024).

⁴ Settlement Stipulation, ¶¶ 37-39.

elimination of residential and general commercial service natural gas line extension allowances (“LEA”), as follows:

1. No later than March 1, 2025, line extension allowances for rate schedules 503 and 504 shall reflect an allowance based on the net present value (NPV) methodology using a two-year timeframe and updated inputs from this rate case.
2. No later than March 1, 2026, line extension allowances for rate schedules 503 and 504 shall reflect an allowance based on the NPV methodology using a one-year timeframe and the same updated inputs from this rate case.
3. No later than March 1, 2027, line extension allowances for rate schedules 503 and 504 shall be reduced to zero.

Cascade did not address the effect of I-2066 on the Settlement Stipulation’s LEA provision in its settlement testimony because I-2066 was neither approved nor in effect when the parties agreed on the Settlement Stipulation. Even if the election had occurred earlier and the parties could have benefited from such knowledge, it is unclear how that knowledge would have affected the outcome of the LEA provision because of the uncertainty that continues to exist regarding interpretation, implementation, and enforcement of the ballot measure.

6. Upon review of I-2066 and considering the LEA provision now, there appears to be a colorable argument that the Settlement Stipulation does not conflict with the newly-approved measure. As explained in Bench Request No. 1, Section (4)13 of I-2066 prohibits the Commission from approving with or without conditions, a multi-year 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.”⁵ It may be reasonable to conclude that offering a line extension allowance to a customer for a new natural gas line extension would not fall within the ambit of “requir[ing] a customer to involuntarily switch fuel,” but it is less

⁵ I-2066, Section 4(13) (emphasis added).

than clear whether the phase out of the line extension allowance would restrict access to natural gas service.

7. Cascade's agreement to phase out LEAs by March 1, 2027, was based on the Commission's previous orders and policy statements on this issue. In October 2021, the Commission ordered Cascade and other gas utilities to reduce LEAs by adopting a calculation methodology that assumes a payback period of seven years, rather than one approaching infinity, as an interim measure to address the urgent issue of climate change.⁶ In December 2022, the Commission approved settlements in Puget Sound Energy's and Avista's general rate cases that included the gradual elimination of LEAs by January 1, 2025.⁷ In May 2024, the Commission published its Energy Decarbonization Pathways Study, which identified the need to reduce the expansion of the gas system and highlighted the reduction of LEAs as a means to do so.

8. Cascade considered these existing policy statements and proceedings when it agreed to the LEA provision in paragraph 34 of the Settlement Stipulation, and the LEA provision is consistent with them. However, as indicated below, the passage of I-2066 potentially undermines the findings therein. While Cascade continues to support approval of the Settlement Stipulation in its entirety, Cascade recognizes that circumstances have changed since the Settlement Agreement was decided.

B. Initiative I-2066 Raises Uncertainty and Challenges

9. Cascade recognizes that the Commission may face some uncertainty and challenges in approving and implementing the LEA provision due to the passage of I-2066. I-2066's language places the compliance burden squarely on the Commission. "The commission shall not approve, or approve with conditions, a multiyear rate plan that authorizes a gas company or large

⁶ *In re Chair Danner's Motion to Consider Whether Natural Gas Utilities Should Continue to use the Perpetual Net Present Value Methodology*, Docket UE-210729, Order 01, ¶ 27 (Oct. 29, 2021).

⁷ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UE-220066 & UG-220067 (*Consolidated*), Order 24: Final Order, ¶ 287 (Dec. 22, 2022); *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-220053, UG-220054, & UG-210854 (*Consolidated*) Order 10/04: Final Order, ¶ 86 (Dec. 12, 2022).

combination utility to require a customer to involuntarily switch fuel use.”⁸ Given the compliance obligation faced by the Commission, Cascade acknowledges that uncertainty surrounding I-2066 may place the Commission in a precarious position. I-2066 is currently being litigated and its effect and validity are unclear. Additionally, there is a dearth of data regarding the financial impact of removing LEAs or the effect of LEAs on a customer’s decision to take service under Schedule 503 or 504.⁹ It is also unclear whether eliminating gas LEAs while leaving electric LEAs in place restricts access to natural gas service. Finally, there is significant uncertainty regarding any effect I-2066 has on the state building code and the obligation to meet Climate Commitment Act decarbonization targets. This uncertainty was raised in briefing during Puget Sound Energy’s recent general rate case in the context of accelerated depreciation of gas plant. There, Staff recommended that the Commission “exercise patience and caution” in approving accelerated depreciation because, “As with the state energy code, the passage of I-2066 raises serious questions about the impact of the CCA on gas plant and gas service.”¹⁰

10. Given this legal and regulatory uncertainty, Cascade understands if the Commission is reluctant to approve the Settlement Stipulation’s provision to phase out LEAs in 2027. The passage of I-2066 has clearly demonstrated the public’s interest in maintaining natural gas energy in Washington, but nothing is settled yet. Accordingly, Cascade would not object if the Commission chooses to exercise its authority to postpone the policy issue of whether to discontinue LEAs to another matter or Cascade’s next multiyear rate plan, which is expected to be filed in 2026. In that case, Cascade would still begin collecting data on the total value of natural gas line extension allowances offered, including supplemental system reinforcements, separated by month and customer class, but would postpone filing tariff revisions reducing or

⁸ Initiative Measure No. 2066, Section 4(13) (emphasis added).

⁹ In paragraph 34 of the Settlement Stipulation, Cascade agrees to begin collecting such data.

¹⁰ *WUTC v. Puget Sound Energy*, Docket UE-240004, UG-240005 and UE-230810 (consolidated) Post-hearing Brief of Commission Staff at ¶ 136 (Dec. 4, 2024).

eliminating line extension allowances for rate schedules 503 or 504 until the Commission has more information on the effects of I-2066.

11. This approach would balance the need for regulatory certainty and stability for Cascade and its customers with the need for regulatory flexibility and responsiveness to changing conditions and public policies. It would also preserve the Commission's discretion and authority to exercise its statutory mandate to regulate gas utilities in the public interest.

IV. CONCLUSION

12. For the reasons set forth above and as provided in testimony previously submitted in this proceeding, Cascade fully supports the Settlement Stipulation and there appears to be a colorable argument that Commission approval would not conflict with I-2066. However, Cascade would also not object if the Commission chooses to exercise its discretion to maintain the status quo regarding Schedules 503 and 504 until legal and regulatory uncertainty regarding the effects of I-2066 is resolved.

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Respectfully Submitted,

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