

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UG-140381
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 03
)	
v.)	
)	INITIAL ORDER APPROVING
CASCADE NATURAL GAS)	SETTLEMENT AGREEMENT
CORPORATION,)	
)	
Respondent.)	
.....)	

- 1 *Synopsis. The Commission approves the Revised Settlement Agreement, filed on June 4, 2015, and executed by Cascade Natural Gas Corporation (Cascade), Staff, and Public Counsel, resolving the Commission’s four count complaint against the company. Under this agreement, Cascade acknowledges that it applied late payment charges when the subsequent month’s bill was issued, approximately 30 days after the bill issue date, instead of 30 days after the bill’s past due date, and as such, will pay a \$200,000 monetary penalty for violating RCW 80.28.080, WAC 480-90-178(1)(b), and its tariff. The company will not seek recovery of the monetary penalty from its ratepayers.*

- 2 *Cascade also agrees to issue a refund to customers who were assessed a late payment charge during the period beginning June 1, 2012, and ending December 31, 2013, where the customer paid the bill within 45 days from the billing date, during Cascade’s July 2015 billing cycle. The company will submit, as a compliance filing, revisions to Rule 6 and Schedule 200 of its tariff that clearly and consistently conform to its current late payment charge practice. Cascade will include a detailed proposal addressing the assessment of late payment fees in its next general rate case filing.*

- 3 *Cascade also acknowledges that it miscalculated late payment charges as a result of a billing system error that rounded all payment charges to the nearest dollar during March 2013, and as such, will pay a monetary penalty of \$75,000 for violating RCW 80.28.080, WAC 480-90-178(1)(b), and its own tariff. These charges have already been refunded to customers.*

- 4 *Cascade's application of the disconnect visit charge was consistent with WAC 480-90-128(6)(k). However, Cascade will make a compliance filing which includes revisions to Rule 5 and Schedule 200 of its tariff so that a disconnect visit charge is assessed only when a company representative is dispatched to disconnect service for non-payment and the visit does not result in a disconnection. Cascade will also revisit this issue in its next general rate case filing.*
- 5 *Cascade agrees to include billing inserts to all customers in September 2015 and September 2016 promoting the availability of the federally recognized Indian Nation Tax Credit.*

SUMMARY

- 6 **PROCEEDING:** On October 28, 2014, the Washington Utilities and Transportation Commission (Commission) on its own motion, and through its regulatory staff (Staff)¹ filed a complaint (Complaint) against Cascade Natural Gas Corporation (Cascade or the Company). The allegations in the Complaint arise from an informal complaint, received by the Commission in June 2013, from a customer of Cascade regarding notices the customer received displaying different amounts due. On November 25, 2014, Cascade filed an answer to the Complaint.
- 7 **PARTY REPRESENTATIVES:** Lisa Rackner, McDowell Rackner & Gibson, P.C., Portland, Oregon, represents Cascade. Simon ffitich, Senior Assistant Attorney General and Lisa Gafken, Assistant Attorney General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel). Sally Brown, Senior Assistant Attorney General and Christopher Casey, Assistant Attorney General, Olympia, Washington, represent Staff (collectively with Cascade and Public Counsel, Parties).

¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See*, RCW 34.05.455.

MEMORANDUM

I. Background and Procedural History

8 The complaint alleges four causes of action against Cascade:

- Applying late payment charges 16 days after the billing statement date, which is only one day past due, and inaccurately stating the total amount due on the bill, in violation of RCW 80.28.080(1)(a) and WAC 480-90-178(1)(b) and Cascade's tariff;
- Failing to update tariff provisions to reflect the application of a late fee 30 days after a balance is past due, as agreed to in a Commission-approved multi-party settlement stipulation in Docket UG-060256;²
- Miscalculating late payment charges by rounding to the nearest dollar during March 2013, in violation of RCW 80.28.080 and WAC 480-90-178(1)(b);
- Collecting fees related to the disconnect visit when the visit resulted in a disconnection in violation of WAC 480-90-128(6)(k).

9 The Commission convened a prehearing conference on January 21, 2015, before Administrative Law Judge Marguerite E. Friedlander. In Order 02 – Prehearing Conference Order, Notice of Hearing, the Commission established a procedural schedule.

10 The parties filed a full Settlement Agreement and Joint Narrative Supporting the Settlement Agreement on April 24, 2015. The Commission had already suspended the procedural schedule. On June 5, 2015, the parties filed a Revised Settlement Agreement (Revised Settlement) and Joint Narrative Supporting the Revised Settlement Agreement, which modified some of the dates contained within the April 24, 2015, agreement and is attached to, and adopted into, this Order as Appendix A.

II. Settlement

11 Cascade admits that it violated RCW 80.28.080, WAC 480-90-178(1)(b), and its tariff by applying late payment charges when the subsequent month's bill is issued—approximately 30 days after the bill issue date—as opposed to 30 days after the bill's past due date, which occurs 15 days after the bill is issued. The Parties agree that the

² Wash. Util. and Trans. Comm. v. Cascade Natural Gas Corp., Docket UG-060256, Order 05 (January 12, 2007).

Commission should assess penalties against Cascade in the amount of \$200,000. Cascade will pay the monetary penalty to the Commission within ten days of a Commission order approving the Revised Settlement. The Company agrees not to seek recovery of this amount from its ratepayers.

- 12 Cascade will issue a refund to customers who were assessed a late payment charge during the period beginning June 1, 2012, and ending December 31, 2013, in those cases in which the customer paid the bill within 45 days from the billing date—a total refund of approximately \$192,258, during the Company’s July 2015 billing cycle. As a compliance filing, the Company will also file revisions to Rule 6 and Schedule 200 of its tariff that clearly and consistently conform to its current late payment charge practice. In its next general rate case filing, Cascade will include a proposal addressing the assessment of late payment fees.
- 13 With regard to the second allegation, Cascade admits that it violated RCW 80.28.080, WAC 480-90-178(1)(b), and its tariff by miscalculating late payment charges as a result of a billing system error that rounded all late payment charges to the nearest dollar in March 2013.³ The Parties agree that the Commission should assess penalties against Cascade in the amount of \$75,000. Cascade will pay the monetary penalty to the Commission within ten days of a Commission order approving the Revised Settlement. The Company agrees not to seek recovery of this amount from its ratepayers.
- 14 The Parties agree that Cascade’s application of the disconnect visit charge was consistent with WAC 480-90-128(6)(k). As a compliance filing, Cascade will file revisions to Rule 5 and Schedule 200 of its tariff to clarify that a disconnect visit charge will be assessed only when a Company representative is dispatched to disconnect service for non-payment and the visit does not result in a disconnection of service. As with the late payment fee processing issue, Cascade will include a detailed proposal for disconnect visit charge assessments in its next general rate case filing.
- 15 The Parties agree that Cascade will include a bill insert to all customers in September 2015 and September 2016 promoting the availability of the federally recognized Indian Nation Tax Credit.

³ Cascade has verified that all customers who were overcharged as a result of the rounding error have been properly refunded.

III. Discussion and Decision

16 WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.” Thus, the Commission considers the individual components of the Revised Settlement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Revised Settlement as a reasonable resolution of the issue(s) at hand.

17 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

18 We approve the Revised Settlement without condition as a reasonable resolution of the complaint proceeding. Cascade has admitted to and pledged to correct the majority of violations alleged in the Complaint. The Company’s requisite compliance filings will provide clarify and consistency within its tariff. Approval of the Revised Settlement would result in a reasonable penalty assessment against the Company that should serve as an incentive to deter future regulatory violations. Further, Customers adversely affected by Cascade’s assessment of a late payment fee during the applicable period, in violation of RCW 80.28.080, WAC 480-90-178(1)(b) and the Company’s tariff, will receive refunds in a timely manner.

19 The Revised Settlement resolves all of the contested issues within this proceeding, avoids the time, expense, and uncertainty of further litigation of the matter, and prevents expenditure of additional Commission resources. The terms of the Revised Settlement are not contrary to law, are supported by an appropriate record, and offer a result that is consistent with the public interest. We approve the Revised Settlement without condition.

FINDINGS AND CONCLUSIONS

- 20 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including natural gas companies.
- 21 (2) The Washington Utilities and Transportation Commission (Commission) has jurisdiction over the subject matter of, and parties to, this proceeding.
- 22 (3) Cascade Natural Gas Corporation (Cascade), is a natural gas company serving customers concentrated in the western and central regions of Washington.
- 23 (4) The regulatory staff of the Commission filed a complaint against Cascade, alleging four violations of the Commission's statutes, rules, and Cascade's tariff.
- 24 (5) On June 4, 2015, the parties filed a Revised Settlement Agreement (Revised Settlement), attached to, and adopted into, this Order as Appendix A, which resolves all of the contested issues within the proceeding.
- 25 (6) The Revised Settlement provides that:
- Cascade admits that it violated RCW 80.28.080, WAC 480-90-178(1)(b), and its tariff by applying late payment charges when the subsequent month's bill is issued—approximately 30 days after the bill issue date—as opposed to 30 days after the bill's past due date, which occurs 15 days after the bill is issued. The Commission should assess a \$200,000 penalty against Cascade, to be paid within ten days of this Order. Cascade will not seek recovery of the penalty from ratepayers.
 - Cascade will issue a refund to customers who were assessed a late payment charge during the period beginning June 1, 2012, and ending December 31, 2013, in those cases in which the customer paid the bill within 45 days from the billing date—a total refund of approximately \$192,258, during the Company's July 2015 billing cycle.
 - Cascade will make a compliance filing which revises Rule 6 and Schedule 200 of its tariff to clearly and consistently conform to its current late payment charge practice. In its next general rate case filing, Cascade will include a proposal addressing the assessment of late payment fees.

- Cascade admits that it violated RCW 80.28.080, WAC 480-90-178(1)(b), and its tariff by miscalculating late payment charges as a result of a billing system error that rounded all late payment charges to the nearest dollar in March 2013, and the Commission should assess penalties against Cascade in the amount of \$75,000 within ten days of this Order. The Company agrees not to seek recovery of this amount from its ratepayers.
- Cascade will make a compliance filing which revises Rule 5 and Schedule 200 of its tariff to clarify that a disconnect visit charge will be assessed only when a Company representative is dispatched to disconnect service for non-payment and the visit does not result in a disconnection of service. Cascade will include a detailed proposal for disconnect visit charge assessments in its next general rate case filing.
- Cascade will include a bill insert to all customers in September 2015 and September 2016 promoting the availability of the federally recognized Indian Nation Tax Credit.

- 26 (7) The terms of the Revised Settlement are not contrary to law, are supported by an appropriate record, and offer a result that is consistent with the public interest.
- 27 (8) The Commission should approve the Revised Settlement without condition.

ORDER

THE COMMISSION ORDERS:

- 28 (1) The Revised Settlement filed on June 4, 2015, and executed by Cascade Natural Gas Corporation, Staff and Public Counsel, is approved without condition.
- 29 (2) During its July 2015 billing cycle, Cascade will refund late payment charges to customers assessed this charge between June 1, 2012, and December 31, 2013, who paid their bill within 45 days from the billing date.
- 30 (3) Within ten days from the effective date of this Order, Cascade will remit \$275,000 for the penalties agreed to in the Revised Settlement.
- 31 (4) Cascade will file revisions to Rule 5, Rule 6, and Schedule 200 of its tariff to clarify its current late payment charge practice and to guarantee that its disconnect visit charge is assessed only when the visit does not result in a disconnection of service.

- 32 (5) Cascade will provide bill inserts to all customers in September 2015 and September 2016 to promote the availability of the federally recognized Indian Nation Tax Credit.
- 33 (6) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 34 (7) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective June 10, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for

other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **5** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

Appendix A
(Revised Settlement Agreement)