

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION

Respondent.

Docket No. UG-170929

CASCADE NATURAL GAS
CORPORATION’S MOTION FOR
CLARIFICATION OF ORDER 06

I. INTRODUCTION

I In accordance with WAC 480-07-835, Cascade Natural Gas Corporation (Cascade or Company) respectfully moves the Washington Utilities and Transportation Commission (Commission) for clarification of Order 06, entered on July 20, 2018.¹ Specifically, Cascade requests that the Commission clarify the meaning of its statement in Paragraph 44 in which it directed that “[t]o address any discrepancy, Cascade may file a true up, effective November 1, 2019, once its actual 2018 tax liabilities are known.”² Cascade believes that the Commission clearly intended that the ordered tax refund amount, \$1.6 million, would be trued up to the actual benefit received by the Company based on its 2018 tax filing. However, Staff disagrees with this interpretation and has notified Cascade that it will oppose a true up based on the 2018 tax filing, if it is made.

¹ *Wash. Utils. & Transp. Comm’n Cascade Natural Gas Corp.*, Docket UG-170929, Order 06 (July 20, 2018) (hereinafter “Order 06”).

² Order 06, ¶44.

Cascade therefore submits this filing asking the Commission to resolve this dispute to avoid future conflict.

II. LEGAL STANDARD

2 The Commission will grant a motion for clarification to clarify the “meaning of an order so that compliance may be enhanced, so that any compliance filing may be accurately prepared and presented, to suggest technical changes that may be required to correct the application of principle to data. . .” or to correct ministerial errors.³

III. BACKGROUND

3 In this case, the parties resolved all issues, except for one, through an all-party settlement agreement. The one issue that was reserved for litigation was the treatment of the tax benefit received by the Company between January 1, 2018, and July 31, 2018 (Interim Period) resulting from the Tax Cuts and Jobs Act (TCJA), which reduced the income taxes payable by Cascade from 35 to 21 percent. Cascade argued that the Interim Period tax benefit should be refunded back to customers to the extent that the benefit caused the Company to earn above its authorized return on equity in 2018; Commission Staff, the Public Counsel Unit of the Attorney General’s Office, and the Alliance of Western Energy Consumers all argued that the tax benefit should be refunded to customers regardless of the Company’s 2018 earnings. Importantly, each party used a different method to calculate the tax benefit received by the Company during the Interim Period, resulting in estimates ranging from approximately \$1.4 million to \$2.7 million.

³ WAC 480-07-835(1).

4 At the hearing, Cascade expressed concern that the parties' estimates of the benefit were far too high. In fact, Cascade's witness stated that its most recent projection, based on updated information, was \$1.06 million, which is significantly less than any of the parties' estimates.⁴ Cascade also requested that, in the event that the Commission decided to return the Interim Period amount to customers, that the Commission wait until the Company filed its 2018 tax return so that the benefit amount would not be over or understated.⁵

5 The Commission ultimately adopted Staff's methodology for calculating the Interim Period tax benefit amount, which resulted in a \$1.6 million credit to customers, and ordered Cascade to return the benefit to customers over 15 months.⁶ In addition, the Commission stated: "To address any discrepancy, Cascade may file a true up, effective November 1, 2019, once its actual 2018 tax liabilities are known."⁷

IV. REQUEST FOR CLARIFICATION

6 The Company believes that the language in Order 06 is clear, and provides Cascade with an opportunity to file a true up in the event that its actual 2018 tax benefit differs from the \$1.6 million credit that the Company will return to customers over the next 15 months. This position is consistent with the evidence in the record, which showed significant uncertainty regarding the parties' estimates of the tax benefit, as well as Cascade's testimony at hearing suggesting that it was likely that all estimates provided were significantly overstated.

⁴ *Wash. Utils. & Transp. Comm'n Cascade Natural Gas Corp.*, Docket UG-170929, Hearing Transcript Vol. V at 59:9-16 (June 20, 2018) (hereinafter "Hearing Transcript").

⁵ Hearing Transcript at 141:17-22.

⁶ Order 06, ¶¶43-45.

⁷ Order 06, ¶44.

7 By contrast, Staff believes that the Commission intends for the true up to reflect any difference between the \$1.6 million refund ordered and the credit actually paid to customers as of November 2019. In other words, Staff believes that any true up is to \$1.6 million rather than to actual 2018 benefits based on Cascade’s actual 2018 tax liabilities.

8 Cascade believes that Staff’s interpretation is incorrect, as it would fail to give effect to the portion of the Commission’s statement that the true up may be filed once “actual 2018 tax liabilities are known.”⁸ If Staff’s interpretation is correct, then the language in the Commission’s order regarding actual 2018 tax liabilities would be rendered meaningless. Thus, Staff’s interpretation is in conflict with basic principles of interpretation, which require that a statement must be read as a whole and must give effect to all of its language.⁹

9 Cascade has attempted to resolve this disagreement informally, but has been unable to come to any resolution. Although there will likely be no actual dispute regarding this issue until Cascade makes a true up filing in October 2019, the Company urges the Commission to provide clarification now to avoid future confusion regarding the appropriate content for that filing.

V. CONCLUSION

10 In Order 06, the Commission directed Cascade to return to customers \$1.6 million over 15 months, and provided “[t]o address any discrepancy, Cascade may file a true up, effective November 2019, once its actual 2018 tax liabilities were known.”¹⁰ The Company requests clarification that the true up contemplated by the Commission is

⁸ Order 06, ¶44.

⁹ *Amy v. Kmart of Wash., LLC*, 153 Wn.App. 846, 862-863, 223 P.3d 1247 (2009) (“Where a statute is unambiguous, we read the statute as a whole and must give effect to all of its language.”).

¹⁰ Order 06, ¶44.

intended to allow Cascade to make a filing based on the Company's actual 2018 tax liabilities, which will either (1) return to customers additional benefits in excess of \$1.6 million; or (2) recover from customers amounts paid to customers if the actual tax benefits are less than \$1.6 million.

Respectfully submitted this 30th day of July, 2018.

/s/ Jocelyn Pease

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