

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET UE-170929

COMMISSION STAFF'S MOTION
FOR CLARIFICATION

I. INTRODUCTION

I Between January 1, 2018, and July 31, 2018 (the “Interim Period”), Cascade Natural Gas Corporation (“Cascade”) charged tariff rates that included the expense of a 35 percent federal corporate income tax rate. However, during the Interim Period, the federal corporate income tax rate was 21 percent. As a result, Cascade over-collected federal income taxes for the first seven months of this year. The Commission refers to the amount of money in Cascade’s possession due to the difference between the two rates as the “Interim Period EDIT benefit.” The Commission accepted Staff’s methodology and its estimated \$1.6 million calculation of the Interim Period EDIT benefit, but the Commission also permitted Cascade to true up its return of the Interim Period EDIT benefit. As Staff must evaluate any true-up filing made by Cascade, it requests that the Commission clarify how the Commission intends Cascade to true up the Interim Period EDIT benefit.

II. RELIEF REQUESTED

2 Staff respectfully requests that the Commission clarify how it intends the parties to
calculate and true up the “actual Interim Period EDIT benefit owed to customers” for
purposes of the true-up filing allowed by Orders 06 and 07.

III. STATEMENT OF ISSUES

3 Should the Commission further clarify Orders 06 and 07 in this docket to instruct the
parties on how the “actual Interim Period EDIT benefit owed to customers” must be
calculated and trued up to assist the parties in preparing and evaluating any true-up filing?

IV. STATEMENT OF FACTS

4 On July 20, 2018, the Commission issued Order 06 in this docket,¹ thereby
approving a partial settlement agreement and ruling on the sole contested issue in this
matter, which regarded the Tax Cuts and Jobs Act of 2017 (“TCJA”)² and whether the
Company should return taxes over-collected from ratepayers during the Interim Period.

5 On July 30, 2018, Cascade moved for clarification of the final sentence of
Paragraph 44 of Order 06.³ That sentence provided: “To address any discrepancy, Cascade
may file a true up, effective November 1, 2019, once its actual tax liabilities are known.”⁴

6 On July 31, 2018, the Commission granted Cascade’s motion by entering Order 07,
modifying the last sentence of Paragraph 44 to read: “To address any discrepancy, Cascade

¹ *Wash. Utils. & Transp. Comm’n v. Cascade Nat. Gas Corp.*, Docket UG-170929, Order 06, at 3 ¶ 8 (July 20, 2018) (Order 06).

² Pub. L. No. 105-97, 131 Stat. 2054 (2017).

³ *Wash. Utils. & Transp. Comm’n v. Cascade Nat. Gas Corp.*, Docket UG-170929, Cascade Natural Gas Corporation’s Motion for Clarification of Order 06 (July 30, 2018) (Motion for Clarification).

⁴ Order 06 at 13-14 ¶ 44.

may file a true up, effective November 1, 2019, once the actual Interim Period EDIT benefit owed to customers is known.”⁵

V. EVIDENCE RELIED UPON

7 Staff relies upon the record in this matter, including the prefiled testimony and exhibits, bench request responses, the transcript of the contested hearing, and Cascade’s motion for clarification.

VI. APPLICABLE LEGAL STANDARDS

8 The Commission’s procedural rules allow parties who do “not seek to change the outcome with respect to an issue” to file a motion for clarification of a final order within 10 days of service of the order.⁶ The Commission provided for these motions to allow parties “to ask for clarification of the meaning of an order so that compliance may be enhanced, so that any compliance filing may be accurately prepared and presented, . . . or to correct patent error without the need for parties to request reconsideration and without delaying post-order compliance.”⁷

VII. ARGUMENT

9 The Commission adopted Staff’s methodology for calculating the Interim Period EDIT benefit, which resulted in an estimated benefit of \$1.6 million.⁸ The Commission agreed with Staff that using the rate base and rate of return authorized by the Commission in Cascade’s 2015 GRC was the appropriate calculation for the Interim Period EDIT, in part to reflect that income tax expense embedded in interim period rates was established in the 2015

⁵ *Wash. Utils. & Transp. Comm’n v. Cascade Nat. Gas Corp.*, Docket UG-170929, Order 07, at 2 ¶ 4 (July 31, 2018).-

⁶ WAC 480-07-835(1).

⁷ WAC 480-07-835(1).

⁸ *Id.* at 6 ¶ 22, 13-14 ¶¶ 43-45, 25 ¶ 96.

GRC,⁹ and, in part, to maintain consistency with the Commission’s treatment of similar tax issues with another public service company.¹⁰ Staff understood the true-up allowed by Paragraph 44 as a true up to \$1.6 million, as calculated by Staff and accepted by the Commission.

10 Staff, after reading Order 07 in this matter, is concerned that it misunderstood the true-up contemplated by the Commission. Specifically, Staff is unsure of what amount the Commission intended the Company to true up to and therefore how the Commission intends Staff to verify compliance in this and other dockets. Given that the issue of calculating and crediting the Interim Period EDIT benefit may be an issue in other adjudications with other companies, Staff believes that it is critically important for the Commission to provide guidance through clarification.

11 Staff, accordingly, respectfully requests that the Commission clarify how the parties should calculate and true up the “actual Interim Period EDIT benefit owed to customers.” Staff intends such clarification to assist the preparation and evaluation of the true-up filing contemplated by the Commission. This clarification would not impact rates effective August 1, 2018, but would only impact the true-up contemplated by the Commission to be effective on November 1, 2019.

12 Staff sees at least three possibilities for how the Commission intends Cascade to true up its return of the actual Interim Period EDIT benefit. Cascade could:

- a. True up the amount returned to customers to the \$1.6 million calculated by Staff,¹¹

⁹ *Id.* at 14 ¶ 45 (citing Staff’s Response to BR-1 at 3).

¹⁰ *Id.* at 14 ¶ 45 (citing *Wash. Utils. & Transp. Comm’n v. Avista Corp.*, Docket UE-170485/UG-170486, Order 07 (Apr. 26, 2018)).

¹¹ This method of true-up would require a balancing true-up to ensure that no more and no less than \$1.6 million is returned to ratepayers.

- b. True up the amount returned based on actual 2018 federal income tax liability, or
- c. True up the amount returned using the tax basis authorized in Cascade's 2015 GRC adjusted for 2018 actual volumetric data.

The amount of Interim Period EDIT benefit credited to customers can vary substantially depending on which of these (or other) methodologies the Commission intended Cascade to use. For example, Staff calculated an Interim Period EDIT benefit of \$1.6 million dollars; Cascade estimates that, with its methodology, the benefit is approximately \$1.06 million.¹²

VIII. CONCLUSION

13 For the reasons stated above, Staff respectfully requests that the Commission clarify its order in this matter.

DATED this 3rd day of August 2018.

Respectfully submitted,

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¹² TR. (June 20, 2018) at 59:9-16.