

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION**

In the Matter of the Petition of

CASCADE NATURAL GAS
CORPORATION,

for an accounting order authorizing
deferred accounting treatment of loss in
margin due to Company sponsored
conservation programs, or, in the
alternative, the continuation of the pilot
decoupling mechanism that was approved
in Docket UG-060256

DOCKET NO. UG-101656

PUBLIC COUNSEL MOTION TO
DISMISS

I. MOTION

1. Pursuant to WAC 480-07-380(1), for the reasons set forth below, Public Counsel hereby moves the Commission for an order dismissing the Petition of Cascade Natural Gas (Cascade) for an order authorizing deferred accounting for lost margins due to conservation or in the alternative for an extension of the decoupling pilot.

II. ARGUMENT

A. Background.

2. On January 12, 2007, the Commission issued an order (Order 05) authorizing Cascade to institute a three-year pilot decoupling program.¹ Order 05 approved a stipulation between Cascade, Commission Staff (Commission) and the Northwest Energy Coalition (NVEC). The

¹ *WUTC v. Cascade Natural Gas Corp.*, Docket UG-060256, Order 05 (hereafter "Cascade 2006" or "Order 05.")

pilot was approved for a three year period, from October 2007 to September 30, 2010.² Order 05 provided, in pertinent part, that the Cascade decoupling mechanism would only be extended if: “(i) such extension is authorized as part of a general rate case (GRC) to be filed by the Company prior to the expiration of the mechanism, and (ii) such general rate filing includes the results of a thorough evaluation of the mechanism.”³

3. Pursuant to the accounting and reporting processes approved in Order 07, Cascade was required to submit annual decoupling reports to the Commission providing information regarding total deferred revenues, therm target achievement and the results of the earnings test under the decoupling pilot.⁴ Cascade has filed two decoupling reports since the pilot was implemented. The 2008 annual decoupling report stated that, for the fifteen-month period from October 1, 2007, to December 31, 2008, the Company had negative deferrals (requiring payments to ratepayers). As a result, \$401,328 was returned to customers.⁵ The 2009 annual decoupling report stated that, for the 2009 deferral period, the Company had positive deferrals, including interest, of \$97,335. However, because Cascade failed the earnings test under the pilot mechanism, the Company was not eligible to collect any decoupling deferrals from ratepayers. The Company has not collected any deferrals under its decoupling mechanism since the pilot was authorized.

² The tariff sheets implementing the pilot mechanism for the three year period were approved on October 1, 2007, and set to expire on September 30, 2010. Cascade 2006 GRC, Order 07.

³ Cascade 2006 GRC, Order 05, ¶ 70 and Appendix A, Settlement Agreement, p. 11.

⁴ Order 07.

⁵ The funds were returned in conjunction with the 2009 purchased gas adjustment (PGA).

B. Cascade’s Petition Violates The Terms of the Commission Order And The Stipulation Establishing the Decoupling Pilot.

4. As set forth above, the stipulation and Order 05 clearly state that the mechanism can only be extended as part of a general rate case which includes “the results of a thorough evaluation of the mechanism.” These preconditions plainly have not been met. The Company has not filed a general rate case nor has a “thorough evaluation” been presented to the Commission in the Petition or otherwise.⁶
5. While the Petition filed by the Company on October 1, 2010, acknowledges that the pilot will expire “unless the Company files for a continuation of the Decoupling Mechanism in conjunction with a GRC application.”⁷ As justification for not complying with this requirement, the Company simply relies on its own preference against filing a general rate case at this time. This does nothing to explain why the Commission should proceed to approve a new mechanism, or the extension of the existing pilot, without the context of the required rate review. This is a particular concern when Cascade’s most recent decoupling report indicated that it had failed the earnings test.
6. As noted, Cascade’s Petition also fails to present an evaluation of the decoupling program. In approving the settlement, the Commission stated in its Order: “We will closely scrutinize the evaluation of the mechanism. Any extension will depend upon demonstrable proof that the mechanism enhanced Cascade’s conservation efforts and achievements without unduly

⁶ The stipulation also says, regardless of whether extension is requested, the Company must complete and deliver an evaluation within 12 months of the completion of the pilot (by October 1, 2011).

⁷ The Petition does not, however, specifically acknowledge or cite the stipulation or order establishing the requirements for extension.

harming the interests of customers.”⁸ Cascade has not provided any basis for the Commission to conduct the type of close scrutiny intended, nor explained why it is no longer needed.

7. The Company’s legal position in the Petition is confusing at best. On the one hand, it seems to acknowledge the prerequisites to an extension of the decoupling pilot. On the other hand, apparently in order to avoid the requirements for a decoupling extension, it requests approval of a “lost margin” mechanism. Yet, Cascade also requests an extension of its pilot as an alternative.
8. In practical terms, however, Cascade’s “lost margin” mechanism is simply one of several forms of “decoupling” along a spectrum of such mechanisms. Like the decoupling pilot mechanism, it allows for replacement of revenues lost as a result of conservation. In effect, Cascade’s petition seeks indirectly to modify the form of its decoupling mechanism, perhaps because it can then argue that such a mechanism is not specifically barred by the prior order and stipulation.
9. The petition should be denied. Cascade itself concedes it has not met the requirements of Order 05. Nor has the Company moved to modify or amend Order 05 in the prior docket (UG-060256) to waive the general rate case or the evaluation requirement. Although the Petition directly implicates Order 05, no service was made on the parties to that docket. In effect, Cascade is seeking not only to avoid the terms of Order 05, but to unilaterally abrogate the terms of the underlying stipulation that it agreed to in 2007, without notice to the other settlement parties.

⁸ Order 05, ¶ 85.

III. CONCLUSION

10. For the foregoing reasons, Public Counsel respectfully requests that the Cascade's petition be dismissed. The Petition seeks to avoid the effect of a prior settlement to which Cascade fully and voluntarily agreed, and which was approved and adopted by the Commission. Cascade has provided no persuasive reason why it should not be held to its obligations and commitments.

11. DATED this 22nd day of October, 2010.

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