

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET PG-150120

ORDER 04

ORDER CLARIFYING ORDER 03

BACKGROUND

- 1 On July 12, 2016, the Washington Utilities and Transportation Commission (Commission) initiated an adjudication against Cascade Natural Gas Corporation (Cascade, CNGC, or the Company) based on the formal complaint (Complaint) brought by the Commission's regulatory staff (Staff). The Complaint alleged that Cascade violated Order 01 in this docket, entered on February 12, 2015, when the Company failed to file its maximum allowable operating pressure (MAOP) compliance plan by August 12, 2015, and that Cascade failed to maintain required records or documentation of its MAOP.
- 2 On December 15, 2016, Staff and CNGC filed a Settlement Agreement (Settlement), which purported to resolve all of the issues in this proceeding.
- 3 On March 20, 2017, the Commission entered Order 03, Final Order Approving and Adopting Settlement with Conditions.
- 4 On March 27, 2017, Cascade submitted a joint letter signed by the Company and Staff informing the Commission that the parties will accept the conditions in Order 03 based on the following mutual understanding:

With respect to the First Condition discussed in Paragraph 42 of the Final Order, CNGC and Commission Staff understand that the Commission's discretion to apply suspended penalties to the compliance provisions applies specifically to Nos. 1-7 of the Compliance Program

set forth in the Settlement Agreement.¹ It does not apply to No. 8, which expressly states that:

CNGC will commence a program to align its operations with the standards of API Recommended Practice 1173. Commission Staff will review CNGC's progress in implementing these operational changes. API 1173 is a recommended practice and, as such, compliance with API 1173 may be subject to audit but shall not be the basis for penalties.

DISCUSSION

- 5 The Commission does not address parties' understanding of the terms of a final order through correspondence conditionally accepting conditions the Commission establishes for approving and adopting a settlement agreement. We nevertheless construe the letter from Cascade and Staff as a motion for clarification pursuant to WAC 480-07-835,² and we grant that motion.
- 6 The Commission's discretion to impose any of the suspended penalty as described in paragraph 42 of Order 03 applies to all eight of the substantive compliance provisions in the Settlement. With respect to provision number eight that the parties reference in their motion, we agree that the condition we adopted in Order 03 does not subject the Company to suspended or additional penalties for departing from the voluntary aspects the American Petroleum Institute Recommended Practice 1173 (API 1173). To the extent that API 1173 incorporates federal or state law at issue in this proceeding, however, the Commission retains the discretion to impose some or all of the suspended penalty if an audit determines Cascade has violated any of those legal obligations. Similarly, the Commission retains discretion to take enforcement action, including but not limited to imposing additional penalties, if an audit determines the Company has violated federal or state laws within the Commission's jurisdiction incorporated in API 1173 that are not at issue in this docket.

¹ Settlement Agreement, section V.B.1-7.

² See WAC 480-07-395(4).

ORDER

THE COMMISSION ORDERS:

- 7 (1) The Commission clarifies its discretion to impose any of the suspended \$1.5 million suspended penalty for violation of any of the compliance items listed in the Settlement or Order 03 as discussed in paragraph 6 above.
- 8 (2) Cascade Natural Gas Company and Commission Staff must notify the Commission if they accept the conditions in Order 03 as clarified in this Order within five business days from the date of the effective date of this Order.
- 9 (3) If the parties accept the conditions in Order 03 as clarified in this Order, Cascade Natural Gas Company must remit the \$1 million portion of the penalty that the Commission did not suspend within ten business days of the effective date of this Order.
- 10 (4) Order 03 otherwise remains in full force and effect.
- 11 (5) The Commission retains jurisdiction to effect the terms of the orders entered in this docket.

Dated at Olympia, Washington, and effective March 30, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner