

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET UG-140381

ANSWER AND AFFIRMATIVE
DEFENSES TO COMPLAINT

I. INTRODUCTION

1 Cascade Natural Gas Corporation's (Cascade or the Company) address for purposes of this proceeding is:

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Cascade Natural Gas Corporation
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Email: Michael.Parvinen@cngc.com

Cascade's representative for purposes of this proceeding is:

Lisa Rackner
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2 In accordance with WAC 480-07-395(1)(c)(ii), the statutes and rules at issue in this proceeding
and raised in this pleading include: RCW 80.28.080; WAC 480-90-128(6)(k); WAC 480-90-
178(1)(b).

3 Pursuant to WAC 480-07-370(1)(c), Cascade hereby files its Answer and Affirmative Defenses
to the Complaint filed by the Washington Utilities and Transportation Commission
(Commission) through its Staff (Complainant).

4 This case involves allegations by Complainant that the Company has violated Washington law
and has failed to adhere to the terms of its tariff on four separate causes of action. The First and
Second Causes of Action generally allege that Cascade's billing of late payment fees is
inconsistent with its tariff and with the terms of the settlement agreement and Order 05 in docket
UG-060256; the Fourth Cause of Action alleges that Cascade's tariff and business practices
regarding collection of disconnection fees are not consistent with Washington law. Cascade
disputes the factual and legal bases for these two causes of action and asserts that its actions are
consistent with its filed and approved tariffs and with applicable Washington law. The Third
Cause of Action alleges that Cascade erred by rounding certain fees to the nearest dollar.
Cascade agrees that the error was made but avers that it promptly recognized and addressed the
error by refunding any overcharges, and that no party was harmed. For the remainder of
Complainant's allegations in the First, Second, and Fourth Causes of Action, Complainant is
wrong on the facts and the law, and the allegations should be rejected.

II. ANSWER

5 Respondent Cascade answers the Complaint as follows:

6 Cascade denies each and every allegation of the Complaint except as specifically admitted
herein.

7 Paragraph 1 contains no legal or factual allegations for which an answer is required and is
therefore denied.

A. BACKGROUND

8 Paragraph 2 describes Cascade as a gas company subject to regulation by the Commission and
describes Cascade's service territory. Cascade admits Paragraph 2.

9 Answering Paragraph 3, Cascade admits that the customer described in Paragraph 3 was issued a
bill that incorrectly applied late fees and the same customer later received a credit. Cascade
denies the remainder of Paragraph 3, as Cascade has no direct knowledge regarding the timing
under which the Commission received the informal complaint, nor the initiation of the Staff
investigation.

10 Paragraph 4 describes Staff's conclusions from its investigation, of which Cascade has no direct
knowledge, and presents legal conclusions to which no response is required. Cascade denies the
allegations in Paragraph 4.

B. PARTIES

11 Answering Paragraph 5, Cascade admits the allegations in Paragraph 5 describing the
Commission.

12 Answering Paragraph 6, Cascade admits the allegations in Paragraph 6 describing Cascade as a
gas utility subject to regulation by the Commission.

C. JURISDICTION

13 Paragraph 7 describes the legal basis for Commission jurisdiction over the Complaint. This
paragraph presents legal conclusions for which an answer is not required and is therefore denied.

D. FIRST CAUSE OF ACTION (Violation of RCW 80.28.080 and WAC 480-90-178(1)(b) and Incorrect Application of Late Payment Charges)

14 Answering Paragraph 8, Cascade realleges its responses to Paragraphs 1-7 above as if fully set
forth herein.

15 Paragraphs 9, 10, 11, and 12 recite Washington law and Cascade's current and historic tariffs.
The referenced law and tariffs speak for themselves and therefore require no answer.

16 Answering Paragraph 13, the conclusion that Cascade has violated RCW 80.28.080(1)(a), WAC
480-90-178(1)(b), and the Company's tariff presents a legal conclusion for which no answer is
required and is therefore denied. Cascade denies the factual allegation that Cascade begins
applying late payment charges 16 days after the billing statement date, and denies the factual
allegation that 16 days after the billing statement date is only one day past due. Consistent with
the Company's tariff, the due date for a bill is the date of issuance, and late payments are
incurred and appear on a customer bill after 30 days of nonpayment have lapsed following the
date of issuance. The Company denies that it charged late payment fees to 382,160 customers
between June 1, 2012 and June 30, 2013. If the allegation was intended to refer to the number of
instances of late payment fees being charged, Cascade is still working to verify the number of
instances and therefore neither admits nor denies the same. Cascade denies that the late payment
fees were incorrectly applied. The remainder of Paragraph 13 presents a legal conclusion, for
which no answer is required and is therefore denied.

E. SECOND CAUSE OF ACTION (Late Payment Charge Tariff Conditions)

17 Answering Paragraph 14, Cascade realleges its responses to Paragraphs 1-13 above as if fully set forth herein.

18 Answering Paragraph 15, Cascade admits Paragraph 15 describing Cascade's tariff.

19 Answering Paragraph 16, the Company admits that the revisions to Original Sheet No. 200 removed the text "30 days" from this section of the tariff. Cascade denies the allegation in Paragraph 16 that the change "now appears to allow Cascade to apply a late payment charge to unpaid balances as soon as they are past due, rather than 30 days past due," and Cascade disputes Complainant's characterization of the effect of the tariff revision. Cascade admits that it did not file a corresponding tariff revision to the text of the late payment charge on its tariff Sheet No. 10.

20 Cascade admits Paragraph 17 describing the multi-party settlement, Commission approval of the miscellaneous charges agreed upon by parties, and Cascade's subsequent filing of Original Sheet No. 200.

21 Paragraph 18 presents a legal opinion or conclusion, for which no answer is required and is therefore denied. Cascade applies its current tariff, specifically Substitute First Revision Sheet No. 200, in a manner consistent with both Order 05 in UG-060256 and consistent with Tenth Revision Sheet No. 10, and applies late payment fees to bills that remain unpaid 30 days after the date of issuance of the bill.

F. THIRD CAUSE OF ACTION (Violation of RCW 80.28.080 and WAC 480-90-178(1)(b) Related to Incorrect Late Payment Charges)

22 Answering Paragraph 19, Cascade realleges its responses to Paragraphs 1-18 above as if fully set forth herein.

23 Paragraphs 20, 21, and 22 recite Washington law and describe Cascade's tariff. The referenced law and tariffs speak for themselves and therefore require no answer.

24 Answering Paragraph 23, Cascade admits that there was an error in its billing system that resulted in rounding to the nearest dollar for certain fees on 1,511 customer bills. The error occurred in March 2013, and Cascade discovered the error in that same month, proceeded to correct the error, and ultimately issued credits to customers that had been overcharged as a result of the error. All customers who had been overcharged were made whole and Cascade received no customer complaints associated with this isolated mistake. The remainder of Paragraph 23 is a legal opinion or conclusion for which no answer is required and is therefore denied.

G. FOURTH CAUSE OF ACTION (Rates and Charges Related to Disconnect Visit Set Forth in Company's Tariff)

25 Answering Paragraph 24, Cascade realleges its responses to Paragraphs 1-23 above as if fully set forth herein.

26 Paragraph 25 sets forth the text of WAC 480-90-128(6)(k), which speaks for itself and therefore no answer is required. Paragraph 25 also offers a legal conclusion interpreting WAC 480-90-128(6)(k), for which no answer is required and is therefore denied.

27 Paragraph 26 describes Cascade's tariff, which speaks for itself, and therefore no answer is required.

28 Answering Paragraph 27, Cascade admits that its tariff does not specify that the disconnection visit charge applies only if Cascade visits a customer for the purpose of disconnecting service and accepts payment in lieu of disconnection, and admits that its tariff allows the fee for the visit regardless of whether the representative accepts payment in lieu of disconnection or service is

actually disconnected. The conclusion that the tariff is inconsistent with WAC 480-90-128(6)(k) is a legal conclusion for which no answer is required and is therefore denied.

29 Cascade admits the portions of Paragraph 28 describing Cascade's disconnection visit charge practices. Cascade denies the portion of Paragraph 28 discussing the results of Staff's investigation, of which Cascade has no direct knowledge. Cascade admits that 324 customers were disconnected for nonpayment between May 15, 2013 and May 31, 2013, and that these customers were charged a disconnection visit fee.

30 Paragraph 29 presents legal conclusions regarding the Company's tariff for which no answer is required and is therefore denied. Cascade disputes that its tariff is inconsistent with Washington law and further asserts that any difference between Cascade's tariff and the tariffs of other investor-owned electric or gas utilities provides no basis for an allegation that Cascade's tariff is unjust or unreasonable.

H. APPLICABLE LAW

31 Paragraphs 30-32 describe Washington law and contain no allegations of fact or law for which an answer would be required, and are therefore denied.

I. REQUEST FOR RELIEF

32 Paragraphs 33-39 do not contain factual or legal allegations and do not require an answer, and are therefore denied.

J. PROBABLE CAUSE

33 Paragraph 40 is a legal opinion or conclusion for which no answer is required and is therefore denied.

III. DEFENSES AND AFFIRMATIVE DEFENSES

34 *Filed Rate Doctrine.* With respect to the First, Second and Fourth Causes of Action, all of Cascade's actions alleged were consistent with Cascade's tariffs, lawfully filed with and approved by this Commission.

35 *Failure to State a Claim for Which Relief May Be Granted.* With respect to the First, Second and Fourth Causes of Action, all of Cascade's actions were consistent with Cascade's approved tariffs and Washington law, therefore Complainant has failed to state a claim for which relief may be granted.

36 *Good Faith.* With respect to the First, Second, and Fourth Causes of Action, Cascade has at all times operated its business with the good faith belief that its practices are consistent with both Washington law and its tariff. The Third Cause of Action describes one inadvertent error that was corrected immediately upon discovery, but does not present any factual evidence of intentional or malicious wrong-doing by the Company.

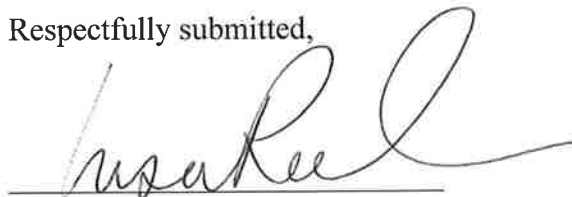
37 *Penalties Should Be Corrective, Not Punitive.* It would be inappropriate to assess penalties in this case. For the First, Second, and Fourth Causes of Action, there is no basis upon which to issue penalties. For the Third Cause of Action, Complainant has raised one error that the Company has admitted and which was expediently resolved without injury to customers. A penalty awarded for such an error would be punitive rather than corrective.

IV. REQUEST FOR RELIEF

WHEREFORE, Cascade asks the Commission to dismiss the Complaint with prejudice.

DATED: November 25, 2014.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lisa Rackner', written over a horizontal line.

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