

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

WASHINGTON UTILITIES AND
TRANSPORTATION
COMMISSION,

Complainant,

v.

NORTHWEST NATURAL GAS
COMPANY,

Respondent.

.....
In the Matter of the Petition of

NORTHWEST NATURAL GAS
COMPANY

For an Accounting Order
Authorizing Deferred Accounting
Treatment of Certain Costs
Associated with the Smart Energy
Program.

DOCKET UG-080519

DOCKET UG-080530

(consolidated)

PUBLIC COUNSEL MOTION TO
CONSOLIDATE WITH DOCKET
NO. UG-080546

I. MOTION

The Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) moves to consolidate Northwest Natural Gas's (NNG) revisions to its currently effective Tariff WN U-6¹ and its Petition seeking an Accounting Order² (Smart Energy Filings) with its current general rate case (Rate Case).³

¹ *WUTC v. Northwest Natural Gas Company*, Docket No. UG-080519 (hereinafter *Tariff Filing*).

² *In the Matter of the Petition of Northwest Natural Gas Company For an Accounting Order Authorizing Deferred Accounting Treatment of Certain Costs Associated with the Smart Energy Program*, Docket No. 080530 (hereinafter *Accounting Petition*). The Commission suspended the *Tariff Filing*, consolidated it with the *Accounting Petition*, and set both for hearing. See Docket Nos. UG-080519 and UG-080530, Order 01.

³ *WUTC v. Northwest Natural Gas Company*, Docket No. UG-080546 (hereinafter *Rate Case*).

II. MEMORANDUM

A. Legal Standard for Consolidation

Pursuant to WAC 480-07-320, the Commission has discretion to consolidate proceedings that involve related facts and principles of law.⁴ The common facts, issues, and legal standards in the Smart Energy Filings and the Rate Case satisfy the standard for consolidation. Moreover, consolidation would promote judicial economy and administrative efficiency.

B. The Smart Energy Filings and Rate Case Present Related Issues

The Smart Energy Filings, Docket Nos. UG-080519 and UG-080530, consist of a proposed optional carbon-offset service offering known as “Smart Energy,” and a request for deferral treatment of certain program start-up costs. The Smart Energy Filings are similar and related to issues presented in the Rate Case. Indeed, NNG addresses the Smart Energy program as part of its overall commitment to reducing climate change in its pre-filed Rate Case testimony.⁵

First, the overall prudence of the Smart Energy program, specifically whether its substantial administrative expenses undermine its cost-effectiveness,⁶ is an identical issue to the prudence of other staffing and administrative costs NNG seeks to recover in the Rate Case. The Company has indicated that the Smart Energy start-up costs consist mainly of consumer

⁴ WAC 480-07-320 provides:

The commission, in its discretion, may consolidate two or more proceedings in which the facts or principles of law are related. Parties may request consolidation or may request the severance of consolidated matters by motion to the commission. The commission may act on its own motion to consolidate matters for hearing, or to sever consolidated matters.

⁵ See Direct Testimony of David H. Anderson, Exhibit No. ___ (DHA-1), pp. 7-9.

⁶ See Letter to Carole Washburn from Kelley Miller, *Tariff Filing*, p. 2, stating that NNG estimates the administrative costs of the Smart Energy Program to average 30 percent.

communications expenses.⁷ In its rate case filing, the Company proposes to recover additional amounts for “consumer information and communications” expenses, even dedicating an entire witness to this issue.⁸ In both cases, the Commission will have to assess what benefit customer communications actually provide to NNG’s ratepayers, whether administrative costs of such communications are necessary and prudently incurred, and whether a portion or all of such costs should be borne by NNG’s shareholders rather than its ratepayers.

Additionally, NNG has proposed another conservation program in the Rate Case.⁹ Like the Smart Energy Program, the program proposed in the Rate Case is currently in place in Oregon and operated through a contract with a third-party nonprofit in that state.¹⁰ For both programs, parties will be examining the costs, benefits, and overall effectiveness of the conservation programs and climate-change efforts in Oregon. Parties will also be looking at the prudence of NNG’s choice to offer such programs through outside organizations in Oregon (rather than internally, or through organizations in Washington state).

Finally, in the Rate Case, NNG has requested revenue decoupling.¹¹ NNG supports this request with evidence of its current energy conservation programs and a commitment to developing more conservation programs in the future. While Smart Energy is not technically a conservation program, the Company states that it is part of an overall push towards addressing

⁷ See *Accounting Petition*, ¶7. In its Open Meeting Memo, Staff raised concerns about NNG’s proposed recovery of start-up costs and recommended that its petition be set for hearing. See *Accounting Petition*, Open Meeting Memo.

⁸ See Direct Testimony of Kimberly Heiting, Exhibit No. __ (KAH-1).

⁹ NNG is proposing to create an Advisory Group to assist in development and implementation of a conservation program in Washington. As proposed, the program would be administered by the Energy Trust of Oregon. See Direct Testimony of William R. Edmonds, Exhibit No. __ (WRE-1), pp. 5-14.

¹⁰ See *Id.*, p. 8:6-12.

¹¹ See generally, Direct Testimony of William R. Edmonds, Exhibit No. __ (WRE-1).

climate change.¹² Since NNG justifies its request for decoupling based on its concurrent development of environmentally conscious programs, the request should be evaluated in light of all such programs, including Smart Energy.

C. The Smart Energy Filings and Rate Case are Subject to the Same Legal Standard

In both cases, NNG bears the burden of proving that its requests—the rate increase and the Smart Energy service offering—would result in rates that are fair, just, reasonable, and sufficient.¹³ Likewise, issues in both cases will be subject to a similar prudency review. NNG is proposing an entirely new program in Washington with Smart Energy. Accordingly, the program should be accorded the same scrutiny as the proposals NNG makes in its Rate Case.

D. Consolidation Promotes Judicial Economy and Administrative Efficiency

Addressing the Smart Energy Filings and Rate Case in one, rather than two, adjudicative proceedings would reduce the overall burden on the Commission and participating parties. The Commission has previously ordered consolidation as a means to “address the issues together in one adjudicative proceeding.”¹⁴ These cases lend themselves well to that approach. The Rate Case and Smart Energy Filings were filed close in time¹⁵ and have been suspended and set for hearing.¹⁶ Both cases will involve discovery and are in the early stages of that process. As noted above, NNG bears the burden of proof in both.

Also, the same parties will likely be interested, and participate, in both cases. In addition to Public Counsel and Commission Staff, the Northwest Energy Coalition, already an intervenor

¹² See Direct Testimony of David H. Anderson, p. 8 (describing Smart Energy and its other energy efficiency program proposal as “ways to reduce GHG emissions”).

¹³ RCW 80.28.020; WAC 480-07-540.

¹⁴ See *WUTC v. PacifiCorp d/b/ Pacific Power and Light*, Docket No. UE-050684, Order 05 ¶6.

¹⁵ NNG filed its *Rate Case* on March 28, 2008. NNG filed the *Tariff Filing* on March 21, 2008, and the *Accounting Petition* on March 24, 2008.

¹⁶ See *Tariff Filing*, Order 01; *Rate Case*, Order 01.

in the Rate Case, has expressed interest in the Smart Energy Filings.¹⁷ Handling these cases under a single procedural schedule and single adjudicative proceeding will minimize the burden on the Commission, Commission Staff, and all other parties.

E. NNG's Timeline for the Smart Energy Program in Oregon Should Have Little Bearing on the Commission's Review of the Program in Washington

In discussions with parties, NNG has stated that it wishes to implement the Smart Energy Program as soon as possible—i.e. to handle the Smart Energy Filings outside of the Rate Case—because it has already begun a five-year pilot of the program in Oregon. Although expedited approval in Washington might be to the Company's benefit, this should have no bearing on the opportunity and ability of this Commission, and all interested parties to carefully review the Company's proposal before approving the program in Washington. The Company may proceed with the Program in Oregon as it likes; a longer procedural schedule in Washington does not prohibit the company from offering the program in Oregon where a majority of its customers reside.

Little, if any, economic efficiency will be gained by the Company being allowed to make Smart Energy available to Washington customers immediately, rather than after the conclusion of the Rate Case. Indeed, Washington customers can only benefit from NNG having additional experience with the program in Oregon before it is implemented here. Finally, NNG had the opportunity to file applications for approval in both states simultaneously to make sure the Program was underway at the same time in both states. It did not do so, instead choosing to file in Washington nearly nine months after it had filed similar applications in Oregon.

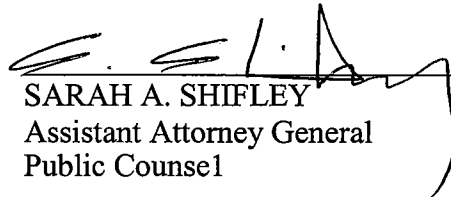
¹⁷ See Comments on behalf of Northwest Energy Coalition from Danielle Dixon, filed April 29, 2008.

III. CONCLUSION

The Commission has discretion to consolidate proceedings if there are related facts and principles of law. As discussed above, the Smart Energy Filings and Rate Case require the review and resolution of important common issues under the same legal standard. Moreover, consolidating these cases will promote judicial economy. Accordingly, Public Counsel respectfully moves the Commission for an order consolidating Docket Nos. UG-080519 and UG-080530 with Docket No. UG-080546, NNG's current Rate Case.

DATED this 6th day of June, 2008.

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