

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application)
of CASCADE NATURAL GAS CORPORATION and)
PACIFIC NATURAL GAS CO. for an Order )
Permitting the Statutory Merger of )
Pacific Natural Gas Co. With and Into )
Cascade Natural Gas Corporation. )
..... )

CAUSE NO. U-9360
ORDER GRANTING
APPLICATION

On June 26, 1962 Cascade Natural Gas Corporation (Cascade) and Pacific Natural Gas Co. (Pacific) jointly filed an application with the Commission under the provisions of RCW chapter 80.12 for an order: (1) authorizing Pacific to merge its franchises, properties and facilities with, and into, Cascade; (2) authorizing Cascade to consolidate its facilities with those of Pacific with Cascade being the surviving corporation; (3) authorizing Cascade to acquire the capital stock and bonds of Pacific; and (4) authorizing Pacific, pursuant to RCW 80.28.190, to transfer its presently outstanding Certificate of Public Convenience and Necessity to Cascade.

Cascade, which owns 182,558 shares, or 98.68% of Pacific's common stock, is a public utility operating a gas plant serving twelve counties in the State of Washington (Benton, Chelan, Douglas, Franklin, Grant, Kitsap, Mason, Skagit, Snohomish, Walla Walla, Whatcom, and Yakima) and four counties in the State of Oregon (Baker, Bend, Malheur, and Umatilla). Pacific owns and operates a gas plant serving the Washington State communities of Longview, Kelso, Woodland, Castle Rock, Mount Vernon, Monroe, and Snohomish. In addition, it holds franchises (but does not operate) in McCleary, Elma, Montesano, Cosmopolis, Aberdeen, and Hoquiam.

The Commission, by its order dated August 4, 1960, in Cause No. U-9218, authorized Cascade to issue not more than 185,000 shares of its \$1.00 par value common stock prior to November 2, 1960, for the sole purpose of acquiring all the outstanding shares of Pacific's stock on the basis of a share-for-share exchange. On three occasions subsequently, Cascade applied for, and obtained, extensions of time within which to acquire all of Pacific's outstanding stock; so that it now has until September 30, 1962, to gain possession of the 2,442 outstanding shares of Pacific stock it had not acquired as of June 26, 1962, when the application herein was originally filed.

All of the officers and/or directors of Pacific (with the exception of its Assistant Secretary, James B. Ellis) are also officers and/or directors of Cascade. Pacific has entered into an arrangement with Cascade pursuant to which Cascade makes available to Pacific personnel services, materials, supplies, equipment, and financial assistance. That arrangement was conditionally approved by the Commission under the affiliated interest law by its order dated September 8, 1961, in Cause No. U-9292. If the presently proposed merger is consummated, the legal necessity for this arrangement will be removed and the proceeding wherein it was conditionally approved can be closed. Substantial

savings in time and money should be possible as a result of the merger because it will no longer be necessary to keep separate accounting records and perform other dual functions for the two companies.

In Cause No. U-9218, it was reported that during the twelve months ended April 30, 1960, Pacific suffered a loss of \$285,794. Exhibit C of the application in this proceeding shows a loss of \$128,846.75 during the 12-months period ended May 31, 1962. The greater loss occurred prior to the time when Cascade acquired a controlling interest of Pacific and the smaller loss was sustained after Cascade acquired control of Pacific. This provides a rather substantial indication that Cascade has been instrumental in reducing Pacific's annual losses to less than half its recorded losses prior to the time Cascade acquired a controlling interest of Pacific. Nevertheless, Pacific's earned surplus deficit has increased from \$743,660.15 as of May 31, 1961, to \$872,507.26 as of May 31, 1962. The existence of this large deficit, which reportedly is substantially greater now, is cited as one of the reasons for the proposed merger. It is explained that Pacific, operating separately, is not likely to improve its operations in time to realize any tax benefit from its accumulated losses but that they would be immediately available to Cascade for Federal Income Tax purposes if the two companies are merged. There is obvious merit to this point because Cascade earned a net profit of \$1,460,283.35 in the twelve months ended May 31, 1962, and it had an earned surplus as of that date of \$418,289.99. Applicant indicates that the tax benefits to Cascade, flowing from Pacific's accumulated losses, could amount to as much as \$500,000 in the aggregate.

Applicants affirm that the merger of Pacific into Cascade represents a legal step to make the presently consolidated operations of the two companies more efficient, and eliminate the legal and essentially artificial separation of their corporate identities where, in fact, there is no real separation except as compelled by accounting records, taxing, and regulatory requirements. The principle benefits of the merger to Pacific are said to be in respect to financing, debt service costs, reports, accounting, and miscellaneous other factors, such as maintenance of equipment, advertising and employee benefits. It is also stated that the merger will not result in any increase in Pacific's rates which reportedly are identical to those of Cascade for domestic, commercial, and institutional customers.

The reported benefits of the proposed merger to Cascade, in addition to the afore-mentioned loss-carryover income tax benefit, include the elimination of Pacific's bond indenture which would provide additional bondable property and assist Cascade in financing its future construction needs. Another indicated advantage (which would be beneficial to the customers of both companies) is that the merger will enable Pacific's Mount Vernon system and Cascade's Anacortes gas lateral to save about \$6500 per year by purchasing gas through one point under a single contract instead of being served through two points under separate contracts as at present.

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One of the pertinent exhibits of the application herein is Exhibit B---a document titled Joint Plan And Agreement of Merger, dated as of January 26, 1962. Under the terms of this agreement Cascade will enter into a bond exchange agreement with the holders of Pacific's first mortgage bonds due October 1, 1978, pursuant to which Cascade will acquire Pacific's bonds in exchange for an equal principal amount of its 6% series C first mortgage bonds, due October 1, 1978. In addition, each share of Pacific's outstanding \$1.00 par value common stock (except those held by Cascade or by Pacific as treasury stock) will be converted forthwith, without any action on the part of the holder thereof, into one share of Cascade's \$1.00 par value common stock. Although the holders of Pacific's common stock will not be required to surrender their certificates, they will not be entitled to receive any dividends from Cascade unless and until they actually have certificates for Cascade's stock. If Pacific holds any of its own stock in its treasury it must be surrendered to Cascade for cancellation, as of the effective date of the merger, along with all the shares held by Cascade.

All debts due either of the two companies on whatever account will be vested immediately in Cascade, the surviving corporation, and all debts, liabilities, and duties of Pacific or Cascade will henceforth attach to the surviving corporation which will also assume and pay all of the expenses of the merger.

Article VII of the merger agreement provides that neither Pacific nor Cascade, without the prior written consent of the other, will engage in any activity or transaction, other than in the ordinary course of business, except as contemplated by the agreement and other specified exceptions, all of which are also before the Commission in Cascade's application to the Commission in Cause No. U-9357.

Pacific's outstanding liabilities include \$2,429,000 of 6% first mortgage bonds, due October 1, 1978, \$1,225,000 of 6½% subordinate interim notes, an unsecured 5½% note payable to The National Bank of Commerce, in the principal amount of \$200,000, and an unsecured 5½% note in the amount of \$83,500 payable to The B & M Construction Company. The Commission's order in U-9357 authorizes Cascade, among other things, to assume the liabilities of Pacific and to consummate all the other transactions necessary to effectuate the proposed merger which require approval under the securities law, RCW chapter 80.08. The authority granted in that proceeding, plus the authority granted by this order should enable the applicants herein to meet all the regulatory requirements of the Commission.

In the absence of any specific rules governing the transfer of gas utility certificates pursuant to RCW 80.28.190, application has been made in this proceeding for authority to transfer Pacific's Certificate of Public Convenience and Necessity to Cascade.

The Commission is of the opinion the proposed merger will be

beneficial to Cascade and to the general public it will be serving upon consummation of the merger.

### FINDINGS

#### THE COMMISSION FINDS:

1. Cascade Natural Gas Corporation and Pacific Natural Gas Co. are public service companies subject to regulation by the Commission under the provisions of RCW chapter 80.12 and RCW 80.28.190.
2. The application herein meets the requirements of RCW chapter 80.12 and RCW 80.28.190 and the applicable rules and regulations of the Commission.
3. It will not be contrary to the public interest for Pacific Natural Gas Co. to merge its franchises, properties, and facilities with those of Cascade Natural Gas Corporation and for the latter to consolidate its facilities with those of Pacific.
4. It will not be contrary to the public interest for Cascade Natural Gas Corporation to acquire the capital stock and bonds of Pacific Natural Gas Co. and for the latter to transfer its Certificate of Public Convenience and Necessity to Cascade Natural Gas Corporation.
5. An order consistent with the above findings should be entered.

### ORDER

#### THE COMMISSION ORDERS:

1. Subject to the conditions of this order, Pacific Natural Gas Co. is hereby authorized to merge its franchises, properties and facilities with, and into, those of Cascade Natural Gas Corporation and the latter is hereby authorized to consolidate its facilities with those of Pacific Natural Gas Co. in accordance with the terms and conditions of the application herein.
2. Cascade Natural Gas Corporation is hereby authorized to acquire the capital stock and bonds of Pacific Natural Gas Co. in accordance with the terms and conditions of the application herein and the Commission's orders in Cause No. U-9218 and U-9357.
3. Immediately after Certificate of Public Convenience and Necessity No. 8 (amended) has been assigned and transferred by Pacific Natural Gas Co. to Cascade Natural Gas Corporation pursuant to the authority granted by this order, the latter shall surrender said Certificate to the Commission, together with its own Certificate of Public Convenience and Necessity No. 4 (amended) for the prompt issuance to Cascade Natural Gas Corporation of a revised Certificate No. 4 which shall consolidate in a single certificate all the operating rights Cascade Natural Gas Corpo-

ration then has plus additional rights set forth in Certificate No. 8 (amended).

4. Cascade Natural Gas Corporation shall submit to the Commission for its prior approval the journal entries by which it proposes to record on its books the transactions authorized by this order.

5. Prior to exercising the authority granted by Section 1 of this order, Cascade Natural Gas Corporation shall make arrangements to adopt the effective tariff of Pacific Natural Gas Co. as of the effective date of the merger.

6. Within 60 days after the authority granted by Section 1 of this order has been exercised, Cascade Natural Gas Corporation shall file with the Commission a closing report, satisfactory to the Commission, covering the operations of Pacific Natural Gas Co. from January 1, 1962, to the effective date of the above-authorized merger.

7. Cascade Natural Gas Corporation shall notify the Commission, in writing, as to the date that the authority granted by Sections 1 and 2 of this order has been exercised. This notice shall be furnished within ten days after the transactions have been consummated.

This order shall in no way affect the authority of this Commission over rates, service, accounts, valuations, estimates or determination of costs, or any matters whatsoever that may come before it, nor shall anything herein be construed as an acquiescence in any estimate or determination of costs, or any valuation of property claimed or asserted.

DATED at Olympia, Washington, and effective this 27th day of July, 1962.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



FRANCIS PEARSON, Chairman



DAYTON A. WITTEN, Commissioner

APPENDIX A-13. LEGAL DESCRIPTION--WALLA WALLA, COLLEGE PLACE AND VICINITY-WALLA WALLA COUNTY

All of the incorporated area comprising the City of Walla Walla and College Place and additional portions of Walla Walla County lying within the area described as follows:

Beginning at a point where the east line of section 14, T. 6 N., R. 36 E. W. M. intersects the boundary line between Oregon and Washington, thence in a westerly direction along the northern boundary of the state of Oregon to a point where said boundary intersects the west line of section 16, T. 6 N., R. 35 E. W. M., thence north along the west line of section 16, 9 and 4, of T. 6 N., R. 35 E. W. M. and sections 33, 28, 21, 16, and 9 of T. 7 N., R. 35 E. W. M. to the northwest corner of section 9 T. 7 N., R. 35 E. W. M., thence east along the north line of sections 9, 10, 11, 12, T. 7 N., R. 35 E. W. M. and sections 7, 8, 9, 10 and 11, of T. 7 N., R. 36 E. W. M. to the northeast corner of section 11, T. 7 N., R. 36 E. W. M., thence south along the east line of sections 11, 14, 23, 26 and 36<sup>5</sup> of T. 7 N., R. 36 E. W. M., and sections 2, 11 and 14 of T. 6 N., R. 35 E. W. M., to the point of beginning.

