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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Complaint of)
INTALCO ALUMINUM CORPORATION, a)
Delaware corporation; ARCO)
PRODUCTS COMPANY, a division of)
Atlantic Richfield Company, a)
Delaware corporation, for Cash)
Refund of Rate Overpayments)
Charged by Cascade Natural Gas)
Company.)

DOCKET NO. UG-911477

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In the Matter of the Complaint of)
WEYERHAEUSER COMPANY, a Washington)
corporation and NORTH PACIFIC)
PAPER CORPORATION, a Delaware)
corporation for Cash Refund of)
Rate Overpayments Charged by)
Cascade Natural Gas Corporation.)

DOCKET NO. UG-911481

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WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)

DOCKET NO. UG-920062

Complainant,)

SEVENTH¹ SUPPLEMENTAL ORDER

vs.)

COMMISSION DECISION AND)
ORDER GRANTING)
RECONSIDERATION)

CASCADE NATURAL GAS CORPORATION,)

Respondent.)

.)

The Commission, on December 21, 1992, entered its Fifth Supplemental Order in this docket rejecting the suspended tariff filing, denying the complaints of Intalco Aluminum Corporation (Intalco), Arco Products Company (Arco), Weyerhaeuser Company (Weyerhaeuser), and North Pacific Paper Corporation (Norpac), and authorizing Cascade Natural Gas Corporation (Cascade) to refile certain tariff revisions complying with the terms of the order.

On December 24, 1992, Cascade filed tariff revisions in Docket No. UG-921498 designed to comply with the terms of the Fifth Supplemental Order in these consolidated proceedings. The Commission, on December 29, 1992, entered its Sixth Supplemental

¹The Commission's Fifth Supplemental Order in this proceeding, issued December 21, 1992, erroneously was designated Fourth Supplemental Order. The Commission's Sixth Supplemental Order in this proceeding, issued December 29, 1992, erroneously was designated Fifth Supplemental Order. The Commission by this reference corrects these errors.

Order in these dockets finding that the tariff revisions are in accordance with the intent of the Commission's Fifth Supplemental Order in Docket Nos. UG-911477, UG-911481, and UG-920062 and that the tariff revisions should become effective as filed.

The Commission Staff, on December 31, 1992, filed a Petition of Commission Staff for Reconsideration or Clarification. The Commission Staff sought clarification of three portions of the Fifth Supplemental Order. The Commission, on January 5, 1993, invited parties to these proceedings to file answers to the Petition not later than January 15, 1993. Answers were received from Cascade, Longview Fibre, Texaco, Georgia Pacific, Public Counsel, and the Northwest Industrial Gas Users.²

The Commission may grant reconsideration to clarify an order.³ It will do so in these matters. We will discuss each of the three issues in turn.

MEMORANDUM

- 1) This case is not a "tracker."

The Commission Staff takes issue with the Commission's statement on page 6 of the order that "[t]he company filing before the Commission is a tracker filing." The Commission Staff claims that "a 'tracker' connotes an accounting proceeding in which certain cost increases or decreases are passed on to customers." The Commission Staff argues that since the Commission has discretion under RCW 82.28.200 to decline to pass on refunds, this distinguishes a proceeding under RCW 82.28.200 from a "tracker" proceeding. The Commission Staff contends that the Commission's language may have created an unrealistic expectation on the part of non-core customers that they would always be entitled to these refunds.

In its answer, Cascade agrees that RCW 80.28.200 does apply to this case but argues that it is not inconsistent with use of a tracking mechanism to make refunds. It claims that the Commission Staff's argument on this issue is hypertechnical and not relevant to the substance of the decision.

²Counsel Edward Finklea answered on behalf of the Northwest Industrial Gas Users. Mr. Finklea did not answer on behalf of his other four clients in these proceedings: Intalco, Arco, Weyerhaeuser or Norpac.

³RCW 34.05.470; WAC 480-09-810. WUTC v. WASHINGTON NATURAL GAS COMPANY, Docket No. UG-911236 & UG-911270 (November 1992).

298

Longview Fibre and Texaco argue that Cascade's proposal was essentially similar to a tracker filing and should be governed by a similar policy. The Northwest Industrial Gas Users argue, without elaboration, that the Commission should reject the requested clarifications. Georgia Pacific argues generally, that the Commission should deny the Commission Staff's petition to revise or modify the substantive findings or conclusions of the order.

Public Counsel contends this refund is governed by RCW 80.28.200, which statute is not synonymous with the term "tracker." The point made by Commission Staff is not just technical, according to Public Counsel, since the Commission was asked to decide this matter as authorized by statute.

The Commission will provide the requested clarification. So far as we know, the word "tracker" does not appear in any statute or rule. The Commission chose to use the word "tracker" to apply to this type of proceeding, i.e., a proceeding whereby FERC-mandated cost increases or decreases are passed on, in whole or in part, to customers. A major rationale for the Commission's order declining to consider Staff's and Public Counsel's proposals to allocate the refund to core customers was that the Commission does not believe that this type of proceeding is appropriate for review of issues, such as cost of service, rate design, rate of return, etc.⁴

The order made quite clear that the Commission does not believe that anyone is "entitled" to refund proceeds. Nor does it believe that all of a FERC-mandated refund must be allocated to Cascade's customers. In fact, in this proceeding, it did not allocate the entire refund to Cascade's customers.

If the Commission Staff believes, however, that use of the word "tracker" to apply to this type of proceeding will lead to confusion and false expectations, the Commission will clarify that it decided, in its discretion, that a tracker type mechanism was the most just and reasonable means, in these proceedings, by which to allocate a refund. Future cases brought under RCW 82.28.200 will be treated in a just and reasonable manner, based on their unique facts.

- 2) A cost of service study was not filed with the Commission to support the 1989 settlement in Docket No. U-89-3449-T.

⁴The parties also treated this as a proceeding different from a general rate case; none of the parties offered testimony in any of these areas.

The Commission Staff takes issue with the statement at page nine of the Fifth Supplemental Order that the 1989 settlement whereby the Commission approved restructuring and rate changes was not based on a cost of service study.

Cascade contends that the Commission should not reconsider nor clarify this point, which is immaterial to the decision. Longview Fibre and Texaco also argue that the Commission Staff's contention is irrelevant to the benchmark discounts and surcharges and to the order in this consolidated case.

The Northwest Industrial Gas Users and Georgia Pacific state, without elaboration, that the Commission should reject the requested clarification.

Public Counsel argues that the clarification request is appropriate. Public Counsel did not comment specifically on this point.

The Commission order would be more precise if it stated that no cost of service study was filed with the Commission when it approved the 1989 settlement. The Commission accepted the settlement based on the recommendation of its staff and the other parties. The Commission was satisfied that the 1989 settlement was based on a thorough analysis of the relevant facts, and that it established fair, just, and reasonable rates.

- 3) Consideration of benchmark discounts and surcharges in a future proceeding may be appropriate.

The Commission Staff seeks a clarification from the Commission that its order in this proceeding does not foreclose the possibility of a future proceeding to consider benchmark discounts and surcharges.

Cascade argues that there is sufficient information in the record to support a decision by the Commission to the effect that the benchmark discounts established in Docket No. U-86-100 have been fully repaid. If the Commission wishes to consider the benchmark discount issue in the future, Cascade contends that any rates designed to recapture discounts should be addressed in a rate case and applied on a prospective basis only.

Longview Fibre and Texaco contend that the Commission's order in this proceeding affirmed that the U-86-100 benchmark rates were fair, just, and reasonable. They argue that the implication of this affirmance is that a future reconciliation of those rates would be improper and inappropriate. They ask the Commission to confirm that no future reconciliation of those rates will occur.

The Northwest Industrial Gas Users ask the Commission to clarify that any obligation resulting from past benchmark discounts in U-86-100 has been terminated. Georgia Pacific argues that the Commission should reject Staff's request to again bring up the issue of benchmark discounts and surcharges, and that the issue should be considered, if at all, in a future Cascade proceeding.

Public Counsel also asks the Commission to clarify this point. If the Commission intends to review the benchmark discounts/surcharges of U-86-100 in a future case, such a clarification would be helpful for Public Counsel and other parties.

The Commission will clarify this point to provide guidance for future proceedings. The Commission did not mean to foreclose reexamination, in an appropriate proceeding, of the competitive conditions existing in the non-core segment, and reflecting the existence or nonexistence of competition in rates. We would not be providing "reconciliation" of rates from an earlier period.

What we are really talking about is that the Commission, when it ordered benchmark discounts as a result of competitive pressure, contemplated that industrial rates could conceivably be set at an amount greater than parity at some future date when those pressures no longer existed. This is not retroactive ratemaking, but is a form of rate design which permits deviations from cost of service to the same extent and for the same reasons as the original benchmark discounts.

We agree with Cascade that any rates designed to reflect competitive pressure should be addressed in a rate case and applied on a prospective basis only. A cost of service study and rate design analysis, and an analysis of competitive pressures, should be provided with any recommendation of benchmark rates.

ORDER

THE COMMISSION ORDERS:

1. The Petition of Commission Staff for Reconsideration or Clarification of the Fifth Supplemental Order in Docket Nos. UG-920062, UG-911477, and UG-911481 is granted.

2. This case is not a "tracker." This case is to determine whether a refund received by Cascade from Northwest Pipeline should be allocated in whole or in part to consumers. The decision is a discretionary decision by the Commission which ordered the allocation it found just and reasonable in the Fifth Supplemental Order.

3. A cost of service study was not filed with the Commission to support the 1989 settlement in Docket No. U-89-3449-T. The Commission accepted the settlement based on the recommendation of its Staff and the other parties. The Commission was satisfied that the 1989 settlement was based on a thorough analysis of the relevant facts, and that it established fair, just, and reasonable rates.

4. Consideration of benchmark discounts and surcharges in a future proceeding may be appropriate.

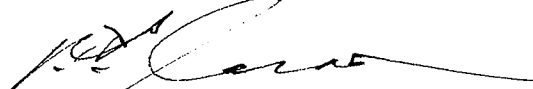
5. The tariffs approved in the Sixth Supplemental Order in these consolidated proceedings are not affected by this Order and shall remain in effect.

DATED at Olympia, Washington, and effective this 19th day of February 1993.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD D. CASAD, Commissioner



A. J. PARDINI, Commissioner