

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKETS UG-210755

ORDER 06

GRANTING REQUESTS FOR CASE
CERTIFICATION

BACKGROUND

- 1 On September 30, 2021, Cascade Natural Gas Corporation (Cascade or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-3, Natural Gas.
- 2 On October 25, 2021, the Commission convened a virtual prehearing conference, and on October 26, 2021, entered Order 03, Prehearing Conference Order and Notice of Hearing.
- 3 On February 18, 2022, counsel for Commission staff (Staff) notified the presiding Administrative Law Judges that Staff and Cascade had reached a full multi-party settlement in principle. Staff requested the Commission suspend the procedural schedule and convene a status conference to modify the schedule to accommodate the settlement.
- 4 On February 23, 2022, the Commission issued a Notice Suspending the Procedural Schedule and Notice of Status Conference.
- 5 On March 10, 2022, the Commission convened a virtual status conference before Administrative Law Judges Samantha Doyle and Rayne Pearson, and on March 11, 2022, entered Order 05, Second Prehearing Conference Order. Order 05 set the deadline for participating organizations to file a Request for Case Certification (Request) and Notice of Intent to Request a Fund Grant (Notice) by 5 p.m. on Friday, March 18, 2022. The Commission indicated that proposed budgets would be due 30 days after issuing a decision on Requests and Notices.

- 6 On March 14, 2022, the Alliance of Western Energy Consumers (AWEC) filed a Request for Case Certification and Notice of Intent to Seek Fund Grant, Citing Sections 5.2.1 and 6.2 of the Interim Agreement. AWEC submits that this is an “Eligible Proceeding” within the meaning of the Interim Agreement. Furthermore, AWEC is a non-profit organization representing “broad customer interests.” AWEC maintains that it is eligible for participatory funding and its participation will not unduly delay the proceeding.
- 7 On March 18, 2022, The Energy Project (TEP) filed a Request for Case Certification and Notice of Intent to Request a Fund Grant. TEP stated that it intends to request a fund grant from the Customer Participation sub-fund of the customer access fund for Cascade. TEP submits that this proceeding, Cascade’s general rate case, is an “eligible proceeding” under the Interim Agreement.
- 8 Citing Sections 5.2.1 and 6.2 of the Interim Agreement, TEP requests case-certification. TEP submits that it is a non-profit organization; that it represents “broad customer interests,” including thousands of low-income customers; and that TEP has a history of effective representation in regulatory proceedings over the last two decades. TEP submits that it is the only party focusing solely on the interests of low-income customers and that its participation will not unduly delay the proceeding.

DISCUSSION

- 9 We grant AWEC’s and TEP’s requests for case certification. We instruct AWEC, however, to provide additional information in support of any proposed budget.
- 10 Pursuant to RCW 80.28.430, utilities must enter into funding agreements with organizations that represent broad customer interests. The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility’s rates; and other matters necessary to administer the agreement.¹
- 11 On November 19, 2021, the Commission issued a Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement).² The Commission provided “high-level guidance regarding the amount of financial assistance that may be provided to organizations, the manner in which it is distributed to participants and recovered in the

¹ RCW 80.28.430(2).

² *In the Matter of the Commission’s Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595 (November 19, 2021).

rates of gas or electrical companies, and other matters necessary to administer agreements.”³

- 12 On February 24, 2022, the Commission issued Order 01, Approving Agreement with Modifications (Order 01).⁴ The Commission approved the Interim Agreement filed by the parties on February 23, 2022, subject to certain modifications, and adopted the Interim Agreement as Appendix A to the Order. Among other points, the Commission clarified that it is not bound by the timeframes set forth in the Interim Agreement.⁵
- 13 In relevant part, Section 5.2 of the Interim Agreement provides that the Commission will case-certify an organization that is not a for-profit or governmental entity; represents “broad customer interests”; demonstrates it is able to “effectively represent the particular customers it seeks to represent”; demonstrates that no other case-certified stakeholder adequately represents these interests or that the proceeding will benefit from the organization’s participation; and establishes that it will not unduly delay the proceeding.⁶
- 14 This case is Cascade’s 2021 general rate case. The Commission has already suspended this proceeding for an adjudication. It is therefore a “regulatory proceeding” within the meaning of the statute, which is appropriate for participatory funding.⁷ We address each Request for Case Certification and Notice of Intent to Seek Funding below.
- 15 **TEP.** TEP is a non-profit organization that represents broad customer interests. RCW 80.28.430(1) provides that organizations representing “broad customer interests” includes organizations representing “low-income” customers. In its Policy Statement, the Commission recognized certain “incumbent” organizations that have a history of representing these customer interests before the Commission and specifically referred to TEP.⁸
- 16 TEP also demonstrates that it can effectively represent the particular customers it seeks to represent. TEP routinely appears before the Commission, participates in settlements, and

³ *Id.* ¶ 3.

⁴ *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 01 (February 24, 2022).

⁵ *E.g., Id.*

⁶ Interim Agreement § 5.2.

⁷ *See* Policy Statement ¶ 33 (interpreting the term “regulatory proceeding” broadly). *See also* Interim Agreement § 1(c) (defining “Eligible Proceeding”).

⁸ Policy Statement ¶ 18.

offers testimony at evidentiary hearings without causing undue delays.⁹ We agree that the public interest is served by TEP's participation and that TEP establishes it will not unduly delay the proceeding. We therefore grant TEP's Request for Case Certification.

17 We also find that TEP has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PSE's Customer Participation sub-fund.

18 Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets.

19 **AWEC.** AWEC is also a non-profit organization that represents broad customer interests. RCW 80.28.430(1) provides that organizations representing "broad customer interests" includes organizations representing "industrial" customers. In its Policy Statement, the Commission recognized certain "incumbent" organizations that a history of representing these customer interests before the Commission and specifically referred to AWEC.¹⁰

20 AWEC demonstrates that it can effectively represent the particular customers it seeks to represent. AWEC routinely appears before the Commission, participates in settlements, and offers testimony at evidentiary hearings without causing undue delays. Although AWEC recently opposed a settlement in a power-cost only rate case, the Commission was still provided sufficient opportunity to reinstate a procedural schedule, and AWEC did not seek to delay the proceeding beyond what was necessary to present its opposition.¹¹ We agree that the public interest is served by AWEC's participation and that no other party adequately represents the interests of industrial customers. We therefore grant AWEC's Request for Case Certification.

21 We also find that AWEC has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from Cascade's Customer Participation sub-fund. Pursuant to Section 6.5 of the Interim Agreement, however, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets. The Commission additionally requires AWEC to submit a list of its members with its proposed budget.

⁹ TEP's Request for Case Certification ¶ 5(c). *See also WUTC v. Cascade Natural Gas Corporation*, Docket UG-200568 Order 05 ¶¶ 335-357 (May 18, 2021) (discussing and relying in part on TEP's testimony regarding a utility's disconnection moratorium and low-income programs).

¹⁰ Policy Statement ¶ 18.

¹¹ *See WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-210402 Order 5 (November 2, 2021) (reinstating and modifying procedural schedule given AWEC's opposition to a settlement).

- 22 Additionally, we note that pursuant to Section 7.9 of the Interim Agreement, the Commission has statutory authority to determine recovery. We reserve this determination for the conclusion of these proceedings and will base our decision on arguments and topics addressed by each party.
- 23 Finally, we remind TEP and AWEC that case-certification does not guarantee a Fund Grant. The amount of funding in each Consumer Access Fund is limited, and it may be required for more than one Eligible Proceeding. These funds are also sourced from ratepayers, many of whom are faced with their own economic challenges. The Commission must therefore determine the highest and best use of these funds, and whether the needs of intervenors justify the burdens imposed on ratepayers to fund the party's participation in Commission proceedings. The Commission "will determine the amount, *if any*, of Fund Grants that will be made available" for the proceeding and how those funds will be allocated among the case-certified parties.¹²

ORDER

THE COMMISSION ORDERS:

- 24 (1) The Energy Project's Request for Case Certification is GRANTED.
- 25 (2) The Alliance of Western Energy Consumers' Request for Case Certification is GRANTED.

DATED at Lacey, Washington, and effective March 25, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Samantha Doyle
SAMANTHA DOYLE
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.

¹² Interim Agreement § 6.5 (emphasis added).