

SERVICE DATE  
MAY 11 1995

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Washington Utilities and	)	
Transportation Commission,	)	DOCKET NO. UG-940814
	)	
Complainant,	)	
	)	
v.	)	
	)	SEVENTH SUPPLEMENTAL
	)	ORDER REJECTING
Washington Natural Gas Company,	)	TARIFF FILING;
	)	ORDER ON RECONSIDERATION
Respondent.	)	
.....	)	

On April 11, 1995 the Commission entered its Fifth Supplemental Order resolving issues in this docket and the consolidated Docket UG 940034. The Commission rejected tariff revisions that the company had filed, instructed the company regarding certain cost study and tariff structure elements, determined the spread of rates among customer classes, and authorized the company to refile rates consistent with the Order.

The Commission acknowledged in the order that the Company had received authorization to file, and had filed in Docket No. UG-950278, tariffs for a general rate case and a petition for interim rate relief. The Commission therefore ordered that the compliance tariffs be filed without an effective date. The order provided that the Commission would determine the effective date of the tariffs in conjunction with its decision on interim rates, and enter an order in this Docket approving the filing and determining its effective date.

Subsequently, Commission Staff asked for clarification of the Order, which the Commission provided by the Sixth Supplemental Order; Public Counsel petitioned for clarification or reconsideration of the order; and the Commission indicated that it would reconsider its order of clarification. Then, parties to Docket No. UG-950278 presented a stipulation for settlement to the Commission in that docket. The stipulation would supersede the tariffs authorized in this Docket.

The Commission is today entering an order accepting the settlement in Docket UG-950278. It is therefore necessary to reject the compliance tariff filing in this docket because it is superseded. The Commission also wishes to reconsider its order of clarification and to respond to Public Counsel's petition for clarification or reconsideration.

**I. Tailblock Clarification.** The Fifth Supplemental Order in this Docket addressed the company's proposed transportation Schedule 57 and directed that the tail block be shifted from consumption over 300,000 therms to consumption over 500,000 therms. We noted

that more than half the gas transported would travel in a 300,000+ tailblock and that the resulting slope of the rate design favored the very largest customers.

Commission Staff by letter requested clarification of the order and asked for an immediate answer because of the timing of negotiations. The Commission entered an expedited Sixth supplemental Order of clarification, confirming the meaning of the Order. The Company and NWIGU responded to the Commission Staff request, stating their positions, in letters received after preparation of the expedited order. The Commission then indicated that it wished to reconsider the order of clarification to consider the WNG and NWIGU comments, and it offered parties the opportunity to submit additional comments. NWIGU responded, urging that the Commission reverse its order of clarification. NWIGU nonetheless acknowledged that it consents to the higher block in the stipulated settlement and that it would seek no alteration of the settlement.

On reconsideration, the Commission declines to alter its order. Doing so would have no effect upon rates. Because rates in general are in transition, the Commission prefers to await further cost information in a subsequent proceeding to decide upon any changes.

The Commission is satisfied that its earlier decision is correct on the present record. The longer tailblock would shift even more of the class' costs into earlier blocks and would heighten problems of smaller transporters. We continue to believe that on this record it is inappropriate to transport half or more of the volume in the class in the tail block.

**II. Petition for Clarification.** The Fifth Supplemental order cited the company's cost study, with ordered changes, as "an indication" of the company's costs. Doing so provided a basis for the ordered rate design. Public Counsel now raises an issue, i.e., allocation of certain costs, that was not specifically resolved in the order. The Company and NWIGU responded to Public Counsel's petition; Public Counsel moves to strike parts of the responses that he contends recite evidence that is outside of the record.

Public Counsel also asks for clarification of the Order's Finding No. 7, which we will consider first.

**A. Finding No. 7.**

**1. Public Counsel:** In Finding of Fact No. 7, the Commission's Fifth Supplemental Order "accepted" the Company cost study as an "indication" of costs. The finding was not sufficient to adopt or reject any elements of the cost study that were not discussed and resolved in the Order, and the Commission should so clarify its order.

**2. The Company:** Public Counsel is flat wrong. The finding clearly adopted the Company's cost study in toto as the proper way to calculate costs, except as modified in the order.

**3. NWIGU:** The order is clear on its face and needs no clarification. Public Counsel merely disagrees with the result of the order.

**4. Commission Staff:** Commission Staff agrees with Public Counsel that the language does not express Commission acceptance or rejection of any methodology not expressly addressed in the order.

**5. Commission Conclusion:** Public Counsel and Commission Staff correctly interpret the Finding. The finding does not "adopt" the cost study and does not state that it is the approved proper determinant of costs on an ongoing basis. The Finding accepts the Company's cost study as modified<sup>1</sup> for purposes of the proceeding as an indication of costs sufficient to use in establishing the rate spread that the Commission ordered.

The Finding should not be interpreted to indicate the Commission's approval of any costing methodology for future use that was not specifically discussed and approved in the Order.

**B. Allocation of Accts. 907-916**

**1. Public Counsel:** The Fifth Supplemental Order is silent on proper allocation of Customer Service and Information Accounts 907-916. Only Public Counsel presented information about these accounts, and his position should be adopted.

a) Acct. 908 includes customer assistance (conservation); Public Counsel would allocate it on same basis as gas costs, parallel with electric cost of service studies,

b) Accts. 911, 912, and 916 relate to cost of securing new business. Allocating residential customers \$3.60 per year to support sales staff is irrational. No party rebutted the Public Counsel's evidence that class revenues is the appropriate allocator. If the Commission doesn't like that, it should use the prior methodology, 50% by throughput and 50% by customer count.

**2. The Company:** As to Acct. 908, with the clarification that the proposal applies only to conservation costs and not other costs within the account, the Company agrees. As to the other accounts, there is evidence in the record to support the rejection of opposing views and the adoption of the Company's study. The Commission has resolved the issues in its order and should reaffirm its decision.

**3. Commission Staff:** Commission Staff supports Public Counsel's position on conservation costs in Account 908. Commission Staff supports the Company as to the allocation of Accts. 907 and 909-916. It contends that more in-depth analysis can be provided in the next rate case. Commission Staff is not averse to using the Cascade methodology and allocating the accounts 50% to throughput and 50% to customers.

**4. Commission conclusion:** The parties appear to agree on conservation costs within Acct. 908, and the Commission accepts the agreement.

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<sup>1</sup>In most contested areas, the Commission accepted the Commission Staff proposals.

As to the other accounts, the Commission has made no prescription for parties to follow. As both Public Counsel and Commission Staff note, the parties should look for guidance to determinations made in earlier orders, such as Commission orders in the Cascade (U-86-100) and Washington Water Power Company (UG-901459) cases. Should these accounts remain an issue among the parties in future proceedings, they can bring the question to the Commission.

**C. Motion to Strike.**

Public Counsel moved to strike portions of the Company and NWIGU answers, contending that the answers include information that is not in the record.

1. **NWIGU pleading:** Public Counsel contends that NWIGU's answer is based on an assertion of fact not in the record and not containing a citation to the record: "specific common costs are properly allocated on a cost causation basis." (Page 3, 1st paragraph, second sentence.) Public Counsel contends that only Mr. Lazar addressed the issue in the record. He asks the Commission to strike the offensive sentence.

2. **WNG:** Public Counsel contends that the record evidence that WNG has cited to support its policy argument in fact only describes the methodology of the adjustments and does not support the propriety of the allocation. Public Counsel charges that WNG's contention that only a twentieth of the account, or about \$100,000, is conservation-related is without record support and is irrelevant to the allocation. The Company contends that it addressed this on brief; Public Counsel can't find where. **Company response:** Public Counsel misinterprets the law regarding need for record support.

3. **Commission Conclusion:** The motions to strike portions of WNG and NWIGU answers are less critical in light of the result we adopt above. NWIGU's reference seems to be more a statement of position than a reiteration of record fact, and not a proper subject for an order to strike.

The Company's reference, however, does appear to include both facts of record and facts not in the record. The Commission believes that some latitude should be afforded to participants in arguing the meaning of facts of record in proceedings before it. The Commission also believes, however, that it is inappropriate to cite to facts that are not in the record. This matter appears moot, but parties should be on notice that because the Commission cannot lawfully consider evidence outside the record, it cannot allow parties to recite such asserted "facts" for its consideration.<sup>2</sup>

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<sup>2</sup>The Commission also believes that it is rarely appropriate and rarely helpful to include ad hominem arguments in pleadings. Doing so runs counter to an atmosphere of professional cooperation and is not needed to fulfill an attorney's obligation to pursue a client's interests zealously. The Commission expects that parties will not couch their arguments in such terms.

O R D E R

THE COMMISSION ORDERS:

1. The Commission reconsiders its Sixth Supplemental Order and, on reconsideration, reaffirms its result.
2. The Commission grants Public Counsel's petition for clarification of Finding of Fact No. 7 in the Fifth Supplemental Order. The Commission clarifies that the Finding does not indicate the Commission's approval of any cost study methodology that is not specifically addressed and resolved in the Order.
3. The Commission denies Public Counsel's petition for reconsideration, noting that the matter appears to be moot in light of the resolution of other issues.
4. The Commission rejects the compliance tariffs filed in this proceeding on the basis that they have been superseded by the Commission's Order of this date in Docket No. UG-950278.

DATED at Olympia, Washington and effective this 10th day of May, 1995.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner

**NOTICE TO PARTIES:**

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within ten days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-09-820(1).