

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

WASHINGTON UTILITIES AND	)	DOCKET UG-080546
TRANSPORTATION COMMISSION,)	
)	
Complainant,	)	ORDER 05
)	
v.)	
	)	FINAL ORDER GRANTING
NORTHWEST NATURAL GAS	)	PETITION TO AMEND ORDER 04;
COMPANY,	)	EXTENDING TIME PERIOD FOR
	)	ENERGY TRUST OF OREGON TO
Respondent.	)	ADMINISTER COMPANY'S
.	)	ENERGY EFFICIENCY
	)	PROGRAMS
.....)	

1 **Synopsis:** *The Commission amends Order 04 to permit Northwest Natural Gas Company (NW Natural or Company) to continue to rely on the Energy Trust of Oregon (Trust or ETO) to administer its pilot programs for energy efficiency until such time as NW Natural selects a permanent administrator for these new programs.*

2 **BACKGROUND:** On December 26, 2008, the Commission entered Order 04 in this proceeding, approving and adopting a Full Settlement Stipulation regarding the rates the Company could charge its Washington customers for natural gas service as of January 1, 2009. Order 04 obligated NW Natural to convene an Energy Efficiency Advisory Group (EEAG) to consult with as the Company developed its energy efficiency programs for implementation in Washington.¹ NW Natural initially anticipated partnering with the Energy Trust of Oregon through a one-year pilot program to deliver the Company's energy efficiency programs in Washington.²

¹ Order 04, ¶ 24. See also ¶¶ 38, 40, 41, and 42 for party positions in support of the Company's agreement to develop energy efficiency programs for its Washington customers.

² *Id.* at ¶ 24 and ¶ 42.

- 3 **PETITION FOR DECLARATORY RULING ON ORDER 04.** On February 22, 2010, NW Natural filed a Petition for a Declaratory Ruling on Final Order seeking to clarify and confirm that the Company could continue to rely on the Energy Trust of Oregon to deliver its energy efficiency program in Washington for longer than the initial one-year period of its pilot program. The Company seeks a revision to or clarification of Order 04 to allow NW Natural permission to retain ETO until such time as the Company completes its analysis of the cost-effectiveness of its new programs and makes a determination regarding a permanent program administrator.
- 4 NW Natural initiated its ETO-delivered pilot program on October 1, 2009, and the pilot is scheduled to end on September 30, 2010. The EEAG and the Commission have already received the first quarterly report, dated February 15, 2010. A final comprehensive report on the program and ETO's performance is due to be filed with the Commission on January 25, 2011, several months after the pilot program ends.
- 5 According to NW Natural, the Company did not foresee that the language contained in the Stipulation or in Order 04 referencing a "one-year period" could be interpreted as precluding ETO from continuing to deliver these programs while the Company made a decision regarding cost-effectiveness. NW Natural's motion seeks to avoid any interruption of the Company's energy efficiency programs in Washington while it evaluates the pilot program and determines whether ETO should be retained.
- 6 **POSITIONS OF OTHER PARTIES.** On February 24, 2010, the Commission issued a Notice of Receipt of Petition for Declaratory Ruling and Opportunity to Submit Comments to all parties and interested persons in Docket UG-080546. The Notice sought responses to NW Natural's request regarding its pilot program and the parties' views on whether NW Natural's petition should be considered as a Motion to Amend Order 04, as though it had been filed under the authority of WAC 480-07-875(1). The notice set a deadline of March 5, 2010, for responses or comments.

7 On March 4, 2010, Commission Staff filed its response supporting NW Natural's petition and also recommending that the petition be considered a motion to amend.

8 On March 5, 2010, Public Counsel filed its response supporting NW Natural's petition and concurring that the petition could be treated as a motion to amend.

9 No other parties or interested persons submitted comments or responses.

10 **COMMISSION DETERMINATION:** In Order 04, the Commission commended the Company and all of the parties to the Full Settlement Stipulation on the creation of new energy efficiency programs for Washington customers. We considered this agreement to be a "positive development" that promoted important public policies in our state and that the agreement was clearly in the public interest.³ We have not altered our view.

11 Customers in southwest Washington would not be well served if the new conservation programs and initiatives started last year were interrupted, only to be restarted several months later. We conclude that it is in the public interest to have ETO continue to deliver the Company's energy efficiency programs while the pilot program is under review in early 2011.

12 From NW Natural's proposed evaluation timeline, it appears to us that the EEAG and the Company will be able to develop a recommended course of action by the end of the first quarter of 2011. As Public Counsel notes in its response, if ETO's role in administering these programs during or after the pilot program presents a concern, any party can bring those to our attention at an appropriate time in the future.

13 In reviewing NW Natural's motion, we have determined that the relief sought is not appropriate for a declaratory ruling. On our own initiative, we have restyled the Company's pleading as a motion to amend a final order under WAC 480-07-875 and concluded that NW Natural's motion, as re-styled, should be granted.

³ Order 04, ¶ 43.

14 **ORDER 04 – AMENDMENT.** Order 04 contains a detailed description of the parties’ Full Settlement Stipulation but does not speak directly to the Commission limiting NW Natural’s ability to partner with ETO. It is the parties’ Full Settlement Stipulation which contains the binding language.

15 Upon review of Order 04, we determine it is most appropriate to amend paragraph 64, which currently states as follows:

The Full Settlement Stipulation attached and incorporated into this Order by prior reference, is approved and adopted.

That language should be modified to avoid any interpretation that ETO must cease its administration of NW Natural’s energy efficiency programs. It should now read:

The Full Settlement Stipulation attached and incorporated into this Order by prior reference, is approved and adopted, with the understanding that the Energy Trust of Oregon shall deliver the Company’s energy efficiency programs in Washington until the pilot program is reviewed and a permanent administrator is selected.

ORDER

THE COMMISSION ORDERS THAT:

16 (1) NW Natural’s Motion for Declaratory Ruling on Final Order is considered a Motion to Amend Order 04.

17 (2) Paragraph 64 of Order 04 is amended as described herein to allow NW Natural to continue to rely on the Energy Trust of Oregon to deliver and administer its energy efficiency programs in Washington until such time as a permanent administrator can be selected.

- 18 (3) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective March 19, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.