

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

WASHINGTON UTILITIES AND)	DOCKET UG-072337
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	COMPLAINT
)	
v.)	
)	
CASCADE NATURAL GAS)	
CORPORATION,)	
)	
Respondent.)	
)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. INTRODUCTION

2 In Order 05 entered in Docket UG-060256 on January 12, 2007, the Commission accepted a multi-party Settlement Agreement resolving all contested issues in the most recent general rate case filed by Cascade Natural Gas Corporation (Cascade or the Company). In paragraph 12(b)(ii) of the Settlement Agreement, Cascade expressly agreed to defer 50 percent of the net margins realized each month by the Company for Gas Management Services (i.e., the providing of retail gas supply sales to non-core customers), and to return these amounts each year on an equal percentage margin basis to all customers, except Special Contract customers, continuing until the effective date of the final order in the Company’s next general rate case.

3 As alleged below, Cascade has, since April 1, 2007, “reactivated” a wholly-owned subsidiary, CGC Energy Inc., which subsidiary, under the direction of Cascade, has entered into contracts for Gas Management Services. Cascade has used its wholly-owned subsidiary for the express purpose of providing retail gas supply sales to non-core customers. Cascade has determined and declared that it will *not* return 50 percent of the net margins realized each month from such sales on an equal percentage margin basis to all customers, including core customers. Cascade’s

actions, as alleged below, constitute a direct and intentional violation of the Settlement Agreement which Cascade entered into previously in Docket UG-060256, and which the Commission accepted in Order 05. The Commission should require Cascade to comply in full with the requirements of Order 05 for all periods since April 1, 2007, and continue to be in compliance while such requirements are in effect. The Commission should also impose monetary penalties and/or sanctions on Cascade under RCW 80.04.380 for violations of a Commission order, if the alleged violations are proven.

II. BACKGROUND

- 4 On January 12, 2007, the Commission issued Order 05, *Final Order Accepting Settlement, Subject to Conditions; Rejecting Tariff Sheets; Authorizing and Requiring Compliance Filing*, in Docket UG-060256. This Order accepted and adopted a multi-party Settlement Agreement that resolved all contested issues in Cascade's most recent rate case.
- 5 Among the provisions in the Settlement Agreement are items pertaining to Cascade's "Gas Management Services." Cascade makes retail sales of natural gas to its non-core customers (i.e., those taking transportation-only service). Cascade contended that revenues from such sales should be removed from the calculation of the Company's revenue requirement. Staff contended that they should be included within the calculation of the Company's revenue requirement.
- 6 The Settlement Agreement resolved this issue in two respects. First, for the test period, the Settlement reduced Cascade's revenue requirement by \$200,000 for revenues gained from gas supply sales to non-core customers. *Settlement Agreement*, paragraph 12(b)(i). Second, for prospective treatment of revenues gained from gas supply sales to non-core customers, the Settlement Agreement provided:

Prospective Treatment. The parties agree that effective as of the date of the Commission's final order in this proceeding and continuing until the effective date of the final order in the Company's next general rate case, the Company will defer fifty percent (50%) of the Net Margins realized each month by the Company for Gas Management Services. Amounts deferred in accordance with this paragraph 12(b)(ii) shall be returned on an equal percentage margin basis to all customers, except Special Contract customers, each year as part of the Company's Temporary Deferral Tracking Adjustment filing, commencing as of the filing in Fall 2007. For purposes of this section, "Net Margin" means

gross revenue from Gas Management Services, less (1) the cost of gas and (2) revenue-sensitive costs.

Settlement Agreement, paragraph 12(b)(ii). The Commission, in approving these provisions, expressly stated, “We find it appropriate to allow core customers to benefit from Cascade’s actions.” Order 05, Docket UG-060256, ¶ 37.

- 7 On the same day that it issued Order 05 in Docket UG-060256, the Commission issued Order 03 in Docket UG-061256. In Order 03, the Commission held, in part, that Cascade had violated state law by failing to file tariffs and special contracts with the Commission for its retail sales of natural gas to non-core customers; and that Cascade’s Federal Energy Regulatory Commission Blanket Marketing Certificate did not cover retail sales. Order 03 further required Cascade to file with the Commission, within 30 days of the effective date of the order, tariff schedules to provide gas supply services to non-core customers. Order 03, Docket UG-061256, ¶¶ 1, 2, 88, 93, 121, 122, 129, 140. The Commission also stated, “Cascade must have tariffs and contracts on file to provide this service.” *Id.*, ¶ 66.
- 8 Cascade filed tariffs for retail sales of natural gas to non-core customers with the Commission on February 12, 2007. At the open meeting held on March 14, 2007, the Commission suspended Cascade’s proposed non-core gas supply tariffs. Under the proposed tariffs, Cascade would have used service contracts pursuant to WAC 480-80-141.
- 9 On March 30, 2007, Cascade sent a letter, as well as a revised letter, to the Commission, docketed in Docket UG-070639. In its letter, Cascade informed the Commission that, instead of providing retail sales of natural gas to non-core customers by tariffs or special contracts, as directed by the Commission, Cascade had unilaterally determined that it would “reactivate” a subsidiary on April 1, 2007, to provide such sales of natural gas. In Cascade’s words, “Cascade has elected to perform these services under its whole-owned subsidiary, CGC Energy.” *See* Cascade’s revised March 30, 2007, letter in Docket UG-070639, at ¶ 6.
- 10 CGC Energy is a subsidiary that is wholly-owned by Cascade. It has been “reactivated,” with the express purpose of providing gas supply sales to non-core customers in Washington, entirely through the actions of Cascade. *See* Cascade’s revised March 30, 2007, letter, at ¶3. According to the Organization Chart for CGC Energy, Inc, submitted with Cascade’s revised March 30, 2007, letter, CGC Energy is controlled by Cascade, as it shares the same president and CEO (which at that time

was Mr. David W. Stevens). Cascade and CGC Energy share the same Internet Web site home page. They are also allegedly housed in the same building, and share staff with each other.

- 11 The express requirement of paragraph 12(b)(ii) of the Settlement Agreement the Commission adopted in Order 05, which requires that Cascade share – with core customers – 50% of the net margins realized each month from retail sales of natural gas to non-core customers, remains in effect and has never been modified or rescinded by the Commission. It was a key part of the bargain negotiated by the parties at the time.
- 12 Notwithstanding this express requirement, Cascade has notified Staff that it is *not* sharing, with core customers, the net margins realized from its retail sales of natural gas to non-core customers, under any contracts entered into on and after April 1, 2007, that are being handled by CGC Energy. Cascade allegedly has stated that it will only share the net margins generated under contracts entered into prior to April 1, 2007.
- 13 According to information Cascade has provided to Staff, the net margins realized from retail sales of natural gas to Cascade’s non-core customers, from April 2007 through August 2007, under contracts handled by CGC Energy, total \$561,311.50.
- 14 Cascade’s unilateral decision to “reactivate” and employ a wholly-owned and controlled subsidiary to conduct non-core retail natural gas sales, and to withhold all such revenues generated from such sales from core customers, constitutes an intentional and continuing violation of the terms of the Settlement Agreement agreed to by Cascade and adopted by the Commission in Order 05.

III. PARTIES

- 15 The Washington Utilities and Transportation Commission is an agency of the state of Washington, authorized by state law to regulate the rates, services, facilities, practices, accounts, securities, transfers of property, and affiliated interests of public service companies, including natural gas companies, under RCW Title 80. *RCW 80.01.040, RCW 80.04, RCW 80.08, RCW 80.12, RCW 80.16, and RCW 80.28.*
- 16 Cascade Natural Gas Corporation is a natural gas company subject to regulation by the Commission under RCW Title 80. *RCW 80.01.040, RCW 80.04, RCW 80.08, RCW 80.12, RCW 80.16, and RCW 80.28.*

IV. JURISDICTION

- 17 The Commission has jurisdiction over the subject matter of, and parties to, this proceeding, under the provisions of RCW Title 80.

V. CLAIMS AND CAUSES OF ACTION

- 18 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 17 above.
- 19 Cascade's unilateral decision to "reactivate" and employ a wholly-owned and controlled subsidiary to conduct non-core retail natural gas sales, and to withhold all such revenues generated from such sales from core customers, constitutes an intentional and continuing violation of the terms of the Settlement Agreement agreed to by Cascade and adopted by the Commission in Order 05 in Docket UG-060256. That agreement requires that 50 percent of such revenues be shared with core customers. The relevant terms of the Settlement Agreement are set forth in full in the preceding paragraphs.

VI. REQUEST FOR RELIEF

- 20 Staff requests that the Commission find that Cascade has violated the terms of the Settlement Agreement the Commission adopted in Order 05 in Docket UG-060256, in particular, paragraph 12(b)(ii).
- 21 Staff further requests that the Commission find that each day during which Cascade has violated the terms of paragraph 12(b)(ii) of the Settlement Agreement constitutes a continuing violation.
- 22 Staff further requests that the Commission direct Cascade to comply with the terms of paragraph 12(b)(ii) of the Settlement Agreement, and require Cascade to share, with core customers, the net margins realized from retail natural gas sales made to non-core customers as directed therein. This includes the net margins generated from all sales made under contracts with Cascade's wholly-owned subsidiary, CGC Energy, on and after April 1, 2007.
- 23 Staff further requests that the Commission impose monetary penalties on Cascade under RCW 80.04.380, and/or other sanctions against Cascade, for continuing violations of the requirements of a Commission order, if the alleged violations are proven.

VII. PROBABLE CAUSE

24 Based on a review of the matters set forth herein, and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause to issue this complaint.

DATED at Olympia, Washington, and effective December 7, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge