

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UG-140381
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. BACKGROUND

2 Cascade Natural Gas Corporation (Cascade or Company) is a gas company subject to Commission regulation, serving more than 260,000 customers in Washington, concentrated in the western and central regions of the state.

3 In June 2013, the Commission received an informal complaint from a customer of Cascade regarding notices the customer received displaying different amounts due. Commission Staff (Staff) conducted an investigation of the complaint, and determined that the Company had incorrectly applied late payment fees in violation of Commission rule. The customer received a credit. Staff then initiated a broader investigation into the business practices of Cascade to determine if the Company’s incorrect application of late payment charges was a widespread practice.

4 During its investigation, Staff reviewed information provided by the Company in response to data requests. Staff found multiple violations of state laws and Commission rules, as described below. Staff also found other violations of state statutes and Commission rules, which are further described in an Investigation Report

completed by Staff in June, 2014. In addition, Staff's investigation found that the Company's published tariff and practice regarding disconnect visit charges is inconsistent with law.

II. PARTIES

- 5 The Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, practices and facilities of public service companies, including gas companies, under RCW Title 80.
- 6 Cascade is a gas company subject to regulation by the Commission under RCW Title 80.

III. JURISDICTION

- 7 The Commission has jurisdiction over this matter pursuant to RCW 80.01.020, RCW 80.01.40, RCW 80.04.110, RCW 80.04.380, RCW 80.28.020, RCW 80.28.040, chapter 80.28 RCW, and chapter 480-90 WAC.

IV. FIRST CAUSE OF ACTION (Violation of RCW 80.28.080 and WAC 480-90-178(1)(b), related to incorrect application of late payment charges)

- 8 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-7, above.
- 9 RCW 80.28.080(1)(a) provides in relevant part that no gas company may "charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time."
- 10 WAC 480-90-178(1)(b) provides that customer bills must show the total amount due and payable.
- 11 Cascade's Tariff, WN U-3 Tenth Revision Sheet No. 10, - Rule 6 – Billing, states, in relevant part:

"Bills will be due and payable as of billing date and delinquent or past due fifteen (15) days thereafter. Unless otherwise specified in the customer's contract, a late payment charge at the rate of 1.0% per

month will be applied to the customer's current bill for all unpaid balances *30 days past due.*" (Emphasis supplied).

- 12 Cascade's Tariff WN U-3 Original Sheet No. 200, Late Payment Charge – (Rule 6 – Part A), in effect prior to July 29, 2013, states:

“Unless otherwise specified in the customer's contract, a late payment charge at the rate of 1.0% per month will be applied to the customer's current bill for all unpaid balances *30 days past due.*" (Emphasis supplied.)

- 13 Cascade has violated RCW 80.28.080(1)(a), WAC 480-90-178(1)(b), and the Company's tariff by applying late payment charges 16 days after the billing statement date, which is only one day past due, and inaccurately stating the total amount due on the bill. The Company incorrectly charged late payment fees to 382,160 customers between June 1, 2012, and June 30, 2013. Cascade, therefore, is liable for 382,160 separate and distinct violations of RCW 80.28.080(1)(a) and WAC 480-90-178(1)(b).

V. SECOND CAUSE OF ACTION (Late Payment Charge Tariff Condition)

- 14 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-13, above.

- 15 Cascade's Tariff WN U-3, Substitute First Revision Sheet No. 200 became effective July 29, 2013, as a result of a tariff revision filed by Cascade in Docket UG-131283. Under “Late Payment Charge – (Rule 6 – Part A)” it states:

“Unless otherwise specified in the customer's contract, a late payment charge at the rate of 1.0% per month will be applied to the customer's current bill for all unpaid balances *past due.*" (Emphasis supplied.)

- 16 This currently effective tariff page replaced the Original Sheet No. 200 set out in Paragraph 12 above, removing the words “30 days” from this section of the tariff. The effect of the change is that this section of the tariff now appears to allow Cascade to apply a late payment charge to unpaid balances as soon as they are past due, rather than 30 days past due. However, Cascade did *not* file a corresponding tariff revision to the text of the late payment charge on its tariff Sheet No. 10, set out in Paragraph 11 above, which continues to contain the “30 days” requirement.

- 17 On January 12, 2007, in Order 05, Docket UG-060256, a Final Order accepting with conditions a multi-party settlement in a general rate case, the Commission approved miscellaneous charges agreed by the parties, including a “late fee” expressly described as “1 percent per month, applied to all unpaid balances *30 days past due.*” (emphasis supplied). Cascade then filed Original Sheet No. 200 in compliance with Order 05.
- 18 Cascade’s current tariff, specifically Substitute First Revision Sheet No. 200, therefore does not comply with Order 05 in UG-060256, is internally inconsistent, and is unreasonable because it provides that the late payment charge is applied immediately to balances past due rather than balances 30 days past due.

VI. THIRD CAUSE OF ACTION
(Violation of RCW 80.28.080 and WAC 480-90-178(1)(b),
related to incorrect late payment charges)

- 19 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-18, above.
- 20 RCW 80.28.080(1)(a) provides that no gas company may “charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time....”
- 21 WAC 480-90-178(1)(b) provides that customer bills must show the total amount due and payable.
- 22 Cascade’s published tariff allows the Company to charge a customer a late payment charge, as previously alleged in paragraph 11, above.
- 23 Rather than charging customers the exact late payment amount due, Cascade rounded that amount to the nearest dollar on 1,511 customer bills in March 2013. Cascade, therefore, violated RCW 80.28.080(1)(a) and WAC 480-90-178(1)(b) 1,511 times.

VII. FOURTH CAUSE OF ACTION
(Rates and Charges related to Disconnect Visit set forth in Company's tariff)

24 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-23, above.

25 Commission rules allow a utility to charge a fee for a disconnection visit if an employee is dispatched to disconnect service and accepts payment in lieu of disconnection, and if the Company's tariff provides for charging such a fee. In particular, WAC 480-90-128(6)(k) provides:

A utility representative dispatched to disconnect service must accept payment of a delinquent account at the service address, but will not be required to give change for cash paid in excess of the amount due and owing. The utility must credit any overpayment to the customer's account. *The utility may charge a fee for the disconnection visit to the service address if provided for in the utility's tariff.* (Emphasis supplied).

26 Cascade's published tariff provides for a disconnection visit fee. Cascade's Tariff WN U-3, Schedule 200, Disconnect Visit Charge, (Rule 5) states: "A disconnect charge of \$10 may be charged, whenever Cascade is required to visit a customer's address for the purpose of disconnecting service."

27 Cascade's published tariff does not specify that the disconnect visit charge applies only if Cascade visits a customer for the purpose of disconnecting service and accepts payment in lieu of disconnection. Rather, the tariff appears to allow this fee for the visit regardless whether payment is accepted in lieu of disconnection or the service is actually disconnected. As such, the tariff is inconsistent with WAC 480-90-128(6)(k).

28 Cascade's practice is to charge customers a \$10 disconnect visit fee when a representative is dispatched to disconnect their service and *either* accepts payment in lieu of disconnection or actually disconnects their service. When a service that is actually disconnected is reconnected, the Company also charges a separate reconnection fee as described in its tariff. Staff's investigation documented that Cascade charged 324 customers who were actually disconnected for nonpayment a \$10 disconnect visit fee between May 15, 2013, and May 31, 2013.

- 29 Cascade's disconnection visit fee as set out in its tariff is inconsistent with the tariffs of every other investor-owned gas and electric utility in Washington, all of which allow the fee to be charged only when the visit does not actually result in disconnection. The disconnection visit fee as set out in the Company's tariff is inconsistent with WAC 480-90-128(6)(k), and therefore is unjust and unreasonable.

VIII. APPLICABLE LAW

- 30 A public service company that violates any order or rule of the Commission or any provision of RCW Title 80 is subject to a penalty up to \$1,000 for each violation. RCW 80.04.380. Under the statute, every violation is considered a separate and distinct offense, and, in the case of a continuing violation, every day's continuance represents a separate and distinct violation. *Id.*
- 31 RCW 80.04.110 allows the Commission to file a complaint against a gas company alleging violation of law or challenging the reasonableness of the Company's schedules of rates and charges.
- 32 RCW 80.28.020 requires the Commission to set rates that are just, reasonable, and sufficient whenever the Commission determines that the existing rates charged are unjust, unreasonable, or insufficient.

IX. REQUEST FOR RELIEF

- 33 Staff requests that the Commission find that Cascade committed violations of Commission rules and state laws set forth in the allegations above.
- 34 Staff requests that the Commission, pursuant to its authority under RCW 80.04.380, impose monetary penalties on Cascade for violations of Commission rules and state laws.
- 35 Staff requests that the Commission find that Cascade's disconnection visit charge as currently set out in its published tariff is unjust and unreasonable, and otherwise inconsistent with law.
- 36 Staff requests that the Commission find that Cascade's late payment charge as currently set out in its published tariff is unjust and unreasonable, and contrary to prior Commission order.

- 37 Staff requests that the Commission require Cascade to file revised tariffs with appropriate disconnect visit charge language and late payment charge language in compliance with law and prior Commission order.
- 38 Staff requests that the Commission determine whether Cascade should be required to refund to customers any portion of disconnection visit charges assessed after the effective date of this complaint.
- 39 Staff further requests that the Commission order such other or further relief as appropriate under the circumstances.

X. PROBABLE CAUSE

- 40 Based on a review of Staff's investigation report and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

DATED at Olympia, Washington, and effective October 28, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge
Director, Administrative Law Division