

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET UG-210755

CASCADE NATURAL GAS
CORPORATION'S MOTION TO STRIKE
OPPOSITION TESTIMONY AND
EXHIBITS

1 Pursuant to WAC 480-07-375, Cascade Natural Gas Corporation (“Cascade” or “the Company”) hereby requests that the Washington Utilities and Transportation Commission (“Commission”) strike portions of Alliance of Western Energy Consumer’s (“AWEC”) opposition testimony and exhibits that relate to protected Excess Deferred Income Taxes (“EDIT”) and Cascade’s Schedule 663. As explained more fully below, such testimony and exhibits should be stricken because they are outside the scope of issues presented in this general rate case and the multiparty settlement, and they instead should be considered in other dockets that are dedicated to those issues.

I. BACKGROUND

2 Cascade filed this general rate case, Docket UG-210755, to address just the most significant drivers of Cascade’s continued under earnings.¹ As explained in Cascade’s direct

¹ See Chiles, Exh. MAC-IT at 2:12-4:6.

testimony, this general rate case is intended to bridge the gap until a more comprehensive rate case including a multiyear rate plan can be filed.² After parties served multiple rounds of data requests and engaged in two settlement conferences, Commission staff (“Staff”, and together with Cascade, the “Settling Parties”) reached a full multiparty settlement agreement (“Full Multiparty Settlement”). The Settling Parties filed their Full Multiparty Settlement Stipulation and supporting testimony on March 22, 2022.

3 On March 23, 2022, Cascade submitted a tariff filing in Docket UG-220198 (“EDIT Tariff”) to address distinct issues relating to, *inter alia*, setting the amortization rate for a historical level of protected EDITs prospectively, consistent with a Private Letter Ruling issued by the Internal Revenue Service in July 2021. The Commission considered consolidating Docket UG-210755 and Docket UG-220198, issuing a Notice of Intent to Consolidate on March 29, 2022. The Commission heard from all parties, both through written responses filed on April 5, 2022, and through a status conference held on April 14, 2022. AWEC filed a response to the Notice of Intent to Consolidate and participated in the status conference.³ AWEC’s response expressly acknowledged that the EDIT Tariff was not a part of Cascade’s general rate case, and AWEC proposed modifying the procedural schedule to accommodate the issue.⁴ The Commission ultimately declined to consolidate the proceedings, did not modify the schedule, and on April 18, 2022, it suspended the EDIT Tariff and set the matter for adjudication in Docket UG-220198.

² *Id.*

³ See AWEC’s Response to Notice of Intent to Consolidate (“AWEC Response”) (April 5, 2022). See also Transcript, Vol. III, Stokes, Tr. at 12:3-6 (April 14, 2022).

⁴ See AWEC Response at ¶ 2.

4 In a separate matter last year, the Commission opened an adjudicated proceeding to address an overrun entitlement penalty assessed against Tree Top, Inc. That matter is currently open and pending in Docket UG- 210745, and Mr. Mullins filed testimony in that proceeding on April 8, 2022.⁵

5 On April 25, 2022, AWEC submitted testimony in this proceeding opposing the Multi-Party Settlement.⁶ In its testimony, AWEC witness Bradley G. Mullins discusses and recommends including protected EDITs in base rates. Mr. Mullins’s testimony also includes six pages of testimony regarding Cascade’s Schedule 663, where he repeats his testimony filed just days ago in Docket UG-210745.⁷ AWEC was aware before filing its testimony in this case that the EDIT Tariff and Schedule 663 are not part of this proceeding and are currently being adjudicated in other dockets. Because AWEC proposed modifying the procedural schedule to accommodate the EDIT Tariff, it was also well aware that the procedural schedule did not accommodate these issues. Ignoring these facts, AWEC nonetheless filed extensive testimony in this case regarding issues deliberately set for other dockets.

6 AWEC knowingly disregards the procedural posture of this case and puts Cascade and the Settling Parties in the position of having to choose between dedicating their extremely limited time for rebuttal testimony to address issues that are not relevant to this proceeding, or risk waiving those arguments and having the Commission consider them without rebuttal. Accordingly, and for the reasons set forth below, AWEC’s testimony regarding the EDIT Tariff and Schedule 663 should be stricken.

⁵ See Docket UG-210745, Mullins, Exh. BGM-1T (April 8, 2022).

⁶ See Mullins, Exh. BGM-1T at 2:4-9.

⁷ See Mullins, Exh. BGM-1T 36:14-41:21.

II. RELIEF REQUESTED

7 The Settling Parties request the Commission strike the following portions of Mr. Mullins's opposition testimony and exhibits relating to protected EDITs and Schedule 663 for the reasons stated below:

- Page 3, Table 1, line 11;
- Page 4, lines 4-6;
- Page 26, line 14 through page 29, line 5;
- Page 36, line 14, through page 41, line 21;
- Mullins, Exh. BGM-3 page 1, line 15; and
- Mullins, Exh. BGM-4 pages 4-8.

8 **First**, testimony relating to protected EDITs should be raised in Cascade's EDIT Tariff, and testimony related to Cascade's Schedule 663 should be addressed in Docket UG-210745. These cases are open and pending, were filed to address the exact issues raised in AWEC's response testimony, and AWEC is inappropriately using this proceeding to present and repeat testimony that is not relevant to this proceeding.

9 **Second**, allowing testimony relating to protected EDITs and Schedule 663 into this matter is not only inappropriate, but it would also prejudice the Settling Parties. The procedural schedule in this case does not allow for consideration of AWEC's proposals, nor does it provide an opportunity for other parties to respond to AWEC's testimony. The five business days for filing rebuttal testimony does not even allow time for the Settling Parties to receive a response to a data request regarding AWEC's proposals.⁸ This is especially prejudicial to Cascade as the

⁸ *WUTC v. Cascade Natural Gas Corporation*, Docket UG-2201755, Order 05 at ¶ 166 (March 11, 2022).

party bearing the burden of supporting its request for a rate increase. Cascade should have the opportunity to fully analyze and respond to all the nuances raised by both of AWEC's issues, yet that is simply not possible, nor is it appropriate, in this proceeding. Including issues relating to protected EDITs and Schedule 663 at this juncture would also not be in the public interest. Because the initial procedural schedule has been suspended and there is no opportunity for the Settling Parties to analyze the impacts of the EDIT tariff revision and Schedule 663 on the Full Multi-Party Settlement, this would potentially leave the Commission with an incomplete record upon which to make its decisions.

10 **Finally**, AWEC's testimony is an improper attempt to introduce evidence that is outside the scope of the Multiparty Settlement. WAC 480-07-740 provides that parties opposed to a settlement may "present evidence in support of their opposition to the settlement." The Full Multi-Party Settlement does not address protected EDITs or Schedule 663, but other dockets do. Thus, AWEC's testimony regarding protected EDITs and Schedule 663 should be presented in the appropriate docket at the appropriate time, and it should be stricken from this one. The proceedings in Dockets UG-220198 and UG-210745 will allow for full consideration of AWEC's issues in the forum dedicated to adjudicating them.

III. CONCLUSION

11 For the reasons set forth above, Cascade respectfully requests that the Commission enter an order striking the following portions of Mr. Mullins' testimony and exhibits, which relate to protected EDITs and Schedule 663:

- Page 3, Table 1, line 11;

- Page 4, lines 4-6;
- Page 26, line 14 through page 29, line 5;
- Page 36, line 14, through page 41, line 21;
- Mullins, Exh. BGM-3 page 1, line 15; and
- Mullins, Exh. BGM-4 pages 4-8.

Respectfully Submitted this 28th day of April, 2022

PERKINS COIE LLP

A handwritten signature in blue ink that reads "Donna Barnett" with a horizontal line extending to the right.

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