BEFORE THE

WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

IN RE: **WUTC V. CASCADE NATURAL GAS CORPORATION** **DOCKET NO. UG-060256**	**POST-HEARING REPLY BRIEF OF** **NW ENERGY COALITION**

December 1, 2006

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I. PUBLIC COUNSEL OVERREACTS TO AND INCORRECTLY PORTRAYS THE DECOUPLING SECTION OF THE SETTLEMENT AGREEMENT.

1. Public Counsel's Initial Brief paints the proposed decoupling section of the Settlement Agreement (the Settlement or Agreement) as a broad and significant attack on traditional ratemaking ("…**abandonment** of tried and true traditional rate of return regulation." Initial Brief p. 2:4, emphasis added.) The Brief is replete with unwarranted superlatives and asides apparently intended to raise the Commission's "threat" level. We will not address every instance of this, but wish to bring up a few of the most egregious examples.

2. First, Public Counsel brings up the specter of electric industry retail restructuring, implying somehow that this Settlement is of comparable weight and risk. (Public Counsel Initial Brief p. 2:4-5) This reference is also intended to tie the supporters of the Settlement to the push for restructuring: "Without question, some very intelligent and well meaning people, swept up in the promise of lower rates through market forces, deserted traditional ratemaking." (ib.) This is all very interesting, but has nothing to do with this case, except to cast aspersions on the parties to this Agreement as "well meaning" but obviously naïve or misguided. This sort of debating trick is best ignored.[1]

3. The Settlement can in no way be viewed as comparable in risk or impact to restructuring. The Settlement is a three-year pilot that will be thoroughly

[1] For the record, we must point out that the NW Energy Coalition ("Coalition") strongly opposed retail restructuring and instead co-authored, negotiated and passed what is generally agreed to be one of the best "restructuring" statutes in the country: Oregon's SB 1149. That law protected small consumers of investor owned utilities from restructuring; initiated a public purpose charge (3%); created the Energy Trust; gave choices to consumers such as

evaluated by an independent party, and then terminated or modified in the context of a general ratecase. Unlike electric industry restructuring that requires vast changes and is extremely difficult to put back in the bottle, the Settlement is a modest, thoughtful pilot project, focused on a single utility, with very low risk.

4. Another example of Public Counsel's rhetoric is its description of the Settlement: "a policy of simply throwing money at a utility…and hoping it will result in a new age of utility sponsored conservation, could be characterized as irresponsible." (p. 5:12) But the Settlement does not throw money at the utility. Instead it guarantees recovery of no more and no less than its Commission-approved fixed costs while at the same time instituting a detailed timeline for developing conservation program goals and benchmarks.

5. Public Counsel incorrectly states that the Agreement lacks "…any defined conservation program whatsoever…. Here, the settling parties want the Commission to go forward with a conservation for decoupling trade on a trust-me basis." (p. 48:104) But in reality the conservation program in the Agreement is anything but "trust-me." Instead the conservation plan's development must meet tight timelines, requires Commission approval, and will be subject to a thorough evaluation by an independent party by the end of the three-year pilot. Also, with decoupling, the Company no longer has any incentive to drag its feet on conservation. Finally, and most important, the Company knows that renewal or extension of the pilot will depend on its conservation performance.

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green power provided by the regulated utility; and initiated a low-income bill-payment assistance program, --all within the envelope of traditional cost-of-service ratemaking.

II. "TRIED AND TRUE" TRADITIONAL RATEMAKING IS NOT A PANACEA.

6. Public Counsel wants the Commission to believe that "Decoupling is a **radical** departure from **tried and true** traditional ratemaking." (p. 8:20, emphasis added) We would not characterize a proposal that removes the utility's incentive to encourage load growth and that ramps up cost-effective conservation programs while ensuring the Company receives its approved fixed costs as even close to radical—and using a word like "radical" seeks only to inflame the discussion rather than lead to rational discourse.

7. As to "tried and true traditional ratemaking" -- is this the same ratemaking that causes MDU Resources to believe Cascade Natural Gas Corporations's (CNG's) profit potential is worth more than twice its book value (p. 17:41); that has not allowed the Commission and intervenors to examine the Company's Washington books in ten years (so much for the "matching principle"); that allowed CNG to over-earn for "several years" in Oregon (p. 28:65); or that has resulted in virtually no investments in cost-effective conservation for CNG's Washington customers over the past ten years (Exhibit 311, p. 16:1-15)? At least the Settlement makes it quite likely that CNG will come in for a rate case in three years. Public Counsel's "tried and true" ratemaking can allow the Company to enjoy "mismatched" revenues and costs (due perhaps to cost-cutting, new customers and increased usage in between ratecases) for years and years without any recourse to a show cause authority. (p. 28:66) And is this the same tried and true ratemaking that punishes the utility financially when it encourages conservation and rewards it for encouraging usage? Using a term such as "tried

and true" (*no less than seven times in the Initial Brief alone!)* might make it seem like apple pie and motherhood, but that does not mean it is always beneficial for consumers or not worth modifying to achieve important public purpose goals.[2] In fact, it is because "tried and true" ratemaking is in many ways biased against consumers and creates serious financial disincentives to conservation that it is so important to align the Company's interests with consumers'—the main goal and benefit of decoupling.

III. PUBLIC COUNSEL ILLOGICALLY CONNECTS DECOUPLING TO OVER-EARNING BY CNG IN OREGON.

8. Public Counsel argues that decoupling "throws open the door to over-earnings." (p. 24:55) As evidence, Public Counsel cites CNG's experience in Oregon. For example, Public Counsel seeks to undermine Staff witness Steward's belief that decoupling would not cause over-earning during the three-year decoupling pilot, by applying this apparent *coup de grâce:* "Ms. Steward took this position even after acknowledging that Cascade is over-earning in Oregon where it has a decoupling mechanism." (p. 25:59) Of course, left unmentioned is the fact that any "over-earning" in Oregon occurred prior to decoupling going into effect. Using the same "logic," Public Counsel repeats the same charge with Coalition witness Weiss: "With the ink barely dry on Mr. Weiss' signature, it became apparent to the Oregon Commission Staff that

[2] Another aspect of "tried and true" ratemaking is that interveners such as the Coalition must fund our own witnesses and lawyers while also funding through our rates the Company's witnesses and lawyers whose efforts are solely on behalf of their shareholders.

Cascade is over-earning." (p. 28:65) It is truly amazing how fast decoupling works—just the time it takes ink to dry!

9. But of course the fact that the Company was over-earning in Oregon has nothing to do with decoupling. As Public Counsel notes, "In fact, [Cascade] was clearly over-earning at the time the settlement was struck and had been for several years." (ib.) If anything, this over-earning example is more an indictment of "tried and true traditional ratemaking" than of decoupling.

IV. DECOUPLING WILL NOT UNDERCUT THE EFFORTS OF CUSTOMERS TO CONSERVE.

10. Public Counsel presents the example of Ms. Carol Whitling, a retiree on a fixed income, as facing a "perverse incentive" as she attempts to reduce her gas bill (p. 39:89-41:99), because the more customers conserve the higher the decoupling surcharge. However this example neglects to note several important mitigating factors.

11. First, the magnitude of any surcharge, because it is spread over all residential customers, will be barely perceptible compared to her entire bill, changes due to weather and commodity costs, or, most important, to the results of her conservation efforts. Second, under the Settlement Ms. Whitling will have more resources than before in the form of access to increased conservation and low-income programs to help her reduce and pay her bill.

VI. CONCLUSION: THE COMMISSION SHOULD APPROVE THE SETTLEMENT AGREEMENT WITHOUT MODIFICATION.

12. Notwithstanding Public Counsel's alarmist language, the Agreement is a careful and modest approach with adequate safeguards against unintended consequences that will result in significantly more conservation in CNG's territory. The Commission should take this opportunity to align customer and shareholder interests to invest aggressively in cost-effective conservation by approving the Settlement Agreement in whole. The Settlement will result in a significant and immediate increase for conservation and low-income programs. But just as important, it will allow CNG to support fully the efforts of its customers to save gas.

DATED: December 1, 2006

By: _____

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