



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY 1-800-833-6384 or 711

June 15, 2022

**NOTICE OF OVERRULING OBJECTION AND WITHDRAWING
BENCH REQUEST NO. 2**

RE: *Washington Utilities and Transportation Commission v. Cascade Natural Gas Corporation*, Docket UG-210755

TO ALL PARTIES:

On September 30, 2021, Cascade Natural Gas Corporation (Cascade or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-3 for natural gas service the Company provides in Washington.

On October 26, 2021, the Commission entered its Prehearing Conference Order, which established a procedural schedule that included a hearing set for June 1-2, 2022, at 9 a.m.

On February 18, 2022, counsel for Commission staff (Staff) informed the presiding officers via email that the parties had reached a full multiparty settlement in principle.

On June 1, 2022, the Commission convened a virtual evidentiary hearing. During the hearing, the Commission issued the following Bench Request No. 2 (BR-2):

Please provide the specific dates and means (*i.e.*, call, email.) used to communicate the proposed settlement to the non-settling parties prior to the February 18, 2022, email Staff made to the presiding officer, as well as whether the Settling Parties provided an opportunity to respond to, participate in or provide feedback on the proposed settlement.

On June 6, 2022, Staff filed an objection to BR-2. Staff argues that BR-2 violates WAC 480-07-700(6)(a)-(b), which provides as follows:

(6) Settlement negotiation guidelines. In any settlement negotiation, including collaboratives, settlement conferences, and mediations, the following apply unless all participants agree otherwise:

- (a) No statement, admission, or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the commission without the consent of the participants or unless necessary to address the process of the negotiations;
- (b) Information exchanged exclusively within the context of settlement negotiations will be treated as confidential and will be privileged against disclosure to the extent permitted by law.

Staff argues that responding to this request is irrelevant to the Commission's evaluation of the settlement and would create a chilling effect in future negotiations.

The Commission overrules Staff's objection. BR-2 requests information related to the process for, not the substance or content of the parties' settlement discussions. The rules neither address settlement negotiation processes nor forbid disclosures about such processes. In fact, parties frequently describe their negotiation processes in testimony filed in support of proposed settlements. Because the Commission is responsible for ensuring appropriate processes are followed in its proceedings, pursuing this line of questioning is well within our discretion when approving or rejecting a settlement.¹

The Commission nevertheless withdraws BR-2. The Commission has sufficient information in the record to address this issue and will provide its expectations for fair settlement negotiation processes in its final order.

THE COMMISSION GIVES NOTICE That Staff's objection to Bench Request No. 2 is OVERRULED, and that Bench Request No. 2 is WITHDRAWN.

/s/ Samantha Doyle
SAMANTHA DOYLE
Administrative Law Judge

¹ Pursuant WAC 480-07-750(2), "The commission will approve a settlement if it is lawful, supported by an appropriate record, and *consistent with the public interest in light of all the information available to the Commission.*" (Emphasis added).