

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET NO. UG-060256

RESPONSIVE COMMENTS OF
PUBLIC COUNSEL

I. INTRODUCTION

Public Counsel respectfully submits these comments in response to the Commission’s May 29, 2007, Notice for Responsive Comments on Cascade’s Conservation Plan filed in this docket.

The comments filed by Commission Staff, by the Northwest Energy Coalition, and the Energy Project all echo points made by Public Counsel in its initial comments on May 22. In those comments, Public Counsel argued that the Cascade “Conservation Plan” is insufficient for the following basic reasons:

- ***Lack of a clear implementation plan.*** The filing shows that Cascade does not yet have a clear plan for implementing a portfolio of conservation programs.
- ***Cascade has not yet determined who will administer the conservation programs.*** The Company does not yet know who will administer the programs. Cascade states in the filing that the Company plans to have a third party administer all of its conservation programs, with the exception of the low-income weatherization program. The Company further indicates that it is considering the Energy Trust of Oregon (ETO), but ultimately this has not yet been determined.

- ***Cascade’s extensive reliance on the Energy Trust of Oregon is problematic for numerous reasons.*** Energy Trust of Oregon is not authorized to do business in Washington and has not decided whether or not to operate in the State of Washington. It is currently authorized by and accountable to the Oregon Public Utility Commission, not the Washington Utilities and Transportation Commission (WUTC).
- ***No clear plans to issue an RFP within 30 days.*** Cascade does not indicate whether it will issue a Request for Proposals (RFP) within 30 days of Plan approval, as required by the settlement and the Commission’s Order. The 4-page Conservation Plan is silent on this issue. The filing appears to suggest that the ETO may develop and issue the RFP, which raises conflict of interest concerns.
- ***The proposed conservation targets are very low and are not supported by analysis.*** Cascade fails to explain how it arrived at the targets against which it proposes to have its performance evaluated and rates increased.
- ***Lack of true penalties for performance failures.*** Rather than including true penalties, Cascade’s plan instead would simply allow for slightly reduced financial recovery if the Company fails to meet its extremely conservative targets.¹

The comments filed by the other parties in this case parallel many of Public Counsel’s concerns.

II. RESPONSIVE COMMENTS

A. Staff Comments

The Commission Staff shares Public Counsel’s concerns regarding implementation of the plan, stating that the plan is “severely limited in its description of how the Company intends to accomplish [the annual benchmarks].”² Staff observes that “[t]he Company states it has engaged the Energy Trust of Oregon (ETO) to prepare a detailed analysis to determine options for delivery of Cascade’s programs[.]” but notes that “[t]his is the kind of work Staff expected to see

¹ Public Counsel Comments of May 22, 2007, pp. 1-2.

² Comments for the Staff, ¶ 4.

completed or at least preliminarily complete by the time the Plan was published.”³ Staff goes on to say that it “is concerned that by relying on a third party contractor for substantial program analysis and development Cascade may not be fully developing its own in-house program expertise.”⁴

B. Northwest Energy Coalition Comments

The Northwest Energy Coalition (NWECC or Coalition) identifies a number of serious drawbacks with the Plan, as follows:

The targets are “too low.”⁵ NWECC recommends use of the “best case” or mid-range numbers, not those proposed by Cascade. The Coalition questions whether they are high enough to meet the settlement intent to tie the pilot to conservation acquisition.⁶

The penalty structure is not a true penalty paid by shareholders.⁷ NWECC argues, for example, that shareholders should pay at least as much in penalties as Cascade would have spent to implement the lost conservation.⁸

The plan to use ETO for implementation is problematic. The Coalition makes the point that ETO is only investigating *whether* it will expand its role in Washington and that there is no “Plan B” if ETO does not find it feasible to go forward. The Coalition also notes that ETO is a creature of Oregon law, that its administrative costs in Washington may be higher than in Oregon, and that it cannot respond to an RFP from Cascade.⁹

³ *Id.*

⁴ *Id.*

⁵ NW Energy Coalition Comments, p. 2.

⁶ *Id.* p. 3.

⁷ *Id.*, p. 5.

⁸ *Id.*

⁹ *Id.*, pp. 6- 7

In summary, the Coalition’s support for the Plan is specifically subject to the Commission imposing conditions to address these three key issues: (1) more aggressive conservation targets, (2) a penalty mechanism funded by shareholders, and (3) a “Plan B” for implementation if the ETO does not work out. In other words, the Plan as filed is not sufficient.

C. Energy Project Comments

The Energy Project also identifies major issues with the Plan.

Conservation targets too low. The Company’s conservation targets are too modest—“not really acceptable.”¹⁰ As the Energy Project aptly states:

Is achieving 71 % of this conservation target really worth 70% recovery of the deferred funds? If the DSM target is too low, that might be quite lucrative for the company. Why try to achieve 90% of DSM if you can secure the same level of recovery of the deferral by getting 80%, that recovery sufficiently covers the reduced consumption.¹¹

No actual penalties. The Energy Project points out that “the ‘penalties’ do not seem to function as penalties...any decoupling recovery is an added benefit to the Company and failure to achieve a certain level of target DSM Is not so much a penalty as less benefit.”¹²

Implementation and the Energy Trust of Oregon. The Energy Project identifies concerns with the proposed contract with Energy Trust of Oregon, similar to those expressed by the Coalition.

Rate of Achievement. The Energy Project argues that the schedule to ramp up conservation is “far too cautious.”

¹⁰ Comments of Energy Project, p. 1.

¹¹ *Id.*, p. 2.

¹² *Id.*

III. CONCLUSION

Perhaps the best summary of the comments filed by the other parties in this docket is that they damn the Plan with faint praise. Clearly the Company was not able to reach a consensus Plan with its advisory group.¹³ All the commenters identify significant flaws with the Plan. Only the Staff unconditionally recommends approval. The Coalition asks that the Plan be changed in three major ways before it is approved, and the Energy Project does not expressly recommend approval or rejection. It appears that what support the Plan does have is based more on a general desire to see more conservation achievement at Cascade than on real enthusiasm for the Plan's approach.

The number and nature of the issues raised underlines the difficulty of designing any workable decoupling program. The comments also highlight again the fundamental problems with the concept of decoupling itself, and its questionable efficacy in creating more conservation without providing windfalls to the Company shareholders.

The other parties' support for increasing conservation achievement at Cascade is shared by Public Counsel. In Public Counsel's opinion, however, enough time, energy and resources has been expended on the current proposal. Future efforts would be better spent on devising a simpler, less expensive and less contentious conservation incentive and penalty program which does not shift significant risk to consumers.¹⁴ Public Counsel recommends that the Commission reject Cascade's proposed decoupling plan and direct the parties to develop an alternative

¹³ Public Counsel was not a participant in the 90 day advisory group process to develop the Plan. Due to its opposition to adoption of decoupling, Public Counsel notified the Company and other parties it would not take part.

¹⁴ The Energy Project noted, for example, that "A schedule of incentives and penalties based on recovery of the lost revenues from the company-sponsored conservation would be less confusing." *Id.*, p. 2.

conservation incentive plan for the Company that is tied directly to Company-sponsored conservation achievements and not to revenue losses on a per customer basis.

Dated this 6th day of June, 2007.

ROBERT M. MCKENNA
Attorney General

Simon J. ffitc
Assistant Attorney General
Public Counsel