

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UG-060256
TRANSPORTATION COMMISSION,	)	
	)	ORDER 06
Complainant,	)	
	)	ORDER APPROVING
v.	)	CONSERVATION AND LOW
	)	INCOME WEATHERIZATION
CASCADE NATURAL GAS	)	PLAN, SUBJECT TO
CORPORATION,	)	CONDITIONS; AUTHORIZING
	)	AND REQUIRING COMPLIANCE
Respondent.	)	FILING; DENYING PUBLIC
	)	COUNSEL’S MOTION FOR
	)	LEAVE TO FILE COMMENTS
.....	)	

1 **SYNOPSIS:** *The Commission approves Cascade Natural Gas Corporation’s Conservation and Low Income Weatherization Plan, subject to conditions, including modifying Cascade’s conservation targets to increase total therm savings and include therm savings from the Company’s low income weatherization program, modifying the penalty mechanism to limit the maximum recovery of deferred revenue, and requiring the Company to provide specific reporting and accounting methods for implementing the Plan. Public Counsel’s motion for leave to file comments on Cascade’s response to bench requests is denied, because it is argument, not an objection to the Company’s response.*

**SUMMARY**

2 **PROCEEDING.** In Docket UG-060256, Cascade Natural Gas Corporation (Cascade or the Company) sought a general rate increase for its Washington operations. In addition, Cascade sought, among other items, approval of a decoupling mechanism. The remaining issue before the Washington Utilities and Transportation Commission (Commission) in this docket is consideration of Cascade’s proposed Conservation and Low Income Weatherization Plan (Conservation Plan or Plan).<sup>1</sup>

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<sup>1</sup> In Order 05, we required Cascade to submit a Conservation Plan for our approval prior to its implementation of a pilot decoupling program.

3 **PARTY REPRESENTATIVES.** Lawrence Reichman and James M. Van Nostrand, Perkins Coie, LLP, Portland, Oregon, represent Cascade. Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel). Gregory J. Trautman, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).<sup>2</sup> Edward A. Finklea and Chad M. Stokes, Cable Huston Benedict Haagenen & Lloyd LLP, Portland, Oregon, represent the Northwest Industrial Gas Users (NWIGU). Nancy Glaser and Danielle Dixon, Seattle, Washington, represent the Northwest Energy Coalition (NWEC). Brad Purdy, attorney, Boise, Idaho, represents the Energy Project.

4 **COMMISSION DETERMINATION.** In Order 05, the Commission accepted a multi-party settlement of Cascade’s general rate case, subject to conditions, including certain requirements for implementing the parties’ stipulated three-year pilot decoupling program. We accepted the program in principle, but conditioned our final approval on the submittal of a reasonable Conservation Plan, to include an earnings cap and penalties for failure to meet targets and benchmarks. We also required Cascade to conduct an evaluation of the pilot program regardless of whether it seeks to continue the program after the three-year pilot period expires.

5 In this Order, we accept Cascade’s proposed Conservation Plan, on condition that it modify the Plan’s conservation targets both to increase the total amount of therm<sup>3</sup> savings and include therm savings from the Company’s low income weatherization program, modify the penalty mechanism to limit the maximum recovery of deferred revenues, and require Cascade to provide specific reporting and accounting methods for implementing the Plan. We also deny Public Counsel’s motion for leave to file comments on Cascade’s response to bench requests, finding Public Counsel’s filing to be argument, not an objection to the Company’s response.

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<sup>2</sup> In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including advocacy Staff. RCW 34.05.455.

<sup>3</sup> A therm is a measurement of energy: A therm equals one hundred thousand British Thermal Units (Btus), which is a measure of the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.

- 6 Upon Cascade's acceptance of the terms of this Order, Cascade is authorized and required to file a revised Plan and appropriate tariff pages in compliance. The resulting terms and conditions of service will be fair, just, reasonable and sufficient, and neither unduly discriminatory nor preferential.

### MEMORANDUM

#### **I. Background and Procedural History**

- 7 Cascade operates as a natural gas distribution company, serving approximately 235,000 customers in Washington and Oregon. The Company's Washington customers are located in three operational regions: Western, including the Kitsap Peninsula, Grays Harbor area, and Kelso/Longview; Northwest, including Bellingham, Mt. Vernon, and Oak Harbor/Anacortes; and Central, including Sunnyside, Wenatchee/Moses Lake, Tri-Cities, Walla Walla, and Yakima.
- 8 In February 2006, Cascade filed a petition in this docket seeking a general rate increase for its Washington operations, including, among other items, approval of a decoupling mechanism. The Commission suspended the proposed tariff revisions and set the matter for hearing. The Company's decoupling proposal proved to be one of the primary contested issues.<sup>4</sup>
- 9 In filed testimony, Staff, Public Counsel, NWIGU, NWECA and the Energy Project objected to and addressed the Company's decoupling proposal. Staff and NWECA offered alternative decoupling proposals.
- 10 On October 11, 2006, the parties filed a multi-party, multi-issue settlement (Settlement) addressing all of the contested issues in the rate case. Public Counsel joined the Settlement, in part, but opposed the portions of the Settlement concerning cost of capital and the proposed decoupling mechanism.
- 11 Following a hearing on the Settlement and briefing, the Commission entered a final order on January 12, 2007, accepting the parties' Settlement subject to conditions. Among other items, we authorized Cascade to establish a pilot program for

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<sup>4</sup> A detailed account of the procedural history of the rate case is included in Order 05 in this docket. It will not be repeated here.

decoupling, subject to our approval of a Conservation Plan, which would include an earnings cap and penalties for failure to meet benchmarks. Cascade was also directed to conduct an evaluation of the pilot program regardless of whether it sought to continue the program after the three-year pilot expires.

- 12 Cascade filed its Conservation Plan on May 5, 2007. On May 9, the Commission issued a notice inviting comment on the Plan. Staff, NWECA, the Energy Project and Public Counsel filed comments. Staff supported the Plan. NWECA, the Energy Project and Public Counsel asserted that the proposed conservation targets were too low and questioned the adequacy of the penalty mechanism. Public Counsel raised additional concerns about decoupling, and recommended we reject the Plan.
- 13 After the Commission issued a notice providing an opportunity for responsive comments, Cascade, NWECA, and Public Counsel filed comments.
- 14 The Commission issued two bench requests to Cascade on June 26 to clarify details of the Plan. The Company filed its responses on July 9.
- 15 On July 16, Public Counsel filed a Motion for Leave to File Response to Bench Request No. 6, Objection and Public Counsel's Comments and Objection Regarding Cascade Response to Bench Request No. 6. On July 18, Cascade filed a response to Public Counsel's motion.

## **II. The Pilot Decoupling Program**

- 16 The settling parties proposed a "partial" decoupling mechanism, offered as a pilot program applicable only to residential and commercial customers over a three-year period. Under the pilot program, Cascade would defer for future recovery through its annual deferral tracking mechanism revenue lost to lower than expected energy sales due to conservation and other non-weather related reasons.<sup>5</sup> Cascade also agreed to convene a Conservation Advisory Group (Advisory Group) to discuss and make recommendations concerning the program's substance and implementation. After meeting with the group, Cascade would file its Conservation Plan with the

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<sup>5</sup> Settlement, ¶ 15(a).

Commission for approval.<sup>6</sup> It was expected to include specific “programmatic and energy efficiency targets and benchmarks” and possible penalties for failure to meet the targets.<sup>7</sup> Within 30 days of Commission approval of the Plan, Cascade would issue requests for proposals (RFP) for a third party to implement and manage the pilot program.<sup>8</sup> The settling parties also agreed that if Cascade seeks to extend the pilot program it must do so through a general rate case that includes a formal evaluation of the program. Cascade must consult with Staff and other parties and hire an independent contractor to perform the evaluation.<sup>9</sup>

17 In Order 05 we described our analysis of decoupling in principle, noting that it “has both potential advantages and disadvantages.”<sup>10</sup> Our state’s laws and policies encourage us to favor incentives to stimulate increased energy conservation.<sup>11</sup> Therefore, we accepted a pilot decoupling program in principle, but withheld final approval until satisfied that it would in fact increase conservation and that the probable advantages would outweigh the disadvantages.<sup>12</sup>

18 We required the Plan to include penalties for the Company’s failure to meet conservation targets and benchmarks.<sup>13</sup> In addition, to provide a safeguard against potential over-earning, we conditioned approval of the Plan on the inclusion of an earnings cap based on the authorized overall rate of return of 8.85 percent and an appropriate and verifiable mechanism to assess how the earnings would be determined and compared to the authorized rate of return.<sup>14</sup>

### III. The Conservation Plan

19 Consistent with the Settlement’s terms, Cascade prepared and filed its Conservation Plan after meeting and consulting with the Advisory Group, which consisted of

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<sup>6</sup> *Id.*, ¶ 15(e)(i),(ii).

<sup>7</sup> *Id.*, ¶ 15(e)(ii).

<sup>8</sup> *Id.*, ¶ 15(e)(iii).

<sup>9</sup> *Id.*, ¶ 15(c).

<sup>10</sup> Order 05, Docket UG-060256, ¶¶ 67 – 72.

<sup>11</sup> *Id.*, ¶ 71. See RCW 80.28.024, RCW 80.28.025, and RCW 80.28.260; see also RCW 19.285, Energy Independence Act.

<sup>12</sup> Order 05, ¶ 81.

<sup>13</sup> *Id.*, ¶ 82.

<sup>14</sup> *Id.*, ¶ 81.

representatives of the Company, Commission Staff, NWIGU, NWECA, the Energy Project, The Washington Department of Community, Trade and Economic Development (CTED), and a customer.<sup>15</sup> The Advisory Group met twice in February 2007 and again in April to review a study assessing Cascade's conservation potential prepared by Stellar Processing and to discuss measures to include in the proposed Conservation Plan. The Plan was submitted to the Commission on May 5, 2007.

20 The Plan identifies the energy efficiency programs Cascade will offer. In addition to its existing prescriptive programs, the low income weatherization, High Efficiency Equipment Rebate and commercial/industrial programs, Cascade intends to offer a residential weatherization program, an Energy Star New Homes program, and a custom program for firm commercial and industrial customers. The Plan estimates the annual therm savings expected from implementing these energy efficiency programs. These estimates establish the conservation targets Cascade must meet for years 2008 and 2009, and preliminary targets for 2010, to recover revenue deferred through the decoupling program.

21 The Plan includes a penalty provision that would disallow a portion of the deferred revenue should the Company fail to meet its annual conservation targets. In addition, the Plan includes an earnings cap to ensure that Cascade does not earn more than its authorized 8.85 percent rate of return for its Washington operations. Finally, it describes the Company's strategy for implementing its conservation programs and achieving its conservation targets through third-party contractors.

#### **A. Implementation of the Conservation Plan**

22 The Plan points out that Cascade has engaged the Energy Trust of Oregon (Energy Trust or ETO) to prepare a detailed analysis to determine options for delivering the planned energy efficiency programs. While it intends "to have a third party provide program delivery and administration of all of its conservation programs with the

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<sup>15</sup> Although invited to participate, Public Counsel chose not to participate in collaborative discussions with the Advisory Group to develop the Plan because of its objections to decoupling generally. See Public Counsel Responsive Comments, n.13; Cascade Responsive Comments, ¶ 2 and attachments.

exception of the Low Income Weatherization Program,”<sup>16</sup> Cascade has not yet determined whether it will retain the ETO as its third-party contractor or whether it will issue an RFP to hire a different third-party contractor.

- 23 The parties raise several concerns with the Company’s approach. Commission Staff states that by relying on the Energy Trust, Cascade may not fully develop its own in-house conservation expertise.<sup>17</sup> While not opposed to the ETO’s implementing and administering Cascade’s conservation programs, NWEAC foresees some potential problems. In particular, NWEAC is concerned that the ETO’s administrative costs in Washington may be higher than expected<sup>18</sup> and that the absence of a “Plan B” for Cascade in the event the Energy Trust’s analysis suggests ETO would not be an appropriate entity to deliver the needed conservation.<sup>19</sup>
- 24 Public Counsel urges us to reject the Company’s Plan because it lacks a clear implementation strategy and does not identify who will administer the Plan. Public Counsel also objects to the Company’s extensive reliance on the Energy Trust.<sup>20</sup> Public Counsel asserts that the Energy Trust is an Oregon entity and is not currently authorized to do business in Washington: “ETO does not currently have either a license or permit to conduct business in Washington.”<sup>21</sup>
- 25 We reject Public Counsel’s argument that the lack of specificity for implementation justifies rejection of the Plan.<sup>22</sup> We recognize the Plan does not specifically identify who will implement it or how, or whether and when the Company will issue an RFP for a third-party contractor. However, these shortcomings do not prevent the Plan’s approval. If the Company accepts our conditions, it will also commit to achieving its conservation targets. We expect the Company to put into place the necessary mechanisms to meet those targets. We see no reason to deviate from our long-

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<sup>16</sup> Conservation and Low Income Weatherization Plan at 4; Cascade’s Response to Bench Request No. 6.

<sup>17</sup> Staff Comments, ¶4.

<sup>18</sup> NWEAC Comments at 7.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> Public Counsel Comments at 1-2, 4-12.

<sup>21</sup> *Id.*, at 2, 9-10.

<sup>22</sup> Public Counsel chose not to participate in the Advisory Group or in discussions about Cascade’s Plan. Having chosen not to participate in that process, we are less inclined to give weight to objections raised now that might have been constructively engaged earlier.

standing practice of allowing a utility to manage its business operations using its best judgment without overly prescriptive directives from us.

- 26 We expect the Company to inform the Commission, Staff and parties of its efforts in implementing the Plan, including timelines for fundamental decisions such as who will administer the conservation program. We also direct the Company to specify the timing and content of annual reports on the Plan. These reports must include, at a minimum, the conservation acquired, whether the Company achieved its target, and whether the earnings cap mechanism was triggered.

### **B. Conservation Targets**

- 27 The Plan proposes two levels of therm conservation targets, “Best Case” and “Conservative” for 2008 and 2009 and preliminary targets for 2010:

Year	Residential and Comm/Industrial		Low Income Weatherization Program		Total Annual Therm Savings	
	Conservative	Best Case	Conservative	Best Case	Conservative	Best Case
2008	275,000	370,000	10,500	15,750	285,500	385,750
2009	355,000	475,000	17,500	35,000	372,500	510,000
2010	455,000	605,000	21,000	50,000	476,000	655,000

- 28 To derive these targets, Cascade engaged Stellar Processing to produce a report on the conservation potential within Cascade’s Washington service territory. With the help of the Advisory Group, the Company developed a list of the technically achievable conservation measures.<sup>23</sup> Cascade next presumed that the following levels of conservation would be attainable: 60 percent of the technically achievable conservation measures in the residential new construction sector; 75 percent in the existing/retrofit residential market; and 70 percent in the commercial/industrial sector.<sup>24</sup> The sum of the resulting conservation savings produced the “best case” targets. The “conservative” targets are 75 percent of the “best case” targets reflecting

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<sup>23</sup> See Cascade’s Response to Bench Request No. 5, and attachments. Cascade removed a few identified conservation measures because they are based on erroneous assumptions or relied on technology not currently available in the Northwest.

<sup>24</sup> Cascade Response to Bench Request No. 5.

a phase-in period for the conservation programs.<sup>25</sup> Cascade chose to implement the Plan using the “conservative” targets to allow the Company a period to ramp-up its conservation efforts without an increased risk of penalties.

29 While Staff finds the proposed targets reasonable,<sup>26</sup> Public Counsel, NWECC, and the Energy Project all argue that the targets are too low.<sup>27</sup> While they agree as to how Cascade derived the targets, they question whether Cascade’s selection of the conservative over the best case targets is reasonable. NWECC argues that the Plan should include a shorter time for ramping, even though the Company’s Integrated Resource Plan assumes a five year ramp-up to full implementation:

If the Company planned to implement all or most of its programs in-house, we could better understand the need for 5 years to ramp up given current staffing constraints. However, CNG assumes it will rely on third party delivery of all its conservation programs. That suggests to us a ramp-up time closer to 2 years, especially if CNG contracts with the Energy Trust of Oregon as proposed...we believe that the thresholds should be based on the best case end of the range for achievement in the residential, commercial and industrial sectors (or at a minimum, the middle range of expected conservation potential).<sup>28</sup>

30 We find the Plan’s proposed conservative targets not sufficiently aggressive to promote increased utility-sponsored conservation. We find the more appropriate targets to be the mid-points between the current conservative and best case targets. We believe these more aggressive targets provide Cascade sufficient incentive to promote and increase utility-sponsored conservation, while affording sufficient flexibility to ramp up the programs. Thus, we condition our approval of the Plan on Cascade establishing conservation targets against which penalties will be assessed at the mid-points of the currently proposed conservative and best case targets.

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<sup>25</sup> *Id.*

<sup>26</sup> “Staff believes that the annual benchmarks established in the Conservation and Low Income Weatherization Plan for captured therm savings in 2008 and 2009 are reasonable and achievable.” Staff Comments, ¶ 3.

<sup>27</sup> Public Counsel Comments at 12-13; NWECC Comments at 2-3; .Energy Project Comments at 1-2.

<sup>28</sup> NWECC Comments at 2-3.

### C. Penalty Mechanism

31 In Order 05, we required Cascade to include a penalty mechanism in the Plan to create incentives for increased utility-sponsored conservation. The Company’s proposed penalty mechanism ties the recovery of deferred revenues to its meeting certain annual therm savings thresholds. The proposed penalty mechanism would reduce the amount of deferred revenue the Company could recover should it fall short of its conservation targets. The Plan includes the following penalty mechanism:

Actual vs. Target Conservation Savings	Proposed Disallowance of Deferred Balance
< 70%	100%
> 70% and < 80%	30%
> 80% and < 90%	20%
> 90% and < 100%	10%
> 100%	0%

Thus, if Cascade achieves less than 70 percent of its annual conservation target, the Company will not recover any deferred revenues collected in the deferral period, while if it achieves 100 percent of its targets, the Company will recover all of the deferred revenues.

32 Public Counsel and NWEAC oppose the proposed penalty mechanism. Public Counsel asserts that the proposal does not include true penalties, as the Plan allows “Cascade to collect additional revenue from residential and commercial customers even when the Company has only achieved as little as 70 percent of its ‘conservative’ target.”<sup>29</sup> NWEAC asserts that Cascade’s shareholders should be responsible for any penalty for failure to meet conservation targets, and that any penalties “should be separate from the deferred conservation balance due to decoupling.”<sup>30</sup>

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<sup>29</sup> Public Counsel Comments at 14.

<sup>30</sup> NWEAC Comments at 3.

33 While Public Counsel and NWECA raise reasonable concerns, we find the proposed penalty mechanism, with some modification, adequate to the task. The “additional revenue” the Company stands to collect under decoupling is recovery of fixed costs found to be reasonable in its last general rate case. Thus, we do not find it unreasonable that Cascade may collect 70 percent of a deferral balance of these costs even if it fails to meaningfully increase conservation. Similarly, we find denying Cascade some percentage of revenue to which it is “entitled” pursuant to the last rate case to be an appropriate and sufficient sanction to motivate the Company’s conservation efforts. Denial of this revenue at least indirectly penalizes shareholders and seems more consistent with the premise of decoupling. If, on the other hand, directly penalizing shareholders for the Company’s conservation shortfall would effectively change the Company’s behavior, one could conclude decoupling is unnecessary to promote conservation.<sup>31</sup>

34 We find it appropriate, however, to limit the maximum recovery to 90 percent of deferred revenue, similar to the pilot program we approved for Avista Corporation.<sup>32</sup> In approving decoupling, we recognized the inherent difficulty in identifying that conservation which is attributable to the Company’s efforts and that which is due to other factors.<sup>33</sup> Thus, we condition our approval of the Plan on Cascade modifying the penalty mechanism to disallow not less than 10 percent of the deferred balance even if the conservation targets are met or exceeded.<sup>34</sup>

35 The purpose of a pilot program is to better inform the Commission, the Company and stakeholders about the effectiveness of decoupling and related mechanisms. The information collected from implementing this pilot program will be used to evaluate

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<sup>31</sup> We note the use of direct financial penalties in an electric case without decoupling. *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-060266 and UG-060267, Order 08, Rejecting Tariff Sheets, Authorizing and Requiring Compliance Filing (Jan. 5, 2007). We look forward to evaluating the outcomes of these different approaches to increasing company conservation efforts.

<sup>32</sup> *In the Matter of the Petition of Avista Corporation, for an Order Authorizing Implementation of a Natural Gas Decoupling Mechanism and to Record Accounting Entries Associated With the Mechanism*, Docket UG-060518, Order 04, Final Order Approving Decoupling Pilot Program (Feb. 1, 2007) ¶¶ 15, 26.

<sup>33</sup> See Order 05, ¶¶ 68, 73.

<sup>34</sup> This is the equivalent of allowing a maximum 90 percent recovery under the Avista decoupling model.

and determine the need, nature and magnitude of penalties in any future conservation programs. We will closely scrutinize the proportion of margin lost to utility-sponsored conservation relative to the amount subject to recovery in reviewing the results of Cascade's decoupling program.

#### **D. Energy Savings Associated with the Low Income Weatherization Program.**

36 The Conservation Plan identifies therm savings from residential, commercial and industrial programs, as well as its low income weatherization program. However, the Plan specifies that the conservation targets upon which penalties would be assessed do not include therm savings associated with Cascade's low income weatherization programs. The Company contends that it cannot control or assure the level of savings from these programs since it relies on community action agencies for delivering these programs. The Energy Project, Staff and NWECA all support this approach.<sup>35</sup>

37 We disagree. The funds that Cascade proposes to allocate to the low income weatherization program come from ratepayers.<sup>36</sup> As such, ratepayers have a right to expect that this money will be spent in a responsible, cost-effective manner and that the Company's use of the funds will achieve the desired result – reduced energy use and lower energy bills for the participating ratepayers. Without some level of oversight by the Company, the Commission cannot ensure that these objectives are met. We expect Cascade to do more than turn the funds over to third-party contractors or community action agencies: Cascade must hold the contractors accountable for how the funds are expended, as we hold Cascade ultimately accountable. Therefore, we require that the conservation targets include the savings predicted from the Company's low income weatherization program.

#### **E. Earnings Cap**

38 In Order 05, we noted our heightened concerns that new regulatory mechanisms create the possibility that a utility's earnings may exceed its authorized return on

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<sup>35</sup> Energy Project Comments at 2, NWECA Comments at 3; Staff Comments, ¶ 2.

<sup>36</sup> According to the Company's proposed rate sheet schedule 301, attached to the Plan, "The low income weatherization investment costs ... will be accounted for and recovered through a temporary technical adjustment mechanism in the deferral tracking portion of the Company's annual PGA filing."

capital. To limit this possibility, we required the Plan to include an “earnings cap” using the authorized rate of return.<sup>37</sup>

39 Cascade’s authorized rate of return is 8.85 percent.<sup>38</sup> The earnings cap in the Plan specifies that should Cascade exceed this rate of return, deferred conservation revenues will be lowered to the point that either the Company’s rate of return is 8.85 percent, or the deferred revenues are eliminated altogether.<sup>39</sup> Cascade’s rate of return will be based on the Company’s annual filing of a Commission basis report. No party objected to the proposed earnings cap or found the Company’s proposal lacking.

40 While we find the proposed earnings cap conceptually adequate, we note that it lacks specificity as to the process the Company will follow to compare the actual to allowed rate of return and, when necessary to adjust the deferred revenues. Therefore, we require the Company to provide more specifics on the financial reporting and accounting methods it will use to implement both the penalty mechanism and the earnings cap. The Company must provide this information with its filing of a revised Plan and tariff pages consistent with this Order.

#### **F. Conditional Acceptance of the Plan**

41 Cascade’s proposed Plan is part of a larger effort by Cascade to increase its conservation efforts. Interested parties have raised substantive concerns as to the appropriateness of certain aspects of this Plan. While we recognize these concerns, we conclude that the Plan is in the public interest with the modifications we require in this Order. Moreover, as part of an appropriately designed pilot program with adequate safeguards to protect ratepayers, the Plan should assist Cascade, the Commission and stakeholders in evaluating this decoupling mechanism.

42 In sum, we approve the Plan subject to the Company filing a revised Plan which:

- 1) Changes the conservation targets to the mid-points of the currently proposed best case and conservative targets;

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<sup>37</sup> Order No 5, ¶¶ 63-64.

<sup>38</sup> *Id.*

<sup>39</sup> Conservation and Low Income Weatherization Plan at 4.

- 2) Includes in its conservation targets the savings expected from the Company's low income weatherization program;
- 3) Modifies the penalty mechanism to limit the maximum recovery of deferred revenue to 90 percent; and
- 4) Provides the specific reporting and accounting methods used to implement the Plan, including the penalty mechanism and the earnings cap.

43 We believe these conditions impose appropriate safeguards on the three-year pilot decoupling program that we approved in principle in Order 05. Should Cascade accept the conditions, we determine that Cascade should be authorized and required to file a revised Plan and tariff pages to implement the pilot program in compliance with our decisions. When implemented consistent with the compliance filing, we find that the resulting terms and conditions will be fair, just, reasonable and sufficient, and neither unduly discriminatory nor preferential.

#### **IV. Public Counsel's Motion**

44 After receiving comments on the Plan from all parties and responsive comments from the Company, Public Counsel and NWECA, we issued two bench requests to gain additional information about how Cascade derived its conservation targets and the status of its implementation efforts. Cascade responded to the bench requests on July 9.

45 On July 16, Public Counsel filed a motion for leave to file comments on Cascade's response to Bench Request No. 6, regarding Cascade's implementation status. Alternatively, Public Counsel requested its motion and comments be treated as an objection to Cascade's response under WAC 480-07-405(6)(c).

46 The Commission's procedural rules allow for a party to object to the content of a bench request response within five days after the response is distributed.<sup>40</sup> The rules do not provide an opportunity for parties to file "comments" on a bench request response. Noting this, Public Counsel filed a motion for leave to file comments under WAC 480-07-375(1)(b), which allows parties to file procedural motions to establish

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<sup>40</sup> See WAC 480-07-405(6)(c).

or modify process in a proceeding. Public Counsel asserts that the information contained in Cascade's response concerns whether Cascade has met the conditions for allowing a decoupling pilot program to go forward.<sup>41</sup> Public Counsel asserts that Cascade's response is not sufficient to meet these conditions and that the Commission should reject Cascade's proposed Plan.<sup>42</sup> Cascade objects to Public Counsel's motion and comments.

47 We deny Public Counsel's motion for leave to file comments on the bench request response. The Commission's rules do not provide for other parties to file "comments" on bench request responses submitted by another party. The Commission may ask for such comments, and has done so in prior proceedings, but we chose not to do so here. Public Counsel's filing amounts to more than comments: Public Counsel merely restates arguments made in its initial and responsive comments on Cascade's Plan.

48 We also deny Public Counsel's request that the motion and comments be treated as an objection to Cascade's response. An objection denotes an assertion that information in a response is inaccurate, irrelevant or somehow procedurally improper, which is not the thrust of Public Counsel's submittal.

### **FINDINGS OF FACT**

49 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary findings of fact, incorporating by reference pertinent portions of the preceding detailed findings:

50 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including gas companies.

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<sup>41</sup> Public Counsel Motion at 1-2.

<sup>42</sup> Public Counsel Comments on Response to Bench Request No. 6 at 1-3.

- 51 (2) Cascade Natural Gas Corporation is a “public service company” and a “gas company,” as those terms are defined in RCW 80.04.010, and as those terms otherwise are used in RCW Title 80. Cascade is engaged in Washington State in the business of supplying utility services and natural gas to the public for compensation.
- 52 (3) Cascade filed a request for a general rate increase on February 14, 2006, seeking, among other items, approval of a decoupling mechanism.
- 53 (4) In Order 05, entered on January 12, 2007, the Commission approved, subject to conditions, a multi-party, multi-issue Settlement Agreement addressing all contested issues in the proceeding, including a stipulated three-year pilot decoupling program.
- 54 (5) The Commission conditioned implementation of the pilot decoupling program on approval of the Company’s Conservation Plan, requiring the Company to include in the Plan an earnings cap based on the authorized overall rate of return of 8.85 percent, an appropriate and verifiable assessment mechanism to provide an effective safeguard against potential over-earning, penalties for failure to meet conservation targets, and requiring the Company to perform an independent evaluation of the pilot program, regardless of whether the Company seeks to continue the program after the three-year period expires.
- 55 (6) Cascade filed its proposed Conservation Plan with the Commission on May 5, 2007, and all parties were given an opportunity to file comments and responsive comments concerning the proposed Plan.
- 56 (7) Cascade included conservation targets in the Plan, representing the achievable therm savings from Cascade’s implementation of various energy efficiency programs.
- 57 (8) Cascade included both “best case” and “conservative” conservation targets and stated its intention to implement the Plan using the “conservative” targets,

which represent approximately 75 percent of the estimated therm savings in the “best case” targets.

- 58 (9) Cascade’s proposal to implement the Plan using “conservative” conservation targets is not sufficiently aggressive to promote increased utility-sponsored conservation during this pilot program.
- 59 (10) Cascade did not include therm savings from its low income weatherization program in the proposed conservation targets.
- 60 (11) Cascade’s proposed penalty mechanism, which ties the recovery of deferred revenues to meeting conservation targets, creates a sufficient financial incentive to achieve the conservation targets in the pilot program.

### CONCLUSIONS OF LAW

61 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions:

- 62 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, this proceeding. *RCW Title 80.*
- 63 (2) Cascade must hold third-party contractors accountable for how ratepayer funds are used in its low income weatherization program. It is reasonable to include projected therm savings from the low income weatherization program in conservation targets subject to the decoupling penalty mechanism.
- 64 (3) Cascade’s proposed earnings cap adequately prevents over-earning due to decoupling.

- 65 (4) The conditions on Cascade's Plan set forth in this Order impose necessary safeguards on the implementation and evaluation of the three-year pilot decoupling program approved in principle in Order 05.
- 66 (5) Cascade should be authorized and required to make a compliance filing to implement the pilot decoupling program approved, subject to conditions in this Order and Order 05. *WAC 480-07-880(1)*.
- 67 (6) The terms and conditions of service that will result from this Order are fair, just, reasonable, and sufficient. *RCW 80.28.010; RCW 80.28.020*.
- 68 (7) The terms and conditions of service that will result from this Order are neither unduly preferential nor discriminatory. *RCW 80.28.020*.
- 69 (8) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order. *WAC 480-07-170; WAC 480-07-880*.
- 70 (9) Public Counsel's comments on Cascade's response to Bench Request No. 6 consist of argument on whether Cascade has met the requirements for implementing a decoupling program.
- 71 (10) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *RCW Title 80*.

### **ORDER**

#### **THE COMMISSION ORDERS:**

- 72 (1) The Conservation and Low Income Weatherization Plan filed by Cascade Natural Gas Corporation is approved subject to the conditions set forth in paragraph 42 of this Order.

- 73 (2) If Cascade Natural Gas Corporation accepts the conditions on the Conservation and Low Income Weatherization Plan set forth in this Order, Cascade Natural Gas Corporation is authorized and required to file a revised Plan and tariff sheets following the effective date of this Order that are necessary and sufficient to effectuate its terms.
- 74 (3) Public Counsel's motion for leave to file a comments or objections in response to Bench Request No. 6 is denied.
- 75 (4) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 76 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective August 16, 2007.

**WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION**

**MARK H. SIDRAN, Chairman**

**PATRICK J. OSHIE, Commissioner**

**PHILIP B. JONES, Commissioner**