

Service Date: February 3, 2020

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET UG-190210

ORDER 05

FINAL ORDER APPROVING AND
ADOPTING SETTLEMENT
AGREEMENT

BACKGROUND

- 1 On March 29, 2019, Cascade Natural Gas Corporation (Cascade or Company) filed with the Commission revisions to its currently effective Tariff WN U-3 for natural gas service provided in Washington. Cascade requested an increase in annual revenues of approximately \$12.7 million, or a 5.56 percent increase in base rates.
- 2 On April 3, 2019, the Commission entered Order 01 in this docket, suspending the tariff revisions and allowing further investigation to determine if the proposed tariff filing is in the public interest.
- 3 On April 16, 2019, the Commission convened a prehearing conference in Olympia, Washington. The Commission granted unopposed petitions to intervene filed by the Alliance of Western Energy Customers (AWEC) and The Energy Project (TEP), and established a procedural schedule.¹

¹ Cascade, AWEC, TEP, Commission staff (Staff) and the Public Counsel Unit of the Attorney General's Office (Public Counsel) are hereinafter collectively referred to as "the Parties."

4 On September 20, 2019, Staff² filed with the Commission a Joint Settlement Agreement on Behalf of the Parties (Settlement) that resolves all of the issues in this proceeding. The Settlement establishes a revised revenue requirement, cost of capital, rate spread, and rate design, and agrees on the treatment of cost of service. The Settlement also requires Cascade to maintain conservation targets established in Docket UG-152286, the Company's 2015 general rate case (GRC).

5 The Commission held a public comment hearing on September 5, 2019, and conducted an evidentiary hearing on the Settlement on November 5, 2019, at its offices in Lacey, Washington.

6 Lisa Rackner, McDowell Rackner & Gibson PC, Portland, Oregon, represents Cascade. Chad M. Stokes and Tommy Brooks, Cable Huston LLP, Portland, Oregon, represent AWEC. Simon ffitich, Attorney at Law, Bainbridge Island, Washington, represents The Energy Project. Lisa W. Gafken, Assistant Attorney General, Seattle, Washington, represents Public Counsel. Jeff Roberson and Jennifer Cameron-Rulkowski, Assistant Attorneys General, Lacey, Washington, represent Staff.

DISCUSSION AND DECISION

7 The Commission's statutory duty is to establish rates, terms, and conditions for natural gas service that are "fair, just, reasonable and sufficient."³ In doing so, the Commission must balance the needs of the public to have safe, reliable, and appropriately priced service with the financial ability of the utility to provide that service. The rates thus must be fair to both customers and the utility; just, in that the rates are based solely on the record in this case following the principles of due process of law; reasonable, in light of the range of potential outcomes presented in the record; and sufficient, to meet the financial needs of the utility to cover its expenses and attract capital on reasonable terms.⁴

² In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

³ RCW 80.28.010(1); RCW 80.28.020.

⁴ *Federal Power Commission v. Hope Natural Gas*, 320 U.S. 591 (1944); *Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923); *see People's Organization for Washington Energy Resources v. Washington Utils. & Transp.*

8 “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.”⁵ We find that the rates, terms, and conditions in this Settlement are fair, just, reasonable, and sufficient. Accordingly, we approve the proposed Settlement in full, without conditions. We discuss each component of the Settlement below.

A. Revenue Requirement and Cost of Capital

9 The Parties agree that Cascade’s revenue requirement should be increased by \$6.5 million, but do not agree on the specific adjustments necessary to reach the agreed revenue requirement. As such, no plant investment is deemed included or excluded, and all non-Company parties retain the right to challenge in future proceedings the recovery of investments not yet explicitly included in rates.

10 The Parties agree to a capital structure comprised of 49.1 percent equity and 50.9 percent long-term debt; a cost of equity (ROE) of 9.4 percent; a cost of long-term debt of 5.155 percent; and an overall rate of return (ROR) of 7.24 percent.⁶ Both the capital structure and the weighted cost of debt are based on the Company’s actual capital structure and actual cost of debt as of December 31, 2018. The Parties agree to maintain the ROE approved by the Commission in the Company’s 2017 GRC.⁷

11 **DECISION.** The Parties agree to an overall ROR of 7.24 percent, which is: (1) based upon the Company’s currently authorized ROE and actual weighted cost of debt, (2) consistent with rates of return the Commission has approved for other natural gas utilities,⁸ and, (3) although seven basis points lower than the Company’s current ROR, a

Comm’n, 104 Wn.2d 798, 807-13, 711 P.2d 319 (1985) (describing rate setting process in Washington).

⁵ WAC 480-07-750(1).

⁶ In its initial filing, Cascade proposed an ROR of 7.73 percent based on a 50/50 common equity ratio with an ROE of 10.3 percent.

⁷ See *WUTC v. Cascade Natural Gas Corporation*, Docket UG-170929, Order 06 ¶ 58 (July 20, 2018).

⁸ See, e.g., *WUTC v. Puget Sound Energy*, Dockets UE-170033 and UG-170034, Order 08 (December 5, 2017) (ROR of 7.6 percent for PSE); *WUTC v. Avista Corporation*, Dockets UE-170485 and UG-170486, Order 07 (April 26, 2018) (ROR of 7.5 percent for Avista); and *WUTC v. Northwest Natural Gas d/b/a NW Natural*, Docket UG-181053, Order 06 (October 21, 2019) (ROR of 7.161 for Northwest Natural Gas).

mathematical result of the current ROE and the actual cost of debt.⁹ Although this is a “black box” agreement, we appreciate that the Settlement stipulates the agreed-upon capital structure, ROE, and cost of debt. Specifically, the Settlement uses the Company’s actual capital structure and actual cost of debt as of December 31, 2018, and maintains the ROE established in the 2017 GRC. We find that these elements provide a reasonable basis for calculating the Company’s ROR.

12 Again, while the Settlement is a “black box” agreement and we do not know the specific adjustments or methodology resulting in the \$6.5 million revenue requirement increase, all Parties agree that the amount is a reasonable compromise of their litigation positions.¹⁰ Further, we are satisfied from a review of the evidence in the record that the Company’s costs justify the rate increase, which is significantly less than the Company’s original request for \$12.7 million in additional revenue.

13 The Settlement does not, however, establish a new level of rate base. In the Company’s 2017 GRC, the parties agreed to, and the Commission approved, a rate base of \$280,726,628. As such, any additions made to rate base subsequent to the date of the Commission’s final order in Cascade’s 2017 GRC will be subject to a prudency review in Cascade’s next general rate proceeding.¹¹ Witnesses for both Staff and the Company confirmed the same at the settlement hearing.¹²

14 The Company also stated that it will likely file another rate case very soon. In joint testimony filed in support of the Settlement, Company witness Parvinen stated that, “Unfortunately, because of the harsh impact of regulatory lag, the Company expects that it will need to file another rate case shortly after the resolution of this case.”¹³ Parvinen also referenced Docket U-190531, the Commission’s interpretive and policy statement on the “used and useful” doctrine, which was in its early stages of development at the time joint testimony was filed.

⁹ See Docket UG-170929, Order 06 ¶ 60. In Order 06, the Commission approved a settlement agreement that included an ROR of 7.31 percent. See also Joint Testimony, Exh. JT-1T at 8:5-20.

¹⁰ Exh. JT-1T at 6:12-21.

¹¹ *Id.* at 7:1-7.

¹² See Parvinen, TR 35:4-10 and Erdahl, TR 35:14-24.

¹³ Parvinen, Exh. JT-1T at 11:22-12:2.

15 On January 31, 2020, the Commission issued its Policy Statement on Property that Becomes Used and Useful after Rate Effective Date (Policy Statement).¹⁴ We encourage Cascade to carefully review the Policy Statement prior to filing its next general rate case. The Policy Statement provides specific guidance for seeking to include in rates property that will become used and useful up to 48 months after the rate effective date. We expect the Policy Statement will aid the Company in formulating its request to address issues related to regulatory lag.

B. Cost of Service, Rate Spread, and Rate Design

16 Cascade's initial filing did not include a cost of service study. Cascade witness Myhrum explained that the Company's "proposed rate spread and rate design methodologies remain the same as those approved by the Commission in Order 06 of Docket No. UG-170929."¹⁵ The Parties agree, instead, to address cost of service issues in the Commission's generic proceeding in Docket UG-170003,¹⁶ and agree to apply the revenue changes approved by the Commission on an equal percentage of margin, except for Special Contracts.¹⁷

17 **DECISION.** On July 19, 2018, the Commission filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) in Dockets UE-170002 and UG-170003 to examine the extent to which cost of service studies should be defined by rule, and address policy issues regarding the methods and practices used to calculate and present cost of service studies.¹⁸ Reserving this issue until the conclusion of the rulemaking docket is

¹⁴ *In the Matter of the Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used and Useful after Rate Effective Date*, Docket U-190531 (Jan. 31, 2020).

¹⁵ Myhrum, Exh. IDM-1T at 17:10-11.

¹⁶ WAC 480-07-510(6) currently requires cost studies in general rate proceedings, but does not specify how such cost studies must be prepared or presented. The Commission's inquiry in Dockets UE-170002 and UG-170003 will evaluate the extent to which cost studies can be standardized, the core principles and methods cost studies should utilize, how to streamline the implementation of rates based on a cost study, and the information necessary to ensure an accurate and uniform understanding of the principles upon which a cost study should be based.

¹⁷ Settlement ¶¶ 23-24.

¹⁸ The Commission hosted technical workshops on December 3, 2018, February 21, 2019, February 22, 2019, and September 25, 2019, to discuss cost of service studies. The Commission has solicited comments from interested persons on the cost of service templates filed in the dockets on April 25, 2019, August 30, 2019, and October 11, 2019.

reasonable because the rulemaking will provide significant guidance for all regulated utilities that will impact how they will perform cost of service studies.

18 We also find that applying revenue changes on an equal percentage margin increase or decrease to each schedule is a reasonable compromise that maintains the status quo during the pendency of the cost of service rulemaking.

19 Similarly, the Parties agree to maintain the basic charge in each rate schedule except Special Contracts. As part of the Settlement approved and adopted in Cascade's 2017 general rate case, the Company agreed to perform a load study or, in the alternative, to determine actual core class usage tied to the Company's future Advanced Metering Infrastructure (AMI) program. There was no deadline identified for this condition. However, in the absence of the load study commitment, Cascade agreed to a rate spread based on an equal percent of margin increase (or decrease) to each schedule except Special Contracts. This Settlement reiterates the Company's commitment and requires the Company to maintain basic charges at the levels agreed to in the 2017 Settlement until it performs the load study or detailed load analysis.

20 We find that maintaining the current basic charges until such time the Company performs a load study or detailed load analysis is a reasonable and equitable solution in light of the pending cost of service rulemaking.

C. Other Terms

21 The Parties agree that the terms from the settlement approved and adopted in Docket UG-152286 regarding conservation targets will remain in effect. The Parties agree that these terms apply solely to the Settlement, and do not in any way preclude or relieve Cascade from complying with new or existing statutory requirements. The Parties acknowledge that new laws, such as Engrossed Third Substitute House Bill 1257 (Chapter 285, Laws of 2019), related to energy efficiency, or new or amended Commission rules related to natural gas efficiency, may supersede the terms of the Settlement and may require Cascade to update its conservation plan.¹⁹

22 **DECISION.** Cascade initially proposed that the Commission relieve it of its obligation to meet certain conservation targets established by the settlement agreement approved in the Company's 2015 GRC, the terms of which, *inter alia*, required Cascade to:

¹⁹ Settlement ¶16.

- Achieve at least 100 percent of its annual conservation target;
- File an annual conservation plan, annual conservation achievement report, and annual conservation cost recovery tariff adjustment; and
- Meet with its Conservation Advisory Group quarterly and provide copies of all plans, reports, and tariff filings to the advisory group at least 30 days in advance.

23 We find that the parties' agreement to maintain the terms from the 2015 GRC settlement agreement related to the Company's conservation targets is both appropriate and necessary. Although the Company's conservation requirements will inevitably change under the new laws and rules, it is appropriate to require the Company to continue to meet or exceed its conservation targets in the interim. Relieving Cascade of this requirement would be counterproductive to the Legislature's clear directive that utilities continue to reduce emissions over time.

24 We have reviewed the Settlement and supporting evidence and conclude that the resulting rates, terms, and conditions are fair, just, reasonable, and sufficient. The Settlement terms are lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the Commission. We therefore approve the Settlement without conditions.

FINDINGS AND CONCLUSIONS

- 25 (1) The Commission is an agency of the State of Washington vested by statute with authority to regulate natural gas companies in Washington, including Cascade.
- 26 (2) The Commission has jurisdiction over Cascade and the subject matter of this proceeding.
- 27 (3) The Settlement terms are lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the Commission.
- 28 (4) The rates, terms, and conditions in the Settlement are fair, just, reasonable, and sufficient.
- 29 (5) The Commission should approve the Settlement without condition.

ORDER

THE COMMISSION ORDERS:

- 30 (1) The Commission approves the Joint Settlement Agreement, which is attached as Exhibit A to, and incorporated into, this Order, and adopts the Joint Settlement Agreement as its final resolution of the issues in this docket that it addresses.
- 31 (2) The Commission rejects the revisions to Cascade Natural Gas Corporation's currently effective Tariff WN U-3 previously filed and suspended in this docket. Cascade Natural Gas Corporation must file tariff sheets in compliance with this Order no later than 5 business days prior to their stated effective date.
- 32 (3) The Commission retains jurisdiction to enforce the terms of this Order and delegates to the Executive Director and Secretary the authority to confirm compliance with this Order.

Dated at Lacey, Washington, and effective February 3, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.