

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS
CORPORATION,

Respondent.

DOCKET U-140381

JOINT NARRATIVE IN SUPPORT OF
REVISED SETTLEMENT
AGREEMENT

I. INTRODUCTION

1 This Joint Narrative in Support of Settlement Agreement (“Narrative”) is filed pursuant to WAC 480-07-740(2)(a) by the parties in this case: Cascade Natural Gas Corporation (“Cascade” or “Company”), the staff of the Washington Utilities and Transportation Commission (“Staff”), and the Public Counsel Unit of the Attorney General’s Office (“Public Counsel”) (hereinafter collectively referred to as “Parties” and individually as a “Party”). This Narrative summarizes the Settlement Agreement (“Settlement”). It is not intended to modify any terms of the Settlement.

2 The Parties do not request a hearing to present the Settlement. The Parties instead respectfully request a streamlined review of the proposed Settlement on a paper record. If the Commission requires a hearing, the Parties are prepared to present one or more witnesses to testify in support of the Settlement. In addition, counsel for each Party will be available to respond to any legal questions that the Commission may have regarding the proposed Settlement.

II. SCOPE OF THE UNDERLYING DISPUTE

3 The underlying dispute concerns a complaint issued by the Commission against Cascade at the request of Staff. In 2013, Staff conducted a formal investigation of Cascade's business practices to determine if the Company was in compliance with Commission rules and its tariff regarding late payment charges. The investigation was prompted by a consumer complaint in which Staff found that, in April 2013, Cascade incorrectly applied a late payment charge. During the investigation Staff reviewed Company and customer records from July 1, 2011, through June 30, 2013, as well as Commission records.

4 Following the investigation, on October 28, 2014, the Commission issued a complaint based on a finding of probable cause ("Complaint"). The Complaint alleged that Cascade violated Commission rules and state laws by: 1) assessing late payment charges earlier than provided for in its published tariff; 2) failing to update its tariff to reflect the proper application of the late payment charge, as agreed to in a Commission-approved multi-party settlement stipulation in Docket UG-060256; 3) miscalculating late payment charges in March 2013 by rounding to the nearest dollar; and 4) assessing a disconnect visit charge when a representative is dispatched to disconnect service for non-payment and the service is disconnected. The Complaint requested that the Commission: 1) issue penalties for the alleged violations; 2) find that Cascade's disconnection visit charge and late payment charge as set out in its published tariff are unjust and unreasonable; 3) require Cascade to file revised tariff sheets with disconnection visit charge and late payment charge language that comply with law and prior Commission orders; 4) order refunds of all disconnect visit charges assessed after the date of the Complaint; and 5) order other or further relief as appropriate under the circumstance.

5 On November 25, 2014, Cascade filed an Answer to the Complaint. On January 15,
2015, Public Counsel filed a Notice of Appearance. On January 21, 2015, the Commission
convened a prehearing conference and made the discovery rules available to the Parties. No
other party intervened in the proceeding. On April 6, 2015, Staff notified the Commission
that the Parties had reached a settlement, and the Commission subsequently suspended the
procedural schedule.

III. SUMMARY OF PROPOSED SETTLEMENT

6 The Settlement is a “full settlement” as the term is defined in WAC 480-07-730(1)
because it is entered into by all Parties, and it resolves all issues raised in the above docket.
The Settlement addresses the admission of violations, monetary penalties, customer refunds,
billing practice changes, tariff revisions, and procedures for performance improvement.

7 The Settlement provides that the Commission should assess penalties against
Cascade in the total amount of \$275,000 for the late payment charge violations of RCW
80.28.080 and WAC 480-90-178(1)(b), and that the Company will not seek to recover this
amount in rates.

8 The Settlement provides that the Commission should also order Cascade to issue
refunds to customers who were assessed a late fee during the period beginning June 1, 2012,
and ending December 31, 2013, in those cases in which the customer paid the bill within 45
days from the billing date—a total refund of approximately \$192,258. Cascade will issue the
refunds in the month following the month in which the Commission adopts its order
approving the Settlement Agreement, unless the Commission’s order approving the
Settlement Agreement is issued after the 25th day of the month, in which case the refund will
be issued in the month following the month succeeding the Commission’s order approving

the Settlement Agreement. Cascade will clearly explain the reasons for the refunds to applicable customers via bill inserts or other appropriate means at the time the refunds are issued.

9 The Settlement does not provide for refunds to customers for disconnect visit charges because Cascade's practice did not conflict with applicable law or its published tariff.

10 The Settlement further provides that, as a compliance filing following Commission approval of this Settlement, Cascade will file revisions to Rule 5, Rule 6 and Schedule 200 of its tariff to address both its late payment charge and disconnect visit charge practices. Cascade worked with the Parties to develop revised tariff language that clearly and consistently conforms to its current late payment charge practice, which is to apply the charge when a customer account is unpaid as of the date it enters the next billing cycle. Cascade also worked with the Parties to develop revised tariff language to clarify that disconnect visit charges are assessed only when a Company representative is dispatched to disconnect service for non-payment and the visit does not result in a disconnection of service. The proposed tariff sheets are included as Appendix A with the Settlement. As part of its next general rate case filing, Cascade will include a detailed proposal for how both charges are assessed so that the issues can be fully considered in a general rate case proceeding by all interested parties.

11 The Settlement includes an admission by Cascade that it violated RCW 80.28.080, WAC 480-90-178(1)(b), and its tariff as a result of both its application of late payment charges and the rounding error that occurred in March 2013. The Parties acknowledge that the multi-party settlement stipulation in Docket UG-060256 did not provide a sufficiently

clear explanation of how the late payment charge would apply, and that the Company's tariff language related to the charge is confusing, ambiguous, and requires revision.

12 The Settlement provides that Cascade did not violate WAC 480-90-128(6)(k) because its disconnect visit charge practice did not conflict with that rule. The Parties acknowledge that a historical misunderstanding of when the charge would apply existed.

13 Finally, Cascade commits to take certain actions to improve its business practices. In the future, Cascade will promptly notify Staff when it discovers billing errors, and where appropriate, it will seek guidance as to the proper corrective action. If Cascade remedies a violation by issuing a refund, it will clearly explain the reason(s) for the refund to customers through bill inserts or other appropriate means. Cascade further commits to follow specific procedures to ensure that future changes to its billing system are properly implemented and produce correct results. Additionally, in light of concerns raised in Staff's Investigation Report, Cascade will include a bill insert to all customers in September 2015 and September 2016 to promote the availability of the federally recognized Indian Nation Tax Credit. However, in the event the Commission's order adopting the Settlement Agreement is issued after August 25, 2015, the bill inserts will be mailed to customers in the month following the month in which the Commission order is issued, unless the order is issued after the 25th day of the month, in which case the insert will be mailed in the month following the month succeeding the Commission's order

**IV. STATEMENT OF THE PARTIES THAT THE SETTLEMENT
AGREEMENT SATISFIES THEIR
INTERESTS AND THE PUBLIC INTEREST**

14 The Settlement represents a compromise of the positions of the Parties. The Parties find it is in their best interests to avoid the expense, inconvenience, uncertainty, and delay

inherent with a litigated outcome. Likewise, the public interest is served by concluding this dispute without further expenditure of public resources on litigation expenses. For these reasons, and those contained in the individual statements of the Parties below, the Settlement as a whole is in the public interest as well as the interest of the Parties.

A. Statement of Staff

15 The Settlement satisfies both Staff’s interest and the public interest because Cascade admits to its violations concerning improperly assessed late payment charges, but does not admit to violations where the Parties agree that the Company assessed disconnect visit charges consistent with Commission rule.

16 The Settlement also satisfies both Staff’s interest and the public interest by providing for a significant penalty assessment and substantial refunds to customers who were affected by the violations. Staff is satisfied that the penalty amount and scope of the refunds appropriately captures the seriousness and extent of the violations and the impact on affected customers, and will serve as an incentive for the Company to comply with Commission rules and its tariff in the future. In agreeing to the Settlement, Staff considered that the late payment charge tariff language was confusing and that the Company maintained that it operated at all times under a good faith belief that its practices were consistent with its tariff, Commission rules, and state laws.

17 The Settlement also serves the public interest by requiring Cascade to file tariff revisions as a compliance filing to address both its late payment charge and disconnection visit charge practices as well as by calling for Cascade to revisit how both charges are applied in its next rate case. The tariff revision will provide immediate clarity for the Company and its customers. Requiring the Company to revisit how both charges are

assessed in its next general rate case will enable all interested parties to provide input on a policy that affects some of the Company's most financially vulnerable customers.

18 Staff is satisfied that Cascade will revise its late payment charge tariff language to conform to its current practice because its practice is commensurate with the other gas and electric utilities in the state. Staff finds it appropriate for Cascade to forego the time and expense to change its billing system until the matter is considered again in the Company's next general rate case.

19 Staff is also satisfied that Cascade will revise its tariff so that a disconnect visit charge is assessed only when a Company representative is dispatched to disconnect service for non-payment and the visit does not result in a disconnection of service. This revision aligns Cascade's disconnect visit charge practice with all other gas and electric utilities in the state, and will ensure that some of the Company's most financially vulnerable customers are not hit with both a disconnect charge and a reconnect charge when their service is temporarily disconnected as a result of delinquent payments.

20 For these reasons, Staff finds that the Settlement satisfies both its interest and the public interest.

B. Statement of Cascade

21 Cascade believes that the Settlement is in the public interest and meets the Commission's pertinent legal and policy standards. The Settlement fully resolves the allegation made in the Complaint, thus preserving Company and Commission resources that would otherwise be required for litigation. Cascade has agreed to conform its late payment fee tariff to clearly and unambiguously reflect its current practice regarding application of such fees. In addition, Cascade has agreed to discontinue assessing a disconnection visit fee

in those cases where a customer is actually disconnected, thus ensuring that customers whose service is disconnected and subsequently reconnected will be assessed only one fee—a reconnection fee. Cascade believes that these changes will benefit customers.

22 The Settlement also benefits Cascade. The Settlement resolves the Parties’ disputes, and lays out a path for future compliance. The monetary penalty and refunds agreed to are significant. However, Cascade agrees to pay the penalty and refunds and move forward in the knowledge that past errors have been corrected, and changes implemented to prevent their reoccurrence. For these reasons, Cascade supports the Settlement and requests that the Commission approve it.

C. Statement of Public Counsel

23 The Settlement provides a reasonable resolution of the issues identified in this case regarding late payment fee charges and disconnect fee charges and should be approved by the Commission for the following reasons. First, in the Settlement Cascade acknowledges violations with respect to its late payment charges which include both assessing late payment charges earlier than provided for in its published tariff and rounding late payment charges to the nearest dollar on a number of customer bills. The Settlement also includes penalties to reflect the seriousness of these violations and provides refunds to the impacted customers.

24 Going forward, the Settlement provides a resolution to address the ambiguous late payment fee tariff language and reaches an agreement to revise Cascade’s practice with respect to disconnect fees through tariff revisions that will be agreed on by the parties. The Settlement also includes a number of commitments to mitigate and address potential future billing error issues. Cascade agrees to work collaboratively with Consumer Protection Staff

at the Commission to resolve identified billing errors and identifies a set of procedures and best practices that will be followed by the Company for all billing system programming changes to avoid future errors.

25 Of great importance to Public Counsel in negotiating this Settlement was to ensure that customers who were impacted by Cascade's violations receive refunds, as appropriate. We are pleased that the Company has verified that all customers that were overcharged as a result of late payment fee rounding errors have received refunds and that the Settlement requires Cascade to refund all customers that were assessed a late payment fee during the complaint period and 6 months beyond.¹

26 Another matter of importance to Public Counsel was that the Company's current practice regarding disconnect fees be modified. Currently, the Company charges a disconnect visit fee when customer disconnection occurs as well as charging a reconnection fee when service is re-established. Public Counsel has concerns with this practice because it results in customers, including the most vulnerable customers, being assessed two charges when service is disconnected. The purpose of the disconnection visit charge is to compensate the Company for making the trip to the customer's home but not disconnecting service and should therefore be limited to instances where disconnection does not actually occur. We are pleased that the Company has agreed to discontinue its past practice and revise its tariff so that a disconnect visit charge is only assessed when a Company representative is dispatched to perform a disconnect but the visit does not result in disconnection of service. For the reasons discussed above, Public Counsel believes the

¹ Cascade will refund customers in cases where the customer paid the bill within 45 days from the billing date. Up to 45 days from the billing date reflects the time period where there currently is ambiguity to the customer as to whether a late payment fee will be assessed due to conflicting language in tariff, rules and the customer bill.

Settlement results in a fair, just and reasonable outcome for customers and should be approved.


V. CONCLUSION

27 In WAC 480-07-700, the Commission expresses its support for parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest. The Parties have resolved all of the issues in dispute between them, and their resolution complies with Commission rules and, as explained above, satisfies the Parties' interest and is consistent with the public interest. The Parties requests that the Commission approve the Settlement in its entirety.

Respectfully submitted this 4th day of June, 2015.

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Attorney General

CASCADE NATURAL GAS
CORPORATION



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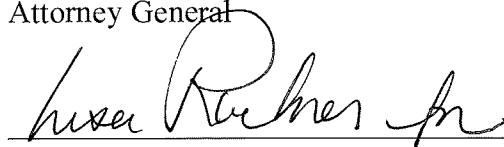
MICHAEL PARVINEN
Director, Regulatory Affairs

Dated: June 4, 2015

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Dated: June 4, 2015

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