

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 173

In the Matter of the)	
)	
PUBLIC UTILITY COMMISSION OF)	ORDER
OREGON)	
)	
Staff Investigation into the Earnings of)	
Cascade Natural Gas Corporation.)	

**DISPOSITION: MOTION FOR SUMMARY JUDGMENT
DISMISSED; STIPULATION APPROVED**

I. BACKGROUND

On August 8, 2006, the Public Utility Commission of Oregon’s (Commission’s) Staff (Staff) filed a Request to Open an Investigation into the Earnings of Cascade Natural Gas Corporation (Cascade), at the Commission’s public meeting. In its report, Staff provided figures showing Cascade’s rates of return (ROR) and returns on equity (ROE) for the last ten years, as adjusted for ratemaking purposes. Staff reported that Cascade is overearning, and found that rates could be lowered by about \$2.3 million, or 3.3 percent, based on an authorized ROE of 9.25 percent. Staff recommended that the Commission open this investigation to “summarily” investigate Cascade’s rates. The Commission voted to approve Staff’s request.

On February 15, 2007, Staff filed its direct testimony in support of its position. Staff recommended that Cascade’s rates be reduced by \$1.4 million, or 1.9 percent. Staff’s recommendation was based on a ROR of 8.66 percent and an implied ROE of 10 percent, assuming a 45 percent equity ratio.

On March 14, 2007, Cascade filed a motion for summary judgment, asking that this proceeding be dismissed. In support of its motion, Cascade argued that the relief requested (1) would be contrary to Commission orders in docket UM 903 wherein the Commission adopted an Earnings Sharing Mechanism, (2) is contrary to a stipulation in docket UG 167, and (3) is barred by alleged procedural deficiencies.

Replies to Cascade's motions were deferred, pending settlement discussions. By Stipulation filed on May 1, 2007, parties informed the Commission that they had resolved "all issues" in this proceeding.¹ The Stipulation is attached as Appendix A. Signatories to the Stipulation were Cascade, Staff, the Citizens' Utility Board of Oregon (CUB), and Northwest Industrial Gas Users (NWIGU). According to the terms of the Stipulation, Cascade withdrew its motion for summary judgment.

On May 18, 2007, the Commission received joint testimony from the settling parties. The purpose of the testimony is to support the Stipulation.

II. STIPULATION

The substantive terms of the Stipulation are as follows:

8. For all Oregon regulatory purposes, including establishing rates in this docket and future reporting of utility earnings during the term of this agreement, the Parties agree that Cascade's authorized return on equity shall be 10.1 percent, and its approved capital structure shall be based on 45 percent common equity.
9. The Parties agree to support, through September 30, 2012, the Earnings Sharing Mechanism as established in Order No. 04-203 in Docket UM 903 and as modified by the Stipulation in Docket No. UG 167, approved by the Commission in Order No. 06-101 (the "UG 167 Stipulation"); provided, however, that the earnings threshold shall be increased to ROE plus 215 basis points and the baseline ROE shall be 10.1 percent for purposes of applying the Earnings Sharing Mechanism to 2007 earnings, and shall be adjusted in accordance with the methodology prescribed in Order No. 04-203 for purposes of the Earnings Sharing Mechanism, as reflected in paragraph 12 of the UG 167 Stipulation, for subsequent years.
10. The Parties support a permanent rate reduction in Cascade's annual revenue requirement of \$700,000.00, to be spread to customer classes on an equal percentage of margin basis using 2005 test year billing determinants.

¹ In their Stipulation the parties state that they also have negotiated an agreement to resolve all issues in docket UM 1283, wherein MDU Resources Group, Inc., seeks approval to acquire Cascade. Paragraph 18 of the Stipulation provides that the two stipulations are interdependent, and that any party may withdraw its support if the Commission rejects all or any material part of the UM 1283 stipulation. In this decision, we consider only the Stipulation filed in this docket.

11. Cascade agrees to file proposed tariffs consistent with Paragraph 10 of this Stipulation within seven days after the Commission issues orders approving the terms of this Stipulation and the stipulation in Docket UM 1283, whichever comes last, subject to paragraphs 17 and 18 of this Stipulation.
12. The Parties agree that the public purposes funding provided by Cascade under paragraph 10 of the UG 167 Stipulation, or any other amounts for such purposes that may be required in the future, shall be reflected as an operating expense for ratemaking and revenue sharing purposes.
13. The Parties agree the Stipulation in this proceeding resolves the need to examine any issue pursuant to a 2008 Rate Case potentially required by paragraph 9 of the UG 167 Stipulation. Accordingly, Staff, CUB, and NWIGU agree that they will not petition or request the Commission to require Cascade to submit a general rate filing in 2008 based upon fiscal year 2007 results of operation under paragraph 9 of the UG 167 Stipulation.

The parties “encourage the Commission to enter an order approving this Stipulation as soon as possible but not later than June 5, 2007.”

The Stipulation is received in evidence.

III. TESTIMONY

The testimony is co-sponsored by a witness from each of the parties. In their testimony the witnesses describe each of the substantive provisions in the Stipulation:

Paragraph 8 reflects the Parties’ agreement on cost of capital issues. Under Paragraph 8, Cascade’s authorized return on equity is set at 10.1 percent, and its approved capital structure is based on 45 percent common equity, for all Oregon regulatory purposes, including establishing rates in this docket and future reporting of utility earnings.

Paragraph 9 pertains to the Earnings Sharing Mechanism established in Order No. 04-203 in Docket UM 903 and modified in the stipulation approved by the Commission in Docket UG 167 (“UG 167 Stipulation”). Paragraph 9 provides that the Parties will support continuation of the Earnings Sharing Mechanism through September 30, 2012. In applying the Earnings Sharing Mechanism to 2007 earnings, the earnings band is increased to 215 basis points and the baseline return on equity is set at

10.1 percent (the return on equity specified in paragraph 8 of the Stipulation.) For purposes of the application of the Earnings Sharing Mechanism in subsequent years, the baseline return on equity will be adjusted in accordance with the methodology prescribed in Order No. 04-203.

Paragraph 10 and 11 reflect the Parties' agreement on Cascade's revenue requirement for purposes of this proceeding. Paragraph 10 provides for a permanent reduction of \$700,000 in Cascade's annual revenue requirement. This revenue requirement reduction is to be spread to all customer classes using an equal percentage of margin basis and 2005 test year billing determinants. Cascade is required under paragraph 11 to submit tariff sheets implementing this revenue requirement reduction within seven (7) days after the Commission issues orders approving the terms of the UG 173 Stipulation and the stipulation in Docket UM 1283, whichever comes later.

Paragraph 12 relates to the public purposes funding provided by Cascade under paragraph 10 of the UG 167 Stipulation. The Parties agree that such public purposes funding, or any other amounts for such purposes that may be required in the future, will be reflected as an operating expense for ratemaking and revenue sharing purposes.

Paragraph 13 of the Stipulation relates to the "2008 Rate Case" discussed in the UG 167 Stipulation. Paragraph 9 of the UG 167 Stipulation provides, in relevant part, that:

If requested by the Commission no later than December 31, 2007, Cascade agrees to submit a general rate filing in Oregon ("2008 Rate Case") not later than April 1, 2008. Cascade shall bear the burden of proof in such filing, in accordance with ORS 757.210.

Paragraph 13 of the Stipulation reflects the Parties' agreement that this proceeding resolves the need to examine any issue pursuant to the 2008 Rate Case potentially required by paragraph 9 of the UG 167 Stipulation. Staff, CUB, and NWIGU agree that they will not petition or request the Commission to require Cascade to submit a general rate filing in 2008 based upon fiscal year 2007 results of operation under paragraph 9 of the UG 167 Stipulation.

The testimony is received in evidence.

IV. OBJECTIONS

OAR 860-014-0085(1) provides that parties “may enter into * * * a stipulation upon any matter in controversy, at any time during the proceeding.” OAR 860-014-0085(4) provides that stipulations shall be supported by an explanatory brief or written testimony filed and served concurrently therewith.

In this case the Stipulation was filed May 1, 2007. A cover letter indicated that supporting testimony would be filed “in approximately two weeks.” The testimony was filed on May 18, 2007. The Commission waives the condition that the testimony be filed concurrently with the Stipulation.

OAR 860-014-0085(5) provides that any party may file written objections to the stipulation within 20 days of the filing. In this case, where the testimony was filed seventeen days after the Stipulation was filed, we ordinarily would allow twenty days from the date the testimony was filed; in this case, that date would be June 7. However, as noted above, the parties have requested that the Stipulation be approved not later than June 5, 2007. Where the Stipulation is among all parties and the result is a rate reduction, we are disinclined to prolong the proceeding unduly.

Accordingly, the Administrative Law Judge issued a ruling that shortened the time to file objections to May 29, 2007. No objections were received.

V. DISCUSSION

Settlements and stipulations are a favored method for resolving matters, particularly in the context of a rate case where the likely results are within a range of reasonable outcomes. If the parties are able to agree as to an appropriate point within that range, we are inclined to approve their stipulation without further scrutiny. However, the Commission does retain discretion to reject any stipulation or settlement where it finds that the result is not in the public interest.

The testimony filed in support of a stipulation should provide some basis for the Commission to evaluate the result in terms of the range of possible outcomes. In this case, the testimony does not explain the results; it merely describes the Stipulation. The testimony is not helpful and might not be acceptable in the context of a more policy oriented stipulation.

In this case the Stipulation resolves factual issues – return on equity, capital structure, and revenue requirement, and also procedural issues – the operation of the Earnings Sharing Mechanism, treatment of public purposes funding, and the timing of Cascade’s next rate case. We are able to evaluate the reasonableness of the Stipulation on its own terms.

The Staff testimony filed on February 15, 2007, provides the context for evaluating the reasonableness of the ratemaking adjustments. Based on that testimony, we find that the provisions of the Stipulation are within the range of reasonable outcomes and are acceptable.

Similarly, the settlement of the procedural issues is reasonable within the context of the settlement of the ratemaking issues. Each of the procedural issues settled relates to ratemaking practices and their resolution does not implicate policy issues.

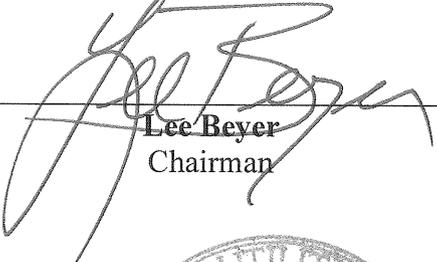
The Stipulation should be approved.

ORDER

IT IS ORDERED that:

1. Cascade Natural Gas Corporation's motion for summary judgment is dismissed.
2. The Stipulation, attached hereto as Appendix A, is adopted.

Made, entered, and effective JUN 05 2007



Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UG 173

In the Matter of the
PUBLIC UTILITY COMMISSION OF
OREGON
Staff Request to Open an Investigation into the
Earnings of Cascade Natural Gas.

STIPULATION

This Stipulation is entered into for the purpose of resolving all issues in this proceeding by and among the parties as set forth below.

PARTIES

1. The parties to this Stipulation (the "Stipulation") are Cascade Natural Gas Corporation ("Cascade"), Staff of the Public Utility Commission of Oregon ("Staff"), Citizens' Utilities Board ("CUB"), and Northwest Industrial Gas Users ("NWIGU"), representing all of the parties in this docket (together, the "Parties" and individually, a "Party").

2. The Parties enter this Stipulation for the purpose of resolving all issues in this proceeding and agree that approval of this Stipulation will establish fair and reasonable rates for Cascade.

BACKGROUND

3. The Commission commenced this proceeding at its public meeting on August 8, 2006, to investigate the reasonableness of Cascade's rates.

4. Staff pre-filed its direct testimony on February 15, 2007.

5. On March 14, 2007, Cascade filed a motion for summary judgment, requesting that the Commission close this proceeding (the "Motion").

6. The Parties have reviewed the pre-filed testimony of Staff, Cascade's responses to the extensive discovery requests submitted in this proceeding, and Cascade's Motion.

7. Since March 2007, the Parties have engaged in settlement discussions on the issues in this proceeding. The settlement discussions have been open to all parties to this Docket.

AGREEMENT

8. For all Oregon regulatory purposes, including establishing rates in this docket and future reporting of utility earnings during the term of this agreement, the Parties agree that Cascade's authorized return on equity shall be 10.1 percent, and its approved capital structure shall be based on 45 percent common equity.

9. The Parties agree to support, through September 30, 2012, the Earnings Sharing Mechanism as established in Order No. 04-203 in Docket UM 903 and as modified by the Stipulation in Docket No. UG 167, approved by the Commission in Order No. 06-191 (the "UG 167 Stipulation"); provided, however, that the earnings threshold shall be increased to ROE plus 215 basis points and the baseline ROE shall be 10.1 percent for purposes of applying the Earnings Sharing Mechanism to 2007 earnings, and shall be adjusted in accordance with the methodology prescribed in Order No. 04-203 for purposes of the Earnings Sharing Mechanism, as reflected in paragraph 12 of the UG 167 Stipulation, for subsequent years.

10. The Parties support a permanent rate reduction in Cascade's annual revenue requirement of \$700,000.00, to be spread to customer classes on an equal percentage of margin basis using 2005 test year billing determinants.

11. Cascade agrees to file proposed tariffs consistent with Paragraph 10 of this Stipulation within seven days after the Commission issues orders approving the terms of this Stipulation and the stipulation in Docket UM 1283, whichever comes last, subject to paragraphs 17 and 18 of this Stipulation.

12. The Parties agree that the public purposes funding provided by Cascade under paragraph 10 of the UG 167 Stipulation, or any other amounts for such purposes that may be required in the future, shall be reflected as an operating expense for ratemaking and revenue sharing purposes.

13. The Parties agree the Stipulation in this proceeding resolves the need to examine any issue pursuant to a 2008 Rate Case potentially required by paragraph 9 of the UG 167 Stipulation. Accordingly, Staff, CUB, and NWIGU agree that they will not petition or request the Commission to require Cascade to submit a general rate filing in 2008 based upon fiscal year 2007 results of operation under paragraph 9 of the UG 167 Stipulation.

14. Upon filing this Stipulation with the Commission, Cascade agrees to withdraw the Motion.

15. The Parties agree to support Commission approval of this Stipulation. This Stipulation will be offered into the record of this proceeding as evidence pursuant to OAR 860-014-0085. The Parties agree to support this Stipulation throughout this proceeding and any appeal, provide either witnesses to sponsor or legal representatives to support this Stipulation, and recommend that the Commission issue an order adopting the agreements contained herein. If any other party to this proceeding challenges this Stipulation, the Parties agree to cooperate in cross-examination; and put on such a case as each deems appropriate to respond fully to the issues presented, which may include addressing issues that are incorporated in the settlements embodied in this Stipulation.

16. The Parties will encourage the Commission to enter an order approving this Stipulation as soon as possible but not later than June 5, 2007. The Parties further agree to request that the Commission enter an order approving this Stipulation at the same time as the Commission enters an order approving the stipulation in Docket No. UM 1283.

17. The Parties have negotiated this Stipulation as an integrated document. If the Commission rejects all or any material part of this Stipulation or imposes additional material conditions in approving the Stipulation, any Party disadvantaged by such action shall have the right, upon written notice to the Commission and all Parties within 15 business days of the Commission's order, to withdraw from this Stipulation, pursue their rights under OAR 860-014-0085, and/or seek reconsideration or appeal of the Commission's order. However, prior to withdrawal, the Party shall engage in good faith negotiation with the other Parties. No Party withdrawing from this Stipulation shall be bound to any position, commitment, or condition of this Stipulation.

18. Concurrently with the negotiation of this Stipulation, the Parties have negotiated an agreement to resolve all issues in Commission Docket No. UM 1283 ("UM 1283"), which is set forth in a separate written stipulation that is also signed by additional parties. The Parties acknowledge that their agreement to this Stipulation is based in part on the terms of the stipulation to settle UM 1283. If the Commission rejects all or any material part of the stipulation settling UM 1283 or imposes additional material conditions in approving that stipulation, any Party that is disadvantaged by such action shall have the right, upon written notice to the Commission and all Parties within 15 business days of the Commission's order, to withdraw from this Stipulation. However, prior to withdrawal, the Party shall engage in good faith negotiation with the other Parties. No Party withdrawing from this Stipulation shall be bound to any position, commitment, or condition of this Stipulation.

19. The Parties agree that this Stipulation represents compromises in the positions of the Parties. As such, conduct, statements, and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this or any other proceeding. By entering into this Stipulation, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed by any other Party in arriving at the terms of this

Stipulation, other than those specifically identified in the body of this Stipulation. No Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except as expressly identified in the Stipulation.

20. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Stipulation is entered into by each Party as of the date(s) entered below:

CASCADE NATURAL GAS
CORPORATION



By: Jon T. Stoltz
Its: Sr. Vice President – Gas Supply and
Regulatory
Dated: April 18, 2007

STAFF OF THE OREGON PUBLIC
UTILITY COMMISSION

By:
Its:
Dated:

CITIZENS' UTILITY BOARD

By:
Its:
Dated:

Stipulation, other than those specifically identified in the body of this Stipulation. No Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except as expressly identified in the Stipulation.

20. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Stipulation is entered into by each Party as of the date(s) entered below:

CASCADE NATURAL GAS
CORPORATION

By:
Its:
Dated:

STAFF OF THE OREGON PUBLIC
UTILITY COMMISSION



By: Jason Jones
Its: Attorney
Dated: 4/24/07

CITIZENS' UTILITY BOARD

By:
Its:
Dated:

ORDER NO. 07-220

Stipulation, other than those specifically identified in the body of this Stipulation. No Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except as expressly identified in the Stipulation.

20. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Stipulation is entered into by each Party as of the date(s) entered below:

CASCADE NATURAL GAS CORPORATION

By:
Its:
Dated:

STAFF OF THE OREGON PUBLIC UTILITY COMMISSION

By:
Its:
Dated:

CITIZENS' UTILITY BOARD



By: Robert Jents
Its: Executive Director
Dated: 4/25/07

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NORTHWEST INDUSTRIAL GAS
USERS

Paula E. Pyron
By: Paula E. Pyron
Its: Executive Director
Dated: April 23, 2007