

ORDER NO. 24-292

ENTERED Aug 28 2024

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2257(1)

In the Matter of

CASCADE NATURAL GAS  
CORPORATION,

Application for Reauthorization to Defer  
Cost of Compliance with the Climate  
Protection Plan (CPP).

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on August 27, 2024, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



**Alison Lackey**

Chief Administrative Law Judge



A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 27, 2024**

**REGULAR** \_\_\_\_\_ **CONSENT**  X  **EFFECTIVE DATE** \_\_\_\_\_ **N/A** \_\_\_\_\_

**DATE:** August 19, 2024

**TO:** Public Utility Commission

**FROM:** Kathy Zarate

**THROUGH:** Caroline Moore, Scott Gibbens, Michelle Scala, and Curtis Dlouhy **SIGNED**

**SUBJECT:** CASCADE NATURAL GAS:  
Docket No. UM 2257(1)  
Requests reauthorization to defer Climate Protection Plan Compliance.

**STAFF RECOMMENDATION:**

Staff recommends the Commission approve Cascade Natural Gas Corporation’s (Cascade, CNG, or Company) request for authorization to defer for later ratemaking treatment costs of compliance associated with the Climate Protection Plan (CPP), for the time period from September 30, 2023, through September 30, 2024.

**DISCUSSION:**

Issue

Whether the Commission should approve Cascade’s application to defer costs associated with CPP compliance expenses.

Applicable Law

This Application is filed by Cascade pursuant to OAR 860-027-0300 and ORS 757.259(2)(e), requesting authorization to defer environmental costs and amounts from insurance recoveries because they are “identifiable utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes...or to match appropriately the costs borne by and benefits received by ratepayers.

Docket No. UM 2257(1)  
August 19, 2024  
Page 2

## Analysis

### *Background*

The Oregon Department of Environmental Quality (“DEQ”) adopted on December 16, 2021, the CPP, which are administrative rules that set GHG reduction targets for covered entities. The CPP sets a declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout the state of Oregon, including diesel, gasoline, natural gas and propane, used in transportation, residential, commercial and industrial settings (the program is not inclusive of fossil fuel used in electric generation). The CPP also regulates site-specific greenhouse gas emissions at large stationary sources, such as emissions from industrial processes.

The program baseline was set at average greenhouse gas emissions from covered entities from years 2017-2019. Reductions from this baseline were set at 50 percent by 2035 and 90 percent by 2050.

The rules were invalidated by the Oregon Appeals Court on December 23, 2023, as the Court found that the rules did not comply with ORS 468A.315(1). Cascade was one of the petitioners in the suit challenging the CPP administrative rules. Since the CPP was invalidated, DEQ issued a Notice of Proposed Rulemaking (NOPR) to adopt new rules for the CPP (“CPP 2024”), which were informed by a stakeholder engagement process.<sup>1</sup> The proposed rules are anticipated to take effect on January 1, 2025 and retain the same emissions reduction level and timelines, despite the pause in the program.

The Company’s filing discusses its efforts to comply with the CPP by reducing natural gas usage through efficiency measures, introducing renewable and low carbon alternative fuels, trading for additional compliance instruments with other covered entities, or purchasing a limited amount of Community Climate Investments (“CCIs”). The Company filed its first Application for Deferred Accounting on September 30, 2022, in Docket No. UM 2257 requesting authorization to defer costs of compliance associated with the 1PP. The Commission approved the Company’s request in Order No. 23-230, issued on June 30, 2023.

On October 13, 2023, the Company submitted the Amended Application for reauthorization to defer costs associated with the compliance with the Climate Protection Program in accordance with ORS 757.259 and OAR 860-027-0300. The Amended Application updates the Proposed Accounting section to change the Company’s accounting treatment for the deferral.

---

<sup>1</sup> See Oregon Department of Environmental Quality, Notice of Proposed Rulemaking for Climate Protection Program 2024, July 30, 2024, accessed at: [Rulemakinghttps://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6795230/File/document](https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6795230/File/document).

Docket No. UM 2257(1)  
August 19, 2024  
Page 3

The Company is amending the original application to include the accruing of interest on the deferral account. The application of interest to the deferral account, specifically the authorized rate of return, is consistent with Commission Order No. 06-507.

The Company originally contemplated a recovery filing during the initial year of deferral which was the reason no interest was requested in the initial filing. The recovery request has been delayed due to uncertain costs and ramping up of compliance processes. Due to the expected high level of costs that will be incurred before recovery can be requested, Cascade is now proposing the inclusion of interest on the deferral account.

In accordance with ORS 757.259, and OAR 860-027-0300, the Company to record and defer costs of compliance with the CPP for the twelve-month period beginning September 30, 2023, and ending September 30, 2024.

In addition, the Company has filed a request to amortize CPP costs incurred in 2022 and 2023 in Advice No. O24-07-06, which is docketed as UG 502. The Company requests a November 1, 2024 effective date for this rate adjustment that coincides with other annual tariff rider adjustments.

The cost, also, of Renewable Natural Gas (“RNG”) beyond the cost of the brown gas will also be deferred. The brown gas portion of the RNG cost will be incorporated into the current Purchase Gas Adjustment mechanism (PGA).

Because the Court of Appeals ruled the CPP rules invalid, Staff considered whether it was appropriate for Cascade to defer CPP costs incurred after December 20, 2023. Staff believes that there are compelling reasons to allow the Company to continue to track costs incurred after the CPP was invalidated and before the successor rules to the CPP go into effect. First, Staff notes that DEQ plans to pick the CPP back up as if there was no delay in implementation and believes that certain actions taken after the CPP was invalidated on December 20, 2023, may allow the Company to more cost effectively comply with the successor rules to the CPP. Second, the Company clarified to Staff that some costs were committed to prior to when the CPP was invalidated, but not incurred until after the CPP was invalidated. While Staff makes no determination about the prudence of these costs or any other costs at this time, Staff believes that it is reasonable to track these costs for later ratemaking.

In making this recommendation, Staff notes that a new set of rules to succeed the CPP is expected to go into effect January 1, 2025. Staff also highlights that many of the costs that the Company sought to defer in its application, such as the purchase of CCIs, were not needed or incurred during the deferral period, and other costs, such as EE investments, have broad benefits that the Company should pursue even without a

Docket No. UM 2257(1)  
August 19, 2024  
Page 4

deferral. Staff's recommendation to allow the Company to track costs incurred after December 20, 2023, should not be interpreted as determining that any particular cost incurred post-invalidation will be determined prudent.

*Reason for Deferral*

Approval authorizing the deferral for future ratemaking treatment of the costs and revenues of complying with the CPP, which are not currently included in base rates.

The Company must increase its planning activities to determine how it will comply with the CPP and based on those activities, take actions to lower its covered emissions.

*Proposed Accounting*

The Company proposes to record the deferral as a regulatory asset in FERC Account 182.3 (Other Regulatory Assets), crediting FERC Account 407.4 (Regulatory Credits).

The Company now proposes to accrue interest on this deferral account at its authorized rate of return in compliance with Commission Order No. 06-507.

*Description of Expense*

These costs include consultants, incremental employees, compliance instruments, certain RNG costs, and emission allowances purchases.

The Company's current deferral balance through July 2023, is \$3,0063,243.

*Estimate of Amounts*

The Company estimates the amount that may be deferred and considered a carryover balance at the end of 12-months will be in the range of \$20 - \$35 million.

*Information Related to Future Amortization*

- Earnings review – Cost Recovery for costs associated with the costs of compliance with the Climate Protection Plan will be subject to an earnings review in accordance with ORS 757.259(5).
- Prudence Review – Will be performed by the OPUC Staff no later than the proceeding to authorize amortization of the costs associated with the costs of compliance with the Climate Protection Plan.
- Sharing – All prudently incurred costs are recoverable by Cascade with no sharing mechanism.

Docket No. UM 2257(1)  
August 19, 2024  
Page 5

- Rate Spread/Design – Will be determined during the proceeding to authorize amortization of the costs associated with the deferral.
- Three or Six Percent Test (ORS 757.259(6)(7)(8)) – Amortization of the deferred costs will be subject to a three percent test in accordance with ORS 757.259(7) or possible six percent test in accordance with ORS 757.259(8) and with Commission authorization. These tests limit aggregated deferral amortizations during a 12-month period to no more than three or six percent of the utility's gross revenues for the preceding year.

### Conclusion

The Company's application meets the requirements of OAR 757.259 and OAR 860-027-0300, and the Commission's discretionary criteria.

Also, the cost will be incorporated into the current Purchase Gas Adjustment mechanism (PGA).

For these reasons, Staff recommends Commission approval of the deferral request for the 12-month period beginning on September 30, 2023

The Company has reviewed this memo and agrees with its content.

### **PROPOSED COMMISSION MOTION:**

Approve Cascade's application for authorization to defer CPP compliance costs for the time period beginning on September 30, 2023, and through September 30, 2024.

CNG UM 2257(1) CPP Deferral