

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UG 435**

In the Matter of	)	REPLY IN SUPPORT OF PETITION
	)	TO INTERVENE BY COALITION
NORTHWEST NATURAL GAS COMPANY,	)	OF COMMUNITIES OF COLOR,
dba NW NATURAL,	)	CLIMATE SOLUTIONS, VERDE,
	)	COLUMBIA RIVERKEEPER,
Request for a General Rate Revision.	)	OREGON ENVIRONMENTAL
	)	COUNCIL, COMMUNITY
	)	ENERGY PROJECT, and SIERRA
	)	CLUB
	)	

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INTRODUCTION

The Public Utilities Commission (“Commission”) should grant the Petition for Intervention filed by Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club (the “Coalition”) without condition because it was timely filed, does not unreasonably broaden the issues before the Commission, and brings directly relevant interests into the proceeding. The Coalition’s concerns about a substantial rate hike without a diversified rate to provide relief to low-income customers, and its concerns about charging ratepayers for continued investment in fossil gas infrastructure during a time of impending climate catastrophe, are both directly relevant to this proceeding. The Commission should consider both of these issues to responsibly discharge its legislative mandate to ensure any rate increase is just, fair, and reasonable. The Coalition’s participation would not unreasonably burden the record or broaden the issues, and the Coalition’s timely filed petition would bring important community voices into a type of proceeding that has historically lacked such representation. The Coalition respectfully asks the Commission to grant its intervention petition without condition.

## STANDARD OF REVIEW

The Commission should grant intervention if (1) the petitioner moves to intervene before the final taking of evidence, (2) the petitioner has a sufficient interest in the proceedings, and (3) the petitioner's participation will not unreasonably broaden the issues, burden the record, or delay the proceedings.<sup>1</sup> A party unreasonably broadens the issues when the interests it would advance in the case are irrelevant to whether the proposed rate increase is just, fair, and reasonable.<sup>2</sup> A party's participation unreasonably burdens the record when its intervention would delay resolution of the proceeding by raising new issues out of time.<sup>3</sup>

## ARGUMENT

A. The Coalition's Interests Are Directly Relevant and Would Not Unreasonably Broaden the Issues Before the Commission.

NW Natural argues that the Commission should limit the Coalition's participation to prevent it from questioning the affordability of its proposed rate hike, in the absence of diversified rates for low-income ratepayers. NW Natural also seeks to prevent the Coalition from challenging the prudence of the company's proposed capital expenditures and investments directed at maintaining and building out fossil gas infrastructure, at a time when impending climate catastrophe and a changing policy landscape will result in a rapid transition away from fossil gas.

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<sup>1</sup> OAR 860-001-0300(6); ORS 756.525(1).

<sup>2</sup> *In the Matter of the Revised Tariff Schedules in Oregon filed by PacifiCorp, dba Pacific Power & Light Co.*, Docket No. UE 94, Order No. 95-1330, (Dec. 19, 1995) (denying petition when party sought intervention to raise concern regarding the impact of the rate proceeding on out-of-state energy costs).

<sup>3</sup> *In the Matter of the Revised Tariff Schedules in Oregon filed by PacifiCorp, dba Pacific Power and Light Co.*, Docket No. UE 111, Order No. 00-427, (Aug. 7, 2000) (petitioner's late intervention would "raise new issues well after the appropriate time to raise them") (hereinafter "*PacifiCorp* Order No. 00-427").

The Commission should reject NW Natural’s request to limit the Coalition’s participation because both of these issues are directly relevant to the fairness of NW Natural’s proposed rate increase and the prudence of its proposed investments. The Commission has broad authority to ensure that rates are fair, just, and reasonable, and it must protect ratepayers from unfair rates, and unreasonable exactions.<sup>4</sup> The fairness of NW Natural’s proposed rate hike in the absence of an affordable rate for low-income ratepayers, and the prudence of its capital expenditures in light of impending climate catastrophe and new state and local policies aimed at decarbonizing home energy use—are exactly the types of issues the Commission should consider when setting gas utility rates as part of its mandate to protect ratepayers from unreasonable and unfair rates and exactions.

*1. Lack of diversified rates for low-income customers*

The Coalition is seriously concerned about the fairness, justness, and reasonableness of NW Natural’s proposed rate hike to low-income ratepayers because NW Natural seeks to increase rates without first providing a diversified affordable rate. To be clear, the Coalition is not seeking to set diversified rates in this proceeding. Rather, the Coalition is concerned that a nearly 12 percent bill increase on all residential customers without the protection of diversified rates for low-income ratepayers would constitute an unfair, unjust, and unreasonable rate hike. Preventing the Coalition from raising this important issue in this general rate case would hamstring the Coalition from raising exactly the types of issues the Oregon Legislature sought to elevate when it enacted HB 2475—which requires utilities to set diversified rates to keep rates affordable for low-income customers.<sup>5</sup>

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<sup>4</sup> *Gearhart v. Pub. Util. Comm'n of Oregon*, 356 Or. 216, 235 (2014) (*en banc*).

<sup>5</sup> House Bill 2475, Sec. 2 (2021).

While HB 2475 does not place any limits on when a utility can file for a rate increase, it does provide that ensuring fairness to ratepayers requires the Commission to consider “differential energy burdens on low-income customers and other economic, social equity or environmental justice factors, that affect affordability for certain classes of utility customers[.]”<sup>6</sup> Failure to consider affordability concerns for low-income ratepayers from NW Natural’s proposed rate increase could be a basis for denying NW Natural’s petition.<sup>7</sup> Accordingly, the burden of NW Natural’s propose rate hike on low-income customers in the absence of a diversified rate is directly relevant to this proceeding.

Lastly, NW Natural asks the Commission to bar the Coalition from raising the issue of whether low-income customers can afford NW Natural’s proposed rate increase because it intends to finalize diversified rates in a separate proceeding.<sup>8</sup> This argument turns the legal standard on its head. Instead of barring the Coalition from raising this issue, the Commission should require NW Natural to present evidence on it—showing that NW Natural will in fact put a diversified rate in effect to protect low-income customers from its proposed rate hike.<sup>9</sup>

2. *Requesting reimbursement from ratepayers for fossil gas infrastructure investments requires review by the Commission.*

NW Natural has proposed significant expenditures that would continue to build out fossil gas infrastructure, for which it seeks revenue recovery from ratepayers. The Coalition is concerned that requiring ratepayers to bear these costs would impose an unfair and imprudent

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<sup>6</sup> House Bill 2475, Sec. 2 (2021).

<sup>7</sup> See ORS 757.210(1)(a) (“The commission may not authorize a rate or schedule of rates that is not fair, just and reasonable.”).

<sup>8</sup> See Response to Petition to Intervene by NW Natural, at 3–4 (Feb 28, 2022).

<sup>9</sup> NW Natural for the first time in its Response to Petition to Intervene states that it will provide for a diversified rate that goes into effect at the same time that a budget order is issued in this case. NW Natural’s opening testimony makes no mention of such a plan.

exaction on ratepayers to pay for assets that will become stranded within the next few decades as Oregon transitions away from gas service to rely upon zero emission electricity for home energy needs. The prudence of allowing recovery of these capital expenditures is directly relevant to this general rate case, and well within the authority of the PUC to consider during this adjudication.

In this proceeding, NW Natural is seeking to recover from ratepayers the costs necessary to build out its infrastructure, including over \$50 million of capital expenditures for “customer growth.”<sup>10</sup> The climate impact of fossil gas is enormous.<sup>11</sup> Continuing to rely on fossil gas and, indeed, increasing our reliance on fossil gas by connecting new customers to utility service will put Oregon on the fast track to exacerbating climate catastrophe.<sup>12</sup> NW Natural predicted that rates could triple by 2050 if customers transition away from the gas system to achieve rapid electrification in just the way Oregon policy—and climate science—now demands.<sup>13</sup>

The Coalition is concerned that as more customers transition away from fossil gas to clean electricity to meet their home energy needs, those least able to afford a transition to clean energy in their homes will bear the increasingly high cost of fossil gas infrastructure.

Electrification is a growing trend that can provide significant decarbonization and savings

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<sup>10</sup> See Direct Testimony of T. Davila, at 25.

<sup>11</sup> Methane, the principal component of fossil gas, is a potent greenhouse gas. Stockholm Environment Institute, *Why we must reduce methane emissions now to solve the climate crisis*, May 12, 2021 (“Reducing methane now will avoid nearly 0.3 degrees Celsius of warming by 2045.”), <https://www.sei.org/featured/why-we-must-reduce-methane-emissions-now-to-solve-the-climate-crisis/>.

<sup>12</sup> Climate Solutions, et al., *Re: Natural Gas Fact Finding Workshop 4 (UM 2178)*, at 3–5, <https://edocs.puc.state.or.us/efdocs/HAH/um2178hah16382.pdf>.

<sup>13</sup> NW Natural, UM 2178, *Natural Gas Fact-Finding Per Executive Order 20-04, NW Natural’s Alternative Climate Protection Program Compliance Scenarios*, Nov. 17, 2021, <https://edocs.puc.state.or.us/efdocs/HAC/um2178hac114551.pdf>.

benefits to individuals, local communities, and the state. More communities in Oregon are going to transition from gas to electric buildings, which will leave new capital investments stranded.

The prudence of NW Natural's proposal to continue to invest in fossil gas infrastructure is directly relevant to this proceeding because NW Natural is seeking to recover the costs of these investments from ratepayers.<sup>14</sup> As such, the Commission should reject NW Natural's attempt to prevent the Coalition from raising this issue here.

B. The Coalition Timely Intervened and Its Participation Would Not Unreasonably Burden the Proceeding.

NW Natural relies upon *PacifiCorp* Order No. 00-427, issued in Docket UE 111, to argue that the Coalition would unreasonably burden this proceeding, but ignores the primary reason the Commission denied intervention in that case. In *PacifiCorp*, the Commission found a petition filed almost eight months after the case started would raise new issues too late in the proceeding, after the parties submitted settlement positions and filed responsive and rebuttal testimony. In another example, the Commission allowed the late intervention of a public interest organization focused on the needs of low-income rate payers, but limited intervention to existing issues because the organization filed for intervention after all the parties had submitted responsive and rebuttal testimony.<sup>15</sup> The Administrative Law Judge found that allowing the late intervenor to raise new issues in that specific circumstance would have imposed an unreasonable burden on the record.<sup>16</sup>

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<sup>14</sup> ORS 756.040(1) (“[T]he commission shall make use of the jurisdiction and powers of the office to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates.”).

<sup>15</sup> *In the Matter of Northwest Natural Gas Co., dba NW Natural, Request for General Rate Revision*, Docket No. UG 388, Disposition: Petition to Intervene Granted with Conditions (May 29, 2020).

<sup>16</sup> *Id.*

In contrast to both these cases, here the Coalition timely petitioned to intervene by the deadline set in the case schedule, well in advance of the final taking of evidence and the April 22 deadline for submitting intervenor testimony. There is ample time to raise and respond to issues under the scheduling order. While the Coalition’s participation may require NW Natural to submit additional responsive testimony, such is a utility’s burden when it seeks to increase rates.<sup>17</sup> The Coalition’s timely intervention would not unreasonably burden the record, and imposing conditions on the Coalition’s intervention is unwarranted.

Further, the Coalition’s participation would elevate the interests of community-led organizations that represent low-income ratepayers who have historically lacked access to proceedings before the Public Utilities Commission. The Coalition of Communities of Color and Verde, in particular, advocate for the needs and interests of environmental justice communities. The Community Energy Project provides services to reduce energy burdens on low-income and frontline communities. In HB 2475, the Oregon Legislature specifically sought to include the voices of environmental justice advocates, and low-income ratepayers, such as these groups, into proceedings before the Commission by setting aside intervenor funding that would encourage their participation.<sup>18</sup> Limiting the Coalition’s intervention in this case would undermine legislative efforts to actively include these groups in Commission proceedings.

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<sup>17</sup> ORS 757.210(1)(a) (requiring the utility to bear the burden of proving its proposed rate increase is “fair, just and reasonable.”); *see also In the Matter of PacifiCorp, dba Pacific Power, No. 20-473, 2020 WL 7658074, at \*4 (Dec. 18, 2020)* (“For any [rate] change proposed by PacifiCorp that is disputed by another party, PacifiCorp still must show, by a preponderance of evidence, that the change is just and reasonable.”).

<sup>18</sup> House Bill 2475, Sec. 3 (2021).

CONCLUSION

For the foregoing reasons, the Coalition respectfully requests that the Commission grant its Petition for Intervention without condition.

Dated this 7th day of March, 2022.

Respectfully submitted,

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