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January 19, 2023

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Post Office Box 1088
Salem, Oregon 97308-1088

Re: Consolidated UG 435 / UG 411 / Application of NW Natural for a General Rate Revision / Schedule 198 Renewable Natural Gas Recovery Mechanism Response to CUB's Application for Clarification and Reconsideration

Northwest Natural Gas Company, dba NW Natural ("NW Natural" or "Company"), files herewith a response to Citizens' Utility Board of Oregon's ("CUB") application for clarification and reconsideration of Order No. 22-388.

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Sincerely,

/s/ Ryan Sigurdson

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Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 435 AND UG 411

In the Matter of

NORTHWEST NATURAL GAS COMPANY,
dba NW Natural

Request for a General Rate Revision
(UG 435), and

Advice 20-19, Schedule 198 Renewable
Natural Gas Recovery Mechanism
(ADV 1215) (UG 411)

**NW NATURAL’S RESPONSE TO
CUB’S APPLICATION FOR
CLARIFICATION AND
RECONSIDERATION OF ORDER
NO. 22-388**

I. INTRODUCTION

1
2 Pursuant to OAR 860-001-0720(4), NW Natural Gas Company, dba NW Natural
3 (“NW Natural” or “Company”) respectfully requests that the Commission deny the Oregon
4 Citizens’ Utility Board’s (“CUB”) Application for Clarification and Reconsideration of Order
5 No. 22-388 (the “Order”), or alternatively, clarify that the method used by NW Natural to
6 allocate costs in its compliance filing was proper. CUB argues that the section of the
7 Order that allocates the costs of the Lexington Renewable Natural Gas project
8 (“Lexington”) between sales and transport customers “may be susceptible to more than
9 one reasonable interpretation” and “requests that the Commission clarify its intent . . .”¹
10 The Commission required NW Natural to allocate Lexington costs that it incurred prior to
11 2022 to only sales customers, and costs incurred after 2022 to all non-storage customers.
12 In its compliance filing, the Company determined which construction costs were incurred

¹ CUB’s Application for Clarification and Reconsideration at 7 (Dec. 23, 2022) (hereinafter, “Application”).

1 in the relevant timeframes and allocated the resulting costs of service accordingly. As
2 discussed below, NW Natural’s compliance with the Order is consistent with its language
3 and intent. Consequently, the Commission should deny CUB’s request for clarification,
4 or confirm that the Company’s method was appropriate.

5 In the alternative, CUB seeks reconsideration of the Order, and asks that the
6 Commission “alter its order to explicitly allocate post-2022 revenue requirement
7 associated with Lexington on an equal cents per therm basis to all distribution
8 customers.”² CUB asserts that the Commission’s direction in the Order regarding
9 Lexington cost allocation fails to reflect the benefits that will continue to flow to
10 transportation customers into the future and is thus contrary to the Commission’s charge
11 to establish just and reasonable rates.³ NW Natural takes no position on CUB’s
12 alternative request for reconsideration, and neither supports nor opposes CUB’s request.

13 II. BACKGROUND REGARDING THE ORDER AND NW NATURAL’S 14 COMPLIANCE FILING

15 In the rate case, parties disputed whether cost allocation should reflect the
16 approach contemplated under Senate Bill (“SB”) 98 and be allocated only to sales
17 customers, or instead be allocated to reflect the fact that benefits from Lexington will flow
18 to all non-storage customers under the Climate Protection Program (“CPP”), which took
19 effect on January 1, 2022. In its testimony and briefing, NW Natural’s position on this
20 topic was aligned with Staff’s and CUB’s positions. The Company argued that the costs
21 of Lexington should be allocated to all non-storage customers, including transportation
22 customers, because under the CPP, NW Natural is the point of regulation for all non-

² Application at 10.

³ Application at 10.

1 storage customers. Therefore, all non-storage customers benefit from Lexington, which
2 helps the Company comply with the CPP.⁴ The Alliance of Western Energy Consumers
3 (“AWEC”) opposed allocating Lexington project costs to transportation and special
4 contract customers under the CPP, arguing instead that because the project was
5 developed pursuant to SB 98, that cost allocation should be consistent with SB 98 and
6 allocated to sales customers only.⁵

7 In its Order, the Commission explained that its decision regarding cost allocation
8 was guided by the fact that there was a change in the use and benefit of Lexington over
9 time; initially, Lexington was proposed in connection with SB 98, but going forward,
10 Lexington will provide on-going benefits under the CPP. However, on the question of
11 cost allocation, the Commission agreed in part with AWEC, and did not adopt NW
12 Natural’s proposal to allocate Lexington to all non-transportation customers and instead
13 adopted an approach that had not been advanced by any party in the proceeding.⁶ The
14 relevant portion of the Order states that sales customers should be allocated “Lexington
15 project costs incurred before 2022.”⁷ Lexington costs incurred after 2022 “shall be
16 allocated to all non-storage customers,” which includes both sales and transport
17 customers.⁸ Thus, the Order establishes a bright line between costs incurred before 2022
18 and costs incurred after 2022 based on when the CPP took effect—January 1, 2022.
19 Prior to 2022, costs are allocated to sales customers, as provided under SB 98, which
20 authorizes NW Natural to acquire renewable natural gas (“RNG”) and predates the CPP.⁹

⁴ NW Natural’s Closing Brief at 62 (Aug. 22, 2022).

⁵ Order No. 22-388 at 65 (Oct. 24, 2022).

⁶ Order No. 22-388 at 84-86.

⁷ Order No. 22-388 at 85.

⁸ Order No. 22-388 at 79.

⁹ Order No. 22-388 at 84-86. SB 98 was passed in 2019 and is codified at ORS 757.390-398.

1 The Commission issued its Order on October 24, 2022, and two days later, NW
2 Natural made its compliance filing to implement the Commission’s direction on a host of
3 issues resolved in the rate case—including the cost allocation for Lexington. In its
4 October 26, 2022 compliance filing, NW Natural followed the Commission’s bright-line
5 pre- and post-January 1, 2022 demarcation for purposes of cost allocation on the basis
6 of when it incurred construction costs for Lexington. As reflected in the Company’s
7 compliance filing, the Order allocates the majority of Lexington’s construction costs (i.e.
8 the return of and on a capital investment: return on rate base, income taxes, depreciation
9 expense, property tax) to sales customers. Since Lexington began operation in early
10 2022, the majority of the construction costs were spent prior to 2022. However, it is
11 important to note that Lexington’s operating expense—excluding depreciation expense
12 that was allocated to pre-2022 capital—is mostly incurred on an ongoing basis after
13 January 1, 2022 and, therefore, is allocated to all non-storage customers on an equal
14 cents per-therm basis.

15 III. ARGUMENT

16 **A. NW Natural’s Allocation of Lexington Costs in its Compliance Filing is** 17 **Consistent with the Language of the Order and No Further Clarification is** 18 **Warranted.**

19 CUB first asks for clarification of the Order, claiming that it is susceptible to more
20 than one interpretation—however, in NW Natural’s view, the Order has only one
21 interpretation that is reasonable in the broader context of the Commission’s decision.
22 CUB notes that the Company interpreted “incurred” as “the period in which its investors
23 outlaid capital to finance the Lexington project prior to the project’s in-service date.”¹⁰

¹⁰ Application at 7.

1 CUB, on the other hand, claims to have a different interpretation—"that costs should be
2 allocated in a manner corresponding to customer benefit."¹¹ For that reason, CUB asserts
3 the Order is ambiguous and may be susceptible to more than one reasonable
4 interpretation. CUB further states that "the Commission should be clear that associated
5 capital expenses collected post-2022 be allocated to all non-storage customers . . ."¹²

6 CUB's interpretation, however, is contrary to the language of the Order and
7 disregards the Commission's direction regarding the pre- and post-CPP cost allocation.
8 The Order clearly focuses on the timing of NW Natural's cost of construction for Lexington.
9 NW Natural does not dispute that traditional ratemaking would ordinarily match the costs
10 and benefits to customers at the time that a project is placed in-service and used and
11 useful over the depreciable life of an asset. In fact, Lexington's cost of service deferral
12 ensured that there was a matching of costs of service incurred for customer benefit and
13 recovery of those costs. Further, in ordinary circumstances, the allocation of costs would
14 typically be based on the final costs of the project at the time it is placed in-service.
15 However, the Commission clearly deviated from this approach in the Order by demarking
16 the date of the CPP's implementation for purposes of cost recovery. If the Commission
17 agrees with CUB that "costs incurred" is intended to reflect when customers began to
18 receive the benefit of the RNG (i.e., the in-service date of the project), there would be no
19 distinction between costs incurred prior to 2022 and costs incurred post-2022 because
20 NW Natural did not place the project in-service until after 2022. Under CUB's
21 interpretation, all Lexington costs would then be allocated to non-storage customers,
22 which, again, is contrary to the plain language of the Order where the Commission agreed

¹¹ Application at 7.

¹² Application at 4.

1 with AVEC that transport customers should not bear the costs of Lexington incurred
2 before the CPP took effect.

3 In other words, if the Commission intended to use traditional ratemaking principles
4 based on when the customer receives benefits—as CUB suggests—there would be no
5 practical distinction between costs incurred prior to 2022 and costs incurred thereafter.
6 Again, Lexington entered service in early 2022, and, therefore, customers received no
7 benefits from the project before that time.¹³ As such, all costs would be allocated to all
8 non-storage customers, including transport customers. If the Commission intended the
9 pre and post periods to be specific to the cost of service, rather than when the capital
10 investment was made, there would be no difference in how costs were allocated between
11 sales and transport customers because the entire cost of service is post January 1, 2022.
12 The Commission could not have intended such a result because it ignores the distinction
13 that it made between these two time periods.

14 **B. The Company Takes No Position on CUB’s Request for Reconsideration.**

15 In the alternative, CUB invites the Commission to take a fresh look at its decision
16 and reach a different result. CUB states “costs should not be allocated when they are
17 incurred by investors . . . [r]ather, costs should be allocated to customer classes based
18 on when the customer receives the benefit from the investment.”¹⁴ NW Natural believes
19 its compliance filing comports with the intent of the Order. The Company, however,
20 neither opposes nor supports CUB’s request for reconsideration, which seeks to allocate
21 all Lexington costs to all non-storage customers. If the Commission decides to grant

¹³ See NW Natural/2100, Chittum at 16 (“The Lexington RNG project began start-up operations on January 13, 2022, when it first began injecting RNG into Black Hills’ pipeline system. The project began commercial operations on January 24, 2022, and is currently producing RNG.”).

¹⁴ Application at 3-4

1 reconsideration and establishes additional process, the Company reserves its right to
2 participate in those processes.

3 **C. If the Commission Grants Clarification or Reconsideration, Any Resulting**
4 **Changes Should be Addressed in the Company’s 2023 RNG Automatic**
5 **Adjustment Clause Filing.**

6 If the Commission decides to grant clarification or reconsideration of the Order,
7 NW Natural concurs with CUB’s suggestion that any resulting changes in cost allocation
8 should be addressed as part of NW Natural’s 2023 RNG automatic adjustment clause
9 (“AAC”) filing. Changes to rates will have to be made as part of the 2023 RNG AAC and
10 concurrent purchased gas adjustment filing, making it much easier to incorporate any
11 clarifications or changes that the Commission may determine are appropriate.

12 **IV. CONCLUSION**

13 NW Natural respectfully requests that the Commission deny CUB’s request for
14 clarification of the Order, or alternatively, clarify that the Company’s allocation method
15 used in its compliance filing was proper. The Company takes no position regarding CUB’s
16 request for reconsideration. If the Commission clarifies or changes how Lexington costs
17 are allocated, NW Natural respectfully requests that such clarifications or changes be
18 incorporated into the 2023 RNG AAC, consistent with the timing proposed by CUB.

19 Respectfully submitted this 19th day of January 2023.

NW NATURAL

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