

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 435 & UG 411**

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2
3 In the Matter of:)
4 NORTHWEST NATURAL GAS)
COMPANY, DBA NW NATURAL) CLOSING BRIEF OF
5 Request for General Rate Revision) SMALL BUSINESS UTILITY
6) ADVOCATES
7)

7 **I. INTRODUCTION**

8 In this Closing Brief, Small Business Utility Advocates (“SBUA”) asks the Commission
9 decline to accept the applicable provision in the Second Multi-Party Second Partial Stipulation¹
10 in this docket and to resolve the COVID-19 in a different docket, or in the alternative, to apply
11 standard ratemaking principles to the allocation of COVID-19 deferred costs to achieve just and
12 reasonable rates for the COVID-19 deferrals. A Reply Brief remains within the scope of those
13 issues that have been brought up in the opening briefs of the parties. The parties focusing on this
14 issue are primarily the Northwest Natural Gas Company (“the Company” or “NW Natural”) and
15 the Alliance of Western Energy Consumers (“AWEC”).

16 **II. STANDARD OF REVIEW**

17 In a case in which a utility is requesting a change in rates or a schedule of rates, such as a
18 general rate case, the utility bears the burden of showing its proposed change will result in rates
19 that are fair, just, and reasonable.² In a utility dispute before the Commission, the burden of proof

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¹ UG 435, filed June 29, 2022.

22 ² ORS § 757.210(1)(a)

consists of two discrete components—the burden of persuasion and the burden of production.³

The burden of persuasion and the ultimate burden of producing sufficient evidence to support its claims is always with the utility.⁴ Other parties to the proceeding have the burden of producing evidence to support their argument in opposition to the utility’s position.⁵

III. ARGUMENT

In a General Rate Case the utility bears the burden to show that its rates are fair, just and reasonable.⁶ The Commission is charged with establishing fair and reasonable rates for the provision of services by public utilities in Oregon.⁷ Including COVID-19 costs in this rate case according to the Second Partial Stipulation yield unjust and unreasonable rates for the Company’s small commercial customers.

A. Use of the Appendix B rate spread is not consistent with standard ratemaking principles. Costs incurred in the past should not be determined by future looking rates formulas. Sharing the overall revenue allocation in the current rate case as AWEC suggest in its brief. agreed in the case does not conform with the matching principle where costs incurred should match the rates at the the time of those costs.

B. The Company has not produced evidence to support its proposal regarding the allocation of COVID-19 costs in the Second Multi-Party Stipulation, whereas SBUA has produced evidence supporting its position opposing the proposal.

³ In re Portland General Electric Company Application to Amortize the Boardman Deferral, OPUC Docket No. UE 196, Order No. 09-046 at 7 (Feb. 5, 2009).

⁴ *Id.*

⁵ *Id.* at 7-8

⁶ ORS 756.040(1), ORS 757.210(1)(a), Pacific Northwest Bell Tel. Co. v. Sabin, 21 Or App 200, 213-214 (1975).

⁷ ORS 756.040; Gearhart v. Public Utility Commission of Oregon, 255 Or.App. 58, 60 (Or. App. 2013)

AWEC might have found that the over all settlement is reasonable, but it does not refute SBUA's objection that the COVID-19 deferral inappropriately groups dissimilar costs together for the use of a single allocator.⁸

Having already explained in its Opening Brief its position regarding the inappropriate use of a forward looking allocator for these costs,⁹ SBUA made clear in its data response to Staff that SBUA's understanding of the "margin" and "marginal" are the same¹⁰.

The Company states that the COVID-19 deferral should be allocated to all customer classes as a matter of principle but does not articulate any standard ratemaking principle in support of this position.¹¹ As between cost causation and matching principles¹² and a principle of agreement of compromise by other parties on subjective benefits, only the former principles can reasonably be stated to be fair and reasonable for ratemaking, especially where the party not agreeing participated in the discussion. The Company admits that SBUA identified another potential method of allocating the COVID-19 deferral costs.¹³ The Company also states that SBUA has not established that the method agreed to in the Second Stipulation is faulty, however, the Company bears the burden of producing sufficient evidence to support its claims, which it does not, and SBUA does produce evidence to support its claim in opposition to the Company.¹⁴

⁸ UG 435 AWEC Opening Brief, p5-6.

⁹ UG 435 Opening Brief of Small Business Utility Advocates, pp 8-9.

¹⁰ SBUA/400 Kermod/401.

¹¹ UG 435/UG 411 NW Natural Opening Brief p 29.

¹² See UG 435/UG 411 NW Natural Opening Brief p 29 citing ORS 757.259(2)(e) articulating the matching principle in Oregon statute.

¹³ NW Natural Opening Brief, p 32.

¹⁴ SBUA/300 Kermod/3; SBUA/206 Kermod/1.

C. Public policy to treat COVID-19 costs fairly and reasonably through standard ratemaking principles is significant where evidence supports the challenges faces by small businesses and the many advantages gained by residential in contrast with small commercial customers. SBUA's position regarding the COVID-19 are known to the Commission and accepting a rate spread that assigns to small business costs that it did not occur is not fair and reasonable.

IV. CONCLUSION

The Company has not met its burden to produce evidence SBUA does not, however, agree that the allocation of COVID-19 deferred costs are just or reasonable. The current proposals that have been presented by Staff and the Company regarding COVID-19 Deferrals are inconsistent with key principles of ratemaking and improperly subsidize other rate classes. SBUA respectfully requests that the OPUC accept the First Partial Stipulation, and deny the COVID-19 cost provisions of the Second Partial Stipulation, keeping COVID-19 deferrals out of this rate case and put them into a separate docket so that they may be examined timely and more thoroughly. Alternatively, SBUA asks the Commission require the Company to apply standard ratemaking principles to these costs and direct allocation among rate classes accordingly.

Respectfully submitted,

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s/ Diane Henkels

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