BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UG 490

In the Matter of NORTHWEST NATURAL GAS COMPANY, dba NW Natural, Request for a General Rate Revision.	

STAFF CLOSING BRIEF

I. Introduction

The remaining litigated issues in this docket have been addressed in both testimony and brief. With respect to most of the issues on which Staff takes a position, there are few facts in dispute. What is in dispute is what the future holds for gas distribution companies. In NW Natural's most recent rate case, UG 435, the Commission observed that assuming a business-as-usual future for gas distribution companies was not warranted, opining the future was "more likely to be an extremely dynamic and different environment for natural gas distribution, including evolving customer preferences and state and local mandates regarding restrictions on service."[1] The Commission noted that "[m]ost of these changes point toward a trend where at least some existing and future customers are likely to respond to the changes by modifying equipment or taking other purposeful measures to change their fuel consumption."[2]

In its order addressing NW Natural's most recent Integrated Resource Plan (IRP), the Commission noted the additional complexity the uncertain future added to resource planning:

> Over the course of this proceeding, Staff and other participants have raised concerns with several components of the company's IRP, including the Monte Carlo analysis, the construction of a preferred portfolio, assumptions about long-term cost and availability of decarbonized fuels, evaluation of RNG relative to other regulatory compliance options, and the company's RNG procurement analysis. Underlying each of these concerns, and framing the context for this IRP and the dialogue between the company and participants, is the dramatic transition required by the CPP and fundamental uncertainties about the optimal regulatory and technology pathways for meeting its requirements, as well as for mitigating the risk that decarbonization policies will continue to evolve at the state and federal level.
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> With significant and rapid changes in the policy environment surrounding resource procurement and planning, the information and analysis required to produce an IRP that meets our guidelines changes as well. We understand that

[1] *In the Matter of Northwest Natural Gas Company, dba NW Natural, Request for a General Rate Revision*, UG 435, Order No. 22-388, p. 49 (October 24, 2022).
[2] *Id.*

> this is the company's first IRP since the CPP went into effect and that there are still a number of issues to resolve regarding implementation. NW Natural expresses surprise at the concerns raised with its IRP, because prior IRPs using less sophisticated analytical methods have met the IRP guidelines and been acknowledged. Although we are sympathetic to the challenge presented by rapid change, and we recognize the ways in which NW Natural has responded to this change as a national leader in fuels decarbonization, we cannot acknowledge an IRP if the analysis does not provide us with a reasonable level of confidence in the company's selection of a preferred portfolio.[3]

Notwithstanding the Commission's words of caution in these two previous dockets, NW Natural takes a business-as-usual approach in UG 490, asking the Commission to continue subsidies to new residential customers to incent expansion of NW Natural's system and to modify the RNG Automatic Adjustment Clause to incent RNG procurement for meeting carbon compliance reduction requirements. Neither request is an appropriate response to address the concerns about an uncertain future voiced by the Commission in both UG 435 and LC 79 as both proposals present too much risk of stranded investments and customer harm to warrant approval.

Relatedly, NW Natural's proposal to significantly increase the fixed basic charges for new single-family and multi-family premises to ensure a future revenue stream to support an expanding system is an unreasonably risky and discriminatory response to an uncertain future. The primary purpose of such charged are to help to ensure that subsidies paid to customers to entice them on to the system are paid back by the new customers in 25 years. However, such high charged are not only discriminatory and harmful to many of NW Natural's most economically vulnerable customers but could contribute to NW Natural's plan falling in on itself as customers may ultimately be pushed to abandon gas service to avoid them.

[3] *In the Matter of Northwest Natural Gas Company, dba NW Natural, 2022 Integrated Resource Plan,* LC 97, Order No. 23-381, p. 7 (August 2, 2023).

As it did in UG 435 and LC 79, Staff recommends the Commission reject NW Natural's risky and inadequately supported proposals for meeting an uncertain regulatory future. Instead, Staff recommends the Commission address the risk that subsidies paid now to incent new customers to join and expand NWN's system will eventually be stranded investments, by eliminating the subsidies rather than dramatically raising rates of new customers. Staff also recommends the Commission reject NW Natural's request to modify the Renewable Natural Gas Automatic Adjustment Clause (RNG AAC) to incent RNG procurement when the Commission has previously made clear that NW Natural has yet to prove that RNG is the least cost and least risk method to reduce carbon emissions.

Staff supports NW Natural's proposal to modify the decoupling mechanism to differentiate between older and newer customers to mitigate the possibility of over-recovery under the mechanism, differing with NW Natural only on the date used to differentiate between newer and older customers. Staff also supports CUB's Rate Protection Plan proposal. With respect to the other remaining litigated issues, Staff does not support NW Natural's request to recover additional revenue requirement for Government Affairs expense nor its request the Commission direct NW Natural to file a multi-year rate plan in NW Natural's next GRC. Due to lack of resources, Staff did not evaluate the Coalition's proposed adjustment to remove investments the Coalition believes were capitalized inconsistently with NW Natural's Schedule X or the Coalition's proposal related to the Oregon Low-Income Energy Efficiency and accordingly, has not taken a position on those issues in this case.

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II. Argument

A. The Commission should eliminate the Line Extension Allowances for new residential customers.

NW Natural bases its proposal for continuing Line Extension Allowances (LEAs) on assumptions new customers will pay back the subsidies by taking service over a 25-year period while paying a monthly fixed charge that is more than 200 percent higher than the current fixed charge and will not face Climate Protection Plan (CPP) compliance costs materially higher than RNG costs that underlie NW Natural's unacknowledged Action Items in NW Natural's most recent IRP. Unfortunately, each of these assumptions must prove true or else the subsidies paid to new customers to join the system will not be paid in 25 years. In other words, NW Natural's analysis supporting its LEA proposal is a house of cards that falls if any of these assumptions is overly optimistic.

Notably, this potential for failure includes the Company's assumption of a future revenue stream from its proposed New Premises Customer Charges that are more than 200 percent higher than the fixed charges paid for by other customers, which means the question of whether the subsidies will pencil out over time can be answered now. If the Commission rejects NW Natural's proposed New Premises Customer Charges, NWN's own Discounted Cash Flow analysis in support of its LEA proposal leads to the conclusion that almost any subsidy paid to new customers now will be stranded investments in the future.

The Company argues that continuing LEAs is appropriate because "[m]aking homes more affordable promotes equity, particularly in the current housing market where home prices have increased rapidly in recent years."[4] This argument is misplaced because making homes affordable is not part of the Commission's mandate. Instead, the Commission's actual mandates

[4] NW Natural's Opening Brief, p. 11.

support eliminating the LEA to make it more likely NW Natural meets its CCP obligations while keeping rates affordable for low-income customers. Governor Brown's Executive Order No. 20-04 requires the Commission to "[p]rioritize proceedings and activities…. that advance decarbonization in the utility sector, and exercise its broad statutory authority to reduce GHG emissions, [and] mitigate energy burden," and determine whether utility portfolios and customer programs reduce risks and costs to utility customers by making rapid progress toward reducing GHG emissions consistent with Oregon's reduction goals.[5] ORS 757.230 requires 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, and any other reasonable consideration," when determining rates.[6]

As argued by the Coalition in its Opening Brief, "[t]he Commission should not subsidize customer growth when the Company's pathway to decarbonizing existing emissions is speculative, and lacks a reasonable degree of certainty regarding cost. Doing so runs the risk that the Company fails to meet its CPP compliance obligations—contrary to state policy and results in long-term costs and risks for customers."[7] In other words, continuing the LEAs is contrary to the mandate placed on the Commission to prioritize activities that advance decarbonization in the utility sector. And given that the costs of stranded investments will be left to customers least able to afford to leave the system, NWN's proposed LEAs are inconsistent with the requirement to consider affordability when determining rates.

For the reasons asserted by CUB, the Coalition, and Staff in testimony and opening briefs, the Commission should discontinue LEAs offered by NW Natural to new residential

[5] Executive Order 20-04, Office of the Governor, State of Oregon.
[6] ORS 757.230.
[7] Coalition Opening Brief, p. 6.

customers either immediately or through a phase-down that continues the annual reduction to the LEA ordered by the Commission in UG 435.

B. The Commission should reject the Company's proposed New Premises Customer Charges.

In its testimony and opening brief, the Company emphasizes that its proposed modification to the decoupling mechanism and proposal for New Premises Customer Charges are two parts of a proposal designed to address an issue identified by Staff in UG 435.[8] The Company's oft-repeated reliance on Staff's previous testimony for its New Premises Customer Charges is misplaced. In UG 435, Staff witness Michelle Scala testified that the current decoupling mechanism may result in over recovery by the Company if the Company continues to assume new customers use the same amount of gas as existing customers notwithstanding energy efficiency measures that make this less likely.[9] Ms. Scala testified that overestimating new customer usage would lead to deferral of an artificially inflated amount of lost revenue and that due to the fact the deferral is amortized through the volumetric charges determined in the Purchased Gas Adjustment, those consuming the most gas would pay the most for this artificially large deferral.[10]

As Staff has made clear in this proceeding, Ms. Scala's testimony regarding the possibility for overcollection and cost shifting in the decoupling mechanism does not support NWN's radical increase to fixed monthly charges for new customers joining the system. In fact, Staff believes the New Premises Customer Charges are arbitrary and inequitable, would reduce

[8] See e.g., NW Natural's Opening Brief, p. 18, lines 11-14 ("NW Natural's decoupling and rate design proposals reflect current usage trends and principles of cost causation, and protect existing customers, consistent with the Company's responsible growth strategy—and are responsive to a past issue raised by Staff.")
[9] NW Natural/4803, Wyman-Walker/1-5, Excerpt of UG 435 Staff/1300, Scala.
[10] NW Natural/4803, Wyman-Walker/1-5, Excerpt of UG 435 Staff/1300, Scala.

incentives for customers to conserve energy, and disproportionately impact lower income customers.

The potential harm to new customers from the New Premises Customer Charges would be exacerbated if coupled with NW Natural's proposed LEAs. The LEAs would provide direct financial incentives to housing developers to connect the gas system. However, the actual gas customers, whether they are new homeowners or renters, would not necessarily see the benefit from the LEAs, but nonetheless would be required to pay a high fixed charge that could not be mitigated by lower usage. For these reasons and those discussed in testimony and briefs of Staff, CUB, and the Coalition, Staff recommends the Commission reject the Company's New Premises Customer Charges.

C. The Commission should modify NW Natural's decoupling mechanism as proposed by Staff.

Staff and NW Natural both support bifurcating the baseline customer usage for new customers joining NW Natural's system to ameliorate potential for overstating lost revenue associated with energy efficiency and conservation. Staff and NW Natural agree on some elements of the modification – that the demarcation of new and existing customers should remain constant through future rate cases until customer usage patterns support a different bifurcation and that the Company should calculate one heating coefficient for both customer segments.

However, while Staff and NWN agree that usage per customer (UPC) baselines should be separately calculated for "new" customers and "existing" or "older" customers, they disagree on the demarcation between new and existing customers. NWN proposes to use November 1, 2024, the effective date of this rate case as the bifurcation date, relying on usage data from January 1, 2018, to December 2022, to estimate usage for new and existing customers. Staff disagrees that November 1, 2024, is a reasonable date to distinguish between new customers with less usage

and older customers with more usage because new customers with less usage have been joining the system for several years, which the data collected for the 2018 through 2022 period demonstrates. Staff believes that including these newer customers in the calculation of the baseline UPC for older customers does not effectively diminish the likelihood of overestimated usage in the decoupling mechanism.

NWN's primary opposition to Staff's proposed demarcation between the UPC baseline for new and existing customers is an argument that using this date will result in UPCs that do not match the UPC assumed for purposes of setting rates. NW Natural asserts, "Staff's argument to retroactively define new premises customers as those residing in premises that connected to the system as far back as 2018 does not consider that those customers are already included in the existing residential class UPC of 660 therms calculated for this proceeding and have been for two rate cases prior to the current case."[11]

NWN's argument is not persuasive. Staff is not changing the price per therm, which is the same whether the customer is new or existing and is not changing the overall load assumed for purposes of establishing revenue requirement. Staff only proposes to change the UPC baselines used to determine the appropriate amount to defer under the decoupling mechanism. The changed baselines should impact to whom the deferred over or under collected revenues are attributed but have no impact on the revenue requirement collected by rates made effective November 1, 2024, and ultimately, should not change the total amounts deferred.

In any event, even assuming the Commission is persuaded NW Natural is correct that Staff's proposal creates a mismatch between the decoupling mechanism and rates, rejecting Staff's proposed modification is still not warranted. If NW Natural is correct, Staff's proposal

[11] NW Natural's Opening Brief, p. 21.

could result in a reduction to the amounts deferred under NW Natural's decoupling mechanism. Staff believes any necessary correction is properly addressed when calculating the deferral balance for purposes of amortization through the PGA rather than rejecting Staff's proposed bifurcation date. As discussed, in testimony and briefs, 2018 provides a reasonable demarcation between consumption rates for older and newer customers. NWN's own 2024 demarcation date is based on observations of decreasing usage from 2018 to 2022. Ignoring this declining usage when updating the decoupling mechanism will diminish the efficacy of the update and still leave a mechanism that may be skewed towards NW Natural's over recovery.

Accordingly, Staff recommends the Commission adopt Staff's recommended bi-furcation date of January 1, 2018, and order NW Natural to draft the associated deferral request to encompass amounts that would defer under either bi-furcation date. To the extent NW Natural is correct and is potentially harmed by a discrepancy between Staff's proposed UPCs and the UPCs used in revenue requirement, the harm can be addressed at the time of amortization in the PGA.

D. The Commission should reject NW Natural's proposed modifications to the RNG AAC.

NW Natural asks the Commission to modify the RNG in two ways, asserting that the modifications will remove disincentives to acquisition of RNG.[12] First, NW Natural asks for authority to defer capital investment between the on-line date of the investment and the rate effective date or, to have a flexible filing date for the update so that NW Natural can file the update immediately after the on-line date of capital investment. Second, NWN asks the Commission to change the earnings test benchmark so that NW Natural may amortize any variance between forecasted and actual costs up to the point its earnings equal authorized ROE.[13]

[12] NW Natural's Opening Brief, p. 87.
[13] NW Natural's Opening Brief, p. 87.

Currently, NW Natural is allowed to amortize the variance up to the point its earnings are equal to its authorized ROE -50 basis points.

Notwithstanding the alleged disincentives of the current RNG AAC, NW Natural is clear it intends to acquire RNG in the future.[14] SB 838 already incents development of RNG by providing an avenue for NW Natural to recover above-market costs of RNG in rates and the Commission has noted that NW Natural has yet to show that RNG is the least cost, least risk method to reduce carbon emissions. Any suggestion the Commission should take steps to incent RNG procurement seems misplaced in these circumstances.

In any event, Staff disagrees with the proposed modifications. The RNG AAC already gives NW Natural the benefit of including new plant in rates without the need for a general rate case, thus minimizing regulatory lag. RNG is not the only means of reducing carbon emissions and currently does not appear to be the least cost method. Modifying the RNG AAC to incent even more than the incentives already provided by SB 838 and the existing mechanism is not warranted.

Second, NW Natural's claim that it is penalized for greater than forecasted RNG production if the earnings test benchmark is set 50 basis points below ROE is not true for out-of-state projects, which are all NW Natural has invested in so far. And, even if the effect NW Natural described in testimony and brief would happen with in-state projects, NW Natural has not shown the additional production would be sufficient to materially impact the earnings test. In absence of a showing a fix is required, Staff recommends the Commission reject NW Natural's request to set the earnings test benchmark for the RNG AAC at authorized ROE.

[14] NW Natural's Opening Brief, p. 89

E. The Commission should reject NW Natural's request for an order directing NW Natural to file a multi-year rate plan.

In opening testimony, NW Natural testified that it is planning to propose a multi-year rate plan in the future and that it sought to engage with Staff and intervenors in UG 490 to address or identify important issues prior to making such a filing in its next rate case. NW Natural did not suggest that it sought a ruling from the Commission on the issue of multi-year rate plans, testifying that "[g]iven that NW Natural is not proposing a multi-year rate plan in this proceeding, we are only conceptually discussing the mechanics of a multi-year rate plan at a high level." [15]

NW Natural did not get a robust response to its opening request for dialogue on its future plans. For Staff's part, its resources were stretched thin as it prepared opening testimony in this case, as it was at that time in the process of reviewing four different general rate cases, and was not able delve into issues related to a multi-year rate plan on a conceptual level. CUB provided some comments in response to NW Natural's invitation for a conceptual discussion, but ultimately recommended that the next step should be a general investigation into multi-year rate plans as opposed to a rate case filing with a multi-year rate plan.

In rebuttal testimony NW Natural states it "would appreciate guidance from the Commission on this topic" and "requests the Commission to direct the Company to include a multi-year plan in its next rate case."[16] And, to the extent the Commission wishes to open an investigation, NW Natural states it should not be precluded from filing a multi-year plan during the pendency of the proceeding.[17]

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[15] NW Natural/100, Palfreyman-Kravitz/35.

[16] NW Natural/4400, Kravitz/34.

[17] *Id.*

Staff opposes NWN's request the Commission "direct the Company to include a multi-year plan in its next rate case." Staff is concerned that such a direction would be taken out of a context as approval of the concept of a multi-year rate plan. For example, if Staff or another party ultimately opposed implementation of a multi-year rate plan, the Company would point to the Commission's order this docket and argue the Commission had already ordered the Company to implement a multi-year plan.

Staff understands CUB's request for a general investigation prior to NWN's use of a multi-year rate plan. Staff and intervenors will be hard-pressed to review and testify on the new issues presented by a multi-year rate plan filing while reviewing and testifying on the typical revenue requirement and rate spread issues presented by rate cases. However, the Commission's resources for such a general investigation are limited and Staff is not sure they are best used for such an investigation.

Ultimately, Staff recommends the Commission take no action regarding the Company's multi-year rate plan concept. Staff understood NW Natural's opening and reply testimony to be an invitation to parties to engage in dialogue regarding the concept, not a request for a Commission decision of any sort, and accordingly, did not present a position to the Commission on the merits of a multi-year rate plan. It was not until NWN's final round of testimony that the Company included a request for Commission action.

If the Company intends to file a multi-year rate plan in the future, Staff believes it is incumbent on the Company to continue to engage with stakeholders regarding the components of a multi-year rate plan but to do so in a more collaborative and workable way then conceptual testimony in a general rate case already filled with difficult and divisive issues. For example, the Company should hold workshops with stakeholders specifically on this topic to lay the

groundwork for any subsequent Commission filing. However, a Commission order instructing the Company to work collaboratively with stakeholders is not necessary.

III. Conclusion

For the reasons stated above, Staff recommends the Commission reject NW Natural's proposed New Premises Customer Charges, modifications to the LEA, RNG AAC, and decoupling mechanism, its request to increase revenue requirement for additional Government Affairs costs, and its request the Commission direct it to file a multi-year rate plan. Staff also recommends the Commission eliminate NW Natural's LEA, adopt Staff's proposed modifications to NW Natural's decoupling mechanism and the Company's time exception reporting requirements related to lobbying activities, Staff's recommendation for concentrated outreach related to implementation of the OLIEE program, and CUB's proposal for rate impact mitigation for residential customers.

DATED this 26th day of August 2024.

Respectfully submitted,

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