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September 2, 2025

Public Utility Commission
Attn: Filing Center
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Re: UG 520 – CUB Opening Brief "clean" Courtesy copy

The Oregon Citizens' Utility Board ("CUB") submits this cover letter accompanying this filing of a "clean" courtesy copy of our Revised Opening Brief in UG 520.

As an initial matter, we want to make clear that CUB does not believe it is necessary to file a "clean" copy of our Revised Opening Brief. The ALJ's August 14 Ruling on CUB's Motion to Admit excluded certain exhibits and directed CUB to "submit a revised version of its opening brief striking any references to the excluded exhibits consistent with this ruling by August 19, 2025."[1] CUB followed the text of the August 14 Ruling and submitted a revised version of our Opening Brief with strikethrough on August 19. NW Natural contacted CUB again and said another section should be stricken, and in the spirit of cooperation on August 22, 2025, CUB filed an Errata striking additional language on page 12.

After Staff and Intervenors submitted Closing Briefs, NWN emailed CUB to say we needed to file a "clean" copy of the Revised Opening Brief in addition to the strikethrough copy. CUB disagreed with NWN's reading of the ALJ's August 14 Ruling and relayed this position to NWN. We indicated that CUB had followed the August 14 Ruling's directive to a tee and that filing a clean copy would be administratively inefficient and were worried it would require the other parties to file errata to their closing briefs. Moreover, if NWN disagreed with the ruling it should have asked for clarification or reconsideration. Instead, NWN has continued to implore CUB to file a "clean"

[1] August 14 Ruling on CUB's Motion to Admit at 8.

copy, indicating that we should read between the lines and determine what the ALJ "implied" by the August 14 Ruling rather than following the explicit text.

NWN has now threatened that if we do not file, *the Company will file its own version of CUB's Opening Brief today*. It is wildly inappropriate for the Company to file such a version. And CUB continues to believe that following the text of the ALJ's August 14 Ruling is correct rather than reading between the lines. Nonetheless, we are filing this as a courtesy after NWN's insistence and to wash our hands of this issue so we can move on. CUB represents all of Oregon's residential IOU ratepayers. Not only should our time be spent preparing for oral argument in this docket, but also on the other utility dockets. Given the repeated resurfacing of these issues, going forward CUB will be requesting the Commission provide clarity and certainty on its evidentiary rules.

CUB is not trying to mince words here nor are we trying to encourage an inefficient process. We have filed the Revised Brief and Errata as the ALJ directed. The ALJ did not direct CUB to also file "clean" copy of our Revised Opening Brief. We believe the parties, the ALJ, and the Commissioners understand strikethrough, which is why the ALJ directed only a strikethrough copy. Importantly, this "clean" copy filed today is whiting out the stricken language to avoid other parties needing to file errata to their Closing Briefs.

We are filing this as a courtesy copy, but if the ALJ would like this as a motion to admit, we are happy to do so if directed. Please let me know if you have any questions or concerns.

Respectfully submitted,

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UG 520

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

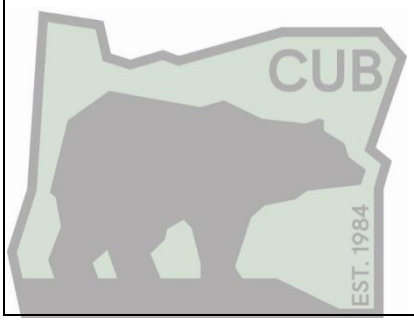
(CLEAN)

REVISED OPENING BRIEF

OF THE

OREGON CITIZENS' UTILITY BOARD

August 8, 2025



BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UG 520

In the Matter of NORTHWEST NATURAL GAS COMPANY dba NW NATURAL, Request for a General Rate Revision.	)	(CLEAN) REVISED OPENING BRIEF OF THE OREGON CITIZENS' UTILITY BOARD

Question Presented

Electrification is happening. And as NW Natural's (NWN) customers choose to electrify and leave the gas system, they leave behind service lines, mains, and meters. This abandoned infrastructure is no longer used to serve NWN's customers; they are retired assets. ORS 757.355(1) prohibits a utility from including the cost of retired assets in rate base. Accordingly, when NWN retires this infrastructure, the question presented here is whether the Commission should find:

1. that retirement due to electrification is in the public interest pursuant to ORS 757.140(2) allowing NWN to move the remaining undepreciated investment into a regulatory asset so NWN can recover the investment at the time value of money; or

2. that the retirement due to electrification is *not* in the public interest and that the depreciated plant balances of those retired assets are unrecoverable from Oregon ratepayers pursuant to the prohibition in ORS 757.355(1).

To do otherwise and allow NWN to continue to keep balance of the retired infrastructure in its current group depreciation account, no matter how convenient, would be confiscatory. It is firmly established in Oregon that under ORS 757.355(1) and ORS 757.140(2) a utility can recover the principal amount *of* the retired plant but cannot recover a return *on* the unamortized investments and thereby obtain even higher rates from ratepayers as a result.

For the reasons that follow, the Oregon Citizens' Utility Board (CUB) recommends the Commission find retirement due to electrification is in the public interest pursuant to ORS 757.140(2) and direct NWN to move the remaining undepreciated investment into a regulatory asset so NWN can recover the investment at the time value of money, which CUB calculated is 4.496 %.

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Introduction

Generally, Oregon only allows a utility to recover from customers costs that are associated with assets that are presently used in providing service to customers. When the Commission finds that an asset is retired in the public interest, however, the Commission applies its Retired Asset Policy to make the utility whole by allowing it to recover its original capital investment, along with an interest rate that represents the time value of

money, but the utility is not allowed to earn a higher rate on equity. CUB is proposing the Commission apply this policy to assets retired due to electrification on NWN's system.

From the outset it is essential to clarify that CUB is not asking the Commission to support a general finding that "electrification is in the public interest" as other parties mistakenly assume,[1] but that *retirement due to* electrification is in the public interest, as CUB witness Jenks testified to at length and as we continue to argue in this brief.

CUB supports a policy of limiting recovery of retired property to instances where the Commission finds that retirement is in the public interest pursuant to ORS 757.140(2) and disallows the utility's return on equity to the undepreciated investment of the retired asset. The policy, which CUB has coined the Retired Asset Policy, builds on the *Trojan* lineage and prior Commission decisions that harmonize two seemingly conflicting statutory standards—the ORS 757.355(1) prohibition on including costs from plant that is no longer "presently used" in customer rates, and the ORS 757.140(2)(b) provision allowing remaining undepreciated investment in retired utility plant when the Commission finds that retirement is in the public interest.

Under the Retired Asset Policy, a utility can recover its undepreciated investment in retired assets if the retirement is found to be in the public interest, but the utility cannot earn a profit – instead the utility is limited to the time value of money. [2] This policy allows the utility to be made whole – to recover its investment – but protects customers

[1] *See e.g., In the Matter of NORTHWEST NATURAL GAS COMPANY, Request for a General Rate Revision*, Docket No. UG 520, Staff Position Statement at 2 (July 15, 2025).
[2] CUB/200 Jenks/9.

by ensuring that utilities are only charging a profit on assets that are actually used and useful.[3]

Procedural History

NWN, Staff, CUB, the Coalition, and AWEC supported or did not oppose three partial stipulations in the above captioned proceeding. This includes settlements on revenue requirement; return on equity (ROE); capital structure; Bill Discount Program auto-enrollment into the income-appropriate tier; and a Low-Income Home Energy Assistance Program (LIHEAP) funding increase coupled with Oregon Low-Income Gas Assistance (OLGA) optimization and administrative adjustments.

In particular, CUB appreciates the dedication, empathy, and creative thinking the parties demonstrated to address the LIHEAP funding loss with OLGA adjustments.[4] The Federal Government's decision to terminate LIHEAP will impact NWN's most vulnerable customers. The OLGA bill increase will be tiny when spread across customers, but the impact of replacing the LIHEAP dollars will be significant. Combined with the Oregon Energy Assistance Program (OEAP) legislation, we are prepared for LIHEAP cuts across the three biggest utilities in the state.

Additionally, the parties settled the rate treatment for retired Mist Compressor GC 500. In Opening Testimony, CUB recommended the Commission apply the Retired Asset Policy to the retirement of the Mist Compressor, the IT&S system, and Electrification. For the Mist Compressor, CUB recommended that the regulatory assets should be

[3] *Id.*
[4] *See In the Matter of NORTHWEST NATURAL GAS COMPANY, Request for a General Rate Revision*, Docket No. UG 520, Third Partial Multi-Party Stipulation (Aug. 5, 2025).

amortized over 23 years with an interest rate of 4.499%, representing the time value of money using the Commission's methodology in UG 374. In settlement, the parties agreed to remove the remaining depreciable life of the Mist Compressor from its group depreciation account and place it in a regulatory asset to be amortized over eight years at 4.499%.

This leaves CUB's single remaining issue: whether the Commission should find retirement due to electrification is in the public interest and place the undepreciated balance in a regulatory account with an interest rate representing the time value of money. As the record demonstrates electrification is occurring on NWN's system. Under NWN's application of group deprecation, as households electrify and leave the system, the unamortized investment will remain in the group depreciation account and be financed at the utility's rate of return by the customers who remain. As this Opening Brief lays out, the evidence presented and the law demonstrate that ORS 757.355 prevents NWN's shareholders from profiting on these stranded costs, but ORS 757.140(2) makes the Company whole if retirement due to electrification is in the public interest. This balances the interests of utilities and customers.

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Argument and Authorities

I. Burden of Proof

In a utility dispute before the Commission, the burden of proof consists of two discrete components—the burden of persuasion and the burden of production.[5] In a utility proceeding, the burden of persuasion and the ultimate burden of producing sufficient evidence to support its claims is always with the utility.[6] Other parties to the proceeding have the burden of producing evidence to support their argument in opposition to the utility's proposal.[7] Where a party like CUB produced sufficient evidence to rebut the Company's proposal (here, NW Natural's proposal to continue to keep the undepreciated investment of assets retired due to electrification in rate base despite the statutory prohibition), the burden of production of evidence then shifts to the parties who support the original proposal, here NWN, AWEC, and Staff, to demonstrate why the evidence brought forward should not result in a rejection of NWN's original proposal to continue to earn a profit on assets not presently used and thereby obtain even higher rates from ratepayers as a result.[8]

As the Commission reviews CUB's remaining issue, it is imperative to keep this burden in mind. Instead of rebutting CUB's evidence, the Company has relied heavily on the assertion that electrification is not happening and there is no associated stranded asset risk. But this assertion is an appeal to ignorance. Recall the maxim, an "absence of evidence is not evidence of absence." The Commission should reject this tactic and find NWN has failed to present adequate information to carry its burden of proof.

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

[6] *Id*.

[7] *Id*. at 7-8.

[8] *See In the Matter of NORTHWEST NATURAL GAS COMPANY, Request for a General Rate Revision*, Docket No. UG 435, Order No. 22-388 at 52 (Oct. 24, 2022).

II. Electrification is happening on NWN's system.

A. The record supports a finding that customers on NWN's system are electrifying and will continue to electrify.

Consistent with the past rate case orders, the record here supports a finding that electrification is occurring on NWN's grid. In UG 435, the Commission looked to the "robust record" in the proceeding of policy changes taking place in the natural gas distribution business.[9] This included evidence of the CPP, evolving customer preferences, and activities of municipalities or other jurisdictions in potentially enacting limitations on natural gas.[10] Based on this record, the Commission was not persuaded by NWN's arguments, that would assume customers would remain on its system in a "business as usual" approach well into the future.[11] Likewise, similar evidence in this record supports a finding that the trend of electrification continues.[12]

Staff agrees electrification is happening, but does not support CUB's proposal because the pace of electrification is too slow to warrant action.[13] It's not clear what evidence Staff is using to support its claim. Staff does not cite to record evidence or make clear what evidence it is using to measure that pace

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[9] *Id.* at 49-50.
[10] *Id.*
[11] *Id.* at 49.
[12] *See* CUB/100 Jenks/22; *see also* UG 520/CUB/200 Jenks/16-18.
[13] *See* Staff/1800 Scala/7 ("Staff does not support departing from standard group depreciation practices for service lines at this time. Customer counts on NW Natural's system have continued to grow, and the number of customers fully electrifying and disconnecting service remains small.").
[14]

Similarly, NWN argues it has not observed electrification happening on its system.[15] However, NWN's own data shows electrification *is* occurring on its system. [16] In March of this year, NWN began to track customer requests for service cuts separately from other service work orders.[17] In the five months of data, there were 51 entries where customers requested to cut service.[18] These entries include various vintages across the service areas.[19] Included with some of these entries was additional information confirming the customer was cutting service because they were electrifying.[20] Although NWN claims these homes could at some point in the future serve a gas customer, this claim is unsupported and contrary these records.[21] Each of the 51 entries states "no future gas".[22]

Despite NWN's claims that it is not aware of any fuel-switching on its system and that it does not know how many customers have disconnected service due to electrification[23] this was not always the case. In UM 1565, NWN testified that fuel-switching, gas to electric, occurred on its system due to heat pump incentives from ETO.

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[15] *See* NW Natural/3600 Spanos-Wilson-Kravitz/Page 12; *see also* NW Natural/3600 Spanos-Wilson-Kravitz/17-18 (stating the Company is "not aware" of any customers on its system that are choosing to electrify).
[16] *See* CUB/ 316/1 (NWN implemented a new process in March 2025 to track customer requests for service cuts separately from other service work orders); *see also* CUB/ 317.
[17] CUB/ 316/1.
[18] CUB/ 317.
[19] *Id.*
[20] *See e.g.,* CUB/ 317/2 entry 10281388 ("Going electric - no gas needed"); entry 10291252 ("Cutting service, no plans to rebuild with natural gas, customer going all-electric due to cost of gas reconnect"); entry 10293546 ("Home has been remodeled and converted to electric"); entry 10299393 ("Cutting service for remodel, customer is going all-electric.") entry 10301057 ("Abandon 3/4" (W) service at main Going electric"); entry 10302930 (Converting to electricity. Vintage: 2001") entry 10302971 (vintage 2015 "converting to electric"); entry 10306827 ("Vintage 2014 Customer no longer uses gas-installed heat pump").
[21] CUB/ 316/1.
[22] CUB/ 317.
[23] CUB/ 316/1.

Based on the Company's review of city permit data, NWN reported that from 2006 to 2011, over 5,000 customers installed heat pumps across its service territory with half being installed in homes of gas customers. [24]

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III. Continuing to delay action on retirement due to electrification will have a material impact on customers' rates.

Utilities' profits are driven by three inputs: capital investments, the depreciation period, and the return on equity. A utility finances a capital investment with a mixture of debt and equity, which combined make up the rate of return. Each year they charge customers their rate of return multiplied by the undepreciated investment. This creates an incentive to make capital investments, and it creates an incentive to depreciate capital investments over the longest period of time that can be justified because profits are increased by the size of the undepreciated investment.[26] When these two factors combine with the group depreciation method, it produced an unlawful profit – at the expense of ratepayers – unless the Commission intervenes to remove the undepreciated balance of retired assets.

Under NWN's application of group deprecation, as customers electrify and leave the gas system, the unamortized investment will remain in the group depreciation account and be financed at the utility's rate of return by the customers who remain. At its

[24] *In the Matter of the PUBLIC UTILITY COMMISSION OF OREGON Investigation of Fuel Switching and Cross Fuel Energy Efficiency Issues*, Docket No. UM 1565, Order No. 13-104 at 3 (March 27, 2013);

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[26] CUB/100 Jenks/14.

extreme, this means the last customer on the system will be responsible for paying all of the rate base for all of the pipes that are no longer used and useful but are part of the group depreciation account. NWN's administration of the assets retired due to electrification in its group depreciation accounts will result in increased costs and risks to existing customers.

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Although the Company brushes aside CUB and Coalition's concerns about stranded assets,[30]

s the potential risk of compounding retirements of meters, service lines, and mains if NWN customers increasingly chose to electrify that remains in rate base due to the Company's use of a group depreciation account Parties' opposition to CUB's proposal is inconsistent with their prior statements and results in future risks of cost increases for customers.

Parties' opposition to CUB's proposal is inconsistent with their prior statements and results in future risks of cost increases for customers.

Despite Staff's reluctance in this proceeding to address stranded costs by moving assets retired due to electrification out of group depreciation,[31]

[30] *See* NW Natural/1700 Rush-Kravitz/Page 17; NW Natural/2000 Nelson/Page 72-73; *see also* NW Natural/1700 Rush-Kravitz/Page 41 (claiming the continued addition of new customers means there will not be stranded assets).
[31] Staff/1800 Scala/7.

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It comes as a surprise then, that Staff's approach to electrification in this proceeding is to wait and see. Rather than act now, Staff prefers to "continue to monitor customer trends, electrification policy developments, and any material shifts in the use of service infrastructure."[36] While Staff waits, NWN will install service lines with 60-year depreciable lives,[37] which will result in stranded costs on the pipeline system associated with electrification. Investments in a gas system built for a large customer base but paid

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[36] Staff/1800 Scala/8.
[37] NWN/1402 Spanos/Page 53.

for by a shrinking customer base will lead to inequitable allocation of system costs.[38] Waiting to take action, as Staff recommends, has the potential to exacerbate the issue and leave us without the data and policy tools in place to address the risks when "material shifts in the use of service infrastructure" warrant Staff's attention.[39]

CUB appreciates that establishing the appropriate ratemaking treatment in the transition from natural gas to electrification can be a complicated endeavor. This is why, contrary to Staff's assessment, it is imperative to act now rather than continue to monitor trends. If the trends show increasing electrification but the Company has not started to collect sufficient data to manage the transition, then we may lose the opportunity to transition in a least-cost way that protects the most vulnerable. In other words, if the utility places a service line in the ground today to serve a customer, we need to track that asset addition so we have the data available if that same customer, whether it is two or twenty years from now, decides to discontinue service to electrify and that service line becomes a stranded asset.

In another display of inconsistency, the record shows NWN sees electrification as a threat to business. NWN presented evidence on the need for the Company to invest in RNG to combat the "threat of electrification."[40] NWN also recognizes the future of gas utilities in the US is uncertain.[41] And included testimony arguing for an ROE increase from "the risk associated with decarbonization legislation and electrification."[42]

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[38] CUB/200 Jenks/12.
[39] *See* Staff/1800 Scala/8.
[40] NW Natural/400 Nelson/Page 61; NW Natural/301 Wilson/Page 24.
[41] *See* NW Natural/400 Nelson/Page 60 ("S&P has observed that the 'electrification' movements in states like California, Massachusetts, New York and Washington are raising questions about the future of gas utilities in the U.S.")
[42] *See* NW Natural/400 Nelson/Page 3, 53 ; *see also* NW Natural/2000 Nelson/Page 73 ("to offset the higher business risk, the Company will need to have more equity in the capital structure").

Besides contradictions, the record shows the sum of NWN's plan to address electrification risk is to ask for a higher profit, double down on RNG, and at the same time deny electrification is happening to avoid removing stranded costs from rate base. All this adds up on customer bills.

CUB's proposal on the other hand would reduce costs by recognizing the impact of electrification and removing assets retired due to electrification from rate base and placing it in a regulatory assets at the time value of money. This allows NWN to recover its costs but not continue to earn a profit on the stranded asset. But it means the Commission needs to direct NWN to start tracking this asset information now.[43] This is data that could help avoid unnecessary spending and reduce customer bills, but we need to start tracking it now.

IV. Pursuant to ORS 757.355, NWN cannot maintain the undepreciated balance of a retired asset in a group depreciation account after a customer electrifies because the utility plant directly associated with that customer is not "presently used" to serve customers.

ORS 757.355 provides:

> A public utility may not, directly or indirectly, by any device, charge, demand, collect or receive from any customer rates that include the costs of construction, building, installation or real or personal property not presently used for providing utility service to the customer.[44]

Oregon courts have settled the statute "precludes the PUC from allowing rates … that include a rate of return on capital assets that are not currently used for the provision

[43] CUB/200 Jenks/25-26.
[44] ORS 757.355(1).

of utility services."[45] The utility plant that remains on NWN's system when a residential customer discontinues services no longer serves customers.[46] This includes utility plant retired due to electrification. The service pipe, for example, may serve a single customer. If that customer discontinues gas service because they have electrified their home, then the service pipe is no longer presently used. It becomes a retired asset.[47] Leaving the unrecovered balance associated with that service line in rate base is prohibited by ORS 757.355.

NWN argues it should not have to retire assets that are no longer used and useful if those assets were placed into group depreciation.[48] According to the Company, when a capital investment is subject to group depreciation there is no such thing as property being retired before it is fully depreciated, and therefore there can never be stranded cost.[49] Staff similarly "recommends the Commission allow NW Natural to continue using this method." [50]

The Commission should reject these arguments. To begin, as the *Trojan I* Court of Appeals made clear, rates that include the return on retired investment are unlawful.[51] Under ORS 757.355 if a new asset comes on line with a 60-year depreciable life, but

[45] *Citizens' Util. Bd. of Oregon v. Pub. Util. Commn. of Oregon*, 154 Or.App. 702, 712, 962 P.2d 744, 752 (Or. App. 1998) ("*Trojan I"*); *see also Gearhart v. Pub. Util. Commn. of Oregon*, 299 P.3d 533, 541 (Or. App. 2013)*, aff'd*, 339 P.3d 904 (Or. 2014).
[46] *See In the Matter of PACIFICORP, dba PACIFIC POWER, Request for a General Rate Revision*. Docket No. UE 374, Order No. 20-473 at 91 (finding the meters replaced during PacifiCorp's AMI roll out were no longer in service to customers); see also CUB/321.
[47] UG 520/CUB/100 Jenks/22
[48] *See* NW Natural/3000 Spanos-Wilson-Kravitz/Page 33-34; see also CUB/200 Jenks/11
[49] CUB/202 Jenks
[50] Staff Position Statement at 2.
[51] *Id.*

retires in 15 years, there is undepreciated investment that is not "presently used". Group depreciation does not change this fact.

Additionally, it would not be fair and reasonable to extend the prohibition of ORS 757.355 to utilities that use one accounting method to depreciate their assets but not extend that same statutory prohibition to utilities that use another method, such as group depreciation. If that were the case, nearly two decades of litigation over the Trojan nuclear power plant could have been avoided if PGE used the magic words "group depreciation".[52] Investments are either used or not used. And the policies that apply to retired investments apply when an investment is "not presently used" regardless of whether or not NWN uses group depreciation.[53]

Moreover, ORS 757.140(1) states that "Every public utility shall carry a proper and adequate depreciation account" and that "[e]ach public utility shall conform its depreciation accounts to the rates so ascertained and determined by the commission," but the statute does not prescribe one method of accounting. Accordingly, if the Commission found NWN's use of group depreciation did not work within the statutory bounds of the ORS 757.355 (for example, to address the increasing trend of retirement due to electrification), the correct remedy would be for NWN to conform its depreciation accounts to comply with the law, consistent with ORS 757.140(1) rather than seek an exception to the strict prohibition of ORS 757.355.

Finally, the Commission has previously rejected a similar argument raised by PacifiCorp when it retired analog meters to replace them with AMI technology over

[52] CUB/200 Jenks/11-12.
[53] CUB/100 Jenks/15.

several years. In UE 374, the Commission stated, "PacifiCorp argues that removal of the replaced meters is contrary to the company's use of group depreciation, the scale of replacements, 85 percent of the company's meters, is distinguishable from the gradual replacement and retirements of individual units over time."[54] Similarly, retirement due to electrification is at odds with NWN's group depreciation method.

To begin, NWN's approach focuses on average lives of the asset.[55] NWN has service pipes installed with 60-year depreciable lives.[56] When these assets are put into group depreciation the asset's cost is depreciated according to becomes the group's useful life regardless of the real operational life of the asset. The premise of group depreciation is that some assets will last longer, some will last shorter, but on average they will last a certain number of years and, according to NWN, balance out over time.[57] When NWN disconnects a service line and meter at the customer's request, NWN treats this as a retirement "consistent with the concept of ordinary wear and tear" within the group depreciation method.[58]

That approach may work until a factor that was not considered in the average life comes into play, such as climate change and the need to move away from fossil fuels.[59] If this factor was taken into account in the Company's average lives calculation, you

[54] *In the Matter of PACIFICORP, dba PACIFIC POWER, Request for a General Rate Revision*, Docket No. 374, Order No. 20-473, 91 (Dec. 18, 2020).
[55] *See* NW Natural/1400 Spanos/Page 12 ("The average service life procedure defines the group for which the remaining life annual accrual is determined. Under this procedure, the annual accrual rate is determined for the entire group or account based on its average remaining life and this rate is applied to the surviving balance of the group's cost.").
[56] NW Natural/1402 Spanos/Page 53.
[57] NW Natural/3600 Spanos-Wilson-Kravitz/Page 10; CUB/314/
[58] CUB/314/1.
[59] *See* CUB/200 Jenks/15; *see also* NW Natural/1400 Spanos/Page 9 (explaining the bases for the probable retirement years are life spans for each facility that are based on judgment and incorporate consideration of the age, use, size, nature of construction, management outlook and typical life spans experienced and used by other gas utilities for similar facilities").

would not have the average life last for 60 years. For equipment installed today, for every service pipe that is retired after 20 years, which is the useful life of a gas furnace, you would need a corresponding service line that lasts 100 years, or two that last 80 years to balance the service pipe retired early due to electrification. But this would require NWN's customers to still be using gas after 2100. Retirement due to electrification is not the gradual replacement due to wear and tear that their useful life is based on.[60] Every year the Company is adding additional service pipes and mains that have depreciable lives that last into the 2080s.[61] Because NWN cannot admit that climate change and electrification will ultimately replace the Company's gas network, the average useful lives cannot include projections for a transition away from gas. As a result, group depreciation based on average lives (not adjusted for climate) will lead to stranded costs as equipment is retired early.

This is the problem CUB's proposal is focused on -- how do we account for stranded costs as equipment is retired early due to climate change and electrification? When we think about this from a least regrets strategy: NWN's insistence on ignoring the potential for stranded costs due to electrification will be a big problem when electrification starts happening at a larger scale. Our proposal to track the lives of assets so we can address the problem won't hurt even if electrification does not happen at a larger scale.

A. ORS 757.355's prohibition against including in rates the costs of plant "not presently used for providing utility service to the customer" does not afford the Commission discretion to include in rates the costs of service pipes that may or may not be used in the future.

[60] *See* CUB/200 Jenks/14-16.
[61] CUB/200 Jenks/24

The Commission "has been granted broad legislative authority" to determine what are in each case 'just and reasonable' rates.[62] This broad authority, however, is limited by the boundaries of the legislature's delegation.[63] The Court of Appeals has found that this general grant of authority does not empower the Commission to approve rates that include a rate or return on utility plant that is not presently used to provide service to the utility's customers.[64] As the Court of Appeals explained *Trojan I*, "[t]he general grant of authority in ORS 757.040 and other general statutes do not empower [the utility] to charge or PUC to approve rates of a kind that are specifically contrary to the limitations of ORS 757.355 and ORS 757.140(2)."[65] The Court of Appeals later in *Gearheart*, (part of the *Trojan* lineage) reiterated that "Those statutes require the PUC to follow the precise legislative policy that they contain and do not delegate to it any discretion whether to follow that policy. Thus, we held, the courts, not the PUC, are to decide the meaning and effect of those statutes."[66]

NWN and Staff suggest the Commission can make an exception to ORS 757.355 for the assets that remain on a customer's property after a customer has electrified and discontinued service with NWN. They reason this is permitted because "properties often change ownership, so just because one property owner decides to terminate service, that does not mean the service line is indefinitely no longer useful."[67] But this speculation is inconsistent with the Court of Appeal's recognized prohibition of ORS 757.355 and is not

[62] *Pacific Northwest Bell v. Sabin*, 21 Or.App. 200, 224, 534 P.2d 984 (1975)
[63] *Pacific Northwest Bell v. Katz,* 116 Or.App. 302, 309 n.5, 841 P.2d 652 (1992).
[64] *Trojan I* at 716.
[65] *Id.* at 716-17.
[66] *Gearhart v. Pub. Util. Commn. of Oregon*, 299 P.3d at 541 (Or. App. 2013).
[67] NW Natural/3600 Spanos-Wilson-Kravitz/Page 19; CUB/321; see also Staff/1800 Scala/7-8 (Staff notes "practical complications with CUB's proposal, particularly if service lines are later reactivated due to redevelopment or a future occupant choosing to restore gas service.").

supported with evidence in the record. ORS 757.355 expressly states that the Commission may only allow in rates plant that is "presently used" to serve the customer. Service lines, meters, and mains, that may someday be used by a new residential customer, but are not presently used, cannot be included in rates.

Staff's concern that it may not be "appropriate to retire service pipe when a customer leaves the system as the customer could be discontinuing service because they are moving, which means a new customer may take their place when a customer leaves the system as the customer could be discontinuing service because they are moving, which means a new customer may take their place," is easily remedied.[68] If the service pipe is still serving a customer then the pipe is still used and would not qualify for retirement under ORS 757.355 or 757.140.

Moreover, this argument advanced by NWN and Staff ignores the interplay between the strict prohibition of ORS 757.355 and the legislative goals behind ORS 757.140. As discussed more below, ORS 757.140 recognizes that the utility will be retiring assets before the end of the assets' useful life. Indeed, it makes retirement that is in the public interest under ORS 757.140(2) distinct from retirement due to ordinary wear and tear, casualties, or acts of god under ORS 757.140(1).[69] While ORS 757.355 prohibits including in rates assets not presently used, ORS 757.140(2) provides for the early retirement of assets otherwise still usable, but whose early retirement is in the public interest. As discussed below, while ORS 757.355 prohibits the utility's shareholders from reaping a profit off unused assets, ORS 757.140(2) makes the utility

[68] Staff Position Statement at 2.
[69] *See* ORS 757.140(1).

whole by allowing the utility to place the net balance of the retired asset into a regulatory account recovered at the time value of money pursuant to the Commission's Retired Asset Policy.

V. ORS 757.140(2) provides the Commission discretion to conclude retirement due electrification is in the public interest because the retirement reduces GHG emissions, thereby reducing CPP compliance costs and saving customers money.

ORS 757.140(2) provides:

> [T]he commission may allow in rates, directly or indirectly, amounts on the utility's books of account which the commission finds represent undepreciated investment in a utility plant, including that which has been retired from service… when the commission finds that the retirement is in the public interest.

Unlike the unwavering text of ORS 757.355, the text of ORS 757.140(2) provides for Commission discretion to determine whether retirement is in the public interest. Consistent with past proceedings and legislative history, the Commission considers whether early retirement of the utility plant benefits customers.[70] That is, whether the retirement itself saves customers money.[71]

The record supports a finding that retirement due to electrification is in the public interest because it saves NWN customers money by reducing the costs they would pay for Climate Protection Program (CPP) compliance. Oregon's CPP places a compliance obligation on NWN to reduce or offset the total therms of natural gas used on its system.[72] Under this framework, NWN is responsible for emissions associated with serving its customers.

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[70] *See also* Op Atty Gen OP-6454 at 2 (1992) (*citing* Testimony of Scott Girard, House Environment and Energy Subcommittee on Telecommunications (SB 78), at 5 (May 23, 1989)).
[71] *See id.* at 4 (discussing the origin of the net benefits concept as it relates to ORS 757.140).
[72] OAR 340-271-0010 (3)(d), (5)(a).

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This increases the costs for existing customers. In NWN's two prior rate cases, UG 435 and UG 490, the Commission recognized the additional CPP compliance costs each individual new customer brought to the system and directed NWN to change its existing LEA policy.[78] Whether from a new or existing customer, each therm has the same contribution to the joint and common costs of the system. It would follow then that NWN should change its retirement policy to recognize that when existing customers leave NWN's system due to electrification this removes the therms associated with the

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78 *See In the Matter of Northwest Natural Gas Company, Request for a General Rate Revision,* Docket No. UG *435/In the Matter of Northwest Natural Gas Company, Advice 20-19, Schedule 198 Renewable Natural Gas Recovery Mechanism,* Docket No. UG 411, Order No. 22-388 at 49-54 (Oct. 24, 2022).

customer who left. Removing therms associated with the customer who left reduces the CPP compliance costs for the customers who remain.

NWN opposes this change to its retirement policy. Instead, the Company argues it can meet CPP compliance requirements with decarbonized fuels.[79] But the record does not show that decarbonized fuels are a reliable solution to draw down its emissions.

In the Commission's order on NW Natural's 2022 Integrated Resource Plan (IRP), the Commission pointed out NWN's "overly optimistic view of risks and uncertainties around both the future cost and availability of decarbonized fuels."[80] Three years later the forecast has not improved. There is still no assurance that decarbonized fuels will be available and at reasonable costs.[81] For example, in NWN's 2024 Annual Renewable Natural Gas Compliance Report filed June 30, 2025, NWN shows it only received 736,989 Dth to be delivered beginning in 2025,[82] a fraction of the amount NWN claimed it would need in LC 79 Action Item 5 (4.2 million dth).[83]

Similarly, NWN argues it can rely on energy efficiency for CPP compliance. In other words, the Company would seek to significantly increase spending on energy efficiency incentives to reduce therms, while simultaneously increasing rates to recover a profit on unused assets. CUB has been a longtime supporter of energy efficiency, but there is a cost, such as ETO incentives, to relying on energy efficiency as a way to reduce therms.

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[79] CUB/100 Jenks/24; CUB/200Jenks/22.
[80] *In the Matter of Northwest Natural Gas Company, Request for a General Rate Revision,,* Docket No. UG 490, Order No. 24-239 at 10 (citing *In the Matter of Northwest Natural Gas Company, dba NW Natural, 2022 Integrated Resource Plan,* Docket No. LC 79, Order No. 23-381 at 9 (Aug. 2, 2023)).
[81] *See* /CUB/200 Jenks/14 (discussing the risks of relying on RNG, green hydrogen, and synthetic methane for decarbonization).
[82] CUB/312/3.
[83] *In the Matter of NORTHWEST NATURAL GAS COMPANY, dba NW NATURAL, 2022 Integrated Resource Plan, Docket No.* LC 97, Order No. 23-281 at 3 (Aug 2, 2023).

To be sure, CUB assumes there will be multiple pathways to achieving CPP compliance. NWN's proposed compliance pathways, however, add a layer of carbon regulation costs on top of depreciation expenses included in rates. Comparatively, CUB's proposal of removing retired assets from rate base saves customers money. Under CUB's proposal not only do we gain a method to remove emissions associated with the customer who left the system due to electrification and thereby avoid their associated CPP compliance costs, but we also gain the savings bonus of removing the retired assets directly serving that customer from rate base pursuant to ORS 757.355 because the assets are no longer used. For these reasons, the retirement provides a two-fold economic benefit to customers. Accordingly, the Commission should find retirement due to electrification is in the public interest pursuant to ORS 757.140(2).

A. Executive Order 20-04 also supports a finding that retirement due to electrification is in the public interest because it the retirement.

In addition to the economic component of public interest, Executive Order 20-04 states it is in the public interest "of utility customers and the public generally for the utility sector to take actions that result in rapid reductions of GHG emissions, at reasonable costs, to levels consistent with the GHG emissions reduction goals … including transitioning to clean energy resources…."[84]

In EO 20-04, the Oregon Governor Kate Brown directed the PUC to exercise its broad statutory authority to reduce GHG emissions.[85] This directive includes prioritizing and expediting any processes and procedures that could accelerate reductions in GHG

[84]Office of the Governor, State of Oregon, *Executive Order No. 20-04: Directing State Agencies to Take Actions to Reduce and Regulate Greenhouse Gas Emissions*, at 8, Section 5(A) (March 10, 2020).
[85] *Id.* Section 5(B)(1) (March 10, 2020).

emissions. The Commission has found it can take EO-20-04's articulation of the public interest, stated above, into account in regulatory proceedings such as this one, to advance GHG emissions reductions in the utility sector.[86] Accordingly, in addition to the economic benefits, the Commission can also find retirement due to electrification is in the public interest because it advances the state and Commission's long-term goals to reduce GHG emissions.[87]

B. Opposition to CUB's proposals because of alleged infirmaries of the electric utilities are not applicable to the Commission's public interest finding in this NWN rate case.

NWN argues the Commission should not find that electrification is in the public interest because "natural gas remains affordable compared to electric alternatives"[88] This argument is a red herring. CUB, EJ advocates, and the Commission are of course working across dockets and utilities to discipline spending. But this is a NWN rate case. Once a resident leaves NWN's system to electrify they are no longer NWN's customer. The question here is whether retirement due to electrification is beneficial to NWN's customers. CUB argues the Commission should find retirement due to electrification is in the public interest because it can reduce rates for NWN's customers.

Similarly, NWN and AWEC also claim retirement is not in the public interest because the electric system has higher emissions than the natural gas system.[89] But CUB's proposal is about the emissions on NWN's system, which

[86] EO 20-04 – Report of the Public Utility Commission at 7 (May 15, 2020).
[87] CUB/100 Jenks/24
[88] NWN/3400/ Rush-Kravitz/67; *see also* NWN,1700/Rush-Kravitz/20.
[89] See NWN/3400 Rush-Kravitz/59, AWEC/200 Mullins/25.

increasing.[90] Oregon's legislation reduces emissions on the electric side. Oregon's 100% Clean Electricity Standard (HB 2021) requires PGE and PacifiCorp to reduce the GHG emissions associated with the electricity sold to their customers by 100 percent below baseline emissions levels by 2040.[91] HB 4036 (2016) eliminates coal from the electricity supply to serve PGE and PacifiCorp's customers by 2030. And Oregon's Renewable Portfolio Standard and HB 2021 will also provide for more renewables to be added to the electric grid. Thus, the Commission is already addressing emissions reduction and resource adequacy on the electric side through multiple avenues.

In any event, CUB's proposal is not about the electric utilities. It's about finding ways to capture cost savings for NWN customers who remain on the system. Accordingly, arguments about electric utility emissions, rates, and resource adequacy are misleading. The Commission should disregard these arguments and find retirement due to electrification is in the public interest.

VI. Because retirement due to electrification is in the public interest the Commission should apply its Retired Asset Policy and direct NWN to place undepreciated balance a regulatory asset where it will earn interest at the rate of 4.496 %.

The precedent that grew out of the *Trojan* lineage clarified the relationship between ORS 757.355 and ORS 757.042(2): a utility can recover a return *of* its undepreciated investment in the retired plant, but the Commission can not allow the

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[91] Relating to Clean Energy, Clean Energy Targets, HB 2021, 2021 Regular Session (2021). *https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB2021*

utility to include the remaining investment in rate base—thereby denying the utility the ability recover a return *on* its remaining investment.[92]

This Court of Appeals *Trojan* decision, however, was silent on the question of whether the Commission may require recovery of a remaining investment that was retired in the public interest with interest to compensate for the time value of money.[93] Upon remand, the Commission decided it was appropriate for undepreciated plant to accrue interest with a reflection of the time value of money, and found that the cost of government debt was a "reasonable estimate" of this figure.[94]

Subsequently, in UE 374 the Commission revisited this "reasonable estimate" concept. After finding PacifiCorp's retirement of analog meters in favor of AMI technology was in the public interest pursuant to ORS 757.140(2), the Commission adopted parties' proposal to remove the undepreciated balance of the company's old meters from rate base, to be recovered through a regulatory asset amortized over 10 years.[95] PacifiCorp could not earn the return on its retired property but instead was entitled to interest at the time value of money.[96]

In sum, Oregon only allows a utility to recover from customers costs that are associated with assets that are "presently used" in providing service to customers. When the Commission finds that an asset is retired in the public interest, however, the utility is made whole by being allowed to recover its original capital investment, along with an

[92] OPUC Order No. 08-487 at 13 (Sep. 30, 2008) citing *Citizens' Util. Bd. V. Public Util. Comm'n of Or.*, 154 Or App 702, 716-17 (1998).
[93] OPUC Order No. 08-487 at 69.
[94] *Id.* at 73.
[95] *See In the Matter of PACIFICORP, dba PACIFIC POWER, Request for a General Rate Revision,* Docket No. UE 374, Order No. 20-473, 91-92 (Dec. 18, 2020).
[96] *Id.*

interest rate that represents the time value of money, but the utility is not allowed to earn a higher rate on equity.

CUB supports a similar resolution for NWN property retired due to electrification. This requires that when customers leave the system and their service pipe (or other capital assets) are no longer used and useful, that the remaining undepreciated capital investment directly associated with that customer, and only that customer, be moved into a regulatory account, so it can be recovered at the time value of money which CUB calculated at 4.496 %.[97] This requires tracking the beginning of service for each customer address, so the undepreciated investment can be calculated.[98]

Recommended Commission Directive to NWN

Reducing carbon is the public policy adopted by Oregon. Because electrification of households will reduce carbon emissions avoiding associated CPP compliance costs and supporting state policy, CUB recommends that the Commission:

1. find that retirement due to electrification is in the public interest pursuant to ORS 757.140(2) and direct NWN to remove the undepreciated balance of the retired plant from its current depreciation account and place it in a regulatory account where it will earn interest at the rate of 4.496 %;

[97] CUB/100 Jenks/24.
[98] *Id.*

2. direct NWN to begin tracking the beginning of service for each customer address, including new and recent individual service lines and mains so age and depreciation can be identified[99];
3. to the degree that NWN cannot identify the age of certain assets, direct NWN to utilize existing data, use subgroups by decade, or use other accounting methods to estimate the age[100];and
4. direct NWN to develop maps that have infrastructure age and depreciation information where that information is available.[101]

NWN says tracking individual lives of service lines would be burdensome.[102] According to NWN it would need additional resources and employees, but does not support this assertion with any record evidence.[103] The record also shows that NWN is already tracking data in a similar way, of which those records and those mechanisms can be leveraged to limit workload.[104] Staff argues against "requiring the utility to investigate every service disconnection to determine whether the customer is in fact choosing an electric alternative."[105] But Staff ignores that NWN has already started doing this in

[99] CUB/200 Jenks/25-26, 28.
[100] *Id.* at 26-28.
[101] *Id.* at 28; *see also* UG 520/CUB/200 Jenks/24 (citing *In the Matter of OREGON PUBLIC UTILITY COMMISSION STAFF Natural Gas Fact Finding per Executive Order 20-04 PUC Year One Work Plan*, Docket No UM 2178, Natural Gas Fact Finding Final Report at 38 (Jan 31, 2023).
[102] NW Natural /3000 Spanos-Wilson-Kravitz/Page 31.
[103] *See* NW Natural/3600 Spanos-Wilson-Kravitz/Page 16.
[104] *See* CUB/200 Jenks/26-28 (describing how the Company can use its existing LEA records and data in its "prior customer records management system" and use subgroups by decade to form reasonable estimates or use existing accounting practices such as semi-actuarial analysis when age is unknown); see also CUB/316/1 (NWN could use the information it is already tracking here which lists vintages and details of the disconnections).
[105] *In the Matter of NORTHWEST NATURAL GAS COMPANY, Request for a General Rate Revision*, Docket No. UG 520, Staff Position Statement at 2 (July 15, 2025).

March.[106] Moreover, it was Staff's own recommendations that came out of the Natural Gas Fact Finding docket to develop "gas system maps with infrastructure age and depreciation information."[107] The need to get better information about the age and depreciation status of NWN's assets is not new.

Conclusion

CUB supports a policy of limiting recovery of retired property to instances where the Commission finds that retirement is in the public interest and disallows the application of the utility's return on equity to the undepreciated investment. This is a good policy that balances the interests of utilities and customers. Utilities only profit from investments that are productive and benefit customers, but utilities are made whole and allowed to recover their initial investment in assets when that retirement provides a benefit. In effect, this policy shares the stranded cost risk of assets being removed before the end of their useful lives between customers and shareholders. This policy also helps the Commission discipline spending by tempering the incentive that utilities have to make capital investments and to depreciate those investments over long periods of time.

Applying this policy here requires that when customers leave the system and their service pipe (or other capital assets) are no longer useful, that the remaining

[106] See CUB/316/1 (NW Natural implemented a new process in March 2025 to track customer requests for service cuts separately from other service work orders.); *see also* CUB/317 (NWN records of customers choosing an electric alternative and disconnecting service).
[107] UG 520/CUB/200 Jenks/24 (citing *In the Matter of OREGON PUBLIC UTILITY COMMISSION STAFF Natural Gas Fact Finding per Executive Order 20-04 PUC Year One Work Plan*, Docket No UM 2178, Natural Gas Fact Finding Final Report at 38 (Jan 31, 2023).

undepreciated capital investment directly associated with that customer, and only that customer, be moved into a regulatory account, so it can be recovered at the time value of money. This requires tracking the beginning of service for each customer address, so the undepreciated investment can be calculated.

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