

JAN 23 2025

**IN THE COURT OF APPEALS OF THE  
STATE OF OREGON**

PUC

NORTHWEST NATURAL GAS  
COMPANY, dba NW NATURAL,

Petitioner,

v.

PUBLIC UTILITY COMMISSION OF  
OREGON,

Respondent,

and

ALLIANCE OF WESTERN ENERGY  
CONSUMERS; OREGON CITIZENS'  
UTILITY BOARD; AND  
COALITION OF COMMUNITIES OF  
COLOR, CLIMATE SOLUTIONS,  
VERDE, COLUMBIA  
RIVERKEEPER, OREGON  
ENVIRONMENTAL COUNCIL,  
COMMUNITY ENERGY PROJECT,  
AND SIERRA CLUB,

Intervenors Below.

Public Utility Commission of Oregon  
Docket No. UG 490

CA No. \_\_\_\_\_

PETITION FOR JUDICIAL REVIEW  
OF ADMINISTRATIVE ORDER

1.

Pursuant to ORS 183.480 and 183.482, Petitioner Northwest Natural Gas Company, dba NW Natural seeks judicial review of Order No. 24-359, attached as

Exhibit 1, that was issued by Respondent Public Utility Commission of Oregon (the “Commission”) on October 25, 2024.

2.

The parties to this judicial review proceeding are:

**Petitioner**

Northwest Natural Gas Company, dba NW Natural  
250 SW Taylor Street  
Portland, OR 97204

**Respondent**

Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, OR 97301

**Intervenors Below**

Alliance of Western Energy Consumers; Oregon Citizens’ Utility Board; and Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club.

3.

Petitioner is jointly represented by:

MCDOWELL RACKNER GIBSON PC  
Jocelyn C. Pease (OSB No. 102065)  
Jordan R. Schoonover (OSB No. 145050)  
McDowell Rackner Gibson PC  
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BAKER BOTTS L.L.P.

Megan H. Berge (DC Bar No. 983714)

*Motion to admit out-of-state counsel to be filed.*

Scott Novak (DC Bar No. 1736274)

*Motion to admit out-of-state counsel to be filed.*

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Respondent is represented by:

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Oregon Department of Justice

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ellen.f.rosenblum@doj.state.or.us

There are no self-represented parties in this matter.

4.

Petitioner seeks review of Order No. 24-359, issued on October 25, 2024, by the Commission (the “Order”). The Order is attached as Exhibit 1.

The Order concerns a request for a general rate revision filed by Northwest Natural Gas Company (“NW Natural”). In the Order, the Commission addressed disputes regarding a number of issues pertaining to NW Natural’s rates and tariffs. Relevant here, the Commission addressed proposals to modify NW Natural’s line extension allowance tariff and a rate base adjustment related to the historical administration of its line extension allowance tariff. The Commission ordered that NW Natural’s line extension allowance for residential customers would be phased out by November 1, 2027, and the Commission disallowed investments made pursuant to NW Natural’s line extension allowance tariff.

The Commission’s analyses and conclusions regarding these issues violate multiple legal standards, including the following:

- ORS 183.482(8)(a): The court may affirm, reverse or remand the order. If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, the court shall:
  - (A) Set aside or modify the order; or
  - (B) Remand the case to the agency for further action under a correct interpretation of the provision of law.
- ORS 183.482(8)(b): The court shall remand the order to the agency if the court finds the agency’s exercise of discretion to be:
  - (A) Outside the range of discretion delegated to the agency by law;
  - (B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency; or

(C) Otherwise in violation of a constitutional or statutory provision.

- ORS 183.482(8)(c): The court shall set aside or remand the order if the court finds that the order is not supported by substantial evidence in the record. Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding.
- ORS 757.210(1)(a): The commission may not authorize a rate or schedule of rates that is not fair, just and reasonable.
- ORS 757.310(2): A public utility [may] not charge a customer a rate or an amount for a service that is different from the rate or amount the public utility charges any other customer for a like and contemporaneous service under substantially similar circumstances.
- ORS 757.325(1): [N]o public utility ... [may] make or give undue or unreasonable preference or advantage to any particular person or locality, or ... subject[s] any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.

5.

NW Natural is a “public utility,” as defined in ORS 757.005(1), that provides natural gas distribution services to more than 800,000 customers across the Pacific Northwest, including Oregon. NW Natural was a party to the Commission proceeding. ORS 183.310(7). ORS 183.480(1) entitles “any party to an agency proceeding” to “judicial review of a final order.” Under ORS 183.482, “[j]urisdiction for judicial review of contested cases is conferred upon the Court of Appeals,” and “[p]roceedings for review shall be instituted by filing a petition in the Court of Appeals.”

6.

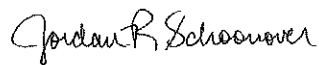
Petitioner does not stipulate that the agency record may be shortened.

7.

Petitioner is entitled to its attorneys' fees and costs pursuant to ORS 183.497.

DATED: December 23, 2024.

**MCDOWELL RACKNER GIBSON PC**



Jocelyn C. Pease (OSB No. 102065)  
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J. Mark Little (TX Bar No. 24078869)  
Scott Novak (DC Bar No. 1736274)  
*Motions to admit out-of-state counsel to be  
filed.*

*Attorneys for Petitioner*

ORDER NO. 24-359

ENTERED Oct 25, 2024

**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.

ORDER

DISPOSITION: FIRST, SECOND, AND THIRD PARTIAL STIPULATIONS  
ADOPTED; APPLICATION FOR A GENERAL RATE REVISION  
APPROVED AS REVISED

**I. SUMMARY**

This order addresses the request for a rate revision filed by Northwest Natural Gas Company, dba NW Natural. In this order, we address disputes regarding the company's line extension allowances (LEAs), renewable natural gas (RNG) automatic adjustment clause (AAC), residential fixed customer charge, lobbying and political activities, and Oregon low-income energy efficiency (OLIEE) program. We also address proposals regarding rate shock and potential future multi-year rate plan filings, as well as three partial stipulations resolving issues including the revenue requirement, rate spread, and cost of capital.

We adopt the three partial stipulations and appreciate the parties' hard work to reach a compromise that reduced the revenue requirement by almost 40 percent from NW Natural's original requested increase of approximately \$154.9 million or 16.62 percent. The stipulations resolve numerous issues and result in a revenue requirement increase of approximately \$95 million, representing a 10.15 percent increase from the company's previous rates.<sup>1</sup> The other issues impacting the revenue requirement and not resolved by the stipulations were LEA overages and the inclusion of costs

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<sup>1</sup> The revenue requirement set forth in the second partial stipulation assumed that all capital projects included in the revenue requirements are in service as of November 1, 2024. As part of the stipulation, discussed in detail below, the company agreed to file attestations identifying any capital projects forecast to cost over \$1 million that will not be in service by October 31, 2024, and the final revenue requirement amount may decrease based on these attestations.

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associated with NW Natural's government affairs activities. Our resolution of the LEA overages will result in a decrease to the revenue requirement relative to the amount agreed upon in the second partial stipulation. We approve partial recovery of the company's proposed government affairs budget below, which represents an increase to the final revenue requirement from the stipulated amount.

On November 1, 2024, customer bills will change to reflect the outcomes of both this general rate case and the purchased gas adjustment (PGA) proceeding, which is set to conclude on October 29, 2024. The changes to general rates associated with the stipulations and other issues addressed in this order will increase customer bills, but the PGA and other associated rate adjustments are expected to produce an offsetting decrease. As a result, residential customers are expected to experience a more moderate overall bill increase than they would from this general rate case alone; current estimates suggest an increase of approximately 4.8 percent.<sup>2</sup> More precise final rate impacts will be provided in the company's compliance filing following this order.

## II. PROCEDURAL HISTORY

On December 29, 2023, NW Natural filed a request for a general rate case and Advice No. 23-30 to become effective November 1, 2024.

On January 29, 2024, the Commission held a prehearing conference to discuss the schedule for this proceeding and to establish the parties. Staff of the Public Utility Commission; the Alliance of Western Energy Consumers (AWEC); the Oregon Citizens' Utility Board (CUB); and the Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club (Coalition) all participated as parties to this proceeding. During the course of the investigation, parties filed testimony and exhibits.

The general public was given the opportunity to comment on NW Natural's filing at a public comment hearing on April 16, 2024, which was conducted remotely.

On February 26, 2024, NW Natural, Staff, CUB, and AWEC filed a first partial stipulation and joint testimony in support of the stipulation. The first partial stipulation addressed the cost of debt. The first partial stipulation is attached to this Order as Appendix A.

On July 24, 2024, NW Natural, Staff, CUB, AWEC, and the Coalition filed a second partial stipulation and joint testimony in support of the stipulation.<sup>3</sup> The second partial

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<sup>2</sup> NW Natural Third Updated Response to Bench Requests 1-1 and 1-2 at 2 (Oct. 11, 2024).

<sup>3</sup> An Errata to the stipulation was filed on July 25, 2024, correcting a typographical error to Attachment 1.

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stipulation settled a number of issues, including the revenue requirement, the cost of capital and capital structure, rate spread and design, officer attestations, the bill discount program, and a future arrearage management program (AMP). Staff does not join but does not oppose certain terms related to the bill discount program. The second partial stipulation is attached to this Order as Appendix B.

On August 12, 2024, NW Natural, Staff, CUB, AWEC, and the Coalition filed a third partial stipulation and a joint brief in support of the stipulation. The third partial stipulation settled remaining issues related to the bill discount program and is attached to this Order as Appendix C.

The Commission held an evidentiary hearing on August 1, 2024. The parties filed opening briefs on August 15, 2024. Staff, CUB, and the Coalition filed closing briefs on August 26, 2024. AWEC filed its closing brief on August 27, 2024.<sup>4</sup> NW Natural filed its closing brief on September 3, 2024. The Commission held oral argument on September 12, 2024.

### III. COMPANY FILING

In its initial filing, NW Natural proposed an increase of \$154.9 million, or 16.62 percent, to its revenue requirement. NW Natural's filing is based on a forecast test year ending October 31, 2025 (test year). NW Natural's filing also includes information on a historical base year from January 1, 2023, to December 31, 2023 (base year) and adjustments to reflect the forecasted test year. According to NW Natural, the primary factors driving the increase include inflation, modernizing information technology and services systems, constructing seismically secure resource centers, upgrading its distribution system and storage operations, complying with Transportation Security Administration cybersecurity directives, and updating depreciation rates.

NW Natural proposed a rate of return of 7.406 percent, based on a return on equity (ROE) of 10.1 percent, a capital structure of 50 percent long-term debt (LTD) and 50 percent equity, and a cost of LTD of 4.712 percent.

NW Natural proposed changes to its LEA tariff, Schedule X, as well as its RNG AAC, Schedule 198. The company also proposed to separate its fixed residential customer charge into different cost categories based on whether a customer's premises is single- or multi-family or an existing connection or new connection made on or after November 1, 2024, as well as changes to its decoupling mechanism.

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<sup>4</sup> AWEC filed a motion for leave requesting to file its brief one day out of time, which was granted. See ALJ Ruling (Aug. 27, 2024).

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#### IV. STIPULATIONS

##### A. Standard of Review

Under OAR 860-001-0350, the Commission may adopt, reject, or propose to modify a stipulation. If the Commission proposes to modify a stipulation, the Commission must explain the decision and provide the parties sufficient opportunity on the record to present evidence and argument to support the stipulation.

In reviewing a stipulation, we review to determine whether the overall result of the stipulation results in fair, reasonable, and just rates. We review settlements on a holistic basis to determine whether they serve the public interest and result in just and reasonable rates. A party may challenge a settlement by presenting evidence that the overall settlement results in something that is not compatible with a just and reasonable outcome. Where a party opposes a settlement, we will review the issues pursued by that party, and consider whether the information and argument submitted by the party (which may be technical, legal, or policy information and argument) suggests that the settlement is not in the public interest, will not produce rates that are just and reasonable, or otherwise is not in accordance with the law. To support the adoption of a settlement, the stipulating parties must present evidence that the stipulation is in accord with the public interest, and results in just and reasonable rates.

##### B. First Partial Stipulation

The parties to the first partial stipulation agree to a cost of LTD of 4.712 percent for NW Natural. No other components of cost of capital are included in the stipulation. The parties maintain that the first partial stipulation is in the public interest and will result in rates that are fair, just, and reasonable.

##### C. Second Partial Stipulation

The second partial stipulation resolves all issues among the stipulating parties, except for those issues specifically excluded by the terms of the stipulation. The parties to the second partial stipulation agree to increase NW Natural's total annual Oregon revenue requirement by \$95,000,000, including the settlement for the company's depreciation study approved by the Commission in docket UM 2312.<sup>5</sup> As part of the revenue requirement, the parties agreed to a 50 percent common equity and 50 percent LTD structure, an ROE of 9.40 percent, and a rate of return of 7.056 percent. The stipulated revenue requirement assumes that NW Natural will not include capital projects that go

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<sup>5</sup> *In the Matter of Northwest Natural Gas Company, Updated Depreciation Study*, Docket No. UM 2312, Order No. 24-302 (Aug. 29, 2024).

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into service after October 31, 2024, except for test year capital additions related to customer growth, which may be further adjusted depending on the outcome of the issues raised in these proceedings regarding LEAs. The parties also settle the rate spread and rate design, which is set forth in Attachment 1 to the second partial stipulation. The parties state in testimony that they agree to split the fixed customer charge into \$10 for single-family residential customers and \$8 for multi-family residential customers as part of the rate design.<sup>6</sup>

Under the terms of the second partial stipulation, NW Natural will file officer attestations on October 4, 2024, and October 25, 2024, attesting to whether any projects forecasted to cost over \$1,000,000 and expected to be completed by October 31, 2024, will be completed after that date.<sup>7</sup> The parties agree that NW Natural will remove any such projects from rates.

The parties, except for Staff, agree to increase the company's bill discount program discount levels to 85 percent for Tier 0, 50 percent for Tier 1, and 30 percent for Tier 2. The parties, except for Staff, also agree to recover costs for the bill discount program through Schedule 335 as a monthly charge per bill with a maximum rate cap of \$94 a month for rate Schedules 31 and 32 customers, individually and not combined. Costs will be allocated to all schedules on a percent of margin basis. Staff does not join but does not oppose these terms of the second partial stipulation.

The parties agree that NW Natural will convene a workshop with stakeholders to discuss potential refinements to the bill discount program following NW Natural's Energy Burden Assessment, as well as a workshop with stakeholders to discuss the details of an AMP for Tier 0 bill discount program customers. NW Natural agrees to make best efforts to submit a filing for an AMP by December 31, 2024, for implementation on April 1, 2025.

#### **D. Third Partial Stipulation**

The parties to the third partial stipulation agree to settle the remaining issues regarding NW Natural's bill discount program. The parties agree that NW Natural will not begin post-enrollment verification any earlier than March 2025 and that the company will hold a workshop with stakeholders to discuss the process prior to starting the process. The parties maintain that the third partial stipulation is in the public interest and will result in rates that are fair, just, and reasonable.

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<sup>6</sup> NW Natural-Staff-CUB-AWEC-Coalition/100, Kravitz-Muldoon-Jenks-Mullins-Fain/6, 15-16.

<sup>7</sup> NW Natural filed the first required attestation on October 4, 2024.

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**E. Resolution**

We have reviewed the first, second, and third partial stipulations and supporting testimony and briefs submitted by the parties. We find that the terms of the stipulations are supported by sufficient evidence, appropriately resolve issues in this proceeding, and will result in fair, just, and reasonable rates. We determine that the terms of the stipulations, taken together, represent a reasonable resolution of the identified issues and contribute to an overall settlement in the public interest.

**V. CONTESTED ISSUES**

**A. Introduction**

The parties identified nine remaining issues for litigation: the LEA proposal, bifurcated fixed residential customer charge, decoupling mechanism revisions, LEA overspend and Schedule X administration, the RNG AAC, lobbying and political activities, the OLIEE program, CUB's rate shock proposal, and multi-year rate plan guidance.<sup>8</sup>

The first three of these issues all involve adaptation of NW Natural's rate structure to a trend of lower usage among new residential customers. As we explain below, we find clear evidence of lower average usage dating back to 2018 and approve corresponding adjustments to the decoupling mechanism. However, we are not persuaded by NW Natural's proposals to use subsidies from existing ratepayers in the form of LEAs to attract lower usage customers and then charge those customers in newer vintage residences a significantly higher basic charge. At the same time, we do not intend with these decisions to reject NW Natural's overall theory of "responsible growth" nor to deny that its residential rate structure may need to adapt further to the lower usage trend. Instead, for the reasons explained below, we conclude that the specific approaches NW Natural has proposed—reliance on residential LEAs and use of premises vintage as a proxy for low usage in setting the basic charge—are not just and reasonable.

**B. Line Extension Allowances**

**1. Introduction**

Under OAR 860-021-0050, each gas utility is required to develop, with the Commission's approval, a uniform policy governing the amount of service extension that

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<sup>8</sup> Second Partial Stipulation at 7-8 (Jul. 24, 2024). In the second partial stipulation, the parties also identified the "Coalition litigation expense adjustment of (\$720,900)" as an issue remaining for litigation. In subsequent testimony, NW Natural stated that in the interest of narrowing the issues remaining in these proceedings, it was choosing not to pursue recovery of these expenses. NW Natural/4400, Kravtiz/35. Accordingly, we do not address the litigation costs in this order.

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will be made for free to connect a new customer. In NW Natural's last general rate case, the Commission determined that the record demonstrated that NW Natural's then-current LEA was too high and did not appropriately factor in the costs of complying with the Climate Protection Program (CPP).<sup>9</sup> The Commission established a three-year phase down of the LEA for residential customers in Schedule X based on the margin cost. Starting November 1, 2022, the LEA would be based on five-times the annual average margin and would step down each year thereafter until reaching three-times margin November 1, 2024. In that order, the Commission stated that if future proceedings determined that a different approach was warranted, that new approach would be adopted prospectively. The order also set forth specific demonstrations that NW Natural would be expected to make in any future LEA proposal.<sup>10</sup> NW Natural submitted a revised Schedule X as part of its compliance filing in docket UG 435 that included the LEA margin stepdown for residential customers.

NW Natural's Schedule X tariff also includes an allowance of a minimum of five times margin revenue for commercial and planned development customers based on an investment analysis for each installation. Schedule X states that "planned developments include but are not limited to, residential single-family subdivisions, residential multi-family developments, mixed-use developments, commercial and industrial parks, and any other similar project."<sup>11</sup> NW Natural clarifies in testimony that it does not provide more than five times margin revenue to commercial or planned development customers. Additionally, NW Natural clarifies that it evaluates residential planned developments at four times margin rather than five times margin. NW Natural states that it recognizes this phrasing is confusing and that it will clarify the tariff in its compliance filing.<sup>12</sup>

NW Natural proposes to modify its residential LEA to provide allowances based on a discounted cash flow (DCF) model that it maintains captures the costs of CPP compliance and addresses other concerns identified with its previous model in docket UG 435. NW Natural proposes a tiered LEA that provides higher allowances to customers with lower usage.

Staff, CUB, and the Coalition each object to the proposed modification and propose to eliminate or phase out the residential LEA. The Coalition also proposes to eliminate allowances for commercial and industrial customers.

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<sup>9</sup> *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 51 (Oct. 24, 2022).

<sup>10</sup> *Id.* at 51-52.

<sup>11</sup> NW Natural/5001, Zaubi-Kravitz/3.

<sup>12</sup> NW Natural/4100, Zaubi/11.

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2. *Party Positions*

a. *CUB, the Coalition, and Staff*

Staff, CUB, and the Coalition argue that NW Natural's proposed LEA DCF model includes unrealistic assumptions, including an unreasonably long payback period and RNG prices that are too low. Staff and the Coalition maintain that the DCF model contains an exceptionally high amount of new non-growth capital. Staff also argues that the model erroneously assumes residences are permanently occupied at all times. The Coalition asserts that NW Natural's DCF model fails to account for other non-RNG compliance fuels such as hydrogen and synthetic methane and inappropriately assumes that there will be an infinite amount of RNG available. Staff argues that the CPP revenue multiplier is overly optimistic. Staff and the Coalition argue that the DCF model is also dependent on forecasted revenue from the new premises customer charge.

Staff, CUB, and the Coalition argue that NW Natural has not sufficiently addressed stranded asset cost risks. In particular, CUB contends that even if margin costs are recovered, customers will still be paying for assets with lifespans up to 65 years. CUB maintains that the LEA should be calculated such that existing customers are held harmless from the effect of adding new customers and that NW Natural's proposal does the opposite.

CUB and the Coalition also argue that NW Natural has not provided sufficient evidence that the proposal addresses CPP compliance costs and the directives of the Commission's order in docket UG 435. The Coalition and Staff contend that NW Natural does not have a feasible plan for meeting the expected greenhouse gas emissions reductions requirements and that ratepayers should not be subsidizing customer growth when the decarbonization pathway for existing emissions is speculative. The Coalition maintains that similar decisions to eliminate LEAs in other jurisdictions support eliminating the LEA.

b. *NW Natural*

NW Natural maintains that it carefully followed the Commission's directions from docket UG 435 and incorporated emissions compliance costs. NW Natural argues that it appropriately balanced the benefits and avoided intraclass subsidization. NW Natural contends that its tiered approach allows for efficiency in implementing the LEA without needing to run the DCF model for each individual customer and incentivizes users to carefully consider appliance usage by offering a higher allowance for lower usage. NW Natural argues that its proposal will allow it to responsibly grow the system while meeting decarbonization goals and that eliminating the allowance will pressure existing customers to financially support the system.

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Regarding criticisms of its DCF model assumptions, NW Natural maintains that its inputs are reasonable and that the model is flexible and adaptable. NW Natural argues that the 25-year payback term is reasonable because it is the expected life of appliances and there is uncertainty around fuel switching given historical customer preferences for gas and the potential high costs to convert to electric. NW Natural contends that its RNG pricing is based on the best information available today and the model can be updated in the future. NW Natural maintains that unoccupied homes will have an insignificant impact on revenue and modeling, even using Staff's model. NW Natural maintains that its non-growth expenditure forecast is reasonable for a mature utility and is modeled to remain steady through 2026 and then decline, which has a minor overall effect on the calculation.

NW Natural argues that eliminating the LEA would be an extreme measure and that no Oregon law limits the growth of the natural gas system or would otherwise form the basis for eliminating the LEA. NW Natural contends that it is too soon to prejudge the future of the gas system and that the LEA benefits all customers by lowering system costs and avoiding intraclass subsidization. NW Natural argues that if the LEA is eliminated, new customers will subsidize existing customers, because new customers pay the entire connection cost while existing customers benefit from the additional revenue to cover common costs. NW Natural maintains that the examples raised from other jurisdictions are of limited relevance because they involve different circumstances.

### 3. *Resolution*

At the highest level, NW Natural advocates for a LEA on the grounds that its existing customer base will benefit from attracting new gas customers, because new customers will help pay for the significant costs of maintaining a reliable gas system, meeting other system obligations (such as cybersecurity requirements and environmental remediation), and satisfying emissions reduction policy requirements. Under the proposed tier system, NW Natural seeks to attract lower use customers, asserting that these lower use customers will allow the company to “responsibly” grow the system—meaning, add customers to financially support the system’s needs—while minimizing the usage from new customers that would exacerbate emissions reduction policy compliance challenges.<sup>13</sup>

While we accept that having fewer customers across whom to spread system costs could make the future more challenging for NW Natural and its customers, it does not necessarily follow—and we find the evidence in the record does not sufficiently support—that existing customers benefit from paying an *incentive* to attract new

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<sup>13</sup> NW Natural/1900, Therrien/3.

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customers. We conclude that NW Natural's residential LEA should be phased out on the schedule we set in docket UG 435, which would eliminate the residential LEA as of November 1, 2027.

In Order No. 22-388, we stated that if NW Natural sought to modify its LEA, it would need to provide more analysis of the costs of CPP compliance and the timeframe customers are expected to stay on the system. While we find NW Natural's modeling exercise responsive to our direction, upon evaluating parties' perspectives on the model's inputs and assumptions, we find that the benefits to existing customers erode quickly when alternative inputs and assumptions are tested. We credit Staff and intervenors for raising numerous questions about the inputs used in NW Natural's DCF model for demonstrating the customer benefit of LEAs. In particular, Staff, CUB, and the Coalition argue that the 25-year payback timeline is still too high, the assumed price for RNG is too low, and non-RNG alternative fuel costs are not appropriately accounted for.

While the LEA itself is proposed to be recovered in the 25-year payback timeline, we are concerned with plant costs that will remain in rates past the 25-year payback period and the potential for stranded asset costs if customers leave the system. We also share Staff and intervenor concerns that the embedded RNG cost and the lack of alternative fuel costs result in overly optimistic model conditions. In our order on NW Natural's 2022 Integrated Resource Plan (IRP), we discussed similar concerns regarding the overly optimistic view of risks and uncertainties around both the future cost and availability of decarbonized fuels.<sup>14</sup> While the assumptions here are not the same, they raise similar concerns that the company's base assumptions are too optimistic to form a solid foundation for our decision making; though the RNG cost assumptions in the DCF model are one possible version of the future, we must pay significant attention to what happens under alternative assumptions.

Equally significant to our decision is that NW Natural's LEA structure focuses on attracting low-usage customers, which is a sensible strategy only if the rate structure results in those customers covering their costs. We cannot functionally separate our decision to reject the new premises fixed charge from our evaluation of the LEA proposal, because NW Natural's DCF model results depend on new customers with expected lower usage covering their costs through a significantly higher customer charge. NW Natural has argued that new customers joining the system with lower usage are being subsidized by existing customers with, on average, higher usage.<sup>15</sup> Without the higher customer charge, support for the higher allowance for lower usage tiers

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<sup>14</sup> *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).

<sup>15</sup> NW Natural/2200, Kravtitz/27-28; NW Natural Closing Brief at 30-31.

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collapses.<sup>16</sup> More broadly, if it is the case that these low-use customers are not covering their costs, it seems counterproductive to offer them financial incentives to join the system and necessary, if they are encouraged to join, to set higher fixed charges. We expect NW Natural will eventually find a more acceptable rate structure for addressing low-usage customers; however, until then, the DCF model results do not support incentives for attracting new, low-use customers. Even with an acceptable rate structure for covering their costs, we would remain concerned that attracting customers with only a few low-usage appliances may increase the risk that customers will disconnect before the value of the LEA has been realized by existing customers.

In short, we find significant risk that the purported benefits to current customers of paying the LEA will not materialize, and we weight risks to current customers more heavily than we do providing an advantage to new customers who are arriving to the gas system at a time of significant future policy, market, and cost uncertainty. Though NW Natural asserts unfairness to these new customers from eliminating the LEA,<sup>17</sup> we are comfortable with the possibility that new customers will support existing customers by paying their entire connection cost and adding revenue in the near term; it is our uncertainty about longer-term benefits that causes us to weight more heavily the risks to existing customers. We also observe that NW Natural has asserted that customers continue to prefer gas and that there is strong demand for natural gas service.<sup>18</sup> If we accept that this is true, there seems to be no justification for offering incentives that run a risk of not being paid back over time. From a policy perspective, we do not find unfairness to new customers a compelling argument in favor of the proposal to continue LEAs.

Ongoing policy uncertainty does not undermine our conclusion. Although the Oregon Court of Appeals invalidated the CPP on procedural grounds just after NW Natural filed this request for a rate revision, and the Oregon Department of Environmental Quality has reconsidered the CPP during the pendency of this case, we must continue to accept that Oregon's direction toward requiring gas companies to reduce emissions is likely to continue. We will continue to evaluate LEA proposals with emissions reductions in mind unless and until that overall direction changes in a durable way.

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<sup>16</sup> NW Natural Closing Brief at 31 (stating that new premises customers do not cover their cost to serve and that this is why the LEA model indicates that new premises customers are uneconomical without the higher new premises customer charge); NW Natural/4800, Wyman-Walker/41; Staff/900, Dlouhy/44; Staff/4100, Sherman-Dlouhy/27; Coalition/100, Cebulko/35; CUB/200, Garrett/17-18.

<sup>17</sup> NW Natural/4000, Therrien/19-20.

<sup>18</sup> NW Natural/2200, Kravitz/14.

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Additionally, as addressed in Section V.E of this order, we are concerned that NW Natural's administration of LEAs under its Schedule X tariff, has resulted in increased costs and risks to existing customers.

For all of the above reasons, we find that NW Natural has failed to meet its burden of proof to support its proposed LEA revisions. At this time, we do not find support in this record for implementing a different residential allowance methodology, nor do we find support for altering the allowance regime for non-residential customers as proposed by the Coalition.

We appreciate, however, that suddenly discontinuing the program as of November 1, 2024, would create confusion and concerns for customers and homebuilders already in the process of seeking LEAs. To reduce this confusion and allow the company and prospective customers adequate time to prepare, we maintain the margin revenue reduction established in Order No. 22-388. We order NW Natural to set its residential LEA at three times margin beginning November 1, 2024, consistent with our order in docket UG 435, decreasing to two times margin beginning November 1, 2025, one times margin beginning November 1, 2026, and eliminated entirely by November 1, 2027.

**C. Basic Charge for New and Existing Premises Customers**

**1. Introduction**

In docket UG 435, we adopted a stipulation that set NW Natural's monthly customer charge for residential customers at \$10. NW Natural now proposes to separate its residential fixed customer charge into four different charges: (1) Existing Single-Family Premises: \$10.00; (2) Existing Multi-Family Premises: \$8.00; (3) New Single-Family Premises: \$24.50; (4) New Multi-Family Premises: \$22.50.<sup>19</sup>

For the purposes of the proposed residential customer charge, an existing residential premises would be one that connected to the system prior to November 1, 2024, and a new residential premises would be one that connected to the system on or after November 1, 2024.<sup>20</sup>

Staff, CUB, and the Coalition oppose splitting the customer charge for new and existing premises.<sup>21</sup> The issue of the multi-family and single-family customer charge split was resolved by the second partial stipulation as addressed above.<sup>22</sup>

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<sup>19</sup> NW Natural/4800, Wyman-Walker/6.

<sup>20</sup> NW Natural/3900, Wyman/41.

<sup>21</sup> Staff/4100, Shierman-Dlouhy/22-29; CUB/400, Garrett/51-57; Coalition/400, Cebulko/28-33.

<sup>22</sup> NW Natural-Staff-CUB-AWEC-Coalition/100, Kravitz-Muldoon-Jenks-Mullins-Fain/ at 6, 15-16.

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2. *Party Positions*

a. *CUB, the Coalition, and Staff*

Staff, CUB, and the Coalition argue that the proposed bifurcation of the customer charge into new and existing premises is unfair and discriminatory. CUB argues that NW Natural's proposal violates both the ORS 757.325 prohibition against rate discrimination within customer classes and the ORS 757.310(2) prohibition against charging a customer a rate different from that charged another customer for like and contemporaneous service under substantially similar circumstances. CUB contends that the bifurcated customer charge essentially penalizes new premises customers for efficient energy usage, who would continue to be penalized as existing premises customers reduce their usage to the same level. They highlight that nearly 29 percent of existing customers use 449 therms or fewer annually and calculated that new premises customers will pay 51 percent more on a per therm basis for the same level of usage as these low-usage existing customers. Staff maintains that NW Natural's proposal does not account for the potential diversity of new customers in terms of usage and that it could increase rates for new premises customers between 24.3 percent and 37 percent annually compared to existing customers with the same usage. The Coalition argues that NW Natural only offered evidence of a de minimis intraclass subsidy and did not identify differences in the cost to provide service to new premises customers versus existing premises customers in its long-run incremental cost study (LRIC). Staff and the Coalition contend that the proposed bifurcation represents a dramatic change in cost recovery. The Coalition maintains that such a massive shift in how costs are recovered should require a showing of imminent financial harm without intervention.

Staff and the Coalition contend that the purpose of the bifurcation of the customer charge is to justify the company's LEA proposal. Staff and the Coalition maintain that LEAs tend to flow to homebuilders rather than customers, and then customers will be burdened in perpetuity with the higher fixed charge associated with having a newly connected premises. Staff also notes that while in the near term existing premises will vastly outweigh new premises, over time this change could impact the balance of fixed and volumetric cost recovery, particularly as areas like Portland undertake projects to increase housing. Staff maintains that NW Natural's reliance on Staff's testimony in docket UG 435 is misplaced and that its identification of the potential for over recovery through the decoupling mechanism related to the lower usage for new customers does not support the radical increase to the customer charge for new premises customers. Staff and the Coalition argue that the proposal reduces incentives for customers to conserve and disproportionately impacts low-income customers.

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*b. NW Natural*

NW Natural argues that its proposed bifurcation of the residential customer charge is consistent with ratemaking principles of fairness and equity by addressing an intraclass subsidization. NW Natural maintains that its proposed bifurcation of the customer charge is consistent with ORS 757.230, because the distinction is based on quantity used and is addressing an intraclass subsidization. NW Natural argues that it is undisputed in the record that new premises customers consume fewer therms than existing customers. NW Natural maintains that its proposed approach is consistent with prior Commission cases approving different charges, such as multi-family versus single-family residences. NW Natural argues that it is not discriminatory to use common characteristics such as dwelling type and vintage in ratemaking.

NW Natural argues that because there is a significant difference in usage between new premises and existing premises customers and the cost to serve both is the same, there is necessarily a shortfall in recovering the cost to serve that requires rate design changes. NW Natural contends that absent its proposed bifurcation, there would be an under collection in the test year of \$612,000 that would be collected through volumetric base margin rates from all customers with higher users paying more. NW Natural further argues that, based on test year end-of-period customer additions, this under collection would increase to \$1.2 million. NW Natural states that it did not address this in the LRIC because it is not proposing a new customer class, and it provided supporting evidence in its testimony. NW Natural maintains that the usage difference between the cohorts is roughly one-third, which is not de minimis. NW Natural argues that addressing the use-per-customer (UPC) disparity in the decoupling baseline alone is inadequate and that Staff's LEA model even shows a revenue shortfall for new customer additions when using only the decoupling mechanism baseline.

NW Natural maintains that its proposal is responsive to issues raised by Staff in docket UG 435. NW Natural contends that its proposal avoids the arbitrariness in volumetric price signals on an intraclass basis while maintaining equity between premises of different vintages and apportioning rates that recognize different costs of service across premises types. NW Natural argues that price signals remain in place because the volumetric rate remains the same for both cohorts.

NW Natural argues that a new premises customer using 449.4 therms will pay 11.8 percent less annually on a total billing basis compared to a typical existing customer using 660.2 therms. NW Natural asserts that Staff and CUB arguments are inconsistent and unevenly applied since they support making similar distinctions on average usage elsewhere. NW Natural contends that ratemaking is not performed on an individual basis.

3. *Resolution*

We find that the record does not support NW Natural's proposed bifurcation of the customer charge into new and existing premises customer charges. We appreciate the potential intraclass subsidy that NW Natural is attempting to address through the bifurcation, but we find that this proposal misses the mark and would not result in just and reasonable rates.

The proposed bifurcated customer charge is based on the date a premises connects to the system, imposing a higher charge on customers with newly connected premises on the basis that most newer premises will have, on average, a lower usage. We note that in testimony regarding its LEA proposal, NW Natural stated that, based on 2022 data of new residential gas heating customers, it observed an average usage per customer of about 450 therms per year.<sup>23</sup> The chart demonstrates a broad distribution of actual usage by decile from 144 therms to 1125 therms per year. While this data was provided in support of the proposed LEA tiers, it indicates that approximately 30 percent of new customers have usage over 650 therms a year. Similarly, CUB noted in its testimony that nearly 29 percent of existing customers use 449 therms or less annually.<sup>24</sup> This breadth of usage by both suggested cohorts demonstrates that rates set based on averages inherently have differing impacts on the upper and lower quartiles.

In practice and in alignment with how averages of a broad distribution work, the charge would be imposed on customers in premises connected on or after November 1, 2024, regardless of the actual usage of the premises. Thus, new premises customers with higher usage will be charged the higher fixed charge while existing customers with lower usage will still be charged the lower fixed charge. It is not clear that new premises form a uniquely identifiable cohort, significantly different from the 29 percent of existing customers with similar usage or representing a uniquely narrow distribution of usage levels as compared to existing customers. As a result, this design does not appear to address the issue NW Natural alleges that customers with lower usage are not paying their cost to serve through the current rate design.

Similarly, the cutoff of November 1, 2024, is arbitrary as it relates to the issue the company is trying to resolve, particularly if, as Staff has demonstrated elsewhere in this proceeding, that the lower usage associated with new premises stabilized in 2018.<sup>25</sup> An existing customer with 220 therms of usage in a home constructed in 2018 will not be paying their cost to serve but will still receive the lower customer charge while a customer with 220 therms of usage who joined after November 1, 2024, would pay the

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<sup>23</sup> NW Natural/1900, Therrien/25.

<sup>24</sup> CUB/200, Garrett/9.

<sup>25</sup> Staff/1900, Stevens/23; Staff Opening Brief at 17-19.

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higher customer charge. The issue of higher use residential customers subsidizing lower use customers would remain.

We would expect that over time, as both energy efficiency measures and building codes impact overall customer usage, average usage will drift downwards, pulled lower by an increased number of lower-usage premises. This will then impact how rates are spread to collect the revenue requirement. This is a normal and longstanding effect of setting rates based on average UPC, and NW Natural presented no evidence that reduced usage is accelerating to an unmanageable degree between rate cases.

We find that the proposed new premises cohort and the associated higher customer charge is not an appropriate method for resolving the issue of lower usage customers not paying their cost to serve, particularly given the large difference between the proposed new premises and existing premises charges.

For the above reasons, we find that the proposed bifurcation of the customer charge based on the date the customer connected would not result in just and reasonable rates. Because we find that this proposal would not result in just and reasonable rates, we do not address whether such a customer charge based on premises vintage would violate or comply with either ORS 757.310 or ORS 757.325. Nor do we determine that NW Natural cannot propose a different method for resolving the issue in a future general rate case or other proceeding. This is a common issue in rate design and there are likely many approaches that appropriately balance revenue collection with energy efficiency incentives and regressive impacts on households experiencing energy burden. Consistent with the second partial stipulation adopted earlier in this order, we direct NW Natural to file updated tariff sheets including the \$8 customer charge for single-family premises customers and the \$10 customer charge for multi-family premises customers as settled by the second partial stipulation, as well as recalculating the residential rates.

#### **D. Decoupling**

##### **1. Introduction**

In docket UG 435, the Commission adopted the second partial stipulation between NW Natural, Staff, CUB, AWEC, and the Coalition, which included an agreement for the company to provide data regarding the UPC and the number of new customers forecasted as part of its next general rate case filing.<sup>26</sup> Under that agreement, NW Natural was not

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<sup>26</sup> Order No. 22-388 at 24; Docket Nos. UG 435/UG 411, Errata Order No. 22-437, Appendix B at 3-4 (Nov. 3, 2022).

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obligated to propose modifications to its decoupling mechanism but agreed not to argue that it was not technically feasible to distinguish between existing and new customers.

In these proceedings, NW Natural proposes to split the annual UPC baseline for new premises residential and existing premises residential customers for the purposes of its decoupling revenue calculation.<sup>27</sup> NW Natural proposes to use a UPC of 449.4 therms for new premises customers connecting to the system on or after November 1, 2024, and 660.21 therms for existing premises customers connected to the system prior to November 1, 2024.<sup>28</sup> NW Natural based the UPC of 449.4 therms on usage data from January 2018 to December 2022. NW Natural states that these new premises customers would remain in a separate class going forward rather than being rolled into the existing customer class in future rate cases.<sup>29</sup>

Staff supports revising the decoupling calculation to split the UPC baseline but proposes that the new premises customer UPC apply to all customers connected on or after January 1, 2018.<sup>30</sup> The Coalition supports Staff's proposal.<sup>31</sup>

## 2. *Party Positions*

### a. *Staff and the Coalition*

Staff argues that the cutoff date for new premises customers should be January 1, 2018, because the downward usage trend seems to have stabilized around 2018 and houses built during and after 2018 were subject to updated residential building codes. Staff argues that ignoring the past declining usage will diminish the efficacy of the change to UPC and create a mechanism that is skewed towards over recovery.

Staff argues that the usage baseline should not impact the revenue requirement. Staff contends that they are proposing to change not the price per therm but the UPC baseline. Staff maintains that this change would impact to whom a deferred over- or under-collection of revenues would be attributed but should not impact the revenue requirement collected through rates, nor the total amounts deferred. Staff contends that there is no mathematical reason that Staff's proposal should affect the company's revenue requirement. Staff maintains that even if there is an impact on revenue, that impact is better addressed through the PGA. Staff argues that the near-term impacts to the decoupling mechanism from distinguishing between new and existing customers would be very small given that NW Natural's forecasts for new premises and existing premises

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<sup>27</sup> NW Natural/1700, Walker/12-13; NW Natural/1717, Walker/18-19.

<sup>28</sup> NW Natural/1700, Walker/12-13; NW Natural/1717, Walker/19; NW Natural/2200, Kravitz/26-27.

<sup>29</sup> NW Natural/3800, Walker/28.

<sup>30</sup> Staff/1900; Stevens/23; Staff/4200, Stevens/7-8.

<sup>31</sup> Coalition Closing Brief at 19.

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customers are approximately \$2.3 million and \$417.4 million, respectively. Staff maintains that its proposal would result in a modest incremental change to the amount of lost revenue deferred and recovered by the company, which will have a minimal impact on customers.

The Coalition contends that Staff's proposal resolves concerns raised in docket UG 435 by adjusting the decoupling mechanism to minimize the amount of revenue requirement that is deferred for later recovery. The Coalition maintains that there is no need to resolve the de minimis subsidy identified by NW Natural.

*b. NW Natural*

NW Natural argues that Staff's proposal would retroactively group customers into the lower usage cohort and would misalign the decoupling mechanism and the revenue requirement outcome. NW Natural also argues that it would create a deficiency of 4.38 million therms annually. NW Natural argues that Staff's proposal fails to consider that the UPC baseline for existing premises customers already includes all current customers, which is the same baseline calculated in the last two general rate revisions. NW Natural argues that customers should not be retroactively moved into a different decoupling group and any change should be on a prospective basis.

NW Natural maintains that if the decoupling baseline is reset for a subset of existing customers, the UPC used in calculating the revenue requirement must also be revised to reflect the average usage of the remaining customers in that cohort. NW Natural argues this also necessarily changes the normalized revenue produced by the cohort at existing rates, which has a direct impact on the overall revenue requirement. NW Natural states that the UPC for existing customers would be 673.5 therms using Staff's 2018 date.

NW Natural contends that failure to align the baseline UPC for the revenue requirement and baseline UPC for decoupling would mean that the company would not have the opportunity to recover the revenue requirement set forth in the second partial stipulation and would represent a shortfall of \$3.3 million.<sup>32</sup> In response to Staff arguments, NW Natural maintains that the amortization of the PGA is unrelated to its concern. The company contends that if the Commission adopts Staff's proposal, then the Commission should direct the company to use revised load assumptions in its compliance filing. NW Natural states that this would change the total therms delivered for the residential class used to calculate the revenue requirement from 425.3 million to 420.9 million and would realign the decoupling mechanism and the revenue requirement.

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<sup>32</sup> NW Natural Closing Brief at 5.

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3. *Resolution*

We find that the decoupling revenue calculation should be bifurcated for new and existing customers, with the new customer group including all customers who connected on or after January 1, 2018, as proposed by Staff. Consistent with our findings below, we direct NW Natural to recalculate the existing and new customer UPCs as necessary and to revise its revenue requirement baseline UPCs to match the decoupling baseline UPCs as part of its compliance filing.

NW Natural, Staff, and the Coalition all agree that the decoupling calculation should be modified to account for a shift in usage among newer customers connecting to the system. We find that, based on the evidence in this record, modifying the decoupling calculation to split the UPC into existing and new premises customer groups as proposed by the parties is reasonable. As we discuss in Section V.C above, our primary concern with bifurcating the residential customer charge into new and existing customers starting November 1, 2024, was that it did not address the issue that NW Natural had identified, namely that lower use customers are not paying their cost of service through the volumetric rate. The company did not justify a significantly higher customer charge for customers joining the system beginning November 1, 2024, given that the trend of lower use customers began earlier and that there remains heterogeneity in new customer usage, despite the lower average. The decoupling calculation does not present the same concern. The UPC embedded within the decoupling calculation is meant to establish the best forecast or estimate available to reduce the adjustments that need to be made later in the PGA. Staff's proposal establishes the best estimate available to address the potential for over recovery identified by Staff, grouping customers with similar usage to prevent over recovery and cross-subsidization through the decoupling adjustment mechanism due to the difference in usage. The only remaining issue in dispute is the date to form the basis for the split between the two groups.

We find that the data is clear that the general downward trend in usage stabilized in 2018.<sup>33</sup> The new customer UPC is itself based on usage data from 2018 through 2022, and we are persuaded by the stabilizing usage data and the new building codes in effect from 2018 onwards that it is sensible to establish the new customer cut-off date at January 1, 2018.<sup>34</sup> In this case, because there is a general trend of lower usage for customers connecting from 2018 forward, we determine that the bifurcated UPC within the decoupling mechanism is a reasonable method of forecasting usage for the purposes of calculation. If the purpose of the calculation is to get as close to the actual numbers as possible, it is reasonable to begin in 2018 when the lower usage stabilized. Additionally,

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<sup>33</sup> Staff/1900, Stevens/20-21, 23.

<sup>34</sup> Staff/1900, Stevens/20-21, 23; NW Natural/1700, Walker/12-13; NW Natural/1800, Wyman/21-24.

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the larger cohort created by separating the two customer groups as of 2018 may help avoid large variances in adjustments that could occur when the decoupling cohort is small.

NW Natural's argument that there is a \$3.3 million revenue recovery shortfall as a result of this change is not persuasive. The company has not identified a clear source for the stated impact to the revenue requirement. As Staff explained, there is no mathematical reason that Staff's proposal should affect the company's revenue requirement, nor has NW Natural provided any clear reason that changing the date for the new customer group would change the revenue requirement. We understand and would expect that there need to be some adjustments to the embedded assumptions for the revenue requirement to implement the January 1, 2018 demarcation for the existing customer group to align the decoupling baselines with the revenue requirement. We determine that any such implementation issues will be resolved by ensuring that the UPCs embedded in the residential class revenue requirement and the decoupling mechanism align, and we direct NW Natural to make this revision in its compliance filing.

## **E. Line Extension Allowance Overcharges**

### ***1. Introduction***

As covered in detail in Section V.B of this order, NW Natural provides allowances for line extensions to new customers under the terms of its Schedule X tariff. From 2012 through October 31, 2022, NW Natural's highest LEA available under Schedule X was \$2,875.<sup>35</sup> In Order No. 22-388, the Commission directed NW Natural to phase down its allowance to five times margin starting November 1, 2022, to four times margin starting November 1, 2023, and three times margin starting November 1, 2024. From November 1, 2022, through October 31, 2023, NW Natural's highest LEA available under Schedule X was \$2,300.<sup>36</sup>

CUB and the Coalition argue that NW Natural overspent on LEAs by \$16.2 million between 2018 and 2023.<sup>37</sup> CUB and the Coalition propose that the Commission remove \$13.7 million dollars of undepreciated line extension costs from rate base as a result of NW Natural's improper administration of Schedule X and improper provision of LEAs in excess of the LEA set forth in the tariff.<sup>38</sup> In the alternative, the Coalition recommends that the Commission remove \$2,222,531 associated with LEA overspending from the test year.<sup>39</sup> The Coalition recommends that the Commission conduct an audit and

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<sup>35</sup> CUB/402, Garrett/6.

<sup>36</sup> Order No. 22-388 at 48, 51; NW Natural/5001, Zaubi-Kravitz/5.

<sup>37</sup> Coalition/100, Cebulko/43; CUB/400, Garrett/10-11; CUB/403, Garrett.

<sup>38</sup> CUB/400, Garrett/16; CUB/403, Garrett; Coalition/400, Cebulko/27; Coalition Opening Brief at 33.

<sup>39</sup> Coalition Closing Brief at 24.

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investigation of NW Natural's LEAs.<sup>40</sup> NW Natural opposes CUB and the Coalition's disallowance and maintains that it has properly administered Schedule X and the provision of allowances.<sup>41</sup> NW Natural opposes the Coalition's proposed audit.

**2. Party Positions**

*a. CUB and the Coalition*

CUB and the Coalition argue that since 2018 NW Natural has provided LEAs over the tariff caps and that these costs were then placed into rate base contrary to ORS 757.225. CUB and the Coalition maintain that in situations where final construction costs for a line extension came back higher than the estimate provided to the customer, NW Natural did not seek to recover those additional costs from the connecting customer and instead added them to rate base for recovery from all customers. CUB argues that the company is not legally bound to any contracts that conflict with its filed tariff and that it should not be drafting contracts that limit its ability to fully recover costs. CUB states that it has no opinion on whether connecting customers or shareholders should cover any excess construction costs in such situations but contends that these overage costs may not be placed into rates. The Coalition argues that the company has a responsibility to control costs by ensuring that they do not exceed the prescribed allowances in tariffs and that it must bear the costs of any excess over the construction estimates. The Coalition argues that the workorders supporting the LEA costs have serious errors, and NW Natural's failure to provide clear and accurate information further demonstrates the imprudence of expenditures.

CUB and the Coalition contend that NW Natural's portfolio approach to the allowance is not permitted by the language in the tariff, which limits the allowance to a cap per individual dwelling unit. The Coalition argues that under Schedule X, future construction costs may be estimated using past costs, which is logical, but that in practice the company is evaluating the prudence of its investments by averaging actual construction costs for all new customer connections to ensure that they do not exceed the LEA. The Coalition argues that the construction estimates shift all the risk of estimated construction costs on existing customers instead of the company, who is better positioned to control costs. CUB contends that NW Natural's present value revenue requirement (PVR) should not be afforded any weight because if the LEA had been appropriately capped, the benefit to customers would be even greater.

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<sup>40</sup> Coalition/400, Cebulko/27-28.

<sup>41</sup> NW Natural/5000, Zaubi-Kravitz/18-19, 27-28.

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CUB argues that the last general rate cases assumed that the LEA investments adhered to the tariff but that the record now demonstrates that the company did not and spending above the permitted LEA cap is not prudent. CUB maintains that Oregon courts have found that the Commission may disallow costs even in situations where it previously approved rates inclusive of those costs.<sup>42</sup> CUB contends that the \$13.7 million disallowance is a fair compromise that resolves the issue, provides relief to residential customers going forward, and sends a clear signal to utilities regarding accounting practices. CUB notes that the rate base amount it recommends disallowing is undepreciated, so it has not yet been recovered in rates and the proposal is prospective rather than a refund. The Coalition similarly argues that the recommended disallowance is not a refund but removing illegal costs from rates.

b. *NW Natural*

NW Natural contends that its administration of Schedule X has been prudent, reasonable, and consistent with the tariff. NW Natural maintains that it has not violated ORS 757.225, because it has complied with the plain language of the tariff. NW Natural argues that Schedule X does not require the company to obtain additional customer contribution where the site-specific estimate for the contract is lower than the actual cost. NW Natural maintains that Schedule X is silent on true ups where the estimate is based on a historical average rather than a site-specific estimate, and it would be overly complex to true up historical averages for every new customer. NW Natural argues that it uniformly administers its tariff for all residential customers and is not charging different rates for identical services as alleged. NW Natural contends that the requested disallowance is based on hindsight rather than information NW Natural had at the time that they granted the allowances, which is not the standard for prudence.

NW Natural argues that it does not use a portfolio approach for evaluating prudence and contributions and always provides individual cost estimates. NW Natural maintains that the PVRR analysis was a financial evaluation to determine whether customers benefit from the company's Schedule X administration on an annual basis. NW Natural argues that every year since 2018, the net capital costs of allowances to new customers was less than the applicable construction allowance, meaning that there was no harm to customers. NW Natural maintains that errors are the exception not the rule and that the instances of actual costs far exceeding the estimate are very rare.

NW Natural argues that the amounts added to rate base were agreed upon by stipulations adopted by the Commission in each of its past three general rate cases. NW Natural argues that removing previously approved rate base upsets stipulations and constitutes

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<sup>42</sup> CUB Opening Brief at 35, citing *Pacific Northwest Bell Tel. Co. v. Sabin*, 534 P2d 984 (1975).

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improper retroactive ratemaking. NW Natural maintains that CUB and the Coalition are relitigating prior rate cases and approved rate base. NW Natural contends that the prohibition against retroactive rulemaking prevents the Commission from reconsidering and adjusting past rates lawfully established and that removing previously approved plant would undermine certainty and lower investor confidence. NW Natural notes that the \$13.7 million proposed for disallowance has not been expensed but is included in rate base and approved for recovery. NW Natural argues that the Commission should reject the position that undepreciated rate base can be removed in a future case because it has not yet been recovered in rates.

NW Natural maintains that it is open to tariff revisions to address concerns about actual costs in excess of the estimates but that any such change should be applied prospectively.

### 3. *Resolution*

We find that the record in this case establishes that NW Natural has been consistently underestimating construction costs and providing line extension construction costs in excess of its authorized LEAs since at least 2018, shifting costs and risk to ratepayers. As described in further detail below, we determine that \$13.7 million of undepreciated expense associated with NW Natural's residential LEAs should not be recovered in rate base going forward.

Schedule X sets forth the cap for allowances, and the parties all argue that the language of Schedule X is clear in its meaning, though they disagree on what that meaning is. The Coalition and CUB maintain that under Schedule X, the allowance is calculated on a per residential dwelling basis and that where an applicant's allowance is less than the construction cost, a construction contribution will be required.<sup>43</sup> NW Natural argues that the tariff unambiguously indicates that "construction costs" means the estimated costs of construction, which is inferred from the statement "[a]ll costs applicable to this schedule will be reviewed annually and updated as needed," indicating that it is an estimate based on historical data.<sup>44</sup> NW Natural also points to the detailed refund procedure and the lack of any language stating that it will seek an additional contribution if actual costs exceed the estimate. We do not find the company's reliance on inference compelling in light of the clarity of the tariff language establishing a per premises cap, combined with the company's knowledge of and failure to clarify the discrepancy between the LEA per premises cap amount and actual construction costs during the extensive litigation of LEAs in docket UG 435.

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<sup>43</sup> CUB/400, Garret/8-9, 14; CUB Opening Brief at 34; CUB Closing Brief at 29-30; Coalition/400, Cebulko/20, 22; Coalition Opening Brief at 25.

<sup>44</sup> NW Natural/5001, Zaubi-Kravitz/3; NW Natural Closing Brief at 37-38 & n. 165.

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In the last general rate case, LEA modeling and limits were addressed on a per premises basis, consistent with the language of the tariff.<sup>45</sup> The modeling exercise used to determine the appropriate per premises LEA limit included several variables estimated over a 30-year period. Despite this detailed discussion about costs and risks, the company never raised that roughly 20 percent of the annual cost of line extensions, from at least 2018 until the rate case, resulted from underestimated construction costs that exceeded the per premises LEA cap. In practice, NW Natural's treatment of construction cost overruns placed the risk of any overruns exclusively on existing customers, increasing rate base. This approach resulted in material costs and risks that should have been incorporated in the company's LEA modeling. The absence of these material costs and risks in the modeling presented in this litigation further illustrates that everyone, including NW Natural, understood the tariff to establish a per premises limit.

We turn now to the question of whether the costs exceeding the per premises cap that NW Natural included in rate base were prudent. NW Natural argues that it is not relying on an "after the fact" portfolio analysis to demonstrate prudence but instead that it made prudent investment decisions based on construction cost estimates and appropriately set construction contributions from new customers. Determining prudence does rely on the information the utility knew or should have known at the time of the investment decision.<sup>46</sup> However, it also requires effective management of costs during the construction of that plant. Inappropriately balanced contracts with vendors that shift risk to ratepayers, for example, could suggest cost overruns are imprudent. In this case, ratepayers did not need to bear the construction cost overruns at all because the company could have implemented the line extension policy to make connecting customers responsible for construction cost overruns for connecting to the system. Even if it was in the interest of ratepayers to bear the risk of cost overruns, which the company argues after the fact that it was, the company still bears a burden to actively manage and minimize the risk of cost overruns. The fact that an investment was cost effective even with an unnecessary premium does not mean that accepting an avoidable premium cost was prudent.

The record indicates that the company was not managing construction costs associated with LEAs to existing customers' advantage. Overall, NW Natural's approach to administering the LEA creates an incentive to underestimate construction costs, which would tend to both increase rate base and entice new customers. For example, in 2023, the data provided by NW Natural demonstrates that 24 percent or \$2.22 million of the

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<sup>45</sup> See, e.g., CUB/402, Garrett/7 (table in tariff describing the construction allowance as per premises); Dockets UG 435/UG 411, NW Natural/1800, Taylor/14 (table describing the construction allowance as on a per premises basis).

<sup>46</sup> See, e.g., *PacifiCorp, dba Pacific Power, Request for a General Rate Revision*, Docket No. UE 374, Order No. 20-473 at 35, 55, 87 (Dec. 18, 2020).

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total \$9.1 million invested in line extensions was for construction costs in excess of the allowance calculated on a per premises basis.<sup>47</sup> NW Natural presents no evidence that it was actively reviewing the portfolio of line extension actual costs to ensure their administration of Schedule X remained the most cost efficient approach for existing customers. The company also presents no evidence that it reviewed estimates against actuals to ensure that the tariff was being applied in a non-discriminatory fashion. This is particularly concerning on large projects with site-specific cost estimates, which inherently have a significant incentive for underestimation by either the company or individual estimators.

Despite the limited data in the record, we can observe a clear trend of underestimating construction costs. Through the data provided in Exhibits NW Natural/4101 and NW Natural/4102, it is possible to estimate roughly how often the company underestimates or overestimates construction costs for single-family line extensions when the actual construction costs are higher than the absolute maximum LEA allowed. We observe that NW Natural underestimated the cost of construction, to the advantage of the company and new customers, in at least 72 percent of the workorders where costs exceeded the total single-family residential per premises LEA. The company overestimated construction costs in 28 percent of cases, to the advantage of existing ratepayers. The company appears to underestimate costs nearly three times as often as it overestimates them.

Lagging construction cost estimates may account for some rate of underestimation, but again, as discussed above, managing cost overruns is a key aspect of prudence. There is scant evidence in the record demonstrating that NW Natural appropriately adjusted historical data for inflation to update its estimated costs; we surmise from the absence of information a lack of contemporaneous attention to these updates, which would systemically push the rising costs of construction on ratepayers and into rate base. Regardless of the reason, this rate of underestimated costs points to a chronic shifting of cost and risk to existing ratepayers and suggests poor management of cost estimation procedures. Additionally, NW Natural has implemented the LEA policy in such a way that customer growth and rate base are increased without transparently presenting these costs as considerations of their LEA policy. The result has been at least a 20 percent premium on the cost of line extensions incorporated into rate base.<sup>48</sup>

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<sup>47</sup> NW Natural/4102, Zaubi. In this data, the company estimated overages by assuming the maximum residential LEA in place through November 1, 2023, \$2300, for every workorder rather than the LEA based on estimated premises usage or the reduced LEA for workorders dated after November 1, 2023. As a result, the overages may be underestimated.

<sup>48</sup> NW Natural/4101, Zaubi; NW Natural/4102, Zaubi.

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Given our findings regarding NW Natural's implementation of Schedule X and resulting risk and cost to existing customers, we conclude that we must adjust amounts previously included in rate base and disallow from the rates set in this proceeding the undepreciated balance associated with the overages. This implementation and its imbalanced incentives have likely been in place since 2012, but parties have only sought to address costs from 2018 onwards, and the data we have available only implicates 2018 onward. Having reviewed CUB's methodology and extensively reviewed the data provided by the company, which we find to be incomplete, we find CUB's estimate of the remaining undepreciated rate base balance of \$13.7 million to be reasonable, and likely conservative.<sup>49</sup>

We disagree with NW Natural that we can never reverse a prior decision about the prudence of amounts incorporated into rate base. These amounts were included in rate base through the adoption of settlements in rate cases where the company's treatment of cost overruns under Schedule X was not addressed by any party. Only in this case was the company's administration of Schedule X and the implications for ratepayers raised. Now that the issue has come to light, the company has had a full opportunity in this case to articulate why its administration of Schedule X was appropriate and the construction cost overruns were prudent to include in rate base. Based on our determination that the company's actions were inconsistent with the tariff, a disallowance is appropriate. We must have the ability to rectify, on a prospective basis, improper administration of a tariff that resulted in inappropriate costs to customers.

For the reasons above, we reduce rate base by \$13.7 million associated with the undepreciated line extension overages. We also require that going forward only the lesser of the per premises LEA or the actual construction costs can be incorporated into rate base. We direct the company to make a compliance filing consistent with the directives of this order.

**F. Renewable Natural Gas Automatic Adjustment Clause (Schedule 198)**

**1. Introduction**

In docket UG 435, NW Natural proposed Schedule 198, an AAC for recovery of costs related to its acquisition of RNG. In Order No. 22-388, we approved an AAC for the recovery of these costs with the following characteristics: (1) RNG project costs may be added to rates only on November 1 of each year; (2) the company must file any changes

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<sup>49</sup> CUB/400, Garrett/11; CUB/403, Garrett. We do not order an audit at this time. Based on the quality of the data provided by the company, we are not convinced that an audit would render a more precise figure and are unwilling to expend scarce resources in that endeavor. It appears the company did not, in fact, closely monitor the line extension program, reducing the effectiveness of an audit.

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related to new RNG investments by February 28 of each year and file updated costs for previously approved projects by August 1 of each year; (3) project costs may not be deferred between the project in-service date and the rate effective date of November 1; and (4) the difference between forecast RNG costs and actual RNG costs may be deferred but subject to an earnings test that includes deadbands at 50 basis points below and above the authorized ROE.<sup>50</sup> In Order No. 22-388, the Commission authorized recovery of the Lexington RNG project through this AAC.<sup>51</sup> NW Natural has incorporated one RNG project through the RNG AAC following Order No. 22-388.<sup>52</sup>

NW Natural seeks two modifications to its RNG AAC. First, NW Natural proposes to modify the AAC to permit it to defer project costs between the project in-service date and the rate effective date. NW Natural states that this modification would balance the interests of the company while also recognizing that it must acquire RNG to meet greenhouse gas emissions goals and the anticipated CPP replacement program.<sup>53</sup> As an alternative to this modification, NW Natural requests a more flexible filing date so that project costs may be placed into rates soon after the project is placed into service.<sup>54</sup> Second, NW Natural proposes to remove the deadband so that the earnings test only triggers if the company is at or above its authorized ROE and its Schedule 198 costs exceeded its annual forecast. NW Natural states this modification resolves an issue that would arise in cases where higher than forecasted RNG production increases the project's overall revenue requirement, even though the per-unit-costs decline.<sup>55</sup>

Staff, CUB, and AWEC oppose NW Natural's proposed modifications.

## 2. *Party Positions*

### a. *Staff, CUB, and AWEC*

Staff, CUB, and AWEC argue that NW Natural has not presented sufficient or compelling evidence to justify its proposed modifications. Staff contends that NW Natural is not entitled to remove all regulatory lag from cost recovery and the current AAC already minimizes lag by rolling costs into rates without the need for a general rate case. AWEC similarly argues that NW Natural controls the timing of its

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<sup>50</sup> Order No. 22-388 at 82.

<sup>51</sup> This included amortization of deferred project costs under the stipulation adopted by the Commission. *Id.*, Appendix C at 3.

<sup>52</sup> NW Natural/3600, Kravitz-Griffiths/18; *NW Natural Gas Company, Renewable Natural Gas Adjustment Mechanism – Dakota City*, Docket No. UG 462, Order No. 23-367 (Oct. 16, 2023).

<sup>53</sup> NW Natural/1500, Kravitz-Chittum/17; NW Natural/2000, Kravitz-Therrien/11-12.

<sup>54</sup> NW Natural/1500, Kravitz-Chittum/17-18.

<sup>55</sup> NW Natural/1500, Kravitz-Chittum/18-19.

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investments and any general rate case filing, and AACs tend to shift the balance in favor of the company.

CUB maintains that NW Natural is trying to relitigate docket UG 435, and the Commission was clear in Order No. 22-388 about the interplay of the CPP and Senate Bill (SB) 98 as it pertains to the RNG AAC. CUB also argues that the company has not shown that RNG procurement up to SB 98 levels is the least cost, least risk plan, nor does it have an RNG procurement strategy in place that has been acknowledged as reasonable by the Commission. CUB maintains that NW Natural's long-term RNG procurement strategy should be examined in an IRP. Staff similarly challenges the least cost nature of RNG and argues that there is no need to modify the AAC to provide incentives above those already provided.

Staff and CUB argue that modifying the AAC to defer project costs shifts risks to customers. Staff also contends that NW Natural's reliance on the Renewable Automatic Adjustment Clause (RAC) as support for a deferral is misplaced because the RAC was adopted as a result of a stipulation, which is not precedential. Additionally, Staff argues that the Renewable Portfolio Standard (RPS) is a different statute with different requirements, operating in a different regulatory environment. Staff maintains that the recent invalidation of the CPP supports not modifying the AAC at this time, because it is not clear how effective RNG will be as a resource until the new rules are in place.

Regarding the earnings test, Staff argues that NW Natural's concerns around the deadband are unsubstantiated because the company's current RNG projects have lower overall costs if they overproduce. Staff contends even if there were such an effect, the company has not demonstrated that additional production would materially impact the earnings test. CUB contends that NW Natural's arguments are untenable, because the company does not know what its yearly earnings are until it publishes its results of operations at the end of the year. CUB maintains that NW Natural's agreements with third parties are complex, and it is in the interest of those counterparties to produce as much as possible. Staff maintains that the current earnings test sends appropriate signals regarding RNG investment. CUB argues that the earnings test remains necessary to incentivize NW Natural to operate efficiently and aligns with Commission precedent. AWEC maintains that the earnings test provides a benefit to customers and the Commission should not erode ratepayer protections to make the AAC more favorable to NW Natural.

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*b. NW Natural*

NW Natural argues that the lack of a deferral or a more flexible filing date prevents it from recovering prudently incurred costs and disincentivizes placing projects in-service as soon as possible. NW Natural maintains that it will continue to pursue greenhouse gas compliance on a least cost, least risk basis, but it anticipates that it will need a lot of RNG for future compliance requirements. NW Natural contends that it has only used Schedule 198 once since it was implemented, and there is no evidence for Staff's concerns that the requested deferral will over-incentivize RNG. NW Natural argues that the RNG AAC should receive the same treatment as electric utilities receive for the RAC, which permits project cost deferrals. NW Natural maintains that customers benefit from RNG produced between the in-service and effective dates. NW Natural argues that a deferral or a more flexible filing date does not improperly shift risks to customers and instead creates a fair opportunity for the company to seek recovery for prudently incurred costs. NW Natural argues that its costs are subject to prudence determinations, and it is not guaranteed recovery.

NW Natural argues that the deadband on the earnings test prevents it from recovering higher-than-forecasted costs associated with increased RNG production, even though increased production causes per-unit costs to decline. NW Natural maintains that this creates a disincentive for RNG projects that overproduce and instead incentivizes keeping the costs at a forecasted level rather than controlling costs. NW Natural maintains that setting the earnings test at ROE strikes a reasonable balance. NW Natural argues that the earnings test would still trigger if the company's actual ROE were at or above the authorized ROE if Schedule 198 costs exceed the forecast. NW Natural states that this is an issue with on-system RNG projects, rather than the off-system projects that make up its current portfolio, but it expects significant on-system RNG projects in the future. NW Natural contends that addressing the issue now is a prudent, forward-looking step.

NW Natural argues that it is not relitigating the decision in docket UG 435 and that it has demonstrated the need to reevaluate the RNG AAC in light of the changing regulatory environment and a new issue with the earnings test not previously considered.

**3. Resolution**

We find that the record in this proceeding does not support modifying the RNG AAC at this time and deny NW Natural's proposed modifications to Schedule 198. As discussed in further detail below, we remain convinced the current mechanism provides an appropriate balance between the company and customers, smooths rate changes, and improves administrative efficiency. Schedule 198 has been in effect for a limited time

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without any issues in practice, and we find that it would be premature to modify the AAC.

With respect to the proposed deferral, we find that the current AAC without a deferral of project costs appropriately balances regulatory lag between the company and customers and is consistent with general rate-making principles. As we stated in Order No. 22-388, allowing a utility a reasonable opportunity to recover their prudently incurred costs does not require a deferral of project costs.<sup>56</sup> Under traditional ratemaking, a utility continues to recover a return on the plant balances included in its rate base, even as though the value of those assets has depreciated since the last rate revision.<sup>57</sup> This benefit is countered to some extent by the fact that capital investments made in the interim have not yet been placed into rates during the same period. The AAC currently applies regulatory lag in a balanced manner by updating the balances of both new plant and depreciated plant annually. Deferrals for capital project costs change the balance in the utility's favor by reducing regulatory lag only for the addition of rate base and not for the depreciation of rate base. Regulatory lag is an important aspect of utility ratemaking and must be carefully balanced, and thus we closely analyze requests for deferrals of capital costs.<sup>58</sup>

The AAC as currently set forth in Schedule 198 already provides NW Natural with the opportunity to recover costs associated with its RNG projects without having to file a new general rate case. Nothing that NW Natural has identified indicates that the situation has changed such that a deferral of project costs on top of the AAC benefits that it already receives is necessary to reasonably set the revenue requirement. Nor do we find that the use of deferrals for RACs under the RPS support modifying the AAC to permit project deferrals. The RACs were adopted under different circumstances and under the terms of a different enabling statute.

Regarding NW Natural's proposed alternative of a flexible filing date for adding projects into rates, we similarly find that the current AAC strikes the appropriate balance. The current requirements of a filing by February 28 and a rate effective date of November 1 maintain a rate change date consistent with the annual PGA change, minimizing confusion for ratepayers. The set effective date and its corresponding set filing deadline also supports administrative efficiency and provides sufficient time for Staff and intervenors to properly evaluate the new RNG resource costs proposed for recovery through the AAC.

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<sup>56</sup> Order No. 22-388 at 83.

<sup>57</sup> See, e.g., *Oregon Public Utility Commission, Investigation of the Scope of the Commission's Authority to Defer Capital Costs*, Docket No. UM 1909, Order No. 20-147 at 13 (Apr. 30, 2020).

<sup>58</sup> *Id.*

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With respect to NW Natural's proposed removal of the deadband in the earnings test, we find that the change is not warranted at this time. In Order No. 22-388, we established the deadband to protect customers from unforeseen and potentially costly events that could occur with respect to NW Natural's ability to acquire, produce, or deliver RNG after a forecast was made. The complex structure of NW Natural's procurement removed the typical ratemaking incentive to manage production costs between rate cases. The purpose of the symmetrical deadband was to balance risks and reintroduce this standard cost management incentive. We accept that it is possible that the deadband could become an issue in the future if the company acquires a significant quantity of on-system RNG that materially and unexpectedly overproduces on an annual basis. However, as NW Natural has also pointed out, its current RNG projects are off-system projects that do not implicate this concern. Nor is it clear on this record that overproduction would materially impact the earnings test, particularly in light of the annual production forecast, which could adapt to changing project characteristics. On balance, we determine that it is appropriate to leave the deadband intact.

## **G. Oregon Low-Income Energy Efficiency Program**

### ***1. Introduction***

NW Natural's OLIEE program is used to finance weatherization projects, high efficiency gas appliances, and energy literacy services for the company's low-income customers.<sup>59</sup> The OLIEE is funded through a portion of the revenue collected through the company's Schedule 320 public purpose surcharge. OLIEE funds are disbursed through two programs: (1) the Community Action Plan (CAP), and (2) the Open Solicitation Program (OSP).

The Coalition proposes to modify NW Natural's OLIEE program to allow low-income customers to use OLIEE funds to electrify their homes.<sup>60</sup> As an alternative, the Coalition proposes that the Commission could address this issue in docket UM 2211.<sup>61</sup> Staff recommends that the Commission direct NW Natural to increase enrollment in the OLIEE using additional targeted design and outreach to close the gap between NW Natural's projections and the actual completions.<sup>62</sup> NW Natural opposes the Coalition's proposal.<sup>63</sup> Regarding Staff's recommendation, NW Natural states that it

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<sup>59</sup> NW Natural/200, Tanaka/24-25.

<sup>60</sup> Coalition/300, Fain-Segovia-Rodriguez-Daryanani/43.

<sup>61</sup> Coalition Opening Brief at 47, referencing *Public Utility Commission of Oregon, Approval of Agreement for House Bill 2475 Funding*, Docket No. UM 2211.

<sup>62</sup> Staff/3500, Lockwood/29.

<sup>63</sup> NW Natural/2300, Tanaka/44-47; NW Natural/4500, Tanaka/5-13.

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shares Staff's goals but that it does not have full control over the program. NW Natural states that it is open to exploring specific suggestions for improving the program.<sup>64</sup>

2. *Party Positions*

a. *The Coalition and Staff*

The Coalition argues that Schedule 320 should be revised to allow customers to use OLIEE funds to replace red-tagged gas furnaces with heat pumps. The Coalition maintains that replacing a gas furnace with another gas furnace traps the customer on the system for the life of the new furnace, typically another fifteen years. The Coalition contends that replacing a gas furnace with another gas furnace also ensures that there is no meaningful greenhouse gas reduction. The Coalition argues that NW Natural has chronically underspent on OLIEE funds and denied low-income ratepayers deep-cost savings. The Coalition contends that the OLIEE program whole home weatherization and energy efficiency upgrades should involve simultaneous electric heat pump installation thus reducing building envelope energy use and greenhouse gas emissions. The Coalition maintains that providing heat pumps would support the OLIEE's primary purpose of delivering energy efficiency benefits to low-income customers. The Coalition argues that NW Natural has not provided any evidence that providing heat pumps to customers through the OLIEE would result in financial harm to ratepayers.

The Coalition argues that ORS 757.315 is the basis of the OLIEE and that this statute supports using OLIEE funds for electrification. The Coalition maintains that the Commission has repeatedly framed energy efficiency as a measure that offers a form of bill assistance. The Coalition contends that the ORS 469.763 supports using OLIEE funds to provide heat pumps, because it requires state agencies such as the Commission to reduce or eliminate barriers for accessing emissions-reducing appliances. The Coalition argues that ORS 469.760(1)(d) also finds heat pumps to be the most energy efficient space heating option available. The Coalition argues that nothing in ORS 757.315 requires the funds to be used only for natural gas.

Staff states that it appreciates that NW Natural does not have complete control over how the CAP agencies administer the OLIEE but reiterates that NW Natural needs to be proactive with direct and targeted outreach to ensure successful implementation of the program.

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<sup>64</sup> NW Natural/4500, Tanaka/4-5.

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b. *NW Natural*

Regarding the Coalition's recommendations, NW Natural argues that it is inappropriate to use OLIEE funds for electrification. NW Natural contends that it is not clear that the Commission has the authority to direct the company to use customer funds for electrification. NW Natural argues that there is no need to address this issue in docket UM 2211 or any other policy docket.

NW Natural argues that the Coalition's interpretation of ORS 757.315, ORS 469.760, and ORS 469.763 is too broad. NW Natural maintains that it would be bad policy and contrary to the public interest to use natural gas customer funds for a program feature that may result in customers being removed from the gas system. NW Natural contends that ORS 469.760 does not provide operative direction to the Commission and the legislative findings indicate that the legislature was promoting installation of all energy efficient appliances, not just heat pumps. NW Natural argues that the operative portion of the statute, ORS 469.763, does not mandate that the Commission only approve programs that provide heat pumps. NW Natural maintains that its current OILEE program aligns with the requirement of ORS 469.763(2) regarding greenhouse gas emissions reduction goals.

NW Natural argues that its current OLIEE is balanced so that low-income customers benefit from the funds and all customers benefit from additional customers sharing system costs. NW Natural contends that this balance would be eliminated if OLIEE funds are used to reduce the number of customers on the system. NW Natural maintains that the Coalition's proposal will do active harm to customers.

NW Natural contends it makes little practical sense to divert OLIEE funds as proposed, because there are already many other funding sources available for heat pumps. NW Natural maintains that the Coalition is incorrectly conflating electrification with decarbonization and that replacing natural gas appliances with electric appliances is fuel switching rather than decarbonization. NW Natural argues the Coalition has not offered any evidence that replacing natural gas equipment with an electric heat pump will actually achieve any emissions reductions.

Regarding Staff's recommendation, NW Natural maintains that the company does not have direct control over how well projects align with actual completions, because CAP agencies set their own annual projections. NW Natural states that it is optimistic, based on current reporting from CAP agencies, that the project completions will continue to increase. NW Natural maintains that it and Staff are aligned regarding the need to be proactive on direct outreach to customers and CAP agencies. NW Natural states that it is implementing new and enhanced outreach activities and has new and planned pilot programs through the OSP.

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3. *Resolution*

We decline to direct NW Natural to revise Schedule 320 to require OLIEE funds be used for heat pumps or electrification generally as proposed by the Coalition. As discussed below, we find that there is insufficient evidence on the record to address our implementation concerns and conclude that such a directive is not warranted at this time. We do direct NW Natural to engage in more targeted outreach as proposed by Staff.

The Coalition's proposal represents a significant shift in the way funds collected from natural gas customers through programs like the OLIEE have been used. Adopting such a significant change requires deliberate and thoughtful consideration to avoid unintended consequences and to ensure that the way customer funds are used is in the public interest. Even assuming that we agreed with the Coalition's interpretation of ORS 757.315, ORS 469.760, and ORS 469.763, which we do not reach here, there remain significant policy concerns. In particular, it is unclear how the CAP agencies, as the implementing partners, are impacted by the decision. It is also unclear that NW Natural would effectively implement such a direction when OLIEE funding is already going unspent. The record in this proceeding is not sufficient to conduct that thoughtful and deliberate review of the policy questions raised. We therefore decline to direct the Coalition's recommended revisions to Schedule 320.

The issue of addressing differential energy burdens, affordability, equity, and environmental justice factors in rate setting and program design is part of the ongoing proceeding in docket UM 2211 regarding the implementation of House Bill 2475.<sup>65</sup> A proposal to significantly modify how customer funds for programs such as OLIEE are used is better addressed as part of the holistic review and investigation occurring in docket UM 2211. Additionally, the impacted stakeholders are better represented in that forum than in this contested proceeding. Advocates of this proposal can raise the issue for prioritization by the impacted stakeholders in that docket.

We agree with Staff's recommendation that the company be directed to do more specific targeted outreach in order to demonstrate whether actions by the company can materially influence under deployment of OLIEE funds, though we recognize that NW Natural relies on implementation partners to see projects through. We note that the Energy Trust of Oregon can effectively collaborate with CAP agencies and other community-based organizations to reach energy burdened customers, if NW Natural continues to find deployment challenging.

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<sup>65</sup> See, e.g., Docket No. UM 2211, Staff Phase 2 Process Proposal at 1 (Feb. 13, 2024).

## H. Lobbying Costs and Tracking

### 1. Introduction

In the company's last general rate case, NW Natural and other parties filed a stipulation that proposed to resolve, among other issues, the company's costs associated with its government affairs employee salaries. The Coalition objected to this term of the stipulation. The Commission determined that the company and the other parties to the stipulation had not met their burden of proof regarding the costs associated with its community and government affairs employee salaries.<sup>66</sup> The Commission reduced the associated expense by \$356,106 and set forth expectations for future rate cases. The Commission stated that it expected NW Natural to provide detailed expense information that clearly categorizes its activity. As part of these expectations, the Commission stated that "NW Natural should be clear whether it is engaging, for example, primarily in an informational capacity in response to local government requests for assistance in developing and meeting climate policies, versus engaging with local governments with an intention to advocate against particular policies and develop support for others."<sup>67</sup>

In this rate case, NW Natural requests \$1,714,350 for costs associated with its Community and Government Affairs Department.<sup>68</sup> NW Natural states that it created a general procedure with an updated time-tracking policy for political activities and requires employees to report exception time. Exception time consists of the time spent working each day on exempted political activities, or activities intended to influence a legislative body, and lobbying communications.<sup>69</sup>

The Coalition proposes to disallow the \$1.7 million budget for the Government Affairs Department, because the company has failed to adequately track its political activities in accordance with Order No. 22-388 and that its definition of lobbying or political activity is too narrow. The Coalition further recommends that the Commission require NW Natural track and report all activities by its governmental affairs employees. Staff also recommends that the company clarify the definition of lobbying communications.<sup>70</sup> Staff and AWEC recommend that the Commission deny the \$1.7 million budget, because the \$95 million revenue requirement agreed to in the second partial stipulation is

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<sup>66</sup> Order No. 22-388 at 21-22.

<sup>67</sup> *Id.* at 23.

<sup>68</sup> In its initial filing, NW Natural proposed a test year expense of \$1,725,922 for its Community and Government Affairs budget. NW Natural/3300, Williams/6; Coalition/242, Apter-Connolly/1. In testimony, Staff recommended an adjustment to the test year of \$11,572 in costs to exclude lobbying transactions associated with meals and entertainment and business travel, which NW Natural does not oppose. Staff/1700, Rossow/4; NW Natural/4600, Williams/3. Accordingly, we address NW Natural's requested test year expense as adjusted.

<sup>69</sup> NW Natural/1200, Williams 3.

<sup>70</sup> Staff/4000, Rossow/5.

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sufficient for just and reasonable rates.<sup>71</sup> Staff further supports the Coalition's analysis showing the exclusion of the costs to be appropriate as a policy matter.

2. *Party Positions*

a. *Staff, the Coalition, and AWEC*

The Coalition argues that NW Natural's lobbying policy is inappropriately narrow and underinclusive of expenses that should be considered lobbying. The Coalition maintains that the policy should include judicial, executive, or administrative bodies. The Coalition contends that limiting the definition to legislative bodies means that activities that are considered lobbying are being recovered in rates, because political activities go beyond the legislative process. The Coalition argues that Federal Energy Regulatory Commission (FERC) and Commission regulations and precedent support its interpretation. The Coalition maintains that NW Natural's definition would not include attempts to influence public officials, even when soliciting third parties to influence Commission decisions. As an example, the Coalition identifies the company's outreach to homebuilders, developers, and chambers of commerce regarding the LEA and the public hearing before the Commission. The Coalition contends that encouraging the public to engage in political action is lobbying because it is intended to influence a public official. The Coalition maintains that proactive educational or informational communications not required by law often are made with the intent to influence the decisionmaker and are therefore political in nature.

The Coalition maintains that NW Natural's time tracking is inadequate and, using its current tracking system, there is no way to determine how much time employees spent on educational or informational communications as opposed to persuading officials. The Coalition contends that NW Natural also inconsistently applies the policy and relies on individual decisions about when an activity does not qualify as lobbying, but there is no record of these non-lobbying activities that can be reviewed. The Coalition argues that there is insufficient information provided with the time tracking to ascertain the nature of the communications and notes that the time tracking provided has blank descriptions in some entries. The Coalition contends that it should not be overly burdensome for the company to require detailed time tracking from employees that includes recoverable activities, because it is common for many fields, including attorneys. In the alternative, the Coalition proposes that employees only track their non-political activity time and exempt the rest from recovery as political activity.

Staff supports requiring NW Natural to record time spent lobbying before judicial, executive, or administrative bodies, elected or appointed, but would exclude

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<sup>71</sup> Staff Opening Brief at 26; AWEC Opening Brief at 6; AWEC Closing Brief at 5.

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communications purely intended to provide routine information to officials and regulatory activities. Staff maintains that NW Natural's staff is sophisticated enough to identify when communications to judicial, executive, or administrative bodies are lobbying as opposed to merely informational or part of regulatory proceedings and advocacy. Staff supports the Coalition's extensive analysis showing why it is appropriate to exclude the government affairs costs as a policy matter.

AWEC argues that the current settlement does not include the government affairs costs and allowing recovery would result in a higher rate burden for ratepayers. AWEC maintains that the stipulated black box revenue requirement of \$95 million is sufficient and results in just and reasonable rates.

*b. NW Natural*

NW Natural maintains that its general procedure's definitions and guidelines are consistent with the FERC regulation 18 CFR § 367.4264. NW Natural argues that "lobbying communications" in its general procedure includes communications intended to influence the decisions of any governmental official or employee that may participate in legislation formulation. NW Natural contends that "lobbying communications" also include communications intended to influence the general public with respect to elections or initiatives and referendums. NW Natural argues that communications intended to influence judicial, executive, or administrative bodies are not lobbying per se, which is consistent with 18 CFR § 367.4264.

NW Natural argues that Order No. 22-388 examined the primary purpose of the communication. NW Natural argues that communications with a primary purpose of providing information should not be included in the definition of political activities, and the Commission's order in docket UG 435 does not limit informational communications to only those responding to a request for information. NW Natural maintains that educational and informational communications can happen in many forms, including some information that NW Natural is required to provide by law. NW Natural contends that adopting the Coalition's arguments could result in NW Natural being required by regulation to provide certain information but being unable to recover its costs for doing so. NW Natural argues that the Coalition is inappropriately broadening the definition of lobbying by advocating for it to include all communications with the intent to influence the decisions of governing actors and administrative bodies related to regulations and policies. Regarding the Coalition's arguments around the homebuilders specifically, NW Natural notes that it informed some homebuilders of the opportunity to participate in this docket but maintains that it did not request that any of them do so or support the LEA policy specifically.

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NW Natural maintains that its time tracking provides the appropriate level of detail to review exceptions and there is no need to adopt the Coalition's reporting proposal. NW Natural argues that it has erred on the side of caution and removed exception time that was arguably but not clearly lobbying activity. NW Natural contends that the fact that there were some blank notes in entries does not mean the tracking is inadequate, nor should it be penalized. NW Natural maintains that tracking all time, including recoverable time, would be a major burden and increase costs to customers.

NW Natural contends that AWEC's arguments that all amounts were disallowed by the second stipulation is not accurate and instead the \$1.7 million was identified as part of an issue still in dispute. NW Natural argues that neither Staff nor AWEC endorsed the Coalition's proposal in testimony and have not offered any new substantive analysis. NW Natural does not oppose Staff's clarification with the understanding that it excludes regulatory activities. NW Natural contends that Staff's support of the Coalition in briefs contradicts its earlier statements that exception time reporting should not apply to regulatory activities. NW Natural argues that if the Commission accepts Staff's endorsement and disallows the entire budget, then there should be no need for exception time reporting because there is nothing to be included in rates.

### 3. *Resolution*

The inclusion of utility lobbying and government affairs costs in rates has been a heavily contested and highly visible issue, particularly regarding concerns that ratepayers may be paying for political activities and attempts to influence officials in ways that do not serve the core interests of the company's customers. Maintaining the public trust requires us to be confident that the costs included in rates are serving the core interests of NW Natural's broad customer base. We find that we do not have enough information to accept NW Natural's proposed level of government affairs costs to include in customer rates. We therefore set rates at 75 percent of NW Natural's total government affairs budget. Additionally, we direct NW Natural to clarify its general procedure and apply it to exception and non-exception time tracking in order to ensure a complete record for establishing rates in its next rate case. In the alternative, NW Natural may choose to adopt a procedure that tracks only *non-exception* time, using those records to affirmatively justify the portion of its community and government affairs budget that should be recovered from customers. Finally, we adopt a prospective policy that certain categories of activity will be subject to a rebuttable presumption of 50-50 sharing.

We begin with the obvious premise that private companies, even regulated ones, are allowed to fund activities that influence the political and regulatory environment to protect their interests, including taking positions that are controversial or not clearly aligned with the interests and preferences of some or all of their customers. At the same

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time, many utility government affairs activities do serve the core interests of customers; informing state legislation and administrative policy with factual information about regulated utilities' operations and the impacts of proposed policies can promote safe operations, broaden understanding of the physical requirements for reliable service, and foster informed discussion of tradeoffs between safety, reliability, affordability, and other goals for the energy system.

To determine which government affairs activities fall within the latter description and should be funded through customer rates, especially with energy utilities operating in an increasingly complex and controversial policy environment, we must address both the standards we apply to determine what types of activities should be paid for by customers and our expectations for the transparency and justification required to support a rate request. We address both here.

Clear guidance on activities whose costs may be recovered in rates and those that should be funded by shareholders is important to enable utility government relations professionals to make good faith efforts to comply with our orders. In Order No. 22-388, we echoed and did not deviate from FERC's standard, and we continue to accept FERC rule 18 CFR § 367.4264 as the prevailing standard for differentiating recoverable from non-recoverable activities. However, we find NW Natural's interpretation of the FERC rule, even with Staff's clarification,<sup>72</sup> too narrow because it would not capture activities that represent indirect efforts to influence the decisions of public officials in regulatory matters. Such efforts fall outside the express exclusion in 18 CFR § 367.4264(b) for activities "directly related to appearances" before regulators, and we believe they need different treatment. We prospectively interpret the standard to capture indirect efforts to influence regulatory proceedings as partially non-recoverable.

The FERC rule at issue contains three distinct clauses that govern how utilities account for costs associated with lobbying and political activity—in particular, by describing those costs that are not recoverable from ratepayers and should be captured in Account 426.4. The first clause states that Account 426.4 includes expenditures "for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal or modification of existing referenda, legislation or ordinances) or approval, modification, or revocation of franchises\* \* \*."<sup>73</sup> The second clause states that this account also includes expenditures

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<sup>72</sup> We appreciate Staff's effort to suggest clarifications to the language in NW Natural's general procedure to expressly include the types of communications around local ordinances that surfaced in our last rate case, and we agree that those fit squarely within the political activities category because they are legislative in nature.

<sup>73</sup> 18 CFR § 367.4264(a).

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“for the purpose of influencing decisions of public officials\* \* \*.”<sup>74</sup> The third clause *excludes* from Account 426.4, and thus allows recovery of, those expenditures “that are directly related to appearances before regulatory or other governmental bodies in connection with an associate utility company’s existing or proposed operations.”<sup>75</sup>

The instance that surfaced in this case—communications informing business groups who were likely supporters of NW Natural’s position about the opportunity to attend a public hearing<sup>76</sup> we held in this rate case—is a good example of a communication that may appear to be recoverable under the FERC rule, but that we regard as one most customers would be surprised to have supported through rates. NW Natural voluntarily excluded this activity from the supporting materials for the budget it proposed for rate recovery, but continued to argue that it should be recoverable under the FERC standard. We do not interpret the FERC standard as permitting recovery for this activity for two reasons. First, we regard this outreach to specific business groups as activity for the purpose of influencing the decision of a public official, the second clause of the FERC rule.<sup>77</sup> Second, it is not covered by the third clause that excludes from non-recovery activity directly related to appearances before regulatory bodies from the definition of lobbying and political activity. While outreach to homebuilders about our hearing certainly was related to our regulatory process, it was “indirect”—that is, not directly related to NW Natural’s appearance before us—and so is not excluded from the definition of non-recoverable lobbying and political costs.

Consistent with this interpretation, we direct NW Natural to update its general procedures for its government affairs employees to ensure that future filings for rate recovery capture activities that attempt to influence public officials with regard to regulatory decisions, but that are not directly related to appearances before regulatory or other governing bodies. We do not, however, intend to regard all such activities as inappropriate for rate recovery. We recognize that indirect activities related to influencing regulatory proceedings come in many flavors; some are purely educational and non-controversial, others are taken up with an intent to influence regulatory outcomes toward the company’s position in controversial regulatory proceedings in which the alignment between customers’ and the company’s interests may be the subject of active debate, and many others likely in the middle. In an attempt to avoid time-consuming and divisive line drawing related to indirect activities to inform and influence regulatory outcomes, we will apply a rebuttable presumption of 50-50 sharing between customers and shareholders. The company and

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<sup>74</sup> *Id.*

<sup>75</sup> 18 CFR § 367.4264(b).

<sup>76</sup> Coalition/502, Apter-Connolly/1-3.

<sup>77</sup> The D.C. Circuit recently confirmed this clause includes indirect activity. *Newman v. Federal Energy Regulatory Commission*, 27 F4th 690, 697-698 (DC Cir. 2021).

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parties can rebut this presumption with clear and convincing evidence that the activity was either core to customer interests or aligned only with the company's interests.

Having clarified the standards that we will apply, we now address the factual demonstration we will require for rate recovery. Our order in NW Natural's last rate case set a reasonably clear expectation for increased transparency. We said:

Going forward, we expect NW Natural to provide detailed expense information that clearly categorizes its activity. NW Natural should be clear whether it is engaging, for example, primarily in an informational capacity in response to local government requests for assistance in developing and meeting climate policies, versus engaging with local governments with an intention to advocate against particular policies and develop support for others. Only with this level of clarity is meaningful stakeholder review of political activity possible, and NW Natural did not make an effort to provide an appropriate delineation here.<sup>78</sup>

We appreciate that, in response, NW Natural implemented tracking measures. However, we find it difficult to read our order, as NW Natural did, to require only exception tracking. We asked the company to categorize "its activity" as informational or advocacy, noting that the clarity we sought was important to meaningful stakeholder review. In this case, based on the limited tracking measures it implemented, the company provided evidence of only the activities that it excluded—thus categorizing no activity as informational to be subject to meaningful review. Exception-only tracking gives us very little to go on to evaluate where NW Natural drew the line in determining how activities would be classified to allow for a full review of what costs are appropriate for inclusion in rates. We conclude that by presenting only exception time, NW Natural has not met its burden.

The company argues that tracking all time would be out of step with the practices of other regulated utilities. The time tracking practices for other utilities are not relevant where our prior order established the demonstration that NW Natural would be expected to make in this case regarding these activities. This question has not been presented to us in other utility rate cases, and we might well reach the same conclusion if it were. In a general rate revision, we establish the costs and expenses that will result in just and reasonable rates. In doing so, we may evaluate certain costs embedded within a proposed test year expense to determine whether they support the company's proposed test year revenue requirement. We are not, however, denying recovery for previous expenditures

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<sup>78</sup> Order No. 22-388 at 23.

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in this review. The company has the burden of proof that the costs it presents as part of its future revenue requirement result in just and reasonable rates.

We clarify our intention that recovery of government affairs costs in rates requires NW Natural to track exception and non-exception time, or at a minimum, to track the non-exception time that provides the underlying support for its test year level of expense. We recognize that this is a departure from standard practice in this area but also note that many professions require tracking of time, and there are many low-cost tools available to facilitate this process. The burden remains with the company to include sufficient description to demonstrate that the activity is not lobbying.

Finding that NW Natural has not met its burden of supporting the level of expense proposed in this case, we would be justified in accepting the Coalition's argument to exclude the government relations budget in rates. However, this result strikes us as too harsh and likely counterproductive to customers' interests, given the core function of many of the activities of the company's community and government relations department. Instead, we set rates in this case according to presumptions consistent with the sharing approach discussed above.

Specifically, we determine that government affairs costs should be included in rates at a 25 percent reduction from the budget NW Natural proposed for recovery (*i.e.*, after NW Natural's exclusions for non-recoverable activity). Even in the absence of non-exception time tracking data, we find it reasonable to assume that as a regulated utility, at least half of NW Natural's remaining community and government affairs functions serve core customer interests, including educating the public and local, state and federal government officials on issues core to the safe and reliable operation of the gas system. For the other half, lacking a sufficient record to evaluate, we apply 50-50 sharing to recognize that some costs are dual purpose or arguably not purely in the interests of core customers.

Going forward, the burden remains on the utility seeking to justify its costs to flag activities in which they engage in local, state, or federal government advocacy related to issues of public interest on which customer and shareholder interests arguably diverge, including indirect activity related to regulatory policy decisions. Going forward, for those activities, we will presume 50-50 sharing unless demonstrated otherwise. Even in situations where we apply the 50-50 sharing, however, the company must still justify its test year expenses and will have the burden of demonstrating that its proposed government affairs expenses result in just and reasonable rates.

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## I. Rate Shock

### 1. Introduction

CUB proposes to create a mechanism for addressing rate shock, both for this specific proceeding and a more global mechanism that would trigger in certain circumstances. CUB proposes a rate shock mechanism would consist of a rate increase cap, among other mitigation tools. Under CUB's proposed rate shock mechanism, the Commission would establish a "trigger" threshold when residential customer rates are expected to increase by the lower of ten percent or seven percent plus the consumer price index (CPI). For the purposes of the threshold, the rate increase includes the PGA and other schedules that change on November 1 annually. If this threshold is triggered, the Commission would cap the rate increase for November 1 at the lower of ten percent or seven percent plus CPI and delay the amount of the increase over that threshold until April 1, with or without carrying charges.<sup>79</sup> For this specific request for a general rate increase, CUB proposes for it to be without carrying charges or a carrying charge at the modified blended treasury rate.<sup>80</sup> Gas costs through the PGA would go into rates first, followed by the general rate case and any single-issue rate adjustments.<sup>81</sup> Additionally, CUB proposes that the Commission could choose from a variety of other rate mitigation tools, including setting the ROE at the lowest level in the reasonable range, requiring the company to report on actions designed to mitigate rate shock, implementing a six-month moratorium on disconnections, and reporting additional information about arrearages.<sup>82</sup>

NW Natural opposes CUB's proposal. Staff supports CUB's proposal, and AWEC requests that if the Commission does adopt the rate shock proposal, it should apply the protections to all customers rather than just residential customers.

### 2. Party Positions

#### a. CUB, Staff, and AWEC

CUB contends that the Commission has the authority to adopt its proposed rate shock mechanism. CUB argues that ORS 756.040 charges the Commission with using its powers to protect customers and the public generally from unjust and unreasonable exactions and practices and to obtain for ratepayers adequate service at fair and reasonable rates. CUB states that the just and reasonable standard set by the *Hope* case requires the Commission to balance interests but that the Commission also has significant

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<sup>79</sup> CUB/100, Jenks/7-10.

<sup>80</sup> CUB/100, Jenks/14.

<sup>81</sup> CUB/100, Jenks/13-14.

<sup>82</sup> CUB/100, Jenks/10-11, 14-15.

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flexibility in how it balances those interests, which can be used to mitigate rate shock.<sup>83</sup> CUB maintains that the Commission is not limited to addressing rate shock in rate spread and design and that the Commission has broad authority to determine just and reasonable rates. CUB argues that the Commission has adopted other mechanisms that operate similarly to its proposal, such as trackers that let companies recover costs without a general rate increase, and recovery adjustment mechanisms.

CUB argues that its proposal would not violate the ORS 757.215 suspension period. Instead, the Commission would determine the rates to go into effect as of November 1 and April 1, but the rates would no longer be pending or suspended. CUB maintains that the Commission has previously allowed rate increases with sequential rate effective dates by stipulation and that trackers bring in costs that become used and useful after the rate effective date. CUB contends that NW Natural's position is that it can request rate increases outside the suspension period but customers may not.

CUB argues that rate shock significantly harms the most vulnerable customers. CUB maintains that if customers cannot afford their bills, then they are not receiving fair and reasonable rates. Further, CUB contends that Commission should consider health and safety concerns when determining just and reasonable rates and that moving the increase away from the winter months would help mitigate concerns regarding heating unaffordability during dangerous weather conditions. CUB notes that the rate shock proposal is not likely to be triggered this year because the PGA is expected to decrease November 1 but argues that the Commission should still address the proposal now. CUB maintains that it is proposing to establish an ongoing mechanism that provides utilities an incentive to manage their costs, not unlike the deadband in the Power Cost Adjustment Mechanism.

Staff argues that it is appropriate for the Commission to protect customers by capping any rate increase for NW Natural customers going into the winter heating season at a reasonable level. Staff raises concerns about the disproportionate burdens of rate increases on environmental justice communities as part of its support for CUB's program.

AWEC states that it does not necessarily object to CUB's proposal in concept but that it questions whether the Commission could adopt rates as just and reasonable and then delay collection of those rates without a deferral. AWEC argues that if the Commission approves such a mechanism, however, it should apply it to all customers rather than just residential customers.

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<sup>83</sup> CUB Opening Brief at 8-9, citing *Federal Power Commission v. Hope Natural Gas Co.*, 320 US 591, 602, 603 (1944).

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b. *NW Natural*

NW Natural argues that CUB's proposal is moot because the revenue requirement agreed to in the second partial stipulation and the PGA combined is expected to be under proposed threshold. NW Natural contends that the Commission has been clear in the past that it cannot use rate shock as a tool to authorize an unreasonably low revenue requirement and may only consider it during the rate spread and design stage.<sup>84</sup>

NW Natural argues that CUB's delay provision would violate the suspension period established in ORS 757.215. NW Natural maintains that CUB's proposal to delay recovery for prudently incurred costs would be tantamount to a suspension beyond the statutory period. NW Natural contends that a delay without deferral effectively decreases rates below what the Commission determines is fair and reasonable.

NW Natural argues that the *Hope* standard cited by CUB does not stand for the proposition that the Commission can determine rates are fair, just, and reasonable and then delay the recovery of such rates without a deferral under ORS 757.259(2) and interest under ORS 757.259(4).<sup>85</sup> NW Natural maintains that the Commission's flexibility is related to the ways in which it determines whether rates are just or reasonable. NW Natural argues that CUB is proposing a new standard based on the affordability of bills instead of balancing utility and customer interests. NW Natural contends that energy burden issues are better addressed through targeted programs that already exist.

NW Natural argues that CUB's proposed ROE provision is contrary to *Hope* and *Bluefield* mandating a fair rate of return.<sup>86</sup> NW Natural maintains that investors may interpret this proposal as a strong indication of greater uncertainty and risk, increasing the company's cost of equity. NW Natural contends that the other mitigation measures proposed by CUB are not necessary because the company already engages in significant outreach and Division 21 rules already mitigate energy burden and provide a disconnection safety net.

NW Natural contends that it is procedurally unfair of Staff and AWEC to change their position on the rate shock proposal in briefs and that the Commission should give little weight to their arguments.

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<sup>84</sup> NW Natural Opening Brief at 124-125 citing *Portland General Electric Company, Proposal to Restructure and Reprice Its Services in Accordance with the Provisions of SB 1149*, Docket No. UE 115, Order No. 01-988 at 5 (Nov. 20, 2001).

<sup>85</sup> NW Natural Closing Brief at 82-83, citing *Hope*, 320 US at 605.

<sup>86</sup> NW Natural Opening Brief at 134, citing *Hope*, 320 US at 603; *Bluefield Water Works Co. v. Public Service Commission*, 262 US 679, 693 (1923).

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3. *Resolution*

We agree with NW Natural that there are both constitutional and statutory boundaries on our discretion in setting rates. We also agree with CUB and Staff that we have flexibility to address both rate shock and broader affordability issues within those boundaries, including sufficient flexibility to adopt some version of CUB's concept. Although we appreciate CUB's work on this proposal and for raising issues regarding rate shock, we are not prepared to adopt the proposal in this rate case. We reach this decision in part because the parties agreed to a specific revenue requirement that we find just and reasonable, but we will continue to consider the proposal in other pending cases.

The revenue requirement that we set in a rate case represents our best estimate of the cost of running the utility effectively and efficiently. Setting the revenue requirement certainly involves rigorous factual scrutiny and precise decisions, but it also involves a wide range of policy judgments. These include, among many others, our long-held practice of using future test years, compromises on the reasonable cost of utility operations, and use of automatic adjustment costs and deferrals for certain changes between rate cases. With reasoned explanation, we have the flexibility to conclude that rates remain just and reasonable even if their delayed collection is projected to result in lower revenues, because we have the flexibility to set revenue requirement within a reasonable range that anticipates the delay. It is, in short, not as clear to us as it was to our predecessors that rate shock can only be considered during rate design.<sup>87</sup>

Even with this understanding, however, we do not find this proceeding to be the appropriate docket to develop these concepts. Here, the parties have largely agreed on a specific revenue requirement that we find just and reasonable. Any delay to the collection of revenues must be considered as part of a holistic approach to setting overall just and reasonable rates, consistent with our constitutional and statutory standards.<sup>88</sup> We prefer, therefore, to begin our examination of CUB's proposal with consideration of what revenue requirement is just and reasonable. We value the hard work from the company and the parties towards settling the vast majority of the revenue requirement issues in this case, and there is no indication that the rate change associated with that stipulation and

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<sup>87</sup> Docket No. UE 115, Order No. 01-988 at 5-6 (Intervening parties sought reconsideration of Commission-approved utility rates that increased overall rates by 38 percent—26 percent for residential customers—on the basis of rate shock and that customers would be severely impacted and that the Commission had erred in failing to consider the impact. The Commission rejected reconsideration, finding “[r]ate shock is a relevant factor in the rate design stage of the case; it plays no role in determining a utility’s revenue requirement.”).

<sup>88</sup> See, e.g., ORS 756.040; ORS 757.210; *Hope*, 320 US at 602-603.

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the expected PGA rate change<sup>89</sup> will rise to the level at which CUB's proposed mechanism would be triggered.

CUB has raised this proposal in other proceedings pending before us. As we consider this proposal in those cases, we will continue to evaluate the merits of CUB's proposal as a matter of regulatory policy. We understand the goal of avoiding rate shock—defined by our prior orders as a “sudden substantial rate increases”<sup>90</sup>—to be a relevant consideration distinct from the broader regulatory policy goal of affordability. The concept of rate shock is focused on whether customers for whom the change is material have enough time to adjust their financial arrangements or seek assistance in order to avoid disconnection for non-payment or unacceptable compensating changes to their other costs. We agree with CUB that ratemaking mechanisms to help customers address timing concerns have been given less attention in our legislative and regulatory policy environment than have timing mechanisms to help utilities match revenue collection to increased costs or that reduce the regulatory lag. We regard those customer-related timing concerns as worthy considerations.

At the same time, there may be reasons to maintain our focus on strategies to address overall affordability rather than the timing of rate changes for one customer class. We may also prefer to focus our strategies for rate shock on those most likely to experience its worst outcomes—for example, through a targeted, short-term disconnection moratorium. Even as we continue to consider these issues in rate cases, we encourage parties to work on solutions that target the most energy burdened and vulnerable customers in docket UM 2211.

## **J. Multi-Year Rate Plans**

### ***1. Introduction***

NW Natural does not propose a multi-year rate plan as part of this request for a general rate revision but states that it intends to propose a multi-year rate plan in its next general rate proceeding.<sup>91</sup> NW Natural states that there are advantages to multi-year rate plans but that there are also a number of issues that must be addressed. NW Natural requests that the Commission direct it to file a multi-year rate plan with its next request for a general rate revision and requests that the Commission provide guidance based on the

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<sup>89</sup> We note that we harbor some concern about including fuel costs in a rate shock mechanism, because of considerations of timing and the utility's ability to respond to control costs.

<sup>90</sup> *In the Matters of Application of Portland General Electric Company for an Investigation into Least Cost Retirement Plan*, Docket No. DR 10/ Revised Tariffs Scheduled for Electric Service in Oregon, Docket No. UE 88/ *Application for an Accounting Order and for Order Approving Tariff Sheets Implementing Rate Reduction*, Docket No. UM 989, Order No. 08-487 at 66 (Sept. 30, 2008).

<sup>91</sup> NW Natural/100, Palfreyman-Kravitz/33-34.

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record developed in this docket.<sup>92</sup> Staff, CUB, and AWEC oppose NW Natural's request that the Commission direct it to file a multi-year rate plan.<sup>93</sup> Staff recommends that the Commission take no action, and AWEC recommends that the Commission not provide an advisory ruling on whether to allow a multi-year rate plan.<sup>94</sup> CUB further proposes that the Commission open a general investigation into multi-year rate plans, and AWEC states that a multi-year rate plan should only be considered as part of a general policy docket.<sup>95</sup>

## 2. *Party Positions*

### a. *Staff, CUB, and AWEC*

Staff states that it is concerned that any Commission direction regarding the multi-year rate plan would be taken out of context as approval of the concept of a multi-year rate plan. Staff maintains that NW Natural should engage with stakeholders ahead of any future multi-year rate plan filing in a more collaborative and accessible manner, noting the limitations of conceptual testimony in a contested and time-limited general rate case. AWEC argues that the issue of multi-year rate plans is not ripe for consideration, because NW Natural did not actually file a multi-year rate plan. AWEC maintains that there is not enough evidence in the record to determine that a multi-year rate plan would be justified or would result in fair, just, and reasonable rates. AWEC contends that there are significant concerns with multi-year rate plans, because they would likely favor the company's shareholders to the detriment of ratepayers. CUB similarly argues that multi-year rate plans may favor raising rates over improving efficiency.

CUB argues that issuing guidance on the record in this case would omit valuable voices from the conversation and that an investigation is the better forum for addressing multi-year rate plans. CUB contends that a robust investigation outside of a general rate proceeding avoids the timeline of a rate case suspension period, ensures it is not based on a self-serving utility proposal, and allows Staff or third-party consultants to examine the designs and identify the best practices from around the country. Staff maintains that it is unclear that Commission resources are best used on such an investigation. AWEC argues that if the Commission supports a multi-year rate plan, other utilities will follow suit, which is why any consideration of multi-year rate plans should be part of a general policy docket with all Oregon regulated utilities and interested stakeholders.

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<sup>92</sup> NW Natural/4400, Kravitz/34; NW Natural Opening Brief at 139.

<sup>93</sup> Staff Closing Brief at 12; CUB Closing Brief at 39; AWEC Closing Brief at 3-5.

<sup>94</sup> Staff Closing Brief at 12; AWEC Closing Brief at 4.

<sup>95</sup> CUB/100, Jenks/18; CUB/300, Jenks/19-20; CUB Closing Brief at 39-40; AWEC Closing Brief at 4-5.

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*b. NW Natural*

NW Natural argues that multi-year rate plans will bring efficiency to the ratemaking process, promote predictability for customers, and eliminate strain on Commission resources. NW Natural states that it is envisioning a plan that would streamline any general rate case, removing the elements that can be set to change at pre-defined rates based on the CPI or another metric. NW Natural maintains that there would be an annual process, but it is open to discussions on timing. NW Natural argues that the concerns raised by CUB and AWEC regarding the incentives for the company to spend without efficiency improvements are unsupported by the record and without merit. NW Natural opposes CUB's recommendation to open an investigation docket but states that it will participate in any forum. NW Natural maintains that the lack of engagement from Staff and AWEC to develop the record does not mean that there is no record on the issue.

**3. Resolution**

We do not direct NW Natural to file a multi-year rate plan with its next request for a general rate revision. The record in this proceeding does not provide sufficient information to support directing the company to file a multi-year rate plan, nor does it provide sufficient evidence to offer any specific guidance on how the company should structure any proposed rate plan. A general rate request proceeding narrows access to formal intervenors, sets a rigid, statutory timeline and includes myriad complex issues. These limitations reduce the effective stakeholder engagement on a substantive policy question regarding a future filing, so it is not the appropriate venue to provide an advisory opinion.

We recognize the administrative burden and cost that the current pace of general rate cases places on intervenors, the company, and ratepayers. While the high inflation environment of the last few years may be easing, state policy efforts to decarbonize and ongoing investments in system safety may well drive more frequent rate cases in the coming decades. We have also observed the limitations of annual fuel cost cases and other periodic cost trackers. It has proven difficult to test prudence, discipline costs, and ensure that areas of cost savings are incorporated into the revenue requirement. Automatic adjustment clauses are very good at eliminating regulatory lag when adding investments to rate base but rarely reduce regulatory lag for the removal of depreciated assets. We are uncertain multi-year rate cases will truly reduce the administrative burden while ensuring just and reasonable rates. At the same time, this Commission has always been open to regulatory innovations, and sees inherent value in developing and testing the methods and data sources for the utility-specific performance metrics that would be critical to ensuring consumer protection during the pendency of a multi-year rate plan.

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We agree that there is significant work to be done to engage all parties ahead of the adoption of any multi-year rate plan and a general policy investigation is likely the appropriate procedural forum. However, we are cautious about committing the limited resources of Staff and stakeholders to the effort. As a result, we decline to open a general investigation into multi-year rate plans in this order as proposed by CUB. Instead, we direct Staff to submit and present a report at a public meeting in 2025 that addresses the types of multi-year rate plans available, how other jurisdictions have implemented multi-year rate plans, the likely resource commitment and timeline required to effectively implement multi-year rate plans, and any concerns raised by stakeholders. We request Staff to pay special attention to metrics that hold utilities accountable for acceptable performance during the pendency of a multi-year plan. As part of this report, Staff shall convene at least one workshop with stakeholders.

We expect that any stakeholder proposing a multi-year rate plan framework will engage in a robust stakeholder process ahead of the filing to gather feedback on the design and all elements of the framework, as well as any stakeholder concerns. We expect any such request to address in detail the stakeholder process conducted prior to filing, as well as any issues or recommendations raised by stakeholders during that process. A multi-year rate plan proposal should include detailed discussion regarding meaningful performance metrics, how the plan results in just and reasonable rates, and any customer protections or benefits.

## VI. ORDER

IT IS ORDERED that:

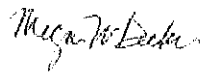
1. The partial stipulation between Northwest Natural Gas Company, dba NW Natural; Staff of the Public Utility Commission; the Oregon Citizens' Utility Board; and the Alliance of Western Energy Consumers filed on February 26, 2024, attached as Appendix A, is adopted.
2. The partial stipulation between Northwest Natural Gas Company, dba NW Natural; Staff of the Public Utility Commission of Oregon; the Oregon Citizens' Utility Board; the Alliance of Western Energy Consumers; and the Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club filed on July 24, 2024, attached as Appendix B, is adopted.
3. The partial stipulation between Northwest Natural Gas Company, dba NW Natural; Oregon Citizen's Utility Board; and the Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon

ORDER NO. 24-359

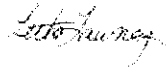
Environmental Council, Community Energy Project, and Sierra Club filed on August 12, 2024, attached as Appendix C, is adopted.

4. Advice No. 23-30 filed on December 29, 2023, is permanently suspended.
5. Northwest Natural Gas Company, dba NW Natural, must make a compliance filing, including its revised revenue requirement, rate impacts, and new tariffs to be effective November 1, 2024, consistent with the directives of this order, by 12:00 p.m. on October 29, 2024. To the extent that our decision on the purchased gas adjustment at the October 29, 2024 special public meeting requires changes to the compliance filing, the company may submit a revised compliance filing no later than 5:00 p.m. on October 30, 2024.
6. We direct Staff of the Public Utility Commission of Oregon to present a report at a public meeting in 2025 that addresses multi-year rate plans consistent with the directives of this order.

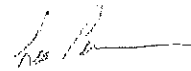
Made, entered, and effective Oct 25 2024



**Megan W. Decker**  
Chair



**Letha Tawney**  
Commissioner



**Les Perkins**  
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001- 0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UG 490

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

FIRST PARTIAL MULTI-PARTY  
STIPULATION REGARDING COST OF  
LONG-TERM DEBT

I. INTRODUCTION

The purpose of this First Partial Multi-Party Stipulation ("Stipulation") is to resolve one component of cost of capital—the cost of long-term debt—among Northwest Natural Gas Company d/b/a NW Natural ("NW Natural" or the "Company"), Staff of the Public Utility Commission of Oregon ("Staff"), the Oregon Citizens' Utility Board ("CUB"), and the Alliance of Western Energy Consumers ("AWEC") (each individually "Stipulating Party" or collectively, "Stipulating Parties") in Docket UG 490. The Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club ("the Coalition") is also a party to these proceedings but does not join the Stipulation. Although the Coalition does not join the Stipulation, the Coalition does not oppose the Stipulation.

II. BACKGROUND

On December 29, 2023, NW Natural filed a request for a general rate increase (the "Initial Filing") to become effective November 1, 2024. The Company's Initial Filing requested a revision to customer rates that would increase the Company's annual Oregon jurisdictional revenues by \$154.9 million which would have resulted in an approximate 16.62 percent increase to current customer rates. Administrative Law Judge ("ALJ") Sarah Spruce convened a prehearing conference on January 29, 2024.

On February 5, 2024, ALJ Spruce issued a Prehearing Conference Memorandum detailing the procedural schedule for this proceeding. In accordance with the procedural schedule, on

February 12, 2024, the parties held a settlement conference regarding cost of capital. As a result of the settlement discussions, the Stipulating Parties reached a partial settlement regarding cost of capital; in particular, the Stipulating Parties resolved the cost of long-term debt. This Stipulation memorializes the Stipulating Parties' agreements.

### III. TERMS OF AGREEMENT

The Stipulating Parties agree to the following:

1. Cost of Debt. The Stipulating Parties agree to a cost of long-term debt of 4.712 percent. No other components of Cost of Capital are included in this Stipulation.
2. The Stipulating Parties agree that this Stipulation is in the public interest, and will result in rates that are fair, just and reasonable, consistent with the standard in ORS 756.040.
3. This Stipulation will be offered into the record as evidence pursuant to OAR 860-001-0350(7). The Stipulating Parties agree to support this Stipulation throughout these consolidated proceedings and any appeal, provide witnesses to sponsor this Stipulation at hearing, and recommend that the Commission issue an order adopting this Stipulation. The Stipulating Parties also agree to cooperate in drafting and submitting joint testimony or a brief in support of this Stipulation in accordance with OAR 860-001-0350(7).
4. If this Stipulation is challenged, the Stipulating Parties agree that they will continue to support the Commission's adoption of the terms of this Stipulation. The Stipulating Parties agree to cooperate in cross-examination and put on such a case as they deem appropriate to respond fully to the issues presented, which may include raising issues that are incorporated in the settlements embodied in this Stipulation.
5. The Stipulating Parties have negotiated this Stipulation as an integrated document. If the Commission rejects all or any material portion of this Stipulation or imposes additional material conditions in approving this Stipulation, any of the Stipulating Parties are entitled to withdraw from this Stipulation or exercise any other rights provided in OAR 860-001-0350(9).

6. By entering into this Stipulation, no Stipulating Party approves, admits, or consents to the facts, principles, methods, or theories employed by any other Stipulating Party in arriving at the terms of this Stipulation, other than those specifically identified in the body of this Stipulation. No Stipulating Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except as specifically identified in this Stipulation.

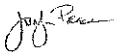
7. The substantive terms of this Stipulation are not enforceable by any Stipulating Party unless and until adopted by the Commission in a final order. Each Stipulating Party avers that it is signing this Stipulation in good faith and that it intends to abide by the terms of this Stipulation unless and until this Stipulation is rejected or adopted only in part by the Commission. The Stipulating Parties agree that the Commission has exclusive jurisdiction to enforce or modify this Stipulation. If the Commission rejects or modifies this Stipulation, any Stipulating Party or Parties reserve the right to seek reconsideration or rehearing of the Commission order under ORS 756.561 and OAR 860-001-0720 or to appeal the Commission order under ORS 756.610.

8. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Stipulation is entered into by each Stipulating Party on the date entered below such Stipulating Party's signature.

DATED this 26th day of February, 2024.

NW NATURAL COMPANY D/B/A NW  
NATURAL

By:   
Date: February 26, 2024

OREGON CITIZENS' UTILITY BOARD

By: /s/ Michael P. Goetz  
Date: February 26, 2024

STAFF OF PUBLIC UTILITY COMMISSION  
OF OREGON

By: /s/ Stephanie Andrus  
Date: February 26, 2024

ALLIANCE OF WESTERN ENERGY  
CONSUMERS

By: /s/ Chad M. Stokes  
Date: February 26, 2024

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UG 490**

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

**SECOND PARTIAL STIPULATION**

**I. INTRODUCTION**

The purpose of this Second Partial Stipulation ("Second Stipulation") is to resolve certain issues among Northwest Natural Gas Company d/b/a NW Natural ("NW Natural" or the "Company"), Staff of the Public Utility Commission of Oregon ("Staff"), the Oregon Citizens' Utility Board ("CUB"), the Alliance of Western Energy Consumers ("AWEC"), and the Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club ("Coalition") (collectively, the "Stipulating Parties") in Docket UG 490. The Stipulating Parties support all terms in this Second Stipulation, with the limited exceptions stated in Paragraphs 4 and 7, which Staff does not join but does not oppose.

The Stipulating Parties expect that this Second Stipulation will address all remaining issues among the Stipulating Parties, except for those that are listed in Paragraphs 8, 9 and 10 of this Second Stipulation that will continue to be litigated in this docket or, pending additional settlement discussions, may be incorporated into a separate stipulated agreement entered into at a later date.

## **II. BACKGROUND**

On December 29, 2023, NW Natural filed its request for a general rate increase (the “Initial Filing”) to become effective November 1, 2024 (the “Rate Effective Date”). The Company’s Initial Filing requested a revision to customer rates that would increase the Company’s annual Oregon jurisdictional revenues by \$154.9 million, which would have resulted in an approximately 16.62 percent increase to current customer rates, or a margin rate increase of 29.3 percent.<sup>1</sup> Administrative Law Judge (“ALJ”) Sarah Spruce convened a prehearing conference on January 29, 2024.

On February 5, 2024, ALJ Spruce issued a memorandum establishing the procedural schedule. Thereafter, on February 12, 2024, the parties held their first settlement conference. As a result of the settlement discussions, NW Natural, Staff, CUB, and AWEC reached a partial settlement on the cost of long-term debt and filed the First Partial Multi-Party Stipulation (“First Stipulation”) contemporaneously with the Joint Testimony in Support of the First Partial Multi-Party Stipulation on February 26, 2024. The Coalition did not join but did not oppose the First Stipulation.

On February 23, 2024, the Company filed Supplemental Testimony relating to the recently invalidated Climate Protection Plan (“CPP”) and its effect on the Company’s rate request. On March 6, 2024, ALJ Spruce issued an additional memorandum clarifying the procedural schedule and setting a date for a public comment hearing to be held at the Commission. On April 16, 2024, the Commission conducted the public

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<sup>1</sup> Initial Filing, Executive Summary at 1.

comment hearing and received a number of comments from community members and associations interested in the outcome of NW Natural's rate request.<sup>2</sup>

On April 18, 2024, Staff, CUB, AWEC, and the Coalition filed their Opening Testimony. Staff filed Supplemental and Corrected Testimony on May 17, 2024. Staff additionally conducted a public energy justice workshop on April 25, 2024 to provide a forum for the public, and environmental justice communities in particular, to weigh in on and improve procedural equity in NW Natural's rate case.

The parties held additional settlement conferences on May 3, 2024 and June 17, 2024; however, these discussions did not result in any additional settlement, leading parties to file additional rounds of testimony. NW Natural filed its Reply Testimony on June 4, 2024, updating its revenue requirement request to \$152.3 million.<sup>3</sup> Staff and intervenors filed Rebuttal Testimony on July 2, 2024.

All parties participated in another settlement conference on July 10, 2024, and engaged in ongoing settlement discussions thereafter. As a result of the settlement discussions, the Stipulating Parties reached a partial settlement of the issues presented in this docket, resolving all issues among the Stipulating Parties except for those issues that are specifically excluded per Paragraphs 8, 9 and 10 of this Second Stipulation. This Second Stipulation memorializes the Stipulating Parties' agreements from their most recent settlement conferences.

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<sup>2</sup> Staff incorporated comments presented at the public hearing into the record in Staff's Supplemental Opening Testimony, Staff/2200, Nottingham.

<sup>3</sup> NW Natural/2200, Kravitz/4.

**III. TERMS OF AGREEMENT**

The Stipulating Parties agree to the following:

1. Revenue Requirement. The Stipulating Parties agree that the total increase to NW Natural's annual Oregon revenue requirement is \$95,000,000, which includes the results of the settlement in the Company's depreciation study proceeding, Docket UM 2312. The revenue requirement includes the following elements:

a. Cost of Capital/Capital Structure. The Stipulating Parties agree to a Rate of Return of 7.056 percent, which is based on a 50 percent common equity and 50 percent long-term debt capital structure, with a Return on Equity ("ROE") of 9.40 percent and a cost of long-term debt of 4.712 percent.<sup>4</sup>

**Agreed Upon Cost of Capital**

<b>Component</b>	<b>Capital Structure</b>	<b>Component Cost</b>	<b>Weighted Cost</b>
Cost of Long-Term (LT) Debt	50%	4.712%	2.356%
Return on Common Equity (ROE)	50%	9.40%	4.70%
<b>Rate of Return</b>			<b>7.056%</b>

b. In testimony, AWEC recommended excluding all Test Year capital additions from rate base, and Staff recommended excluding all Test Year capital additions from rate base with the exception of meters. The Stipulating Parties were not necessarily in agreement on the capital forecast included in the black box revenue requirement, but for purposes of this Stipulation and Paragraph 1(c) below, the

<sup>4</sup> Cost of Long-Term Debt was resolved in the First Stipulation.

Stipulating Parties agree that the revenue requirement assumes NW Natural will not include capital projects in rates that go into service after October 31, 2024, except for Test Year capital additions related to customer growth, which may be further adjusted depending on the outcome of Paragraph 1(c).

c. The Stipulating Parties agree that any revenue requirement associated with Test Year capital additions related to customer growth, and revenues associated with new customers added in the Test Year, may be further increased or decreased as a result of ongoing settlement discussions or litigation related to the Company's line extension allowance ("LEA") policy. See Paragraph 10(a). For the purpose of implementing this provision, the Stipulating Parties agree to use the Company's forecasted customer counts in the Company's initial general rate case filing. This Second Stipulation does not create any presumptions about prudence or the reasonableness of cost recovery for Test Year capital additions related to line extensions or customer growth.

2. Officer Attestation. The Stipulating Parties agree that NW Natural will file officer attestations on or before October 4, 2024, and October 25, 2024, attesting to whether any projects forecast to cost over \$1,000,000 and to be completed by October 31, 2024, will be completed after that date. In the event there are such projects, those projects will be removed from rates.

3. Rate Spread and Rate Design. The Stipulating Parties agree to rate spread and rate design as set out in Attachment 1 to this Second Stipulation.

4. Residential Bill Discount Program – Discount Levels. The Company, CUB, AWEC, and the Coalition agree that the discount levels for the bill discount program will be revised as follows:

- a. Tier 0 – 85 percent
- b. Tier 1 – 50 percent
- c. Tier 2 – 30 percent

The above discount levels will commence on the rate effective date (i.e., November 1, 2024). Staff does not join this Paragraph but does not oppose it.

5. Ongoing Review of Bill Discount Program. The Stipulating Parties agree that following the completion of the Company's Energy Burden Assessment ("EBA"), the Stipulating Parties will hold one or more workshops, open to stakeholders, to discuss the results of the EBA and potential refinements to NW Natural's energy assistance programs, including the Bill Discount Program. The Stipulating Parties agree that, by the Company, CUB, AWEC, and the Coalition supporting the modification to the Bill Discount Program stated in Paragraph 4 of this Second Stipulation, the Stipulating Parties are not precluded from seeking further modifications to the Bill Discount Program in proceedings before the Commission.

6. Arrearage Management Program ("AMP"). Immediately following the execution and filing of this Second Stipulation, NW Natural will schedule a workshop with the Stipulating Parties, open to stakeholders, to discuss the details of an AMP for Tier 0 customers. NW Natural commits to make best efforts to submit a filing for an AMP for Tier 0 customers by December 31, 2024, for implementation on April 1, 2025.

7. Cost Recovery for Bill Discount Program. The Company, CUB, AWEC and the Coalition agree on the following methodology for cost recovery of the Bill Discount Program, which Staff does not join but does not oppose. Costs will be recovered through Schedule 335 as a monthly charge per bill, with a maximum rate cap of \$94/month for rate schedules 31 and 32 customers (individually, not as a combined class of rate schedule 31 and rate schedule 32). The costs will be allocated to all rate schedules on an equal percent of margin basis. In the event that the costs of the program reach the cap for rate schedule 31, the costs allocated to rate schedule 31 in excess of the cap will be spread on an equal percent of margin basis to all non-capped rate schedules. In the event that the costs of the program reach the cap for rate schedule 32, the costs allocated to rate schedule 32 in excess of the cap will be spread on an equal percent of margin basis to all non-capped rate schedules.

8. Revenue Requirement Issues Not Covered by This Second Stipulation. This Second Stipulation resolves all Stipulating Parties' issues relating to the Company's revenue requirement with the exception of the Company's request related to the following items, which will continue to be addressed in litigation:

- a. Coalition Litigation expense adjustment of (\$720,900)
- b. Coalition Lobbying expense adjustment of (\$1,725,922)

Any amounts identified in Sections (a) and (b) of this Paragraph approved for recovery by the Commission will be additional to the revenue requirement increase identified in Paragraph 1.

9. Rate Base Adjustment for LEAs between 2018-2023. The Coalition and CUB's request to reduce rate base by \$13.7 million for LEAs between 2018-2023 will

continue to be addressed in litigation. If the Commission were to disallow recovery of any amounts of such LEAs, the Company will remove such ordered amounts from rate base.

10. Other Issues Not Covered by This Second Stipulation. This Second Stipulation does not resolve the following issues, and these issues will continue to be addressed in litigation or separate stipulation:

- a. The LEA policy going forward;
- b. NW Natural's proposed monthly fixed rate charge for new residential premises customers connected on or after November 1, 2024;
- c. CUB's Rate Shock proposal;
- d. Contested issues related to Decoupling;
- e. Contested issues related to the Renewable Natural Gas Automatic Adjustment Clause (RNG AAC);
- f. Contested issues related to post-enrollment verification in the Company's bill discount program; and
- g. Contested issues related to the Oregon Low-Income Energy Efficiency (OLIEE) program.

11. The Stipulating Parties agree that this Second Stipulation is in the public interest, and will result in rates that are fair, just and reasonable, consistent with the standard in ORS 756.040.

12. This Second Stipulation will be offered into the record as evidence pursuant to OAR 860-001-350(7). The Stipulating Parties agree to support this Second Stipulation throughout this proceeding and any appeal, provide witnesses to sponsor

this Second Stipulation at hearing, and recommend that the Commission issue an order adopting this Second Stipulation. The Stipulating Parties also agree to cooperate in drafting and submitting joint testimony or a brief in support of this Second Stipulation in accordance with OAR 860-001-0350(7).

13. If this Second Stipulation is challenged, the Stipulating Parties agree that they will continue to support the Commission's adoption of the terms of this Second Stipulation. The Stipulating Parties agree to cooperate in cross-examination and put on such a case as they deem appropriate to respond fully to the issues presented, which may include raising issues that are incorporated in the settlements embodied in this Second Stipulation.

14. The Stipulating Parties have negotiated this Second Stipulation as an integrated document. If the Commission rejects all or any material portion of this Second Stipulation or imposes additional material conditions in approving this Second Stipulation, any of the Stipulating Parties are entitled to withdraw from this Second Stipulation or exercise any other rights provided in OAR 860-001-0350(9).

15. By entering into this Second Stipulation, no Stipulating Party approves, admits, or consents to the facts, principles, methods, or theories employed by any other Stipulating Party in arriving at the terms of this Second Stipulation, other than those specifically identified in the body of this Second Stipulation. No Stipulating Party shall be deemed to have agreed that any provision of this Second Stipulation is appropriate for resolving issues in any other proceeding, except as specifically identified in this Second Stipulation.

ORDER NO. 24-359


16. The substantive terms of this Second Stipulation are not enforceable by any Stipulating Party unless and until adopted by the Commission in a final order. Each Stipulating Party avers that it is signing this Second Stipulation in good faith and that it intends to abide by the terms of this Second Stipulation unless and until this Second Stipulation is rejected or adopted only in part by the Commission. The Stipulating Parties agree that the Commission has exclusive jurisdiction to enforce or modify this Second Stipulation. If the Commission rejects or modifies this Second Stipulation, the Stipulating Parties reserve the right to seek reconsideration or rehearing of the Commission order under ORS 756.561 and OAR 860-001-0720 or to appeal the Commission order under ORS 756.610.

17. This Second Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Second Stipulation is entered into by each Stipulating Party on the date entered below such Stipulating Party's signature.

DATED this July 24, 2024.

NW NATURAL COMPANY D/B/A NW  
NATURAL

By:   
Date: July 24, 2024

OREGON CITIZENS' UTILITY BOARD

By: /s/ Claire Valentine-Fossum  
Date: July 24, 2024

STAFF OF PUBLIC UTILITY  
COMMISSION OF OREGON

By: /s/ Stephanie Andrus  
Date: July 24, 2024

ALLIANCE OF WESTERN ENERGY  
CONSUMERS

By: /s/ Chad Stokes  
Date: July 24, 2024

ORDER NO. 24-359

COALITION OF COMMUNITIES OF COLOR,  
CLIMATE SOLUTIONS, VERDE, COLUMBIA  
RIVERKEEPER, OREGON  
ENVIRONMENTAL COUNCIL, COMMUNITY  
ENERGY PROJECT, AND SIERRA CLUB

By: /s/ Jaimini Parekh

Date: July 24, 2024

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

NORTHWEST NATURAL GAS COMPANY

UG 490

SECOND PARTIAL STIPULATION

Attachment 1

Settlement Rate Spread

July 24, 2024

ORDER NO. 24-359

**UG 490 Settlement Rate Spread**  
**Second Multi-Party Stipulation - Attachment 1 - Errata**  
**July 25, 2024**

Class	Customers	Filed Revenue	Times Average	Net Increase	Margin % Increase	Total Revenue*	Total Rev. % Increase	Approx. PGA Reduction**	Approx % After PGA**
02R	644,228	\$ 360,714,888	1.0041	\$ 64,853,719	18.0%	\$ 587,008,625	11.0%	-3.2%	7.8%
03C	60,059	\$ 113,389,442	1.3000	\$ 26,393,930	23.3%	\$ 208,409,273	12.7%	-0.5%	12.2%
03I	339	\$ 2,405,057	0.4500	\$ 193,788	8.1%	\$ 5,120,734	3.8%	1.4%	5.2%
27R	1,524	\$ 593,328	1.3000	\$ 138,110	23.3%	\$ 1,055,526	13.1%	-2.2%	10.9%
31CSF	682	\$ 10,045,606	0.4500	\$ 809,425	8.1%	\$ 22,704,926	3.6%	-1.0%	2.6%
31CTF	59	\$ 1,140,610	0.4500	\$ 91,905	8.1%	\$ 1,140,610	8.1%	9.1%	17.2%
31ISF	181	\$ 3,467,751	0.4500	\$ 279,414	8.1%	\$ 9,697,979	2.9%	2.5%	5.4%
31ITF	7	\$ 156,930	0.4500	\$ 12,645	8.1%	\$ 156,930	8.1%	8.8%	16.9%
32CSF	546	\$ 14,016,743	0.4000	\$ 1,003,911	7.2%	\$ 39,930,829	2.5%	2.6%	5.1%
32ISF	83	\$ 3,667,040	0.2750	\$ 180,566	4.9%	\$ 14,892,281	1.2%	3.9%	5.1%
32CTF	26	\$ 994,454	0.4000	\$ 71,225	7.2%	\$ 994,454	7.2%	8.1%	15.3%
32ITF	99	\$ 6,714,797	0.2750	\$ 330,639	4.9%	\$ 6,714,797	4.9%	4.1%	9.0%
32CSI	45	\$ 2,566,247	0.4000	\$ 183,800	7.2%	\$ 13,483,573	1.4%	4.0%	5.4%
32ISI	60	\$ 2,990,958	0.2750	\$ 147,276	4.9%	\$ 16,881,514	0.9%	4.3%	5.2%
32CTI	3	\$ 515,000	0.4000	\$ 36,885	7.2%	\$ 515,000	7.2%	4.9%	12.1%
32ITI	71	\$ 5,539,411	0.2750	\$ 272,762	4.9%	\$ 5,539,411	4.9%	-3.7%	1.2%
Special Contract		\$ 1,642,981				\$ 1,642,981			
<b>Total</b>		<b>\$ 530,561,242</b>		<b>\$ 95,000,000</b>	<b>17.9%</b>	<b>\$ 935,889,442</b>	<b>10.2%</b>	<b>-1.8%</b>	<b>8.3%</b>

\* Includes miscellaneous revenues.

\*\*The PGA figures are estimates subject to change. See NW Natural Response to Bench Requests J-1 and J-2 (Mar. 21, 2024).

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UG 490

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

**THIRD PARTIAL MULTIPARTY  
STIPULATION**

1 **I. INTRODUCTION**

2 The purpose of this Third Partial Multi-Party Stipulation ("Third Stipulation") is to  
3 resolve certain issues among Northwest Natural Gas Company d/b/a NW Natural ("NW  
4 Natural" or the "Company"), the Coalition of Communities of Color, Climate Solutions,  
5 Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy  
6 Project, and Sierra Club ("Coalition"), and the Oregon Citizens' Utility Board ("CUB")  
7 (collectively, the "Stipulating Parties") in Docket UG 490. The Stipulating Parties support  
8 all terms in this Third Stipulation. The other parties to this proceeding, the Staff of the  
9 Public Utility Commission of Oregon and the Alliance of Western Energy Consumers,  
10 neither join nor oppose this Third Stipulation.

11 This Third Stipulation resolves all contested issues raised in Docket No. UG 490  
12 related to post-enrollment verification in the Company's bill discount program, for the  
13 purposes of this rate case.

14 **II. BACKGROUND**

15 On December 29, 2023, NW Natural filed its request for a general rate increase  
16 (the "Initial Filing") to become effective November 1, 2024 (the "Rate Effective Date").  
17 The Company's Initial Filing requested a revision to customer rates that would increase

1 the Company's annual Oregon jurisdictional revenues by \$154.9 million, which would  
2 have resulted in an approximately 16.62 percent increase to current customer rates.<sup>1</sup>  
3 Administrative Law Judge ("ALJ") Sarah Spruce convened a prehearing conference on  
4 January 29, 2024.

5 On February 5, 2024, ALJ Spruce issued a memorandum establishing the  
6 procedural schedule. Thereafter, on February 12, 2024, the parties held their first  
7 settlement conference. As a result of the settlement discussions, NW Natural, Staff, CUB,  
8 and AWEC reached a partial settlement on the cost of long-term debt and filed the First  
9 Partial Multi-Party Stipulation ("First Stipulation") contemporaneously with Joint  
10 Testimony in Support of the First Partial Multi-Party Stipulation on February 26, 2024.  
11 The Coalition did not join but did not oppose the First Stipulation.

12 On February 23, 2024, the Company filed Supplemental Testimony relating to the  
13 recently invalidated Climate Protection Plan ("CPP") and its effect on the Company's rate  
14 request. On March 6, 2024, ALJ Spruce issued an additional memorandum clarifying the  
15 procedural schedule and setting a date for a public comment hearing to be held at the  
16 Commission. On April 16, 2024, the Commission conducted the public comment hearing  
17 and received a number of comments from community members and associations  
18 interested in the outcome of NW Natural's rate request.<sup>2</sup>

19 On April 18, 2024, Staff, CUB, AWEC, and the Coalition filed their Opening  
20 Testimony. Staff filed Supplemental and Corrected Testimony on May 17, 2024. Staff  
21 additionally conducted a public energy justice workshop on April 25, 2024, to provide a

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<sup>1</sup> Initial Filing, Executive Summary at 1.

<sup>2</sup> Staff incorporated comments presented at the public hearing into the record in Staff's Supplemental Opening Testimony, Staff/2200, Nottingham.

1 forum for the public to weigh in on and improve procedural equity in NW Natural's rate  
2 case.

3 The parties held additional settlement conferences on May 3, 2024, and June 17,  
4 2024; however, these discussions did not result in any additional settlement, leading  
5 parties to file additional rounds of testimony. NW Natural filed its Reply Testimony on  
6 June 4, 2024, updating its revenue requirement request to \$152.3 million.<sup>3</sup> Staff and  
7 intervenors filed Rebuttal Testimony on July 2, 2024.

8 All parties participated in another settlement conference on July 10, 2024, and  
9 engaged in on-going settlement discussions thereafter. As a result of the settlement  
10 discussions, the Stipulating Parties agreed to the Second Partial Multi-Party Stipulation  
11 ("Second Stipulation") on July 24, 2024, resolving many of the contested issues among  
12 the Stipulating Parties. NW Natural filed its Surrebuttal Testimony on the same day that  
13 addressed the remaining contested issues not resolved by the Second Stipulation.

14 Contested issues related to post-enrollment verification in the Company's bill  
15 discount program were not resolved in the Second Stipulation. However, subsequent  
16 settlement discussions have resulted in this Third Stipulation, which resolves these  
17 issues. This Third Stipulation memorializes the Stipulating Parties' agreement from their  
18 most recent settlement conference.

### 19 III. TERMS OF AGREEMENT

20 The Stipulating Parties agree to resolve the following issues raised in this  
21 proceeding as follows:

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<sup>3</sup> NW Natural/2200, Kravitz/4.

1           1.     Post-Enrollment Verification. The Stipulating Parties agree the NW Natural  
2 bill discount program's post-enrollment verification will begin no earlier than March of  
3 2025; NW Natural will hold workshops on its verification process after the rate effective  
4 date of November 1, 2024, with interested stakeholders, including but not limited to Verde,  
5 Community Energy Project, and Coalition of Communities of Color, to receive feedback  
6 before starting the process. The Stipulating Parties agree that this Third Stipulation  
7 resolves all contested issues related to post-enrollment verification in the Company's bill  
8 discount program as described in Paragraph 10(f) of the Second Stipulation, for the  
9 purposes of this case.

10           2.     Issues Not Covered by This Third Stipulation. All issues listed in  
11 Paragraphs 8, 9, and 10 of the Second Stipulation will continue to be litigated in  
12 accordance with the terms of that stipulation, except for the contested issues described  
13 in Paragraph 1 above.

14           3.     The Stipulating Parties agree that this Third Stipulation is in the public  
15 interest, and will result in rates that are fair, just and reasonable, consistent with the  
16 standard in ORS 756.040.

17           4.     This Third Stipulation will be offered into the record as evidence pursuant  
18 to OAR 860-001-350(7). The Stipulating Parties agree to support this Third Stipulation  
19 throughout these consolidated proceedings and any appeal, provide witnesses to sponsor  
20 this Third Stipulation at hearing, and recommend that the Commission issue an order  
21 adopting this Third Stipulation. The Stipulating Parties also agree to cooperate in drafting  
22 and submitting joint testimony or a brief in support of this Third Stipulation in accordance  
23 with OAR 860-001-0350(7).

1           5.     If this Third Stipulation is challenged, the Stipulating Parties agree that they  
2 will continue to support the Commission's adoption of the terms of this Third Stipulation.  
3 The Stipulating Parties agree to cooperate in cross-examination and put on such a case  
4 as they deem appropriate to respond fully to the issues presented, which may include  
5 raising issues that are incorporated in the settlements embodied in this Third Stipulation.

6           6.     The Stipulating Parties have negotiated this Third Stipulation as an  
7 integrated document. If the Commission rejects all or any material portion of this Third  
8 Stipulation or imposes additional material conditions in approving this Third Stipulation,  
9 any of the Stipulating Parties are entitled to withdraw from this Third Stipulation or  
10 exercise any other rights provided in OAR 860-001-0350(9).

11          7.     By entering into this Third Stipulation, no Stipulating Party approves, admits,  
12 or consents to the facts, principles, methods, or theories employed by any other  
13 Stipulating Party in arriving at the terms of this Third Stipulation, other than those  
14 specifically identified in the body of this Third Stipulation. No Stipulating Party shall be  
15 deemed to have agreed that any provision of this Third Stipulation is appropriate for  
16 resolving issues in any other proceeding, except as specifically identified in this Third  
17 Stipulation.

18          8.     The substantive terms of this Third Stipulation are not enforceable by any  
19 Stipulating Party unless and until adopted by the Commission in a final order. Each  
20 Stipulating Party avers that it is signing this Third Stipulation in good faith and that it  
21 intends to abide by the terms of this Third Stipulation unless and until this Third Stipulation  
22 is rejected or adopted only in part by the Commission. The Stipulating Parties agree that  
23 the Commission has exclusive jurisdiction to enforce or modify this Third Stipulation. If

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1 the Commission rejects or modifies this Third Stipulation, the Stipulating Parties reserve  
2 the right to seek reconsideration or rehearing of the Commission order under ORS  
3 756.561 and OAR 860-001-0720 or to appeal the Commission order under ORS 756.610.

4 9. This Third Stipulation may be executed in counterparts and each signed  
5 counterpart shall constitute an original document.

6 This Third Stipulation is entered into by each Stipulating Party on the date entered  
7 below such Stipulating Party's signature.

8 DATED August 12, 2024.

NW NATURAL COMPANY D/B/A NW  
NATURAL

By: /s/ Zachary D. Kravitz  
Date: August 12, 2024

OREGON CITIZENS' UTILITY BOARD

By: /s/ Claire Valentine-Fossum  
Date: August 12, 2024

COALITION OF COMMUNITIES OF  
COLOR, CLIMATE SOLUTIONS,  
VERDE, COLUMBIA RIVERKEEPER,  
OREGON ENVIRONMENTAL COUNCIL,  
COMMUNITY ENERGY PROJECT, AND  
SIERRA CLUB

By: Noorulanne Jan  
Date: August 12, 2024

## CERTIFICATE OF FILING AND SERVICE

I hereby certify that I served the foregoing **PETITION FOR JUDICIAL REVIEW OF ADMINISTRATIVE ORDER**, on January 9, 2025, on the parties lists below in the manner indicated:

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I further certify that I electronically filed the foregoing **PETITION FOR JUDICIAL REVIEW OF ADMINISTRATIVE ORDER** with the Oregon Appellate Court Administrator on January 9, 2025, via the Oregon Appellate Court eFiling system.

**MCDOWELL RACKNER GIBSON PC**



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