



August 16, 2022

VIA ELECTRONIC FILING

Oregon Public Utility Commission
Attn: Filing Center
P.O. Box 1088
Salem, OR 97308-1088

RE: UG 435 – ERRATA to Greer Ryan Rebuttal and Cross-Answering Testimony by Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club (“Coalition”)

Dear Filing Center:

Enclosed for filing in the above-referenced docket is an Errata to the Rebuttal and Cross-Answering Testimony of Greer Ryan filed on June 30, 2022, as Exhibit Coalition/900/Ryan/24–25, 33.

The Coalition inadvertently referenced FERC Account Nos. 408 & 412. The correct FERC Account Nos. are 908 & 912.

Redline versions of the corrected pages are attached, along with a clean copy of the corrected testimony in full.

Sincerely,

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1 **Q. What FERC Accounts has NW Natural charged for costs associated with its**
2 **advertising promoting gas appliances financed with shareholder incentives?**

3 A. NW Natural charged FERC Accounts Nos. 408-908 and 412-912 for advertising costs
4 associated with appliances financed with shareholder incentives.⁷³

5 **Q. What costs are utilities allowed to charge to FERC Account Nos. 408-908 & 412912?**

6 A. Under FERC regulations, utilities may charge costs associated with customer assistance
7 to FERC Account No. 408908, which includes, “the cost of labor, materials used and expenses
8 incurred in providing instructions or assistance to customers, the object of which is to encourage
9 safe, efficient and economical use of the associate utility company's service.”⁷⁴ Under FERC
10 regulations, utilities may charge costs associated with demonstrating and selling expenses to
11 FERC Account No. 412912, which includes, “the cost of labor, materials used and expenses
12 incurred in promotional, demonstrating, and selling activities, except by merchandising, the
13 object of which is to promote or retain the business of present and prospective customers of the
14 service company[.]”⁷⁵

15 **Q. If NW Natural charged FERC Accounts 408-908 & 412-912 for expenses associated**
16 **with advertising promoting shareholder financed gas-appliances, could these costs be**
17 **charged to Category C?**

18 A. No. All costs associated with Category C advertising, up to \$600,000, were charged to
19 FERC Account Nos. 913 & 916. Since expenses associated with advertising promoting

⁷³ Staff/1002, OPUC DR Response No. 421.

⁷⁴ 18 CFR § 367.9080.

⁷⁵ 18 CFR § 367.9120.

1 shareholder financed gas appliances were charged to FERC Account Nos. [408-908](#) & [412912](#),
2 these costs could not be included in the budget for Category C advertising.

3 **Q. Does NW Natural seek recovery from ratepayers for costs associated with**
4 **advertising promoting shareholder financed gas appliances?**

5 A. Yes, NW Natural seeks recovery from ratepayers for costs associated with its advertising
6 to promote shareholder financed gas appliances.⁷⁶

7 **Q. Does Staff's Opening Testimony raise the issue of promotional concessions?**

8 A. Yes. Opening Testimony of Julie Jent discusses promotional activities and concessions,
9 including related advertising costs.⁷⁷ Staff did not recommend making any adjustments to costs
10 associated with advertising that promotes shareholder-financed gas appliances.⁷⁸ Staff also
11 discusses costs associated with FERC Account Nos. [408-908](#) & [412-912](#) in the Testimony of
12 Heather Cohen.⁷⁹

13 In its Opening Testimony, Staff recommended an adjustment of \$41,112 to customer
14 assistance expense (FERC Account 908) for dealer relations expenses related to building and
15 industry events.⁸⁰ Staff further sought reductions to multiple cost elements within the
16 demonstration and selling expense account (FERC Account 912), including corporate identity

⁷⁶ See Staff/1002, Jent/1-3; Staff/1002, Jent/29-32.

⁷⁷ Staff/1000, Jent/14-16.

⁷⁸ Staff/1000, Jent/16.

⁷⁹ Staff/600, Cohen/17-25.

⁸⁰ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz, Fjeldheim, Gehrke, Mullins, and Kermode/24.

1 **Q. What action would you recommend that the Commission take to resolve the**
2 **concerns you have raised regarding advertisements billed improperly to Category A?**

3 A. I recommend that the Commission deduct \$60,000 for costs associated with the contract
4 to provide the purported safety-related booklets to school children.

5 **Q. In total how much do you recommend the Commission deduct from NW Natural's**
6 **Category A and Category B advertising budget?**

7 A. I recommend that the Commission deduct \$1,183,512 from the Category A and B
8 advertising budgets. Thus, I recommend the Commission disallow \$183,512 in advertising costs,
9 in addition to the \$1 million reduction provided for in Section (1)(l) of the First Stipulated
10 Settlement.

11 B. Recommendations related to Section (1)(m) of the First Stipulated Settlement.

12 **Q. What actions do you recommend the Commission take with regard to the**
13 **shareholder-financed advertising for gas-powered appliances?**

14 A. First, I recommend the Commission disallow \$482,882 in costs associated with
15 advertising that NW Natural published which solicited the public to purchase and install gas-
16 powered appliances for their home using shareholder-financed incentives. This advertising is
17 considered a promotional concession, which must be categorized as Category C advertising—as
18 NW Natural admits. However, NW Natural has charged costs associated with this advertising to
19 FERC Accounts ~~408-908~~ & ~~412912~~, which are paid for by ratepayers. I recommend that the
20 Commission disallow \$482,882 for this promotional concession advertising in addition to the
21 agreed disallowance in Sections (1)(m) of the First Stipulated Settlement. In total the
22 Commission should disallow \$774,882 from the revenue requirement related to Customer
23 Account and Sales Expense.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 435

| | | |
|--------------------------------------|---|-------------------------|
| In the Matter of |) | 8/16/2022 CORRECTED |
| |) | |
| NORTHWEST NATURAL GAS COMPANY, |) | REDACTED REBUTTAL AND |
| dba NW NATURAL, |) | CROSS-ANSWERING |
| |) | TESTIMONY OF GREER RYAN |
| Request for a General Rate Revision. |) | OBJECTING TO THE |
| |) | STIPULATED SETTLEMENT |
| |) | |
| |) | |
| |) | |

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I. INTRODUCTION

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide evidence in support of the objection by Coalition of Communities of Color, Verde, Sierra Club, Oregon Environmental Council, Climate Solutions, Columbia Riverkeeper, and Community Energy Project to the stipulated settlement agreement entered into by the parties and filed with the Oregon Public Utility Commission (the “Commission”) on May 31, 2022 (“First Stipulated Settlement”).¹ I am also replying to the testimonies of Cory Beck, Ryan Bracken, and Kimberly Heiting, to the extent that they respond to my Opening Testimony.

Q. What are the issues that you address in your testimony?

A. First, I will provide testimony objecting to Section (l) and (m) of the First Stipulated Settlement that resolved the revenue requirement associated with NW Natural’s advertising expenditures and its Customer Account and Sales Expense. I will explain how NW Natural’s advertising campaigns regarding Cooking with Gas, RNG investments, indoor air quality concerns from gas stoves, the purported safety-related reading booklets for children, and promoting shareholder-financed appliance upgrades, are not recoverable advertising expenditures under either Category A or Category B advertising. I will also present evidence showing that contrary to the Reply Testimony of Cory Beck, NW Natural billed costs associated with its institutional and promotional advertising to ratepayers as Category A advertising. Lastly, I raise concerns regarding NW Natural’s accounting method for tracking advertising expenditures. Specifically, the Company never charged any expenses to Category D, “political

¹ Consolidated UG 435 & UG 411—Multi-Party Stipulation, at 6, May 31, 2022 (hereinafter “First Stipulated Settlement”).

1 advertising” even though the Company admits to having published advertisements to influence
2 the outcome of municipal policy. The Commission should exclude the advertising expenditures
3 incorrectly presented as recoverable from the First Stipulated Settlement.

4 Second, I will provide testimony objecting to Section (n) of the First Stipulated
5 Settlement that resolved the revenue requirement for this case, which includes expenditures for
6 NW Natural staff salaries. In particular, I respond to the Testimony of Kimberly Heiting and
7 Ryan Bracken (“Heiting-Bracken Testimony”) regarding expenditures made by the Company to
8 influence municipal climate policy and to advocate against the CPP that NW Natural included in
9 its budgeting for the Base Year. This means that costs associated with political activities to
10 influence municipal climate policy and legislation on climate are included in the revenue
11 requirement. The Commission prohibits the use of ratepayer funds to pay for political activities
12 and community affairs, and the Commission should exclude these amounts from the First
13 Stipulated Settlement.

14 II. COOKING WITH GAS PROMOTIONAL ADVERTISING

15 **Q. Can you please explain why you object to the clause in the stipulated settlement**
16 **regarding NW Natural’s Category A and Category B advertising expenditures?**

17 A. I am providing testimony on behalf of the Coalition objecting to the proposed reduction
18 in advertising expenditures agreed to in the First Stipulated Settlement as being too low. The
19 settlement does not fully deduct costs associated with NW Natural’s promotional and
20 institutional advertising.

1 **Q. What is the total cost of Category A & B advertising that NW Natural is requesting**
2 **in this case?**

3 A. In its initial filing, NW Natural requested \$1,847,073 for Category A advertising, and
4 \$1,080,000 million for Category B advertising, for a total of \$2,927,073 for its annual
5 advertising budget.²

6 **Q. How has the First Stipulated Settlement changed that request?**

7 A. The First Stipulated Settlement reduced the total annual budget for Category A and
8 Category B advertising by \$1 million.

9 **Q. Does NW Natural still claim that its advertising about the benefits of Cooking with**
10 **Gas are recoverable Category A advertising costs?**

11 A. No. In the Reply Testimony of Cory Beck, Mr. Beck states that the company erroneously
12 billed costs associated with its advertising campaign regarding the purported benefits of cooking
13 with gas stoves to Category A.³ NW Natural admits its Cooking with Gas campaign is
14 promotional and should be billed as Category C advertising.⁴

15 **Q. Has NW Natural deducted the costs associated with its Cooking with Gas campaign**
16 **from its Category A Budget?**

17 A. It is unclear. NW Natural admits that it erroneously billed the professional services costs
18 to produce its television advertisement for the Cooking with Gas campaign in the amount of
19 \$124,221. Other than this one television advertisement, the testimony of Mr. Beck claims that
20 all other costs have already been deducted from the Category A advertising budget.

² Coalition/400, Ryan/10.

³ NW Natural/1900, Beck/22.

⁴ *Id.*

1 **Q. What evidence does NW Natural point to that demonstrates that all other costs**
2 **associated with the Cooking with Gas advertising campaign have been deducted?**

3 A. In his testimony, Mr. Beck does not provide any invoices or other documents that
4 demonstrate the Cooking with Gas advertising costs were appropriately deducted from the
5 Category A advertising budget and billed instead to the Category C budget. Instead, Mr. Beck
6 simply states that “[t]he Company inadvertently provided these communications in response to a
7 request for all Category A advertising in CUB DR 4, however, I have confirmed that all but one
8 of these communications referenced on pages 34-38 of Ms. Ryan’s Opening Testimony in fact
9 were booked to Category C.”⁵

10 **Q. What FERC account does NW Natural charge for Category A and Category B?**

11 A. Under federal regulations, a utility should bill costs associated with informational or
12 educational advertising to FERC Account No. 909.⁶ NW Natural charges costs associated with
13 its Category A and Category B advertising expenditures to FERC account No. 909.⁷

14 **Q. Which FERC account does NW Natural charge for costs associated with its**
15 **Category C advertising costs?**

16 A. NW Natural charges its Category C advertising costs to FERC Account Nos. 913 and
17 916.⁸

⁵ NW Natural/1900, Beck/22; Coalition/400, Ryan/34-38.

⁶ 18 CFR § 367.9090.

⁷ See Staff /1000, Jent/4-13.

⁸ Staff/1002, Jent/1-3.

1 **Q. Are you aware of any costs associated with this Cooking with Gas advertising**
2 **campaign that NW Natural charged to the Category A budget?**

3 A. NW Natural is still charging ratepayers for costs to publish its Cooking with Gas
4 advertisements in media outlets. <<BEGIN CONFIDENTIAL>> [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] <<END CONFIDENTIAL>> all vendor receipts for Affiliated Media LLC were
15 billed to FERC Account No. 909.¹³ When NW Natural billed media buying costs associated
16 with this gas preference advertising campaign to FERC Account No. 909, it sought recovery of
17 these costs from ratepayers.

18 **Q. How would you recommend that the Commission account for costs associated with**
19 **the gas preference advertising that were improperly billed to FERC Account No. 909?**

⁹ Coalition/932, Ryan/1-3, Coalition DR Response No. 208, Attachment 1.

¹⁰ Coalition/931, Ryan/1-3, Coalition DR Response No. 11, Attachment 1.

¹¹ Coalition/932, Ryan/1-3, Coalition DR Response No. 208, Attachment 1; Coalition/931, Ryan/1-3, Coalition DR Response No. 11, Attachment 1.

¹² Coalition/933, Ryan/1-3, Coalition DR Response No. 208, Attachment 2.

1 A. I recommend that the Commission disallow an additional \$122,250 in media buying costs
2 associated with NW Natural's Cooking with Gas advertising preference campaign from the
3 settlement, and I recommend the Commission disallow an additional \$124,221 in media
4 production costs associated with NW Natural's television advertisement from the settlement. I
5 also recommend the Commission deduct staff time and salary associated with these professional
6 services, which I discuss further below in Part VII, where I summarize my recommendations.

7 III. RENEWABLE NATURAL GAS ADVERTISING

8 **Q. In your Opening Testimony, you opined that NW Natural's advertising about its**
9 **RNG investments was institutional advertising. Can you briefly describe why?**

10 A. In my Opening Testimony, I explained how many of the advertisements published by
11 NW Natural about its investments in renewable natural gas ("RNG") were misleading, had a
12 primary purpose of promoting the company's corporate image and, therefore, were institutional
13 advertising. Institutional advertising "means advertising expenses, the primary purpose of which
14 is not to convey information, but to enhance the credibility, reputation, character, or image of an
15 entity or institution[.]"¹⁴ I am not a lawyer and I provide the preceding reference to state law to
16 the Commission for context, and not as legal argument.

17 Specifically, NW Natural's RNG advertisements implied that NW Natural's residential
18 and commercial customers were directly receiving RNG when they were not.¹⁵ Instead, NW

¹³ Staff/1002, OPUC SDR Response No. 57 Attachment 1 (electronic spreadsheet); *see* Coalition/901, Ryan/1, Excerpts OPUC SDR Response No. 57 (documenting the entries in NW Natural's Response to Staff SDR 57 to for receipts from Affiliated Media LLC).

¹⁴ OAR 860-026-0022(1)(c).

¹⁵ *See, e.g.*, NW Natural/1100, Chittum/22 (explaining that NW Natural will retire the renewable thermal credits generated from the Lexington project, but that the actual brown gas will be distributed to local gas utility customers).

1 Natural's RNG advertising campaign was primarily focused on improving the Company's
2 corporate image by associating its gas utility service with renewable energy, despite not
3 providing RNG to its Oregon customers.¹⁶

4 **Q. How does NW Natural respond to your testimony on this issue?**

5 A. NW Natural rejects our categorization of its advertisement campaign as Category C,
6 institutional advertising, and claims instead that the campaign is informational and educational
7 advertising recoverable under Category A.¹⁷ Per NW Natural, these advertisements are
8 categorized as "utility information advertising expenses," specifically addressing "environmental
9 considerations" and "other contemporary items of customer interest."¹⁸

10 **Q. What constitutes "informational advertising" under Oregon's administrative rules?**

11 A. I am not a lawyer, and I provide the below references to state law to the Commission for
12 context, and not as legal argument.

13 Advertising expenses are "expenses for communications which inform, influence, and/or
14 educate customers. Such communication may be by means of, but is not limited to, print, radio,
15 television, billboards, direct mail, videos, banners, telephone listings, and displays[.]"¹⁹ A
16 limited subset of a utility's advertising expenses is presumed to be just and reasonable: these
17 costs include Category A advertising expenditures where the total cost of that advertising is
18 0.125 percent or less of the gross retail operating revenues determined in that proceeding.²⁰

¹⁶ Coalition/400, Ryan/29.

¹⁷ NW Natural/1900, Beck/8-9.

¹⁸ *Id.*

¹⁹ OAR 860-026-0022(1)(a).

²⁰ OAR 860-026-0022(2)(a).

1 Category A advertising is “informational advertising” that has the “primary purpose” of
2 “increasing customer understanding of utility systems and the function of those systems, and to
3 discuss generation and transmission methods, utility expenses, rate structures, rate increases,
4 load forecasting, environmental considerations, and other contemporary items of customer
5 interest[.]”²¹ While this category of advertising does include the topics of “environmental
6 considerations” and “other contemporary items of interest,” the primary purpose of this
7 advertising must be to inform customers.

8 **Q. What is the “primary purpose” requirement, and how does the Commission**
9 **determine the primary purpose of an advertisement?**

10 A. “Primary Purpose” is not defined in the Oregon Administrative Rules. However, the
11 Oregon Public Utility Commission has held that “[t]he advertising rule defines advertisements
12 according to their primary purpose” and that “dual-purpose advertisements are categorized
13 according to their primary purpose.”²²

14 **Q. Why does NW Natural claim that its RNG advertising constitutes “informational”**
15 **advertising?**

16 A. NW Natural claims it is simply trying to inform and educate its customer base about “the
17 Company’s energy supply strategy, emissions reduction goals, opportunities for emissions
18 reductions, and the benefits of RNG.”²³ NW Natural admits that it launched the RNG
19 advertising campaign once it learned of its customers’ concerns about climate change.²⁴

²¹ OAR 860-026-0022(1)(g).

²² *In the Matter of Revised Tariff Schedules Filed by Nw. Nat. Gas. Co. for A Gen. Rate Increase*, No. 89-1372, 1989 WL 1793934, 6 (Or. P.U.C. 1989).

²³ NW Natural/1900, Beck/8.

²⁴ NW Natural/1900, Beck/9-10.

1 **Q. In your Opening Testimony you presented evidence showing that NW Natural is not**
2 **currently delivering RNG to its residential utility customers. Did NW Natural introduce**
3 **any evidence disputing your testimony on this issue?**

4 A. NW Natural has not produced any evidence that commercial and residential gas utility
5 customers in Oregon currently receive RNG. In his Reply Testimony, Mr. Beck simply states
6 that “all of the statements in the RNG messaging are true[,]” without providing any documents or
7 data supporting this statement.²⁵

8 In fact, as referenced in the Company’s Opening Testimony, NW Natural’s RNG Expert,
9 Anna Chittum, stated that all RNG resources acquired to date by NW Natural for the Lexington
10 project are thermal credits for the environmental attributes of the gas, but the actual brown gas is
11 not delivered to Oregon customers.²⁶ Further, none of the RNG projects referenced in the
12 Chittum testimony—including Sustainable Ventures, Archaea Offtake Portfolio, or the Elements
13 Markets NYC projects—currently deliver the energy content of the renewable natural gas to
14 residential or commercial customers in Oregon.²⁷ These agreements source the renewable
15 thermal credits, but not the gas itself.²⁸

16 **Q. In your Opening Testimony you also presented evidence showing that NW Natural**
17 **so far has purchased less than 2% of its total gas sales volume in renewable thermal**
18 **credits. Did NW Natural introduce any evidence disputing your testimony on this issue?**

²⁵ NW Natural/1900, Beck/13.

²⁶ NW Natural/1100, Chittum/2.

²⁷ See Coalition/904, Ryan/1, Coalition DR Response No.173, Coalition/905, Ryan/1, Coalition
DR Response No.174, Coalition/906, Ryan/1, Coalition DR Response No. 175.

²⁸ See *id.*

1 A. No. NW Natural did not introduce any new evidence contesting the fact that to date it
2 has purchased less than 2% of its total gas sales volume in renewable thermal credits.

3 **Q. Do you agree that the primary purpose of NW Natural’s RNG advertising is**
4 **“informational” and “educational,” and, if not, what do you see as the primary purpose of**
5 **NW Natural’s RNG advertising?**

6 A. No. I do not agree with the assertion that NW Natural’s RNG advertising is
7 “informational” and “educational” because (1) the advertising is misleading, and (2) the primary
8 purpose of the advertising is to improve the Company’s corporate image.

9 NW Natural’s RNG advertisements are misleading because they imply that NW Natural’s
10 residential and commercial customers are receiving RNG which, in fact, they are not.²⁹ While
11 NW Natural has contracts to produce RNG, none of these purchase agreements deliver RNG to
12 commercial or residential gas utility customers in Oregon.³⁰ However, in many of its RNG
13 advertisements, NW Natural informed the public that it was producing RNG and strongly
14 implied that it was delivering the RNG to residential customers in Oregon.³¹ For example, when
15 discussing NW Natural’s BioCarbon partnership with Tyson Foods in Lexington, Nebraska, NW
16 Natural stated that “once fully operational, this project is expected to generate enough renewable
17 natural gas each year to heat 18,000 homes we serve in Oregon.”³² However, according to the
18 testimony of Ms. Chittum, NW Natural’s expert witness on RNG, none of the RNG produced

²⁹ Coalition/400, Ryan/23-27; Ex. Coalition/405 at Ryan/42; Ex. Coalition/405 at Ryan 25-26; Ex. Coalition/405 at Ryan/54.

³⁰ Coalition/400, Ryan/25; Coalition/100, Apter/18-19.

³¹ Ex. Coalition/405 at Ryan/42; Ex. Coalition/405 at Ryan 25-26; Ex. Coalition/405 at Ryan/54.

³² Ex. Coalition/405 at Ryan/58.

1 from the Lexington project will reach Oregon customers.³³ All of the brown gas produced from
2 the Lexington project will instead be delivered to local utility customers in Nebraska.³⁴ Stating
3 that residential customers in Oregon are receiving RNG, when in fact they are not, is misleading.

4 **Q: How does this misleading advertising affect a utility ratepayer?**

5 A. A gas customer may believe that they are using an appliance that receives renewable
6 gas—and thus feel better about their consumer decision to rely on that appliance and the gas
7 itself—when they are actually using the same gas product on which they have always relied:
8 fossil gas. If this customer were told that the Company was relying on offsets from gas produced
9 and consumed multiple states away, which does not provide the same potential or immediate
10 benefits to Oregon’s economy or environment, the customer might instead decide that they want
11 to invest in an electric alternative. This misleading advertising can have real, tangible effects on
12 Oregon ratepayers and their consumer behavior. And NW Natural knows it, which is why the
13 company selectively describes its “RNG” investments in the way it does.

14 Additionally, the RNG advertising campaign omits important information for Oregon
15 customers. For example, in its advertisements, NW Natural never discloses to utility customers
16 that less than 2% of total gas sales to Oregon gas utility customers are offset with renewable
17 thermal credits.³⁵ In another example, NW Natural advertised the benefits of its gas storage
18 facility in Mist, Oregon, claiming that it provides “20 billion cubic feet of underground storage
19 capacity” which translates into “6 million megawatt hours of renewable storage capability[.]”³⁶

³³ NW Natural/1100, Chittum/22.

³⁴ *Id.*

³⁵ See Coalition/400, Ryan/28-29 (documenting a graph introduced in the testimony of Anna Chittum that describes NW Natural’s investments into RNG).

³⁶ Coalition/400, Ryan/25, 27; Ex. Coalition/405 at Ryan/73.

1 This statement omitted a key fact—that none of the gas stored at the Mist Facility is actually
2 renewable.³⁷ This omission regarding key information misrepresents the nature of NW Natural’s
3 capital investments and indicates that the purpose of the advertisement was not to “inform”
4 utility customers, but rather to greenwash NW Natural’s corporate image to associate it with
5 renewable energy resources.

6 **Q. Is there any other evidence showing that the purpose of NW Natural’s RNG**
7 **advertising campaign is to improve the company’s reputation?**

8 A. In my Opening Testimony, I referenced customer surveys that documented the concerns
9 ratepayers had with climate change and sought to determine what associations customers made
10 between “natural gas” and climate change.³⁸ These surveys demonstrate that the purpose of the
11 RNG advertising campaign is to associate gas utility service provided by NW Natural with
12 taking action on climate crisis and renewable energy. The surveys show customers have serious
13 concerns regarding climate change, and believe more action needs to be taken to address the
14 climate crisis.³⁹ However, after further exposure to NW Natural’s RNG advertising, customers
15 were more likely to consider “natural gas” “critical to helping us lower emissions and achieve
16 our climate goals.”⁴⁰ In another survey, NW Natural determined that people perceived the key
17 drawbacks of fossil gas as relating primarily to environmental concerns and safety.⁴¹ This study
18 recommended that NW Natural “[p]osition natural gas as cost effective/consistent/safe while also

³⁷ Coalition/400, Ryan/25, 27; Ex. Coalition/405 at Ryan/73; *see* Coalition/902, Ryan/1, Coalition DR Response No.165.

³⁸ Coalition/400, Ryan/30-31.

³⁹ Ex. Coalition/405 at Ryan/113.

⁴⁰ Coalition/405, Ryan/115.

⁴¹ Coalition/908, Ryan/7, CUB DR Response 5, Attachment 1c.

1 developing and promoting the benefits of Renewable Natural Gas.”⁴² These surveys indicate the
2 purpose of NW Natural’s RNG advertising campaign is to disassociate gas utility service from
3 the image of “fossil fuels” or “dirty fuels,” and instead associate it with responding to the climate
4 crisis, when in fact, methane—the principal component of RNG—is a primary driver of the
5 climate crisis.

6 **Q. In his Reply Testimony, Mr. Beck states that NW Natural is not recovering some of**
7 **the costs associated with these customer surveys. Does that alleviate your concerns?**

8 A. No. Even though NW Natural is not recovering the full cost of the surveys, the surveys
9 still provide valuable insight into the purpose of the advertising—to influence public perceptions
10 of NW Natural’s corporate image and the value of gas utility service. They provide further
11 evidence that the purpose of the RNG advertising campaign is to improve the Company’s image,
12 and should therefore be disallowed.

13 **Q. If the main purpose of NW Natural’s RNG advertising campaign is to improve the**
14 **Company’s image, how should it be categorized?**

15 A. Because the RNG advertising campaign is misleading and has a primary purpose of
16 improving the company’s corporate image, the campaign should be considered institutional
17 advertising as defined by OAR 860-026-0022(1)(c).⁴³ Since these costs are institutional
18 advertising, they should be billed to Category C advertising, and deducted from the budget for
19 Category A advertising.

⁴² *Id.* at 9.

⁴³ OAR 860-026-0022(2)(c).

1 **Q. How has Staff characterized NW Natural’s RNG advertising campaign in its**
2 **testimony?**

3 A. Staff recommended the following: “Staff concludes that advertising expenses for NW
4 Natural’s Renewable Natural Gas program should be reclassified from Category A to Category C
5 expense.”⁴⁴

6 **Q. Has NW Natural provided a total cost for its RNG advertising campaign?**

7 A. According to NW Natural, during the base year the total costs for professional services,
8 production, and media for its RNG advertising campaign were \$381,906. NW Natural
9 anticipates the costs during the test year will be <<BEGIN CONFIDENTIAL>> 
10 <<END CONFIDENTIAL>>.⁴⁵

11 **Q. Do these costs include salaries and overhead for NW Natural staff?**

12 A. No. The above-described costs for NW Natural’s RNG advertising campaign do not
13 include the costs of salaries or overhead because NW Natural claims that it does not track the
14 salary and overhead costs associated with its advertising campaigns.⁴⁶

15 **Q. How much would you recommend the Commission deduct from NW Natural’s**
16 **advertising budget to account for NW Natural’s RNG advertising campaign?**

17 A. I would recommend that the Commission deduct the costs for professional services,
18 production, and media for its RNG advertising campaign of \$381,906 from the settlement
19 agreement. Further, I recommend the Commission also deduct costs for salary and overhead

⁴⁴ Staff/1000, Jent/11.

⁴⁵ Coalition/935, Ryan/1, Coalition DR Confidential Response No. 192.

⁴⁶ Coalition/907, Ryan/1, Coalition DR Response No. 191.

1 associated with this RNG advertising campaign, which I discuss further in Part VII, where I
2 summarize my recommendations.

3 IV. GAS STOVES AND INDOOR AIR QUALITY
4 ADVERTISING

5 **Q. How do you respond to statements in the Heiting-Bracken Testimony saying that its**
6 **indoor air quality advertising campaign related to the use of gas stoves is purely**
7 **informational?**

8 A. In this testimony, NW Natural claims that its advertisements regarding using ventilation
9 when cooking simply seek to highlight the indoor air quality dangers associated with cooking.
10 Ms. Heiting and Mr. Bracken claim that peer-reviewed scientific studies conclude that all
11 unventilated stoves pose an indoor air quality risk, but don't include citations or references to
12 any such studies. They do, however, reference as evidence two "studies" that claim to debunk
13 the safety risks and hazards associated with cooking with gas stoves.⁴⁷ The studies put forward
14 by NW Natural have not been peer-reviewed and are industry-funded.⁴⁸ One of the studies is
15 authored by the American Gas Association and does not even list any scientists as authors.⁴⁹

16 Contrary to these assertions, peer-reviewed scientific studies have found that gas stoves
17 can contribute significantly to the deterioration of indoor air quality, especially if proper
18 ventilation is not used. In a study funded by the U.S. Department of Energy, the U.S.
19 Environmental Protection Agency, and the California Energy Commission, researchers from the
20 Lawrence Berkeley National Laboratory found that cooking with gas stoves without proper

⁴⁷ See NW Natural/1700, Heiting-Bracken/75.

⁴⁸ *Id.*; see Ex. NW Natural/1708, Heiting-Bracken & Ex. NW Natural/1709, Heiting-Bracken.

⁴⁹ Ex. NW Natural/1708, Heiting-Bracken.

1 ventilation caused regular exceedances of the PM 2.5 and NOx air quality standards.⁵⁰ Even
2 with ventilation, gas stoves still emit NOx.⁵¹ Recently, the American Medical Association
3 (“AMA”) adopted a resolution that “recognize[d] the association between the use of gas stoves,
4 indoor nitrogen dioxide levels and asthma[,]” and recommended that the AMA “encourage the
5 transition from gas stoves to electric stoves in an equitable manner[.]”⁵²

6 **Q. How would you recommend that the Commission categorize NW Natural’s indoor**
7 **air quality advertisements?**

8 A. For the reasons described in my Opening Testimony, and above, I recommend the
9 Commission categorize NW Natural’s advertisements about indoor air quality related to the use
10 of stoves as Category C promotional advertising because it seeks to encourage the public to
11 continue using gas stoves despite the known risks associated with this technology.⁵³ <<BEGIN

12 CONFIDENTIAL>> [REDACTED]
13 [REDACTED]
14 [REDACTED] [REDACTED]
15 [REDACTED]
16 [REDACTED] <<END CONFIDENTIAL>>.

⁵⁰ Coalition/910, Ryan/1-23; *see also* Zhao et al., “Indoor Air Quality in New and Renovated Low-Income Apartments With Mechanical Ventilation and Natural Gas Cooking in California,” *Int’l J. of Indoor Env’t & Health*, Vol. 31, Issue 3, at 717-729 (2020), <https://onlinelibrary.wiley.com/doi/10.1111/ina.12764>.

⁵¹ Coalition/600, Apter/11.

⁵² Coalition/912, Ryan/16-17.

⁵³ *See* Coalition/400, Ryan/20-22.

⁵⁴ Coalition/934, Ryan/1-4, Coalition DR Confidential Response No. 104, Attachment 1.

1 **Q. What are the total costs associated with this indoor air quality advertising**
2 **campaign?**

3 A. NW Natural expended \$15,000 to develop the digital ads identified in Exhibit
4 Coalition/404 at Ryan/3-4.⁵⁵ Further, NW Natural published text advertisements on Bing and
5 Google that purportedly describe the indoor air quality concerns with cooking with gas.⁵⁶ The
6 cost of those Bing and Google advertisements was \$69,328.⁵⁷ NW Natural also included
7 statements in March 2021 Comfort Zone newsletter stating that “[a]ny type of food preparation
8 can affect indoor air quality. High-temperature [cooking] like frying and broiling creates
9 particulates, and even toasters contribute to indoor air pollution.”⁵⁸ The March 2021 Comfort
10 Zone newsletter cost \$20,561 to produce.⁵⁹ I believe the Commission should deduct these
11 amounts from the settlement agreement.

12 V. CHILDREN’S BOOKLETS AND NW NATURAL’S SAFETY RELATED
13 ADVERTISING

14 **Q. Has NW Natural offered any new evidence that explains the purpose of the**
15 **children’s booklets about gas utility service?**

16 A. Yes. NW Natural has offered the testimony of Mr. Beck, who opines that the purpose of
17 these booklets was to promote safety education about gas utility service.

18 **Q. How do you respond to Mr. Beck’s testimony that the purpose of these booklets is**
19 **merely to promote safety education about gas utility service?**

⁵⁵ Coalition/909, Ryan/1-3, OPUC DR Response No. 257, Attachment 1.

⁵⁶ Coalition/911, Ryan/1-7.

⁵⁷ Coalition/909, Ryan/1-3, OPUC DR Response No. 257, Attachment 1.

⁵⁸ Coalition/913, Ryan/2.

⁵⁹ Coalition/909, Ryan/1-3, OPUC DR Response No. 257, Attachment 1.

1 A. The best evidence to consider when determining the purpose of the gas utility school
2 booklets are the booklets themselves. As explained in my Opening Testimony, that purpose is to
3 promote the benefits of gas utility service to school children.⁶⁰

4 **Q. Why does NW Natural believe that expenditures associated with these school
5 booklets are appropriate to recover from ratepayers?**

6 A. Mr. Beck states that these school booklets provide safety information, and that safety
7 related information and advertising is recoverable under Category B advertising.⁶¹

8 **Q. What laws does Mr. Beck point to, that would require targeting school children with
9 this advertising?**

10 A. Mr. Beck points to regulations of the Pipeline and Hazardous Materials Safety
11 Administration (“PHSMA”), 49 C.F.R. §§ 192.616, and 195.440, and Recommended Practice
12 API 1162 (“RP-1162”), as the legal requirements that mandate that NW Natural conduct safety
13 related advertising, and that the school booklets are a component of that safety related
14 advertising program.⁶²

15 **Q. Do you agree with Mr. Beck’s assessment that federal regulations mandate that NW
16 Natural publish and distribute the school booklets about gas utility service?**

17 A. I am not a lawyer. Whether 49 C.F.R. §§ 192.616, and 195.440, and Recommended
18 Practice API 1162 (“RP-1162”), mandate that NW Natural conduct advertising that targets
19 school children with safety related messages is a legal question. I provide the following legal
20 standards for context only.

⁶⁰ Coalition/400, Ryan/12-17.

⁶¹ NW Natural/1900, Beck/25-31.

⁶² *Id.*

1 PHMSA’s regulation regarding public awareness requires that:⁶³

2 The operator's program must specifically include provisions to educate the public,
3 appropriate government organizations, and persons engaged in excavation related
4 activities on:

5 (1) Use of a one-call notification system prior to excavation and other damage
6 prevention activities;

7 (2) Possible hazards associated with unintended releases from a gas pipeline
8 facility;

9 (3) Physical indications that such a release may have occurred;

10 (4) Steps that should be taken for public safety in the event of a gas pipeline
11 release; and

12 (5) Procedures for reporting such an event.

13 (e) The program must include activities to advise affected municipalities, school
14 districts, businesses, and residents of pipeline facility locations.

15 Notably, this standard only requires advertising about “Possible hazards associated with
16 unintended releases from a *gas pipeline facility*[.]” (emphasis added). The regulations focus on
17 the underground pipeline distribution system, not just any leak of fossil gas that could occur in a
18 home. The federal regulations also require informing the public about “Possible hazards
19 associated with unintended releases from a gas pipeline facility[.]” The regulation require the
20 company to inform the public not just about how to detect a gas leak, but also about the possible
21 hazards associated with that leak. Lastly, the standard requires utilities to advise “affected
22 municipalities, *school districts*, businesses, and residents of pipeline facility locations[.]” The
23 regulation requires the company to inform the school district, not the school children about these
24 hazards.

⁶³ 49 C.F.R. 192.616(d).

1 Additionally, the Commission should look to the primary purpose of these school
2 booklets. While they do contain a few pages of information about what a gas leak would smell
3 like, and how to respond, the vast majority of the booklets include activities and cartoons that
4 talk about the benefits of gas utility service.

5 **Q. In your Opening Testimony, you argued that NW Natural’s safety advertising**
6 **doesn’t inform the intended audience of the hazards associated with a gas leak. How does**
7 **the Company respond?**

8 A. NW Natural argues that the booklets inform school children about the smell associated
9 with a gas leak—rotten eggs—and tell them to leave an area immediately and contact an adult.
10 In its advertising to the general public, again NW natural informs the public of the presence of
11 the odor, and encourages them to leave and call the gas company for assistance. Providing these
12 messages satisfies the regulatory requirement to inform the public of “possible hazards”
13 associated with a gas leak.⁶⁴ Mr. Beck also points to a gas explosion incident in Harlem as the
14 basis for conducting this advertising.⁶⁵

15 **Q. Do you agree that informing people about the odor of gas, and the need to leave and**
16 **contact the gas company, adequately informs them of the “possible hazards” associated**
17 **with a gas leak?**

18 A. No. The possible hazard of a gas leak is a fire or explosion. Without clearly informing
19 people that a gas leak could cause a fire or explosion, people may not realize the urgency of the
20 need to leave and contact the gas utility when they smell a rotten egg odor. It’s possible that the

⁶⁴ NW Natural/1900, Beck/29-30.

⁶⁵ *Id.* at 28.

1 residents of the building in Harlem did not timely contact a gas utility service technician because
2 they did not know that a gas leak could cause a fire or explosion.

3 NW Natural also claims that the school booklets do in fact inform children of the fire
4 hazard, but this too is misleading. In small print on the last page of the first booklet it says, “If
5 you suspect a gas pipeline leak, do not use fire or electricity as it could ignite the gas.”⁶⁶ This
6 booklet asks children to identify solid, liquid, and gas by pictures—meaning the targeted
7 audience is younger children. A child reading this booklet is unlikely to understand what
8 “ignite” even means. Further, this one sentence at the bottom of the last page of the booklet
9 doesn’t even inform the reader about the possible hazard consequence of “ignited” gas—that
10 ignited gas in an enclosed space like a home could explode.

11 **Q. What is the total expense that NW Natural incurred to publish this school booklet**
12 **advertising campaign?**

13 A. NW Natural incurred \$62,000 in annual costs to conduct this advertising campaign to
14 school children.

15 **Q. What action would you recommend the Commission take regarding this school**
16 **booklet advertising?**

17 A. I recommend that the Commission disallow the \$62,000 in advertising costs from the
18 Category B advertising budget and deduct that amount from the settlement.

19 VI. ADVERTISING FOR PROMOTIONAL CONCESSIONS

20 **Q. How does NW Natural respond to your testimony about its advertising that**
21 **promotes purchase of gas appliances by offering substantial shareholder incentives?**

⁶⁶ Coalition/406, at Ryan/33.

1 A. In my Opening Testimony, I argued that NW Natural's advertising that promotes
2 adoption of gas appliances, was promotional advertising because it offered shareholder
3 incentives and rebates to install gas-fueled appliances for home heating for fireplaces, gas-
4 furnaces, and water heaters.⁶⁷ I opined that NW Natural inappropriately charged ratepayers for
5 costs associated with this advertising, because it produced these advertisements in response to a
6 request for all advertisements charged to Category A.⁶⁸ In his Reply Testimony, Mr. Beck states
7 that the company inadvertently produced these advertisements as responsive documents.⁶⁹ Mr.
8 Beck states that in fact all these advertisements were booked to Category C.⁷⁰

9 **Q. What is NW Natural's total annual expense related to advertising promoting gas**
10 **appliances for which NW Natural offered shareholder financed incentives?**

11 A. The total Oregon allocated Base Year expense related to advertising that included
12 shareholder incentives for appliances is \$456,817.⁷¹ The total Oregon allocated Test Year
13 expense related to advertising that included shareholder incentives for appliances is \$482,882.
14 This expense includes marketing program manager salary, program manager payroll overhead,
15 agency fees, postage, and cooperative advertising.⁷²

⁶⁷ Coalition/400, Ryan/37-38.

⁶⁸ *Id.*

⁶⁹ NW Natural/1900, Beck/22.

⁷⁰ *Id.*

⁷¹ Coalition/918, Ryan/1, Coalition DR Response No. 202.

⁷² Coalition/919, Ryan/1, Coalition DR Response No. 203.

1 **Q. What FERC Accounts has NW Natural charged for costs associated with its**
2 **advertising promoting gas appliances financed with shareholder incentives?**

3 A. NW Natural charged FERC Accounts Nos. 908 and 912 for advertising costs associated
4 with appliances financed with shareholder incentives.⁷³

5 **Q. What costs are utilities allowed to charge to FERC Account Nos. 908 & 912?**

6 A. Under FERC regulations, utilities may charge costs associated with customer assistance
7 to FERC Account No. 908, which includes, “the cost of labor, materials used and expenses
8 incurred in providing instructions or assistance to customers, the object of which is to encourage
9 safe, efficient and economical use of the associate utility company's service.”⁷⁴ Under FERC
10 regulations, utilities may charge costs associated with demonstrating and selling expenses to
11 FERC Account No. 912, which includes, “the cost of labor, materials used and expenses incurred
12 in promotional, demonstrating, and selling activities, except by merchandising, the object of
13 which is to promote or retain the business of present and prospective customers of the service
14 company[.]”⁷⁵

15 **Q. If NW Natural charged FERC Accounts 908 & 912 for expenses associated with**
16 **advertising promoting shareholder financed gas-appliances, could these costs be charged to**
17 **Category C?**

18 A. No. All costs associated with Category C advertising, up to \$600,000, were charged to
19 FERC Account Nos. 913 & 916. Since expenses associated with advertising promoting

⁷³ Staff/1002, OPUC DR Response No. 421.

⁷⁴ 18 CFR § 367.9080.

⁷⁵ 18 CFR § 367.9120.

1 shareholder financed gas appliances were charged to FERC Account Nos. 908 & 912, these costs
2 could not be included in the budget for Category C advertising.

3 **Q. Does NW Natural seek recovery from ratepayers for costs associated with**
4 **advertising promoting shareholder financed gas appliances?**

5 A. Yes, NW Natural seeks recovery from ratepayers for costs associated with its advertising
6 to promote shareholder financed gas appliances.⁷⁶

7 **Q. Does Staff's Opening Testimony raise the issue of promotional concessions?**

8 A. Yes. Opening Testimony of Julie Jent discusses promotional activities and concessions,
9 including related advertising costs.⁷⁷ Staff did not recommend making any adjustments to costs
10 associated with advertising that promotes shareholder-financed gas appliances.⁷⁸ Staff also
11 discusses costs associated with FERC Account Nos. 908 & 912 in the Testimony of Heather
12 Cohen.⁷⁹

13 In its Opening Testimony, Staff recommended an adjustment of \$41,112 to customer
14 assistance expense (FERC Account 908) for dealer relations expenses related to building and
15 industry events.⁸⁰ Staff further sought reductions to multiple cost elements within the
16 demonstration and selling expense account (FERC Account 912), including corporate identity

⁷⁶ See Staff/1002, Jent/1-3; Staff/1002, Jent/29-32.

⁷⁷ Staff/1000, Jent/14-16.

⁷⁸ Staff/1000, Jent/16.

⁷⁹ Staff/600, Cohen/17-25.

⁸⁰ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz, Fjeldheim, Gehrke, Mullins, and Kermodé/24.

1 (\$153,043), dealer relations (\$92,482), and professional services (\$262,000). However, Staff did
2 not recommend disallowance of advertising that promotes shareholder-financed gas appliances.⁸¹

3 **Q. Did the First Stipulated Settlement disallow any costs associated with advertising**
4 **that promotes shareholder financed gas-appliances?**

5 A. No. The stipulating parties settled for a disallowance of \$292,000 related to Customer
6 Account and Sales expenses.⁸² The parties did not agree to disallow any costs related to
7 advertising that promotes shareholder-financed gas appliances as part of the settlement of costs
8 related to Customer Account and Sales expenses.⁸³

9 **Q. What action do you recommend the Commission take with respect to costs related**
10 **to advertising that promotes shareholder-financed gas appliances?**

11 A. I recommend disallowance of \$482,882, which is the Oregon Test Year budget for
12 advertising that promotes shareholder-financed gas appliances because it is promotional
13 advertising. “Promotional Advertising Expenses means advertising expenses, the primary
14 purpose of which is to communicate with respect to an energy or large telecommunications
15 utility’s promotional activities or promotional concessions[.]”⁸⁴ Promotional concessions means
16 “any consideration offered or granted by an energy or large telecommunications utility or its
17 affiliate to any person with the object, express or implied, of inducing such person to select or
18 use the service or additional service of such utility, or to select or install any appliance or

⁸¹ Staff/600, Cohen/17-25 (recommending disallowance of charity dinners, sponsorship events, branding campaigns, and NW Natural’s furnace campaigns).

⁸² NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz, Fjeldheim, Gehrke, Mullins, and Kermode/24.

⁸³ *Id.* at 23-24.

⁸⁴ OAR 860-026-0022(1)(f).

1 equipment designed to use such utility service.”⁸⁵ Shareholder-financed incentives and rebates
2 constitute promotional concessions because they offer money in exchange for connecting to gas
3 utility service or installing appliances or equipment to use gas utility service.

4 Accordingly, advertisements for gas appliances for which NW Natural is offering
5 shareholder-financed incentives and rebates constitute promotional advertising and are Category
6 C advertising costs. Since NW Natural has sought to include these advertising costs in rates, I
7 recommend the Commission disallow an additional \$482,882 from the revenue requirement.

8 **Q. Do you recommend the Commission take any other action related to NW Natural’s**
9 **efforts to promote conversion of home heating from electric to gas-powered appliances?**

10 A. Yes. I recommend the Commission open a docket to align Energy Trust of Oregon
11 (ETO) incentives and programs with Oregon’s new climate laws and Governor Brown’s
12 Executive Order No. 20-04 and ensure customers are getting the best information to save money,
13 conserve energy, reduce emissions, and invest in innovative, cost-effective, and efficient
14 technologies.

15 In Order No. 13-104, in Docket No. UM 1565, the Commission set policy regarding how
16 ETO could use its incentives when encouraging adoption of more efficient appliances.⁸⁶ In that
17 case, NW Natural and others raised concerns that the ETO was using energy efficiency
18 incentives to fuel switch from gas-powered to electric-powered appliances.⁸⁷ As a result, the
19 Commission ordered ETO to clarify its messaging and policy.

⁸⁵ Rule 860-026-0015(1).

⁸⁶ Order No. 13-104, Docket No. UM 1565, May 27, 2013,
<https://apps.puc.state.or.us/orders/2013ords/13-104.pdf>.

⁸⁷ *Id.*

1 However, now it appears that NW Natural is using ETO incentives to fuel switch from
2 electric to gas utility service. NW Natural has published offers that combine ETO incentives
3 with its own shareholder incentives to provide a substantial rebate of \$3,000 to convert
4 residential home heating to gas-powered appliances.⁸⁸ In one advertisement, NW Natural
5 encouraged the public to “convert your heating system” to a high-efficiency gas furnace.⁸⁹ NW
6 Natural also offered \$1,450 in rebates to install gas fireplaces, which included a \$250 ETO
7 incentive.⁹⁰

8 For the reasons described in the Opening Testimonies of Nora Apter (Coalition/100), Ed
9 Burgess (Coalition/200), and Charity Fain (Coalition/300), and Rebuttal and Cross-Answering
10 Testimonies of Nora Apter (Coalition/600), Ed Burgess (Coalition/500), and Brian Stewart
11 (Coalition/700), Oregonians should be converting away from gas to electric utility service to
12 mitigate the climate crisis, and the likely prohibitive cost associated with gas utility service in the
13 future as the decarbonization costs increase. However, NW Natural is offering ETO-funded
14 financial incentives along with shareholder incentives to encourage Oregonians to install gas
15 appliances instead of electric appliances. In Executive Order No. 20-04, Governor Brown tasked
16 the Commission with “[d]etermin[ing] whether utility portfolios and customer programs reduce
17 risks and costs to utility customers by making rapid progress toward reducing GHG emissions
18 consistent with Oregon’s reduction goals[.]”⁹¹ Opening a docket to align ETO incentives with
19 Oregon’s new climate laws and Governor Brown’s Executive Order No. 20-04 will ensure

⁸⁸ Coalition/917, Ryan/1-2, Coalition DR Response No. 57.

⁸⁹ Coalition/916, Ryan/1, Coalition DR Response No. 57, Attachment 1.

⁹⁰ Coalition/914, Ryan/1, Coalition DR Response No. 47.

⁹¹ Exec. Order No. 20-04 § (5)(B)(1),
https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf.

1 customers are getting the best information about efficiency and emissions of appliances. For
2 example, the ETO could 1) ensure that ratepayers are provided with clear information regarding
3 the greenhouse gas emission impacts of appliance and fuel choices, 2) prioritize incentives that
4 maximize greenhouse gas reductions in addition to the traditional cost-effectiveness test, and 3)
5 include information about health impacts of appliance and fuel choices, among other things.

6 VII. POLITICAL ADVERTISING

7 **Q. Can you please describe to the best of your knowledge any advertising that NW**
8 **Natural published related to its political activities to influence climate action plans**
9 **proposed by city governments?**

10 A. In April 2022, the Eugene City Council considered voting on a proposed
11 municipal legislation to prohibit gas utility connections in newly constructed residential
12 buildings, NW Natural placed an advertisement in the Register Guard urging the public to
13 contact city council members and Eugene’s mayor to oppose this legislation.⁹² In June 2022,
14 NW Natural sent an email to its customers stating the following: “Some activists are urging
15 forced electrification – bans on natural gas. Electrification would eliminate natural gas as a
16 choice in your home or business for heating and cooking – only to use it less efficiently in power
17 plants.”⁹³ This correspondence then solicited customer feedback and participation.

18 **Q. Is NW Natural charging ratepayers for these advertisements?**

19 A. No. NW Natural is not seeking recovery for these costs.⁹⁴

⁹² Coalition/921, Ryan/1.

⁹³ Coalition/920, Ryan/1-2.

⁹⁴ NW Natural/1700, Heiting-Bracken/80, 83.

1 **Q. If NW Natural has not charged ratepayers for these costs, why are they relevant to**
2 **this case?**

3 A. NW Natural states that it has incurred advertising costs only in three categories—
4 Categories A, B, and C, as described in the Oregon regulations—however the above-described
5 advertisements should be categorized as political advertising, Category D. The regulations
6 describe political advertising expenses “advertising expenses, the primary purpose of which is to
7 state or imply that persons should take a specific political action[.]”⁹⁵ Political advertising
8 should be declared as Category D advertising and is presumed not to be a recoverable expense.

9 The above described have the primary purpose of encouraging the public to oppose
10 municipal gas bans, and support NW Natural’s position with respect to the Climate Protection
11 Program rulemaking. They are thus political advertising and should have been declared and
12 budgeted as Category D advertising costs.

13 **Q. Why is it important that NW Natural properly categorize its advertising costs?**

14 A. Oregon’s regulations require utilities to declare their advertising costs and categorize
15 them based on the purpose of the advertisements, as to the accounting regulations set out by the
16 Federal Energy Regulatory Commission. Failing to properly declare costs as political
17 advertising means that NW Natural has not been appropriately disclosing and accounting for its
18 advertising costs.

19 VIII. SUMMARY OF RECOMMENDATIONS REGARDING ADVERTISING COSTS

20 A. Disallowances related to Section (l) of the First Stipulated Settlement.

21 **Q. What action would you recommend that the Commission take to resolve the**
22 **concerns you have raised regarding advertisements billed improperly to Category A?**

⁹⁵ OAR 860-026-0022(1)(e).

1 A. I would recommend that the Commission deduct from the settlement agreement the
2 following professional services, production and media costs from the total Category A
3 advertising budget:

4 • Category A - Cooking with Gas Campaign

5 ○ \$124,221 for the media production cost for the Cooking with Gas television
6 advertisement.

7 ○ \$122,250 in media buying costs.

8 • Category A - RNG Advertising

9 ○ \$381,906 for professional services, production and media costs for the RNG
10 advertising campaign.

11 • Category A - Indoor Air Quality

12 ○ \$15,000 for media production costs to produce advertisements about air quality
13 and stoves.

14 ○ \$69,328 for media buying costs related to Bing and Google advertisements about
15 cooking with gas and indoor air quality

16 ○ \$20,561 for the costs associated with the March 2021 Comfort Zone newsletter
17 that included reference to indoor air quality and gas stoves.

18 In total, I recommend the Commission deduct \$733,226 in professional services, production and
19 media costs for institutional and promotional advertising from the total Category A advertising
20 budget.

1 **Q. Does this \$733,266 in advertising costs NW Natural staff salary time spent on its**
2 **advertising?**

3 A. No. NW Natural does not track salary costs associated with its advertising campaigns.⁹⁶

4 **Q. Does NW Natural request recovery for staff salary time spent on its advertising**
5 **costs from ratepayers in its Category A advertising budget?**

6 A. Yes.

7 **Q. How would you recommend the Commission account for salary and overhead costs**
8 **associated with NW Natural's RNG advertising campaign?**

9 A. Given that NW Natural seeks recovery for staff salary costs associated with its Category
10 A advertising budget, staff time and salary associated with its promotional and institutional
11 advertising should also be deducted from this budget. Since NW Natural does not track salary
12 costs associated with its advertising campaigns, I would recommend that the Commission
13 consider the proportional cost of salaries and overhead associated with RNG advertising.

14 The total costs for professional services, production, and media for NW Natural's
15 Category A advertising budget is \$1,207,261.⁹⁷ Professional services, production and media for
16 the institutional and promotional advertising described above accounts for 61% of these total
17 Category A costs. Accordingly, I recommend the Commission deduct 61% of the total salary
18 cost from NW Natural's advertising budget to account for salary time spent on NW Natural's
19 RNG advertising. The total salary costs for the Category A budget is \$639,813, and 61% of
20 these costs is \$390,286. In total, I recommend the Commission reduce the Category A budget by
21 \$1,123,512.

⁹⁶ Coalition/907, Ryan/1, Coalition DR Response No. 191.

⁹⁷ Ex. Coalition/407, Ryan/4, OPUC DR Response 274 Attach. 1.

1 **Q. What action would you recommend that the Commission take to resolve the**
2 **concerns you have raised regarding advertisements billed improperly to Category A?**

3 A. I recommend that the Commission deduct \$60,000 for costs associated with the contract
4 to provide the purported safety-related booklets to school children.

5 **Q. In total how much do you recommend the Commission deduct from NW Natural's**
6 **Category A and Category B advertising budget?**

7 A. I recommend that the Commission deduct \$1,183,512 from the Category A and B
8 advertising budgets. Thus, I recommend the Commission disallow \$183,512 in advertising costs,
9 in addition to the \$1 million reduction provided for in Section (1)(l) of the First Stipulated
10 Settlement.

11 B. Recommendations related to Section (1)(m) of the First Stipulated Settlement.

12 **Q. What actions do you recommend the Commission take with regard to the**
13 **shareholder-financed advertising for gas-powered appliances?**

14 A. First, I recommend the Commission disallow \$482,882 in costs associated with
15 advertising that NW Natural published which solicited the public to purchase and install gas-
16 powered appliances for their home using shareholder-financed incentives. This advertising is
17 considered a promotional concession, which must be categorized as Category C advertising—as
18 NW Natural admits. However, NW Natural has charged costs associated with this advertising to
19 FERC Accounts 908 & 912, which are paid for by ratepayers. I recommend that the
20 Commission disallow \$482,882 for this promotional concession advertising in addition to the
21 agreed disallowance in Sections (1)(m) of the First Stipulated Settlement. In total the
22 Commission should disallow \$774,882 from the revenue requirement related to Customer
23 Account and Sales Expense.

1 Second, I recommend that the Commission open a new docket to align gas utilities' use
2 of Energy Trust of Oregon incentives with Oregon's current climate emissions regulations and
3 goals. Revisiting this policy is appropriate in light of evidence showing that NW Natural is
4 using ETO incentives to promote fuel switching from electric to gas utility service, and in light
5 of new climate laws that call for a rapid decarbonization of Oregon's economy.

6 IX. POLITICAL ENGAGEMENT AND GOVERNMENT AFFAIRS

7 **Q. Why does the Coalition object to Section (1)(n) of the First Stipulated Settlement?**

8 A. In Section (1)(n) of the First Stipulated Settlement, the signatory parties settled costs
9 associated with staff salary and benefits. The Coalition objects to the settlement of staff salary
10 and benefits costs because NW Natural has not deducted time spent by its staff on political
11 activities to influence action by municipal governments to combat climate change.

12 **Q. How do you know that costs associated with staff time spent on political activities**
13 **was not included in the First Stipulated Settlement?**

14 A. The First Stipulated settlement resolved issues related to expenditure of staff salary and
15 benefits in section (II)(n) of the agreement, wherein the parties agreed to a \$4.5 million reduction
16 in salary and benefits costs associated with salary bonuses.⁹⁸ The settlement agreement makes
17 no mention of any deductions proposed or adopted by the parties to account for staff time and
18 resources spent on political activities. Further, in testimony supporting the settlement, the
19 stipulating parties make clear that, with regard to staff salary and benefits, the parties are only
20 settling costs associated with employee bonuses.⁹⁹ While the agreement proposes to set the
21 "amount of salary, wages, stock expense, incentives and medical benefits that should be included

⁹⁸ First Stipulated Settlement at 6.

⁹⁹ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz, Fjeldheim, Gehrke, Mullins, and Kermodé/24-27.

1 in rates[,]” it does not propose any specific disallowances for staff time spent on political
2 activities.¹⁰⁰

3 **Q. Can you please summarize the key points in your Opening Testimony related to NW
4 Natural’s efforts to influence municipal climate action?**

5 A. In my Opening Testimony, I explained that NW Natural was engaged in activities on
6 both the municipal and state levels to influence climate action. On the municipal level, I offered
7 evidence that NW Natural sought to influence the decarbonization plans of multiple cities in
8 Oregon.¹⁰¹ In Eugene, NW Natural opposed the City Council’s efforts to pass electrification
9 ordinances, and in Lane County it sought to prohibit the county from adopting a ban on gas
10 utility connections for new housing.¹⁰² NW Natural emailed Councilmembers, paid for
11 oppositional advertising, conducted a paid survey, and publicly testified against these policies.¹⁰³
12 In Portland, NW Natural opposed the Portland Public School Board’s decision to adopt a
13 Climate Response Policy.¹⁰⁴ In Milwaukie, NW Natural commented on the City Council’s
14 efforts to pass an electrification resolution.¹⁰⁵

15 **Q. Have you reviewed the testimony of Kimberly Heiting and Ryan Bracken that
16 responds to your testimony?**

17 A. Yes.

¹⁰⁰ *Id.* at 27.

¹⁰¹ Coalition/400, Ryan/37-38.

¹⁰² *Id.* at 38.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

1 **Q. What activities does NW Natural claim it participated in to influence the City of**
2 **Eugene’s effort to combat climate change?**

3 A. NW Natural agrees with the assertion in my Opening Testimony that the Company
4 sought to influence the City of Eugene’s “efforts to adopt and implement” a climate action
5 plan.¹⁰⁶ NW Natural’s testimony states that it has “been in conversation with the City of
6 Eugene” for the past three years regarding this plan.¹⁰⁷ In particular, NW Natural has been
7 engaged with the City of Eugene regarding the City’s proposal to place a prohibition on adding
8 new customers to the gas system.¹⁰⁸ The Company’s testimony states that NW Natural has
9 corresponded with the city on this issue through emails, meetings, and presentations to the City
10 of Eugene, expressing “concerns about the negative implications of prohibiting their citizens
11 from receiving natural gas utility service.”¹⁰⁹ NW Natural has also sought to influence the
12 outcome of Eugene’s franchise agreement.¹¹⁰

13 **Q. Please describe any additional evidence you have regarding the Company’s**
14 **correspondence with the City of Eugene to influence the City’s effort to combat climate**
15 **change.**

16 A. In addition to the evidence that I submitted in my Opening Testimony, Ms. Heiting sent a
17 letter to the City Manager of Eugene, purporting to debunk “false claims,” and noting that “NW
18 Natural has dedicated substantial resources with an entire team” to engaging with the City of

¹⁰⁶ NW Natural/1700, Heiting-Bracken/79.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

1 Eugene regarding its efforts to decarbonize.¹¹¹ Further, Ms. Heiting had extensive conversations
2 with staff at the Eugene Water & Electric Board (“EWEB”), and assisted staff with preparing
3 testimony for presentations to the EWEB Board of Commissioners.¹¹²

4 **Q. Has NW Natural introduced any testimony or evidence demonstrating it is not**
5 **seeking to recover costs related to this political engagement with the City of Eugene?**

6 A. No. NW Natural’s testimony affirmatively states that the Company is seeking recovery
7 from ratepayers for the costs of its political engagement with the City of Eugene.¹¹³ The
8 testimony states that the Company “is seeking recovery of our standard employee compensation
9 costs . . . [for] the time working with the City of Eugene.”¹¹⁴ This testimony confirms the
10 evidence I provided in my Opening Testimony, which “disclosed [that the Company] seeks
11 recovery” for its legislative campaigns in Eugene.¹¹⁵

12 **Q. What activities does the company claim it made with other cities in Oregon**
13 **regarding the City’s effort to combat climate change?**

14 A. NW Natural stated that it has commented on several plans by Oregon cities to limit “the
15 growth of the gas system.”¹¹⁶ NW Natural has commented on those “ideas and plans as they are
16 being developed” with the goal that “recommendations to limit gas service will be
17 unsuccessful.”¹¹⁷ The Company shared in its testimony that none of these cities have advanced

¹¹¹ Coalition/924, Ryan/1-65.

¹¹² *Id.*

¹¹³ NW Natural/1700, Heiting-Bracken/80.

¹¹⁴ *Id.*

¹¹⁵ Coalition/400, Ryan/40.

¹¹⁶ NW Natural/1700, Heiting-Bracken/81.

¹¹⁷ *Id.*

1 gas bans, and the Company expects to continue meeting with cities to “demonstrate to them the
2 value of [NW Natural’s] service.”¹¹⁸

3 **Q. Please describe any additional evidence you have regarding NW Natural’s**
4 **correspondence with municipalities regarding their efforts to combat climate change.**

5 A. NW Natural corresponded with staff for the Board of County Commissioners for
6 Multnomah County regarding a proposed resolution to update the County’s green building policy
7 and move toward “fossil free” buildings.¹¹⁹ NW Natural offered edits to the proposed green
8 building policy, and provided additional resources regarding the company’s decarbonization
9 vision.¹²⁰ In Milwaukie, Mayor Gamba put forward a resolution to develop a proposed
10 ordinance banning the installation of gas utility service in new residential construction.¹²¹ NW
11 Natural then proceeded to contact and correspond with city council members in an attempt to
12 influence the outcome of the resolution.¹²²

13 In Portland, NW Natural contacted elected officials on a range of matters including the
14 City’s proposed tax on fossil fuel industries, the City’s proposed Right of Way Ordinance that
15 would affect is franchise agreement with NW Natural, the purported benefits of RNG and
16 hydrogen, and indoor air quality hazards associated with gas stoves, and pending state legislation
17 including the Reach Code Bill update, HB 2398 that sought to update building codes, and

¹¹⁸ *Id.*

¹¹⁹ Coalition/922, Ryan/1-64. The Coalition obtained these records through a request for records from Multnomah County.

¹²⁰ *Id.*

¹²¹ Agenda Item No. 7b, City of Milwaukie, Council Regular Session, January 18, 2022, https://www.milwaukieoregon.gov/sites/default/files/2022-0118-rs_packet.pdf.

¹²² Coalition/925, Ryan/1-48. The Coalition obtained these records through a request for records from the City of Milwaukie.

1 Oregon’s proposed cap and trade legislation.¹²³ Nina Carlson, an employee in NW Natural’s
2 Government Affairs department had extensive communications with the office of Commissioner
3 Rubio and Commissioner Mapps.¹²⁴ NW Natural also participated in regular meetings with
4 Mayor Ted Wheeler through its participation in the Portland Business Alliance.

5 NW Natural staff also coordinated meetings between elected officials and the senior
6 leadership team at the company. In an email sent on January 8, 2021, she offered to introduce
7 Commissioner Rubio to “NW Natural’s CEO David Anderson, as he would like Commissioner
8 Rubio to have a direct line to him, so she will feel comfortable calling on him[.]”¹²⁵ In another
9 email, Ms. Carlson noted that “David just likes to have met Portland city commissioners, so if
10 there is something they need from him or want to talk, a connection has been already
11 established.”¹²⁶ The scheduled meeting between Commissioner Rubio and David Anderson,
12 NW Natural CEO, Kathryn Williams, VP of Public Affairs and Sustainability, Jennifer Yocum,
13 Local Government Affairs Manager, and Nina Carlson occurred on September 3, 2021.¹²⁷

14 **Q. Has NW Natural introduced any testimony or evidence demonstrating it is not**
15 **seeking to recover costs related to this political engagement with Oregon cities about their**
16 **decarbonization plans?**

17 A. No. Ms. Heiting and Mr. Bracken do not introduce any evidence demonstrating that the
18 Company is not seeking to recover the costs related to its political engagement of government

¹²³ Coalition/923, Ryan/1-128. The Coalition obtained these records through a request for records from the City of Portland.

¹²⁴ *Id.* at 13, 15-16, 22-23, 60, 67, 120, 122, 126, 127.

¹²⁵ *Id.* at 57.

¹²⁶ *Id.* at 74.

¹²⁷ *Id.* at 92.

1 officials in Portland, Milwaukie, or Multnomah County. Nor does their testimony deny that NW
2 Natural seeks to recover the cost of its attempts to influence the outcome of municipal plans to
3 combat climate change, and explicitly admits that it seeks to recover costs associated with its
4 actions in the City of Eugene.¹²⁸

5 **Q. Why are NW Natural’s correspondences and communications with Oregon cities**
6 **policies and regulations to combat climate change considered political activities?**

7 A. NW Natural’s actions are political because they seek to influence the outcome of
8 resolutions, ordinance, building design policies, and transportation policies adopted by Oregon
9 cities in an effort to address climate change, or impose a tax on gas utility service.

10 **Q. Are the costs associated with staff time spent engaging in these political activities an**
11 **allowable cost to recover from ratepayers as a just and reasonable expense?**

12 A. No. Political activities such as those NW Natural is engaged in are generally not
13 recoverable from ratepayers. While I am not a lawyer, I offer this testimony for context.
14 Political activities are not considered “just and reasonable expenses” that can be recovered from
15 ratepayers. The PUC does not allow utility companies to recover any costs incurred to influence
16 the outcome of the political process or other “community activities.”¹²⁹ The rationale behind this
17 policy is the PUC’s belief that “ratepayers should not be required to contribute to the
18 advancement of political positions in which they may not believe.”¹³⁰

19 NW Natural’s efforts to influence municipal climate policy is not an expense the
20 company can recover from ratepayers. Charging ratepayers for these activities would require

¹²⁸ NW Natural/1700, Heiting-Bracken/81-82.

¹²⁹ See, e.g., *Re Portland Gen. Elec. Co.*, UE 115, Order No. 01-777, 212 P.U.R. 4th 1, 10 (Aug. 31, 2001).

¹³⁰ *Re Pac. Nw. Bell Tel. Co.*, UT 43, Order No. 87-406, 82 P.U.R. 4th 293, 320 (1987).

1 ratepayers to contribute to the advancement of political positions they disagree with—as shown
2 from NW Natural’s own surveys that document broad concerns by Oregonians regarding the
3 potential impacts of climate change and the need to take action to alleviate it.

4 **Q. What action would you recommend that the Commission take to deduct costs**
5 **associated with staff time spent on political engagement activities?**

6 A. NW Natural seeks recovery of <<BEGIN CONFIDENTIAL>> [REDACTED] <<END
7 CONFIDENTIAL>> in staff salary time for its employees engaged in “Community and
8 Government Affairs.”¹³¹ I recommend that the commission disallow all these expenses, and
9 deduct an additional <<BEGIN CONFIDENTIAL>> [REDACTED] <<END CONFIDENTIAL>> in
10 costs from Part (n) of the First Stipulated Settlement to account for NW Natural’s expenditures
11 on staff time that is used to influence municipal governments.

12 While NW Natural claims to have deducted costs associated with lobbying activities, the
13 company admits that it seeks recovery from ratepayers for staff time that was spent influencing
14 municipal governments regarding their efforts to enact decarbonization plans or restrictions on
15 gas utility connections for newly constructed housing. *See supra*.

16 Further, NW Natural admits that it requests recovery from ratepayers for “standard
17 employee compensation costs” for the time that staff spent working to influence the outcome of
18 the City of Eugene’s proposed gas ban.¹³² NW Natural also admits that it sought to influence
19 numerous cities in Oregon, encouraging them not to adopt prohibitions or bans on new gas utility

¹³¹ Exhibit NW Natural/1710, Heiting-Bracken.

¹³² *See supra*; NW Natural/Heiting-Bracken/80.

1 service connections.¹³³ Further, the company did not deny that it seeks to recover costs from
2 ratepayers associated with this correspondence and advocacy.¹³⁴

3 Further, public records document that NW Natural staff from all levels of the company's
4 hierarchy engaged in efforts to influence the policy and legislation of municipal governments
5 including: David Anderson, CEO, Kathryn Williams, VP of Public Affairs and Sustainability,
6 Kim Heiting, Senior Vice President, Operations, Mary Moerlins, Director, Environmental Policy
7 & Corporate Responsibility, Nina Carlson, Government Affairs, Jennifer Yocum, Local
8 Government Affairs Manager, Anthony Ramos, Eugene Government & Community Affairs
9 Manager.

10 Since NW Natural has not introduced evidence showing that it has deducted costs
11 associated with its efforts to influence the political activities of municipal governments, I
12 recommend that the Commission disallow all costs associated with NW Natural's Community
13 Affairs and Government Affairs program. NW Natural admits that it seeks recovery of staff time
14 and salary associated with these political activities, and that it has not kept adequate records of
15 the time spent engaged in these activities. Further, NW Natural refused to produce
16 documentation in discovery about its lobbying expenditures that could shine a light on the
17 estimated costs associated with these political activities.¹³⁵ In light of the Company's inadequate
18 recordkeeping, and its refusal to provide data that would enable the Coalition to develop an
19 estimated cost for NW Natural's time spent engaged in political activities, NW Natural has failed
20 to meet its burden of proof regarding whether costs associated with its Community Affairs and

¹³³ NW Natural/Heiting-Bracken/81.

¹³⁴ *See id.*

¹³⁵ Coalition/926, Ryan/1, Coalition DR Response 78.

1 Government Affairs program are just, fair and reasonable. Further, as evidenced by the
2 communications referenced above, individuals at all levels of the company engaged in political
3 influence activities including at the highest levels of management, meaning that the budget for
4 the Community and Government Affairs department may actually underestimate the total costs
5 expended on influencing governmental entities. Accordingly, I recommend disallowance of an
6 <<BEGIN CONFIDENTIAL>> [REDACTED] <<END CONFIDENTIAL>> in costs associated with
7 staff salary, in addition to the disallowance described in Section (1)(n) of the First Stipulated
8 Settlement.

9 **Q. Does this conclude your testimony?**

10 A. Yes, it does, thank you.