

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 221

In the Matter of

NORTHWEST NATURAL GAS
COMPANY, dba NW NATURAL,

Request for a General Rate Revision

RULING

DISPOSITION: MOTION TO STRIKE DENIED

On August 1, 2012, NW Natural filed a motion to strike the portions of the testimony of Hugh Larkin, Jr., which was filed in this docket on July 20, 2012, on behalf of the Citizens' Utility Board of Oregon (CUB) and the Northwest Industrial Gas Users (NWIGU).

In its motion, NW Natural argues that portions of Mr. Larkin's testimony are inadmissible hearsay evidence, as well as arguments inappropriately raised for the first time on rebuttal.¹ The testimony at issue addresses whether NW Natural could have anticipated the health of environmental harms caused by historic operations of manufactured gas plants.

NW Natural's motion is denied. A ruling on a motion to strike is within the Commission's sound discretion. Whether Mr. Larkin's testimony is outside the scope of rebuttal is somewhat unclear. While the historic operations of manufactured gas plants was indeed raised initially by Dr. Andrew Middleton in NW Natural's opening testimony, I find that Mr. Miller's rebuttal conclusion, which is based on the testimony of Dr. Middleton, to be somewhat broader than the statements made by Dr. Middleton himself. For this reason, Mr. Larkin's testimony is not clearly outside the scope of rebuttal.

More persuasive are NW Natural's arguments that Mr. Larkin's testimony is hearsay, and that Mr. Larkin has not been established as an expert on the historic operations of manufactured gas plants. These go to the weight of Mr. Larkin's testimony. NW Natural remains free to argue in its testimony and briefing that Mr. Larkin's testimony on these points should be given little weight in light of NW Natural's objections.

Dated this 16th day of August, 2012, at Salem, Oregon.

Lisa D. Hardie
Administrative Law Judge

¹ The testimony at issue is at NWIGU-CUB/200, Larkin/26, l. 1 – Larkin/28, l. 6.