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May 14, 2018

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
P.O. Box 1088
Salem, Oregon 97308-1088

Re: Docket UM 1909 – In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation of the Scope of the Commission’s Authority to Defer Capital Costs.

Attention Filing Center:

Attached for filing in the above-captioned docket is an electronic copy of NW Natural’s Supplemental Closing Brief.

Please contact this office with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Alisha Till".

Alisha Till
Legal Assistant

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1909

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation of the Scope of the Commission's
Authority to Defer Capital Costs

NORTHWEST NATURAL GAS
COMPANY'S SUPPLEMENTAL
CLOSING BRIEF

I. INTRODUCTION AND SUMMARY

This Supplemental Closing Brief is submitted on behalf of Northwest Natural Gas Company ("NW Natural" or "Company"). While NW Natural's legal analysis is included in the Joint Utilities' Closing Brief,¹ which explains that the plain language and legislative history of ORS 757.259 clearly authorize the Public Utility Commission of Oregon ("Commission") to approve full revenue requirement deferrals, this Supplemental Closing Brief responds to the practical policy arguments raised by Commission Staff and by the Oregon Citizens' Utility Board ("CUB") and the Alliance of Western Energy Consumers ("AWEC")² (collectively, "Intervenors"), not otherwise addressed by the joint briefing. As described below, NW Natural's capital investment deferrals have effectively supported the public interest by minimizing the number of general rate cases and facilitating fair and reasonable rates, consistent with the language and intent of ORS 757.259.

¹ The Joint Utilities' Closing Brief provides the consolidated legal analysis of NW Natural, Portland General Electric Company ("PGE"), PacifiCorp d/b/a Pacific Power ("PacifiCorp"), Idaho Power Company ("Idaho Power"), Avista Corporation ("Avista"), and Cascade Natural Gas Corporation ("Cascade") (collectively, "Joint Utilities").

² The Industrial Customers of Northwest Utilities ("ICNU") and Northwest Industrial Gas Users ("NWIGU") are now known as AWEC.

II. DISCUSSION

The central benefits of capital investment deferrals are described by ORS 757.259 itself, which authorizes their use “in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.”³ The Commission, Staff, and Intervenors have each repeatedly recognized these and other benefits in approving NW Natural’s own capital investment deferrals.⁴ Over decades of consistent practice, NW Natural has received authorization for revenue requirement deferrals that reduced the number of rate filings and supported fair and reasonable settlement of NW Natural’s rate cases—each of which included a cost of capital component and was supported by Staff and Intervenors (where they participated).

Now, Staff and Intervenors claim that capital investment deferrals are uniformly contrary to the public interest and should thus be categorically denied—arguing that utilities’ recovery of capital investments should be confined to general rate cases. This startling new position ignores the concrete public benefits achieved by NW Natural’s own deferrals.

For example, in 2009 (docket UM 1413), NW Natural asked the Commission “to defer the revenue requirement” related to the installation of new Automated Meter Reading (“AMR”) investments, prompted by PGE’s decision to convert to automated meters—meaning that PGE and NW Natural would no longer share the personnel costs of meter reading in their overlapping service territories in the Portland and Salem areas.⁵ After investigating the relative costs of

³ ORS 757.259(2)(e).

⁴ See, e.g., *In the Matter of Nw. Natural Gas Co. Application for Authorization to Defer Expenses Related to the Installation of Automated Meter Reading*, Docket No. UM 1413, Order No. 09-105 (Mar. 30, 2009); *In the Matter of Nw. Natural Application for Authorization to Record and Defer Unrecovered Expenses Associated with the Co.’s Coos Cty. Distribution System Investment*, Docket No. UM 1179, Order No. 04-702 (Dec. 3, 2004); *In the Matters of Nw. Natural Gas Co. Applications for Deferred Accounting Order Re. Purchase of Natural Gas Reserves and Proposed Purchase of Natural Gas Reserves*, Docket Nos. UM 1520 & UG 204, Order No. 11-176 (May 25, 2011).

⁵ Order No. 09-105, Appendix A at 2.

installing AMR as compared to manually reading all of its own meters, NW Natural concluded that AMR would yield a net customer benefit of approximately \$5.2 million.⁶

At the same time, NW Natural was subject to an ongoing, agreed-upon rate moratorium, which restricted the Company's ability to file a general rate case outside of certain, prescribed circumstances.⁷ However, one of the circumstances in which NW Natural could make such a filing was if PGE changed its joint meter reading arrangements, thereby requiring AMR investments. If NW Natural did not receive support "for the opportunity to recover the capital costs for its AMR project on an annual basis," the Company would then be entitled to file a general rate case.⁸ To avoid such a filing, Staff, CUB, and AWEC supported the deferral of the AMR project's revenue requirement effect. NW Natural's AMR investment deferral was thus explicitly used to minimize the frequency of the Company's rate filings—consistent with the central purpose of ORS 757.259(2)(e).⁹

Now, Intervenors argue that capital investment deferrals are inappropriate because "utilities control the timing of capital investments,"¹⁰ thereby allowing a utility to "time general rate cases such that capital investment can be included when setting base rates."¹¹ In making this argument, Intervenors overlook a fundamental benefit of capital investment deferrals recognized by Staff, the Commission, and Intervenors themselves in UM 1413—that is, *avoiding* the need for additional rate cases, even where they *could* be filed.

⁶ Order No. 09-105, Appendix A at 2.

⁷ *In the Matters of Nw. Natural Gas Co. Application for a Gen. Rate Revision and Petition to Commence Investigation*, Docket Nos. UG 152 & UG 163, Order No. 07-426, Appendix A at 2-3 (Sep. 26, 2007).

⁸ Order No. 07-426, Appendix A at 3.

⁹ ORS 757.259(2)(e) (authorizing deferrals "to minimize the frequency of rate changes or the fluctuation of rate levels").

¹⁰ Joint Opening Brief of the Or. Citizen's Util. Bd., the Indus. Customers of Nw. Utils., and Nw. Indus. Gas Users ("Intervenors' Brief") at 6 (Mar. 16, 2018).

¹¹ Intervenors' Brief at 6.

Separately, Intervenors claim that capital investment deferrals reduce a utility's incentive to control costs.¹² This claim is similarly refuted by UM 1413. In NW Natural's subsequent request for reauthorization of the AMR deferral account, Staff specifically commended the Company "for its efforts to bring this project in both . . . a timely manner and below forecast costs."¹³

Additionally, Intervenors argue that deferred accounting for capital investment "would fly in the face of past Commission precedent."¹⁴ Such a contention ignores the Commission's repeated exercise of discretion to authorize precisely such deferrals as consistent with the public interest, and with the support of Staff and Intervenors.

III. CONCLUSION

The Commission, Staff, and Intervenors have consistently supported the use of capital investment deferrals with the recognition of the clear and concrete public benefits such deferrals can provide. Now, Staff and Intervenors abandon this precedent and urge the Commission to adopt a uniform policy against capital investment deferrals—foreclosing the Commission's ability to exercise its own discretion to approve deferrals that it would otherwise find served the public interest. Not only do Staff and Intervenors fail to explain their own abrupt reversal on this question, they decline to recognize either the existence of the Commission's clear and consistent precedent or the practical benefits achieved by past capital investment deferrals. As demonstrated by NW Natural's own experience, capital investment deferrals can effectively reduce the frequency of rate cases and support fair and reasonable rates. NW Natural thus requests that the

¹² Intervenors' Brief at 10.

¹³ *In the Matter of Nw. Natural Gas Application for Reauthorization to Defer Certain Expenses or Revenues*, Docket No. UM 1413, Order No. 10-076, Appendix A at 3 (Mar. 2, 2010).

¹⁴ Intervenors' Brief at 6.

Commission continue to exercise its discretion to approve capital investment deferrals on a case-by-case basis.

Respectfully submitted this 14th of May 2018, on behalf of NW Natural.

McDOWELL RACKNER GIBSON PC

A handwritten signature in blue ink, appearing to read "Lisa F. Rackner", is written over a horizontal line.

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