BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

In the Matter of NORTHWEST NATURAL GAS COMPANY, dba NW NATURAL, Investigation into Schedule H, Large Volume Non-Residential High Pressure Gas Service Rider	UG 266 POST HEARING BRIEF

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In accordance with the Prehearing Conference Memorandum issued on October 31, 2013, Clean Energy Fuels Corp. (Clean Energy) submits this Post Hearing Brief in this proceeding.

I. EXECUTIVE SUMMARY

It should come as no surprise that Northwest Natural Gas (NW Natural) chose this year to propose the High Pressure Gas Service (HPGS) program authorizing the utility to build, own and operate natural gas vehicle (NGV) stations for fleet operators. Market factors including the economy, fuel price spreads, Oregon policy and the interests of potential fleet operators have aligned to encourage NGV market development. NW Natural is not alone in its interest; the same factors that have brought about the utility's recent interest are inviting competitive market entry by non-utility enterprises. In light of the growing competitive interest, the HPGS, which targets low-hanging fruit, is unnecessary. The HPGS can only serve to discourage investment by other enterprises that do not have the utility's advantages: a lower cost of capital and brand equity as well as an established Oregon presence.

The HPGS is not only unnecessary, but also lacks sufficient detail to justify Commission approval. NW Natural appears to be asking simply that the Commission approve its "intent," not its implementation of that intent. NW Natural has failed to develop and explain its ratemaking methodology. Staff appears to have accepted this approach, providing its recommendation based on NW Natural's expressed intent without a full understanding of ratemaking mechanics. The ratemaking methodology is critical to the Commission's evaluation of the program, having been a key factor in its 2012 decision on utility participation in electric vehicle (EV) markets.

Three potential solutions suggest themselves. Encouraging the use of an unregulated subsidiary, a solution acknowledged by Northwest Industrial Gas Users (NWIGU) Witness Finklea, is the cleanest and most effective way to address issues of both cross-subsidy and competitive impact. Alternatively, the Commission could limit NW Natural's use of its natural advantages to uneconomic markets that may be slower to develop without utility intervention. Third and at the very least, the Commission should approve the tariff subject to the limitations expressed in the EV Order for utility market participation when rate recovery is permitted. Regardless of the solution, the Commission should encourage NW Natural to advance the market using the most ready tools available: expanding the use of NGVs in its own fleet and supporting the market through customer education.

Allowing the competitive market to develop in Oregon in the segment NW Natural has targeted will ultimately benefit the state and increase NGV adoption. Increasing competition will drive costs down, promoting expansion of NGV infrastructure with its attendant benefits. Greater competition also increases customer choice and encourages innovation. Jurisdictions, including California, who have limited utility entry have experienced healthy levels of competition. It is in the best interest of Oregon ratepayers to encourage a level playing field in the competitive market.

II. THE OREGON MARKET FOR NGV REFUELING INFRASTRUCTURE IS RIPE FOR INVESTMENT BY THIRD PARTIES.

Factors encouraging NGV refueling infrastructure have aligned in recent years in a manner that is likely to encourage market growth in Oregon.[1] Oregon's policy commitment to NGV, increased customer interest due to the price advantage of natural gas and recovery of the economy nationally are encouraging NGV refueling infrastructure providers to enter the state.

Paramount among factors encouraging NGV adoption is the price spread between natural gas and gasoline.[2] There is a significant cost to converting to NGV,[3] and while natural gas has been cheaper than conventional fuels for a number of years, only in the past 2 years has the spread been wide enough to support the economics of conversion.[4] NW Natural suggests that the price spreads have supported increased

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1 CEF 100, Mitchell at 9:11-10:2.
2 CEF 100, Mitchell at 10:4-7.
3 See Clean Cities Comments at 29-30; NWN 200, Summers at 2; CEF 100, Mitchell at 10:12-21.
4 1 Tr. NWN (Summers) at 35:10-12.

adoption of NGV since 2011,[5] around the time that NW Natural began developing their tariff application.[6]

The fuel price spread on its own is not sufficient to trigger increased market growth; other economics must also align as well before a state will see increased adoption of NGV. The economic environment of the country overall impacts the amount of capital available for investment in NGV.[7] The recent recession limited the ability of fleets to invest in new vehicles and fleet owners are only now loosening up their cash flow.[8] The economics in Oregon are complemented by general policy measures that encourage NGV adoption, specifically policy support included in Governor Kitzhaber's 10-Year Energy Plan.[9]

While these factors have been pivotal in preparing the Oregon market for development, it is important to understand that there are many factors that directly influence the decision to convert to NGV.

- The availability and affordability of NGV options, as compared to one another and against other Alternative Fuel Vehicles (AFVs).[10]
- The age and condition of existing fleets in the state may impact NGV adoption.[11] For example, if a fleet owner has a relatively new fleet and no

5 1 Tr. NWN (Summers) at 35:10-12.
6 1 Tr. NWN (Thompson) at 12:16-17.
7 CEF 100, Mitchell at 9:17-18.
8 1 Tr. CEF (Mitchell) at 136:20-23.
9 CEF 100, Mitchell at 13:16-18.
10 CEF 100, Mitchell at 9:15, 22-23.
11 CEF 100, Mitchell at 9:20.

need for new or additional vehicles, it is unlikely to make any investment in NGV.[12]

- In addition to market factors, each third party provider of NGV refueling infrastructure and each of their potential customers is constantly assessing and reassessing the NGV policies and incentives in the state and the impact of those policies on the economics of entry.[13]

NW Natural's proposed HPGS cannot resolve any of these issues. In fact, approving the HPGS strongly affects the last factor – the state policy environment – in a negative way. Approval of the HPGS sends a signal to non-utility service providers that Oregon does not support competitive development of the market and discourages third party entry.

III. NORTHWEST NATURAL'S PROPOSAL IS INCOMPLETE AND NOT READY FOR A COMMISSION DECISION.

NW Natural is asking the Commission to authorize a tariff based on its ratemaking intent, rather than the tariff mechanics and actual operation. While NW Natural *intends* for all incremental costs of the HPGS to be collected from HPGS Customers, its intent is not supported by clear program scope, accounting or ratemaking mechanics.[14] The scope and the price of the HPGS remain unclear despite suggestions by NW Natural and other parties that the service and pricing will be "transparent." In addition, NW Natural has not finalized, and the Commission has not

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12 *Id.*
13 CEF 100, Mitchell at 9:25.
14 NWN 200, Summers at 14:19-20.

had the chance to study, the ratemaking mechanism in order to ensure that ratepayers will not subsidize the service. NW Natural makes clear that it will be using an "above the line" ratemaking mechanism, but has not demonstrated how an above-the-line methodology will ensure that no costs flow through to ratepayers. The vagueness of the proposal has led NW Natural and Staff to cherry-pick support from the Commission's 2012 decision allowing utility participation in the EV recharging market, ignoring that decision's most applicable policy direction.

A. The Scope and Pricing of the HPGS Remain Unclear.

NW Natural contends that it is offering the HPGS because potential customers seek the "*transparency and accountability that comes with regulated service.*"[15] In fact, the costs of the service paid by each HPGS customer will not be at all apparent from the tariff itself. NW Natural Witness Summers admits that unlike other utility services, the price of the HPGS is not fully transparent in the tariff.[16] Prices "*will vary for each installation and will be laid out in the customer's HPGS Service Agreement.*"[17]

Charges to be paid by each HPGS customer include a monthly facility charge, a scheduled maintenance charge, an unscheduled maintenance charge, and back-up services charge.[18] While the equipment may be standardized to some degree, there will be no standard monthly facility charge; the equipment ultimately installed will vary from customer to customer depending on each customer's needs.[19] NW Natural

15 NWN 200, Summers at 10:5.
16 1 Tr. NWN (Summers) at 91:10-22.
17 Advice 13-10 at 2.
18 1 Tr. NWN (Summers) at 65:2-7.
19 The monthly facilities charge includes equipment capital costs, a recovery factor and an administrative charge.,1 Tr. NWN (Summers) at 65:11-18.

Witness Summers could not identify whether the scheduled maintenance charge would be in the tariff, and it is not apparent from Advice 13-10 that the amount will be readily available.[20] The unscheduled maintenance charge (including charges related to normal wear and tear) and a back-up services charge, which will both be priced at actual cost, cannot be forecast in advance to be included in the tariff.[21]

The service and pricing is not transparent to the Commission, potential customers or competitors.[22] Without a better understanding of the costs and an accounting demonstrating the economics of the HPGS the Commission cannot ensure that the service will bring in revenues sufficient to protect against ratepayer subsidies.

B. The Ratemaking Mechanism to Implement NW Natural's Intent to Assign HPGS to Participating Customers has Not Been Adequately Developed or Examined.

NW Natural admittedly has not identified the ratemaking mechanism that will be used to implement the HPGS and can only identify its general intent for ratemaking treatment.[23] Similarly, Staff testimony made clear that it has only evaluated the "intent" that NW Natural avoid subsidies of the HPGS by non-participating ratepayers rather than the actual operation of the program.[24] Without more information on ratemaking treatment, the Commission cannot make a decision that there will be no general ratepayer subsidy of the service.

The nature of NW Natural's intent remains fuzzy. While the stated intent is to recover "incremental" costs of the HPGS, Witness Summers was tentative about

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20 1 Tr. NWN (Summers) at 69:3-6; Advice 13-10 Supplemental Filing at H-5.
21 1 Tr. NWN (Summers) at 71:24-25, 72:5-14; Advice 13-10, Supplemental filing at H-2.
22 1 Tr. NWN (Summers) at 91:19-22.
23 1 Tr. NWN (Thompson) at 14:13-15:8.
24 1 Tr. Staff (Colville) at 117:3-9.

whether the program would ensure recovery of the "fully allocated" costs of the service.[25] If not all common costs are equitably shared between non-participating and HPGS ratepayers, even NW Natural's "intent" may be insufficient to support the program.

NW Natural Witness Summers defines incremental cost as "*all of the costs that-- - to serve this customer that relates to the high pressure gas service.*"[26] According to Ms. Summers, this includes both direct and overhead costs,[27] but, as noted above, Ms. Summers would not agree that the proposed costs of the tariff were fully allocated.[28] Staff Witness Colville argues that incremental costs are just the additional costs of providing the service.[29] Unless NW Natural clearly defines and identifies all incremental costs of the service, it cannot demonstrate that its intent is to recover all HPGS costs from customers of the tariff. Based on the record, it is not clear that this has occurred.

Moving beyond intent to the realization of that intent, NW Natural Witness Thompson admits the utility is unsure how the accounting will be done to reach NW Natural's intended result.[30] Mr. Thompson suggests that there are a variety of accounting treatments that can serve NW Natural's intent, including collecting HPGS costs in the revenue requirement and crediting back ratepayers for costs paid by HPGS customers.[31] If, contrary to NW Natural's intent, the revenues fall short of actual costs, it will leave non-participating ratepayers at risk. Until and unless NW Natural can

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25 1 Tr. NWN (Summers) at 64:19-22.
26 1 Tr. NWN (Summers) at 63:24-25.
27 1 Tr. NWN (Summers) at 64:2-4.
28 1 Tr. NWN (Summers) at 64:19-22.
29 1 Tr. Staff (Colville) at 112:5-113:4.
30 1 Tr. NWN (Thompson) at 15:4-8.
31 1 Tr. NWN (Thompson) at 15:4-8.

demonstrate a ratemaking treatment for HPGS costs that ensures that non-participating ratepayers will be insulated from the fully allocated cost of HPGS service, the Commission cannot be sure that costs have been recovered as intended.

NW Natural is currently tracking all costs related to the HPGS, but it is not recovering the costs; instead it is relying on future revenues to recover these costs.[32] In response to concerns expressed by CUB and Staff, NW Natural agreed to track all costs related to the service, even those incurred before the service is officially offered to customers, so that they can later be gathered from HPGS customers in the monthly facilities charge.[33] However, NW Natural's intentions related to tracking development costs are so confusing that Staff was not clear whether those costs already expended would be tracked, and had to be corrected by NW Natural's counsel.[34]

NW Natural has attempted to demonstrate that there is no potential for general ratepayers to subsidize the service. The weakness of that argument can be best examined using the assumption that the HPGS attracts no customers. NW Natural Witness Summers argues that there is no cost burden if no one takes the service, despite the fact that development costs have been incurred and contract negotiations have begun.[35] NW Natural has suggested that shareholders have been charged for unusual development costs, like the study used to justify the service.[36] NW Natural, however, has not addressed the scenario where project costs, including HPGS customer service or Feasibility Studies, are expended but there are no customers that

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32 1 Tr. NWN (Thompson) at 99:4-100:2.
33 NWN 200, Summers) at 15:4-17, 20:1-9.
34 1 Tr. Staff (Colville) at 114:4-24.
35 1 Tr. NWN (Summers) at 70:10-15.
36 NWN 201, Summers at 23:7-12.

sign up for the service. Other development costs, including the salary of major account executives or of Mr. Thompson or Ms. Summers are already included in general rates being charged to ratepayers. If there are no HPGS customers, those development costs will be collected from ratepayers and there will be no offsetting revenue. NW Natural has not suggested shareholders are liable for sunk HPGS costs in this scenario. Without a clear ratemaking treatment proposed, the only assumption is that ratepayers will bear these costs should the service not prove successful.

C. NW Natural and Staff Have Cherry-Picked the EV Decision.

The ratemaking treatment of the HPGS is central to determining if and how the decision in the EV proceeding, Order 12-013 is analogous to the instant case. Clean Energy has repeatedly argued that the EV Order does not provide adequate direction for the NGV market.[37] Other parties, however, seem resolved on following the direction provided in the EV decision when considering the HPGS.[38] Their resolve, however, is based on an incomplete application of the decision.

The EV Order allows electric utilities to participate in the emerging EV market, but offers different policy direction based on whether the utility intends to recover costs in rates (above-the-line) or place the risk on shareholders (below the line).[39] If the service is offered below the line, the utility may participate in the market but must follow Oregon's Code of Conduct for below the line, or unregulated, investments.[40] Even with

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[37] CEF 100, Mitchell at 24:7-25:5.

[38] See NWN 100, Thompson at 4:2-17; Staff 100, Colville at 4:17-5:5.

[39] *Re. Investigation into Matters Related to Electric Vehicle Charging*, Docket UM 1461, Order 12-013 (January 19, 2012) at 6-7,10 (hereinafter Order 12-013).

[40] Order 12-013 at 7.

this protection, the Commission was "*concerned that legal questions related to this decision [allowing utility participation on an unregulated basis] were not fully explored.*"[41]

The Commission also considered utility investment and electric vehicle service equipment (EVSE) operation with above-the-line rate recovery.[42] In this scenario, Staff suggested, and the Commission endorsed, four criteria that the utility must meet before allowing a charging station to be built.[43] A new investment would only be approved and recovered in rate base if at a minimum:

- ✓ The station meets the net benefit test;
- ✓ Charging is essential at that location to encourage adoption of EVs;
- ✓ No third party is likely to provide the same service in the same or nearby location; and
- ✓ The Utility has a separate rate class for EVs.[44]

Even with these criteria in place, a utility must "*make a compelling case that the utility's ownership and operations of the EVSE is beneficial to ratepayers*" not just the public at large.[45] The Commission permitted potential rate recovery of EV charging stations, but many rate design issues were not conclusively decided.[46] The Commission clearly contemplated there would be additional utility filings to provide the detail for such rate recovery.[47]

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41 *Id.*
42 *Id.* at 7-10.
43 *Id.* at 10.
44 *Id.* at 8, 10.
45 *Id.* at 10.
46 *Id.* at 14-15. It appears from the face of the decision, the Commission only directly addressed spreading the administrative costs associated with designing and managing the EV rate to all ratepayers. *Id.* at 14-15.
47 *Id.* at 14-15.

As applied to the HPGS, both Staff, who originally proposed these ideas, and NW Natural, which appears to embrace the EV decision, have ignored these criteria. NW Natural suggests that because NW Natural is not choosing the location of their stations the criteria are not applicable, but the Order distinguishes not based on location but based on rate recovery.[48] Staff Witness Colville suggests that the service is a "*hybrid between those two*," since "*costs…are recovered directly from those specific customers rather than spread to the general ratepayers.*"[49] It is not clear that this conclusion follows from the EV Order as the only costs that the Order specifically addresses as spread to all ratepayers are the "*minimal*" costs of administering an EV specific rate.[50]

NW Natural's statements regarding the ratemaking treatment of HPGS (discussed above in Section III.B.) align with the "rate recovery" option under the EV Order. First, NW Natural has stated that its service is above the line or regulated service, as was service under the rate recovery option.[51] Second, NW Natural Witness Thompson admitted one method of recovering costs was to recover costs of the HPGS in the revenue requirement with HPGS revenues credited back, which is a similar ratemaking treatment as considered in the EV Decision.[52]

If the Commission is going to follow the policy direction provided by the EV Order, it should either direct NW Natural to provide the service below the line, via an

48 1 Tr. NWN (Thompson) at 21:4-6.
49 1 Tr. Staff (Colville) at 108:14-17, 109:3-5.
50 Order 12-013 at 14-15.
51 1 Tr. NWN (Thompson) at 13:21-22.
52 1 Tr. NWN (Thompson) at 15:4-8.

unregulated entity, or, in the alternative, it should adopt the same criteria for above the line service.

IV. NW Natural is Targeting the "Low Hanging Fruit" and as a Result Will Interfere with the Development of a Competitive Market

NW Natural recognizes that a competitive NGV refueling infrastructure market is in NW Natural's best interest.[53] NW Natural's proposal, however, will have the impact of discouraging the very competition it states it encourages. NW Natural proposes to serve precisely the same customers that would attract new competitors to invest in the market. If the HPGS is authorized, new competitors will not enter the market because they will be unable to compete with NW Natural's inherent advantages to serve these or other customers. As a result competition in Oregon's NGV refueling market is likely to stall.

A. NW Natural's Proposed Service Serves Only the Most Desirable Customers and Undermines the Competitive Market.

NW Natural's proposal is targeted at 27 large, return-to-base customers representing the most economic and sophisticated fleets.[54] The intended target of 27 customers is drawn from a pool of 258 large fleet customers identified by the utility.[55] These customers were targeted because under the proposed service a station must serve 40 or more vehicles in order to be economic.[56] NW Natural argues that the HPGS will encourage NGV market growth by helping these customers manage the risk

53 1 Tr. NWN (Summers) at 46:7-9.
54 NWN 200, Summers at 11:16-23; 1 Tr. NWN (Summers) at 46:13-16.
55 1 Tr. NWN (Summers) at 45:16-21.
56 1 Tr. NWN (Summers) at 47:22-24.

of conversion to NGV.[57] NW Natural does not explain why these economic and sophisticated customers need help managing conversion risk, and why NW Natural is uniquely suited to provide the proposed service. Instead, NW Natural relies on the statements of two customers supporting the tariff, without demonstrating that these parties are viable customers for the service.[58]

As NW Natural points out, the identity and size of fleets is publicly available via FleetSeek,[59] and, when entering new markets, entrants are likely to first target large, return-to-base fleets. These 27 customers are "*low hanging fruit,*" the same customers that a new entrant to the Oregon market will seek to serve since the economics of conversion are so clear for the customer.[60] If these customers are economic and sophisticated, they will be the most likely to be targeted and served by others, and savvy enough to manage the risk of conversion even without NW Natural's HPGS.

B. Indirect Cross Subsidies Tilt the Playing Field to NW Natural's Advantage Discouraging Competitive Entry

Not only is the HPGS not necessary to serve the market, it will discourage competitive entry by unregulated third parties, since the utility will ultimately win any bid that it seeks due to its indirect cross subsidies.[61] Chief among these competitive advantages is NW Natural's cost of capital and brand equity.

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[57] 1 Tr. NWN (Summers) at 41:7-8.

[58] NWN 200, Summers at 9:4-9. In fact, NW Natural argues that it will use its Feasibility phase to demonstrate to customers that do not fit its target market that the NW Natural HPGS may not be economic for that customer. 1 Tr. NWN (Summers) at 48:7-12.

[59] NWN 200, Summers at 22:1-4.

[60] 1 Tr. CEF (Mitchell) at 138:20-22

[61] Advantages include access to the potential customer base, including information on the distribution facility design; direct knowledge of market leads since competitors will need to contact the utility for information on the facility; an established marketing and billing infrastructure; cost of capital; and brand equity. NGVFP Comments on Advice 13-10 at 14-15.

NW Natural has a cost of capital that can be up to half that of unregulated companies.[62] As Clean Energy Witness Mitchell explained, a regulated utility has captive customers and a monopoly to provide a specific service to a defined territory; provided the utility offers service in a "*satisfactory manner,*" its public utilities commission is likely to grant budgets that provide a return.[63] This results in a competitive advantage in obtaining financing for its projects.[64] As Mr. Mitchell explained:

> *Now, if I am a lender of capital and I have a firm coming to me with that sort of contract between its regulator and its known customer base, and its volume of product, and its absolute certainty that he has a franchise service territory that's not going to be taken away from it, I would be foolish not to provide that borrower a lower cost of capital as compared to a competitive business that has no such guarantees.*[65]

As demonstrated in Mr. Mitchell's testimony, all other things being equal, NW Natural's lower cost of capital allows it to offer service at a lower cost and to win any bid that it seeks.[66] The cost of capital advantage alone is enough to discourage outside investment by third parties with higher costs of capital.

NW Natural can also rely on its brand equity or the customer perception of the brand, which is based both on considerations of brand awareness and brand reputation.[67] A company with brand equity can rely on the commercial value of its brand[68] and will have less need to market and build awareness of the company.[69] NW

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62 1 Tr. CEF (Mitchell) at 131:1-4.
63 1 Tr. CEF (Mitchell) at 130:3-14.
64 1 Tr. CEF (Mitchell) at 130:15-22.
65 *Id.*
66 CEF 100, Mitchell at 20:7-11.
67 1 Tr. NWN (Summers) at 83:10-19.
68 *Id.*

Natural has not only positive brand equity, but a "*unique value as a utility for a brand.*"[70] In Oregon, when one says natural gas, NW Natural comes to mind.[71]

Brand equity is an advantage that is unique to NW Natural for the provision of natural gas in its service territory. Any new entrant to the Oregon market will have to make an investment in marketing and consumer education to establish a presence in the market that the utility can avoid.[72] NW Natural built its brand equity with service paid for by customers, a direct result of its regulated utility status,[73] in fact, NW Natural admits that it will not need to incur marketing costs to offer the HPGS.[74] While NW Natural admits it has received cold calls asking about the service,[75] new market entrants must spend funds to meet with prospective clients and build new relationships.[76] As characterized by Mr. Mitchell:

> *If a relative walks up and knocks on your door, you let him in; if a stranger walks up and knocks on your door, you have some real questions about him before you let him in.*[77]

The commercial value of NW Natural's brand equity in Oregon has been built over 150 years and cannot possibly be matched by a new market entrant.

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69 CEF 100, Mitchell at 19:16-20.
70 1 Tr. NWN (Summers) at 83:22-25.
71 1 Tr. NWN (Summers) at 84:25-85:3.
72 CEF 100, Mitchell at 19:16-20.
73 CEF 100, Mitchell at 21:1-20.
74 NWN 200, Summers at 21:13-20.
75 1 Tr. NWN (Summers) at 59:10-11.
76 1 Tr. NWN (Summers) at 83:1-4. When asked "*Would it be possible for any company to make a sale to a customer of an NGV station without meeting with that customer?*" Ms. Summers responded, "*that seems unlikely.*"
77 1 Tr. CEF (Mitchell) at 133:3-6.

C. The Presence of NW Natural in the Market Will Slow Investment in the Market

When making the decision to enter a new market, an entrant will assess the factors listed in Section II, opportunities available and competitive concerns in a new state. NW Natural's inherent advantages as the regulated monopoly provider of natural gas service in Oregon leave it uniquely suited to win every bid that it seeks. Ultimately, these advantages alongside NW Natural's proposals to target the most economic and sophisticated customers of the HPGS, the "*low hanging fruit,*" may discourage new market entrants from heavily investing in the market, to the detriment of competition and Oregon customers.

The experiences of the California NGV refueling infrastructure market illustrate the negative impact that utility participation may have on a competitive market. It was only after the State of California prohibited utilities from offering CNG refueling in 1995 that the state saw increased competition and increased natural gas throughput for NGV use.[78] In 2012, the California Public Utilities Commission authorized Southern California Gas Company (SoCalGas) to offer a tariff that would allow the utility to build NGV stations, but the tariff has not been implemented.[79] Since SoCalGas has not begun to provide the service, the impact that SoCalGas's new service will have on the competitive market is not yet known.

78 CEF 100, Mitchell at 15:14-16:4.
79 CEF 100, Mitchell at 22, footnote 26.

V. THE COMMISSION SHOULD REJECT THE APPLICATION AND DIRECT THE SERVICE TO BE OFFERED VIA AN UNREGULATED SUBSIDIARY OR, AT A MINIMUM, IMPOSE THE CRITERIA OUTLINED IN THE EV ORDER.

The Commission should reject the application and require NW Natural to offer the HPGS via an unregulated entity.[80] As noted by NWIGU, this solution protects general ratepayers from potentially subsidizing the service.[81] Further, the EV Order suggests that the Commission previously considered this below-the-line option in other competitive markets.[82] NW Natural has experience operating other unregulated affiliates, namely its storage facility, Gill Ranch, which the utility and Commission could draw on to structure the HPGS as an unregulated product.[83]

In the alternative, the Commission could approve the Tariff with a limitation of the service to markets that are otherwise underserved as outlined in Mr. Mitchell's testimony.[84] Clean Energy suggests that these markets include the home NGV refueling business, school district bus fleets, and non-proprietary, low volume municipal fleets (excluding, for example, port, airport, transit and refuse properties).[85]

At the very minimum, the Commission should follow its own precedent, the EV Order. It should find that the NW Natural proposed HPGS is most closely analogous to the rate recovery option under the EV Order and require the proposed service to meet the criteria adopted in that decision.[86] If NW Natural's intent is to encourage increased adoption of NGV refueling infrastructure, the Commission should also direct the utility to

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80 CEF 100, Mitchell at 25:14-15, 26:1-7.
81 NWIGU 100, Finklea at 1:14-17.
82 Order 12-013 at 6.
83 1 Tr. NWN (Thompson) at 26:3-15.
84 CEF 100, Mitchell at 26:15-27:19.
85 CEF 100, Mitchell at 27:20-23.
86 Order 12-013 at 10.

build out its own NGV fleet.[87] NW Natural should be encouraged to utilize its website and marketing platform in a manner that encourages increased NGV adoption. NW Natural suggests that it already plans to provide industrial customers with information on the HPGS in its newsletter.[88] The Commission should direct NW Natural to provide customers with information on all potential providers of NGV refueling infrastructure.

VI. CONCLUSION

For all of the foregoing reasons, Clean Energy urges the Commission to reject the NW Natural's application and direct it to offer the service via an unregulated entity.

Respectfully submitted,

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December 13, 2013

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[87] Currently, NW Natural's fleet uses 109 NGV, estimated to be "*over half*" of its fleet. 1 Tr. NWN (Summers) at 49:6-13.

[88] NWN 200, Summers at 21:18-20.

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in Docket UG 266 on the following attached list of named person(s) on the date indicated below by email addressed to said person(s) at his or her last known address(es) listed below.

Dated December 13, 2013 at San Francisco, California.

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