BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UG 266

In the Matter of NORTHWEST NATURAL GAS COMPANY, dba NW NATURAL Investigation into Schedule H, Large Volume Non-Residential High Pressure Gas Service Rider	)	POST-HEARING BRIEF OF THE CITIZENS' UTILITY BOARD OF OREGON

I. INTRODUCTION

Pursuant to the Prehearing Conference Memorandum of Administrative Law Judge ("ALJ") Alan Arlow, issued on October 31, 2013, the Citizens' Utility Board of Oregon ("CUB") submits this Post-hearing Brief to the Oregon Public Utility Commission ("Commission" or "OPUC"). CUB writes to recommend that the Commission utilize the "Net Benefit" standard in analyzing this filing.

II. BACKGROUND

NW Natural proposes to provide High Pressure Gas Service ("HPGS") through the addition of its proposed Schedule H, Large Volume Non-Residential High Pressure Gas Service Rider, to its Schedules 3, 31 and 32 non-residential natural gas service schedules.

As noted in CUB's Testimony, CUB was generally supportive of the Company's proposal to provide HPGS to customers so long as the Company was able to demonstrate a long-term net benefit to existing customers and ensure that there would be no cross-subsidization from existing customer classes.[1] But it was subsequent to the public meeting held on October 28, 2013, and after discussions with CUB, that the Company finally provided sufficient evidence filed in the form of testimony on November 18, 2013, which removed the proposed subsidies related to customer service and feasibility studies and demonstrated that the service would provide net benefits to all of the Company's customers. Without those subsidies being included, the proposed service provides a net benefit to the system through the sharing of fixed costs[2] through gas sales. The Company now proposes to recover all project development and administrative costs from customers via an Administrative Services Charge and a Monthly Facilities Charge.[3] Additionally, the Company agrees to "track staff time spent on [administrative] services for the first year, meet with stakeholders to discuss the costs, and propose changes to the tariff in order to adjust the Administrative Services charge as necessary"[4] and "to conform to Staff's recommendation that [the Company] identify and record all first-time costs of developing the HPGS service proposal, including legal costs of drafting contracts, general pricing review, and market research"[5] to be included in the Monthly Facility Charge in Schedule H.

Because current rates do not reflect the costs of this service, including the increased customer service costs and the cost of site evaluations, current customers are not subsidizing

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[1] UG 266/CUB/100/Jenks/1, lines 6-9.
[2] UG 266 NWN/100/Thompson/7, lines 15-17. *See also* UG 266 NWN/100 Thompson/8-9.
[3] UG 266 NWN/200/Summers/14-20; UG 266 NWN/202/Summers/1.
[4] UG 266 NWN/200/Summers/19, lines 21-24.
[5] UG 266 NWN/200/Summers/20, lines 2-4.

these costs. By agreeing to track these costs, and to adjust the Administrative Service charge if it is not recovering these costs, other customers are protected from subsidizing the service.[6]

Without a subsidy, the increased sales will contribute to the fixed costs of the system and will provide a net benefit to other customers.[7]

In light of the proposals and commitments made by the Company in its November 18, 2013 testimony in this docket, CUB is supportive of Commission approval of NW Natural Advice 13-10.[8] However, CUB is only able to support the Company's filing in this case because CUB has determined that it meets the "net benefit" standard. CUB has made this determination notwithstanding that the Company advocates for a "no harm" standard.[9] Thus, while CUB is supportive of the Company's proposed Schedule H, CUB continues to disagree that the standard to be applied by the Commission in this docket is the "no harm" standard. The correct standard for the Commission to apply is the "net benefit" standard, which is consistent with the extension of gas service, generally, and with prior Commission precedent for utility-owned alternative fuel infrastructure as CUB sets forth in its arguments below.

III. ARGUMENT

CUB's testimony on the net benefit issue was detailed and focused. In lieu of a recitation of our testimony, CUB will highlight the main points of its testimony and discuss the testimony of other parties where CUB thinks it informs the discussion.

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[6] *See also* UG 266 Staff/100/Coleville/8, lines 20-23 and Staff/100/Coleville/9 lines 1-6. CUB notes that at the time of hearing on 12-6-13 it was unclear whether Mr. Coleville still supported the concept of application of the net benefit standard to this docket.

[7] UG 266 CUB/100/Jenks/3, lines 8-9; *See also* UG 266 Staff/Coleville/14, lines 12-20.

[8] *See also* UG 266 NWIGU/100/1, lines 12-14: "Q. Does NWIGU support the Commission approving NW Natural's HPGS filing? A. Yes, so long as the extra precautions NW Natural has agreed to take since making the filing are incorporated into the approval."

[9] UG 266 NWN/100/Thompson/7, lines 7-15.

A. *Natural Gas Service is not an essential service.*

- Natural gas service is not an essential service—customers always have the ability to consume another energy source to satisfy their energy demands.[10] Accordingly, natural gas utilities have an obligation to extend service *only if the expected revenues from new customers cover the incremental costs and make a contribution to system costs*, thus providing a net benefit to the utility's other ratepayers. [11]
- New customers and/or new sales will provide a net benefit if they fully cover the additional costs related to the additional sales. The math is simple. By spreading out a set of costs (that do not increase with additional sales) over a larger volume of sales, the amount of fixed costs that are recovered per unit of sales is reduced. Other customers who are purchasing gas benefit because each of them is required to contribute less to the fixed costs of the system.[12]
- CUB's position is that all customers will benefit, if that service is priced at a level that fully recovers its costs and makes a contribution to the shared system costs that do not vary with the new service.[13]

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[10] NRRI Line Extensions for Natural Gas: Regulatory Considerations. "In most states, electric utilities have assigned and exclusive service territories, as well as an obligation to serve. Natural gas lacks this essential nature, as other energy sources are able to provide all the end-use services that natural gas does." Executive Summary at p. vi; "One fundamental difference to note with electricity is that gas service is not as essential because customers can always consume some other energy source (e.g., oil or propane) to satisfy their end-use demands. We should expect regulators to more willingly mandate service extensions by electric utilities. Most states, in fact, have a statutory universal service goal or mandate for electric service, but not for natural gas. *Id*. at p. 18; UG 266 CUB 100/4 lines 4-8.

[11] UG 266 CUB's September 30, 2013 written Comments at 2 related to the NW Natural Advice Filing 13-10; UG 266 CUB/100/Jenks/4, lines 4-8.

[12] UG 266 CUB/100/Jenks/4 lines, 15-17, and /5 at lines 1-3.

[13] UG 266 CUB/100/Jenks/5 lines, 8-10.

A no harm standard, on the other hand, would simply require that the service recover all of its incremental costs, but not that it make any contribution to the fixed costs of its system. Other customers' rates would be the same under this circumstance as they would be without the new service, so there would be no financial harm on other customers. But this creates an unfair subsidy. The new service is using the distribution system that is made up of fixed costs. The new service has required time from upper management and the Board of Directors. While other customers may not be paying higher rates than without the new service, they are unfairly subsidizing the new service by paying the fixed costs associated with that service.[14]

The fair outcome, the outcome that does not require any subsidies, is to require that the new service be priced at a level that pays for its incremental cost and makes a contribution to the shared fixed costs of the system. This is a net benefit.[15]

B. Commission Precedent Clearly Provides HPGS Must Meet A Net Benefit Standard

i) Existing Line Extension Policy

As discussed in CUB's September 30, 2013 comments, NW Natural's own line extension policy, contained in Schedule X, serves as an example of the net benefit principle. Specifically, Schedule X requires new customers to assume financial responsibility for costs associated with extending service if those costs are greater than the benefits the service will provide to other ratepayers. Clearly, NW Natural's own Schedule X requires a net benefit, rather than simply meeting a "no harm" standard. If a net benefit must be met in order to extend natural gas service in all other circumstances, there is no legal or policy reason that HPGS should be an exception.

[14] UG 266 CUB/100/Jenks/5, lines 11-19.
[15] UG 266 CUB/100/Jenks/5, lines 20-22.

The Commission has consistently imposed a net benefit standard for the extension of natural gas service,[16] and should do so again in this case.[17]

ii) Electric Vehicle Charging

The Commission has already applied the net benefit standard to alternative fueling infrastructure. In docket UM 1461, *Investigation of Matters Related to Electric Vehicle Charging*, the Commission explicitly stated that prudence, in the context of EVSE, requires the utility to demonstrate a net benefit to customers. This was not meant to be a requirement that was unique to EVSE. The Staff conditions that the Commission adopted stated that the utility's investments and operating costs "in charging stations must meet the same net benefit test as other utility investments."[18] There is no meaningful difference between electric charging stations and HPGS in the context of rate recovery for proposed infrastructure. The issues, including whether utility ownership is appropriate, concerns about competitive markets, and concerns about ratepayer costs and risks, are strikingly similar. There is no compelling legal or policy basis to require utility-owned HPGS infrastructure to meet a lower standard than EVSE infrastructure.[19]

iii) Coos County Service

The Commission affirmed a net benefit standard when NW Natural sought to extend natural gas service to Coos County. The parties ultimately settled with agreement that NW Natural would recover the revenue shortfall through Schedule 160, which placed the burden of recovery on Coos County customers, rather than customers state-wide. In addition to paying for the cost of the infrastructure required, customers are contributing to system costs via the

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[16] For example, see the discussion below related to when NW Natural sought to extend natural gas service to Coos County. OPUC Order No. 03-236.
[17] UG 266 CUB/100/Jenks/6-7.
[18] OPUC Order No. 12-013 at 8.
[19] UG 266 CUB/100/Jenks/9.

volumetric charges on their bills, thereby creating a long-term net benefit to the system.[20]

iv) NW Natural's "no harm" citations are inapplicable

NW Natural provides a string cite to prior Commission Orders in an attempt to show that the "no harm" standard is the standard that should be applied to this docket.[21] NW Natural is incorrect for the following reasons.

- A HPNG case has nothing to do with telecom or mergers. The telecom standard is a lesser standard than the "net benefits" test employed under ORS 757.511 for energy utility acquisitions. See also Order No. 08-617, Docket UP 249 and Order No. 02-466, Docket UP 195. [22]
- A HPNG case has nothing to do with asset purchase and sale dockets where a different standard is applied.
- A HPGN docket has nothing to do with letters of credit and other utility financing.

Telecommunication mergers, gas and electric asset sales, and gas and electric purchases and financing events are one time only events, not ongoing service. Customers subject to those kinds of one-time events are generally protected if there is a no harm standard. But on-going utility sales to customers are different. Either the ongoing sales are at a price that contributes to fixed costs and provide a net benefit to the system or the sales are not priced sufficiently to contribute to fixed costs and other customers are unfairly asked to pick up the share of the fixed costs that are being used to serve the customer. This is the kind of activity that is the subject of this docket and thus requires application of the net benefit standard.[23]

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[20] UG 266 CUB/100 Jenks/10;OPUC Order No. 03-236.
[21] NWN/100/Thompson/7 at fn. 17.
[22] Order 11-095 at 6, fn. 12.
[23] UG 266 CUB/100/Jenks/10-12.

IV. CONCLUSION

CUB recommends that the Commission approve the proposed Schedule H, Large Volume Non-Residential High Pressure Gas Service Rider, to its Schedules 3, 31 and 32 non-residential natural gas service schedules. CUB agrees with NWIGU that the OPUC,

> should make clear in its order that if in the future it is found that the charges for HPGS service do not fully compensate NW Natural for the expenses related to providing the service, that the changes must be adjusted upward.[24]

However, it is CUB's position that by eliminating subsidies to this service, the Large Volume Non-Residential High Pressure Gas Service Rider will be offered in a manner that provides a "net benefit" to customers. CUB recognizes that NWIGU, like the Company, does not believe that the "net benefit" standard is applicable.[25] CUB continues to assert that it is.

CUB continues to believe that the "net benefit" standard is the appropriate standard against which to measure NW Natural's proposed HPNG service because only the net benefit requirement will ensure that there are no cross subsidies. CUB, therefore, urges the Commission to reaffirm that new gas services should be priced in a manner that ensures that the service covers it costs, and makes a contribution to fixed costs, thus creating a net benefit for other customers.[26]

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[24] UG 266 NWIGU/100/Finklea/2, lines 1-3.
[25] UG 266 NWIGU/100/Finklea/4, lines 16-18. CUB respectfully points out that the results of what the Company is now agreeing to do in this docket, and what CUB is advocating occur in this docket, provide exactly the end result that NWIGU states it wants – that the rates for HPNG service should recover the cost of providing the service to that class of customers.
[26] UG 266 CUB/100/Jenks/12-13.

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RESPECTFULLY SUBMITTED this 13th day of December 2013.

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UG 266 – CERTIFICATE OF SERVICE

I hereby certify that, on this 13th day of December, 2013, I served the foregoing **POST-HEARING BRIEF OF THE CITIZENS' UTILITY BOARD OF OREGON** in docket UG 266 upon each party listed in the UG 266 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and five copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service) **(C denotes service of Confidential material authorized)**

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