BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1722

In the Matter of: PUBLIC UTILITY COMMISSION OF OREGON Investigation into Recovery of Safety Costs by Natural Gas Utilities.	**JOINT BRIEF IN SUPPORT OF STIPULATION**

I. INTRODUCTION.

This brief explains and supports the Stipulation concurrently filed in this docket by NW Natural Gas Company ("NW Natural"), Cascade Natural Gas Corporation ("Cascade"), Avista Corporation ("Avista"), Staff of the Public Utility Commission of Oregon ("Staff"), the Citizens' Utility Board of Oregon ("CUB"), and the Northwest Industrial Gas Users ("NWIGU") (collectively, the "Parties"). The Stipulation documents the Parties' agreement upon guidelines to govern mechanisms by which local distribution companies ("LDCs") may seek recovery of safety investment costs outside of a general rate proceeding. These mechanisms are referred to herein as safety cost recovery mechanisms, or SCRMs. In addition, the Parties have agreed upon a new requirement that LDCs file annual Safety Project Plans ("SPPs") for Staff and stakeholder review. The Parties agree that the SCRM guidelines and SPP process described in the Stipulation constitute a fair and reasonable resolution of the issues in this proceeding, and submit this Joint Brief in Support of the Stipulation to the Public Utility Commission of Oregon ("Commission") pursuant to OAR 860-001-0350(7).

II. BACKGROUND.

In 2009, the Commission approved a stipulation consolidating NW Natural's three pipeline safety and integrity cost recovery programs, the Bare Steel Replacement Program,

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Transmission Integrity Management Program ("TIMP") and the Distribution Integrity Management Program ("DIMP"), into one program, the System Integrity Program ("SIP").[1] The SIP allowed NW Natural to defer and recover the costs for its three pipeline safety programs on an annual basis. Originally, the mechanism was scheduled to expire on October 31, 2011 or until the effective date of new rates adopted in NW Natural's next rate case.[2] In NW Natural's 2011 general rate case, the Commission approved a stipulation extending the SIP until October 31, 2014.[3]

On October 21, 2014, NW Natural made an advice filing seeing extension of the SIP for an additional three years.[4] Staff, CUB, and NWIGU opposed the request for extension, asserting that circumstances had changed since the initial approval of the SIP, and that NW Natural could recover the expenses through a general rate case ("GRC").[5] Staff recommended suspending NW Natural's request for extension of the SIP pending investigation into the request.[6] The Commission adopted Staff's recommendation, and suspended Advice No. 14-23 for further investigation and also, opened a generic investigation proceeding into regulatory treatment for LDC investments related to pipeline safety.[7]

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[1] *In the Matter of Nw. Natural Gas Co., dba NW Natural, Application for an Accounting Order*, Docket No. UM 1406, Order No. 09-067 (Mar. 1, 2009).
[2] NWN/100, Thompson/6.
[3] *In the Matter of Nw. Natural Gas Co., dba NW Natural, Request for a General Rate Revision*, Docket No. UG 221, Order No. 12-408 at 10-11 (Oct. 26, 2012).
[4] *In the Matter of Nw. Natural Gas Co., dba NW Natural, Request to Continue Schedule 177, the System Integrity Program Recovery Mechanism*, Docket No. UG 286, Advice No. 14-23 (Oct. 21, 2014).
[5] *In the Matter of Nw. Natural Gas Co., dba NW Natural, Request to Continue Schedule 177, the System Integrity Program Recovery Mechanism*, Docket No. UG 286, Staff Report at 2-3 (Mar. 24, 2015).
[6] *In the Matter of Nw. Natural Gas Co., dba NW Natural, Request to Continue Schedule 177, the System Integrity Program Recovery Mechanism*, Docket No. UG 286, Staff Report at 3 (Mar. 24, 2015).
[7] *In the Matters of Nw. Natural Gas Co., dba NW Natural, Request to Continue Schedule 177, the System Integrity Program Recovery Mechanism and Pub. Util. Comm'n of Or., Investigation into*

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The generic proceeding was docketed as Docket No. UM 1722 and consolidated with NW Natural's request for extension of the SIP, Docket No. UG 286.[8] Cascade, Avista, CUB, and NWIGU intervened in the proceeding. On April 15, 2015, Administrative Law Judge ("ALJ") Shani Pines held a prehearing conference and the Parties agreed to hold a workshop on May 20, 2015. Staff and CUB served discovery on the LDCs, and the LDCs responded to the Parties' data requests.

On December 1, 2016, NW Natural, Cascade, and Avista ("Joint Utilities") filed joint testimony in this proceeding explaining the policy objectives supporting the adoption of an annual SCRM for investments enhancing the safety and reliability of LDC systems, describing the customer benefits that may result from adoption of an SCRM, and proposing SCRM guidelines.[9] NW Natural also separately filed testimony supporting its request for extension of the SIP.[10] NW Natural subsequently withdrew its request for extension of the SIP, Advice No. 14-23, and the Commission closed Docket No. UG 286.[11]

Staff, CUB, and NWIGU filed response testimony on February 8, 2016. Staff and CUB's testimony responded to the Joint Utilities' proposed SCRM guidelines, and each also offered its own set of guidelines for an SCRM. NWIGU responded to the Joint Utilities' proposal, but did not propose its own set of SCRM guidelines.

On March 9, 2016, the Joint Utilities filed reply testimony, and Staff and CUB filed cross-answering testimony. The Joint Utilities highlighted the areas where the Parties had reached common ground to serve as the basis for the proposed SCRM. In Staff and CUB's

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Recovery of Safety Costs by Natural Gas Utils., Docket Nos. UG 286 and UM 1722, Order No. 15-093 (Mar. 25, 2015).

[8] Order No. 15-093.

[9] Joint Utilities/100, Thompson, Andrews, Parvinen/1-2.

[10] NW Natural/100, Thompson/2.

[11] *In the Matters of Nw. Natural Gas Co., dba NW Natural, Request to Continue Schedule 177, the System Integrity Program Recovery Mechanism and Pub. Util. Comm'n of Or., Investigation into Recovery of Safety Costs by Natural Gas Utils.*, Docket Nos. UG 286 and UM 1722, Order No. 16-124 (Mar. 25, 2016).

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cross-answering testimony, both parties recommended an additional requirement that LDCs file annual or bi-annual gas safety plans.[12] On April 13, 2016, the Joint Utilities filed supplemental reply testimony supporting Staff and CUB's new proposal for an annual gas safety plan.[13]

On April 15, 2016, ALJ Rowe issued a ruling indicating that the Commission believed the Parties were sufficiently close to agreeing on a suitable program and directing the parties to engage in further settlement discussions.[14] The Parties subsequently engaged in several rounds of settlement discussions, and at the June 23, 2016 settlement conference, agreed to resolve all issues in this proceeding. The Stipulation memorializes the Parties' agreement and resolves all issues in this case.

III. STIPULATION.

In the Stipulation, the Parties agreed to guidelines to apply to LDCs' requests for an SCRM, and agreed that each LDC will file an annual SPP describing safety planning, funding, and status of projects.

A. SCRM Guidelines.

The Parties agree that the Commission should adopt the following SCRM guidelines:

i. An SCRM may be established in a GRC or within three years of a final order in a GRC.[15]

ii. An SCRM will be limited to discrete safety-related capital investments or other costs that are capitalized and that are identified at the time the SCRM is established. An LDC may request authorization from the Commission to modify an SCRM to include additional discrete safety-related capital investments that

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[12] Staff/300, Johnson/7; CUB/200, McGovern/4.
[13] Joint Utilities/300, Thompson, Andrews, and Parvinen/6-7.
[14] *In the Matter of Pub. Util. Comm'n of Or., Investigation into Recovery of Safety Costs by Natural Gas Utils.*, Docket No. UM 1722, Ruling at 1 (Apr. 15, 2016).
[15] Stipulation at ¶ 17(i).

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otherwise meet these guidelines, and other parties are free to support or oppose such a request.[16]

iii. An SCRM shall have a cost recovery cap, which will be set at the time the SCRM is established. The cost recovery cap may be adjusted up or down by the Commission to reflect new safety-related projects that may be included in the SCRM in later years, or the removal or modification of safety-related projects included in the SCRM.[17]

iv. SCRMs will be subject to an annual earnings test that will allow utility investments to be tracked into rates only where the recovery does not cause the utility to exceed its authorized return on equity.[18]

v. An SCRM will only recover eligible costs on an annual basis to the extent the LDC's total annual capital investments in all plant exceeds the annual amount of depreciation for the LDC's Oregon rate base.[19]

vi. The duration of the SCRM will be specified at the time the SCRM is established. The duration may be modified if new safety-related projects are added to the SCRM in later years by the Commission.[20]

The Stipulation does not prohibit an LDC from seeking deferred accounting and cost recovery of O&M or capital costs associated with safety-related projects at any time.[21] If an LDC is authorized by the Commission to utilize an SCRM, the LDC will file an annual report with the Commission providing the status of the safety projects included in the SCRM,

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[16] Stipulation at ¶ 17(ii).
[17] Stipulation at ¶ 17(iii).
[18] Stipulation at ¶ 17(iv).
[19] Stipulation at ¶ 17(v).
[20] Stipulation at ¶ 17(vi).
[21] Stipulation at ¶ 18.

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including comparisons of projected costs to actual costs, and relevant earnings test information.[22]

B. Requirements for Annual SPPs.

The LDCs will file annual SPPs with the Commission.[23] The purpose of the SPP is to:

i. Explain the expected level of capital investment and O&M expense required to mitigate issues identified by risk analysis or to meet newly implemented federal code.[24]

ii. Demonstrate to ratepayers and the public the LDCs' commitment to and prioritization of safety planning.[25]

iii. Explain technical reports provided to the Commission's Safety Staff in a manner easily understood by the public, and other regulatory stakeholders.[26]

iv. Identify when major regulatory changes drive new safety planning priorities and/or changes to existing safety plans.[27]

The SPP is not intended to:

i. Replicate the analysis used for DIMP or TIMP, but the SPP should identify and explain when actions are based on this analysis.[28]

ii. Provide in-depth descriptions of models and algorithms used to evaluate risks.[29]

iii. Replicate filings already provided to the Commission's Safety Staff.[30]

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[22] Stipulation at ¶ 19.
[23] Stipulation at ¶ 20.
[24] Stipulation at ¶ 20(i).
[25] Stipulation at ¶ 20(ii).
[26] Stipulation at ¶ 20(iii).
[27] Stipulation at ¶ 20(iv).
[28] Stipulation at ¶ 21(i).
[29] Stipulation at ¶ 21(ii).
[30] Stipulation at ¶ 21(iii).

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The elements of the SPP will include:

i. A twelve-month planning period;[31]

ii. Identification and narrative description of the LDC's significant safety initiatives and projects for the planning period;[32]

iii. Identification and narrative description of the perceived risks addressed with the planned safety initiatives and projects;[33]

iv. Narrative description of the analysis and methodology underlying the decisions to proceed with safety initiatives and projects;[34]

v. Narrative description of the cost-benefit analysis underlying safety initiatives and projects, including alternatives considered;[35] and

vi. Explanation of any significant changes in safety plans from the prior year SPP.[36]

The procedural process for the SPP will be as follows:

i. On or before September 31 annually, each LDC will file an SPP, for the upcoming calendar year, with the Commission.[37]

ii. The Commission will establish a period for interested parties to file comments regarding the SPP with the Commission.[38]

iii. Staff will file a public meeting memorandum.[39]

iv. The SPP will be reviewed at a public meeting.[40]

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[31] Stipulation at ¶ 22(i).
[32] Stipulation at ¶ 22(ii).
[33] Stipulation at ¶ 22(iii).
[34] Stipulation at ¶ 22(iv).
[35] Stipulation at ¶ 22(v).
[36] Stipulation at ¶ 22(vi).
[37] Stipulation at ¶ 23(i).
[38] Stipulation at ¶ 23(ii).
[39] Stipulation at ¶ 23(iii).
[40] Stipulation at ¶ 23(iv).

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v. The parties will periodically review the requirements for the content and scope of the SPP to ensure it fulfills the purposes of the plan outlined in paragraph 20 of the Stipulation.[41]

The Parties agree that the inclusion of a safety-related project in the SPP is not a prerequisite to recovery of the costs associated with that project in a GRC.[42] Further, the SPP process does not change the standard for a prudence review in a GRC, with respect to either the costs of the project or the determination to proceed with the project.[43]

IV. DISCUSSION.

The Parties recommend that the Commission approve the Stipulation in its entirety because it appropriately balances customer and utility interests and constitutes a reasonable resolution of the issues presented in this proceeding.

A. SCRM Guidelines.

The Stipulation creates guidelines that set forth the criteria that will govern an LDCs request for an SCRM. All Parties made compromises to achieve the basic components of the SCRM guidelines. The following is a brief description of the elements of the SCRM guidelines and explanation of why the result achieved in the Stipulation is reasonable and will adequately protect customers.

1. Establishment of the SCRM.

An SCRM may be established in a GRC or within three years of a final order in a GRC.[44] This requirement will help to ensure that at the time the SCRM is approved, the LDC's overall rates are appropriate and reflect the utility's costs.[45] Parties are free to support or oppose a utility application for an SCRM.

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[41] Stipulation at ¶ 23(v).
[42] Stipulation at ¶ 24.
[43] Stipulation at ¶ 24.
[44] Stipulation at ¶ 17(i).
[45] Staff/100, Koho/12.

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In addition, the Parties agreed that the SCRM should be limited to discrete safety-related capital investments or other safety-investment-related costs that are identified at the time the SCRM is established.[46] This requirement will ensure that all parties understand what investments are appropriate for inclusion. Moreover, the Parties clarified that only capital investments—or other safety-related costs that the Commission has agreed should be capitalized—may be included in an SCRM. The SCRM process does not preclude an LDC seeking expedited recovery of safety-related O&M expenses that have not been approved for capitalization from requesting a deferral under ORS 757.259, which other parties are free to support or oppose based on the specific circumstances.[47]

At the time the SCRM is established, a cost recovery cap and duration for the SCRM will be set.[48] Including the cost recovery cap will protect customers by limiting recoveries subject to the SCRM and will provide an incentive for the LDC to manage costs.[49] The limited duration ensures that the time period for recovery is appropriately linked to the duration of the project or program implemented under the SCRM.[50]

2. *Modification of the SCRM.*

Though the LDC must identify covered projects at the time the SCRM is established, an LDC may request modification of the SCRM to include additional discrete safety-related capital investments consistent with the SCRM guidelines, and other parties may support or oppose the request.[51] Additionally, the Commission may adjust the cost recovery cap and duration to reflect the inclusion of new safety-related projects, removal of safety-related projects included in the SCRM, or to modify a project in the event that circumstances

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[46] Stipulation at ¶ 17(ii).
[47] Stipulation at ¶ 18.
[48] Stipulation at ¶ 17(iii) and (vi).
[49] Staff/100, Koho/13.
[50] CUB/100, McGovern/27.
[51] Stipulation at ¶ 17(ii).

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change, and an approved project takes longer or is more expensive than initially anticipated.[52] These elements of the SCRM will give the LDC an appropriate level of flexibility to address new federal, state, or local pipeline safety requirements or policies as they are promulgated without the need to request a new SCRM, and will give interested parties an opportunity to review and evaluate the proposed projects before they are included in the SCRM.

3. Additional Customer Protections in the SCRM.

In addition to provisions capping and limiting the types of costs that may be included in an SCRM, the Stipulation contains two conditions that restrict the imposition of a surcharge to collect amounts deferred under the mechanism. Specifically, the Parties agreed that an LDC may recover deferred amounts only to the extent that: (a) the LDC's total annual capital investments in plant exceeds the annual amount of depreciation in the LDC's Oregon rate base;[53] and (b) recovery does not cause the LDC to earn in excess of its authorized return on equity.[54] Together, these two requirements address Staff and intervenor concerns that surcharges should not be imposed when other resources may be available to finance the investment.[55]

4. Deferred Accounting.

The Parties all acknowledge that an SCRM is not the exclusive means by which an LDC may seek accelerated cost recovery for safety-related projects. Specifically, the Parties agree that this Stipulation does not preclude an LDC from seeking deferred accounting treatment and cost recovery for expenses associated with safety-related projects as allowed under ORS 757.259.[56] This element of the SCRM guidelines clarifies that

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[52] Stipulation at ¶ 17(iii) and (vi).
[53] Stipulation at ¶ 17(v).
[54] Stipulation at ¶ 17(iv).
[55] Staff/100, Koho/11; CUB/100, McGovern/27-28; NWIGU/100, Finklea/9-10.
[56] Stipulation at ¶ 18.

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deferred accounting treatment is still available for project costs that are not included in an SCRM, and/or are incurred when an SCRM may not be available due to the length of time since the LDC's last rate case. Parties would be free to determine their position on such a request at the time.

5. Annual Reporting.

An LDC authorized to use an SCRM will file an annual report with the Commission describing the status of the safety projects included in the SCRM, a comparison of projected costs to actual costs, and relevant earnings test and annual depreciation information.[57] This annual reporting requirement will allow interested parties to track and evaluate the SCRM, which will help to determine whether any adjustments to the SCRM are warranted.

B. Annual SPPs.

In the course of the settlement discussions, CUB and NWIGU raised a concern that there may not be enough transparency of the LDCs' safety planning processes, and that current LDC reporting processes do not provide sufficient information to them. After fully discussing this issue, the Parties agreed to impose on the LDCs additional reporting obligations designed to aid the Parties' understanding. Specifically, the Parties agreed that going forward, each LDC should file an annual SPP with the Commission, and serve copies of the SPP on all Parties.[58] Staff will hold meetings to discuss the SPPs where appropriate. This process will not only generally increase transparency into safety investments, but will allow the Parties to participate more meaningfully in ratemaking proceedings for safety investments. The SPP will be particularly valuable to the Parties reviewing investments in the context of an SCRM, given the more expedited timeframe for review of costs than is afforded in a GRC. The following is a brief description of the key components of the SPP

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[57] Stipulation at ¶ 19.

[58] Stipulation at ¶ 20.

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and SPP process, and explanation of why the result achieved in the Stipulation is a reasonable resolution of the issues.

1. SPP Purpose.

As explained in paragraph 20 of the Stipulation, the SPP will identify and explain actions the LDC plans to undertake as a result of risk analysis in the DIMP and TIMP, and explain the expected level of capital investment and O&M expense required to mitigate issues identified by risk analysis or to meet newly implemented federal requirements.[59] The SPP will also explain the LDC's commitment to and prioritization of safety planning, explain technical reports provided to the Commission's Safety Staff in layperson's terms, and identify major regulatory changes that may require new safety planning measures or which may cause changes to existing safety plans.[60] The SPP will not replicate the analysis provided in the DIMP or TIMP or any other filings already provided to the Commission's Safety Staff, nor will the SPP provide in-depth discussion of the models used in the DIMP and TIMP to evaluate risks.[61] These requirements will aid Parties' understanding of the LDCs' planning process and provide important information in an accessible format without requiring the LDCs to make duplicative filings.

2. SPP Key Elements.

The key elements of the SPP include:

- A twelve-month planning period;[62]
- Identification and narrative description of the LDC's significant safety initiatives and projects for the planning period;[63]

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[59] Stipulation at ¶ 20(i).
[60] Stipulation at ¶ 20(ii)-(iv).
[61] Stipulation at ¶ 21(i)-(iii).
[62] Stipulation at ¶ 22(i).
[63] Stipulation at ¶ 22(ii).

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- Identification and narrative description of the perceived risks addressed with the planned safety initiatives and projects;[64]
- Narrative description of the analysis and methodology underlying the decisions to proceed with safety initiatives and projects;[65]
- Narrative description of the cost-benefit analysis underlying safety initiatives and projects, including alternatives considered;[66] and
- Explanation of any significant changes in safety plans from the prior year SPP.[67]

The elements included in the SPP will provide the Parties with a yearly snapshot of the LDC's safety activities, and allow the Parties to evaluate the costs and benefits associated with the proposed projects for the upcoming calendar year.

3. SPP Process.

The SPP will be filed by each LDC annually on or before September 31, and will describe the activities planned for the next calendar year.[68] The Commission will establish a comment period for interested parties to provide comments on the SPP.[69] Staff will file an informational public meeting memorandum regarding the SPP, and the Commission will hear presentations regarding the SPP at a public meeting.[70] Staff may also hold informal meetings or workshops to discuss the SPP as necessary.

Given that the process is a new one, the Parties agreed that they should periodically review the SPP requirements to ensure that it fulfills the purposes of the SPP described in

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[64] Stipulation at ¶ 22(iii).
[65] Stipulation at ¶ 22(iv).
[66] Stipulation at ¶ 22(v).
[67] Stipulation at ¶ 22(vi).
[68] Stipulation at ¶ 23(i).
[69] Stipulation at ¶ 23(ii).
[70] Stipulation at ¶ 23(iii)-(iv).

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paragraph 20 of the Stipulation.[71] The SPP process will allow adequate time for review of the activities planned for the next calendar year, and will provide a transparent process for interested parties to review and comment on the SPP, and to modify the SPP requirements as needed.

4. Effect of Inclusion of a Project in the SPP.

The Parties agreed that the SPP is not a ratemaking filing, and that **the inclusion of a project in the SPP is not a prerequisite for recovery of costs associated with the project in a GRC.**[72] Similarly, the SPP does not change the standard for prudence review in a GRC with respect to either the costs of the project or the decision to proceed with the project.[73] Accordingly, inclusion of a project in the SPP is not dispositive of future ratemaking treatment.

In conclusion, the Parties agree that the balance in the Stipulation between customer rate protection and the ability for LDCs to timely recover safety-related investments is in the public interest and is an appropriate resolution of the issues in this proceeding.

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[71] Stipulation at ¶ 23(v).
[72] Stipulation at ¶ 24.
[73] Stipulation at ¶ 24.

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V. CONCLUSION.

For the foregoing reasons, the Parties respectfully request that the Commission approve the Stipulation.

Respectfully submitted this 10 day of October, 2016.

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