



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

November 12, 2015

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-1166

Attn: Filing Center

RE: UM 1744—PacifiCorp's Prehearing Brief

PacifiCorp d/b/a Pacific Power encloses for filing its Prehearing Brief in the above-referenced docket.

If you have questions about this filing, please contact Erin Apperson, Manager Regulatory Affairs, at (503) 813-6642.

Sincerely,

A handwritten signature in black ink that reads "R. Bryce Dalley" with a stylized flourish at the end.

R. Bryce Dalley
Vice President, Regulation

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1744

In the Matter of

NORTHWEST NATURAL GAS
COMPANY, dba NW NATURAL,

Application for Approval of an Emission
Reduction Program.

PACIFICORP'S PRE-HEARING
MEMORANDUM

I. INTRODUCTION

PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) respectfully submits this Prehearing Brief to the Public Utility Commission of Oregon (Commission), in accordance with Administrative Law Judge Sarah Rowe's ruling issued on October 20, 2015.

In 2014, the Oregon legislature passed Senate Bill (SB) 844, a bill directing the Commission to establish a voluntary emissions reduction program for natural gas utilities. SB 844 states its purpose to incentivize natural gas utilities to invest in projects that reduce emissions and provide benefits to the customers of the natural gas utilities. Subsequent to the passage of SB 844, the Commission engaged in a rule making process, adopting rules implementing SB 844. Finally, in June 2015, Northwest Natural Gas Company (NW Natural) filed an application seeking approval of a greenhouse gas (GHG) emissions reduction program.

NW Natural's application is the first of its kind and, if adopted, will be the first voluntary emissions reduction program to go into effect since the passage of SB 844, setting the stage for future voluntary emissions reduction programs. PacifiCorp, d/b/a Pacific Power, (PacifiCorp or the Company) urges the Commission to carefully consider the application of NW Natural to

ensure that the important policy goals of SB 844, and the requirements of the law, are met by the program proposed.

NW Natural requests approval of its Combined Heat and Power (CHP) Solicitation Program (the Program). The Program incentivizes customers to install CHP, which reduces electricity use and increases natural gas use. Under the Program, both NW Natural and the CHP customer receive incentives based on the calculated level of emissions reduction. One of the eligibility criteria of SB 844 is that the public utility, without the emission reduction program, would not invest in the project in the ordinary course of business. NW Natural has not met this criteria because NW Natural has an existing incentive to pursue customer installations of CHP, an activity that results in increased load and increased margins for NW Natural. Accordingly, the Commission should not approve an incentive for NW Natural under its proposed Program.

II. DISCUSSION

SB 844 is codified in ORS 757.539, which sets forth eligibility criteria for emission reduction programs.¹ ORS 757.539(3) requires NW Natural to show that “without the emission reduction program, [NW Natural] would not invest in the project in the ordinary course of business.” In response to this statutory eligibility criterion, NW Natural states simply that the Program “is an incentive-based program, and the Company could not lawfully recover the costs of providing the incentives absent the statutory authority in ORS 757.539.” NW Natural’s interpretation of ORS 757.539(3)(d) is circular in nature—NW Natural interprets ORS 757.539 as authorizing cost recovery of incentives and ORS 757.539(3)(d) as requiring the utility show that it could not, in the ordinary course of business, recover the incentive costs that are

¹ Similarly, ORS 757.539(4) requires the utility application to include an “explanation of why the public utility, without the emission reduction program, would not invest in the project in the ordinary course of business.” These eligibility criteria were incorporated into the Commission’s rules implementing the statute. *See* OAR 860-085-0500 through 860-085-0750.

authorized only by ORS 757.539. In short, according to NW Natural's interpretation of the statute, all NW Natural has to show is that incentive costs could not be recovered but for ORS 757.539, which is precisely what NW Natural has shown. However, by this logic, *all* emissions reduction programs that rely on an incentive payment would meet this eligibility threshold because the utility could not otherwise recover the incentive costs but for ORS 757.539. This interpretation of the statute renders ORS 757.539(3)(d) virtually meaningless.

In adopting ORS 757.539(3)(d), the legislature did not adopt a meaningless eligibility criterion or intend for the utility to merely show that its project includes incentives. A more meaningful and logical interpretation of ORS 757.539(3)(d) is that the utility must show that the spending authorized by the emissions reduction program, including incentives, is being used to incentivize behavior the utility would not otherwise have an incentive to engage in. NW Natural has not met this threshold because NW Natural has an ordinary-course-of-business to invest in CHP.

NW Natural's proposal is to solicit NW Natural customers to invest in on-site CHP. Eligible NW Natural customers will be paid an incentive based upon emission reductions. In addition, NW Natural proposes that it will receive an incentive that will send an economic signal to NW Natural to find the lowest cost and highest potential carbon reduction opportunities available. NW Natural explains in great detail the economics of CHP and why an incentive to NW Natural *customers* is needed in order to promote CHP installations. However, NW Natural does not address the extent to which it, the public utility, has an ordinary course of business incentive to invest in a CHP program. In fact, NW Natural has made ordinary-course-of-business attempts to invest in CHP through its now-cancelled tariff Schedules 31-CHP and 32-

CHP, riders that provided incentive rates for certain eligible CHP projects.² Nor has NW Natural sufficiently justified the incentive it proposes for itself in light of the fact that NW Natural will benefit from the increased load and associated margins associated with CHP installations. PacifiCorp recommends that the Commission direct NW Natural to explain why *NW Natural* would not invest in a CHP program in the ordinary course of business. PacifiCorp further recommends that the Commission determine that an incentive *to NW Natural* for engaging in activity that promotes increased load and fuel switching is not appropriate under the intent and plain language of SB 844.

ORS 757.539(3) serves the important function of ensuring that customer money is spent wisely on programs that truly incentivize the utility to act differently than it otherwise would. In contrast to programs that decrease load, a program that increases load should not require additional customer-funded incentives to the utility to implement that program.

III. CONCLUSION

NW Natural fails to meet one of the eligibility criteria set forth in ORS 757.539. For this reason, PacifiCorp respectfully requests the Commission to reject NW Natural's proposal to receive an incentive as part of its Program.

Respectfully submitted this 12th day of November, 2015.

By: _____

Etta Lockey
Senior Counsel
PacifiCorp d/b/a Pacific Power

² PacifiCorp understands that these tariffs were not utilized by customers, and were ultimately cancelled by NW Natural, however, the fact remains that even without SB 844, NW Natural was looking for ways to invest in CHP in its service territory. The eligibility criteria in SB 844 is intended to incentivize new utility behavior, not make an existing utility behavior suddenly lucrative.