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August 31, 2017

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
P.O. Box 1088
Salem, Oregon 97308-1088

Re: Docket UM 1804: Joint Testimony in Support of Stipulation

Dear Filing Center:

Attached for filing in the above-captioned docket is the Joint Testimony in Support of Stipulation.

Please contact this office with any questions.

Very truly yours,

Alisha Till
Administrative Assistant

Attachment

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1804

In the Matter of

NORTHWEST NATURAL GAS
COMPANY,

Application for Approval of Corporate
Reorganization to Create a Holding
Company.

STAFF, NW NATURAL, CUB, NWIGU

JOINT TESTIMONY IN SUPPORT OF STIPULATION

WITNESSES: BRODY WILSON, MATT MULDOON, BOB JENKS, ED FINKLEA

August 31, 2017

INTRODUCTION AND SUMMARY

1 **Q. Please state your name and position at Northwest Natural Gas Company.**

2 A. My name is Brody Wilson. My business address is 220 NW Second Avenue,
3 Portland, Oregon 97209. My current position is Vice President, Treasurer, Chief
4 Accounting Officer, and Controller.

5 My name is Matt Muldoon. I am a Senior Economist for the Public Utility
6 Commission of Oregon (“Commission” or “OPUC”). My business address is 201
7 High Street SE, Suite 100, Salem, OR 97301.

8 My Name is Bob Jenks. I am the Executive Director of the Oregon
9 Citizens’ Utility Board (“CUB”). My business address is 610 SW Broadway, Suite
10 400, Portland, Oregon 97205.

11 My name is Edward Finklea. I am the Executive Director of the Northwest
12 Industrial Gas Users (“NWIGU”). My business address is 545 Grandview Drive,
13 Ashland, Oregon 97520.

14 **Q. Have you all previously filed testimony in this docket?**

15 A. Yes.

16 **Q. What is the purpose of your Joint Testimony?**

17 A. The purpose of this Joint Testimony is to explain and provide support for the
18 stipulation reached (“Stipulation”) and signed by the parties to this docket
19 (“Parties”). The Stipulation resolves all issues raised by the Parties, and includes
20 50 conditions (“Stipulated Conditions”) found in Attachment A to the Stipulation,
21 that Northwest Natural Gas Company (“NW Natural or Company”), and HoldCo
22 once formed, support. These 50 conditions and the evidence in the record serve
23 as the basis for our recommendation that the Public Utility Commission of
24 Oregon (“Commission” or “OPUC”) approve NW Natural’s Application for

1 Approval of Corporate Reorganization to Create a Holding Company
2 (“Application”).

3 **Q. Please summarize your joint testimony.**

4 A. NW Natural has asked the Commission to approve a corporate reorganization
5 (“Reorganization”) under which NW Natural will become a wholly-owned
6 subsidiary of a holding company (“HoldCo”). NW Natural seeks this structure for
7 the dual purposes of strengthening financial and legal separations between NW
8 Natural’s utility operations (“the Utility”)¹ and its affiliated companies, and
9 providing a better platform for the consolidated organization to pursue growth
10 opportunities, which the Company believes are important for its continued
11 financial wellbeing. NW Natural believes that both goals—improved separations,
12 and enabling corporate growth—will provide material benefits to Utility
13 customers.

14 Staff and the intervenors in this case, CUB and NWIGU (“Intervenors”),
15 believe that a holding company structure could provide benefits for Utility
16 customers, but also raised concerns about the new risks to the Utility posed by
17 such Reorganization. For example, HoldCo acquisitions will not require
18 Commission approval if the target companies are not within the jurisdiction of the
19 OPUC or do not result in the any exercise of substantial influence over the Utility.
20 Staff and Intervenors voiced concerns that, without proper protections in place
21 through Commission-adopted conditions, HoldCo’s unregulated activities could
22 place financial pressures on the Utility and cause harm to its customers.

23 To address these and other concerns expressed in Reply Testimony, the
24 Parties, through numerous settlement conferences and calls, have agreed to a

¹ Throughout the testimony we use NW Natural to refer to the current consolidated company, and Utility to refer to current utility operations. In the list of conditions, we use NWN-U to refer to the utility, as it will exist after the Reorganization, which will include the utility and its subsidiaries Northwest Energy Corporation and NW Natural Gas Reserves LLP.

1 robust set of conditions intended to preserve the financial health of the Utility,
2 mitigate risks associated with holding company ownership, keep NW Natural
3 management focused on the success of the Utility first and HoldCo second, and
4 provide a net benefit to NW Natural's utility customers. The Parties agree that,
5 with the Stipulated Conditions the Reorganization will provide a net benefit to
6 Utility customers, and will not harm Oregonians as a whole. For this reason, the
7 Parties recommend that the Commission approve NW Natural's Application,
8 subject to the Stipulated Conditions.

BACKGROUND ON HOLDING COMPANIES AND THE REORGANIZATION

9 **Q. Please briefly describe what a holding company is, and what it would mean**
10 **for NW Natural to form a holding company.**

11 A. Holding companies exist across all industries. Based on the Company's
12 research, NW Natural is one of just a handful of local gas distribution companies
13 ("LDC") in the United States that is *not* under a holding company structure.
14 While there might be some variability across organizations, generally, a holding
15 company is a corporate entity, usually a corporation, which is created for the
16 purpose of holding other, legally separate corporate entities.

17 Currently, there are over twenty-eight million shares issued to various
18 shareholders with a direct equity interest in NW Natural. After the
19 Reorganization, HoldCo will be the sole shareholder of NW Natural and the
20 public shareholders will hold equity interests in HoldCo. As is the case within the
21 consolidated organization currently, in a holding company structure, each
22 corporate entity is legally separate. The Reorganization changes the way those
23 entities are organized within the consolidated entity.

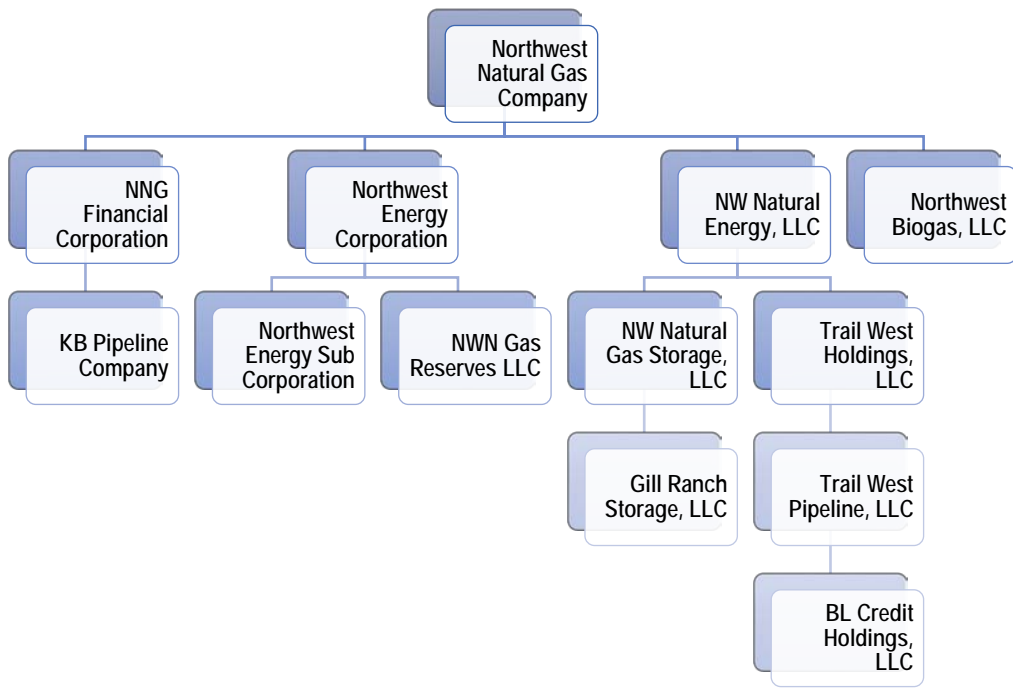
24 Under the proposed Reorganization, HoldCo would directly own NW
25 Natural, as well as its current non-Utility subsidiaries. NW Natural Gas Reserves,

1 LLC (“Gas Reserves”), and the intermediate subsidiary Northwest Energy
2 Corporation, would remain subsidiaries of the Utility. The Parties expect the
3 Utility’s day-to-day operations to continue to be carried out by NW Natural as
4 they are today. Immediately after the Reorganization, NW Natural would be the
5 primary operating entity owned by the holding company. However, HoldCo could
6 seek to acquire or develop other businesses, separate from the Utility.

7 **Q. Please describe NW Natural’s current corporate structure.**

8 A. Currently, NW Natural is a publicly held corporation organized under Oregon law,
9 within which the Utility operates. NW Natural holds several wholly- and partially-
10 owned subsidiaries, all of which are non-Utility subsidiaries. NW Natural
11 conducts the utility business, while the non-Utility subsidiaries conduct other
12 businesses.

13 NW Natural’s current corporate structure is illustrated in the following
14 figure:

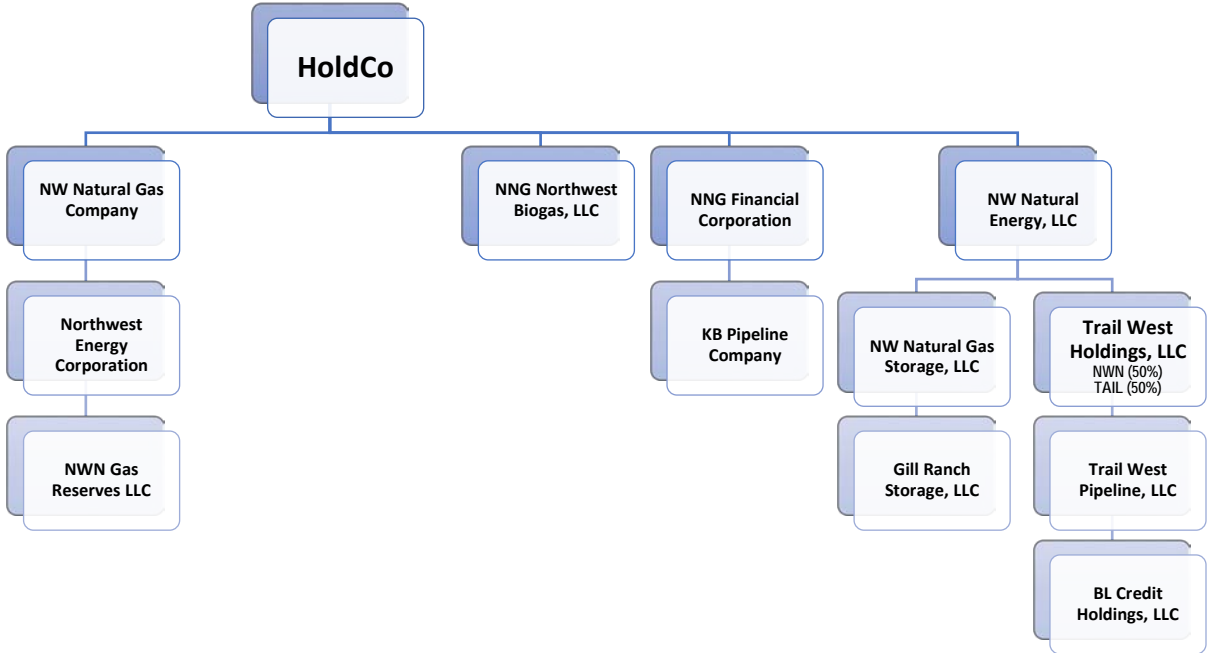


15

1 Q. What will NW Natural’s corporate structure look like after the
2 Reorganization?

3 A. After the Reorganization, the newly formed HoldCo will be owned by the public
4 shareholders that currently own NW Natural, in the same proportion that they
5 now own NW Natural, and NW Natural will become a wholly-owned subsidiary of
6 HoldCo. In addition, HoldCo will acquire all of NW Natural’s interests in the non-
7 Utility subsidiaries that are currently NW Natural subsidiaries. As mentioned
8 above, NW Natural would retain Gas Reserves, along with the intermediate non-
9 operating subsidiary Northwest Energy Corporation, as wholly-owned
10 subsidiaries, as they have agreed to abide by the Commission’s regulation as
11 part of the gas reserves arrangement, which provides a portion of NW Natural’s
12 gas supply.

13 The following figure shows the post-reorganization corporate structure:
14



15

1 **Q. Will NW Natural's operations, or the Commission's jurisdiction over NW**
2 **Natural's utility operations be affected by the Reorganization?**

3 A. No. The Reorganization will not have a direct impact on NW Natural's
4 operations. NW Natural, which is a separate and distinct corporate entity, will
5 continue to operate after the Reorganization. NW Natural will continue to own all
6 of its utility assets and property. Its day-to-day operations will remain the same.
7 And, importantly, the Utility will continue to be subject to the Commission's
8 regulatory jurisdiction over its rates, service, accounting, and other general
9 matters of Utility operations, much as it is today.

10 **Q. Please describe the process by which the Reorganization will be**
11 **completed.**

12 A. The Reorganization is expected to occur in four steps:

13 (1) After NW Natural receives regulatory approval from the Commission and
14 satisfies other regulatory requirements, two new companies will be
15 incorporated: HoldCo will be formed as a subsidiary of NW Natural, and a
16 merger subsidiary ("Merger Sub") will be formed as a subsidiary of HoldCo.

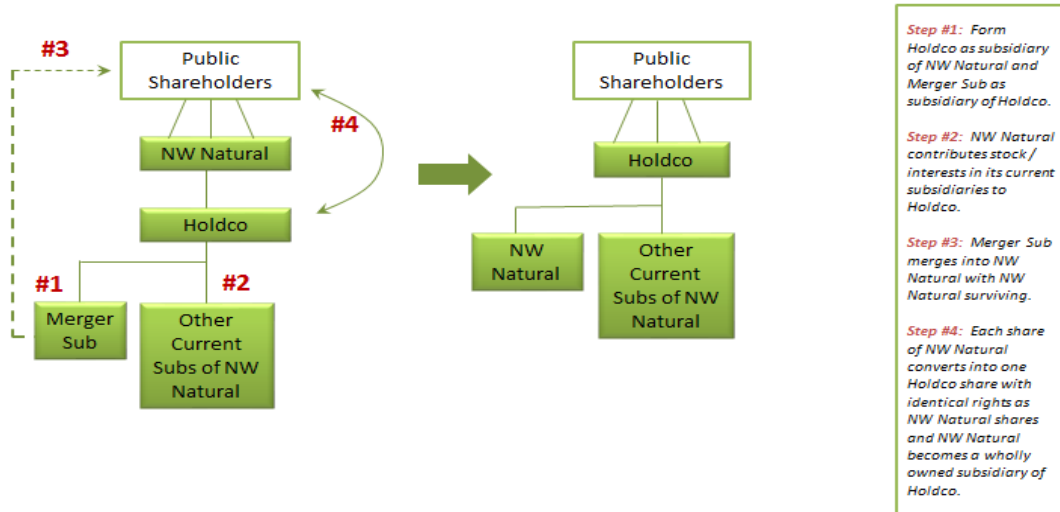
17 (2) Once HoldCo and Merger Sub are formed, NW Natural will contribute to
18 HoldCo all of its stock and its interest in its current subsidiaries.

19 (3) Merger Sub will be merged into NW Natural, with NW Natural as the
20 surviving company. Merger Sub will be utilized solely to execute the
21 Reorganization and will cease to exist after this step.

22 (4) By the terms of the merger and operation of law, each share of NW Natural
23 will convert into one share of HoldCo (with identical rights as NW Natural
24 shares). HoldCo's shares will be registered with the Securities and
25 Exchange Commission, and NW Natural will become a wholly-owned
26 subsidiary of HoldCo.
27

1 The following figure shows how the Reorganization will be accomplished.

Reorganization as a Holding Company



2

3 **Q. In addition to approval by the Public Utility Commission of Oregon, are**
4 **there other regulatory and corporate approvals that must be gained before**
5 **the Reorganization can take place?**

6 **A.** Yes. The approval of the OPUC is a necessary condition for completing the
7 Reorganization. Additionally, NW Natural must receive the approval of the
8 Washington Utilities and Transportation Commission (“WUTC”), and is also
9 seeking the approval of the California Public Utilities Commission (“CPUC”)
10 (given that NW Natural’s wholly-owned subsidiary, Gill Ranch Storage, LLC, will
11 be moved under the Holding Company). Following the regulatory proceedings,
12 NW Natural’s Board of Directors will review the conditions imposed by the
13 commissions and decide whether to approve the Reorganization. If the
14 Reorganization is approved by the Board, NW Natural must thereafter receive
15 approval of its shareholders under Oregon law.

16

APPLICABLE LAW AND LEGAL STANDARD

1 **Q. Do the Parties agree on the applicable law governing the Commission’s**
2 **review of NW Natural’s Application?**

3 A. Yes. NW Natural’s Application is governed by ORS 757.511. This statute is
4 triggered any time a person seeks to “acquire the power to exercise any
5 substantial influence over the policies and actions of a public utility” if such
6 person is, or by acquisition would become, an affiliated interest with the public
7 utility.² This statute applies to applications for the merger and acquisition of a
8 public utility and for corporate reorganizations to form holding company
9 structures.³ The applicant bears the burden of showing that Commission
10 approval of the application will “serve the public utility’s customers and is in the
11 public interest.”⁴

12 **Q. What is the legal standard under ORS 757.511 required for approval of NW**
13 **Natural’s holding company application?**

14 A. In 2001, the Commission opened Docket No. UM 1011, a generic docket to
15 determine the legal interpretation of the ORS 757.511’s express requirement that
16 the transaction “serve the public utility’s customers” and be “in the public
17 interest.”⁵ Parties to that original docket disagreed as to whether the statute
18 simply required a “no harm” standard or a “net benefit” standard. The
19 Commission determined that “to serve the public utility’s customers” requires a

² ORS 757.511(1) (“affiliated interest” for purposes of this statute is defined in ORS 757.015).

³ See Order No. 98-056 (order approving Idaho Power’s request to form a holding company); Order No. UM 1021 (PacifiCorp’s application to be held under PacifiCorp Holdings Inc., however, Staff explained that this was purely a technical filing because the merger of PacifiCorp with Scottish Power had already been approved in UM 918); and UM 1250 (Avista’s application to form a holding company that was withdrawn before reaching the Commission).

⁴ ORS 757.511(4)(a).

⁵ Prior to Order No. 01-778, the Commission had not interpreted the ORS 757.511 legal requirement that the transaction “serve the public utility’s customers” because the applicants of prior approved transactions, such as the acquisitions of Enron/PGE in UM 814, Scottish Power/PacifiCorp in UM 918, and Sierra Pacific/PGE in UM 967, had sufficiently demonstrated that the transaction would meet the more stringent net benefit standard.

1 higher standard than no harm, and articulated a two-step analysis for the
2 approval of future transactions under ORS 757.511:

- 3 • First, the Commission must make the assessment that the utility's
4 customers will be served, which means that the transaction will provide
5 *a net benefit to the utility's customers.*⁶
- 6 • Second, the Commission must also find that granting the application is
7 in the public interest, meaning that it will cause no-harm to the public at
8 large, specifically, "the proposed transaction may *not impose a*
9 *detriment to Oregon citizens as a whole.*"⁷

10 To determine whether a utility's application satisfies these two requirements,
11 a "comparator" is used. The Commission explained that it will measure the
12 benefits by comparing the transaction to the continued prudent and well-
13 managed operation of the utility today.⁸

14 Importantly, the Commission further explained that the net benefit
15 determination is not a rigid standard based solely on economic considerations.
16 Rather, the legislature gave the Commission discretion in its assessment of
17 whether a net benefit will result—such a decision is flexible, and depends on the
18 facts and total set of concerns of each case.⁹

⁶ *In the Matter of a Legal Standard for Approval of Mergers*, Docket No. UM 1011, Order No. 01-778 at 11 (Sept. 4, 2001).

⁷ *Id.* at 11 (emphasis added).

⁸ *In the Matter of MidAmerican Energy Holdings Company Application for Authorization to Acquire Pacific Power & Light*, Order No. UM 1209, Order No. 06-082 at 3 (Feb. 24, 2006) (Commission explained that the merger benefits would be compared against "the continued prudent and well-managed operation of PacifiCorp, [which] under Scottish Power, has maintained PacifiCorp's system; provides good customer service; and ready access to capital at relatively favorable rates.")

⁹ *Id.* at 11.

BENEFITS OF THE REORGANIZATION

1 **Q. What benefits did the Company attribute to the Reorganization in its**
2 **Application?**

3 A. In its Opening Testimony, NW Natural identified two major benefits of the
4 Reorganization. First, the Company explained that a holding company structure
5 would provide for stronger legal and financial separations between the utility and
6 its affiliates; and second, the holding company structure would provide the
7 Company with a better structure for the consolidated entity to pursue its strategy
8 for corporate growth, which in turn will enable a financially stronger consolidated
9 entity.¹⁰ A stronger consolidated entity is more likely to maintain strong credit
10 ratings with better access to capital not only for the holding company but also, in
11 general, for NW Natural. These ratings and access reduce the cost of financing,
12 leading to lower rates for utility customers. Greater separation of the Utility from
13 its affiliates will also help prevent financial distress of an affiliate from negatively
14 affecting the Utility and its customers.

15 **Q. Please explain how a holding company structure would strengthen the**
16 **separations between the Utility and its affiliates as compared to the**
17 **separation that exists today.**

18 A. Under the current corporate structure, NW Natural is the parent, holding all other
19 businesses as subsidiaries. Each of these businesses is a separate legal entity,
20 and corporate separations and appropriate allocations are currently in place.
21 However, currently, if a non-Utility subsidiary were to experience financial
22 distress, or were to be impaired, that would be reflected in the consolidated
23 financial statements of NW Natural, and therefore, could potentially affect the
24 debt and corporate ratings as well as shareholder valuation of NW Natural.

¹⁰ NWN/100, Fillippi.

1 On the other hand, after the proposed Reorganization, the NW Natural's
2 only subsidiary would be Gas Reserves, and the intermediate entity Northwest
3 Energy Corporation. All other affiliates would be subsidiaries of HoldCo. Thus, if
4 any other affiliate were to incur a significant impairment, that financial impairment
5 would *not* affect the stand-alone financials of NW Natural. Rather, the
6 impairment would roll up to the consolidated financial statements of HoldCo. It
7 is the standalone financial statements of NW Natural that are used to evaluate
8 NW Natural's corporate and debt credit ratings, and therefore, protecting NW
9 Natural's standalone financial statements from subsidiaries' impairments, helps
10 to protect NW Natural's ratings. With strong ring-fencing conditions, NW
11 Natural's long-term debt, credit facilities, letters of credit, and other debt is priced
12 based on NW Natural's credit ratings, and therefore NW Natural would be
13 afforded lower debt pricing if a subsidiary impairment did not affect NW Natural's
14 standalone financial statements as compared to a situation where an impairment
15 was recorded on NW Natural's standalone financial statements. Thus, the
16 Reorganization itself, with its ring-fencing, helps protect the Utility's secured debt
17 rating, which is important as the most typical avenue of financing at the Utility
18 and its first mortgage bonds. A solid secured debt rating is good for NW Natural
19 and NW Natural's customers, and the Reorganization better enables NW Natural
20 to accomplish that goal by better isolating the Utility from its non-utility
21 subsidiaries and the future new subsidiaries of HoldCo.¹¹ The risk-mitigating
22 nature of the increased separation between the Utility and affiliates through the
23 Reorganization was an important factor considered by Parties in the mutually
24 agreed net benefit determination.

¹² Even after the Reorganization, HoldCo would be required to seek approval of the acquisition of a utility regulated by the Commission.

1 **Q. How will a holding company structure provide a better platform for the**
2 **Company's corporate growth plans?**

3 A. A holding company structure will help the Company diversify more quickly and
4 cleanly than it could within its current structure. New business opportunities
5 requiring prompt decisions could be pursued without implicating the regulated
6 utility. As a result, HoldCo could make certain acquisitions—of businesses that
7 are not regulated by the Commission—without first seeking Commission
8 approval.¹² While from Staff and Intervenors' standpoint, the ability to make
9 acquisitions without Commission approval is a risk that must be mitigated
10 through ring-fencing and other conditions, it also undoubtedly makes it easier for
11 the Company to diversify effectively. Diversification can only occur if the
12 Company can effectively execute on diversification efforts in a timely and efficient
13 manner. Without a holding company structure, the Company is likely to lose
14 diversification opportunities to competitors who are not required to comply with a
15 lengthy regulatory process in a given context. Diversification can lead to
16 customer benefits when implemented correctly and the utility is insulated from
17 risks.

18 **Q. Please elaborate on how diversification of the consolidated entity could**
19 **benefit Utility customers.**

20 A. A diversified HoldCo can benefit Utility customers because, if carefully managed,
21 the aggregate corporation could be better able to cope with market volatility and
22 is better able to weather any potential future contingencies.¹³ For example, credit
23 rating agencies and investors often see reduced regulatory risk and nimbler

¹² Even after the Reorganization, HoldCo would be required to seek approval of the acquisition of a utility regulated by the Commission.

¹³ Staff/100, Muldoon/30.

1 decision-making, in a holding company structure, as protection against financial
2 downturns.

3 Additionally, a diversified Company will be a less attractive target for
4 acquisition by a conglomerate, helping to keep NW Natural an Oregon-based,
5 locally-managed company.¹⁴ A resilient, Oregon-based NW Natural will be a
6 benefit to its customers and to Oregonians as a whole mainly because the
7 Company would be Oregon-focused and attentive to Oregon public policy goals.

8 Moreover, a holding company structure affords opportunities for NW
9 Natural to benefit from economies of scale in multiple venues including more
10 efficient and effective access to capital markets, efficiencies in the procurement
11 of services and supplies, and maintaining experienced personnel in key areas,
12 among others. To the extent that a holding company allows NW Natural to
13 achieve these economies of scale, Utility customers will benefit from reduced
14 costs.

15 Finally, diversification in the form of a holding company will be viewed
16 more favorably by third parties involved in potential diversification opportunities.
17 Holding companies are perceived as more able to access capital markets to
18 execute on diversification initiatives, and more nimble and responsive in
19 diversification undertakings that are time-sensitive or competitive in nature.

20 The Parties have agreed to Condition No. 45 to capture such cost savings
21 for Utility customers.

22 **Q. Has NW Natural explained why it is seeking to grow and diversify the**
23 **company?**

24 A. Yes. In Opening Testimony, NW Natural witness, Shawn Filippi, explained that
25 growth in the overall organization can provide enhanced financial strength,

¹⁴ Staff/100, Muldoon/29.

1 access to capital markets and overall shareholder value that will support the
2 Company's continued efforts to provide safe and reliable customer service to its
3 Utility customers. Access to capital markets is directly tied to an organization's
4 shareholder and overall value. The stronger an entity's value, the better the
5 entity's credit ratings, and the better an entity's credit ratings, the better access
6 that entity will have to capital markets, and at better pricing. Continued growth of
7 the consolidated organization is critical to its shareholder and overall value.

8 The holding company structure results in lower rates and benefits to utility
9 customers in two ways. First, by separating and ring-fencing NW Natural, NW
10 Natural is likely to enjoy stronger and more protected credit and debt ratings.
11 These stronger credit and debt ratings permit NW Natural to issue and obtain
12 debt more cost-effectively as debt pricing is tied to credit risk and ratings. And,
13 lower debt pricing is advantageous to utility customers to whom the cost of debt
14 is passed. Second, a stronger and more stable overall consolidated entity with
15 strong growth and shareholder and overall value is better received and perceived
16 in capital markets, enjoys stronger credit ratings, and has access to better and
17 more available equity financing than do smaller and weaker entities. NW Natural
18 and its ratepayers would similarly benefit from better and stronger equity
19 financing by reducing the overall cost of equity passed to ratepayers.

20 **Q. Has the Company provided any insight into its strategy for corporate**
21 **growth?**

22 A. Yes. Ms. Filippi has explained that NW Natural is looking for growth opportunities
23 that would build on the Company's core competencies, and match the risk profile
24 that its shareholders are seeking. The Company also provided Highly
25 Confidential testimony in which it described its growth strategy in more detail.¹⁵

¹⁵ Highly Confidential NWN/300, Palfreyman, pp. 3-10.

RISKS OF THE TRANSACTION IDENTIFIED BY STAFF AND INTERVENORS

1 **Q. What concerns did Staff and the Intervenors voice about the**
2 **Reorganization?**

3 A. In their Reply Testimony, Staff and Intervenors, together, identified five primary
4 categories of risk that they believe are raised by the Reorganization: (1) risk to
5 the Utility's financial stability based on HoldCo decisions and acquisitions, (2) risk
6 concerning cost allocation and affiliate transactions, (3) risk of HoldCo distracting
7 Utility management from their core obligation to provide Utility service, (4) risk
8 concerning the Commission's access to information, and (5) risk of approving
9 HoldCo without knowledge or influence over its business trajectory.¹⁶ In its Reply
10 Testimony, CUB expressed concern about the speculative nature of a potential
11 future transaction that HoldCo may enter into, and the risk posed by the
12 Commission's inability to provide oversight over a potential future transaction.¹⁷

13 **Q. Please summarize Staff and Intervenor concerns regarding risks to the**
14 **Utility's financial stability?**

15 A. Staff explained its view that NW Natural currently has excellent credit ratings,
16 which could be harmed if HoldCo engages in mergers and acquisitions.¹⁸ Staff
17 also stated that NW Natural's capital structure could be affected if HoldCo
18 withdraws cash from the utility to fund growth activities.¹⁹

19 **Q. Please briefly summarize Staff and Intervenor concerns regarding cost**
20 **allocation and affiliate transactions.**

21 A. Staff was concerned that costs could be over-allocated to NW Natural because it
22 is a regulated utility with captive customers.²⁰

¹⁶ Staff/100, Muldoon/35-45.

¹⁷ CUB/100, Jenks/9-14.

¹⁸ Staff/100, Muldoon/35-36.

¹⁹ Staff/100, Muldoon/36.

²⁰ Staff/100, Muldoon/38.

1 **Q. Please briefly summarize the concern regarding the risk of HoldCo**
2 **distracting NW Natural management from the utility.²¹**

3 A. Staff was concerned that, after the Reorganization, the utility might no longer be
4 the core focus of NW Natural's management, because they will also be
5 responsible for furthering HoldCo's growth efforts.²²

6 **Q. Please briefly summarize Staff and Intervenors' concern regarding the**
7 **Commission's access to information.**

8 A. As an initial matter, Staff considered the increased access to information
9 regarding NW Natural's non-regulated affiliates as one of the primary benefits of
10 the Reorganization.²³ Nevertheless, Staff was concerned that it may be more
11 difficult to obtain records from a growing set of companies and the unregulated
12 Parent.²⁴ CUB shared Staff's concern about maintaining the Commission's
13 access to information.²⁵

14 **Q. Given these concerns, did Staff and Intervenors agree that NW Natural's**
15 **Application, as initially proposed, met the net benefits test?**

16 A. No. Staff and Intervenors believed the Application as initially filed, created risks
17 that outweighed the benefits and therefore concluded the net benefit test had not
18 been met. As filed, the Application contained a series of Company-proposed
19 commitments or conditions that sought to mitigate the risk of the Reorganization.
20 Staff and Intervenors felt that there is a difference between mitigating risk and
21 providing a benefit.

²¹ Staff/100, Muldoon/39.

²² Staff/100, Muldoon/39-40.

²³ Staff/100, Muldoon/52.

²⁴ Staff/100, Muldoon/41.

²⁵ CUB/100, Jenks/12-13

1 **Q. Please explain then how Staff and Intervenors came to support NW**
2 **Natural's proposed Reorganization?**

3 A. Through the settlement process, the Parties shared their positions and concerns,
4 and over three meetings and numerous phone conferences, collaborated to craft
5 a new, comprehensive set of ring-fencing and other conditions. The Parties are
6 comfortable that this set of conditions will mitigate risks identified by Staff and
7 Intervenors, produce additional benefits beyond those identified in the
8 Company's Application, and result in a net benefit to NW Natural's customers
9 and not harm Oregonians as a whole. In the eyes of Staff and Intervenors, many
10 of the ring-fencing conditions serve to mitigate the risk associated with the
11 Reorganization and potential future transactions or mergers, while others provide
12 a direct benefit to NW Natural's customers to reach the required net benefit test.
13 When taken together as a comprehensive package, the Stipulated Conditions
14 (found at Attachment A to the Stipulation filed August 11, 2017) satisfy Staff and
15 Intervenor concerns regarding the risks of the Reorganization and the need to
16 provide concrete benefits to Utility customers.

17

STIPULATED CONDITIONS

Q. Please generally describe the Stipulated Conditions agreed to by the Parties.

1 A. The conditions agreed to, and supported, by the Parties are designed to address
2 specific concerns raised by Staff and Intervenors and to produce a net benefit for
3 Utility customers. They have been grouped into 12 separate categories: (1)
4 General Conditions; (2) Credit and Capital Structure; (3) Dividends; (4)
5 Bankruptcy Protection; (5) Accounting Generally; (6) HoldCo Formation Costs;
6 (7) Allocations between NW Natural and HoldCo; (8) Prevention of Cross-
7 Subsidization; (9) Access to Records and Information; (10) Continuity of
8 Operations; (11) Miscellaneous; and (12) Credits to Customers.

Q. What is the impact of these conditions on the Company's Application?

10 A. We believe that with these Stipulated Conditions, the Application meets the net
11 benefit test and therefore should be approved.

General Conditions

12 **Q. What is the Parties' proposed Condition 1?**

13 A. *"NWN-U and HoldCo agree that these conditions, except for condition*
14 *44, may be modified as a result of regulatory decisions or settlements*
15 *in other states regarding NWN-U's proposed corporate restructuring.*
16 *For example, the Commission may add any condition imposed by the*
17 *Washington Utilities and Transportation Commission ("WUTC") or the*
18 *California Public Utilities Commission ("CUPC") to the extent it relates*
19 *to NWN-U. In the event that the Commission adopts conditions from*
20 *other jurisdictions, the Commission will re-open and re-issue the order*
21 *approving this Stipulation to add those conditions accepted or ordered*
22 *in another state jurisdiction."*

23 **Q. Why did the Parties agree to include Condition 1?**

24 A. The Parties recognize that for NW Natural to move forward with the
25 Reorganization, it must first secure approval not only from the Commission, but
26 also from the WUTC and the CPUC. In the course of this docket, we have

1 performed a very thorough review of the risks and benefits of the Reorganization,
2 and have agreed to appropriate conditions that provide a benefit to customers.
3 We acknowledge, however, that it is possible that the WUTC or CPUC may
4 ultimately adopt provisions not adopted in Oregon that would nevertheless be
5 beneficial to Oregon customers. For this reason, the Parties agreed to this “Most
6 Favored Nations” clause to provide assurance that the conditions applied in other
7 jurisdictions could be applied in Oregon as well. Most Favored Nations clauses
8 have been adopted in settlements of past merger applications.²⁶

9 **Q. What is the Parties’ proposed Condition 2?**

10 A. *“NWN-U and HoldCo will enter into an agreement that incorporates*
11 *the ring-fencing provisions set forth herein. This agreement will be*
12 *binding on NWN-U and HoldCo. This agreement will be filed with the*
13 *Commission within 90 days of the transaction’s closing. NWN-U and*
14 *HoldCo commit that they will comply with Commission-approved ring-*
15 *fencing conditions and will make no amendments, revisions, or*
16 *modifications to this agreement or any ring-fencing provisions without*
17 *prior Commission approval.”*

18 **Q. What is the purpose of this condition?**

19 A. The purpose of the condition is to ensure that both HoldCo and NWN-U are
20 bound to adhere to the Stipulated Conditions. We note many of the Stipulated
21 Conditions impose significant responsibilities (either direct or indirect) on
22 HoldCo—an entity that is not yet formed and that will not be under the
23 Commission’s jurisdiction. This condition is required to bind HoldCo contractually
24 to its agreement to abide by and fulfill all of the responsibilities that these
25 conditions create for that entity.

26 **Q. What is the Parties’ proposed Condition 3?**

27 A. *“Nothing in these Reorganization conditions will be interpreted as a*
28 *waiver of NWN-U’s or HoldCo’s rights to request confidential*

²⁶ See, *In re MidAmerican Energy Holdings Company Application for Authorization to Acquire Pacific Power & Light, dba PacifiCorp*, Order No. 06-082, February 24, 2006 Appendix A, p. 5.

1 *treatment for information that is the subject of any of these*
2 *conditions.”*

3 **Q. What is the purpose of this condition?**

4 A. Several of the Stipulated Conditions impose on both HoldCo and NWN-U the
5 responsibility to provide financial and other highly sensitive information to the
6 Commission. This Condition simply recognizes that such information may be
7 produced under the protections provided by the Commission’s rules for
8 confidential filings.

9 **Credit and Capital Structure**

10 **Q. What is the Parties’ proposed Condition 4?**

11 A. *“HoldCo and NWN-U will maintain separate corporate credit ratings (if*
12 *any), Long-Term (LT) Debt ratings (if any), and preferred stock ratings*
13 *(if any), and make these credit ratings available to the Commission*
14 *and Staff upon request. NWN-U will also maintain adequate: (a)*
15 *interest coverage and (b) pool of qualified NWN-U assets to maintain*
16 *the ability to issue First Mortgage Bonds (FMB).*

17 *NWN-U agrees to provide notice and, if requested, consult with*
18 *Commission Staff in the event that S&P or Moody’s downgrades*
19 *NWN-U’s secured credit rating for any reason.*

20 *If NWN-U’s LT secured debt rating drops to BBB+ for S&P or Baa1 for*
21 *Moody’s, NWN-U will file a plan with the Commission detailing a*
22 *range of options to maintain or restore NWN-U’s LT secured credit*
23 *rating, or to explain actions consistent with NWN-U’s customers’ best*
24 *interest. Upon Commission request, NWN-U will present this plan to*
25 *the Commission, with appropriate provisions in place to protect*
26 *confidential information.”*

27 **Q. What is the rationale for Condition 4?**

28 A. Condition 4 has two main purposes. First, maintaining separate corporate credit
29 ratings will reinforce the corporate separation between the Utility and HoldCo.
30 Additionally, the maintenance of separate credit ratings by NW Natural helps
31 ensure that the Utility’s cost of capital reflects only those costs and activities
32 pertaining to the Utility. Moreover, the Utility, with the proposed ring-fencing

1 provisions, is likely to enjoy stronger credit ratings than its affiliates, which is
2 consistent with the expectations of CUB, NWIGU and Staff.

3 Second, Condition 4 addresses some of Staff’s concerns about risks to
4 NW Natural’s credit rating that could come about under the holding company
5 structure. This provision requires NW Natural to provide the Commission with
6 notice of **any** downgrades to NW Natural’s credit rating. Further, in the event
7 that NW Natural’s credit rating drops to BBB+ for S&P or Baa1 for Moody’s, the
8 Company will be required to present a plan to the Commission as to how it will
9 maintain or restore its credit rating—or take other actions consistent with
10 customer interests. The Parties agreed to tie the requirement to present a plan
11 when ratings reach BBB+/Baa1 because these ratings would represent a
12 significant drop from current ratings, even though the Company would still be at
13 an “investment grade” credit rating. The plan requirement goes beyond a mere
14 reporting requirement and requires the Company to take demonstrable, proactive
15 steps towards maintaining or restoring its credit rating. Further, the Parties agree
16 that a preventative approach is the best approach as it allows any problems to be
17 timely presented to the Commission and allows effective remedies to be
18 fashioned.

19 NW Natural currently does not have such an obligation, and while CUB,
20 NWIGU and Staff do not anticipate NW Natural’s credit rating to drop to BBB+, it
21 is not impossible for that to occur. Therefore, this condition adds a protection not
22 currently present. If additional risks are raised as a result of the formation of
23 HoldCo and its activities, these risks are addressed by this and other financially-
24 related conditions.

25 **Q. Why is this type of condition appropriate?**

26 A. As Staff explained in its Opening Testimony, NW Natural is currently an
27 extremely well-run utility with strong finances, and favorable access to capital.

1 The Company enjoys a credit rating for its long-term debt of AA- from Standard
2 and Pools (“S&P”) and A1 from Moody’s. Customers’ rates reflect these strong
3 ratings that enable lower borrowing costs resulting in attractive cost of capital.

4 NW Natural has represented that, after the Reorganization, the
5 Company’s financial condition is expected to stay strong, or even improve—and
6 this may well be the case. However, the purpose of the Stipulated Conditions is
7 to ensure that the Utility is protected, even if the unexpected were to occur. In
8 particular, Staff and the Intervenors were concerned about a scenario where
9 HoldCo activities could place downward pressure on the Utility’s credit ratings.
10 To address this concern, we have included conditions that will give the
11 Commission notice if the Company’s credit ratings drop even one notch, and to
12 present a plan if the Company’s credit rating is downgraded further to BBB+ for
13 S&P or Baa1 for Moody’s.

14 **Q. What is the Parties’ proposed Condition 5?**

15 A. *“NWN-U Common Equity must be maintained at a level no less than*
16 *44 percent of total NWN-U Capital Structure determined on a*
17 *preceding or projected thirteen-month average. Should NWN-U’s*
18 *equity component of its capital structure fall below 44 percent in*
19 *violation of this condition, NWN-U shall:*

- 20 1. *Within 5 business days: (A) notify the Commission; and (B)*
21 *provide an explanation for why NWN-U Common Equity fell*
22 *below 44 percent, for example, how the drop was caused by*
23 *forces or events beyond HoldCo and/or NWN-U’s control.*
- 24 2. *Within 30 days of providing notice, NWN-U shall provide a plan*
25 *and timeline (“Compliance Plan”) for restoring NWN-U’s*
26 *Common Equity to 44 percent or above that is subject to*
27 *Commission review, modification, rejection, or approval.*
- 28 3. *Subsequent to the filing of the Compliance Plan, NWN-U shall*
29 *file progress reports every 90 calendar days detailing its efforts*
30 *to restore its equity component to 44 percent or above, as*
31 *described above, in addition to detailing how NWN-U has met*
32 *each requirement in the Compliance Plan.*

1 4. *NWN-U agrees to make its officers available to appear before*
2 *the Commission regarding the violation and/or the Compliance*
3 *Plan.”*

4 *“If HoldCo and NWN-U find it reasonably likely that NWN-U common*
5 *equity could fall below 44 percent in the preceding or projected*
6 *thirteen- month average, NWN-U shall provide a report to Staff with its*
7 *projections indicating that common equity could fall below 44 percent,*
8 *and take the steps listed above.”*

9 *“If NWN-U’s common equity component of its capital structure is at or*
10 *below 46 percent, on a preceding or projected thirteen-month*
11 *average, and the above steps have not been triggered, NWN-U will*
12 *provide quarterly projections of the common equity component of its*
13 *capital structure to Staff, along with supporting work papers.”*

14 **Q. What is the purpose of Condition 5?**

15 A. A strong capital structure, with robust capitalization, is essential to a Utility’s
16 financial health. Condition 5 is intended to protect the financial integrity of the
17 Utility by establishing that the Company’s equity component of its capital
18 structure must not fall below 44 percent. This condition—which acts in tandem
19 with the dividend restriction in Condition 10mitigates Staff and Intervenor
20 concerns that HoldCo activities might cause the Utility to become inadequately
21 capitalized.

22 **Q. Why did the Parties agree on 44 percent as the equity floor for the Utility?**

23 A. The Parties recognize that NW Natural has generally sought to maintain equity
24 for the utility at approximately 50 percent of its total capitalization structure.
25 However, we are also aware that, under certain circumstances, a company can
26 maintain a stable financial condition despite temporary fluctuations in that equity
27 percentage, which may occur for good reason, such as timing of investments in
28 utility operations, or seeking favorable terms under which to issue debt or equity.
29 NW Natural felt it important to allow some flexibility for the Company. The
30 Parties were able to reach a compromise given the strength of the other
31 conditions in the package, including the dividend restriction in Condition 10 that

1 also helps to maintain equity above the equity floor. The floor of 44 percent has
2 been adopted by the Commission in other ORS 757.511 filings.

3 **Q. Why is the equity floor calculated on a preceding and projected thirteen-**
4 **month average?**

5 A. NW Natural has explained that, regardless of its “target” level of equity, the
6 Company may experience temporary fluctuations that result from the relative
7 timing of its stock and debt issuances, as well as the periodic need to efficiently
8 access public equity markets in one large offering to control issuance costs (as
9 compared to like costs for multiple smaller offerings). Timing of cash flow, such
10 as large sales in winter months also may affect the debt/equity ratio. Consistent
11 with NW Natural’s prudent financing practices, the Company studies the markets
12 and seeks to issue debt and equity when conditions are most advantageous. As
13 a result, the Company might issue debt at a time when equity markets are less
14 favorable, and decide to operate at a lower equity level until conditions change
15 and then prepare one larger equity offering. The 13-month averaging simply
16 reflects that a snapshot at a single day is not as meaningful a measure of the
17 capital structure as one that looks over a longer time period. And, it recognizes
18 the need for NW Natural to make economically prudent decisions when
19 assessing debt or equity offerings. The Parties agreed this approach is
20 reasonable.

21 As in the prior condition, NW Natural currently has no minimum equity
22 floor, so this is an additional significant protection for customers. This protection
23 is key as it prevents the Parent from draining cash from the Utility to fund its
24 growth business plan, or perhaps stave off bankruptcy,

1 **Q. Has the Commission ever imposed a similar equity floor in a transaction**
2 **under ORS 575.511?**

3 A. Yes. In UM 1209, the Commission adopted a similar condition for PacifiCorp in
4 the context of that company's acquisition by MEHC.²⁷

5 **Q. What is the Parties' proposed Condition 6?**

6 A. *"HoldCo and NWN-U guarantee that Customers of NWN-U will be*
7 *held harmless from any adverse rate impacts caused by NWN-U's*
8 *Rate of Return, Common Equity, and LT Debt becoming more costly*
9 *after the restructuring than they would be had NWN-U not*
10 *reorganized. For seven years following the reorganization, NWN-U*
11 *bears the burden of showing that any increase in NWN-U's Cost of LT*
12 *Debt or cost of Common Equity (to the extent Common Equity affects*
13 *customers), for which rate recovery is sought did not result from*
14 *factors associated with either the reorganization or any subsequent*
15 *HoldCo M&As."*

16 **Q. What is the rationale for proposed Condition 6?**

17 A. Condition 6 ensures that any increases in the Utility's rate of return, common
18 equity and long-term debt that might occur as a result of the Reorganization will
19 not be passed through to NW Natural customers in their utility rates. This
20 condition is consistent with other conditions that hold customers harmless from
21 any cost increases that could result from the Reorganization. As an extra
22 protection for customers, Condition 6 specifies that, for the seven years after the
23 Reorganization takes place, the Company will bear the burden of proof to
24 demonstrate that any increases in the Utility's rate of return, cost of common
25 equity or long-term debt did not result from the Reorganization or future HoldCo
26 mergers or acquisitions. This condition generally mitigates concerns that
27 customers might be harmed by the Reorganization, and is similar to and
28 consistent with conditions imposed in other proceedings under ORS 757.511.

²⁷ See, *In re MidAmerican Energy Holdings Company Application for Authorization to Acquire Pacific Power & Light, dba PacifiCorp*, Order No. 06-082, February 24, 2006 Appendix A, Condition O 15(a).

1 **Q. What is the Parties' proposed Condition 7?**

2 A. *"HoldCo and NWN-U guarantee that NWN-U customers shall be held*
3 *harmless if the reorganization or any subsequent HoldCo M&As*
4 *cause a higher revenue requirement for NWN-U than if the*
5 *reorganization had not occurred."*

6 **Q. What is the purpose of proposed Condition 7?**

7 A. This is an extension of proposed Condition 6, in that it mandates that customers
8 will not pay higher rates, in general, because of the Reorganization. Accordingly,
9 the Company may not request increases in rates for costs it would not have
10 incurred, but-for the Reorganization. This condition is routine in proceedings
11 under ORS 757.511.

12 It should be pointed out that Condition 6 holds even if overall revenue
13 requirements are lower under the transaction than had the formation of HoldCo
14 not been approved. Condition 7, by contrast, is an overall protection on rates
15 recognizing that perhaps some costs will rise and others fall as a result of the
16 formation of HoldCo.

17 **Q. What is the Parties' proposed Condition 8?**

18 A. *"HoldCo and NWN-U commit that neither NWN-U nor NWN-U's*
19 *subsidiaries will, without the approval of the Commission:*

20 A. *Make loans or transfer funds (other than dividends and*
21 *payments pursuant to the MSA) to HoldCo or Affiliates other*
22 *than NWN-U's subsidiaries;²⁸*

23 B. *Assume any obligation or liability as guarantor, endorser, surety,*
24 *or otherwise for HoldCo or Affiliates other than NWN-U's*
25 *subsidiaries;*

26 C. *Transfer any of its utility assets or property to HoldCo or*
27 *Affiliates other than NWN-U's subsidiaries;*

28 D. *Seek to pledge utility assets or securities backing for any*
29 *hedging, indebtedness, or securities of HoldCo or Affiliates other*
30 *than NWN-U's subsidiaries;*

²⁸ As used in Condition 8, "NWN-U's subsidiaries" means only NWN Energy and Gas Reserves.

1 E. *Enter into cross-default provisions involving HoldCo or Affiliates*
2 *other than NWN-U subsidiaries; and*

3 F. *Participate in a money pool with HoldCo or Affiliates other than*
4 *NWN-U subsidiaries.”*

5 **Q. Please explain the rationale for Condition 8.**

6 A. This condition prohibits NW Natural from engaging in financial transactions with
7 HoldCo or HoldCo’s affiliates without first seeking Commission approval. To be
8 clear, the activities listed in this condition all require Commission approval under
9 current Commission rules, because they are affiliate transactions. However, the
10 Commission typically includes this condition in proceedings under ORS 757.511,
11 as a reminder to all parties of Commission requirements. And, in conjunction
12 with the agreement by HoldCo to abide by this condition, these requirements are
13 extended by contract to HoldCo as well. This is a good example of how the
14 conditions clarify and memorialize the expectations of all Parties.

15 **Dividends**

16 **Q. What is the Parties’ proposed Condition 9?**

17 A. *“No dividends or like payments or distribution (special, one-time, or*
18 *otherwise) may be drawn from NWN-U, without Commission approval,*
19 *if any of the following conditions are present:*

20 A. *NWN-U Common Equity would fall below 44 percent of NWN-U*
21 *Capital Structure determined on a preceding or projected*
22 *thirteen-month average; or*

23 B. *NWN-U’s LT secured credit ratings drops below BBB- for S&P*
24 *and Baa3 for Moody’s.”*

25 *“Notwithstanding the above, if NWN-U’s LT secured credit ratings are*
26 *below A- for S&P and A3 for Moody’s, then NWN-U may only issue*
27 *dividends (special, one-time, or otherwise) so long as NWN-U’s*
28 *Common Equity is 45% or above (determined on a preceding or*
29 *projected thirteen-month average). Further, if NWN-U’s LT secured*
30 *credit ratings are below BBB for S&P and Baa2 for Moody’s, then*
31 *NWN-U may only issue dividends (special, one-time, or otherwise) so*
32 *long as NWN-U’s Common Equity is 46% or above (determined on a*
33 *preceding or projected thirteen-month average).”*

1 “Table 1 below depicts the conditions under which NWN-U may make
 2 dividend distributions under the above-described conditions.”

3 *Table 1*

	S&P	Moody’s	Equity Ratio
<i>Investment Grade</i>	<i>AAA</i>	<i>Aaa</i>	<i>44% or above</i>
	<i>AA+</i>	<i>Aa1</i>	
	<i>AA</i>	<i>Aa2</i>	
	<i>AA-</i>	<i>Aa3</i>	
	<i>A+</i>	<i>A1</i>	
	<i>A</i>	<i>A2</i>	
	<i>A-</i>	<i>A3</i>	
<i>Investment Grade</i>	<i>BBB+</i>	<i>Baa1</i>	<i>45% or above</i>
	<i>BBB</i>	<i>Baa2</i>	<i>46% or above</i>
	<i>BBB-</i>	<i>Baa3</i>	
<i>Non-Investment Grade</i>	<i>BB+ (or below)</i>	<i>Ba1 (or below)</i>	<i>No Dividend</i>

4

5 **Q. Please explain the rationale for proposed Condition 9?**

6 A. As explained above, Staff and Intervenors have expressed concern that at some
 7 time in the future, HoldCo could, for a variety of reasons, fail to prioritize NWN-
 8 U’s financial health and put pressure on the utility to issue dividends to HoldCo
 9 beyond what would be prudent and protective of the Utility’s capital structure and
 10 credit ratings. To address this risk, all Parties agreed that it would be appropriate
 11 to limit the Utility’s ability to issue dividends as the Company’s credit ratings or
 12 capital structure decline to the levels specified above. Prohibiting dividends
 13 under such circumstances will require the Utility to retain cash and build equity,
 14 thereby stabilizing the Company’s capital structure and strengthening the
 15 foundation for its credit ratings. Dividend restrictions are arguably the most
 16 powerful of all ring-fencing conditions and have historically been adopted in all
 17 proceedings under ORS 757.511. The existence of these restrictions, in and of
 18 themselves, help protect a company’s credit ratings.

1 **Q. What competing concerns did the Parties balance in setting the thresholds**
2 **for the dividend restriction in Condition 9?**

3 A. The Parties all agreed that certain financial metrics would naturally indicate that
4 the Utility should retain cash and dividends should not be made, but debated as
5 to what those metrics should be, especially based on NW Natural's current and
6 past bond rating levels. On the other hand, the Parties are aware that the
7 Company's regular issuance of dividends is a critical component of NW Natural's
8 value in the equity markets, and essential to attracting low-cost capital, which
9 benefits customers. For these reasons, the Parties wished to avoid restricting
10 NW Natural's ability to pay the equivalent of its usual and customary quarterly
11 dividends, with expected growth, through Holdco to investors, unless necessary
12 to protect the Company's financial integrity.²⁹

13 With these views in mind, the Parties agreed to a "sliding scale" dividend
14 restriction that takes into account the Utility's capital structure **and** credit ratings
15 to determine whether dividends may be issued. For example, in the event that
16 the Utility's secured credit rating drops to BBB+ for S&P and Baa1 for Moody's,
17 NW Natural would not be able to issue a dividend unless its equity percentage of
18 its capital structure was at least 45%. This approach increases the protections
19 around the Utility's finances at times when rating agencies may have
20 downgraded the Utility's secured long-term debt. Key to this condition is that no
21 dividends may be issued if the Company's secured credit rating falls below
22 investment grade—regardless of the amount of equity in the Company's capital
23 structure.

²⁹ The Parties also wished to avoid a market perception of a dividend restriction, which could impair that portion of the Company's value that is derived from a predictable gradually growing quarterly dividend.

1 Taken as a whole, the Parties believe that this condition protects the Utility's
2 financial stability and health, and mitigates concerns regarding the impact of the
3 Reorganization on NW Natural's Utility customers.

4 The Parties also note that there is no present prohibition on the Company's
5 dividend practice. This Condition adds a protection where none was previously
6 present.

7 **Q. What is the Parties' proposed Condition 10?**

8 A. *"NWN-U must notify the Commission no less than 7 calendar days*
9 *before dividending or otherwise transferring 5 percent or more of its*
10 *retained earnings. Additionally, NWN-U will notify the Commission of:*

11 A. *Its intention to transfer more than ten (10) percent of its retained*
12 *earnings out of NWN-U over a six-month period;*

13 B. *Its intention to declare a special cash dividend (defined as a*
14 *one-time dividend that is paid in addition to NWN-U's*
15 *established or expected quarterly dividend), at least 30 days*
16 *before declaring the dividend."*

17 **Q. What is the rationale for the Parties' proposed Condition 10?**

18 A. Like Condition 9, this condition is responsive to the Staff and Intervenors'
19 concern that after the Reorganization, HoldCo might pressure the Utility to issue
20 dividends that could erode the Utility's financial condition. This specific condition
21 would require the Company to notify the Commission if it issues dividends that
22 are of an amount, or at a time, that is out of the ordinary, so that the Commission
23 can monitor the Company's financial activities and request additional information
24 as appropriate. This condition adds to the protections provided by the equity
25 floor in Condition 5, and the dividend restrictions in Condition 9, and is similar to
26 conditions adopted in other merger proceedings. Condition 10 is an example of
27 how the full package of conditions are additive and stronger in aggregate,
28 creating a safety net around the regulated utility.

1 **Bankruptcy Protection**

2 **Q. What is the Parties' proposed Condition 11?**

3 A. *"Commission approval of NWN-U's proposed restructuring is*
4 *conditioned on the following: within 60 days of the Commission's*
5 *order on NWN-U's application to restructure, NWN-U will provide a*
6 *non-consolidation opinion to the Commission which concludes that*
7 *the ring-fencing provisions (final conditions adopted by the*
8 *Commission) are sufficient such that a bankruptcy court would not*
9 *order the substantive consolidation of the assets and liabilities of*
10 *NWN-U (including direct subsidiaries) with those of HoldCo, its*
11 *affiliates or subsidiaries (excluding NWN-U's direct subsidiaries).³⁰ If*
12 *the conditions listed herein are insufficient to obtain a non-*
13 *consolidation opinion, NWN-U will undertake the following actions:*

14 A. *Promptly notify the Commission of its inability to obtain a non-*
15 *consolidation opinion;*

16 B. *Propose and implement, upon consultation with the parties to*
17 *this Stipulation and subject to Commission approval, such*
18 *actions or additional ring-fencing provisions that are sufficient to*
19 *obtain such a non-consolidation opinion; and*

20
21 C. *Obtain such a non-consolidation opinion and provide it to the*
22 *Commission."*

23 *"If after these actions, NWN-U is unable to obtain the non-*
24 *consolidation opinion, NWN-U will notify the Commission and the*
25 *Commission will indicate that NWN-U's application has been denied*
26 *given that Commission approval of the Holding Company is*
27 *contingent upon NWN-U obtaining and providing the non-*
28 *consolidation opinion to the Commission."*

29 **Q. What is the rationale for Condition 11?**

30 A. This condition is meant to ensure that the conditions adopted by the Commission
31 in this docket are strong enough to protect NW Natural from being involuntarily
32 consolidated into a HoldCo or non-Utility affiliates' bankruptcy proceeding, should
33 such an unexpected event occur. First, the Condition requires the Utility to
34 obtain a non-consolidation opinion within 60 days after the Commission issues its

³⁰ The parties understand that the non-consolidation opinion will not opine that Gas Reserves and NWN Energy will not be substantively consolidated with NWN-U in the event of a bankruptcy, as those entities hold assets utilized by the utility in delivery of its services.

1 order in this case. Second, in the event the Company cannot obtain a non-
2 consolidation opinion based on the conditions approved by the Commission,
3 Condition 11 provides for a process by which the Company may agree to
4 additional ring-fencing conditions that would allow the non-consolidation opinion
5 to be issued. Finally, if for some reason such an opinion cannot be obtained,
6 then the provision makes clear that the Company is not authorized to proceed
7 with the restructuring.

8 **Q. What is a non-consolidation opinion?**

9 A. A non-consolidation opinion in this context is a written legal opinion, issued by an
10 expert in bankruptcy law, that considers the proposed corporate structure of NW
11 Natural and HoldCo after the Reorganization, along with the conditions adopted
12 by this Commission, and is able to conclude that if HoldCo were to undergo a
13 voluntary or involuntary bankruptcy, it is reasonable to conclude that the Utility
14 would not be substantively consolidated with HoldCo in the bankruptcy
15 proceedings.

16 **Q. Why is it important that the Company provide a non-consolidation opinion
17 if the Commission adopts the Stipulation and all Stipulated Conditions?**

18 A. The non-consolidation opinion provides additional assurance that the ring-fencing
19 conditions agreed to by the Parties are sufficient to protect NW Natural in the
20 event HoldCo or one of its non-utility affiliates were to become insolvent.
21 Alternatively, the Company's inability to provide the non-consolidation opinion
22 would alert the Commission and the Parties that additional ring-fencing is
23 required to protect the utility from the standpoint of a bankruptcy lawyer. In that
24 event, the condition allows the Parties to present additional ring-fencing
25 protections to the Commission for approval. This type of condition has been
26 adopted by the Commission in nearly all of the prior ORS 757.511 applications.

1 **Q. What is the Parties' proposed Condition 12?**

2 A. *"A voluntary petition for bankruptcy by NWN-U would require:*

3 A. *The unanimous vote of the NWN-U Board of Directors ("BOD"),*
4 *inclusive of the vote of a least one independent director; and*

5 B. *The vote of the holder of a "Golden Share," which is defined at*
6 *p. 1 as the sole (\$1 Par) share of Preferred Stock of NWN-U*
7 *authorized by the Commission. This share of Preferred Stock*
8 *must be in the custody of an independent third party as defined*
9 *at p. 1. In matters of bankruptcy, this share will override all other*
10 *outstanding shares of all types or classes of stock. The Golden*
11 *Share is established for the sole purpose of having the right to*
12 *vote on whether NWN-U files a petition for voluntary*
13 *bankruptcy."*

14 **Q What is the rationale for Condition 12?**

15 A. This condition responds to a concern on the part of Staff and Intervenors that, if
16 HoldCo or the Utility were to become financially distressed, HoldCo might
17 pressure the Utility to petition for voluntary bankruptcy even if it might be contrary
18 to the best interests of the Utility's customers. To mitigate this risk, Condition 12
19 requires that a voluntary petition in bankruptcy cannot be made without the
20 unanimous vote of the Board of NW Natural, which must include a director who is
21 independent, as well as a vote in favor by the holder of a "Golden Share." This
22 condition helps to ensure that the Utility would not place itself into bankruptcy
23 voluntarily unless such a decision was consistent with the interests of utility
24 customers.

25 **Q. What is meant by an "independent director"?**

26 A. An independent director is a member of the Board of Directors of NW Natural,
27 who is not employed by NW Natural or Holdco, and who is not a member of the
28 HoldCo Board of Directors. Further, the independent director is not associated
29 with or beholden to the Company's or HoldCo's lenders who, in a bankruptcy,
30 might have divergent interests from Utility ratepayers.

1 **Q. What is a Golden Share?**

2 A. A Golden Share is one share of Preferred Stock (\$1 Par value) that will be held
3 by an independent third party whose sole responsibility with respect to the Utility
4 would be to vote on a petition for voluntary bankruptcy. NW Natural will be
5 unable to declare voluntary bankruptcy without the vote of the holder of the
6 Golden Share. In this case, the holder of the Golden Share will likely be a
7 financial institution or entity with bankruptcy expertise. Importantly, like the
8 independent director, the holder of the Golden Share would make its decision
9 based solely on the best interests of NW Natural, the Utility. The Independent
10 Director and Golden Share are powerful deterrents that help keep corporate
11 interests aligned with Utility ratepayers.

12 This type of condition has been adopted by the Commission in several
13 ORS 757.511 applications.

14 **Q. What is the Parties' proposed Condition 13?**

15 A. *"NWN-U and NWN-U's two subsidiaries (NW Energy Corp. and NWN*
16 *Gas Reserves), will not hold HoldCo investments, with the exception*
17 *of NWN-U sponsored employee benefit plans or employee*
18 *compensation plans, without prior Commission approval."*

19 **Q. What is the rationale for Condition 13?**

20 A. This condition is intended to maintain appropriate separations between the Utility
21 and HoldCo, and to ensure that NW Natural's funds are not diverted to HoldCo
22 by means other than dividends, such as by NW Natural purchasing HoldCo stock
23 on the open market. A carve-out for employee benefit plans and compensation
24 plans was provided to recognize that the Company's employee equity incentive
25 plans will provide for HoldCo stock, and that employee benefit and retirement
26 plans will likely include index diversified funds that contain Holdco stock.

1 **Accounting**

2 **Q. What is the Parties' proposed Condition 14?**

3 A. *“NWN-U will maintain its books and records (inclusive of audit trails*
4 *with supporting records) separate from HoldCo's books and records,*
5 *with such accounting information and financial books and records kept*
6 *at NWN-U headquarters in Oregon. NWN-U's financial books and*
7 *records and state and federal regulatory filings and documents will*
8 *continue to be available to the Commission, upon request, at NWN-*
9 *U's headquarters in Oregon.”*

10 **Q. What is the rationale for Condition 14?**

11 A. This condition responds to Staff and Intervenor concerns that, after the
12 Reorganization, books and records that may need to be audited by Staff and the
13 Commission will be readily available by requiring the books to be located in
14 Oregon, where they can be easily reviewed. The condition also assures Staff
15 and the Commission that, even after the Reorganization, they will still have the
16 same access to NW Natural books and records as they have prior to the
17 reorganization. Having separate books and records makes it easier to review
18 cost allocations between companies and to identify costs with the associated
19 company. Condition 15 also is designed to address this concern as noted below.

20 **Q. What is the Parties' proposed Condition 15?**

21 A. *“NWN-U assets, cash flows, and financial accounts may not be co-*
22 *mingled with existing affiliates, or with any new affiliates or operations*
23 *resulting after the creation of HoldCo.”*

24 **Q. What is the rationale for the Condition 15?**

25 A. Condition 15 confirms the Utility's responsibility to maintain books and records
26 that are separate from those kept for HoldCo or the other affiliates. The condition
27 also articulates NW Natural's current and continuing obligation to maintain
28 corporate separations among its corporate entities and to refrain from comingling
29 of assets, cash or financial accounts. As a regulated Utility, NW Natural has
30 experience and understanding of the importance of specifically identifying

1 accounts that represent Utility operations and those that are outside the
2 regulated Utility. This separation is critical for not just regulatory purposes, but
3 also for the Company's mortgage and debt issuances as well as for SEC and
4 FERC reporting purposes. This condition is further strengthened by the non-
5 consolidation opinion required by Condition 11.

6 **Q. What is the Parties' proposed Condition 16?**

7 A. *"So long as required by the U.S. Securities and Exchange*
8 *Commission ("SEC"), NWN-U will maintain separate financial*
9 *statements that will be filed with the SEC. In the event separate*
10 *financial statements are no longer required to be filed with the SEC,*
11 *NWN-U will file separate financial statements with the Commission."*

12 **Q. What is the rationale for proposed Condition 16?**

13 A. This condition responds to the Parties desire to have visibility of the standalone
14 financial condition of NW Natural to monitor the financial health of the
15 organization. The condition requires NW Natural to prepare and present (to the
16 SEC or Commission) standalone NW Natural financial statements. As a practical
17 matter, NW Natural currently has, and pursuant to Condition 4 will maintain, a
18 Mortgage pursuant to which NW Natural does, and will continue to, issue first
19 mortgage bonds, many of which are of long tenors. Under current rules, so long
20 as NW Natural has publicly issued first mortgage bonds ("FMB") outstanding, it
21 must file standalone financial statements with the SEC. This condition ensures
22 that NW Natural will continue to maintain separate financial statements and file
23 those with the Commission even if, at some point, NW Natural is no longer
24 required to do so by the SEC.

25 **HoldCo Formation Costs**

26 **Q. What is the Parties' proposed Condition 17?**

27 A. *"Organizational, start-up, or other costs associated with the creation of*
28 *HoldCo will be separately tracked and will not be allocated to NWN-U*
29 *customers. Post creation of HoldCo, any remaining formation costs or*
30 *other HoldCo-related costs will not appear on NWN-U's books, or the*

1 *books of NWN-U's subsidiaries. NWN-U shall furnish the Commission*
2 *with journal entries and supporting detail showing the nature and cost*
3 *of all organizational, start-up, and other costs for HoldCo (including*
4 *but not limited to management time, BOD time, in-house and outside*
5 *counsel time, any consultants engaged, etc.) since the reorganization*
6 *was first contemplated, as well as the accounts charged, within 120*
7 *days of a Commission order in this docket."*

8 **Q. What is the rationale for proposed Condition 17?**

9 A. This condition is meant to ensure that the Utility's customers will not bear any of
10 the costs incurred to form HoldCo. Formation costs have been be separately
11 tracked and accounted for from the time NW Natural first began planning the
12 Reorganization, and this condition requires that such tracked costs be made
13 available for Commission review. Once fully aware of these costs, the
14 Commission and parties can be assured that these costs are not included in the
15 Utility customer rates. Further, after HoldCo is formed, if all required approvals
16 are gained, no remaining formation-related costs for future HoldCo costs will be
17 included in customer rates.

18 This condition, as in several of the previous conditions, has been adopted
19 by the Commission in prior ORS 757.511 filings.

20 **Q. What is the Parties' proposed Condition 18?**

21 A. *"NWN-U will exclude from NWN-U general rate cases, or any other*
22 *method of cost recovery, all costs related to reorganization and all of*
23 *HoldCo's costs related to future business endeavors and M&As*
24 *including but not limited to: all legal work from in-house counsel and*
25 *outside counsel; NWN-U BOD time; costs related to M&A consulting*
26 *and advice; preparation of and materials for HoldCo-related*
27 *presentations; and other reorganization and expansion costs."*

28 **Q. What is the rationale for Condition 18?**

29 A. This condition expands on Condition 17, by providing that Utility customers
30 should not bear **any** costs related to the Reorganization or HoldCo's costs
31 related *to future* business endeavors and acquisitions. Again, the idea is that
32 Utility customers should be held harmless from costs of HoldCo endeavors that
33 are unrelated to the Utility.

1 **Q. What is the Parties' proposed Condition 19?**

2 A. *"Taxes and assessments paid to the federal government, to states,*
3 *and to political subdivisions thereof shall be no greater than they*
4 *would be had the Company not restructured. Tax benefits that would*
5 *not exist had the Company not restructured may be addressed in*
6 *proceedings before the Commission; however, until that time, NWN-U*
7 *shall set up a mechanism to monitor, for informational purposes,³¹*
8 *income tax expense and potential benefits for NWN-U."*

9 **Q. What is the rationale for Condition 19?**

10 A. This condition is intended to ensure that the taxes paid by Utility customers in
11 rates should not increase because of the Reorganization. It is also intended to
12 make information available to the Commission and parties that may be interested
13 in monitoring changes to the tax situation that could come about due to the
14 Reorganization and potentially provide a benefit to ratepayers. To assist the
15 Commission in enforcing this condition, NW Natural will track any differences in
16 taxes that occur on account of the Reorganization.

17 **Allocations between NW Natural and HoldCo**

18 **Q. What is the Parties' proposed Condition 20?**

19 A. *"The Commission may audit the accounting records of HoldCo and*
20 *Affiliates that are the bases for charges to NWN-U, to determine the*
21 *reasonableness of the costs and the allocation factors used by the*
22 *HoldCo or its subdivisions to assign costs to NWN-U and amounts*
23 *subject to allocation or direct charges. HoldCo and Affiliates will*
24 *cooperate fully with such Commission audits."*

25 **Q. What is the rationale for Condition 20?**

26 A. After the Reorganization is completed, certain costs that have been allocated by
27 the Utility to its subsidiaries, may now be allocated up to HoldCo. In addition,
28 over time, it is possible that there may be costs borne by HoldCo for the benefit
29 of Utility customers that will be allocated to the Utility. The purpose of this
30 condition is to ensure that the Commission has access to relevant accounting

³¹ This provision does not prevent any parties from arguing that these tracked benefits should be passed on to customers at a later date.

1 records—not only in the Utility’s possession, but also the relevant records
2 belonging to HoldCo and HoldCo affiliates—so that the Commission can
3 determine the reasonableness of the cost allocations. The condition is also
4 meant to clarify that the Company will not object to Commission access to such
5 records. Absent conditions allowing the Commission access to the records of
6 HoldCo’s unregulated affiliates, the Commission would likely not be able to
7 access all relevant records—or records that could lead to relevant information..

8 **Q. What is the Parties’ proposed Condition 21?**

9 A. *“HoldCo and NWN-U will maintain robust systems to track employee,
10 officer, director, agent, and attorney time (inclusive of loading
11 percentages), identifying to within an hour, time not spent for NWN-U
12 utility purposes that shall not be allocated to NWN-U, subject to the
13 cost-allocation principles set forth in Condition 26.”*

14 **Q. What is the rationale for Condition 21?**

15 A. As mentioned above, the Parties recognize that after the Reorganization, costs
16 will be allocated from the Utility to HoldCo and vice versa. Many NW Natural
17 employees use “exception time tracking” to keep track of any time spent on
18 activities that benefit non-Utility affiliates. Condition 21 requires HoldCo and the
19 Utility to maintain time tracking systems for employees, capturing sufficient detail
20 in hourly increments, so that allocations may be made on an appropriate basis.
21 Taken together, Conditions 20 and 21 mitigate the Parties’ concerns that the
22 Reorganization may make it more difficult for the Commission to review the
23 appropriateness of the Utility’s allocations and that Utility customers may pay for
24 management time spent on HoldCo ventures. This allows the Company to
25 maintain flexibility to use its skilled persons where needed, while customers pay
26 for only that portion of those resources applied in providing utility service to
27 customer.

1 This condition is a significant improvement on prior ORS 757.511
2 settlements, where an hourly tracking was not required. With some utilities, the
3 allocation of time is done by a self-survey taken occasionally throughout the year
4 without any objective way of discerning the accuracy of the self-survey. Hourly
5 records will help ensure the accuracy of Company time spent on utility and non-
6 utility activities.

7 **Q. What is the Parties' proposed Condition 22?**

8 A. *"NWN-U bears the burden of showing that a particular expense from*
9 *HoldCo or an affiliate of HoldCo may be allocated to NWN-U*
10 *ratepayers."*

11 **Q. What is the rationale for Condition 22?**

12 A. Condition 22 is consistent with the burden of proof NW Natural bears in any rate
13 case—to demonstrate that all costs for which the Utility seeks recovery are
14 appropriately born by customers. After the Reorganization, the Utility will bear
15 the burden of supporting the reasonableness of any allocations from HoldCo or
16 other affiliates to Utility customers. This condition also helps to ensure that the
17 Company works to identify the most appropriate cost allocation drivers, and
18 continue to improve its understanding over time.

19 **Prevention of Cross-Subsidization**

20 **Q. What is the Parties' proposed Condition 23?**

21 A. *"HoldCo and NWN-U will comply with all applicable Commission*
22 *statutes and regulations regarding affiliated interest transactions,*
23 *including timely filing of applications and reports."*

24 **Q. What is the rationale for condition 23?**

25 A. This condition extends to HoldCo the obligation that the Utility bears to comply
26 with Commission statutes and regulations regarding affiliated transactions. It
27 holds HoldCo accountable to comply with these requirements and supports the
28 Utility's ability to comply, access records, and make reports when relevant

1 information is in HoldCo's possession. This is an important condition and
2 memorialization thereof for Staff and Intervenors because the current
3 management team could change over time to persons whose values do not
4 reflect the Company's current culture.

5 **Q. What is the Parties' proposed Condition 24?**

6 A. *"NWN-U will file on an annual basis an affiliated interest report*
7 *including an organizational chart, narrative description of each*
8 *Affiliate, revenue for each Affiliate, and transactions with each*
9 *Affiliate."*

10 **Q. What is the rationale for Condition 24?**

11 A. This condition is consistent with NW Natural's current obligation to make annual
12 affiliated interest reports. The requirement to provide an updated organization
13 chart and descriptions of each affiliate will assist the Commission in
14 understanding the corporate structure on an ongoing basis.

15 **Q. What is the Parties' proposed Condition 25?**

16 A. *"NWN-U will not cross-subsidize between NWN-U and any other*
17 *businesses (with the exception of NWN-U and its direct subsidiaries³²*
18 *as approved by the Commission), and shall comply with the*
19 *Commission's applicable orders and rules with respect to such*
20 *matters."*

21 **Q. What is the rationale for Condition 25?**

22 A. This condition is consistent with NW Natural's current obligation not to cross
23 subsidize between regulated and unregulated companies. The exception noted
24 in the condition refers to the fact that after the Reorganization, the Utility will
25 maintain Gas Reserves and Energy Corp. as subsidiaries.

26 **Q. What is Staff's proposed Condition 26?**

27 A. *"Subject to any cost allocation methodology subsequently approved*
28 *by the Commission, any allocation of costs, corporate and Affiliate*
29 *investments, expenses, or overheads between NWN-U and HoldCo or*
30 *an affiliate will comply with the following principles:*

³² Meaning NWN Energy and Gas Reserves.

- 1 A. *Cost allocations to NWN-U will be directly charged whenever*
2 *possible, and shared or indirect costs will be allocated based*
3 *upon primary, demonstrable, and transparent cost-driving*
4 *factors.*
- 5 B. *HoldCo and all subsidiaries and affiliates will maintain*
6 *accounting systems adequate to support the allocation and*
7 *assignment of costs of executives and other relevant personnel*
8 *to or from NWN-U. See Condition 21 above for further detail.*
- 9 C. *All costs subject to allocation will be auditable and their origin*
10 *among the companies must be demonstrable, so as to be*
11 *specifically identified, tracked, and trended. Failure to*
12 *adequately support any allocated cost may result in denial of its*
13 *recovery in rates.*
- 14 D. *Any corporate cost allocation methodology used for rate setting,*
15 *and subsequent changes thereto, will be submitted to the*
16 *Commission for approval.*
- 17 E. *The Company's Master Services Agreement ("MSA"), itemizing*
18 *and explaining corporate cost allocation methods used for rate*
19 *setting, will be updated to include the corporate and affiliate cost*
20 *allocation methodologies between HoldCo, NWN-U, and*
21 *Affiliates and filed with the Commission no later than 90 days*
22 *after execution of the reorganization. Thereafter, the MSA will*
23 *be appended to the annual June affiliated interest report filed*
24 *with the Commission. This annual filing will capture, highlight*
25 *and explain all changes from the prior year. The entirety of the*
26 *MSA and its components are subject to review by Staff in*
27 *subsequent proceedings before the Commission to confirm that*
28 *cost drivers, accounting methods, assumptions, and practices*
29 *result in fair, just and reasonable utility rates. The Company will*
30 *update, and re-file for approval, the MSA and AI Reporting*
31 *reflecting HoldCo organizational detail and the outcome of*
32 *docket no. UM 1804.*³³
- 33 F. *Costs which would have been denied recovery in rates had they*
34 *been incurred by NWN-U will likewise be denied recovery*
35 *whether they are allocated directly or indirectly through*
36 *subsidiaries of HoldCo.*

³³ On June 1, 2017, NWN-U filed its Updated Master Service Agreement ("MSA") with the Commission, docketed UI 385. Condition 26 requires that the MSA be updated and refiled with the Commission for approval subsequent to a Commission order in this docket.

1 G. *HoldCo and NWN-U commit to using asymmetrical pricing as*
2 *required by OAR 860-027-0048(4).*

3 H. *NWN-U will file timely applications and reports in compliance*
4 *with ORS 757.015 through 757.495 and OAR 860-027-0040*
5 *through 860-027-0042.”*

6 **Q. What is the rationale for Condition 26?**

7 A. In essence, Condition 26 requires NW Natural to use best practices for inter-
8 company allocations. In accordance with this condition, NW Natural will be
9 required to make allocations based on reasonable and supportable bases, to
10 direct charge costs whenever possible, and to ensure that the bases of all
11 allocations are transparent and auditable. In addition, the condition prescribes a
12 process for keeping the Commission informed of any changes to allocation
13 methodologies and updating the Utility’s Master Services Agreement to reflect
14 any changes required by the Reorganization. This condition provides assurance
15 to the Commission and the Parties that the Company will employ sound
16 allocation methodologies and practices and to do so in such a way that these
17 allocations can be fully reviewed by the Commission and the Parties, thereby
18 ensuring that Utility customers are not harmed. This condition also ensures that
19 Holdco and NW Natural recognize that for services NW Natural provides to
20 affiliates, NW Natural charges the higher of cost or market; and, where affiliates
21 provide services to NW Natural, the affiliates charge NW Natural the lower of
22 cost or market, consistent with Commission administrative rules. Again, this is
23 an example of how the different conditions interact and are stronger together as
24 opposed to a single unreinforced or unclarified condition.

25 **Q. What is the Parties’ proposed Condition 27?**

26 A. *“HoldCo and NWN-U commit that they will interpret ORS 757.015 and*
27 *757.495 to require Commission approval of any contract between*
28 *NWN-U and any affiliate of HoldCo. This shall include the MSA*
29 *discussed in Condition 26.”*

1 **Q. What is the rationale for Condition 27?**

2 **A.** This condition confirms that both the Utility and HoldCo understand that after the
3 Reorganization, HoldCo will be regarded as an affiliate (as defined in ORS
4 757.015) of the Utility, and that the Utility will be required to seek approval for
5 contracts between itself and any affiliate of HoldCo, as is required under ORS
6 757.495.

7 **Access to Records and Information**

8 **Q. What is the Parties' proposed Condition 28?**

9 **A.** *"HoldCo, NWN-U and all Affiliates shall provide the Commission*
10 *access to:*

11 **A.** *All books of account, budgets, integrated resource planning,*
12 *documents, data, records, accounting, and financial information*
13 *which pertain to transactions between NWN-U on the one hand,*
14 *and HoldCo or HoldCo's affiliates on the other, which are*
15 *reasonably calculated to lead to information relating to NWN-U*
16 *or may directly or indirectly affect NWN-U.*

17 **B.** *Unrestricted access to the written information inclusive of accounting*
18 *and financial metrics that HoldCo provides to the Rating Agencies and*
19 *that is reasonably calculated to lead to information relating to NWN-U or*
20 *may directly or indirectly affect NWN-U.*

21 **C.** *HoldCo and NWN-U Board of Director ("BOD") meeting minutes and*
22 *presentations for BOD meetings, committees and subcommittees*
23 *thereof, as well as investor presentations and transcripts that are*
24 *reasonably calculated to lead to information relating to NWN-U or may*
25 *directly or indirectly affect NWN-U."*

26 **Q. What is the rationale for Condition 28?**

27 **A.** This condition provides the Commission with access to books and records that
28 are relevant to the Commission's regulation of the Utility—or could lead to
29 relevant information—even when such documents are in the possession of
30 HoldCo and/or HoldCo affiliates. In this respect, this condition, from the
31 applicant's viewpoint, provides the Commission with greater powers than it would

1 otherwise have to access information maintained by a non-regulated affiliate of
2 the Utility.

3 **Q. Subsection B of Condition 28 provides the Commission with “unrestricted**
4 **access” to certain information. Does that mean that the Company must**
5 **provide access to information that is covered by attorney client privilege**
6 **and/or work-product protections?**

7 A. No. None of the conditions requiring access to information are intended to
8 override materials and information appropriately protected by the attorney client
9 privilege or work product protections. The Parties agree that this condition—as
10 well as other conditions requiring access to information--does mean that the
11 Commission have access to all non-privileged documents that are reasonably
12 calculated to lead to information relating to NWN-U or may directly or indirectly
13 affect NWN-U—including those that are deemed to be confidential or even highly
14 confidential. And as discussed above, confidential or highly confidential
15 documents may be provided under the Commission’s usual protections. From
16 the Parties’ viewpoint, this condition encompasses current discovery access
17 rights to information which Holdco and NW Natural agree to.

18 **Q. What is the Parties’ proposed Condition 29?**

19 A. *“HoldCo and NWN-U shall provide the Commission with complete and*
20 *unrestricted access to all information provided by and to common*
21 *stock, bond, or bond rating analysts, which directly or indirectly*
22 *pertains to NWN-U. Such information includes, but is not limited to,*
23 *opinions, reports and presentations made to or provided by common*
24 *stock analysts and bond rating analysts.”*

25 **Q. What is the rationale for Condition 29?**

26 A. This Condition provides the Commission access to information that directly or
27 indirectly pertains to the Utility, exchanged between NW Natural or HoldCo on
28 one hand, and common stock, bond, or bond rating analysts on the other.
29 Following the Reorganization, HoldCo will be the sole shareholder of NW

1 Natural, and as such, HoldCo will provide information to, and receive information
2 from these analysts that could pertain, directly or indirectly, to activities at the
3 Utility. This Condition will ensure that the Commission has access to this
4 information even if it resides at HoldCo. The condition also covers directly
5 information that NW Natural may provide to bond holders or bond rating analysts
6 in connection with the maintenance or issuance of NW Natural's FMBs or other
7 bonds.

8 **Q. What is the Parties' proposed Condition 30?**

9 A. *"HoldCo, NWN-U, and Affiliates will make their employees, officers,*
10 *directors and agents available to testify before the Commission at the*
11 *Commission's request to provide information the Commission*
12 *considers relevant to matters within its jurisdiction."*

13 **Q. What is the rationale for Condition 30?**

14 A. This Condition provides the Commission with the authority to require personnel
15 from HoldCo and its affiliates—as well as the Utility—to make themselves
16 available to answer questions the Commission may have that the Commission
17 considers relevant to matters within the Commission's jurisdiction. This
18 condition, which is very similar to one adopted in the PacifiCorp/MEHC merger,³⁴
19 could prove helpful in the event that the Commission has concerns about the
20 financial condition or business practices of HoldCo or affiliates that could have an
21 impact on NWN-U.

22 Historically, like conditions have set expectations facilitating a smooth
23 exchange of information to the benefit of both the Commission and the regulated
24 utility. This Condition helps to prevent situations where the Company has
25 asymmetric information with regulators who might otherwise not fully understand
26 the need for and reasons behind necessary utility or holding company actions.

³⁴ See, *In re MidAmerican Energy Holdings Company Application for Authorization to Acquire Pacific Power & Light, dba PacifiCorp*, Order No. 06-082, February 24, 2006 Appendix A, Condition GC 5..

1 **Q. What is the Parties' proposed Condition 31?**

2 A. *"Pursuant to OAR 860-027-0175(2), NWN-U agrees to report all*
3 *Beneficial Ownership as of the last calendar day of each year to the*
4 *Commission to be received by March 31 of each year."*

5 **Q. What is the rationale for Condition 31?**

6 A. Condition 31 requires the Utility to comply with the provisions of the Major
7 Shareholder Rule, which mandates that energy utilities report on an annual basis
8 all shareholders—or other beneficial owners--of five percent or more of its stock.
9 This Condition confirms the Utility's commitment to provide to the Commission
10 information that is critical to its ability to ensure that ORS 575.511 is complied
11 with.

12 **Q. What is the Parties' proposed Condition 32?**

13 A. *"For the first five calendar years after reorganization, as part of its*
14 *affiliated interest filings, HoldCo and NWN-U will report on how the*
15 *company complied with each of the conditions listed herein no later*
16 *than June 15 of each year. This report will require an officer*
17 *attestation of compliance with the conditions. If any of the conditions*
18 *are not being met, the report shall include proposed corrective*
19 *measures relative to the specific condition, subject to Commission*
20 *revision and appropriate remedy as determined by the Commission.*
21 *Annual affiliated interest reports will enduringly contain a complete*
22 *Parental-view corporate organizational chart and a second listing of*
23 *contact telephone number, email, and titles for HoldCo, and NWN-U*
24 *corporate officers."*

25 **Q. What is the rationale for Condition 32?**

26 A. This Condition requires the Company to make annual compliance filings for five
27 years after the Reorganization to notify the Commission as to how it complied
28 with the 50 Stipulated Conditions, and to provide an explanation if any of the
29 conditions are not met. In this way, the Commission will be provided with the
30 information it will require to monitor the Utility's and HoldCo's compliance with the
31 conditions, and to impose any appropriate remedies if the Utility or HoldCo fails
32 to comply in any respect. Further, this condition requires that the Commission be
33 provided annually a corporate organizational chart, and contact information, of

1 HoldCo and its affiliates and subsidiaries allowing the Commission to be aware of
2 its current holdings and growth pattern. Similar conditions have been adopted in
3 previous ORS 575.511, with the latest acquisition of PacifiCorp being such an
4 example.

5 **Q. What is the Parties' proposed Condition 33?**

6 A. *“Annual affiliated interest reports must itemize all HoldCo M&A and*
7 *divestiture activity. HoldCo or NWN-U will also notify the Commission*
8 *within 30-days whenever HoldCo completes a merger, acquisition, or*
9 *divestiture with capitalization in excess of \$1 million.”*

10 **Q. What is the rationale for Condition 33?**

11 A. This condition provides that the Commission will be promptly notified when
12 HoldCo completes an acquisition or a divestiture of any significant value. This is
13 another interlocking condition that ensures that the Commission has knowledge
14 of activities at HoldCo, so that the Commission has the ability to monitor for any
15 impacts on the Utility. In addition, this condition requires that the Utility's
16 affiliated interest reports, which are made on an annual basis, will contain this
17 information as well. Indirectly, keeping the Commission abreast of developments
18 is conducive to HoldCo success and internal resilience.

19 This condition works in concert with Condition 45 where no party
20 is precluded from seeking deferral of any cost savings resulting from any
21 merger or acquisition involving HoldCo that results in over \$100,000 of
22 annual cost savings. HoldCo and NW Natural must timely notify the
23 Commission that a merger or acquisition has occurred and parties would
24 likely begin analyzing whether savings to the utility could be generated
25 from the transaction.

1 **Q. What is the Parties' proposed Condition 34?**

2 A. *"For the first five calendar years after the reorganization, HoldCo will*
3 *provide a final copy of its annual budget(s) to the Commission for the*
4 *succeeding year on or before December 31 of each year."*

5 **Q. What is the rationale for Condition 34?**

6 A. Immediately following the Reorganization, the Utility will represent the vast
7 majority of HoldCo's total value. The regulated utility welfare must remain a top
8 priority for HoldCo. However, Staff and Intervenors have voiced concern that at
9 some point in the future the Utility's wellbeing may no longer take precedence
10 over all other concerns. To this point, Staff and Intervenors have suggested that
11 HoldCo budgets would provide insight into HoldCo's planned actions and focus,
12 allowing the Commission to inquire further at an early stage, should concerns
13 arise that HoldCo is not sufficiently focused on the Utility's financial and/or
14 operational health.

15 **Q. What is the Parties' proposed Condition 35?**

16 A. *"HoldCo and NWN-U agree that in the event that a dispute arises*
17 *concerning access to records and information in conditions 28-33, an*
18 *administrative law judge ("ALJ") at the Commission shall determine*
19 *what records and information are discoverable. By agreeing to this*
20 *condition, NWN-U does not waive its right to refer a ruling by the ALJ*
21 *to the Commission or to appeal a decision by the Commission."*

22 **Q. Why have the Parties included Condition 35?**

23 A. The Parties agree that in the event a disagreement were to arise as to whether
24 the information requested by the Commission under Conditions 28-33 is relevant
25 to the Commission's regulation of NW Natural—or could lead to relevant
26 information—that the dispute should be resolved in accordance with the
27 Commission's normal administrative processes. The process described in the
28 condition is consistent with the Commission's rules for resolving any discovery
29 dispute.

1 **Continuity of Operations**

2 **Q. What is the Parties' proposed Condition 36?**

3 A. *"HoldCo and NWN-U agree that NWN-U will maintain safety*
4 *standards and policies substantially comparable to or better than the*
5 *NWN-U currently maintained standards and policies. Neither HoldCo*
6 *formation nor future acquisitions may diminish delivery of safe and*
7 *reliable utility service in Oregon. NWN-U will continue to fully comply*
8 *with CFR Title 49 Parts 190 to 199."*

9 **Q. What is the rationale for Condition 36?**

10 A. The Parties agree that nothing about the Reorganization or any future activities
11 of HoldCo makes it acceptable to diminish NW Natural's safety standards or
12 service quality. This condition confirms not only NW Natural's commitment to
13 that principle, but also confirms HoldCo is fully committed to this outcome as
14 well. The Parties declined to present a safety improvement plan, as was done in
15 other prior proceedings involving different jurisdictional utilities, because the
16 Company has maintained a strong safety record.

17 **Miscellaneous**

18 **Q. What is the Parties' proposed Condition 37?**

19 A. *"NWN-U commits that its corporate headquarters will remain in*
20 *Oregon. HoldCo will not move its headquarters out of Oregon without*
21 *prior Commission approval."*

22 **Q. What is the rationale for this Condition?**

23 A. The Parties believe that it is important that the Utility's headquarters remain in
24 the State of Oregon thereby retaining a focus on Oregon and Oregon interests.
25 Approximately ninety percent of NW Natural's customers reside in Oregon and
26 having Utility management, as well as book and records, in the State is beneficial
27 to the Commission's oversight and regulation of the Company. Moreover,
28 maintaining the Utility's corporate headquarters in Oregon helps keep jobs and
29 money in the State—which is a benefit to all Oregonians. The Company can
30 commit that the Utility's corporate headquarters will remain in Oregon and

1 anticipates that HoldCo headquarters will remain in the State as well. One of the
2 goals of the Reorganization is to help NW Natural remain strong, independent
3 and local. The parties therefore agreed that the HoldCo headquarters would
4 remain in Oregon, unless the Commission was to approve a waiver of this
5 provision.

6 **Q. What is the Parties' proposed Condition 38?**

7 A. *"NWN-U shall maintain its current pension funding approach, until*
8 *informed by a Commission Order regarding revised best practices.*
9 *Thereafter, NWN-U will look to Commission orders for further*
10 *guidance."*

11 **Q. What is the rationale for Condition 38?**

12 A. Staff proposed this condition as a protection for NW Natural employees, and to
13 help ensure that Oregonians as a whole are not harmed by the Reorganization.
14 The Company's current policy is to maintain its pension funding consistent with
15 ERISA guidelines. The Parties agree that NW Natural will not alter its current
16 policy, unless and until the Commission issues an order suggesting a different
17 approach is preferable.

18 **Q. What is the Parties' proposed Condition 39?**

19 A. *"For each calendar year 2018 through 2022 inclusive, HoldCo and*
20 *NWN-U commit to sustaining NWN-U's current funding levels*
21 *regarding charitable contribution which is one percent of NWN-U's*
22 *average pre-tax income for the three years immediately preceding the*
23 *budget year, including contributions to NWN-U's bill payment*
24 *assistance program, subject to a \$100,000 limit increase or decrease*
25 *from the prior year's contributions budget."*

26 **Q. What is the rationale for Condition 39??**

27 A. NW Natural has a history of strong commitment to charitable giving. This
28 condition ensures that the Reorganization will not negatively impact the
29 Company's commitment to charitable giving. This condition helps ensure that
30 low income customers—as well as Oregonians as a whole—are not harmed by
31 the Reorganization. Because the Company has a strong record of community

1 support, Parties looked to maintain current efforts and commitments in the face
2 of possible federal reductions.

3 **Q. What is the Parties' proposed Condition 40?**

4 A. *"HoldCo and NWN-U will honor its existing collective bargaining*
5 *agreement through its current duration. For that same period,*
6 *employee's compensation and benefits packages will be at least as*
7 *favorable in the aggregate as the existing benefit package."*

8 **Q. What is the rationale for Condition 40?**

9 A. Like Condition 38, this condition is intended as a protection for NW Natural's
10 employees, and helps ensure that Oregonians as a whole are not harmed by the
11 Reorganization.

12 **Q. What is the Parties' proposed Condition 41?**

13 A. *"NWN-U will not oppose maintaining current or greater support levels*
14 *for energy efficiency and renewable natural gas for two years after the*
15 *Commission issues a final order in this docket."*

16 **Q. What is the rationale for Condition 41?**

17 A. NW Natural has long promoted Commission policies that encourage energy
18 efficiency, and has recently encouraged the production of renewable natural gas
19 in its service territory by, among other things, facilitating interconnection with
20 production sites to NW Natural's distribution system. The Parties have agreed to
21 this condition to help ensure that NW Natural's support for these policies
22 continues after the Reorganization is complete. This condition ensures
23 continuance of a regionally-valued customer preference and helps ensure that
24 Oregonians as a whole are not harmed by the Reorganization.

25 **Q. What is the Parties' proposed Condition 42?**

26 A. *"Within 90 days of the applicable Board of Directors meeting, NWN-U*
27 *shall file with the Commission a complete copy of the minutes of the*
28 *Board of Directors' meeting at which the formation of HoldCo was*
29 *approved."*

1 **Q. What is the rationale for Condition 42?**

2 A. As discussed above, after all regulatory approvals are obtained, NW Natural's
3 Board of Directors must vote on the formation of HoldCo before the
4 Reorganization can be completed. This condition ensures that the Commission
5 will be kept apprised of the Company's progress in completing the steps
6 necessary for the Reorganization to occur, and that it can verify the actions and
7 decisions of the Board, and minutes of the discussions, on this topic when
8 approval is sought.

9 **Q. What is the Parties' proposed Condition 43?**

10 A. *"If the Commission, Staff, or any party believes that NWN-U or*
11 *HoldCo have violated any of the conditions listed herein, or any*
12 *conditions included in the Commission's final order approving the*
13 *application, the Commission shall give HoldCo and NWN-U written*
14 *notice of the alleged violation. If HoldCo or NWN-U is found to have*
15 *committed a violation after Commission investigation (or a hearing if*
16 *requested), the Commission will issue an order stating the remedy it*
17 *shall seek.*

18 **Q. What is the rationale for Condition 43?**

19 A. This condition provides a process for the Commission to give the Company
20 notice of a perceived violation of the conditions, and also makes it clear that the
21 Commission has the discretion to issue any remedy within its authority to impose.

22 **Credits to Customers**

23 **Q. What is the Parties' proposed Condition 44?**

24 A. *"For a period of three years following the formation of HoldCo, NWN-*
25 *U will provide an annual credit to Oregon customers in the amount of*
26 *\$500,000 on an equal percent margin basis concurrent with NWN-U's*
27 *PGA."*

28 **Q. What is the rationale for Condition 44?**

29 A. In Reply Testimony, Staff and Intervenors took the position that, given the risks
30 presented by the proposed Reorganization and the legal requirement that a new
31 benefit to customers result from the Reorganization, NW Natural must provide

1 benefits beyond what the Company proposed in its Application. Staff and
2 Intervenor especially felt this was the case due to what they perceived as the
3 lack of tangible benefits that may have otherwise resulted from a proposed
4 merger or transaction. While NW Natural does not agree that rate credits are
5 required to meet the net benefit standard, the Company does agree to make rate
6 credits in this case. These credits will be made on an annual basis for three
7 years following the formation of HoldCo. Condition 44 provides additional
8 assurance to the Commission that the net benefit standard has been met in the
9 eyes of Staff and Intervenor.

10 **Q. What is the Parties' proposed Condition 45?**

11 A. *“Cost savings, inclusive of loadings, allocable to NWN-U that are*
12 *achieved as a result of HoldCo’s future Mergers and Acquisitions*
13 *(“M&A”), if greater than \$50,000, will be deferred and later credited to*
14 *Oregon customers until NWN-U’s second general rate case following*
15 *the Commission’s order in this docket. Savings will be deferred and*
16 *credited to the extent that the saved costs, inclusive of loadings, are*
17 *otherwise already included in NWN-U’s customers’ rates, and from*
18 *the time when the savings were realized. This condition does not*
19 *preclude any party from seeking deferral of any cost savings resulting*
20 *from any merger or acquisition involving HoldCo that results in over*
21 *\$100,000 of annual cost savings.”*

22 **Q. What is the rationale for Condition 45?**

23 A. One of the concerns voiced by Staff and Intervenor is that the Company is
24 requesting approval of the Reorganization without, at the same time, presenting
25 an acquisition for Commission review. Staff and Intervenor pointed out that if
26 the Company had presented an acquisition for approval, they would have had the
27 opportunity to request that the Company pass through to customers any savings
28 NW Natural could expect to flow from synergies accruing to the addition of a new
29 business to the consolidated entity. Staff and Intervenor expect that after the
30 Reorganization, HoldCo might acquire new businesses that create benefits from
31 synergies, size, scale or innovations, and that given the circumstances of this

1 case, it would be appropriate for NW Natural to pass those savings onto
2 customers through a deferral mechanism. Given these concerns, the Parties
3 agreed that actual cost savings at the Utility that flow from future acquisitions
4 should be deferred and credited to customers. This condition provides additional
5 benefit to Utility customers and helps the Reorganization to result in a net benefit.

6 **Q. What is the Parties' proposed Condition 46?**

7 A. *“Approval of HoldCo formation does not relieve holders of NWN-U*
8 *stock, or contractual rights to own such stock (such as stock options*
9 *or convertible preferred stock), from requirements of ORS 757.511.”*

10 **Q. What is the rationale for Condition 46?**

11 A. Under ORS 757.511, any person acquiring five percent or more ownership
12 interest in the Utility, who is also acquiring the ability to directly or indirectly
13 substantially influence the policies and actions of the Utility, must first seek
14 approval of the Commission. Condition 46 confirms the understanding that after
15 the Reorganization, direct or indirect holders of NW Natural stock, along with
16 those with contractual rights to own stock, will be subject to the same obligation.

17 **Q. What is the Parties' proposed Condition 47?**

18 A. *“HoldCo or NWN-U will notify the Commission in writing subsequent*
19 *to HoldCo's board approval and as soon as practicable following any*
20 *public announcement of: (1) any acquisition of any business that*
21 *represents five percent or more of HoldCo's capitalization, or (2)*
22 *change in effective control or acquisition of any material part of*
23 *HoldCo or NWN-U, as required by ORS 757.511.”*

24 **Q. What is the rationale for Condition 47?**

25 A. Condition 47 ensures that the Commission will have prompt notice of any
26 significant acquisition so that the Commission can provide additional oversight of
27 the Utility during that time if it chooses to do so. Additionally, this condition
28 confirms the direct/indirect stock ownership trigger in ORS 757.511, by expressly
29 stating that any change in effective control or acquisition of either HoldCo or NW
30 Natural, would require an ORS 757.511 filing.

1 As discussed above, a filing must be made under the statute when a
2 party becomes an affiliate by acquiring five percent or greater ownership interest
3 in the utility or its parent on an annual basis. Additionally, a filing is required at
4 other times if a shareholder owning five percent or more of NW Natural or a
5 parent attempts to exercise substantial influence over the utility. Condition 47
6 provides that the Commission will receive timely notice of these events, so that it
7 can make its own inquires to determine if a filing under ORS 757.511 is required.

8 **Q. What is the Parties' proposed Condition 48?**

9 A. *"HoldCo and NWN-U will refrain from seeking recovery through NWN-*
10 *U rates any acquisition premiums, goodwill, transaction costs, or*
11 *incremental executive bonuses associated with the reorganization or*
12 *any subsequent M&As by HoldCo or any affiliates other than NWN-U."*

13 **Q. What is the rationale for Condition 48?**

14 A. This condition protects the Utility's customers from increases in rates resulting
15 from the Reorganization or any subsequent acquisition made by HoldCo or
16 another affiliate. Again this is a condition that is typical for Commission orders
17 approving ORS 757.511 applications.

18 **Q. What is the Parties' proposed Condition 49?**

19 A. *"Within 90 days after HoldCo acquires or creates a new subsidiary*
20 *entity, HoldCo shall file with the Commission a statement that*
21 *provides the name of the subsidiary, the total value of its assets, the*
22 *nature of the subsidiary's business and whether it will do business*
23 *with NWN-U."*

24 **Q. What is the rationale for Condition 49?**

25 A. Condition 49 provides the Commission with timely, detailed information regarding
26 any acquisition or other organizational change by HoldCo, including the nature of
27 the organizational change, size of the acquisition and the nature of its business.
28 This information will allow the Commission to continually assess the impact that
29 HoldCo activities may have on the Utility.

1 **Q. What is the Parties' proposed Condition 50?**

2 A. *“Any diversified holdings and investments (i.e., non-utility businesses*
3 *or foreign utilities) of HoldCo following approval of the transaction will*
4 *not be held by NWN-U or a subsidiary of NWN-U, with the exception*
5 *of NWN-U sponsored employee benefit plans or employee*
6 *compensation plans. This condition will not prohibit HoldCo or its*
7 *affiliates other than NWN-U from holding diversified businesses. This*
8 *provision will also not prohibit NWN-U from continuing to hold the*
9 *assets it holds within NWN-U immediately prior to the reorganization,*
10 *including but not limited to the appliance center and interstate storage*
11 *business.”*

12 **Q. What is the rationale for Condition 50?**

13 A. This Condition reinforces corporate separations between HoldCo and the Utility.
14 By prohibiting NW Natural from gaining ownership interests in HoldCo or HoldCo
15 subsidiaries, Condition 50 helps insure that the Utility can remain financially
16 secure, regardless of HoldCo's financial condition.

THE PARTIES' SUPPORT FOR THE STIPULATION

17 **Q. Why does Staff support the Stipulation?**

18 A. Staff's support for the Stipulation is discussed in separately-filed Staff Testimony
19 in Support of Stipulation, Staff/200.

20 **Q. Why does CUB support the Stipulation?**

21 A. CUB supports the stipulation because it addresses the concerns that CUB raised
22 in its Reply Testimony. Approval of this reorganization is subject to a net benefits
23 test where benefits are weighed against costs and risks. CUB's analysis of the
24 original proposal concluded that it contained significant risks to customers and no
25 real tangible benefits, and, therefore, did not provide a net benefit to customers.
26 The stipulation contains a series of conditions that reduce the risks to customers
27 and at least two conditions that provide a direct, tangible benefit: rate credit and a
28 commitment to pass efficiencies through to customers. By adding conditions that
29 minimize the risk and including conditions that offer benefits, CUB's concerns are

1 alleviated. CUB believes that the formation of the Holding Company under the
2 conditions provided for in the settlement will provide a net benefit to customers.

3 **Q. Why does NWIGU support the Stipulation?**

4 A. NWIGU supports the Stipulation in conjunction with the Stipulated Commitments
5 as in the public interest and urges the Commission to approve the
6 Reorganization only upon such conditions. From NWIGU's perspective, the end
7 result of the Reorganization, in conjunction with the Stipulated Commitments,
8 now creates a new structure and ownership for NW Natural that is accomplished
9 without harm to NW Natural's customers. In particular, NW Natural's customers
10 are protected from financial harm through the ring fencing provisions, access to
11 records, rate credits, dividend restrictions and other measures that have been
12 designed to protect customers. Under the Reorganization, NW Natural is
13 required to maintain its own books and records and to maintain its own corporate
14 and debt credit rating as well as ratings for long-term debt and preferred stock.
15 Numerous Commitments protect NW Natural and its customers by ring fencing
16 NW Natural in the event of financial stress of Holdco. Within 60 days of the
17 Proposed Transaction closing, NW Natural will file a non-consolidation opinion
18 with the Commission which concludes that the ring fencing provisions are
19 sufficient such that a bankruptcy court would not order the substantive
20 consolidation of the assets and liabilities of NW Natural with those of Holdco or
21 its affiliates or subsidiaries. Further provisions limit NW Natural's ability to
22 make dividends under certain circumstances to protect NW Natural's financial
23 health.

24 NW Natural's customers further benefit from \$1.5 million in rate credits.
25 These credits will be returned on an equal percent of margin basis to all natural
26 gas customers. The Stipulation and Stipulated Commitments also preclude NW

1 Natural's customers from bearing the legal and financial advisory costs of the
2 Reorganization.

3 Finally in addition to addressing customers' financial concerns, NWIGU's
4 other concerns are met through the terms of the Stipulation and Stipulated
5 Commitments. NWIGU is satisfied that appropriate and fair provision has been
6 made for customers' access to information pertaining to the fulfillment of the
7 Stipulated Commitments in the future.

8 **Q. Why does NW Natural support the Stipulation?**

9 A. NW Natural supports the Stipulation because it believes that the Reorganization
10 will provide significant benefits to the Company and its Utility customers.

11 **First**, the Reorganization will provide the Company with an important
12 platform for corporate growth which is helpful to ensure the financial well-being of
13 the consolidated corporate group, which includes the Utility. Prudent and
14 thoughtful growth is key to the Company's ability to attract capital, and is
15 therefore important for the Company to continue to provide safe and reliable
16 utility service. And importantly, the Company's strategy for corporate growth, as
17 detailed in the Company's Supplemental Testimony,³⁵ provides assurance that
18 HoldCo will take a thoughtful approach to growth, seeking diversified
19 opportunities that build on NW Natural's core competencies and presenting
20 similar risk profiles to that of the Utility. Thus, furthering the Company's plan for
21 strategic growth is in the interest of Utility customers.

22 **Second**, the Reorganization will strengthen the existing corporate
23 separations between the Utility and its affiliates, providing further protections to
24 ensure that unregulated activities do not negatively impact Utility customers.

³⁵ NWN/300, Palfreyman.

1 **Third**, as noted by Staff, the Reorganization, and the diversified growth
2 that will be enabled by it, will make it more likely that NW Natural will remain a
3 strong and independent local distribution company. Customers and Oregonians
4 generally undoubtedly benefit from a utility that remains headquartered in
5 Oregon, “with deep community roots, and keeping skilled and managerial jobs in
6 the [state].”³⁶

7 **Fourth**, NW Natural’s plans for HoldCo and Utility governance will ensure
8 that that interests of Utility customers will be served by the Reorganization. After
9 the Reorganization, HoldCo will be governed by the same Board of Directors
10 (except for at least one independent director on the Utility board) and the same
11 officers and executive management that have led the Company with “careful care
12 and focus . . . namely many years of steady and conservative management”³⁷ for
13 decades. As a result, NW Natural’s customers and the Commission can expect
14 continuity of the skillful leadership and the safe, reliable service that they have
15 come to expect.

16 **And fifth**, NW Natural believes that the Stipulated Conditions, developed
17 and agreed to by all Parties (1) fully protect Utility customers from any risks to
18 which they might otherwise be exposed; and (2) provide customers with concrete
19 benefits that they would not enjoy, but for the Reorganization.

20 For all of these reasons, the Company believes that the Reorganization
21 results in a net benefit to Utility customers and no harm to Oregonians generally,
22 and should be approved.

23 **Q. Does this conclude your testimony?**

24 A. Yes.

³⁶ Staff/100, Muldoon/29.

³⁷ Staff/100, Muldoon/35-36.