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September 13, 2005

VIA EMAIL

Commission Chair Lee Beyer
Commissioner Ray Baum
Commissioner John Savage
Public Utility Commission of Oregon
Post Office Box 2148
Salem, OR 97308-2148

Re: AR 498 – In the Matter of the Adoption of Temporary Rules to Implement SB 408

Dear Commissioners:

Northwest Natural Gas Company (“NW Natural”) supports the comments and proposed revisions to draft temporary rule OAR 860-22-0039 as submitted by PacifiCorp in a letter sent to you today. In addition, NW Natural has a few important supplemental observations and requests.

The final rules, if properly drafted, should not negatively impact a stand-alone entity such as NW Natural.

The Oregon Public Utility Commission (the “Commission”) faces a difficult permanent rulemaking process to implement the broad ratemaking principles of Senate Bill 408. As Governor Kulongoski observed in a letter of September 2, 2005, accompanying his signing of the bill into law, “...the final version of the bill defers many of the difficult questions about the impact and implementation of Senate Bill 408 to the [Commission].”

As the Commission proceeds with implementation of Senate Bill 408, NW Natural hopes that the Commission particularly will keep in mind how the permanent rules will impact a utility such as NW Natural. NW Natural obtains most of its revenues from its regulated utility business and makes actual tax payments consistent with the Commission’s ratemaking assumptions. To the extent NW Natural has non-utility operations; those operations generate additional actual tax payments. Today, NW Natural does not benefit from reduced tax payments as a result of consolidated tax filings. Accordingly, if the permanent rules proposed in this proceeding would lead to a downward adjustment to the rates of NW Natural, such reduction would reflect a defect in the permanent rules that produce a disallowance of a portion of NW Natural’s actual and necessary cost of service. Thus, a key to judging any proposed permanent rules is whether the rules would adversely impact (or for that matter, benefit) a utility such as NW Natural that

actually incurs and pays taxes on the same basis as assumed in its applicable retail rate orders.

Purchased gas costs are pass-through costs that do not impact “taxes authorized to be collected in rates,” and thus should be excluded from the calculation of such authorized taxes.

NW Natural provides natural gas distribution services and is allowed an opportunity to earn a taxable return on equity, based on its investment to provide such services. In addition, NW Natural acquires from third parties in the market, on a cost-pass-through basis, purchased gas in amounts demanded by its customers. The cost pass-through for such purchased gas is provided through NW Natural’s purchased gas adjustment (“PGA”). The cost-pass-through level can vary substantially from year to year, based on changes in purchased gas cost. However, because the charges for purchased gas simply equal NW Natural’s purchased gas expense, variations in purchased gas costs have no impact on “taxes authorized to be collected in rates.”

The proposed temporary rules, at section (2)(f), properly recognize that revenues and costs related to sales for resale by an electric utility should not enter into the calculation of “taxes authorized to be collected in rates,” as the revenue from such sales do not enter into the Commission’s Oregon-allocated tax calculations. Likewise, revenues and costs related to purchased gas acquired by natural gas utilities for their customers do not enter into the Commission’s Oregon-allocated tax calculation and also should be excluded. NW Natural thus requests that section (2) (f) of the temporary rules be revised to read:

“Taxes authorized to be collected in rates” means the product determined by multiplying the following three values, calculated excluding ~~deferred income taxes and the~~ revenues and costs related to (A) sales for resale, and (B) purchased gas for natural gas utilities.¹

The temporary rules should not attempt to resolve issues of statutory interpretation prior to the permanent rulemaking.

NW Natural in the October 15, 2005 report governed by the temporary rules will need to make judgments as to how key terms and calculations referenced in the report are to be interpreted and applied. For example, NW Natural’s rates are the result of Commission orders in various types of proceedings, such as general rate proceedings, PGA proceedings, public purpose funding and distribution margin normalization proceedings, and Weather Adjusted Rate Mechanism proceedings, along with potential balancing account provisions related thereto. When all of these types of proceedings and the balancing accounts are considered together, even a seemingly-easy item called for in

¹ The strikeout of the term “deferred income taxes and” was retained from the proposed changes proposed by PacifiCorp, with which NW Natural concurs.

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the report, such as “gross revenues from regulated operations of the utility, as determined by the commission in establishing rates,” may raise complicated issues and prove difficult to define. A careful analysis and resolution of such issues will be important for Oregon’s utilities and their customers alike.

The October 15, 2005 reports required by the temporary rules will not be the basis for any rate changes; Senate Bill 408 specifies that “[i]f an automatic adjustment clause is established under section 3 of this 2005 Act, notwithstanding any other provision of section 3 of this 2005 Act, the automatic adjustment clause shall apply only to taxes paid to units of government and collected from ratepayers on or after January 1, 2006.” Moreover, the Commission cannot possibly even identify, much less carefully consider and resolve all potential issues by the September 14 date for adoption of the temporary rules. Thus, NW Natural supports the recommendation by PacifiCorp that the temporary rules for the October 15, 2005 report track statutory language as closely as possible. The filing utilities may differ as to how they make the required calculations, but each utility should be expected to state explicitly the assumptions and calculations used in its report. Any disputes or issues with regard to such assumptions and calculations then can be taken up and resolved in the permanent rulemaking, with the benefit of the October 15, 2005 reports. The permanent rules can resolve such disputes or issues, with the resolutions to be applicable to the critical reports as to taxes paid to units of government and collected from ratepayers on or after January 1, 2006.

NW Natural anticipates working closely with the other parties and with the Commission’s staff to develop proposed permanent rules that properly implement Senate Bill 408.

Very truly yours,

/s/ Gregg S. Kantor

Gregg S. Kantor
Senior Vice President of Public and Regulatory Affairs