

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1744

In the Matter of

NORTHWEST NATURAL GAS
COMPANY dba NW NATURAL,

Application for Approval of an Emission
Reduction Program

NORTHWEST INDUSTRIAL GAS
USERS' CROSS REPLY BRIEF

Pursuant to the Administrative Law Judge's Ruling in this matter dated November 24, 2015, Northwest Industrial Gas Users ("NWIGU") submits this Cross Reply Brief for the purpose of providing a limited response to issues raised by Staff's and intervenors' post-hearing briefs.

NWIGU is in a position similar to that expressed by both Staff and CUB with respect to their desire to see the successful implementation of Senate Bill 844 ("SB 844") projects. As NWIGU consistently expressed throughout both the SB 844 rulemaking process and this specific docket, it fully supports the SB 844's goal of using incentives to make meaningful strides in the reduction of carbon dioxide emissions. It remains undisputed in this record that such incentives are preferable to direct regulation or taxation of carbon dioxide.

But like Staff and CUB, NWIGU cannot support NW Natural's combined heat and power program as filed. Many of the criticisms Staff and CUB presented in their post-hearing briefs are reflective of NWIGU's criticism and NWIGU urges the Commission to take each one of those criticisms into account.

Where NWIGU departs from the positions of those parties, however, is in their suggestion that the Commission could or should reject the filing altogether and have NW Natural

go back to the drawing board. Instead, NWIGU believes that the record in this matter is comprehensive and detailed enough to support approval of the program in some form, just not in the form NW Natural has proposed. Instead, the Commission should approve the filing with the modifications presented by, and justified by, the other parties.

For example, NW Natural's proposed incentive payment to the Company of \$10/ton of reduced carbon dioxide simply has no factual support in the record. On the other hand, other parties have provided evidence for why an incentive between \$0/ton and \$5/ton is reasonable. It is unfortunate that NW Natural did not provide an analysis to support its proposal, and it may be that at the end of the day it decides it simply does not *want* to implement the program with a lower incentive payment. But that is a business decision for NW Natural to make and is unrelated to whether the Commission can approve the program with a lower incentive payment. The Commission can similarly decide each of the disputed components of the proposal, including the customer incentive payment, the appropriate methodology for calculating carbon dioxide emission reductions, and the imposition of an earnings test.

NWIGU's position in this docket also differs from the position of the electric utilities with respect to their assertion that the program would constitute improper fuel switching. As described in its Prehearing Brief, NWIGU recognizes that it has been the policy of the Commission to not allow utilities to provide incentives for customers to fuel switch. That policy, however, cannot be strictly adhered to in light of SB 844. That legislation must be fully implemented despite any Commission policies that existed prior to its enactment. As NWIGU's witness observed, SB 844 expressly authorizes Oregon natural gas local distribution companies to incentivize their customers to reduce carbon dioxide emissions through the greater use of natural gas. Since natural gas is a fossil fuel, the only way one can use natural gas as a carbon

dioxide emission reduction measure is to use natural gas instead of a more carbon-intensive fuel. Moreover, the Commission can presume that the Legislature was aware of the Commission's existing policies when it enacted SB 844. The intent of SB 844 to use natural gas by switching from a more carbon intensive source of energy to natural gas must therefore be deemed to have superseded that policy, or at least to serve as an exception to that policy. In other words, if the Commission were to rule that the tariff filed by Northwest Natural is inappropriate because it incentivizes fuel switching, the Commission would be undermining one of the primary intents of SB 844.

Based on the foregoing, NWIGU supports the proposed CHP program, but only with the several modifications presented by NWIGU, Staff and CUB.

Dated this 10th day of February 2016.

Respectfully submitted,



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