

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1744

In the Matter of)
)
NORTHWEST NATURAL GAS) POST-HEARING BRIEF OF THE
COMPANY, dba NW NATURAL) CITIZENS' UTILITY BOARD
) OF OREGON
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Application for Approval of an Emission)
Reduction Program)
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**POST-HEARING BRIEF OF THE
CITIZENS' UTILITY BOARD OF OREGON**

January 26, 2016



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1 I. Introduction

2 Pursuant to Administrative Law Judge (“ALJ”) Rowe’s Ruling issued October 20,
3 2015, the Citizens’ Utility Board of Oregon (“CUB”) submits its Post-hearing Brief in
4 docket UM 1744.

5 On June 24, 2015, following a stakeholder engagement process, Northwest
6 Natural Gas Company (“NW Natural” or “Company”) filed its first application for
7 approval of a SB 844 project with the Commission—a solicitation-based Combined Heat
8 and Power (“CHP”) Program.¹ The Company argues that its CHP Program “likely
9 provides the Commission with the best and least-cost opportunity to successfully
10 implement the legislature’s goal to use voluntary programs by natural gas companies to

¹ NW Natural Application for Carbon Emission Reduction Program (SB 844), filed June 24, 2015.

1 reduce anthropogenic greenhouse gas emissions that are contributing to climate change.”²
2 The stakeholder engagement process was robust both before the CHP Program was filed
3 and during the UM 1744 proceedings. And as NW Natural states, stakeholders
4 “genuinely attempted to improve the CHP Program” as filed by NW Natural.³

5 Over the course of several rounds of testimony and an evidentiary hearing in this
6 proceeding, however, a number of important issues remain contested. NW Natural
7 generally characterizes these as “small differences” in program details,⁴ but CUB
8 disagrees. Although CUB continues to support SB 844 and the policy goals of Oregon to
9 reduce greenhouse gas emissions—and does not disagree that CHP may be a way to meet
10 these objectives—the contested design details of NW Natural’s CHP Program are not
11 “small” and make it impossible for CUB to recommend approval of NW Natural’s CHP
12 Program as proposed by the Company.

13 Specifically, the CHP Program, as currently proposed by NW Natural, should not
14 be considered a viable project under SB 844 for several reasons. First, the Company’s
15 proposal suffers from a number of design flaws: (1) customer incentives are not scaled to
16 ensure that accurate carbon reductions are identified, (2) the Company’s use of eGRID
17 data in the calculation of emissions reductions is problematic, (3) the Company’s
18 requested \$10 per metric tonne of carbon dioxide equivalent (“MTCO₂(e)”) reduced
19 incentive is overly generous and unsupported, (4) the Company’s refusal to include
20 program costs in the earnings test is overly generous to the Company and unsupported by

² NW Natural’s Pre-hearing Brief at 1.

³ NW Natural’s Post-hearing Brief at 2.

⁴ NW Natural’s Post-hearing Brief at 2.

1 sound ratemaking policy, and (5) NW Natural’s proposed CHP Program cap still leaves
2 the CHP Program vulnerable to subscription by a large, single project.

3 Second, the Company’s focus on its bottom-line and benefits to shareholders, to
4 the detriment of its customers, has precluded the Company from providing a
5 comprehensive, balanced analysis of the CHP Program. The result is an expensive
6 voluntary emissions reduction program that skews in favor of NW Natural’s
7 shareholders.

8 For the reasons discussed more fully below, CUB requests that the Commission
9 reject NW Natural’s CHP Program without prejudice, and demand a more transparent,
10 robust and balanced analysis in future SB 844 project applications, including any
11 amended CHP Program application. CUB also urges the Commission to caution the
12 Company to balance the interests of its customers with the interests of its shareholders
13 when designing SB 844 projects, including the pass-through of customer benefits and the
14 impact on customer bills. Finally, CUB recommends that the Commission find that CHP
15 is an electric energy efficiency program and that its application as an SB 844 project does
16 not constitute inappropriate fuel-switching.

17 **II. Argument**

18 **A. The Company’s CHP Program suffers from fatal design flaws.**

19 NW Natural identifies four general CHP Program design issues remaining among
20 the parties: (1) the customer incentive, (2) calculation of carbon emissions reductions, (3)
21 NW Natural’s incentive, and (4) application of an earnings test.⁵ In addition to the other

⁵ NW Natural Post-hearing Brief at 2-3.

1 three issues raised by NW Natural, however, CUB continues to have concerns about the
2 CHP Program size, particularly as it relates to the size of individual CHP projects.

3 *i. Customer incentives are not scaled to ensure that accurate carbon reductions are*
4 *identified.*

5 As the Company recognizes, the purpose of SB 844 is to develop and implement
6 natural gas projects that reduce harmful carbon emissions.⁶ Tantamount to this objective
7 is the ability to accurately calculate and track actual greenhouse gas emissions reductions.
8 NW Natural proposes that customers be paid a monetary incentive, using a pre-
9 determined level of carbon savings, based on actual achieved carbon savings due to the
10 operation of their installed system.⁷ The Company is proposing that the customer
11 incentive be a fixed \$30/MTCO₂(e) based on 2010 eGRID data in order to achieve the
12 pay-back period that the Company argues is necessary in order to incentivize CHP
13 adoption in its service territory.⁸

14 Regardless of whether eGRID, the Northwest Power and Conservation Council
15 (“NWPCCC”) AURORA model or some other methodology for calculating greenhouse
16 gas emissions reductions is used, it is important that the Company, Commission,
17 stakeholders and other interest parties have an accurate number for emissions reductions.
18 As such, the Company should update the emissions reduction data as updated numbers
19 become available. Because this is a carbon reduction program, it is critical to update the
20 carbon reduction (lbs/MWh) so that there is transparency in the actual carbon emissions
21 reductions achieved. Given NW Natural’s proposal for a fixed customer incentive

⁶ NW Natural’s Post-hearing Brief at 1; ORS 757.539(2).

⁷ NW Natural’s Post-hearing Brief at 5.

⁸ Hearing Transcript at 58.

1 payment, this fluctuation is likely at odds with potential CHP customers’ need for
2 certainty in incentive payment levels prior to adopting CHP.⁹ Accordingly, CUB would
3 support scaling the customer incentive so that the customer receives the equivalent of a
4 fixed dollar incentive level (\$/MWh) as the carbon content of the avoided power changes.
5 This scaled incentive would be paid (per production unit MWh) to customers over the
6 incentive period even though tonnes per carbon reduced will change with as the power
7 mix is updated. Updated carbon emissions ensures that there is transparency in the actual
8 carbon emissions reductions achieved.

9 *ii. The Company’s use of eGRID data in the calculation of emissions reductions is*
10 *problematic.*

11 The calculation of emissions reductions is a central issue to this case. ORS
12 757.539 requires that an eligible SB 844 project directly or indirectly reduce “any
13 anthropogenic gas, such as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
14 perfluorocarbons, and sulfur hexafluoride.” The calculation of emissions reductions from
15 CHP installations is important in two ways for purposes of CHP Program—first, the
16 emissions reduction methodology is used to determine the incentive payments for CHP
17 participants,¹⁰ and second, it is used to determine incentive payments to the Company.¹¹

⁹ For example, if updates find that the incremental power being avoided has less carbon, the CHP customer would see their payments go down if those payments are based on a strict \$/tonne of carbon reduced.

¹⁰ NWN/100/Summers/8; NW Natural Post-hearing Brief at 18-19 (“Essentially, the specific dollar per MTCO₂(e) is multiplied by the tonnes of carbon reductions to achieve the overall incentive payment. This means that actual incentive amounts paid to customers can be significantly different with the same dollar per MTCO₂(e) payment if a different carbon savings assumption is used.”); Staff’s Prehearing Brief at 12.

¹¹ NWN/100/Summers/17; NW Natural’s Post-hearing Brief at 21 (“NW Natural has tied the company’s incentive to actual carbon emissions reductions...”).

1 NW Natural advocates for the use of the eGRID as the appropriate methodology
2 to determine emissions reductions from CHP installations.¹² Although CUB initially
3 supported NW Natural’s use of eGRID, CUB’s support was premised on the larger
4 principle that eGRID utilizes non-baseload emissions, meaning that it considers marginal,
5 not average, resources and their associated emissions—a characteristic not specific to
6 eGRID.¹³ Over the course of this docket, CUB’s position evolved in support of the
7 Northwest Power and Conservation Council’s (“NWPC”) AURORA model for several
8 reasons.¹⁴ First, CUB argued that the Company’s initially proposed eGRID data (1,340
9 lbs/MWh) was inflated and outdated.¹⁵ Second, CUB raised concerns that the use of
10 eGRID would allow NW Natural to take credit for progress from the Clean Power Plan.¹⁶
11 Finally, the updated eGRID number on the record in this proceeding (1,579 lbs/MWh)¹⁷
12 is significantly higher than the Company’s initially proposed eGRID number, which
13 exacerbates concerns about inflated emissions reductions and the costs to customers for
14 this CHP Program.

15 NW Natural cites to criteria identified by Staff that should be used to evaluate
16 which model should be used—(1) purpose of the methodology, (2) geographic inclusion,
17 (3) transparency, (4) broad market support, and (5) frequency of updates.¹⁸ NW Natural
18 adds a sixth criterion—whether the model is currently available.¹⁹ The Company argues

¹² NW Natural’s Post-hearing Brief at 14-18.

¹³ CUB/100/McGovern-Jenks/12; CUB/200/McGovern/10-12.

¹⁴ CUB’s Prehearing Brief at 11-12.

¹⁵ CUB/200/McGovern/11.

¹⁶ CUB/200/McGovern/11-12.

¹⁷ NWN/500/Summers/2.

¹⁸ NW Natural’s Post-hearing Brief at 14-15, citing Staff/300/Klotz/9-21; NWN/500/Summers/3-8).

¹⁹ NW Natural’s Post-hearing Brief at 15.

1 that application of this criteria to the models proposed in this case weigh in favor of
2 eGRID, but that the NWPCC AURORA model is a strong second.²⁰

3 CUB continues to have strong concerns with the use of eGRID for calculating
4 both the customer incentive and the Company incentive for SB 844 projects as discussed
5 above, and supports the analysis and arguments made by Staff on this issue.

6 Fundamentally, CUB is concerned that the Company's preference for the eGRID
7 methodology over the NWPCC AURORA model is colored by its desire for a robust
8 Company incentive. The Company claims that eGRID is superior because it is more
9 transparent and will be frequently updated,²¹ but at the evidentiary hearing in this docket,
10 the Company testified that it was amenable to using the more *outdated* eGRID numbers,
11 rather than the more updated numbers from its later-filed testimony, in response to
12 questions raised during cross-examination about the level of Company incentive.²² The
13 Company appears to abandon the principle of updated information in favor of an eGRID
14 number that is at least larger than the NWPCC number identified by Staff.

15 ***iii. The Company's requested \$10/MTCO₂(e) incentive is overly generous and***
16 ***unsupported.***

17 NW Natural has proposed a Company incentive of \$10 per MTCO₂(e) of
18 emissions reduced. The Company argues that this is an appropriate incentive for its
19 proposed CHP Program and "as a baseline for future emissions reductions projects"
20 because this incentive level is "lower than what the Company is allowed under the
21 Commission's rules, aligns the Company's interests with achieving emissions reductions,

²⁰ NW Natural's Post-hearing Brief at 14.

²¹ NW Natural's Post-hearing Brief at 17-18.

²² Hearing Transcript at 58.

1 rewards the Company for seeking out the most cost effective greenhouse gas emissions
2 reductions program, and provides a fair baseline for future SB 844 projects.”²³ In
3 contrast, CUB, Staff and the Northwest Industrial Gas Users (“NWIGU”) propose a \$5
4 per MTCO₂(e) incentive and the electric utilities propose a \$0 incentive.

5 As NW Natural concedes, the Commission is not obligated to grant the Company
6 an incentive payment for SB 844 projects.²⁴ ORS 757.539(2) provides the foundation for
7 utility incentives pursuant to SB 844, stating that the Commission “shall establish a
8 voluntary emission reduction program for the purposes of incentivizing public utilities
9 that furnish natural gas to invest in projects that reduce emissions and providing benefits
10 to customers of public utilities that furnish natural gas.”²⁵ The Commission addressed
11 utility incentives pursuant to SB 844 in docket AR 580, approving a rule that the
12 Commission “may” grant incentive payments capped at 25 percent of the project cap.²⁶

13 NW Natural’s proposal is problematic for a number of reasons. First, the
14 Company failed to conduct analysis that would evaluate a range of Company incentives
15 given the criteria that the Company itself identified (i.e. lower than what the Company is
16 allowed under the Commission’s rules, aligns the Company’s interests with achieving
17 emissions reductions, rewards the Company for seeking out the most cost effective
18 greenhouse gas emissions reductions program, and provides a fair baseline for future SB
19 844 projects). The Company acknowledges that there is no information on the record
20 demonstrating that it either considered or analyzed anything other than the \$10 incentive

²³ NW Natural Post-hearing Brief at 21.

²⁴ NW Natural’s Post-hearing Brief at 21.

²⁵ ORS 757.539(2).

²⁶ See OAR 860-085-0750.

1 requested in its initial filing.²⁷ As NW Natural Witness Summers stated, “I’m sure there
2 is a walk-away price at which point it’s kind of -- our CEO would say it’s not worth
3 looking at this 844 program or other 844 programs. I don’t know what that level is – I
4 don’t know whether it’s \$9, \$7 or \$10 – but I’m sure there is one.”²⁸ Analysis supporting
5 the Company’s incentive level is critical to ensure that customers are not over-paying
6 NW Natural for a voluntary carbon emissions reduction program. As Ms. Summers
7 states, the number at which NW Natural would not pursue this program likely exists, but
8 customers are not privy to that information. Because NW Natural is not guaranteed an
9 incentive pursuant to SB 844, analysis supporting the Company’s request in this case is
10 critically important. Unfortunately, it is also lacking.

11 Second, the Company concedes that increased O&M costs are part of the basis for
12 its incentive request in this docket, but acknowledges that those costs will be recovered
13 absent a customer incentive.²⁹ Therefore, by the Company’s own admission, its request
14 for a \$10 per MTCO₂(e) is overstated.

15 Third, the Company’s proposed incentive level exacerbates an already expensive
16 program to the detriment of ratepayers. The Company’s proposed incentive in this case
17 is “near the limit of incentives proposed under the rules (i.e. that the incentive make up
18 around a quarter of the program costs).”³⁰ But as pointed out by CUB and Staff, this
19 CHP Program could result in a significant rate increase—more than the rate increase
20 from the Company’s last general rate case.³¹ The Commission’s original conceptions

²⁷ Hearing Transcript at 19 -20.

²⁸ Hearing Transcript at 21.

²⁹ Hearing Transcript at 53.

³⁰ NWN/300/Summers/37.

³¹ See CUB/100/McGovern-Jenks/17-21; Staff/300/Klotz/2.

1 about an appropriate level of utility incentives and overall rate impacts were premised on
2 the notion that “it [would be] unlikely that any one project [would] cause a significant
3 rate increase.”³² As NW Natural has demonstrated with its CHP Program—a project that
4 it argues has the “some of the lowest costs that may be available under SB 844”³³—the
5 rate impacts of a fully subscribed program are certainly significant.

6 Fourth, the Company’s incentive should be calculated based on the most up-to-
7 date emissions reductions displaced by CHP. The Company proposes a flat, \$10/
8 MTCO₂(e) to be calculated using 2010 eGRID numbers,³⁴ but provides no justification
9 for why its incentive level should not be adjusted to reflect the most up-to-date emissions
10 data.

11 Finally, the Company’s argument that \$10 is an appropriate incentive in this case
12 because it provides a baseline for future SB 844 projects is immaterial to the
13 Commission’s determination about the appropriate incentive level, if any, under the facts
14 of this particular case. The Company itself acknowledged that incentive levels were
15 appropriately considered on a case-by-case basis in AR 580.³⁵

16 *iv. The Company’s refusal to include program costs in the earnings test is overly*
17 *generous to the Company and unsupported by sound ratemaking policy.*

18 There are two earnings tests that could apply to the Company’s CHP Program—
19 an earnings test related to the deferral of identified utility expenses or revenues,³⁶ and the

³² Order 14-417 at 5.

³³ NWN/300/Summers/37.

³⁴ Hearing Transcript at 57.

³⁵ *In re Rulemaking to Implement SB 844 (2013)*, OPUC Docket AR 580, Order No. 14-417 at 5 (Dec. 3, 2014) (“We further agree with NW Natural that the Commission and stakeholders’ review of project applications will allow for sufficient rate consideration **on a project-by-project basis.**”) (emphasis added).

³⁶ CUB/100/McGovern-Jenks/20.

1 purchased gas adjustment (“PGA”) earnings test.³⁷ With regard to the deferral earnings
2 test, ORS 757.259(5) requires the Commission to apply an earnings test to deferred
3 amounts unless the deferred amounts are subject to an automatic adjustment clause.
4 Although the Commission retains broad discretion in the application of earnings tests,³⁸
5 the purpose of the earnings test is to determine if the utility’s rates were adequate to
6 absorb the particular cost subject to deferral in a way that protects both the utility and its
7 customers.³⁹ The PGA earnings test, in contrast, looks at whether the utility is
8 significantly over-earning, and if it is, a portion of that over-earning is then shared with
9 customers.⁴⁰ The question of how each of these earnings tests would apply to utility
10 incentives was discussed in the rulemaking process for SB 844 (docket AR 580). In that
11 case, the Commission reserved the right to make determinations about whether utility
12 incentives should be included in one or both earnings tests.⁴¹

13 There is a separate, second question of how the deferral earnings test would apply
14 to program costs (i.e. costs other than utility incentives), which was not addressed by the
15 Commission in docket AR 580.

³⁷ CUB/100/McGovern-Jenks/20.

³⁸ See *In re Northwest Natural Gas Co.*, OPUC Dockets UM 1635 & UM 1706, Order No. 15-049 at 12 (Feb. 20, 2015) (“In authorizing the use of deferred accounting, the legislature imposed no particular structure for an earnings test, giving us broad discretion in the design of an earnings test.”).

³⁹ CUB/100/McGovern-Jenks/20; see also *In re Idaho Power Company*, OPUC Docket No. UE 233, Order No. 13-416 at 5 (Nov. 12, 2013).

⁴⁰ CUB/100/McGovern-Jenks/20.

⁴¹ Order 14-417 at 6.

1 From the outset, CUB notes that the Company’s discussion of the earnings tests is
2 largely in relation to SB 844, generally, rather than the CHP Program. The Company’s
3 generic arguments about the application of earnings tests are misplaced in this docket.⁴²

4 For the CHP Program specifically, CUB believes that both the deferral earnings
5 test and the PGA earnings test should apply to non-utility incentive costs.⁴³ CUB argued
6 for slightly different treatment for the Company’s incentive—namely, that the PGA
7 earnings test should include all program costs plus the NW Natural incentive, but that the
8 deferral earnings test should be adjusted to cap the earnings test at NW Natural’s return
9 on equity (“ROE”) plus the Company incentive level.⁴⁴

10 In its Post-hearing Brief, the Company, for the first time in this proceeding, draws
11 a line in the sand stating that it “will not proceed with the CHP Program if the
12 Commission adopts CUB’s earnings test.”⁴⁵

13 Regarding application of the earnings test to the Company incentive, NW Natural
14 argues that its own incentives should be excluded as revenues in the earnings test
15 “because they can potentially eliminate the incentive payment, which is the only
16 monetary benefit NW Natural can obtain under the CHP Program.”⁴⁶ Although CUB
17 believes that its earnings test does not unduly burden the Company, CUB would be open
18 to excluding the Company incentive altogether from the earnings test so that regardless of
19 earnings, the Company would receive its full incentive.

⁴² NW Natural’s Post-hearing Brief at 28, citing to Order 14-417 at 6 (“The Commission concluded that it would make a case-by-case determination about whether a project’s incentive payments should be included in a utility’s earnings test.”).

⁴³ CUB/100/McGovern-Jenks/21.

⁴⁴ CUB/100/McGovern-Jenks/22.

⁴⁵ NW Natural Post-hearing Brief at 3.

⁴⁶ NW Natural’s Post-hearing Brief at 28.

1 The Company goes on to argue that application of the earnings test to non-
2 incentive program costs would mean the Company is unable to recover “prudently
3 incurred SB 844 program costs.”⁴⁷ However, the application of an earnings test for
4 program costs is wholly appropriate and logical. The Company proposes to defer the
5 expenses from the program and to pass them coincident with the PGA on an annual
6 basis.⁴⁸ Notably, the costs at issue that would be deferred are O&M costs,⁴⁹ which the
7 Company typically absorbs between rate cases. The purpose of the earnings test is “to
8 protect both the customers and the utility from an unfair result, regardless of how the
9 amounts became subject to amortization.”⁵⁰ The utility is presumed to be made whole
10 with regard to amounts deferred if its earnings during the deferral period are within a
11 zone of reasonableness.⁵¹ Accordingly, under standard ratemaking treatment, the
12 Company would be considered to have recovered its prudently incurred costs for SB 844
13 if its earnings are within a reasonable zone of its authorized ROE. The Company has
14 provided no compelling policy reason why the Commission should depart from standard
15 ratemaking treatment for the deferral of program costs in this case.

16 Finally, the Company argues that “[s]ubjecting incentives and non-incentives to
17 an earnings test...will also provide a disincentive to the utility to reduce costs (which will
18 ultimately lower customer rates) or to aggressively pursue carbon reductions (which will
19 undermine SB 844).”⁵² NW Natural's argument concerning a disincentive to pursue cost
20 savings would apply to any deferral with an appropriate earnings test. As evidenced by

⁴⁷ NW Natural's Post-hearing Brief at 29.

⁴⁸ NWN/Speer/200/4.

⁴⁹ NWN/200/Speer/3.

⁵⁰ *In re Idaho Power Company*, OPUC Docket UE 233, Order No. 13-416 at 5 (Nov. 12, 2013).

⁵¹ See Order 13-416.

⁵² NW Natural's Post-hearing Brief at 29.

1 the implementation of ORS 757.259 (the deferral statute), Oregon has made the policy
2 decision to allow for the extraordinary remedy of deferred ratemaking in certain
3 circumstances and subject to certain protections, such as the earnings test, which has not
4 typically been characterized as a disincentive for a utility to appropriately manage its
5 costs. Furthermore, the Company obviously contemplated that these costs would be
6 reviewed prior to inclusion in rates, and therefore understood the parties to retain the
7 ability to review program costs.⁵³ CUB believes this provides an incentive for NW
8 Natural to incur only reasonable program costs, or risk that some costs be disallowed.

9 ***v. NW Natural's proposed CHP Program cap still leaves the CHP Program***
10 ***vulnerable to subscription by a large, single project.***

11 CUB's testimony raised concerns about the size of the CHP Program and its
12 impact on customer rates.⁵⁴ NW Natural proposes to cap the CHP Program at 240,000
13 MTCO₂(e) as a way to limit the size of the program.⁵⁵ While CUB appreciates the
14 Company's responsiveness to party concerns about the overall size and cost of the CHP
15 Program, NW Natural's proposed cap does not address concerns about the vulnerability
16 of the CHP Program to a single, large CHP project.

17 As made clear at the evidentiary hearing in this case, one 45 MW project could
18 achieve 132,000 tonnes of carbon reduction per year which is more than half the room
19 under the 240,000 MTCO₂(e) cap.⁵⁶ In addition, such a customer would be close to the
20 \$4.5 million annual cap (132,000*\$30= \$3,960,000).⁵⁷

⁵³ NWN/200/Speer/5.

⁵⁴ CUB/100/McGovern-Jenks/19.

⁵⁵ NW Natural's Post-hearing Brief at 2.

⁵⁶ Hearing Transcript at 33.

⁵⁷ Hearing Transcript at 35.

1 This is particularly concerning to CUB given that, “one of the problems with
2 CHP is, not only is it difficult to get them to happen, but it’s difficult to keep them in
3 service.”⁵⁸ If this CHP Program is approved, CUB does not want to see the first SB 844
4 project fail if it rests in the hands of a single, large CHP customer. The better tactic is to
5 ensure that a diversity of projects are able to come online, so that if any one of them does
6 go offline, there are other successful projects.

7 **B. NW Natural’s bottom-line driven approach to its CHP project proposal has**
8 **been problematic.**

9 The Company’s focus on its own bottom line, rather than a comprehensive view
10 of the objectives and requirements of SB 844 as they apply to this CHP project, has made
11 reaching agreement on an appropriate program design difficult. First, NW Natural has
12 not provided a complete, comprehensive base case with a standard set of assumptions
13 upon which stakeholders can evaluate its proposal. Second, the Company failed to
14 appreciate that customer benefits are a statutory requirement of SB 844 projects that
15 require consideration and analysis.

16 *i. NW Natural failed to provide a comprehensive base case that can be evaluated.*

17 There is not a single place in the record of this proceeding, with consistent
18 assumptions, that the parties or Commission can turn to in order to evaluate the
19 Company’s proposal from a holistic stand-point.⁵⁹ Rather than providing a forecast of the
20 actual program that NW Natural was proposing, NW Natural provided hypotheticals to
21 explain its program design, but each hypothetical came with its own set of assumptions

⁵⁸ Hearing Transcript at 37.

⁵⁹ CUB/200/McGovern/8.

1 that were not always consistent with the program design. For example in NW Natural’s
2 Reply Testimony, the Company proposed a 50/50 sharing of the incremental margin
3 before the next rate case because “NW Natural will be required to make capital
4 investments,”⁶⁰ but the hypothetical example it included in the testimony showed
5 \$680,463 as “the benefit to customers.”⁶¹ Importantly, this figure assumes that there is
6 no 50/50 sharing and that there are no capital investments.⁶² This made evaluation of the
7 Company’s proposed CHP Program particularly difficult.

8 ***ii. NW Natural failed to appropriately focus on customer benefits.***

9 CUB finds it egregious that the Company’s initial proposal in this case did not
10 include a proposal to pass through increased throughput margin, the sole customer benefit
11 identified by the Company, to customers *at all* between general rate cases, especially in
12 light of the Company’s proposal to have program costs flow through the PGA.⁶³ Most
13 concerning, however, is the Company’s deep concern for its own incentive in light of its
14 analysis and treatment of customer benefits. As an example, at the evidentiary hearing in
15 this case, NW Natural Witness Summers stated that “I will tell you that the margin has
16 never been a driver on this program for us. It has not been something that the company
17 has looked at as a benefit of this program.”⁶⁴ While the Company may not have thought
18 about increased margin as a benefit *to the Company*, increased margin was the only
19 *customer* benefit identified and quantified by the Company, and without a rational basis
20 for doing so, the Company proposed to keep half. This juxtaposition has been

⁶⁰ NWN/300/Summers/17.

⁶¹ NWN/400/Speer/6

⁶² NWN/404/Speer.

⁶³ CUB/100/McGovern-Jenks/6-8.

⁶⁴ Hearing Transcript at 81.

1 particularly frustrating to CUB. Customer benefits are a *statutory requirement*; utility
2 incentives for SB 844 projects are *discretionary*.

3 Only after CUB’s testimony that customers were not receiving *any* benefit prior to
4 a general rate case did the Company propose to defer and share the increased margin
5 50/50 between customers and shareholders. Even that proposal, however, had no rational
6 basis.⁶⁵

7 While CUB appreciates the Company’s most recent concession to pass through
8 100% of increased margins, CUB’s concern about the Company’s failure to appreciate
9 the statutory requirement that customers receive a benefit from SB 844 programs
10 continues.

11 Finally, CUB notes that the Company’s criticism of CUB’s argument that line
12 extensions can absorb margins are misplaced when viewed in light of the Company’s
13 most recent testimony setting forth the plausible range of CHP installations requiring line
14 extensions and the Company’s recent proposal to pass through between-rate-case
15 customer benefits.⁶⁶ This information was not available at the time that CUB’s testimony
16 and prehearing brief were filed.

⁶⁵ Hearing Transcript at 81 (“We started off as just really looking at it as normal regulation; and then, during the course of it, proposed 50/50, not because there was any science behind it, but because it seems fair. It was you take half, I’ll take half.”).

⁶⁶ NW Natural’s Post-hearing Brief at 26-27.

1 **C. Electric Utilities’ Concerns.**

2 *i. A CHP Program approved pursuant to SB 844 would not constitute inappropriate*
3 *fuel-switching.*

4 PGE argues that “using ratepayer dollars to incentivize customers to switch from
5 PGE load to NWN load is a significant change in policy.”⁶⁷ But CHP programs have
6 always involved a shift of load from electric utilities to natural gas utilities, and the ETO
7 has provided incentives for CHP as a cost-effective electric energy efficiency measure
8 just the same. NW Natural’s CHP Program does not constitute inappropriate fuel
9 switching any more than CHP would, generally.

10 *ii. The appropriate source of ETO incentives applied for CHP is beyond the scope of*
11 *this proceeding.*

12 PGE argues that “[if] the Commission were to decide that the proposed program
13 should be eligible for ETO incentives, those incentives should rightly be sourced from
14 funds collected from NWN customer for natural gas efficiency, not electric efficiency
15 funds, as is current ETO practice.”⁶⁸ PGE argues that sound policy dictates that funding
16 CHP incentives, which are based on natural gas savings, should not come from electric
17 efficiency funds as a matter of Commission policy.

18 As discussed above, the ETO has historically provided incentives for CHP as a
19 cost-effective electric energy efficiency measure. It is difficult to conceive how the
20 Commission, in the context of this proceeding, could engage in a holistic review of the
21 policy implications of fuel-switching as it relates to CHP, including the funding source of
22 ETO incentives for CHP.

⁶⁷ PGE’s Prehearing Memorandum at 4.

⁶⁸ PGE’s Prehearing Memorandum at 8.

1 *iii. NW Natural does not have an incentive to invest in the CHP Program in its*
2 *ordinary course of business.*

3 ORS 757.539(3)(d) establishes the eligibility requirement for SB 844 projects that
4 “the public utility, without the emission reduction program, would not invest in the
5 project in the ordinary course of business.”

6 Both PGE and PacifiCorp argue that promotion of CHP is within NW Natural’s
7 ordinary course of business and that the Company already has an incentive to invest in
8 CHP due to increased load and customer gas usage.⁶⁹ Both utilities argue that NW
9 Natural’s former Schedules 31-CHP and 32-CHP evidence that the Company was
10 pursuing CHP in its ordinary course of business without the incentive of an SB 844
11 program, and therefore cannot meet the statutory requirement.⁷⁰

12 PGE’s and PacifiCorp’s reading of the statute is too narrow, and would unduly
13 restrict the type of projects available to NW Natural. With regard to an already existing
14 incentive, increased margin would generally be a benefit to NW Natural, at least between
15 rate cases, though in this case, the Company has proposed to defer and pass this on to
16 customers. This means that the Company is *not* receiving the benefit of increased load
17 and associated margins associated with CHP installation. There is also no investment in
18 rate base contemplated with the CHP Project. As such, the Company’s only incentive to
19 invest in the CHP Program would be the Company incentive. One could argue that
20 increased load could lead to investment in rate base as NW Natural’s system grows, but
21 this is an attenuated benefit that would be difficult to quantify. Taking PGE’s and
22 PacifiCorp’s arguments to their logical conclusion, however, would restrict projects

⁶⁹ PGE Prehearing Brief at 3-4; PacifiCorp Prehearing Brief at 3-4.

⁷⁰ PGE Prehearing Brief at 3-4; PacifiCorp Prehearing Brief at 3-4.

1 where the natural gas utility could receive even a modicum of benefit from a project.
2 This was not the intent of SB 844.

3 Furthermore, the simple fact that NW Natural previously had Schedules 31-CHP
4 and 32-CHP does not mean that the Company would have invested in *this* CHP Project in
5 its ordinary course of business. It is compelling that these tariffs were not utilized by
6 customers.⁷¹ This clearly indicates that additional incentives would be necessary for
7 CHP participation in NW Natural's service territory.

8 **III. Conclusion**

9 For the foregoing reasons, CUB urges the Commission to reject NW Natural's
10 CHP Program without prejudice, and to demand a more transparent, robust and balanced
11 analysis in this and future SB 844 project applications. CUB also continues to urge the
12 Commission to caution the Company to balance the interests of its customers with the
13 interests of its shareholders when designing SB 844 projects. Finally, CUB recommends
14 that the Commission find that CHP is an electric energy efficiency program and that its
15 application as an SB 844 project does not constitute inappropriate fuel-switching.

Respectfully submitted,



Sommer Templet Moser, OSB #105260
Staff Attorney
Citizens' Utility Board of Oregon
610 SW Broadway, Ste. 400
Portland, OR 97205
(503) 227-1984 phone
(503) 224-2596 fax
sommer@oregoncub.org

⁷¹ PacifiCorp's Prehearing Brief at 4, note 2.