

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 388

In the Matter of

NORTHWEST NATURAL GAS
COMPANY, dba NW NATURAL,

Request for a General Rate Revision.

RULING

DISPOSITION: PETITION TO INTERVENE GRANTED WITH CONDITIONS

I. Procedural Background

On May 13, 2020, the Community Action Partnership of Oregon (CAPO) filed a petition to intervene in docket UG 388. On May 22, 2020, Northwest Natural Gas Company filed an objection to CAPO's petition to intervene. On May 27, 2020, CAPO filed a response to the objection.

II. Parties' Positions

CAPO delivers federal, state, utility, and local energy assistance programs to low-income Oregonians. The Oregon Low-Income Gas Assistance (OLGA) is an energy assistance program funded by NW Natural and delivered by Community Action agencies. CAPO represents that a rate increase for NW Natural will directly affect Community Action agencies by increasing budgets, but also payments (and potentially reducing the number of clients that can be served). CAPO also asserts an interest in taking over the administration from NW Natural of the low-income programs. Other commissions across the country have removed low-income programs from utility administration recognizing the inherent conflict of interest, CAPO observes. CAPO seeks to address the following issues: 1) administration of the low-income assistance and weatherization programs; 2) parity of funding for natural gas low-income programs with electric programs; 3) updated low-income requirements; and 4) general rate increase at the beginning of a recession.

Although the Commission may consider whether a late petitioning party has good cause to support a late intervention, NW Natural notes that CAPO did not explain the lateness of the petition to intervene. In response comments, CAPO indicates that the emergence of a pandemic has significantly changed economic conditions since NW Natural originally filed a request for a general rate increase.

As the petition to intervene came late during a tight procedural schedule, NW Natural expresses concern that CAPO's participation will unreasonably broaden the scope of

issues and delay the schedule, and asks that the petition to intervene be denied. In the alternative, if CAPO is permitted to intervene, NW Natural asks that the scope of participation be limited to CAPO's last identified issue (No. 4) as it has already been raised by other parties. NW Natural notes that the company's reply testimony is due on May 29, 2020, and that the hearing is scheduled for July 9, 2020. NW Natural further explains that the procedural schedule was negotiated to facilitate a complete investigation within the statutory requirement of ORS 757.215(1), and simply does not accommodate the introduction of new issues requiring discovery and testimony at this time.

CAPO responds that rate cases across the country are being delayed based on grounds related to COVID-19. CAPO argues that minor delays to the procedural schedule are justified to address low-income issues that have become more important due to circumstances arising after the original filing. CAPO's goal is to reduce low-income customers' disconnections and intervention in the rate case at this time is appropriate due to the pandemic's financial fallout.

CAPO notes that Oregon Housing and Community Services changed the agency's administrative rules to temporarily provide relief to Community Action agencies, but that these changes affect the Oregon Energy Assistance Program (OEAP) which provides assistance to electric energy customers, and not to the Low-Income Heating Assistance Program (LIHEAP) which NW Natural's gas assistance program follows. CAPO also expresses concern that certain federal provisions such as needing a social security card to obtain assistance still apply to the gas program, although lifted for electric programs.

NW Natural indicates that a separate proceeding (Docket No. UM 2058) has been opened to address customer eligibility for natural gas energy assistance programs. Moreover, NW Natural notes that temporary changes to eligibility requirements have been implemented to address the COVID-19 pandemic, with additional forums planned to address COVID-19. Other forums should be used to address CAPO's other issues, NW Natural asserts.

The scope of UM 2058 is limited to eligibility standards for low-income gas assistance programs, CAPO counters. It will not address broader issues such as the administration of low-income programs, including weatherization. Rate cases have historically been the venue to address the administration of utility programs, CAPO notes. The administration of energy efficiency programs were moved from NW Natural as the result of a rate case, and a similar result is what CAPO seeks here.

III. RESOLUTION

Under OAR 860-001-0300(6), CAPO's petition to intervene must be granted if: 1) CAPO has sufficient interest in the proceedings; and 2) if CAPO's participation will not unreasonably broaden the issues, burden the record, or delay the proceedings. Appropriate conditions may be imposed on an intervenor's participation to ensure that issues are not unreasonably broadened, the record is not burdened, and the proceedings are not delayed.

As an entity responsible for delivering federal, state, utility, and local energy (including natural gas) assistance programs to low-income Oregonians, CAPO establishes a sufficient interest in proceedings that address NW Natural's request to raise rate and will affect CAPO's budget and client services. CAPO demonstrates that the COVID-19 pandemic created new economic conditions since NW Natural originally filed the company's request for a general rate revision, that provide good cause for CAPO's intervention at this time.

The effect of CAPO's participation on the proceedings' issues, record, and schedule in the proceedings must be measured with regard to the issues that CAPO seeks to raise and the status of the procedural schedule. CAPO's petition to intervene was not ready for consideration until May 28, 2020, one day before NW Natural files reply testimony. The first opportunity for CAPO's issues to be addressed in comments will be in rebuttal testimony, which is limited in scope to existing issues. The procedural schedule in these proceedings is carefully crafted to allow sufficient development of the record on the issues, including five rounds of testimony, a hearing, and post-hearing briefing, and an appropriate amount of time for the Commission to consider the resolution of the issues within the statutorily prescribed amount of time. Given these prescriptions, there is inadequate time to address new issues requiring multiple rounds of testimony.

With regard to existing issues in these proceedings, I find that CAPO has sufficient interest in these proceedings and that its appearance and participation will not unreasonably broaden the issues, burden the record, or delay the proceedings. The petition to intervene is granted with the condition that CAPO may not raise any new issue.

Of the four issues that CAPO specifically seeks to discuss, only the general level of NW Natural's requested rate increase is clearly an existing issue. The administration of the low-income assistance and weatherization programs are not issues raised in these proceedings. Issues regarding low-income program requirements are raised in other proceedings and should be addressed there. CAPO may address the funding for natural gas programs to the extent raised in these proceedings; however, the parity of funding for natural gas low-income programs with electric programs is not an issue in these proceedings.

Dated this 29th day of May, at Salem, Oregon.



Traci Kirkpatrick
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

Hearing: The time and place of any hearing held in these proceedings will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 through 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the Commission's website at www.puc.state.or.us. The Commission will hear issues as identified by the parties.

Right to Attorney: As a party to these proceedings, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission Staff, if participating as a party in the case, will be represented by the Department of Justice. Generally, once a hearing has begun, you will not be allowed to postpone the hearing to obtain counsel.

Notice to Active Duty Servicemembers: Active Duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Administrative Law Judge: The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope of an ALJ's authority is defined in OAR 860-001-0090. The ALJs make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

Hearing Rights: You have the right to respond to all issues identified and present evidence and witnesses on those issues. *See* OAR 860-001-0450 through OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 through 860-001-0540.

Evidence: Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450. Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Generally, once a hearing is completed, the ALJ will not allow the introduction of additional evidence without good cause.

Notice of Contested Case Rights and Procedures continued

Record: The hearing will be recorded, either by a court reporter or by audio digital recording, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request, if available, a copy of the audio recording from the Commission for a fee set forth in OAR 860-001-0060. The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

Final Order and Appeal: After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days from the date of service of the order. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days from the date of service of the order. *See* ORS 756.610.