



July 26, 2023

Public Utility Commission of Oregon
cc: Charles Lockwood, PUC Staff
201 High St. SE #100 Salem, OR 97301

Re: Advice No. 23-04/Docket No. ADV 1502, NW Natural's Request to Revise its Schedule 400 Smart Energy Program

Dear Chair Decker and Commissioners,

Climate Solutions and the Green Energy Institute of Lewis & Clark Law School submit these comments on NW Natural's Advice No. 23-04/Docket No. ADV 1502, in which the Company seeks to update its Schedule 400 Smart Energy Program.

Given this background, NW Natural's request raises a number of questions and concerns about how the Company plans to meet its Climate Protection Program (CPP) requirements, how it will market that compliance, and which customers should be paying for which compliance methods. While we generally support Staff's recommendations, we encourage the Public Utility Commission ("Commission") to either reject NW Natural's request or delay a decision on it, until the conclusion of DEQ's 2023 Climate Rulemaking. There are too many potentially serious policy implications to make a decision at this time about whether out-of-state RNG purchases should qualify as a mitigation resource in NW Natural's Smart Energy Program.

However the Commission rules, it is imperative that there be transparency and accountability to ensure that any changes made to the Company's Smart Energy Program are actually in the best interest of NW Natural's customers.

On its face, the Smart Energy Program is a tariff program where the Company asks its customers to voluntarily pay an amount of money additional to their baseline energy bill *specifically* to support projects that will mitigate greenhouse gas pollution. But as with many utility programs, the devil is in the details as to whether 1) the stated goal is actually met, and 2) whether the program is in the best interest of utility customers.

I. Transparency is critical for issues of CPP compliance and RNG marketing.

Misleading statements about the value and purpose of RNG and RTC purchases are a very real risk. We think it is critical that customers and other stakeholders have a clear understanding of what this tariff does and does not do. This is a voluntary program, and it is likely that customers think that by opting into a Smart Energy tariff, they are spending money that is going to be *additive*, supporting greenhouse gas emissions reductions that would not otherwise occur. But

in fact, if NW Natural is asking customers to pay for RNG or RTC purchases it is already making or planning to make to meet its CPP compliance requirements – without communicating this dynamic clearly to customers – that is misleading and effectively charging some customers more to help the Company achieve a result it is already obliged to accomplish under the CPP. This could have serious unintended consequences. Instead, at a bare minimum, the Company should have to let customers know whether or not the tariff is going to RNG purchases they'd be making regardless of whether those customers buy into the tariff program.

We are pleased to hear that Staff is also concerned about proper communications to customers about the role that RNG and RTCs will play in NW Natural's CPP compliance. We are grateful that Staff will be reviewing NW Natural's communications about GHG emissions, but we respectfully suggest that stakeholder guidance in vetting those communications is critical. The item (RTC) NW Natural is purchasing is, in fact, a complicated concept that could be easily misunderstood. Layered on top of the RTC concept is the complicated regulatory context requiring NW Natural to undertake the very action it is proposing customers donate additional dollars to help them achieve. How NW Natural approaches this task should be informed by stakeholders whose priority is to provide clear, accurate communications to ratepayers – not to profit. NW Natural appears to agree that oversight is appropriate and recognizes that stakeholders may play a role. We ask that if meetings are scheduled, a robust and diverse group of non-utility and non-industry stakeholders be invited to participate.

NW Natural's failure to communicate these difficult concepts to its supporters is evident in this very docket. Whether intentional or not, supporters repeatedly misconceive this program. For example, the Albany Area Chamber of Commerce is under the misapprehension that this program will allow NW Natural to “allow Smart Energy Program customers to have renewable natural gas used in their home and business consumption.”¹ This seems to be a theme as that fact is repeated by many supporters.² The Mid-Columbia Economic Development District is counting on this program to “help put the waste of our agriculture-based economy and our larger cities to work while cleaning up the airshed.”³ So does the Washington County Chamber of

¹ ADV 1502, Albany Area Chamber of Commerce comments, <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac133257.pdf>.

² ADV 1502: <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac102126.pdf> (Productions, Inc.); <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac94222.pdf> (Eugene Area Chamber of Commerce); <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac162511.pdf> (Springfield Chamber of Commerce); <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac133321.pdf> (Linn Economic Development Group); <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac163535.pdf> (Columbia Memorial Hospital Foundation);

³ ADV 1502, Mid-Columbia Economic Development District, <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac124913.pdf>.

Commerce.⁴ NW Natural made similar statements to legislators in support of SB 98,⁵ and nearly five years later has yet to produce RNG in-state.⁶

Similarly, the City of Wilsonville reports that its transit agency (SMART) uses RNG, and wants this program so it can ‘reduce[] reliance on traditional methods of natural gas production.’⁷ Focus Heating and Cooling thinks this program will provide RNG to fuel customer dual-fuel heat pumps and back up furnaces.⁸ Somehow, the Homebuilders Association thinks NW Natural is asking the Commission to accept NW Natural’s request as it makes “it more effective and adaptable in addressing utility companies’ energy efficiency goals.”⁹

Many of these customers also express an interest in meeting their own climate goals, so it is incumbent on NW Natural to clearly explain how the retirement of RTCs on behalf of Smart Energy customers will or will not help those companies achieve their goals.¹⁰

II. The issue of whether RNG should qualify for the Smart Energy Program has serious public policy implications and should not be decided passively in this docket.

Transparency issues aside, we have serious concerns about NW Natural’s request to add RNG as a “Smart Energy” mitigation resource at all. We understand that RNG as a fuel is treated as “zero emissions” under DEQ’s emissions reporting guidelines. But there are very real emissions differences between fuels, including between RNG purchased from different sources and locations. The policy discussion about whether or not these purchases or RTCs lead to actual emissions reductions and benefits in Oregon – as we understand is required by the Climate Protection Program – is still unfolding at DEQ.

GEI and Climate Solutions are currently engaging with DEQ’s 2023 Climate Rulemaking, asking DEQ to ensure that its biomethane accounting rules do not inadvertently lead to RTCs from far out-of-state to count toward CPP compliance. GEI was also a part of the original Rulemaking Advisory Committee to design the Climate Protection Program. Through these processes, we have seen DEQ staff and other stakeholders struggle with how to design tracking and reporting

⁴ ADV 1502, Washington Chamber of Commerce, <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac162630.pdf>.

⁵ SB 98, NW Natural Flyer in Support of SB 98, <https://olis.oregonlegislature.gov/liz/2019R1/Downloads/CommitteeMeetingDocument/157640> (contains repeated statements about the amount of RNG available in Oregon, the amount that could be added to our gas system for heating homes and businesses, and the local economic opportunities).

⁶ LC 79, Staff Final Comments at 9 (March 30, 2023), <https://edocs.puc.state.or.us/efdocs/HAC/lc79hac142022.pdf>.

⁷ ADV 1502, City of Wilsonville (SMART agency), <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac154933.pdf>.

⁸ ADV 1502, Focus Heating and Cooling, <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac132050.pdf>.

⁹ <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac131140.pdf>.

¹⁰ ADV 1502, ConMet, <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac115052.pdf> (“embarking on Decarbonization Roadmap . . . Renewable natural gas is critical to helping us reach our climate target of a 50% reduction in our GHG emissions by 2030.”); Oregon Health and Sciences Univ., <https://edocs.puc.state.or.us/efdocs/HAC/adv1502hac135548.pdf>.

requirements for RNG purchases and RTCs under the CPP. This is especially challenging given gas and industry group involvement in the rulemakings, as these gas companies and other regulated entities are simultaneously trying to undermine the CPP through legal action. Ultimately, we worry there could be unintended consequences if the OPUC decides to move forward with allowing RNG and RTCs purchased for CPP compliance to be included in this voluntary Smart Energy Program, especially before any potential geographical restrictions are further hammered out at DEQ. We hope the Commission will understand these dynamics and decide to hold off on deciding whether RNG and RTCs should be included in NW Natural's Smart Energy Program for the time being.

Relatedly, we think that if the Commission does postpone making a decision in this case and decides to take it up at a later date – specifically to address whether the Smart Energy Program and other voluntary programs can be used for CPP compliance purposes – this will happen as part of a broader investigation, not in a vacuum related to one distinct utility program. We are very glad to hear that Staff is interested in this issue and “wants to ensure that cost-of-service customers are not made worse off through the Company's allocation of RNG projects between different uses.”¹¹ In order to do that effectively, we think that this should be considered as part of a more thorough investigation.

Finally, this information should be made more widely known because stakeholders who care about CPP outcomes are unaware of this docket. In fact, as participants who are actively engaged in a range of NW Natural-related and CPP compliance-related dockets, we heard about it through word of mouth. Notably, although a workshop was scheduled for June 8, with notice sent to the “Gas Industry List,” the location of the meeting was on Microsoft Teams (so not noted on the Commission's public hearing webpage) and no recording is available on the Commission's website.¹² We are not sure who comprises this list, but think that it could be helpful to consider reaching out to other organizations who have regularly been engaging at the Commission on related issues to let them know this investigation is occurring. We also recommend considering making the “Gas Industry List” something that other interested stakeholders can join periodically.

Again, we appreciate the opportunity to weigh in on this docket and look forward to continuing to work with the Commission and Staff on issues related to gas system decarbonization, affordability, and transparency.

Sincerely,

Greer Ryan
Climate Solutions

Carra Sahler
Green Energy Institute at Lewis & Clark Law
School

¹¹ ADV 1502, OPUC Staff, [adv1502hac133548.pdf \(state.or.us\)](https://edocs.puc.state.or.us/efdocs/HAH/adv1502hac133548.pdf), at 2.

¹² ADV 1502, Docket Schedule and Workshop Announcement (May 23, 2023), docket entry associated with <https://edocs.puc.state.or.us/efdocs/HAH/adv1502hah123415.pdf>.