

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2309

In the Matter of ALLIANCE OF WESTERN ENERGY CONSUMERS)	
)	APPLICATION FOR DEFERRED
)	ACCOUNTING OF THE ALLIANCE
Application for an Accounting Order Requiring Northwest Natural Gas Company to Defer Expenses and Costs associated with the Climate Protection Plan Costs for Transportation and Special Contract Customers)	OF WESTERN ENERGY CONSUMERS
)	
)	

I. INTRODUCTION

Pursuant to ORS § 757.259 and OAR § 860-027-0300, the Alliance of Western Energy Consumers (“AWEC”) applies to the Public Utility Commission of Oregon (“Commission”) for an order requiring Northwest Natural Gas Company (“NW Natural”) to defer NW Natural’s expenses and costs associated with the Climate Protection Plan (“CPP”) that are being allocated to transportation and special contract customers. A deferral is required so that transportation and special contract customers can receive a refund for the overcollection of CPP cost and expenses in rates, to minimize the frequency of rate changes, and to match appropriately the costs borne by and benefits received by ratepayers.¹ In support of this Application, AWEC states:

1. AWEC is an incorporated, non-profit association of large energy consumers in the Western United States, with offices in Portland, Oregon. Many members of AWEC are customers of NW Natural, including transportation and special contract customers.

¹ ORS 757.259

2. Communications regarding this Application should be addressed to:

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II. OAR 860-027-0300(3) REQUIREMENTS

The following is provided pursuant to OAR 860-027-0300(3):

A. Description of Expense and Revenue

On December 16, 2021, the Oregon Environmental Quality Commission (“EQC”) adopted rules to implement Oregon’s CPP, intended to reduce greenhouse gas emissions. The CPP set a declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout the state of Oregon, including diesel, gasoline, natural gas and propane, used in transportation, residential, commercial and industrial settings (the program was not inclusive of fossil fuel used in electric generation).²

As a local distribution company (“LDC”), NW Natural was a “covered fuel supplier” under the CPP and was the point of regulation for the emissions associated with natural gas used by its sales and transportation customers. Transportation and special contract customers purchase the commodity they use directly from marketers and suppliers and have historically only paid for

² OAR 340-271-0110.

delivery services on NW Natural's distribution system. Under the CPP, however, NW Natural was the point of regulation for all users of its distribution system, including both sales and transportation customers, which resulted in transportation and special contract customers paying for CPP compliance costs in the delivery charges paid to NW Natural.

For LDCs, the CPP capped natural gas greenhouse gas emissions on a declining scale, with the primary compliance pathways being energy efficiency, renewable natural gas ("RNG"), renewable hydrogen and Community Climate Investments. Starting in 2023, the CPP caps declined by 4% every year to a total reduction in throughput of 50% by 2035, and 90% by 2050.

NW Natural has been investing in RNG projects and making other system investments for both CPP compliance and under SB 98, the latter of which allows natural gas LDCs to purchase RNG to meet the requirements of sales customers up to specified levels defined in statute.³ The costs for RNG projects and investments have been, and are continuing to be, allocated to all customers including transportation and special contract customers on an equal cents per therm basis under the CPP.

NW Natural's RNG investments are being recovered in rates of transportation and special contract customers through several rate schedules including Schedule 171, Transportation Customer Renewable Natural Gas Offtake Costs, and Schedule 198, Renewable Natural Gas Adjustment Mechanism, which includes the costs of both the Lexington RNG and Dakota RNG projects.

The CPP was challenged by several business groups, and on December 20, 2023, the Oregon Court of Appeals ruled that the CPP rules adopted by the EQC are invalid.⁴

Now that the CPP has been invalidated, CPP related charges associated with RNG are no

³ ORS 757.396

⁴ *In re Northwest Natural Gas Company vs Environmental Quality Commission*, 329 Or App 648 (2023).

longer validly allocated to customers, including transportation and special contract customers. Accordingly, NW Natural's recovery of such RNG cost must be considered only under SB 98, which applies only to sales customers and not to transportation or special contract customers.

SB 98 allows large natural gas utilities may make qualified investments and recover costs to procure renewable natural gas for retail customers. Under the groundbreaking 2019 law, natural gas utilities were allowed to break from the traditional least cost least risk paradigm and allowed those utilities to acquire RNG "for distribution to retail natural gas customers in Oregon"⁵

The Commission previously determined in UG 435 that that SB 98 costs should be allocated only to sales customers. The Commission held:

We find that SB 98 is the proper framework under which to allocate costs incurred before 2022 for the Lexington project. Further, we agree with AWEC's interpretation of how to allocate costs that are exclusively incurred under SB 98; because the law states that procurement under SB 98 is "for distribution to *retail* natural gas customers" (emphasis added), we are not persuaded that costs should be allocated to customers that do not procure natural gas from NW Natural. Therefore, we accept AWEC's position on cost allocation with respect to Lexington project costs incurred before 2022.⁶

Therefore, while it is appropriate for NW Natural to continue recovering the costs of RNG under SB 98 from sales customers, it is no longer lawful to recover those costs from transportation and special contract customers now that the CPP rules have been invalidated.

⁵ ORS 757.396(1) (emphasis added).

⁶ Order 22-388, p. 85. The Commission later reversed its decision for the Lexington Project based on the "matching principle" because it found that "there would be no distinction between the pre- and post-2022 costs in terms of when the benefits accrued to customers, retail or otherwise." The Commission held "On reconsideration, we find that the Lexington RNG project should be considered, on balance, primarily as a CPP resource and, as such, its costs should be allocated according to the interim CPP allocation we determined in Order No. 22-388—*i.e.*, on an equal cents per therm basis."⁶ See *Order 24-046* at 4. The Commission's holding on reconsideration did not overrule its decision on how SB 98 costs should be allocated.

B. Reasons for Deferral

Deferral of NW Natural's expenses and costs associated with the CPP for transportation and special contract customers currently included in NW Natural's rates is authorized pursuant to ORS § 757.259(2)(e) which specifies that the Commission may authorize deferral of "[i]dentifiable utility expenses or revenues, the recovery or refund of which the [C]ommission finds should be deferred in order to minimize the frequency of rate changes....or to match appropriately the costs borne by and benefits received by ratepayers" for "later incorporation in rates."⁷ Now that the CPP has been determined by the Oregon Court of Appeals to be invalid, RNG related costs for CPP compliance, or under SB 98, may no longer be allocated to transportation and special contract customers, and therefore a deferral is necessary to minimize the frequency of rate changes and to appropriately match costs and benefits.

C. Proposed Accounting

AWEC recommends that NW Natural record the deferred amounts as a regulatory liability to FERC account 254 Other regulatory liabilities, with a corresponding entry to 186 Miscellaneous deferred debits for recovering the deferred funds from sales customers.

D. Estimate of Amounts

AWEC does not currently have the information necessary to provide a precise accounting of the amount to be deferred pursuant to this Application but estimates that the amount currently included in NW Natural's current rates is in excess of \$1,000,000 per year.

⁷ ORS 757.259(2); ORS 757.259(2)(e).

E. Notice

A copy of the Notice of Application for Accounting Order Requiring NW Natural to Defer Expenses and Costs Associated with the CPP for Transportation and Special Contract customers and a list of persons served with the Notice are attached as **Attachment A** to this Application.

III. ADDITIONAL FILING CONDITIONS

A. Earnings Review

The refund of costs associated with the CPP for transportation and special contract customers will not be subject to an earnings review in accordance with ORS § 757.259(5). An earnings test is not necessary since the deferral has no overall impact on NW Natural's margins or earnings.

B. Prudence Review

Because this Application seeks to defer CPP cost for transportation and special contract customers, a prudence review will not be performed when the amounts in this deferred account are eligible for amortization.

C. Sharing

All refunds should be returned to transportation and special contract customers of NW Natural with no sharing mechanism.

D. Rate Spread/Rate Design

The rate spread/rate design for the return of CPP related costs and expenses will be equal cents per therm consistent with how CPP cost were spread to transportation and special contract customers.

IV. CONCLUSION

For the foregoing reasons, AWEC respectfully requests that the Commission order NW Natural to defer expenses and costs associated with CPP costs for transportation and special contract customers currently included in the Company's rates.

Dated this 27th day of December 2023.

Respectfully submitted,

/s/ Chad M. Stokes

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Attorneys for

Alliance of Western Energy Consumers

Attachment A

**Notice of Application for Accounting Order Requiring Northwest
Natural Gas Company to Defer Collection of CPP Compliance
Costs for Transportation and Special Contract Customers.**

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2309

In the Matter of ALLIANCE OF WESTERN)
ENERGY CONSUMERS) NOTICE OF APPLICATION FOR
) DEFERRED ACCOUNTING OF THE
Application for an Accounting Order Requiring) ALLIANCE OF WESTERN ENERGY
Northwest Natural Gas Company to Defer) CONSUMERS
Expenses and Costs associated with the Climate)
Protection Plan Costs for Transportation and)
Special Contract Customers.)
_____)

To all Parties who Participated in UG 435 and UG 462

Pursuant to OAR 860-027-0300(6), on December 27, 2023, the Alliance of Western Energy Consumers (“AWEC”) applied to the Public Utility Commission of Oregon (“Commission”) for an order requiring Northwest Natural Gas Company (“NW Natural”) to defer NW Natural’s collection and allocation of Climate Protection Plan compliance costs for transportation and special contract customers currently included in rates.

This Application is available on the Commission’s website. Persons who wish to obtain a copy of the Application will be able to access it on the Commission’s website, and “any person may submit to the Commission written comment on [this Application] by the date set forth in the notice, which date may be no sooner than 25 days from the date of [this Application].”⁸

_____)
⁸ OAR 860-027-0300(6)(d).

This is not a rate case. The granting of AWEC’s Application “will not authorize a change in [NW Natural’s] rates but will permit the Commission to consider allowing such deferred amounts in rates in a subsequent proceeding.”⁹

Dated this 27th day of December 2023.

Respectfully Submitted,

/s/ **Chad M. Stokes**

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Attorneys for

Alliance of Western Energy Consumers

⁹ OAR 860-027-0300(6)(e)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the Notice of Application for Deferred Accounting Order on behalf of the Alliance of Western Energy Consumers by electronic mail upon each of the parties on the attached service list for Docket UG 435 and UG 462.

Dated this 27th day of December 2023.

Lindsey Rice

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