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November 18, 2005

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VIA ELECTRONIC FILING

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
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**Re: Reply Comments Re Section 3(13)(e) (B) and (C) of SB 408
Docket AR 499**

I enclose for filing Northwest Natural Gas Company's Reply Comments Re Section 3(13)(e) (B) and (C) of SB 408 in the above-referenced docket. A copy of this filing has been served on all parties to this proceeding as indicated on the attached certificate of service.

Very truly yours,

Marcus A. Wood

MW:knp
Enclosure
cc: Service List

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

AR 499

In the Matter of the Adoption of Permanent
Rules Implementing SB 408, Relating to
Matching Utility Taxes Paid with Taxes
Collected

**REPLY COMMENTS OF
NORTHWEST NATURAL GAS
COMPANY RE SECTION 3(13)(e)(B)
AND (C) OF SB 408**

I. NW Natural's Opening Comments

In opening comments on this additional issue, Northwest Natural Gas Company ("NW Natural") explained that the language of section 3(13)(e)(B) of Senate Bill 408 ("SB 408") stating how the Oregon Public Utility Commission (the "Commission") is to determine "taxes authorized to be collected in rates" may be satisfied either by (a) using the ratio of net revenues to gross revenues and the effective tax rate from a prior rate proceeding or (b) using the ratio of net revenues to gross revenues and the effective tax rate for the year for which the rate adjustment called for in SB 408 is to be made. The latter approach would avoid the perverse "double whammy" effect in which (a) a utility's overearning of its allowed return triggers the right to a rate increase and (b) a utility's underearning of its allowed return triggers a utility rate refund obligation.

NW Natural added that regardless of how the Commission interprets section 3(13)(e)(B) of SB 408, the Commission should instruct the workshop parties in this docket to draft permanent rules that will avoid the perverse impacts described above. NW Natural expressed its doubts that any legislator enacted SB 408 with the thought: "I favor SB 408 because it would increase rates when the utility is overearning and force refunds when the utility is not recovering its costs."

II. Reply to ICNU and NWIGU

The comments by the Industrial Customers of Northwest Utilities ("ICNU") and by the Northwest Industrial Gas Users ("NWIGU") urge the Commission to adopt a rule that

1 would produce the perverse impacts described above. Because ICNU's and NWIGU's
2 comments were similar, NW Natural will briefly reply to the ICNU comments only.

3 ICNU makes two arguments in support of the Commission's interpreting SB 408 so
4 as to compel the "double whammy" impact of a utility's overearning or underearning its
5 allowed return. First, ICNU states that use of prior rate case results will ensure that in the tax
6 report, taxes authorized to be collected in rates will be calculated on a common and uniform
7 basis. Of course, the calculation that NW Natural has suggested -- that all utilities report
8 their taxes authorized to be collected in rates based on their gross revenues and net revenues
9 in the tax year for which the rate change would be made -- also would result in the utilities'
10 tax reports being prepared on a common and uniform basis. In addition, reporting of all
11 numbers (taxes paid as well as taxes authorized to be collected) on the same current-year
12 basis would produce results that are internally consistent, as well as simple to calculate and to
13 audit based on the utility's income statement and tax returns for the year in question.

14 Second, ICNU quotes language in section 3(4) of SB 408 that refers to the difference
15 between the "amount of taxes assumed in rates or otherwise collected from ratepayers" and
16 taxes paid. ICNU argues that this language requires that the tax amount from a prior rate
17 case be used as the amount "assumed in rates." Of course, section 3(4) does not address how
18 the "taxes authorized to be collected in rates" is to be determined, but instead addresses only
19 the circumstances in which an automatic adjustment clause shall be established. Section
20 3(13)(e) of SB 408, which actually governs the calculation of "taxes authorized to be
21 collected in rates," contains no "assumed in rates" language. Moreover, SB 408 does not
22 anywhere state that the amount of taxes "assumed in rates" shall be "the amount provided in
23 the last rate case if the utility earned its allowed return." Whatever the amount the
24 Commission calculates pursuant to section 3(13)(e) as "taxes authorized to be collected in

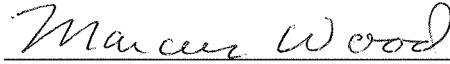
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1 rates” for the year the tax adjustment is to be made, is in fact the amount the Commission has
2 “assumed in rates” for such year.

3 DATED: November 18, 2005.

4 STOEL RIVES LLP

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7 Attorneys for Northwest Natural Gas Company
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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in Docket AR 499 on the following named person(s) on the date indicated below by email and first-class mail addressed to said person(s) at his or her last-known address(es) indicated below.

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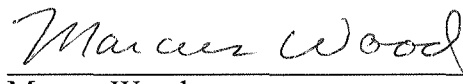
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