

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 DR 23

4 In the Matter of the Petition of Northwest
5 Natural Gas Company for Declaratory Rulings
6 pursuant to ORS 756.450 Regarding Whether
7 Joint Bypass by Two or More Industrial
8 Customers Violates ORS 758.400 Et Seq.

STAFF’S RESPONSE TO FILED ISSUES LISTS

8 **INTRODUCTION**

9 According to the schedule established by Administrative Law Judge, Christina Smith’s,
10 memorandum issued July 6, 2005, Wah Chang and the Northwest Industrial Gas Users
11 (collectively “Intervenors”) filed a statement of legal issues on July 5, 2005. On July 7, 2005,
12 Northwest Natural Corporation (“NW Natural”) filed its statement of legal issues and a response
13 to Intervenors statement of legal issues. Staff takes this opportunity to respond to these
14 statements of legal issues.

15 **ANALYSIS**

16 The Intervenors statement of legal issues consists of thirteen issues. In response, NW
17 Natural asserts that the only issue on remand is whether the distribution system described in the
18 Assumed Facts, as outlined in the Amended Petition for Declaratory Ruling, is “connected and
19 interrelated” within the meaning of the definition of “utility service” under ORS 758.400(3).
20 Based upon the Oregon Court of Appeals decision remanding this case, Staff agrees with NW
21 Natural’s statement of the legal issue.

22 The Court of Appeals decision, *Northwest Natural Gas Co. v. PUC*, 195 Or App 547, 99,
23 P3d 292 (2004), remanding this proceeding back to the Public Utility Commission of Oregon
24 clearly outlined that the issue on remand was whether the distribution system described in the
25 Assumed Facts was “connected and interrelated” within the meaning of the definition of utility
26 service under ORS 758.400(3). Therefore, based upon the language of the Oregon Court of

1 Appeals decision, Staff submits that the appropriate issue in the remanded proceeding is the one
2 proposed by NW Natural.

3 For the foregoing reasons, Staff respectfully requests a ruling adopting the single issue as
4 presented by NW Natural.

5
6 DATED this 15th day of July 2005.

7 Respectfully submitted,

8 HARDY MYERS
9 Attorney General

10 /s/ Jason W. Jones _____
11 Jason W. Jones, #00059
12 Assistant Attorney General
13 Of Attorneys for Staff of the Public Utility
14 Commission of Oregon

CERTIFICATE OF SERVICE

I certify that on the 15th day of July 2005, I served the foregoing Staff’s Response to Filed Issues List upon the parties, hereto by mailing, postage prepaid, a true, exact and full copy by regular mail and by electronic mail to:

<p>RATES & REGULATORY AFFAIRS PORTLAND GENERAL ELECTRIC RATES & REGULATORY AFFAIRS 121 SW SALMON STREET, 1WTC0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com</p>	<p>PAMELA M ALMAGUER NORTHWEST NATURAL 220 NW 2ND AVE PORTLAND OR 97209 pma@nwnatural.com</p>
<p>MELINDA J DAVISON DAVISON VAN CLEVE PC 333 SW TAYLOR, STE. 400 PORTLAND OR 97204 mail@dvclaw.com</p>	<p>JIM DEASON CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP 1001 SW FIFTH AVE STE 2000 PORTLAND OR 97204-1136 jdeason@chbh.com</p>
<p>JAMES DENHAM OREMET WAH CHANG PO BOX 460 ALBANY OR 97321 jim.denham@wahchang.com</p>	<p>EDWARD A FINKLEA CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP 1001 SW 5TH, SUITE 2000 PORTLAND OR 97204 efinklea@chbh.com</p>
<p>J RICHARD GEORGE PORTLAND GENERAL ELECTRIC COMPANY 121 SW SALMON ST PORTLAND OR 97204 richard.george@pgn.com</p>	<p>C ALEX MILLER NORTHWEST NATURAL 220 NW 2ND AVE PORTLAND OR 97209 alex.miller@nwnatural.com</p>
<p>PAULA E PYRON NORTHWEST INDUSTRIAL GAS USERS 4113 WOLF BERRY COURT LAKE OSWEGO OR 97035-1827 ppyron@nwigu.org</p>	<p>JERRY RICHARTZ OREGON STEEL MILLS INC PO BOX 2760 PORTLAND OR 97208</p>
<p>TIMOTHY SERCOMBE PRESTON/GATES/ELLIS LLP 222 SW COLUMBIA ST STE 1400 PORTLAND OR 97201-6632 tsercomb@prestongates.com</p>	

Neoma A. Lane
Legal Secretary
Department of Justice
Regulated Utility & Business Section