

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UG 170(4)

In the Matter of

NORTHWEST NATURAL GAS COMPANY,  
dba NW NATURAL,

Annual Tax Filings under ORS 757.268.

ORDER

DISPOSITION: STIPULATION ADOPTED

**I. INTRODUCTION**

In this order, the Public Utility Commission of Oregon (Commission) approves a stipulation that resolves all issues related to the tax report for calendar year 2009 (2009 Tax Report) filed by Northwest Natural Gas Company, dba NW Natural, in compliance with Senate Bill (SB) 408. The stipulation authorizes NW Natural to surcharge customers an additional \$5,126,523 for state and federal taxes, plus an estimated \$939,610 in interest accrued through the end of the amortization period. The stipulation also authorizes NW Natural to refund to customers \$370,916 in local taxes, plus an estimated \$67,983 in interest accrued through the end of the amortization period.

SB 408, primarily codified at ORS 757.268, requires utilities to true-up any differences between income taxes authorized to be collected in rates from customers and income taxes actually paid to units of government that are “properly attributed” to utilities’ regulated operations.<sup>1</sup> Utilities must make annual tax filings reporting these amounts on October 15 of each year. If amounts collected and amounts paid differ by \$100,000 or more, then the Commission must order the utility to implement an automatic adjustment clause to account for the difference, with a rate adjustment effective June 1 of each year.<sup>2</sup>

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<sup>1</sup> ORS 757.268(4).

<sup>2</sup> See ORS 757.268(4), (6)(a); OAR 860-022-0041(8).

## II. PROCEDURAL HISTORY

On October 15, 2010, NW Natural filed its 2009 Tax Report as required by ORS 757.268.<sup>3</sup> Commission Staff held a workshop and settlement conference on November 4, 2010. Staff, NW Natural, the Citizens' Utility Board of Oregon (CUB), and the Northwest Industrial Gas Users (NWIGU) participated in settlement negotiations. Staff submitted an issues list on December 23, 2010.

NW Natural, Staff, CUB, and NWIGU (collectively the Stipulating Parties) submitted a stipulation and joint testimony in support of the stipulation on January 14, 2011. The stipulation and joint testimony are admitted into evidence under OAR 860-001-0350. The stipulation is attached to this order as Appendix A.

## III. DISCUSSION

According to NW Natural's 2009 Tax Report, NW Natural paid approximately \$5.1 million more in state and federal taxes than it collected from customers in rates. NW Natural also reported that it collected \$371,000 more in local taxes than it paid to units of government. Staff recommended one change to NW Natural's 2009 Tax Report, but otherwise found that the report complied with SB 408 and OAR 860-022-0041. Specifically, Staff recommended that NW Natural correct a clerical error, which reduces the surcharge by approximately \$3,300. NW Natural agreed to make the correction, and the stipulation reflects the change.

The stipulation resolves all issues related to NW Natural's 2009 Tax Report. The stipulating parties agree that the revised report complies with SB 408 and OAR 860-022-0041, and that the 2009 SB 408 surcharge amount for state and federal taxes should be \$5,126,523, plus an estimated \$939,610 in interest accrued through the end of the amortization period. The stipulating parties also agree that the refund to customers for local taxes should be \$370,916, plus an estimated \$67,983 in interest accrued through the end of the amortization period. Under the terms of the stipulation, NW Natural must revise its Schedule 161 to collect the surcharge for state and federal taxes over one year beginning June 1, 2011. NW Natural must also revise its Schedule 161A to amortize the refund for local taxes over the same time period.

## IV. CONCLUSION

The Commission encourages parties to a proceeding to voluntarily resolve issues to the extent that settlement is in the public interest. The active parties to this docket entered into a stipulation that resolves all outstanding issues.

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<sup>3</sup> NW Natural's 2009 Tax Report (Oct 15, 2010) and Amended 2009 Tax Report are (12/1/10) are admitted into the record in this docket.

The Commission has examined the stipulation and the joint testimony in support of the stipulation. We conclude that rates implementing the refund authorized by the stipulation are fair, just, and reasonable. We therefore adopt the stipulation in its entirety.

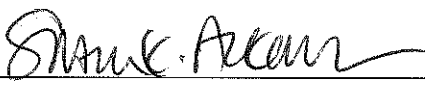
**V. ORDER**

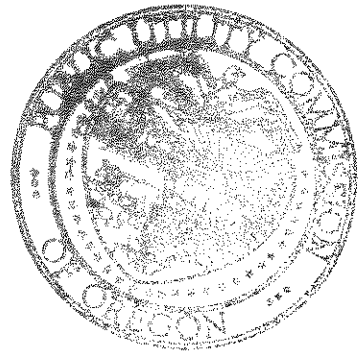
IT IS ORDERED that:

1. The stipulation attached as Appendix A is adopted.
2. Northwest Natural Gas Company, dba NW Natural, must file updated Schedules 161 and 161A consistent with this order and the stipulation. The updated schedules must have a June 1, 2011 effective date.

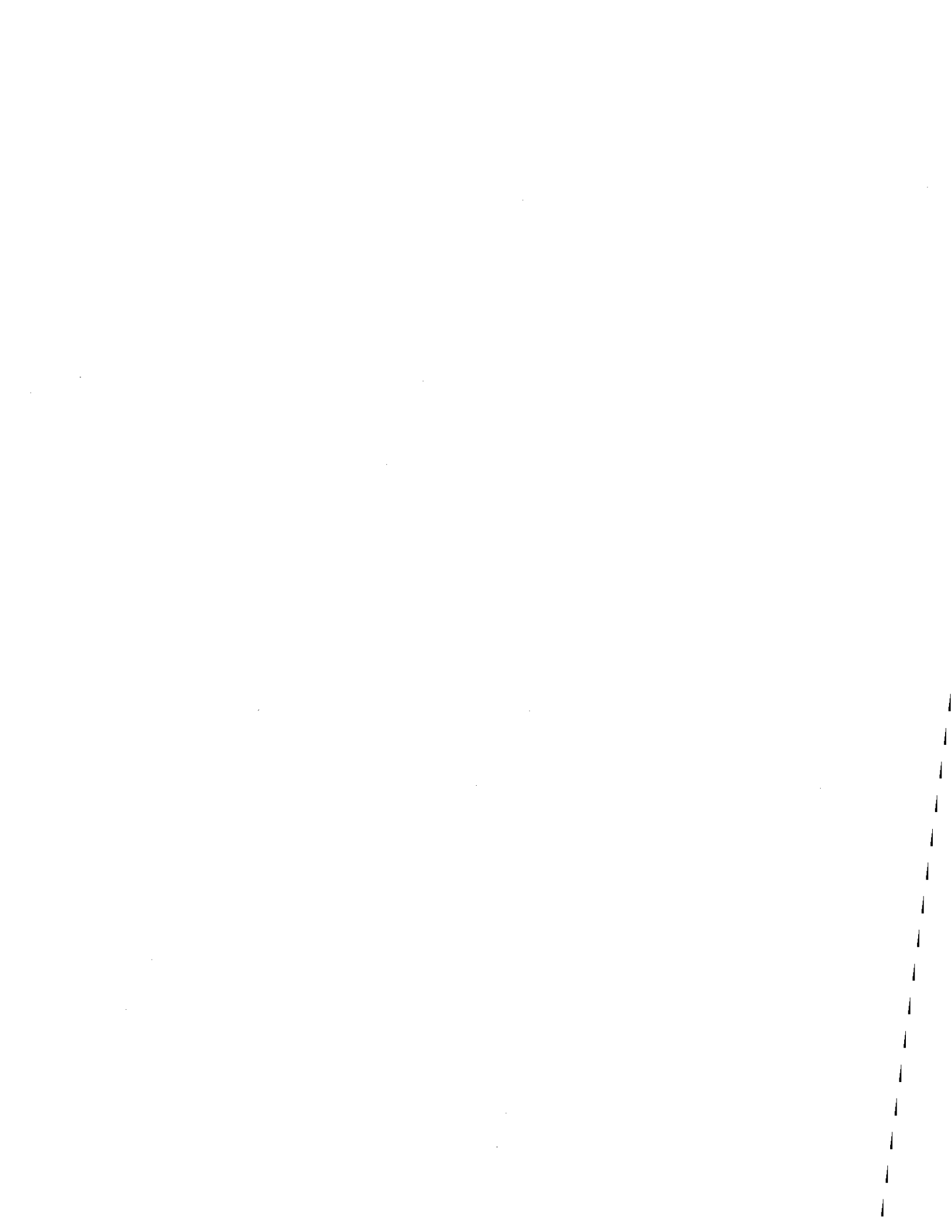
Made, entered, and effective APR 11 2011.

  
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**John Savage**  
 Commissioner

  
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**Susan K. Ackerman**  
 Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.



BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UG 170(4)

In the Matter of:

NORTHWEST NATURAL

Filing of tariffs establishing automatic  
adjustment clauses under the terms of  
SB 408

STIPULATION

This Stipulation resolves all issues among the parties to this Stipulation related to Northwest Natural's 2009 Tax Report, filed in UG 170(4) pursuant to Senate Bill 408 ("SB 408"). SB 408 is codified in ORS 757.267, 757.268 and 757.210 and implemented by the Commission in OAR 860-022-0041.

I. PARTIES

The parties to this Stipulation are Staff of the Public Utility Commission of Oregon ("Staff"), Northwest Natural ("NW Natural" or the "Company"), the Citizens' Utility Board of Oregon ("CUB") and the Northwest Industrial Gas Users ("NWIGU") (together, the "Parties").

II. INTRODUCTION

SB 408 requires certain Oregon public utilities to file an annual Tax Report with the Public Utility Commission of Oregon ("Commission") that provides information on: (1) the amount of taxes paid by the utility to units of government or that was paid by an affiliated group and that is properly attributed to the utility's regulated operations; and (2) the amount of taxes authorized to be collected in rates. ORS 757.268(1). The law requires the Commission to review the Tax Report to determine whether the amount of taxes paid differs from the amount of taxes authorized to be collected in rates by more than \$100,000. ORS 757.268(4); ORS 757.268(13)(f); OAR 860-022-0041(2)(q) & (r). If so, the Commission must require the public utility to establish an automatic adjustment clause ("AAC") to account for the difference.

1 ORS 757.268(4). The Commission must complete its review of the Tax Report and order an  
2 AAC if necessary within 180 days after the Tax Report is filed. Any rate adjustment must be  
3 calculated to amortize the difference determined by the Commission over a period authorized  
4 by the Commission. ORS 757.268(4); OAR 860-022-0041(7) & (8).

5 A. As required by SB 408, on October 15, 2010, NW Natural filed its Tax Report for  
6 calendar year 2009 ("2009 Tax Report"). NW Natural's 2009 Tax Report reflected a difference  
7 of approximately \$ 5.1 million of state and federal taxes paid above taxes authorized to be  
8 collected in rates. Additionally, NW Natural reported that it collected approximately \$371,000  
9 more in local taxes in rates than it paid to units of government. Under SB 408, these  
10 differences, plus interest, are to be collected/refunded as a surcharge/credit through an AAC.  
11 ORS 757.268(6) and OAR 860-022-0041(8)(c). NW Natural proposed to recover the 2009 SB  
12 408 state and federal tax surcharge of \$6.1 million<sup>1</sup>, through Schedule 161. The Commission  
13 has discretion to set the amortization period for a refund or surcharge under the AAC. OAR  
14 860-022-0041(8)(e).

15 B. The proposed surcharge was allocated by customer rate schedule on an equal  
16 percentage of margin basis, as required by OAR 860-022-0041(8)(d).

17 C. The Commission held a prehearing conference on November 1, 2010, at which  
18 Administrative Law Judge Wallace adopted a full procedural schedule for this docket,  
19 including testimony, a hearing, and briefing. Staff convened a workshop on November 4,  
20 2010. The meetings were noticed to all parties of the docket, and Staff, NW Natural, CUB,  
21 and NWIGU participated in the settlement conferences. As a result of the settlement  
22 conferences the Parties have reached a comprehensive settlement in this case.

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26 <sup>1</sup> Includes interest of \$900,000 through May 31, 2011 and approximately \$65,500 through the  
amortization period.

1 **III. SPECIFIC TERMS**

2 A. NW Natural has filed a revised 2009 Tax Report ("Revised Tax Report")  
 3 to adjust for the factors described in Staff's issue list, which is attached as Exhibit A. The only  
 4 revision to NW Natural's state and federal taxes was the correction of an error in the Staff  
 5 Template related to a clerical error in reporting of the tax liability. There were no revisions to  
 6 NW Natural's 2009 refund for local taxes. The Parties agree that the 2009 Tax Report  
 7 complies with SB 408 and OAR 860-022-0041. The Parties agree that the 2009 SB 408 tax  
 8 surcharge amount for state and federal taxes should be \$5.1 million and a refund of  
 9 approximately \$371,000 for local taxes. Following is a summary of NW Natural's forecast of  
 10 interest through the deferral and amortization periods, which will also be reflected in the tax  
 11 surcharge amount:

12 **Table 1**  
 13 **Amortization Summary**  
 14 **NWN 2009 Tax Report**

	<u>State / Federal</u>	<u>Local</u>
15 Surcharge (Refund)	\$ 5,126,523	(\$ 370,916)
16 Estimated interest through May 2011	\$ 874,078	(\$ 63,242)
17 Estimated interest June 2011 -- May 2012 *	<u>\$ 65,532</u>	<u>(\$ 4,741)</u>
18 Estimated amount to amortize	<u>\$ 6,066,133</u>	<u>(\$ 438,899)</u>

19 \* Blended treasury rate of 2.01% calculated by NW Natural per  
 20 the methodology prescribed by Order No. 08-263 in Docket  
 21 UM 1147.

22 B. The 2009 SB 408 surcharge for state and federal taxes, will be collected over a  
 23 12-month period through Schedule 161 NWN's Income Tax Adjustment tariff. The Multnomah  
 24 County Business Income Tax refund for 2009 will be returned to applicable customers over a  
 25 12-month period through Schedule 161A NWN's Revision of Charges for Multnomah County  
 26 Income Tax (MCBIT Balancing Account). Upon approval of this Stipulation, NW Natural will

1 file an updated Schedule 161 and updated Schedule 161A with effective dates of June 1,  
2 2011.

3 **IV. GENERAL TERMS**

4 A. The Stipulating Parties agree that the Stipulation represents a compromise of the  
5 positions of the parties for the purpose of this docket. Without the written consent of all  
6 parties, evidence of conduct or statements, including but not limited to term sheets or other  
7 documents created solely for use in settlement conferences in this docket, are confidential  
8 and not admissible in the instant or any subsequent proceeding, unless independently  
9 discoverable or offered for other purposes allowed under ORS 40.190. Nothing in this  
10 paragraph precludes a party from stating as a factual matter what the parties agreed to in this  
11 Stipulation.

12 B. If this Stipulation is challenged by any other party to this proceeding, or any  
13 other party seeks an adjustment amount that departs from the terms of this Stipulation, the  
14 Stipulating Parties reserve the right to cross-examine witnesses and put in such evidence as  
15 they deem appropriate to respond fully to the issues presented including the right to raise  
16 issues that are incorporated in the settlement embodied in this Stipulation. Notwithstanding  
17 this reservation of rights, the Stipulating Parties agree they will continue to support the  
18 Commission's adoption of the terms of this Stipulation.

19 C. If the Commission rejects all or any material part of this Stipulation, or adds any  
20 material condition to any final order that is not consistent with this Stipulation, each Stipulating  
21 Party reserves its right, pursuant to OAR 860-001-0350(9), to present evidence and argument  
22 on the record in support of the Stipulation and pursuant to OAR 860-001-0720, to seek  
23 rehearing or reconsideration.

24 D. This Stipulation will be offered into the record in this proceeding as evidence  
25 pursuant to OAR 860-001-0350(7). The Stipulating Parties agree to support this Stipulation  
26 throughout this proceeding and in any appeal, provide witnesses to support the Stipulation at



1 the hearing, and recommend that the Commission issue an order implementing the terms of  
2 the Stipulation.

3 E. By entering into this Stipulation, no Stipulating Party shall be deemed to have  
4 approved, admitted or consented to the facts, principles, methods or theories employed by  
5 any other Stipulating Party in arriving at the terms of this Stipulation. Except as provided in  
6 this Stipulation, no Stipulating Party shall be deemed to have agreed that any provision of this  
7 Stipulation is appropriate for resolving issues in any other proceeding.

8 F. This Stipulation may be signed in any number of counterparts, each of which will  
9 be deemed an original for all purposes, but all of which taken together will constitute one and  
10 the same agreement.

11 STAFF OF THE PUBLIC UTILITY  
12 COMMISSION OF OREGON

NORTHWEST NATURAL GAS COMPANY

13 By: Paul A. McLean for J. Steven Jones

By: \_\_\_\_\_

14  
15 Date: January 14, 2011

Date: \_\_\_\_\_

1 the hearing, and recommend that the Commission issue an order implementing the terms of  
2 the Stipulation.

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11 STAFF OF THE PUBLIC UTILITY  
12 COMMISSION OF OREGON

NORTHWEST NATURAL GAS COMPANY

13 By: \_\_\_\_\_  
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By: *Kevin Rockner*

15 Date: \_\_\_\_\_  
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Date: 1-14-11

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NORTHWEST INDUSTRIAL GAS USERS

CITIZENS' UTILITY BOARD OF OREGON

By: [Signature]

By: [Signature]

Date: 1-14-11

Date: 1-14-11