

ORDER NO. 20-373

ENTERED Oct 27 2020

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2044

In the Matter of

NORTHWEST NATURAL GAS COMPANY,  
dba NW NATURAL,

Application for Authorization to Defer Certain  
Expenses or Revenues Related to Corporate  
Activity Tax (CAT).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 20, 2020, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



**Nolan Moser**  
Chief Administrative Law Judge



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 Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: October 20, 2020**

**REGULAR** \_\_\_\_ **CONSENT**   X   **EFFECTIVE DATE** October 31, 2020

**DATE:** October 6, 2020

**TO:** Public Utility Commission

**FROM:** John Fox

**THROUGH:** Bryan Conway and John Crider **SIGNED**

**SUBJECT:** NORTHWEST NATURAL:  
(Docket No. UM 2044)  
Application for Authorization to Defer Certain Expenses or Revenues  
Related to Corporate Activity Tax.

**STAFF RECOMMENDATION:**

Approve Northwest Natural's (NW Natural or Company) application for authorization to defer certain expenses or revenues related to Corporate Activity Tax (CAT), estimated to be \$2.5 million for the ten month period beginning December 31, 2019, through October 31, 2020.

**DISCUSSION:**

Issue

Whether the Commission should approve NW Natural's application for authorization to defer certain expenses or revenues related to CAT, initially estimated to be \$2.5 million on an annualized basis.<sup>1</sup>

Applicable Rule or Law

Beginning with the date of the Application, the Commission may approve the deferral of identifiable utility expenses or revenues, the recovery or refund of which the Commission finds should be deferred in order to minimize the frequency of rate changes for the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers. ORS 757.269(2)(e) and (4).

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<sup>1</sup> Application at 6.

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Unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred are allowed in rates to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. ORS 757.259(4); OAR 860-027-0300(9).

The Commission's final determination on the amount of deferrals allowable in the rates of the utility is subject to a finding by the Commission that the amount was prudently incurred by the utility. ORS 757.259(5).

### Analysis

#### *Background*

The 2019 Oregon Legislative Assembly approved a new Corporate Activities Tax effective January 1, 2020.

The tax is imposed on the privilege of doing business in Oregon and is not a transactional tax nor an income tax. However, apportionment and tax administration will occur pursuant to existing income tax statutes.

The tax is in addition to any other taxes or fees imposed by the State of Oregon and will be imposed at a rate of \$250 plus 0.57 percent of taxable commercial activity in excess of \$1 million each year. Taxable commercial activity is defined as commercial activity sourced in this state less a deduction for 35 percent of the greater of "cost inputs" or "labor costs."

#### *NW Natural's Application*

The Company states:

NW Natural's rates do not currently capture the impact of the CAT. Ordinarily, taxes are recovered in rates, but because the passage and financial impact of the CAT could not have been predicted in the Company's last rate case, the Company would be required to bear this increase, but for a deferral application being filed to defer the CAT. For this reason, NW Natural requests to recover the CAT through deferred accounting.<sup>2</sup>

And further states: "NW Natural estimates that approximately \$2.5 million will be recorded in the CAT deferral account for the upcoming twelve-month period subsequent to this Application. This estimated amount is subject to revision as the amount due is

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<sup>2</sup> Application at 5.

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dependent on NW Natural's actual revenue and cost and on the nature of rules to be promulgated."<sup>3</sup>

#### *Pending Rate Case*

On December 31, 2019, the Company filed a request for a general rate revision effective October 31, 2020.

On July 31, 2020, a stipulation was filed proposing resolution of all issues in the rate case, among which the parties agreed that the CAT would be included in base rates, increasing the estimated annual amount of the CAT from \$2.5 million to \$3.060 million. The parties also agreed to resolve the outstanding deferral which is the subject of this UM 2044 filing as follows:<sup>4</sup>

- CAT deferred from January 2020 through June 2020 will be included in the compliance filing of this rate case for amortization over one year.
- Additional CAT deferred from July 2020 through the effective date of this rate case will be included in the November 2021 PGA for amortization over one year.
- Subject to certain conditions, if the actual calculation of the CAT differs from the methodology underlying the \$3.060 million estimate, the Company will reflect the difference as an amendment to the Company's UM 2068 deferral.<sup>5</sup>

#### *Deferral Amount*

Per the provisions of the pending rate case stipulation, the deferral in this filing would be for ten months instead of twelve. The Company has confirmed, via informal inquiry, that \$2.5 million deferral amount remains adequate for ten months due to the volumetric nature of the CAT (i.e. sales are lower in the summer). Should the Commission decline to approve the stipulating parties' proposed ratemaking treatment for the CAT in UG 388, the deferral would cover the twelve month period beginning with the date of application.

#### Conclusion

Staff concludes that approval of this deferral is necessary to implement the pending rate case stipulation and that approval of the deferral will result in fair, just, and reasonable rates.

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<sup>3</sup> Application at 6.

<sup>4</sup> See *In the Matter of NORTHWEST NATURAL GAS COMPANY, dba NW NATURAL, Request for a General Rate Revision*, Docket No. UG 388, Stipulating Parties' Comprehensive Stipulation executed by NW NATURAL, AVEC, CUB, and STAFF, filed Jul 31, 2020 at 7.

<sup>5</sup> See *In the Matter of NORTHWEST NATURAL GAS, dba NW NATURAL, Application to Defer Costs Associated with the COVID-19 Public Health Emergency*, Docket No. UM 2068, filed Mar 24, 2020.

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**PROPOSED COMMISSION MOTION:**

Approve NW Natural's Application for Authorization to Defer Certain Expenses or Revenues Related to Corporate Activity Tax, estimated to be \$2.5 million for the period beginning December 31, 2019 and ending October 31, 2020.

UM 2044 NWN OCAT Deferral.docx