

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 435

In the Matter of

NORTHWEST NATURAL GAS
COMPANY, dba NW NATURAL,

Request for a General Rate Revision
(UG 435),

Advice 20-19, Schedule 198 Renewable
Natural Gas Recovery Mechanism
(ADV 1215) (UG 411).

ORDER

DISPOSITION: FIRST PARTIAL STIPULATION ADOPTED SUBJECT TO MODIFICATION; SECOND AND THIRD PARTIAL STIPULATIONS ADOPTED; APPLICATION FOR GENERAL RATE REVISION APPROVED AS REVISED.

I. SUMMARY

This order addresses the request for a rate revision filed by NW Natural Gas Company, dba NW Natural. In this order, we address disputes regarding the company's line extension allowances, the prudence of the Lexington renewable natural gas (RNG) project, the company's proposed RNG automatic adjustment clause (AAC), and the rate spread for any costs to be recovered for the Lexington RNG project and future RNG projects. Additionally, we address three partial stipulations resolving issues including the revenue requirement, rate spread, cost of capital, and the COVID-19 deferral.

We adopt, with modification and subject to the directives in this order, a stipulation that would result in an increase to NW Natural's revenue requirement of approximately \$62.7 million, representing an 8.46 percent increase from the company's previous rates. The revenue requirement in the first partial stipulation assumed all capital projects included in the revenue requirements are in service as of November 1, 2022. As part of the stipulation, discussed in detail below, the company agreed to file attestations confirming the capital projects that will or will not be in service by October 31, 2022, and the final

revenue requirement amount will decrease based on these attestations, application of the depreciation rates authorized in docket UM 2214, and the directives in this order.

As a result of changes to general rates and several deferrals addressed in this order, customers will experience an increase on their bills effective November 1, 2022. More detailed rate impacts and the final revenue requirement increase will be provided in the company's compliance filing.

II. PROCEDURAL HISTORY

On December 17, 2021, NW Natural filed a request for a general rate case and a revised Schedule 167 tariff sheet to become effective November 1, 2022. In its initial filing, NW Natural sought an annual jurisdictional revenue increase of \$73.5 million or approximately 9.94 percent. NW Natural also proposed to recover various deferrals in this proceeding and in other independent proceedings, which amount to an \$81.8 million increase when combined with the requested revenue requirement. Additionally, on February 28, 2022, NW Natural filed an errata to its direct testimony that corrected the amount of annual revenue increase to \$78 million, not including the deferrals. In this filing, however, NW Natural noted that it had only noticed the \$73.5 million amount and thus was not seeking to revise its revenue requirement to reflect this increase.

On January 19, 2022, the Commission held a prehearing conference to discuss the schedule for this proceeding and to establish the parties. The Staff of the Public Utility Commission (Staff); the Alliance of Western Energy Consumers (AWEC); the Oregon Citizens' Utility Board (CUB); the Small Business Utility Advocates (SBUA); and the Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club (Coalition) all participated as parties to this proceeding. Additionally, on January 19, 2022, the Administrative Law Judge (ALJ) in this proceeding consolidated NW Natural's RNG recovery mechanism in Docket UG 411 with this general rate case. During the course of the investigation, parties filed testimony and exhibits.

The general public was given the opportunity to comment on NW Natural's filing at a public comment hearing on March 10, 2022, which was conducted remotely due to the COVID-19 pandemic.

On May 31, 2022, NW Natural, Staff, CUB, AWEC, and SBUA filed a partial settlement stipulation (first partial stipulation) resolving numerous revenue requirement and rate spread issues, as well as issues related to attestations for capital projects, depreciation rates, and deferrals. On June 8, 2022, the stipulating parties filed testimony and exhibits in support of the stipulation. The first partial stipulation is attached as Appendix A. The Coalition opposed Sections 1(l), (m), and (n) of this stipulation related to advertising

expenses and political engagement but does not oppose the remainder of the stipulation. No other party opposes this stipulation.

On June 29, 2022, NW Natural, Staff, CUB, AWEC, and the Coalition filed a partial settlement stipulation (second partial stipulation) resolving issues related to decoupling, residential customer deposits, the Oregon Low-Income Energy Efficiency Program (OLIEE), and the COVID-19 deferral. On July 7, 2022, the stipulating parties filed testimony and exhibits in support of the stipulation. The second partial stipulation is attached as Appendix B. SBUA opposes Section 4 of this stipulation related to the COVID-19 deferral and rate spread but does not oppose the remainder of the stipulation. No other party opposes this stipulation.

On August 18, 2022, NW Natural, Staff, CUB, and AWEC filed a partial settlement stipulation (third partial stipulation) resolving the amortization period for the Lexington RNG project deferral, the interest accrual for the deferral, and AWEC's proposed tax adjustment. No party opposes this stipulation.

On July 27, 2022, NW Natural filed a motion to modify the procedural schedule, on behalf of itself and the other parties to the proceeding, to eliminate the scheduled evidentiary hearing. The ALJ issued a ruling to modify the procedural schedule and cancelled the evidentiary hearing. The parties filed briefs on August 10, 2022, and August 22, 2022. The Commission heard oral arguments on August 25, 2022, on issues regarding the line extension allowances, Lexington project rate spread, RNG AAC, objections to the first partial stipulation, and objections to the second partial stipulation.

III. COMPANY FILING

In its initial filing, NW Natural proposed an increase of \$73.5 million, or 9.94 percent, to its revenue requirement. Additionally, NW Natural sought deferrals as part of this rate case and in other proceedings, including for costs associated with its Lexington RNG project, compliance with the Transportation Security Administration (TSA) security directive, implementing its Horizon Phase I project, and the Williams Pipeline outage. The total requested rate increase including these deferrals was \$81.8 million. On February 28, 2022, NW Natural filed an errata correcting the proposed increase to \$78 million but stated that it understood that the base rates ultimately adopted by the Commission would not exceed the requested revenue requirement in its initial filing.

NW Natural's filing is based on a forecast for a test year starting November 1, 2022 and ending October 31, 2023 (Test Year). NW Natural's filing also includes information on a historical base year from January 1, 2021 to December 31, 2021 (Base Year) and adjustments to historical information to reflect the forecasted Test Year. According to NW Natural, the primary factors driving the increase include implementing its Horizon

Phase I project, constructing seismically secure resource centers, upgrading its distribution system and storage operations, and complying with a TSA cybersecurity directive.

NW Natural proposed a rate of return (ROR) of 6.886 percent, based on a Return on Equity (ROE) of 9.5 percent, a capital structure of 50 percent long-term debt (LTD) and 50 percent equity, and a cost of LTD of 4.271 percent. NW Natural's filing included a marginal cost-of-service study.

In its initial filing, NW Natural filed a communications plan and requested recovery for two categories of advertising expenses under OAR 860-026-0022(2): 1) Category A for energy efficiency or conservation advertising expenses that do not relate to a Commission-approved program, utility service advertising expense, and utility information advertising expenses; and 2) Category B for legally mandated advertising expenses.¹ Additionally, NW Natural stated that it had budgeted \$600,000 in Category C expenses that it excluded from the Test Year.² Under OAR 860-026-0022(2)(c), Category C advertising expenses are for institutional advertising, promotional advertising, and any other advertising expenses not qualifying as Category A, B, or D expenses.

For Category A, NW Natural requested a Test Year amount of \$2.60 per customer, which it stated was lower than the \$2.70 per customer in the Base Year. NW Natural states that the amount presumed just and reasonable for Category A under OAR 860-026-0022(3)(a) is \$796,789 or approximately \$1.17 per customer. NW Natural maintained that its request for \$2.60 per customer was just and reasonable and necessary to effectively deliver Category A communications to customers based on evolving demographics and media consumption habits, NW Natural's geographically broad territory, the types of information that it communicates, and the directives in Executive Order 20-04.³

For Category B, NW Natural requested \$1,080,000 in expenses for the Test Year, which represented a \$135,000 increase over the Base Year spending level.⁴ NW Natural stated that the new Category B expenses over those identified in its last general rate case are focused on damage prevention, emergency preparedness awareness, and education. NW Natural identified the \$135,000 increase as expenses to expand its contract with Culver Company to administer the Public Safety Awareness Program materials.

¹ NW Natural/900, Beck/4-20.

² NW Natural/900, Beck/20.

³ NW Natural/900, Beck/6-7.

⁴ NW Natural/900, Beck/18.

NW Natural proposed to recover \$3.29 million in deferred costs associated with its Lexington RNG project.⁵ NW Natural states that the Lexington project is its first RNG investment under Senate Bill (SB 98) and is located next to a Tyson Fresh Meats beef packaging plant in Nebraska. NW Natural developed the project with BioCarbN and Cross River Infrastructure Partners, LLC.⁶ The project began start-up operations on January 13, 2022, and began commercial operations on February 24, 2022.⁷ NW Natural stated that the Lexington facility was expected to produce approximately 1.9 million therms of RNG per year or 0.27 percent of NW Natural's Oregon sales. Through the Lexington project, NW Natural will purchase the physical RNG produced from Lexington Renewable Energy LLC and sell it to a local gas marketer in Nebraska. NW Natural will retain the renewable thermal credits (RTCs) and retire them on behalf of its customers to meet SB 98 portfolio targets.⁸

NW Natural proposes to recover its deferred costs for the Lexington project and future RNG projects through an AAC, Schedule 198. NW Natural states that ORS 757.394 and ORS 757.396 require NW Natural to recover all its prudently incurred costs incurred for complying with the RNG targets in SB 98. Under NW Natural's proposed Schedule 198, the company would recover the revenue requirement associated with prudently incurred qualified RNG investments that contribute to it meeting its SB 98 RNG targets. NW Natural would file on or before February 28 with any proposed charges for new qualified investments it intends to include for the next effective date. NW Natural would file revised Schedule 198 by August 1 of each year as necessary to update charges for effect that November 1. NW Natural also requests the ability to alter the November 1 effective date if it is able to demonstrate it is in the public interest to propose an alternative rate effective date. NW Natural proposes to file deferral requests to recover any start-up operating and maintenance costs incurred prior to the project being placed into service and the revenue requirement for the project beginning on its in-service date until it is able to be placed into rates. NW Natural also proposes to file deferral requests to recover the difference between the estimated physical gas sales and the actual physical gas sales. NW Natural requested to propose a cost allocation methodology consistent with ORS 757.390 through ORS 757.398.⁹

⁵ NW Natural/1314, Walker/ 1-2; NW Natural/1403, Wyman/2.

⁶ NW Natural created two affiliated subsidiaries to assist it in investing in RNG infrastructure to meet SB 98 targets: 1) NW Natural RNG Holding Company, which is a wholly owned subsidiary of NW Natural; and 2) Lexington Renewable Energy LLC, which is owned by NWW Natural RNG Holding Company and BioCross LLC. The affiliated interest agreement between NW Natural and Lexington Renewables, LLC related to the Lexington Project was addressed and resolved in Docket No. UI 451. *In the matter of NW Natural Gas Company, Request for Approval of an Affiliated Interest Agreement with Lexington Renewables, LLC*, Docket No. UI 451, Order No. 22-211 (Jun 6, 2022).

⁷ NW Natural/2100, Chittum/16.

⁸ NW Natural/100, Chittum/22.

⁹ NW Natural/1501, Kravitz/1-3.

IV. STIPULATIONS

A. Standard of Review

Under OAR 860-001-0350, the Commission may adopt, reject, or propose to modify a stipulation. If the Commission proposes to modify a stipulation, the Commission must explain the decision and provide the parties sufficient opportunity on the record to present evidence and argument to support the stipulation.

In reviewing a stipulation, we review to determine whether the overall result of the stipulation results in fair, reasonable, and just rates. We review settlements on a holistic basis to determine whether they serve the public interest and result in just and reasonable rates. A party may challenge a settlement by presenting evidence that the overall settlement results in something that is not compatible with a just and reasonable outcome. Where a party opposes a settlement, we will review the issues pursued by that party, and consider whether the information and argument submitted by the party (which may be technical, legal, or policy information and argument) suggests that the settlement is not in the public interest, will not produce rates that are just and reasonable, or otherwise is not in accordance with the law. To support the adoption of a settlement, the stipulating parties must present evidence that the stipulation is in accord with the public interest, and results in just and reasonable rates.

B. First Partial Stipulation

1. Overview

In the first partial stipulation, the stipulating parties agreed to an annual Oregon revenue requirement of \$62.654 million, representing an 8.5 percent overall increase or a 14.1 percent margin increase to rates, or a \$5.66 increase to the average residential monthly bill.¹⁰ The stipulating parties note that the stipulated revenue requirement is subject to adjustments depending upon the resolution of certain remaining issues, including line extension allowances, which are addressed below.

The stipulation provides for an overall ROR of 6.836 percent, based on a ROE of 9.4 percent, a long-term capital debt structure of 50 percent LTD and 50 percent equity, and a cost of LTD of 4.271 percent. The stipulating parties submitted testimony supporting a ROE of 9.4 percent as based on a compromise that falls within the range of reasonable ROEs analyzed by the stipulating parties.¹¹ The stipulating parties also stated that though the parties had differing positions, they analyzed the cost of LTD and accepted NW

¹⁰ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/5; First Partial Stipulation, Appendix B at 1.

¹¹ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/33-34.

Natural's proposed cost of LTD of 4.271 percent. The \$62.654 million revenue requirement represents a number of adjustments to NW Natural's proposed revenue requirement, summarized below.

Adjustment	Description
U.S. All-Urban CPI Escalation	NW Natural proposed to use West Region Urban Consumer Price Index (CPI) to develop its Test Year operations and maintenance expense. The parties agreed to use the U.S. All-Urban CPI Escalation rate, resulting in an increase to expense of \$67,000 and an increase to the revenue requirement of \$69,000.
Oregon Corporate Activity Tax	The parties agreed to a reduction to revenue requirement of \$299,000.
Property Taxes	The parties agreed to a reduction to revenue requirement of \$61,000.
OPUC Fee	The parties agreed to an increase to the revenue requirement of \$420,000 to incorporate the higher OPUC fee rate.
Federal Income Tax – ARAM EDIT	The parties agreed to a reduction to the revenue requirement of \$141,000.
Materials and Supplies	The parties agreed to a \$1.140 million reduction to rate base, which results in a \$101,000 reduction to the revenue requirement.
Land and Structures	The parties agreed to an increase to expense of \$501,000 and an increase to rate base of \$2,755 million, for an increase to the revenue requirement of \$759,000.
Budget for District Regulators	The parties agreed to a reduction to rate base of \$2.740 million, resulting in a \$218,000 reduction to the revenue requirement.
Directors and Officers Insurance Premiums and Meals and Entertainment	The parties agreed to a reduction to expense of \$632,000, resulting in a \$650,000 reduction to the revenue requirement.
Memberships and Dues	The parties agreed to a reduction to expense of \$443,000, resulting in a \$456,000 reduction to the revenue requirement.

Operations and Maintenance and Administrative and General Expenses	The parties agreed to a reduction to expense of \$972,000, resulting in a \$1.0 million reduction to the revenue requirement.
Advertising Expense	The parties agreed to a reduction to expense of \$1 million, resulting in a \$1.029 million reduction to the revenue requirement.
Customer Account and Sales Expense	The parties agreed to a reduction to expense of \$292,000, resulting in a \$301,000 reduction to the revenue requirement.
Salary, Wages, Stock Expense, Incentives, and Medical Benefits	The parties agreed to a \$5.25 million reduction to the revenue requirement, as well as a \$4.5 million reduction to the Test Year rate base, amortized over 15 years, in recognition of past capitalized financial performance-based incentives. This rate base offset would carry over to future rate cases.
Pension and Post-Retirement Medical Expense	The parties agreed to a reduction to expense of \$3.4 million, resulting in a \$3.499 million reduction to the revenue requirement.
Market Research/Surveys and Focus Groups	The parties agreed to a reduction to expense of \$26,000, resulting in a \$27,000 reduction to the revenue requirement.
Test-Year Plant Additions	The parties agreed to a reduction to rate base of \$28.061 million and a reduction to expense of \$2.301 million, resulting in a \$4.845 million reduction to the revenue requirement. The parties also agreed to include an increase of \$24.649 million to rate base and a \$676,000 increase to expense for capital additions for new customers in the Test Year, resulting in an increase to revenue requirement of \$2.871 million.
Cost of Capital	The stipulated agreement on ROR and long-term debt capital structure results in a reduction to revenue requirement of \$1.212 million.

The first partial stipulation also resolves issues raised regarding rate spread and rate design, including use of a ceiling of 1.055 times the overall average margin revenue increase for the RS 2 Residential and RS 3 Non-Residential schedules and equalizing the base rate revenue increase on a percentage basis between the RS 2 and RS3 schedules.¹² The stipulating parties also agree that NW Natural will file attestations for capital projects that are not yet complete but scheduled to be completed prior to the rate effective date.¹³ Under the first partial stipulation, NW Natural would remove any project identified in Appendix C of the stipulation that is not completed and placed into service by October 31, 2022.

Under the first partial stipulation, NW Natural will apply the depreciation rates authorized in docket UM 2214 in this general rate case and will allocate any resulting change in revenue requirement to all rate schedules on an equal percent of margin basis.¹⁴

The first partial stipulation also resolves issues regarding NW Natural's Horizon Phase I project, including a recommendation that the Commission approve NW Natural's request in docket UM 2215 to amortize the Horizon Phase I assets over a ten-year life. Under the stipulation, if the Horizon 1 assets are removed prior to the end of the ten-year life, NW Natural would apply the modified blend treasury (MBT) rate to the remaining balance of the asset and defer the difference between the MBT rate and NW Natural's cost of capital until the next rate case or the end of Horizon's ten-year life, whichever comes earlier.¹⁵ Additionally, under the first partial stipulation, Horizon 1 start-up costs would be amortized over ten years, beginning November 1, 2022, subject to the provisions of the stipulation adopted in docket UM 2132 with a rate spread based on the same proportionate increase for each schedule as set forth in Appendix B.¹⁶

The first partial stipulation also provides that the TSA Security Directive deferral be authorized and amortized over four years at the MBT rate starting on November 1, 2022. NW Natural would remove any excess from rates in the event the actual balance is less than the amount proposed in this proceeding.¹⁷ Finally, under the first partial stipulation,

¹² NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/37-38; First Partial Stipulation, Appendix B.

¹³ A list of those projects was provided as Appendix C to the first partial stipulation.

¹⁴ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/41-42. On September 7, 2022, the Commission adopted a stipulation filed by NW Natural, Staff, and AWEC in docket UM 2214 authorizing revised depreciation rates.

¹⁵ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/43.

¹⁶ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/44-45; *In the Matter of Northwest Natural Gas Company, dba NW Natural, Request for Authorization to Defer Certain Start-Up Costs Associated with Horizon 1*, Docket No. UM 2132, Order No. 21-246 (August 2, 2021).

¹⁷ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/46.

NW Natural withdraws its request to amortize the Williams Pipeline Outage in these proceedings.

The Coalition objects to Sections 1(l), (m), and (n) of the first partial stipulation regarding the adjustments for advertising expenses, customer account and sales expense, and salary, respectively. In total, the Coalition recommends disallowing \$1,183,512 in expenses from NW Natural's proposed Category A and Category B advertising budget. Because Section 1(l) of the stipulation proposes to reduce the total advertising budget by \$1 million, the Coalition proposes to deduct an additional \$183,512 from the first partial stipulation.

2. *Party Positions*

a. *Coalition*

(1) Category A and Category B Advertising

The Coalition maintains that the Commission has the authority to reject a stipulation or propose modifications to the stipulation and may determine that the settlement is not in the public interest, will not produce rates that are just and reasonable, or otherwise not in accordance with the law.¹⁸ The Coalition urges the Commission to disallow an additional \$183,512 from Section 1(l) of the first partial stipulation to encourage NW Natural to apply the rules appropriately in the future. The Coalition maintains that it is not requesting that the Commission reject the entire stipulation but instead recommends narrowly tailored deductions in addition to those adjustments in the stipulation.¹⁹

Regarding Section 1(l) for advertising expenses, the Coalition argues that the stipulation would allow NW Natural to charge ratepayers for advertising that misleads the public about climate harms from gas, amounts to propaganda aimed at children, and promotes gas-powered appliances for which NW Natural offers shareholder-financed rebates to encourage new connections. The Coalition asserts that none of this advertising qualifies as Category A for informational advertising or Category B for legally mandated advertising.²⁰ The Coalition identifies four advertising expenses that it argues were inappropriately included as either Category A or Category B advertising expenses: 1) the Cooking with Gas campaign, 2) RNG advertising, 3) activity booklets for children, and 4) indoor air quality advertising.

The Coalition recommends that the Commission disallow \$122,250 in media buying costs and \$124,221 in production costs for television advertisements associated with the

¹⁸ Coalition Opening Brief at 40.

¹⁹ Coalition Closing Brief at 13-14.

²⁰ Coalition Opening Brief at 40.

Cooking with Gas campaign. The Coalition argues that NW Natural improperly charged ratepayers for promotional advertising associated with its Cooking with Gas campaign.²¹ The Coalition maintains that NW Natural contracted with Affiliated Media LLC to perform its media buying associated with this advertisement campaign and billed the costs associated with this contract to Federal Energy Regulatory Commission (FERC) Account 909, which is associated with Category A and Category B advertising, when the costs were promotional in nature and should have been placed in Category C advertising. The Coalition asserts that while NW Natural has corrected the itemized budget for Category C costs going forward, its proposed budget was based on its Category A Base Year estimated costs at the time of its initial filing and therefore NW Natural is still seeking to recover those costs from ratepayers.²²

The Coalition also recommends that the Commission disallow \$381,906 for professional services, production, and media costs associated with the RNG advertising campaign.²³ The Coalition argues that NW Natural's RNG advertising should be designated as Category C expenses rather than Category A for informational advertising because the advertisements are misleading and intended to promote the company.²⁴ The Coalition asserts that NW Natural's RNG advertisements imply that Oregon residential and commercial customers receive RNG when they do not. The Coalition identifies statements in these advertisements it finds misleading, including a statement that the Lexington project will generate enough RNG to heat a large number of homes the company serves in Oregon, but the RNG produced by the Lexington facility will not be delivered to Oregon customers. The Coalition maintains that one third of NW Natural's Category A advertising budget was spent on RNG advertising but that none of these advertisements informed customers that less than two percent of the company's total gas sales to Oregon customers were offset with RTCs and that customers are not receiving any RNG. The Coalition asserts that such advertisements do not meet any of the elements of Category A advertising, such as increasing customer understanding of the utility system or informing customers of environmental considerations related to their gas service because it fails to inform ratepayers of the significant carbon footprint of their home energy use associated with natural gas.

The Coalition argues that if the primary purpose of the RNG advertisements was to inform customers that the advertisements would also clarify that Oregon customers do not receive RNG and that RNG is only a fraction of gas utility service. The Coalition also argues that internal documents indicate NW Natural created the RNG advertising campaign to address concerns raised in customer surveys regarding climate change and

²¹ Coalition Opening Brief at 42.

²² Coalition Opening Brief at 43.

²³ Coalition Opening Brief at 47.

²⁴ Coalition Opening Brief at 44.

the role of fossil fuels on climate change.²⁵ The Coalition asserts that later surveys indicated the campaign had successfully changed public perception of the climate harm of natural gas. The Coalition maintains that misleading advertising to change public perception is not in the public interest and rate payers should not be forced to pay for a disinformation campaign.

The Coalition recommends that the Commission disallow \$60,000 in annual costs associated with NW Natural's advertising to school children.²⁶ The Coalition asserts that NW Natural is using ratepayer funds to promote the benefits of fossil gas to school children. In particular, the Coalition maintains that a coloring book NW Natural provides to school districts in its service territory targets elementary school aged children includes positive messages about gas utility service and encourages children to associate natural gas with fun activities.²⁷ The Coalition disputes that federal regulations require NW Natural to provide these coloring books to children and argues that they should not be recoverable as Category B expenses for legally mandated advertising. The Coalition asserts that 49 C.F.R. § 192, the regulation cited by NW Natural as requiring these advertisements, requires pipeline operators to educate the public regarding possible hazards associated with unintended releases from pipeline facilities, which does not include home gas appliances.²⁸ Additionally, the Coalition argues that the booklet fails to explain that a methane leak in an enclosed space like a home could cause an explosion. The Coalition also maintains that the Pipeline and Hazardous Safety Materials Safety Administration requires utilities to advise affected entities such as school districts, because they are places for public gathering and the rules do not require utilities to advertise to children. The Coalition asserts that the Commission should look at the primary purpose of a publication to determine how to categorize it. The Coalition argues that the coloring books overwhelmingly promote fossil gas with little educational content and should be categorized as promotional and institutional advertising.²⁹

The Coalition also recommends that the Commission disallow \$104,889 in costs associated with NW Natural's air pollution advertising campaign.³⁰ The Coalition maintains that the primary purpose of these advertisements is to encourage customers to continue using gas for home cooking. The Coalition argues that these advertisements are intended to discredit scientific information regarding air pollutants emitted by gas stoves, including findings that fans and hoods are not sufficient to address these pollutants. The Coalition asserts that these advertisements promote gas stoves by misinforming the

²⁵ Coalition Opening Brief at 46.

²⁶ Coalition Opening Brief at 49.

²⁷ Coalition Opening Brief at 48.

²⁸ Coalition Opening Brief at 48.

²⁹ Coalition Closing Brief at 18.

³⁰ Coalition Opening Brief at 50.

public and therefore should not be recoverable. Further, the Coalition argues that these advertisements encourage the use of gas stoves and are therefore promotional advertisements for which NW Natural has not demonstrated ratepayer benefits.

The Coalition also recommends that the Commission disallow \$390,286 in salary costs from its Category A advertising budget. The Coalition asserts that NW Natural is seeking recovery for staff salary time and costs associated with these advertising campaigns and argues that these costs should be disallowed. The Coalition maintains that NW Natural does not track the salary costs associated with its advertising campaigns but argues that the professional services, production, and media costs for the four advertising campaigns it identifies as improper comprise 61 percent of the Category A budget for professional services, production, and media costs originally proposed by NW Natural. The Coalition recommends denying 61 percent of the total salary costs for Category A advertising salary budgets, which is \$390,286.³¹

(2) Promotional Concessions

The Coalition also objects to Section 1(m) of the first partial stipulation and recommends that the Commission disallow \$482,882 in expenses from NW Natural's Customer Sales and Accounts budget in addition to the \$292,000 adjustment proposed in Section 1(m).³² The Coalition argues that NW Natural offered rebates financed by shareholders for gas-powered appliances through advertisements that should have been labeled as promotional advertising and billed to Category C. The Coalition also maintains that NW Natural was offering significant incentives to install gas appliances by combining its own shareholder-financed incentives with rebates from appliance manufacturers, as well as sometimes with rebates from the Energy Trust of Oregon (ETO). The Coalition argues that NW Natural's witness acknowledged that these costs should be treated as Category C expenses but that other witnesses acknowledged that NW Natural had charged ratepayers for these costs by booking them to FERC Accounts 908 and 912 rather than to FERC Account 913 with the other Category C expenses. The Coalition asserts that absent a showing of specific customer benefit, NW Natural cannot charge ratepayers for these costs.

The Coalition also asserts that the issue of the costs associated with promotional concessions was not settled and resolved in the first partial stipulation.³³ The Coalition

³¹ The Coalition bases this figure on the \$733,226 in professional services, production, and media costs associated with the four campaigns that it recommends for, which it argues is 61 percent of the \$1,183,512 total the Coalition argues should be deducted from NW Natural's initial proposed advertising budget. The Coalition then multiplied 61 percent with NW Natural's total salary budget for Category A of \$639,813. Coalition Opening Brief at 51.

³² Coalition Opening Brief at 54; Coalition Closing Brief at 21.

³³ Coalition Closing Brief at 20-21.

maintains that after the first partial stipulation was filed on May 21, 2022, NW Natural had submitted testimony stating that it never charged these costs to ratepayers and the supporting testimony filed thereafter makes no reference to promotional advertising for shareholder financed rebates.

Additionally, the Coalition urges the Commission to open a docket to align the ETO incentives and programs with Oregon's new climate laws and policies. The Coalition notes that the Commission last evaluated the ETO's policies in 2013, prior to HB 2021, the CPP, and Executive Order No. 20-04. The Coalition argues that the ETO-funded incentives combined with the shareholder-financed incentives encourage Oregonians to install gas appliances instead of electric appliances, which could increase greenhouse gas emissions contrary to Oregon's climate goals.³⁴ The Coalition maintains that aligning the ETO's incentives with Oregon's climate laws would ensure customers are receiving the best information about appliance efficiency and emissions, as well as how to decarbonize their homes. The Coalition also asserts that it raised concerns NW Natural's use of advertising to promote fuel switching in its opening testimony and that this is not a new policy issue but a request for relief. Regarding NW Natural's arguments that the ETO incentives do not cause fuel switching, the Coalition contends that NW Natural's advertisements indicate the opposite, citing a series of ads it maintains are premised on convincing customers to switch from electric to gas fuel.³⁵

(3) Political Activities

The Coalition also objects to Part 1(n) of the first partial stipulation that provides a \$5.25 million reduction to revenue requirement and a \$397,000 reduction to the Test Year revenue requirement related to salaries, wages, stock expense, incentives, and medical benefits. The Coalition asserts that the first partial stipulation permits NW Natural to recover costs associated with political lobbying activities contrary to both federal law and Commission precedent.³⁶ The Coalition recommends that the Commission disallow [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in salary expenses for NW Natural's Community and Government Affairs employees, which represents the entire budget for these employees.

The Coalition argues that Commission precedent prohibits recovery of ratepayer funds for political lobbying, including legislative activities and governmental affairs.³⁷ Similarly, the Coalition argues that FERC regulations state that utilities may not include

³⁴ Coalition Opening Brief at 55.

³⁵ Coalition Closing Brief at 22.

³⁶ Coalition Opening Brief at 29.

³⁷ Coalition Opening Brief at 29-30 citing, in part, *In the Matter of Pacific Northwest Bell Telephone Company*, Docket No. UT 43, Order No. 87-406 (Mar 31, 1987).

expenditures associated with lobbying activities in its cost of service.³⁸ The Coalition maintains that federal regulations define political expenditures as costs incurred when “influencing public opinion with respect to ... legislation, [adoption or repeal of] ordinances ... or approval, modification, or revocation of franchises...” and includes any activity for the purpose of influencing the decision of a public official.³⁹ The Coalition argues that NW Natural employees engaged in such lobbying activities to influence Oregon public officials regarding proposed climate policies, decarbonization initiatives, franchise agreements, and taxes on gas utility service in the cities of Eugene, Portland, and Milwaukie, as well as Multnomah and Lane Counties. The Coalition asserts that NW Natural states the purpose of these communications was to prevent municipalities from adopting prohibitions on connecting new buildings to gas service and included employees at the highest ranks.⁴⁰ The Coalition further argues that these communications were extensive and included numerous employees.

The Coalition disputes NW Natural’s assertions that these communications were not political activity and argues that these communications were for the purpose of influencing the decisions of public officials and squarely within FERC’s definition of political activity. The Coalition also maintains that these communications meet the Commission’s definition of political activities for which utilities may not recover expenses from ratepayers, because it includes expenses such as legislative research and opposing policies that are potentially damaging to the utility’s business. The Coalition argues that NW Natural has the burden to demonstrate that an expense is just and reasonable throughout the proceeding and that if a utility is unable to meet this burden, the Commission should adopt the proposed reduction of the party challenging the cost recovery.⁴¹ The Coalition maintains that NW Natural has not provided any evidence or data for the costs associated with its political activities and generally asserts that they are below the line, which is not sufficient justification. The Coalition contends that NW Natural has not cited any precedent, case law, or state or federal statutes or regulations to support its arguments that these communications were not political activities.⁴² Further, the Coalition disputes NW Natural’s arguments that responding with data to municipal inquiries is not political in nature and contends that providing information to a public official with the purpose of influencing the outcome of their decision is political activity under the plain language of 18 C.F.R. § 367.4264(a). The Coalition asserts that NW Natural has admitted that it contacted municipal officials for the purpose of preventing them from adopting policies that would hinder gas service expansion. The Coalition argues that the first partial stipulation does not deduct costs associated with political

³⁸ Coalition Opening Brief at 30, citing *Delmarva Power & Light Co.*, 58 FERC ¶ 61,169, 61,509 (1992).

³⁹ Coalition Opening Brief at 31, quoting 18 C.F.R. § 367.4264(a).

⁴⁰ Coalition Opening Brief at 32, citing NW Natural/2400, Heiting-Bracken/38-39.

⁴¹ Coalition Opening Brief at 31.

⁴² Coalition Closing Brief at 14.

activities and that to allow NW Natural to circumvent federal regulation and Commission precedent is contrary to the public interest.

The Coalition asserts that NW Natural did not cooperate with its attempts in discovery to obtain records related to its lobbying and political activities, and it was therefore impossible for the Coalition to develop a line-item budget for costs associated with NW Natural’s municipal lobbying efforts. Additionally, the Coalition argues Commission precedent has stated that utilities should not recover costs associated with “community and governmental affairs.”⁴³ The Coalition also maintains that NW Natural argued both that it has deducted all political activities and that it requests reimbursement for company staff time spent opposing climate action by local governments. The Coalition asserts that NW Natural has not provided any evidence that it charged shareholders for the costs of the political activities that it has challenged and instead is seeking recovery of those costs because it views them as core utility activities necessary to provide safe and reliable gas service.⁴⁴ As a result, the Coalition argues that the entire budget for community and government affairs should be disallowed.

b. Stipulating Parties

(1) Category A and Category B Advertising

The parties to the first partial stipulation recommend that the Commission adopt the first partial stipulation as an integrated settlement, arguing that it is a reasonable compromise of the issues, is in the public interest, and will result in rates that are fair, just, and reasonable consistent with ORS 756.040.⁴⁵ Additionally, the parties to the first partial stipulation maintain that they did not necessarily agree upon all the methodologies used to determine each adjustment but agree that in its totality the adjustments in the first partial stipulation represent a reasonable settlement of the issues.

The parties to the first partial stipulation agree that the \$1 million adjustment to advertising expenses agreed to in Section 1(1) of the stipulation resolves concerns raised by Staff and CUB in testimony and allows NW Natural to recover a reasonable advertising budget.⁴⁶ NW Natural argues that the Commission should reject the Coalition’s attempts to recategorize Category A and Category B advertising expenses to Category C expenses. NW Natural asserts that its RNG advertising is truthful, accurate, and intended to educate its customers about RNG and NW Natural’s decarbonization

⁴³ Coalition Opening Brief at 37.

⁴⁴ Coalition Closing Brief at 15-16.

⁴⁵ NW Natural Opening Brief at 6-9; Staff Opening Brief at 1; AWEC Opening Brief at 3-4; CUB Opening Brief at 2-3.

⁴⁶ NW Natural Opening Brief at 12-13.

plans, and that the Coalition's arguments are unfounded.⁴⁷ NW Natural argues that Category A expenses include advertisements that address environmental considerations and other contemporary items of customer concern and its RNG advertising meets the qualifications of Category A. Regarding the Coalition's assertion that the Commission previously held untruthful and misleading information does not further the public interest, NW Natural contends that the case the Coalition cites only considered whether the advertisements were untruthful and the Commission declined to add requiring objective and accurate content to the advertising criteria.⁴⁸ NW Natural maintains that the Coalition has not demonstrated or alleged that its RNG advertising is untruthful. NW Natural contends that the Coalition misses the point about NW Natural's RNG projects and reiterates that it is producing RNG for customers under SB 98 rules and has not claimed that the physical molecules are being delivered to customers in Oregon. Similarly, NW Natural argues that its indoor air quality advertisements are intended to encourage customers to use proper ventilation when cooking and are valid Category A expenses.⁴⁹

NW Natural asserts that the safety booklets provided to schools provide critical safety information in an age-appropriate way and that they are commonly used throughout the industry. NW Natural argues that a primary message in the booklet is to inform children about the odorizer in natural gas and what to do if they smell the odorizer. NW Natural maintains that it relies on these booklets to provide important safety information to the affected public as required by federal regulations and that therefore these booklets are properly considered Category B expenses. NW Natural contends that the Coalition's arguments that it is using ratepayer funds to disseminate propaganda to school children is untrue and offensive and reiterates that they are intended to educate children on how to react to a gas leak.⁵⁰

Additionally, NW Natural argues that even if the Commission were inclined to consider the Coalition's objections, the Coalition's adjustments would amount to less than the \$1 million adjustment contained in the first partial stipulation and are full of errors.⁵¹ Regarding the Coalition's proposed \$246,471 disallowance for the Cooking with Gas Campaign, NW Natural maintains that it should be reduced to \$124,221 because \$122,250 of that expense was already booked to Category C.⁵² NW Natural also argues that the Coalition's proposed adjustments for expenses associated with Bing and Google advertisements on cooking with gas and indoor air quality are excessive and should be

⁴⁷ NW Natural Opening Brief at 13.

⁴⁸ NW Natural Closing Brief at 5-6.

⁴⁹ NW Natural Opening Brief at 14.

⁵⁰ NW Natural Closing Brief at 10.

⁵¹ NW Natural Opening Brief at 15; NW Natural Closing Brief at 8-9.

⁵² NW Natural Opening Brief at 15.

reduced to \$46,214 from \$69,328. NW Natural asserts that one third of these costs were for advertisements appropriately booked to Category A because they were for indoor air quality and power outage tips. NW Natural maintains that the Coalition's \$390,286 proposed adjustment for salary costs associated with RNG advertising should be rejected because its RNG advertisements were appropriately categorized as Category A expenses. Alternatively, NW Natural argues that the adjustment should be reduced by at least \$137,173, because the Coalition included costs that are wholly unrelated to RNG advertising to arrive at its 61 percent of the salary budget estimate, and therefore significantly overstated staff time and overhead expense associated with RNG advertising. After factoring in these corrections to the Coalition's adjustments, NW Natural maintains that the total adjustments would be less than the \$1 million adjustment already agreed to in the first partial stipulation.

NW Natural also argues that the Commission should reject the Coalition's assertion that it should have declared and budgeted certain advertisements as Category D political advertising expenses.⁵³ NW Natural argues that it did not include any Category D expenses in its request for cost recovery and there was no need to describe those types of expenses in this case. Additionally, NW Natural reiterates the first partial stipulation resolves all concerns around advertising expense for the parties to that stipulation and that no other modifications need to be made.

(2) Promotional Concessions

NW Natural maintains that the Commission should reject the Coalition's proposed adjustment of \$482,882 to FERC Accounts 908 and 912 for customer account and sales expenses. NW Natural argues that the first partial stipulation will result in just and reasonable rates and is therefore in the public interest. NW Natural also argues that it would be inaccurate to characterize the entirety of the expenses identified by the Coalition as connected only to shareholder incentives.⁵⁴ NW Natural argues that it is reasonable for it to educate new and existing customers about the full spectrum of energy efficiency rebates and offerings available to them. NW Natural asserts that the Coalition raised this issue late in the proceeding, limiting the amount of time available to perform a detailed review.⁵⁵ NW Natural concedes that categorizing shareholder incentive advertising could be clearer and states that it will perform a comprehensive review and analysis of advertising costs booked to FERC Accounts 908 and 912 before its next rate case.⁵⁶ NW Natural asserts that the Coalition's proposed reduction overstates the advertising expense the company incurred related to shareholder incentives, because it

⁵³ NW Natural Opening Brief at 17.

⁵⁴ NW Natural Opening Brief at 19.

⁵⁵ NW Natural Closing Brief at 12.

⁵⁶ NW Natural Opening Brief at 19.

customers, NW Natural argues the Coalition has not provided any evidence beyond NW Natural's surveys showing that Oregon customers maintain broad concerns about climate change. NW Natural asserts that it also maintains broad concerns about climate change and the need to alleviate it and has worked with cities to discuss how the company can meet its emissions reductions goals and what it is doing to decarbonize. NW Natural argues that it must engage with cities related to its role in providing gas service while still meeting state and local climate goals and that its interests are not in conflict with its customers.

NW Natural argues that the parties to the first partial stipulation had different views about the appropriate approach for determining salaries, wages, incentives, and medical benefits to be included in rates, and that through discussion and compromise the parties were able to reach a fair and reasonable resolution for the purposes of settlement. NW Natural argues that the Coalition's proposed adjustment is excessive and unnecessary to achieve a fair resolution of the issues. NW Natural argues that each adjustment in the first partial stipulation is supported by substantial evidence in the record.

3. Resolution

a. Advertising and Promotional Expenses

We find that the first partial stipulation as it pertains to advertising and promotional concessions expenses results in reasonable and just rates. We have concerns, however, regarding many of the advertising costs at issue in these proceedings.

We recognize that the first partial stipulation was the result of negotiations over complicated issues and separating specific items from that stipulation can be difficult due to the give and take nature of negotiations. Many of the issues that the Coalition raises in opposition to the first partial stipulation were also raised by CUB and Staff, particularly as it pertains to the advertisements.⁶³ The parties to the first stipulation negotiated a \$1 million negative adjustment to the overall advertising costs that reduced the Category A Test Year expense to the amount presumed reasonable under OAR 860-026-0022(3)(a) and removes some additional Test Year expenses for Category B.⁶⁴ This adjustment in Section 1(l) is a reasonable resolution of the issues raised regarding NW Natural's Test Year advertising expenses. We also find that the adjustment in Section 1(m) of the first partial stipulation is a reasonable resolution and results in reasonable and just rates within

⁶³ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/21-23; NW Natural-Staff-CUB-AWEC-SBUA/200, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/7-11.

⁶⁴ NW Natural-Staff-CUB-AWEC-SBUA/100, Kravitz-Fjeldheim-Gehrke-Mullins-Kermode/22-23.

the context of the overall stipulation and decline to adopt the Coalition's additional deductions.

While we find that the adjustment contained in this stipulation for advertising costs is reasonable, we acknowledge that the Coalition has raised some important concerns with many of the advertising costs underlying NW Natural's proposed budget in these proceedings. Of particular concern is the activity booklets provided to schools, ostensibly for the purpose of providing safety information. While the activity booklets do include some information about safety, the vast majority of the information is unrelated to safety with some pages verging on outright promotion.⁶⁵ Some of the booklet pages involve activities for children to identify which activity book character and which fuel source, natural gas or diesel, were considered "dirty" or "clean," which has nothing to do with the purported safety messaging goal. The purpose and scope of these booklets well exceeds the stated purpose of providing safety information to children. We encourage NW Natural to review these booklets and whether they provide adequate safety information to the extent that they truly qualify as a Category B advertisement.

Beyond the activity booklets, we are generally concerned that many of advertising campaigns at issue here include information that is promotional or otherwise not covered by either Category A or Category C. Like the booklets, many of these advertisements contain some element of a Category A or B advertisement in addition to information of a more promotional nature. As even NW Natural seems to acknowledge, some of the information included in its Comfort Zone newsletters, which is typically billed to Category A, appears to be promotional.⁶⁶ We emphasize that while we are accepting the adjustment in the stipulation as a reasonable result of the negotiation process, advertisements that are promotional in nature are not Category A or Category B advertisements, regardless of whether they have some element that may qualify for Category A or Category B. In the future, NW Natural should carefully track its advertising costs and ensure that advertisements it includes under Category A and Category B underlying its expected expenses do not include promotional elements.

Regarding the Coalition's request to open a docket to align the ETO incentives and programs with the new climate laws and policies, we decline to open such a proceeding at this time.

b. Political Activities

We determine that NW Natural and the parties to the first partial stipulation have not met their burden of proof regarding the costs the Coalition objects to in Section 1(n) of the

⁶⁵ Coalition/406, Ryan/18-89.

⁶⁶ See, e.g., Coalition/405, Ryan/70-71; NW Natural/1900, Beck/24.

stipulation. Specifically, NW Natural seeks to justify the stipulation on a basis that we cannot accept, arguing simultaneously that the costs of engaging on topics that are political in nature are *not* included in rates but also that they *are* appropriately included in rates. We propose to modify Section 1(n) of the first partial stipulation to include an additional negative adjustment of \$356,106.

In these proceedings, NW Natural requests [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in salary expenses for its Community and Government Affairs employees as part of its Test Year.⁶⁷ NW Natural, as the utility seeking approval of its rates in these proceedings, bears the burden of demonstrating that its proposed rates are just and reasonable. Further, the parties to the first stipulation bear the burden of demonstrating that the stipulation results in just and reasonable rates. The Coalition has identified issues with NW Natural's Community and Government Affairs expenses, namely that many of the expenses underlying the amount embedded in the Test Year are based on communications and other interactions that are political in nature, shifting the burden of production to the company.

We find that the Coalition has presented sufficient evidence that a portion of NW Natural's Community and Government Affairs expenses are not reasonably included in rates. As the Coalition asserts, many of the communications underlying the company's budget include efforts to influence city or county officials, such as the communications with Multnomah County officials and the communications with Milwaukie city councilors.⁶⁸ Under this Commission's precedent, utilities are not permitted to recover expenses associated with political lobbying.⁶⁹ This precedent is similar to FERC's regulations prohibiting political activities and lobbying.⁷⁰

It is not clear from this record how much of the Test Year expenses are associated with lobbying activity. NW Natural maintains that it charges political activities below the line and that it already removes some amount of expenses associated with political activities.⁷¹ Further, NW Natural argues that it is not seeking recovery of its general statewide legislative advocacy.⁷² At the same time, NW Natural argues that the communications regarding potential gas bans around the state are not political activities

⁶⁷ NW Natural/1710, Heiting-Bracken/cell AI 38.

⁶⁸ See, e.g., Coalition/922, Ryan/20, 47-50; Coalition/925, Ryan/3-4, 13.

⁶⁹ See, e.g., *In the Matter of Pacific Northwest Bell Telephone Company*, Docket No. UT 43, Order No. 87-406, at 69-70 (Mar 31, 1987) (finding that lobbying expenditures should not be recovered); *In the Matter of Portland General Electric Company Proposal to Restructure and Reprice its Services in Accordance with the Provisions of SB 1149*, Docket No. UE 115, Order No. 01-777, at 35-36 (Aug 31, 2001) (adopting a proposed reduction for lobbying expenses).

⁷⁰ 18 C.F.R. 367.4264(a).

⁷¹ NW Natural/1710, Heiting/Bracken/1; NW Natural/1700, Heiting-Bracken/78.

⁷² NW Natural/1700, Heiting-Bracken/84.

but are instead core utility service.⁷³ While we agree with NW Natural that communications intended purely to ensure that public officials are receiving routine information about the company and the gas system do not qualify as lobbying expenses, many of the communications at issue go well beyond such a routine communication and are intended to influence the decisions of public officials. The fact that NW Natural already removes some expenses associated with lobbying is not sufficient evidence that it has removed all such expenses.⁷⁴ Given that NW Natural believes that at least some of these communications are core utility service rather than lobbying, it seems unlikely that all lobbying expenses have in fact been removed from the Test Year expenses. Particularly problematic is NW Natural's view that engaging with municipalities or other jurisdictions regarding topics such as local climate change initiatives and natural gas bans are not engagement on a political issue until there is an actual ordinance or proposal on the table.⁷⁵ We find this position untenable, and we are unable to support the stipulation as resulting in just and reasonable rates. NW Natural has not provided any expense information detailed enough to separate out the lobbying expenses from non-lobbying expenses that may be embedded in the department's entire Test Year budget. NW Natural has failed to meet its burden of proof that the Test Year expenses for its Government and Community Affairs department are just and reasonable. Without addressing this issue, we find that Section 1(n) of the first partial stipulation is insufficient and would not result in just and reasonable rates, even when considered in the context of the entire stipulation.

Going forward, we expect NW Natural to provide detailed expense information that clearly categorizes its activity. NW Natural should be clear whether it is engaging, for example, primarily in an informational capacity in response to local government requests for assistance in developing and meeting climate policies, versus engaging with local governments with an intention to advocate against particular policies and develop support for others. Only with this level of clarity is meaningful stakeholder review of political activity possible, and NW Natural did not make an effort to provide an appropriate delineation here.

For the foregoing reasons, we determine that, in order to find that the stipulation results in just and reasonable rates, it is necessary to modify Section 1(n) of the first partial stipulation to account for these political activities. While we find that NW Natural has failed to meet its burden, we do not propose to eliminate the entire Test Year expense for the department. We recognize that to do so would be a significant change given that NW

⁷³ NW Natural Closing Brief at 16; NW Natural/2400, Heiting-Bracken/39.

⁷⁴ See *In the Matter of Pacific Northwest Bell Telephone Company*, Docket No. UT 43, Order No. 87-406 at 36 (Mar 31, 1987) (stating that the assertion that the company always charged lobbying costs below the line was not, by itself, sufficient justification for the expense).

⁷⁵ See Tr. at 144 (Aug 25, 2022).

Natural has previously included this department's budget in its rates and that some amount of expense associated with this department is likely to be reasonable. Instead, we propose to modify Section 1(n) of the first partial stipulation to include a negative adjustment of \$356,106. Our adjustment does not reflect an assumption about what proportion of NW Natural's activity may in the future qualify as political in nature. It merely reflects our hesitation to disallow NW's Natural's entire Government and Community Affairs budget, despite NW Natural not meeting its burden of proof to adequately delineate political activity, because we are aware that some proportion of the department's work involves informational engagement and education for local governments for which ratepayer support is appropriate.

C. Second Partial Stipulation

1. Overview

The second partial stipulation between NW Natural, Staff, CUB, AWEC, and the Coalition resolves issues related to decoupling, residential customer deposits, the OLIEE program, and the COVID-19 deferral. For decoupling, the settling parties agree that in the next general rate case, NW Natural will provide certain data regarding use per customer and the number of new customers forecasted within the rate case filing.⁷⁶ Additionally, under this stipulation, NW Natural would not be obligated to propose a modification to its decoupling program in its next general rate case but may not argue that this stipulation bars modification to the program or that it is not technically feasible to have a decoupling mechanism that distinguishes between existing customers and new customers. The company remains free to present evidence of the costs of implementing any such modifications.

For residential customer deposits, the second partial stipulation provides that NW Natural will cease collecting customer deposits from new residential customers and residential customers that self-certify as low income or who are currently enrolled in the Low-Income Energy Assistance Program or an energy assistance program. The stipulation also provides that customers will be considered low-income if their income is 60 percent of the Oregon state median income, adjusted for household size.⁷⁷ The stipulating parties also agreed to increase OLIEE funding to \$4,000 per dwelling, subject to additional

⁷⁶ Second Partial Stipulation at 3-4.

⁷⁷ The Commission recently adopted revised rules in docket AR 653 that include revisions to several customer protection rules, such as low-income eligibility for customer deposits. The second partial stipulation provides that NW Natural will update its income eligibility to be consistent with any new rule stemming from the rulemaking in docket AR 643. The revised rules went into effect September 30, 2022. Under the revised rules, an energy utility may allow a customer to self-certify as an eligible low-income residential customer based on income that is at or below 60 percent of the Oregon state median income. *See* OAR 860-021-0180.

consultation between the OLIEE Advisory Group and the community action partner agencies regarding the allocation of the increase. At least \$1,500 of this \$4,000 would be reserved for the health, safety, and repair (HSR) measures allowance to the extent that there are HSR measures for that dwelling. NW Natural would also make revisions to its Schedule 320 to clarify that high-efficiency gas furnace installations are subject to a cost-effectiveness test but that smart thermostats, attic insulation, and wall insulation do not need to be subject to the cost-effectiveness test. Additionally, NW Natural would amend Schedule 320 to clarify that standard efficiency furnace replacements may qualify for HSR funds if the existing furnace is broken, is found to produce an unsafe level of CO emissions, backdrafting, or has a cracked heat exchanger and it is physically impossible to install a high efficiency furnace.⁷⁸

The second partial stipulation also provides that as of November 1, 2022, NW Natural would begin amortizing the 2020 and 2021 balances for its COVID-19 deferral, including interest, subject to a reduction of \$163,000. This balance would be amortized over two years and would be allocated consistent with the rate spread methodology set forth in Appendix B to the first partial stipulation.⁷⁹ The COVID-19 deferred costs categorized as direct costs would be subject to an earnings test set at NW Natural's authorized ROE.⁸⁰ The second partial stipulation provides that NW Natural may request a prudence review and amortization of post-2021 COVID-19 deferral balances in a future proceeding.

2. *Party Positions*

a. *SBUA*

SBUA objects to the COVID-19 deferral provisions in the second partial stipulation as they relate to the allocation of the costs and the notice provided that the COVID-19 deferral costs would be addressed in this proceeding. SBUA argues that the allocation of the COVID-19 costs is not fair or reasonable because the allocation was not consistent with standard ratemaking principles of cost causation and results in a 10.3 percent increase for small business customers. SBUA requests that the Commission deal with the COVID-19 deferral costs in a different docket or apply standard ratemaking principles to the allocation of COVID-19 deferred costs.⁸¹

⁷⁸ *Id.* at 5-6.

⁷⁹ *Id.* at 6-7.

⁸⁰ NW Natural-Staff-CUB-AWEC-Coalition/100, Kravitz-Wyman-Fjeldheim-Scala-Jenks-Mullins-Fain/16-17.

⁸¹ SBUA Opening Brief at 2.

SBUA argues that it did not receive adequate notice that the COVID-19 deferrals would be addressed in this general rate case.⁸² SBUA maintains that NW Natural did not include COVID-19 deferral costs in its initial filing and the issue was not raised until Staff raised it in opening testimony. SBUA asserts that these costs were never formally consolidated into this docket, reducing the time available to sufficiently review a fair apportionment of the costs. SBUA contends that under OAR 860-001-0460(1)(b), the Commission or ALJ provides official notice of “[r]ules, regulations, administrative rulings, and reports of the Commission and other government agencies” and that no such administrative ruling to consolidate COVID-19 was made in this proceeding.⁸³ SBUA argues that even if such an administrative ruling was made, there are doubts as to whether that would constitute proper notice since it is ultimately up to the Commissioners to decide what is going to be included in the final approved rates.

SBUA argues that under the cost causation principle, all approved rates reflect, to some degree, the costs actually caused by the customer who must pay them.⁸⁴ SBUA maintains that other states have recognized that the cost causation principle is an important consideration for determining the allocation of costs, particularly in situations where one class receives the greatest benefit. SBUA contends that in this general rate proceeding, residential customers received far greater protections than small business customers and that under Oregon law, the Commission can and has ordered such expenses to be paid by a specific set of ratepayers.⁸⁵

SBUA maintains that the Commission created six clear and distinct categories of costs and asserts that this indicates that each category would have a different cost treatment. SBUA maintains that otherwise the Commission would have created a single category for all deferred COVID-19 costs.⁸⁶ SBUA argues that though it may be expedient to group the costs for purposes of allocation, it sets a bad precedent for future filings. SBUA argues that the Commission follows the matching principle, which is a general ratemaking principle whereby ratepayers are charged with the costs of producing the service that they receive and that the Commission’s overall goal in authorizing the switch to accrual accounting is to conform the practice to the matching principle.⁸⁷

SBUA also argues that it is improper to use a forward-looking allocator, such as the proposed marginal revenue in the rate spread under the first stipulation, for historical costs like the COVID-19 costs. SBUA maintains that using the proposed marginal

⁸² *Id.* at 5.

⁸³ *Id.* at 5-6 (quoting OAR 860-001-0460(1)(b)).

⁸⁴ *Id.* at 6, citing *K N Energy, Inc. v. F.E.R.C.*, 968 F.2d 1295 (D.C. Cir. 1992); *Alabama Electric Cooperative, Inc. v. FERC*, 684 F.2d 20, 27 (D.C. Cir. 1982).

⁸⁵ *Id.* at 7, citing *Multnomah County v. Davis*, 35 Or App 521, 581 P2d 968 (1978).

⁸⁶ *Id.* at 7-8.

⁸⁷ *Id.* at 8, citing *Town of Norwood v. FERC*, 311 U.S. App. D.C. 306, 53 F.3d 377 (1995).

revenues will result in a mismatch of costs and periods, which violates the matching principle and produces a flawed cost recovery.⁸⁸ SBUA argues that using the forward-looking allocator for historical deferred costs will create a substantial subsidy to the large commercial and industrial classes from the small business class. SBUA asserts that using the forward-looking allocator to recover deferred historical costs results in a customer class paying for costs incurred by another customer class and in this case would likely result in small businesses paying 3.3 percent more of the COVID-19 costs solely because of the forward-looking allocator.⁸⁹ SBUA maintains that public policy considerations weigh in favor of treating COVID-19 costs fairly and reasonably through standard ratemaking principles where evidence supports the challenges faced by many small business and the advantages gained by residential customers in contrast to small commercial customers.⁹⁰

SBUA contends that NW Natural bears the burden of producing sufficient evidence to support its claim and maintains that NW Natural has not produced evidence supporting the proposed allocation of COVID-19 costs in the second partial stipulation, while SBUA has produced evidence in support of its position.⁹¹ SBUA asserts that NW Natural does not articulate any standard of ratemaking principle in support of its position that COVID-19 deferral costs should be allocated to all classes as a matter of principle. SBUA contends that while AWEC may have found the overall settlement reasonable, it did not refute SBUA's assertion that the allocation inappropriately groups dissimilar costs together for the use of a single allocator. SBUA also maintains that contrary to Staff's assertions, SBUA has made it clear in its responses to data requests that its understanding of "margin" and "marginal" are the same.

b. Stipulating Parties

Regarding the notice issue raised by SBUA, the stipulating parties, led by NW Natural, argue that SBUA had nearly three months to audit the costs in the COVID-19 deferral from the time it was first proposed by Staff, and SBUA issued data requests to Staff and NW Natural regarding this topic.⁹² Further, the stipulating parties contend that while the parties maintained different positions about the costs to be included in amortization and ultimately reached a compromise resolving the prudence of the deferred costs. NW Natural argues that the fact docket UM 2068 was not consolidated with the rate case proceeding has no bearing on the ability of the parties to resolve the issue in the rate case, noting that that the Commission routinely considers proposals for amortizations of

⁸⁸ *Id.* at 8.

⁸⁹ *Id.* at 9.

⁹⁰ SBUA Closing Brief at 4.

⁹¹ *Id.* at 3.

⁹² NW Natural Opening Brief at 27.

deferrals in rate case proceedings.⁹³ Regarding SBUA's argument that NW Natural attempted to increase its request for recovery on surrebuttal, NW Natural contends that this statement is false and confuses the record, because the company updated its initial filing via its February 28, 2022 errata filing.⁹⁴ Regarding SBUA's argument that the Commission can and has ordered certain expenses be paid by a specific set of ratepayers, NW Natural argues that this point of law is not in dispute and instead the issue is whether the small businesses in tariff rate schedule 3 for non-residential customers benefitted from the rate relief measures included in the COVID-19 deferral.⁹⁵

The stipulating parties also argue that SBUA overlooks the fact that small businesses benefitted from all the rate relief measures offered to residential customers.⁹⁶ The stipulating parties note that Staff provided a persuasive discussion in its opening testimony explaining that the benefits received by residential customers led to a fiscal multiplier effect on the total output of Oregon's economy. The stipulating parties maintain that SBUA's argument regarding the cost grouping is not well founded, because small business customers benefitted from all the rate relief measures underlying the deferred costs. The stipulating parties contend that though the benefits are difficult to precisely quantify, they agreed that there were benefits that flowed beyond the residential customer class and, therefore, the COVID-19 deferral costs should be allocated to other customer classes as a matter of principle. Additionally, the stipulating parties assert that using the previously agreed upon rate spread allocation from the first partial stipulation is a reasonable compromise to match the costs and benefits of the COVID-19 relief measures. NW Natural maintains that while the parties did not adopt the precise proposal advanced by Staff, the stipulating parties generally agreed with the premise that all customers should bear cost recovery for the COVID-19 deferral.⁹⁷ Further, NW Natural argues that SBUA's references to a quote from Staff testimony in support of its arguments does not support its assertions and is plainly contradicted by Staff's full proposal. NW Natural also contends that the Commission has already approved a rate spread proposal that assigned costs to all customers for the amortization of Idaho Power Company's COVID-19 deferral, demonstrating that the Commission has the authority to approve a rate spread allocating costs to all customers as contemplated in the second partial stipulation.⁹⁸

Regarding SBUA's argument that the allocation methodology violates the matching principle, the stipulating parties argue that SBUA misunderstands the proposed

⁹³ NW Natural Closing Brief at 21.

⁹⁴ *Id.*

⁹⁵ NW Natural Closing Brief at 22.

⁹⁶ NW Natural Opening Brief at 28.

⁹⁷ NW Natural Closing Brief at 22.

⁹⁸ *Id.* at 23.

methodology.⁹⁹ The stipulating parties maintain that they agreed to apply a rate spread allocation consistent with Appendix B of the first partial stipulation, and the COVID-19 deferral allocation is intended to be applied in the same manner as the incremental revenue requirement rate spread. The stipulating parties argue that the deferral cost allocation is not based on or calculated using the proposed test year margin revenue but is instead allocated to each rate schedule based on the proportion of incremental margin revenue under the first partial stipulation.¹⁰⁰ The stipulating parties argue that because the rate spread agreement is based on the incremental revenue requirement in the first partial stipulation rather than proposed margin revenue, it does not violate the matching principle. The stipulating parties contend that it is appropriate ratemaking to weigh the allocation and recovery of historic costs against the long-run incremental cost (LRIC) study-indicated parity ratios at present rates. The stipulating parties maintain that parties to the first partial stipulation considered these same parity ratios, among other factors, to reach a rate spread settlement position for the incremental revenue requirement, which includes recovery associated with historical Base Year capital investments and costs. The stipulating parties contend that SBUA, which is a party to the first partial stipulation, did not object to the use of the LRIC parity ratios at present rates to inform the incremental revenue requirement rate spread.

3. *Resolution*

We find that the second partial stipulation is a reasonable compromise of the issues and results in just and reasonable rates. Accordingly, we adopt the stipulation in its entirety, as explained below.

As with the first partial stipulation, we recognize that the second partial stipulation was the result of negotiations involving complicated issues and separating specific items from that stipulation can be difficult due to the give and take nature of negotiations. In addition to the other items settled in the second partial stipulation, the parties to the stipulation agreed to a negative adjustment to the 2020 and 2021 COVID-19 deferral balances and that some COVID-19 expenses will be subject to an earnings test. With regards to SBUA's argument that the first partial stipulation allocates the COVID-19 costs contrary to the principles of cost causation and matching, we recognize that it is true that generally costs are allocated to the customer class that incurs them or otherwise benefits from those costs. However, there are instances when it is appropriate to spread costs more broadly. For example, the costs of residential support programs for low-income customers are spread across the customer classes.¹⁰¹ The costs at issue in this

⁹⁹ NW Natural Opening Brief at 30.

¹⁰⁰ *Id.* at 30; AWEC Opening Brief at 6.

¹⁰¹ NW Natural Gas Company Schedule 320: Oregon Low-Income Energy Efficiency (OILEE) Programs at 320-1; NW Natural Gas Company Schedule 301: Public Purposes Funding Surcharge at 301-1.

case are associated with the COVID-19 pandemic, which was a major societal event that impacted all customer classes in many ways. Further, while only residential customers were eligible for programs such as the arrearage management program (AMP), it is likely that some amount of the benefits flowed to all classes by blunting the economic impacts of a large number of customers carrying high arrearage balances. Additionally, the AMPs were an important tool in helping navigate the pandemic in a way that recognized the risks that the pandemic posed to the utilities and customers, for example the interplay of stay-at-home requirements that increased energy consumption while reducing income, and not simply a customer debt relief program. The stipulation's proposal that all customers absorb the costs associated with such an exceptional event that had wide ranging impacts appears reasonable, even though we recognize that each customer class was affected differently and had different opportunities for participating in the various programs, both those offered by the utility and those offered by other entities, associated with navigating the pandemic. The agreement to spread the costs across the rate classes consistent with Appendix B to the first partial stipulation represents a compromise between the different party positions, including an agreement by Staff and AWEC, both of whom represent the interests of more than just residential customers, and in the overall context of the stipulation, results in just and reasonable rates.

Turning to SBUA's claim that it did not receive adequate notice, we clarify that there is no rule or other requirement that limits the issues in general rate cases to those raised by the company in its initial filing or requires that another proceeding be formally consolidated into the general rate case. Staff raised the issue in its opening testimony, which was the first opportunity for it to raise the issue as an intervenor. While SBUA cites OAR 860-001-0460 in support of its argument, this rule only sets forth the circumstances under which the Commission or an ALJ may take official notice and the procedures that must be followed if official notice is taken—it does not otherwise require the Commission to take official notice or to consolidate a proceeding. We find that there was adequate notice of the COVID-19 issues in this general rate case.

For the foregoing reasons, we adopt the second partial stipulation in its entirety.

D. Third Stipulation

1. Overview

The third partial stipulation between NW Natural, Staff, CUB, and AWEC resolves the amortization period for the Lexington RNG project deferral, the interest accrual for the deferral, and AWEC's proposed tax adjustment. For the amortization of the Lexington RNG project, the parties to the third stipulation agree to amortize the deferral portion of

the Lexington RNG project surcharge over three years, beginning November 1, 2023.¹⁰² The parties to the third stipulation also agree that during the calendar year 2022, the Lexington deferral will accrue interest at NW Natural's ROR, subject to an earning test at the company's then-effective authorized ROE using the 2022 Results of Operations Report. The third partial stipulation also provides that starting on January 1, 2023, the deferral will accrue interest at the MBT rate plus 100 basis points and is not subject to an earnings test for the interest accrual portion. As part of the third partial stipulation, AWEC agrees to withdraw its proposed tax adjustment and proposed adjustment based on the ownership interest of BioCross LLC for the life of the Lexington project. The third partial stipulation does not modify the tax condition included in the stipulation approved by the Commission in docket UI 451.

2. Resolution

We have reviewed the third partial stipulation and supporting testimony and briefs submitted by the parties. We find that the terms of the stipulation are supported by sufficient evidence, appropriately resolve issues in this proceeding, and will result in fair, just, and reasonable rates. We determine that the terms of the stipulation, taken together, represent a reasonable resolution of the identified issues and contribute to an overall settlement in the public interest.

V. CONTESTED ISSUES

A. Line Extension Allowances

1. Introduction

Under OAR 860-021-0050, each gas utility is required to develop, with the Commission's approval, a uniform policy governing the amount of service extension that will be made free to connect a new customer. In 2012, the Commission adopted a stipulation that established NW Natural's most recent line extension allowance policy, set forth in its Schedule X.¹⁰³ NW Natural provides a Line Extension Allowance (LEA) to new residential customers typically in the amount of \$2,875 (Category A), \$2,100 (Category B), or \$850 (Category C) depending on the type of natural gas heat or appliances the customer has.¹⁰⁴ Additionally, NW Natural provides LEAs to non-residential customers based on an investment analysis and the annual margin revenue generated by the non-residential customer, with a minimum non-residential LEA of five

¹⁰² Third Partial Stipulation at 3.

¹⁰³ *In the Matter of NW Natural Gas Company dba NW Natural Request for a Rate Revision*, Docket No. UG 221, Order No. 12-408, at 8, 11 & Appendix B at 4 (Dec 26, 2012); NW Natural Rate Schedule X: Distribution Facilities Extensions for Applicant-Requested Services and Mains (hereinafter, Schedule X).

¹⁰⁴ Schedule X-5.

times the annual margin. Schedule X does not establish a cap or other limit on the non-residential LEA provided.¹⁰⁵ NW Natural calculated its residential LEA adopted in the 2012 general rate case using an internal rate of return (IRR) model and a methodology that set the construction cost or allowance such that the revenue stream for different terms, corresponding to the categories in Schedule X, created an IRR set at the company's cost of capital.¹⁰⁶ NW Natural proposes to maintain its current LEAs in this case.

CUB and the Coalition both propose to modify NW Natural's LEA to reduce or eliminate the allowance provided to new customers. CUB proposes first to return NW Natural's LEA to a five-years-of-margin methodology, which would reduce the LEA to \$2,200. Second, CUB proposes to adjust the LEA to account for expected carbon reduction costs, which it maintains would create a negative LEA of \$2,200 to \$3,300. Rather than move to a negative LEA amount, CUB proposes to reduce the LEA to \$2,200 in 2023, reduce the LEA by 50 percent in 2024, and eliminate the LEA entirely starting in 2025.¹⁰⁷ The Coalition proposes to eliminate the LEA for residential and non-residential customers immediately.¹⁰⁸

2. *Parties' Positions*

a. *CUB*

CUB argues that NW Natural has failed to meet its burden of proof to demonstrate that retaining its LEA policy is prudent and would result in fair, just, and reasonable rates. CUB challenges NW Natural's LEA policy on the grounds that the company's IRR calculation is flawed and that the expected costs of compliance for the Oregon Department of Environmental Quality's (DEQ) Climate Protection Program (CPP) should be factored into the LEA.

As an initial matter, CUB argues that these proceedings are the appropriate venue to consider NW Natural's LEA policy. CUB maintains that the Commission has the authority to and should adopt its proposals in these proceedings based on the evidence of the flaws in the IRR methodology and the costs of CPP compliance in the test-year.¹⁰⁹ CUB argues that NW Natural's current LEA policy was established in a 2012 rate case and that if the Commission can expand the policy in a general rate case, it can make reasoned changes to the LEA in a general rate case.¹¹⁰ CUB argues that the Commission

¹⁰⁵ *Id.*

¹⁰⁶ NW Natural/1800, Taylor/15; NW Natural Opening Brief at 37.

¹⁰⁷ CUB/100, Jenks/17; CUB/400, Jenks/11, 33.

¹⁰⁸ Coalition/200, Burgess/4, 29-30; Coalition/500, Burgess/2, 13-14.

¹⁰⁹ CUB Opening Brief at 8-9.

¹¹⁰ CUB Opening Brief at 10-11.

is not precluded from opening a broader investigation in the future if it adopts CUB's recommendations in these proceedings and that the LEA can be revisited in a future case as the cost of compliance tools change.¹¹¹ CUB notes that its proposed phase out builds in time to ease the effects of the proposal on both NW Natural and homebuilders. Regarding a separate proceeding to address the LEA with all utilities, CUB argues that its recommendations are specific to NW Natural's LEA and expresses concern that NW Natural could delay a general investigation.¹¹²

CUB asserts that NW Natural conflates CUB's recommendations to address the flaws in the company's IRR methodology with the broader conversation around the risks inherent to modern gas utilities. CUB contends that the issue it has raised is the narrow question of whether the Test Year subsidization and current methodology flaws warrant revising NW Natural's LEA.¹¹³ Additionally, CUB maintains that it is appropriate to consider the future costs and risks as incremental evidence when setting the LEA, because NW Natural's methodology considers the revenue that will be generated by new customers over the next several decades. CUB contends that NW Natural's modeling projects show substantial compliance costs related to the CPP over the same time period and that those compliance risks bear on the calculation of the LEA.

Regarding the effect of CPP compliance costs, CUB notes that NW Natural's current LEA policy was established in 2012 and argues that circumstances have changed since then, most notably that new customers now bring CPP compliance costs with them when they join the system.¹¹⁴ CUB maintains that as the system grows, the costs to reduce emissions to comply with the CPP will also increase. CUB argues that a negative LEA would be necessary to account for the true carbon reduction costs but proposes to gradually phase out the LEA over time as a reasonable compromise and to provide fair treatment to NW Natural and home developers. CUB contends that when the layer of carbon regulation costs is added to the utility's systems, the traditional LEA calculation that only considers joint and common costs is no longer applicable. CUB asserts that while NW Natural is correct that under a traditional paradigm adding new customers mitigates cost impacts, it is not true when new customers bring additional emission reduction costs to all customers.¹¹⁵ CUB maintains that the LEA should be set so that existing customers are held harmless from the effects of adding new customers to the system. CUB argues that NW Natural excludes CPP costs from its LEA analysis,

¹¹¹ CUB Opening Brief at 9; CUB Closing Brief at 10.

¹¹² CUB Opening Brief at 9-10.

¹¹³ CUB Opening Brief at 8.

¹¹⁴ CUB Opening Brief at 5, 11.

¹¹⁵ CUB Opening Brief at 12.

ignoring the new joint and common costs related to emission reductions, and, therefore, the company's analysis around the matching of costs and benefits is one-sided.¹¹⁶

CUB contends that under the CPP, NW Natural must reduce its greenhouse gas emissions by 50 percent from a historic baseline, but that as the system grows, NW Natural will have to reduce baseline emissions by 69 percent to accommodate the load growth and still meet the emissions reduction requirements. CUB argues that this increases the costs to existing customers and revising the LEA now is reasonable because NW Natural's projected energy efficiency spend will increase to approximately \$140 million by 2025. CUB maintains that NW Natural is seeking to significantly increase its energy efficiency spending to reduce therms while also spending millions on capital investments through the LEA to increase therms. CUB asserts that therms from existing customers are different than those from new customers, because it takes decades to pay back LEA spending and it is more cost effective to not subsidize growth through the LEA than to pay incentives to customers to reduce usage.¹¹⁷ CUB contends that NW Natural is asking customers both to pay to grow the system and pay for energy efficiency incentives.

In addition to the compliance costs, CUB argues that NW Natural's original 2012 LEA model is flawed.¹¹⁸ CUB argues that the model underlying the LEA is mismatched because it calculates the IRR on a 30-year basis but assumes that the LEA will be amortized over 40 years. CUB also maintains that NW Natural's service drop component, which is a capital investment subsidized through the LEA, has a useful life of 58 years and would be financed through 2080. CUB asserts that there will be stranded costs if a customer served by this equipment leaves NW Natural's system prior to those assets being fully paid off.¹¹⁹ CUB argues that returning to the LEA methodology NW Natural used prior to 2012 would reduce the LEA and significantly reduce the potential for stranded costs. Further, CUB contends that adopting its proposal to phase out the LEA entirely would solve the flaw in the methodology.

CUB maintains that NW Natural's IRR models presented in surrebuttal testimony using a 30-year amortization window and a 20-year amortization window do not resolve its concerns and are also flawed. CUB states that the 30-year model calculated a 6.259 percent IRR, which represents a benefit to the system if all assumptions are correct, but CUB argues that this benefit diminishes significantly if the customer disconnects early. CUB contends that if the customer disconnects within the first ten years, the IRR will be negative.¹²⁰ Further, CUB asserts that the model assumes constant usage and no decline

¹¹⁶ CUB Opening Brief at 12-13.

¹¹⁷ CUB Opening Brief at 13.

¹¹⁸ CUB Opening Brief at 6, 14.

¹¹⁹ CUB Opening Brief at 14.

¹²⁰ CUB Opening Brief at 15.

in demand throughout the useful life of the assets, which CUB argues does not make sense given that energy efficiency is a primary compliance tool and heat pump technology continues to change the efficiency of replacing heating and cooling equipment.

CUB also maintains that neither of NW Natural's models included in its surrebuttal testimony account for the 58-year useful life of the service drop. CUB contends that the benefits to the system and customers are speculative and subject to change with varying assumptions, while NW Natural's shareholders would still be able to enjoy an authorized ROR throughout the useful life. CUB asserts that this is unfair because customers take on the bulk of the risk. CUB argues that adopting its proposal to reduce and eliminate the LEA will rectify the issue because it will no longer be a valuable asset to NW Natural to grow its rate base. CUB maintains that if the modeling flaws are not addressed in these proceedings, there may be stranded assets on NW Natural's system that will likely be the subject of disputes and litigation regarding recovery. CUB asserts that the Commission can help insulate customers from stranded cost risks by reducing the LEA now. Further, CUB asserts that the risk from stranded assets will not be fully eliminated until the LEA is also eliminated. CUB contends that the stranded cost risk is significant because over \$25 million in capital investments are added through the LEA each year. CUB argues that NW Natural has failed to meet its burden of proof that its current LEA is reasonable given the flaws in the methodology and maintains that it has provided unrebutted evidence that returning to the five years margin approach significantly reduces the risk of stranded assets funded by the LEA.¹²¹

CUB argues that because NW Natural failed to provide any testimony on its LEA in its prior two general rate cases and those amounts were allowed into rates, it is reasonable to conclude that the LEA has been presumed prudent. CUB maintains that this made sense, because historically customer growth has spread the fixed cost of NW Natural's system more thinly, creating a benefit for existing customers. CUB asserts that the evidence now demonstrates that this is no longer the case and NW Natural should have to demonstrate the continuing prudence of its LEA and associated growth-related investments in every general rate proceeding. CUB contends that such a demonstration must show that the proposed investments are unlikely to become stranded costs and that continuing to grow the system in light of NW Natural's compliance obligations is reasonable.¹²²

CUB maintains that the evidentiary record supports a ruling in CUB's favor regarding the LEA, and that, at a minimum, the Commission should act in these proceedings to resolve the flaws in NW Natural's IRR model by reducing the LEA to \$2,200 based on the

¹²¹ CUB Closing Brief at 9.

¹²² CUB Opening Brief at 15-16.

company's pre-2012 methodology. CUB also requests that the Commission reduce the LEA by 50 percent in 2024 and eliminate it in 2025 to help protect NW Natural's customers from paying both to grow the system and for additional CPP compliance costs. CUB asserts that this does not mean NW Natural cannot continue to grow its system, just that it may no longer subsidize such growth. CUB argues that under traditional ratemaking principles of cost causation, the costs of connecting customers would be properly assigned to the customers in the first place.¹²³ CUB argues that, contrary to NW Natural's assertions, it is not proposing a mechanism to allocate CPP compliance costs to individual customers but arguing that the incremental CPP compliance costs in the Test Year will be assigned to all customers and it is necessary to reconsider whether the current LEA achieves the goal of ensuring that growth benefits all customers as a whole.¹²⁴ CUB also maintains that its proposal will not result in customers paying for CPP compliance twice, noting that it is unclear how NW Natural believes customers would be paying for CPP compliance costs as an offset to their LEA because the CPP compliance costs are not recovered through the LEA.

Addressing NW Natural's arguments regarding effects on customers and the investment community, CUB argues that the purpose of a general rate case is to establish just and reasonable rates upon the cost and risk incurred in the test year and that the Commission is not beholden to the whims of a speculative future Wall Street reaction.¹²⁵ CUB also asserts that NW Natural does not offer any evidence to support its claims that altering the LEA, even on an interim basis, could signal that the Commission has pre-decided a diminished role for gas utilities, which could impair the company's financial health. CUB contends that NW Natural's annual report makes it clear that there is a risk to gas utilities due to changing regulations and technological innovations and that by arguing that the Commission cannot act to protect customers because it signals that the risk is real, NW Natural is attempting to disempower the Commission and absolve itself from satisfying the burden of proof.

b. Coalition

The Coalition requests that the Commission reduce NW Natural's LEA amount for both residential and non-residential customers to \$0. The Coalition argues that the Commission has the authority and obligation to review NW Natural's Schedule X in these proceedings. The Coalition maintains that NW Natural has failed to persuasively rebut that the significant financial and social costs caused through burning fossil gas merit eliminating the LEA and that the economic rationales previously supporting the

¹²³ CUB Opening Brief at 17.

¹²⁴ CUB Closing Brief at 7.

¹²⁵ CUB Closing Brief at 5-6.

subsidy no longer apply.¹²⁶ The Coalition asserts that the Commission originally adopted the LEA policy with the expectation that growing the customer base would benefit the system, but that now LEAs provide a perverse incentive of subsidizing fossil fuel infrastructure growth at a time when the financial and social costs of those fuels pose existential risks. The Coalition argues that the costs associated with LEAs, on an annual basis, amount to \$26 million, which is charged by NW Natural as a capital expenditure to rate base. The Coalition maintains that in 2021 the LEA subsidy accounted for 65 percent of NW Natural's \$39.4 million in total growth-related capital expenditures and argues that ratepayers finance the cost of these subsidies through retail rates. The Coalition asserts that in the absence of Schedule X, the line extension costs would be the responsibility of connecting customers who solely benefit from the service line, and NW Natural's revenue requirement would have been lower by approximately six percent.¹²⁷ The Coalition contends that the LEA is a cross subsidy because the service line only benefits the new customer, lowering the cost to connect new customers to the gas system by charging those costs to all ratepayers.¹²⁸ In response to NW Natural arguments that eliminating the LEA would cause inequity to new customers by forcing them to subsidize costs of existing customers, the Coalition asserts that this argument fails to take into account that service line extensions are not joint use facilities and serve a single customer.

The Coalition asserts that the public utility commissions in other jurisdictions with local and state policies supporting greenhouse gas emissions reductions are reducing or eliminating LEAs, because the LEAs provide an inappropriate subsidy for fossil fuel growth. The Coalition cites to recent decisions in California, Washington, Utah, and Colorado as evidence that other jurisdictions are reducing or eliminating LEAs.¹²⁹

The Coalition argues that the Commission has ample authority to revisit NW Natural's LEA policy consistent with its mandate to protect ratepayers from unjust, unfair, and unreasonable exactions. The Coalition notes that under OAR 860-021-0050, the

¹²⁶ Coalition Opening Brief at 6.

¹²⁷ Coalition Opening Brief at 8.

¹²⁸ Coalition Closing Brief at 4.

¹²⁹ Coalition Opening Brief at 8-9, citing *Phase II Decision Eliminating Gas Line Extension Allowances, Ten-Year Refundable Payment Option, and Fifty Percent Discount Payment Option Under Gas Line Extension Rules*, California Public Utility Commission, Proposed Decision in Rulemaking 9-01-011 (Aug 8, 2022); *In the matter of Chair Danner's Motion to Consider Whether Natural Gas Utilities Should Continue to Use the Perpetual Net Present Value Methodology to Calculate Natural Gas Line Extension Allowances*, Washington Utility & Transmission Commission, Docket No. UG-210729, Order No. 1, at 6 (Oct 29, 2021); *In the Matter of the Electric Service Reliability Reporting Plan of Avista Corporation*, Washington Utility & Transmission Commission, Full Multiparty Settlement, Docket Nos. UE-220053, UG-220054, and UE-210854 (Jun 28, 2022); *In the Matter of the Proposed Amendments to the Commission's Rules Regulation Gas Utilities*, Colorado Public Utility Commission, Proceeding No. 21R-0449G, Decision No. C22-0427-I (Jul 22, 2022).

Commission sets a LEA policy for each utility and that the Commission has used this authority in a past NW Natural rate case to approve a stipulated agreement to adjust the tariffs set forth in Schedule X to change the amounts recoverable through residential LEAs.¹³⁰ The Coalition argues that given the substantial costs to ratepayers, the Commission must determine whether it benefits ratepayers to continue subsidizing fossil gas customer growth. The Coalition maintains that Staff's proposal to open a separate docket to address the LEA is an unnecessary and time-wasting step that conflicts with findings in the Natural Gas Fact Finding Draft report issued in docket UM 2178. The Coalition asserts that each of the three natural gas utilities in Oregon have different LEAs that serve different needs and that Staff has not provided any reasoning to support its suggestion that a larger investigation involving all utilities would better serve the differing circumstances and needs of each utility. The Coalition also contends that addressing NW Natural's LEA in these proceedings serves the Commission's goal of prioritizing near-term actions in existing dockets rather than opening larger, time-consuming investigations. The Coalition also argues that state law prohibits the Commission from simply deferring to its past decisions in approving recovery of LEAs and that the Commission has an affirmative obligation to rule in this case based on the record developed.

The Coalition contends that the Commission should eliminate NW Natural's LEA policy because it no longer provides a financial benefit to ratepayers and subsidizing customer growth for fossil gas undermines Oregon's climate laws and decarbonization targets.¹³¹ The Coalition asserts that, in addition to the Commission's own regulations, Executive Order 20-04 requires the Commission and other relevant agencies to "exercise any and all authority and discretion vested in them by law" to achieve Oregon's statewide greenhouse gas emissions reduction goals.¹³² The Coalition argues that the economic rationale supporting NW Natural's LEA was conducted ten years ago under different circumstances and that, given the cost to decarbonize gas, this rationale no longer supports subsidizing customer growth. The Coalition identifies three reasons that the rationale no longer supports subsidizing customer growth: 1) existing customers will not benefit from additional revenue generated by new customers for at least 30 years even under the traditional economic rationale; 2) widespread electrification poses the risk that ratepayers would not even realize this 30-year payoff, because electrification would turn these investments into stranded costs; and 3) new customers are willing to pay to connect to gas utility service.

¹³⁰ Coalition Opening Brief at 10.

¹³¹ Coalition Opening Brief at 12.

¹³² Coalition Opening Brief at 13, quoting Executive Order No. 20-04.

Regarding the economic rationale, the Coalition maintains that the cost to decarbonize new customers is significant, and that while the costs incurred for the CPP should be treated as passthrough costs, they are relevant to the economic rationale for LEAs. For electrification, the Coalition argues that electrification is cheaper than gas in terms of upfront costs, 15-year net present costs, and 15-year greenhouse gas emissions if buildings install energy efficient appliances, and there are already rebates for energy efficient appliances such as heat pumps that accelerate the deployment of energy efficient technology. The Coalition also argues that NW Natural has not presented any evidence that new service line costs are a major economic barrier to customers and notes that over a quarter of new customers connected to gas service without receiving a LEA. The Coalition asserts that NW Natural surveys found homeowners were willing to pay as much as \$50,000 more for a home with gas utility service than one with all electric heating and cooking.¹³³ In response to NW Natural's argument that only 50 residential customers connected to gas service without a LEA subsidy, the Coalition maintains that the NW Natural expert's opinion was based on faulty math that the company did not address in later testimony.¹³⁴ Additionally, the Coalition argues that, contrary to NW Natural's arguments regarding effects on low-income households from eliminating the LEA, low-income households rarely benefit directly from an LEA subsidy because they are much more likely to be renters and are otherwise unlikely to be making investment decisions for a new construction. Similarly, the Coalition maintains that NW Natural's claims that gas is a lower-cost fuel does not take into consideration the significant price increases on fossil gas due to shortages in Europe and that NW Natural is preparing to submit another proposed rate increase due to this gas price increase.¹³⁵

The Coalition argues that subsidizing customer growth through the LEA conflicts with Executive Order 20-04 and the CPP that each require a rapid reduction of greenhouse gas emissions. The Coalition asserts that promoting customer growth through the LEA will make it more difficult for NW Natural to comply with the CPP targets and points to a CUB analysis showing that NW Natural will increase load growth and the total emissions by an additional 19 percent if it continues to grow and add customers.¹³⁶ The Coalition contends that NW Natural's decarbonization proposals rely on untested technology while electrification is a known and cost-effective decarbonization strategy. The Coalition maintains that eliminating the LEA allows the market to adopt fossil-free solutions over time. Additionally, the Coalition argues that the LEA prevents builders from adopting dual fuel home heating solutions, which NW Natural has promoted as a critical component of a decarbonized future, because the company only offers the lower \$850 for

¹³³ Coalition Opening Brief at 15, citing Coalition/405, Ryan/49.

¹³⁴ Coalition Closing Brief at 7.

¹³⁵ Coalition Closing Brief at 7-8.

¹³⁶ Coalition Opening Brief at 16-17, citing CUB/400, Jenks/12.

a dual fuel heat pump and gas stove as opposed to a customer installing a gas-powered furnace.¹³⁷ Addressing NW Natural's arguments that the electric system cannot currently handle shifting all of Oregon's building load away from gas service, the Coalition argues that it is not advocating for this change. The Coalition contends that eliminating the LEA would not cause all existing ratepayers to electrify, or end growth. Regarding NW Natural's claims that inefficient electric resistance heating increases greenhouse gas emissions relative to gas, the Coalition argues that eliminating the LEA would not result in the installation of more electric resistance heating. Instead, the Coalition argues, it is more expensive to install electric resistance heating due to LEA policies for newly constructed homes with electric and that they are less attractive to future residents because they do not provide air conditioning.

Similarly to CUB, the Coalition argues that NW Natural has failed to meet its burden of proof that the current LEA policy should be maintained. The Coalition asserts that NW Natural has failed to address the company's financial incentive to advocate for the LEAs, nor provided any data to support the company's claims that eliminating the LEA would likely reduce the number of new customers. The Coalition asserts that its witness provided an analysis stating that approximately 27 percent of new customer additions in 2021 connected to NW Natural even though they did not receive an LEA. The Coalition also argues that NW Natural failed to rebut or address its witness's testimony regarding caveats to the benefits of the LEA, which included that: 1) customers would only benefit from the LEA if NW Natural applied for a future rate decrease or more limited future rate increase that reflected a reduction in average costs; 2) the reduction in average costs were only applicable to joint use facilities or common costs; and 3) adding new customers increases the overall demand for gas supply and potentially increases the commodity price of gas in the region, offsetting benefits to existing customers.¹³⁸ The Coalition maintains that NW Natural's analysis implying that customers will see benefits from line extension subsidies sooner than 30 years is flawed and fails to take into account the ROR earned by NW Natural and the time value of money.

c. Staff

Staff recommends that the Commission find that the issues raised by CUB and the Coalition are complex, applicable to all natural gas utilities, and more appropriately handled in a separate docket. Staff argues that it is not appropriate to implement a policy change on LEAs without first providing Avista and Cascade Natural Gas Company the opportunity to participate in the discussion.¹³⁹

¹³⁷ Coalition Closing Brief at 9.

¹³⁸ Coalition Opening Brief at 18-19.

¹³⁹ Staff Opening Brief at 11-12.

d. AWEC

AWEC argues that broader policy issues should be decided by the Commission before a specific policy is implemented and recommends that the Commission open a docket to discuss line extensions for gas utilities at the conclusion of docket UM 2178.¹⁴⁰ AWEC agrees that LEA policy needs to be reviewed in light of the recently adopted CPP but reiterates that these policy issues should be decided by the Commission with input from the other utilities and stakeholders before a specific policy is implemented in a rate case.¹⁴¹

e. NW Natural

NW Natural argues that the evidence in the record does not support either the broad concerns or specific critiques of the LEAs raised by CUB and the Coalition. NW Natural urges the Commission to reject the proposals to eliminate or otherwise revise the LEA.

NW Natural maintains that the goal of the LEA is to ensure equity between existing and new customers. NW Natural argues that the LEAs are calculated to ensure that existing customers are not harmed by the addition of new customers to the utility's system and that the costs paid by new customers recognize the benefits to existing customers from the addition of new customers.¹⁴² NW Natural argues that new customers provide benefits to existing customers in three ways: 1) integrating new customers into the distribution system, leading to internal efficiencies resulting from economies of scale, lowering the average cost of utility service to both new and existing customers; 2) providing additional revenue from new customers that offsets the recovery of common costs and results in lower prices for all customers over time; and 3) providing economies of scope where cost savings are achieved by providing service to two or more distinct customer groups.

NW Natural argues that under the Commission's rules, the utilities set the LEA based on expected revenues from the new customer. NW Natural maintains that the Commission has reaffirmed its commitment to this approach to LEAs in Order No. 20-483 in docket UE 385, in which the Commission, in adopting Staff's recommendation to approve Portland General Electric's (PGE) LEA, explicitly recognized that it did not rely on PGE's proposals related to decarbonization but instead on its historical practice of evaluating LEAs on an economic basis.¹⁴³ NW Natural contends that its expert witness

¹⁴⁰ AWEC Opening Brief at 19-20.

¹⁴¹ AWEC Closing Brief at 13.

¹⁴² NW Natural Opening Brief at 34.

¹⁴³ NW Natural Opening Brief at 35-36, citing *In the matter of Portland General Electric Company Advice No. 20-14, Schedule 300 Line Extension Allowance*, Docket No. UE 385, Order No. 20-483, App. A at 8 (Dec. 23, 2020).

updated the inputs in its IRR model and found that the current residential LEA of \$2,875 continues to provide a net benefit to existing customers over time. Further, NW Natural contends that with the updated inputs the allowance output in the model increased, meaning that new customers are actually subsidizing existing customers. NW Natural states that it is not seeking to change its LEA.

NW Natural argues that its current LEA tariff was adopted in accordance with the Commission's long-standing LEA policies, and that while the Commission has allowed for revisions of the LEA calculation methods, it has never considered a proposal to abandon them altogether. NW Natural contends that the proposals from CUB and the Coalition represent a drastic departure from the Commission's historical LEA policies and that for this reason the Commission should insist on a robust record before considering such a proposal. NW Natural maintains that such a robust record could not be developed in a general rate case given the number and variety of other issues. Additionally, NW Natural argues that the proposals raise significant policy questions that could have broad-ranging consequences for customers, utilities, and reliability. NW Natural asserts that these impacts apply equally to the other Oregon utilities that are the subject of aggressive decarbonization mandates and that to the extent the Commission intends to consider these proposals, it should do so in a broad proceeding. NW Natural contends that a generic proceeding would also provide a unique opportunity to explore innovative, alternative proposals.

NW Natural argues that it is also premature to consider CUB's and the Coalition's proposals before obtaining additional data through the utility resource planning process. NW Natural maintains that the gas and electric utilities in Oregon have not yet completed their Integrated Resource Plans (IRPs) analyzing their ability to comply with newly adopted decarbonization mandates, such as the CPP. NW Natural asserts that the IRPs will provide a clearer picture of the costs and risks associated with implementing the decarbonization requirements and allow for coordinated planning among the gas and electric utilities if they include assumptions regarding greenhouse gas emissions compliance and assumed electrification. NW Natural contends that without the coordinated IRPs, the Commission cannot ascertain whether the costs and risk associated with all utilities' greenhouse gas reduction requirement compliance would be appropriately reflected in utility rates such as the LEA calculation.¹⁴⁴

NW Natural asserts that the Coalition's proposal is at least partially motivated by a desire to combat climate change by reducing natural gas use and maintains that is not necessary or appropriate for the Commission to eliminate the LEA to combat climate change. NW Natural argues that the legislature and DEQ have established absolute emissions-

¹⁴⁴ NW Natural Opening Brief at 42.

reduction requirements for electric and gas utilities and, therefore, the Commission can be assured that the emissions reductions required by state policy will occur regardless of whether load shifts from the gas to the electric system.

Similarly, NW Natural argues that CUB's proposal is based in part on perceived risks created by the need to comply with the CPP and concerns that NW Natural's CPP compliance modeling is flawed. NW Natural asserts that it has provided extensive testimony in this case explaining that it is confident it can add new customers while complying with the CPP based on its preliminary modeling in docket UM 2178. NW Natural maintains that CUB and the Coalition, by contrast, have provided only unsupported speculation.¹⁴⁵ NW Natural argues that it has detailed how it can substantially decarbonize, including by acquiring RNG to meet SB 98 targets, which the company argues may help it comply with the CPP through 2024. NW Natural maintains that it also envisions acquiring biofuel RNG over time, along with hydrogen gas and synthetic gas as those options become least cost. NW Natural argues that it has provided a figure showing that preliminary modeling deploys a cost-effective amount of biofuel RNG, while the study the Coalition relies on regarding RNG supply is more than five years old and has been replaced by more recent studies that project significantly increased amounts of RNG availability.¹⁴⁶ NW Natural also contends that CUB has incorrectly compared the energy cost of conventional and carbon-free gas rather than comparing the "all-in-cost" as NW Natural's Commission-approved methodology does. Similarly, NW Natural argues CUB uses near-term prices whereas the company's preliminary modeling used third-party price projections that showed the all-in cost of renewable hydrogen is expected to fall below that of conventional gas by 2050. Regarding the Coalition's arguments on methane leakage, NW Natural maintains that it has a modernized system and one of the lowest leak rates in the country.

NW Natural argues that it has described how it expects to significantly decrease demand through a combination of energy efficiency measures that will include shell measures and advances in appliance technology and that it envisions a role for dual-fuel heating systems and high-efficiency natural gas heat pumps. In response to CUB and Coalition criticisms of its perceived reliance on natural gas heat pumps, NW Natural argues that its IRP modeling will demonstrate that it can comply with the CPP using a variety of technologies and strategies rather than just through natural gas heat pumps and that it is reasonable to expect gas heat pumps to be commercially available in the near future. NW Natural also argues that CUB significantly overstates the amount of energy efficiency spending that the company included in preliminary modeling.¹⁴⁷ NW Natural contends

¹⁴⁵ NW Natural Opening Brief at 44.

¹⁴⁶ NW Natural Opening Brief at 45.

¹⁴⁷ NW Natural Opening Brief at 46-47.

that its preliminary modeling suggests that while the CPP costs are significant, the impact to annual bills over the next thirty years will increase at a relatively modest level for residential and commercial gas customers.¹⁴⁸ NW asserts that it is not reasonable to assume that CPP compliance will push customers away from the gas system, particularly considering that electric utilities face aggressive decarbonization mandates, as well.

NW Natural argues that, contrary to CUB and Coalition arguments around stranded costs or the shrinking gas system, it has provided evidence showing that customers continue to connect to the company's system at rates consistent with long-term trends and that increasingly fewer customers have chosen to leave the system over time.¹⁴⁹ NW Natural argues that the company's analysis suggests that its customers who use gas as their primary space heating fuel are not converting to other fuels at an increasing rate and that the NW Natural surveys CUB relies on to support its position indicate that customer preference for electric heat pumps only increased by two percent over the last ten years. Further, NW Natural maintains that a customer who replaces an existing gas furnace is likely to continue to use it as a backup heating source rather than leaving the gas system entirely. Addressing the Coalition's evidence on this subject, NW Natural argues that the Coalition's own exhibit shows that gas heating experienced a statistically significant increase over a five-year period to 58 percent of single-family homes in Oregon while electric heat pumps remained at 11 percent. Regarding arguments around the increasing cost of conventional gas, NW Natural argues that its own forecasts predict the current increases will not be prolonged and the delivered cost to Oregon customers over the last ten years has remained stable. NW Natural contends that eliminating the LEA is likely to cause the issue raised by the Coalition and CUB by creating a disincentive for customers to join the system, decreasing customer counts over time. NW Natural asserts that its preliminary modeling shows that existing customers will be worse off if new customers stop joining the systems and could result in bill impacts increasing 300 percent or more.¹⁵⁰

NW Natural argues that CUB's and the Coalition's arguments necessarily imply that they believe the electric system to be capable of serving current gas load at a lower cost and with less emissions than the gas system. NW Natural asserts that there are significant questions about the ability of the electric system to reliably serve all of Oregon's building load, noting that the gas system currently serves about 70 percent of Oregon's space heating needs. NW Natural argues that even if the electric system could reliably serve the additional load, it would likely be more expensive, though the company also acknowledges more analysis is needed.¹⁵¹ Similarly, NW Natural contends that it is not

¹⁴⁸ NW Natural Opening Brief at 47.

¹⁴⁹ NW Natural Opening Brief at 48.

¹⁵⁰ NW Natural Opening Brief at 50.

¹⁵¹ NW Natural Opening Brief at 52.

clear that electrifying building load would lead to reduced emissions in Oregon, because electric heating in the state is often more carbon-intensive than gas. NW Natural maintains that there is no basis for assuming that electrification is the best approach to addressing greenhouse gas emissions.

NW Natural urges the Commission to consider the unintended consequences of implementing CUB's and the Coalition's proposals around LEAs, arguing that it could signal that the Commission has predetermined a diminished role for gas utilities in the future. NW Natural argues that the Commission should refrain from making major changes to the LEA policy until it has gathered the relevant data. NW Natural suggests that the Commission wait for the gas and electric utilities to complete their IRP processes presenting plans for complying with the CPP, as well as commission an Oregon-specific comprehensive analysis of the feasible paths for decarbonization in electric, gas, and transportation that considers reliability during extreme weather events. NW Natural also argues that building electrification is not the policy of the state and the Commission lacks the authority to consider establishing such a policy. NW Natural contends that even if the Commission did have such authority, the record would not support eliminating the LEA to drive building electrification. NW Natural asserts that the Commission has the authority to revise the LEA calculation to reflect prudent investment and expected revenues, consistent with the Commission's rules, but that the Commission does not have the authority to adopt policies specifically intended to discourage gas customer additions and drive electrification.¹⁵² NW Natural maintains that the latter is what the Coalition is asking the Commission to adopt.

Regarding CUB's proposal to return to the pre-2012 methodology of five-years margin to calculate the LEA and then incorporate the CPP, NW Natural argues that it should be rejected. NW Natural notes that it has proposed to recover CPP compliance costs through customer rates on a per-therm charge, consistent with how the company is already recovering RNG costs through the Purchased Gas Adjustment (PGA) mechanism. NW Natural asserts that no party has argued that the compliance costs should be included in volumetric rates. NW Natural maintains that CUB's proposal would result in new customers paying costs both through the offset to their LEA and a second time through per-therm rates over the next 20 years. NW Natural argues that this would load upfront costs on new customers.¹⁵³ NW Natural also argues that CUB's various statements and positions regarding the CPP compliance costs cannot be reconciled. NW Natural asserts that if CUB is seeking to charge compliance costs directly to new customers, then it has not articulated a basis for eliminating the LEA to account for CPP costs, but that if it is seeking to eliminate the LEA to offset-CPP compliance costs, then the proposal would be

¹⁵² NW Natural Closing Brief at 36-37.

¹⁵³ NW Natural Opening Brief at 54-55.

inappropriate because it charges new customers twice.¹⁵⁴ Further, NW Natural argues that CUB's calculation of \$2,200 for five times margin is incorrect and that, based on the company's updated annual usage per customer of 531 therms, the amount should be \$2,309.¹⁵⁵

NW Natural contends that CUB has not attempted to explain why the assumptions in its approach are more reasonable than NW Natural's current IRR approach. NW Natural maintains that the company's updated analysis shows that its current LEA represents a margin revenue multiplier of 6.2 and CUB does not explain why a multiplier of 5 is more appropriate.¹⁵⁶ Further, NW Natural argues that CUB ignores that a margin revenue multiplier is generally the result of a robust analysis as opposed to a substitute for one.¹⁵⁷ NW Natural reiterates that there is also no evidence to support the arguments that customers are likely to leave the system for heat pumps, and thus no support for CUB's arguments that the IRR analysis should be changed. NW Natural asserts that even if it were reasonable to assume new customers will ultimately replace all their gas appliances with electric, the fix is to revise the model to match the change in assumption, which in this case NW Natural argues increases the LEA to \$3,290.¹⁵⁸ NW Natural argues that the 20-year IRR model included in its surrebuttal testimony resolves the concerns around stranded costs and that while it continues to assert that there is no need to make an adjustment to the LEA, to the extent an adjustment is made, that adjustment should be based on updating the assumptions in the current model.

Regarding CUB's argument that there is a mismatch between components of the IRR calculation, NW Natural disputes the assumption that customers are likely to remain on the system for twenty years or less and argues that CUB's emphasis on the 58-year life of service drops is misplaced. Even assuming that CUB's criticisms were valid, NW Natural reiterates that the appropriate response would be to update the assumptions in the model rather than abandoning the model.¹⁵⁹

NW Natural also takes issue with CUB's arguments that eliminating the LEA does not create a substantive barrier to customer's choice of gas service. NW Natural argues that it is a basic economic principle that as the cost of a product or service increases, certain customers will no longer choose to consume that product or service. NW Natural asserts that its experience with developers is consistent with this economic principle and that

¹⁵⁴ NW Natural Closing Brief at 33-34.

¹⁵⁵ NW Natural Closing Brief at 32.

¹⁵⁶ NW Natural Opening Brief at 56.

¹⁵⁷ NW Natural Closing Brief at 31.

¹⁵⁸ NW Natural Opening Brief at 56-57.

¹⁵⁹ NW Natural Closing Brief at 30.

eliminating the LEA will discourage new customers and serve as a negative signal to the investment community.¹⁶⁰

Regarding CUB's argument that there was a presumption of prudence on the LEA in prior proceedings, NW Natural argues that the prudence of the LEAs is not presumed but was demonstrated to be prudent and approved in its 2012 general rate case. NW Natural maintains that no party had challenged its LEAs in those proceedings and there was no need for it to provide testimony specifically justifying those investments. Further, NW Natural argues that if CUB is suggesting that a party could have challenged its LEAs as imprudent in past rate cases, such a challenge would have failed, because it is required by law to adhere to its Commission-approved tariff until those tariffs are changed.¹⁶¹

NW Natural argues that the Washington Utilities and Transportation Commission (WUTC) order cited by the Coalition does not support its position that the LEA should be eliminated. NW Natural argues that in the WUTC proceeding, the WUTC requested comments from stakeholders regarding specific methodologies to calculate their LEAs and referred to it as an interim measure.¹⁶² NW Natural also argues that the policy shifts identified by the Coalition are unsupported by persuasive data and largely based on speculation, including the risk of stranded costs, the increased cost and volatility of gas prices, the ability of the company to meet its compliance obligations while adding customers, the affordability of electrification over gas, and issues with indoor air quality. Additionally, NW Natural contends that the Coalition seeks to undermine the foundational principles underlying the LEAs by stating that they are cross subsidies, that they are contrary to the principle of cost causation, and that they are unnecessary because new customers may join with or without the LEAs. NW Natural asserts that the LEA has historically served as a vital ratemaking tool used to balance the interests of new and current customers and that it is not a cross subsidy, because existing customers are not required to contribute to the cost of the addition of new customers.¹⁶³ NW Natural also argues that the Coalition ignores that both new and existing customers pay base rates, which include the recovery of annual revenue requirements associated with capital projects, and that under the Coalition's proposal, new customers would be paying average costs for everyone in addition to their direct costs.¹⁶⁴

NW Natural also disputes the Coalition's argument that 27 percent of new customers do not receive a LEA. NW Natural asserts that it is in fact less than half of one percent of new customers and notes that the Coalition misunderstood that the data request it relies

¹⁶⁰ NW Natural Opening Brief at 58.

¹⁶¹ NW Natural Opening Brief at 59-60.

¹⁶² NW Natural Opening Brief at 61.

¹⁶³ NW Natural Opening Brief at 65.

¹⁶⁴ NW Natural Opening Brief at 66.

on referred to residential service lines built across its service territory rather than solely in Oregon.¹⁶⁵ Further, NW Natural argues that the purpose of the LEA is to ensure fairness between existing and new customers, not to remove economic barriers to joining the gas system. NW Natural contends that the Coalition incorrectly asserts that the company's rate increase could be reduced by six percent, because it focused only on the costs but not the revenues expected from the new customer. NW Natural maintains that the Coalition also confuses the 30-year period of NW Natural's analysis with the number of years before existing customers begin to benefit, which is by year 12 of the investment analysis.¹⁶⁶

Addressing the non-residential customer LEA, NW Natural argues that the allowance is not unlimited as the Coalition argues. NW Natural asserts that the non-residential allowance is determined by a discounted cash flow calculation that limits the allowance to an amount that ensures the addition of the new customer results in a net benefit over time to existing customers over the period of the analysis.¹⁶⁷

3. *Resolution*

We find that the record in this case establishes that NW Natural's LEA should be revised downward. The continued use of NW Natural's current allowance would be problematic in several important respects, and thus we order specific changes to it. As described below, we order that NW Natural set its LEA at \$2,300 beginning on November 1, 2022, and then revise it each year thereafter through November 1, 2024, to reflect a prescribed lower amount, unless and until further proceedings establish that a different LEA is appropriate.

The primary reason that NW Natural's current LEA is problematic is that it fails to take into account any of the costs that are brought to NW Natural's system from new customers associated with greenhouse gas emission abatement obligations placed on the company under the CPP. As shown in this case, those costs could be significant.¹⁶⁸ In fact, the record demonstrates that those costs, when accurately accounted for, could result in no or negligible economic benefit being brought to the existing system from the addition of new customers.¹⁶⁹ As NW Natural rightly explains, LEAs are calculated to ensure that existing customers are not harmed by the addition of new customers to the utility's system while accounting for the benefits that are expected to accrue from new

¹⁶⁵ NW Natural Closing Brief at 40, n 204.

¹⁶⁶ NW Natural Opening Brief at 68-69.

¹⁶⁷ NW Natural Opening Brief at 68.

¹⁶⁸ *See, e.g.* CUB/100, Jenks/12, 13 (identifying costs of compliance associated with new customers added to the system).

¹⁶⁹ *See* CUB/100, Jenks/12-13 (calculating that no benefit results if the carbon reduction costs are around \$80 to \$100 per metric tonne).

customers.¹⁷⁰ Thus, a LEA that makes no accounting for CPP compliance costs would cause the LEA to fail in its purpose.

Despite the fact that the extent to which the CPP benefits should reduce the LEA is disputed between the parties, at the very least, the company admits that its current policy does not account for CPP costs and revenues but that it should in the future.¹⁷¹ It also acknowledges that the addition of each new customer increases the costs of CPP compliance for all customers, including the average cost per customer.¹⁷²

Just as the LEA calculation accounts for the expected revenue of new customers, it must account for the expected costs to existing customers, and CPP compliance is now one of those costs. We find, therefore, that NW Natural's current LEA is not justified, and that it instead must account for the costs of CPP compliance going forward.

A second reason that we find that NW Natural's current LEA is problematic is that there remains unrecovered rate base investment associated with new customer plant additions even after the 30 years of continued service as assumed in NW Natural's IRR-based model.¹⁷³ This fact is indicative of the LEA being currently too generous and saddling existing customers with increased costs for a period of time that is unreasonably long. It would also seem to undermine the value of the methodological approach used in the company's current LEA.

Finally, we find that the current methodology, which assumes customers remain on the system for 30 years with a predictable throughput, is likely too optimistic of an assumption given the changes in the industry that are identified by the parties. We share CUB's concerns around the 30-year timeframe of the current LEA calculation, and about that fact that other components within the calculation assume an even longer life for associated plant.¹⁷⁴ In essence, the current methodology would assume a "business as usual" approach well into the future, while the record in these proceedings shows the future is more likely to be an extremely dynamic and different environment for natural gas distribution, including evolving customer preferences and state and local mandates regarding restrictions on service. Most of these changes point toward a trend where at least some existing and future customers are likely to respond to the changes by modifying equipment or taking other purposeful measures to change their fuel

¹⁷⁰ *In the matter of Portland General Electric Company, Adv. No. 20-14 (ADV 1130) Sch. 300 Line Extension Allowance*, Docket No. UE 385, Order No. 20-483, Appendix A at 3-4 (Dec 23, 2020); ORS 860-021-00500 (stating that the service extension policy should be related to the investment that may prudently be made for the probable revenue); NW Natural Opening Brief at 34.

¹⁷¹ Tr. at 147 (Aug 25, 2022).

¹⁷² Tr. at 16, 18 (Aug 25, 2022).

¹⁷³ Tr. at 46 (Aug 25, 2022).

¹⁷⁴ CUB/400, Jenks/26-30; CUB Opening Brief at 14.

consumption. Or, in some cases, their continued usage may be directly impacted by a policy initiative. We find the company's arguments to the contrary not persuasive, given the robust record in these proceedings about the policy changes taking place in the natural gas distribution business. These changes, including the CPP and activities of municipalities or other jurisdictions in potentially enacting limitations on natural gas, point to a reasonable possibility that the company will encounter a trend of decreasing gas usage, potentially driven by economic signals toward fuel switching.

We find that although the current record makes clear that a significant downward adjustment to the company's LEA is appropriate, it is difficult, on the record in these proceedings, to order a specific calculation that would exactly correct for the infirmities of NW Natural's current methodology. This is in part because of the inconclusiveness of the record on certain underlying issues. For example, the parties dispute the appropriateness of any number of calculations under NW Natural's current IRR methodology, as well as whether the model is a flawed approach altogether, and they even disagree on factual data that should be used if we were to adopt a five-times-margin approach.¹⁷⁵ There are also challenges with estimating NW Natural's cost of compliance with the CPP, given the tentative nature of the prior analyses referred to by CUB in its testimony.¹⁷⁶ Some difficulty with the record also arises because many of the parties, including Staff, proposed that future proceedings be put in place to determine the LEA, rather than those parties taking positions on the issues under dispute.

We recognize that Staff, AWEC, and the company argue that the Commission should approach the challenges in the record by undertaking a comprehensive review of LEAs across all companies, prior to making any adjustment, with the benefit of further developing the costs of compliance for the CPP in such a proceeding. They argue for us to open a generic proceeding to resolve these matters in the future. We decline to order such a further investigation at this time.

We find the record in these proceedings adequately demonstrates that NW Natural's current LEA is too high and should be adjusted downward and that NW Natural has not met its burden of proof that the LEA should remain unchanged. We also find that delaying an adjustment to the LEA would put customers at a continuing risk of unreasonable costs. As NW Natural itself has stated elsewhere in these proceedings, the CPP is in effect and the company must comply with it now,¹⁷⁷ and we find that an immediate change is therefore warranted.

¹⁷⁵ CUB/100, Jenks/12, 17; CUB/103, Jenks/1; CUB 105, Jenks/1; CUB/400, Jenks/27-30, 33; NW Natural/1800, Taylor/18-19; NW Natural/2600, Taylor/24-25; NW Natural Opening Brief at 32, 56.

¹⁷⁶ See CUB/100, Jenks/12 & n.23; CUB/400, Jenks/33.

¹⁷⁷ See NW Natural Closing Brief at 62; NW Natural/2300, Walker-Wyman/8.

Furthermore, we find that a downward adjustment can be made at this time by moderating the extent of the adjustment to account for certain factors. For example, we agree with CUB that there may be important policy reasons for graduating downward changes to the company's LEA, such as mitigating any shock to the development of housing stock and allowing the company a reasonable adjustment period. We may also find that valuable data is generated during the period of a modest adjustment. We find our change regarding the LEA results in a reasonable LEA during this period, especially if it is higher than what we find could be warranted based on this record if we were to use CUB's estimates of CPP compliance costs.

We find it appropriate to implement a reduction to the LEA that is based on a previously used methodology that strikes a balance between drastically reducing the LEA and moderating any adjustment. We accept CUB's proposal regarding the LEA, in part, by ordering the company to adjust its LEA to reflect a five times the annual margin approach, comparable to the methodology the company used prior to its current Schedule X. Specifically, we find that the amount of \$2,300, as produced by the company in response to Bench Request 7, strikes an appropriate balance.¹⁷⁸ We find that the amount ordered is reasonable and strikes an appropriate balance of the competing interests we describe in this order.

Nevertheless, we find that the LEA should not remain static at \$2,300, in light of the demonstration that has been made that a more significant downward adjustment is ultimately warranted in order to appropriately balance the costs associated with new customers. We also find that it would be appropriate to allow for potential future proceedings that could further develop the technical details associated with NW Natural's LEA and correct for the deficiencies we identify in this order, within a reasonable timeframe, even though we decline to open a generic proceeding at this time. To balance these findings, we will require NW Natural to implement a pre-determined downward adjustment to the LEA unless and until future proceedings establish a more appropriate LEA. Specifically, we require an adjustment annually, on November 1 of each year, until November 1, 2024, such that a five times the annual average margin approach will be implemented beginning November 1, 2022, four times margin beginning November 1, 2023, and three times margin beginning November 1, 2024. If future proceedings establish that a different approach is warranted, that new approach will be adopted prospectively at that time. The Commission reserves its discretion to open such a proceeding on its own accord if no request is made by the company or others.

¹⁷⁸ The company identified five times margin as \$2,298.94 in its response to Bench Request 7, which we round up to \$2,300.

If the company does request through a future filing that the Commission modify its LEA from the approach described above, we will expect certain demonstrations in the proposal to include:

- The company’s best reasonable estimate of present and future CPP compliance costs;
- An analysis of how each new customer addition changes the costs of CPP compliance for other customers;
- An explanation of how the proposed LEA incorporates and recognizes the costs of CPP compliance;
- An analysis supporting the company’s assumptions about the expected time frame over which new customers will remain on the system, and how changing policy dynamics were factored in; and
- A demonstration of the expected year-by-year economic impact on existing customers from the addition of new customers under the proposed LEA, such that the “breakeven” year is shown, along with the costs and benefits expected in other years, and a demonstration of when rate-based investments for customer additions covered by the LEA are depreciated and removed.

Our decision on this issue is supported by the Commission’s application of its practices regarding the burden of proof in rate cases. As we have explained in prior orders, there are two aspects to the burden of proof: the burden of persuasion that a utility bears in proposing tariffs and rates, and the burden of production of evidence that rebuts a utility’s proposal.¹⁷⁹ Where a party produces evidence sufficient to rebut the reasonableness of the company’s proposal in a rate case (here, NW Natural’s proposal to continue the application of its current Schedule X), the burden of production of evidence then shifts to the party or parties who support the original proposal, to demonstrate why the evidence brought forward should not result in a rejection of the original proposal.¹⁸⁰ If the proponent of the original proposal—here, the company—fails to meet that burden, either because the opposing party presented persuasive evidence in opposition to the proposal, or because the company failed to present adequate information in the first place or in response to opposition, then the company does not prevail because it has not carried its burden of proof.

¹⁷⁹ ORS 757.210; *In the Matter of Portland General Electric Company Application to Amortize the Boardman Deferral*, Docket No. UE 196, Order No. 09-046, at 7-8 (Feb 5, 2009); *In the Matter of Portland General Electric Company Request for a General Rate Revision*, Docket No. UE 394, Order No. 22-129, at 8 (Apr 25, 2022).

¹⁸⁰ *In the Matter of Portland General Electric Company, Request for a General Rate Revision*, Docket No. UE 374, Order No. 20-473 at 5 (Dec 18, 2020); *In the Matter of Portland General Electric Company Request for a General Rate Revision*, Docket No. UE 394, Order No. 22-129 at 4-5 (Apr 25, 2022).

In these proceedings, NW Natural proposed to continue its current LEA policy and therefore bears the burden of proof. Regardless of whether it initially carried that burden, CUB and the Coalition have met their burden in producing evidence showing that the utility's proposal to retain Schedule X is problematic. They did so by demonstrating the infirmities described above (primarily, that the current LEA makes no consideration of the CPP and changing policy environment). Thus, the burden shifted back to NW Natural to rebut that evidence. In response to that demonstration, the company was unable to show why that evidence should be discounted or disregarded.

Instead of rebutting that evidence, the company relied heavily on assertions that the parties are trying to implement an anti-natural gas policy. Although the parties opposing NW Natural's current LEA certainly discuss the policies of decarbonization and electrification, and in some instances put forth their assessments or endorsements of those policies, we consider their arguments to be directed at how the economics underlying the LEA are impacted by those policies, rather than to be invitations to this Commission to implement those policies directly. In issuing this order, we clarify that the Commission is not passing any judgment on the larger policy issues around the future of natural gas in the state of Oregon. Instead, the adjustments to NW Natural's LEA policy are focused on the changes to the LEA that are appropriate in light of policies, programs, and trends that exist regardless of the Commission's actions.

In responding to the Coalition's and CUB's evidence of the infirmities of its current Schedule X, NW Natural also asserts, on a more technical basis, that the LEA does not need to incorporate CPP compliance costs because new customers will be charged for costs of CPP along with all other customers.¹⁸¹ Essentially, the company argues that new customers will pay their own way when it comes to compliance, so we do not need to assume that there is any detriment to existing customers from the increased costs of compliance related to new customer additions. We find that NW Natural's argument here contains some merit, but only inasmuch as it demonstrates that some "double counting" of CPP compliance costs may occur if we were to adopt an LEA that assumes *all* CPP costs would be borne by existing customers. CUB's analysis makes no such assumption, however, and instead shows that because the CPP imposes reductions from baseline carbon emissions, each incremental addition to those emissions will need to be fully abated.¹⁸² In other words, each new customer that is added to the system increases the costs of compliance for all customers. There is nothing in the record that would suggest that new customers' rates will be set such that they bear the full costs of abatement of their total usage, which would be required to avoid the detriment to existing customers

¹⁸¹ NW Natural Opening Brief at 54-55; NW Natural/1800, Taylor/31.

¹⁸² CUB/100, Jenks/11-12; CUB Opening Brief at 5, 11. *See also* OAR 340-271-0100; OAR 340-271-0110; OAR 340-271-9000, Table 2.

identified by CUB. Therefore, NW Natural's argument does not establish that CUB's analysis should be disregarded or overlooked. Furthermore, we find that the level at which we have set NW Natural's LEA for the first year (at five times margin) is high enough that any incorporation of an assumption about how much new customers will pay toward CPP compliance is unlikely to yield a higher LEA. And, the opportunity for the company to propose changes to its LEA during the pendency of the period of decreasing LEAs gives an opportunity for this issue to be addressed more fully.

B. Prudence of Lexington RNG Project

1. Introduction

On September 29, 2019, Senate Bill 98 went into effect, directing the Commission to adopt rules for a RNG program and establishing RNG portfolio targets for natural gas utilities. In 2020, NW Natural entered into an RNG project with BioCarbN, Cross River Infrastructure Partners LLC, and Tyson Fresh Meats to purchase both the physical RNG and the RTCs for the RNG produced by an anaerobic digester. NW Natural will sell the physical RNG to local gas marketers and will retire the RTCs on behalf of its customers to meet its RNG portfolio targets.¹⁸³ NW Natural also filed a request for approval of an affiliated interest agreement with Lexington Renewables, LLC, the entity that will invest in the Lexington project.¹⁸⁴ The Commission adopted a stipulation in docket UI 451 that approved the affiliated interest transaction subject to conditions.¹⁸⁵ Under that stipulation, the parties agreed that, subject to a future prudence review, "NW Natural may seek recovery of all its costs that do not exceed the average price per RTC of the two lowest bids from NW Natural's 2020 RFP that: i) meet all requirements under ORS 757-390-398 and OAR Chapter 860, Division 150, and ii) could begin deliveries in same timeframe as the Lexington RNG project."¹⁸⁶ The Lexington project began commercial service on January 24, 2022. According to NW Natural, Lexington is producing RNG, and the company expects daily production to continue to increase slowly as it resolves operational issues and some lingering COVID-19 effects.¹⁸⁷ In response to AWEC's recommendation, NW Natural revised the Lexington RNG revenue requirement with updated natural gas prices. NW Natural reports that its total cost of service for the Lexington project has decreased due to increased revenue from selling the energy content of gas.

¹⁸³ NW Natural/1100, Chittum/6-7, 20-21.

¹⁸⁴ Lexington Renewables is co-owned by BioCarbN and NW Natural through its wholly owned subsidiary, NW Natural RNG Holding Company. NW Natural/1100, Chittum/13.

¹⁸⁵ *In the Matter of NW Natural Request for Approval of an Affiliated Interest Agreement with Lexington Renewables, LLC*, Docket No. UI 451, Order No. 22-211 (Jun 6, 2022).

¹⁸⁶ *Id.* at 3.

¹⁸⁷ NW Natural/2100, Chittum/16.

NW Natural seeks a prudence review of the Lexington project and requests recovery of the project's costs through a proposed AAC, Schedule 198, addressed below.¹⁸⁸ The costs of the project include the depreciation on Lexington assets, cost of capital, income tax, and operating costs, and the revenue includes the distributions from Lexington Renewable Energy LLC to NW Natural RNG Holding Company as the Class A shareholder and the sale of the physical RNG. NW Natural also seeks to recover the costs subject to its deferral request in docket UM 2145, which includes the cost of service associated with the Lexington project from its in-service date on January 24, 2022, through the rate effective date of this general rate case. NW Natural filed a deferral application on December 31, 2020, for the period through December 30, 2021, and submitted a supplemental application on December 21, 2021, for the period through December 30, 2022. NW Natural seeks to allocate the costs of the Lexington project on an equal cents per therm basis to all customers, including transportation and special contracts customers but excluding storage customers. As discussed above, NW Natural, Staff, CUB, and AWEC entered into the third partial stipulation which resolved issues raised regarding the amortization of the Lexington deferral costs.

2. *Parties' Positions*

a. *Coalition*

The Coalition argues that the Lexington project does not comply with the requirements of SB 98 or the implementing regulations and should be denied as imprudent.¹⁸⁹ The Coalition asserts that SB 98 encourages gas utilities to progressively decarbonize their products by delivering an increasing percentage of RNG to Oregon customers, and contrary to the statute, NW Natural is not delivering any physical RNG to its customers in Oregon. The Coalition maintains that the statute clearly provides for cost recovery for investments in infrastructure producing renewable natural gas, which SB 98 defines as the actual RNG product processed to "meet pipeline quality standards or transportation fuel grade requirements" to be "furnished to Oregon customers."¹⁹⁰ The Coalition argues that NW Natural cannot rely on the regulations implementing SB 98 to support the Lexington project, because the regulations must be read in a manner that implements the statute.

The Coalition asserts that SB 98 defines RNG as a physical substance and that the definition cannot be read to mean the environmental attribute without the accompanying gas. The Coalition maintains that SB 98 does refer to environmental credits in prescribing the manner of cost recovery, which demonstrates that the legislature was

¹⁸⁸ NW Natural/1100, Chittum/28.

¹⁸⁹ Coalition Opening Brief at 20.

¹⁹⁰ Coalition Opening Brief at 23, quoting ORS 757.392(9).

aware of environmental credits generated from RNG production and that it could have, but did not, design a program authorizing cost recovery for investments for environmental credits without delivery of the physical RNG in Oregon.

The Coalition argues that the plain text of SB 98 limits cost recovery to RNG that the utility is providing to Oregon customers for their use and not the environmental attribute alone and that SB 98 permits utilities to make qualified investments and procure RNG from third parties to meet the targets set forth in SB 98. The Coalition contends that the definition of “qualified investment” in SB 98 covers capital investments in RNG infrastructure incurred by gas utilities for the purpose of providing natural gas service under an RNG program described in the statute. The Coalition further contends that under SB 98, RNG infrastructure is limited to all equipment and facilities for the production, processing, pipeline interconnection, and distribution of RNG to be furnished to Oregon customers. The Coalition asserts that these definitions reflect that a physical product must be provided to Oregon customers. The Coalition maintains that while the word “furnish” is not defined in SB 98, it should be interpreted based on the plain, natural, and ordinary meaning, and the term has been interpreted by the Oregon Supreme Court to mean “to provide or supply with what is needed, useful or desirable.”¹⁹¹ Taken together with the definition of RNG, the Coalition asserts that the phrase “renewable natural gas to be furnished to Oregon customers” must refer to RNG to be provided or supplied to Oregon customers.¹⁹² The Coalition argues that this means that it was imprudent for NW Natural to invest in an out-of-state facility that would not deliver any physical RNG to Oregon customers.

The Coalition argues that the Commission may consider the meanings of the terms “qualified investment” and “renewable natural gas infrastructure” in the context of other provisions of the same statute and other related statutes, and that elsewhere in SB 98 the legislature stated that “the development of renewable natural gas resources should be encouraged to support a smooth transition *to a low carbon energy economy in Oregon.*”¹⁹³ The Coalition asserts that this language supports that the plain meaning of these provisions is that SB 98 requires actual delivery of physical RNG and that NW Natural’s interpretation instead encourages the company to develop the cheapest RNG outside of Oregon, strip that gas of its RTCs, and sell the physical gas to an out-of-state buyer. The Coalition maintains that this interpretation does not encourage decarbonization of gas pipes in Oregon and does not support a transition to a low carbon energy economy in Oregon.

¹⁹¹ Coalition Opening Brief at 24, quoting *SAIF Corp. v. Ward*, 369 Or 384, 394-395, 477 P3d 429 (2022).

¹⁹² Coalition Opening Brief at 24, quoting ORS 757.392(7).

¹⁹³ Coalition Opening Brief at 25, quoting ORS 757.390(1)(b).

While the Coalition contends that the plain language of the statute requires providing a physical product to Oregon customers, the Coalition also asserts that the legislative history further supports an interpretation that SB 98 requires the physical delivery of RNG in Oregon. The Coalition argues that the testimony from several stakeholders, including NW Natural, states that SB 98 was created as a tool to promote the use of RNG in Oregon by in-state utility customers and that the legislature amended the bill to add the definition of “renewable natural gas infrastructure” following this testimony.¹⁹⁴

In addition to its arguments about SB 98, the Coalition asserts that the Commission’s rules also require NW Natural to produce or purchase the physical RNG product for its Oregon customers rather than the RTCs alone. The Coalition maintains that the regulations adopt the definition of RNG in SB 98, which means that any reference to RNG in the regulations refers to the physical product processed to meet pipeline quality standards.¹⁹⁵ The Coalition further asserts that to be consistent with SB 98, the rule requiring NW Natural to demonstrate it has delivered RNG to an injection point on a natural gas common carrier pipeline must be read to require delivery to Oregon customers. The Coalition argues that, therefore, NW Natural’s sale of the RNG to a buyer in Nebraska does not comply with the rules.

The Coalition asserts that the Commission must determine whether NW Natural exercised the standard of care which a reasonable person would be expected to exercise under the same circumstances encountered by utility management at the time the decision had to be made, which is an objective standard.¹⁹⁶ Because the investment does not comply with SB 98 or the Commission’s rules implementing SB 98, the Coalition argues that NW Natural’s investment in the Lexington project were not prudent and its costs should be denied. The Coalition maintains that a utility exercising the appropriate standard of care would have proceeded cautiously in implementing SB 98 and would have been guided first and foremost by the statutory language. The Coalition further argues that the risks presented by the Lexington project were unique as the first of its kind by NW Natural and as an out-of-state project operated by a third party and that NW Natural was not sufficiently prudent to proceed with an investment that did not deliver the physical RNG to its customers in Oregon. The Coalition asserts that NW Natural has not addressed how the Lexington project complies with the language of SB 98 and that the staff report explaining the rulemaking prior to adoption cannot supplant the meaning

¹⁹⁴ Coalition Opening Brief at 26-27.

¹⁹⁵ Coalition Opening Brief at 27 citing OAR 860-150-0010(15).

¹⁹⁶ Coalition Opening Brief at 28, citing *In the Matter of PacifiCorp, dba Pacific Power, Request for a General Rate Revision*, Docket No. UE 374, Order No. 20-473 at 138 (Dec. 18, 2020).

of the statute itself.¹⁹⁷ The Coalition maintains that agency interpretations of the statutes must be consistent with the legislature's intent.

The Coalition also notes that it filed testimony that initially argued the Lexington project was imprudent under both SB 98 and the CPP, but it later withdrew its prudence argument regarding the CPP only, leaving the question of prudence under SB 98 for the Commission's consideration.¹⁹⁸

b. Staff

Staff argues that the Lexington project complies with SB 98 and is eligible for recovery and urges the Commission to reject the Coalition's challenges under SB 98.¹⁹⁹ Staff maintains that the Coalition's interpretation of SB 98 is inconsistent with the Commission's rules, which established a "book-and-claim" accounting approach through which a utility establishes its progress toward the SB 98 RNG targets with RTCs. Staff argues that under the Commission's rules, the RTCs for RNG produced or acquired by the utility are tracked electronically from the point at which the RNG is injected into a common carrier pipeline, but the RNG itself is not and cannot be tracked.²⁰⁰ Staff contends that once the RNG is injected into a common carrier's pipeline, it mingles with the non-RNG and is subject to delivery in the natural gas system that spans the United States. Staff maintains that FERC has discussed the futility of trying to distinguish between molecules of natural gas, noting that the conceptual idea of transportation of gas from point to point does not match with the physical reality.²⁰¹

Staff notes that in its opening testimony, the Coalition appeared to accept the book-and-claim approach but argued Lexington did not comply with SB 98, because NW Natural was not acquiring the physical RNG and injecting it into a common carrier pipeline. Staff argues that NW Natural testified it was injecting the gas into a common carrier pipeline and the Coalition's only response to this testimony was to withdraw its witness's testimony that the Lexington project did not comply with the CPP.²⁰² Staff maintains that the Coalition's proposed interpretation of SB 98 would create a virtually impossible standard because NW Natural cannot ensure that the molecules of RNG it acquires will ultimately be the same molecules of gas used to serve Oregon customers. Staff asserts that the Coalition's interpretation would essentially nullify the RNG program mandated by the legislature, and the Commission reasonably adopted a methodology in which the chain of custody for RTCs is the linchpin. Staff argues that using the book-and-claim

¹⁹⁷ Coalition Closing Brief at 23-24.

¹⁹⁸ Coalition Closing Brief at 23.

¹⁹⁹ Staff Opening Brief at 3; Staff Closing Brief at 3.

²⁰⁰ Staff Closing Brief at 3-4.

²⁰¹ Staff Closing Brief at 4, citing *Williams Natural Gas Company*, 59 FERC 61, 306 (1992).

²⁰² Staff Closing Brief at 4-5.

methodology, the Commission can guarantee that the environmental benefits of RNG are flowing to Oregon customers even if it cannot guarantee the individual RNG molecules will flow to Oregon customers.

Staff also contends that the legislative history cited by the Coalition does not support its interpretation of SB 98. Staff argues that while the Coalition is correct that the legislative committee overseeing the bill adopted amendments to SB 98 after hearing testimony, the Chair of that committee's description of the amendments states that the amendments had been put forward to address concerns regarding competition by regulated utilities. Staff maintains that there were no statements by a legislator that indicate the legislator believed SB 98 required actual delivery of RNG to Oregon customers, based on a review of the video recordings.

Staff maintains that the question of prudence ultimately rests on whether NW Natural's actions and decisions were prudent in light of existing circumstances, based on what it knew or should have known at the time. Staff argues that in this circumstance, the question is whether NW Natural appropriately relied on the Commission's rules at the time it invested in the Lexington project, not whether the Commission's rules are authorized by SB 98. Staff notes that prior to the Coalition's arguments in these proceedings, no one had challenged the Commission's SB 98 rules during the rulemaking process or sought judicial review of the finalized rules. Staff maintains that NW Natural would have no reason to believe the rules did not appropriately interpret SB 98 and it was reasonable to assume the rules are valid. Staff contends that adopting the Coalition's argument that NW Natural would be imprudent for relying on the Commission's rules could create a troubling precedent under which utilities could not rely on the Commission's administrative rules to guide their actions. Staff further argues that even if the Lexington project does not comply with SB 98, it is not unlawful for the Commission to allow rate recovery for the project. According to Staff, the question is still whether NW Natural acted reasonably in relying on the Commission's previous interpretation of SB 98.²⁰³

Staff asserts that whether the Lexington project complies with the CPP is not pertinent to whether the project was prudent at the time of NW Natural's investment. Staff contends that NW Natural's decision to proceed with the Lexington project was reasonable given what the company knew at the time of the investment, however, Staff also argues that NW Natural should ensure that its future SB 98 investments can be used for compliance with the CPP prior to investing. Staff maintains that a future SB 98 project that cannot be used to comply with the CPP, as well, will likely not be cost effective for customers.²⁰⁴

²⁰³ Staff Closing Brief at 7-8.

²⁰⁴ Staff Opening Brief at 3-4.

c. AWEC

AWEC recommends that the Commission find that the Lexington project was a prudent investment.²⁰⁵ AWEC argues that the Coalition's interpretation of SB 98 is contrary to how gas and electric systems operate. AWEC maintains that when gas is purchased and placed into a pipeline, the specific gas molecules are not earmarked for an individual customer. AWEC argues that the Lexington project does contribute to decarbonizing the natural gas system and reducing greenhouse gas emissions in Oregon, because emissions and greenhouse gases are not limited by borders and emissions reduction programs in other states such as Nebraska, California, or Idaho still benefit customers in Oregon. AWEC contends that it would be bad policy to limit RNG projects and purchases to those with physical deliveries in Oregon, because there are a limited number of RNG projects in the United States and in Oregon. AWEC argues that the Coalition's interpretation of SB 98 could cut off the ability to pursue less expensive projects that provide more environmental benefits out of state. AWEC states that it understands that the book-and-claim method of accounting is accepted in Oregon and that there is no reason to believe, based on the plain language of SB 98, that the legislature decided to preclude the use of the book-and-claim method.²⁰⁶

d. NW Natural

NW argues that the costs associated with the Lexington project meet the standard for prudence and it should be allowed to fully recover the project's costs in rates. NW Natural asserts that it has presented evidence that demonstrates the Lexington project meets the prudence standard, including describing how it evaluated the project and other options, how it concluded Lexington was the least cost/least risk project, how it conducted due diligence for the project, and how it addressed the risks of the project.

Regarding the Coalition's arguments on the prudence of the project, NW Natural argues as an initial matter that the Coalition's references in its briefs to testimony regarding the prudence of the Lexington project should be stricken or given no weight because the witness withdrew all of her testimony on that topic.²⁰⁷ NW Natural asserts that, contrary to the Coalition's arguments, the Commission's order adopting the rules implementing SB 98 plainly allow for gas utilities to comply with SB 98's RNG targets using a book-and-claim approach, which tracks an RTC's chain of custody, and does not require physical delivery of RNG to NW Natural's customers.²⁰⁸ NW Natural notes that OAR 860-150-0050(7) states that the utility must demonstrate that one dekatherm of RNG was

²⁰⁵ AWEC Closing Brief at 4.

²⁰⁶ AWEC Closing Brief at 6.

²⁰⁷ NW Natural Closing Brief at 51.

²⁰⁸ NW Natural Closing Brief at 51-52, 54.

delivered to an injection point on a common carrier pipeline for each RTC it purchases or acquires and argues that any interpretation of this rule that would require that the gas be delivered to the utility's customers would render the rule meaningless. NW Natural asserts that, to the extent the Coalition expects utilities to track the physical RNG molecules in the pipeline system, this reflects a fundamental misunderstanding of the energy system, and it is a physical impossibility to track specific RNG from the production site. NW Natural maintains that these rules were in effect at the time it invested in the Lexington project, and it relied on those rules in making its decision. NW Natural argues that its decision cannot now be found imprudent on the basis of the Coalition's claim that the rules in effect do not comply with SB 98. Further, NW Natural argues that the Commission has found RNG projects that do not require the physical delivery of gas to customers to be consistent with the rules and has approved recovery of costs for two such RNG purchases through NW Natural's PGA.²⁰⁹ NW Natural maintains that there is no basis for implementing the Coalition's interpretation of the Commission's RNG rules.

NW Natural also contends that the Coalition's argument that the Lexington project is not prudent is an inappropriate collateral attack on the Commission's RNG rules, is outside the scope of these proceedings, and should be rejected. NW Natural asserts that if the Commission decides to change its rules, it must first provide adequate notice and opportunity to comment to all interested parties. NW Natural further argues that the Commission's rules are consistent with SB 98 and there is no need to reexamine the rules. NW Natural maintains that SB 98 directed the Commission to adopt rules for reporting requirements under the large renewable natural gas program and that the Commission reasonably determined that this was best implemented through a book-and-claim approach without the physical delivery of RNG.²¹⁰ NW Natural argues that the sections of SB 98 the Coalition identifies, ORS 757.392(5) and (8), do not indicate that the physical RNG must be delivered to Oregon customers. Regarding the definition of a qualified investment in ORS 757.392(5) and a renewable natural gas infrastructure in ORS 757.392(8), NW Natural argues that these definitions do not indicate that the physical RNG must be delivered to Oregon customers and instead are meant to define what a physical RNG product is. NW Natural asserts that the legislature delegated the authority to develop a program to implement SB 98 to the Commission and that had the legislature intended to limit the Commission's authority by requiring specific physical gas molecules be delivered to Oregon customers, it would have clearly stated so in SB 98. NW Natural acknowledges that SB 98 does not explicitly adopt a tracking or reporting framework that allows the use of RTCs for compliance but maintains that the legislature did not intend to adopt any tracking or compliance framework and instead

²⁰⁹ NW Natural Closing Brief at 55.

²¹⁰ NW Natural Closing Brief at 57-58.

directed the Commission to do so. NW Natural contends that the fact the legislature only refers to the environmental attributes of RNG once does not mean that it is impermissible to use the environmental attributes to comply with SB 98. NW Natural also argues that DEQ supports the use of the book-and-claim approach, contrary to the Coalition's claims that the Lexington project does nothing to encourage a low carbon economy or the decarbonization of gas in the pipelines in Oregon. NW Natural maintains that the Coalition's arguments that the legislative history indicates that SB 98 was intended to require the physical delivery of RNG molecules are unconvincing and that it is entirely reasonable to interpret the statements in the legislative history as referring to the environmental attributes of RNG rather than the physical gas.

3. *Resolution*

We find that the costs of the Lexington project NW Natural seeks to recover in these proceedings, when viewed in context with the stipulation in docket UI 451, were reasonable and prudently incurred under the terms of SB 98 and our rules implementing that law.

The key question we must consider is whether NW Natural's actions were reasonable and prudent in light of the contemporaneous circumstances, based on what NW Natural knew or should have known at the time it took the actions. In determining whether an action was prudent, the Commission does not consider hindsight nor do we substitute our best judgment for that of the company.²¹¹

This Commission has already reviewed aspects of the Lexington project in other contexts, including docket UI 451, in which we adopted a stipulation regarding an affiliated interest transaction between NW Natural and Lexington Renewables LLC.²¹² The stipulation approved as part of docket UI 451 implemented additional requirements on NW Natural and the Lexington project, specifically under what circumstances it may seek to recover costs.²¹³ That stipulation establishes parameters for NW Natural's future cost recovery, referencing back to bids in NW Natural's request for proposals, as a means to ensure satisfaction of our affiliated interest standard. In light of the stipulation in docket UI 451, which effectively ensures that NW Natural's customers are not exposed to the risk of higher long-term costs for RTCs than were reasonably available from comparable projects in NW Natural's request for proposals, we are satisfied that NW

²¹¹ See e.g., *In the Matter of PacifiCorp Request for a General Rate Revision*, Docket No. UE 374, Order No. 20-473 at 74 (Dec 18, 2020); *In the Matter of Pacific Power Request for a General Rate Revision*, Docket No. UE 246, Order No. 12-493 at 25 (Dec 20, 2012).

²¹² *In the Matter of Northwest Natural Gas Company, dba NW Natural, Request for Approval of an Affiliated Interest Agreement with Lexington Renewables, LLC*, Docket No. UI 451, Order No. 22-211 (Jun 7, 2022).

²¹³ *NW Natural*, Order No. 22-211 at 3; Appendix A at 12-14.

Natural has demonstrated that the Lexington project was the least cost, least risk project available at the time and that it has taken steps to address the risks associated with the project.²¹⁴ Given the circumstances at the time NW Natural pursued the project and the docket UI 451 conditions governing the transaction, we determine that the Lexington project costs at issue in these proceedings are reasonable and were prudently incurred.

The Coalition's argument that NW Natural should have known at the time that it entered into the Lexington project that the project did not meet the requirements for SB 98 is unpersuasive. At the time that NW Natural entered into the Lexington project, the Commission had already issued an order adopting rules to implement SB 98, which contemplated the purchase of RTCs for Oregon customers when the physical gas may be delivered elsewhere. Our rules specifically set forth the terms by which companies may purchase and retire RTCs, including ensuring and documenting that the physical gas associated with such RTCs are delivered to an injection point on a common carrier pipeline.²¹⁵ Further, in the order adopting the rulemaking, we stated that the rulemaking utilized a book-and-claim approach for RTCs, which tracks the RTC's chain of custody as opposed to the physical gas.²¹⁶ No party challenged these rules following adoption. The Commission also permitted NW Natural to recover costs associated with RTCs acquired and retired for the RNG program through its PGA.²¹⁷ The rules were adopted, no challenge was ongoing, and therefore there was no reason for NW Natural to presume that the rules upon which it was relying were likely to be found invalid.

For the foregoing reasons, we determine that the costs for the Lexington project presented in these proceedings are prudent under the terms of SB 98 and may be recovered.

Addressing NW Natural's argument that the Coalition's testimony had been withdrawn and therefore should be stricken or otherwise not given weight in these proceedings, we need not reach the question of whether to strike the Coalition's testimony because are not adopting the Coalition's proposal contained in that testimony. In the future, we ask parties intending to withdraw testimony to clearly identify the exact statements being withdrawn or provide corrected testimony. We also ask parties wishing to strike testimony or other statements to file a motion to strike.

²¹⁴ See *NW Natural*, Order No. 22-211.

²¹⁵ OAR 860-150-0050; OAR 860-150-0300(1).

²¹⁶ *In the Matter of Rulemaking Regarding the 2019 Senate Bill 98 Renewable Natural Gas Programs*, Docket No. AR 632, Order No. 20-227 at 4 (Jul 16, 2020).

²¹⁷ *In the matter of Northwest Natural Gas Company, dba NW Natural, Request for Amortization of Certain Deferred Accounts Related to Gas Costs Schedules P, 162, 164*, Docket No. UG 432, Order No. 21-376, Appendix A at 5-7 (Oct 28, 2021).

C. Cost Recovery and Cost Allocation for Lexington and Future RNG Projects**1. Introduction****a. Cost recovery and AAC design**

NW Natural proposes an AAC, Schedule 198, to recover its costs for the Lexington project and future RNG projects.²¹⁸ NW Natural proposes to file updated costs for previously approved projects by August 1 of each year for a rate adjustment effective on November 1. NW Natural would also file proposed charges related to new qualified RNG investments by February 28 of each year. These costs would include deferrals for startup operating and maintenance costs incurred prior to the RNG project being placed into service, as well as the revenue requirements between the project's in-service date and the effective date of the Schedule 198 rate adjustment. In response to CUB's recommendation, NW Natural agrees to provide attestations that the RNG projects are in service and providing utility service to Oregon customers.

NW Natural proposes a Schedule 198 rate adjustment on November 1 of each year, unless NW Natural demonstrates that an alternative effective date is in the public interest. Only applications for RNG projects with costs in excess of \$5 million individually or in aggregate would be eligible for recovery through Schedule 198. NW Natural also proposes to meet with the parties within three years of the effective date of the AAC to discuss any revisions to Schedule 198.²¹⁹

AWEC opposes NW Natural's proposed Schedule 198.²²⁰ Staff and CUB support aspects of NW Natural's proposed Schedule 198 but propose modifications. CUB recommends a single annual rate adjustment on November 1 without exception and opposes deferral for the costs for RNG projects between the in-service date and the rate effective date. CUB does not oppose deferral of the difference between the forecasted historic RNG costs and actual RNG costs, subject to an earnings test equal to 100 basis points above or below NW Natural's approved ROE.²²¹ Staff recommends a deadband of 50 basis points for the difference between forecast and actual RNG costs.

NW Natural, Staff, and CUB state that the remaining areas of disagreement between the three entities are: 1) whether NW Natural can file for a deferral period between the in-service date of the RNG project and the rate effective date, and, if so, whether it should be subject to an earnings test; 2) whether NW Natural can file for a deferral for

²¹⁸ NW Natural/1300, Walker/28.

²¹⁹ NW Natural/1501, Kravitz/1-3.

²²⁰ AWEC Opening Brief at 18.

²²¹ CUB/200, Gehrke/25.

differences between the forecasted RNG costs and actual RNG costs and, if so, whether it should be subject to an earnings test; and 3) whether NW Natural can add new RNG assets on a date other than November 1.²²²

b. Cost allocation

NW Natural proposes to allocate costs for the Lexington project, as well as future RNG projects, to all non-storage customer classes, including transportation and special contract customers, on an equal cents per therm basis.²²³ NW Natural argues that under the CPP, it will act as the point of regulation for all customers who emit regulated greenhouse gases through use of natural gas, including those customers who procure gas from sources other than NW Natural. Staff and CUB support NW Natural's cost allocation proposal.²²⁴ AWEC opposes allocating Lexington project costs to transportation and special contract customers under the CPP, because the project was developed pursuant to SB 98, and argues that cost allocation for future RNG project costs under the CPP should not be on an equal cents per therm basis and should be considered more fully in future proceedings.

2. Parties' Positions

a. AWEC

(1) Cost recovery and AAC design

AWEC argues that SB 98 does not mandate an AAC for RNG investments and argues that the Commission should review NW Natural's rates in the overall context of a general rate case at least until completion of the first CPP compliance period. AWEC argues that it would not necessarily oppose an AAC that was designed to accommodate SB 98 projects, but that NW Natural is proposing ratemaking for the cost of SB 98 projects differently than envisioned in SB 98 based on the CPP regulations. AWEC contends that NW Natural may recover its RNG costs through the general rate case process and through its general ability to request deferrals. AWEC argues that an AAC essentially amounts to single-issue ratemaking, which typically benefits shareholders by ignoring other factors that otherwise influence the utility's operating results. AWEC asserts that NW Natural controls the timing of its investments and may file a rate case at any time, thus leading to an unbalanced approach in which it may avoid filing a rate case when its revenue requirement may have decreased while still recovering additional revenues through the AAC.

²²² NW Natural/2500, Kravitz/4; CUB Opening Brief at 20-21.

²²³ NW Natural/3000, Walker-Wyman/3; NW Natural/1500, Kravitz/13.

²²⁴ CUB/200, Gehrke/42-43, 46-47; CUB/500, Gehrke/1-2; Staff/1800, Muldoon/17.

If an AAC is approved, AWEC proposes that an earnings test that is 100 basis points lower than NW Natural's authorized ROE should be applied to deferrals. AWEC argues that the deferral portion of NW Natural's proposed AAC allows the company to recover costs incurred between the in-service date and the rate effective date and that this benefit is only reasonably provided when an investment contributed to NW Natural's underearning. AWEC maintains that to do otherwise would provide NW Natural with a windfall.²²⁵ AWEC argues that its proposed earnings test is a reasonable threshold to apply before deferring the impacts of regulatory lag associated with the RNG projects in the AAC. AWEC asserts that any deferred costs in the AAC should be spread over the life of the underlying facility and accrue interest at the MBT rate.

To the extent an AAC is adopted, AWEC also supports the modifications proposed by CUB and Staff.²²⁶ Further, AWEC argues that NW Natural should be required to file a rate case within four years of the AAC's adoption to prevent NW Natural from recovering a significant portion of its capital through the AAC and overearning without the ability to review the company's overall results of operation.

(2) Cost allocation

AWEC proposes to exempt transportation and special contract customers from the rate spread for the Lexington project costs.²²⁷ AWEC maintains that the Lexington project was acquired solely to assist NW Natural investing in RNG infrastructure under SB 98 and points to the stipulation approved in docket UI 451 in support of this argument.²²⁸ AWEC argues that the Lexington project should not be viewed under the CPP because it is a SB 98 project.

AWEC argues that under SB 98, NW Natural was only authorized to acquire RNG for retail or core customers. AWEC argues that utilities purchase gas for core customers only and do not purchase gas for transportation customers. AWEC contends that charging transportation customers for a service the legislature did not intend for them to receive would violate the Commission's primary duty to ensure that utilities charge fair, just, and reasonable rates.²²⁹

AWEC argues that the purpose and scope of the CPP and SB 98 are different, which leads to a different cost allocation depending on which program is used to allocate the Lexington project costs. To the extent that the Lexington project is considered a CPP project, AWEC asserts that it is reasonable to consider the allocation in the context of the

²²⁵ AWEC Opening Brief at 19.

²²⁶ AWEC Closing Brief at 12.

²²⁷ AWEC Opening Brief at 8; AWEC Closing Brief at 6.

²²⁸ AWEC Closing Brief at 6-7.

²²⁹ AWEC Opening Brief at 9.

overall marginal cost-of-service study results.²³⁰ AWEC argues that the CPP was only recently enacted, and the Commission, utilities, and stakeholders are still evaluating the most cost-effective methods and the costs of complying with the CPP. AWEC contends that there is no evidence in these proceedings about what the appropriate CPP compliance costs, if any, would be for any class of customer, which would require an examination of the baseline throughput established in 2017, 2018, and 2019. AWEC argues that simply assuming that CPP compliance costs are allocated on an equal cents per therm basis without considering overall costs, benefits, and changes to load from energy efficiency, demand loss, and new customers would be imprudent and could have a devastating impact on the business section of the Oregon economy. AWEC maintains that it is not suggesting that the case for utility assets cannot evolve over time but that it is seeking to affirm that the Lexington project was authorized under SB 98 to benefit Oregon retail customers and that those costs and benefits should not be attributed to transportation customers. AWEC contends that evaluation of the equitable allocation of CPP compliance costs are necessarily best considered on a holistic basis and not on a one-off basis for individualized projects acquired for another purpose.²³¹

If some of the Lexington project production facility costs are imposed on transportation customers, AWEC recommends that the project be evaluated consistent with the overall cost-of-service results, which show that large customers are already paying rates that are nearly double their cost-of-service rates.²³² AWEC argues that this approach is consistent with how the parties agreed to allocate base rates and some deferrals in the first and second partial stipulations and contends that there is no reason to treat the Lexington RNG project differently. AWEC asserts that NW Natural has not supported its cost allocation proposal with any evidence that it is consistent with actual CPP compliance costs in 2022 and maintains that the most cost-effective way to comply with the CPP is still being developed. AWEC argues that the cost of CPP compliance will be influenced by changes in throughput and that a declining throughput for a rate class would be a reason to not allocate CPP compliance costs to that rate class in a particular year.²³³ AWEC asserts that there has been no demonstration that a CPP surcharge is appropriate for transportation customers in 2022 and that there has not yet been a demonstration of concrete compliance obligations for 2022 or 2023. AWEC urges the Commission to avoid approving the simplistic equal cents per therm allocation in these proceedings, considering the economic impacts for Oregon businesses that this cost allocation methodology will have.

²³⁰ AWEC Opening Brief at 10; AWEC Closing Brief at 8-9.

²³¹ AWEC Opening Brief at 10.

²³² AWEC Closing Brief at 9.

²³³ AWEC Closing Brief at 10.

AWEC also opposes allocating Lexington RNG costs to special contracts customers, as proposed by CUB. AWEC argues that CUB's proposal is impractical, misguided, and unfair.²³⁴ AWEC argues that CUB has not demonstrated that special contract customers have throughput that increased in 2022 compared to the baseline established in 2017, 2018, or 2019 that resulted in any incremental CPP compliance costs to NW Natural. Further, AWEC asserts that each contract is unique and subject to different terms and conditions established under different circumstances and amending each contract to address one RNG project would require consultation with each contracting customer. AWEC contends that new costs do not necessarily require modification of a contract and that such contract costs are typically fixed subject to an inflationary escalator. AWEC recommends that the Commission open a new docket to investigate the role and responsibilities of special contract customers in meeting NW Natural's CPP obligations.²³⁵ AWEC argues that special contract customers had to demonstrate that they had a competitive alternative to NW Natural's service and if the Commission allocates costs to special contract customers, those customers should have the option to explore whether a competitive alternative to NW Natural's service would be appropriate, potentially increasing the rates of all customers.

b. CUB

(1) Cost recovery and AAC design

CUB requests that the Commission adopt the RNG AAC with its modifications. CUB argues that its modifications create a balanced AAC that allow NW Natural to recover prudently incurred costs while treating NW Natural's customers fairly. CUB maintains that NW Natural cannot argue that an AAC is necessary under any statute or regulatory requirement and that there is no provision in SB 98 that requires an AAC for RNG-related procurement.²³⁶ CUB notes that RNG assets acquired under the CPP will flow through the RNG AAC, but CPP costs do not currently have any statutory or regulatory underpinning guiding cost recovery. CUB argues that NW Natural erroneously asserts SB 98 requires dollar-for-dollar recovery of RNG-related costs.

CUB maintains that the Commission should not permit NW Natural to seek deferrals for the costs incurred between a RNG project in-service date and the rate effective date. Regarding NW Natural's arguments that such deferrals are necessary to comply with the SB 98 cost recovery requirements, CUB argues that NW Natural's legal conclusions are misplaced, contrary to Oregon statutory construction precedent, and inappropriately parse

²³⁴ AWEC Opening Brief at 13-14.

²³⁵ AWEC Opening Brief at 14.

²³⁶ CUB Opening Brief at 18, citing *In the Matter of Rulemaking Regarding the 2019 Senate Bill 98 Renewable Natural Gas Programs*, Docket No. AR 632, Order No. 20-227 at 14 (Jul 16, 2020).

Commission language. CUB contends that the language cited by NW Natural from Order No. 20-227 was merely paraphrasing the relevant SB 98 section and undertook no legal analysis.²³⁷ CUB asserts that the Commission did not evaluate SB 98’s plain meaning in Order No. 20-227, nor did it examine the statutory text in context or otherwise reference the statutory analysis articulated in *State v. Gaines*.²³⁸ CUB maintains that the rulemaking in docket AR 632 was intended to adopt and implement rules to govern nascent RNG programs and the Commission was acting in a quasi-legislative capacity. CUB contends that a legal determination to discern the legislature’s intent must be made in a contested case or declaratory ruling in which parties may make legal arguments for the Commission to rule on in its quasi-judicial capacity. CUB argues that the statutory interpretation of SB 98’s provisions is an issue of first impression for the Commission.

CUB contends that the Commission has already interpreted cost recovery language that is strikingly similar to that in SB 98. CUB argues that language in the Renewable Portfolio Standard (RPS), ORS 469.120(1), provides that “all prudently incurred costs associated with complying with ORS 469A.005 to ORS 469A.210 are recoverable in the rates of an electric company,” which is similar to the language in ORS 757.396(2) that provides that “[t]he commission shall adopt ratemaking mechanisms that ensure the recovery of all prudently incurred costs that contribute to the large natural gas utility’s meeting the targets set forth” CUB maintains that in docket UM 1662, the Commission, using the analysis method set forth in *State v. Gaines*, found that the cost recovery language in ORS 469.120(a) did not mandate dollar-for-dollar recovery but provided utilities with the opportunity to recover their variable costs. CUB argues that while the AAC created under ORS 469A.120 does enable a deferral between the in-service date and the rate effective date, a similar deferral for the RNG costs under SB 98 would effectively grant dollar-for-dollar recovery.²³⁹

CUB urges the Commission to reject NW Natural’s arguments that CUB’s comments in docket AR 632 support the company’s position. CUB maintains that its comments in that docket were intended only to state that SB 98 required the Commission to adopt rate making mechanisms not that NW Natural was entitled to dollar-for-dollar recovery. CUB further argues that the Commission has stated that natural gas utilities already have processes that could allow them to fully recover RNG program costs through existing rules and that by this logic the SB 98 cost recovery requirements have already been met.²⁴⁰

²³⁷ CUB Opening Brief at 22.

²³⁸ CUB Opening Brief at 23, citing *State v. Gaines*, 346 Or 160, 171 (2009).

²³⁹ CUB Opening Brief at 24-25.

²⁴⁰ CUB Opening Brief at 25.

CUB also argues that rejecting the request for deferrals between the in-service and rate effective dates more fairly balances the interests of NW Natural and its customers. CUB maintains that the deferral between the in-service date and the rate effective date only applies in the first year of a project's operation while the deferral of the forecast and actual RNG costs could be recovered each year when specific conditions are met. CUB argues that its proposal is already more favorable to NW Natural than traditional ratemaking, and the Commission has signaled that traditional ratemaking aligns with the spirit of SB 98.²⁴¹ CUB further argues that under NW Natural's proposal, it would face little to no risk surrounding RNG cost recovery but would enjoy a profit margin set at an ROR meant to compensate it for incurring risk.

Regarding its proposal to limit the rate effective date for RNG costs to November 1 of each year, CUB argues that this limitation will provide price certainty to NW Natural's customers and ease the administrative burden on the Commission and stakeholders. CUB argues that the more flexible date sought by NW Natural would lead to an influx of rate changes that would be difficult to track and would affect customers. CUB maintains that accepting NW Natural's proposed flexible rate effective date would benefit the company while burdening its customers and stakeholders.

Regarding an earnings test for deferrals for the difference between forecast and actual RNG costs, CUB urges the Commission to adopt an earnings test at 100 basis points above or below NW Natural's ROE.²⁴² CUB argues that the earnings test is necessary to incentivize NW Natural to operate efficiently and without it the company would have no incentive to keep costs in check. CUB maintains that its proposed earnings test preserves this incentive, aligns with Commission precedent, is durable, and can accommodate changes in NW Natural's ROE over time. CUB argues that a 100 basis points deadband provides a sufficient barrier to account for changes to NW Natural's system that would affect its return since the last general rate case. CUB contends that the Commission has held a similar earnings test was appropriate to provide an incentive and protect both the company and customers in a similar mechanism.

CUB urges the Commission to reject NW Natural's proposal on surrebuttal under which it would only seek to defer the difference between the forecasted and actual revenues of physical gas sales from its RNG and this would not be subject to an earnings test. CUB argues that it was not able to analyze this proposal on the evidentiary record given when it was filed. CUB also asserts that the Commission has held an earnings test applies to natural gas purchases and sales and has established a 100 basis points earnings test on NW Natural's PGA. Additionally, CUB contends that the purpose of the earnings test is

²⁴¹ CUB Opening Brief at 26, citing Docket No. AR 632, Order No. 20-227 at 14.

²⁴² CUB Opening Brief at 28.

to determine whether rates are already sufficient. CUB maintains that if earnings are reasonable, there is no basis to raise rates to ensure recovery of prudently incurred costs.²⁴³

(2) Cost allocation

CUB asserts that the Lexington project and future RNG costs should be allocated to all non-storage customers, including transportation and special contract customers, on an equal cents per therm basis.²⁴⁴ CUB argues that all NW Natural customers will be generating emissions through natural gas end use that ultimately drives up the CPP compliance costs for the entire system, and it is therefore appropriate for all customers to bear the costs of the CPP under the basic ratemaking principle of cost causation. CUB also argues that equitable considerations support its position. CUB notes that while AWEC is focused on the Lexington project as an SB 98 project, CUB and NW Natural's proposal is designed to establish a rate spread for RNG projects generally to avoid the need to litigate the issue for every project. CUB contends that AWEC's argument ignores that the carbon regulatory regime in Oregon has changed drastically since the Lexington project was first developed and that under the CPP all customers are driving carbon emissions and attendant costs on NW Natural's system in the test year. CUB argues that AWEC fails to address the core of the argument that all customers are driving costs, so all customers should pay compliance costs. CUB maintains that the magnitude of the Lexington project's effect on CPP compliance is not the issue, nor is NW Natural's overall CPP compliance strategy. Instead, CUB asserts that the proposal here is for a reasonable and durable rate spread to be used for all RNG assets going forward. Additionally, CUB argues that AWEC ignores that utility assets evolve over time and that though Lexington was originally acquired to comply with SB 98, that does not mean that its costs must be allocated solely to SB 98 for the length of the project's useful life.²⁴⁵

CUB also argues that AWEC's argument that it is not practicable to reopen special contracts is unpersuasive. CUB maintains that no party has proposed reopening the terms of special contracts and instead NW Natural may defer the revenue until the contracts can be amended. CUB contends that the Commission has tremendous authority to establish just and reasonable rates and that AWEC is attempting to evoke fictitious contractual limitations to achieve a desired regulatory outcome.

CUB maintains that its and NW Natural's proposal fairly allocates government-mandated costs of decarbonizing NW Natural's system to all customers and that enabling a subset

²⁴³ CUB Opening Brief at 30.

²⁴⁴ CUB Opening Brief at 30.

²⁴⁵ CUB Opening Brief at 31.

of these customers to avoid costs would result in inequity.²⁴⁶ CUB notes that large gas customers are able to switch between transport and gas service and contends that allowing transport customers to sidestep the costs could result in an influx of customer load seeking to transport service, leaving the company's remaining customers to shoulder the burden of decarbonizing for all customers.

CUB disagrees with AWEC's assertion that transportation customers should not bear any of the costs of the RNG projects, as well as AWEC's arguments about SB 98. CUB argues that despite the stipulation in docket UI 451 stating that the Lexington project was for SB 98, the use case for utility assets can change over time. CUB maintains that while the Lexington project was initially acquired under SB 98, it will now assist NW Natural in complying with the CPP.²⁴⁷ Additionally, CUB argues that it is inappropriate to allocate the costs based on an equal percent of margin as AWEC proposes because RNG is a gas commodity cost that is not included in margin revenue.²⁴⁸

CUB also urges the Commission to reject AWEC's proposal to allocate RNG costs based on the results of the cost-of-service study, arguing that CPP compliance costs are tied to the emissions that each customer drives on the system and therefore recovering the costs on an equal cents per therm basis follows established cost causation principles.²⁴⁹ CUB also argues that the proposal supported by itself, NW Natural, and Staff allows for the flexibility to account for varying levels of RNG and can adapt to changes in throughput attributable to individual end users. CUB similarly urges the Commission to reject AWEC's argument that the Commission should consider the economic impacts the equal cents per therm method would have on Oregon businesses. CUB maintains that considerations related to economic development are generally outside the scope of the Commission's regulatory authority and that instead the Commission must act on the record before it to adopt a rate spread proposal that aligns with principles of cost causation and fairness.

c. Staff

(1) Cost recovery and AAC design

Staff urges the Commission to adopt an AAC for SB 98 RNG cost recovery consistent with Staff's proposed modifications. Staff maintains that many of the elements of an AAC benefit NW Natural, including allowing it to increase rates for one cost category without a full review of its other expenditures. Staff argues that deferring the costs

²⁴⁶ CUB Opening Brief at 32.

²⁴⁷ CUB/500, Gehrke/4-6.

²⁴⁸ CUB/500, Gehrke/6.

²⁴⁹ CUB Closing Brief at 13.

between a project's in-service date and the rate effective date under the ACC would tip the balance too far into NW Natural's favor to be fair. Similarly, Staff argues that NW Natural's proposed flexible rate effective date fails to account for the limited resources of the Commission and stakeholders and the importance of having sufficient time to review the proposed rate changes for the effective date. Staff contends that allowing NW Natural to use the single-issue ratemaking process of an AAC to seek rate updates at any time would be unprecedented and unbalanced.²⁵⁰

Staff asserts that SB 98 does not require dollar-for-dollar recovery of RNG investment costs. Staff maintains that the Commission has previously interpreted similar cost recovery language to that in SB 98. Staff argues that the Commission concluded that the language in the RPS statute did not mandate dollar-for-dollar recovery and that the same conclusion should be reached here. Staff contends that it appears the Commission already has reached this conclusion given the three cost recovery options authorized under OAR 860-150-0300: 1) through a general rate case; 2) through a request for an AAC; or 3) through the PGA. Staff notes that there is regulatory lag in recovering through a general rate case and that the PGA is subject to an earnings test with possible disallowances.

Staff maintains that while AACs often include a deferral, the deferral is typically not used to capture costs of new plant in service prior to that plant's inclusion in rates. Staff asserts that NW Natural's argument that the Commission has interpreted SB 98 to require special ratemaking treatment to eliminate potential regulatory lag is undermined by the Commission's determination that a general rate case and the PGA are appropriate cost recovery mechanisms.

For the proposed deferral of the difference between forecasted and actual RNG costs, Staff proposes an earnings test subject to a deadband of 50 basis points above or below ROE for any non-capital costs. Under Staff's proposal, only costs exceeding 50 basis points of ROE would be subject to deferral.²⁵¹ Staff argues that this deadband is necessary to incentivize NW Natural to carefully manage costs. Staff also recommends that any recovery of deferred costs be subject to an earnings test using a benchmark of NW Natural's authorized ROE minus 100 basis points. Staff maintains that this will ensure NW Natural does not collect additional revenues through the AAC when its earnings are already sufficient.

²⁵⁰ Staff Opening Brief at 6.

²⁵¹ Staff Opening Brief at 9.

(2) Cost allocation

Staff argues its recommendation to allocate Lexington project costs on an equal cents per therm basis to all non-storage customers, including transportation customers, is based on the underlying purpose of SB 98.²⁵² Staff asserts that the legislative findings for SB 98 make it clear that one of the legislature's goals for the RNG program is to promote lowered carbon emissions for natural gas utility customers and the public and there is no reason that the costs of those intended benefits should be exclusively borne by NW Natural's distribution customers.²⁵³ Staff argues that while the SB 98 targets are based on the amount of gas NW Natural purchases for distribution to retail customers, this does not change who benefits from the investment in the Lexington project. Staff maintains that the costs to acquire the RNG gas from the Lexington facility are offset by revenues NW Natural acquires from selling the gas to other buyers, therefore the costs to be allocated in these proceedings are costs incurred to acquire the renewable attributes of RNG. Similarly, Staff argues that the equal cents per therm basis is appropriate for SB 98 projects recovered through the proposed AAC given the generally applicable nature of the benefits of the RNG investments as they are described in the legislative findings and declarations of SB 98.²⁵⁴

Staff argues that under AWEC's interpretation of SB 98, the costs to produce any RNG that is ultimately sold at wholesale cannot be included in the recoverable SB 98 costs because the costs are not incurred for distribution to retail customers in Oregon. Staff states that it agrees the commodity costs of RNG should not be borne by transportation customers but argues that in this case NW Natural is offsetting the cost of its RNG investment with the revenue from the sale of brown gas, so transportation customers will not bear the commodity costs of gas produced through the Lexington project. Staff argues that if a future RNG cost does not include this offset, some adjustment should be made to ensure transportation customers are not allocated the commodity cost of the RNG.²⁵⁵ Regarding special contract customers, Staff argues that whether a special contracts customer's throughput has increased since 2017, 2018, or 2019 is not pertinent to whether the special contract customer benefits from the reduction of carbon emissions under SB 98. Staff asserts that the fact it would be cumbersome to modify each special contract is not a reason to not allocate the SB 98 costs to special contracts and NW Natural customers should not be allowed to avoid costs to achieve the purposes of SB 98 because of inconvenience.²⁵⁶

²⁵² Staff Closing Brief at 8-9.

²⁵³ Staff Opening Brief at 10.

²⁵⁴ Staff Opening Brief at 11.

²⁵⁵ Staff Closing Brief at 11.

²⁵⁶ Staff Closing Brief at 12.

d. NW Natural

(1) Cost recovery and AAC design

NW Natural argues that there are three primary benefits of Schedule 198: 1) ensuring NW Natural will recover RNG project costs in a timeframe consistent with customers receiving the benefits of the projects; 2) preventing accumulation of substantial deferrals between general rate cases by allowing for timely recovery of costs; and 3) requiring annual filings that include a reduction in rate base due to depreciation rather than waiting for a general rate case.²⁵⁷ NW Natural urges the Commission to reject the modifications proposed by CUB, Staff, and AWEC, arguing that the company's proposal is fairly balanced between the company and its customers.

NW Natural argues that without the ability to defer the cost of service for projects between the in-service date and the rate effective date, it would not have the ability to recover those costs. NW Natural maintains that it is even more important that it have the ability to defer these costs if the Commission adopts CUB's proposal to limit the rate effective date to November 1 with no exceptions. NW Natural states that it would be amenable to the November 1 limitation if it is able to defer the costs between a project's in-service date and the rate effective date. NW Natural argues that if the Commission determines that the deferral is not appropriate or should be subject to AWEC's proposed earnings test, the Commission should not establish a fixed rate effective date for new RNG qualified investments. NW Natural contends that in that circumstance, the Commission should instead allow the company to appropriately time Schedule 198 proceedings so that rates go into effect concurrent with the project in-service date or shortly thereafter.²⁵⁸ NW Natural argues that this would ensure it has the opportunity to fully recover its costs but would increase the frequency of rate changes.

NW Natural asserts that its proposal manages regulatory lag in a symmetrical fashion by updating the accumulated depreciation balance in rate base, which would traditionally not happen until the next general rate case. NW Natural contends that there is no regulatory lag in the company's favor because it is updating the depreciated rate base through the annual update to the cost of service, which benefits customers.²⁵⁹ NW Natural argues that with this deferral it only seeks the opportunity to demonstrate that the costs incurred are prudent and can be recovered in rates. NW Natural maintains that SB 98 permits the company to recover all its prudently incurred costs in acquiring RNG, and that the Commission stated in Order No. 20-227 that SB 98 directed the Commission to adopt rules to establish a process for natural gas utilities to fully recover the costs associated

²⁵⁷ NW Natural Opening Brief at 72.

²⁵⁸ NW Natural Opening Brief at 78-79.

²⁵⁹ NW Natural Opening Brief at 77.

with the RNG program. NW Natural argues that deferred costs carry the risk of disallowance and permitting the deferral does not result in a guaranteed or automatic cost recovery or balance the AAC in the company's favor. NW Natural contends that its requested deferral for costs between the in-service date and rate effective date is consistent with how electric utilities recover their costs related to the RPS under a similar AAC.²⁶⁰ Further, NW Natural argues that RNG projects are typically developed by utilities together with a partner and the utility does not control the timing of these projects. NW Natural maintains that if it is unable to defer the costs incurred between the in-service date and the rate effective date and it is limited to updating Schedule 198 on November 1, then it is virtually guaranteed not to fully recover its costs associated with qualified investments.²⁶¹

NW Natural also urges the Commission to reject the proposals that would establish an earnings test below its authorized ROE, arguing that these proposals are unreasonable and inconsistent with the statute.²⁶² NW Natural argues that if the Commission were to adopt such an earnings test, the company would be unable to recover its prudently incurred costs of the RNG project unless it was significantly underearning, which would be contrary to SB 98. NW Natural maintains that the Commission is not obligated to impose an earnings test on a deferral subject to an AAC and that an earnings test is not appropriate for its requested deferral. NW Natural argues that imposing an earnings test lower than its authorized ROE would create rather than remove barriers to decarbonization. NW Natural also maintains that the proposals to set an earnings test below its authorized ROE represents a major departure from the precedent the Commission set in adopting the renewable adjustment clause and that the opposing parties have not provided any rationale to support proposals for significantly less favorable recovery for RNG projects.²⁶³ NW Natural contends that if the Commission determines that an earnings test is appropriate, the Commission should implement an earnings test set at 100 basis points above the authorized ROR that would be more consistent with SB 98.²⁶⁴ NW Natural argues that if the Commission does adopt an earnings test similar to that proposed by AWEC, NW Natural reiterates that it should have the flexibility to time the rate effective date to coincide with the in-service date of its RNG investments to minimize deferrals.

Regarding proposals to subject deferrals for the difference between forecasted and actual RNG costs to an earnings test, NW Natural notes that it proposed an alternative in its surrebuttal testimony intended to address concerns raised by Staff, CUB, and AWEC.

²⁶⁰ NW Natural Opening Brief at 78.

²⁶¹ NW Natural Closing Brief at 44.

²⁶² NW Natural Opening Brief at 79; NW Natural Closing Brief at 44-45.

²⁶³ NW Natural Closing Brief at 45.

²⁶⁴ NW Natural Opening Brief at 80.

NW Natural states that under its proposal, the company would only seek to defer the difference between the forecasted and actual revenues of the physical gas sales. NW Natural maintains that it would bear the risk of any differences between forecasted and actual cost or revenues except for physical gas sales for which the company does not control the market price. NW Natural asserts that this modification to its original proposal would fully address the underlying reasons for Staff and CUB's proposed earnings test, namely to incentivize the company to operate efficiently.²⁶⁵ NW Natural argues that it has also attempted to address AWEC's concerns by largely eliminating the annual true-up except for physical gas sales. NW Natural contends that this approach would not be one sided and that customers would benefit from any physical gas sales revenue greater than forecast.

Responding to Staff's and CUB's arguments that NW Natural is seeking dollar-for-dollar recovery contrary to Commission precedent, NW Natural asserts that a close reading of Order No. 20-277 as well as the underlying RPS statute supports NW Natural's position.²⁶⁶ NW Natural argues that Staff and CUB ignore the portion of the RPS statute that provides that the Commission "shall establish an automatic adjustment clause...or another method that allows timely recovery of costs prudently incurred" to construct or otherwise acquire renewable energy facilities.²⁶⁷ NW Natural maintains that this language provides that all prudently incurred costs are recoverable in utility rates and directs the Commission to adopt a special ratemaking mechanism. NW Natural contends that the Commission concluded that the RPS required dollar-for-dollar recovery for capital costs, which neither Staff nor CUB acknowledged in their opening briefs. NW Natural asserts that its proposed deferral of the costs incurred between the in-service date and rate effective date is consistent with the Commission's previous interpretation of the RPS statute.²⁶⁸

NW Natural asserts that, unlike the RPS statute, SB 98 also applies to non-capital costs because it specifies that the ratemaking mechanisms must ensure recovery of all prudently incurred costs. NW Natural concedes that SB 98 uses the permissive "may" regarding investments and operating costs but argues that the "may" must be read together with preceding language requiring the Commission to adopt specific ratemaking mechanisms. NW Natural argues that the statutory provisions taken together are clear that the legislature intended for the Commission to adopt ratemaking mechanisms that ensure full recovery of capital and operating costs.²⁶⁹

²⁶⁵ NW Natural Opening Brief at 81-82.

²⁶⁶ NW Natural Closing Brief at 45.

²⁶⁷ NW Natural Closing Brief at 45-46, quoting ORS 469A.120(2)(a).

²⁶⁸ NW Natural Closing Brief at 46.

²⁶⁹ NW Natural Closing Brief at 47.

Responding to CUB's arguments that the Commission has not yet determined the legislative intent of SB 98, NW Natural asserts that there is no support for CUB's statement that the Commission would need to articulate the steps of statutory construction to discern the meaning of SB 98. NW Natural maintains that the quoted statement by the Commission as to the meaning of SB 98 is a paraphrase of clear and direct statutory language, which can be interpreted based on the plain language of the statute. NW Natural contends that it would be illogical to conclude that the Commission is not able to interpret a statute it is administering in a rulemaking, noting that the Oregon Supreme Court has stated that agencies may interpret the laws they are charged with administering by rulemaking, adjudication, or both.²⁷⁰ Further, NW Natural argues that CUB's argument makes no sense in light of the fact that rulemakings are administrative proceedings in which agencies implement legislative mandates.

(2) Cost allocation

NW Natural maintains that the Lexington project and future RNG costs should be allocated to all non-storage customers, including transportation and special contract customers, on an equal cents per therm basis.²⁷¹ Regarding the allocation of Lexington and RNG project costs, NW Natural argues that the CPP made NW Natural the single point of regulation for all emissions on its distribution system, including those driven by special contract customers. NW Natural argues that all non-storage customers will benefit from the Lexington RNG project because it will help the company comply with the CPP.²⁷² NW Natural argues that nothing in SB 98 prevents the Commission from assigning costs to those customer classes that benefit from the company's acquisition of RNG and asserts that since CPP compliance is based on carbon dioxide emissions associated with therms of natural gas consumed, it should be allocated on an equal cents per therm basis.²⁷³ NW Natural contends that it does not apportion commodity costs to the rate schedules based on overall distribution and capacity costs and instead assigns them on a cost per therm basis to every sales schedule so that the cost of gas procurement directly follows the cost causer on an equal basis. NW Natural asserts that the cost of CPP compliance should similarly follow the cost causer on an equal basis. NW Natural maintains that AWEC's arguments ignore the fact that the CPP went into effect during these proceedings and that NW Natural must comply with the CPP right now. NW Natural argues that it is unrealistic to expect it to have actual CPP compliance costs at this time or to condition cost allocation on such data. Similarly, NW Natural argues that

²⁷⁰ NW Natural Closing Brief at 48, citing *Trebesch v. Emp't Div.*, 300 Or 264, 273, 710 P2d 136 (1985).

²⁷¹ NW Natural Opening Brief at 91.

²⁷² NW Natural Closing Brief at 62.

²⁷³ NW Natural Opening Brief at 91.

AWEC's arguments regarding throughput are unpersuasive because CPP compliance is based on overall emissions of all customers, regardless of customer class.²⁷⁴

NW Natural also states that it cannot amend these special contracts prior to the rate effective date and proposes filing a deferral application that would be amortized until after the contracts themselves have been updated.²⁷⁵ NW Natural asserts that AWEC's arguments regarding the difficulty of amending special contracts do not provide a basis for why NW Natural should not seek to amend these contracts to ensure that these customers pay the costs associated with their emissions.

3. *Resolution*

We find that an AAC as proposed by NW Natural, but with some of the modifications proposed by CUB and Staff, is an appropriate recovery mechanism for the Lexington project and potentially for future RNG projects, as described in further detail below. We also find that costs incurred for the Lexington project prior to 2022 should be allocated to retail customers consistent with our interpretation of SB 98, and not allocated to transportation and special contract customers. However, we recognize that the use and benefits of a resource change over time, warranting changes in cost allocation, and we direct that costs incurred for the Lexington project beginning in 2022, when the first CPP compliance period began, shall be allocated to all non-storage customers on an equal cents per therm basis, unless and until a new cost allocation methodology is approved.

To resolve ratemaking issues related to RNG projects in this case, we must consider SB 98, the CPP, and the interaction between them. Parties to this case have relied on their interpretations of SB 98 and the CPP to inform RNG cost recovery and cost allocation issues, sometimes appearing to point to whichever of the two policies best supports their preferred outcome on a specific issue. We recognize that complex interactions between the two policies are inevitable and strive to be clear about how we are interpreting, and where we are applying, each policy.

a. AAC for RNG cost recovery

For reasons of regulatory policy and predictability, we conclude that it is appropriate to establish an AAC for recovery of Lexington project costs. NW Natural pursued the Lexington project under SB 98, before development of the CPP. At that time, NW Natural reasonably expected cost recovery to be governed by SB 98 alone. Although the CPP now informs our view of future RNG projects and prospective cost allocation for

²⁷⁴ NW Natural Closing Brief at 63.

²⁷⁵ NW Natural Closing Brief at 64.

Lexington, as discussed below, we determine that it is appropriate to establish the basic cost recovery mechanism for Lexington under SB 98.

Parties to this case offer us widely divergent interpretations of the cost recovery provisions of SB 98. We largely agree with Staff that the legislature's primary intention in its SB 98 cost recovery language was to ensure that the Commission would allow recovery of the relatively high costs for RNG resources, even though such resources would not otherwise be expected to meet our prudence standard due to their high cost relative to traditional alternatives.²⁷⁶ As Staff notes, the legislature did not specifically mandate use of anything other than the Commission's normal ratemaking methodologies, which we use to enable timely and full recovery of prudently incurred costs, resulting in just and reasonable rates.²⁷⁷ The statutory language of SB 98 states that qualified investments and the associated operating costs *may* be recovered through an AAC.²⁷⁸ It does not otherwise express a clear intention to deviate from the legislature's traditional deference to the Commission's application of its long-established ratemaking mechanisms, nor to have the legislature tightly control cost recovery mechanisms with an intention to prioritize the companies' interests over customers' interests.

We disagree with NW Natural that SB 98 must be interpreted as a legislative requirement to remove all regulatory lag and shareholder risk from RNG cost recovery. That interpretation, taken to its logical extent, would reach deep into the Commission's ratemaking function and prevent us from achieving balanced outcomes and establishing just and reasonable rates, radically and fundamentally changing the Commission's ratemaking task. An intention to make this fundamental change is absent from the legislative history. We see no evidence from the legislative history that, as a fundamental premise of its environmental policy, the legislature expected through SB 98 to eliminate the Commission's duty to consider the risk balance between utilities and their customers. We also see no evidence that either the Commission, individual legislators, or other stakeholders viewed the legislative proposal in such a way.

Although we generally support Staff's and reject NW Natural's interpretation of the cost recovery language in SB 98, establishing a balanced AAC appears to accord with the settled expectations of most stakeholders and would seem an appropriate method for providing cost recovery. Notably, CUB and Staff have accepted use of an AAC and worked to negotiate its design, without opposition to the concept; this may be, in part, because of our history of using an AAC for analogous electric company renewable

²⁷⁶ See Staff/1700, Muldoon/3; Tr. at 71-72, 76-77 (Aug 25, 2022).

²⁷⁷ Staff Opening Brief at 6-8.

²⁷⁸ ORS 757.396(2).

portfolio standards, enacted under different legislation. Additionally, though SB 98 did not mandate an AAC, it did specifically contemplate that one could be implemented.

A complicating factor in adopting an approach to RNG cost recovery, however, is the establishment of the CPP. NW Natural has been clear—at least when arguing for cost allocation of RNG projects to all customers—that all RNG projects, including Lexington, now contribute to the emissions reductions required by the CPP. Not only do the cost recovery provisions of SB 98 not apply to the CPP, but satisfying the requirements of the CPP will require a comprehensive suite of actions touching all areas of the company that are ill-suited to recovery through a single AAC. We appreciate the logic of AWEC’s argument that, with the CPP overlaying the permissive language of SB 98, we should not adopt an AAC specifically for RNG projects, which represent a small subset of likely CPP compliance actions. Although AWEC’s argument does not persuade us to change our approach to cost recovery for the Lexington project under SB 98, it does give us pause about prospectively and unconditionally adopting an AAC for future RNG projects.

SB 98 is a legislatively approved but voluntary RNG procurement target, while the CPP is a comprehensive, mandatory greenhouse gas emissions cap and reduction regime adopted by administrative rule.²⁷⁹ Under the requirements of the CPP, any emissions reduction measure the utility takes, which may include RNG procurement, will necessarily be in service of CPP requirements. At the same time, the magnitude of the CPP’s emissions reduction requirements and potential customer rate impacts require us to apply a high level of scrutiny to whether the utility is pursuing the least cost, least risk portfolio of emission reduction measures. It is possible that a prudent strategy may include RNG, but this will depend on the costs and risks relative to alternatives. We are concerned about the potential incentive created by the availability of an AAC to skew the company’s analysis of costs and risks of alternative CPP compliance measures towards RNG projects. Specifically, we are concerned about the potential for RNG to be automatically eligible for more favorable cost recovery up to the SB 98 spending limits without a demonstration that RNG at that level is least cost, least risk relative to other CPP compliance portfolio configurations.

Despite these concerns, we recognize that, with both the CPP and SB 98 in place, we must find ways to accommodate both policies, and we determine that an AAC is a reasonable way to provide for cost recovery under SB 98. We also recognize that Staff and CUB are comfortable with the risk balance and level of administrative efficiency offered by the AAC they propose. We also note that NW Natural representatives confirmed at the oral argument that RNG projects proposed for recovery through an AAC would be part of an overall strategy supported by prior analysis of CPP compliance

²⁷⁹ ORS 757.390 *et seq.*; OAR 340-271-0010 *et seq.*

pathways in the company's IRP.²⁸⁰ In adopting an AAC for future RNG projects, we caution NW Natural to ensure that it has allowed enough time and stakeholder engagement for a critical analysis and vetting of the prudence of any RNG project proposed for recovery through the AAC, including a demonstration of how the project fits into its CPP compliance strategy. We reserve our discretion to insist on such analyses prior to including any future RNG projects costs in the AAC.

b. AAC design

The AAC as proposed by NW Natural would permit the company to recover costs associated with its Lexington project and future RNG projects with minimal regulatory lag. Although we appreciate the concessions that NW Natural made through the course of these proceedings, we remain convinced that adopting NW Natural's proposed AAC would be problematic. It would result in few incentives for the company to control costs and project timing, an imbalance in risks between the company and customers, frequent rate changes, and higher than necessary administrative burden on the parties, particularly when considering the need to conduct a prudence review in connection with overall CPP strategy. We conclude that the modifications offered by Staff and CUB are necessary to achieve a reasonable risk balance, smooth rate changes, and improve administrative efficiency.

Specifically, we adopt the following proposed modifications:

- 1) We adopt CUB's and Staff's proposal that the AAC allow for RNG project costs to be added to rates only on November 1 of each year;
- 2) We adopt CUB's and Staff's position that the AAC should not allow project costs to be deferred between the in-service date and the rate effective date of November 1 (however, we apply this determination only to future projects and will allow recovery of deferred costs for the Lexington project); and
- 3) We allow for the deferral of costs between forecast RNG costs and actual RNG costs, but subject that deferral to an earnings test that includes deadbands at 50 basis points below and above authorized ROE, as proposed by Staff.

We further explain our rationale for adopting each of these modifications below.

²⁸⁰ Tr. at 52-53 (Aug 26, 2022).

With respect to the date for adding RNG costs to rates only on November 1, we find that doing so is consistent with our general past practice regarding rate changes for natural gas customers, and also that it is an important component of our protection of customers from having numerous, frequent, and confusing rate changes. While we recognize that SB 98 created a new program for a new technology that is important to the gas utility system in Oregon, we do not find that it warrants imposing more frequent rate changes on customers than our historical practice. In addition, a consistent and predictable date for rate changes supports administrative efficiency and the ability of Staff and stakeholders to properly evaluate new RNG resource additions.

With respect to our determination that project costs should not be deferred between the in-service date and the rate effective date of November 1, we find that this practice is consistent with general rate-making principles and past practices of allowing additions to rate base and the recognition of revenues from utility investments only after rates are changed through an appropriate rate-setting process. Although the Commission has the authority to, and in some instances does allow project costs to be deferred prior to inclusion in rates, doing so is not required in our methods for allowing utilities a reasonable opportunity to recover their prudently incurred costs. We find here that, especially given our concerns about the interactions between the CPP and the AAC described above, it is appropriate to require a rate change to be implemented before the company can recognize revenues from the recovery for RNG projects.

With respect to the deferral of cost differences for RNG projects between forecast and actual costs, we find that a deferral of these costs may be important and justified, because RNG is a new and emerging technology for the company and its consumers. In such instances, it can be expected that there is significant uncertainty in the methodologies used to forecast these costs, and there could also be a likelihood of unforeseen developments and challenges that come to light only after such forecasts are made. A deferral will allow these unforeseen costs to be taken into account, and still provide the company with a reasonable opportunity to recover its costs of RNG, consistent with SB 98.

We find, however, that it is important still to protect customers from unforeseen and potentially costly events that could occur with respect to the company's ability to acquire, produce, or deliver RNG after a forecast is made. The lower deadband of 50 basis points on the earnings test applied to these costs will serve this purpose, while still not precluding the company from updating its forecast of costs on a prospective basis on November 1 of each year under the AAC. It will also ensure that customers are protected against such unforeseen events somewhat automatically, for a relatively short time period. The company will have an opportunity to seek the recovery of increased costs on a prospective basis through the next cycle of the AAC, a process which gives the

Commission a more practical opportunity to review of the prudence and reasonableness of those costs. The upper deadband of 50 basis points above authorized ROE is allowed as a way to ensure that there is symmetry on the earnings test and an opportunity for the company to benefit, as part of our implementation of SB 98 in a balanced manner that ensures, overall, a reasonable opportunity to recover the company's prudent costs. We do this despite some concern that the deadband above authorized ROE could create an incentive for the company to over-forecast the costs of RNG. We will rely on our authority and obligation to review utility actions for prudence and reasonableness to ensure appropriate forecasts and look forward to any learnings on this topic as the AAC is implemented.

Although we adopt this approach of deadbands and an earnings test here, we do not foreclose the possibility that it should be modified in the future. For example, although no party proposed it in these proceedings, it could be that the Purchased Gas Adjustment approach of imposing a 90/10 sharing (or 80/20 sharing under some circumstances) of the difference between forecast and actual gas costs may serve to balance the company's and customers' interests in the future.²⁸¹ We make no determination on that topic based on this record, however.

Finally, we clarify that the second modification to the RNG AAC discussed above is not applicable to the Lexington project. We find that that deferral of the costs of the Lexington project is appropriate for the reasons described by CUB.

c. Cost allocation for Lexington and future RNG projects

As with cost recovery, our analysis of cost allocation issues in this case requires us to consider the interactions between SB 98 and the CPP. NW Natural and CUB each rely upon the CPP to support their proposed allocation of RNG project costs to all non-storage customers.²⁸² For the Lexington project, AWEC and Staff each rely upon SB 98 to reach markedly different conclusions, with AWEC arguing that SB 98 requires us to allocate Lexington project costs only to retail customers and Staff interpreting SB 98 to support allocation of costs to all non-storage customers. AWEC recognizes the relevance of the CPP to allocation of future RNG project costs but disagrees with other parties that allocation on an equal cents per therm basis is appropriate.

²⁸¹ See NW Natural Schedule P: Purchased Gas Cost Adjustments at P-5.

²⁸² NW Natural and CUB present slightly different reasoning, however. NW Natural argues that allocation to all non-storage customers is warranted because the Lexington project, like future RNG projects, will be used for CPP compliance. CUB argues that the rate spread was intended for a generally applicable RNG project AAC; with the advent of the CPP, all customers are driving carbon emissions and benefiting from RNG, such that just because the Lexington project started as an SB 98 project does not mean it cannot also be a CPP project.

Ultimately, we are guided in our decision by our agreement with a point made frequently by CUB in this case: it is possible for the use and benefit of a resource to change over time, warranting adjustments to cost allocation over the life of a resource. We agree with CUB that just because a project was initiated for a specific purpose does not mean that the project may only be used for that purpose in the future. While the Lexington project was originally proposed as an SB 98 project, as we recognized above, NW Natural has stated clearly that Lexington will be used to achieve the emissions reductions required by the CPP. Because NW Natural is the point of regulation for all customers on its distribution system that emit carbon through natural gas, including those customers who procure gas from sources other than NW Natural, it is appropriate to allocate to those customers costs associated with NW Natural's CPP compliance strategy.

With that said, we establish cost allocation here with some caution, given considerations of regulatory predictability similar to those that favored our adoption of an AAC under SB 98, despite the landscape change created by the CPP. AWEC, like NW Natural, initially approached the Lexington project from a SB 98 frame and reasonably relied on the cost allocation provisions of that law, at least up until the first CPP compliance period began in 2022.

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.

Beginning in 2022 with the first CPP compliance period, and in the context of significant public policy pressure to reduce emissions from the natural gas sector, we see little justification to continue to view Lexington project costs—nor future RNG costs—as solely motivated by SB 98. Although we are not persuaded by Staff's invitation to rely on SB 98's purpose statement to allocate costs incurred exclusively under SB 98 to all customers, Staff's interpretation is useful in helping us reconcile questions concerning cost allocation for actions that support multiple policy goals, which may include the SB 98 targets, CPP emissions reductions, and potentially other future policies or risk-reduction measures. Because SB 98 was enacted in part for public benefit and to smooth the transition to a low carbon economy for Oregon, as Staff points out, there is nothing in SB 98 that prevents us from allocating RNG costs incurred in part to achieve these

broader benefits to all customers.²⁸³ We simply do not find that there was sufficient basis to view Lexington project costs incurred before 2022 in this manner.

For Lexington costs incurred in 2022 or later, as well as other future RNG project costs, allocation should be determined with reference to compliance with the CPP. We agree with NW Natural, CUB, and Staff that equal cents per therm is a reasonable interim starting point for allocation under the CPP, but we also agree with AWEC that there may be justification for considering different and more nuanced approaches, as NW Natural conceded at the oral argument. AWEC presented interesting considerations around relative changes in throughput across customer classes, which resonates with some of the considerations that CUB and the Coalition put forward regarding the impact of new customers on CPP compliance in discussion of NW Natural's LEA. In agreeing to adopt an equal cents per therm approach to allocation of CPP costs on an interim basis, unless and until a new methodology is approved, we do not signal disfavor for exploration of such approaches. However, there is insufficient basis in the record of these proceedings for us to support an approach other than equal cents per therm for allocation of CPP compliance costs. This includes the stipulated allocation based on the marginal cost-of-service study for which AWEC advocates as an alternative cost allocation; with the CPP fundamentally requiring a reduction of emissions from fuels, we conclude that equal cents per therm more closely matches these costs and benefits than an allocation based on a cost-of-service study that addresses many more cost drivers.

While there are currently no other RNG projects ready to be reviewed for prudence and recovered through the AAC, we expect that there will be more in the future. Until we have considered overall CPP compliance strategies, it is difficult to say how any RNG projects will fit into those strategies or whether they will be found prudent as part of an overall strategy for meeting the requirements of the CPP. At the same time, we acknowledge that these projects lower emissions to the benefit of all customers. For the time being, we will rely on a default presumption that those projects will be allocated to all non-storage customers on an equal cents per therm basis under the CPP if and when included in the AAC. We will revisit the rate spread for any future RNG projects in future proceedings as the conversation around CPP compliance and cost causation thereunder develops, or as unique project attributes warrant different cost allocation approaches.

To summarize, NW Natural shall file a revised Schedule 198 consistent with this order within 30 calendar days.

²⁸³ See ORS 757.390(1).

VI. ORDER

IT IS ORDERED that:

1. The partial stipulation between NW Natural Gas Company, dba NW Natural, Staff of the Public Utility Commission, the Oregon Citizens' Utility Board, the Alliance of Western Energy Consumers, and the Small Business Utility Advocates filed on May 31, 2022, attached as Appendix A, is adopted, subject to the proposed modification.
2. The partial stipulation between NW Natural Gas Company, dba NW Natural, Staff of the Public Utility Commission, the Oregon Citizens' Utility Board, the Alliance of Western Energy Consumers, and the Coalition filed on June 29, 2022, attached as Appendix B, is adopted.
3. The partial stipulation between NW Natural Gas Company, dba NW Natural, Staff of the Public Utility Commission, the Oregon Citizens' Utility Board, and the Alliance of Western Energy Consumers filed on August 19, 2022, attached Appendix C, is adopted.
4. Advice No. 21-21 filed on December 17, 2022, is permanently suspended.
5. Advice No. 20-19E filed on December 15, 2021, is permanently suspended.
6. NW Natural Gas Company, dba NW Natural, must make a compliance filing, including its revised revenue requirement, rate impacts, and new tariffs to be effective November 1, 2022, consistent with the directives of this order, by 10:00 a.m. on October 26, 2022.

7. NW Natural Gas Company, dba NW Natural, must file a revised Schedule 198 consistent with this order within 30 calendar days.

Made, entered, and effective Oct 24 2022.

Megan W. Decker

Megan W. Decker
Chair

Letha Tawney

Letha Tawney
Commissioner



Mark R. Thompson

Mark R. Thompson
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 435 AND UG 411

In the Matter of

NW NATURAL GAS COMPANY D/B/A
NW NATURAL

Request for a General Rate Revision
(UG 435), and

Advice 20-19, Schedule 198 Renewable
Natural Gas Recovery Mechanism
(ADV 1215) (UG 411).

**MULTI-PARTY STIPULATION
REGARDING REVENUE
REQUIREMENT, RATE SPREAD AND
CERTAIN OTHER ISSUES**

I. INTRODUCTION

1 The purpose of this Stipulation is to resolve certain issues including revenue
2 requirement and rate spread among Northwest Natural Gas Company d/b/a NW Natural
3 (“NW Natural” or the “Company”), Staff of the Public Utility Commission of Oregon
4 (“Staff”), the Oregon Citizens’ Utility Board (“CUB”), the Alliance of Western Energy
5 Consumers (“AWEC”), and the Small Business Utility Advocates (“SBUA”) (collectively,
6 the “Stipulating Parties”) in consolidated Dockets UG 435 and UG 411. The Stipulating
7 Parties expect that this Multi-Party Stipulation Regarding Revenue Requirement, Rate
8 Spread and Certain Other Issues (“Stipulation”) will address all issues among the
9 Stipulating Parties, except for those that are listed in Paragraph 14 of this Stipulation that
10 will continue to be litigated in these consolidated cases or, pending additional settlement
11 discussions, may be incorporated into a separate stipulated agreement entered into at a
12 later date. The “Coalition,” consisting of the Coalition of Communities of Color, Climate
13 Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community

1 Energy Project, and Sierra Club, is also a party to these consolidated proceedings, but
2 does not join this Stipulation.

II. BACKGROUND

3 On December 17, 2021, NW Natural filed a request for a general rate increase (the
4 “Initial Filing”) to become effective November 1, 2022 (the “Rate Effective Date”). The
5 Company’s Initial Filing requested a revision to customer rates that would increase the
6 Company’s annual Oregon jurisdictional revenues by \$73.5 million which would have
7 resulted in an approximate 9.9 percent increase to current customer rates.¹
8 Administrative Law Judge (“ALJ”) Sarah Spruce convened a prehearing conference on
9 January 19, 2022. On February 28, 2022, NW Natural made an errata filing increasing
10 the revenue requirement to \$78.020 million (the “Errata Filing”).

11 On January 25, 2022, ALJ Spruce issued a Procedural Conference Memorandum
12 which, in addition to setting forth the schedule of UG 435, consolidated UG 411 with UG
13 435. On January 26, 2022, ALJ Spruce issued an Amended Procedural Conference
14 Memorandum. On February 18, 2022, the Company filed its Opening Testimony on
15 Schedule 198, Renewable Natural Gas Recovery Mechanism, in compliance with that
16 Amended Procedural Conference Memorandum.

17 On January 21, 2022, the parties held a settlement conference regarding cost of
18 capital, and on February 4, 2022, the parties held a workshop addressing TSA Security
19 Directive 2. Staff and intervenors filed their Opening Testimony on April 22, and
20 thereafter, the parties participated in settlement conferences on May 4, 2022, May 11,

¹ Initial Filing, NW Natural’s Executive Summary at 1.

1 2022, May 17, 2022, and May 20, 2022. As a result of the settlement discussions, the
2 Stipulating Parties reached a partial settlement of the issues in these consolidated cases,
3 resolving all issues among the Stipulating Parties except for those issues that are
4 specifically excluded per Paragraph 14 of this Stipulation. Additionally, the Stipulating
5 Parties understand that the Coalition intends to litigate certain issues included in this
6 Stipulation. This Stipulation memorializes the Stipulating Parties' agreements.

III. TERMS OF AGREEMENT

7 The Stipulating Parties agree to resolve all issues raised in these consolidated
8 cases as follows:

9 1. Revenue Requirement. The Stipulating Parties agree that the total increase
10 to NW Natural's annual Oregon revenue requirement amount is \$62.654 million, as
11 summarized in the table in Appendix A to this Stipulation, subject to certain potential
12 adjustments specifically identified below. The \$62.654 million annual revenue
13 requirement increase in these consolidated proceedings is based on the Stipulating
14 Parties' agreement that the Company's requested Oregon-allocated increase to annual
15 revenue requirement shall be reduced by a total of \$15.366 million from the February
16 28, 2022, Errata Filing amount of \$78.020 million, based on the following adjustments
17 to NW Natural's Initial Filing and Errata Filing:

- 18 a. U.S. All-Urban CPI Escalation. An increase to expense of \$67 thousand.
19 This adjustment results in an increase to revenue requirement of \$69
20 thousand.
- 21 b. Oregon Corporate Activity Tax. A reduction to revenue requirement of \$299
22 thousand.

- 1 c. Property Taxes. A reduction to revenue requirement of \$61 thousand.
- 2 d. OPUC Fee. This adjustment results in an increase to revenue requirement
3 of \$420 thousand, and reflects the higher OPUC fee rate established in
4 2022.
- 5 e. Federal Income Tax – ARAM EDIT. A reduction to revenue requirement of
6 \$141 thousand.
- 7 f. Materials and Supplies. A reduction to rate base of \$1.140 million. This
8 adjustment results in a reduction to revenue requirement of \$101 thousand.
- 9 g. Land & Structure Adjustment. An increase to expense of \$501 thousand
10 and an increase in rate base of \$2.755 million. These adjustments result in
11 an increase to revenue requirement of \$759 thousand.
- 12 h. Reduced Budget for District Regulators. A reduction to rate base of \$2.470
13 million. This adjustment results in a reduction to revenue requirement of
14 \$218 thousand.
- 15 i. Director and Officer Insurance Premiums and Meals & Entertainment
16 Expense. A reduction to expense of \$632 thousand. This adjustment
17 results in a reduction to revenue requirement of \$650 thousand.
- 18 j. Memberships & Dues. A reduction to expense of \$443 thousand. This
19 adjustment results in a reduction to revenue requirement of \$456 thousand.
- 20 k. Operations and Maintenance Expense and Administrative and General
21 Expense. A reduction to expense of \$972 thousand. This adjustment
22 results in a reduction to revenue requirement of \$1.0 million.

- 1 l. Advertising Expense. A reduction to expense of \$1.0 million. This
2 adjustment results in a reduction to revenue requirement of \$1.029 million.
- 3 m. Customer Account and Sales Expense. A reduction to expense of \$292
4 thousand. This adjustment results in a reduction to revenue requirement of
5 \$301 thousand.
- 6 n. Salary, Wages, Stock Expense, Incentives, and Medical Benefits. A
7 reduction to revenue requirement of \$5.25 million. In addition, Test Year
8 rate base will be reduced by \$4.5 million in recognition of all past capitalized
9 financial performance-based incentives. For regulatory purposes, this \$4.5
10 million rate base adjustment will be amortized over 15 years, with
11 amortization beginning on the effective date of rates ordered in this rate
12 case, and results in a Test Year reduction to revenue requirement of \$397
13 thousand. The rate base offset for capitalized incentives with a 15-year life
14 carries over to following rate cases. This additional adjustment resolves all
15 issues regarding past capitalization of incentives.
- 16 o. Pension and Post-Retirement Medical Expense. A reduction to expense of
17 \$3.4 million. This adjustment results in a \$3.499 million reduction to
18 revenue requirement.
- 19 p. Market Research/Survey and Focus Groups. A reduction to expense of \$26
20 thousand. This adjustment results in a \$27 thousand reduction to revenue
21 requirement.
- 22 q. Test Year Plant Additions. A reduction to rate base of \$28.061 million and
23 \$2.301 million of expense to reflect removal of projects that will not go into

1 service until after November 1, 2022, except that the Stipulating Parties
2 have agreed to include for the Test Year a portion of the capital additions
3 related to customer acquisitions. These adjustments result in a \$4.845
4 million reduction to revenue requirement.

5 In recognition of the capital associated with customer acquisitions
6 the Stipulating Parties agree to also include an addition of \$24.649 million
7 to rate base and \$676 thousand to expense to reflect the capital additions
8 associated with new customers added during the Test Year, which
9 increases revenue requirement by \$2.871 million. The Stipulating Parties
10 agree that the revenue requirement associated with:

11 i. Test Year capital additions related to customer acquisitions, and

12 ii. Revenues associated with new customers added in the Test Year
13 may be further increased or decreased as a result of ongoing settlement
14 discussions or litigation related to the Company's line extension allowance.
15 This clause does not create any presumptions about reasonableness of
16 costs recovery for line extensions or customer growth.

17 r. Cost of Capital. The Stipulating Parties agree to a Rate of Return of 6.836
18 percent, which is based on a 50.0 percent common equity and 50.0 percent
19 long-term debt capital structure, with a Return on Equity ("ROE") of 9.40
20 percent and a cost of long-term debt of 4.271 percent. This Cost of Capital
21 results in a reduction to revenue requirement of \$1.212 million.

1

Agreed Upon Cost of Capital

Component	Capital Structure	Component Cost	Weighted Cost
Cost of Long-Term (LT) Debt	50%	4.271%	2.136%
Return on Common Equity (ROE)	50%	9.40%	4.700%
Rate of Return			6.836%

2 2. Rate Spread and Rate Design. The agreed upon rate spread for the
3 revenue requirement is in Appendix B to this Stipulation.

4 3. Attestation for Capital Projects.

5 a. Attached to this Stipulation is an Appendix C, which contains an agreed-
6 upon list of capital projects that are not completed as of the date this
7 Stipulation is executed, but which the Company anticipates will be
8 completed and in service by October 31, 2022. For any of the projects listed
9 in Appendix C that are complete and in service by October 5, the Company
10 agrees to file an attestation of a Company officer (“Officer Attestation”) by
11 October 5, 2022, attesting these projects are complete and in-service. The
12 Company will identify in the Officer Attestation which if any of the remaining
13 projects in Appendix C the Company does not anticipate will be on-line by
14 October 31, 2022. The Company will file a separate Officer Attestation by
15 October 24, 2022, listing which of the remaining projects in Appendix C are
16 completed as of that date and attesting that these projects are complete
17 and in-service. The Company will also identify in the Officer Attestation the

1 projects in Appendix C that are not complete as of October 24, 2022, but
2 which the Company anticipates will be complete and in-service by October
3 31, 2022, and which projects the Company anticipates will not be complete
4 and in-service October 31, 2022.

5 b. To facilitate the review of capital projects identified, Appendix C will list each
6 project as well as the forecasted final cost of each project. For the projects
7 related to TSA Security Directive 2, on or before June 15, 2022, NW Natural
8 will prepare a separate list of each project (“TSA Project List”) as well as the
9 forecasted final cost of each project that will be shared with parties that are
10 qualified to view the materials pursuant to the Modified Protective Order in
11 this docket, Order No. 21-465.

12 c. In the Officer Attestations filed October 5, 2022, and October 24, 2022, the
13 Company will specify the actual costs for each project in Appendix C
14 complete and in-service by that date. For the projects related to TSA
15 Security Directive 2, NW Natural will include with the attestation a list of
16 each project as the actual cost for each project complete and in-service by
17 that date.

18 d. The amounts added to rate base for each project in this rate case will be
19 the lower of the final actual cost in the Attestation or the forecasted amount
20 included in Appendix C to this Stipulation or the TSA Project List, as
21 applicable.

22 e. Cost of projects included in Appendix C that are not completed by October
23 31, 2022 (“Excluded Projects”), will be completely removed from rate base

1 for purposes of calculating the rates pursuant to this Stipulation, and rates
2 adjusted accordingly. In the event that an Excluded Project is included in
3 rates but is not placed in service by October 31, 2022, the Company will file
4 a supplemental compliance tariff on November 1, 2022, that reverses any
5 charges to ratepayers for the cost of service associated with the Excluded
6 Projects.

7 f. Revenue requirement reductions to rate base related for plant not in service
8 by the Rate Effective Date will be allocated to all rate schedules on an equal
9 percent of margin basis.

10 4. Depreciation Rates. The Stipulating Parties agree to adjust the Company's
11 depreciation rates subject to the resolution of the Company's depreciation study in
12 Docket UM 2214. The Company will include in its Officer Attestation filed no later than
13 October 24, 2022, (described in Paragraph 3 of this Stipulation), the change to
14 depreciation rates and adjust revenue requirement, accordingly. Any change to revenue
15 requirement will be allocated to all rate schedules on an equal percent of margin basis.

16 5. Horizon 1 Depreciation Rates. The Stipulating Parties recommend
17 approval of NW Natural's requested accounting order to authorize the Company to
18 amortize its Horizon 1 cloud-based assets over a ten-year life in Docket UM 2215.
19 Further, the Stipulating Parties agree that in the event that Horizon 1 is removed from
20 service prior to the end of the ten-year life, the Company will apply the modified blended
21 treasury ("MBT") rate to the remaining balance of the asset and defer the difference
22 between the Company's cost of capital and the MBT rate until such time that general

1 rates are changed in a subsequent rate case or at the end of Horizon's ten-year life,
2 whichever comes earlier.

3 6. Horizon 1 Start-Up Cost Deferral. The Company will amortize the Horizon
4 1 Start-Up Cost Deferral over 10 years beginning November 1, 2022, subject to the
5 terms of the stipulation approved in Order No. 21-246. NW Natural will include in its
6 Attestation described in Paragraph 3 of this Stipulation a demonstration of compliance
7 with the terms of the stipulation approved in Order No. 21-246, and include a final
8 amortization schedule for the deferral.

9 7. TSA Security Directive Deferral. The Stipulating Parties recommend
10 approval of the TSA Security Directive 2 Deferral (filed by the Company on September
11 2, 2021, in Docket UM 2192) and agree to amortize the balance of the TSA Security
12 Directive 2 Deferral over four years at the MBT rate beginning November 1, 2022. NW
13 Natural will include in its Attestation described in Paragraph 3 of this Stipulation the
14 balance of the deferral by October 31, 2022. In the event that the amount of the actual
15 balance of the deferral is less than the amount proposed in the Initial Filing, NW Natural
16 will remove the excess amount from rates. These are temporary rates not to be included
17 in base rates.

18 8. Williams Pipeline Outage Deferral. The Company will remove its request in
19 this rate case to begin amortization of the Williams Pipeline Outage Deferral (Docket
20 UM 2139).

21 9. Update Billing Determinants for Amortization of Environmental Remediation
22 (Schedule 183) and Pension Balancing Account (Schedule 197). The Company will
23 update the billing determinants associated with the amortization of the Site Remediation

1 Recovery Mechanism (also referred to as Environmental Remediation) in Schedule 183
2 and the Pension Balancing Account in Schedule 197.

3 10. Update to Rule 11 of Tariff. The Company will revise Rule 11 of its Oregon
4 Tariff to include Commercial RS 3 customers with the same notice as residential
5 customers in the section titled “Notice of Disconnection of Service.”

6 11. Cost Study Analysis of Rate Schedule 3. The Company will develop a cost
7 study analysis examining whether to bifurcate Commercial RS 3 and present its findings
8 to the Stipulating Parties prior to the Company’s next general rate case. The Company
9 agrees to address whether to bifurcate Commercial RS 3 in its opening testimony in its
10 next general rate case. The Company will consult with SBUA prior to conducting cost
11 study.

12 12. Customer Charge for Multi-Family vs. Single-Family Dwellings. The
13 Company will host a workshop with the Stipulating Parties relating to the difference in
14 fixed cost for multi-family vs. single-family dwellings. In advance of the workshop, the
15 Company will confer with the Stipulating Parties regarding the scope of the workshop.

16 13. Tariffs. Subject to the approval of this Stipulation, NW Natural will file
17 revised rate schedules as a compliance filing in consolidated Dockets UG 435 and 411,
18 to be effective November 1, 2022, reflecting rates as agreed to in this Stipulation.

19 14. Issues Excluded From This Stipulation. The Stipulating Parties agree that
20 the following issues raised by the Stipulating Parties are not addressed by this
21 Stipulation and will continue to be litigated in these consolidated cases or, pending
22 additional settlement discussions, may be incorporated into a separate stipulated
23 agreement entered into at a later date.

- 1 a. Residential Customer Deposits (CUB/100);
- 2 b. Line Extension Allowance² (CUB/100);
- 3 c. Decoupling (Staff/1300);
- 4 d. RNG Automatic Adjustment Clause (NWN/1500; Staff/1700; AWEC/100;
- 5 CUB/200);
- 6 e. Cost Recovery and Rate Spread of the Lexington RNG Project and
- 7 Deferral (NWN/1100; CUB/200; Staff/1700; AWEC/100).
- 8 f. COVID-19 Deferral Amortization and Rate Spread (Staff/1500; CUB/200).
- 9 15. The Stipulating Parties agree that this Stipulation is in the public interest,

10 and will result in rates that are fair, just and reasonable, consistent with the standard in
11 ORS 756.040.

12 16. This Stipulation will be offered into the record as evidence pursuant to OAR
13 860-001-350(7). The Stipulating Parties agree to support this Stipulation throughout
14 these consolidated proceedings and any appeal, provide witnesses to sponsor this
15 Stipulation at hearing, and recommend that the Commission issue an order adopting
16 this Stipulation. The Stipulating Parties also agree to cooperate in drafting and
17 submitting joint testimony or a brief in support of this Stipulation in accordance with OAR
18 860-001-0350(7).

19 17. If this Stipulation is challenged, the Stipulating Parties agree that they will
20 continue to support the Commission's adoption of the terms of this Stipulation. The
21 Stipulating Parties agree to cooperate in cross-examination and put on such a case as
22 they deem appropriate to respond fully to the issues presented, which may include
23 raising issues that are incorporated in the settlements embodied in this Stipulation.

² Resolution of issue could affect total rate base in Paragraph 1.q. of this Stipulation, above.

1 18. The Stipulating Parties have negotiated this Stipulation as an integrated
2 document. If the Commission rejects all or any material portion of this Stipulation or
3 imposes additional material conditions in approving this Stipulation, any of the
4 Stipulating Parties are entitled to withdraw from this Stipulation or exercise any other
5 rights provided in OAR 860-001-0350(9).

6 19. By entering into this Stipulation, no Stipulating Party approves, admits, or
7 consents to the facts, principles, methods, or theories employed by any other Stipulating
8 Party in arriving at the terms of this Stipulation, other than those specifically identified
9 in the body of this Stipulation. No Stipulating Party shall be deemed to have agreed
10 that any provision of this Stipulation is appropriate for resolving issues in any other
11 proceeding, except as specifically identified in this Stipulation.

12 20. The substantive terms of this Stipulation are not enforceable by any
13 Stipulating Party unless and until adopted by the Commission in a final order. Each
14 Stipulating Party avers that it is signing this Stipulation in good faith and that it intends
15 to abide by the terms of this Stipulation unless and until this Stipulation is rejected or
16 adopted only in part by the Commission. The Stipulating Parties agree that the
17 Commission has exclusive jurisdiction to enforce or modify this Stipulation. If the
18 Commission rejects or modifies this Stipulation, the Stipulating Parties reserve the right
19 to seek reconsideration or rehearing of the Commission order under ORS 756.561 and
20 OAR 860-001-0720 or to appeal the Commission order under ORS 756.610.

21 21. This Stipulation may be executed in counterparts and each signed
22 counterpart shall constitute an original document.

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below
- 2 such Stipulating Party's signature.

DATED this 31st day of May 2022

NW NATURAL COMPANY D/B/A NW
NATURAL

STAFF OF PUBLIC UTILITY
COMMISSION OF OREGON

By: /s/Zachary Kravitz

By: _____

Date: May 31, 2022

Date: _____

OREGON CITIZENS' UTILITY
BOARD

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: _____

By: _____

Date: _____

Date: _____

SMALL BUSINESS UTILITY
ADVOCATES

By: _____

Date: _____

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below
- 2 such Stipulating Party's signature.

DATED this 31st day of May 2022

NW NATURAL COMPANY D/B/A NW
NATURAL

STAFF OF PUBLIC UTILITY
COMMISSION OF OREGON

By: _____

By: /s/Stephanie Andrus

Date: _____

Date: May 31, 2022

OREGON CITIZENS' UTILITY
BOARD

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: _____

By: _____

Date: _____

Date: _____

SMALL BUSINESS UTILITY
ADVOCATES

By: _____

Date: _____

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below
- 2 such Stipulating Party's signature.

DATED this ____ day of May 2022

NW NATURAL COMPANY D/B/A NW
NATURAL

STAFF OF PUBLIC UTILITY
COMMISSION OF OREGON

By: _____

By: _____

Date: _____

Date: _____

OREGON CITIZENS' UTILITY
BOARD

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By:  _____

By: _____

Date: 5/31/22 _____

Date: _____

SMALL BUSINESS UTILITY
ADVOCATES

By: _____

Date: _____

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below
- 2 such Stipulating Party's signature.

DATED this ____ day of May 2022

NW NATURAL COMPANY D/B/A NW
NATURAL

STAFF OF PUBLIC UTILITY
COMMISSION OF OREGON

By: _____

By: _____

Date: _____

Date: _____

OREGON CITIZENS' UTILITY
BOARD

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: _____

By:  _____

Date: _____

Date: 05/31/2022

SMALL BUSINESS UTILITY
ADVOCATES

By: _____

Date: _____

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below
- 2 such Stipulating Party's signature.

DATED this ____ day of May 2022

NW NATURAL COMPANY D/B/A NW
NATURAL

STAFF OF PUBLIC UTILITY
COMMISSION OF OREGON

By: _____

By: _____

Date: _____

Date: _____

OREGON CITIZENS' UTILITY
BOARD

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: _____

By: _____

Date: _____

Date: _____

SMALL BUSINESS UTILITY
ADVOCATES

By: Diane Henkels

Date: 5/31/22

NW Natural
UG 435
Twelve Months Ended October 31, 2023
(000)

	2021 Results Per Company Filing at Present Rates	2021 - Errata Results Per Company Filing at Present Rates (1)	(2)	2023 Results Per Company Filing (3)	Company Filed Required Change for Reasonable Return (4)	Company Filed 2023 Results at Reasonable Return (5)	Adjustments to Company 2023 Results (6)	Adjusted 2023 Company Results (3) + (6) (7)	Required Change for Reasonable Return (8)	Results at Reasonable Return (7) + (8) (9)	CAT Revenues & Expenses	Results at Reasonable Return w/ CAT	Staff Net Change to 2023 Results at Reasonable Return (9) - (5) (10)
SUMMARY SHEET													
Operating Revenues													
General Business	691,764	691,764	30,251	722,015	77,682	799,697	-	722,015	62,316	784,331	338	784,669	(15,366)
Transportation	16,953	16,953	57	17,010	-	17,010	-	17,010	-	17,010	-	17,010	-
Decoupling	(527)	(527)	527	-	-	-	-	-	-	-	-	-	-
WARM	6,165	6,165	(6,165)	-	-	-	-	-	-	-	-	-	-
Miscellaneous Revenues	3,648	3,648	(248)	3,400	-	3,400	-	3,400	-	3,400	-	3,400	-
Total Operating Revenues	718,003	718,003	24,422	742,425	77,682	820,107	-	742,425	62,316	804,741	338	805,079	(15,366)
Operating Expenses													
Gas Purchased	282,260	282,260	13,515	295,775	-	295,775	-	295,775	-	295,775	-	295,775	-
Transmission & Storage	9,951	9,951	290	10,241	-	10,241	-	10,241	-	10,241	-	10,241	-
Distribution	52,500	52,500	6,347	58,847	-	58,847	-	58,847	-	58,847	-	58,847	-
Customer Accounts	19,021	19,021	1,421	20,442	-	20,442	-	20,442	-	20,442	-	20,442	-
Customer Service	5,990	5,990	(67)	5,923	-	5,923	-	5,923	-	5,923	-	5,923	-
Sales	2,429	2,429	(318)	2,111	-	2,111	-	2,111	-	2,111	-	2,111	-
OPUC Fees	2,671	2,671	113	2,784	291.31	3,075	408	3,192	268	3,460	1	3,461	385
Franchise Fees	16,463	16,463	694	17,157	1,795	18,952	-	17,157	1,440	18,597	8	18,605	(355)
Uncollectibles	702	702	10	712	76	788	-	712	61	773	0	773	(15)
General Operations & Maintenance	5,069	5,069	350	5,419	-	5,419	(6,094)	(675)	-	(675)	-	-	(6,094)
Admin & General Expenses	79,733	79,733	11,488	91,221	-	91,221	(5,029)	86,192	-	86,192	-	-	(5,029)
Environmental Rider	5,000	5,000	-	5,000	-	5,000	-	5,000	-	5,000	-	-	-
Total Operation & Maintenance	481,788	481,789	33,843	515,632	2,162	517,794	(10,715)	504,917	1,769	506,686	10	506,696	(11,108)
Depreciation & Amortization	93,084	93,084	18,576	111,660	-	111,660	(1,800)	109,860	-	109,860	-	109,860	(1,800)
Taxes Other than Income	31,120	31,120	3,768	34,888	-	34,888	(47)	34,841	-	34,841	328	35,169	(47)
Equity Floatation	-	-	-	-	-	-	-	-	-	-	-	-	-
Income Taxes	22,402	22,117	(9,383)	12,734	20,393	33,128	3,122	15,856	16,350	32,206	-	32,206	(921)
Total Operating Expenses	628,394	628,111	46,804	674,914	22,556	697,470	(9,440)	665,475	18,119	683,593	338	683,931	(13,876)
Net Operating Revenues	89,609	89,892	(22,382)	67,511	55,126	122,637	9,440	76,950	44,197	121,147	-	121,147	(1,490)
Average Rate Base													
Utility Plant in Service	3,120,353	3,182,569	450,702	3,633,272	-	3,633,272	(49,809)	3,583,463	-	3,583,463	-	3,583,463	(49,809)
Accumulated Depreciation & Amortization	(1,334,884)	(1,351,426)	(151,156)	(1,502,582)	-	(1,502,582)	42,182	(1,460,400)	-	(1,460,400)	-	(1,460,400)	42,182
Accumulated Deferred Income Taxes	(412,539)	(412,539)	(9,669)	(422,208)	-	(422,208)	-	(422,208)	-	(422,208)	-	(422,208)	-
Accumulated Deferred Inv. Tax Credit	-	-	-	-	-	-	-	-	-	-	-	-	-
Net Utility Plant	1,372,930	1,418,604	289,877	1,708,481	-	1,708,481	(7,627)	1,700,854	-	1,700,854	-	1,700,854	(7,627)
Plant Held for Future Use	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Rate Base													
Aid in Advance of Construction	(5,629)	(5,629)	(1,639)	(7,268)	-	(7,268)	-	(7,268)	-	(7,268)	-	(7,268)	-
Customer Deposits	(1,084)	(1,084)	792	(292)	-	(292)	-	(292)	-	(292)	-	(292)	-
Gas Inventory	41,722	41,722	(3,524)	38,198	-	38,198	-	38,198	-	38,198	-	38,198	-
Materials & Supplies	14,170	14,170	2,366	16,536	-	16,536	(1,140)	15,396	-	15,396	-	15,396	(1,140)
Weatherization Loans	-	-	-	-	-	-	-	-	-	-	-	-	-
Prepayments	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc. Deferred Debits & Credits	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc. Rate Base Additions/(Deductions)	-	-	-	-	-	-	-	-	-	-	-	-	-
EDIT; Leasehold Improv.	31,442	31,442	(6,135)	25,307	-	25,307	-	25,307	-	25,307	-	25,307	-
Total Average Rate Base	1,453,551	1,499,225	281,737	1,780,962	-	1,780,962	(8,767)	1,772,195	-	1,772,195	-	1,772,195	(8,767)
Rate of Return	6.165%	5.996%		3.791%		6.886%		4.342%		6.836%		6.836%	-0.050%
Implied Return on Equity	7.74%	7.40%		3.31%		9.500%		4.412%		9.400%		9.400%	-0.100%

NW Natural
Oregon Jurisdictional Rate Case
Test Year Twelve Months Ended October 31, 2023
Incremental Revenue Requirement Allocation by Rate Schedule - Combined Effects
Appendix B to UG 435 and UG 411 Multi-Party Stipulation Regarding Revenue Requirement, Rate Spread and Certain Other Issues

UG 435 and UG 411 Multi-Party Stipulation Revenue Requirement Impacts
 Combined Impacts of UG 435 Revenue Requirement Items (including Plant EDIT Amortization Credit), including:
 Williams Pipeline Outage, TSA Security Directive 2 Deferral, and Horizon 1 O&M Deferral

Line No.	Rate Schedule	Impact to -->		Revenue Requirement			EDIT Amortization Credit		Total: Rev. Req. Items		Williams Pipeline		TSA Security Directive 2		Horizon 1 O&M		Margin Revenue at Proposed Rates	Total Revenue at Proposed Rates	Combined Effects			
		Margin at Present Rates	Revenue at Present Rates	Margin Increase (\$)	Margin Increase (%)	Revenue Increase (%)	Margin Increase (\$)	Margin decrease (%)	Margin Increase (\$)	Margin Increase (%)	Revenue Increase (\$)	Revenue Increase (%)	Margin Increase (\$)	Margin Increase (%)	Margin Increase (\$)	Margin Increase (%)			Revenue Requirement Increase (\$)	Margin Revenue Increase (%)	Total Revenue Increase (%)	Average Bill Increase (%)
		(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)			P=A+H+S	Q=B+H+J+L+N	R	S
1	02R	\$ 302,743,546	\$ 468,913,370	\$ 46,600,997	15.4%	9.9%	\$ (2,942,709)	-1.0%	\$ 43,658,288	14.4%	\$ 0	0.00%	\$ 1,187,622	0.34%	\$ 770,130	0.22%	\$ 347,171,965	\$ 514,529,411	\$ 45,616,040	14.7%	9.7%	9.40%
2	03C	\$ 92,803,627	\$ 162,351,317	\$ 16,134,942	17.4%	9.9%	\$ (1,019,567)	-1.1%	\$ 15,115,375	16.3%	\$ 0	0.00%	\$ 410,541	0.38%	\$ 268,039	0.25%	\$ 108,187,042	\$ 178,145,273	\$ 15,793,955	16.6%	9.7%	9.20%
3	03I	\$ 2,141,772	\$ 4,226,612	\$ 257,579	12.0%	6.1%	\$ (16,273)	-0.8%	\$ 241,305	11.3%	\$ 0	0.00%	\$ 6,560	0.28%	\$ 4,272	0.18%	\$ 2,387,349	\$ 4,478,749	\$ 252,137	11.5%	6.0%	5.50%
4	27R	\$ 471,508	\$ 796,163	\$ 83,516	17.7%	10.5%	\$ (5,274)	-1.1%	\$ 78,242	16.6%	\$ 0	0.00%	\$ 2,130	0.39%	\$ 1,386	0.25%	\$ 551,136	\$ 877,921	\$ 81,758	16.9%	10.3%	9.80%
5	31CSF	\$ 8,261,800	\$ 17,117,489	\$ 993,567	12.0%	5.8%	\$ (62,724)	-0.8%	\$ 930,843	11.3%	\$ 0	0.00%	\$ 25,291	0.28%	\$ 16,389	0.18%	\$ 9,209,033	\$ 18,090,012	\$ 972,523	11.5%	5.7%	6.20%
6	31CTF	\$ 981,292	\$ 981,292	\$ 118,019	12.0%	12.0%	\$ (7,450)	-0.8%	\$ 110,569	11.3%	\$ 0	0.00%	\$ 3,013	0.28%	\$ 1,953	0.18%	\$ 1,093,814	\$ 1,096,827	\$ 115,535	11.5%	11.8%	11.90%
7	31SF	\$ 3,237,130	\$ 8,236,625	\$ 389,371	12.0%	4.7%	\$ (24,600)	-0.8%	\$ 364,771	11.3%	\$ 0	0.00%	\$ 9,946	0.28%	\$ 6,454	0.18%	\$ 3,608,355	\$ 8,617,796	\$ 381,171	11.5%	4.6%	4.90%
8	31TF	\$ 143,836	\$ 143,836	\$ 17,300	12.0%	12.0%	\$ (1,093)	-0.8%	\$ 16,207	11.3%	\$ 0	0.00%	\$ 442	0.28%	\$ 286	0.18%	\$ 160,329	\$ 160,771	\$ 16,935	11.5%	11.8%	11.80%
9	32CSF	\$ 11,882,484	\$ 30,465,691	\$ 1,429,055	12.0%	4.7%	\$ (90,315)	-0.8%	\$ 1,338,741	11.3%	\$ 0	0.00%	\$ 36,593	0.28%	\$ 23,619	0.18%	\$ 13,244,844	\$ 31,864,644	\$ 1,398,953	11.5%	4.6%	5.30%
10	32ISF	\$ 2,462,192	\$ 8,156,582	\$ 72,402	2.9%	0.9%	\$ (4,574)	-0.2%	\$ 67,828	2.8%	\$ 0	0.00%	\$ 1,833	0.07%	\$ 1,183	0.05%	\$ 2,531,202	\$ 8,227,425	\$ 70,843	2.8%	0.9%	1.00%
11	32CTF	\$ 1,024,698	\$ 1,024,698	\$ 30,143	2.9%	2.9%	\$ (1,909)	-0.2%	\$ 28,235	2.8%	\$ 0	0.00%	\$ 781	0.07%	\$ 504	0.05%	\$ 1,053,436	\$ 1,054,217	\$ 29,519	2.8%	2.9%	3.30%
12	32ITF	\$ 6,584,741	\$ 6,584,741	\$ 193,831	2.9%	2.9%	\$ (12,272)	-0.2%	\$ 181,559	2.8%	\$ 0	0.00%	\$ 5,043	0.07%	\$ 3,322	0.05%	\$ 6,769,621	\$ 6,774,664	\$ 189,924	2.8%	2.9%	3.40%
13	32CSI	\$ 2,232,839	\$ 10,222,297	\$ 268,568	12.0%	2.6%	\$ (16,986)	-0.8%	\$ 251,581	11.3%	\$ 0	0.00%	\$ 6,833	0.28%	\$ 4,398	0.18%	\$ 2,488,818	\$ 10,485,109	\$ 262,812	11.5%	2.6%	2.90%
14	32ISI	\$ 3,307,718	\$ 14,833,805	\$ 97,263	2.9%	0.7%	\$ (6,141)	-0.2%	\$ 91,122	2.8%	\$ 0	0.00%	\$ 2,472	0.07%	\$ 1,646	0.05%	\$ 3,400,486	\$ 14,929,045	\$ 95,240	2.8%	0.6%	0.80%
15	32CTI	\$ 525,889	\$ 525,889	\$ 15,477	2.9%	2.9%	\$ (993)	-0.2%	\$ 14,483	2.8%	\$ 0	0.00%	\$ 373	0.07%	\$ 251	0.05%	\$ 540,623	\$ 540,996	\$ 15,107	2.8%	2.9%	2.90%
15	32ITI	\$ 6,064,679	\$ 6,064,679	\$ 178,677	2.9%	2.9%	\$ (11,741)	-0.2%	\$ 166,936	2.8%	\$ 0	0.00%	\$ 4,646	0.07%	\$ 3,150	0.05%	\$ 6,234,765	\$ 6,239,410	\$ 174,731	2.8%	2.9%	3.10%
16	33T	\$ 0	\$ 0	\$ 0	0.0%	0.0%	\$ 0	0.0%	\$ 0	0.0%	\$ 0	0.00%	\$ 0	0.00%	\$ 0	0.00%	\$ 0	\$ 0	\$ 0	0.0%	0.0%	0.00%
Total		\$ 444,869,752	\$ 740,645,087	\$ 66,880,707	15.0%	9.0%	\$ (4,224,621)	-0.9%	\$ 62,656,086	14.1%	\$ -	0.00%	\$ 1,704,120	0.34%	\$ 1,106,980	0.22%	\$ 508,632,817	\$ 806,112,272	\$ 65,467,185	14.33%	8.84%	(5)

NOTE (1): Revenue Requirement spread based on the UG 435 and UG 411 Multi-Party Stipulation Regarding Revenue Requirement, Rate Spread and Certain Other Issues.
 NOTE (2): Plant excess deferred income taxes (EDIT) amortization credit spread to all rate schedules based on the revenue requirement spread noted above. The final credit amount will be updated with the UG 435 Compliance Filing.
 NOTE (3): The TSA Security Directive and Horizon 1 O&M Deferral costs are all spread based on a rate spread methodology agreed to in the Multi-Party Stipulation.
 NOTE (4): The proposed margin and revenue increment increases/decreases are based on volumetric billing rates rounded to the fifth decimal as necessitated by the Company's tariff. Therefore, there may be a small discrepancy with the indicated revenue requirement.
 NOTE (5): The average customer bill percentage impact figure calculation excludes pipeline capacity charges for RS 31 and RS 32 rate classes, and thus the bill rate impacts for these schedules are overstated.

Project Name	Dollars in Millions			Actual Completed Cost
	Expected In-Service Date	Forecasted Cost in GRC	Actual In-Service Date	
Horizon 1	Jul-22	\$ 63.7		
Kuebler Blvd Reinforcement	Oct-22	\$ 21.3		
Lincoln City Resource Center	Nov-22	\$ 14.2		
Astoria/Warrenton Resource Center	May-22	\$ 11.7		
Central Resource Center (Phase 1)	Oct-22	\$ 10.1		
M365 Implementation Program (Cloud Based)	Oct-22	\$ 6.6		
NLNG Pretreatment Regeneration Improvements	Oct-22	\$ 5.1		
Mist 300-400 Upgrade	May-22	\$ 3.5		
Enterprise System Integration Platform Implementation	Oct-22	\$ 3.5		
P31 - McMinnville	Dec-22	\$ 3.4		
Mist Well Rework 2022	Oct-22	\$ 3.3		
Mist Well Rework 2021	Oct-22	\$ 3.1		
IT&S Enterprise Foundations - Data Reporting & Analytics	Oct-22	\$ 2.9		
Tech Refresh - Voice Radio	May-22	\$ 2.9		
EO4 - 6 and 8 inch ILI Conversion	Oct-22	\$ 2.8		
Mist Corrossion Abatement 4	Jul-22	\$ 2.7		
Tualatin Sherwood Rd. Grading	Oct-22	\$ 2.6		
E15 - S. Eugene Trans	Jun-22	\$ 2.2		
Calvin Creek Electric Conductor Replacement	Jun-22	\$ 2.0		
Tech Refresh - Telemetry	Oct-22	\$ 1.7		
NLNG T-1 Foundation Heating	Oct-22	\$ 1.7		
Mist Electrical Systems Updates	Oct-22	\$ 1.7		
Natural Forces Projects	Oct-22	\$ 1.4		
E08 Springfield Trans 8 in. ILI	Oct-22	\$ 1.4		
Newport Switchgear Replacement	Oct-22	\$ 1.3		
Physical Security Enhancements Program	Oct-22	\$ 1.1		
PLNG Boil Off Compressor	Oct-22	\$ 1.1		
300-400 Cooler Replacement	Jul-22	\$ 0.8		
317th and Jackson Measurement	Oct-22	\$ 0.8		
202437 Mist GC 600 Compressor Rebuild	Aug-22	\$ 0.7		
300-400 Header Valve Automation	Aug-22	\$ 0.6		
TBD1845 Fire System Upgrade	Sep-22	\$ 0.6		
202438 Mist GC500 Compressor Rebuild	Jun-22	\$ 0.6		
Miller Station TI	Oct-22	\$ 0.5		
TBD52418 PLNG Glycol Heat Exchanger	Sep-22	\$ 0.5		
202286 Miller Station Level Controller Upgrade	Mar-22	\$ 0.5		
300-400 Heavy Piston Upgrade	Sep-22	\$ 0.4		
300-400 Suction and Recycle Control Valve	Sep-22	\$ 0.4		
GC500&GC600 Separator Dump Valve Upgrade	Oct-22	\$ 0.4		
TBD1843 300-400 Hot Start Rebuild	Sep-22	\$ 0.3		
202440 Als and Reichfold Becker valves	Dec-22	\$ 0.2		
202407 Delta & Green Acres Dist Reg	May-22	\$ 0.2		
202370 Mist GC 500 HMI and Controls Upgrade	Jul-22	\$ 0.2		

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 435 AND UG 411

In the Matter of

NW NATURAL GAS COMPANY D/B/A
NW NATURAL

Request for a General Rate Revision
(UG 435), and

Advice 20-19, Schedule 198 Renewable
Natural Gas Recovery Mechanism
(ADV 1215) (UG 411).

SECOND PARTIAL STIPULATION

I. INTRODUCTION

1 The purpose of this Second Partial Stipulation (“Second Stipulation”) is to resolve
2 certain issues including decoupling, residential customer deposits, the Oregon Low
3 Income Energy Efficiency Program (“OLIEE”), and COVID-19 deferral costs among
4 Northwest Natural Gas Company d/b/a NW Natural (“NW Natural” or the “Company”),
5 Staff of the Public Utility Commission of Oregon (“Staff”), the Oregon Citizens’ Utility
6 Board (“CUB”), the Alliance of Western Energy Consumers (“AWEC”), and the Coalition
7 of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon
8 Environmental Council, Community Energy Project, and Sierra Club (“Coalition”)
9 (collectively, the “Stipulating Parties”) in consolidated Dockets UG 435 and UG 411. The
10 Stipulating Parties expect that this Second Stipulation will address all remaining issues
11 among the Stipulating Parties, except for those that are listed in Paragraph 5 of this
12 Second Stipulation that will continue to be litigated in these consolidated cases or,
13 pending additional settlement discussions, may be incorporated into a separate stipulated

1 agreement entered into at a later date. The Small Business Utility Advocates (“SBUA”)
2 is also a party to these consolidated proceedings, but does not join this Second
3 Stipulation.

II. BACKGROUND

4 On December 17, 2021, NW Natural filed a request for a general rate increase (the
5 “Initial Filing”) to become effective November 1, 2022 (the “Rate Effective Date”). The
6 Company’s Initial Filing requested a revision to customer rates that would increase the
7 Company’s annual Oregon jurisdictional revenues by \$73.5 million which would have
8 resulted in an approximate 9.9 percent increase to current customer rates.¹
9 Administrative Law Judge (“ALJ”) Sarah Spruce convened a prehearing conference on
10 January 19, 2022. On February 28, 2022, NW Natural made an errata filing increasing
11 the revenue requirement to \$78.020 million (the “Errata Filing”).

12 On January 25, 2022, ALJ Spruce issued a Procedural Conference Memorandum
13 which, in addition to setting forth the schedule of UG 435, consolidated UG 411 with UG
14 435. On January 26, 2022, ALJ Spruce issued an Amended Procedural Conference
15 Memorandum. On February 18, 2022, the Company filed its Opening Testimony on
16 Schedule 198, Renewable Natural Gas Recovery Mechanism, in compliance with that
17 Amended Procedural Conference Memorandum.

18 On January 21, 2022, the parties held a settlement conference regarding cost of
19 capital, and on February 4, 2022, the parties held a workshop addressing TSA Security
20 Directive 2. Staff and intervenors filed their Opening Testimony on April 22, and

¹ Initial Filing, NW Natural’s Executive Summary at 1.

1 thereafter, the parties participated in settlement conferences on May 4, 2022, May 11,
2 2022, May 17, 2022, and May 20, 2022. As a result of the settlement discussions, all
3 parties, excluding the Coalition, reached a partial settlement of the issues in these
4 consolidated cases and filed the First Stipulation on May 31, 2022, followed by Joint
5 Testimony in Support of the First Stipulation on June 8, 2022. NW Natural filed Reply
6 Testimony on June 6, 2022, and all parties participated in settlement conferences on June
7 15, 2022 and June 16, 2022. As a result of the settlement discussions, the Stipulating
8 Parties reached a partial settlement of the issues in these consolidated cases, resolving
9 all issues among the Stipulating Parties except for those issues that are specifically
10 excluded per Paragraph 5 of the Second Stipulation. Although SBUA also participated in
11 the settlement conferences, SBUA ultimately did not join the Second Stipulation, and the
12 Stipulating Parties understand that SBUA intends to litigate the COVID-19 Deferral in
13 Paragraph 4 of the Second Stipulation. This Second Stipulation memorializes the
14 Stipulating Parties' agreements from their most recent settlement conferences.

III. TERMS OF AGREEMENT

15 The Stipulating Parties agree to resolve the remaining issues raised in these
16 consolidated cases as follows:

17 1. Decoupling. The Stipulating Parties agree that the Company will include
18 the following information in its next rate case:

19 a. The Company will present use per customer ("UPC") data, which will
20 include:

21 i. The Company's UPC for existing residential customers; and

1 ii. Ten years of data to develop a UPC for customers taking
2 service at new residential premises. By providing ten years
3 of data, the Stipulating Parties have not agreed that ten years
4 is the appropriate time period to develop a UPC for new
5 residential customers.

6 b. The number of new customers forecasted within the rate case filing.

7 c. NW Natural is not obligated to propose a modification to the
8 decoupling program in its next rate case, but will not argue that no
9 modification can be made as a result of this Second Stipulation and
10 will not argue that implementing a two-part (existing customers/new
11 customers) decoupling mechanism is not technically feasible. NW
12 Natural may present evidence and argument regarding the costs to
13 implement any proposed modifications to its decoupling program.

14 2. Residential Customer Deposits. The Stipulating Parties agree that,
15 beginning November 1, 2022, NW Natural will cease collecting customer deposits from:

16 a. New residential customers, and

17 b. Residential customers who are currently enrolled in LIHEAP and/or
18 the Company's energy assistance programs or who self-certify as
19 low-income. The income eligibility for self-certification will be set at
20 60 percent of State Median Income (adjusted for household size);
21 however, if the rulemaking in AR 653 establishes an income eligibility
22 for customer deposits, NW Natural will update its income eligibility

1 for customer deposits to be consistent with the results of the AR 653
2 rulemaking.

3 3. Oregon Low Income Energy Efficiency Program (Tariff Schedule 320). The

4 Stipulating Parties agree to increase the OLIEE funding by \$4,000 per dwelling, subject
5 to additional consultation between with the OLIEE Advisory Group and the Community
6 Action Partner (“CAP”) agencies as to the allocation of this increase among energy
7 efficiency measures, CAP administrative costs, or Health, Safety, and Repair (“HSR”)
8 measures allowance. Of this \$4,000, at least \$1,500 should be reserved for the Health,
9 Safety, and Repair (“HSR”) measures allowance, to the extent there are HSR measures
10 at the dwelling. In addition to the increase in funding per premise, NW Natural will make
11 the following revisions to Schedule 320:

12 a. Clarify that high-efficiency gas furnace installations are subject to a
13 cost-effectiveness test, with an exception for red-tagged furnace
14 replacements, and that the existing exception for furnace
15 replacements under the HSR Allowance in Schedule 320 remains in
16 place as described below in sub-part(c):

17 i. Sheet 320-4 – the second sentence in the paragraph under
18 Energy Efficiency Measures will be revised: “All measures
19 prescribed by the Energy Analyzer Software for the whole
20 house, including (non-HSR) gas furnaces, must meet or
21 exceed a Savings to Investment Ratio (SIR) of 1.0 or better
22 unless identified through number 2 or 3 below.”

1 b. Clarify that smart thermostats, attic insulation and wall insulation
2 need not be subject to the cost effectiveness test.

3 i. Sheet 320-4 – the last sentence in the paragraph under
4 Energy Efficiency Measures will be revised: “...,3) Measures,
5 including smart thermostats, attic insulation and wall
6 insulation, identified as cost effective by third party
7 organizations (Regional Technical Forum, Energy Trust of
8 Oregon, etc.).

9 c. Sheet 320-4 - Amend the following language from the Health, Safety
10 and Repair (“HSR”) allowance section as follows:

11 i. “Standard efficiency furnace replacements may qualify for
12 HSR funds if the existing furnace is broken, is found to
13 produce an unsafe level of CO emissions, is back-drafting, or
14 has a cracked heat exchanger and a ~~high efficiency furnace~~
15 ~~is not cost effective~~ or it is physically impossible to install a
16 high-efficiency furnace. When a furnace is replaced with a
17 standard efficiency furnace, the agency must ~~specify the~~
18 ~~reasons for the replacement in the reimbursement request.~~
19 **demonstrate why the furnace required replacement, and**
20 **why a high efficiency furnace could not be installed.”**

21 4. COVID-19 Deferral. The Stipulating Parties agree to the following treatment
22 of the Company’s deferral of costs and savings associated with the COVID-19 public

1 health emergency as provided in Docket No. UM 2068, Order No. 20-380, subject to the
2 following terms:

- 3 a. Amortize the 2020 and 2021 balances of the Company's COVID-19
4 Deferral, including interest accrued on those balances, subject to an
5 adjustment of (\$163) thousand.
- 6 b. The amortization period will be two years.
- 7 c. Certain portions of the COVID-19 deferral as recommended by Staff
8 will be subject to an earnings test set at the Company's authorized
9 return on equity.
- 10 d. The Stipulating Parties agree to apply a rate spread allocation
11 methodology consistent with Appendix B to the First Stipulation.
- 12 e. NW Natural may request a prudency review and amortization of post-
13 2021 balances in a future proceeding.

14 5. Issues Excluded from this Second Stipulation. The Stipulating Parties agree
15 that the following issues raised by the Stipulating Parties are not addressed by this
16 Second Stipulation and will continue to be litigated in these consolidated proceedings or,
17 pending additional settlement discussions, may be incorporated into a separate stipulated
18 agreement entered into at a later date.

- 19 a. The Coalition's Objections to the First Stipulation (Coalition's
20 Objection Testimony to be filed by June 30, 2022);
- 21 b. Line Extension Allowance (CUB/100, Coalition/200, NWN/1800);
- 22 c. RNG Automatic Adjustment Clause (NWN/1500, Staff/1700,
23 AWEC/100, CUB/200, NWN/1600); and

1 d. Cost Recovery and Rate Spread of the Lexington RNG Project and
2 Deferral (NWN/1100, CUB/200, Staff/1700, AWEC/100,
3 Coalition/100, NWN/2100, NWN/2300).

4 e. Ensuring that differential rates for low-income customers are in place
5 on or before the rate effective date for these consolidated
6 proceedings, November 1, 2022.

7 6. The Coalition takes no position on Paragraphs 1 and 4 of the Second
8 Stipulation. The Coalition does not oppose Paragraphs 1 and 4 of the Second Stipulation.

9 7. The Stipulating Parties agree that this Second Stipulation is in the public
10 interest, and will result in rates that are fair, just and reasonable, consistent with the
11 standard in ORS 756.040.

12 8. This Second Stipulation will be offered into the record as evidence pursuant
13 to OAR 860-001-350(7). The Stipulating Parties agree to support this Second Stipulation
14 throughout these consolidated proceedings and any appeal, provide witnesses to sponsor
15 this Second Stipulation at hearing, and recommend that the Commission issue an order
16 adopting this Second Stipulation. The Stipulating Parties also agree to cooperate in
17 drafting and submitting joint testimony or a brief in support of this Second Stipulation in
18 accordance with OAR 860-001-0350(7).

19 9. If this Second Stipulation is challenged, the Stipulating Parties agree that
20 they will continue to support the Commission's adoption of the terms of this Second
21 Stipulation. The Stipulating Parties agree to cooperate in cross-examination and put on
22 such a case as they deem appropriate to respond fully to the issues presented, which

1 may include raising issues that are incorporated in the settlements embodied in this
2 Second Stipulation.

3 10. The Stipulating Parties have negotiated this Second Stipulation as an
4 integrated document. If the Commission rejects all or any material portion of this Second
5 Stipulation or imposes additional material conditions in approving this Second Stipulation,
6 any of the Stipulating Parties are entitled to withdraw from this Second Stipulation or
7 exercise any other rights provided in OAR 860-001-0350(9).

8 11. By entering into this Second Stipulation, no Stipulating Party approves,
9 admits, or consents to the facts, principles, methods, or theories employed by any other
10 Stipulating Party in arriving at the terms of this Second Stipulation, other than those
11 specifically identified in the body of this Second Stipulation. No Stipulating Party shall be
12 deemed to have agreed that any provision of this Second Stipulation is appropriate for
13 resolving issues in any other proceeding, except as specifically identified in this Second
14 Stipulation.

15 12. The substantive terms of this Second Stipulation are not enforceable by any
16 Stipulating Party unless and until adopted by the Commission in a final order. Each
17 Stipulating Party avers that it is signing this Second Stipulation in good faith and that it
18 intends to abide by the terms of this Second Stipulation unless and until this Second
19 Stipulation is rejected or adopted only in part by the Commission. The Stipulating Parties
20 agree that the Commission has exclusive jurisdiction to enforce or modify this Second
21 Stipulation. If the Commission rejects or modifies this Second Stipulation, the Stipulating
22 Parties reserve the right to seek reconsideration or rehearing of the Commission order

1 under ORS 756.561 and OAR 860-001-0720 or to appeal the Commission order under
2 ORS 756.610.

3 13. This Second Stipulation may be executed in counterparts and each signed
4 counterpart shall constitute an original document.

5 This Second Stipulation is entered into by each Stipulating Party on the date
6 entered below such Stipulating Party's signature.

DATED this 29th day of June 2022

NW NATURAL COMPANY D/B/A NW
NATURAL

STAFF OF PUBLIC UTILITY
COMMISSION OF OREGON

By: /s/ Zachary Kravitz

By: /s/ Stephanie Andrus

Date: 6/29/22

Date: 6/29/22

OREGON CITIZENS' UTILITY
BOARD

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: /s/ Michael P. Goetz

By: /s/ Chad Stokes

Date: 6/29/22

Date: 6/29/22

COALITION OF COMMUNITIES OF
COLOR, CLIMATE SOLUTIONS,
VERDE, COLUMBIA RIVERKEEPER,
OREGON ENVIRONMENTAL
COUNCIL, COMMUNITY ENERGY
PROJECT, AND SIERRA CLUB

By: /s/ Jaimini Parekh

Date: 6/29/22

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 435 AND UG 411

In the Matter of
NW NATURAL GAS COMPANY D/B/A
NW NATURAL

Request for a General Rate Revision
(UG 435), and
Advice 20-19, Schedule 198 Renewable
Natural Gas Recovery Mechanism
(ADV 1215) (UG 411).

THIRD PARTIAL STIPULATION

I. INTRODUCTION

The purpose of this Third Partial Stipulation (“Third Stipulation”) is to resolve certain issues surrounding the Lexington Renewable Natural Gas Project (“Lexington RNG Project”) with the exception of rate spread among Northwest Natural Gas Company d/b/a NW Natural (“NW Natural” or the “Company”), Staff of the Public Utility Commission of Oregon (“Staff”), the Oregon Citizens’ Utility Board (“CUB”), and the Alliance of Western Energy Consumers (“AWEC”). The Stipulating Parties expect that this Third Stipulation will address all remaining issues among the Stipulating Parties, except for those that are listed in Paragraph 2 of this Third Stipulation that will continue to be litigated in these consolidated cases or, pending additional settlement discussions, may be incorporated into a separate stipulated agreement entered into at a later date. The Small Business Utility Advocates (“SBUA”) and the Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club (collectively “Coalition”) are also parties to these consolidated proceedings. SBUA neither joins nor opposes this Third Stipulation. The Coalition

takes no position on the stipulation and reserves the arguments regarding the Lexington RNG Project raised in its testimony and briefing.

II. BACKGROUND

On December 17, 2021, NW Natural filed a request for a general rate increase (the “Initial Filing”) to become effective November 1, 2022 (the “Rate Effective Date”). The Company’s Initial Filing requested a revision to customer rates that would increase the Company’s annual Oregon jurisdictional revenues by \$73.5 million which would have resulted in an approximate 9.9 percent increase to current customer rates.¹ Administrative Law Judge (“ALJ”) Sarah Spruce convened a prehearing conference on January 19, 2022. On February 28, 2022, NW Natural made an errata filing increasing the revenue requirement to \$78.020 million (the “Errata Filing”).

On January 25, 2022, ALJ Spruce issued a Procedural Conference Memorandum which, in addition to setting forth the schedule of UG 435, consolidated UG 411 with UG 435. On January 26, 2022, ALJ Spruce issued an Amended Procedural Conference Memorandum. On February 18, 2022, the Company filed its Opening Testimony on Schedule 198, Renewable Natural Gas Recovery Mechanism, in compliance with that Amended Procedural Conference Memorandum.

On January 21, 2022, the parties held a settlement conference regarding cost of capital, and on February 4, 2022, the parties held a workshop addressing TSA Security Directive 2. Staff and intervenors filed their Opening Testimony on April 22, and thereafter, the parties participated in settlement conferences on May 4, 2022, May 11, 2022, May 17, 2022, and May 20, 2022. As a result of the settlement discussions, all parties, excluding the Coalition, reached a partial settlement of the issues in these consolidated cases and filed the First Stipulation on May 31, 2022, followed

¹ Initial Filing, NW Natural’s Executive Summary at 1.

by Joint Testimony in Support of the First Stipulation on June 8, 2022. NW Natural filed Reply Testimony on June 6, 2022, and all parties participated in settlement conferences on June 15, 2022 and June 16, 2022. As a result of the settlement discussions, the Stipulating Parties reached a partial settlement of the issues in these consolidated cases, and entered into the Second Stipulation on June 29, 2022. The parties filed Rebuttal Testimony on June 30, 2022, and the Company filed Sur-Rebuttal Testimony on July 20, 2022. The parties filed Opening Briefs on August 10, 2022, and thereafter participated in further settlement discussions on August 16, 2022 and August 17, 2022 that resulted in this Third Stipulation. This Third Stipulation memorializes the Stipulating Parties' agreements from their most recent settlement conferences.

III. TERMS OF AGREEMENT

The Stipulating Parties agree to resolve the remaining issues raised in these consolidated cases as follows:

1. Lexington RNG Project. The Stipulating Parties agree and support that:
 - a. NW Natural will be authorized by the Commission to amortize over a three (3) year period the deferral portion of the Lexington RNG Project surcharge, beginning on November 1, 2023.
 - b. During calendar year 2022, the deferral will accrue interest at the Company's authorized rate of return. The deferral will be subject to an earnings test at the Company's then effective authorized return on equity using the 2022 Results of Operations Report.
 - c. Starting on January 1, 2023, the deferral will accrue interest at the modified blended treasury rate plus 100 basis points. There will be no earnings test for the interest accrual portion.
 - d. AWEC agrees to withdrawal of its proposed tax adjustment and its proposed adjustment based on the ownership interest of BioCross LLC for the life of the Lexington RNG project. This Third Stipulation does not modify the tax condition contained in the Stipulation in Docket UI 451, NW Natural's affiliated interest docket for the Lexington RNG Project.

2. Issues Excluded from this Third Stipulation. The Stipulating Parties agree that the following issues raised by the Stipulating Parties are not addressed by this Third Stipulation and will continue to be litigated in these consolidated proceedings or, pending additional settlement discussions, may be incorporated into a separate stipulated agreement entered into at a later date.

- a. Line Extension Allowance;
- b. RNG Automatic Adjustment Clause; and
- c. Rate Spread of the Lexington RNG Project..

3. The Stipulating Parties agree that this Third Stipulation is in the public interest, and will result in rates that are fair, just and reasonable, consistent with the standard in ORS 756.040.

4. This Third Stipulation will be offered into the record as evidence pursuant to OAR 860-001-350(7). The Stipulating Parties agree to support this Third Stipulation throughout these consolidated proceedings and any appeal, provide witnesses to sponsor this Third Stipulation at hearing, and recommend that the Commission issue an order adopting this Third Stipulation. The Stipulating Parties also agree to cooperate in drafting and submitting joint testimony or a brief in support of this Third Stipulation in accordance with OAR 860-001-0350(7), unless waived by the Commission.

5. If this Third Stipulation is challenged, the Stipulating Parties agree that they will continue to support the Commission's adoption of the terms of this Third Stipulation. The Stipulating Parties agree to cooperate in cross-examination and put on such a case as they deem appropriate to respond fully to the issues presented, which may include raising issues that are incorporated in the settlements embodied in this Third Stipulation.

6. The Stipulating Parties have negotiated this Third Stipulation as an integrated document. If the Commission rejects all or any material portion of this Third Stipulation or

imposes additional material conditions in approving this Third Stipulation, any of the Stipulating Parties are entitled to withdraw from this Third Stipulation or exercise any other rights provided in OAR 860-001-0350(9).

7. By entering into this Third Stipulation, no Stipulating Party approves, admits, or consents to the facts, principles, methods, or theories employed by any other Stipulating Party in arriving at the terms of this Third Stipulation, other than those specifically identified in the body of this Third Stipulation. No Stipulating Party shall be deemed to have agreed that any provision of this Third Stipulation is appropriate for resolving issues in any other proceeding, except as specifically identified in this Third Stipulation.

8. The substantive terms of this Third Stipulation are not enforceable by any Stipulating Party unless and until adopted by the Commission in a final order. Each Stipulating Party avers that it is signing this Third Stipulation in good faith and that it intends to abide by the terms of this Third Stipulation unless and until this Third Stipulation is rejected or adopted only in part by the Commission. The Stipulating Parties agree that the Commission has exclusive jurisdiction to enforce or modify this Third Stipulation. If the Commission rejects or modifies this Third Stipulation, the Stipulating Parties reserve the right to seek reconsideration or rehearing of the Commission order under ORS 756.561 and OAR 860-001-0720 or to appeal the Commission order under ORS 756.610.

9. This Third Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Third Stipulation is entered into by each Stipulating Party on the date entered below such Stipulating Party's signature.

DATED this 19th day of August 2022

NW NATURAL COMPANY D/B/A NW
NATURAL

STAFF OF PUBLIC UTILITY
COMMISSION OF OREGON

By: /s/ Zachary Kravitz

By: /s/ Stephanie Andrus

Date: 8/19/22

Date: 8/19/22

OREGON CITIZENS' UTILITY
BOARD

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: /s/ Michael P. Goetz

By: /s/ Chad Stokes

Date: 8/19/22

Date: 8/19/22