

ORDER NO. 22-431

ENTERED Nov 02 2022

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1631

In the Matter of

NORTHWEST NATURAL GAS  
CORPORATION, dba NORTHWEST  
NATURAL,

Petition for Partial Waiver of OAR 860-021-  
0215(6), OAR 860-021-0405(3) and (5), and  
OAR 860-021-0009(1)(b).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on November 1, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



A handwritten signature in blue ink, appearing to read "Nolan Moser".

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**Nolan Moser**  
Chief Administrative Law Judge

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

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: November 1, 2022**

**REGULAR** \_\_\_\_\_ **CONSENT**  X  **EFFECTIVE DATE** \_\_\_\_\_ **N/A**

**DATE:** October 24, 2022

**TO:** Public Utility Commission

**FROM:** Michael Dougherty and Melissa Nottingham

**THROUGH:** Bryan Conway **SIGNED**

**SUBJECT:** NORTHWEST NATURAL:  
Docket No. UM 1631  
Petition for Partial Waiver of OAR 860-021-0215(6),  
OAR 860-021-0405(3) and (5), and OAR 860-021-0009(1)(b).

**STAFF RECOMMENDATION:**

Staff recommends that the Commission approve Northwest Natural Gas (NWN or Company) request for partial waiver through January 31, 2023, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:

- OAR 860-021-0215(6)
- OAR 860-021-0405(3)(5)

Staff recommend that the Commission not approve Northwest Natural Gas (NWN or Company) request for temporary and partial waiver.

- OAR 860-021-0009(1)(b)

**DISCUSSION:**

Issue:

Whether the Commission should approve NWN's request for a partial waiver of Division 21 rules.

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Applicable Laws:

The Commission recently amended multiple rules in OAR Chapter 860, Division 21. The Commission's decision to adopt these changes was memorialized in Order No. 22-353, Docket AR 653, with the revised rules effective on September 30, 2022.

Per OAR 860-021-0005, the Commission may waive any of the rules in Division 21 for good cause upon written request or its own motion.

Analysis

*Background*

On March 8, 2020, Governor Brown declared a statewide state of emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19.<sup>1</sup> Several extensions of that order were issued.<sup>2</sup> On March 17, 2022, Governor Brown issued Executive Order (EO) 22-03,<sup>3</sup> which rescinded EO 20-03, EO 21-36,<sup>4</sup> and EO 21-29.<sup>5</sup>

On September 24, 2020, the Commission authorized Staff and the affected investor-owned energy utilities and stakeholders to execute a stipulation that was developed during the Commission's Investigation into the Effects of the COVID-19 Pandemic on Utility Customers.

During the timeframe between September 24, 2020, and October 23, 2020, Parties refined the Energy Term Sheet and Stipulated Agreement on terms and conditions to assist customers and utilities during the current COVID-19 pandemic and the aftermath of the pandemic.

At its public meeting on November 3, 2020, the Commission approved the UM 2114 Stipulated Agreement. See Order No. 20-401, <https://apps.puc.state.or.us/orders/2020ords/20-401.pdf>.

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<sup>1</sup> EO 20-03 (March 8, 2020), [https://www.oregon.gov/gov/eo/eo\\_20-03.pdf](https://www.oregon.gov/gov/eo/eo_20-03.pdf).

<sup>2</sup> EO 20-24 (May 1, 2020); EO 20-30 (June 30, 2020); EO 20-38 (September 1, 2020); EO 20-67 (December 17, 2020), EO 21-05 (February 25, 2021), EO 21-10 (April 29, 2021), EO 21-15 (June 25, 2021), and EO 21-36 (December 21, 2022).

<sup>3</sup> EO 22-03, [https://www.oregon.gov/gov/eo/eo\\_22-03.pdf](https://www.oregon.gov/gov/eo/eo_22-03.pdf).

<sup>4</sup> Extension of EO 20-03 that was issued December 21, 2022, [https://www.oregon.gov/gov/eo/eo\\_21-36.pdf](https://www.oregon.gov/gov/eo/eo_21-36.pdf).

<sup>5</sup> COVID-19 Vaccination Requirement for State Executive Branch, <https://www.oregon.gov/gov/eo/eo-21-29.pdf>.

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At the Commission's December 16, 2021, UM 2114 Special Public Meeting, Commission Staff requested to open a rulemaking docket to begin an informal phase of reviewing OARs Chapter 860, Division 21 to strengthen customer protections concerning disconnections. The Commission issued Order No. 21-483 adopting Staff's recommendation and opening this docket, AR 653.

On June 10, 2022, following an informal collaborative process between Staff, community advocates and the investor-owned utilities, the Commission issued Order No. 22-214, approving Staff's recommendation to open the AR 653 rulemaking docket. AR 653 began the formal rulemaking process to consider permanent changes to Division 21 rules concerning protections to residential customers and low-income customers.

The Commission held two rulemaking hearings on July 21, 2022, and September 1, 2022, and requested several rounds of comments, concluding on September 7, 2022. Commission Order No. 22-353 was issued on September 29, 2022, adopting revisions to the existing Division 21 rules effective upon filing with Secretary of State (September 30, 2022).

### Analysis

NWN requests that the Commission issue an order authorizing the temporary waiver of the following rules of Chapter 860, Division 21 adopted in Docket No. AR 653 and by Commission Order No. 22-353:

1. OAR 860-021-0215(6) Refunding of Deposits for Residential and Non-Residential customers. Section (6) requires the Company to refund existing deposits for customers designated as low income per OAR 860-021-180 within two billing cycles.
2. OAR 860-021-0405(3)(5), Notice of Pending Disconnection of Residential Electric or Gas Utility Service; directing the Company to provide written notice at least 20 days.
3. OAR 860-021-0009(1)(b), Application for Utility Service requiring an application for utility service must be made after a customer is involuntarily disconnected.

While the Company supports the changes to Division 21 rules, the challenges of implementation of two of the revised rules has impacted its ability to comply with the revisions on their effective date. These rules are:

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- OAR 860-021-0215(6) – refunding deposits for low-income customers, and
- OAR 860-021-405 (3)(5) – 20-day notice prior to service disconnection.

While new deposits were waived beginning in March of 2020, the Company is required to refund, within two billing cycles, existing deposits for customers subsequently identified as low income per OAR 860-021-0180. The Company has also refunded deposits to customers to assist with the financial challenges customer experienced as part of the pandemic.<sup>6</sup> While this has reduced the number of deposits on file, the Company states additional time is needed to complete the required refunding process. Identifying deposits for refund is a manual process in the Company's Customer Information System (CIS) and additional time is needed to implement the refunding requirement.

NWN will continue to apply interest on the deposit until the date of the refund. As low-income accounts are identified, the deposits with applied interest, will be refunded, but the Company is requesting until January 31, 2023, to ensure all applicable deposits are identified and refunded to the customer.

Modifications to the Company's CIS is also required to fully implement extending past due notices from 15 to 20 days. The Company is requesting temporary waiver of OAR 860-021-0405(3)(5) until January 31, 2023. The extension will allow the Company to properly configure and test changes to the CIS to comply with the changes to the timeline.

- OAR 860-021-0009(1)(b), application utility service after a customer is involuntarily disconnected.

Modifications to OAR 860-021-0009 was not included in Commission Order No. 22-353 issued on September 29, 2022. OAR 860-021-0009 outlines the application requirements for utility service. As part of the application for service rule, when an application for service must be made by the customer. Section (1) states:

(1) An application for energy or telecommunications utility service must be made when:

- (a) Service is requested by a person who has not previously been served by the energy or large telecommunications utility,
- (b) Service has been involuntarily discontinued in accordance with these rules, and the person later seeks to have service restored; or

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<sup>6</sup> UM 1631 NW Natural's Petition for Partial Waiver of OAR 860-021-0215(6), OAR 860-021-0405(3)(5), and OAR 860-021-0009(1)(b).

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(c) Service has been voluntarily discontinued, and a request to restore service has not been made within 20 days.

The Company is requesting a waiver for part (1)(b) until future Division 21 rulemaking commences. NWN states requiring a customer involuntarily disconnected to reapply for service presents an administrative burden for the customer, the utility, and community action agencies. The issue occurs when a customer is disconnected for nonpayment and is receiving an energy assistance payment to have service restored. The rule requires the customer to make a new application for service. As part of the OAR 860-021-0335, Refusal of Service, a residential customer or applicant, must pay one-half to all of a past due balance depending whether a customer has defaulted on a time payment plan. Customer may seek assistance to pay any amounts required to re-establish service.

In the request for a waiver, NWN states the rule prevents the Company from receiving a pledge from a community action agency without placing a three-way call with the customer, the company, and the agency to reopen the account involuntarily disconnected.

The issue was raised by the Company in the July 21, 2022, rulemaking workshop.<sup>7</sup>

The Joint Advocates made a similar comment in their Joint Advocates July 15, 2022, comments.<sup>8</sup> The Joint Advocates offered an addition to OAR 860-021-0009, which would allow a utility to accept a pledge from a community action agency to open or reactivate an account which appears to support NWN waiver request until future rulemaking.

Staff supports the elimination of administrative barriers for customers seeking to have service restored after it is involuntarily disconnected, and payment is required to have service restored. However, nothing in the current rules prohibit NW Natural from accepting an energy assistance pledge for a customer applying for new service or seeking to have service restored after an involuntary disconnection.

Staff agrees adding clarity and transparency will continue to be important considerations on review of the Division 21 rules. At this time, Staff does not read OAR 860-021-0009(1)(c) to prohibit the company from accepting an energy assistance pledge from a partner agency. It does prevent a third-party from making a unilateral

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<sup>7</sup> See AR 653 Rulemaking Hearing July 21, 2022, video recording at 11:56:05.

<sup>8</sup> In the Matter of Revisions to Division 21 Rules to Strengthen Customer Protections Concerning Disconnection, Docket AR 653, Joint Advocates Comments (July 15, 2022), pages 2-3 available at: <https://edocs.puc.state.or.us/efdocs/HAC/ar653hac135523.pdf>.

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request to restore service to a customer, but Staff does not find good cause to waive this provision at this time.

Conclusion

OAR 860-021-0005 states that the Commission may grant a waiver of any of the Division 21 rules for good cause shown. Staff believes that NWN has demonstrated good cause for temporary waivers of OAR 860-021-0215(6) and OAR 860-021-0405(3)(5) until January 31, 2023, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, to allow for proper identification of applicable deposits and proper programming. Staff recommends that the Commission approve NWN's petition for temporary waiver of the amended portions of OAR Division 021.

Staff does not recommend a waiver of 860-021-0009(1)(b) 860-021-0009, Application for Utility Service, as the Company has not demonstrated how the rule prohibits the company's ability to accept an energy assistance pledge for customers applying for utility service. Staff does not find good cause to support the requested waiver.

Staff supports reviewing OAR 860-021-0009 during any future rulemaking.

**PROPOSED COMMISSION MOTION:**

1. Approve NW Natural (NWN or Company) request for partial waiver through January 31, 2023, of the amendments effective September 30, 2022, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, to the following administrative rules:
  - OAR 860-021-0215(6)
  - OAR 860-021-405 (3)(5)
2. Deny Northwest Natural Gas (NWN or Company) request for temporary and partial waiver.
  - OAR 860-021-0009(1)(b).