

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 435

In the Matters of

NORTHWEST NATURAL GAS
COMPANY, dba 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).

ORDER

DISPOSITION: APPLICATION FOR RECONSIDERATION GRANTED; ORDER
NO. 22-388 AMENDED.

In this order, we grant the Oregon Citizens' Utility Board's (CUB) application for
reconsideration, as addressed below.

I. INTRODUCTION

On October 24, 2022, we issued Order No. 22-388, addressing the request for a general
rate revision filed by Northwest Natural Gas Company, dba NW Natural. On
December 23, 2022, CUB filed an application for clarification and reconsideration
seeking clarification of the Commission's directives regarding the allocation of costs
incurred for the Lexington renewable natural gas (RNG) project prior to 2022. As
described in more detail below, CUB also requests that the Commission reconsider its
directive in Order No. 22-388 depending on the Commission's clarification. On January
19, 2023, NW Natural and the Alliance for Western Energy Consumers (AWEC) filed
responses.

II. POSITIONS OF THE PARTIES

A. CUB

CUB asserts that NW Natural's October 26, 2022 compliance filing allocated the
majority of the capital costs associated with the Lexington RNG project to retail

customers. CUB argues that the following sentence contains an ambiguous term: “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.”¹ CUB contends that NW Natural has interpreted the Commission’s directive in Order No. 22-388 as allocating the capital costs of the Lexington RNG project based on the time that investors provided the capital.

CUB maintains that consistent with the matching principle, cost causation, and equitable ratemaking theory, these costs should be allocated to customer classes based on when the customer receives the benefit of the investment. CUB notes that the Commission recognized these principles elsewhere by stating that “generally costs are allocated to the customer class that incurs them or otherwise benefits from those costs.”² CUB argues that the Lexington RNG project will provide decarbonization benefits to all of NW Natural’s customers for the post-2022 period and that the company’s interpretation is at odds with equitable ratemaking.

If the intent of Order No. 22-388 aligns with NW Natural’s interpretation, CUB requests that the Commission reconsider its decision. CUB proposes to address changes to the cost allocation in NW Natural’s 2023 RNG automatic adjustment clause filing and future deferral amortization filing.

B. NW Natural

NW Natural asserts that Order No. 22-388 established a bright line between costs incurred before 2022 and costs incurred after 2022, when the Climate Protection Program (CPP) took effect. NW Natural maintains that because the majority of construction costs were spent prior to 2022, the majority of those costs were allocated to sales customers.³ NW Natural concedes that traditional ratemaking would ordinarily match the costs and benefits to customers at the time the project is placed into service and used and useful over the depreciable life of the asset, but argues that the Commission clearly deviated from this approach by using the date of the CPP’s implementation to set cost recovery. NW Natural argues that if CUB’s interpretation is correct, there would be no distinction between costs incurred prior to 2022 and costs incurred post-2022, because the project was not placed into service until 2022.⁴

¹ CUB Application for Clarification and Reconsideration at 3 (Dec. 23, 2022); Order No. 22-388 at 79 (Oct. 24, 2022).

² CUB Application for Clarification and Reconsideration at 4, *quoting* Order No. 22-388 at 29.

³ NW Natural Response to CUB’s Application for Clarification and Reconsideration of Order No. 22-388 at 4 (Jan. 19, 2023).

⁴ *Id.* at 5.

NW Natural maintains that if the Commission grants clarification or reconsideration, any resulting changes in cost allocation should be addressed in the company's 2023 RNG automatic adjustment clause filing.

C. AWEC

AWEC urges the Commission to deny CUB's application and argues that CUB has failed to demonstrate that clarification or reconsideration is warranted. AWEC maintains that NW Natural allocated the capital costs to sales customers because those costs were incurred prior to the CPP.⁵ AWEC asserts that CUB's interpretation would render the Order meaningless because all costs would be deemed to be incurred on the in-service date, which occurred after the implementation of the CPP. AWEC argues that transportation customers are allocated a rate increase that is an order of magnitude larger than the increase for residential customers for the Lexington RNG project. AWEC maintains that the capital costs are a portion of the total project costs and that all customers are allocated a portion of the operations and maintenance expense. AWEC contends that allocating a disproportionate amount of the Lexington RNG project costs on an equal cents per therm basis and ignoring the overall cost of service would undermine the concept of gradualism and the fair, just, and reasonable standard. AWEC asserts that the Commission already considered CUB's argument that all of the Lexington RNG project costs should be allocated to all customers as a CPP project and there is no good cause for the Commission to grant clarification or reconsideration.

III. DISCUSSION

We grant the application for reconsideration. Our intent at the time we issued the Order was for the costs for the Lexington RNG project to be allocated to customer classes based on when the customer receives the benefit from the investment rather than when investors incur the cost. As CUB correctly asserts, the Commission generally recognizes the matching principle and that "generally costs are allocated to the customer class that incurs them or otherwise benefits from those costs."⁶ Our intent was to acknowledge both that the Lexington RNG project was initially developed under SB 98 and that going forward NW Natural intended to use the project to achieve emissions reductions required by the CPP. In balancing the competing interests of regulatory predictability and ensuring the rate classes that receive the benefit incur cost, we attempted to split the Lexington RNG project costs based on the time that the CPP became effective.⁷

⁵ AWEC Response in Opposition to CUB's Application for Clarification and Reconsideration at 3 (Jan. 19, 2023).

⁶ Order No. 22-388 at 29.

⁷ *See id.* at 85.

However, it is not possible to allocate costs the way we originally envisioned in Order No. 22-388.

NW Natural states that the Lexington RNG project was placed into service on January 24, 2022, which is the point in time that customers would receive the benefits of the project. Therefore, there would be no distinction between the pre- and post-2022 costs in terms of when the benefits accrued to customers, retail or otherwise.

Under the approach used in NW Natural's compliance filing, allocating the costs at the time that they are incurred by investors would result in retail customers paying for the vast majority of the Lexington RNG project when the benefits of the asset will accrue over the life of the asset and benefit transportation and sales customers. We did not intend for retail customers to assume sole responsibility for the vast majority of the capital costs for an asset with a long useful life that will also benefit transportation customers as it pertains to CPP compliance. We had hoped to be able to arrive at an appropriate balance between the project's initiation within a SB 98-only context and its much longer useful life contributing to CPP compliance. However, now we recognize that, with the vast majority of costs incurred by investors prior to January 1, 2022, and all costs and benefits accruing to customers after January 1, 2022, there is not a practical way to achieve the balance that we hoped to find. Accordingly, we grant reconsideration for good cause to further examine this issue, which is essential to the decision.⁸

On reconsideration, we find that the Lexington RNG project should be considered, on balance, primarily as a CPP resource and, as such, its costs should be allocated according to the interim CPP allocation we determined in Order No. 22-388—*i.e.*, on an equal cents per therm basis. As we recognized in Order No. 22-388, the use and benefit of a resource may change over time, which warrants adjustments to cost allocation over the life of the resource. Because the benefits of the Lexington RNG project as an asset accrued to customers after the effective date of the CPP, we determine that the costs should be allocated consistent with the interim starting point for cost allocation under the CPP, which was on an equal cents per therm basis.⁹ Because the time period in which NW Natural operated in a SB 98-only policy context was short-lived, and was no longer the reality when the project went into service, we are unable to isolate the project under SB 98. We note that there are likely to be similar challenges in isolating SB 98 projects from the more comprehensive CPP landscape in the future, and parties should expect us to continue with an integrated treatment of the two policies. With that said, our decision on cost allocation for CPP projects remains a starting point; we anticipate more development of this issue and will consider requests to revise the going forward

⁸ See OAR 860-001-0720(3)(d).

⁹ Order No. 22-388 at 86.

allocation of Lexington RNG project costs in the event that the Commission arrives at a new approach to the allocation of CPP costs.

NW Natural shall address the change to the cost allocation for the Lexington RNG project in its 2023 RNG automatic adjustment clause filing.

IV. ORDER

IT IS ORDERED that:

1. The Oregon Citizens' Utility Board's application for reconsideration is granted.
2. Order No. 22-388 is amended as follows:

On page 79, in the second full paragraph, the second sentence of Order No 22-388 is amended as follows:

~~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.~~

3. The following section of Order No. 22-388 is stricken: starting at the second paragraph on page 85 of the order, through the first full sentence of the first full paragraph on page 86.

4. The following language is added to Order No. 22-388 following the stricken section as described in paragraph 3 above:

As discussed in reconsideration Order No. 23-046, 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.

5. The remainder of Order No. 22-388 remains unchanged.

Made, entered, and effective Feb 21 2023.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Mark R. Thompson
Commissioner



A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.