

ORDER NO. 24-473

ENTERED Dec 31 2024

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2252(2)

In the Matter of

NORTHWEST NATURAL GAS  
COMPANY, dba NW NATURAL,

Application for Reauthorization to Defer  
Costs of Compliance with the Climate  
Protection Program.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on December 31, 2024, 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:



**Alison Lackey**

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.

ITEM NO. CA14

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: December 31, 2024**

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

**DATE:** December 23, 2024

**TO:** Public Utility Commission

**FROM:** Charles Lockwood

**THROUGH:** Caroline Moore, Scott Gibbens, and Michelle Scala **SIGNED**

**SUBJECT:** NORTHWEST NATURAL:  
(Docket No. UM 2252(2))  
Application for Reauthorization to Defer Costs of Climate Protection  
Program Compliance

**STAFF RECOMMENDATION:**

Staff recommends that the Oregon Public Utility Commission (Commission) approve Northwest Natural’s (NW Natural, or Company) request for authorization to defer costs of compliance with the Climate Protection Program (CPP) for the 12-month period beginning August 15, 2024, through August 14, 2025.

**DISCUSSION:**

Issue

Whether the Commission should reauthorize NW Natural’s request to utilize deferred accounting for the 12-month period beginning August 15, 2024, to August 14, 2025, for compliance costs associated with the CPP.

Applicable Law

ORS 757.259 provides the Commission with authority to authorize the deferral of utility revenues and expenses for later inclusion in rates. Specific amounts eligible for deferred accounting treatment with interest authorized by the Commission include:

Identifiable utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the

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frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.

ORS 757.259(2)(e).

In OAR 860-027-0300(3), the Commission has set forth the requirements for the contents of deferred accounting applications.

Under ORS 757.259(4), the Commission may authorize deferrals for a period not to exceed 12 months. Amounts deferred under ORS 757.259 are allowed in rates only to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon a prudence review and review of the utility's earnings. The commission may require that amortization of deferred amounts be subject to refund. ORS 757.259(5).

### Analysis

#### *Background*

On December 16, 2021, the Oregon Department of Environmental Quality (ODEQ) adopted the CPP, which created administrative rules that set greenhouse gas (GHG) reduction targets.<sup>1</sup> The CPP set a declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout the state of Oregon, including diesel, gasoline, natural gas, and propane used in transportation, residential, commercial, and industrial settings (the program is not inclusive of fossil fuel used in electric generation).

The program baseline was set at average GHG emissions from covered entities from years 2017–2019.<sup>2</sup> Reductions from this baseline were set at 50 percent by 2035 and 90 percent by 2050.

On December 20, 2023, the Oregon Court of Appeals invalidated the CPP, concluding that the Oregon Environmental Quality Commission (OEQC) did not comply with the applicable heightened disclosure requirements. At the time of filing, the Oregon Department of Environmental Quality (ODEQ) was conducting a rulemaking to adopt new GHG regulations to replace the invalidated CPP. The Company stated that it is its understanding at the time of filing was that ODEQ plans to submit these new rules for OEQC approval in November 2024 and have the new rules go into effect on January 1, 2025.

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<sup>1</sup> OAR 340-271-0010.

<sup>2</sup> OAR 340-271-8100(3)(b).

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Despite the invalidation of the CPP, the Company stated it would continue to pursue activities that will be in furtherance of compliance with the ODEQ's ongoing rulemaking, including studies, analysis and other planning activities to comply with the CPP. Additionally, NW Natural explains the Company will be required to incur compliance costs upon the effective date of the new rules.

On November 21, 2024, the OEQC adopted new rules to establish the Climate Protection Program 2024 in Oregon, as part of OAR Chapter 340, Division 273. The newly adopted CPP rules mirror the original program with minor modifications such as language changes to rules governing Community Climate Investments (CCIs) and CCI funding, information the ODEQ will request from the Commission, introduction of emissions intensive trade exposed sources, and new compliance periods, among additional changes.<sup>3</sup> It remains unclear how the newly updated CPP will impact costs associated with the Company's compliance, and therefore, the Company will continue to utilize this deferral account to mitigate costs borne by customers.

Throughout the past two years in Docket No. UM 2552, the Commission has approved the Company's request for authorization to defer costs of compliance with the CPP. On October 10, 2022, the Commission approved the Company's request for authorization to defer costs of compliance with the CPP through a deferral account for the 12-month period of August 15, 2022, through August 14, 2023, in Docket No. UM 2552. On October 9, 2023, the Commission reauthorized the deferral for the subsequent 12-month period. NW Natural has now filed a deferral for the following 12-month period of August 15, 2024, through August 14, 2025.

According to the Company, the current deferral allows the Company to defer an accrued compliance obligation expense when the covered emissions exceeded the CPP compliance instruments for that compliance period ("cap"). Even though the Company may purchase CCIs before exceeding the cap, these purchases would not be deferred under the currently approved deferral application. Instead, they would be included in an inventory account on the Company's balance sheet until the CCIs are surrendered for compliance at the end of the compliance period. This is due to the current accrual basis of accounting that does not consider the timing of actual cash outflows associated with CPP, or its successor, compliance.

Therefore, the Company is requesting to utilize the cash basis of accounting for this deferral and accrue interest based on the cash flow for compliance with the new GHG regulation in the regulatory deferral and not based on the accrued expense obligation, as it has a material impact on recovery of financing costs in a future proceeding.

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<sup>3</sup> Oregon Department of Environmental Quality Climate Protect Program 2024 Fact Sheet, <https://www.oregon.gov/deq/ghgp/Documents/PPP2024ChangesFactSheet.pdf>.

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In addition, as a natural gas local distribution company, NW Natural is a “covered fuel supplier” under the CPP and is the point of regulation for the emissions associated with gas used by its sales and transport customers that have not been deemed an Emissions Intensive Trade Exposed source. Transport schedule customers purchase the commodity they use directly from marketers and suppliers and have historically only paid NW Natural for delivery via the distribution system.

#### *Reason for Deferral*

The use of deferred accounting will minimize the frequency of rate changes and match appropriately the costs borne by, and benefits received by customers. NW Natural also states that granting the deferral will give the Company the opportunity to later demonstrate that the costs it has incurred are prudent and can be recovered in rates, which will minimize the frequency of rate changes.

#### *Description of Expense*

The Company does not have an estimate of what amounts will be recorded in the CPP deferral account for the upcoming 12-month period. The intricacy of this program requires a thorough examination of all compliance instruments, and the Company continues to evaluate how it will comply with the CPP. Additionally, given that ODEQ has just adopted new rules given the invalidation of the CPP, the estimation of costs remains unclear.

#### *Proposed Accounting*

The Company proposes to defer the costs associated with the CPP by recording the deferral in a FERC 186 account.

#### *The Amount Deferred Last Year*

(\$787,644),<sup>4</sup> was deferred during the last deferral period year of August 15, 2023, and ending August 15, 2024, which is a decline of approximately \$1.9 million from the Company’s deferred costs for the previous year which was already previously amortized in rates. The interest rate for the deferral account is 6.386 percent.

#### *Information Related to Future Amortization*

- Earnings Review – Cost Recovery for costs associated with the costs of compliance with the Climate Protection Plan will be subject to an earnings review in accordance with ORS 757.259(5).
- Prudence Review – Will be performed by the OPUC Staff no later than the proceeding to authorize amortization of the costs associated with the costs of compliance with the new GHG regulations that will replace the invalidated CPP.

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<sup>4</sup> NW Natural’s Application for Reauthorization to Defer Costs of Compliance with the CPP at 6.

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- Sharing – All prudently incurred costs are recoverable by NW Natural with no sharing mechanism.
- Rate Spread/Design – Will be determined during the proceeding to authorize amortization of the costs associated with the deferral.
- Three or Six Percent Test (ORS 757.259(6)(7)(8)) – Amortization of the deferred costs will be subject to a three percent test in accordance with ORS 757.259(7) or possible six percent test in accordance with ORS 757.259(8) and with Commission authorization. These tests limit aggregated deferral amortizations during a 12-month period to no more than three or six percent of the utility's gross revenues for the preceding year.

### Conclusion

Staff has reviewed the filing in detail and finds that the proposed deferral is just and reasonable. Staff, therefore, recommends approval of NW Natural's request for authorization to defer costs associated with compliance with the Climate Protection Program.

### **PROPOSED COMMISSION MOTION:**

Approve NW Natural's request for authorization to defer costs associated of compliance with the Climate Protection Program for the 12-month period beginning August 15, 2024, through August 14, 2025.

NWN UM 2252(2) CPP Deferral