

ORDER NO. 00-274

ENTERED MAY 31 2000

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UA 76

In the Matter of the Application of Northwest Natural	)	
Gas Company for Allocation to Exclusively Serve	)	
Unserved Territory Adjacent to Existing Served	)	ORDER
Territory (Gas).	)	

**DISPOSITION: APPLICATION APPROVED**

On September 27, 1999, Northwest Natural Gas Company, dba NW Natural (NWN) filed an application to provide exclusive natural gas service to portions of Coos and Douglas Counties not currently served by NWN or any other natural gas utility. On October 4, 1999, an amended application was filed, in which NWN asked to provide service to portions of Coos County only, and removed its earlier request to provide service to Douglas County. Notice of the application was published, and the City of Bandon and Patricia Simpson requested a hearing.

A prehearing conference was held on December 10, 1999, before Administrative Law Judge Tom Barkin. It was determined to hold the matter in abeyance until February 16, 2000, so that the parties could present their proposals for completing the case.

Timely petitions to intervene were filed by Patricia Simpson, the City of Bandon and the City of Lakeside, which were granted on February 7, 2000. A second prehearing conference was held on February 24, 2000, at which time a schedule for the proceeding was adopted.

NWN filed a second amended application on February 25, 2000, generally removing the City of Bandon from the requested service area. On March 17, 2000, the Coos County Board of Commissioners filed a motion to intervene, which was granted.

Timely opening comments were filed by Patricia Simpson, City of Bandon and Staff. NWN and City of Bandon filed timely reply comments.

A public comment hearing was held at 7:00 p.m. on April 12, 2000, in Coquille, Oregon. Kathryn A. Logan, Administrative Law Judge, presided over the hearing. Public comments were received, and the record was closed.

Based on the preponderance of evidence in the record, the Commission makes the following:

## **FINDINGS OF FACT**

The territory requested by NWN covers all of Coos County except for territory previously allocated to NWN by Commission Order No. 40972, all areas within the City of Bandon's municipal boundaries as of the date of this Order, and all areas within the City of Bandon's urban growth boundary as acknowledged by the Oregon Department of Land Conservation and Development as of the date of this Order. The territory previously allocated to NWN is exclusively served with propane gas. The territory applied for by NWN is adjacent to its exclusively served territory.

This application is made as part of an economic development project undertaken by Coos County with support from the State of Oregon. The plan is for a natural gas pipeline to be built from the Williams Pipeline Corporation's lateral to serve Coos Bay, Myrtle Point and Coquille. Coos County voters passed a \$27 million bond measure in 1999 to finance the County's portion of this project. A gate station will be provided at Bandon, although the city will not be served by NWN at this time.

Avista Utilities provides natural gas service in Douglas County. Upon initial application by NWN in September 1999, Staff asked Avista if it was interested in seeking the same territory. Avista responded, stating it was not interested because it would not be economical for it to provide service in that area. No other natural gas provider has expressed interest in serving this territory.

## **OPINION**

ORS. 758.435 provides, in relevant part:

Any person providing a utility service in a territory that is not served by another person providing a similar utility service may make application to the commission for an order allocating such territory to it. The application may include any adjacent area that it is more economical and feasible to serve by an extension of the applicant's existing facilities than by an extension of the facilities of another person.

ORS 758.440 provides, in relevant part:

The commission, before approving an application for the allocation of territory, shall find . . . in the case of an adjacent unserved area that it is more economical and feasible to serve by an extension of the applicant's facilities than by an extension of the facilities of another person.

As noted by all participants, including NWN, the application before us does not neatly fit within the statutory language. The statute contemplates the extension of existing NWN facilities from the territory it currently serves into the territory for which the application is made. Instead, Coos County, with support from the State of Oregon, will build a lateral line from the Williams Pipeline into the territory applied for as part of an economic development project. Prior to the construction of the lateral line, NWN anticipates that it will enter in a contract with Coos County. This contract will outline the terms and conditions for transporting the natural gas purchased by NWN to the distribution systems constructed by NWN.

This anomaly, in and of itself, is not fatal to the application. Due to the economics of the situation, NWN needs to know that it can serve the territory prior to building the necessary distribution systems. Although some intervenors and members of the public urge the application to be denied until the pipeline is built, denying this application would prevent the project from going forward. That consequence is not in anyone's interest.

There were many comments that this application was premature: that not enough details were known, that the pipeline had not been built, or that an agreement had not been reached between the County and NWN. While understanding the concerns that some have about the project, we find that the Coos County voters have eliminated this issue of premature action by passing a bond levy in support of the project. The voters told their elected officials that they want such a project and that they are willing to fund it up to \$27 million in bonds. This places the County in the position of negotiating with a natural gas distributor to provide the gas and distribution systems. NWN would not want to enter into these conversations without knowing that it has exclusive ability to provide the natural gas.

NWN also satisfied the requirement that it is more economical and feasible for it to serve the area than it is to extend the facilities of another person. First, it already serves part of Coos County, although at this time NWN only provides propane gas. To make the pipeline extension economically feasible to both the customers and NWN, it is necessary that only one gas provider serve the entire county. There are insufficient customers for NWN to serve only a portion of the county. Second, NWN appears to be able to provide service to both future and current customers at rates close to current NWN customer rates. Although this matter would be fully reviewed in a rate case, the preliminary information provided indicates that NWN will be able to effectively compete with electricity. Finally, no other natural gas provider has shown interest in this territory, including Avista Utilities.

An issue arose about making certain that NWN actually *served* this territory. Once allocated, there is no statutory provision that allows this Commission to "unallocate" the territory. Staff proposes, and NWN agrees, that NWN would file an application to "unallocate" the territory if not served within seven years of the date of this order. We find this agreement to make sense in light of the circumstances surrounding this allocation.

The application should be approved.

**ORDER**

IT IS ORDERED that the application of Northwest Natural Gas Company for allocation to exclusively serve unserved territory in Coos County is approved.

Made, entered, and effective \_\_\_\_\_.

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**Ron Eachus**  
Chairman

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**Roger Hamilton**  
Commissioner

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**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to 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 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.