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October 13, 2005

**VIA UPS OVERNIGHT**

The Honorable Deborah Taylor Tate
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc. -- Docket No. 05-00046

Dear Director Tate.

Pursuant to the discussions at the October 5, 2005 conference in the above-captioned docket and for informational purposes, I have enclosed 15 copies of the following documents for filing with the Authority

(1) Customer Utilization Tracker -- Appendix C to Piedmont Natural Gas Company, Inc Proposed/Stipulated North Carolina Service Regulations in North Carolina Utilities Commission Docket Nos G-9, Sub 499, G-21, Sub 461, and G-44, Sub 15,

(2) Joint Statement of the American Gas Association and the Natural Resources Defense Council (July 2004),

(3) National Association of Regulatory Utility Commissioner's *Resolution on Gas and Electric Energy Efficiency* (July 14, 2004);

(4) Order of the Oregon Public Utility Commission adopting stipulation in Docket No. UG 163, *In re: Northwest Natural Gas Company, Investigation Regarding Possible Continuation of Distribution Margin Normalization Tariff* (August 25, 2005).

Each of these documents is public in nature and relates (either directly or tangentially) to a recent proposal by Piedmont Natural Gas Company, Inc. to implement a Customer Utilization Tracker mechanism in its most recent North Carolina rate case. The intent of this mechanism is to "decouple" Piedmont's ability to recover its allowed margin from its predominantly volumetric rate structure. This decoupling is necessary to eliminate the current disincentive to promote reduced customer consumption (through conservation or otherwise) arising from the negative impact such reductions would have on the Company's earnings under its prevailing volumetric rates. Piedmont's proposed Customer Utilization Tracker mechanism is currently pending approval by the North Carolina Utilities Commission.

Please accept these documents for filing and return one filed-stamped copy of each to me in the enclosed self-addressed and stamped envelope.

Thank you for your assistance with this matter If you have any questions regarding these documents you may reach me at the number shown above.

Sincerely,

James H. Jeffries IV

JHJ/bao

Enclosures

C: All Parties of Record

# APPENDIX C

Customer Utilization Tracker

## I. Provision for Adjustment

The base rates per therm (100,000 Btu) for gas service set forth in Rate Schedules 101, 121, 102, 132, 152 and 162 of Piedmont Natural Gas Company (Company) shall be adjusted by an amount hereinafter described, which amount is referred to as the "Customer Utilization Adjustment." The Customer Utilization Adjustment shall be calculated, as a decrement or an increment, and applied to Rate Schedules 101, 121, 102, 132, 152 and 162 to refund or recover the balance in the "Customer Utilization Deferred Account." The Customer Utilization Deferred Account shall be established by a monthly adjustment hereinafter described, which monthly adjustment is referred to as the "Customer Utilization Deferred Account Adjustment."

## II. Definitions

For the purposes of this Rider:

"Commission" means the North Carolina Utilities Commission

"Relevant Rate Order" means the final order of the Commission in the most recent litigated rate case of the Company fixing the rates of the Company or the most recent final order of the Commission specifically prescribing or fixing the factors and procedures to be used in the application of this Rider.

## III. Computation of Customer Utilization Deferred Account Adjustment

The Customer Utilization Deferred Account Adjustment, for each of the Rate Schedules 101, 121, 102, 132, 152 and 162, shall be computed monthly to the nearest dollar by the following formulas:

Base Load Therms$_i$ = Actual Customers$_i$ X Base Load$_i$

Heat Sensitive Therms$_i$ = Actual Customers$_i$ X Heat Sensitivity Factor$_i$ X Normal Degree Days

Normalized Therms$_i$ = Base Load Therms$_i$ + Heat Sensitive Therms$_i$

Normalized Margin$_i$ = Normalized Therms$_i$ X R Factor$_i$

Actual Margin$_i$ = Actual Therms$_i$ X R Factor$_i$

Customer Utilization Deferred Account Adjustment$_i$ = Normalized Margin$_i$ – Actual Margin$_i$

# APPENDIX C

Where:

| | |
|---|---|
| $i$ = | any particular rate schedule |
| Actual Customers$_i$ = | Actual customers billed for the billing cycle month for the $i^{th}$ rate schedule |
| Actual Therms$_i$ = | Actual therms used for the billing cycle month for the $i^{th}$ rate schedule |
| R Factor$_i$ = | base rate (approved rate less fixed and commodity cost of gas) for the $i^{th}$ schedule or classification utilized by the Commission in the Relevant Rate Order for the purpose of determining normalized test year revenues. |
| Heat Sensitivity Factor$_i$ = | heat sensitive factor for the $i^{th}$ schedule of classification utilized by the Commission in the Relevant Rate Order for the purpose of determining normalized test year revenues. |
| Normal Degree Days = | normal, 15$^{th}$ to 15$^{th}$, heating degree days utilized by the Commission in the Relevant Rate Order for the purpose of determining normalized test year revenues. |
| Base Load$_i$ = | base load sales for the $i^{th}$ schedule or classification utilized by the Commission in the Relevant Rate Order for the purpose of determining normalized test year revenues. |

IV. <u>Filing with Commission</u>

The Company will file monthly as directed by the Commission (a) a copy of each computation of the Customer Utilization Deferred Account Adjustment by rate schedule, (b) a schedule showing the effective date of each such Customer Utilization Deferred Account Adjustment, and (c) a schedule showing the factors of values derived from the Relevant Rate Order used in calculating such Customer Utilization Deferred Account Adjustment. Such reports will be filed within 45 days after the end of the month for which the report is being filed.

# APPENDIX C

V Computation of Customer Utilization Adjustment

Effective for both the first day of April's Bill Cycle Month and the first day of November's Bill Cycle Month, the Customer Utilization Adjustment to refund or recover the balance in the Customer Utilization Deferred Account, shall be calculated to the nearest one-thousandth cent per therm by the following formula:

Customer Utilization Adjustment = Customer Utilization Deferred Account Balance / Annual Therms$_{ti}$

Where:

Customer Utilization Deferred Account Balance = Balance at January 31 and August 31

Annual Therms = Normalized volumes assigned in most recent rate case

ti = Total for Rate Schedules 101, 121, 102, 132, 152 and 162

VI. Interest

Interest will be applied to the Customer Utilization Deferred Account at the Company's authorized overall rate of return.

VII. Filing with Commission

The Company will file revised tariffs for Commission approval upon 14 days notice to implement a decrement or an increment each April and November. With the filing the Company will include a copy of each computation of the Customer Utilization Adjustment

American Gas Association

NRDC
THE EARTH'S BEST DEFENSE

**Joint Statement of the American Gas Association and the Natural Resources Defense Council**

Submitted to the National Association of Regulatory Utility Commissioners
July 2004

The American Gas Association (AGA) and the Natural Resources Defense Council (NRDC) recognize the many benefits of using clean-burning natural gas efficiently to provide high quality energy services in all sectors of the economy. This statement identifies ways to promote both economic and environmental progress by removing barriers to natural gas distribution companies' investments in urgently needed and cost-effective resources and infrastructure.

NRDC and AGA agree on the importance of state Public Utility Commissions' consideration of innovative programs that encourage increased total energy efficiency and conservation in ways that will align the interests of state regulators, natural gas utility company customers, utility shareholders, and other stakeholders. Cost-effective opportunities abound to improve the efficiency of buildings and equipment in ways that promote the interests of both individual customers and entire utility systems, while improving environmental quality. For example, when energy supply and delivery systems are under stress, even relatively modest reductions in use can yield significant additional cost savings for all customers by relieving strong upward pressures on short-term prices.

NRDC and AGA also encourage state Commissions to support gas distribution company efforts to manage volatility in energy prices and reduce volatility risks for customers.

**The Energy Efficiency Problem: Regulated Natural Gas Utilities are Penalized for Aggressively Promoting Energy Efficiency**

Local natural gas distribution companies (gas utilities) have very high fixed costs. These fixed costs include the costs of maintaining system safety and reliability throughout the year, staffing customer service telephone lines 24 hours a day and doing what it takes each day of the year to ensure the safe and reliable delivery of natural gas to homes, schools, hospitals, retailers, factories and other customers.

Natural gas utilities typically purchase natural gas on behalf of their customers, and pass through the cost without markup. This means that natural gas utilities do not profit from their acquisitions of natural gas to serve customer needs. The profit (authorized level of rate of return) comes from the rates utilities charge for transporting the natural gas to customers' homes and businesses.

The vast majority of the non-commodity costs of running a gas distribution utility are fixed and do not vary significantly from month to month. However, traditional utility rates do not reflect this reality. Traditional utility rates are designed to capture most of approved revenue requirements for fixed costs through volumetric retail sales of natural gas, so that a utility can recover these costs fully only if its customers consume a certain minimum amount of natural gas (these amounts are normally calculated in rate cases and generally are based on what customers consumed in the past). Thus, many states' rate structures offer – quite unintentionally – a significant financial disincentive for natural gas utilities to aggressively encourage their customers to use less natural gas, such as by providing financial incentives and education to promote energy-efficiency and conservation techniques.

When customers use less natural gas, utility profitability almost always suffers, because recovery of fixed costs is reduced in proportion to the reduction in sales. Thus, conservation may prevent the utility from recovering its authorized fixed costs and earning its state-allowed rate of return. In this important respect, traditional utility rate practices fail to align the interests of utility shareholders with those of utility customers and society as a whole. This need not be the case. Public utility commissions should consider utility rate proposals and other innovative programs that reward utilities for encouraging conservation and managing customer bills to avoid certain negative impacts associated with colder-than-normal weather. There are a number of ways to do this, and NRDC and AGA join in supporting mechanisms that use modest automatic rate true-ups to ensure that a utility's opportunity to recover authorized fixed costs is not held hostage to fluctuations in retail gas sales.[1] We also support performance-based incentives designed to allow utilities to share in independently verified savings associated with cost-effective energy efficiency programs.

Many states' rate structures also place utilities at risk for variations in customer usage based on variations in weather from a normal pattern. This variation can be both positive and negative. Utilities' allowed rate of return is premised on the expectation that weather will be normal, on average, and that customer use of gas

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[1]For example, in 2003 the Oregon Public Utility Commission approved a "conservation tariff" for Northwest Natural Gas Company (NW Natural) "to break the link between an energy utility's sales and its profitability, so that the utility can assist its customers with energy efficiency without conflict." The conservation tariff seeks to do that by using modest periodic rate adjustments to "decouple" recovery of the utility's authorized fixed costs from unexpected fluctuations in retail sales. *See* Oregon PUC Order No. 02-634, *Stipulation Adopting Northwest Natural Gas Company Application for Public Purpose Funding and Distribution Margin Normalization* (Sept. 12, 2003). In California, PG&E and other gas utilities have a long tradition of investment in energy efficiency services, including those targeting low-income households, and the PUC is now considering further expansion of these investments along with the creation of performance-based incentives tied to verified net savings. California also pioneered the use of modest periodic true-ups in rates to break the linkage between utilities' financial health and their retail gas sales, and has now restored this policy in the aftermath of an ill-fated industry restructuring experiment. Thus, in March 2004, Southwest Gas Company received an order that authorizes it to establish a margin tracker that will balance actual margin revenues to authorized levels.

will maintain a predictable pattern going forward. Proposals by utilities to decouple revenues from both conservation-induced usage changes and variations in weather from normal have sometimes been characterized as attempts to reduce utilities' risk of earning their authorized return. The result of these rate reforms, in this regulatory view, should be a lowered authorized return. But reducing authorized returns would penalize utilities for socially beneficial advocacy and action, including efforts to create mechanisms that minimize the volatility of customer bills.

Our shared objective is to give utilities real incentives to encourage conservation and energy efficiency. With properly designed programs, the benefits could be significant and widespread:

- Customers could save money by using less natural gas;
- Reduced overall use will help push down short-term prices at times when markets are under stress, reducing costs for all customers (whether or not they participate in the utility programs);
- Utilities would recover their costs and have a fair opportunity to earn their allowed return;
- State policies to encourage economic development could be enhanced by increased energy efficiency and lower business energy costs;
- State PUCs would be able to support larger state policy objectives as well as programs that reflect the public's desire to use energy efficiently and wisely.

In today's climate of rapidly changing natural gas prices, such reforms make good sense for consumers, shareholders, state governments, and the environment.

**Natural Gas Consumers, Price Volatility and Resource Portfolio Management.** Another area of concern shared by NRDC and AGA is the impact of natural gas price volatility on natural gas consumers, which can be exacerbated by limited diversification of utilities' resource portfolios. Today many of the nation's natural gas utilities find themselves relying on short-term markets for most of their gas needs, with either the encouragement or the acquiescence of their regulators. During much of the 1990's this approach was typically advantageous to consumers, as the market price of natural gas was generally low and did not fluctuate dramatically. As wholesale natural gas prices have risen since 2000 and become more volatile, however, many utilities and commissions are reconsidering this emphasis on short-term market purchases.

While purchasing practices based on short-term supply contracts may offer consumers relatively low-cost natural gas, those consumers are also exposed to more volatile prices and natural gas bills that may rise and fall unpredictably. Public Utility Commissions should favorably consider gas distribution company proposals to manage volatility, such as through hedging, fixed-price contracts of various durations, energy-efficiency improvements in customers' buildings and equipment, and other measures designed to provide greater certainty about both supply adequacy and price stability. Achieving these goals will sometimes require paying a premium over prevailing spot market prices. Like diversified investment portfolios that are designed to mitigate risk, prudent hedging plans should be encouraged as a way to help stabilize gas prices and ensure long-term access to affordable natural gas services.

*Resolution on Gas and Electric Energy Efficiency*

**WHEREAS,** The National Association of Regulatory Utility Commissioners (NARUC), at its July 2003 Summer Meetings, adopted a *Resolution on State Commission Responses to the Natural Gas Supply Situation* that encouraged State and Federal regulatory commissions to review and reconsider the level of support and incentives for existing gas and electric utility programs designed to promote and aggressively implement cost-effective conservation, energy efficiency, weatherization, and demand response in both gas and electricity markets; *and*

**WHEREAS,** The National Petroleum Council (NPC), in its September 25, 2003 report on *Balancing Natural Gas Policy – Fueling the Demands of a Growing Economy*, found that greater energy efficiency and conservation are vital near-term and long-term mechanisms for moderating price levels and reducing volatility and recommended all sectors of the economy work toward improving demand flexibility and efficiency; *and*

**WHEREAS,** The NPC, in its report, identified key elements of the effort to maintain and continue improvements in the efficient use of electricity and natural gas, including (but not limited to):

(i) enhanced and expanded public education programs for energy conservation, efficiency, and weatherization,

(ii) DOE identification of best practices utilized by States for low-income weatherization programs and to encourage nation-wide adoption of these practices,

(iii) a review and upgrade of the energy efficiency standards for buildings and appliances (to reflect current technology and relevant life-cycle cost analyses) to ensure these standards remain valid under potentially higher energy prices

(iv) promote the use of high-efficiency consumer products including advanced building materials, Energy Star appliances, energy "smart" metering and information control devices

(v) on-peak electricity conservation to minimize the use of gas-fired electric generating plants,

(vi) the use of combined-cycle gas-fired electric generating units instead of less-efficient gas-fired boilers, and

(vii) clear natural gas and power price signals; and

(viii) remove regulatory and rate structure incentives to inefficient use of natural gas and electricity; and

**WHEREAS,** The NARUC, at its November 2003 annual convention, adopted a *Resolution Adopting Natural Gas Information "Toolkit"* which encouraged the NARUC Natural Gas Task Force, to review (among other things) the findings and recommendations in the NPC report that have regulatory implications for State commissions for improving and promoting energy efficiency and conservation initiatives, including consumer outreach and education, review of regulatory throughput incentives; *and*

**WHEREAS,** The American Council for an Energy-Efficient Economy ("ACEEE"), in its December 2003 report on *Responding to the Natural Gas Crisis. America's Best Natural Gas Energy Efficiency Programs*, (i) identified States and utilities with programs that many would consider best practice or model programs for all types of natural gas customers and all principal natural gas end-use technologies, and (ii) found that these programs are concentrated in relatively few States and regions and could be expanded in other parts of the country to great benefit, *and*

**WHEREAS,** the Natural Resources Defense Council (NRDC), the American Gas Association (AGA) and the ACEEE have recently adopted a Joint Statement noting that traditional rate structures often act as disincentives for natural gas utilities to aggressively encourage their customers to use less gas. Therefore, the NRDC, AGA, and the ACEEE have urged public utility commissions to align the interests of consumers, utility shareholders, and society as a whole by encouraging conservation. Among the mechanisms supported by these groups are the use of automatic rate true-ups to ensure that a utility's opportunity to recover authorized fixed costs is not held hostage to fluctuations in retail gas sales; *now therefore be it*

**RESOLVED,** That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 2004 Summer Meetings in Salt Lake City, Utah, encourages State commissions and other policy makers to support the expansion of natural gas energy efficiency programs and electric energy efficiency programs, including those designed to promote consumer education, weatherization, and the use of high-efficiency appliances, where economic, and to address regulatory incentives to address inefficient use of gas and electricity, *and be it further*

**RESOLVED,** That the Board of Directors of the NARUC, encourages State and Federal policy makers to. (i) review and upgrade the energy efficiency standards for buildings and appliances, where economic, to ensure these standards remain valid under potentially higher energy prices, and (ii) promote the use of high-efficiency consumer products, where economic, including advanced building materials, Energy Star appliances, and energy "smart" metering and information control devices; *and be it further*

**RESOLVED,** That Board of Directors of NARUC encourages State Commissions to review and consider the recommendations contained in the enclosed *Joint Statement of the American Gas Association, the Natural Resources Defense Council, and the American Council for an Energy-Efficient Economy; and be it further*

**RESOLVED,** That the Board of Directors of the NARUC recognizes that the best approach towards promoting gas energy efficiency programs and electric energy efficiency programs for any single utility, State or region may likely depend on local issues, preferences and conditions

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*Sponsored by the NARUC Natural Gas Task Force, Committee on Gas, Committee on Consumer Affairs, Committee on Electricity, and Committee on Energy Resources and the Environment*
*Adopted by the NARUC Board of Directors July 14, 2004*

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UG 163

| | | |
|---|---|---|
| In the Matter of<br><br>NORTHWEST NATURAL GAS COMPANY<br><br>Investigation Regarding Possible Continuation of Distribution Margin Normalization Tariff. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>) | ORDER |

DISPOSITION: STIPULATION ADOPTED

On September 12, 2002, the Public Utility Commission of Oregon (Commission) entered Order No. 02-634 in Docket No UG 143, adopting a stipulation that authorized Northwest Natural Gas Company (NWN) to implement a Distribution Margin Normalization (DMN) tariff (also known as a "partial decoupling mechanism"). Under the terms of the stipulation, the partial decoupling mechanism terminates on September 30, 2005, unless extended by the Commission. The stipulation further provided that by March 31, 2005, NWN would submit the results of an independent study regarding the partial decoupling mechanism's effectiveness, and would ask the Commission to open an investigation to consider whether the partial decoupling mechanism should be continued.

On March 31, 2005, NWN filed a petition asking the Commission to investigate whether the DMN tariff should continue. As part of the petition, NWN attached the results of the independent study. Prehearing conferences were held May 9 and May 17, 2005. Parties to the proceeding are Citizens' Utility Board of Oregon (CUB), Oregon Department of Energy (ODOE), Avista Corporation (Avista), Northwest Energy Coalition (NW Energy Coalition), Cascade Natural Gas Corporation (Cascade), Community Action Directors of Oregon (CADO), Oregon Energy Coordinators Association (OECA), Northwest Industrial Gas Users (NWIGU), Natural Resources Defense Council (NRDC), NWN and Staff.

On August 5, 2005, NWN filed a stipulation and joint testimony. On August 12, 2005, NWN filed a revised Schedule 190. The stipulation was signed by all of the parties except for Avista and Cascade. [1] Parties were given until August 19, 2005 to object to the stipulation and revised Schedule 190. No objections were received.

[1] The parties' testimony indicated that neither Avista nor Cascade objected to the stipulation, even though they did not sign the stipulation.

**Stipulation**

The stipulation, attached as Appendix A and incorporated herein, extends the DMN tariff (Schedule 190) for four years with the following modifications. First, the parties agree that NWN should defer and amortize 100 percent of the distribution margin differential rather than 90 percent, which is the figure currently used in Schedule 190. Second, the parties agree that as long as Schedule 190 remains in effect, none of the parties will seek termination of NWN Schedule 301 (Public Purposes Funding Surcharge), Schedule 310 (Oregon Low-Income Gas Assistance, also known as OLGA), and Schedule 320 (Oregon Low-Income Energy Efficiency Program). Third, industrial customers served on Schedules 3, 31, and 32, along with industrial customers under special contracts, will not be charged or eligible for any of the programs under Schedules 301, 310 and 320. Fourth, NWN will work with representatives from CADO, OECA and other interested persons to establish an OLGA advisory group. This group, which will meet quarterly, will facilitate communications and provide advice about the administration of the OLGA program. The parties assert that the stipulation is in the public interest, and results in a fair, just and reasonable resolution of all matters at issue.

**Discussion**

NWN currently has a weather-adjusted rate mechanism (WARM) in effect until September 30, 2008. The parties recommend extending the DMN tariff for four years, so that it could be evaluated alongside WARM. Further, the parties state that having the DMN tariff in effect one year longer than WARM will "ensure that any delay in analyzing and potentially extending WARM will not affect DMN." Joint Testimony at 4

Under the current Schedule 190, NWN defers and subsequently amortizes 90 percent of the margin differentials for the residential and commercial customer groups The proposed Schedule 190 provides for 100 percent deferral and amortization of the margin differentials. This change eliminates the non-weather related margin variability related to distribution fixed costs. As before, the deferral will be a credit (accruing a refund to customers) if the differential is positive, or a debit (accruing a recovery by NWN) if the differential is negative.

Currently, industrial customers served on Schedules 3, 31 and 32, along with industrial customers under special contracts are not charged for any of the gas-related programs outlined in Schedules 301, 310 and 320. The current stipulation makes clear that these same industrial customers will not be eligible for Energy Trust Funding for natural gas related conservation and efficiency programs. We agree that if the industrial customers are not contributing money, they should not participate.

Finally, the parties agree to establish an advisory group for the OLGA program. The first meeting will occur no later than October 1, 2005, with subsequent meetings to be held every quarter. While the advisory group will provide advice to NWN about the administration of OLGA, it will also be a group to facilitate communication among the participants regarding OLGA.

After reviewing the stipulation and supporting testimony, the Commission concludes that the stipulation is an appropriate resolution of all issues, and adoption of the stipulation is in the public interest. The parties attached a copy of the new Schedule 190 to the stipulation. We want a revised tariff to be filed which includes a reference to this order in the Purpose section. The new language is in italics below.

> To (a) describe the partial decoupling mechanism established in accordance with a Stipulation and Agreement adopted by the Oregon Public Utility Commission (OPUC) in Docket UG 143, Order No. 02-634 dated September 12, 2002 *and Docket UG 163, Order No. 05-934 dated August 25, 2005*; and . . .

**ORDER**

IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted except for the attached Schedule 190.

2. NWN is to file a new Schedule 190 in compliance with our order.

3. Schedule 190 will become effective with service on and after October 1, 2005.

Made, entered, and effective AUG 25 2005.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
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.

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**UG 163**

| | |
|---|---|
| In the Matter of<br><br>NORTHWEST NATURAL<br><br>Investigation Regarding Possible Continuation of Distribution Margin Normalization Tariff | STIPULATION |

This Stipulation is entered into for the purpose of resolving all the contested issues in this proceeding.

**PARTIES**

1. The parties to this Stipulation are NW Natural Gas Company ("NW Natural" or "the Company"), Citizens' Utility Board, NW Energy Coalition, Natural Resources Defense Council, Community Action Directors of Oregon ("CADO"), Oregon Energy Coordinators Association ("OECA"), Staff of the Public Utility Commission of Oregon, Northwest Industrial Gas Users and Oregon Department of Energy (each, a "Party", collectively, the "Parties").

**BACKGROUND**

2. On September 12, 2002, the Public Utility Commission of Oregon ("Commission") in Docket UG 143 authorized NW Natural to implement a Distribution Margin Normalization ("DMN") Tariff (also referred to as a "partial decoupling mechanism"). The Commission's Order in that proceeding (Order No. 02-634) approved a Settlement Agreement which contained the following provision:

> 1.9 The partial decoupling mechanism . . shall terminate on September 30, 2005, unless otherwise extended by agreement of the Specified Parties or by approval of the Commission as further described in this Paragraph 1.9.
>
> 1.9.1 Prior to the September 30, 2005 termination date, NW Natural will arrange for a study by an independent entity regarding the effectiveness of the partial decoupling mechanism, according to the criteria and standards developed in Paragraph 1.9.2 of this Agreement. No later than March 31, 2005, NW Natural will submit the results of the independent study to the parties to this Docket and the Commission. Also no later than March 31, 2005, NW Natural will request by petition that the Commission open an investigation on the issue of whether to continue the partial decoupling mechanism, with modifications or not, subsequent to September 30, 2005.

3. On March 31, 2005, NW Natural commenced this proceeding with its Petition to Commence Investigation ("Petition") on the issue of whether to continue the DMN Tariff subsequent to September 30, 2005. NW Natural included with its Petition the results of the independent study performed by Laurits R. Christensen Associates, Inc. ("Christensen Associates")

4. Pursuant to Administrative Law Judge Katherine A. Logan's Prehearing Conference Report of May 9, 2005, a settlement conference was held on May 17. The settlement conference was open to all parties in this Docket. At the settlement conference, all parties to this proceeding agreed or did not oppose the following:

> To enable the Commission to complete its investigation in this docket under the above schedule, NW Natural's Schedule 190, Partial Decoupling Mechanism, shall be extended beyond its scheduled September 30, 2005 termination date, subject to the following:
>
> a. For deferrals accrued by NW Natural in the Partial Decoupling Deferral Account for usage after September 30, 2005, such amounts shall not automatically be amortized in accordance with Schedule 190. Rather, treatment of such deferrals shall be addressed by the parties and determined by the Commission's order in this proceeding
>
> b. Any changes to the price elasticity adjustment pursuant to an order in this proceeding will be made only on a prospective basis (*i.e*, in the event the tariff terminates at the conclusion of this proceeding, NW Natural will not be required to make refunds to customers).

5. These terms were included in Judge Logan's Prehearing Conference Report of May 20, 2005. Pursuant to that Prehearing Conference Report, NW Natural filed its direct testimony on May 27, 2005

6. By separate advice filing submitted on May 27, 2005, NW Natural submitted a compliance filing consisting of proposed tariff revisions to extend Schedule 190 beyond September 30, 2005, subject to the terms and conditions agreed upon by the parties and set forth in Judge Logan's May 20, 2005 Prehearing Conference Report.

7. As a result of the settlement conference and additional discussions, the Parties have agreed to proposed terms that would resolve the issues in this proceeding. The Parties submit this Stipulation to the Commission and request that the Commission approve the settlement as presented.

## AGREEMENT

8. The Parties agree that the proposed tariff revisions submitted by NW Natural in its May 27, 2005 compliance filing fulfill the terms prescribed in Judge Logan's May 20, 2005 Prehearing Conference Report, and recommend that these tariffs be approved by the Commission and remain in effect until the conclusion of this proceeding.

9. The Parties agree that the DMN tariff, Schedule 190, should be extended for four (4) years, through September 30, 2009. Extending the DMN tariff for this period would allow the tariff to be analyzed alongside the Company's weather-adjusted rate mechanism ("WARM"), which will be in place through September 30, 2008, in accordance with the terms of the Stipulation approved by the Commission in Docket UG 152. (Order No. 03-507, Appendix C) Extending DMN for one additional year beyond the current sunset date for WARM (for a total of four years) ensures that any delays in analyzing and potentially extending WARM do not impact DMN. The Parties further agree that Schedule 190, as so extended, should be modified in accordance with paragraph 10 below.

10. The Parties agree that the DMN tariff, Schedule 190, to be extended pursuant to paragraph 9 above should be modified to revise to 100% the 90% factor that is currently applied to deferral adjustments.

11. The Parties agree that the proposed Schedule 190 included as NWN Exhibit 101 implements paragraphs 9 and 10 of this Stipulation, and should be approved by the Commission to become effective at the conclusion of this proceeding. This proposed tariff is included as Attachment 1 to this Stipulation.

12. The Parties agree that so long as the Company's DMN tariff, Schedule 190, remains in effect, the Parties will not seek termination of the Company's Schedule 301 (Public Purposes Funding Surcharge), Schedule 310 (Oregon Low-Income Gas Assistance, or "OLGA"), and Schedule 320 (Oregon Low-Income Energy Efficiency Program). Nothing in this paragraph shall preclude the Company from making tariff revisions directed by the Commission or making routine tariff revisions to Schedules 301, 310, and 320 after consultation with the Parties, prior to September 30, 2009.

13. Industrial customers served on Schedules 3, 31 and 32 and industrial customers under special contracts will not be charged for any of the gas-related programs listed in paragraph #12. Correspondingly, these customers will not be eligible for Energy Trust Funding for natural gas related conservation and efficiency programs. The parties agree to work in good faith to monitor and police this provision.

14. The Company will work with representatives from CADO, OECA and other interested parties to establish an advisory group for the Oregon Low-Income Gas Assistance ("OLGA") program. This advisory group shall meet on a quarterly basis for the purpose of facilitating communications and providing advice regarding the administration of the OLGA program. The first meeting of this advisory group shall occur no later than October 1, 2005.

15. The Parties agree that this Stipulation is in the public interest and results in an overall fair, just, and reasonable outcome of the matters at issue in this proceeding

16. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements, and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this or any other proceeding.

17. This Stipulation will be offered into the record of this proceeding as evidence pursuant to OAR 860-014-0085. The Parties agree to support this Stipulation throughout this proceeding and any appeal, provide witnesses to sponsor this Stipulation at the hearing, if such hearing is held, and recommend that the Commission issue an order adopting the settlements contained herein.

18. If this Stipulation is challenged by any other party to this proceeding, the Parties to this Stipulation reserve the right to cross-examine witnesses and put on such case as they deem appropriate to respond fully to the issues presented, including the right to raise issues that are incorporated in the settlements embodied in this Stipulation. Notwithstanding this reservation of rights, the Parties agree that they will support the Commission's adoption of the terms of this Stipulation.

19. The Parties have negotiated this Stipulation as an integrated document. If the Commission rejects all or any material portion of this Stipulation or imposes additional material conditions in approving this Stipulation, any Party disadvantaged by such action shall have the rights provided in OAR 860-014-0085 and shall be entitled to seek reconsideration or appeal of the Commission's Order.

20. By entering into this Stipulation, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed by any other party in arriving at the terms of this Stipulation. No Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding.

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

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

DATED: August 5, 2005.

NORTHWEST NATURAL GAS COMPANY

By [signature]
C. Alex Miller
Director, Regulatory Affairs and Forecasting

CITIZENS' UTILITY BOARD

By [signature]
Bob Jenks
Executive Director

OREGON DEPARTMENT OF ENERGY

By Phil Carver 7/27/05
Philip H. Carver

NW ENERGY COALITION

By ______________________
Steven Weiss
Sr. Policy Associate

NATURAL RESOURCES DEFENSE COUNCIL

By ______________________
Steven Weiss

COMMUNITY ACTION DIRECTORS OF OREGON

By ______________________
Jim Abrahamson
Oregon Energy Partnership Coordinator

OREGON ENERGY COORDINATORS ASSOCIATION

By ______________________
Jim Abrahamson
Oregon Energy Partnership Coordinator

PUBLIC UTILITY COMMISSION OF OREGON

By ______________________
Jason W. Jones
Attorney for Staff

NORTHWEST INDUSTRIAL GAS USERS

By

______________________
Paula E. Pyron
Executive Director

OREGON DEPARTMENT OF ENERGY

By ______________________

Philip H. Carver

NW ENERGY COALITION

By ______________________

Steven Weiss
Sr. Policy Associate

NATURAL RESOURCES DEFENSE COUNCIL

By ______________________

Steven Weiss
for Ralph Cavanagh

COMMUNITY ACTION DIRECTORS OF OREGON

By ______________________

Jim Abrahamson
Oregon Energy Partnership Coordinator

OREGON ENERGY COORDINATORS ASSOCIATION

By ______________________

Jim Abrahamson
Oregon Energy Partnership Coordinator

PUBLIC UTILITY COMMISSION OF OREGON

By ______________________

Jason W. Jones
Attorney for Staff

NORTHWEST INDUSTRIAL GAS USERS

By

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Sr Policy Associate

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PUBLIC UTILITY COMMISSION OF OREGON

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~~Jason W. Jones~~ Stephanie S. Andrus
Attorney for Staff

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Executive Director