

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

NORTHWEST NATURAL GAS
COMPANY,

Respondent.

DOCKET UG-111233

SETTLEMENT STIPULATION

1 As described below, Northwest Natural Gas Company (“NW Natural” or “Company”) and Staff of the Washington Utilities and Transportation Commission (“Staff”) (individually, “Party;” collectively, “Parties) have reached an agreed resolution of issues in this docket, subject to approval by the Washington Utilities and Transportation Commission (“Commission”). The only other parties to this docket—the Public Counsel Section of the Office of the Attorney General (“Public Counsel”) and the Northwest Industrial Gas Users (“NWIGU”)—are not parties to this Stipulation; however, Public Counsel and NWIGU do not object to this agreement. This Settlement Stipulation (“Stipulation”) is being filed with the Commission as a “full settlement” pursuant to WAC 480-07-730(1).

2 The Parties understand that this Stipulation is not binding on the Commission or any Party unless and until the Commission approves it.

I. PARTIES

3 This Stipulation is entered into by the Company and Staff regarding NW Natural's Advice No. WUTC 11-4 filing, which is pending in the above docket. Public Counsel and NWIGU are not parties to the Stipulation but they do not object.

II. RECITALS

4 NW Natural has entered into a joint venture with Encana Oil & Gas (USA) Inc. ("Encana") under which NW Natural will partially fund the drilling of wells in the Jonah Field in Wyoming (the "Transaction"). In exchange for providing these funds, NW Natural will earn a working interest in the reserves in the field. Over 5 years, NW Natural will invest about \$251 million and expects that it will receive about 93.1 BCF of gas from the Transaction over the life of the wells from which it will receive gas. NW Natural expects to acquire about 26 percent of the volumes in the first five years, 63 percent in the first 10 years, 83 percent in the first 15 years, and 94 percent by the end of year 20. The remaining volumes will be received until the wells are finally capped at the end of their useful life—estimated to be approximately 30 years from signing. The Transaction will provide about 10 percent of NW Natural's total annual gas requirements during the first ten years of the agreement, and will taper off over the remaining expected life of the wells.

5 By its terms, the Transaction became effective only upon the Company obtaining satisfactory regulatory approval by the Public Utility Commission of Oregon ("OPUC"). The Company required OPUC approval as a pre-condition to entering into the Transaction because of the unique nature of the Transaction, the size of the investment, and because approximately 90 percent of NW Natural's gas sales are to Oregon customers. Accordingly, prior to closing, the Company sought an order by the OPUC (a) finding that its investment

was prudent; and (b) adopting NW Natural's rate recovery proposal. Thus, the Company negotiated a "regulatory out" in the contract underlying the Transaction providing that the Transaction would not close without regulatory approval that was satisfactory to NW Natural.

6 The OPUC issued Order No. 11-040 on April 28, 2011, which provided the necessary regulatory approval for the Transaction to be finalized and become effective.¹

7 On July 7, 2011, NW Natural made filings with this Commission, requesting regulatory approval of the Transaction similar to that received by the OPUC. In particular, the Company filed with the Commission revisions to its Schedule P, which governs the Company's Purchased Gas Cost Adjustment Mechanism. The filing seeks to revise the definition of gas commodity costs to include the costs of gas reserves associated with volumes of natural gas forecasted to be received by the Company through its acquisition of gas reserves resulting from the Transaction. Specifically, the filing requests (1) that the Commission issue a finding that the Company's decision to enter into the Transaction was a prudent one, and (2) that the Commission approve the Company's proposed ratemaking treatment of the costs and benefits of the Transaction.

8 By an order dated July 28, 2011, the Commission suspended NW Natural's proposed tariff revision.² On August 2, 2011, Public Counsel filed a notice of appearance. On August 10, 2011, NWIGU filed both a notice of appearance and a petition to intervene.

¹ *Re Northwest Natural Gas Company*, Dockets UM 1520 and UG 204, Order No. 11-040 (Apr. 28, 2011). That order was subsequently corrected by Order No. 11-044 issued on May 2, 2011. On May 25, 2011, the OPUC issued Order No. 11-176 that set forth in greater detail the OPUC's analysis of the Transaction and its reasons for approval.

² *Wash. Utilities and Transp. Comm'n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 01 (July 29, 2011).

On August 2, 2011, the Commission issued a Notice of Prehearing Conference. Before that prehearing conference was held both Staff and Public Counsel notified NW Natural that they would oppose the Company's filing, and Staff indicated that it would support (and the Company indicated that it would agree to) the withdrawal of the filing, such that the costs and benefits of the Transaction would not be charged or allocated to Washington customers. Therefore, after further discussions, on September 23, 2011, NW Natural and Staff filed a Joint Motion to Allow Withdrawal of Tariff Filing ("Joint Motion"). The Joint Motion stated that the Company wished to withdraw the tariff filing with the understanding that the Commission would not require the Company at any time in the future to include the costs or benefits of the Transaction in Washington rates. The Company requested this condition because of the nature of the Transaction. Specifically, as is the case with most hedges entered into for the purposes of reducing price volatility, the gas acquired under the transaction is expected to be priced above market at times, especially during the early years of its operation, while gas produced in other years, and especially the later years of its operation, is expected to be acquired at a cost below market prices. The Company's position is that it would therefore be inequitable to require Oregon customers to absorb the costs of the Transaction in certain years, when the cost is above market prices, only to share the benefits in other years when the cost is below the market.

On October 12, 2011, Administrative Law Judge ("ALJ") Dennis J. Moss issued Order 02, which granted, in part, the Joint Motion.³ ALJ Moss granted the Joint Motion "to the extent of giving NW Natural leave to withdraw its tariff filing, which will result in the

³ *Wash. Utilities and Transp. Comm'n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 02 (Oct. 12, 2011).

docket being closed.”⁴ However, ALJ Moss refused to provide “any commitment from the Commission concerning the current or future treatment of costs associated with the Encana contract.”⁵ In rejecting the Company’s request for such a commitment, ALJ Moss observed that “The Joint Motion offers no explanation of what the assurance it seeks might portend for Washington customers in terms of present or future costs of gas that will be passed through in rates via the regular purchased gas adjustment process before the Commission or otherwise.”⁶

11 Order 02 provided several avenues by which NW Natural could move forward if it chose not to withdraw the filing. First, the Parties could propose a settlement supporting the inclusion of the costs and benefits of the Transaction in Washington rates.⁷ Second, the Parties “might agree, as implied by the Joint Motion, that the costs of this contract can be accounted for separately from other gas costs and simply not allowed to impact rates to customers in Washington.”⁸ In either of these cases, the Parties must provide robust evidentiary support for whatever settlement is reached. Third, the parties could litigate the matter before the Commission.⁹

⁴ *Wash. Utilities and Transp. Comm’n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 02 at ¶ 12 (Oct. 12, 2011).

⁵ *Wash. Utilities and Transp. Comm’n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 02 at ¶ 10 (Oct. 12, 2011). ALJ Moss characterized the Joint Motion as akin to a settlement lacking evidentiary support. *Wash. Utilities and Transp. Comm’n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 02 at ¶ 7 (Oct. 12, 2011).

⁶ cite

⁷ *Wash. Utilities and Transp. Comm’n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 02 at ¶ 8 (Oct. 12, 2011).

⁸ *Wash. Utilities and Transp. Comm’n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 02 at ¶ 9 (Oct. 12, 2011).

⁹ *Wash. Utilities and Transp. Comm’n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 02 at ¶ 11 (Oct. 12, 2011).

12 In response to Order 02, on October 19, 2011, NW Natural filed a letter with the
Commission stating that the Company did not intend to withdraw its filing and requesting
that a prehearing conference be scheduled. The letter also indicated that the Parties would
continue discussions in an attempt to reach a mutually agreeable resolution of the issues in
this docket.

13 A prehearing conference was convened on December 1, 2011. Thereafter, on
December 23, 2011, the Commission issued Order 04, which established the procedural
schedule for this docket.¹⁰ Order 04 also granted NWIGU's petition to intervene.

14 The Parties have reached an agreed resolution of this proceeding and wish to present
their agreement for the Commission's consideration. The Parties therefore adopt the
following Stipulation, which is entered into by the Parties voluntarily to resolve matters in
dispute among them in the interests of expediting the orderly disposition of this proceeding.

III. AGREEMENT

A. Withdrawal of Filing.

15 The Parties agree that NW Natural will withdraw its tariff filing that is the subject of
this docket, resulting in this docket being closed.

B. Exclusion of the Costs and Benefits of the Transaction from Washington Rates.

16 The Parties agree that NW Natural will not include in its Washington rates any of the
costs or benefits associated with the Transaction. Accordingly, the Company will maintain
a gas supply portfolio specific to Washington customers. This Washington-specific
portfolio will consist of the Washington jurisdictional share of all resources except the gas
supply specific to the Transaction. In addition, and in place of a share of the gas supply

¹⁰ *Wash. Utilities and Transp. Comm'n v. Northwest Natural Gas Co.*, Docket UG-111233, Order 04 (Dec. 23, 2011).

specific to the Transaction, the Company will allocate to the Washington portfolio an appropriate share of additional resources so that the Washington customers will be served consistently with the Company's past practice with a mix of financial hedges, storage inventories, and market purchases, designed to produce the optimal levels of risk, and the least cost for customers.

17 The parties agree that NW Natural's Oregon customers have borne and will continue to bear the costs of the Transaction during the early year[s] when the costs of the Transaction gas has been and is expected to continue to be above market. Accordingly, it would not be fair for Washington customers to benefit from the Transaction later when the gas is expected to be below market. For this reason, the Parties agree that they will not, at any later date, ask that Washington customers be allocated any of the burdens or benefits of the Transaction.

18 The Parties agree that this approach is prudent and will not result in prejudice to Washington customers.

C. General Provisions

19 The Parties agree that this Stipulation is in the public interest and would produce rates for the Company that are fair, just, reasonable, and sufficient. The Parties agree to support this Stipulation as a settlement of all contested issues in this proceeding. The Parties further agree that this Stipulation, upon its approval by the Commission, resolves and concludes this proceeding. The Parties understand that this Stipulation is not binding on the Commission or any Party unless and until it is approved.

20 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.

21 The Parties agree this Stipulation represents the entire agreement of the Parties, and it supersedes any and all prior oral or written understandings or agreements related to this docket or this settlement, if any, and no such prior understanding, agreement or representation shall be relied upon by any Party. Parties have negotiated this Stipulation as an integrated document. Accordingly, the Parties recommend that the Commission adopt this Stipulation in its entirety.

22 The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and cooperate in supporting this Stipulation throughout the Commission's consideration of this Stipulation. In particular, each Party shall cooperate in developing a narrative and presenting supporting witnesses, and/or presenting supporting testimony, as described in WAC 480-07-740(2)(a) and (b). The Parties agree to support the Stipulation throughout the Commission's consideration of this Stipulation, and abide by the procedures determined by the Commission for its review of this Stipulation. If necessary, each Party will provide witnesses to sponsor and support this Stipulation at a Commission hearing. If the Commission decides to hold such a hearing, each Party will recommend that the Commission issue an order adopting the Stipulation. In the event the Commission rejects this Stipulation, the provisions of WAC 480-07-750(2)(a) shall apply. In the event the Commission accepts the Stipulation upon conditions not proposed herein, the provisions of WAC 480-07-750(2)(b) shall apply. In the event the Commission accepts the Stipulation upon conditions not proposed herein, or approves resolution of this proceeding through

provisions that are different than recommended in this Stipulation, each Party reserves the right, upon written notice to the Commission and all parties to this proceeding within seven (7) days of the Commission's order, to state its rejection of the conditions. If any Party rejects a proposed new condition, the Parties will: (1) request the prompt reconvening of a prehearing conference for purposes of establishing a procedural schedule for the completion of the case pursuant to WAC 480-07-750(2)(a); and, (2) cooperate in development of a schedule that concludes the proceeding on the earliest possible date, taking into account the needs of the Parties in participating in hearings and preparing briefs.

23 In the event the Commission determines that it will reject the Stipulation or accept the Stipulation upon conditions not proposed herein, the Parties request that the Commission issue an order as soon as possible so that the Parties may promptly invoke the provisions of WAC 480-07-750.

24 The Parties enter into this Stipulation to avoid further expense, inconvenience, uncertainty, and delay. By executing this Stipulation, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed in arriving at the terms of this Stipulation, nor shall any Party be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except to the extent expressly set forth in the Stipulation.

25 This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document. A Party may authorize another Party to sign on the first Party's behalf. A signed signature page that is faxed or emailed is acceptable as an original signature page signed by that Party.

26 This Stipulation is the product of negotiation and no part shall be construed against any Party on the basis that it was the drafter.

27 Each Party agrees to provide all other Parties the right to review in advance of publication any and all announcements or news releases that any other Party intends to make about the Stipulation (with the right of review to include a reasonable opportunity to request changes to the text of such announcements). Each Party also agrees to include in any news release or announcement a statement to the effect that the Commission Staff's recommendation to approve the Stipulation is not binding on the Commission itself.

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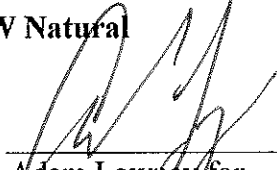
28 The effective date of this Stipulation is the date of the Commission order approving
it

29 This STIPULATION is entered into by each Party as of the date entered below.

DATED: April 24, 2012.

NW Natural

By

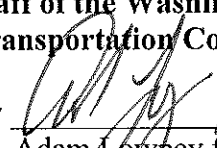

Adam Lowney for
Alex Miller
Vice President, Regulation

Date:

4/24/12

**Staff of the Washington Utilities and
Transportation Commission**

By

 per authorizer
Adam Lowney for
Sally Brown
Senior Counsel

Date:

4/24/12