

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

UG-170094

NORTHWEST NATURAL GAS COMPANY

**Application for Approval of Corporate Reorganization
to Create a Holding Company**

Attachment 1

December 21, 2017

Docket UG-170094
NW Natural's Application for Corporate Reorganization to Create a Holding Company
HoldCo and NW Natural List of Ring-Fencing Commitments

DEFINITIONS

Affiliate shall mean any entity that has an affiliated interest with NWN-U, HoldCo, or a subsidiary of either NWN-U or HoldCo pursuant to RCW 80.16.010 and RCW 80.16.020.

Capital Structure shall mean proportions of Common Equity and Long-Term (LT) Debt (with maturities exceeding 1 year) adding up to 100 percent for a named (or place-holder) corporation, wherein Common Equity does not include "Goodwill" and equity associated with non-regulated assets. For purposes of these commitments, LT Debt does not include imputed debt or debt-like lease obligations.

Commission shall mean the Washington Utilities and Transportation Commission.

Credit Ratings shall mean ratings provided by Standard and Poor's (S&P) or Moody's Corporate (Moody's), as described in the commitments herein.

Golden Share shall mean the sole (\$1 Par) share of Preferred Stock of NWN-U authorized by the Commission. This share of Preferred Stock must be in the custody of an independent third-party.¹ In matters of voluntary bankruptcy, this share will override all other outstanding shares of all types or classes of stock.

NWN-U shall refer to NW Natural, the regulated natural gas utility company.

Rating Agencies shall mean S&P's or Moody's.

COMMITMENTS

GENERAL

1. NWN-U and HoldCo recognize that these commitments, except for Commitment 35, may be modified as a result of regulatory decisions or settlements in other states regarding NWN-U's proposed corporate restructuring. For example, the Commission may add any condition imposed by the Oregon Public Utilities Commission (OPUC) or the California Public Utilities Commission (CPUC) to the extent it relates to NWN-U. In the event that

¹ The third-party must have no financial stake, affiliation, relationship, interest, or tie to HoldCo, NWN-U, any affiliates of HoldCo or NWN-U, or any lender to HoldCo or NWN-U or any affiliates of HoldCo or NWN-U. This is not meant to preclude the third-party from holding an index fund or mutual fund with negligible interests in HoldCo or NWN-U. If NWN-U finds that a qualified third-party has reservations about declaring its conformance to this provision, NWN-U will notify the Commission of those reservations via a filing in this docket.

the Commission elects to adopt conditions from other jurisdictions, the Commission can re-open and re-issue the order approving the Amended Application to add those conditions accepted or ordered in another state jurisdiction.

2. NWN-U and HoldCo will enter into an agreement that incorporates the ring-fencing provisions set forth herein. This agreement will be binding on NWN-U and HoldCo. This agreement will be filed with the Commission within 90 days of the transaction's closing. NWN-U and HoldCo commit that they will comply with Commission-approved ring-fencing conditions and will make no amendments, revisions, or modifications to this agreement or any ring-fencing provisions without prior Commission approval.
3. Nothing in these Reorganization commitments will be interpreted as a waiver of NWN-U's or HoldCo's rights to request confidential treatment for information that is the subject of any of these commitments.

FINANCIAL PROTECTIONS

Credit and Capital Structure

4. HoldCo and NWN-U will maintain separate corporate credit ratings (if any), Long-Term (LT) Debt ratings (if any), and preferred stock ratings (if any), and make these credit ratings available to the Commission and Staff upon request. NWN-U will also maintain adequate: (a) interest coverage and (b) pool of qualified NWN-U assets to maintain the ability to issue First Mortgage Bonds (FMB).

NWN-U agrees to provide notice and, if requested, consult with Commission Staff in the event that S&P or Moody's downgrades NWN-U's secured credit rating for any reason.

If NWN-U's LT secured debt rating drops to BBB+ for S&P or Baa1 for Moody's, NWN-U will file a plan with the Commission detailing a range of options to maintain or restore NWN-U's LT secured credit rating, or to explain actions consistent with NWN-U's customers' best interest. Upon Commission request, NWN-U will present this plan to the Commission, with appropriate provisions in place to protect confidential information.

5. NWN-U Common Equity must be maintained at a level no less than 44 percent and no more than 56 percent of total NWN-U Capital Structure determined on a preceding or projected thirteen month average. Should NWN-U's equity component of its capital structure fall outside the range of 56 to 44 percent, NWN-U shall, within 5 business days: (A) notify the Commission; and (B) provide an explanation for why NWN-U Common Equity fell below 44 percent, for example, how the drop was caused by forces or events beyond HoldCo and/or NWN-U's control.

6. HoldCo and NWN-U guarantee that Customers of NWN-U will be held harmless from any adverse rate impacts caused by NWN-U's Rate of Return, Common Equity, and LT Debt becoming more costly after the restructuring than they would be had NWN-U not reorganized. For seven years following the reorganization, NWN-U bears the burden of showing that any increase in NWN-U's Cost of LT Debt or cost of Common Equity (to the extent Common Equity affects customers), for which rate recovery is sought did not result from factors associated with either the reorganization or any subsequent HoldCo Mergers & Acquisitions (M&As).
7. HoldCo and NWN-U guarantee that NWN-U customers shall be held harmless if the reorganization or any subsequent HoldCo M&As cause a higher revenue requirement for NWN-U than if the reorganization had not occurred.
8. HoldCo and NWN-U commit that neither NWN-U nor NWN-U's subsidiaries² will:
 - A. Make loans or transfer funds (other than dividends and payments pursuant to the MSA) to HoldCo or Affiliates other than NWN-U's subsidiaries;
 - B. Assume any obligation or liability as guarantor, endorser, surety, or otherwise for HoldCo or Affiliates other than NWN-U's subsidiaries;
 - C. Transfer any of its utility assets or property to HoldCo or Affiliates other than NWN-U's subsidiaries;
 - D. Seek to pledge utility assets or securities backing for any hedging, indebtedness, or securities of HoldCo or Affiliates other than NWN-U's subsidiaries;
 - E. Enter into cross-default provisions involving HoldCo or Affiliates other than NWN-U subsidiaries; and
 - F. Participate in a money pool with HoldCo or Affiliates other than NWN-U subsidiaries.

Dividends

9. No dividends or like payments or distribution (special, one-time, or otherwise) may be drawn from NWN-U, if the dividend or distribution would cause:
 - A. NWN-U Common Equity to fall below 44 percent of NWN-U Capital Structure determined on a preceding or projected thirteen month average; or
 - B. NWN-U's LT secured credit ratings to drop below BBB- for S&P and Baa3 for Moody's.

Notwithstanding the above, if NWN-U's LT secured credit ratings are below A- for S&P and A3 for Moody's, then NWN-U may only issue dividends (special, one-time, or

² As used in Commitment 8, "NWN-U's subsidiaries" means only NWN Energy and Gas Reserves.

otherwise) so long as NWN-U's Common Equity is 45 percent or above (determined on a preceding or projected thirteen-month average). Further, if NWN-U's LT secured credit ratings are below BBB for S&P and Baa2 for Moody's, then NWN-U may only issue dividends (special, one-time, or otherwise) so long as NWN-U's Common Equity is 46 percent or above (determined on a preceding or projected thirteen-month average).

Table 1 below depicts the conditions under which NWN-U may make dividend distributions under the above-described conditions.

Table 1:

	S&P	Moody's	Equity Ratio
Investment Grade	AAA	Aaa	44% or above
	AA+	Aa1	
	AA	Aa2	
	AA-	Aa3	
	A+	A1	
	A	A2	
	A-	A3	45% or above
	BBB+	Baa1	
	BBB	Baa2	
	BBB-	Baa3	46% or above
Non-Investment Grade	BB+ (or below)	Ba1 (or below)	No Dividend

10. NWN-U must notify the Commission no less than seven calendar days before dividending or otherwise transferring five percent or more of its retained earnings. Additionally, NWN-U will notify the Commission of:

- A. Its intention to transfer more than 10 percent of its retained earnings out of NWN-U over a six-month period;

- B. Its intention to declare a special cash dividend (defined as a one-time dividend that is paid in addition to NWN-U's established or expected quarterly dividend), at least 30 days before declaring the dividend.

Bankruptcy Protection

- 11. Within 60 days of the Commission's order on NWN-U's application to restructure, NWN-U will provide a non-consolidation opinion to the Commission which concludes that the ring-fencing provisions (these commitments and any additional conditions adopted by the Commission in its order) are sufficient such that a bankruptcy court would not order the substantive consolidation of the assets and liabilities of NWN-U (including direct subsidiaries) with those of HoldCo, its affiliates or subsidiaries (excluding NWN-U's direct subsidiaries).³ If the commitments and conditions adopted by the Commission are insufficient to obtain a non-consolidation opinion, NWN-U will undertake the following actions:
 - A. Promptly notify the Commission of its inability to obtain a non-consolidation opinion;
 - B. Propose and implement, subject to Commission approval, such actions or additional ring-fencing provisions that are sufficient to obtain such a non-consolidation opinion; and
 - C. Obtain such a non-consolidation opinion and provide it to the Commission.

If after these actions, NWN-U is unable to obtain the non-consolidation opinion, NWN-U will notify the Commission and the Commission may deny NWN-U's application in a subsequent order.

- 12. A voluntary petition for bankruptcy by NWN-U would require:
 - A. The unanimous vote of the NWN-U Board of Directors (BOD), inclusive of the vote of a least one independent director; and
 - B. The vote of the holder of a "Golden Share," which is defined at p. 1 as the sole (\$1 Par) share of Preferred Stock of NWN-U authorized by the Commission. This share of Preferred Stock must be in the custody of an independent third party as defined at p. 1. In matters of bankruptcy, this share will override all other outstanding shares of all types or classes of stock. The Golden Share is established for the sole purpose of having the right to vote on whether NWN-U files a petition for voluntary bankruptcy.

³ The non-consolidation opinion will not opine that Gas Reserves and NWN Energy will not be substantively consolidated with NWN-U in the event of a bankruptcy, as those entities hold assets utilized by the utility in delivery of its services.

13. NWN-U and NWN-U's two subsidiaries (NW Energy Corp. and NWN Gas Reserves), will not hold HoldCo investments, with the exception of NWN-U sponsored employee benefit plans or employee compensation plans.

ACCOUNTING & COST ALLOCATION

Accounting Generally

14. NWN-U will maintain its books and records (inclusive of audit trails with supporting records) separate from HoldCo's books and records, with the accounting information and financial books and records kept at NWN-U headquarters in Oregon. NWN-U's financial books and records and state and federal regulatory filings and documents will continue to be available to the Commission, consistent with RCW 80.04.075, at NWN-U's headquarters in Oregon, or as provided to the Commission in Washington with reasonable efforts.
15. NWN-U assets, cash flows, and financial accounts may not be co-mingled with existing affiliates, or with any new affiliates or operations resulting after the creation of HoldCo.
16. So long as required by the U.S. Securities and Exchange Commission (SEC), NWN-U will maintain separate financial statements that will be filed with the SEC. In the event separate financial statements are no longer required to be filed with the SEC, NWN-U will file separate financial statements with the Commission.

HoldCo Formation Costs

17. Organizational, start-up, or other costs associated with the creation of HoldCo will be separately tracked as costs of HoldCo with no charges, either allocated or direct, to be recovered from NWN-U customers. After the creation of HoldCo, any remaining formation costs or other HoldCo-related costs will not appear on NWN-U's books, or the books of NWN-U's subsidiaries. NWN-U shall furnish the Commission with journal entries and supporting detail showing the nature and cost of all organizational, start-up, and other costs for HoldCo (including but not limited to management time, BOD time, in-house and outside counsel time, any consultants engaged, etc.) since the reorganization was first contemplated, as well as the accounts charged, within 120 days of a Commission order in this docket.
18. NWN-U will exclude from NWN-U general rate cases, or any other method of cost recovery, all costs related to reorganization and all of HoldCo's costs related to future business endeavors and M&As including but not limited to: all legal work from in-house counsel and outside counsel; NWN-U BOD time; costs related to M&A consulting and

advice; preparation of and materials for HoldCo-related presentations; and other reorganization and expansion costs.

19. Taxes and assessments paid to the federal government, to states, and to political subdivisions thereof shall be no greater than they would be had the Company not restructured. Tax benefits that would not exist had the Company not restructured may be addressed in proceedings before the Commission; however, until that time, NWN-U shall set up a mechanism to monitor, for informational purposes,⁴ income tax expense and potential benefits for NWN-U.

Allocations between NWN-U and HoldCo

20. The Commission may audit the accounting records of HoldCo and Affiliates that are the basis for charges to NWN-U, to determine the reasonableness of the costs and the allocation factors used by the HoldCo or its subdivisions to assign costs to NWN-U and amounts subject to allocation or direct charges. HoldCo and Affiliates will cooperate fully with such Commission audits.
21. HoldCo and NWN-U will maintain robust systems to track employee, officer, director, agent, and attorney time (inclusive of loading percentages), identifying to within an hour, time not spent for NWN-U utility purposes that shall not be allocated to NWN-U, subject to the cost-allocation principles set forth in Commitment 25.
22. NWN-U bears the burden of proof that a particular expense from HoldCo or an affiliate of HoldCo may be allocated to NWN-U ratepayers.

Prevention of Cross-Subsidization

23. HoldCo and NWN-U will comply with all applicable Washington statutes⁵ and Commission regulations⁶ regarding affiliated interest transactions, including timely filing of applications and reports.
24. NWN-U will not cross-subsidize between NWN-U and any other businesses (with the exception of NWN-U and its direct subsidiaries⁷ as approved by the Commission), and shall comply with the Commission's applicable orders and rules with respect to such matters.

⁴ This provision does not prevent parties in future proceedings from arguing that these tracked benefits should be passed on to customers.

⁵ Chapter 80.16 RCW.

⁶ WAC 480-90-245, WAC 480-90-264, and any other applicable rules.

⁷ Meaning NWN Energy and Gas Reserves.

25. Any allocation of costs, corporate and Affiliate investments, expenses, or overheads between NWN-U and HoldCo or an affiliate will comply with the following principles:
- A. For services rendered to NW Natural or each cost category subject to allocation to NW Natural by HoldCo or any of its affiliates, NW Natural must be able to demonstrate that such service or cost category is necessary to NW Natural for the reasonable performance of its regulated operations, is not duplicative of services already being performed within NW Natural, and is reasonable and prudent.
 - B. Costs will be directly assigned to NWN-U if NWN-U is the direct cause of or sole beneficiary of the cost. Shared or indirect costs will be allocated based upon primary, demonstrable, and transparent cost-driving factors.
 - C. HoldCo and all subsidiaries and affiliates will maintain accounting systems adequate to support the allocation and assignment of costs of executives and other relevant personnel to or from NWN-U. See Commitment 21 above for further detail.
 - D. All costs subject to allocation will be auditable and their origin among the companies must be demonstrable, so as to be specifically identified and tracked. Failure to adequately support any allocated cost may result in denial of its recovery in rates.
 - E. The Company's Master Services Agreement (MSA), itemizing and explaining corporate cost allocation methods used to set rates will be fully described and supported in testimony and work papers in NWN-U's first general rate case submitted after this application is approved by the Commission. Thereafter, the MSA will be filed along with any general rate case filed with the Commission. This filing will capture, highlight and explain all changes since the MSA was last provided to the Commission. The entirety of the MSA and its components are subject to review and approval by the Commission in subsequent proceedings before the Commission to confirm that cost drivers, accounting methods, assumptions, and practices result in fair, just and reasonable utility rates. The Company will update and re-file the MSA and AI Reporting reflecting HoldCo organizational detail within 90 days of the outcome of Docket UG-170094.
 - F. Costs which would have been denied recovery in rates had they been incurred by NWN-U will likewise be denied recovery whether they are allocated directly or indirectly through subsidiaries of HoldCo.
 - G. HoldCo and NWN-U commit to using asymmetrical pricing, (*i.e.* goods or services priced at higher of cost or market when purchased from or provided by NW Natural, and priced at lower of cost or market when sold to or provided to NW Natural) if the transaction involves a cost of more than \$100,000.

ACCESS TO RECORDS & INFORMATION

26. HoldCo, NWN-U and all Affiliates shall provide the Commission access to:
 - A. All books of account, budgets, integrated resource planning, documents, data, records, accounting, and financial information which pertain to transactions between NWN-U on the one hand, and HoldCo or HoldCo's affiliates on the other, which are reasonably calculated to lead to information relating to NWN-U or may directly or indirectly affect NWN-U.
 - B. Unrestricted access to the written information inclusive of accounting and financial metrics that HoldCo provides to the Rating Agencies and that is reasonably calculated to lead to information relating to NWN-U or may directly or indirectly affect NWN-U.
 - C. HoldCo and NWN-U BOD meeting minutes and presentations for BOD meetings, committees and subcommittees thereof, as well as investor presentations and transcripts that are reasonably calculated to lead to information relating to NWN-U or may directly or indirectly affect NWN-U.
27. HoldCo and NWN-U shall provide the Commission with complete and unrestricted access to all information provided by and to common stock, bond, or bond rating analysts, which directly or indirectly pertains to NWN-U. Such information includes, but is not limited to, opinions, reports and presentations made to or provided by common stock analysts and bond rating analysts.
28. The provisions for access to records and information in this section are not intended to limit or restrict in any way the Commission's access to records and information under federal or state law.
29. HoldCo, NWN-U, and Affiliates will make their employees, officers, directors and agents available to testify before the Commission at the Commission's request to provide information the Commission considers relevant to matters within its jurisdiction
30. For the first five calendar years after reorganization, HoldCo and NWN-U will report on how the company complied with each of the commitments listed herein no later than June 15 of each year. This report will require an officer attestation of compliance with the commitments. If any of the commitments are not being met, the report shall include proposed corrective measures relative to the specific commitment, subject to Commission revision and appropriate remedy as determined by the Commission.
31. HoldCo and NWN-U agree that in the event that a dispute arises concerning access to records and information in Commitments 26-30, the Commission shall determine what records and information are discoverable.

REORGANIZATION CONTINUITY

Service Quality

32. HoldCo and NWN-U agree that NWN-U will maintain safety standards and policies substantially comparable to or better than the NWN-U currently maintained standards and policies. Neither HoldCo formation nor future acquisitions may diminish delivery of safe and reliable utility service in Washington. NWN-U will continue to fully comply with CFR Title 49 Parts 190 to 199.

Miscellaneous

33. NWN-U will maintain its corporate headquarters in Oregon.
34. NWN-U will not oppose maintaining current or greater support levels for energy efficiency and renewable natural gas for two years after the Commission issues a final order in this docket.

COST SAVINGS

Credits to Customers

35. For a period of three years following the formation of HoldCo, NWN-U will provide an annual credit to Washington customers in the amount of \$55,000 on an equal percent margin basis concurrent with NWN-U's PGA.
36. Cost savings, inclusive of loadings, allocable to NWN-U that are achieved as a result of HoldCo's future (M&A), if greater than \$50,000, will be deferred and later credited to Washington customers until NWN-U's second general rate case following the Commission's order in this docket. Savings will be deferred and credited to the extent that the saved costs, inclusive of loadings, are otherwise already included in NWN-U's customers' rates, and from the time when the savings were realized.

Future Mergers & Acquisitions

37. Upon approval of the HoldCo formation, holders of NWN-U stock, or holders of contractual rights to own such stock (such as stock options or convertible preferred stock), as well as upstream parent companies of Hold-Co, are subject to the requirements of chapter 80.12 RCW to the same extent as NWN-U, for purposes of property transfers involving NWN-U.

38. HoldCo or NWN-U will notify the Commission in writing subsequent to HoldCo's board approval and as soon as practicable following any public announcement of: (a) any acquisition of any business that represents five percent or more of HoldCo's capitalization, or (b) any material change in ownership of any part of NWN-U, HoldCo, or upstream ownership of either entity that does not result in a change in effective control of NWN-U; or (c) any change to NWN-U's corporate organizational chart (including upstream parents and all affiliates). "Material" shall mean 10 percent of ownership. Any transaction, regardless of size, that would result in a person, directly or indirectly, acquiring a controlling interest in NWN-U is subject to Commission approval under RCW 80.12.020.
39. HoldCo and NWN-U will refrain from seeking recovery through NWN-U rates any acquisition premiums, goodwill, transaction costs, or incremental executive bonuses associated with the reorganization or any subsequent M&As by HoldCo or any affiliates other than NWN-U.
40. Within 90 days after HoldCo acquires or creates a new subsidiary entity, HoldCo shall file with the Commission a statement that provides the name of the subsidiary, the total value of its assets, the nature of the subsidiary's business and whether it will do business with NWN-U.
41. Any diversified holdings and investments (i.e., non-utility businesses or foreign utilities) of HoldCo following approval of this transaction will not be held by NWN-U or a subsidiary of NWN-U, with the exception of NWN-U sponsored employee benefit plans or employee compensation plans. This Commitment will not prohibit HoldCo or its affiliates other than NWN-U from holding diversified businesses. This provision will also not prohibit NWN-U from continuing to hold the assets it holds within NWN-U immediately prior to the reorganization, including but not limited to the appliance center and interstate storage business.