CABLE HUSTON

CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP • ATTORNEYS

CHAD M. STOKES cstokes@cablehuston.com
TOMMY A. BROOKS tbrooks@cablehuston.com

September 14, 2012

VIA EMAIL FILING TO RECORDS CENTER
Mr. David W. Danner
Executive Director and Secretary
Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Re: Commission Investigation into the Need to Enhance the Safety of Natural Gas Distribution Systems - UG-120715
Comments of the Northwest Industrial Gas Users on Proposed Interim Cost Recovery Mechanisms

Dear Mr. Danner:

These comments are being provided on behalf of the Northwest Industrial Gas Users ("NWIGU") in the above-captioned matter. NWIGU appreciates the continued opportunity to provide comments to the Washington Utilities and Transportation Commission ("Commission") and to participate in this docket.

As we have stated to the Commission before, NWIGU members are wholly aligned with the Commission's and utilities' shared goal of public safety. NWIGU is also committed to ensuring that each utility pursues a rational approach to pipeline safety that satisfies the utility's federal obligations and that balances the interests of the utility's investors with the interests of the utility's customers. Such an approach is not new, of course, because that is exactly what a utility and the Commission are required to do when setting utility rates.

General Comments

The Commission's notice seeks comment on two proposed "interim cost recovery mechanisms" developed by Commission staff ("Staff"). Before addressing the specifics of the two Staff proposals included in the August 24th Notice, we offer a few broader comments relating to the need for the Commission to adopt a specific recovery mechanism for use by all utilities.

717911

The issue of pipeline safety came to the forefront most recently as part of a proposal by Puget Sound Energy ("Puget") in Docket UG-110723 to create a tracker mechanism for recovering costs as part of its Pipeline Integrity Program (the "PIP Docket"). NWIGU participated in the PIP Docket and, at that time, supported a broader inquiry by the Commission to determine the scope of any pipeline safety problems as they relate to all utilities in Washington. During the workshop held in June, however, it became clear that each of the local distribution companies ("LDC") in Washington are very differently situated in terms of factors such as: 1) the amount of potentially risky pipe the utility has in the ground; 2) the level to which the utility is committed to replacing certain vintages or brands of potentially risky pipe; and 3) the level of detailed knowledge the utility has about the pipes in the ground. For example, one utility has been utilizing GPS technology for three decades, whereas another LDC has been utilizing that technology for only three months. Similarly, one LDC maintains that it does not allow leaky pipes to stay in the ground and that it will replace those pipes, whereas another utility will assess the extent of the leak and may simply increase the monitoring of that pipe instead of replacing it.

In light of the vastly different situations that exist for each utility, NWIGU continues to believe that the Commission should first consider whether there is or is not a particular safety problem faced by a specific utility for which any accelerated cost recovery mechanism would be in the best interests of the utility's customers. This approach would recognize the differences between each system and provide the flexibility to craft the best solution that meets the individual utility's on-the-ground needs. This approach also remains consistent with the Commission's regulatory authority to approve rates, which by its nature is a fact-specific inquiry that balances the needs of each utility and that utility's specific customers. It is also important that the Commission not try and codify a one-size-fits-all solution, because once a mechanism is in place, utilities may feel compelled to use it, or the Commission compelled to approve its use, even if that mechanism is not the right solution for that specific company in the future.

NWIGU recognizes that the Commission appears to have begun the process for considering whether there is or is not a particular safety problem faced by a specific utility. Specifically, the Commission has asked each LDC to develop a "pipeline replacement plan" that will identify such things as: 1) pipes of concern; 2) the company's strategy for replacing the riskier plastic pipes; 3) detailed cost estimates for implementing the plan; 4) a methodology for identifying and prioritizing pipe segments for replacement; and 5) factors unique to each LDC such as permitting constraints, service interruption factors, weather, and geographic location.

Until the LDCs submit their pipeline replacement plans, it is impossible to determine whether that effort will have truly identified particular safety concerns as the Commission has requested. Assuming that the plans are sufficient, however, there is a certain irony in continuing on with an effort to create a cost recovery mechanism related to the implementation of those plans. That is, if a utility has the kind of detailed information the Commission seeks, then the utility is more than capable of incorporating that information into a general rate case and recovering the costs of implementing the plan in its rates. The only reason to have an interim cost recovery mechanism plan, then, is if there is truly an interim period between general rate cases (which in Washington there never seems to be) or if the utility can demonstrate extraordinary financial circumstances that cannot be addressed through the general ratemaking process.

NWIGU also continues to urge the Commission to consider an appropriate reduction to Return on Equity ("ROE") as part of any interim cost recovery mechanism – whether adopted by rule or order. The guaranteed recovery of costs through a separate mechanism provides a utility with predictable revenue and a source of funds insulated from the risk of being used for other authorized utility purposes. That revenue stream, therefore, creates a reduced risk for at least a portion of the utility's operations and the ROE should account for that reduction.

Comments on Staff's Proposals

According to Staff's proposal, the Capital Cost Deferral and Recovery Mechanism ("CCDR") would be designed to permit a company to defer its allowed net-of-tax return on eligible replacement projects for later recovery and recover net-of-tax capital costs between rate cases. The Interim Pipeline Replacement Cost Recovery Mechanism ("IPR-CRM") would allow a company to recover costs for pipeline replacement without the deferral of any costs but still allowing for recovery between rate cases.

NWIGU has concerns about both the CCDR and the IPR-CRM that stem from the general comments above. First, neither proposal appears to make any adjustment to the utility's ROE to reflect the reduced risk inherent in the guaranteed recovery of replacement costs. Second, both proposals refer to "interim" recovery without specifying what duration of time constitutes an interim period. Additionally, although both proposals address cost recovery, the Commission is seeking input on those proposals in the absence of any sense of each utility's overall costs for implementing a pipeline replacement plan. In other words, the scope of a utility's need should inform the scope of the recovery mechanism, not the other way around.

With respect to the IPR-CRM, which Staff notes is modeled more like the mechanism adopted by the Oregon Public Utilities Commission for NW Natural, NWIGU reiterates the context in which that mechanism was established. NW Natural's System Integrity Program ("SIP") was initiated as part of an eight-year moratorium in which NW Natural was prevented from filing a general rate case. During that time, the pipeline safety regulatory structure changed in a defined way, necessitating implementation by NW Natural of a Transmission Integrity Management Program and eventually its Distribution Integrity Management Program. Because of the rate moratorium, NW Natural had no way of adjusting its rates to recover the demonstrated costs of managing its SIP.

The SIP was part of a negotiated settlement supported by customer groups because customers clearly benefited from the rate moratorium. On December 30, 2011, NW Natural's rate moratorium concluded and the Company was required to file a general rate case. The continuation of the SIP became a contested issue in that case, which is still pending. The parties to that rate case eventually agreed to a settlement in principle regarding the SIP, which, if approved, will result in the sunsetting of that program after two years. It is NWIGU's strong belief that the negotiated nature of the SIP and the accompanying eight-year rate moratorium are critical distinctions between that program and Staff's proposed IPR-CRM.

Because the record in this docket continues to lack any specific detail from the LDCs regarding the specific costs and benefits associated with the contemplated pipeline replacement plans, NWIGU respectfully reserves the right to comment further on Staff's specific proposals as this proceeding continues. NWIGU looks forward to continuing its participation in this docket and to having the opportunity to comment on any specific proposals or comments the Commission receives from other parties.

Very truly yours,

Chad M. Stokes
Tommy A. Brooks

TAB: