NW Natural®

250 SW Taylor Street
Portland, OR 97204

503-226-4211
nwnatural.com

March 1, 2023

The Honorable Pam Marsh, Chair, House Committee on Climate, Energy and Environment
The Honorable Bobby Levy, Vice-Chair, House Committee on Climate, Energy and Environment
The Honorable Emerson Levy, Vice-Chair, House Committee on Climate, Energy and Environment
Oregon House of Representatives
900 Court Street NE
Salem, Oregon 97301

Dear Representative Marsh, Representative Levy and Representative Levy,

NW Natural respectfully submits this testimony in opposition to House Bill 3152 ("HB 3152"). The direction suggested in the language of HB 3152 is not consistent with the named aims or stated goals of the bill, customer protections and facilitation of carbon emission reduction. The proposals presented neither protect customers nor guarantee climate benefit for Oregonians. Moreover, the Oregon Public Utility Commission ("OPUC") is already tackling these issues head on under its existing statutory authority, suggesting that HB 3152 is unnecessary and may undermine the Commission's recent work on these issues. Specific concerns regarding HB 3152, as filed, are included below.

Section 1 of HB 3152 does not create any new authority for the OPUC, and the OPUC has a long history of enforcing environmental statutes and regulations.

Section 1, subsection (1)(a) mandates the Oregon Public Utility Commission ("OPUC") to "[e]xercise all authority and discretion vested in the commission by law to facilitate the achievement of the state's greenhouse gas emissions reduction goals established by statute or executive order." While HB 3152 may not change the Commission's authority under the law, Section 1 of the bill is concerning because it raises questions as to how the OPUC should prioritize its core responsibilities.

State-regulated utilities, such as NW Natural, are among the most highly regulated private companies in the country because they provide an essential public service. Natural gas serves a critical public need by providing the majority of the energy that keeps Oregonians warm in the winter. In recognition of this, utilities are granted exclusive service territories and are required to offer service to all eligible customers.

In order to protect customers, Oregon law authorizes the Commission to be the economic regulator of public utilities, which serves as a proxy for competition in the market.[1] State law requires the Commission to focus on the provision of safe, reliable, affordable utility service.[2] To the extent state laws and rules set forth targets for public utilities to meet climate imperatives, the OPUC ensures those goals are met, but not without balancing its role in regulating safe, reliable and affordable service.

Currently, electric and gas utilities are modernizing their energy systems to meet the state's climate goals, while ensuring safe, reliable and affordable service. Each of these fundamental pillars of utility regulation is vital to Oregon's energy system. The Commission's expertise in economically regulating public utilities and managing this transitional period should not be called into question at such a pivotal moment. To the extent that Section 1 is not intended to reshape the Commission's management of climate issues, this section then appears unnecessary and should be removed.

Section 1, subsection (2) suggests that the OPUC has not prioritized climate action in its proceedings or that it does not already have the authority to open new proceedings to explore the topics in Section 1, subsections (2)(a) – (c). However, a review of recent dockets at the OPUC show just how committed it is to taking issues involving climate change head on:

- In response to the issuance of Executive Order 20-04 ("EO 20-04"), directing state agencies to take specific actions to reduce greenhouse gas emissions and mitigate the impacts of climate change, the OPUC immediately began developing a workplan to respond to the EO 20-04.[3]

- Before the Oregon Department of Environmental Quality even adopted its rules for the Climate Protection Plan ("CPP"), the OPUC opened a proceeding (the "Natural Gas Fact Finding") to analyze the potential natural gas utility bill impacts that may result from Oregon limiting the GHG emissions of regulated natural gas utilities under CPP and to identify regulatory tools to mitigate potential customer impacts. The OPUC recently issued Staff's Final Report after a multi-year investigation.[4]

- The OPUC is currently reviewing NW Natural's integrated resource plan, which addresses how the Company will comply with the CPP and the renewable natural gas targets established in Senate Bill 98.[5]

---

[1] ORS 756.040.

[2] *Id. See also* ORS 757.035 and ORS 757.039.

[3] See Executive Order 20-04, Oregon Public Utilities Commission, available at: https://www.oregon.gov/puc/utilities/Pages/ExecutiveOrder20-04.aspx.

[4] *In the Matter of Oregon Public Utility Commission Staff Natural Gas Fact Finding per Executive Order 20-04 PUC Year One Work Plan, Staff Final Repor*t, Docket No. UM 2178, available at: https://edocs.puc.state.or.us/efdocs/HAU/um2178hau111621.pdf.

[5] This proceeding is ongoing in Docket No. LC 79.

- In addition to natural gas proceedings, the OPUC will be reviewing Portland General Electric Company and Pacific Power's integrated resource plans in 2023, inclusive of their Clean Energy Plans in response to HB 2021.[6]

- The OPUC has also proactively engaged in proceedings, including but not limited to: community solar, green tariffs, energy efficiency and demand response, wildfire prevention and mitigation, transportation electrification, transmission planning, electric resource adequacy planning, and began centering issues of equity and impacted communities in all of those conversations.[7]

This has all taken place within the last five years. It has been an extraordinary effort by the OPUC, and any suggestion that the Commission is not championing environmental causes in its work is misplaced.

Finally, Section 1(a) mandates the Oregon Public Utility Commission ("OPUC") to "[e]xercise all authority and discretion vested in the commission by law to facilitate the achievement of the state's greenhouse gas emissions reduction goals established by statute or executive order." Executive orders should not be a substitute for bicameral legislative lawmaking. Executive orders have less permanence than laws and regulations, because governors are elected every four years, and a governor can rescind, modify, or write new executive orders that can be completely different than the executive orders that came before it. This legislation ties the hands of the OPUC to uncertain, and altogether unknown, future executive orders, which appears to be a sweeping grant of authority from the legislative branch to the executive branch.

Section 2 of HB 3152 eliminates long-standing authority of the OPUC to economically regulate energy efficiency and a public utility's obligation to serve new customers, and it will disproportionally harm low-income customers.

This bill prohibits, on or after January 1, 2026, use of funding from ratepayers to provide funding for the purchase or installation of gas appliances or devices for use by residential utility customers or line extension allowances for new gas line extensions that support use of gas in residential buildings.

---

[6] *See In the Matter of Portland General Electric Company Request for Waiver of IRP Guideline 2(c)*, Docket No. LC 73, Order No. 23-010, App. A at 4 (Jan. 26, 2023) (IRP to be filed this year); Oregon Clean Energy Plan, Pacific Power, available at: https://www.pacificorp.com/energy/oregon-clean-energy-plan.html (also indicating IRP will be filed this year).

[7] *See e.g.* Renewables Resources, Current Initiatives in Oregon, Oregon Public Utilities Commission, available at: https://www.oregon.gov/puc/utilities/Pages/Renewable-Resources.aspx; Wildfire Mitigation, Efforts in Oregon, Oregon Public Utilities Commission, available at: https://www.oregon.gov/puc/safety/Pages/Wildfire-Mitigation.aspx; Transportation Electrification - Investment Framework, Oregon Public Utilities Commission, available at: https://www.oregon.gov/puc/utilities/Pages/EO20-04-UtilityServices-Activities-TE-Investment-Framework.aspx; Resource Adequacy, Oregon Public Utilities Commission, available at: https://www.oregon.gov/puc/utilities/Pages/ResourceAdequacy.aspx.

With respect to Section 2, subsection (2)(a), this prohibition would block low-income households from known cost-saving, energy efficient solutions. High efficiency furnace replacements are the most common expense refunded within the Oregon Low Income Energy Efficiency ("OLIEE") program which funds the replacement of inefficient and broken gas furnaces with high efficiency appliances. NW Natural works directly with our regional Community Action agencies to facilitate whole home weatherization to qualifying low-income customers. These equipment upgrades yield the greatest energy efficiency savings which translate into both lower bills for customers and reduced emissions associated with their energy use.

These OLIEE ratepayer funds are income-restricted (per public purpose schedule 320) and can only be used for projects that serve current gas customer households earning less than 200% of the federal poverty level ($55,000 for a family of four in Oregon). Thus, these funds currently serve some of Oregon's neediest families, and provide real benefits, both in terms of reduced emissions and lower energy bills.

Energy efficiency upgrades serve as a cost-effective strategy to cushion the financial strain of disproportionately high energy costs, rising housing costs, stagnant wages and historically high inflation rates—all felt most acutely by those least able to weather economic shocks. By lowering energy usage, energy efficiency upgrades can reduce energy costs and stabilize household finances. Importantly, these upgrades are provided at no cost to households who would otherwise be priced out and ultimately excluded from long-term cost saving opportunities that efficiency upgrades can yield. This program reduces the incidence of short-term fixes such as plug-in electric resistance space-heating that will have higher long-term costs and emissions. Simply put, our OLIEE program makes energy efficiency more equitable and accessible.

Furthermore, in the settlement of NW Natural's 2022 Oregon Rate Case, all parties agreed on the value of increasing energy efficiency funds for low-income customers rather than restricting it.[8] This increase has resulted in more projects that are delivering more energy and cost savings for customers. This bill is squarely at odds with that positive outcome.

With respect to non low-income funding for energy efficiency, there are few incentives currently available to customers for gas equipment via the ratepayer funded Energy Trust of Oregon programs. It is notable, however, that NW Natural is currently piloting a geographically targeted energy efficiency program in partnership with the Energy Trust of Oregon, which attempts to find non-pipeline solutions to meeting demand, rather than investing in infrastructure expansion. This bill is also at odds with these forward-thinking programs and may actually prevent gas utilities from pursuing non-pipeline solutions in lieu of system expansion.

Finally, energy efficiency is one of the least-cost, least-risk ways that NW Natural can achieve decarbonization of our energy system. If energy efficiency is no longer an available tool for decarbonization, NW Natural's decarbonization will be more challenging to achieve and more costly to our customers.

---

[8] *In the Matter of NW Natural Gas Co., Second Partial Stipulation,* Docket No. UG 435, available at: https://edocs.puc.state.or.us/efdocs/HAR/ug435har165729.pdf.

With respect to the expiration of line extension allowances by 2026 in Section 2, subsection (2)(b), this section appears predicated on a view that line extension allowances are "incentives" or "subsidies." In actuality, the goal of line extension allowances is to ensure equity between existing and new customers. A cross-subsidy exists when a company artificially lowers prices for one group of customers by charging higher prices to another group. Because a line extension allowance is based on a comparison of a customer's incremental revenues to the incremental costs (including capital costs to connect the new customer) to serve that customer, it specifically ensures that existing customers are not required to contribute to the cost of the addition of new customers—and therefore, is intended to prevent cross-subsidization. When properly calculated, a line extension allowance balances the respective contributions to the system of both new and existing customers.

The regulation of the provision of service to customers, including the provision of line extension allowances, has historically been entrusted to the OPUC. Recently in approving Portland General Electric Company's ("PGE") request to revise its line extension allowance with modifications, the OPUC set out the economic ratemaking principles behind line extension allowances.[9] At its core, the amount of a line extension allowance is derived by an economic analysis, which is designed to hold all other customers harmless.[10] In other words, the amount provided in a line extension allowance should not result in higher rates to all other customers.[11] This is intended to prevent existing customers from subsidizing the costs of new customers being added to the energy system. The OPUC also identified that equity among customers (existing and new) should also be considered.[12] Standard offerings that have historically benefitted Oregonians seeking utility services should also be provided to Oregonians seeking those same services in the future.

This issue was also recently addressed in NW Natural's most recent general rate case.[13] Prior to that rate case (effective date November 1, 2022), NW Natural's typical line extension allowance for a new residential customer with space heating equipment was $2,875. In response to testimony from intervening parties in the case arguing that NW Natural's line extension allowance was too high because it did not account for new customers' compliance costs with the Climate Protection Plan, the OPUC ordered three downward adjustments to NW Natural's line extension allowance, lowering it from $2,875 to $1,380 over two years.[14] In making its decision, the OPUC also considered the expected length of time a new customer would remain on the gas system and the underlying assumptions of the depreciable lives of infrastructure needed to hook up new customers.[15] The

---

[9] *In the Matter of Portland General Electric Company Advice, No. 20-14, Schedule 300 Line Extension Allowance*, Docket No. UE 385, Order No. 20-483 (Dec. 23, 2020).

[10] *In the Matter of Portland General Electric Company Advice No. 20-14, Schedule 300 Line Extension Allowance*, Docket No. UE 385, Order No. 20-483, App. A at 4 (Dec. 23, 2020).

[11] *Id.*

[12] *Id.*

[13] *In re Nw. Natural Gas Co., dba NW Natural, Request for a General Revision, Advice 20-19, Schedule 198 Renewable Natural Gas Recovery Mechanism (ADV 1215),* Dockets UG 435 and 411, Order No. 22-388 (Oct. 24, 2022).

[14] *Id.*at 48-52.

[15] *Id.* at 49.

OPUC also reserved its right to open future proceedings to review NW Natural's line extension allowance in the event it believes that a new approach is warranted.[16]

By eliminating line extension allowances, the OPUC will lose a tool that it has developed and shaped over time, which can be adaptive to our current policy environment. Customer growth has historically been viewed as a positive factor for both utilities and customers, because with new customers, there is a larger customer base to recover the fixed costs of providing utility service. In other words, new customers should help defray the cost impacts of system investments for the existing customer base. On the other hand, if there is a smaller customer base to recover the utility's fixed costs, that will have the opposite effect and will likely increase costs to all customers.

In summary, taking away the OPUC's authority to regulate these issues could have lasting and detrimental impacts on utility customers. These decisions should be left to the review of the OPUC.

The intent and purpose of Section 3 is unclear as currently drafted.

NW Natural is uncertain what is intended by Section 3, subsection (2) of HB 3152, but this section appears to require the OPUC to reduce funds directed toward energy efficiency, low-income appliance replacements, and line extensions prior to January 1, 2026. If this is the correct reading, this would likely only create more uncertainty in the housing market because developers would not have a reliable financial analysis for their projects. This Section would also require proceeding(s) opened at the OPUC to determine the reduced line extension allowance, and the level of reduction of ratepayer funded energy efficiency for our low-income customers.

NW Natural appreciates the opportunity to provide written testimony on HB 3152.

Sincerely,

NW NATURAL

/s/ Zachary D. Kravitz
Zachary D. Kravitz
Vice President of Regulatory Affairs

/s/ Mary Moerlins
Mary Moerlins
Director, Sustainability and Environmental Policy

---

[16] *Id.* at 51.