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February 27, 2025

The Honorable Nathan Sosa, Chair  
The Honorable Farrah Chaichi, Vice Chair  
The Honorable Virgle Osborne, Vice Chair  
House Committee on Commerce and Consumer Protection  
Oregon State Legislature  
900 Court Street NE  
Salem, Oregon 97301

RE: Opposition to House Bill 3179

Chair Sosa, Vice Chair Chaichi, Vice Chair Osborne, and Members of the House  
Committee on Commerce and Consumer Protection,

NW Natural appreciates the opportunity to submit written testimony regarding House Bill 3179 (“HB 3179”), in addition to our verbal testimony at the February 20, 2025 meeting of the House Committee on Commerce and Consumer Protection. As the largest standalone gas utility in the Pacific Northwest, NW Natural serves more than 2 million people in Oregon and southwest Washington. Our employee base of approximately 1,300 dedicated employees provides more energy to Oregonians than any other utility—gas or electric. We serve over 700 thousand Oregon customer accounts in 126 cities in 15 different counties, representing approximately 88% of our total gas system customer base.

NW Natural remains strongly opposed to HB 3179. We recognize that Oregonians are feeling the pressure of increasing costs, driven by inflation and supply chain constraints that were particularly elevated through the COVID-19 global pandemic. As a result, the cost of rent, groceries, and other essentials have increased in the last several years. However, the average residential bill of a NW Natural customer *is currently lower than it was 20 years ago – without adjusting for inflation.* This simple fact must be placed at the front and center of any discussion involving fundamental changes to Oregon’s utility regulatory structure. The existing structure where utilities have a reasonable opportunity to recover their prudently incurred costs—and have those costs scrutinized by the Public Utility Commission of Oregon (“Commission”) and intervenors, such as the Oregon

Citizens' Utility Board ("CUB") and the Alliance of Western Energy Consumers ("AWEC")—has resulted in residential bills that are lower than they were two decades ago despite the significant increase in inflation we have experienced in recent years. This type of long-term cost stability is a testament to the steadfast management of our costs, the abundance of low-cost natural gas, and the collaborative work of the Commission, its Staff, CUB, AWEC, and other stakeholders.

We acknowledge that our rates have increased in recent years due to a number of factors, many of which are outside of our control. We must replace critical, end-of-life equipment and facilities to provide safe and reliable service to the two million people we serve in Oregon. We must also protect our public utility from cybersecurity attacks, which is mandated by the federal government. We must perform routine safety inspections of our pipeline distribution and storage systems. We are required to work with local jurisdictions when they inform us that our infrastructure must be relocated in furtherance of public works projects. These costs represent a sample of non-discretionary costs that NW Natural, as a public utility, must incur for the continued operation of our utility system.

While cost pressures have increased, NW Natural has taken aggressive steps to mitigate their impact on our most vulnerable customers. In 2021, the legislature passed House Bill 2475, which, among other things, allowed public utilities to offer a discount program based on our residential customers' income. NW Natural's bill discount program offers low-income residential customers up to an 85% discount off their bills. Based on an assessment from a third-party expert, 78% of eligible customers for the program are participating, in part due to our outreach efforts. NW Natural works with community partners throughout its service territory, such as community action agencies, community-based organizations, housing networks, places of worship, food banks, culturally specific organizations, and healthcare networks. Leveraging these relationships and networks are especially meaningful and allows us to reach customers we may not otherwise have been able to reach and deliver bill discount program information from other important and trusted resources. The bill discount program has provided over \$14 million in bill discounts since its inception.

In addition, NW Natural has several other assistance programs:

- The Oregon Gas Low-Income Assistance program ("OLGA"), which provides energy-assistance grants to income-qualified customers. For the 2023-2024 program year, OLGA provided \$3.7 million in assistance to 6,783 residential customers.

- The Gas Assistance Program (“GAP”), which is a supplemental grant assistance program funded by NW Natural shareholders, employees, retirees, and customers. For the 2023-2024 program year, GAP delivered \$133,000 in grant support to 1,104 customers.
- The Oregon Low-Income Energy Efficiency (“OLIEE”) program provides low-income eligible customers energy efficiency and weatherization services, in partnership with community action agencies and community-based organizations. For the 2023-2024 program year, OLIEE provided \$6.1 million in funding for low-income weatherization projects.

These programs have made a difference in helping customers with their bills. NW Natural’s percentage of residential customers disconnected due to non-payment in 2024 was 1.43% -- down from 2.0% in 2019.

### **How HB 3179 Compromises Affordability, Safety, and Reliability**

HB 3179, as currently drafted, compromises the affordability, safety, and reliability of Oregon’s energy and water systems by creating massive uncertainty for both customers and utilities. While we understand that the intent of the HB 3179 is to lower utility bills, it would, in fact, have the opposite effect. HB 3179 will force customers to bear higher costs and risks than they currently do today. We know that many Oregonians are very concerned about higher utility rates, but this bill is not the solution. Instead, as further discussed below, NW Natural believes that Oregon should move away from setting rates with a singular focus on cost recovery for a given year, called a “test year.” Rather, rates should be viewed over a two-to-four-year period which will increase transparency and predictability in the rate setting process without sacrificing Oregon public utilities’ safety and reliability.

1. *Under HB 3179, customers will pay more to attract capital essential for utility service investments aimed at maintaining the safety and reliability of the system.*

HB 3179 introduces massive uncertainty regarding how and whether prudently incurred costs that are essential to provide utility service may be recovered in rates. Under the bill, any rate increase must include broad economic data that the Commission must consider before setting rates, such as unemployment data, median income, cost-of-living data, and electric winter heating bills. These considerations are a fundamental change in how utilities are regulated. Generally, in rate proceedings, public utilities may only seek cost recovery of investments after they have already been made. Many of these investments are planned

many years in advance of a rate case. Simply put, there would be no way for a public utility to know what those future economic conditions are when it takes on the risk of the investment, yet its ability to recover those costs can be denied or delayed due to general economic conditions that are outside its control and that it could not have foreseen. All of this is contrary to a bedrock principle of cost-of-service regulation where a utility's actions are evaluated on what it knew or should have known at the time were reasonable and prudent in light of the circumstances which then existed.

This uncertainty will translate to higher costs for customers. For NW Natural to invest in its energy system to keep it safe and reliable, we require debt and equity investors to choose to deploy their limited capital resources into NW Natural and, consequently, the broader Oregon economy. These investors expect—and are legally required—the opportunity for a return on their investment commensurate with the risk.<sup>1</sup> If we cannot recover our prudent costs through rates, we will either not be able to attract capital or we will have to offer higher returns to offset the higher risk, which will ultimately be passed on to customers. Investors have a choice where they deploy their capital, and if they are seeking to invest in utilities, they have utilities in 49 other states that do not have laws like HB 3179. This will drive investment away from the Oregon economy.

HB 3179 also seeks to give the Commission the discretion to set the “lowest reasonable rates.” We have serious concerns that this provision would violate the Due Process Clause of the Fourteenth Amendment and the Takings Clause of the Fifth Amendment of the U.S. Constitution, in addition to Article I, Section 18 of the Oregon Constitution. This provision is also vague, as there is no guidance as to what “lowest reasonable” means or how that provision would interact with the HB 3179 provisions regarding economic impacts and rate moratoriums. Taken together, HB 3179, as drafted, would seriously impair public utilities’ opportunity to earn a reasonable return. Furthermore, by stating what the Commission can do (set “lowest reasonable rates”), this provision narrows its discretion by only explaining how it can be used in a certain instance. A more balanced approach would be to say that the Commission has the discretion to set fair, and reasonable rates, just as the law already provides.<sup>2</sup> At the very least, this provision will also cause potential investors to demand a higher return on their investment relative to utility investments in other states, which will have a chilling effect on Oregon utility investment.

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<sup>1</sup> ORS 756.040  
<sup>2</sup> ORS 756.040.

The unintended consequence of HB 3179 is that it will increase customers' rates, which is directly contrary to its stated goal of customer affordability, while disincentivizing utility investment in safety and reliability.

2. *HB 3179 will lead to inequitable results in ratemaking.*

HB 3179 creates inequity between urban and rural areas of the state. The Commission's evaluation of economic conditions would disincentivize investment in utility service territories with struggling economies. In other words, utilities in rural areas of the state would have even more uncertainty in the regulatory process because those service territories have historically faced greater economic headwinds. This would lead to a two-tier utility paradigm in Oregon where utility investment is not prioritized in less affluent areas because it is questionable whether these costs can be recovered in rates. Instead, affluent areas would receive greater investment and, as a result, more reliable service.

Rather than evaluating the general economic condition of a service territory, we believe it is a far better approach to develop targeted programs tailored to the different communities that we serve. In developing these programs, it may make sense to rely on some of the information that HB 3179 would require, such as utility-specific customer information. However, simply denying or delaying cost recovery because general unemployment and cost-of-living is above a certain undefined and unknowable standard provides less affordability benefits than programs that are centered on identifying affordability needs of individual customers and addressing that need, as we will discuss in a subsequent section below.

3. *HB 3179 expands the regulatory process, increasing costs.*

HB 3179 will introduce entirely new analysis into each and every rate change that a utility seeks, including proceedings where a utility is simply seeking to pass through certain costs without seeking any profit. HB 3179 will also increase the period of a rate case from 10 to 13 months, leading to even more additional process that is unnecessary. Currently, NW Natural files approximately 3,000 pages of testimony and analysis to support its general rate case requests. We typically answer over 1,000 requests for data and analysis from the rate case parties. Moreover, HB 3179 will allow the Commission to contract with other state agencies and energy assistance providers to collect unspecified data, further increasing the bill's costs to Oregonians.

We already have a robust rate case process in Oregon. If anything, we should seek to reduce the amount of process through multi-year plans that provide the utility, customers,

and advocates a roadmap for each gas and electric utility's rates over a two-to-four-year period. NW Natural is also willing to work with the Commission, utilities, and stakeholders to help avoid, to the extent practicable, multiple utilities filing multi-year rate plans at the same time so that rate cases can be processed within the current ten-month suspension period.

4. *Broad economic indicators in a utility's service territory and the amount of winter electric bills are poor metrics for natural gas and water utilities.*

HB 3179 would require NW Natural to provide economic data for its entire service territory, even though not every single person in its service territory is a natural gas customer. Requiring NW Natural to provide economic data provides misleading results regarding affordability, especially because our analysis indicates that natural gas customers tend to have higher incomes on average than non-natural gas customers. Perhaps more importantly, water and natural gas utilities will not be able to provide the information contemplated in this bill, such as the amount of *electric* heating bills in winter, and we do not currently collect unemployment data or other cost-of-living factors. We would have to spend additional time and resources in gathering this information, which, as a government mandate, would ultimately be recovered in rates from customers.

5. *HB 3179 calls for phasing-in rate increases, but this just leads to more and more costs building up over time.*

HB 3179 seeks to phase-in rate increases and prevents a utility from seeking a general rate increase for 18 months since the rate effective date of its last general rate proceeding. These types of restrictions ultimately lead to larger rate increases for customers. If rates were phased-in over time, it just means that the unrecovered costs are building up and snowballing. Phasing costs in does not reduce the overall amount of the costs. At some point, those costs will be recovered by customers and they will lead to large rate increases that are higher than they would otherwise be.

More importantly, we have serious legal concerns with: 1) the rate phase-in, 2) the residential rate moratorium between November 1 and March 31, and 3) only allowing a utility to have a general rate revision go into effect every 18 months. These new powers and the insertion of new considerations regarding economic impacts, implicate the rights of public utilities under the United States and Oregon Constitutions. Specifically, we are concerned that HB 3179 will prevent public utilities from earning a just and reasonable rate of return, thereby violating the Due Process Clause of the Fourteenth Amendment and the

Takings Clause of the Fifth Amendment of the U.S. Constitution, as well as Article I, Section 18 of the Oregon Constitution.

In addition, the rate phase-in provision and the 18-month general rate increase restriction are at odds with each other. Phasing-in rate increases can only be done once every 18 months because, according to the February 19th –1 amendments, “the general rate revision rate increase for a public utility’s residential rates may not take effect within 18 months from the effective date of the last general rate revision rate increase for the public utility’s residential rates.” This allows too much time for costs to build-up, leading to large rate increases.

The same is true of the residential rate moratorium between November 1 and March 31. When this moratorium is combined with the 18 months between general rate cases, it can effectively require utilities to wait two years between rate cases. Again, this can lead to costs building up and drive larger rate increases.

### **Ways to Meaningfully to Address Affordability, Safety, and Reliability**

NW Natural is committed to providing affordable natural service to its customers. Natural gas is a fuel of choice, and NW Natural must earn our customers’ business or risk those customers choosing other alternatives. As such, we have never viewed affordability as something that conflicts with our business. Rather, affordability must be balanced with safety and reliability.

Our Mist storage facility illustrates a prime example of how these principles can be balanced. The Mist storage facility is crucial for safety and reliability, as well as affordability. It enables NW Natural to purchase and store natural gas when prices are lower and deliver that natural gas to customers in the winter when prices are higher. It also ensures that there is a reliable supply of natural gas during the coldest hours of the year where gas may be more difficult to procure. For example, during the coldest hour of the severe winter storm on January 13, 2024, the Mist storage facility delivered the equivalent energy of heating to 630,000 homes. If the facility had experienced an equipment breakdown it would have forced NW Natural to attempt to obtain natural gas on the market at a much higher price and it would have put hundreds of thousands of customers at risk of no heat on the coldest day of the year.

Our operation of the Mist storage facility also provides direct financial benefits to residential customers, reducing their energy bills during the winter. Through the efficient optimization of the storage resources at Mist, NW Natural provides bill credits each February. The

average residential bill credit has been \$22.31 annually over the past five years, with all customer credits totaling an average of \$24.6 million annually over that time.

Given our commitment to affordability, we have the following proposals that will continue to improve the affordability, safety, and reliability of utility services in Oregon:

1. *Multi-year rate plans will provide greater rate predictability and stability than we have today while providing for the recovery of costs required for safe and reliable service.*

As stated above, multi-year rate plans would set rates over a two-to-four-year period, as opposed to a single forecasted test year. The benefits of this approach are three-fold. First, it leads to more predictable rates over the course of the multi-year plan. There would not be unexpected rate increases during such a plan. Instead, utilities, advocates, and customers would know the increase in rates years in advance. Second, multi-year plans provide greater rate stability. Again, rates would be set over the course of the plan, leading to more gradual, incremental rate increases. Third, it is administratively more efficient. Utilities would file less rate cases, saving time and money for all parties litigating these complex proceedings.

2. *Multi-year plans must focus on ensuring there is enough assistance to mitigate customers' energy burden.*

As part of every multi-year plan, a gas or electric utility should analyze its low-income assistance programs and whether they are adequate to mitigate the energy burden of residential low-income customers, with consideration given to the effect of any proposed rate increase. This analysis could include much of the customer and utility-specific data that HB 3179 requires, such as residential customers' average monthly bill under each year of the multiyear rate plan, the average monthly bill during the winter heating season (November through February) under each year of the multi-year rate plan, the residential bill increase, and data on disconnections. However, such data would be utility-specific and used to ensure that assistance programs are adequate to meet customers' needs.

Unlike HB 3179, this analysis would not be used to limit the recovery of costs that are essential for the safety and reliability of utility service from those customers that can afford to pay for them. Rather, it would be tailored to help those customers that need it, which will also limit the costs of the analysis, as opposed to the economy-wide analysis contemplated in HB 3179.



3. *Joint system planning between electric and natural gas utilities can leverage the strengths of both systems to reduce costs for all customers.*

Joint system planning between gas and electric utilities is another opportunity that should be explored. For instance, hybrid heating, which combines a natural gas furnace with an electric heat pump, could reduce natural gas throughput, as well as address continuing resource adequacy and reliability concerns on the electric grid during the coldest months of the year. Rather than building new winter-peaking capacity resources for the electric system, the existing natural gas system could be used as a giant battery during cold weather events. During these events, the hybrid heating systems would rely on natural gas furnaces and eliminate the need for heat pumps to rely on higher emitting, inefficient, and more costly electric resistance back-up heat during that time. Such solutions increase safety and reliability while promoting affordability and decarbonization.

### **The Securitization Provision in HB 3179 Increases Risks to Customers**

HB 3179 increases risk to customers by giving the Commission the authority to securitize undefined “capital investments.” Under securitization, the state would guarantee that these investments will be recovered in rates. This guarantee would be used to finance the investments through the issuance of bonds. These bonds would be financed at a lower rate than typical utility investments since cost recovery would be guaranteed by the state.

Despite the initial lower financing costs, securitizing day-to-day utility investments, even those that are limited to a pre-determined size, adds risk for customers. Our customers, not investors, would entirely bear the risk of these investments, even if they under-perform or do not perform, because the costs of those investments would be recovered through non-bypassable customer charges backed by the state. By definition, the Commission cannot deny cost recovery of these costs. While securitization may make sense for investments that are necessary for a utility to recover from a natural disaster, like an earthquake, where large investments must be made quickly and it is in the best interests of both the utility and customers to restore service as quickly as possible for as low a cost as possible, it is a risky approach to finance day-to-day investments in such a fashion.

More importantly, even the lower financing costs may not provide real cost savings to customers. Securitization is a very complex, time-consuming process requiring financial and legal expertise for all parties involved. Ultimately these investments would have to be very large to be cost-effective. The larger the investment, the greater the risk the customers would bear.

## **Transparency Report on Major Cost Categories in Rates**

HB 3179 would require NW Natural to report on the major cost categories in rates from the prior year. NW Natural is not opposed to reporting requirements. As stated above, we answer thousands of data requests during the course of a rate proceeding. We can work to develop a reasonable and useful set of cost drivers that can be reported each year, including costs for the Department of Environmental Quality's Climate Protection Program, local Franchise Fees, and Bill Discount Program costs, which were not included in the HB 3179 reporting requirements.

## **NW Natural Cannot Provide Estimates of Rate Increases Over the Next 12 Months**

NW Natural has serious concerns with estimating its rate increases over the next 12 months. As a gas utility, NW Natural forecasts its gas costs for the upcoming year and then the forecast is trued up at the end-of-the-year. As stated above, these gas costs are passed through to customers without profit. NW Natural cannot—and has never been expected to provide—a forecast that correctly predicts natural gas for the next year or the next quarter. Rather, the forecast—like any forecast—will be incorrect based on factors that we could not have foreseen when the forecast was made, such as winter weather and geopolitical events that both greatly impact natural gas prices. We will also not be able to predict other cost drivers that may increase rate pressures because our operations are dynamic and evolving over the course of a year.

Nonetheless, we understand the desire for greater transparency. While we will never be able to produce a forecast that correctly predicts gas costs over the next 12 months, base rate increases<sup>3</sup> would be known—not just forecasted—over the course of a multi-year rate plan. The multi-year rate plan would go beyond what is contemplated in HB 3179 because these rate changes would be known and established through the completion of an extensive evidentiary record in a general rate case.

Please let us know if we can provide additional information or answer questions.

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<sup>3</sup> Base rates are determined in general rate cases. Purchased natural gas costs are recovered in a Purchased Gas Adjustment proceeding.

Thank you for your time.

Respectfully Submitted,

*/s/ Nels Johnson*

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NW Natural