



July 12, 2021

Kim Herb
JP Batmale
Oregon Public Utility Commission
Via email to kim.herb@puc.oregon.gov; jp.batmale@puc.oregon.gov

Re: Natural Gas Fact Finding Session 1 (UM 2178)

Dear Ms. Herb and Mr. Batmale:

The undersigned thank you for organizing an investigation into potential ratepayer impacts from gas utilities' compliance with DEQ's Climate Protection Program ("CPP"), and for taking the time to meet with us and others interested in this process. We sincerely appreciate staff's willingness to engage with stakeholders on this issue. However, we strongly urge you to expand the scope of the investigation and conduct a holistic planning exercise to understand the future of gas in Oregon.

We are deeply invested in engaging in any stakeholder initiatives that aim to evaluate risks associated with natural gas infrastructure in Oregon. We urge the Commission to redirect this fact finding to align with EO 20-04, the Commission's work plans to implement that order, the Commissioners' articulated objectives for this investigation, and the urgent need to gather and model relevant information necessary for comprehensively evaluating the risks and benefits from decarbonizing the gas sector in a manner that is accessible to everyone.

I. Expand the Scope of the Gas Fact Finding Investigation

Natural gas has no role to play in the decarbonized energy systems of the future. As the climate crisis worsens and consumers become increasingly aware of the impacts from gas and the benefits of electrification, ratepayers who can afford to switch will voluntarily defect from their gas utilities. This will create stranded cost risks and could cause rates to increase for remaining customers. And it will happen faster than we expect.¹ An investigation like this—open and accessible to all stakeholders and impacted communities—could enable the Commission to

¹ Fuel switching from coal to oil, and then from oil to gas, was "speedy, dramatic, and widespread" in some parts of the world. Center for Strategic & Int'l Studies, *Must the Energy Transition Be Slow? Not Necessarily*, at 5 (September 2018), https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/181001_Energy_Transition.pdf.

evaluate, plan for, and develop strategies to mitigate the impacts and implications of this transition before it occurs.

The Commission has authority to conduct a broader investigation, and has direction from the Governor’s office and support from the Commissioners to do so. As you know, the general powers of the Commission include broad authority to “make use of the jurisdiction and powers of the office to protect” customers and the public, and to “obtain for them adequate service at fair and reasonable rates.”² Governor Brown’s Executive Order recognized the need for accelerating reductions in greenhouse gas emissions in the utility sector, the threat that greenhouse gas emissions pose to Oregon’s health, economy, safety and environment, and the need to consider climate change in planning to avoid future costs. Specific to the Commission, the Governor directed the agency to prioritize proceedings that “advance decarbonization in the utility sector” and “mitigate energy burden experienced by utility customers[.]”³

To properly implement EO 20-04 directives, GEI urges the Commission to expand the scope of this investigation to align with the purpose and objectives presented in its EO 20-04 work plans under the heading “decarbonization & gas ratepayer impacts and risk.”⁴ We understood from those work plans that the Commission would “leverage” the DEQ CPP rulemaking, and nothing in those work plans suggested the Commission would limit itself to evaluating only the effect of the CPP on ratepayers.⁵ Indeed, comments made by Commissioners Decker, Tawney, and Thompson at the time of staff’s presentation of the work plans underscored the Commission’s interest in a fact finding that would allow for “information gathering to support what comes next.”⁶ As Commissioner Decker recognized, it is the PUC’s unique role to “consider the possible direction that policy and consumer preferences may go” and, importantly, “to understand earlier” rather than later what the Commission “can do to mitigate negative impacts.”⁷

In implementing its obligations under EO 20-04 and its own work plans, the Commission has an opportunity to conduct critical fact finding in a way that *no other state agency* is equipped to do and we encourage it to seize the opportunity to understand the extent of any impacts of decarbonization strategies on ratepayers while the Commission is in a good position to implement the information it learns. The Commission understands the tensions between the utility ratemaking process (and the built-in motivations to invest in new infrastructure) and the potential for increased stranded assets disproportionately affecting lower-income stranded ratepayers. These risks are amplified in a world where concerns about climate change, increased electrification trends, and local governments meeting their climate goals may leave fewer ratepayers captive to the gas utilities’ rates.

² ORS 756.040.

³ Executive Order 20-04, at 8, https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf.

⁴ Or. Public Utility Comm’n Work Plans – Final, Section 5.4, Decarbonization & Gas Ratepayer Impacts & Risk (Dec. 2020), <https://www.oregon.gov/puc/utilities/Documents/EO-20-04-WorkPlans-Final.pdf>.

⁵ *Id.*

⁶ Public Utility Comm’n Public Meeting, Nov. 19, 2020, https://oregonpuc.granicus.com/MediaPlayer.php?view_id=2&clip_id=671 (Commissioner Decker’s comments from 2:03 to 2:07).

⁷ *Id.*

The Commission would not be alone in considering the future of gas more broadly. At least five states have begun analyzing the role of natural gas in a decarbonized future. New York,⁸ California,⁹ New Jersey,¹⁰ Massachusetts,¹¹ and Colorado¹² initiated proceedings in the last year. Notably, Colorado's utility commission initiated its investigation to ascertain the impacts of the legislature's goal of reducing statewide emissions, even though Colorado law did not establish specific requirements for gas utilities, and Massachusetts moved forward with its docket before adoption of the state's latest, ambitious climate legislation.

The Commission must evaluate how to manage and plan for reductions in natural gas use, and it is unnecessarily hamstringing itself in fulfilling its responsibility by limiting the scope of this investigation to impacts from DEQ's CPP on the natural gas utilities. A helpful guide, produced by the Regulatory Assistance Project (RAP), describes how such an investigation could proceed.¹³

II. The Utilities' Integrated Resource Plans are not Ideal Proceedings to Collect Further Information

The Commission's plan to collect some information in this docket, but request future participation from stakeholders in complicated and time-consuming integrated resource planning (IRP) processes, harms impacted communities, risks elevating the utility perspective over other stakeholders' views, and precludes the holistic understanding a single proceeding can offer.

In order to truly understand the extent of the risk posed by fossil gas in Oregon, the Commission must seek input from different points of view. A failure to capitalize on the momentum generated from the opening of this docket, by requiring further involvement in other proceedings, will harm impacted communities in at least three ways. First, it will fail to accurately and completely assess the risks communities may face in the future. Second, it will squander the time and energy community groups dedicate to this resource-intensive workshop series by delaying important decisions until the IRP proceedings, which are themselves time- and resource-intensive and which create high barriers to community participation. Third, deferring analyses and decisions

⁸ N.Y. PSC Case No 20-G-0131, Proceeding on Mot. of the Comm'n in Regard to Gas Planning Proc. (Mar. 19, 2020), <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7B2BE6F1CE-5F37-4A1A-A2C0-C01740962B3C%7D>.

⁹ Calif. PUC Case No. 20-01-007, *Long-Term Gas Planning Rulemaking*, <https://www.cpuc.ca.gov/gasplanningoir/>.

¹⁰ N.J. Bureau of Public Utilities, Energy Master Plan Pathway to 2050, at 189 (2019), https://www.bpu.state.nj.us/bpu/pdf/publicnotice/NJBPU_EMP.pdf.

¹¹ Mass. D.P.U. Case No. 20-80, *Investigation by the Department of Public Utilities on its own Motion into the role of gas local distribution companies as the Commonwealth achieves its target 2050 climate goals* (Oct. 29, 2020), <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/12820821>

¹² Co. Public Utilities Comm'n, Proc. 20M-0439G (Oct. 29, 2020), https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=20M-0439G.

¹³ Regulatory Assistance Project, *Under Pressure: Gas Utility Regulation for a Time of Transition* (May 2021), <https://www.raponline.org/wp-content/uploads/2021/05/rap-anderson-lebel-dupuy-under-pressure-gas-utility-regulation-time-transition-2021-may.pdf>.

until the IRP processes will almost certainly create information gaps and lead to piecemeal and inaccurate decisionmaking. Unlike this docket, which affects all gas utilities in the state, IRP proceedings only consider utility-specific investment plans and service obligations. Evaluating each utility's IRP in a silo limits the Commission's ability to gain a complete picture of what long-term gas planning should look like for Oregon. Allocating major policy decisions to the IRP process will almost certainly leave several questions unanswered while consuming far more resources of impacted communities. The Commission has acknowledged that it needs to hear from impacted communities; it should not initiate an incomplete (yet resource-intensive) proceeding that only asks a narrow set of questions and then ask these same communities to participate in high-barrier proceedings in the future.

Additionally, the IRP process is driven by the utility and is thus designed for each utility's benefit. Although stakeholders are invited to participate in workshops leading up to the IRP filing, the workshop dates and times are selected by the utility, at times convenient to the utility (usually during the workday, and they are not recorded), and include only the data and information the utility wishes to produce. The IRP process is no substitute for a more comprehensive and open investigation. Please consider fully utilizing the existing process to gather all the information necessary for good long-term gas planning in Oregon.

Thank you for considering our input.

Sincerely,

Melissa Powers

Jeffrey Bain Professor of Law and Director of Green Energy Institute at Lewis & Clark Law School

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