

Whatcom County Council  
311 Grand Avenue  
Suite 105  
Bellingham, WA 98225

October 5, 2021

**RE: Whatcom County Natural Gas Franchise Agreement – AB2021-414**

Council Chair Buchanan and County Council Members:

As you are aware, the County's franchise agreement for the distribution of natural gas from Cascade Natural Gas (CNG) is set to be reauthorized next week. The County last negotiated its franchise agreement for natural gas in 1996, and now the County is in a special position to demand conditions better in line with the County's current climate policy, a rapidly changing fossil fuel industry, and public safety as part of the franchise renewal.

Franchise agreements are negotiated contracts, and either party can propose or agree to specific conditions for performance. For example, the City of Eugene, Oregon spent much of the past two years negotiating a franchise agreement with Northwest Natural to include emissions reductions, so the utility could continue to supply natural gas while the City moved towards its greenhouse gas emissions benchmarks. When Northwest Natural did not agree to Eugene's proposals and did not negotiate alternative proposals to achieve the City's climate goals, the [City ultimately decided](#) to go forward without a franchise agreement rather than agree to a new contract on Northwest Natural's terms.

First and most importantly, the previous franchise agreement and the proposed upcoming CNG franchise agreement each run for 25 years. There is no reasonable rationale for such a long franchise period, especially as fossil fuel use and energy demand more broadly are undergoing transformational changes. With climate change impacts now palpable locally, from summer heat waves to winter flooding, RE Sources encourages Whatcom County to take immediate actions towards reducing our natural gas use. Indeed, the County's draft Climate Action Plan emphasizes reducing natural gas use as a priority for reaching emissions targets. Locking the County into a 25-year agreement goes against the County's climate goals and does not serve Whatcom's interests. At minimum, we urge the County to align the franchise agreement term to the County's emissions targets. Given the County's investment in its Climate Action Plan, a shorter franchise agreement will be an essential component of achieving the Plan's gas reductions.

We encourage the County to approve a franchise agreement for 5 years. Shorter terms mean that the County and CNG would have to negotiate more often, but that necessarily also means that the County has more leverage to work towards its climate goals. Our collective understanding of climate and fossil fuels has evolved since 1996—waiting another 25 years jeopardizes the efficacy of this agreement. The County would have another, sooner opportunity to impose conditions on CNG's use of the County right-of-way in just a few years. In addition, many municipal franchise agreements run for 10 years, including CNG's franchise agreements with Richland, Stanwood, and other regional municipalities.

Another major provision that counties can negotiate for is a franchise fee. As the Washington Supreme Court held in *King County v. King County Water Districts*, counties have the authority to require franchise grantees to pay franchise fees for use of the County's right-of-way. A franchise fee on natural gas can cover the administrative costs of managing the franchise agreement. In addition, counties may impose utility taxes on services provided within the county. While the County should impose a utility tax on fossil fuel utilities to raise revenues for the County to make progress on its climate goals, at the very least, the County should require CNG to cover the costs of the franchise agreement to the County.

Additionally, the County could require that CNG hold a more robust insurance policy with enumerated compensation for Whatcom County in the event of a pipeline failure here. The proposed agreement requires CNG to pay for emergency response and remediation costs, and requires proof of insurance, but does not indicate if the insurance policy must cover a specific value of damages within Whatcom County. Additionally, the proposed franchise agreement allows CNG to abandon facilities in place. The County could, and should, require that CNG cover the cost of facility and equipment removal.

Thank you for your time and attention to our suggestions. If you have any questions, please feel free to contact me.

Sincerely,

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cc:

Whatcom County Executive Satpal Sidhu, Bellingham City Council Member Hannah Stone, Mayor of Bellingham Seth Fleetwood, Lummi Nation Chairman Lawrence Solomon, Pipeline Safety Trust