

McDowell Rackner & Gibson PC



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March 31, 2015

VIA ELECTRONIC FILING

PUC Filing Center
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-1088

Re: Dockets UM 1635 and UM 1706

Attention Filing Center:

Attached for filing in the above-captioned dockets is Northwest Natural Gas Company's Application for Reconsideration and/or Clarification.

Please contact this office with any questions.

Very truly yours,

A handwritten signature in blue ink that reads "Wendy McIndoo".

Wendy McIndoo
Office Manager

Enclosure

cc: Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1635 PHASE II & UM 1706

In the Matters of
NORTHWEST NATURAL GAS
COMPANY, dba NW NATURAL,
Mechanism for Recovery of
Environmental Remediation Costs
(UM 1635)
and
Request for Determination of the
Prudence of Environmental Remediation
Costs for the Calendar Year 2013 and the
First Quarter of 2014
(UM 1706)

**APPLICATION FOR
RECONSIDERATION AND/OR
CLARIFICATION**

I. INTRODUCTION

1 Pursuant to ORS 756.561, OAR 860-001-0720, and OAR 860-001-0420, NW
2 Natural Gas Company (“NW Natural” or “the Company”) files this Application for
3 Reconsideration or, in the alternative, for Clarification of Order No. 15-049 issued on
4 February 20, 2015 in this proceeding.

5 Under OAR 860-001-0720(3), the Commission may grant an application for
6 reconsideration if there is “[g]ood cause for further examination of an issue essential to the
7 decision.” As discussed further in Section II, the Company believes that in ordering the
8 Company to place its insurance proceeds in a secure account, the Commission may have
9 inadvertently failed to consider NW Natural’s income tax obligations resulting from the
10 insurance settlements. For this reason, the Company believes that there is good cause
11 for further examination or clarification of this issue. The Company requests that the
12 Commission reconsider or clarify Order No. 15-049 consistent with this Application.

II. DISCUSSION

1 The Company believes that the following portions of Order No. 15-049 should be
2 reconsidered or clarified.

3 At page 7, the Order states:

4 We do not adopt any of the parties' arguments regarding
5 which interest rate should be applied to the insurance
6 proceeds. Instead, we direct NW Natural to hold the insurance
7 proceeds in a secure account, with interest accruing at the
8 highest rate the company is able to obtain while reasonably
9 minimizing the risk to principal.¹

10 At page 11, the Order then states:

11 a. *Allocation of Insurance Proceeds*

12 As we discussed earlier, recognizing that the remediation work
13 at issue here may continue for as long as twenty years, **we**
14 **allocate approximately \$100.3 million of the insurance**
15 **proceeds for future remediation work**, and will apply \$5
16 million in insurance proceeds to each year moving forward,
17 plus interest accrued on the entire outstanding insurance
18 proceeds balance over the previous 12 months.²

19 NW Natural believes that these two paragraphs can be read to be a directive by
20 the Commission for NW Natural to hold \$100.3 million in a secure account. If so, NW
21 Natural believes Order No. 15-049 should be reconsidered or clarified with respect to the
22 amount of the insurance proceeds which the Commission has directed the Company to
23 hold in the account.

24 Initially, NW Natural notes that the actual total amount of insurance proceeds and
25 other environmental recovery proceeds ("Insurance Proceeds") available to NW Natural
26 for past and future periods is \$147.1 million. NW Natural adjusted the approximately

¹ *In the Matters of Northwest Natural Gas Company, dba NW Natural, Mechanism for Recovery of Environmental Remediation Costs and Request for Determination of the Prudence of Environmental Remediation Costs for the Calendar Year 2013 and the First Quarter of 2015, Dockets UM 1635 and UM 1706, Order No. 15-049 at 7 (Feb. 20, 2015).*

² *Id.* at 11 (emphasis added).

1 \$150.5 of Insurance Proceeds as follows: First, NW Natural received an additional
2 \$1.685 million of Insurance Proceeds in December 2014, which increased the total
3 Insurance Proceeds from \$150.5 million to \$152.2 million. Next, NW Natural allocated
4 \$147.1 million of the \$152.2 million of Insurance Proceeds to Oregon customers based
5 upon the Commission-approved state allocation. Finally, pursuant to Order No. 14-077 in
6 Docket UG 263, the Commission authorized NW Natural to apply \$2.5 million of the
7 Insurance Proceeds to the expenditures associated with the Gasco Upland Pumping
8 Station.³ NW Natural, therefore, deducted this \$2.5 million from the \$147.1 million of
9 Insurance Proceeds for an adjusted total of \$144.6 million of Insurance Proceeds. NW
10 Natural assumes that the Commission would be agreeable to these adjustments because
11 they are consistent with the Commission's order.

12 In addition to these adjustments, however, NW Natural believes a more significant
13 adjustment should be made in recognition of the application of NW Natural's tax
14 obligations. In accordance with state and federal income tax law and applicable U.S.
15 financial accounting standards, the Company incurred an income tax obligation on the
16 Insurance Proceeds of 39.5 percent. As applied to the amount allocated to offset future
17 expenses of \$96.4 million (2/3rds of \$144.6 million), this results in an amount of available
18 funds of \$58.3 million. Table 1 below summarizes the adjustments and calculations
19 described above.

³ *In the Matter of NW Natural Gas Company, dba, NW Natural, Investigation into the Prudence of Gasco Site Capital Costs, Docket UG 263, Order No. 14-077 (Mar. 5, 2014).*

1 **Table 1**

Total Environmental Recovery Through 12/31/2014	\$ 152,201,738
Oregon Interstate Allocation of Environmental Proceeds	96.68%
Oregon Allocated Insurance Proceeds	<u>147,148,640</u>
Less Previously Applied to Gasco Upland Pumping Station	<u>(2,500,000)</u>
Adjusted Oregon Insurance Proceeds	144,648,641
Future Period Allocation Ratio (<i>two thirds</i>)	<u>66.667%</u>
Intergenerational Allocation to Future (<i>2013 - forward</i>)	96,432,427
Federal and State Income Tax Rate	<u>39.50%</u>
Income Taxes on Environmental Recovery	(38,090,809)
 Oregon Future Period Recovery Proceeds - Post Income Tax	 58,341,619

9 As discussed above, the Order No. 15-049 directs NW Natural to apply \$5 million of the
 10 future period (2013 forward) Insurance Proceeds to each year moving forward to offset
 11 future prudent environmental expenditures.⁴ Because calendar year 2013 is now in the
 12 past, NW Natural will reduce the \$58.3 million deposit in the secure account by \$1.1
 13 million, which reflects the deemed after tax equivalent withdrawal of Insurance Proceeds
 14 that would have occurred to offset the 2013 environmental expenditures. Thus, NW
 15 Natural requests that the Commission clarify that the total initial amount to be deposited
 16 in the secure interest-bearing account should be \$57.2 million. Table 2 below
 17 summarizes final deposit amount.

⁴ Applying the tax obligation of 39.5%, the after tax equivalent of \$5 million equals \$3 million. When the amount of prudent environmental expenditures incurred in an annual period would result in less than \$5 million of Insurance Proceeds being withdrawn to offset the expenditures, NW Natural will withdraw the after tax equivalent of that lessor amount.

1 **Table 2**

Oregon Future Period Recovery Proceeds - Post Income Tax	58,341,619	A
2013 Prudent Environmental Expenditures	6,816,728	
Less Annual \$5M Tariff Rider	(5,000,000)	
Environmental in Excess of Tariff Rider	<u>1,816,728</u>	
Insurance Proceeds Applied to Excess	<u>(1,816,728)</u>	
2013 Environmental Expenditures Post Rider and Insurance	-	
Insurance Proceeds Applied Above	1,816,728	
Federal and State Income Tax Rate	<u>39.50%</u>	
Income Taxes Previously Incurred	(717,608)	
Insurance Proceeds 2013 Withdrawal - Post Tax Equivalent	1,099,120	B
Insurance Proceeds Deposit to Secure Account to Apply to 2014 and Remaining Future Periods	57,242,498	A - B

2 NW Natural wants to make it very clear that customers will receive the benefit of the
3 entire pre-tax amount of Insurance Proceeds allocated to the future. This is because NW
4 Natural's Request for Reconsideration will not impact the regulatory accounting treatment
5 of the insurance proceeds or the application of that accounting to the future
6 environmental expenditures. The cash withdrawals from the secure account will be used
7 to fund the environmental expenditures, but the regulatory accounting will continue to
8 provide for the pre-tax application of the full \$96.4 million to prudent environmental
9 expenditures. As NW Natural reduces the regulatory liability, NW Natural will also
10 recognize a tax benefit of \$2 million associated with the deduction for tax purposes of the
11 expense in that year to which the insurance proceeds are applied.⁵ The \$2 million tax
12 benefit added to the \$3 million of cash from the secure account (the post-tax equivalent of
13 \$5 million) will equal the \$5 million benefit received by customers. Thus, over time, NW

⁵ This assumes current tax rates. In all cases, NW Natural will apply the current after tax equivalent of the expense each year to which the proceeds are applied.

1 Natural will deliver \$96.4 million of rate relief to customers through the combination of the
2 post-tax amount in the secure account and the tax benefits associated with the
3 application of those amounts to expenses.

4 NW Natural believes that this clarification is necessary in order to avoid
5 unintended consequences that could otherwise accompany the Commission's order. If
6 the amount to be placed in an interest-bearing account specified in Order No. 15-049
7 remained unchanged, and were *not* offset by the Company's tax obligation on the
8 Insurance Proceeds, NW Natural would be required to bear the financing costs on
9 borrowing approximately \$38 million, equivalent to the tax obligation incurred on the
10 future period recovery proceeds, which would be deposited into the secure account. This
11 would create a financing in order to bear the tax expense, which would be a significant
12 expense not contemplated by the Commission's order.⁶

13 Consistent with OAR 860-001-0720(3), the foregoing reasons demonstrate good
14 cause for further examination of the issue.

III. CONCLUSION

15 The Company requests that the Commission reconsider or clarify Order No. 15-
16 049 to reflect that the amount of the insurance proceeds to be placed in a secure account
17 is an after-tax amount, of \$57.3 million.

⁶ Order No. 15-049 at 11.

DATED: March 31, 2015

MCDOWELL RACKNER & GIBSON PC



A handwritten signature in black ink, appearing to read 'Lisa F. Rackner', is written over a horizontal line.

Lisa F. Rackner
Adam Lowney

NORTHWEST NATURAL GAS COMPANY

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