

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1635

In the Matter of)	
NORTHWEST NATURAL GAS)	NORTHWEST INDUSTRIAL GAS
COMPANY, dba NW NATURAL)	USERS' RESPONSE TO NW
)	NATURAL'S OPENING BRIEF
Mechanism for Recovery of)	
Environmental Remediation Costs.)	

Introduction

Pursuant to the Administrative Law Judge's Prehearing Conference Memorandum dated October 13, 2015, Northwest Industrial Gas Users ("NWIGU") submits this Response Brief addressing the contested issues in this matter presented in Northwest Natural's ("NW Natural" or "Company") Opening Brief.

The Commission previously resolved most of the issues in this docket through Order 15-049. Through NW Natural's compliance filings, however, the parties in this proceeding have identified and attempted to resolve several issues that were not able to be clearly resolved by Order 15-049. NW Natural's Opening Brief addresses two of the remaining contested issues in this case: (1) the appropriate state allocation factor required by the Commission's prior order, and (2) whether the Company is entitled to earn interest on the expenses the prior ordered determined could not be recovered. NWIGU does not take a position on the first issue relating to the state allocation factor. NWIGU believes the Company is not entitled under the prior order to earn interest on amounts this Commission already determined must be written off.

Argument

The issue in this case is whether NW Natural is entitled to earn interest on a certain amount of deferred costs the Commission already determined cannot be recovered. As explained by NW Natural, it is seeking to earn \$2.8 million accrued from January 1, 2013 through February 20, 2015 (the date of Order 15-049).¹ The basis of NW Natural's argument is its inference that the Commission intended to apply a one-time-only write off of \$15 million and that the write off amount must have included any interest that otherwise accrued on that amount up until the date of the order.

The flaw with NW Natural's reasoning is that it ignores the express language of the Commission's prior order. The issue under consideration in the relevant part of the order was "the parties' arguments regarding remediation costs incurred through 2012."² To address those arguments, a majority of the Commission first determined how much of the \$94.3 million deferral balance NW Natural should be allowed to recover by first allocating some insurance proceeds "to offset remediation costs incurred" through 2012, and then subjecting the remaining amount to an earnings test.³ In doing so, the Commission calculated that, unless revised, the Company would have "to bear \$30.4 million, or 70 percent, of those expenses."⁴

The majority of the Commission ultimately determined that \$30.4 million was too much for the Company to bear and, instead, reduced that amount to \$15 million. It is important to note, however, that the adjustment was to the Company's share of "expenses" that had been incurred through the end of 2012. After considering all of the

¹ Opening Brief at 5:12.

² Order 15-049 at p.15 (emphasis added).

³ Order 15-049 at pp.17-18.

⁴ Order 15-049 at p.18.

factors related to the nature of those expenses, the order concludes that it is in the Commission's "discretion to reduce NW Natural's share of past costs."⁵

The balance of factors the Commission weighed to reduce the Company's share focused on past costs, incurred up to a certain point, and the majority concluded that a certain amount of those costs must be written off. Conversely, the order concluded that only the remaining \$29.2 million of past costs (i.e. not the Company's share) could be amortized through the SRRM. NW Natural now seeks to amortize more than the amount authorized to be amortized by the order, including the \$29.2 million of past costs, but also adding an additional amount based on interest accrued on the write-off amount up until the date of the order.

Contrary to the implications in NW Natural's Opening Brief, Order 15-049 in no way authorizes the Company to earn interest on amounts the Commission ordered were not recoverable. Nor should the Commission authorize such a windfall for the Company. It simply makes no sense to conclude that a portion of past costs are not recoverable, but that the Company should benefit by earning interest on those amounts. If the Commission had intended for the Company to amortize more than the \$29.2 million of past costs allowed in the order, it would have increased that amount accordingly. NW Natural's Opening Brief cites to no legal authority for authorizing such an approach.

Conclusion


Based on the foregoing, the Commission should not approve the portion of NW Natural's compliance filing that allows it to earn interest on the portion of its prior costs the Commission determined could not be recovered. NWIGU reserves the right to

⁵ Id.

respond to additional points made by Staff or the Citizens' Utility Board of Oregon if necessary.

Dated this 30TH day of November 2015.

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