

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 22, 2023**

REGULAR **CONSENT** **EFFECTIVE DATE** August 22, 2023

DATE: August 14, 2022

TO: Public Utility Commission

FROM: Mitchell Moore

THROUGH: Bryan Conway, Marc Hellman, and Matt Muldoon **SIGNED**

SUBJECT: NORTHWEST NATURAL:
(Docket No. UM 1732(7))
Requests Prudence Review of Environmental Remediation Costs for
Calendar Year 2022.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Northwest Natural Gas Company's (NW Natural, NWN, or Company) request and find that the Environmental Remediation Costs from January 1, 2022, through December 31, 2022, are prudent and eligible for recovery.

DISCUSSION

Whether NW Natural's environmental remediation costs incurred between January 1, 2022, and December 31, 2022, are prudent and are eligible for recovery.

Applicable Law

NW Natural makes this filing subject to Commission Order Nos. 12-408 and 12-437 in Docket No. UG 221 approving Rate Schedule 183 – Site Remediation Recovery Mechanism (SRRM), and Order No.15-049 in Docket No. UM 1635. In Order No. 15-049, the Commission determined that environmental remediation costs incurred on and after January 1, 2013, would be reviewed annually for prudence prior to becoming eligible for offset by insurance proceeds and amounts collected in base rates or amortization under the SRRM. To determine whether a cost was prudently incurred

and recoverable in rates, "the Commission examines the objective reasonableness of a company's actions measured at the time the company acted."¹

Analysis

Background

NW Natural has seven sites at which the Oregon Department of Environmental Quality (DEQ) or the Environmental Protection Agency (EPA) has required clean-up. These include Portland Harbor, Portland Gas Manufacturing (PGM), Gasco, Central, Eugene Water Electric Board, French American School, and Oregon Steel. NWN incurred expenses in 2022 for three of those sites: Gasco, Portland Harbor, and PGM. The total expenditures for the period of January 1, 2022, through December 31, 2022, are \$19,355,594.

According to the Commission Order No. 15-049, an earnings test is applied to the deferral balance of prudently incurred costs. The earnings test includes examination of 100 percent of NW Natural's Weighted Adjusted Cost of Gas (WACOG) earnings and 50 percent of AMA Optimization revenues, and requires the company to offset each year's deferred amounts with any earnings above its authorized return on equity (ROE) for that year. Also, the Commission adopted an earnings threshold set at NW Natural's ROE. The Company is required to offset future environmental expenses with any earnings that are above this level.

Staff Review

Staff reviewed the Company's filing, associated work papers and Annual Report, in addition to issuing several data requests, to ensure that costs included for recovery are a) actually incurred; b) solely incremental and associated with the environmental and remediation activities as identified in Commission Order Nos. 12-408 and 12-437; c) reasonable, and d) the earnings test does not require NWN to absorb any costs.

Description of Expenses

Gasco

The largest expenditures for 2022 were at the Gasco site. Expenditures for the various Gasco projects totaled \$16,840,907. The Gasco site covers approximately 45 acres and is located on the Willamette River between the St. Johns Bridge and the Railroad Bridge. Work at this site consists of various projects: the Uplands Project, the Sediments Project, and the Source Control Project. These projects are subject to EPA and DEQ oversight.

¹ *In re PacifiCorp, dba Pacific Power, Application for an Accounting Order Regarding Excess Net Power Costs*, Docket No. UM 995, Order No. 02-469 at 4 (July 18, 2002).

The Gasco Upland site is now in the feasibility study phase. In 2022 NW Natural continued work with DEQ to integrate the data sets from the parcel currently owned by Siltronic into the Gasco data set, develop an addendum to the Gasco risk assessment, and addressed DEQ comments on the interim feasibility study submitted in 2018. During 2022 NW Natural also completed interim source control measures, including a system to remove water that collects in an area of former tenant improvements.

EPA's January 2017 ROD for Portland Harbor included a selected remedy for the Gasco Sediments site. In 2022, in response to EPA comments on the 2021 Basis of Design and Preliminary Design Report, NW Natural submitted a Preferred Alternative Report ("PAR"). EPA conditionally approved the PAR in December 2022. The Company also conducted monthly visual monitoring of the shoreline area in the direct vicinity of the pilot cap area.

Construction of the Source Control wells and groundwater treatment plant was completed in October 2013. Following a period of optimization, DEQ approved the system for long-term operation on December 30, 2016. In 2022 NW Natural continued to maintain and operate the system and expanded certain components of it to support the additional interim source controls discussed above. The Company will continue to incur costs associated with operating the wells and environmental regulatory oversight.

Portland Harbor

Expenditures related to the Portland Harbor site in 2020 were \$2,085,705.

The Portland Harbor site is a stretch of approximately 10 miles along the Willamette River that has been designated as a Superfund site by the EPA. The EPA issued its ROD for the entire site in January 2017, estimating a total remediation cost of \$1.05 billion over a 13-year cleanup period to be allocated among potentially responsible parties.

In December 2018, EPA requested that Portland Harbor responsible parties, including NW Natural, enter into consent orders to perform remedial design work. EPA offered to delay initiation of consent decree negotiations or other enforcement action for harbor wide cleanup in exchange for these remedial design commitments.

In March 2020, EPA and NW Natural agreed to amend the 2009 EPA Consent Order for the Gasco Sediments Site to include remedial design work at two additional Portland Harbor project areas – the US Moorings Project Area and the B1 Navigation Channel Project Area. NW Natural incurred costs in 2022 to complete Phase I data gaps

investigations and prepare reports required by EPA. NW Natural also incurred costs in 2022 to participate in the harbor-wide allocation.

NW Natural participates in the Portland Harbor Natural Resource Damage (“NRD”) cooperative assessment process. On January 30, 2017, the Confederated Tribes and Bands of the Yakama Nation filed a lawsuit against NW Natural and 29 other potentially responsible parties for alleged Portland Harbor response costs and natural resource damage assessment costs related to the Portland Harbor Superfund Site, as well as natural resource damage assessment costs related to the Multnomah Channel, Lower Willamette and Columbia Rivers. In August 2019, the federal court stayed the case consistent with related litigation over Portland Harbor cleanup costs. In 2021, the Company worked with the Natural Resource Trustees in the NRD cooperative process on pathways to reach settlement. NW Natural incurred additional costs in 2022 related to the litigation.

PGM site

The PGM site covers approximately 3.7 upland acres along the Willamette River near the Steel Bridge. Expenditures at this site were \$459,982 in 2022. The Company prepared remedial design documents for the cleanup in 2020, and worked to obtain necessary permits, access agreements and easements for the cleanup. Construction of the remedy was completed in 2020. NW Natural incurred costs in 2022 to perform the second year of long-term monitoring of the site. The monitoring confirmed that the remedy is performing as designed.

Conclusion

Staff concludes that the Company’s expenditures in 2022 are reasonable and consistent with the remediation activities identified in Order Nos. 12-408 and 12-437. Accordingly, Staff recommends that the Commission find that that NW Natural’s Environmental Remediation Costs from January 1, 2022, through December 31, 2022, are prudent and eligible for recovery through the SRRM.

In addition, a preliminary earnings review indicates that an earnings test would not cause Northwest Natural to absorb any costs. The Results of Operations report for 2022 shows a return on equity of 8.56 percent, below the Company’s Authorized ROE of 9.4 percent.

The Company has reviewed this memo and agrees with its contents.

Docket No. UM 1732(7)
August 14, 2022
Page 5

PROPOSED COMMISSION MOTION:

Approve NW Natural's request to find that the Environmental Remediation Costs from January 1, 2022, through December 31, 2022, are prudent and eligible for recovery.

NWN UM 1732 (7) SRRM 2022 Prudence Review