



ALISHA TILL
Direct (503) 290-3628
alisha@mrg-law.com

September 2, 2021

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Filing Center
P.O. Box 1088
201 High Street SE, Suite 100
Salem, Oregon 97308-1088

Re: Docket UM ____ - Northwest Natural Gas Company's Application for Approval of Deferred Accounting for TSA Security Directive 2 Compliance Expenses.

Attention Filing Center:

Attached for filing in the above-referenced docket is Northwest Natural Gas Company's Application to Defer Costs Associated with TSA Security Directive 2.

Please contact this office with any questions.

Sincerely,

Alisha Till
Paralegal

Attachments

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM _____

In the Matter of

NORTHWEST NATURAL GAS COMPANY,
dba, NW Natural

Application for Approval of Deferred Accounting
for TSA Security Directive 2 Compliance
Expenses.

**APPLICATION TO DEFER COSTS
ASSOCIATED WITH TSA SECURITY
DIRECTIVE 2**

I. INTRODUCTION

Northwest Natural Gas Company, dba NW Natural (“NW Natural” or the “Company”), hereby submits this application (“Application”) to the Public Utility Commission of Oregon (“Commission”) seeking authorization to use deferred accounting, pursuant to ORS 757.259 and OAR 860-027-0300, for the 12-month period beginning September 2, 2021, through September 1, 2022, for amounts spent by NW Natural to comply with the Department of Homeland Security’s Transportation Security Administration (“TSA”) Security Directive Pipeline-2021-02 (“Security Directive 2”). NW Natural expects to incur significant costs in connection with Security Directive 2, and respectfully asks the Commission to act on this Application in a timely manner to allow NW Natural to commence its compliance activities while deferring the related costs for later ratemaking treatment.

II. COMMUNICATIONS

Communications regarding this application should be addressed to:

eFiling
Rates and Regulatory Affairs
NW Natural
250 SW Taylor Street
Portland, Oregon 97204
Email: eFiling@nwnatural.com

Zachary D. Kravitz
Director, Rates and Regulatory Affairs
250 SW Taylor Street
Portland, Oregon 97204
Telephone: (503) 610-7617
Email: zachary.kravitz@nwnatural.com

Jocelyn Pease
McDowell Rackner Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
Telephone: (503) 595-3925
Email: jocelyn@mrq-law.com

Eric Nelsen
Senior Regulatory Attorney
250 SW Taylor Street
Portland, OR 97204
Telephone: (503) 721-2476
Email: eric.nelsen@nwnatural.com

1 Informal questions may be directed to Zachary Kravitz, Director of Rates and Regulatory
2 Affairs, at (503) 610-7617.

3 **III. BACKGROUND AND SUMMARY OF REQUEST**

4 The TSA recently issued two security directives addressing cybersecurity issues for critical
5 pipeline owners and operators: Security Directive Pipeline-2021-01 (“Security Directive 1”) and
6 Security Directive 2. As an owner and operator of critical pipelines, NW Natural must comply with
7 these directives, and in this Application, NW Natural seeks to defer costs associated with
8 implementation of Security Directive 2.¹

9 The TSA issued Security Directive 2 on July 20, 2021, requiring designated owners and
10 operators to (1) implement specific mitigation measures to protect against ransomware attacks
11 and other related threats, (2) develop and implement a cybersecurity contingency and response
12 plan, and (3) conduct a cybersecurity architecture design review.² NW Natural has already started
13 working on implementation of Security Directive 2 and expects to soon begin incurring additional
14 expenses to comply with these requirements.

15 Understandably, the security measures necessary to protect the nation’s critical

¹ NW Natural is not seeking to defer costs associated with Security Directive 1. For an overview of Security Directive 1, see U.S. Department of Homeland Security, “DHS Announces New Cybersecurity Requirements for Critical Pipeline Owners and Operators,” DHS.gov, available at <https://www.dhs.gov/news/2021/05/27/dhs-announces-new-cybersecurity-requirements-critical-pipeline-owners-and-operators> (last visited Aug. 24, 2021).”

² Department of Homeland Security, “DHS Announces New Cybersecurity Requirements for Critical Pipeline Owners and Operators,” DHS.gov, available at <https://www.dhs.gov/news/2021/07/20/dhs-announces-new-cybersecurity-requirements-critical-pipeline-owners-and-operators> (last visited Aug. 24, 2021).

1 infrastructure from ransomware and other cybersecurity threats are highly confidential and could
2 have a devastating and self-defeating effect if intentionally or inadvertently disclosed to the public.
3 As such, Security Directive 2 has been designated as Sensitive Security Information (“SSI”)
4 pursuant to 49 CFR 1520.5 because, if publicly released, it would be detrimental to transportation
5 security. Accordingly, the contents of Security Directive 2 may only be shared on a need-to-know
6 basis as defined by 49 CFR 1520.11.³ Relatedly, NW Natural’s compliance plans for Security
7 Directive 2 are also considered SSI.⁴

8 The Company recognizes the importance of these new rules given the increase in
9 cybersecurity incidents targeting the energy industry and the role the Company plays as an owner
10 and operator of critical pipeline infrastructure. NW Natural expects to incur significant compliance
11 costs due to the comprehensive aims and reach of Security Directive 2 but does not yet know the
12 extent of these costs. If the Application is approved, the Company will document all costs known
13 to be incurred as a result of compliance with Security Directive 2 and will seek later ratemaking
14 treatment for such costs.

15 IV. DEFERRAL OF COSTS

16 ORS 757.250 empowers the Commission to authorize the deferral of expenses or revenues
17 of a public utility for later inclusion in rates. The Commission has established rules implementing
18 this statute in OAR 860-027-0300, including specific requirements for deferred accounting
19 applications – each of which is addressed below, in turn.

20 A. Description of the Expenses to be Deferred – OAR 860-027-0300(3)(a).

21 The TSA issued the security directives to protect critical pipeline systems and Security
22 Directive 2 does so by requiring owners and operators to implement specific mitigation measures,

³ NW Natural plans to file a motion for modified protective order soon after filing this Application to ensure that SSI will be protected in this proceeding in accordance with applicable federal requirements.

⁴ 49 CFR 1520.5(b)(1).

1 to implement cybersecurity contingency and recovery plans, and to conduct cybersecurity
2 architecture design reviews. The Company expects that the costs that will be incurred to address
3 these requirements will involve the purchase of hardware and software, the provision of third-
4 party services, and the design and implementation of mitigation measures.

5 **B. Reasons for Deferred Accounting – OAR 860-027-0300(3)(b).**

6 ORS 757.259 is a “statutorily authorized exception to the general prohibition against
7 retroactive ratemaking” that provides a “means to address utility expenses or revenues outside of
8 the utility’s general rate case proceeding.”⁵ The Commission has discretion under ORS
9 757.259(2)(e) to authorize deferral of “[i]dentifiable utility expenses or revenues, the recovery or
10 refund of which the commission finds should be deferred in order to minimize the frequency of
11 rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and
12 benefits received by ratepayers.”

13 Here, deferred accounting is appropriate because complying with Security Directive 2 is
14 mandated by federal agency, imperative to ensuring pipeline security, and will cause NW Natural
15 to incur significant costs that are not currently accounted for in the Company’s rates. This includes
16 capital investments and incremental operations and maintenance (“O&M”) expense. Importantly,
17 these critical and prudent costs may not otherwise be recoverable absent authorization of
18 deferred accounting. Finally, the use of deferred accounting will allow for matching of the costs
19 borne by and benefits received by ratepayers.

20 **C. Accounting Treatment of Expenses with and without Deferred Accounting – OAR**
21 **860-027-0300(3)(c).**

22 Beginning on September 2, 2021, and ending twelve months from this date, NW Natural
23 proposes to account for the expenses incurred because of TSA Security Directive 2 compliance

⁵ *In re Public Utility Commission of Oregon, Staff Request to Open an Investigation Related to Deferred Accounting*, Docket UM 1147, Order No. 05-1070 at 2 (Oct. 5, 2005).

1 on the company's balance sheet, to later be included in customer rates. In the absence of
2 approval of deferred accounting, NW Natural would record O&M costs in FERC account 921 and
3 the capital expenses in FERC account 403 (Depreciation Expense) and FERC plant account 300.
4 NW Natural proposes to track and defer these costs for later review.⁶

5 **D. Estimation of the Amounts Subject to Deferral – OAR 860-027-0300(3)(d).**

6 NW Natural is unable at this time to predict the exact amount of costs the Company will
7 incur to comply with Security Directive 2. NW Natural will document actual expenses incurred to
8 comply with Security Directive 2 and will seek amortization of the deferred costs in a future
9 Commission proceeding.

10 **E. Notice of the Application for Deferred Accounting – OAR 860-027-0300(3)(e).**

11 OAR 860-027-0300(6) requires the applicant to serve a Notice of Application on all persons
12 who were parties to the Company's last general rate case. A Notice of Application and a list of persons
13 served with the notice are attached hereto as Exhibit A as required by OAR 860-027-0300(3)(e).

14 **V. CONCLUSION**

15 NW Natural respectfully requests that the Commission issue an order authorizing the
16 Company to defer the expenses described in this Application associated with TSA Security
17 Directive 2 compliance efforts beginning on September 2, 2021.

⁶ Pursuant to Commission Order No. 08-263, NW Natural will apply an interest rate based on the most recently authorized rate of return ("ROR") to this account. See Docket UM 1147, Order No. 08-263 at 1 (noting that, "[h]istorically, a utility's deferred accounts have earned interest based on that utility's authorized rate of return" before establishing a modified interest rate for deferred accounts during the amortization period).

Respectfully submitted this 2nd day of September 2021.

By: **MCDOWELL RACKNER GIBSON PC**



Jocelyn Pease
McDowell Rackner Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
Telephone: (503) 290-3620
Email: jocelyn@mrg-law.com

NORTHWEST NATURAL GAS COMPANY

Eric Nelsen
Senior Regulatory Attorney
250 SW Taylor Street
Portland, Oregon 97204
Phone: (503) 721-2476
Email: eric.nelsen@nwnatural.com

Attorneys for Northwest Natural Gas Company

UM _____

Exhibit A

to

**NW Natural's Application to Defer Costs Associated
with TSA Security Directive 2**

Notice of Application

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM _____

In the Matter of

NORTHWEST NATURAL GAS COMPANY,
dba, NW Natural

Application for Approval of Deferred
Accounting for TSA Security Directive 2
Compliance Expenses.

**NOTICE OF APPLICATION TO DEFER
COSTS ASSOCIATED WITH TSA
SECURITY DIRECTIVE 2 COMPLIANCE**

1 On September 2, 2021, Northwest Natural Gas Company, dba NW Natural (“NW Natural”)
2 filed an application with the Public Utility Commission of Oregon (“Commission”) for an order
3 authorizing deferral of the costs associated with amounts spent by NW Natural to comply with the
4 Department of Homeland Security’s Transportation Security Administration Security Directive
5 Pipeline-2021-02 (“Security Directive 2”). Approval of NW Natural’s application will not authorize
6 a change in NW Natural’s rates, but will permit the Commission to consider allowing such deferred
7 amounts in rates in a subsequent proceeding.

8 This application is available on the Commission’s website. Persons who wish to obtain a
9 copy of NW Natural’s application will be able to access it on the Commission’s website or by
10 contacting NW Natural directly:

Zachary D. Kravitz
Director, Rates and Regulatory Affairs
250 SW Taylor Street
Portland, Oregon 97204
Telephone: (503) 610-7617
Email: zachary.kravitz@nwnatural.com

Eric Nelsen
Senior Regulatory Attorney
250 SW Taylor Street
Portland, OR 97204
Telephone: (503) 721-2476
Email: Eric.Nelsen@nwnatural.com

11 Any person may submit written comments to the Commission regarding the application
12 within 25 days of the date of this filing.

DATED this 2nd day of September 2021.

By: **McDOWELL RACKNER GIBSON PC**



Jocelyn Pease
McDowell Rackner Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
Telephone: (503) 595-3925
Email: jocelyn@mrq-law.com

NORTHWEST NATURAL GAS COMPANY

Eric Nelsen
Senior Regulatory Attorney
250 SW Taylor Street
Portland, Oregon 97204
Phone: (503) 721-2476
Email: eric.nelsen@nwnatural.com

Attorneys for Northwest Natural Gas
Company

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2021, I have served by electronic mail the foregoing NOTICE OF NORTHWEST NATURAL GAS COMPANY'S APPLICATION TO DEFER COSTS ASSOCIATED WITH TSA SECURITY DIRECTIVE 2 COMPLIANCE upon all parties of record in docket UG 388.

TOMMY A BROOKS
CABLE HUSTON LLP
tbrooks@cablehuston.com

EDWARD FINKLEA
ALLIANCE OF WESTERN ENERGY
CONSUMERS
efinklea@awec.solutions

CHAD M STOKES
CABLE HUSTON LLP
cstokes@cablehuston.com

KEITH KUENY
COMMUNITY ACTION
PARTNERSHIP OF OREGON
keith@caporegon.org

JANET MERRELL
COMMUNITY ACTION
PARTNERSHIP OF OREGON
janet@caporegon.org

OREGON CITIZENS' UTILITY
BOARD
dockets@oregoncub.org

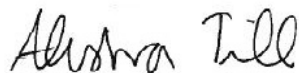
WILLIAM GEHRKE
OREGON CITIZENS' UTILITY
BOARD
will@oregoncub.org

MICHAEL GOETZ
OREGON CITIZENS' UTILITY
BOARD
mike@oregoncub.org

STEPHANIE S ANDRUS
PUC STAFF--DEPARTMENT OF
JUSTICE
stephanie.andrus@state.or.us

MARIANNE GARDNER
PUBLIC UTILITY COMMISSION OF
OREGON
marianne.gardner@puc.oregon.gov

DATED: September 2, 2021



Alisha Till
Paralegal