

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1635

In the Matter of)	
)	RESPONSE OF NORTHWEST
NORTHWEST NATURAL GAS)	INDUSTRIAL GAS USERS TO
COMPANY, dba NW NATURAL)	NORTHWEST NATURAL'S
)	APPLICATION FOR
Mechanism for Recovery of)	RECONSIDERATION AND/OR
Environmental Remediation Costs.)	CLARIFICATION
)	

Pursuant to OAR 660-001-0720(4), Northwest Industrial Gas Users (“NWIGU”) files this response to Northwest Natural’s Application for Reconsideration and/or Clarification filed on March 31, 2015 (“Application”). For the reasons stated below, NWIGU urges the Public Utility Commission of Oregon (“Commission”) to deny the Application.

Order Number 15-049 (“Order”), issued in this docket, directs Northwest Natural to allocate approximately \$100.3 million of insurance proceeds to future environmental remediation work. As part of the Order, the Commission further directed Northwest Natural “to hold the insurance proceeds in a secure account, with interest accruing at the highest rate the company is able to obtain while reasonably minimizing the risk to principal.” As further described in the Order, the interest accrued on insurance proceeds will be applied to remediation costs each year. Finally, the Order directs Northwest Natural to seek review and acknowledgement of the account once it has been established.

Northwest Natural states in the Application that it no longer has \$100.3 million of insurance proceeds to place into a secured account because it paid taxes that reduced the balance of insurance proceeds available for future remediation work to \$58.3 million.

Northwest Natural therefore seeks “clarification” of the Order that would allow it to place only \$58.3 million in the secured account rather than the approximately \$100.3 million directed by the Commission.

Northwest Natural’s Application is not appropriate for review as a reconsideration of the Commission’s Order. OAR 660-001-0720(3) provides the Commission with discretion to reconsider an order if the applicant shows one of the following:

- (a) New evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order;
- (b) A change in the law or policy since the date the order was issued relating to an issue essential to the decision;
- (c) An error of law or fact in the order that is essential to the decision; or
- (d) Good cause for further examination of an issue essential to the decision.

Northwest Natural relies only on OAR 660-001-0720(3)(d) and asserts there is good cause for further examination of an issue essential to the decision. To demonstrate good cause, the Application states that Northwest Natural “believes that in ordering the Company to place its insurance proceeds in a secure account, the Commission may have inadvertently failed to consider NW Natural’s income tax obligations resulting from the insurance settlements.”

As the Application goes on to reveal, however, Northwest Natural’s request asks the Commission to do more than simply correct an inadvertent failure or miscalculation by further examining an issue. Rather, the Application asks the Commission to consider new facts, outside the record, to address a new issue that was not raised by any party

during the proceedings. There was no inadvertent failure on the part of the Commission because the Commission was not asked to review this issue.

If the Commission were to grant Northwest Natural's request, the fact that this is a new issue based on new facts means the Commission would be conducting an "initial examination" of an issue rather than a "further examination" as allowed by the rule. Additionally, a new issue cannot have been "essential to the decision" if it was not raised by any party or discussed by the Commission as part of the Order.

To the extent the "issue" Northwest Natural seeks to further examine is more generic – such as the amount of proceeds available to be placed into the secure account – Northwest Natural could have informed the Commission during the proceedings that it no longer had the full amount of insurance proceeds available. The Application makes no mention of the timing of the tax payments, nor otherwise states that this information was unavailable at that time. The Application, therefore, seeks to reopen the record and try a new issue that could have been tried before the Commission issued the Order, which goes beyond the scope of an application for reconsideration intended by the rules.

If the Commission chooses to grant Northwest Natural's request, it should do more than simply "reconsider" or "clarify" its directive to place \$100.3 million into a secure account. The Commission should allow all parties to verify the facts stated in the Application and to inquire further into the factors Northwest Natural asserts have reduced the balance of the insurance proceeds from \$100.3 million to \$58.3 million. The Commission should further allow the parties to participate in determining the scope of the examination that will be allowed. Finally, the Commission should put into abeyance Northwest Natural's compliance filing filed on the same day as the Application, as the outcome of this matter could necessitate changes to that filing.

In summary, NWIGU urges the Commission to reject Northwest Natural's request in the Application to reconsider or clarify Order 15-049. That request improperly seeks reconsideration for the purpose of raising a new issue, which is not allowed under the Commission's rules.

Dated this 15th day of April 2015.

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