

1 First, Staff objects to NW Natural's proposed implementation of the Commission's
2 determination regarding the share of NW Natural's environmental remediation costs
3 appropriately allocated to Oregon customers. The Commission determined that NW Natural
4 would recover from Oregon customers 96.68 percent of environmental remediation costs subject
5 to recovery under the SRRM.² NW Natural's Revised Compliance Filing does not reflect this
6 determination. Instead NW Natural substitutes the allocation method it proposed in testimony
7 under which a portion of the costs is allocated to Oregon using the 96.68 percent allocation and
8 the other portion is allocated entirely to Oregon.³

9 Second, Staff objects to NW Natural's proposed implementation of the Commission's
10 disallowance of \$15 million from the \$94.3 million deferral balance of remediation costs accrued
11 prior to January 1, 2013. Rather than removing \$15 million from the deferral balance accrued as
12 of January 1, 2013, NW Natural removed \$15 million from the deferral balance accrued as of the
13 date of Order No. 15-049 (February 20, 2015). Under NW Natural's proposed implementation,
14 NW Natural will recover from customers approximately \$2.8 million for interest accrued on \$15
15 million between January 1, 2013, and the date the Commission issued Order No. 15-049.

16 The Commission's order makes clear that it intended to remove \$15 million from the
17 \$94.3 million deferral balance, not \$15 million from the deferral balance that existed on February
18 20, 2015. To give effect to the Commission's order disallowing \$15 million of the \$94.3 million
19 deferral balance that existed as of January 1, 2013, NW Natural must remove from the February
20 20, 2015 deferral balance \$15 million plus any interest accrued for this amount since January 1,
21 2013.

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26 ² Order No. 15-049 at 6.

³ Revised Compliance Filing 4.

1 **II. NW Natural's implementation of the Commission-determined jurisdictional**
2 **allocation for costs subject to the SRRM is incorrect.**

3 **A. The Commission determined that 96.68 percent of costs subject to the SRRM**
4 **should be allocated to Oregon customers.**

5 There is no ambiguity in the Commission's determination in Order No. 15-049 about the
6 allocation of environmental remediation costs to Oregon customers. The Commission
7 specifically adopted the allocation factor included in the July 2013 Prudence and Earnings Test
8 Stipulation executed by CUB, NWIGU, Staff, and NW Natural:

9 We also adopt the parties' initially-agreed upon interstate allocation,
10 which relies on historic operations to determine the allocation of costs
11 between Washington and Oregon.⁴

12 The initially-agreed upon interstate allocation in the Prudence and Earnings Test Stipulation is as
13 follows:

14 The parties agree that 96.68% of the deferred costs amortized through the
15 SRRM will be allocated to Oregon customers.⁵

16 Notwithstanding the Commission's unambiguous adoption of the allocation factor agreed
17 to in the Prudence and Earnings Test Stipulation,⁶ NW Natural interprets Order No. 15-049 to
18 mean that 96.68 percent of costs associated with sites to serve both Washington and Oregon will
19 be allocated to Oregon while 100 percent of costs to remediate sites used to serve only Oregon
20 customers will be allocated to Oregon.⁷

21 NW Natural bases this interpretation on the Commission's reference to "historic
22 operations" in the excerpt above. NW Natural asserts that throughout Docket No. UM 1635
23 parties have referred to NW Natural's proposal to allocate to Oregon customers 100 percent of
24 plant used to serve Oregon as the "historic operations" or "historic allocation" approach.⁸ NW

25 ⁴ Order No. 15-049 at 6.

26 ⁵ UM 1635 – Prudence and Earnings Test Stipulation 6.

⁶ The Commission rejected the Prudence and Earnings Test Stipulation in Order No. 13-424.

⁷ Northwest Natural Gas Company's Opening Brief 3-4.

⁸ Northwest Natural Gas Company's Opening Brief 3-4.

1 Natural argues that “the Commission's use of the term “historic operations" when describing the
2 parties’ “initially agreed upon allocation” in the Prudence and Earnings Stipulation “suggests
3 that the Commission agrees with NW Natural that to the extent historic operations served Oregon
4 customers, then costs to clean up those sites should be allocated to Oregon customers.”⁹ NW
5 Natural’s interpretation of Order No. 15-049 fails for at least two reasons.

6 **1. The Commission’s description of the previous agreement regarding the**
7 **jurisdictional allocation of costs does not change the substance of the agreement.**

8 The jurisdictional allocation agreed to by the parties in the Prudence and Earnings Test
9 Stipulation is not equivocal. The Prudence and Earnings Stipulation provides that 96.68 percent
10 of deferred costs subject to amortization under the SRRM will be allocated to Oregon.¹⁰ The
11 Commission’s description of the agreed-upon allocation in Order No. 15-049 (e.g., that the
12 allocation relies on “historic operations”) cannot and does not change the substance of the
13 parties’ agreement.

14 **2. The record does not support NW Natural’s assertion that the Commission’s**
15 **use of the term “historic operations” means the Commission intended to**
16 **adopt NW Natural’s allocation proposal.**

17 NW Natural’s assertion that the Commission’s reference to “historic operations” in Order
18 No. 15-049 is a reference to NW Natural’s proposal to allocate to Oregon customers 100 percent
19 of environmental remediation costs associated with certain plant is not borne out by the record.
20 The record reflects that no party identified NW Natural’s proposal to allocate 100 percent of
21 some costs to only Oregon customers as the “historic operations” or “historic allocation”
22 approach. In fact, to the extent Staff discussed NW Natural’s allocation proposal in testimony
23 or briefs, it only discussed the proposed 96.68/3.32 percent allocation versus the roughly 90/10
24 percent allocation based on current load and usage proposed by CUB.

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26 ⁹⁹ Northwest Natural Gas Company’s Opening Brief 3-4.

¹⁰ UM 1635 – Prudence and Earnings Test Stipulation 6.

1 **a. Summary of parties' testimony and briefs regarding the appropriate**
2 **jurisdictional allocation.**

3 In its Opening Testimony filed in this case, NW Natural summarized its position on the
4 appropriate jurisdictional allocation of environmental remediation costs to be amortized through
5 the SRRM. NW Natural's summary did not mention a proposal to allocate 100 percent of costs
6 to remediate certain sites to Oregon:

7 Based on historical load and use patterns, NW Natural has determined that
8 Washington customers should bear 3.32 percent of environmental
9 remediation costs while 96.68 percent should be borne by Oregon
10 customers. The Company asks for confirmation of this determination,
11 which was presented and uncontested in Docket UG 221, before it begins
12 to amortize amounts through the SRRM.¹¹

13 Later in its Opening Testimony, NW Natural expounded on its proposal regarding the
14 jurisdictional allocation of remediation costs. NW Natural discussed allocation of costs related to
15 the Gasco MGP facilities and its proposal to allocate to Washington 3.32 percent of remediation
16 costs based on historic Gasco operations.¹² NW Natural did not discuss allocation of costs for
17 any other site, other than capital costs associated with construction of the Gasco Pumping
18 Station, which are not subject to the SRRM.¹³ NW Natural's testimony is as follows:

19 **Q. Is NW Natural proposing to collect its environmental**
20 **remediation costs only from its Oregon customers?**

21 A. No. The Company expects to collect an appropriate percentage of
22 these costs from its Washington customers as well. The Company
23 has learned that beginning around 1913, it served Washington
24 customers with gas that was manufactured at its Gasco MGP
25 facilities. Thus, the Company is proposing to collect from
26 Washington customers some of the costs of remediation of
27 environmental harms associated with historic Gasco operations.

28 **Q. What portion of costs is the Company proposing to collect**
29 **from Washington customers?**

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¹¹ NWN/100, Miller/5.

31 ¹² NWN/100, Miller/26-27.

32 ¹³ NWN/100, Miller/26-27. *See also* Order No. 14-077 (adopting stipulation to place capital
33 costs of Gasco Pumping Station into NW Natural's base rates).

1 A. The Company believes that around 3.32 percent of its costs of
2 remediation related to Gasco should be allocated to Washington
3 customers. This percentage is the Company's best estimate of the
4 percentage of gas from the Gasco facility that was sold to
Washington customers during the period from 1913 through 1956,
when the plant ceased operations. Exhibit NWN/102 provides the
calculations that support the 3.32 percent figure.¹⁴

5 In Opening Testimony filed in Docket No. UM 1635 after NW Natural filed the Opening
6 Testimony excerpted above, Staff noted that CUB and NW Natural made competing proposals
7 regarding allocation of environmental remediation costs between Washington and Oregon.¹⁵
8 Staff's description of NW Natural's proposal does not mention a proposal to allocate to Oregon
9 100 percent of costs to remediate certain sites:

10 There are two options to allocate the environmental remediation costs
11 between Oregon and Washington. NW Natural proposes to allocate the
12 costs 96.68 percent to Oregon and 3.32 percent to Washington. The basis
13 of this allocation among the states is to reflect that during the historical
14 period of time when the plant was operational Oregon received 96.68
15 percent of the benefits and, therefore, should be allocated 96.68 percent of
the costs. On the other hand, [CUB] is proposing to collect the costs of
environmental remediation from current customers and the current
allocation is 90.15 percent to Oregon and 9.85 percent to Washington.
Under this rational, the allocation to the states should be based on who is
paying today.¹⁶

16 In its Opening Testimony, CUB opposes NW Natural's proposal to look at historic
17 operations to determine the allocation between states."¹⁷ CUB recommends that the
18 Commission use the current jurisdictional allocation factor.¹⁸ However, CUB does not
19 specifically mention NW Natural's proposal to allocate costs of some plant entirely to
20 Oregon.

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23 ¹⁴ NWN/100, Miller/26-27.

24 ¹⁵ Staff/100, Johnson/18.

25 ¹⁶ Staff/100, Johnson/18.

26 ¹⁷ CUB/100, Jenks/20.

¹⁸ CUB/100, Jenks/20-21.

1 NWIGU appears to support NW Natural's proposed allocation of costs subject to
2 the SRRM, but does not refer to the proposal as the historic operations or historic
3 allocation approach or specifically mention NW Natural's proposal to allocate 100 percent
4 of costs to remediate some sites to Oregon:

5 The Company is proposing to use historical data of gas sales from 1925
6 through 1956 with reasonable extrapolations to allocate costs between
7 its Washington and Oregon customers. The jurisdictional allocation is
based on proportional gas sold. The Company's approach appears
reasonable.¹⁹

8 NW Natural subsequently clarified in its Reply Testimony that it proposed to
9 allocate costs for remediation at the Portland Gas Manufacturing site to Oregon customers
10 due to the fact production at this site was not used to serve Washington customers
11 "because it pre-dated the time at which we even had a physical connection to
12 Washington."²⁰ NW Natural stated that "all deferred costs incurred to clean up that
13 specific site" totaled \$2.5 million, out of the total of \$97 million of expenses and interest in
14 total[,] deferred as of the end of 2012.²¹ NW Natural not did specify whether any other
15 plants subject to remediation were used to serve only Oregon customers.

16 After NW Natural filed its Reply Testimony, Staff, CUB, NWIGU, and NW Natural
17 entered into the July 11, 2013 Prudence and Earnings Test Stipulation. As noted above,
18 the Stipulation included the following provision regarding jurisdictional allocation:

19 **State Allocation Factor**

20 16. The parties agree that 96.68% of the deferred costs amortized
21 through the SRRM will be allocated to Oregon customers.²²

22 The stipulating parties supported this agreement in joint testimony as follows:

23

24 ¹⁹ NWIGU/100, Deen/10.

25 ²⁰ NWN/500, Miller/32.

26 ²¹ NWN/500, Miller/32.

²² UM 1635 – Prudence and Earnings Test Stipulation 6.

1 **Q. Please describe the Prudence and Earnings Test Stipulation's**
2 **terms related to the appropriate state allocation factor to be**
3 **applied to environmental [sic].**

4 A. The parties agree that 96.68 percent of the deferred costs amortized
5 through the SRRM will be allocated to Oregon customers.

6 **Q. What is the basis of this allocation factor?**

7 A. The Company proposed this allocation factor, which is NW
8 Natural's best estimate of the percentage of gas from the Gasco
9 facility that was sold to Washington customers during the period
10 between 1913 (when the Company began serving Washington
11 customers with gas from Gasco) and 1956 (when Gasco operations
12 ceased).²³

13 In Order No. 13-424, the Commission describes the proposal regarding allocation that NW
14 Natural presented in testimony prior to entering into the Stipulation as follows: "NW Natural
15 proposed to allocate costs 96.68 percent to Oregon and 3.32 percent to Washington, to reflect
16 that during the period of time when the plant was operational, Oregon received 96.68 percent of
17 the benefits, and therefore should be allocated 96.68 percent of the costs."²⁴

18 After the Commission rejected the parties' Prudence and Earnings Test Stipulation,
19 the parties filed additional testimony and briefs addressing issues related to the SRRM.
20 NW Natural specified in its pre-hearing brief that it supported using the "historical
21 allocation factors" to allocate costs between Washington and Oregon, except for
22 remediation costs for the Portland Gas Manufacturing site:

23 Consistent with its proposal in Phase I, the Company continues to support
24 the allocation of costs between Oregon and Washington based on the
25 historical allocation factors that more accurately reflect the service
26 received by customers in each state from the MGPs. However, for the
 Portland Gas Manufacturing site, all of the remediation expense should be
 allocated to Oregon because that MGP served only Oregon customers.²⁵

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28 ²³ Joint Testimony/100, Joint Parties/12.

29 ²⁴ Order No. 13-424 at 4.

30 ²⁵ Northwest Natural Gas Company's Pre-Hearing Brief 37, *citing* NWN/900, Miller 42
31 ("Therefore, the use of the historical allocation factor is appropriate for the Gasco site. For the
32 Portland Gas Manufacturing Site, however, all of the remediation costs should be allocated to
33 Oregon because that plant served only Oregon customers during its historic operation.").

1 Staff stated in its opening brief that it maintained its position that using the historic
2 allocation factor, rather than the current allocation factor, is more consistent with the
3 benefits and burdens of the site.²⁶ CUB maintained the position it had taken in testimony,
4 that the Commission should use the current jurisdictional allocation factor to allocate
5 environmental remediation costs.²⁷ CUB also noted that the Commission should not use
6 “historic operations” to determine the allocation between the states, but instead should use
7 current practices.²⁸

8 **b. The record does not support NW Natural’s assertion that the**
9 **Commission’s use of the term “historic operations” meant the**
10 **Commission intended to adopt NW Natural’s jurisdictional allocation**
11 **proposal.**

12 The way the Commission and parties, including NW Natural, characterized NW
13 Natural’s proposed allocation methodology is pertinent only because NW Natural asserts
14 that the Commission’s reference to “historic operations” when adopting the allocation
15 factor initially agreed to by NWIGU, Staff, NW Natural, and CUB means the Commission
16 intended to adopt NW Natural’s proposed allocation method because parties referred to
17 NW Natural’s proposal as the “historic operations” or “historic allocation” approach.²⁹ The
18 testimony and pre-hearing briefs discussed above reflect that while parties referred to
19 historic operations and historical allocation, they did not refer to NW Natural’s proposal to
20 allocate costs associated with multiple sites to only Oregon customers as the “historic
21 operations” or “historic allocation” approach.

22 Notably, Staff’s testimony in Docket No. UM 1635 does not expressly address the
23 proposal to allocate to Oregon 100 percent of remediation costs for some sites, let alone

24 ²⁶ Staff’s Prehearing Brief 17.

25 ²⁷ Pre-hearing Brief of the Citizens’ Utility Board of Oregon 25-26.

26 ²⁸ CUB/100, Jenks/26.

27 ²⁹ Northwest Natural Gas Company’s Opening Brief 3-4.

1 refer to it as the historic operations approach. Instead Staff only addresses NW Natural's
2 proposal to allocate costs between Washington and Oregon based on the allocation factor
3 in effect when the Gasco plant was in operation. And, Staff states that "[t]he basis of this
4 allocation among the states is to reflect that during the *historical* period of time when the
5 plant was *operational* Oregon received 96.68 percent of the benefits and, therefore, should
6 be allocated 96.68 percent of the costs."³⁰

7 Given that the record does not support NW Natural's assertion that its proposed
8 allocation methodology was known to the Commission and parties as "the historic
9 operations" or "historic allocation" approach, NW Natural's argument that the
10 Commission's reference to "historic operations" means the Commission intended to adopt
11 NW Natural's proposed allocation methodology must fail.

12
13 **B. The allocation factor adopted by the Commission is supported by the record.**

14 NW Natural's assertion that allocating 96.68 percent of the remediation costs is not
15 supported by the record is incorrect.³¹ NW Natural testified "[b]ased on historical load and use
16 patterns, NW Natural has determined that Washington customers should bear 3.32 percent of
17 environmental remediation costs while 96.68 percent should be borne by Oregon customers."³²
18 Staff testified that this allocation is consistent with the benefits and burdens of the sites subject to
19 remediation.³³

20 While NW Natural testified that the gas produced at the Portland Manufactured Gas site
21 was sold to only Oregon customers, NW Natural did not demonstrate that system benefits from
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23 ³⁰ Staff/100, Johnson/18 (emphasis added).

24 ³¹ Northwest Natural Gas Company's Opening Brief 4 ("Thus, the result advocated by the parties
25 now (to use the 96.68 % allocation for all sites) is unsupported by any testimony or argument
submitted in the docket.").

26 ³² NWN/100, Miller/5.

³³ Staff/100, Johnson/18.

1 the sales did not flow to Washington customers. Staff's testimony that allocating 96.68 percent
2 of the costs of environmental remediation benefits to Oregon customers is consistent with the
3 benefits and burdens of the sites subject to remediation is sufficient to support the Commission's
4 adoption of the finding.

5
6 **C. The Commission should direct NW Natural to use the same allocation factor
7 for the insurance proceeds that it uses for the remediation costs subject to the
8 SRRM.**

8 It is Staff's understanding that NW Natural intends to use the same allocation factor or
9 methodology to allocate the insurance proceeds to Oregon customers that it uses to allocate costs
10 subject to the SRRM.³⁴ Staff agrees with this approach and recommends the Commission
11 confirm that the insurance proceeds should be allocated to Oregon customers in the same manner
12 as the remediation costs subject to the SRRM.

13
14 **III. The Commission should direct NW Natural to remove from the current deferral
15 balance any interest that accrued on NW Natural's \$15 million share of the pre-
16 2013 deferral balance on and after January 1, 2013.**

16 In Order No. 15-049, the Commission decided issues related to NW Natural's recovery of
17 previously-incurred and future environmental remediation costs after dividing the costs into two
18 time periods, past (2003 to December 31, 2012) and future (January 1, 2013 and onward) and
19 separately addressing recovery of costs for each period. The Commission applied an earnings
20 test to determine how much of the past deferral balance that NW Natural should share.³⁵ The
21 Commission found that the deferral balance as of December 31, 2012, was \$94.3 million, and
22 was reduced to \$44.2 million when offset by the appropriate amount of insurance proceeds:

23 To determine how much of the \$94.3 [million] deferral balance NW Natural be
24 allowed to recover, we first apply the allocated insurance proceeds to reduce that
25 amount. * * * After allocating those amounts on a prorated basis given the costs

26 ³⁴ Revised Compliance Filing 4-5.

³⁵ Order No. 15-049 at 17-18.

1 incurred each year, we are left with a deferral balance of approximately \$44.2
2 million for the past period.³⁶

3 The Commission went on to require NW Natural to share \$15 million of the pre-2013 deferral
4 balance, specifying that “NW Natural will amortize the remaining \$29.2 million through its
5 SRRM.”³⁷

6 NW Natural asserts that although the Commission decided that NW Natural could
7 amortize only \$29.2 million of its pre-2013 deferral balance through the SRRM, NW Natural is
8 entitled to recover the return earned on the pre-disallowance \$44.2 million balance until the date
9 of Order No. 15-049.³⁸ Staff believes NW Natural has ignored the express language of the order.

10 The Commission expressly ordered that NW Natural could recover \$29.2 million of its
11 pre-2013 deferral balance through the SRRM. To give full effect to this order, it is necessary to
12 include a return on this amount in the deferral balance to reflect the time-value of money that
13 NW Natural is entitled to recover. However, if NW Natural amortizes the \$29.2 million plus a
14 return on \$44.2 million (earned between January 1, 2013 and the date of Order No. 15-049), NW
15 Natural will recover more than what is contemplated in the Commission order.

16 As NW Natural notes in its compliance filing, the Commission’s decision to require NW
17 Natural to absorb \$15 million of the \$44.2 million balance was based on a careful consideration
18 of multiple factors.³⁹ Notwithstanding, NW Natural contends that the Commission would have
19 reached the same decision had it considered the proper disallowance to the balance that would
20 have existed on February 20, 2015, without the \$15 million disallowance. Meaning, the
21 Commission determined in Order No. 15-049 that it was appropriate for NW Natural to absorb
22 \$15 million (33%) of the \$44.2 million deferral balance. If the Commission allows NWN to
23 reduce the deferral balance as of February 20, 2015, by \$15 million NW will absorb only 31.9%
24 of the \$47.0 million deferral balance.

24 ³⁶ Order No. 15-049 at 17.

25 ³⁷ Order No. 15-049 at 18.

26 ³⁸ Northwest Natural Gas Company’s Opening Brief 5-6.

³⁹ Revised Compliance Filing 5.

1 In order to give effect to the Commission's order to disallow \$15 million of the past
2 deferral balance of \$44.2 million, NW Natural must remove \$15 million plus any return earned
3 on \$15 million from January 1, 2013 to February 20, 2015.

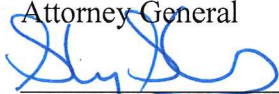
4 **III. Conclusion**

5 Staff recommends that the Commission order NW Natural to allocate 96.68 percent of
6 costs subject to the SRRM to Oregon customers and remove from the deferral balance any
7 interest accrued after January 1, 2013, on the \$15 million disallowed from the pre-2013 deferral
8 balance.

9 DATED this 30th day of November 2015.

10 Respectfully submitted,

11 ELLEN F. ROSENBLUM
12 Attorney General



13 _____
14 Stephanie S. Andrus, #92512
15 Senior Assistant Attorney General
16 Of Attorneys for Staff of the Public Utility
17 Commission of Oregon
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