

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 **UM 1635 and UM 1706**

4 In the Matter of

**STAFF CROSS-REPLY BRIEF**

5 NORTHWEST NATURAL GAS COMPANY  
6 dba NORTHWEST NATURAL

7 Mechanism for Recovery of Environmental  
8 Remediation Costs (UM 1635)

8 and

9 Request for Determination of the Prudence of  
10 Environmental Remediation Costs for the  
11 Calendar Year 2014 (UM 1706).

12 This is Staff's second and final brief regarding Northwest Natural Gas Company (NW  
13 Natural)'s compliance filing implementing Commission Order No. 15-049. Under the  
14 procedural schedule adopted by the administrative law judge (ALJ) on October 13, 2015, Staff  
15 may cross-reply to arguments made by the Citizens' Utility Board of Oregon (CUB) and  
16 Northwest Industrial Gas Users (NWIGU) in their briefs filed the same day as Staff's opening  
17 brief regarding NW Natural's compliance filing.

18 CUB addresses three issues related to NW Natural's compliance with Order No. 14-059  
19 and NWIGU addresses one. Both CUB and NWIGU argue, as Staff does, that NW Natural  
20 should not be allowed to recover any interest that would have accrued on the \$15 million  
21 disallowed from the December 31, 2012 deferral balance after January 1, 2013.<sup>1</sup> And, CUB  
22 argues, as does Staff, that NW Natural's decision to allocate Oregon customers 100 percent of  
23 costs to remediate some of the sites is inconsistent with the Commission's decision to use the  
24 allocation method agreed upon in a 2012 stipulation in this docket, under which 96.68 percent of  
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<sup>1</sup> UM 1635 & 1706 – CUB's Response Brief 3-6; Northwest Industrial Gas Users' Response to  
NW Natural's Opening Brief 2-3.

1 remediation costs are allocated to Oregon customers and 3.32 are allocated to Washington  
2 customers.<sup>2</sup> The arguments CUB and NWIGU present regarding these issues are similar to  
3 those presented by Staff, and Staff supports them.<sup>3</sup>

4 Staff does not agree with CUB's arguments regarding the third issue raised in CUB's  
5 brief, which is whether NW Natural's treatment of remediation costs incurred in 2013, 2014, and  
6 in 2015 prior to the effective date of NW Natural's base rate tariff rider (on November 1, 2015)  
7 is consistent with Order No. 15-049. In its compliance filing, NW Natural subjected all  
8 environmental remediation costs incurred on and after January 1, 2013, to the treatment ordered  
9 by the Commission for "future" costs. Staff believes NW Natural's treatment of these costs  
10 appropriately implements Order No. 15-049.

11 CUB asserts that although Order No. 15-049 "is silent regarding how to address the  
12 "future" period between 2013 and the effective date of the base rate tariff rider[,] NW Natural's  
13 treatment of these costs "is inconsistent with Order No. 15-049's directive to apply the tariff  
14 rider on a going-forward basis and because it violates the rule against retroactive ratemaking."<sup>4</sup>  
15 Staff disagrees with the underlying premise of CUB's argument – that Order No. 15-049 is silent  
16 on the treatment of remediation costs incurred in 2013-14 and in 2015 prior to the effective date  
17 of NW Natural's base rate tariff rider. In fact, the Commission determined that all costs  
18 incurred on and after January 1, 2013 are "future costs"<sup>5</sup> and specified how future costs are  
19 recovered.

20 Under the Order No. 15-049, future remediation costs are amortized under the SRRM  
21 after application of \$5 million in insurance proceeds, plus any accumulated interest, and \$5  
22 million collected under a tariff rider: "For future remediation expenses, we use approximately  
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24 <sup>22</sup> UM 1635 & UM 1706—CUB's Response Brief 7-9.

25 <sup>3</sup> Staff also argues that the allocation of insurance proceeds should match the allocation of costs.  
26 Staff does not think that any party opposes this argument.

<sup>4</sup> UM 1635 & UM 1706 – CUB's Response Brief 10.

<sup>5</sup> Order No. 15-049 at 6 ("Amounts incurred after [December 31, 2012], including the costs from  
2013 and the first quarter of 2014, at issue in docket UM 1706, will be treated as future costs.")

1 \$5 million per year, plus interest, in insurance proceeds to offset remediation expenses, and  
2 authorize NW Natural to collect, through a tariff rider, an additional \$5 million of expenses in  
3 base rates going forward.”<sup>6</sup> Any deferred amounts that exceed the offset from the tariff rider,  
4 insurance, and accumulated interest are recovered under the SRRM, subject to an earnings test  
5 examining NW Natural’s earnings for the year.<sup>7</sup> Under the earnings test, “NW Natural will be  
6 allowed to amortize deferred amounts as necessary to bring its earnings up to its authorized  
7 ROE.”<sup>8</sup>

8 NW Natural’s treatment of costs incurred in 2013, 2014, and in 2015 prior to the time  
9 NW Natural’s base rate tariff rider became effective is consistent with the Commission’s order  
10 regarding “future” costs. Although NW Natural must recover costs deferred January 1, 2013-  
11 November 31, 2015, by amortizing these amounts under the SRRM rather than offsetting them  
12 with \$5 million collected in base rates, NW Natural is not required to assume that there is no  
13 offset for purposes of applying the earnings test ordered in Order No. 15-049.

14 Under Order No. 15-049, NW Natural is authorized to “offset” environmental costs  
15 incurred each year with \$10 million plus interest accumulated on the insurance proceeds prior to  
16 applying the earnings test ordered by the Commission. As the Commission explained in Order  
17 No. 15-049,

18 NW Natural will receive at least \$10 million in annual recovery of  
19 remediation expenses through insurance proceeds, accrued interest on  
20 insurance proceeds, and the tariff rider. Including interest accrued on  
21 insurance proceeds, our expectation is that recovery could approach or  
22 exceed \$12 million per year. Thus, in any year in which remediation costs  
23 are below amounts collected under the tariff rider, insurance proceeds, and  
24 accrued insurance interest, NW Natural will fully cover that year's  
25 remediation costs with no impact on its earnings.<sup>9</sup>

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25 <sup>6</sup> Order No. 15-049 at 1.

26 <sup>7</sup> Order No. 15-049 at 13-14.

<sup>8</sup> Order No. 15-049 at 13.

<sup>9</sup> Order No. 15-049 at 13.

1 Staff also disagrees with CUB’s assertion that NW Natural’s proposed treatment of 2013-  
2 15 costs violates the rule against retroactive ratemaking. CUB argues, “NW Natural’s proposal  
3 would have future customers paying rates related to an expense that was “theoretically” in base  
4 rates in 2013, 2014 and 2015, absent a deferral. This is a violation of the rule against retroactive  
5 ratemaking.”<sup>10</sup>

6 NW Natural’s proposed implementation of Order No. 15-049 does not violate the rule  
7 against retroactive ratemaking. NW Natural’s offset of \$5 million theoretically recovered in both  
8 2013 and 2014 and of 3.8 million in 2015 is only for purposes of applying the earnings test  
9 specified by the Commission in Order No. 15-049. Under Order No. 15-049, NW Natural’s  
10 recovery of “future” environmental costs is subject to an earnings test when the costs in a year  
11 exceed an amount equal to \$10 million plus interest accumulated on the insurance proceeds in  
12 that year. NW Natural offset the costs incurred in 2013-2015 with amounts that would have  
13 been collected in base rates in those years only to determine whether its recovery of any of the  
14 costs deferred in those years is subject to an earnings test.

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<sup>10</sup> CUB’s Response Brief 11.

1 NW Natural obtained authority to defer all of its environmental remediation costs  
2 incurred in 2013-15.<sup>11</sup> Accordingly, all of the costs incurred in the period at issue are eligible for  
3 amortization under ORS 757.259. NW Natural's proposal to amortize the amounts deferred  
4 under ORS 757.259 does not violate the rule against retroactive ratemaking.

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6 DATED this 17<sup>th</sup> of December, 2015.

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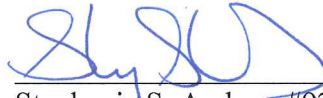
Respectfully submitted,

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<sup>11</sup> Order Nos. 13-485, 14-364, 15-336.