

ORDER NO. 22-329

ENTERED Sep 08 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1732(6)

In the Matter of

NORTHWEST NATURAL GAS
COMPANY, dba NW NATURAL,

Requests Prudence Review of Environmental
Remediation Costs for Calendar Year 2021.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on September 6, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



Nolan Moser
Chief Administrative Law Judge



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
CONFIDENTIAL STAFF REPORT
PUBLIC MEETING DATE: September 6, 2022**

REGULAR CONSENT EFFECTIVE DATE _____ N/A _____

DATE: August 15, 2022

TO: Public Utility Commission

FROM: Kathy Zarate

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

SUBJECT: NORTHWEST NATURAL:
(Docket No. UM 1732(6))
Requests Prudence Review of Environmental Remediation Costs for
Calendar Year 2021.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Northwest Natural Gas Company's (NW Natural, NWN or Company) request and find that the Environment Remediation Costs from January 1, 2021, through December 31, 2021, are prudent and eligible for recovery.

DISCUSSION

Issue

Whether NW Natural's environmental remediation costs incurred between January 1, 2021 and December 31, 2021, are prudent and are eligible for recovery.

Applicable law

NW Natural makes this filing in accordance with the 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.

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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 International School, and Oregon Steel.

NW Natural also incurred litigation costs related to Portland Harbor cost recovery and natural resource damage litigation and minor litigation costs related to collections under the settlement agreements. Total costs incurred for the period of January 1, 2021, through December 31, of 2021, by site (or activity) are listed below.

Site	Amount
Gasco	\$15,864,080
Harbor	\$1,703,996
PGM	\$1,422,131
Total	\$18,990,207

Staff Review

Staff reviewed the Company's filing, associated work papers, and Annual Report to ensure that costs included for recovery are: a) actually incurred; b) solely incremental and associated with the environmental and remediation activities identified in Commission Order Nos. 12-408 and 12-437; and, c) reasonable.

Description of Expenses

The largest expenditures for 2021 were at the Gasco site. Expenditures for the various Gasco projects totaled \$15,864,080. 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

¹ UM 995, Order No.02-469.

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Sediments Project, and the Source Control Project. These projects are subject to EPA and DEQ oversight.

The Gasco Upland site is now in the feasibility study phase. In 2021, 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 2021, NW Natural also implemented interim source control measures, including a system to collect shallow groundwater across a portion of the site.

The Portland Harbor site is a stretch of approximately ten 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 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. NW Natural incurred costs in 2020 negotiating with EPA and other responsible parties to address EPA's request for additional remedial design work.

In March 2020, EPA and NW Natural agreed to amend the 2009 EPA Consent Order for the Gasco Sediments Site (discussed below) to include remedial design work at two additional Portland Harbor project areas, the US Moorings Project Area and the B1 Navigation Channel Project Area. The State of Oregon and the City of Portland are obligated through an earlier settlement with EPA to provide up to \$2,664,000 in funding for remedial design work in these two project areas. NW Natural incurred costs in 2021 to complete Phase I data gaps investigations and prepare reports required by EPA. NW Natural also incurred costs in 2021 in preparation for the harbor-wide allocation.

The PGM site covers approximately 3.7 upland acres and is located on the Willamette River near the Steel Bridge. The location of the former PGM plant is now a fully developed part of downtown Portland. NW Natural is managing this site as the PGM Project under DEQ's oversight. The DEQ issued a Record of Decision for the PGM Site in July 2017. The selected remedy requires dredging of one area of tar-like material and a few other areas of shallow sediment and installation of a treatment cap in the dredged areas. Other areas will be capped without dredging, will be allowed to recover naturally, or will be covered by sand to accelerate the natural recovery process. The remedy also requires institutional controls, and long-term inspection and

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maintenance. 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 2021 to perform the first 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 2021 are reasonable and consistent with the remediation activities identified in Order Nos. 12-408 and 12-437. Further, NWN's earnings are insufficient to absorb any of the costs.² Accordingly, Staff recommends that the Commission find NW Natural's Environmental Remediation Costs from January 1, 2021, through December 31, 2021, are prudent and eligible for recovery through the SRRM.

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

PROPOSED COMMISSION MOTION:

Approve Northwest Natural's request to find that the Environmental Remediation Costs from January 1, 2021, through December 31, 2021, are prudent and eligible for recovery.

NWN UM 1732 (6) SRRM 2021 Prudence Review

² The company is required to offset each year's environmental expenses with any earnings above its ROE for that year. In examining NW Natural's earnings, 100 percent of WACOG earnings and losses and 50 percent of the shareholder profits from regulated AMA Optimization activities is included. (Page 13, Order 15-049). For 2021, NWN's earnings report RG 40 notes a ROE of 8.91 percent and hence all prudent costs are included in the account.