

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1633**

In the Matter of	)	
	)	CITIZENS' UTILITY BOARD
PUBLIC UTILITY COMMISSION OF	)	OF OREGON'S CROSS ANSWERING
OREGON,	)	BRIEF (ISSUE BIFURCATION)
	)	
Investigation into Treatment of Pension	)	
Costs in Utility Rates.	)	

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1 **I. CUB'S TESTIMONY IN UE 262 SUPPORTS THE ARGUMENTS**  
2 **MADE IN ITS ORIGINAL ANSWERING BRIEF AND NOW IN THIS**  
3 **CROSS ANSWERING BRIEF.**  
4

5 As pointed out by ICNU in its Answering Brief:

6 "[t]he Commission has been presented with at least three different proposals to  
7 change the ratemaking treatment of pension costs from NW Natural, PGE and  
8 PacifiCorp. Instead of adopting potentially inconsistent pension treatments, the  
9 Commission opened this proceeding "to review the treatment of pension expense  
10 on a general, non-utility-specific basis."<sup>1</sup>  
11

12 The three different proposals are indicative of the need for this UM 1633 docket to be a broad  
13 policy docket and for the docket, at a minimum, to be bifurcated in the manner initially proposed  
14 by ALJ Grant. NWIGU also supports this idea.<sup>2</sup> Moreover NWIGU notes that its interest lies  
15 only in the *Phase One* policy docket and not in the *Phase Two* fact specific docket(s) except  
16 those related to gas utilities.<sup>3</sup> There is, therefore, a need for a *Phase One* to review pension  
17 policy on a going forward basis. And there is a need for a *Phase Two* – or as CUB suggested in

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<sup>1</sup> Answering Brief of ICNU at 2; *Re NW Natural*, Docket No. UG 221, Order No. 12-408 at 4 (Oct.26, 2012).

<sup>2</sup>UM 1633 NWIGU's Answering Brief at 3 at lines 10 – 24 and at 4 lines 1-6.

<sup>3</sup> UM 1633 NWIGU's Answering Brief at 4 lines 6-11.

1 its Answering Brief for completely individual dockets - to then apply the “past” policy to the past  
2 pension contributions in excess of FAS 87 (for PGE, PacifiCorp, Avista, Cascade – Idaho Power  
3 says it does not have any - NW Natural’s was already ruled upon in UG 221<sup>4</sup>) and the new policy  
4 on a going forward basis to any new contributions, for each of Oregon’s six energy utilities.

5 By way of example of the need for bifurcation, CUB refers the Commission, and the other  
6 parties, to CUB’s Opening Testimony, filed June 14, 2013, in the UE 262 PGE General Rate  
7 Case docket. Based upon the review and analysis of the information available to CUB in that  
8 docket CUB reiterates that any review and action upon the prior contributions in excess of FAS  
9 87 (the *pre-paid assets*) of any utility would constitute retroactive ratemaking<sup>5</sup> and that, in the  
10 case of PGE, it would result in customers being “greatly overcharge[ed]”.<sup>6</sup>

11 For all of the above reasons, and also for all the additional reasons set forth in CUB’s  
12 prior Answering Brief, CUB does not support Staff and the Companies’ position that this docket  
13 should not be bifurcated. Instead CUB reiterates that there is a clear need for bifurcation and for  
14 at least two separate phases. The first, a generic policy docket – what pension policy should be  
15 in place for all of Oregon’s energy utilities on a forward going basis. And second, one or  
16 multiple, fact specific proceedings related to whether the companies, upon whose prior pension  
17 contributions in excess of FAS 87 expense the Commission has yet to rule, should be permitted a

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<sup>4</sup> UM 1633 NWIGU’s Answering Brief at 2 lines 11-24 and at 3 liens 1-9.

<sup>5</sup> UE 262 CUB/100 Jenks/12 at lines 17-22 and at 13 liens 1-2: “While the utilities who are advocating this approach claim the method does not involve retroactive ratemaking - because they are only looking for a return on the prepaid asset going forward - in order for the Commission to verify that the prepaid asset really exists, that the prepaid asset really represents cash contributions in excess of FAS 87, and also to verify that customers have not already compensated the utility for its cash contributions by overpaying FAS 87, would require a historic true up of pension-related costs and revenues that would violate the general prohibition on retroactive ratemaking and the general prohibition on single issue ratemaking.”

<sup>6</sup> UE 262 CUB/100 Jenks/2 lines 5-7.

1 return on those past contributions in excess of cumulative FAS 87 expense.<sup>7</sup> CUB, therefore,  
2 respectfully requests that the Commission divide this UM 1633 docket into at least two phases.

3 **II. CONCLUSION.**

4 CUB continues to believe that Idaho Power Company should not be excused from this  
5 docket because the stated purpose of this docket is to set pension policy on a forward going basis  
6 for all of Oregon’s energy utilities. If Idaho Power Company is excused from this proceeding  
7 such excusal should be predicated on Idaho Power Company acknowledging that it is knowingly  
8 giving up the right to participate in, and to challenge, the setting of utility pension policy for the  
9 state of Oregon.

10 CUB also continues to believe strongly that, for administrative efficiency, this docket  
11 should be bifurcated. It could be bifurcated as initially stated by Judge Grant in his Prehearing  
12 Memorandum or bifurcated as suggested by CUB in its Answering Brief. Should, however, the  
13 Commission rule in favor of the Joint Utilities and fail to bifurcate this docket, CUB respectfully  
14 reserves all of its rights to argue, on any and all of the issues it deems relevant, in the un-  
15 bifurcated single - phase docket.

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<sup>7</sup> CUB notes once more for the record that it is CUB’s position that the companies should not be permitted any such return on past contributions. “Changing the rules and creating value where it did not previously exist is simply a transfer of money from customers to shareholders.” UE 262 CUB/100 Jenks/13 lines 10-12. For CUB’s position on FAS 87 and the parameters for future utility pension policy please see UE 262 CUB/100 Jenks/13 – 16.

Dated this 21<sup>st</sup> day of June, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. McCracken', written in a cursive style.

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## UM 1633 – CERTIFICATE OF SERVICE

I hereby certify that, on this 21<sup>st</sup> day of June, 2013, I served the foregoing **CITIZENS' UTILITY BOARD OF OREGON'S CROSS ANSWERING BRIEF (ISSUE BIFURCATION)** in docket UM 1633 upon each party listed in the UM 1633 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and five copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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