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October 17, 2014

Via Electronic Filing

OREGON PUBLIC UTILITY COMMISSION
ATTENTION: FILING CENTER
PO BOX 1088
SALEM OR 97308

RE: Docket No. UM 1633 – In the Matter of
PUBLIC UTILITY COMMISSION OF OREGON
Investigation into Treatment of Pension Costs in Utility Rates.

Enclosed for electronic filing in the above-captioned docket is the Public Utility Commission Staff's Simultaneous Rebuttal Testimony.

/s/ Kay Barnes
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c: UM 1633 Service List (parties)

PUBLIC UTILITY COMMISSION
OF OREGON

UM 1633

STAFF SIMULTANEOUS REBUTTAL
TESTIMONY OF

BRIAN BAHR

In the Matter of
PUBLIC UTILITY COMMISSION OF OREGON
Investigation into Treatment of Pension Costs in
Utility Rates.

October 17, 2014

CASE: UM 1633
WITNESS: BRIAN BAHR

PUBLIC UTILITY COMMISSION
OF
OREGON

STAFF EXHIBIT 400

Simultaneous Rebuttal Testimony

October 17, 2014

Q. Please state your name, occupation, and business address.

A. My name is Brian Bahr. My business address is 3930 Fairview Industrial Dr. SE., Salem, Oregon 97308.

Q. Please describe your educational background and work experience.

A. My Witness Qualification Statement is found in Exhibit Staff/101.

Q. Are you the same Brian Bahr that has testified previously in this case?

A. Yes.

Q. What is the purpose of this testimony?

A. This testimony summarizes the parties' positions on the key questions of this docket, addresses matters emerging from the latest round of testimony, and discusses issues related to the accumulated deferred taxes associated with the prepaid pension asset (ppa) and accrued pension liability (apl, together the ppa/apl) balances.

Q. Did you prepare an exhibit for this docket?

A. No.

Q. What are the primary issues in this case?

A. In order to determine the appropriate recovery of pension costs, the following primary issues must be addressed:

1. Should cost recovery be based on cash or accrual expenses?
2. How should the ppa/apl balances be treated?
3. Should pension costs be carved out from general rate case costs?

In addition to the primary issues listed above, there are also various ancillary issues, such as the following:

4. How should the associated deferred tax balance be treated?
5. How should NW Natural's established balancing account be treated?
6. Should Idaho Power receive treatment consistent with the Joint Utilities?

Q. What are parties' positions regarding whether pension cost recovery should be based on cash contributions or accrual expense (FAS 87)?

A. The parties have been nearly unanimous through the rounds of testimony in this docket that basing pension cost recovery on FAS 87 is preferable to cash contributions. Even CUB, which stated in the most recent round of testimony that it prefers a cash-based system in general[1], stated that the benefits of cash do not outweigh the transition costs of moving from FAS 87 to cash contributions.[2] The Joint Utilities have stated that transferring to cash is only acceptable if they receive a return of the entire prepaid pension asset balance at the time of the transition.[3] Idaho Power also has filed testimony that they have no desire to change from the current FAS 87 system in place.[4]

Q. What are parties' positions regarding how the ppa/apl balances of the utilities should be treated by the Commission?

A. The parties positions' on the treatment of the ppa/apl balances are complicated by the fact that they are dependent on the Commission's decision related to cash contributions versus FAS 87. In past testimony, parties have brought up such issues as the prudence of past contributions, the timing of the build-up of

[1] *See* Exhibit CUB/300, Jenks-McGovern/2, at line 17.
[2] *See* Exhibit CUB/300, Jenks-McGovern/10.
[3] *See* Exhibit Joint Testimony/100, Joint Parties/17, at line 18.
[4] *See* Exhibit Idaho Power/100, MacMahon/11, at line 19.

the ppa balances, not all past negative FAS 87 amounts being passed on to customers, and the allocation to Oregon of overall company amounts.

The parties' positions, given a switch to a cash-based cost recovery system, can be summarized as follows:

-The Joint Utilities insist that the entire ppa balance should be recovered.

-Staff and ICNU/NWIGU recommend that no part of the ppa be recovered except to the extent the utility demonstrates the ppa was funded by shareholder dollars and such funding was prudent.

-CUB states that no part of the ppa should be recovered.

The parties' positions, given the current FAS 87 based cost recovery system, can be summarized as follows:

-The Joint Utilities insist that the entire ppa balance should earn a return.

-Staff and ICNU/NWIGU recommend that no part of the ppa earn a return except to the extent the utility demonstrates the ppa was funded by shareholder dollars and such funding was prudent.

-CUB states that no part of the ppa should earn a return.

Q. What are the parties' positions regarding whether pension costs should be carved out from other general rate case expenses?

A. The recommendations from the parties do not seem to be as strident regarding this issue. The parties appear open to the idea of a balancing account, though not necessarily recommending one. Staff has testified its recommendation that a balancing account (or other method of establishing dollar for dollar recovery) is unnecessary; the idea behind setting rates is to establish a reasonable revenue requirement, not to ensure dollar for dollar recovery of costs.

Q. What are parties' positions regarding whether the accumulated deferred tax benefit should be passed through to customers?

A. All parties, except CUB, have recommended in previous testimony that the accumulated deferred tax benefit associated with the ppa should be passed through to customers in proportion to the amount of the ppa that is included in rate base. CUB bases its position that all of the accumulated deferred tax benefit should be passed through to customers, regardless of the amount of ppa on which a return is paid, due to its interpretation of ORS 757.269. Staff defers to legal counsel to address the interpretation of ORS 757.269 in briefs.

Q. Does the accumulated deferred tax benefit merit additional discussion to that already found in testimony?

A. Yes. The deferred tax liability or asset arises from the difference in pension expense used for calculating a company's taxes and that used for setting rates. Taxes are calculated using the actual amount of cash contributions to the pension fund, whereas rates are currently set using FAS 87, an accrual expense. When pension expense for tax purposes is higher than the accrual pension expense, this creates a deferred tax liability, which decreases rate base. Conversely, when accrual expenses are greater than cash contributions (like in the case of Idaho Power), a deferred tax asset is created that increases rate base. The deferred tax asset or liability essentially acts as an offset to the ppa or apl balance.

Currently, although no utilities have yet been allowed to include their ppa balances in rate base, some have been including the associated deferred tax benefit (a reduction to rate base) in their general rate cases. Of the six utilities participating in this docket, at least one (PGE) currently passes through the deferred tax benefit to customers, while others such as Avista and PacifiCorp do not.

The Joint Utilities reason that it is not appropriate to include the deferred tax benefit in rates if the associated ppa is not also allowed:[5]

> *…the deferred tax benefits are the result of the utility's contribution to the pension fund. However, customers provide recovery of the utility's FAS 87 expense, not the utility's cash contribution, and therefore should receive the tax benefits associated with only those costs that are included in rates. Concurrent with the recognition of FAS 87 expense, customers receive income tax benefits associated with the FAS 87 expense on which recovery is based. It is one-sided to pass through the deferred tax benefits associated with the prepaid pension asset if the asset itself is excluded from rate base.*

Staff has previously recommended that the ppa should only be included in rate base to the extent each utility is able to demonstrate the ppa was funded by shareholders and such funding was prudent. Accordingly, the associated deferred taxes should be included only in proportion to the amount of ppa that is allowed in rate base.

[5] *See* Exhibit Joint Testimony/300, Joint Parties/12, at line 20.

However, it does not appear that the recommendation on treating the deferred tax liability or asset is consistent with Staff's view of the ppa funding. Staff's position regarding the exclusion of the ppa from rate base is tantamount to stating that customers have funded the ppa, unless the utility can demonstrate otherwise. Following this line of logic, the customers should also receive the tax benefits associated with the ppa, except to the extent each utility demonstrates that the ppa was funded by investors and such funding was prudent. In this way, the treatment of the deferred tax associated with the ppa would be consistent with the proposed treatment of the ppa itself.

In the situation of a utility having an apl balance (eg. a negative ppa), customers of the utility would pay higher rates due to the presence of an associated accumulated deferred tax asset. Idaho Power is currently in this position, and other utilities with current ppa balances could potentially move to a position of an apl balance in the future.

Q. What does Staff recommend regarding treatment of the accumulated deferred tax assets or liabilities associated with the ppa/apl balances of the utilities?

A. Consistent with its primary recommendation regarding the treatment of the ppa/apl balances, Staff recommends that any accumulated deferred tax liability associated with a utility's ppa be passed through to customers, except to the extent the utility demonstrates the ppa was funded prudently with investor monies. An accumulated deferred tax asset should also be passed on to customers as an addition to rate base, except to the extent that parties demonstrate otherwise in a general rate case.

Q. Does staff have an alternate recommendation?

A. Yes. Alternatively, and generally consistent with Staff's prior testimony, both the ppa/apl and the associated deferred tax liability or benefit should be excluded from revenue requirements except to the extent the utility attempts to demonstrate, and the Commission finds, that the ppa was funded by investors and such funding was prudent. Thus far, the utilities have not been able to demonstrate that their ppa balances were funded by investors. Staff's alternate recommendation reduces the impetus for the utility to feel compelled to raise the issue of inclusion of the ppa in a general rate filing. Such an incentive would be created by finding the deferred tax benefit should be flowed through to customers.

Q. How should NW Natural's balancing account established in Order No. 11-501 be treated by the Commission?

A. Staff agrees with NW Natural that should the Commission move to a cash basis for pension cost recovery, NW Natural's balancing account established in Order No. 11-501 should be reconciled at the time of the transition. This is consistent with the order establishing the balancing account.

Q. How should the Commission address Idaho Power's unique position with regard to the Joint Utilities?

A. Conversely to the other five utilities participating in this docket, Idaho Power's ppa/apl currently has a negative balance. Given this situation, Idaho Power has not requested any change to Oregon's current ratemaking policies. Idaho Power has asked to be excused from the proceedings and testified that no change to current ratemaking methods are merited in Idaho Power's situation. Staff has recommended that the Commission maintain a consistent policy for pension cost recovery across all utilities, including Idaho Power (eg. if the Commission allows a return on part of the utilities' ppa balances, Idaho Power should also be required to refund to customers the return on its apl balance).

Q. Please restate Staff's overall recommendations in this docket.

A. The Commission should maintain FAS 87 as its method of allowing utilities to recover pension costs. Companies should receive a return on their ppa balances only to the extent that each respective company can demonstrate that the ppa funding was prudently incurred by shareholders. As pension costs do not appear to be more difficult to forecast than other costs included in rates, regulatory lag does not need to be removed through the use of a balancing account or other mechanism. To be consistent with Staff's primary recommendation regarding treatment of the ppa/apl balances of the utilities, Staff recommends that any accumulated deferred tax benefits should reduce rate base except to the extent the utility demonstrates prudent shareholder funding of its ppa as described in various other sections of Staff testimony, and accumulated deferred tax assets should increase rate base unless parties can show otherwise in a general rate case. NW Natural should be allowed to reconcile its balancing account should the Commission direct the utilities to use cash rather than FAS 87 for pension costs, and Idaho Power should be treated consistently with the other utilities in this docket.

Q. Does this conclude your direct testimony?

A. Yes.

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CERTIFICATE OF SERVICE

UM 1633

I certify that I have, this day, served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-001-0180, to the following parties or attorneys of parties.

Dated this 17th day of October, 2014 at Salem, Oregon

Kay Barnes

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