McDowell Rackner & Gibson PC

WENDY MCINDOO
Direct (503) 595-3922
wendy@mcd-law.com

May 15, 2015

VIA ELECTRONIC FILING

PUC Filing Center
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-2148

Re: UM 1633 – In the Matter of OREGON PUBLIC UTILITY COMMISSION, Investigation into Treatment of Pension Costs in Utility Rates

Attention Filing Center:

On behalf of Avista Utilities, Cascade Natural Gas, NW Natural Gas, PacifiCorp, and Portland General Electric, (Joint Utilities), attached please find an electronic copy of the Joint Utilities' Reply Brief.

A copy of this filing has been sent to all parties to this proceeding via email.

Please contact this office with any questions.

Very truly yours,

Wendy McIndoo

Wendy McIndoo
Office Manager

cc: Service List

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1633

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation into Treatment of Pension Costs in Utility Rates.	**JOINT UTILITIES' REPLY BRIEF**

I. INTRODUCTION

In this proceeding, the Joint Utilities[1] seek the same treatment for the prepaid pension asset as that afforded to all other utility investments benefiting customers. The Joint Utilities' proposal relies on a fundamental principle of utility ratemaking that when utility investments are recovered over time, the utility also recovers its financing costs in the form of a return on the investment.[2] Indeed, a utility's cost to serve customers explicitly includes a reasonable rate of return on both the "tangible and intangible property" used to serve customers.[3] The prepaid pension asset represents the utility's cash contributions to the pension plan that have yet to be recovered through rates. Given that utilities recover their cash contributions over time through FAS 87 expense, it is reasonable that the cost of service include a return on the prepaid pension asset.

---

[1] The Joint Utilities are Avista Corporation (Avista), Cascade Natural Gas Corporation (Cascade), Northwest Natural Gas Company (NW Natural), PacifiCorp d/b/a Pacific Power (PacifiCorp), and Portland General Electric Company (PGE).

[2] *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 692 (1923) (a utility's rates must "permit it to earn a return on the value of the property which it employs for the convenience of the public . . .").

[3] *Gearhart v. Pub. Util. Comm'n of Oregon*, 356 Or 216, 220 (2014) (rate base includes both "tangible and intangible property"); James C. Bonbright, Albert L. Danielsen, & David R. Kamerschen, *Principles of Public Utility Rates*, 111-12 (2d ed. Public Utilities Reports 1988) (the "sale of the service at cost will supply the company with necessary revenues to pay operating expenses and capital charges. For this purpose, to be sure, cost must be given a broader definition than is customary in the language of accounting, since it must include allowance for a capital-attracting rate of return on investment. But a capital-attracting rate of profit is here considered a part of the necessary cost of service.").

Regulators throughout the country are recognizing the reasonableness of the Joint Utilities' request and allowing a return on prepaid pension assets—demonstrating that recovery of the financing costs is neither novel nor unusual and is, in fact, a straightforward application of basic ratemaking principles. While there is no dispute that pension accounting is complex, the ratemaking principles at issue here are not.

Parties' opposition to the Joint Utilities' request is grounded largely in the selective use of individual utility facts to seek to undermine or obscure the general principles supporting the Joint Utilities' proposal.[4] The parties argue, for example, that the prepaid pension asset was not funded solely by shareholders by raising concerns as to how FAS 87 was determined in individual utility rate cases, and by pointing out that during certain periods between rate cases utilities may have collected more in rates than actual expense incurred, or that a particular utility may have maintained a small accrued pension liability. Importantly, however, the parties do not, and cannot, argue that these claims apply to all of the Joint Utilities, or even that they suggest any generally applicable truths.[5] To the contrary, at best these arguments suggest issues that could be taken up in utility-specific ratemaking proceedings.

The Joint Utilities recommend that the Commission's determination in this docket remain true to its original intent—the consideration of the issues on a "general, non-utility-specific, basis"[6] with a reservation of individualized determinations for utility-specific

---

[4] *See e.g.*, Citizens' Utility Board of Oregon's Response Brief (CUB Response Brief) at 2.

[5] *See e.g.*, NWN/100, Wilson/9-10 (prepaid pension asset the result of cash contributions); PAC/100, Stuver/2-3 (prepaid pension asset the result of cash contributions); PGE/100, Hager-Jaramillo/3-4 (prepaid pension asset the result of cash contributions); Joint Testimony/600, Joint Parties/17 (prepaid pension asset the result of cash contributions); NWN/100, Wilson/10 (NW Natural's projections indicate that its prepaid pension asset will continue to grow significantly through 2023); CUB Response Brief at 6 (several utilities' prepaid pension assets have increased).

[6] *Re Northwest Natural Gas Co.*, Docket UG 221, Order No. 12-408 at 4, 12 (Oct. 26, 2012).

proceedings.[7] The Commission has conducted a thorough investigation and has before it a fully developed record sufficient to make the generally applicable policy determinations that were contemplated when this docket began.

II. ARGUMENT

A. Adding the Joint Utilities' Prepaid Assets to Rate Base is Not Retroactive Ratemaking.

Throughout this proceeding, Staff, CUB and NWIGU have argued that allowing the utilities to include their prepaid pension assets in rate base would violate the rule against retroactive ratemaking. These arguments are faulty and should be rejected. The Joint Utilities are not seeking to recover their past costs to finance the prepaid pension asset—only those costs incurred in the future, or financing costs that currently approved for deferral.

Staff's argument starts with the premise that pension contributions are "considered expenses under the Commission's existing policy" and therefore recovery of the prepaid pension asset through rates constitutes retroactive ratemaking.[8] From there, Staff argues that since the utility may not recover the prepaid asset balance, it should not be allowed to earn a return on the balance. Both of the underlying premises of this argument are flawed.

First, contrary to Staff's claim, pension contributions are not expenses. As explained throughout this case, pension contributions are capitalized and then expensed on a normalized basis through FAS 87 expense.[9] In other words, pension contributions are not recognized as expense until they are recorded under FAS 87. This is precisely why utilities

---

[7] *Id.* at 4; *see also Re Northwest Natural Gas Co.*, Docket UG 221, Staff Supplemental Brief at 2 (Oct. 5, 2012) ("[A] change in pension policy may also have far-reaching impacts for other utilities. For all of these reasons, Staff is open to pursuing alternatives to pension expenses, but believes such alternatives should be carefully weighed and vetted in a future proceeding and not in this rate case.").

[8] Staff Response Brief at 2 (referring to *Re Northwest Natural Gas Co.*, Docket UG 221, Order No. 12-437 at 21-22 (Nov. 16, 2012)).

[9] Joint Testimony/100, Joint Parties/7.

are required to record prepaid pension assets when they make contributions in advance of their recognition as FAS 87 expense.[10] Moreover, Staff has taken the Commission's comment—that it regards pension costs as expenses—out of context. Specifically the quoted statement was not intended to preclude utilities' ability to rate base the prepaid pension asset. Importantly, immediately after the quoted language, the Commission explained that "NW Natural asks the Commission to take a different tack with respect to pension costs, by allowing the company to include prepaid pension costs in rate base, thus avoiding the retroactive ratemaking problem."[11] Regarding this request, the Commission concluded that it would not change its policy in docket UG 221, but would instead revisit its policies on the ratemaking treatment of pension costs in a general, non-utility specific docket.[12] Thus, the Commission gives no indication that it believes that the proposal in this case implicates retroactive ratemaking.

Second, it is incorrect to state that recovery of the prepaid pension balance itself is retroactive ratemaking, given that historical cash contributions are recovered through FAS 87 expense—a fact that Staff now concedes.[13]

Staff seeks to bolster its retroactive ratemaking argument by making an analogy to labor expense. Staff posits a utility that for five years in a row spends more on employee salaries than it recovers, concluding that the rule against retroactive ratemaking would clearly prohibit the difference from being recovered in rates.[14] The analogy is inapt. The employee salaries in Staff's example constitute expenses that are recorded as they are paid. The

---

[10] *Id.*

[11] Order No. 12-437 at 22.

[12] *Id.*

[13] Staff/300, Bahr/14 (under FAS 87 the "utilities will eventually recover the [prepaid pension asset] balance"); Staff Response Brief at 3.

[14] Staff Response Brief at 2-3.

prepaid pension asset represents a prepayment that has not yet been expensed or recovered in utility rates. Such prepayments, like cash working capital and prepaid insurance premiums, are properly an addition to rate base.

Staff also suggests that it is retroactive ratemaking to allow a utility to earn a return on a historical cash contribution that the utility may never recover in rates due to the imperfections of the ratemaking process. In other words, Staff believes that retroactive ratemaking is implicated because the pension expense in rates does not equal the accounting or cash costs.[15] This argument is without merit. All of a utility's actual expenses necessarily differ from the expenses used to determine rates because the "use of a test year results in rates that inherently are based on estimates that may overcompensate or undercompensate utilities."[16] For example, a utility's actual depreciation expense will not precisely match the depreciation expense included in rates or recovered from customers, particularly given that it is impossible to isolate an individual expense and determine whether a utility over- or under-collected that one expense.[17] Despite these imperfections in the ratemaking process, the Commission allows utilities to earn a return on utility plant without implicating the prohibition on retroactive ratemaking. Utilities earn a return on the asset balance on their books, regardless of whether they over- or under-collected depreciation expense historically.[18]

---

[15] *Id.* at 3-4.

[16] *Gearhart*, 356 Or at 221; *see also Re Portland General Electric Co. et al.*, Dockets DR 10, UE 88 & UM 989, Order No. 08-487 at 7 (Sept. 30, 2008) ("like all forecasts, the utility's actual costs will vary"); Joint Testimony/300, Joint Parties/9-10.

[17] Order No. 08-487 at 64 (rates are set holistically and individual components cannot be isolated from one another); Joint Testimony/600, Joint Parties/8; Joint Testimony/300, Joint Parties/9-10.

[18] *Gearhart*, 356 Or at 220 (Oregon law allows a return on "'the net or depreciated value of the tangible and intangible property, or net investment in the property . . .'") (quoting Charles F. Phillips, Jr., *The Regulation of Public Utilities*, 169-70 (2d ed. 1988)); Roger A. Morin, *New Regulatory Finance*, 3 (1st ed. Public Utilities Reports 2006) ("The rate base is essentially the **net book value of the utility's plant** that is considered used and useful in dispensing service, plus some reasonable allowance for working capital requirements.") (emphasis added); Bonbright, *Principles of Public Utility Rates*, at 212 (accounting rules designed "so that the regularly recorded book values of the public utility assets can be used with minimum revisions as components of a rate base").

Indeed, "all rate base components, to at least some degree, are typically estimates in a future test year" and are not trued-up when determining the balance on which the utility earns a return.[19] Thus, there is nothing illegal in the Joint Utilities' proposal to earn a return on their actual prepaid pension asset.

Finally, CUB argues that the prepaid pension asset is not like other assets that are added to rate base because it is not always funded by shareholders, determining prudence of the contribution would be difficult, and determining the appropriate amount to add to rate base would be difficult.[20] This point is discussed in more detail below. Most importantly, however, each of these concerns raises individual utility issues and should not serve as the reason to deny all utilities the ability to recover financing costs in all cases.

B. The Parties' Recommended Earnings Reviews are Unwarranted and Contrary to Traditional Ratemaking.

Staff reiterates its argument that the Commission should apply a retrospective earnings review for each utility to determine whether the cash contributions that funded the prepaid pension asset "could have been absorbed at the time they were incurred and still resulted in just and reasonable rates."[21] Staff argues that an earnings test is necessary to determine whether shareholders actually funded the historical cash contributions. But the Commission does not apply an earnings review to other utility investments to determine whether shareholders funded the investment and should not do so here.[22] For example, when a utility invests in a new generating plant, the utility spends the funds to construct or acquire the plant before cost recovery is allowed. By Staff's reasoning, the Commission should apply an earnings test to determine if the utility was able to fund the new generating plant and still

[19] *Re Portland General Electric Co.*, Dockets UE 180/184, Order No. 07-454 at 6 (Oct. 22, 2007).

[20] CUB Response Brief at 10.

[21] Staff Response Brief at 4.

[22] Joint Testimony/600, Joint Parties/8.

have reasonable earnings, in which case there would be no need for cost recovery, and the Commission would consider the investment to have been "expensed." Staff's proposal is clearly contrary to basic tenets of utility ratemaking and should be rejected.

ICNU/NWIGU continue to argue that the Joint Utilities must demonstrate that "their failure to earn a return on their prepaid pension asset balances has harmed their credit rating, access to capital, or otherwise resulted in unjust or unreasonable rates, or that their failure to do so in the future will have such an effect."[23] To support this claim, ICNU/NWIGU continue to rely on cases from other jurisdictions and have not rebutted the Joint Utilities' argument distinguishing those cases.[24] Moreover, ICNU/NWIGU have still failed to cite a single instance where the Commission applied such a standard in Oregon. And, like Staff's recommendation, ICNU/NWIGU's novel standard for cost recovery is contrary to well-established ratemaking principles.

C. Single Issue Ratemaking is not Implicated by the Joint Utilities' Request.

ICNU/NWIGU argue that if the Commission determines that the Joint Utilities can recover their financing costs, it is a "*de facto* ratemaking determination" made "without considering the full picture of the utility's costs and revenues."[25] ICNU/NWIGU is forgetting that the prepaid pension asset will be added to rate base in an individual utility ratemaking proceeding, where any potentially offsetting cost reductions in other aspects of each utility's operations can be raised and addressed. The Commission has regularly adopted generally

---

[23] ICNU/NWIGU Response Brief at 5.

[24] *See* Joint Utilities' Opening Brief at 8-10 (distinguishing Utah and Connecticut cases).

[25] ICNU/NWIGU Response Brief at 8; *see also id.* at 5 (Joint Utilities have failed to demonstrate "how the effect of any prepaid pension asset may have been reduced by lower costs or increased benefits of other aspects of their operations.").

applicable ratemaking policies in generic investigations and has never found that doing so constitutes single issue ratemaking.[26]

CUB argues that "[t]o single out this one element of historic rates and change ratemaking treatment, without examining whether historic rates have fully compensated shareholders for the portion of the prepaid pension asset that came from shareholder contributions, is plainly single-issue ratemaking."[27] Like arguments supporting the application of an earnings review before allowing financing cost recovery, CUB's single-issue ratemaking argument is contrary to Commission precedent and fundamental principles of ratemaking. The Commission has never limited recovery of utility financing costs simply because historic rates included the benefit of an investment[28] without customers paying the associated financing costs. CUB's argument is more fundamentally an argument that "because we have not done something in the past we should not do it in the future" than it is an argument predicated on retroactive ratemaking.

D. A Prepaid Pension Asset is Comparable to a Traditional Utility Investment that is Included in Rate Base.

Staff disputes the characterization of the prepaid pension asset as an "investment"[29] arguing that if the Commission concludes that the prepaid pension asset is an investment, there would be no "Commission oversight over the appropriate amount to be included in rate base."[30] On the contrary, the Joint Utilities proposal would allow for the same level of Commission oversight accorded to all utility investments, such as plant additions and

---

[26] *See e.g., Re Investigation into Forecasting Forced Outage Rates for Electric Generating Units*, Docket UM 1355, Order No. 10-414 (Oct. 22, 2010) (adopting ratemaking methodology for determining forced outage rates in generic investigation).

[27] CUB Response Brief at 11-12.

[28] Joint Testimony/600, Joint Parties/12 (describing benefits).

[29] Staff Response Brief at 5.

[30] *Id.*

prepayments. And, although Staff now appears to dispute that the prepaid pension asset is similar to an investment, Staff's testimony identified several material similarities between the prepaid pension asset and a traditional investment, while identifying no similarities between the prepaid pension asset and a traditional expense.[31]

ICNU/NWIGU attempt to distinguish the prepaid pension asset from other items traditionally allowed in rate base. ICNU/NWIGU argue that the prepaid pension asset is unlike cash working capital because cash working capital is relatively predictable and is included as an average value that is "objectively determined through a lead-lag study or other methodology."[32] ICNU/NWIGU similarly argue that materials and supplies are included based on average amounts that are reasonably predictable. Like cash working capital and materials and supplies, the prepaid pension asset is "objectively determined" based on accounting rules. And the relative stability of these amounts is not why they are included in rate base—it is because they are funded by investors in advance of recovery.[33]

ICNU/NWIGU also fault the Joint Utilities for recommending that the actual value of the prepaid pension asset be included in rate base, rather than an average value, as is used for cash working capital and materials and supplies.[34] This criticism is misplaced. The Joint

---

[31] Staff/100, Bahr/8-9 (unlike expenses, the prepaid pension asset is measured at a point in time and appears on the balance sheet).

[32] ICNU/NWIGU Response Brief at 6.

[33] *Re Avista Corp.*, Docket UG 201, Order No. 11-080 at 5 (Mar. 10, 2011) (cash working capital included in rate base due to the "lag in time between the collection of revenues for services rendered and the necessary outlay of cash to pay the expense of providing those services"); Bonbright, *Principles of Public Utility Rates*, at 243 (when "funds have come from investor sources (debt and equity securities issued or earnings retained in the business), they are legitimate investments to provide service and thus, should be included in rate base"); *id.* at 244 ("Materials and supplies represent the inventory kept on hand by a utility to meet the day-to-day requirements of providing utility service . . . Inclusion of average materials and supplies inventories in rate base provides the means of compensating the investors for this invested capital."); Joint Testimony/100, Joint Parties/13 (discussing other instances where Commission has found it appropriate to provide recovery for utility's financing costs on investments other than physical plant).

[34] ICNU/NWIGU Response Brief at 6-7.

Utilities ask that the prepaid pension asset be included in rate base consistent with how utility plant is included in rate base. To the extent that parties believe the actual amount at the time of a utility's rate case will differ materially from the amount during the rate effective period, those issues can be raised during the rate case.

CUB argues that the prepaid pension asset is not like other utility assets because it is not necessarily funded exclusively by shareholders, it will be difficult to determine if it is a prudent investment, and it will be difficult to determine what amount of the investment should be included in rate base.[35] Indeed, CUB goes so far as to argue that "there is no concrete evidence in the record that the utilities have the ability to demonstrate that such contributions were prudent."[36] But the Joint Utilities have testified repeatedly that if the Commission has any concerns over the prudence of historical cash contributions, those concerns can be addressed in individual cases.[37] The fact that the Joint Utilities have not provided detailed, utility-specific demonstrations of the prudence of their cash contributions is due to the nature of this generic investigation, not because the Joint Utilities cannot demonstrate the prudence of their contributions. CUB's argument that it may be difficult to determine the prudence of historical cash contributions is also not a reasonable basis to deny recovery of prospective financing costs.

E. The Timing of the Joint Utilities' Request is no basis for Denial.

ICNU/NWIGU's "primary objection to the Joint Utilities' request" is "one of timing."[38] ICNU/NWIGU argue that the request is one-sided and fails to account for the periods where

---

[35] CUB Response Brief at 10.

[36] *Id.* at 12.

[37] *See e.g.*, Joint Testimony/600, Joint Parties/5.

[38] ICNU/NWIGU Response Brief at 2.

the Joint Utilities had accrued pension liabilities.[39] As the record indicates, however, none of the Joint Utilities have *ever* maintained a significant accrued pension liability.[40]

ICNU/NWIGU further argue that the Joint Utilities have not convincingly demonstrated that the timing of their request is driven by market and legal events outside their control.[41] CUB likewise argues that the prepaid pension assets are not the result of outside forces and are not going to continue to grow as predicted by the Joint Utilities.[42] On the contrary, the record on this point is well-developed, including actual historical information from the Joint Utilities and expert opinion.[43] And, like many of the points made by CUB and ICNU/NWIGU, this criticism is based on selective use of certain utility data.[44] Furthermore, it has never been the standard that ratemaking should only contemplate costs that are driven by events outside

---

[39] *Id.* at 3-4.

[40] Staff/102, Bahr/1; PAC/100, Stuver/3.

[41] ICNU/NWIGU Response Brief at 4.

[42] CUB Response Brief at 4-7.

[43] Joint Testimony/200, Vogl/8-9 (Pension Protection Act and financial market downturns increased and accelerated required contributions); Joint Testimony/400, Vogl/2; Joint Testimony/100, Joint Parties/10, 12 (Pension Protection Act and financial market downturns increased and accelerated required contributions); NWIGU-ICNU/100, Smith/41 ("After the 2008 worldwide financial crisis and decline in many investments, many defined benefits pension plans experienced investment losses. These developments have led recently to some utilities recording large amounts for pension assets."); NWIGU-ICNU/103, Smith/13 (2009 GAO report observed that legislative changes coupled with recession led to significant stress on pension plan sponsors); CUB/100, Jenks-McGovern/9 ("It is true that the recession and the Pension Protection Act required most pension sponsors to make pension contributions, which increased the size of their prepaid pension assets."); CUB/114, Jenks-McGovern/2 (Moody's reported that the "U.S. utility sector is losing ground with the funding status of its sizeable pension plans . . . We found that weak returns associated with the equity components of pension portfolios and falling discount rates have combined to eliminate the effects of **above-average annual contributions over the past few years**.") (emphasis added); CUB/114, Jenks-McGovern/4 (Moody's described pension funding pressures caused by recession); CUB/115, Jenks-McGovern/2 (Standard & Poor's observed that utilities' pension obligations were impacted by recession at a much quicker pace than rest of economy); CUB/115, Jenks-McGovern/6 (declining stock market and very weak economic conditions in 2008 caused significant deterioration of pension funding status); NWN/100, Wilson/10 (NW Natural's projections indicate that its prepaid pension asset will continue to grow significantly through 2023).

[44] *See e.g.*, CUB Response Brief at 6 (three of the Joint Utilities' prepaid pension assets have increased).

the utility's control. Such a standard is unworkable, and does not comport with any established ratemaking theories.

F. CUB Fails to Explain their Inconsistent Position on Financing Costs Related to Cash Contributions.

If pension cost recovery is based on cash contributions, CUB recommends that the Commission allow recovery of the cash contributions over time with an appropriate carrying charge applied to the unrecovered balance.[45] In its brief, CUB attempts to distinguish this support for financing cost recovery with their adamant opposition if the cash contribution is recovered over time through FAS 87 expense.[46] Under either cost recovery methodology, however, the same basic principle applies—the Joint Utilities incur financing costs when they fund cash contributions that are not immediately recovered in rates. The fact that CUB supports financing cost recovery if utilities are allowed cash-based recovery is meaningful recognition by CUB of the very justification for the Joint Utilities' request, and should not be dismissed as casually as CUB claims.

G. Prepaid Pension Assets Benefit Customers.

ICNU/NWIGU argue that the Joint Utilities have not included any discussion of how the prepaid pension asset may benefit ratepayers.[47] This claim is untrue. The contributions in advance of FAS 87 expense that create the prepaid pension assets directly lower rates through a reduced FAS 87 expense, can improve a utility's credit metrics or credit rating, lower pension insurance premiums, and can provide tax benefits.[48] Indeed, numerous

---

[45] *Id.* at 9.

[46] *Id.*

[47] ICNU/NWIGU Response Brief at 3.

[48] Joint Testimony/500, Joint Parties/7-8; Joint Testimony/600, Joint Parties/12.

regulators throughout the country have recognized these fundamental benefits accruing to customers as a result of a prepaid pension asset.[49]

H. Precedent in other Jurisdictions Supports the Joint Utilities' Request.

In testimony CUB urged the Commission to follow the lead of other commissions.[50] Now that it is apparent that many—if not most—states have adopted the policies recommended by the Joint Utilities,[51] CUB now argues in its brief that the Commission should not look to policies in other jurisdictions to determine whether to allow recovery of the prepaid pension asset's financing costs.[52] To be clear, the Joint Utilities have not argued that precedent in other jurisdictions should be dispositive of the issues in this case. Rather, the Joint Utilities have argued that the overwhelming precedent in other states demonstrates that recovery of the prepaid pension asset's financing costs is not unusual or novel.[53]

CUB does not challenge the evidence that numerous commissions have allowed recovery of the prepaid pension asset's financing costs. Instead, CUB attempts to distinguish

---

[49] *Re Pub. Serv. Co. of Colo.*, Proceeding No. 12AL-1268G, Decision No. R13-1307 at 72-73 (Oct. 22, 2013) (the "prepaid pension asset is a benefit to ratepayers because it allows the Company to attract and to retain the highly-skilled workforce necessary to provide natural gas service"); *Re Indiana Michigan Power Co.*, 303 P.U.R.4th 384, 2013 WL 653036 32 (Ind.U.R.C.) (allowing return on prepaid pension asset because it benefits customers by preserving the integrity of the pension fund and reducing the total pension costs in the utility's revenue requirement by reducing FAS 87); *Re Pub. Serv. Co. of Oklahoma*, 2007 WL 6081138, *7 (Okl.C.C.) ("PSO has included $82 million in prepaid pension assets . . . in rate base. This is the proper treatment of this item. The prepaid pension asset produces benefits for PSO's customers. Therefore, like any other asset PSO makes an investment in, the Company should be allowed an opportunity to earn a return on that investment."); *Re Appalachian Power Co.*, 2007 WL 1616129, *10-*11 (Va.S.C.C.) (prepaid pension asset included in rate base as a prepayment "because prepaid pensions are directly tied to reducing operating expenses"); *Re Potomac Elec. Power Co.*, 258 P.U.R.4th 463, 2007 WL 2159658, *22 (Md.P.S.C.) ("pre-paid pension asset . . . equal to the amount of funding made to the plan in excess of the Financial Accounting Standards Board ('FASB')-determined expense" allowed in rate base in part because it reduced FAS 87 expense).

[50] CUB/100, Jenks-McGovern/41-42 (urging the Commission to adopt the same policy as Delaware, even though Delaware allows utilities to include the prepaid pension asset in rate base).

[51] *See* Joint Utilities' Prehearing Brief at 11-14.

[52] CUB Response Brief at 13.

[53] *See e.g.*, Joint Utilities' Prehearing Brief at 11-14.

a single state, Colorado, claiming that a 1993 order there allows recovery of the prepaid pension asset only to the extent the cash contributions exceed federal minimum funding requirements.[54] But nothing in the 1993 Colorado order indicates that the inclusion of the prepaid pension asset in rate base was limited to only legally required contributions and subsequent Colorado orders affirming the inclusion of the prepaid pension asset in rate base likewise contain no such limitation.[55]

CUB also argues that Missouri, Indiana, and Michigan, have not adopted uniform policies to include the prepaid pension asset in rate base and have instead taken a utility-by-utility approach.[56] CUB does not, however, dispute that in each state regulators have allowed recovery of the prepaid pension asset's financing costs, which indicates, as the Joint Utilities argue, that such recovery is not unusual or novel. Moreover, the fact that these states have adopted different policies for different utilities supports the Joint Utilities' view that specific utility facts can be considered in individual ratemaking proceedings.

III. CONCLUSION

The Commission should approve the Joint Utilities' request to continue to recover pension expense through FAS 87 and to allow recovery of the financing costs associated with

/////

/////

/////

/////

/////

/////

[54] CUB Response Brief at 13-14.

[55] *See Re Pub. Serv. Co. of Colo.*, Proceeding No. 12AL-1268G, Decision No. R13-1307 at 72-73 (Oct. 22, 2013).

[56] CUB Response Brief at 14-15.

the prepaid pension asset. Such recovery is consistent with basic principles of ratemaking and well-supported in the record.

DATED: May 15, 2015.

Respectfully submitted,

McDowell Rackner & Gibson PC

Lisa F. Rackner
Of Attorneys for NW Natural and Cascade Natural Gas

Avista Corporation
David Meyer
Vice President and Chief Counsel for Regulatory and Governmental Affairs
1411 E. Mission Ave.
Spokane, WA 99220

PacifiCorp
Sarah Wallace
Vice President and General Counsel
825 NE Multnomah St. Suite 1800
Portland, OR 97232

Portland General Electric Company
Douglas Tingey
Assistant General Counsel
Portland General Electric Company
121 SW Salmon St., 1 WTC1301
Portland, OR 97204