

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

3 UM 1633

4 In the Matter of the

5 PUBLIC UTILITY COMMISSION OF
6 OREGON

7 INVESTIGATION INTO TREATMENT OF
8 PENSION COSTS IN UTILITY RATES

STAFF'S OPENING BRIEF

9 I. INTRODUCTION

10 Pursuant to Chief Administrative Law Judge (ALJ) Michael Grant's Prehearing
11 Conference memorandum dated April 9, 2013, the Public Utility Commission of Oregon Staff
12 (Staff) files this Opening Brief on the Commission's proposal to bifurcate this docket.

13 On March 27, 2013, ALJ Grant issued a Notice of Prehearing Conference, which
14 proposed to separate this docket into two phases. The first phase would address how the
15 Commission should treat pension costs when setting rates on a going-forward basis. The second
16 phase would address how the Commission should resolve requests by utilities to recover pension
17 costs incurred in the past. On April 5, 2013, Northwest Natural filed a letter opposing
18 bifurcation of this proceeding. Finally, at a prehearing conference on April 8, 2013, a schedule
19 was established to brief the issue of bifurcation.

20 For the reasons set forth below, Staff recommends that this proceeding not be bifurcated.

21 II. DISCUSSION

22 The utilities have requested a change to Commission policy related to recovery of
23 pension expenses. The utilities request that, on a prospective basis, they be granted a return on
24 their prepaid pension assets, which includes a return on past contributions in excess of
25 cumulative FAS 87 expense¹.

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¹ Idaho Power filed a separate opening brief requesting that it be allowed to be excused from this docket because it has not prepaid pension asset. Staff has no position on Idaho Power's request, but notes that Staff has not taken a

1 While it is correct that the utilities are only requesting prospective relief, the prospective
2 relief they seek includes a return on past contributions in excess of cumulative FAS 87 expense.
3 If those past contributions were considered expenses, retroactive ratemaking would preclude
4 them being included in prospective rates. However, if the past contributions were considered
5 more akin to investments than expenses, retroactive ratemaking would not be a bar to recovery
6 on a prospective basis.

7 Even if the past contributions in excess of cumulative FAS 87 were considered more akin
8 to multi-year investments than expenses, parties may still raise issues related to the fact that these
9 contributions happened in the past during times when utilities had legally established rates that
10 were just and reasonable. Generally, investments would be subject to regulatory lag in that they
11 are depreciating between rate cases, but it is not yet clear that prepaid pension assets should be
12 treated like these more traditional investments. In addition, single issue ratemaking is generally
13 considered poor regulatory policy, but it is not yet clear that including past contributions on a
14 prospective basis, without consideration of all rates in effect at the time of the contributions, is
15 the best regulatory policy going forward.

16 Because the utilities' proposals request prospective treatment of prepaid pension assets,
17 which include the effects of past contributions in excess of cumulative FAS 87 expense on
18 current and prospective FASB expense, Staff agrees that it would be more efficient to consider
19 these arguments together, rather than in two separate phases. Staff believes this will allow the
20 parties to fully discuss the utilities' request and allow the parties to make their own proposals.

21 Finally, Staff notes that this is a generic docket to establish pension policy on a forward-
22 going basis. If a different policy is established by the Commission, there will have to be rate
23 proceedings to implement the Commission's change in policy.

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position on the treatment of pension costs and, at least in theory, that position could involve more than prepaid pension assets. For example, parties may propose moving away from FAS 87 entirely.

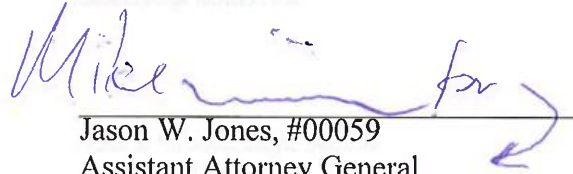
1 III. CONCLUSION

2 For the foregoing reasons, Staff recommends that this proceeding not be bifurcated,
3 which will allow all parties to develop a full record on the appropriate pension policy going
4 forward.

5 DATED this 5th day of June 2013.

6 Respectfully submitted,

7 ELLEN F. ROSENBLUM
8 Attorney General

9 A handwritten signature in blue ink that reads "Mike Jones" with a stylized flourish at the end.

10 Jason W. Jones, #00059
11 Assistant Attorney General
12 Of Attorneys for Staff of the Public Utility
13 Commission of Oregon

1 **CERTIFICATE OF SERVICE**

2 I certify that on June 5, 2013, I served the foregoing Staff Opening Brief upon all parties
3 of record in this proceeding by delivering a copy by electronic mail only as all parties waive
4 paper service.

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