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	)
	)
	)

REBUTTAL TESTIMONY
OF THE
CITIZENS' UTILITY BOARD OF OREGON

October 17, 2014

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	OPENING TESTIMONY OF THE CITIZENS' UTILITY BOARD OF OREGON

Our names are Jaime McGovern and Bob Jenks, and our qualifications are listed in CUB Exhibit 101.

I. Introduction.

The Joint Parties' last round of testimony argued for continued use of FAS 87-based recovery, with the addition of recovery on the prepaid pension asset. In the case of a cash transition, the Joint Utilities stated that they would request full recovery of the prepaid pension asset over the next five years. In this fourth round of testimony, CUB addresses the above arguments. We identify the common ground between the parties and also rebut misrepresentations and factual errors.

II. Common Ground.

It seems that all parties in this case are agreed upon one point, and that is that the current pension expense recovery system based on FAS 87 is generally adequate. The

Joint Utilities state it best: “[t]o date, no party has provided a persuasive reason to fundamentally change how pension costs are recovered."[1] In response, CUB notes that it, too, believes that the Companies can be functionally and systematically made whole through accrual recovery based on FAS 87. However, CUB is also open to cash recovery if the Companies are not awarded the return **of** the prepaid pension asset. The bottom line is that CUB believes that either pension expense or pension contribution can be used for ratemaking purposes to fully recover the Companies’ pension costs. The Joint Utilities, Staff,[2] and ICNU/NWIGU,[3] on the other hand, all wish to continue with the current pension recovery methodology based on FAS 87 pension expense.

CUB notes that from a mathematical perspective, it appears that all the parties agree to the theoretical validity of pension expense based recovery:

> If rates continue to be based on FAS 87 expense, then all of the Joint Utilities' cash contributions made to date will ultimately end up in FAS 87 expense and be fully recovered over time.[4]

CUB concurs, though CUB notes that this statement should actually refer to FAS 87 and FAS 88 as we will discuss below.

In addition, CUB also agrees that, in principle, the balancing account developed for NW Natural should be taken into consideration. Because the balancing account represents FAS 87 expense that has already occurred, CUB agrees with NW Natural that this is an issue that would need to be dealt with in order to transition from a FAS 87-based ratemaking to a contribution-based ratemaking.

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[1] UM 1633 - Joint Testimony/500/Joint Parties/3.
[2] UM 1633 - Staff/300/Bahr/2.
[3] UM 1633 - NWIGU-ICNU/300/Smith/4.
[4] UM 1633 - Joint Testimony/500/Joint Parties/9.

Here ends the common ground that CUB is aware of. The contentious issues presented in the most recent round of testimony are addressed below.

III. Points of Contention.

The Joint Utilities claim that they "have absorbed the costs of financing these prepaid pension assets."[5] While CUB agrees that, individually, the companies have absorbed the financing costs for *some* of the prepaid pension asset, CUB notes that (1) the companies do not finance negative pension expense included in the calculation of the prepaid pension asset; (2) the amounts that the a companies have financed can be better calculated by the net cash method that CUB proposed in opening testimony;[6] (3) that because of black box settlements, and misallocated pension expense, any historical tabulation method will be imperfect; and (4) that ratepayers have also borne the cost of financing the prepaid pension asset when it was negative—the accrued pension liability.

A. PGE Misrepresents the Effect of the Pension Protection Act.

As previously noted, CUB believes that if the Commission is considering a return on, or a return of, the prepaid pension asset, then the basis for filing for amounts incurred retroactively must be considered. As mentioned in Opening Testimony, the Joint Utilities cited the Pension Protection Act and the recession as the main impetuses for their respective filings for a return on the prepaid pension act. However, at least in the case of Portland General Electric (PGE), CUB believes that this is not an accurate representation of the drivers behind PGE's filings.

[5] UM 1633 - Joint Testimony/500/Joint Parties/2.
[6] UM 1633 - CUB/300/Jenks-McGovern/3.

Looking at PGE's cash contributions post-PPA, $56 million has been contributed, which represents approximately 73% of PGE's current prepaid pension asset balance ($76.6 million, as of December 31, 2013).[7]

Although PGE has contributed a total of $56 million to its pension plan since the implementation of the Pension Protection Act, PGE has also collected over [redacted] in pension expense (FAS 87) in rates for the same time period. Since the prepaid pension asset represents the difference between pension contributions and pension expense, only [redacted] of the prepaid pension asset can be attributed to post-pension protection act contributions.[8]

Table 1- PGE Pension Contributions[9]

(in millions of $s)		through 2008	2009 - current
Prepaid Pension Asset		[redacted]	[redacted]
Cumulative Contributions		[redacted]	[redacted]
Recovered in rates		[redacted]	[redacted]
FAS 87 expense		[redacted]	[redacted]

Notice how, in the chart above, with data taken from the update to CUB DR 5, that since 2008, [redacted]

[7] UM 1633 – PGE/100/Hager-Jaramillo/3.
[8] UM 1633 – CUB Exhibit 401.
[9] UM 1633 – CUB Exhibit 401.

[redacted]

B. CUB Offers an Alternative to the Joint Utilities' Illustrative Example.

The Joint Utilities provided an illustrative example to demonstrate their concerns:

> [A] utility makes $10 million in pension contributions cumulatively over five years and recognizes $6 million in FAS 87 expense over those same five years. Under existing FAS 87-based recovery, the utility would have recovered $6 million from customers and would have a prepaid pension asset of $4 million at the end of the 5 years. If the utility were required to switch to cash-based recovery going forward with no consideration for the past, they would have no mechanism to recover the stranded $4 million that, under FAS 87 expense-based recovery would have been recovered over the life of the plan.[10]

CUB understands that the Joint Utilities are trying to demonstrate that changing regulatory recovery methods, in the middle of an asset amortization, can have unintended consequences. CUB agrees that this could be the case, but CUB recognizes that the unintended consequences flow in multiple directions. Consider an alternative example that recognizes the 'life' of the pension plan and the uncertainty of the investment.

Suppose a utility will make $10 million in pension contributions cumulatively over five years. The system works as follows:

Each year, the company makes a $4 million or $0 contribution with 50/50 odds, until the contributions reach $10 million. The fifth year, however, the company makes up the difference between the amount invested so far and the $10 million. During the first five-year time period, the company collects $2 million per year in rates.

Company A gets 'unlucky' and invests $4 million in years one and two and the remaining $2 million in year three. Company B gets 'lucky' and invests $0 in years one

[10] UM 1633 - Joint Testimony/500/Joint Parties/11.

through four, but has to invest all $10 million in year five. However, each Company, each year is collecting $2 million per year. At the end of year 3 Company B is successful at getting both Companies switched to cash based recovery. Company A would have invested $10 million and recovered only $6 million, but will make no additional recoveries. Company B, however, will have made no investments but will have recovered $6 million, and will recover $10 million in year five. Company A has $4M in stranded costs, but Company B has over-recovered by $6 million. Since the agreement was made ex-ante, before any investments were made, on average parties assumed that the recovery method was fair. If the current FAS 87-based system had stayed in place, or if cash recovery had been in place from the beginning, both companies would have recovered their full $10 million investments.

C. FAS 88 May Be a Big Deal.

The Joint Utilities' Expert Witness Mr. Vogl[11] topically discussed the role of FAS 88 in pension expense. Until that point, CUB had interpreted and used the terms FAS 87 and pension expense interchangeably. Most of the other parties continue to ignore FAS 88 and claim that FAS 87 will fully equal pension contributions over time. As this docket has progressed, CUB has become increasingly aware of the significance of FAS 88. CUB had challenged (and still continues to challenge) the idea that FAS 87 amortizes down the prepaid pension asset, as if it had a fixed value and would be reduced over time and at a predictable rate. Instead, FAS 88 represents the difference between the total collection of FAS 87 and the total pension contributions over the life of the pension. If the pension plan is terminated before the final payment date for the final beneficiary

[11] UM 1633 - Joint Testimony/400/Joint Parties/7-8.

(which, of course, in all likelihood it would be), then FAS 88 would represent that one-time termination expense. This does not, however, grasp the full magnitude and role of FAS 88.

Throughout the tenure of the recovery period, FAS 88 expenses can be incurred for various reasons related to one-time changes in pension plans, closings, openings, or other pension expenses that are not captured in the narrowly defined FAS 87 expense. All of the FAS 88 charges also are included into the soup of the prepaid pension asset. That is, the prepaid pension asset includes cash contributions, FAS 87 expense and FAS 88 expense:

$$PPA = \sum_{t=0}^{current} Contribution_t - Net\ Pension\ Expense_t$$

$$PPA = \sum_{t=0}^{current} Contribution_t - (FAS87 + FAS88)_t$$

This would not be overly relevant if FAS 88 expense were only incurred in some obscure rare event. It is not. In fact, over one third of all of PacifiCorp's Net Pension expense (the values that reflect the debiting portion of the prepaid pension asset) are FAS 88 and special charges.[12]

[12] UM 1633 – CUB Exhibit 402.

Table 2- PacifiCorp's FAS 87 and 88 Expenses[13]

		Oregon allocated	Oregon allocated
		*FAS 87 expenses (in Millions)	*FAS 88 expense, special charges and transfers (in Millions)
2012		$6.7	$0.0
2011		$4.0	$0.0
2010		$3.6	$0.0
2009		$4.1	$0.0
2008		$7.2	-$0.4
2007		$14.1	$0.0
2006		$12.2	$0.0
2005		$15.1	$1.5
2004		$9.8	$0.0
2003		$5.2	$0.0
2002		$0.6	-$1.1
2001		-$3.0	$0.0
2000		-$3.2	$20.5
1999		$6.7	-$1.1
1998		$6.2	$30.4
total		$89.3	$49.8

As noted above, CUB thought, until recently, that ratemaking was based on FAS 87 expense, and that the prepaid pension asset was comprised of the net difference between total company contributions and FAS 87 expense, and that FAS 88—while theoretically relevant—played practically only a small part until the end of the pension plan. Therefore, CUB has often used the terminology FAS 87 synonymously with pension expense. CUB now understands through conversations with the Companies, and through discovery, that FAS 88 charges are incurred throughout the life of the pension

[13] UM 1633 – CUB Exhibit 402.

plan. Therefore, the accurately calculated prepaid pension asset will be smaller with the incurrence of FAS 88 expense.

Interestingly, PacifiCorp, in CUB DR 5, included FAS 88 charges as special charges,[14] and proceeded to calculate the prepaid pension asset as described above, with both FAS 87 and FAS 88 included. The Company has assured parties that it believes that the FAS 87 pension expense in rates has been adequate:

> Since 1998, all of PacifiCorp's general rate cases have been established based on settlements, and PacifiCorp is not aware of any specific pension related disallowances. Thus, PacifiCorp believes it is reasonable to assume that its actual FAS 87 costs and associated tax benefit/expense have been included in rates.[15]

PacifiCorp is, therefore, assuming that FAS 87 expense has been fully recovered in rates.[16] What about FAS 88?

Then we consider the application of FAS 88 in rates. Finding out whether and where PacifiCorp's FAS 88 expense has been recovered in rates is not entirely straightforward. Prior to 2008, PacifiCorp's FAS 88 expenses were collected in rates, but not as pension expense.

> FAS 88 and special charges prior to 2008 were generally deferred and amortized over future periods to operating expense accounts other than pension expense.[17]

PacifiCorp verifies this in a follow-up data request. The Company clarifies that these FAS 88 charges "were deferred as a regulatory asset and subsequently amortized to operations and maintenance accounts outside of pension expense. These amounts were recovered in rates."[18]

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[14] UM 1633 – CUB/106/Jenks-McGovern.
[15] UM 1633 – CUB Exhibit 403.
[16] UM 1633 – CUB Exhibit 403.
[17] UM 1633 – CUB Exhibit 402.
[18] UM 1633 – CUB Exhibit 404.

Given the points above, it appears fair to assume that PacifiCorp's FAS 87 expenses were recovered in rates via pension expense and PacifiCorp's FAS 88 expenses were recovered in rates via O&M charges. Consider the following chart compiled from PacifiCorp's responses to multiple data requests on this issue.

Table 3- PacifiCorp Pension Costs[19]

Current Values	Cumulative FAS 87included in filings (in Millions)	Cumulative FAS 88 included in O&M (in Millions)	Prepaid Pension Asset (in Millions)	Cumulative Company Contribution (in Millions)	Net cash[20] method
Oregon Portion	$160.1	$50.2	$89.4	$251.4	$41.1
Total Company	$538.7	$183.1	$311.0	$917.9	$196.2

In the table above, CUB assumes that the FAS 87 that was included in rates continued until the next rate case. Therefore, the Company has collected $160 million from Oregon customer for FAS 87. In addition, PacifiCorp has collected $50.2 million in FAS 88 pension expense. Although the Company requests a return on the prepaid pension asset of $89.4 million ($311 million Total Company), between FAS 88 collections and FAS 87, PacifiCorp has collected all but $41million ($196.2 million total company) of their total contributions, and possibly more.[21] Total contributions that include $100 million in just the past two years—years in which the pension plan was overfunded.[22]

[19] UM 1633 – CUB Exhibit 402.
[20] UM 1633 - CUB/300/Jenks-McGovern/10.
[21] CUB recognizes that in this generic docket the Commission does not have all the data that may be needed to determine total ratepayer recovery, in part because the Companies have not been able to provide all the data.
[22] UM 1633 – CUB Exhibit 403.

Unlike FAS 87, which in an ongoing expense, FAS 88 is triggered by specific events and is, therefore, lumpy. PacifiCorp had a sizable FAS 88 expense, $20.5 million (Oregon allocated) in 2000 (see *Table 2*). PacifiCorp filed a rate case in 2000, and CUB reviewed OPUC Order No. 01-787 from that case. That order, which includes a disallowance from when PacifiCorp switched to FAS 87, does make a reference to removing a $20.1 million double count related to pension expense:[23]

[23] OPUC Order No. 01-787, pages 42 and 43.

> **"S-14 1987/88 Pension Amortization**
>
> This issue addresses how costs associated with early retirement programs in 1987 and 1990 should be treated. PacifiCorp wants to amortize the unfunded portion of its pension costs ($86,877,000) that were stranded by its change in pension accounting conventions in 1997 when it went from a cash to an accrual basis. Prior to the change, a deferred pension asset was created for the difference between the amount of funding in the pension plan and the total pension cost. This deferred asset would self- amortize as the pension plan was fully funded.
>
> Staff contends that the entire amount should be disallowed, resulting in a $5.640 million reduction to PacifiCorp's O&M expenses, and a $7.494 million decrease to rate base. These costs are "old costs" that previously have been written off by PacifiCorp. Staff also claims that these are not actually pension costs, but are merely the effect of a change in accounting methods.
>
> These costs should not be allowed. PacifiCorp wrote them off in 1997, and did not attempt to recover them during earlier filings.
>
> We adopt Staff's adjustment.
>
> **S-15 Pension**
>
> At the time of hearing, PacifiCorp had agreed that a $19 million adjustment needed to be made due to an error of double-counting this expense. Staff, however, thought the error was $20,635,000. During the briefing process, PacifiCorp and Staff were able to resolve this issue, and agreed that an adjustment of $20,142,000, decreasing PacifiCorp's projection of 2001 Pension and Benefits expenses, should be made. We adopt this adjustment."

The quoted text above raises several questions. First, in CUB Exhibit 106, PacifiCorp shows total company pension expense of $11 million in 2001, $1.9 million in 2002 and ($18.9) million in 2003. However, from CUB Exhibit 402[24] PacifiCorp shows a FAS 88 expense of 74.8 in FY ending 3/31/01. CUB suspects that this was the $20.1 million that was double-counted. It also raises the question of whether previous FAS 88 expenses were double-counted.

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[24] UM 1633 – CUB Exhibit 402.

Second, if $20.5 million (or $20.1 million) of one-time only FAS 88 pension expense was being passed through to customers through O&M accounts in this general rate case, did the charges for it end after the amount was recovered, or did it stay in rates until the next rate case? Because these were not ongoing FAS 87 expenses, but were one-time FAS 88 expenses, collecting them through a general rate case that may be in place for several years would not have been appropriate.

Since the beginning of this docket, CUB has argued that a fundamental impropriety of the various requests to earn a return on the prepaid pension asset is the lack of any Commission policy which ensures utilities do not consistently overcollect pension expense in rates. This means that the prepaid pension asset, which theoretically tabulates the difference between company contributions and annually incurred pension expense, is factually different from the actual amount that the company finances "created by the timing differences between when cash is contributed to pension plans and when that cash contribution is recovered in rates"[25] because what is recovered in rates is not the annually incurred pension expense.

The amount that the Companies have financed and could continue to finance in the future (under the current FAS 87 system) is what CUB believes is at the heart of the debate. A company does not finance amounts that it has collected from its ratepayers. Since the prepaid pension asset is the accumulation of annual contributions net of pension expense, then in theory, if a company was able to perfectly collect the full pension expense (or reimburse it in the case that it was negative) during each rate period, then the prepaid pension asset would accurately represent the amount that the company was

[25] UM 1633 - Joint Testimony/500/Joint Parties/3.

currently financing (or the amount that the customers were currently financing if there was an accrued pension liability). However, neither forecasts nor ratemaking are perfect.

CUB has identified several logistical hurdles to awarding each company a return on the prepaid pension asset. These arguments include black box settlement, pension expense-rate pass through inconsistency, and negative pension expense. PacifiCorp's situation illuminates an additional problem associated with the historic treatment of FAS 88 expenses.

In its response to OPUC DR 26, PacifiCorp states:

> Since 1998, all of PacifiCorp's general rate cases have been established based on settlements, and PacifiCorp is not aware of any specific pension related disallowances. Thus, PacifiCorp believes it is *reasonable* to assume that its actual FAS 87 costs and associated tax benefit/expense have been included in rates. For informational purposes in the table below, PacifiCorp has provided the pension expense included in rate case filings over the period.[26]

CUB believes that *'reasonable'* recovery may be an understatement. Put another way, PacifiCorp is only $41 million shy of recovering all contributions to date[27] and would like to earn cost of capital on more than two times that amount.

In addition, CUB believes that PacifiCorp maintains the burden to demonstrate that the FAS 88 charges were *reasonable*. The Companies claim that all FAS 88 events are undertaken to benefit customers:

[26] UM 1633 – CUB Exhibit 402.
[27] Since the current recovery method began, Oregon Share.

> Thus, any costs incurred by the utility through the triggering of FAS 88 would be included in customer rates only to the extent that the utility reasonably believed that the decision to terminate would benefit customers--- presumably through lower cost than would be incurred if the plan were allowed to continue to the end.[28]

If this is true, then the Company should be comfortable demonstrating the decision making process. For example, in 1998 and 2000, PacifiCorp experienced large FAS 88 expense. PacifiCorp has not explained such large expenses (totaling $185 million), and how they reduce future liabilities or FAS 87 expense.

D. Peeling the Onion.

CUB believes that there are serious problems with historic pension expense policy for at least two of the companies. PacifiCorp has had significant FAS 88 expenses that have not been explained and has recovered from customer rates more expenses than are reflected in the prepaid pension asset. PGE – has made it a policy to not pass through negative pension expense even though that adds to the prepaid pension asset. Because of these serious problems, it is inappropriate to give the Companies a return on the prepaid pension asset. None of the Companies have demonstrated that it currently has or will continue to finance the claimed amounts.

CUB continues to argue that fallacies arise when accrual accounting is mixed with cash accounting. The prepaid pension asset is a mix of accrual and cash accounting and not suitable for ratemaking. The prepaid pension asset, therefore, provides a landscape for strategic opportunism and misrepresentation. It is, therefore, now clear that peeling back the onion is extremely important to resolution of this docket, but it is also extremely

[28] UM 1633 - Joint Testimony/500/Joint Parties/20.

difficult. CUB has used PacifiCorp's data as a demonstration tool because that data is available.

NW Natural seems to believe that demonstrating no over-recovery of pension expense is all that is needed to justify recovery:

> [S]o long as customers pay FAS 87 expense (and get the benefit of a credit in the event of negative FAS 87 expense), then the prepaid pension asset represents an actual financing by the utility. In NW Natural's case, customers have paid for FAS 87 expense, and also been afforded credits when NW Natural had negative FAS 87 expense. Moreover, as I will explain more fully below, over time NW Natural has not over-recovered its FAS 87 expense.[29]

NW Natural then goes on to say that it believes that some over-recovery or under-recovery of pension costs is inherent in the ratemaking process.[30] NW Natural's argument demonstrates that FAS 87 expense does not necessarily equal the amount collected in rates. CUB recognizes that ratemaking is not precise, but it can have a big impact. In the quote above, NW Natural states that customers have been afforded credits when NW Natural had negative FAS 87 expense. But as CUB pointed out in its Reply Testimony in this docket, NW Natural under-forecasted negative FAS between 1996 and 2002, and customers were shortchanged by $6.2 million.[31] If $6.2 million in negative FAS 87 was not passed through to customers, NW Natural did not finance that portion of the prepaid pension asset.

E. Burden of Proof

It is in this light of all the problems inherent in a historic look at pension ratemaking that CUB finds it preposterous that the Companies would suggest that their

[29] UM 1633 – NWN/100/Wilson/4.
[30] UM 1633 – NWN/100/Wilson/3, footnote 1.
[31] UM 1633 - CUB/100/Jenks-McGovern/19.

burden of proof in ratemaking be waived, and that the amounts that they propose to earn a return on not be subject to prudence review:

> Regardless of whether pension cost recovery is based on cash contributions or FAS 87 expense, the historical cash contributions, FAS 87 expense, and the resulting prepaid pension asset (which is the difference between the two) need not be subject to additional prudence reviews in the future. Because pension costs have consistently been included in rates using FAS 87 expense, and because FAS 87 expense is based, in part, on cash contributions, the prudence of those contributions has already been subject to review in past rate-setting proceedings.[32]

CUB has deep concerns with this statement. First, the Companies here continue to assert that prepaid pension assets are the difference between cash contributions and FAS 87 expense, ignoring FAS 88. CUB understands that this may be because the Companies do not understand what comprises the prepaid pension asset. If the Companies do, indeed, understand that the prepaid pension asset includes years worth of FAS 88 expense as well, but fail to include it in their explanation, then CUB insists that FAS 88, FAS 87, cash contributions, and recovery in rates need to be thoroughly examined for all years, for all companies. Taking any of the numbers at face value can be very misleading.

Second, to state that "pension costs have consistently been included in rates" is absurd. Consistency would imply that on a year to year basis, we would see that the amount which was collected in rates is very closely tied to pension expense. This has not consistently been demonstrated.

Third, while CUB agrees in theory that "the prepaid pension asset represents each company's contributions to its pension plan that have yet to be expensed through FAS

[32] UM 1633 - Joint Testimony/500/Joint Parties/4.

87,"[33] and "...the accrued liability represents the amount of FAS 87 expense in excess of each company's contributions,"[34] but only for a utility that has not had any FAS 88 expenses. This, however, is just an accounting statement or mathematic formula—it is not the basis of a change in pension ratemaking.

> Because rates are currently based on FAS 87 expense, the prepaid pension asset represents the cash contributions that were made by each company but not yet recovered in rates.[35]

The prepaid pension asset also includes FAS 88 expense, and rates are so loosely based on FAS 87 expense, that this must be reviewed on a case-by-case basis to verify the strong link between pension expense and rate recovery.

Finally, CUB maintains that it is the Companies' burden of proof to demonstrate any monies on which they expect to earn a return (of *or* on) has been reviewed for prudency. At a minimum, the Company must be required to demonstrate that they actually spent the money they are seeking to recover but have not already collected it from ratepayers.

Based on the above, it is CUB's position that today's ratepayers' rights to examine the prudency of each Company's claim have not been eliminated, merely because the money was spent in the past.

It may be true that CUB or other parties historically have not chosen to spend their modest, limited budgets or time reviewing the cash contribution where cash contributions were not directly included in rates. When pension recovery was based on cash contributions, that information was likely included in general rate case filings with

[33] CUB asserts that this should say "pension expense" instead of FAS 87.
[34] UM 1633 - Joint Testimony/500/Joint Parties/7.
[35] UM 1633 - Joint Testimony/500/Joint Parties/7.

the opportunity for review. When ratemaking switched to a pension expense basis, parties reviewed pension expense in rates.

In the past, CUB and other parties believed that one of the strengths in ratemaking of accrual accounting was that pension expense was determined objectively, not by a board of directors with shareholder's interests that possibly conflicted with those of ratepayers. Before this docket began, CUB was assured of the justification and validity of pension expense by PGE who asserted that in previous and current rate cases, pension expense was determined independently by a "third-party professional actuary..."[36] CUB naively interpreted this to mean that the Company could not manipulate pension expense in order to enhance recovery, even if it could strategically time cash contributions. That same pension expense, determined by third-party actuary, is the one now meant to be the justification for cash contribution prudency, even though parties have long recognized the wide disparity between minimum required contributions and maximum tax-deductible contributions.[37] CUB maintains that the Companies continue to bear the burden of proof in demonstrating that they were prudent when making the contributions on which they now want a return.

IV. Conclusion.

Conceptualizing the magnitude of these issues can be difficult. If the Commission chooses to move to a cash-based system and awards a company an amount equal to the prepaid pension asset, but subsequently finds that amount was already collected in rates, rectifying the over-collection may be difficult, if not impossible.

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[36] UE 262 - PGE/2000 Hager- Jaramillo/6.
[37] UM 1633 - NWIGU-ICNU/300/Smith/6.

If the Commission chooses to go forward with the current system of pension expense (accrual) based ratemaking, but also awards the utilities a return on the prepaid pension asset, this would not be justified. The utilities would be earning a return on monies that were not highly correlated to what the utility would be currently financing, if anything.

CUB now realizes that although accrual pension expense based recovery (FAS 87 and FAS 88) has advantages, pension expense in all filings deserves greater scrutiny. In particular, when reviewing prudency of pension expense (or costs, in the case of a switch to cash recovery), CUB believes that pension expense, accumulated recovery in prior rates, total cash contributions and current contributions all must be critically reviewed. If there is a FAS 88 expense, its cause needs to be reviewed. In addition, CUB believes that other items might be included in prudence review, such as an earnings test and whether contributions beyond the minimum would decrease future pension expense and/or future cash contributions. If the prepaid pension asset is approved for ratebase—in part or in total—company policy and actions must be reviewed to determine whether they increase the prepaid pension asset, and by how much, since contributions do not affect future cash contributions and pension expense symmetrically.

At a very minimum, this docket has demonstrated that pension ratemaking is not simple. At every stage of this docket, CUB has continued to find another layer of 'the onion' worthy of dissecting. Initially, we discovered negative FAS 87 expense, then we discovered the discrepancy between actual FAS 87 and FAS 87 used for ratemaking. Then FAS 88 was uncovered. Cash contribution policies vary widely. These and many other issues mean that rate regulation on the prepaid pension asset is a very delicate issue.

No System is perfect. What is the best system?

The current system is, at a minimum, a very adequate system for the Utilities. In fact, the Joint Utilities state, "FAS 87 is a time-tested methodology for the recovery of pension expense that has worked well historically and, with the additional recovery of financing costs, provides reasonable pension cost recovery."[38] But the Joint Utilities would like to see more revenue, so they proposed earning a return on the prepaid asset. The basis for this request was the tremendous effects of the Great Recession and the Pension Protection Act. These combined events pushed up the need for contributions, and therefore the prepaid pension asset. But as the need for new contributions has diminished and higher FAS 87 expenses reduce the prepaid pension asset, we approach the point of where we were before the Great Recession and the Pension Protection Act. And at that time, a return on the prepaid pension asset was not required, needed, or requested.

[38] UM 1633 - Joint Testimony/500/Joint Parties/3.

December 6, 2013

TO: Nadine Hanhan
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FROM: Patrick G. Hager
Manager, Regulatory Affairs

PORTLAND GENERAL ELECTRIC
UM 1633
PGE Response to CUB Data Request No. 034
Dated November 22, 2013

Request:

Please provide an updated version of the Company's response to CUB DR 5 that includes 2012 actual data, and another update with 2013 actual (as opposed to predicted) at the earliest available dates.

Response:

The original amounts provided in Attachment 005-A of PGE's Response to CUB Data Request No. 5 reflect 2012 end of year actuals. Year-end actuals for 2013 will be provided when available, most likely in late February or early March of 2014.

PGE's subsequent supplemental answer to CUB's data request 34, titled CUB_DR_005_Supp1_AttachB_CONF is confidential. CDs containing the attachment will be sent to the Commission and to those parties that have signed the protective order in this docket.

UM 1633/PacifiCorp
November 13, 2013
OPUC Data Request 28

OPUC Data Request 28

Please provide the information requested in the following table for all years from the present back through the inception of FAS 87. Note that all amounts should be Oregon-allocated and should exclude amounts related to non-utility and to SERP. Please explain assumptions and methodology used to allocate amounts to Oregon and to utility. For information requested regarding amounts included in rates, please note if a test year begins mid-year, and pro-rate amounts to reflect the implementation date of rates. Please provide the response in Excel format with cell formulae intact.

Line No.		1985	1986	...	2012
a	Contributions				
b	Actual FAS 87 expense				
c	Prepaid Pension Asset (Liability) Balance				
d	FAS 87 included in rates				
e	FAS 87 included in rates adjusted for annual Oregon load growth				
F	Actual accumulated deferred tax benefit (associated with prepaid pension asset)				
G	Accumulated deferred tax benefit (associated with prepaid pension asset) included in rates				
H	Accumulated deferred tax benefit (associated with prepaid pension asset) included in rates adjusted for annual Oregon load growth				
I	Annual Oregon load				

Response to OPUC Data Request 28

Please refer to Attachment OPUC 26 (tab "OPUC 28"). Please note that the Company has only provided information since 1998 because actuarial reports before 1998 are not readily available. This timing also aligns with the change in the Company's method of recovering pension expenses in rates. In 1998, the Company changed from recovery based on cash contributions to recovery based on FAS 87 pension expense. Oregon-allocated amounts are based upon the System Overhead ("SO") allocation factor. Because some general rate cases were resolved through "black box" settlements during this time period, the resulting amounts are estimates of the amounts in Oregon customer rates. As a result of the transfer out of non-utility activity described below, the historical non-utility activity has no impact on today's prepaid pension asset balance. As a result, PacifiCorp did not make any allocation to non-utility activity in the attachment.

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Before March 2006, non-utility employees associated with the Company's former affiliates (PacifiCorp Group Holdings, PacifiCorp Financial Services, PacifiCorp Power Marketing, and PERCo) in non-regulated businesses participated in the Company's pension plan. Effective with the acquisition of the Company by MEHC in March 2006, these participants were separated from the Company's plan and transferred to a plan formed under the ScottishPower group. As a result, the benefit obligation associated with these participants, a portion of plan assets, and a portion of unrecognized losses were transferred to the ScottishPower successor plan. The amount of assets transferred was determined based on ERISA requirements. The amount of unrecognized losses transferred was determined in accordance with the applicable accounting guidance. Therefore any non-utility activity was removed from the prepaid asset at that time.

Since the March 2006 acquisition by MEHC, all employees have supported the utility with the exception of a few PacifiCorp Environmental Remediation Company (PERCo) employees who remained through 2007.

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Data Request 28 - Related to qualified defined benefit pension plans

Fiscal Year	1998	03/31/00	03/31/01	03/31/02	03/31/03	03/31/04	03/31/05	03/31/06	2006	2007	2008	2009	2010	2011	2012
Total Company															
Contributions	94.0	68.0	19.4	4.2	26.4	33.4	61.6	60.0	76.4	75.8	65.6	49.6	112.8	66.5	44.9
Actual FAS 87 Expense (and FAS 88 Expense)	(133.6)	(20.4)	(63.2)	11.0	1.9	(18.9)	(35.8)	(60.6)	(44.7)	(51.5)	(25.0)	(15.1)	(13.1)	(14.6)	(24.4)
Prepaid Pension Asset (Liability) Balance	(108.0)	(60.4)	(104.2)	(89.0)	(60.6)	(46.1)	(20.3)	(20.9)	10.9	35.2	75.8	110.3	210.0	261.8	282.4
Actual accumulated deferred tax benefit (associated with prepaid pension asset) [1]	41.0	22.9	39.5	33.8	23.0	17.5	7.7	7.9	(31.5)	(36.9)	(32.1)	(70.5)	(105.5)	(115.0)	(128.2)
FAS 87 included in rates [2]	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Accumulated deferred tax benefit (associated with prepaid pension asset) included in rates [2]	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Oregon allocation factor (2012 SO factor) [3]	27.28%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%
Oregon Allocated															
Contributions	25.7	18.6	5.3	1.2	7.2	9.2	16.9	16.4	20.9	20.8	18.0	13.6	30.9	18.2	12.3
Actual FAS 87 expense	(36.6)	(5.6)	(17.3)	3.0	0.5	(5.2)	(9.8)	(16.6)	(12.2)	(14.1)	(6.9)	(4.1)	(3.6)	(4.0)	(6.7)
Prepaid Pension Asset (Liability Balance)	(29.6)	(16.5)	(28.5)	(24.4)	(16.6)	(12.6)	(5.6)	(5.7)	3.0	9.6	20.8	30.2	57.5	71.7	77.3
FAS 87 included in rates [2]	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
FAS 87 included in rates adjusted for annual Oregon load growth [2]	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Actual accumulated deferred tax benefit (associated with prepaid pension asset)	11.2	6.3	10.8	9.2	6.3	4.8	2.1	2.2	(8.6)	(10.1)	(8.8)	(19.3)	(28.3)	(31.5)	(35.1)
Accumulated deferred tax benefit (associated with prepaid pension asset) included in rates [2]	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Accumulated deferred tax benefit (associated with prepaid pension asset) included in rates adjusted for annual load growth [2]	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Annual Oregon load	15,456,783	15,603,612	15,472,849	14,786,649	14,061,312	14,382,406	14,301,374	14,845,811	11,218,403	15,573,692	15,668,507	15,034,812	14,378,617	14,456,243	14,304,338

[1] For certain years, the current income tax (benefit) reflects an current income tax deduction for pension contributions for the prior plan year paid within 8 1/2 months of the year end. The table below provides a breakout of the plan year that the fiscal year contribution were applied to.

Fiscal year	1998	03/31/00	03/31/01	03/31/02	03/31/03	03/31/04	03/31/05	03/31/06	2006	2007	2008	2009	2010	2011	2012	2013
PacifiCorp contribution by fiscal year	94.0	68.0	19.4	4.2	26.4	33.4	61.6	63.7	72.7	75.8	65.6	49.6	112.8	66.5	44.9	59.2
Prior plan year contribution	-	-	19.4	4.2	26.4	33.4	61.6	60.0	72.7	75.8	65.6	12.5	79.3	66.5	44.9	59.2
Current plan year contribution	94.0	68.0	-	-	-	-	-	3.7	-	-	-	37.1	33.5	-	-	

[2] Since 1998, all of PacifiCorp's general rate cases have been established based on settlements, and PacifiCorp is not aware of any specific pension related disallowances. Thus, PacifiCorp believes it is reasonable to assume that its actual FAS 87 costs and associated tax benefit/expense have been included in rates. For informational purposes in the table below, PacifiCorp has provided the pension expense included in rate case filings over the period.

Docket number	UE - 94	UE-111	UE-116	UE-147	UE - 170	UE - 179	UE - 210	UE - 217
Effective date	7/15/1996	10/1/2000	10/1/2001	9/1/2003	10/4/2005	1/1/2007	2/2/2010	1/1/2011
Test Period	CY 1994	CY 1998	CY 2001	FY 2004	CY 2006	CY 2007	CY 2010	CY 2011
Amount of pension costs included in filing	(46.1)	(27.8)	11.3	(34.2)	(87.1)	(54.6)	(23.9)	(31.2)

[3] For informational purposes we have included the Oregon SO factor by year.

	1998	03/31/00	03/31/01	03/31/02	03/31/03	03/31/04	03/31/05	03/31/06	2006	2007	2008	2009	2010	2011	2012
Oregon SO Factor	31.92%	32.49%	32.38%	30.45%	29.80%	29.86%	29.61%	29.74%	29.86%	29.04%	29.32%	28.71%	27.72%	27.72%	27.38%

Inputs	
Prepaid (accrued) balance as of 12/31/1997	(68.4)
Tax Rate	37.951%

UM 1633/PacifiCorp
November 13, 2013
OPUC Data Request 26

OPUC Data Request 26

Please provide in Excel format with cell formulae intact the calculation of the Company's actual annual Oregon-allocated FAS 87 expense from the present back through the inception of FAS 87.

Response to OPUC Data Request 26

Please refer to Attachment OPUC 26 (tab "OPUC 26"). Please note that the Company has only provided information since 1998 because actuarial reports before 1998 are not readily available. This timing also aligns with the change in the Company's method of recovering pension expenses in rates. In 1998, the Company changed from recovery based on cash contributions to recovery based on FAS 87 pension expense

Oregon-allocated amounts are based upon the System Overhead (SO) allocation factor. Because some general rate cases were resolved through "black box" settlements during this time period, the resulting amounts are estimates of the amounts in Oregon customer rates.

UM 1633/PacifiCorp
November 13, 2013
Data Request 26 - Related to qualified defined benefit pension plans, FAS 87 expense.

Fiscal Year (amount in millions)	1998	03/31/00	03/31/01	03/31/02	03/31/03	03/31/04	03/31/05	03/31/06	2006	2007	2008	2009	2010	2011	2012
Total Company															
Service Cost	22.3	28.9	15.7	14.1	16.0	19.3	24.9	29.7	22.2	28.6	26.9	16.2	12.0	9.7	7.3
Interest Cost	75.8	95.7	78.3	77.3	73.8	71.1	70.9	71.5	54.2	68.4	63.5	67.4	63.0	60.7	58.1
Expected return on plan assets	(84.2)	(112.5)	(103.5)	(99.8)	(92.8)	(80.7)	(77.7)	(76.8)	(54.3)	(69.4)	(71.1)	(70.2)	(74.4)	(75.0)	(74.4)
Amortization	8.9	12.4	(2.0)	(2.6)	5.2	9.3	17.7	30.7	22.6	23.9	7.1	1.7	12.7	19.2	33.5
FAS 87 expense	22.69	24.47	(11.6)	(11.0)	2.12	18.9	35.8	55.0	44.7	51.5	26.4	15.1	13.3	14.6	24.4
FAS 88 expense, special charges and transfers[1]	110.9	(4.1)	74.8	0.0	(4.1)	0.0	0.0	5.6	0.0	0.0	(1.4)	0.0	(0.2)	0.0	0.0
Net pension expense	133.6	20.40	63.2	(11.0)	(1.9)	18.9	35.8	60.6	44.7	51.5	25.0	15.1	13.1	14.6	24.4
Oregon Percentage (SO Factor)[2]	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%	27.38%
Oregon Allocated															
Service Cost	6.1	7.9	4.3	3.9	4.4	5.3	6.8	8.1	6.1	7.8	7.4	4.4	3.3	2.7	2.0
Interest Cost	20.8	26.2	21.4	21.2	20.2	19.5	19.4	19.6	14.8	18.7	17.4	18.5	17.3	16.6	15.9
Expected return on plan assets	(23.1)	(30.8)	(28.4)	(27.3)	(25.4)	(22.1)	(21.3)	(21.0)	(14.9)	(19.0)	(19.5)	(19.2)	(20.4)	(20.5)	(20.4)
Amortization	2.4	3.4	(0.6)	(0.7)	1.4	2.5	4.8	8.4	6.2	6.5	1.9	0.5	3.5	5.3	9.2
FAS 87 expense	6.2	6.7	(3.2)	(3.0)	0.6	5.2	9.8	15.1	12.2	14.1	7.2	4.1	3.6	4.0	6.7
FAS 88 expense, special charges and transfers[1]	30.4	(1.1)	20.5	0.0	(1.1)	0.0	0.0	1.5	0.0	0.0	(0.4)	0.0	(0.0)	0.0	0.0
Net pension expense	36.6	5.6	17.3	(3.0)	(0.5)	5.2	9.8	16.6	12.2	14.1	6.9	4.1	3.6	4.0	6.7

[1] FAS 88 and special charges prior to 2008 were generally deferred and amortized over future periods to operating expense accounts other than pension expense. FAS 88 curtailment gains and measurement date change charges in 2008 and beyond were substantially deferred and amortized to pension expense over a period of 3 to 10 years. The portions not deferred are reflected on the FAS 88 and special charges line above. Amortization of amounts deferred for 2008 and beyond is included in amortization in the table above.

[2] For infomational purposes we have included the Oregon SO factor by year.

	1998	03/31/00	03/31/01	03/31/02	03/31/03	03/31/04	03/31/05	03/31/06	2006	2007	2008	2009	2010	2011	2012
Oregon SO Factor	31.92%	32.49%	32.38%	30.45%	29.80%	29.86%	29.61%	29.74%	29.86%	29.04%	29.32%	28.71%	27.72%	27.72%	27.38%

UM 1633/PacifiCorp
December 10, 2013
CUB Data Request 34

CUB Data Request 34

In response to CUB DR 2, footnote three in spreadsheet 2a,b,c,d,e,f,j,n,l states that "The special termination benefits were deferred and amortized into rates in other O&M expenses, rather than pension expense". Please explain. In particular, please explain what the 'special termination benefits' were, if they included any expenses that were previously written off, and the protocol which the Company follows that allows it to amortize rates in other O&M expenses, rather than pension expense.

Response to CUB Data Request 34

"Special termination benefits" noted in Attachment CUB 2 represents one-time charges associated with early retirement programs and similar transactions accounted for under FAS 88 and do not represent amounts previously written-off. In the earlier years (as indicated in CUB 2), these charges were deferred as a regulatory asset and subsequently amortized to operations and maintenance accounts outside of pension expense. These amounts were recovered in rates. In more recent years, similar one-time events have occurred such as the Company's offer in 2008 of a one-time election for non-union participants to elect enhanced 401(k) benefits instead of continued benefit accruals in the pension plan. In this instance, a curtailment gain was triggered. This amount was also deferred and included in rates; however, rather than amortize the amount to other operations and maintenance accounts, it was amortized to pension expense. PacifiCorp has consistently taken this approach in recent years where any special or one-time charges or credits are deferred for collection from or return to customers over future periods and with the associated amounts flowing through pension expense. This is because, absent deferral, these amounts would have been reflected in pension expense (other than the 2008 adjustment related to the measurement date change that would have otherwise been charged to retained earnings). Information is not readily available to determine why similar costs or credits in earlier years were charged to other operations and maintenance accounts. Whether or not these amounts are charged to pension expense or other accounts does not impact the prepaid pension asset as it will always include the cumulative FAS 87 and FAS 88 expense and contributions.

UM 1633 – CERTIFICATE OF SERVICE

I hereby certify that, on this 17th day of October, 2014, I served the foregoing **REBUTTAL TESTIMONY OF THE CITIZENS' UTILITY BOARD OF OREGON** 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 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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