# 65-407 PUBLIC UTILITIES COMMISSION

Chapter 720: COMPLIANCE WITH THE GAAP REQUIREMENTS OF SFAS NO. 106

SUMMARY: This rule establishes regulatory accounting and reporting requirements related to the compliance by public utilities in Maine with the GAAP accounting requirements of SFAS 106.

1. Purpose and Scope

 This rule adopts for regulatory accounting and reporting purposes the standards established by the Financial Accounting Standards Board in its Statement of Financial Accounting Standard No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions (SFAS 106). All public utilities that are required under Generally Accepted Accounting Principles (GAAP) to adopt SFAS 106 for financial reporting purposes must at the same time also do so for regulatory accounting and reporting purposes.

 The rule requires the utilization of an external funding mechanism (unless the Commission grants a waiver provision from this requirement). The rule establishes guidelines for the inclusion of OPEB costs in a utility's revenue requirement.

 Finally, this rule provides specific instructions applicable to all public utilities for the use of SFAS 106 standards in accounting for the cost of the utility's OPEB obligations. For telephone utilities this rule supersedes the requirement contained in Chapter 210 (8) (F) (4) that OPEB expenses be determined on a cash basis.

 The Commission's authority to establish the regulatory accounting treatment of OPEBs derives from 35-A M.R.S.A. § 501.

2. Definitions

 A. Deferral period. Accounting intervals during which expenditures awaiting final disposition are capitalized on a company's books of account, rather than being charged to expense as would normally be required.

 B. External funding. The term "external trust fund" or "external funding" means a fund created by a utility which is under the direction of a trustee independent of the utility. The management of cash or other assets placed in such a trust are outside the control of the utility.

 C. FASB. The Financial Accounting Standards Board (FASB) is the private sector organization designated to establish standards for financial accounting and reporting. FASB is officially recognized as the authoritative standard setting body by the Securities and Exchange Commission (Accounting Series Release No. 150).

 D. GAAP. Accounting standards are formally embodied in a hierarchical set of rules and procedures known as Generally Accepted Accounting Principles (GAAP).

 E. Internal Funding. A method of providing for the payment of a liability through the creation of a reserve account on the books of a company. The company may or may not, at its discretion, segregate cash or other specific assets to meet the established liability, but control of those assets remains within the purview of the utility.

 F. Least-Cost Option. Regarding the choice between external and internal funding, the least-cost option is that option that is more likely to achieve the lowest present value revenue requirements given a reasonable range of possible futures. Risk and other appropriate factors must be considered in determining what is the least-cost option.

 G. Other Post-Employment Benefits (OPEBs). Benefits other than pensions provided to retired employees and their dependents. These may include, but are not limited to, benefits such as health care, life insurance and housing allowances. OPEBs are sometimes also referred to as Postretirement Benefits Other than Pensions (PBOPs).

 H. Pay-as-you-go approach. A method of accounting whereby entries are made to the books of account only when the cash account is affected.

 I. SFAS 106. SFAS 106, Employer's Accounting for Postretirement Benefits Other Than Pensions is a pronouncement of the Financial Accounting Standards Board that establishes accounting rules and procedures to be used in recognizing the effects of the costs of OPEBs for financial reporting purposes. This pronouncement requires an "accrual" approach whereby the present value of the OPEB obligation is estimated through the use of actuarial techniques, with the income statement reflecting both annual accruals and changes in the balance sheet accounts from year to year.

 J. Regulatory Asset. An asset established on a company's books, pursuant to a directive from a regulatory body having jurisdiction over the company, resulting from the capitalization of an expenditure that would be expensed under standard accounting procedures.

 K. Transition Obligation. The transition obligation is the actuarial present value of the OPEB costs attributable to employee service rendered up to the date of adoption of SFAS 106 (that is, prior service costs representing the OPEBs already earned by existing and retired employees). The transition obligation is also known as the Accumulated Postretirement Benefit Obligation (APBO).

3. Compliance Required for Regulatory Accounting Purposes

 A. SFAS 106 Accounting Compliance Required. All public utilities that are required to do so for financial reporting purposes shall adopt the requirements set forth in SFAS 106 for regulatory accounting and reporting purposes.

 B. Accounting Requirements. Each public utility shall record the effects of SFAS 106 in the appropriate accounts as defined in the Uniform System of Accounts applicable to the utility. Each public utility shall maintain sufficient detail to allow identification of the components of the SFAS 106 expenses that are recorded in the accounting books. Each public utility shall maintain sufficient detail to allow specific identification of any related amounts that are recorded as deferred tax assets or liabilities. Should the regulatory body whose Uniform System of Accounts has been approved for use in this State designate or establish specific accounts or subaccounts to be used for recording the effects of SFAS 106, those accounts shall also be used for state regulatory accounting purposes.

 C. Transition obligation. Utilities shall have the option of either: 1) immediately expensing the transition obligation; or 2) amortizing the transition obligation ratably over the greater of: (a) the average remaining service period of active employees; or (b) twenty years, whichever is longer. The ratemaking treatment of the transition obligation approach selected by the utility is subject to the approval by the Commission in the first rate case proceeding following the implementation of this rule by the utility.

 D. Deferral Period. Upon initial implementation of the requirements of this rule, OPEB expenses may be deferred only if a specific waiver is granted by the Commission. In requesting a waiver the utility shall specify one of the two alternatives listed below. OPEB expenses as calculated in accordance with SFAS 106 which exceed the amount of expenses as calculated under the pay-as-you‑go (cash basis) methodology may be:

 i) Deferred for a period of up to two years from the date of adoption of SFAS 106, or until the completion of the first rate case proceeding involving the utility following adoption, whichever occurs first. A waiver for up to two years will be granted if the utility demonstrates that it is not overearning for Maine-jurisdictional purposes; or,

 ii) Deferred for a longer period, not to exceed five years, from the date of adoption of SFAS 106, if it is a part of a plan to gradually phase-in for ratemaking purposes SFAS 106-related costs. Waivers for two to five years will be granted only if: a) the utility demonstrates that it is not overearning for Maine-jurisdictional purposes; and b) the utility develops a plan, which would take effect as part of a rate case proceeding, to gradually phase-in the SFAS 106 costs for ratemaking purposes.

 E. Ratemaking Policies and Practices.

 i) General. Costs of OPEB obligations calculated according to SFAS 106 shall be eligible, on a case-by-case basis, for inclusion in the utility's revenue requirement for ratemaking purposes, subject to the same level of review for prudence and reasonableness as are all other utility expenses.

 ii) Funding Option. In any proceeding before this Commission in which the amount of OPEB expense that can be included in rates is an issue, it shall be the responsibility of the utility to demonstrate that its chosen course of action with respect to funding was appropriate.

 iii) Rate Base Treatment. In any proceeding in which the amount of OPEB expense to be included in rates is an issue, the net-of-tax amount of the net OPEB liability shall be included in the computation of the utility's rate base. The net OPEB liability to be included in rate base should be net of plan assets as so defined by SFAS 106. Within the context of a rate case proceeding, the net OPEB liability should be only that liability which has been created through OPEB expense included in cost of service and recovered through customer revenue.

4. External Funding Required

 A. General. In order to meet future OPEB payment obligations, each utility must establish and make contributions to an independent external trust fund.

 B. External Fund Requirements. The following requirements shall apply when a utility chooses to use an external funding vehicle for its OPEB obligations:

 i) The utility is required to maximize its use of tax-advantaged funding structures to the fullest extent permitted by law, unless a waiver is granted by the Commission.

 ii) Unless prohibited by IRS tax codes, when current tax deductions are not available for some portion of currently funded amounts, deferred income tax accounting must be followed for the tax effects of such transactions.

 iii) The trustee of the external fund must be independent of the utility and shall be authorized to make only those investments which are consistent with sound investment policies for funds of this nature.

 iv) Funding must occur at least annually, but may occur at more frequent intervals if the utility determines that to be more cost-effective over the life of the plan.

 v) No contributions shall be required to be made to the trust fund when the value of the assets in the fund exceed the net present value of the OPEB obligation.

 vi) Should a utility realize a gain or loss on the settlement or curtailment of an OPEB obligation, it must seek and receive express Commission approval before any accounting entry is made with respect to the gain or loss, or before any disposition is made of the funds in the trust.

 vii) To the extent permitted by law and by the terms of the external trust, refunds to customers, pursuant to a Commission approved plan, may be required in the event that the funds are not needed to pay future OPEB obligations to retirees.

 C. Internal Funding Requirements

 A utility may seek a waiver from the Commission that permits the utility to internally fund all or a portion of its OPEB-related costs. The Commission will approve such waiver if:

 1) The Commission determines that substantial evidence exists that indicates that internal-funding is the least-cost option for the utility; or,

 2) The Commission determines that special circumstances exist that make it appropriate for the utility to internally fund. These special circumstances may include, but are not limited to, the following factors: a) The relatively small size of the utility's SFAS 106 funds and accruals; b) The utility's relationship with larger affiliates who do not externally fund; c) The utility's employee demographics and union status; d) Administrative costs; and e) The limited availability of external funding vehicles.

5. Mitigation Measures

 A utility may seek a waiver from the Commission that permits the utility to use a method of its own design which combines the effects of SFAS 106 accounting and funding with the effects of accounting for and/or funding of its pension plan, provided such mechanism is the least-cost option, is beneficial to its ratepayers, is legal under applicable pension and benefit laws, and is permissible under GAAP and the accounting rules of this Commission.

 The utility may seek a waiver of any Commission accounting rule to the extent necessary to implement such a mechanism. Any utility requesting authorization to use a combined pension/OPEB mechanism must submit its request in writing.

6. Reporting and Filing Requirements

 Each utility shall submit with its annual report to the Commission all disclosures required under SFAS 106 paragraph 74, including any amendments which occur subsequent to the adoption of this rule.

 In any regulatory proceeding in which the OPEB expense and rate base amounts to be included in the utility's revenue requirement are at issue, the utility shall file the information that is necessary to allow determination of the reasonableness of the amounts.

 Each utility shall retain in its files for at least ten years all actuarial reports and the assumptions used in the computations of its OPEB obligation.

7. Waiver

 For good cause shown, the Commission may waive any of the requirements of this Rule, provided such waiver will not unduly undermine the purposes of this Rule. The Commission may also subsequently rescind, alter or amend any such waiver for good cause. The Commission delegates to the Director of Finance the authority to issue, rescind, alter or amend a waiver with respect to any of the requirements of this Rule. This delegation in no way limits the Commission's authority to review the decision of the Director of Finance or to issue, rescind, alter or amend a waiver directly.

STATUTORY AUTHORITY: 35-A M.R.S.A. § 501.

EFFECTIVE DATE:

 This rule was approved as to form and legality by the Attorney General on July 15, 1993. It was filed with the Secretary of State on July 15, 1993 and will be effective on July 20, 1993.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 4, 1996

NON-SUBSTANTIVE CHANGES:

 March 26, 1999 - converted to MS Word.

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 19, 2025