
**SENATE BILL 408, TAX FILINGS
STAFF'S INITIAL FINDINGS
FOR PORTLAND GENERAL ELECTRIC**

TO: ALL PARTIES

DOCKET NO. AR 499

PORTLAND GENERAL ELECTRIC

SB 408 TAX FILINGS - UE 178

2003, 2004 AND 2005

FROM: CARLA OWINGS, UTILITY ANALYST,
PUBLIC UTILITY COMMISSION

DATE: DECEMBER 15, 2006

CC: LEE SPARLING, ED BUSCH, JUDY JOHNSON AND JASON JONES

On October 16, 2006, Portland General Electric (PGE) filed tax reports covering the calendar years 2003, 2004 and 2005 pursuant to Senate Bill 408 (SB 408) (codified at ORS 757.267, 757.268 and OAR 860-022-0041) PGE made its filing under docket UE 178.

The information contained in these tax reports represents highly confidential and sensitive information. Staff has adhered to the handling of the confidential information in these filings consistent with Commission Order No. 06-033. In addition, Staff has structured its initial findings in this report in a generic manner in order to avoid the possibility of disclosing confidential, or sensitive, information.

Staff finds that PGE's original filing was very detailed and adequately documented its procedures and methodologies compliant with the current AR 499 rules. Staff acknowledges PGE for its efforts to provide a structure and presentation that facilitated Staff's review.

Staff reviewed in great specificity one particular tax year, each calculation and all documentation provided by the Company in support of each calculation. For PGE this tax year was 2003. Staff conducted interviews with the Company by phone and in person, as well as sending questions to PGE on December 5, 2006 for further clarification. On December 11, 2006, PGE provided narrative responses to Staff's inquiries. For PGE's 2004

and 2005 filings, Staff reviewed the methodology, consistency with the 2003 filing, documentation and accuracy of mathematical calculations.

In the process of these reviews, Staff has discovered two minor inaccuracies specific to PGE's filing, as well as inconsistencies that appear to relate more globally to AR 499 rules as they currently exist and/or to the interpretation of AR 499 by the utility companies versus Staff's understanding of the current rules.

Following is a description of the two minor inconsistencies Staff found for PGE, followed by the more generic issues Staff raises regarding the rules in general.

Issue 1) Documentation of tax liability.

Staff Comment:

The relevant Consolidated Filer for PGE is Enron Corporation. PGE provided modified pro forma tax returns that were incomplete, unsigned and not dated. No State tax forms were included with PGE's filings.

PGE's Response:

Other than the preparation of pro forma tax returns for PGE and its subsidiaries, PGE personnel had no duties related to the preparation of Enron's consolidated tax returns. PGE was deconsolidated from Enron beginning April 3, 2006. For tax reports subsequent to April 3, 2006, PGE will include signed and dated copies of all relevant Federal and State tax forms.

Staff recommendation:

To the extent possible, PGE should be required to provide copies of completed returns for every jurisdiction that is filed in behalf of PGE as an entity of a consolidated filer, including local jurisdictions.

Issue 2) Origin of numbers used to represent ratio calculations.

Staff Comment:

PGE relied upon its FERC reports as the basis of its Oregon Regulated Operations total Gross plant, total wages and salaries and total sales. The variation between the system totals and the totals for the same categories in the Results of Operations report, results in a seven percent lower apportionment factor for the 2003 tax period.

PGE's Response:

PGE agrees that there are minor discrepancies between the Results of Operations reports and the FERC report. The Company will rely upon the Results of Operations reports for the derivation of these numbers in its future filings.

Staff recommendation:

If Staff were to request that PGE modify its tax filings for 2003, 2004 and 2005, Staff believes there may be a minor modification to PGE's outcome as reported (for 2003, it would be approximately \$3 million). However, Staff believes that when PGE implements agreed-upon methodologies from this first review, the Company's future filings will accurately represent the differences between taxes paid and taxes collected in rates.

Current outcome of PGE's filings:

	Difference between "taxes paid" and rate case estimates of "taxes authorized to be collected"	Consolidated Taxpayer Effect	Stand-Alone Utility Effect
2003	\$85,565,312	\$61,561,275	\$24,004,037
2004	\$82,810,621	\$67,175,628	\$15,634,993
2005	\$112,650,562	\$87,645,554	\$25,005,008

Generic issues:

Staff discovered two generic issues that appear to be global misconceptions between Staff, the Utilities and the rules as they currently exist.

Generic Issue 1) Documentation of Tax Liability.

Staff Comments:

Overall Staff found that most of the Companies did not include original copies or proper documentation of the actual tax filings relied upon for the calculation of its tax liability in these filings. Most companies submitted copies of tax schedules that were modified, incomplete, unsigned and not dated.

Even as a subsidiary of a consolidated tax filer, Staff believes that each subsidiary is required by its Corporate Parent to provide closing statements and pro forma tax filings which are relied upon by the consolidated filer. Staff believes it is prudent for the corporate parent to provide copies of tax forms for each entity of the consolidated filing. This will enable Staff and other parties to verify, for example, the individual tax losses used in calculating the "floor" for the stand-alone determination. Staff recommends that for future filings, each Utility request such copies be provided for purposes of the accuracy of these filings.

Generic Issue 2) Calculation of Stand-alone Utility (the floor).

Staff Comments:

Pursuant to OAR 860-022-0041(3)(b)(B) and (3)(d)(B), the amount of federal income taxes paid that is properly attributed to the regulated operations is not to be less than the Utility's stand-alone calculation reduced by a proportionate share of the tax losses after adjusting for tax effects of Public Utility Property (PUP). It is Staff's opinion that the adjustment for the tax effects of PUP should ONLY include depreciation for those entities that are regulated AND are experiencing a loss in that tax period and not an adjustment for the tax effects of all public utility property. That is, to avoid IRS normalization violations, there is no need to add back the tax effect of depreciation related to PUP of regulated utilities that do not have losses.

Staff found that the utility companies tended to make this adjustment for depreciation by including all PUP and not just PUP from entities that experienced a loss in that tax year.

Staff recommendation:

Staff suggests a housekeeping change to this section of the rule clarifying that the "floor" calculation should be based either solely on the losses of unregulated entities in the consolidated group (eliminating the need to make any PUP-related add backs), or alternatively, that the add back should be the amount related to those regulated entities with losses. Staff will make a recommendation in the rulemaking expected next spring.

1 **CERTIFICATE OF SERVICE**

2 I certify that on December 15, 2006, I served the foregoing upon the parties in this
3 proceeding hereto by electronic mail and sending a true, exact and full copy by regular mail,
4 postage prepaid or by shuttle mail/hand deliver to the parties accepting paper service.

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