

August 12, 2005

To Interested Parties:

Senate Bill 408, regarding matching utility taxes paid with taxes collected, has passed both houses and awaits the Governor's signature. Staff will be proposing the Commission adopt temporary rules for the report to be filed by utilities by October 15, 2005. The Commission intends to have temporary rules in place by the middle of September. The Commission has scheduled a Public Meeting to consider and possibly adopt temporary rules for September 14, 2005 at 9:30 a.m. in the Main Hearing Room in the Public Utility Commission Building.

Listed below are several questions that staff would like feedback on from interested parties. In addition, staff would like parties to submit proposed language for temporary rules along with responses to the questions. Because of the tight time-frame, staff is requesting that parties submit responses and proposed temporary rules by **August 30, 2005**. Staff will issue a public meeting memo with its recommendations for temporary rules no later than September 9, 2005.

Please answer the following questions, and explain why, including (where applicable) citations to subsections of SB 408 that support your response. For some of your answers, numerical examples illustrating your meaning may be helpful.

1. In Section 3(1), does "determined without regard to the tax year for which taxes were paid" mean that, for example, 2006 taxes paid equal net cash payments during calendar or fiscal year 2006?
2. In Section 3(1), what provision should be made for a utility whose fiscal year ends close enough to October 15 that not all the pertinent data is available for the tax report?
3. In Section 3(3), what does "directly or indirectly" mean with respect to taxes collected as part of rates?
4. In Section 3(3), is disclosure limited to a difference based on the entire amount paid by the affiliated group with no attribution to regulated operations?
5. Do the following phrases all have the same meaning: "amount of taxes authorized to be collected in rates" (3(1) and 3(13)(e)); "amount of costs for taxes collected, directly or indirectly, as part of rates paid by customers" (3(3)); "amount of taxes assumed in rates or otherwise collected from ratepayers" (3(4)); and "taxes that are authorized to be collected through rates" (3(6))?
6. In Section 3(6), how should "properly attributed to the regulated operations of the utility" be defined and calculated?

7. In Section 3(7), how should “properly attributed to any unregulated affiliate” be defined and calculated?
8. In Section 3(9), does the use of the term “establishing” mean that any determination of material adverse impact should be made when the Commission considers requiring a utility to set up an automatic adjustment clause?
9. In Section 3(12)(a), how should “portion of the total taxes paid that is incurred as a result of income generated by the regulated operations of the utility” be defined and calculated? Also explain how this section works in combination with 3(12)(b).
10. Assume that an automatic adjustment clause is established. Show each step of the calculation required by, in particular, Sections 3(6), 3(12) and 3(13), identifying all information that must be available in the tax report to perform the calculation.
11. Assume the following tax data for three different utilities and their affiliates for a particular year:

| | <u>Utility A</u> | <u>Utility B</u> | <u>Utility C</u> |
|--|------------------|------------------|------------------|
| Regulated Utility Operations (tax liability) | 130 | 130 | 130 |
| Affiliate X (tax liability) | 130 | 65 | -20 |
| Affiliate Y (tax liability) | <u>-60</u> | <u>-95</u> | <u>-60</u> |
| Tax Payment to Governments | 200 | 100 | 50 |

- For each utility, what is the amount of:
- (a) “taxes paid. . .that are properly attributed to regulated operations of the utility” under Section 3(6); and
 - (b) “portion of the total taxes paid that is incurred as a result of income generated by the regulated operations of the utility” under Section 3(12)(a)? (Assume no adjustments are required under Section 3(13)(f).)
12. Should adjustments to rates under the automatic adjustment clause be prospective (an estimate for the next year) retroactive (a “true up” based on actual known results), or both?
 13. If the automatic adjustment clause includes a retroactive true-up feature, does that require authorization under ORS 757.259?
 14. If the automatic adjustment clause includes a deferred or balancing account, at what date are amounts added to the account? Does the account accrue interest, and if so, from what point in time?

15. In Section 3(13)(d)(A), does income in “federal, state or local tax or fee that is imposed on or measured by income” mean (a) gross income; (b) net income; (c) revenues/receipts, gross or net; or (d) all of the above? Also, provide a list of taxes and fees that would be subject to the legislation.
16. What is the definition of “revenues the utility collects from ratepayers in Oregon” in Section 3(13)(e)(A)? Does it include sales for resale?
17. What is the definition of “effective tax rate” in Section 3(13)(e)(C)?
18. How should local income taxes, which are collected as a line item in the bill rather than in a utility’s base rates, be considered under Section 3(13)(e)?
19. For the adjustments to taxes paid described in 3(13)(f), what tax rate (e.g., statutory, effective) should be used to calculate the “tax savings?”
20. Does “charitable contributions made by the utility” in Section 3(13)(f)(A) require any allocation between the regulated operations of the utility, and the unregulated operations of the utility? If so, on what basis would the allocation be done?
21. Does “tax savings realized as a result of tax credits associated with investment by the utility” in Section 3(13)(f)(B) mean only direct tax credits, or alternatively, any tax savings (deductions) related to investment that is new, previously disallowed, or otherwise not included in the utility’s most recent general rate case?
22. How much time should the Commission use under Section 3(4) to “make the determinations described in this section” and “require the utility to establish an automatic adjustment clause,” respectively?
23. If you wish, provide comments on any questions or other sections of the bill that you believe the Commission needs to consider in its temporary rulemaking.
24. If you wish, provide proposed temporary rules that address information that should be provided in the tax report and how the automatic adjustment clause should be calculated.

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Please send e-mailed responses to puc.sb408@state.or.us. This mail box will not be activated until August 16, 2005. If you wish to send hard copy responses they should be directed to me. This letter and all responses will be posted to the Commission web site.

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