Portland General Electric Company
Legal Department
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Inara K. Scott
Assistant General Counsel

December 30, 2005

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
PO Box 2148
Salem OR 97308-2148

Re: In the Matter of the Application of Portland General Electric Company for an Accounting Order Authorizing Deferral Of Expense Changes Associated with Utility Tax Liability
OPUC Docket No. UM _____

Attention Filing Center:

Enclosed for filing with the Commission are the following documents:

- Application of Portland General Electric for Deferred Accounting of Expenses Associated With Utility Tax Liability; and

- Notice of Application of Portland General Electric for Application for Deferred Accounting of Expenses Associated With Utility Tax Liability.

The Notice of Application is being served to the UE 115 Service List.

An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

/s/ INARA K. SCOTT

IKS:am

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM _____

In the Matter of the Application of Portland General Electric Company for an Accounting Order Authorizing Deferral Of Expense Changes Associated with Utility Tax Liability	APPLICATION FOR DEFERRED ACCOUNTING OF EXPENSES ASSOCIATED WITH UTILITY TAX LIABILITY

I. INTRODUCTION

Pursuant to ORS 756.040, ORS 757.259 and OAR 860-027-0300, Portland General Electric Company (PGE) hereby requests an order authorizing PGE to defer for later ratemaking treatment the positive or negative difference between (a) the utility expenses used as the basis of calculating "taxes authorized to be collected in rates"[1] and (b) the utility expenses comprising the amounts by which PGE's gross revenues exceed its net revenues from regulated operations used as the basis of calculating income taxes paid to local, state, and federal governments for 2006. PGE would refund or surcharge only that portion of the deferred difference that represents the income tax effect of that difference, to the extent that such tax effect is not included in adjustments adopted by the Commission under Senate Bill 408 (SB 408).[2]

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[1] The term "taxes authorized to be collected in rates" is found in Senate Bill 408, Section 3(13)(e). This amount cannot be precisely defined until final rules in Docket AR 499 are complete, but may equal the amount by which PGE's gross revenues exceed its net revenues from regulated operations most recently assumed in the relevant Commission orders approving PGE's rates for 2006. This includes Order No. 01-777 (Docket UE 115), Order 05-1140 (Docket UE 172), Order 05-1262 (Docket UE 172), and Order 05-1263 (Docket UM 1235).

[2] PGE anticipates that the reduction of the positive or negative difference deferred under this Application would occur prior to amortization.

Stated descriptively, if the cost of providing utility service falls in 2006, PGE would defer a portion of the cost saving to return as a credit to customers to the extent that customers would otherwise experience a surcharge to cover the higher income taxes associated with the higher net revenue. Similarly, if the cost of providing utility service increases in 2006, PGE would defer a portion of the cost increase to collect from customers to the extent that customers would otherwise receive a refund of the lower income taxes associated with the lower net revenue. Attachment A to this filing contains numerical examples to illustrate the partial expense deferral requested in this application.

PGE is filing this application as a complement to the automatic adjustment clause (AAC) required by SB 408 to ensure that the end result of all of the interrelated rate decisions for 2006 will be fair and reasonable both to PGE's customers and to PGE. The proposed methodology seeks to prevent the financial enrichment or financial harm to utilities that might occur under SB 408 for reasons that have nothing to do with income taxes, leaving undisturbed the bill's central comparison between "taxes paid" and "taxes authorized to be collected."[3] The impact of SB 408 as it relates to the utility tax effects of non-regulated operations and of consolidation of tax returns with affiliated, non-utility companies, would also be undisturbed.

Several related reasons support approval of this application for 2006. The first and fundamental reason is the anomalous result that may occur if SB 408 implementation requires a mismatch calculation applying actual revenues to old test year formulations of the utility's net-to-gross ratio and effective tax rate. The use of the word "may" in the previous sentence signals

[3] SB 408, Section 3(13)(f), (e).

the second reason for this application: the unsettled nature of the rules and tariffs that will implement SB 408 for PGE and our customers. We do not presently know whether the anomalous results with which we are concerned will occur. Nor do we know how the rules and AAC will relate to other ratemaking decisions that may affect 2006, such as PGE's deferral request related to the Boardman outage in Docket UM 1234 and the Oregon Public Utility Commission's (Commission) order in Dockets UE 165 and UM 1187 regarding ratemaking for hydroelectric generating resources. The third reason for this deferral is the staleness of the data, including cost of capital, which the Commission may use in applying SB 408 to PGE for 2006. None of the rate case data the Commission may use in PGE's AAC was developed under an assumption of the anomalous result we describe below. This deferral helps preserve circumstances closer to those previously expected for 2006, without disturbing the implementation details of SB 408 to be established in AR 499, so that the Commission can reach an internally consistent set of ratemaking results. We explain each of these reasons below.

II. PREVENTING ANOMALOUS RESULTS

Without this deferral, PGE's customers could pay an SB 408 surcharge based on a difference between "taxes paid" and "taxes authorized to be collected in rates" per SB 408, even though that surcharge further increased PGE's earnings beyond the level the prior rates allowed it an opportunity to earn given the expenses actually incurred. Similarly, PGE's customers could receive a refund under SB 408 even though that refund further decreased the return that the prior rates permitted PGE an opportunity to earn. These results would do nothing to achieve what the Attorney General concluded was the general policy of SB 408: "to 'align' estimated taxes collected from ratepayers with taxes paid by a utility or its affiliates and to include in rates only those taxes that are actually paid." Attorney General Opinion at 17 (December 27, 2005) (Opinion).

These anomalies could result if the AAC under SB 408 requires the calculation of taxes collected in rates based on a static relationship between the revenues PGE receives from, and the costs it incurs in, providing regulated service. The Attorney General's Opinion suggests that this is the case, concluding that "In the preparation of the 'taxes authorized' portion of its annual tax report, a utility must use the ratio of net to gross revenues (3(13)(e)(B)) and the effective tax rate (3(13)(e)(C)) that the Commission previously determined or used in establishing rates for the utility." Opinion at 3.

The relationship between revenues and costs is not static for two primary reasons. First, a sizable portion of PGE's regulated expenses are "fixed." These expenses, which include such things as customer service costs and depreciation, do not in the short term change predictably in relation to revenue or sales. For example, PGE may not need additional customer service representatives or additional system investment to service an additional 100 megawatt-average (MWa) of demand for electricity. Revenues from sales may rise but the fixed costs of providing that service may stay the same, falling on a per unit basis. Second, for those of PGE's expenses that do vary directly in relation to customer usage, the amount of that variance may be higher or lower, depending on forces too uncertain to address in the single point estimate of expenses required for ratemaking purposes. For example, in a given calendar year, above average rainfall may significantly lower the variable per-unit power costs PGE incurs. If revenues from sales remained the same that year as was assumed in setting rates, PGE's net revenues would be higher. The converse of each of these examples is also possible.

Generally, the variability of income tax expense between rate cases helps ensure that utility earnings stay closer to the level authorized by the Commission than would otherwise occur. In other words, income tax effects dampen (but do not eliminate) how revenue, expense, and net-to-gross ratio variations change earnings, muting the earnings increase that would otherwise occur from rising sales, falling costs, and a rising net to gross revenue ratio and likewise muting the earnings decrease that would otherwise occur from the opposite events. By assuming that the net-to-gross ratio is static, however, the SB 408 AAC will interfere with this damper effect and worsen the "end result" of utility rate decisions for customers and utilities. This was not the intent of SB 408. The driving force behind SB 408 was <u>not</u> increasing the volatility (up and down) of utility earnings by removing the damper of income tax effects. If such volatility is the consequence of SB 408's definitions, the Commission should correct for it to fulfill its responsibility to "obtain for [the public] adequate service at fair and reasonable rates." ORS 756.040(1).

III. DEALING WITH UNCERTAINTY

Notwithstanding the Opinion noted above, much is presently uncertain about implementation of SB 408, including the rules and the AAC tariffs. We do not know how the rules and tariffs will affect and interrelate with other Commission ratemaking decisions, including deferred accounting requests and other utility AACs such as PGE's Resource Valuation Mechanism (RVM). Several matters are pending for PGE that fall into this category, including our response to the Commission's Order in Dockets UE 165 and UM 1187, and our request for a deferral of power cost expenses related to the Boardman outage in Docket UM 1234. Granting this application for deferral of the tax effect of expense changes in 2006 will preserve the opportunity for the Commission to reach a fair and reasonable result as Dockets AR 499 and UE 178 proceed. PGE anticipates addressing the need for future deferrals in those dockets.

IV. STALE DATA

An additional reason supports our request for this deferral for 2006. Some of the assumptions that the Commission may use for PGE's Docket UE 178 AAC will date from Docket UE 115, our 2002 test year general rate case. These include a cost of capital consistent with the risks of a utility operating in Oregon at that time. Granting this application will ensure that PGE's risks remain (at least in this respect) as close as possible to those that existed when the Commission found that our current authorized rate of return satisfied the requirements of ORS 756.040(1)(a) and (b).

V. INFORMATION IN SUPPORT OF APPLICATION

In support of this Application PGE states:

A. PGE is a public utility in the state of Oregon and its rates, services and Accounting practices are subject to the regulation of the Commission.

B. This application is filed pursuant to ORS 757.259, which allows the Commission, upon application, to authorize deferral of certain items for later incorporation in rates.

C. Communications regarding this Application should be addressed to:

Rates and Regulatory Affairs
Portland General Electric
121 SW Salmon Street 1WTC0702
Portland, Oregon 97204
E-mail: pge.opuc.filings@pgn.com

Douglas C. Tingey
Portland General Electric
121 SW Salmon Street 1WTC13
Portland, Oregon 97204
E-mail: doug.tingey@pgn.com

VI. INFORMATION REQUIRED PURSUANT TO OAR 860-027-0300

The following is provided pursuant to OAR 860-027-0300(3):

A. Description

PGE provided a description of the amounts for which we seek deferral above.

B. Reasons for Deferral

ORS 757.259(2)(e) provides that the Commission may authorize a deferral of identifiable utility expenses, the recovery or refund of which should be deferred to "minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers." As explained above, our request seeks to accomplish both aims. This deferral preserves the opportunity for the Commission to ensure that fair and reasonable rates result from the application of whatever AAC the Commission may approve for the calendar year 2006, subject to the rules adopted in Docket AR 499. This deferral also minimizes the frequency of rate cases by eliminating the need for a general rate case now, while much remains uncertain about the rules and the AAC. Finally, this deferral matches appropriately the costs borne by and benefits received by ratepayers by recognizing the dynamic, rather than static, net-to-gross ratio improves the match of costs and benefits from what would otherwise occur under SB 408.

C. Proposed Accounting

If the deferral is a credit to customers, PGE proposes to record the deferral as a regulatory liability in FERC Account 254 (Other Regulatory Liabilities), debiting FERC Account 456 (Other Revenue). If the deferral is a charge to customers, PGE proposes to record the Deferred Amount in FERC Account 182.3 (Regulatory Assets), crediting FERC Account 456 (Other Revenue). The purpose of any accounting under this deferral is to offset the potentially anomalous result of a particular implementation of SB 408 as described in this application.

In the absence of deferred accounting the costs would be recorded in the appropriate FERC accounts given the nature of those costs, generally as FERC 400 through FERC 414 in the FERC Chart of Accounts.

D. Estimate of Amounts

PGE cannot currently provide an accurate estimate of the partial expense variance described on page one of this application because the rules implementing SB 408 have not been established. When those rules are established, PGE will supplement this filing with an estimate of the deferred amount. PGE has provided rough examples of the amounts that would be collected under the deferral in Attachment A. This deferred amount would only be refunded or charged to customers to the extent the tax effects captured in the deferral are not recognized in proceedings under SB 408.

E. Notice

A copy of the Notice of Application for Deferred Accounting of Expense Changes Associated with Utility Tax Liability and a list of persons served with the Notice are attached to the Application as Attachment B.

VII. CONCLUSION

For the reasons stated above, PGE requests permission to defer expense changes incurred as described above, commencing as of January 1, 2006, and continuing through December 31, 2006. In addition, pursuant to ORS 757.259(2), PGE requests a hearing on this Application.

DATED this 30th day of December, 2005.

Respectfully submitted,

/s/ PAMELA G. LESH by JJD
Pamela Lesh
Vice President, Regulatory and Federal Affairs
On Behalf of Portland General Electric Company

Attachment A

Numerical Examples of Partial Expense Deferral

Attachment A
Deferral Examples
Dollars in $000s
Test Year Roughly Based on PGE's UE-115 Rate Case

Financials:	Test Year	Scenario 1 Actuals w/ Loads up 100 MW	Scenario 2 Actuals w/ Hydro up 100 MW	Scenario 3 Actuals w/Higher Employee Benefit Costs
Revenue	$1,500,000	$1,565,700	$1,500,000	$1,500,000
Operating Expenses w/o Income Taxes	$1,325,000	$1,368,800	$1,281,200	$1,340,000
Income Tax Expense (Cur & Def)	$75,000	$83,760	$92,520	$69,000
Total Expenses	$1,400,000	$1,452,560	$1,373,720	$1,409,000
Pre-Tax Net Income	$175,000	$196,900	$218,800	$160,000
Net Income	$100,000	$113,140	$126,280	$91,000
Pre-Tax Margin (Net to Gross)	11.70%	12.60%	14.60%	10.70%
Effective Tax Rate	42.90%	42.50%	42.30%	43.10%
SB 408 Taxes in Rates per Fixed Ratios:				
Revenues	$1,500,000	$1,565,700	$1,500,000	$1,500,000
Pre-Tax Margin (per Test Year)	11.70%	11.70%	11.70%	11.70%
Effective Tax Rate (per Test Year)	42.90%	42.90%	42.90%	42.90%
Taxes Authorized to be Collected per SB 408	$75,000	$78,285	$75,000	$75,000
Deferral in UM-&&&:				
SB 408 Implied Expense Level = Actual Revenue * (1 - TY Margin)		$1,383,035	$1,325,000	$1,325,000
Actual Expense Level per Financials		$1,368,800	$1,281,200	$1,340,000
Actual Expenses Above (Below) Implied		($14,235)	($43,800)	$15,000
Tax Effect of Expense Deviation		($5,694)	($17,520)	$6,000
Tax Effect of Expense Deviation - Grossed Up (UM &&& Deferral)		($9,490)	($29,200)	$10,000

Assumptions by Scenario:
Scenario 1: Incremental load priced at 7.5 cents/kwh, cost of 5 cents/kwh
Scenario 2: Increased hydro sold/displaces purchases at 5 cents/kwh
Scenario 3: Benefit costs increase by $15 million

* Assume no consolidation effects, stand-alone utility with no non-utility ops, subsidiaries.

Attachment A
Deferral Examples

If interpreted according to the Attorney General's Opinion, Senate Bill 408 will unfairly surcharge or refund amounts to customers based on inaccurate calculations of the utility's net-to-gross ratio and effective tax rate. The intent of the proposed deferral is to account for the utility's actual net-to-gross ratio and effective tax rate and thereby ensure that PGE's rates reflect its actual tax liability. This deferral would not undo SB 408's comparison between taxes paid and taxes collected by the utility. It would simply rectify the perverse results that follow from using outdated data.

The attached chart shows the way the deferral would account for the tax effects of PGE's actual net-to-gross ratio and effective tax rate. Column One of the attached chart shows amounts roughly based on PGE's UE 115 test year. The Attorney General's Opinion suggests that the net-to-gross ratio and effective tax rate shown in this column should provide the basis for an automatic adjustment clause under SB 408.

Scenario 1 shows the effect of this calculation in a year in which PGE's loads increase by 100 MW. In this case, PGE's net-to-gross margin increases from 11.7% to 12.6%, and the effective tax rate falls from 42.9% to 42.5%. This effect is magnified in Scenario 2, which shows a hypothetical year in which PGE has 100 MW more hydro resources available than forecast in the test year. In Scenario 2, PGE's net-to-gross ratio increases to 14.6% and the effective tax rate falls to 42.3%. Scenario 3 shows a year in which PGE experiences the opposite result. Due to higher than projected employee benefit costs, the utility's actual net-to-gross ratio falls from 11.7% to 10.7%, and the effective tax rate increases to 43.1%.

PGE's deferral would account for the difference between the test year net-to-gross ratio and effective tax rate and the actual net-to-gross ratio and effective tax rate experienced by the utility. The tax effect of that difference would be refunded to or collected from customers. The bottom portion of the chart shows how this would work. First, the chart shows the implied expense level that would result from the fixed margin assumed in the test year. The difference between this implied expense and the actual expense is calculated (in Scenario 1, this amounts to $14,235) and the tax effect of that difference is calculated and grossed up. This final amount represents the amount that PGE would propose to amortize. In this way, the operative effect of SB 408's comparison between taxes collected and taxes paid would be left undisturbed. The deferral would simply account for the tax effects of the utility's actual financial results, which would be ignored if a fixed margin is used in the calculation of the automatic adjustment clause.

Attachment B

Notice of Application for Deferred Accounting of Expenses Changes Associated with Utility Tax Liability with Certificate of Service

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM _____

In the Matter of the Application of Portland General Electric Company for an Accounting Order Authorizing Deferral Of Expense Changes Associated with Utility Tax Liability	NOTICE OF APPLICATION FOR DEFERRED ACCOUNTING OF EXPENSES ASSOCIATED WITH UTILITY TAX LIABILITY

On December 30, 2005, Portland General Electric Company ("PGE") filed an application with the Oregon Public Utility Commission (the "Commission") for an Order authorizing deferral of expenses associated with utility tax liability.

Approval of PGE's Application will not authorize a change in PGE's rates, but will permit the Commission to consider allowing such deferred amounts in rates in a subsequent proceeding.

Persons who wish to obtain a copy of PGE's application should contact the following:

Portland General Electric Company
Attn: Adam Menendez
121 SW Salmon, 1 WTC-1301
Portland, OR 97204
Telephone: (503) 464-7357
adam.menendez@pgn.com

Any person who wishes to submit written comments to the Commission on PGE's application must do so no later than January 27, 2006.

Dated: December 30, 2005.

/s/ PAMELA G. LESH by JJD________________________
PAMELA G. LESH
Portland General Electric Company
121 SW Salmon Street, 1WTC1700
Portland, OR 97204
Telephone: 503-464-7353
Fax: 503-464-2200
E-Mail: pamela.lesh@pgn.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing NOTICE OF APPLICATION FOR DEFERRED ACCOUNTING OF EXPENSES ASSOCIATED WITH UTILITY TAX LIABILITY to be served by First Class US Mail, postage prepaid and properly addressed, upon each party on the attached service list from the last general rate case, OPUC Docket No. UE 115.

Dated at Portland, Oregon, this 30th day of December, 2005.

/s/ INARA K. SCOTT
Inara K. Scott

UE 115 Service List

L HELLER EHRMAN WHITE & MCAULIFFE LLP 200 SW MARKET ST STE 1750 PORTLAND OR 97201-5718	PORTLAND BOMA 1020 SW TAYLOR ST STE 760 PORTLAND OR 97205-2512
SUSAN ANDERSON PORTLAND CITY OF - OFFICE OF SUSTAINABLE DEV 721 NW 9TH AVE -- SUITE 350 PORTLAND OR 97209-3447	LINCOLN WOLVERTON EAST FORK ECONOMICS PO BOX 620 LA CENTER WA 98629
JULIE BRANDIS ASSOCIATED OREGON INDUSTRIES 1149 COURT ST NE SALEM OR 97301-4030	PHIL CARVER OREGON DEPARTMENT OF ENERGY 625 MARION ST NE STE 1 SALEM OR 97301-3742
MELINDA J DAVISON DAVISON VAN CLEVE PC 333 SW TAYLOR - STE 400 PORTLAND OR 97204	JIM DEASON 521 SW CLAY ST STE 107 PORTLAND OR 97201-5407
MICHAEL C DOTTEN HELLER EHRMAN WHITE & MCAULIFFE LLP 200 SW MARKET ST - STE 1750 PORTLAND OR 97201-5718	ANDREA FOGUE LEAGUE OF OREGON CITIES PO BOX 928 1201 COURT ST NE STE 200 SALEM OR 97308
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