

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**AR 499**

In the Matter of the Adoption of Permanent Rules Implementing SB 408 Relating to Utility Taxes.	) ) ) ) )	POST-HEARING COMMENTS OF THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES
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The Industrial Customers of Northwest Utilities (“ICNU”) submits these Post-Hearing Comments to provide to the Public Utility Commission of Oregon (“OPUC” or “Commission”) ICNU’s proposal regarding a “floor” for the properly attributed amount under SB 408 and to clarify ICNU’s positions on the issues.

**1. Floor on the Properly Attributed Amount.** Attached as Exhibit A is ICNU’s response to the Joint Parties’ concerns that the Apportionment Method could reduce the “taxes paid” that is properly attributed to regulated utility operations by an amount that exceeds the sum of the individual losses of the entities in the consolidated tax group.<sup>1/</sup> ICNU’s proposal addresses this issue in a more straightforward manner than the proposals set forth by the utilities.

**2. Tax Normalization Requirements.** ICNU supports alternative 1(a) in the summary of “Proposed Changes to AR 499 draft rules” distributed by Staff to address any potential violations of IRS normalization requirements resulting from the apportionment method. For purposes of this provision, “regulated operations” should include state regulated electric and gas operations and exclude all other entities such as insurance companies that may be subject to other types of regulation.

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<sup>1/</sup> ICNU’s proposed language is written to apply to federal income taxes. A similar provision would be needed to address state income taxes.

ICNU strongly disagrees with the proposal in 1(d) to adjust taxes paid for Oregon disallowed capital costs. This adjustment is proposed under the guise of compliance with normalization requirements, but it does not address normalization issues. SB 408 is unambiguous that general rate case numbers should be used for purposes of implementing an automatic adjustment clause, and amounts approved by the Commission in a general rate case would exclude any disallowed capital costs. ORS §§ 757.268(13)(e), (f).

**3. Add Backs to Taxes Paid.** SB 408 explicitly requires an adjustment to “taxes paid” to reflect charitable contributions of the *utility*. Rules that would implement adjustments for charitable contributions and tax credits made by entities other than the utility are inconsistent with the statute’s plain language. Adopting this improper proposal would result in Oregon ratepayers subsidizing charitable contributions of entities and individuals such as Berkshire Hathaway and Warren Buffett.

**4. State Taxes Paid: Multi-State Tax Rate.** The Utility Joint Comments propose allowing a utility to choose whether to calculate state taxes paid based on either: 1) Oregon apportionment factors as a proxy for other states; or 2) a state-by-state basis. Providing the IOUs this discretion is inappropriate, because it will encourage choices based solely on the methodology that is more beneficial to the utility. If the Commission intends to address multi-state tax rate issues in this manner, ICNU supports providing a one-time opportunity to elect the use of one method. The utility would not be able to change this election in subsequent years.

**5. Definition of Sales Factor.** Adjusting the “sales” factor to include all income that is underlying “taxes paid” will appropriately ensure that dividend income is considered. ICNU disagrees with Staff that these amounts will be insignificant.

6. *The 3(12)(a) Cap.* The Joint Parties object to applying the “with and without” method to implement the section 3(12)(a) cap, and Staff stated at the hearing today that interpreting section 3(12)(a) in this manner renders section 3(12)(b) meaningless. The practical result is the same under either methodology. ICNU believes that the Commission made the right decision in the interim order and that allowing the legislature to address this issue and decide if any statutory changes are necessary is more appropriate than changing the approach in the interim order.

ICNU appreciates the Commission’s consideration of these comments.

Dated this 21st day of August, 2006.

Respectfully submitted,

/s/ Melinda J. Davison

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August 21, 2006

***Via Electronic and US Mail***

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Re: In the Matter of the Adoption of Permanent Rules Implementing SB 408  
Relating to Matching Utility Taxes Paid with Taxes Collected  
**Docket No. AR 499**

Dear Filing Center:

Enclosed please find an original and two (2) copies of the Post-Hearing  
Comments of the Industrial Customers of Northwest Utilities in the above-captioned Docket.

Please return one file-stamped copy of the document in the self-addressed,  
stamped envelope provided. Thank you for your assistance.

Sincerely yours,

/s/ Christian Griffen  
Christian W. Griffen

Enclosures

cc: Service List

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the foregoing Post-Hearing Comments of the Industrial Customers of Northwest Utilities, upon the parties, on the official service list for AR 499, by causing the same to be electronically served, to those parties with an email address, as well as mailed, postage-prepaid, through the U.S. Mail.

Dated at Portland, Oregon, this 21st day of August, 2006.

/s/ Christian Griffen  
Christian W. Griffen

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