

1                               **BEFORE THE PUBLIC UTILITY COMMISSION**  
2   **OF OREGON**

3   AR 499

4           In the Matter of                               )  
5   )   STAFF'S FINAL COMMENTS  
6           Adoption of Permanent Rules to Implement   )  
          SB 408 Relating to Utility Taxes.               )

7  
8           Staff submits the following final written comments in this rulemaking.

9           At today's public comment hearing, CUB recommended the Commission define "Non-  
10   Oregon regulated utility operations" if it adopts rules that make an adjustment to the amount of  
11   Taxes Paid in the properly attributed calculation for deferred taxes of those companies (e.g., see  
12   (3)(a)(A) and (3)(b)(A) in the Joint Rule Revisions dated August 17, 2006.) Staff agrees that a  
13   definition should be added. The City of Portland's comments dated August 21, 2006 refer to  
14   "public utility property" as defined in Section 168 of the Internal Revenue Code. Although staff  
15   does not have specific definitional language to propose, we recommend the Commission include  
16   a definition in the final rules.

17           The City of Portland, in both its filed and oral comments at the public comment hearing,  
18   also recommended that the amount of Taxes Paid be adjusted in order to comply with the  
19   normalization requirements of the federal tax law. Staff believes that the current language in  
20   (4)(j) with respect to local income taxes – "after making the adjustments defined in subsection  
21   (2)(o) of this rule" – will properly adjust for deferred taxes related to the regulated operations of  
22   the utility in Oregon. While it is uncertain whether deferred taxes from other, non-Oregon  
23   regulated operations will be "included" in Oregon taxable income that is apportioned to the  
24   county, staff believes the Commission should consider adding an adjustment for those deferred  
25   taxes to the amount of income taxes paid under subsection (3)(d)(A), to reduce the chance of a  
26   normalization violation.

1 For clarification, staff would note that the add back of “imputed tax benefits of  
2 depreciation on disallowed Oregon utility capital costs” in subsection (3)(a)(A) and (3(b)(A)  
3 would add back the tax benefit of all depreciation related to these disallowed costs. We believe  
4 that the deferred tax effect (the difference between tax depreciation and book depreciation), a  
5 subset of the full depreciation-related tax effect, is the minimum adjustment necessary to reduce  
6 the possibility of a normalization violation.

7  
8 DATED this 21<sup>st</sup> day of August 2006.

9 Respectfully submitted,

10 HARDY MYERS  
11 Attorney General

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13 Jason W. Jones, #00059  
14 Assistant Attorney General  
15 Of Attorneys for Public Utility Commission of  
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1 **CERTIFICATE OF SERVICE**

2 I certify that on August 21, 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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