BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 499

In the Matter of the Adoption of Permanent Rules to Implement SB 408, Relating to Matching Utility Taxes Paid with Taxes Collected.	))))))

OPENING COMMENTS

OF THE

CITIZENS' UTILITY BOARD OF OREGON

May 3, 2006

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I. Introduction

Of the proposals before the Commission, the temporary rules remain the truest actualization of SB 408. Staff's temporary rules provide the course correction envisioned by the legislature to reform the calculation of utility taxes in rates. In an effort to respond to the Commission's desire for a range of options, CUB identified a middle-ground straw proposal for defining "properly attributed" that would fall between the utilities' and the customers' bookends. ICNU and NWIGU also developed a middle-ground straw proposal for the Commission to consider, and both customer proposals preserve the right of the Commission to adjust a utility's tax forecast as necessary to ensure that rates are fair, just, and reasonable. PacifiCorp's and Avista's proposals are not acceptable, and should be rejected outright. Neither company's proposal would yield any meaningful tax reform, both proposals fail to address double leverage, and, disturbingly, both would prohibit the Commission from adjusting a utility's tax forecast as necessary in the future.

II. Properly Attributed – The Bookends

The keystone in the implementation of SB 408 for utilities in a holding company structure is the definition of "properly attributed." While there are a number of ways this definition can be shaped, there are currently two proposals that mark either end of the spectrum of possible impacts of SB 408. The Staff's temporary rules established in AR 498 mark the fullest implementation of SB 408, through which the conglomerate's actual tax liability is attributed proportionally to the utility in the same manner as to every other affiliate. The definition of "properly attributed" in the temporary rules is the bookend of greatest reform.

PacifiCorp's Lesser-Of Attribution, on the other hand, is the bookend of least reform. It marks the end of the spectrum of SB 408 impact where only a holding company such as Enron, with heavy affiliate losses and little in the way of affiliate profits to balance the losses, would yield a change in how ratepayers are charged for utility taxes. Outside of such an extreme case, PacifiCorp's proposal would shield all holding-company tax benefits from the utility.

It is important to point out that PacifiCorp's proposal would also prevent the Commission from making adjustments to a utility's tax forecast. By defining properly attributed as the lesser of a utility's stand-alone liability or the consolidated liability, PacifiCorp's proposal would nullify the Commission's ability to adjust a utility's tax forecast because the automatic adjustment clause would overwrite whatever adjustment the Commission made. PacifiCorp's proposal would be a step backward for utility tax reform.

A. Utility Tax Reform – The Temporary Rules

The definition of "properly attributed" in the temporary rules remains the purest interpretation of SB 408. It is the product of:

> (A) The total amount of taxes paid by the public utility or affiliated group to units of government; and
>
> (B) The ratio of the tax liability of Oregon regulated operations of the public utility to the total tax liability from all affiliates of the public utility or the affiliated group with a positive tax liability.

860-022-0039 (2)(d)(A)&(B).

Put slightly differently, the tax liability that is properly attributed to a utility is the tax money actually paid to government entities multiplied by the ratio of the utility's stand-alone tax liability to the sum of the positive stand-alone tax liabilities of the utility and its affiliates. For a utility within a holding company, this definition allocates the amount of taxes paid to government entities equitably between all the companies within the corporate family that generated a positive tax liability, including the utility. No other proposal before the Commission achieves this.

All other proposals before the Commission allocate taxes in a manner that is not uniform throughout the corporate family, and, in so doing, allocate less of the tax benefit associated with being a member of a conglomerate to the utility and more of that benefit to other, unregulated affiliates. This bias results in a heavier tax burden on such a utility and its customers, and makes achieving fair, just, and reasonable rates questionable.

Another advantage of the definition of "properly attributed" in the temporary rules, is that it does not invite corporate rearranging. It is simple, and it applies to all companies within the corporate family, regardless of how the conglomerate is structured. No matter what final rules the Commission adopts, we may rest assured that the utilities and their parent companies, where they exist, will adapt in order to minimize the impact of SB 408 on their profits. That being said, the definition of "properly attributed" in the temporary rules provides the least incentive for moving companies and/or debt within the corporate family to hide tax benefits from the regulated utility.

B. Fight The Last War – PacifiCorp's Lesser-Of Attribution

PacifiCorp's vision of the implementation of SB 408 is one where there would be no material change except in such an unusual situation as that created by Enron's ownership of PGE. Apparently, the Company would prefer for the Commission to focus on the last war and Enron, rather than to look forward and address a tax ratemaking methodology that has shown itself to be flawed, that does not pass the benefit/burden test, about which the public has cried foul, and that the legislature directed the Commission to change in SB 408.

PacifiCorp writes of the "Enron Problem,"[1] as if that egregious tax windfall for shareholders were something specific to Enron's ownership, and not something that pertains to other holding company structures. Unfortunately, PacifiCorp's so-called "Enron Problem" is not an isolated problem, but one that could exist in any Oregon utility holding company structure. PacifiCorp would have the Commission define "properly attributed" in such a way that it would have impacted Enron, but would not impact the current or future tax benefits reaped by MidAmerican, Avista, or other utility holding companies.

[1] PacifiCorp's "*With and Without*" and "*Lesser-Of Attribution*" proposals, pages 1 and 1.

i. PacifiCorp's Lesser-Of Attribution

PacifiCorp would have the Commission define "properly attributed" as the "lesser of the standalone tax liability resulting from Oregon regulated operations and the amount of taxes paid to the government by the utility or its affiliated group."[2] In other words, as long as the consolidated tax payment of a conglomerate is greater than a utility's stand-alone tax liability, nothing will change. This begs the question, what is the probability that the consolidated tax liability of Berkshire Hathaway and its hundred-odd subsidiaries (including MidAmerican Holdings and its subsidiaries) will be less than the stand-alone tax liability of PacifiCorp? This is also the probability that PacifiCorp's Lesser-Of Attribution would have an impact on PacifiCorp ratepayers. Don't hold your breath.

Underlying PacifiCorp's proposal is the Company's attempt to define the basis for tax charges in rates as the utility's stand-alone tax liability. Before SB 408 passed, CUB argued in UE 170 that, when setting rates, PacifiCorp's stand-alone tax liability should be adjusted for the known and measurable change resulting from debt at PacifiCorp's holding company. Stand-alone tax liability, like any other cost element of a utility, should be subject to reasonable adjustments designed to improve the forecast accuracy for a future test year, as well as to reflect burdens and benefits that are allocated between customers and shareholders. PacifiCorp's proposed rules in AR 499 would prohibit the Commission from considering such arguments in the future, because, by PacifiCorp's definition of properly attributed, any adjustment in a rate case would be reversed in the automatic adjustment clause. As an advocate of SB 408, we certainly were not

[2] PacifiCorp's "*Lesser-Of Attribution*" proposal, page 1.

supporting a law that would prohibit parties from proposing known and measurable changes to a utility's tax forecast.

ii. Properly Attributed in SB 408

There is no definition of "properly attributed" in SB 408. The Department of Justice, in its December 27, 2005 Memo to the Commission, concludes that "properly attributed" is a delegative term, whereby the legislature delegates the authority to the Commission to execute the policy established by SB 408.[3]

In regard to "properly attributed," SB 408 does state that:

> (12) … taxes paid that are properly attributed to the regulated operations of the public utility may not exceed the lesser of:
>
> (a) That portion of the total taxes paid that is incurred as a result of income generated by the regulated operations of the utility; or
>
> (b) The total amount of taxes paid to units of government by the utility or by the affiliated group, whichever applies.

Senate Bill 408, Section 3(12)(a)&(b).

Had the legislature's intent been that expressed in PacifiCorp's Lesser-Of Attribution, the legislature had only to delete "may not exceed" the lesser of, and insert "will be" the lesser of. Interestingly, the legislature chose not to do that. In stating that taxes attributable to a regulated utility may not exceed either the utility's stand-alone tax liability or the consolidated tax liability, the legislature makes clear that taxes attributable to a regulated utility <u>may</u> be lower than these two benchmarks. PacifiCorp's Lesser-Of Attribution is the absolute upper boundary established by the legislature; it is not the bull's-eye the legislature was shooting for.

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[3] Department of Justice Memo to Lee Beyer, Chair of the Public Utility Commission, December 27, 2005, page 9.

iii. "Enron Problem" Not Isolated, Other Oregon Utility Parents Benefit Too

PacifiCorp attempts to paint the legislative intent behind SB 408 as a fix for what PacifiCorp calls the "Enron Problem." Enron's tax shenanigans were certainly a problem, but they were not, and are not, limited to Enron. The "Enron Problem" is not a discrete tax manipulation performed by Enron; Enron simply took to extremes the tax manipulations that utility holding companies regularly use. Enron represents a point on a continuum, not an isolated incident. While ScottishPower's or MidAmerican's use of a holding company structure for tax gain through PacifiCorp may not be as shocking as Enron's was, it is, nevertheless, part of the very same continuum, and part of the flawed tax methodology that SB 408 was intended to fix.

III. Properly Attributed – Proposals For Middle Ground

The parties came together in workshops to develop a number of straw proposals for defining "properly attributed," so that the Commission would have middle-ground proposals, as well as the bookends, to consider when adopting the rules to implement SB 408. CUB, ICNU, NWIGU, and, to a lesser extent, Avista, did just that, and developed alternative definitions for "properly attributed" designed to yield actual results that would likely fall between the actual results produced by the bookend definitions.

PacifiCorp's straw proposal, on the other hand, demonstrates that the Company has not genuinely participated in this effort, and has, instead, offered up a proposal that would be, in a simple structure, exactly the same as the Company's Lesser-Of Attribution. PacifiCorp can then throw in some structural complexities, point to slight differences yielded by the With-and-Without proposal, and call it middle ground. We doubt this Commission will share PacifiCorp's enthusiasm for such a charade.

A. CUB

CUB's straw proposal is based on the idea that different sources of tax reductions can be treated differently for attribution purposes. Through our straw proposal, we attempt to address four of the major concerns aired in the AR 499 workshops: the treatment of accelerated depreciation; the inclusion of non-utility affiliates; feedback from the net-to-gross ratio; and matching the burdens and benefits of debt at a holding company.

i. Consistent Treatment of Accelerated Depreciation For Affiliates

Utilities pointed out that, while SB 408 requires the Commission to adjust the utility's taxes for the effects of accelerated depreciation in order to comply with IRS normalization rules, it does not require such treatment for affiliates, even though the issue is the same. CUB's straw proposal addresses this concern by adjusting the taxes of affiliates in the same way as a utility's to remove the tax effects of accelerated depreciation. This accelerated depreciation tax treatment would work with the temporary rules, as well.

ii. Review & Allocation From Non-Utility Affiliates

In the AR 499 workshops, utilities expressed concern about Oregon ratepayers sharing the tax benefits of what utilities described as "unrelated" affiliates, such as insurance losses of a Berkshire Hathaway subsidiary. SB 408 requires the allocation of some of these benefits to the utility when the Section 3(12)(b) cap is applied. While we disagree with the utilities' premise that unregulated affiliates are unrelated to the utility, as all the companies in a corporate family are related (no pun intended) by virtue of tax filings, credit rating interactions, and even corporate culture, CUB's proposal partially addresses the utilities' concern by using an earnings cap to reduce the frequency and magnitude with which losses from unregulated and/or non-utility affiliates reduce the taxes attributable to a regulated utility. This is described in more detail in the section that follows.

iii. The Net-to-Gross Ratio Feedback Loop

In the workshops, the utilities expressed concern about the Oregon Attorney General's December 2005 opinion that the ratio of net-to-gross revenues from the test period in a utility's last general rate case should be used to determine the amount of taxes authorized to be collected in rates. The use of a forecast ratio with actual revenues produces a positive feedback loop by which an under-earning utility then refunds tax money to customers and an over-earning utility charges customers for additional tax money.

CUB shares the utilities' concern about the possible impact of this feedback loop. The Commission does, however, have tools to address net-to-gross ratio feedback, tools that are compatible with the Staff's temporary rules. For example, like any other piece of a utility's revenue requirement, the tax forecast will sometimes be too high and sometimes too low, but should, over time, balance out. Amortizing the deferred balance resulting from the automatic adjustment clause over multiple years, rather than one year, would mitigate the effect of net-to-gross feedback.

a. Net-to-Gross Ratio Feedback

Under the Attorney General's interpretation, a utility that under-earns would refund taxes to customers, because the actual tax payment would be less than what was in rates based on the net-to-gross ratio forecast in the previous rate case. This feedback means the utility would get hit twice: first the utility earns below its authorized level; and second, it additionally has to refund to customers a portion of taxes that represents the difference between what was paid and what theoretically was collected even though this exacerbates the utility's under-earning.

On the other hand, a utility that over-earns would pay more taxes than were in rates. The calculation under the Attorney General's interpretation would indicate that the utility had not collected enough for taxes, and so customers would be assessed a surcharge, despite the utility's excess earnings. The over-earning results in a surcharge, which results in even more over-earning.

b. Net-to-Gross Ratio Feedback, Non-Utility Affiliates & CUB's Earnings Test

Under the temporary rules, an under-earning utility would both have to refund a portion of the taxes collected, as well as the utility's share of tax offsets from the utility's affiliate tax losses, which would compound the under-earning. CUB's proposal addresses this by applying an earnings test before attributing affiliate tax losses. Affiliate tax losses would be attributed to the regulated utility only when the utility earns above its authorized rate of return, and then only to the extent the attribution brought the utility back to its authorized rate of return. When a utility under-earns, no share of affiliate tax losses would be attributed to the utility. This would reduce, but not eliminate, the refund that would be passed through to customers. This serves both to reduce the impact of the feedback loop on an under-earning utility, as well as to reduce the frequency and magnitude of non-utility affiliate tax loss attributions to the regulated utility.

When a utility over-earns, the utility's share of affiliate tax losses (based on applying the tax losses to all affiliates with net income) would mitigate the impact on ratepayers of the additional tax surcharge caused by the over-earning feedback loop. This would reduce, though not eliminate, the likelihood that customers would be charged for additional taxes when a utility is over-earning.

iv. Matching The Burden Of Servicing Debt With The Tax Benefits Of Debt

Customer groups are concerned that, while customers' payments service parent company debt, customers do not receive any of the tax benefit associated with that debt. Historically, utilities have been able to increase their profits above their allowed rate of return by placing debt at a utility's parent company where it did not impact their rate of return, and the tax deductions were shielded from the utility. Parent and holding company debt payments are paid with dividends that come from the utility, which puts pressure on the utility's rates to support those debt payments, and affects the utility's credit rating. However, the income tax deduction associated with this debt is retained at the parent company and has the effect of increasing the rate of return received by the parent.[4] Under CUB's straw proposal, the tax deduction associated with net debt at a parent company (or a parent of a parent, etc.) would be allocated to the subsidiaries of that parent based on the net income of each subsidiary. This aligns the benefits of the interest tax deduction with the sources of payment for the debt.

CUB developed this middle-ground proposal through the process of addressing the most significant concerns of the utilities and the customer groups. While we consider the temporary rules to be the most faithful implementation of SB 408, we wanted to provide the Commission with an additional, reasonable approach to defining "properly attributed," and that addressed some of the concerns the utilities expressed about the temporary rules.

[4] See CUB testimony in UM 1121 and UE 170.

B. ICNU & NWIGU

ICNU and NWIGU also submitted a straw proposal in an effort to address utility concerns while providing the Commission a middle-ground option. The foundation of the industrial customers' proposal is an attempt to reduce the universe of affiliates that are considered when determining the share of consolidated taxes that are properly attributed to the utility. This responds to the utilities' concern that the temporary rules will require the Commission to examine dozens, and sometimes hundreds, of affiliates.

The proposal of the industrial customers focuses on creating a sub-group of affiliates to be examined. This sub-group would include parents and other affiliates with debt that is supported by utility revenues, affiliates that buy or sell products and services to the utility (with some limits), utility subsidiaries, and “sister” affiliates.

The primary criticism of this approach at the workshop was that, by creating the sub-group, the utility could receive a greater share of the debt interest deduction than it otherwise would have been entitled to under the temporary rules. By including in the sub-group affiliates with debt supported by utility revenues, but not necessarily including all subsidiaries of the debt holder, the utility’s share of the debt interest deduction could increase. This concern could be easily addressed by including all of the subsidiaries of the debt holder in the sub-group, or by only including the proportional share of the interest deduction that is supported by utility revenues.

C. PacifiCorp

We are disappointed with PacifiCorp’s straw proposal. The parties came together in workshops to develop a number of proposals for defining “properly attributed,” such that the Commission would have middle-ground proposals, as well as the bookends, to consider when adopting the rules to implement SB 408. PacifiCorp's straw proposal demonstrates that the Company has not genuinely participated in this effort, and has, instead, given its bookend a new name and a new hat, with the hope that the Commission might consider the With-and-Without proposal representative of middle ground. Unfortunately, while the method of calculating "properly attributed" in PacifiCorp's With-and-Without proposal is slightly different than in the Company's Lesser-Of Attribution, the end result is the same. The first may be the Foxtrot, the second the Swing, but it's all being played by the Holding Company Quartet.

i. PacifiCorp's With and Without Proposal

In a nutshell, PacifiCorp's With-and-Without proposal takes the difference between a conglomerate's consolidated tax liability and what that consolidated tax liability would have been without the utility. The lesser of this With-and-Without amount, the consolidated tax liability, and the utility's stand-alone liability would be attributed to the utility.

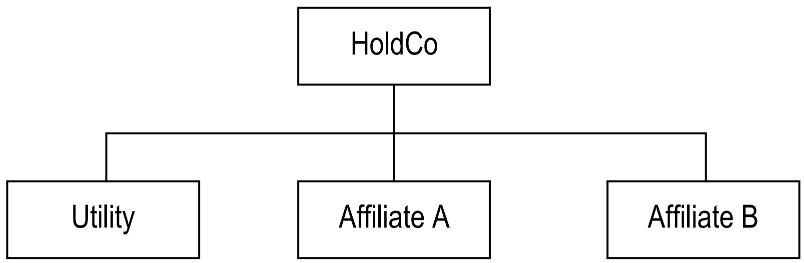
At the risk of restating the ridiculous, the following formula demonstrates PacifiCorp's proposal in its simplest form:

U	= The utility stand-alone tax liability
C_w	= Consolidated tax liability with the utility
$C_{w/o}$	= Consolidated tax liability without the utility (C_w - U)
$C_w - C_{w/o}$	= With-and-Without amount
$C_w - (C_w - U)$	= With-and-Without amount
U	= With-and-Without amount

PacifiCorp would have us compare a conglomerate's consolidated tax liability with what the conglomerate's consolidated tax liability would be if the utility's tax liability were removed. The difference between these two figures is … the utility's tax liability.

a. At Its Core, With-and-Without Is The Same As Lesser-Of Attribution

Consider the following, simple structure, and put aside complexities such as the alternative minimum tax, accelerated depreciation, etc.



	Stand-Alone Tax Liability				Consolidated	Consolidated	W/ & W/O
	Utility	HoldCo	Affiliate A	Affiliate B	W/ Utility	W/O Utility	Amount
Scenario 1	$200	$ 0	$500	- $100	$600	$400	$200
Scenario 2	$200	$ 0	$100	- $100	$200	$ 0	$200
Scenario 3	$200	$ 0	$ 50	- $100	$150	- $ 50	$200

It is the relationships between the numbers that are significant, the numbers themselves simply demonstrate greater-than, equal-to, and less-than relationships. Scenario 1 yields a consolidated tax liability greater than the utility's stand-alone liability, scenario 2, a consolidated tax liability equal to the utility's, and scenario 3, a consolidated tax liability less than the utility's. In all scenarios, PacifiCorp's With-and-Without amount would simply be the utility's stand-alone tax liability.

In scenarios 1 and 2, where the consolidated tax liability is greater than or equal to the utility's stand-alone liability, the With-and-Without amount is the same as the utility's stand-alone liability, and so the result for ratepayers would be no different than with Lesser-Of Attribution. In scenario 3, where the consolidated liability is less than the utility's stand-alone liability, PacifiCorp's With-and-Without proposal would concede that the With-and-Without amount (the utility's stand-alone liability) was greater than the consolidated tax liability, and that taxes attributable to the utility would be the consolidated amount. This is meaningless, however, because this is the cap already established in Section 3(12), so again, the overall result for ratepayers would be the same as that produced by the Lesser-Of Attribution. PacifiCorp's With-and-Without proposal offers no movement from its bookend.

PacifiCorp presents a series of examples in the Company's straw proposal that attempt to show that the results of the With-and-Without calculation are not the same as the utility's stand-alone tax liability, but these examples are fictional and have no practical foundation. Why, in these examples, is the utility's stand-alone liability different than the With-and-Without amount? PacifiCorp does not say. Do the differences in PacifiCorp's examples have any basis in actual tax return numbers? PacifiCorp does not say. It is easy to pull numbers out of thin air to demonstrate how one made-up number is different than another, but there is no indication in PacifiCorp's proposal that there will be any practical difference between the With-and-Without amount and a utility's stand-alone tax liability.

b. Only With Structural Complexities Does With-and-Without Yield Token Differences

PacifiCorp obviously realizes its proposal is a bit hard to swallow, and the Company clarifies in a footnote that:

> There are various reasons why this figure would be different from the utility standalone tax liability – e.g., affiliated tax losses that could only be offset by the utility's taxable income, impact of alternative minimum taxes, general business tax credits, etc.

PacifiCorp's *"With and Without"* proposal, footnote 1, page 2.

When would these circumstances happen? How likely are they to happen? Would they have happened under MidAmerican ownership had MidAmerican owned PacifiCorp over the last three years? What would have been the magnitude of such differences? Are we talking about millions of dollars? thousands? hundreds?

PacifiCorp's silence on these matters concerns us, and though the AR 499 process is squeezed into a tight time frame, could not gross numbers be pulled from past Berkshire and MidAmerican tax filings? Has PacifiCorp not checked to see how its proposal might actually – not theoretically – affect the Company? The theoretical premise of PacifiCorp's With-and-Without proposal yields the same result as the Company's Lesser-Of Attribution. We are confident the actual application of PacifiCorp's With-and-Without proposal would also yield, for all practical purposes, the same result as the Company's Lesser-Of Attribution.

As PacifiCorp's With-and-Without straw proposal is no different in practical terms than the Company's Lesser-Of Attribution, which is the methodology the Company has been touting since the beginning of the process, there is no further analysis to discuss.

D. Avista

Avista's straw proposal for "properly attributed" does demonstrate some movement from the bookend where PacifiCorp is entrenched. Like PacifiCorp, Avista proposes looking at utility affiliates as a block, rather than as individual affiliates, such that most of the benefit of being part of a conglomerate would be shielded from the Oregon utility. Where Avista does reach out, however, is by grouping non-Oregon regulated utilities within a holding company structure separately. As regulated utilities represent a steady, reliable stream of income, they are a good tax counterpart in a conglomerate for risky and/or cyclical businesses which may have more tax deductions than they can use.

Avista proposes to look at a holding company structure in three pieces: the Oregon regulated utility, non-Oregon regulated utilities, and other affiliates. In separating non-Oregon regulated utilities from the rest of a conglomerate's unregulated affiliates, Avista's proposal doesn't allow a conglomerate to use the steady income from non-Oregon utilities to hide tax losses from an Oregon utility. Under Avista's proposed definition of properly attributed, a conglomerate may use all of its tax deductions within its unregulated companies if it can. If the conglomerate has a negative tax liability after grouping all of its non-regulated companies, only then must it attribute the remaining negative tax liability to its regulated operations, both Oregon and non-Oregon. The likelihood of this actually occurring and ratepayers receiving a benefit, however, remains to be seen. The only difference between this and PacifiCorp's Lesser-Of Attribution is that, under Avista's approach, the Oregon utility would not be last in line behind other regulated utilities, all regulated utilities would be allocated whatever negative tax liability remains after unregulated affiliate options have been exhausted.

Like the PacifiCorp proposals, the Avista approach would, in most cases, require Oregon customers to pay the stand-alone tax burden of the utility. Avista's proposal would likewise leave no room for CUB to argue that the burden of parent company debt requires an allocation of the tax deduction benefit associated with that debt. We view Avista's approach as we view PacifiCorp's, as a step backward that would prohibit – by rule – arguments and adjustments that were allowed before SB 408 was passed

E. Change Is Coming

PacifiCorp extols its proposal's ease of administration as a virtue supporting its adoption, and the Company's point is not without merit. If we continue to use a utility's stand-alone tax liability to determine taxes, then implementation will be easy. Certainly, we should not seek out complexity for its own sake, but the legislature did not dictate a simple method. The legislature did, however, dictate a change in how customers are to be charged for utility taxes.

The legislature delegated an enormous responsibility to the Commission, while, at the same time, leaving the Commission wide latitude in how to implement SB 408. Fundamentally, however, SB 408 requires the Commission to examine the consolidated taxes of a utility's corporate family, and develop an attribution methodology whereby a regulated utility's customers are only responsible for an appropriate share of the consolidated tax liability. Effective rules should not be sacrificed for simple or meaningless ones.

As with any new process, implementing the rules from AR 499 will require ramp-up work. That being said, any method, once established, will require considerably less work, and Staff and the parties will adapt to the requirements as necessary. Even Staff's temporary rules, which on their face may appear to involve an enormous amount of Staff auditing, could be managed by spot audits, and would require the utility to provide only a simple spreadsheet of numbers assembled from each affiliate that we presume each consolidated company keeps track of already.

IV. Conclusion

CUB continues to support the temporary rules as the proper implementation of Senate Bill 408. Should the Commission choose a different definition of “properly attributed” than that in the temporary rules, we recommend to the Commission the straw proposals made by CUB and ICNU & NWIGU. The straw proposals of PacifiCorp and Avista do not represent real alternatives to the utility bookend, and would limit the Commission’s future ability to adjust a utility’s tax forecast. They are a step back for utility tax reform, and should be rejected.

Respectfully Submitted,
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