

BRIAN J. BOQUIST

State Representative

DISTRICT 23



Committees:

Vice-Chair:

Agriculture & Natural
Resources

Member:

Revenue

Member:

Veterans' Affairs

October 19, 2005

HOUSE OF REPRESENTATIVES

Lee Beyer, Chairman
Oregon Public Utility Commission
550 Capitol Street NE #215
Salem, OR 97308

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P.U.C.

Dear Chairman Beyer:

As a member of two Committees, I participated in several hearings and thirteen hours of work sessions on SB 408. Your staff and/or counsel were present at every one of these meetings. Furthermore, I was the Carrier on the House floor where it passed 54-6.

I stated for the record "What is at issue here is relatively simple, yet extremely complex. The issue we are addressing in this bill is if the Public Utility Commission says that the ratepayer – that is you – has to put enough rate into your utility bill to pay for a hypothetical \$100 million in taxes, that \$100 million in taxes ought to go to the government itself to spend on programs. that is the issue."

Now I understand, the PUC is taking this legislation through its rulemakings process in a distorted and inconsistent manner than we all intended. "We all intended" includes your staff and counsel who participated in every work group meeting that Representative Butler facilitated. Forcing companies to allocate a share of tax losses unrelated to their Oregon regulated utility business, when the parent company pays as much or more in taxes than the utility collected in rates, overreaches the intent of the legislation. If the PUC staff is working outside the legislative intent, it calls into question the integrity and professionalism of these bureaucrats. Am I wrong?

The House did address concerns about the potential for *raising* customers utility bills in the event consolidated tax filers paid more in tax than was collected in rates, and SB 408 guards against that if the higher tax amounts did not come from the regulated utility. There was not an interest in *lowering* bills in situations where the consolidated taxpayer paid *more* in taxes overall than the utility collected in rates.

The final wording of the bill may be extremely complex but the issue is simple. The Commission should adopt this philosophy and work to address the simple issue the Legislature wanted solved – to make sure taxes paid are equal to or greater than taxes collected in rates.

Sincerely,

Brian Boquist
Vice Chair
State & Federal Affairs

A handwritten signature in cursive script that reads "Brian", with a long horizontal line extending from the end of the name.

Cc: Commissioner Ray Baum
Commissioner John Savage
Governor Theodore R. Kulongoski



AMERICAN FOREST & PAPER ASSOCIATION
INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES
NFIB OREGON
NORTHWEST PULP & PAPER ASSOCIATION
OREGON ASSOCIATION OF HOSPITALS
& HEALTH SYSTEMS

OREGON FOREST INDUSTRIES COUNCIL
OREGON GROCERS ASSOCIATION
OREGON LODGING ASSOCIATION
OREGON METALS INDUSTRY COUNCIL
OREGON RESTAURANT ASSOCIATION

WE URGE SUPPORT FOR SB 408 — UTILITY TAX FAIRNESS ACT

We urge you to support SB 408-C-Engrossed. The legislation addresses the problem of private utilities collecting taxes in their rates from Oregon ratepayers and not paying those taxes to a taxing entity.

When a parent corporation pays income taxes on a consolidated basis, the taxes actually paid, including state income taxes paid in Oregon, may be much less than the taxes collected from Oregon residents and businesses.

We need look no further than PGE to understand the scope of the problem. In 2004 PGE collected \$70-80 million from Oregon customers as the estimated tax components of its rates. Because PGE is owned by Enron and Enron chose to file on a consolidated tax basis, zero or only a nominal amount of income taxes were paid by Enron. This situation continues today. Oregon ratepayers are paying PGE/Enron for "phantom" taxes when this cost is never incurred by PGE. **If no taxes are paid, then this money should remain with Oregonians. This is what SB 408 accomplishes.**

This over-collection of taxes is a reflection of the changing corporate structure of Oregon utilities. A decade ago, PGE and Pacific Power & Light were locally owned. Today, PGE is owned by Enron and Pacific Power & Light is owned by ScottishPower and may soon be owned by MidAmerican. Potential repeal of the Public Utility Holding Company Act may make PGE a take-over target even if PGE stock is spun-off by Enron. Unfortunately, OPUC regulation to determine the tax component in utility rates has not kept up with these corporate developments.

SB 408 remedies this problem.

SB 408 follows a basic regulatory rule: the utility may recover its costs from ratepayers and taxes are no different than other costs. If consolidated tax filing reduces the tax cost, then ratepayers can be charged only for that portion of the reduced tax that is attributable to utility operations.

From the desk of
Rep. Brian J. Boquist

SB 408 provides a mechanism – an automatic adjustment clause – to assure that the rate charges to recover the utility's tax cost from customers do not exceed, but equal, the taxes actually paid that are attributable to utility operations, whether the utility files taxes itself or is part of a consolidated tax filing.

It is important to understand what SB 408 does not do:

- It does not change any tax law.
- It does not determine whether the utility files alone or as part of a consolidated group.
- It does not affect the amount of taxes paid.

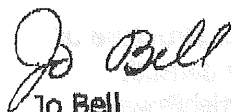
SB 408 does adjust the utility's rates, if necessary, so that ratepayers are charged for actual taxes paid and attributable to utility operations and not charged for "taxes" which are not paid or for taxes that are attributed to non-utility operations.



Bill Perry
Oregon Restaurant Association



Mark Nelson
Oregon Metals Industry Council
Industrial Customers of Northwest Utilities



Jo Bell
Oregon Association of Hospitals
and Health Systems



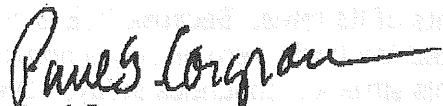
Ray Wilkeson
Oregon Forest Industries Council



Joe Gilliam
Oregon Grocers Association



J. L. Wilson
NFIB Oregon



Paul Cosgrove
American Forest & Paper Association



Kathryn VanNatta
Northwest Pulp & Paper Association



Scott West
Oregon Lodging Association