



**GREG MACPHERSON**  
**STATE REPRESENTATIVE**  
DISTRICT 38  
**HOUSE OF REPRESENTATIVES**

October 6, 2005

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

Subject: Senate Bill 408

RECEIVED  
OCT 07 2005  
P.U.C.

Dear Chairman Beyer:

As I have followed the Commission's implementation of SB 408, I have become concerned that the Commission is moving beyond the letter of the law and the intent of the Legislature when it passed the bill. This concern is based on the temporary rules under SB 408.

I voted against SB 408 on the House floor because of questions raised by the Department of Justice about its constitutionality and the prospect of extensive litigation over how it is applied. I am concerned that the Commission's temporary rules may make those issues more troublesome rather than develop a workable policy that ensures fairness for ratepayers and utilities. While I believe that the final form of the bill was not the best version we considered in the legislative process, it is nevertheless the law and it is important for the Commission to implement it in a manner consistent with a plain reading of the statute as well as the Legislature's intent as revealed in the legislative history of the bill. Having served on the House Committee on State and Federal Affairs, where SB 408 was extensively amended, and having attended several meetings of Rep. Butler's work group on the bill, I believe I am in a position to comment on the legislative history.

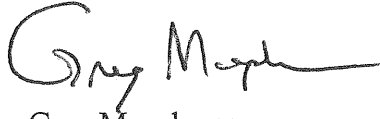
One statement I have heard about the temporary rules is that they were modeled on the methodology used in Pennsylvania. In all the committee and work group discussions of SB 408 that I participated in I do not recall any mention of Pennsylvania's methodology. Accordingly, I do not believe that state should provide the model for how SB 408 is applied.

When SB 408 was introduced I recognized that there was indeed a problem to be solved - utilities had been collecting taxes through customer rates that were sometimes not being paid to units of government. SB 408 was intended to solve that problem by providing for the adjustment of utility customers' bills when utility owners paid less in taxes to government than what was collected in rates. I understand that under the temporary rules a rate adjustment could apply when one unrelated affiliate of a utility experiences a loss even if that loss is fully offset by the gain in another unrelated affiliate. Such a result would be inconsistent with the legislative discussion of SB 408.



I urge that, in developing the permanent rules, you and your fellow commissioners take care to apply the text of SB 408 and the intent revealed in the legislative history. Thank you for your attention to these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Macpherson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Greg Macpherson

cc:

Commissioner Ray Baum  
Commissioner John Savage  
Governor Theodore R. Kulongoski