

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
AR 517**

In the Matter of Housekeeping and
Clarification Changes to OAR 860-022-0041

**PORTLAND GENERAL ELECTRIC
COMPANY'S REPLY COMMENTS**

Portland General Electric Company ("PGE") appreciates the opportunity to submit these reply comments on the proposed housekeeping and clarification changes to the SB 408 Rules.

I. ITERATIVE EFFECTS PROVISIONS AND ONE-TIME ELECTION

All parties support the proposed changes that prevent the iterative effects of any SB 408-related rate adjustments and the proposed amendment permitting a one-time election after a change in ownership (Amendments 1 and 2, as numbered in the notice of rulemaking hearing).

At the July 31 hearing in this docket, Administrative Law Judge Grant observed that the proposed draft rule may be too broad by allowing a new election any time an application under ORS 757.511 is required. We support a rule change that allows a new election based on the Commission's approval of a new entity owning over 50% of the voting shares of a utility.

II. PGE OPPOSES THE CHANGES TO THE APPORTIONMENT FLOOR CALCULATION

For the reasons set forth in PGE's Opening Comments, PGE opposes the changes to the apportionment floor calculation (Amendment 5). PGE believes the proposed changes remove important normalization protections and reduce the chances of receiving a positive response to the request for a Private Letter Ruling ("PLR") from the Internal Revenue Service.

III. POTENTIAL NORMALIZATION PROBLEM

PGE supports the proposed change to Section 4(d) and PacifiCorp's proposed modification (Amendment 3). Both add important normalization protections if any of the three

methods for calculating "taxes paid" results in a negative tax figure and, therefore, begin to return to customers some of the tax benefits of accelerated depreciation for utility property. Because PacifiCorp's approach is more conservative, and therefore more likely to result in a positive response to our PLR request, we support it.

IV. BUSINESS ENERGY TAX CREDIT

We, along with all other parties except ICNU, continue to support the business energy tax credit ("BETC") amendment (Section 4(d)(D)) (Amendment 4). This provision and the recently enacted HB 3201¹ serve to align the Commission's SB 408 policies with the State's mission of protecting Oregon's environment and fostering sustainable business practices. Utilities purchase BETCs as a service to customers to promote energy efficiency. Unless the BETC amendment is adopted, utilities will not be in a position to provide this service.

ICNU opposes the proposed BETC amendment and offers an alternative amendment, which it alleges is needed to ensure that (a) the BETC add-back is limited to BETCs the cost of which have not been included in rates, and (b) the add-back is limited to BETCs related to conservation and renewable resources.² ICNU's alternative should be rejected for four reasons.

First, ICNU's position is based on a false premise; namely, that the cost of purchasing BETCs is included in rates. Utilities, not customers, pay the cost of purchasing BETCs. The entire point of the BETC amendment and HB 3201 is to align the party that pays for the BETCs with the party that enjoys the tax benefit.

Second, the ICNU proposal would add back the tax benefits for BETCs only under the apportionment method for calculating taxes paid. It would leave unchanged the

¹ When we filed Opening Comments, the Legislature had passed HB 3201 but the Governor had not yet signed the bill. On July 31, 2007, the Governor signed the bill into law.

² ICNU's opposition may be based on confusion regarding the scope of the BETC Amendment. The amendment concerns only the tax benefit from BETCs which utilities purchase from others. It does not affect SB 408's treatment of BETCs the utility may acquire and use because of its own capital investments or internal operations.

alternative methods (the consolidated method and stand-alone approach). Accordingly, these methods would continue to flow to the customers the tax benefits of BETCs purchased by the utility. If not closed, this loophole will prevent utilities from buying BETCs in the future. Moreover, as explained in PGE's Opening Comments, such an outcome violates HB 3201, which prohibits the use of BETCs purchased by utilities to reduce taxes paid reported under SB 408.

Third, ICNU's proposal excludes from the "add-back" BETCs "associated with regulated operations." It is unclear why BETCs associated with regulated operations should not be added back. It appears ICNU may believe that "associated with regulated operations" is equivalent to customers having paid for the cost of purchasing BETCs. But this is incorrect. Most of PGE's BETCs are held as part of regulated operations, regardless of whether they have been paid for by customers.

Fourth, ICNU's proposal limits the BETC add-back to BETCs associated with "conservation and renewable resources." This would pass through to customers the tax benefit for BETCs related to transportation or recycling, conflicting directly with HB 3201, which requires that all BETCs are exempt from SB 408. In the 2007 legislative session, interested parties failed to convince the legislature to adopt this same limitation to the BETC add-back. The Commission must follow HB 3201 and add back the tax benefit from all BETCs purchased by utilities, not just BETCs related to conservation and renewable resources.

V. OTHER CHANGES

For the reasons set forth in PGE's opening comments, PGE supports the change in the definition of "deferred taxes" which removes the reference to FERC accounts. None of the parties oppose this change.

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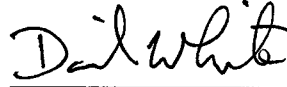
VI. CONCLUSION

PGE appreciates the Commission's consideration of its written comments and urges the adoption of the proposed amendments to the SB 408 rules consistent with PGE's recommendations.

DATED this 10th day of August, 2007.

 *For DCT*

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CERTIFICATE OF SERVICE

I hereby certify that on this day I served the foregoing **PORTLAND GENERAL ELECTRIC COMPANY'S REPLY COMMENTS** by mailing a copy thereof in a sealed envelope, first-class postage prepaid, addressed to each party listed below, deposited in the U.S. Mail at Portland, Oregon.

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