

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 499

In the Matter of the Adoption of Permanent)	CITIZENS' UTILITY BOARD OF
Rules Implementing SB 408 Relating to)	OREGON REPLY COMMENTS
Utility Taxes)	RE SB 408 SECTION 3(13)(B)&(C)
)	
)	

The Citizens' Utility Board of Oregon responds to the question outlined by Judge Logan in this matter.

“Does SB 408 require that the Commission, in determining the amounts identified in 3(13)(e)(B) and (C), use the numbers calculated from test year data that the Commission has previously authorized?”

CUB has reviewed the opening comments of the parties regarding the meaning of “in establishing rates” in Section 3(13)(B) and (C) of SB 408. The question raised is whether the section means that the Commission must use numbers from previously authorized test year data or whether it must use updated results of operation data. While it is difficult to state categorically that the language was meant to mean one thing or another, we were predisposed to believe and were subsequently convinced by NWIGU and ICNU that it is more likely than not that the legislature meant for the Commission to use the data it used when establishing rates in a rate case.

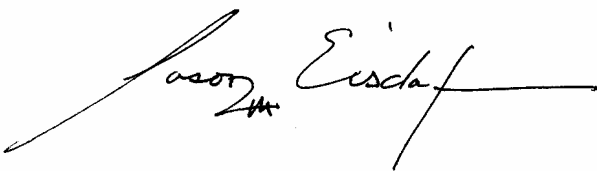
There is no indication whatsoever that the legislature assumed or even envisioned a supplemental or additional filing by the utility to establish numbers for Section 3(13)(B) and (C). Where the legislature anticipated an additional filing to implement SB 408, it mandated it, when it required a filing of certain information in Section 3(1).

Where, as here, no additional or update filing was envisioned, the legislature assumed the Commission would use the data it used “in establishing rates,” *i.e.*, test year data.

PGE bootstraps its interpretation that updated data must be used by insinuating that the exercise of Section 3(13)(B) and (C) is a rate setting process and therefore updating the results of operations IS establishing rates as defined in the section. PGE Comments, pages 3-4. We do not see a new rate setting process within Section 3(13)(B) and (C), we see a formula, and the formula uses existing data used in establishing rates elsewhere.

We do not agree with PGE that the context of SB 408 supports a mandate that the Commission use an updated results of operation for the purposes of Section 3(13)(B) and (C). PGE Comments at 4. ICNU presents the better context that SB 408 was interested in the difference between taxes assumed in rates and taxes paid. ICNU Comments at 27-28.

Respectfully Submitted,
November 18, 2005

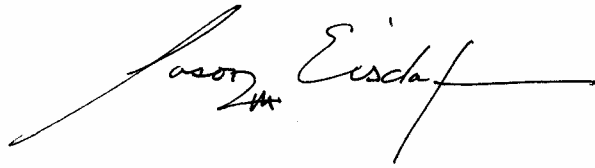
A handwritten signature in black ink, appearing to read "Jason Eisdorfer", with a long horizontal flourish extending to the right.

Jason Eisdorfer #92292
Attorney for the Citizens' Utility Board of Oregon

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November 2005, I served the foregoing Reply Comments of the Citizens' Utility Board of Oregon in docket AR 499 upon each party listed below, by email, and upon the Commission by email and by sending 2 copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

Respectfully submitted,



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