SENATE BILL 408, TAX FILINGS
STAFF'S INITIAL FINDINGS
FOR PORTLAND GENERAL ELECTRIC – UE 178(2)

TO: ALL PARTIES
DOCKET NO. UE 178(2)
PORTLAND GENERAL ELECTRIC
SB 408 TAX FILINGS
2007 TAX PERIOD

FROM: CARLA OWINGS, SENIOR UTILITY ANALYST,
DUSTIN BALL, SENIOR UTILITY ANALYST, AND
DEBORAH GARCIA, SENIOR UTILITY ANALYST
PUBLIC UTILITY COMMISSION

DATE: DECEMBER 23, 2008

CC: LEE SPARLING, ED BUSCH, JUDY JOHNSON AND
JASON JONES

On October 15, 2008, Portland General Electric (PGE or Company) filed UE 178(2), its tax report covering the 2007 calendar year pursuant to Senate Bill 408 (SB 408) (codified at ORS 757.267, 757.268 and OAR 860-022-0041).

Much of the information contained in these tax reports represents highly confidential and sensitive information. Staff has structured its initial findings in this report in a generic manner in order to avoid the possibility of disclosing confidential, or sensitive, information.

Staff has thoroughly reviewed each calculation and all documentation provided by the Company.

PGE reports the following for its Regulated Results of Operations for the 2007 tax period:

Taxes Paid and Properly Attributed to Regulated Operations	Taxes Authorized to be Collected in Rates	Difference between Taxes Paid and Collected Surcharge or (Refund)
$76.5 million	**$61.7 million**	**$ 14.8 million**

Staff conducted face to face interviews on November 18, 2008, December 9, 2008 and a telephone interview on December 15, 2008. Citizens' Utility Board was present at the November 18th meeting with the Company; no other parties participated in these discussions. Staff sent nine Data Requests and conducted informal phone discussions.

The Company provided several work papers, an electronic version of Staff's Tax form and responses to Staff's data requests. While Staff raises numerous issues in this document, it reserves the opportunity to raise new issues during the time remaining in this proceeding.

Following is a detailed summary of Staff's review:

Staff requested the Company provide responses to the following items:

- justify the adjustments made to base revenues on work paper B;
- reconcile adjustments representing unbilled revenue as it relates to base revenues and to supplemental schedules on work paper B;
- provide a detailed breakout of tax credits shown on work paper D-1.1 which demonstrates year-to-year carryover/use of individual tax credits;
- demonstrate how charitable contributions made by PGE reduced the stand-alone tax liability and therefore need to be added-back on Page 6 of the tax report;
- explain if and how the Federal Investment Tax Credit was taken into account in the stand-alone tax calculation;
- provide documentation on all tax credits claimed on the federal tax return and provide explanations on whether or not those tax credits were generated with ratepayer funds;

- provide detailed explanations regarding adjustments made to deferred taxes on work paper M-2 regarding the addition of “Carrying Charges” deferred taxes and the removal of “SERP & Def Comp” deferred taxes; and

- review Schedule M’s to determine whether they should be included in the stand-alone calculation and determine whether the adjustments to deferred taxes on work paper M-2 have a corresponding impact on the derivation of stand-alone tax liability.

As a result of our review, Staff considered the following issues regarding PGE’s original filing:

(1) justify the adjustments made to base revenues on work paper B;

- Sales for resale and other revenues are not included in PGE’s base revenues.

During workshops with the Company and additional phone conversations, PGE provided documentation showing that adjusting the base revenues by the supplemental schedules is compliant with OAR 860-022-0041(2)(l)...”revenue means utility retail revenues received from ratepayers in Oregon excluding supplemental schedules or other revenues not included in the utility’s revenue requirement and adjusted for any rate adjustment imposed under this rule.”

Staff recommends no adjustments to PGE’s filing related to its review of this issue.

(2) reconcile adjustments representing unbilled revenue as it relates to base revenues and to supplemental schedules on work paper B;

On work paper B the Company adjusts base revenues for unbilled revenues. On the same work paper, the schedules that are listed as adjustment schedules show an adjustment for unbilled revenues that increases revenues at a disproportionate rate rather than reducing revenues.

Overall, the unbilled revenues for 2007 represented approximately $3.7 million. The adjusted calendar base revenues (removing the supplemental schedules and transition adjustments) represents approximately 95% of total base revenues. However, in the method employed by PGE to allocate the unbilled revenues to adjust base revenues, PGE allocates only 36% of the total unbilled revenues to what represents approximately 95% of base revenues. Correcting PGE’s methodology results in a decrease of approximately $88,000 to the amount reported for taxes collected.

Staff recommends no adjustments to the current filing, however, the Company should review its method of allocating unbilled revenues and provide an explanation in its 2008 tax filing of how the allocation is derived and what it is based upon.

(3) provide a breakout of credits shown on work paper D-1.1;

Staff's requested a breakout of credits in order to determine whether the application of credits should be shared with ratepayers, or whether, as in the case of the Business Energy Tax Credits (BETC), some of these credits are allowed to be retained by the Company. Staff believes that if a cost or expense is funded by ratepayers and that cost or expense gives rise to the utility qualifying for a credit, then that credit should be applied to the stand-alone calculation without being added back on page 6 of the tax report.

Specifically, Staff was concerned about the Trojan ISFSI pollution control credits and Biglow Phase I BETC. PGE explains (in response to Staff's data request no. 19) that the ISFSI credits are deferred and are handled separately as a ratepayer benefit through the deferral process and that the 2007 Biglow Phase 1 tax credit was applied to PGE's stand-alone tax liability calculation in its work papers, but then added back as a benefit to the Company on page 6 of Staff's tax report (thereby keeping the benefit of the tax credit for the Company).

Staff agreed with PGE's explanation of the ISFSI tax credit, but continued to question whether the 2007 Biglow Canyon tax credit should be kept for the benefit of the Company since ratepayers will reimburse PGE for the production costs of Biglow Canyon (the source from which the credit is derived).

ORS 757.268 (13)(f)(B) defines "taxes paid" as amounts received by units of government that are increased by tax savings resulting from tax credits that have not been taken into account by the Commission in the utility's last general rate proceeding. PGE states that since the Company did not have a deferral in place for Biglow Canyon to collect costs from the first day of operation, rates for Biglow Canyon do not begin until January 1, 2008. Therefore, the Commission has not yet recognized these tax credits in a rate proceeding. Staff agrees that the Company has therefore performed the application of the tax credit for 2007 correctly (by adding back the benefit on page 6 of Staff's tax report).

Staff recommends that the Company provide its Oregon tax credit carry-forward schedule similar to that provided as attachment 19-A in response to Staff's data request no.19, in its original work papers for each future tax filing.

(4) demonstrate how charitable contributions made by PGE reduced the stand-alone tax liability and therefore need to be added-back on Page 6 of the tax report;

On page 6, of the tax report, PGE adds back the tax benefit for charitable contributions to the stand-alone method. However, in the stand-alone calculation, PGE begins with utility operating income from the results of operations which represents only above-the-line activities.

Because charitable contributions are below the line activities and are therefore not included in the results of operations, Staff believes that there was no tax benefit of charitable contributions in the stand-alone calculation. Therefore, adding back the tax benefit on page 6 of Staff's tax report is inappropriate. In response to Staff's Data Request No. 21 and in the meeting held on December 9, 2008, PGE agrees to remove the add-back from line 11 of page 6 and line 16 of page 7 on the Staff report.

Removing the add back from pages 6 and 7 has an effect of reducing PGE's surcharge by approximately $670,000 for the Federal and State portion and increases PGE's refund of local taxes by approximately $11,000.

(5) explain if and how the Federal Investment Tax Credit was taken into account in the stand-tax calculation;

Through data requests and discussions with PGE, Staff agrees that the Company handled the treatment of the Federal Investment Tax Credit appropriately in the stand-alone calculation as well as on page 6, of the Staff report.

(6) provide documentation on all tax credits claimed on the federal tax return and provide explanations on whether or not those tax credits were generated with ratepayer funds;

In its initial filing, PGE did not provide a copy of its 2007 Schedule J which contains information regarding tax credits for the year. Once a copy of this Schedule was obtained, Staff identified that PGE had applied a tax credit in its tax return related to research activities. Staff requested additional information about the credit. In response to Staff's data request No. 23, the Company demonstrated that the tax credit was related to the PGE's membership costs for the Electric Power Research Institute and that 87.5 percent this membership was included in UE 180 rates. PGE has agreed to allocate 87.5 percent of this federal tax credit to ratepayers.

Applying this credit reduces PGE's surcharge for federal and state taxes paid by approximately $17,000.

(7) provide detailed explanations regarding adjustments made to deferred taxes on work paper M-2 regarding the addition of "Carrying Charges" deferred taxes and the removal of "SERP & Def Comp" deferred taxes;

On page 6 of the tax report, PGE made an adjustment to its calculation of deferred taxes that relate to specific items; such as carrying charges (interest on regulatory assets) SERP and Deferred Compensation, in order to move the impact of deferred taxes related to these activities. In the case of carrying charges, this represents interest on regulatory assets that FERC requires the utilities to book below-the-line. Since interest on regulatory assets is related to regulatory operations, PGE feels it is appropriate to adjust the deferred tax impact of these costs.

In addition, PGE adjusts deferred taxes related to SERP and Deferred Compensation costs because the Company does not recover these costs in rates; therefore, the Company does not believe that the deferred taxes related to these activities should be credited to ratepayers in the SB408 calculation.

With regard to the adjustment made to deferred taxes related to the carrying charges (interest on regulatory assets), Staff disagrees that the adjustment is appropriate. The add-back on work paper M-2 adjusts deferred taxes and gives PGE credit for the deferred taxes related to carrying charges which are not included in regulated operations. Because carrying charges on regulatory assets are not included in regulated operations, they are not taken into account in the stand-alone calculation in the current year; therefore there is no book-tax difference for carrying charges for which deferred taxes are would be necessary. Allowing PGE to adjust deferred taxes is inappropriate because it would allow PGE to take credit for deferred taxes which have not reduced stand-alone taxes in the current year, nor will the stand-alone taxes be increased in a future year. For this reason, PGE should not be allowed to make adjustments to its deferred taxes that relate to interest or carrying charges.

Regarding the adjustment related to SERP and Deferred Compensation, here the Company makes an adjustment to deferred taxes in order to retain the benefit of paying these costs because SERP and Deferred Compensation expenses are not recovered through rates. Staff believes this adjustment is inappropriate because SB408 does not adjust or recognize disallowed costs in the required tax true-up calculation.

Staff recommends the add-back on line 13 page 6 of the tax report be revised to remove the adjustments related to the carrying charges and the SERP and Deferred Compensation costs. Removing these adjustments reduces PGE's surcharge for federal and state taxes by approximately $4.4 million and increases PGE's refund of local taxes by approximately $70,000.

(8) review Schedule M's to determine whether they should be included in stand-alone calculation and determine whether the adjustments to deferred taxes on work paper M-2 have a corresponding impact on the derivation of stand-alone tax liability.

On line 17 of page 6 of Staff's tax report, PGE makes an adjustment to deferred taxes to reclassify the carrying charges related to the SB 408 accrual. These same carrying charges are included in Staff's issue **7)** above. For the same reasons Staff is proposing to remove the adjustment to deferred taxes for carrying charges on regulatory assets, it is also necessary to remove the associated iterative effect adjustment of the SB 408 accrual carrying charges. The essence of the reason (explained above) is that these carrying charges adjust PGE's are related to PGE's interest expense which is calculated using interest synchronization rather than actual interest. Therefore, Staff does not believe that adjustments that relate to actual interest are appropriate.

Staff recommends that line 17 of page 6 of the Staff report be revised to remove the adjustment to deferred taxes related to the carrying charges for the SB408 provision. Removing this adjustment would increases PGE's surcharge by approximately $121,000 and reduces the refund for local taxes by approximately $2,000.

***Summary**. The total reduction to PGE surcharge from Staff's findings equals approximately $5.1 million.*

CERTIFICATE OF SERVICE

UE 178

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 23th day of December, 2008.

Kay Barnes

Kay Barnes
Public Utility Commission
Regulatory Operations
550 Capitol St NE Ste 215
Salem, Oregon 97301-2551
Telephone: (503) 378-5763

UE 178
Service List (Parties)

PORTLAND GENERAL ELECTRIC COMPANY RATES & REGULATORY AFFAIRS	121 SW SALMON ST 1WTC0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com
CITIZEN'S UTILITY BOARD OF OREGON G. CATRIONA MCCRACKEN **(C)** **(HC)** LEGAL COUNSEL/STAFF ATTY	610 SW BROADWAY - STE 308 PORTLAND OR 97205 catriona@oregoncub.org
CITIZENS' UTILITY BOARD OF OREGON OPUC DOCKETS	610 SW BROADWAY STE 308 PORTLAND OR 97205 dockets@oregoncub.org
GORDON FEIGHNER **(C)** **(HC)** ENERGY ANALYST	610 SW BROADWAY, SUITE 308 PORTLAND OR 97205 gordon@oregoncub.org
ROBERT JENKS **(C)** **(HC)**	610 SW BROADWAY STE 308 PORTLAND OR 97205 bob@oregoncub.org
DANIEL W MEEK ATTORNEY AT LAW DANIEL W MEEK **(C)** **(HC)** ATTORNEY AT LAW	10949 SW 4TH AVE PORTLAND OR 97219 dan@meek.net
DAVISON VAN CLEVE PC MELINDA J DAVISON **(C)** **(HC)**	333 SW TAYLOR - STE 400 PORTLAND OR 97204 mail@dvclaw.com
DEPARTMENT OF JUSTICE JASON W JONES **(C)** **(HC)** ASSISTANT ATTORNEY GENERAL	REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE SALEM OR 97301-4096 jason.w.jones@state.or.us
KAFOURY & MCDOUGAL LINDA K WILLIAMS **(C)** **(HC)** ATTORNEY AT LAW	10266 SW LANCASTER RD PORTLAND OR 97219-6305 linda@lindawilliams.net
PORTLAND GENERAL ELECTRIC DOUGLAS C TINGEY **(C)** **(HC)** ASST GENERAL COUNSEL	121 SW SALMON 1WTC13 PORTLAND OR 97204 doug.tingey@pgn.com