



**JOHN H. DALLUM**  
**STATE REPRESENTATIVE**  
DISTRICT 59  
**HOUSE OF REPRESENTATIVES**

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November 9, 2005

Chairman Lee Beyer  
Commissioner Ray Baum  
Commissioner John Savage  
Oregon Public Utility Commission  
550 Capitol St. NE  
Salem, OR 97301

Re: AR499—Permanent Rules to Implement S.B. 408

Dear Commissioners:

I voted in support of S.B. 408 because it is important to the businesses and residents of my district.

I understand that the OPUC has adopted temporary rules and is engaged in a process to adopt permanent rules to implement S.B. 408. I understand that certain utilities have questioned how total taxes paid on a consolidated basis should be "properly attributed" among the utility and any affiliates. I have reviewed Staff's September 14, 2005, analysis and the temporary rules. Staff has accurately stated my intent in voting for S.B. 408 and, I believe, the legislature's intent in overwhelmingly adopting S.B. 408.

S.B. 408 allocates taxes paid on a consolidated basis, and thus tax losses, among the utility and other affiliates. The PGE/Enron situation was an extreme example of this problem: Enron's losses overwhelmed PGE's revenues and no taxes were paid. But, S.B. 408 addresses the allocation of taxes paid broadly and nothing in S.B. 408 provides that taxes paid should be attributed first to the utility up to the utility's stand-alone tax amount. To the contrary, §3(7) and §3(12) provide that to determine the amount of taxes paid that is properly attributed to the utility, and not properly attributed to any other affiliate, the taxes paid on a consolidated basis must be attributed among all affiliates, including the utility, on a consistent basis.





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Staff's method does this:

	Stand-Alone	<u>Staff's Example</u>	
		Utilities	Staff
Utility	\$130	\$130	\$100
Affiliate X	\$130	\$70	\$100
<u>Affiliate Y</u>	<u>-\$60*</u>	<u>\$0</u>	<u>\$0</u>
Consolidated	\$200	\$200	\$200

*\*Stand-alone is zero, but loss shown to establish consolidated tax.*

In Staff's example, the Utility and Affiliate X are identical for tax purposes; each has a stand-alone tax liability of \$130, and each contributes the same toward the consolidated tax payment of \$200. The statute requires that the amount of taxes paid (\$200) that is properly attributed to the Utility or Affiliate X must be the same. If not, then adjustments would be made to rates for taxes allocated to the Utility that are properly attributed to Affiliate X; this would violate §3(7). Staff's methodology attributes the same amount of taxes paid to Affiliate X and the Utility (\$100); the method proposed by the utilities does not, and instead over-allocates taxes to the Utility and, thus, to ratepayers.

Simply put, the allocation of taxes paid among affiliates is consistent with the statute if it can be done with the utility's identity masked, i.e. in Staff's example, call the utility just another Affiliate Z. Again, Staff's method works and attributes the same amount of tax to Affiliate X and Z; the utilities' method does not work because it favors the unregulated affiliate and without looking behind the mask, the utilities do not know whether to attribute more tax responsibility to Affiliate X or Z because, for tax purposes, they are the same.

I urge you to implement the legislature's intent and adopt permanent rules based on Staff's analysis and the temporary rules regarding "properly attributed."

Sincerely,

Representative John H. Dallum  
District 59

