

JASON A. ATKINSON

State Senator
Senate Republican Whip
DISTRICT 2
JACKSON & JOSEPHINE
COUNTIES



Committees:

Vice-Chair:

Rules

Member:

Water and Land Use

September 30, 2005

OREGON STATE SENATE

900 COURT ST NE

SALEM, OREGON 97301

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

Dear Chairman Beyer:

I am writing to you in regard to the rules currently being developed by the Oregon Public Utility Commission to implement Senate Bill 408. As I learn more about the direction the Commission is taking in its rulemaking, I am becoming more and more concerned about the Commission's approach diverging from the Legislature's original intent in passing the bill.

I voted against SB 408A in the Senate and offered a Minority Report to allow for more study of the policy implications of this issue due to my deep concern about potential unintended consequences. However, I voted for SB 408C on concurrence as it came over from the House because I was assured by the bill's proponents that the House version provided enough direction to be interpreted clearly and sensibly by the OPUC.

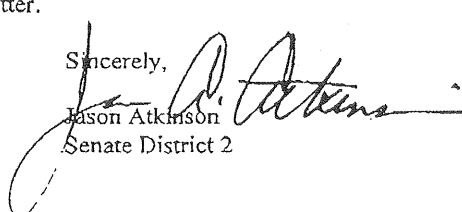
The bill I voted for is meant to ensure that Oregon utility ratepayers are not charged for taxes in their rates that are not ultimately paid to taxing authorities. The proponents of the legislation were clear that the bill would provide a true up of taxes collected and taxes actually paid. In cases like PGE and Enron's, where the utility collects more in taxes than the utility or its parent pay in their tax returns, then ratepayers should be credited back the difference. To ensure fairness in the application of this new law, we also intended that the true up would look at actual tax results with any potential adjustments resulting from actual 2006 tax year information. I think most if not all of my colleagues would agree with that assessment of our intent when we passed the bill.

As the Commission has now taken steps to implement SB 408, I am deeply disturbed that the Commission appears to be justifying my original reasons for opposition. I believe the temporary rules adopted by the Commission go beyond the Legislature's intent by now appropriating tax losses from unregulated affiliated businesses of utilities and passing those benefits through to ratepayers, even when the consolidated group pays more in taxes than the utility collected in rates. This is a profound and creative interpretation that was never intended by the Legislature. Beyond the departure this rule would be from legislative intent, the signal such a regulation would send to investors and the business community is exceedingly negative.

I urge you to reconsider this temporary rule and adopt the permanent rules for SB 408 more consistent with the intent and direction provided by the Legislature.

Thank you for your attention to this matter.

Sincerely,


Jason Atkinson
Senate District 2

CC:

Commissioner Ray Baum
Commissioner John Savage
Governor Theodore R. Kulongoski