



Oregon

Theodore R. Kulongoski, Governor

Public Utility Commission

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January 22, 2008

OREGON PUBLIC UTILITY COMMISSION
ATTENTION: FILING CENTER
PO BOX 2148
SALEM OR 97308-2148

RE: **Docket No. UE 177** - In the Matter of PacifiCorp's SB 408 2006 Tax Report.

Enclosed for electronic filing in the above-captioned docket is the Public Utility Commission Staff's Direct Testimony.

/s/ Lois Meerdink

Lois Meerdink

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

(503) 378-8959

Email: Lois.Meerdink@state.or.us

cc: UE 177 Service List - parties

**PUBLIC UTILITY COMMISSION
OF OREGON**

UE 177

STAFF DIRECT TESTIMONY OF

**Carla Owings
Dustin Ball**

**In the Matter of
PacifiCorp's SB 408 2006 Tax Report**

January 22, 2008

CASE: UE 177
WITNESS: Carla Owings and
Dustin Ball

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 100

**Direct Testimony
In the Matter of PacifiCorp's
SB408 2006 Tax Report**

January 22, 2008

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**
2 **ADDRESS.**

3 A. My name is Carla Owings. I am a Senior Revenue Requirements Analyst
4 employed by the Public Utility Commission of Oregon. My business address is
5 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551.

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
7 **EXPERIENCE.**

8 A. My Witness Qualification Statement is found in Exhibit Staff/101.

9 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**
10 **ADDRESS.**

11 A. My name is Dustin Ball. I am a Senior Financial Analyst employed by the
12 Public Utility Commission of Oregon. My business address is 550 Capitol
13 Street NE Suite 215, Salem, Oregon 97301-2551.

14 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
15 **EXPERIENCE.**

16 A. My Witness Qualification Statement is found in Exhibit Staff/102.

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 A. The purpose of our testimony is to provide the Staff recommendation regarding
19 PacifiCorp's (PPL or the Company) Tax Report as it relates to Senate Bill 408
20 (SB 408), codified in ORS 757.267, 757.268 and OAR 860-022-0041.

21 **Q. CAN YOU PLEASE SUMMARIZE THE PURPOSE OF SB408?**

22 A. SB 408 was passed by the 2005 Legislative Assembly. It requires investor-
23 owned utilities to file an annual Tax Report on or before October 15, following

1 the year for which the filing is being made. The Commission must determine if
2 taxes paid by the utility differ from the amounts collected in rates by a variance
3 of greater than \$100,000. If so, the Commission is required to implement an
4 automatic adjustment clause refunding or surcharging the variance.

5 **Q. DID PACIFICORP FILE SUCH A REPORT?**

6 A. Yes, on October 15, 2007, the Company submitted its tax report for the 2006
7 tax period including hundreds of pages of work papers and back-up
8 documentation. The Company reported that the outcome of its 2006 Tax
9 Report to be:

Taxes Paid and Properly Attributed to Regulated Operations	Taxes Authorized to be Collected in Rates	Difference between Taxes Paid and Collected Surcharge or (Refund)
\$87.0 million	\$54.4 million	\$32.6 million

10
11 **Q. COULD YOU PLEASE DESCRIBE THE FILING?**

12 A. Staff's initial review encountered substantial redactions to the tax returns for
13 both Scottish Power and Berkshire Hathaway Inc. Through data requests,
14 Staff requested unredacted copies of affiliate loss information pertaining to the
15 Stand-alone floor calculation. However, PPL objected and stated that it was
16 not required to provide such information since it would not be relied upon for
17 the outcome in this reporting period. Staff did not persist in obtaining
18 unredacted copies of Scottish Power or Berkshire Hathaway, Inc's tax records,
19 because Staff agreed that the Stand-alone method produced a lower amount of

1 taxes paid and was ultimately the method relied upon for the outcome of PPL's
2 filing. However, Staff generally believes that all information submitted with the
3 filing should be compliant to OAR 860-022-0041 and that filing information
4 under the "highly confidential" protective order (See Commission Order No. 06-
5 022) should provide adequate assurance to the Company that the information
6 will be handled compliant with the protective order.

7 **Q. WHAT OTHER COMMENTS DOES STAFF HAVE ASSOCIATED THE**
8 **FILING?**

9 A. Prior to March 21, 2006, PPL was owned by Scottish Power which operated
10 based on a fiscal year beginning April 1 of each year and ending the following
11 March 31st. On March 21, 2006, PPL was acquired by MidAmerican Energy
12 Holdings Company, a subsidiary of Berkshire Hathaway, Inc. that operates on
13 a calendar year basis and files its income tax returns as such. Since the
14 acquisition took place in March of 2006, PPL was required to file two separate
15 tax returns: one with Scottish Power as the Corporate Holding Company for
16 the fiscal year ending March 21, 2006, and one with Berkshire Hathaway, Inc.,
17 as the Corporate Holding Company for the calendar year ending December
18 31, 2006. OAR 860-022-0041(5)(a)(A) requires the Company to reflect the
19 weighted average of months in effect related to each tax period. For purposes
20 of this tax filing, PPL assigned a 25.0% weighting factor to the Scottish Power
21 tax filing and a 75.0% weighting factor to the Berkshire Hathaway Inc tax filing.

22 **Q. HOW DID THE SEPARATE TAX PERIODS IMPACT THE FILING?**

1 A. The Federal and State tax liability are calculated separately in the Staff
2 template where tax benefits of depreciation of Public Utility Property and the
3 impact of Investment Tax Credits are isolated from the actual tax liability. The
4 State tax liability is always reliant upon the outcome of the Federal tax liability.
5 Staff separated the template into two subpages, identical in mechanics, that
6 would allow the Company to calculate the Federal tax liabilities for each period
7 separately. The separation of tax periods still requires the Company to
8 calculate the Federal tax liabilities using the three methodologies:
9 Consolidated, Stand-alone and Apportioned (Apportioned Consolidated and
10 Stand-alone floor) for each tax period. However, although the Federal Tax
11 Liabilities are separated into sub “a” and sub “b” pages due to the separate tax
12 periods, Staff believes the rules contemplated a lump-sum test that considered
13 the Federal Tax liability as a whole, as opposed to allowing the “greater of” test
14 for the Federal Tax liability, per period.

15 **Q. DOES STAFF BELIEVE PACIFICORP CORRECTLY PERFORMED THE**
16 **“GREATER OF” TEST IN ITS METHODOLOGY?**

17 A. Yes. PPL relied upon the same approach (Apportioned Consolidated) for the
18 outcome of its Federal Tax Liability for both periods as well as the same
19 approach (Stand-alone floor) for the outcome of its State Tax Liability for both
20 periods. OAR 860-022-0041(3)(b) states that “the amount of federal income
21 taxes paid that is properly attributed to the regulated operations of the
22 utility...shall not be less than the amount of the federal Stand-alone floor tax

1 liability...” Staff believes that the rule contemplates the “greater of” *total*
2 federal income taxes paid shall not be less than the Stand-alone, rather than
3 the “greater of” the federal income tax liability considered separately for each
4 tax period. The outcome of PPL’s federal tax liability complied with this
5 concept.

6 **Q. PLEASE DESCRIBE THE REMAINDER OF STAFF’S REVIEW OF THE**
7 **PPL’S TAX REPORT.**

8 A. Staff requested the Company provide further clarification related to the
9 following items:

- 10 • detailed information showing how PPL fit into the Berkshire Hathaway Inc,
11 & Subsidiaries federal and state tax returns;
- 12 • work papers reconciling depreciation amounts of public utility property to
13 the tax return;
- 14 • the source of information for reporting federal taxpayer sales amounts
15 used as an allocation factor;
- 16 • work papers supporting the amounts reported as wages & salaries for
17 Oregon Regulated Operations and System Regulated Operations;
- 18 • how the iterative effect reported was booked;
- 19 • a breakout of deferred taxes;
- 20 • deferred tax only adjustments not directly related to temporary Schedule
21 M items;
- 22 • the Federal Investment Tax and Renewable Tax credits;
- 23 • the method for calculating the Stand-alone tax liability;
- 24 • work papers showing the calculation of the interest expense for the Stand-
25 alone tax calculations;

- 1 • the exclusion of local tax flow through effects on various calculations;
- 2 • the inclusion of AFUDC interest and dividend income in the Stand-alone
- 3 calculation; and
- 4 • the calculation of deferred taxes.

5 **Q. DID STAFF REQUEST ANY REVISIONS TO PPL'S TAX FILING BASED**

6 **ON ITS REVIEW?**

7 A. Yes. Staff requested that the Company recalculate its apportionment factors

8 for the State Stand-alone tax liability using the Stand-alone taxable income with

9 an adjustment to remove the depreciation associated with public utility

10 property.

11 Additionally, Staff requested that PPL revise its calculation of interest

12 expense used to derive the Stand-alone tax liability. In its original filing, PPL

13 used the amount of actual interest deduction rather than using the interest

14 synchronization method described in the rule. OAR 860-022-0041(2)(p) reads

15 as follows:

16 "Stand-alone tax liability" means the amount of income tax liability calculated using

17 a pro forma tax return and revenues and expenses in the utility's results of

18 operations report for the year, except using zero depreciation expense for public

19 utility property, excluding any tax effects from investment tax credits, **and**

20 **calculating interest expense in the manner used by the Commission in**

21 **establishing rates.**¹"

22 **Q. DID PPL AGREE TO THE ABOVE MENTIONED REVISIONS REQUESTED**

23 **BY STAFF?**

24 A. While Staff believes that PPL supports the outcome of its revisions based upon

25 the information currently available, the other parties to this docket may raise

¹ Emphasis added.

1 additional issues for all of the parties' consideration. The outcome of requiring
2 the Company to revise both interest synchronization and the Stand-alone
3 adjustment results in a revision of approximately \$1.9 million to the final
4 difference between Taxes paid and Taxes collected.

5 **Q. DID PPL PROVIDE STAFF WITH A REVISION OF ITS TAX REPORT**
6 **BASED ON STAFF'S FINDINGS?**

7 A. As of the time of this writing, Staff has not yet received the revisions from PPL.
8 However, based on the work papers submitted by the Company, Staff can
9 provide the following estimates to the overall impact of the revisions:

Company's Original 2006 Tax Report	Staff Recommended Adjustments	Difference between Taxes Paid and Collected Surcharge or (Refund)
\$32.6 million	\$1.9 million	\$34.5 million

10

11 **Q. CURRENTLY IS THERE ANY OTHER STAFF RECOMMENDATIONS**
12 **STILL REMAINING AS AN ISSUE IN THIS DOCKET?**

13 A. No. Staff has no other issues remaining in this docket and, as of the time of
14 this writing, is uninformed of any issues that may remain with other parties.
15 Staff reserves the right to review and address any issues that may be brought
16 forth by other parties to this docket.

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

18 A. Yes.

CASE: UE 177
WITNESS: Carla Owings

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 101

Witness Qualification Statement

January 22, 2008

WITNESS QUALIFICATION STATEMENT

NAME: Carla M. Owings
EMPLOYER: Public Utility Commission of Oregon
TITLE: Senior Utility Analyst/Revenue Requirement/Rates and Regulation
ADDRESS: 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2115.
EDUCATION: Professional Accounting Degree
Trend College of Business 1983

EXPERIENCE: I have been employed by the Public Utility Commission of Oregon since April of 2001. I am the Senior Utility Analyst for revenue requirement for the Rates and Regulation Division of the Utility Program. Current responsibilities include leading research and providing technical support on a wide range of policy issues for electric, telecommunications, and gas utilities.

From September 1994 to April 2001, I worked for the Oregon Department of Revenue as a Senior Industrial/Utility Appraiser. I was responsible for the valuation of large industrial properties as well as utility companies throughout the State of Oregon.

I have testified in behalf of the Public Utility Commission in Docket Nos. UE 180, UM 1234, UE 167, UE 180, UE 188, UM 1234, UM 1261 and UM 1271.

OTHER EXPERIENCE: I received my certification from the National Association of State Boards of Accountancy in the Principles of Public Utilities Operations and Management in March of 1997. I have attended the Institute of Public Utilities sponsored by the National Association of Regulatory Utility Commissioners at Michigan State University in August of 2002 and the College of Business Administration and Economics at New Mexico State University's Center for Public Utilities in May of 2004.

In 2005, I attended the National Association of Regulatory Utility Commissioners Advanced Course at Michigan State University. I worked for seven years for the Oregon State Department of Revenue as a Senior Utility and Industrial Appraiser.

CASE: UE 177
WITNESS: Dustin Ball

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 102

Witness Qualification Statement

January 22, 2008

WITNESS QUALIFICATION STATEMENT

NAME: DUSTIN BALL

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR FINANCIAL ANALYSIT, ECONOMIC RESEARCH & FINANCIAL ANALYSIS DIVISION

ADDRESS: 550 CAPITOL STREET NE SUITE 215, SALEM, OREGON 97301-2115.

EDUCATION: Bachelor of Science, Business focusing in Accounting, Western Oregon University (2003)

EXPERIENCE: Employed with the Oregon Public Utility Commission since August 2007. I am a Senior Financial Analyst for the Economic Research & Financial Analysis Division.

Employed by the Oregon Real Estate Agency as a Financial Investigator in the Regulations Division from January 2006 to August 2007.

Employed by the Oregon Department of Revenue as an Income Tax Auditor, in the Personal Tax and Compliance Section from January 2004 to January 2007.

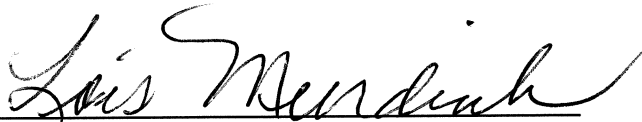
Licensed Tax Consultant in the State of Oregon.

CERTIFICATE OF SERVICE

UE 177

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 22nd day of January, 2008.

A handwritten signature in cursive script that reads "Lois Meerdink". The signature is written in black ink and is positioned above a horizontal line.

Lois Meerdink
Public Utility Commission
Regulatory Operations
550 Capitol St NE Ste 215
Salem, Oregon 97301-2551
Telephone: (503) 378-8959

**UE 177
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