

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 177, UE 178, UG 170 & UG 171

In the Matters of the PUBLIC UTILITY )  
 COMMISSION OF OREGON STAFF )  
 directing: )  
 )  
 PACIFICORP, dba PACIFIC POWER , )  
 (UE 177) )  
 )  
 PORTLAND GENERAL ELECTRIC )  
 COMPANY, (UE 178) )  
 )  
 NORTHWEST NATURAL GAS COMPANY, )  
 dba NW NATURAL, (UG 170) )  
 )  
 and )  
 )  
 AVISTA UTILITIES, (UG 171) )  
 )  
 To file tariffs establishing automatic )  
 adjustment clauses under the terms of SB 408. )

ORDER

**DISPOSITION: AUTOMATIC ADJUSTMENT CLAUSES  
ESTABLISHED**

On October 15, 2007, PacifiCorp, dba Pacific Power, Portland General Electric Company, Northwest Natural Gas Company, and Avista Utilities (collectively utilities) filed tax reports identifying the amount of income taxes authorized to be collected in rates and the amount of income taxes paid by the utility or its consolidated tax group in a given year. The Commission staff (Staff) examined the reports and concluded that, for each utility, the amounts collected and paid differed by more than \$100,000 in one or more years. At its January 22, 2008, Public Meeting, the Commission adopted the tariff schedules establishing automatic clauses to account for the difference.

**DISCUSSION**

**Background**

Senate Bill 408, passed by the 2005 Legislative Assembly, establishes a new method for the rate treatment of utility income taxes. Generally, SB 408 requires a utility to true-up any differences between the amounts of income taxes collected in rates from customers and amounts of taxes paid to the government that are “properly attributed” to the utility’s regulated operations. See ORS 757.268(4). The utilities must make annual tax

filings on October 15 of each year. If amounts collected and amounts paid differ by more than \$100,000, the utility must adjust rates accordingly through an automatic adjustment clause. *See* ORS 757.268 (4), (6)(a).

Although SB 408 became effective upon its passage in September 2005, Section 4(2) provides that, notwithstanding any other provision of the act, “the automatic adjustment clause shall apply only to taxes paid to units of government and collected from rate payers on or after January 1, 2006.” In other words, despite the fact that the subject utilities have been required to make tax filings since 2005, no adjustment to rates could be made through the automatic adjustment clause until after the Commission had utility tax information for the 2006 tax year.

To implement SB 408, we adopted OAR 860-022-0041. *See* AR 499, Order No. 06-532. The rule requires the Commission to review the tax filings and determine, within 180 days of the tax filings, whether the amount of taxes collected in rates differed by more than \$100,000 or more from the amount of taxes paid. *See* OAR 860-022-0041(7)(b). If the requisite difference is found, the rules also require the Commission to order the affected utility to establish an automatic adjustment clause to account for the difference, with a rate adjustment to be effective each June 1. *See* OAR 860-022-0041(8).

### **2007 Tax Reports and Automatic Adjustment Clauses**

As noted above, the utilities filed their respective tax reports containing the required data from the 2006 tax year on October 15, 2007. On November 5, 2007, we held a conference with the parties to establish a procedural schedule to provide an opportunity for Staff and intervenors to review and audit the utilities’ tax reports. The procedural schedule includes the opportunity for discovery, the filing of written testimony, the holding of evidentiary hearings, and briefing by the parties. The schedule also requires a Commission decision on April 11, 2008. *See* Administrative Law Judge Prehearing Conference Memorandum, November 7, 2007.

Although review of the tax reports are still pending, Staff recommends that the Commission perform the ministerial act of establishing automatic adjustment clauses for the utilities using numbers contained in those filings. Staff states that such action is appropriate so long as the structure and the terms of the automatic adjustment clauses are subject to later revision when the Commission issues its final orders in these dockets on April 11, 2008. Staff explains that the Commission may order any necessary revisions by requiring the filing of compliance tariffs, well in advance of June 1, 2008, the effective date for rate adjustments under all four automatic adjustment clauses.

The Commission addressed Staff’s recommendation at its January 22, 2008, Public Meeting. Copies of the Staff Reports are attached as Appendices A-D and incorporated by reference. Representatives from the Industrial Customers of Northwest Utilities (ICNU), the Utility Reform Project and Ken Lewis (collectively URP), Pacific Power and PGE appeared and provided comments.

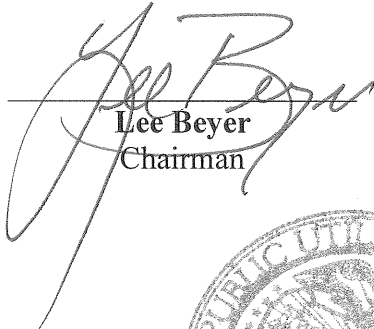
Based on comments from interested persons, Staff clarified that PGE's tax-related deferral in docket UM 1224 is separate and unrelated to the recommended automatic adjustment clause proposed in UE 178. Moreover, Staff modified its recommendation to clarify that the automatic adjustment clauses be adopted on January 22, 2008, and, by their terms, will apply to rates on and after June 1, 2008.

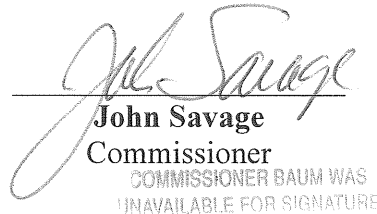
**Resolution**

At the January 22, 2008 Public Meeting, the Commission approved Staff's modified recommendation to adopt the tariff schedules for Pacific Power (Advice No. 07-019), PGE (Advice No. 07-24), NW Natural (Advice No. 07-10-G) and Avista (Advice No. 08-1). By their respective terms, all four tariffs apply to rates on June 1, 2008. Moreover, the structure and terms of the tariffs are subject to any revision as determined following final review of the filings. The Commission will announce any required changes in orders issued on April 11, 2008, and will, if necessary, require the utilities to file compliance tariffs prior to June 1, 2008.

IT IS SO ORDERED.

Made, entered and effective JAN 24 2008

  
\_\_\_\_\_  
**Lee Beyer**  
Chairman

  
\_\_\_\_\_  
**John Savage**  
Commissioner  
COMMISSIONER BAUM WAS  
UNAVAILABLE FOR SIGNATURE

\_\_\_\_\_  
**Ray Baum**  
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 22, 2008

REGULAR  X  CONSENT       EFFECTIVE DATE  June 1, 2008

DATE: January 9, 2008

TO: Public Utility Commission

FROM: Judy Johnson *JJ*

THROUGH: *LS* Lee Sparling and *EB* Ed Busch

SUBJECT: PACIFIC POWER & LIGHT: (Docket No. UE 177/Advice No. 07-019)  
Establishes Schedule 102, Income Tax Adjustment.

**STAFF RECOMMENDATION:**

I recommend that the Commission approve the Advice filing with an effective date of June 1, 2008, subject to later revision if necessary.

**DISCUSSION:**

On October 15, 2007, Pacific Power & Light (PacifiCorp) filed Advice No. 07-019 concurrently with the filing of its tax report for 2006 in Docket UE 177, pursuant to ORS 757.267 and 757.268 and OAR 860-022-0041.

PacifiCorp's tax report for 2006 reflects a difference between taxes authorized to be collected in rates and taxes paid of \$32.65 million. Under SB 408, this difference plus interest, is to be collected as a surcharge through an automatic adjustment clause (AAC). To moderate the impact of this surcharge upon customers, PacifiCorp's proposed Schedule 102 limits the increase at this time to an overall average of three percent which totals \$27 million. The surcharge is allocated by customer rate schedule on an equal cents per kilowatt-hour basis, as required by OAR 860-022-0041(8)(d). PacifiCorp proposes to defer the portion of the surcharge not recovered by Schedule 102 to its SB 408 balancing account.

This ministerial act of establishing the automatic adjustment clause using numbers derived from the tax filing the utility made on October 15, 2007, is appropriate so long as the numbers in this AAC are subject to revision when the Commission issues its final order in this docket on April 11 of this year. The Commission can order those revisions, if there are any, by requiring the submission of compliance tariffs, well in advance of

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January 9, 2008  
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June 1, 2008, when dollars are to flow through the clauses as surcharges or as reductions.

**PROPOSED COMMISSION MOTION:**

PacifiCorp's application for implementation of tariff schedules in Advice No. 07-019 with an effective date of June 1, 2008, be approved.

PPL 07-19

ITEM NO. 3

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 22, 2008

REGULAR  CONSENT  EFFECTIVE DATE June 1, 2008

DATE: January 9, 2008

TO: Public Utility Commission

FROM: Judy Johnson *JJ*

THROUGH: *li* Lee Sparling and *EB* Ed Busch

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UE 178/  
Advice No. 07-24) Establishes Schedule 140, Income Tax Adjustment.

**STAFF RECOMMENDATION:**

I recommend that the Commission approve the Advice filing with an effective date of June 1, 2008, subject to later revision if necessary.

**DISCUSSION:**

On October 15, 2007, Portland General Electric (PGE) filed Advice No. 07-24 concurrently with the filing of its tax report for 2006 in Docket UE 178, pursuant to ORS 757.267 and 757.268 and OAR 860-022-0041.

PGE's tax report for 2006 reflects a difference between taxes authorized to be collected in rates and taxes paid of \$37.1 million. Under SB 408, this difference plus interest, is to be refunded through an automatic adjustment clause (AAC). The local portion of the refund amount will be treated through PGE's Schedule 106, an automatic adjustment clause that has previously been approved by the Commission. PGE is proposing to refund the state/federal portion of the credit over a two-year period. The company states that it believes this will reduce the impact to customers of an expected change to rates in June 2009 due to the application of SB 408 to 2007 results. The refund is allocated by customer rate schedule on an equal cents per kilowatt-hour basis, as required by OAR 860-022-0041(8)(d). PGE proposes to defer the portion of the credit not refunded by Schedule 140 to its SB 408 balancing account.

This ministerial act of establishing the automatic adjustment clause using numbers derived from the tax filing the utility made on October 15, 2007, is appropriate so long as the numbers in this AAC are subject to revision when the Commission issues its final

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January 9, 2008  
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order in this docket on April 11 of this year. The Commission can order those revisions, if there are any, by requiring the submission of compliance tariffs, well in advance of June 1, 2008, when dollars are to flow through the clauses as surcharges or as reductions.

**PROPOSED COMMISSION MOTION:**

PGE's application for implementation of tariff schedules in Advice No. 07-24 with an effective date of June 1, 2008, be approved.

PGE 07-24

ITEM NO. 4

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 22, 2008

REGULAR  X  CONSENT      EFFECTIVE DATE  June 1, 2008

DATE: January 9, 2008

TO: Public Utility Commission

FROM: Judy Johnson *JJ*

THROUGH: *li* Lee Sparling and *EB* Ed Busch

SUBJECT: AVISTA UTILITIES: (Docket No. UG 171/Advice No. 07-10-G)  
Establishes Schedule 465, Income Tax Adjustment.

**STAFF RECOMMENDATION:**

I recommend that the Commission approve the Advice filing with an effective date of June 1, 2008, subject to later revision if necessary.

**DISCUSSION:**

On December 20, 2007, Avista Utilities (Avista) filed Advice No. 07-10-G, an automatic adjustment clause tariff related to its tax report for 2006 in Docket UG 171, pursuant to ORS 757.267 and 757.268 and OAR 860-022-0041.

Avista's tax report for 2006 reflects a difference between taxes authorized to be collected in rates and taxes paid of \$1.1 million. Under SB 408, this difference plus interest, is to be refunded through an automatic adjustment clause (AAC). The refund is allocated by customer rate schedule on an equal percent of margin basis, as required by OAR 860-022-0041(8)(d).

This ministerial act of establishing the automatic adjustment clause using numbers derived from the tax filing the utility made on October 15, 2007, is appropriate so long as the numbers in this AAC are subject to revision when the Commission issues its final order in this docket on April 11 of this year. The Commission can order those revisions, if there are any, by requiring the submission of compliance tariffs, well in advance of June 1, 2008, when dollars are to flow through the clauses as surcharges or as reductions.



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**PROPOSED COMMISSION MOTION:**

Avista's application for implementation of tariff schedules in Advice No. 07-10-G with an effective date of June 1, 2008, be approved.

Avista 07-10-G

ITEM NO. 5

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 22, 2008

REGULAR  X  CONSENT      EFFECTIVE DATE  June 1, 2008

DATE: January 10, 2008

TO: Public Utility Commission

FROM: Judy Johnson *JJ*

THROUGH: *Li* Lee Sparling and *EB* Ed Busch

SUBJECT: NORTHWEST NATURAL: (Docket No. UG 170/Advice No. 08-1)  
Establishes Schedule 161, Income Tax Adjustment.

**STAFF RECOMMENDATION:**

I recommend that the Commission approve the Advice filing with an effective date of June 1, 2008, subject to later revision if necessary.

**DISCUSSION:**

On January 9, 2007, Northwest Natural (NW Natural) filed Advice No. 08-1, an automatic adjustment clause tariff related to its tax report for 2006 in Docket UG 170, pursuant to ORS 757.267 and 757.268 and OAR 860-022-0041.

NW Natural's tax report for 2006 reflects a difference between taxes authorized to be collected in rates and taxes paid of \$1.9 million. Under SB 408, this difference plus interest, is to be collected as a surcharge through an automatic adjustment clause (AAC). NW Natural is proposing a one-time lump sum adjustment to customer bills issued in the month of June. To ensure that the effect of this one-time annual bill adjustment does not materially impact customers, by separate filing, the company intends to propose changes to Schedule 185 "Special Annual Interstate and intrastate Storage and Transportation Credit" and Schedule 186 "Special Annual Core Pipeline Capacity Optimization Credit" such that the applicable annual credits would also be applied to June bills. The surcharge is allocated by customer rate schedule on an equal cents percentage of margin basis, as required by OAR 860-022-0041(8)(d).

This ministerial act of establishing the automatic adjustment clause using numbers derived from the tax filing the utility made on October 15, 2007, is appropriate so long as the numbers in this AAC are subject to revision when the Commission issues its final

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January 10, 2008  
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order in this docket on April 11 of this year. The Commission can order those revisions, if there are any, by requiring the submission of compliance tariffs, well in advance of June 1, 2008, when dollars are to flow through the clauses as surcharges or as reductions.

**PROPOSED COMMISSION MOTION:**

NW Natural's application for implementation of tariff schedules in Advice No. 08-1 with an effective date of June 1, 2008, be approved.

NWN 08-1