

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 178(4)

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY

Annual Tax Filings under ORS 757.268.

ORDER

DISPOSITION: STIPULATION ADOPTED

**I. INTRODUCTION**

In this order, the Public Utility Commission of Oregon (Commission) approves a stipulation that resolves all issues related to the tax report for calendar year 2009 (2009 Tax Report) filed by Portland General Electric Company (PGE) in compliance with Senate Bill (SB) 408. The stipulation authorizes PGE to refund to customers \$7,944,299 for state and federal taxes, plus an estimated \$1,352,545 in interest accrued through the end of the amortization period. The stipulation also authorizes PGE to surcharge to customers an additional \$284,881 for local taxes, plus an estimated \$48,502 in interest accrued through the end of the amortization period.

SB 408, primarily codified at ORS 757.268, requires utilities to true-up any differences between income taxes authorized to be collected in rates from customers and income taxes actually paid to units of government that are “properly attributed” to utilities’ regulated operations.<sup>1</sup> Utilities must make annual tax filings reporting these amounts on October 15 of each year. If amounts collected and amounts paid differ by \$100,000 or more, then the Commission must order the utility to implement an automatic adjustment clause to account for the difference, with a rate adjustment effective June 1 of each year.<sup>2</sup>

**II. PROCEDURAL HISTORY**

On October 15, 2010, PGE filed its 2009 Tax Report as required by ORS 757.268.<sup>3</sup> Commission Staff held a workshop On November 2, 2010, and

<sup>1</sup> ORS 757.268(4).

<sup>2</sup> See ORS 757.268(4), (6)(a); OAR 860-022-0041(8).

<sup>3</sup> PGE’s 2009 Tax Report (Oct 15, 2010) is admitted into the record in this docket.

settlement conferences on December 9 and 15, 2010, and January 4, 2011. Staff, PGE, the Citizens' Utility Board of Oregon (CUB), and the Industrial Customers of Northwest Utilities (ICNU) participated in settlement negotiations. Staff submitted an issues list on December 23, 2010, and a revised issues list on December 28, 2010.

PGE, Staff, and CUB (collectively the Stipulating Parties) submitted a stipulation and joint testimony in support of the stipulation on January 14, 2011. The stipulation and joint testimony are admitted into evidence under OAR 860-001-0350. The stipulation is attached to this order as Appendix A.

ICNU submitted objections to the stipulation and testimony in support of the objections<sup>4</sup> on February 7, 2011. The Stipulating Parties submitted testimony in response to ICNU's objections on February 18, 2011. ICNU withdrew its objections on March 1, 2011, but did not withdraw its motion to admit its testimony in support of the objections. Although ICNU does not support the stipulation, ICNU also no longer objects to the stipulation, and therefore ICNU's testimony in support of its withdrawn objections is irrelevant to these proceedings. ICNU's motion to admit its testimony in support of its objections (ICNU/100-105) is denied. For the same reason, the Stipulating Parties' testimony in response to ICNU's objections (Stipulating Parties/200-205) is also irrelevant and is not admitted into the record in these proceedings.

### III. DISCUSSION

According to PGE's 2009 Tax Report, PGE paid approximately \$2.4 million less in federal and state taxes and approximately \$285,000 more in local taxes than it was authorized to collect in rates. After discussions and settlement negotiations with Staff and CUB, PGE agreed to the following changes to its 2009 Tax Report: (1) reduction in the amount of federal income taxes paid by \$61 million to reflect two refunds; (2) increase in revenue collected by \$13.4 million to reflect supplemental tariffs that included an income tax component; (3) correction of a \$678,822 error related to the iterative effect for the consolidated method; and (4) inclusion of an adjustment to true-up deferred taxes related to a change in the Oregon tax rate. These changes did not affect the surcharge for local taxes, but did increase the refund for federal and state taxes by approximately \$5.5 million. The changes are reflected in the stipulation and in PGE's amended 2009 Tax Report, which was included as exhibit 104 to the testimony in support of the stipulation.

The stipulation resolves all issues related to PGE's 2009 Tax Report. The Stipulating Parties agree that the amended report complies with SB 408 and OAR 860-022-0041, and that the 2009 SB 408 refund for state and federal taxes should be \$7,944,299, plus an estimated \$1,352,545 in interest accrued through the end of the amortization period. The Stipulating Parties also agree that the surcharge for local taxes should be \$284,881, plus an estimated \$48,502 in interest accrued through the end of the amortization period. Under the terms of the stipulation, PGE must revise its

---

<sup>4</sup> ICNU/100-105, Blumenthal.

Schedule 140 to collect the surcharge for state and federal taxes over one year beginning June 1, 2011. PGE must also revise its Schedule 106 to amortize the refund for local taxes over the same time period.

**IV. CONCLUSION**

The Commission encourages parties to a proceeding to voluntarily resolve issues to the extent that settlement is in the public interest. The active parties to this docket entered into a stipulation that resolves all outstanding issues. The Commission has examined the stipulation and the joint testimony in support of the stipulation. We conclude that rates implementing the refund authorized by the stipulation are fair, just, and reasonable. We therefore adopt the stipulation in its entirety.

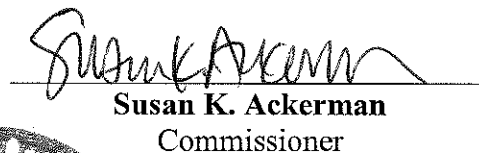
**V. ORDER**

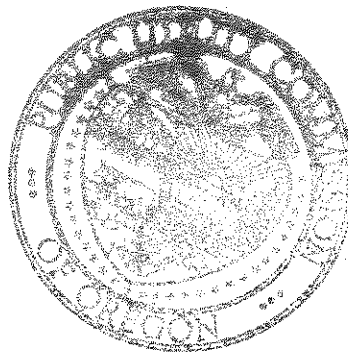
IT IS ORDERED that:

1. The stipulation attached as Appendix A is adopted.
2. Portland General Electric Company must file updated Schedules 140 and 106 consistent with this order and the stipulation. The updated schedules must have a June 1, 2011 effective date.

Made, entered, and effective APR 11 2011.

  
 \_\_\_\_\_  
**John Savage**  
 Commissioner

  
 \_\_\_\_\_  
**Susan K. Ackerman**  
 Commissioner



A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.



**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**UE 178(4)**

In the Matter of

OREGON PUBLIC UTILITY  
COMMISSION STAFF

Requesting the Commission Direct  
PORTLAND GENERAL ELECTRIC  
COMPANY

To file tariffs establishing automatic  
adjustment clauses under the terms of  
SB 408

**STIPULATION**

This Stipulation is among Portland General Electric Company ("PGE"), Staff of the Public Utility Commission of Oregon ("Staff"), and the Citizens' Utility Board of Oregon ("CUB") (collectively, the "Stipulating Parties").

**I. INTRODUCTION**

Pursuant to ORS 757.268 and OAR 860-022-0041, on October 15, 2010, PGE filed its tax report for calendar-years 2007, 2008 and 2009 ("2009 Tax Report"). Staff, CUB, ICNU, and PGE conducted workshops and settlement conferences on November 2, December 9, and December 15, 2010, and January 4, 2011. On December 23, 2010, Staff filed an issues list. On December 28, 2010, Staff filed a revised issues list. In addition, PGE has responded to a number of data requests issued by Staff and ICNU.

As a result of the settlement discussions, the Stipulating Parties have agreed to the terms of this Stipulation and to submit the Stipulation to the Commission. The

Stipulating Parties request that the Commission issue an order approving the Stipulation and implementing its terms.

## II. SPECIFIC TERMS

A. The Stipulating Parties agree for the purpose of settlement that PGE will file a revised 2009 Tax Report in conjunction with the filing of this Stipulation for calendar year 2009 that makes the following adjustments:

- “Federal Income Taxes Paid by Taxpayer” on page two, line one is reduced by approximately \$61 million to reflect two tentative refunds for 2009 (the “2009 Tax Refunds”).
- “Revenue Collected” on page 1, line 7 is increased by approximately \$13.4 million to reflect supplemental tariffs for AMI and Biglow Canyon 1 Adjustment.
- Page six, line 26 is increased by \$673,822 to correct an error related to the iterative effect for the consolidated method.
- Page two, line 11 is revised to remove the “Utility Oregon tax rate change” of \$3.4 million deferred true-up amount. This adjustment reflects a true-up of previously booked deferred amounts for the change in Oregon tax rate. This amount is moved to page six, lines 4a, 13a, and 22a.

B. The Stipulating Parties agree that the 2009 Tax Report reflects the 2009 Tax Refunds and such refund amounts will not be recognized in future tax reports for any purpose including (i) under any of the methods used for calculating “taxes paid” or (ii) for determining the normalization floor pursuant to OAR 860-022-0041(4)(d). Any adjustments ordered by the Internal Revenue Service with respect to the 2009 Tax Refunds may be recognized in future tax reports.

C. The Stipulating Parties recognize that the impact of the losses leading to the 2009 Tax Refunds upon PGE’s Oregon state tax liability will be recognized in a future tax report as a carry-forward benefit through a reduction of utility tax expenses.

D. The Stipulating Parties agree that PGE will, to the extent consistent with

governing Commission rules, use a "filed, and (i) received or (ii) paid" standard for the timing of recognition of prior year tax adjustments. Under this standard, prior year tax adjustments will be included in a tax report if the adjustment is filed with the taxing authorities and payment is made or received by the utility before the filing of the tax report. The Stipulating Parties acknowledge that a portion of the 2009 Tax Refund (approximately \$8.1 million) has not yet been received by PGE but is included in the 2009 Tax Refunds and reflected in the 2009 Tax Report for settlement purposes.

E. The Parties agree that in future tax reports PGE will include in "revenue collected" revenues from supplemental tariffs that contain an income tax component in the rate calculation.

F. The Parties agree that for settlement purposes Staff and CUB support a true-up to the deferred tax balance of approximately \$3.4 million that represents an adjustment for the change in the Oregon tax rate. However, Staff and CUB reserve the right to review in future tax report proceedings the appropriate impact of tax rate changes on deferred taxes.

G. A copy of the tax report for calendar year 2009 making these adjustments is being filed in this docket as Joint Stipulation Exhibit 104 (the "Amended 2009 Tax Report").

H. The Stipulating Parties agree that the Amended 2009 Tax Report properly reflects a Federal & State refund of \$7.9 million and a Local surcharge of \$284,881 and that such adjustment amounts are consistent with the applicable statutes and rules. The Stipulating Parties further agree that rates reflecting such rate adjustments are just, reasonable and fair.

I. The federal and state tax adjustment reflected in the Amended 2009 Tax Report will be implemented through Schedule 140. The local tax adjustment reflected in the Amended 2009 Tax Report will be implemented through PGE's existing Multnomah County Business Income Tax Schedule 106.

### III. GENERAL TERMS

A. The Stipulating Parties agree that the Stipulation represents a compromise of the positions of the parties for the purpose of this docket. Without the written consent of all parties, evidence of conduct or statements, including but not limited to term sheets or other documents created solely for use in settlement conferences in this docket, are confidential and not admissible in the instant or any subsequent proceeding, unless independently discoverable or offered for other purposes allowed under ORS 40.190. Nothing in this paragraph precludes a party from stating as a factual matter what the parties agreed to in this Stipulation.

B. If this Stipulation is challenged by any other party to this proceeding, or any other party seeks an adjustment amount that departs from the terms of this Stipulation, the Stipulating Parties reserve the right to cross-examine witnesses and put in such evidence as they deem appropriate to respond fully to the issues presented including the right to explain or describe the terms of this Stipulation. Notwithstanding this reservation of rights, the Stipulating Parties agree they will continue to support the Commission's adoption of the terms of this Stipulation.

C. If the Commission rejects all or any material part of this Stipulation, or adds any material condition to any final order that is not consistent with this Stipulation, each Stipulating Party reserves its right (i) pursuant to OAR 860-001-0350(9), to present evidence and argument on the record in support of the Stipulation and (ii) pursuant to OAR 860-001-0720, to seek rehearing or reconsideration.

D. This Stipulation will be offered into the record in this proceeding as evidence pursuant to OAR 860-001-0350(7). The Stipulating Parties agree to support this Stipulation throughout this proceeding and in any appeal, provide witnesses to support the Stipulation at



the hearing, and recommend that the Commission issue an order implementing the terms of the Stipulation.

E. By entering into this Stipulation, no Stipulating Party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed by any other Stipulating Party in arriving at the terms of this Stipulation. Except as provided in this Stipulation, no Stipulating Party shall be deemed to have agreed to any provision of this Stipulation is appropriate for resolving issues in any other proceeding.

F. This Stipulation may be signed in any number of counterparts, each of which will be deemed an original for all purposes, but all of which taken together will constitute one and the same agreement.

DATED this 14<sup>th</sup> day of January, 2011.

PORTLAND GENERAL ELECTRIC  
COMPANY

By Dal White  
Its Legal Counsel

STAFF OF THE PUBLIC UTILITY  
COMMISSION OF OREGON

By Paula Maham for Jason W. Jones  
Its Legal Counsel

CITIZENS' UTILITY BOARD OF OREGON

By [Signature]  
Its Legal Counsel