

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 177/ UE 178/ UG 170/ UG 171

In the Matters of)
)
PACIFICORP, dba PACIFIC POWER &)
LIGHT COMPANY (UE 177))
)
PORTLAND GENERAL ELECTRIC)
COMPANY, (UE 178))
)
NORTHWEST NATURAL GAS)
COMPANY, dba NW NATURAL,)
(UG 170))
)
and)
)
AVISTA UTILITIES, (UG 171))
)
Tariffs establishing automatic adjustment)
clauses under the terms of)
SB 408.)

ORDER

DISPOSITION: FINDINGS MADE REGARDING TAXES
COLLECTED AND TAXES PAID

I. INTRODUCTION

On September 2, 2005, Governor Kulongoski signed into law Chapter 757, OR Laws 2005 (Senate Bill 408). Senate Bill 408 (SB 408) requires certain public utilities to file annual tax reports and other tax information with the Public Utility Commission of Oregon (Commission). The bill requires the report to provide information concerning the amount of taxes paid by the public utility and the amount of taxes authorized to be collected in rates during specified time periods. Further, the bill requires the Commission to review the report and determine if the amount of taxes assumed in rates differed by at least \$100,000 from the amount of taxes paid by the public utility to units of government. Senate Bill 408 directs the Commission, upon finding that difference in amounts, to require the public utility to implement a rate schedule with an automatic adjustment clause accounting for the difference.

In docket AR 499, we formulated rules to implement SB 408. Permanent rules were adopted in Order No. 06-532, entered September 14, 2006. Pursuant to OAR 860-022-0041(4), each of the utilities must file a "tax report" with the Commission

on or before October 15th of each year. The contents of the “tax report” are specified by rule.

The rules further provide that the Commission will establish an ongoing docket for each of the tax filings. *See* OAR 860-022-0041(7). Those docket numbers for each of the utilities are shown in the caption of this order. OAR 860-022-0041(7)(b) requires that the Commission issue an order in each of those dockets within 180 days of the tax filings.

Each of the utilities filed its tax report as required by the rules. The Commission staff (Staff) presented reports for each of the utilities at the Commission’s Public Meeting on April 10, 2007. This Order is based on the Staff reports.

II. PROCESS

Staff indicated that each utility filing was very detailed and adequately documents the procedures and methodologies in compliance with the adopted rules. Staff stated that it reviewed in great specificity one of the tax years reported by each utility, examining each calculation and all supporting documentation. In each case, Staff discovered a few inconsistencies or issues specific to that filing, as well as inconsistencies that relate more globally to the rules and/or the interpretation of the rules by the utility versus the Staff. For each utility, Staff held a public workshop to discuss its findings with the utility and interested parties.

III. RESULTS

PacifiCorp, dba Pacific Power & Light Company (PacifiCorp) Docket UE 177

Staff finds that for the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$5,325,200 less than the amount authorized to be collected in PacifiCorp’s rates. Additionally, Staff finds that for the 2005 fiscal year, the amount of local income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$458,900 more than the amount authorized to be collected in PacifiCorp’s rates.¹

¹ PacifiCorp's tax report did include tax information through March 2006 because it was owned by Scottish Power until late March, 2006. We note that SB 408 requires a true-up of income taxes collected and paid beginning January 1, 2006, so that PacifiCorp would be otherwise subject to a true-up for the first quarter of 2006.

However, Staff recommends the Commission not make a rate adjustment for the first three months of 2006 at this time, and instead make a rate adjustment for all of 2006 at a later date, for the following reasons:

1. As described in the staff report, the data underlying the company's tax report for the three months of 2006 are best estimates, not actuals. The company is still awaiting actual tax data and documentation from Scottish Power, its former owner.
2. The upcoming October 2007 report will contain tax information for all twelve months of 2006, including the tax filing under Scottish Power as well as under the new owner, Mid-American.

Portland General Electric (PGE) Docket No. UE 178

Staff finds that for the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$111,036,300 less than the amount authorized to be collected in PGE's rates. Additionally, Staff finds that for the 2005 fiscal year, the amount of local taxes paid to units of government that is properly attributed to the regulated operations is approximately \$1,614,300 less than the amount authorized to be collected in PGE's rates.

Northwest Natural Gas Company (NWN) Docket UG 170

Staff finds that for the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$2,957,000 more than the amount authorized to be collected in NWN's rates. Additionally, Staff finds that for the 2005 fiscal year, the amount of local income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$23,000 more than the amount authorized to be collected in NWN's rates.

Avista Utilities (Avista) Docket UG 171

Staff finds that for the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$1,557,000 less than the amount authorized to be collected in Avista's rates. Additionally, Staff finds that for the 2005 fiscal year, because Avista is not subject to local income tax in Oregon, there is no difference between the amount of local income taxes paid to units of government that is properly attributed to the regulated operations and the amount authorized to be collected in Avista's rates.

3. The administrative rules adopted by the Commission in Docket AR 499 address this situation -- a change in the utility's fiscal year and parent -- by requiring a weighted average of the tax return filings.

4. Basing the SB 408 true-up for 2006 on the results of the upcoming October 2007 report will not disadvantage either the company or customers, because interest is accrued on the full amount of the difference, going back to 2006.

5. Importantly, section (8)(g) of the rule states that no rate adjustment will be implemented while a utility's request for a Private Letter Ruling is pending. PacifiCorp and the other three utilities filed requests at the end of last year, but the IRS has not yet made its rulings.

IV. FINDINGS

Based on Staff's reports, the Commission makes the following findings for each utility:

PacifiCorp

1. The amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations of the PacifiCorp for the years 2003, 2004 and 2005 differs by more than \$100,000 from the amount authorized to be collected in rates.
2. For the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$5,325,200 less than the amount authorized to be collected in PacifiCorp's rates.
3. For the 2005 fiscal year, the amount of local income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$458,900 more than the amount authorized to be collected in PacifiCorp's rates.
4. As described in the staff report, the data underlying the company's tax report for the three months of 2006 are best estimates, not actuals. The company is still awaiting actual tax data and documentation from Scottish Power, its former owner,
5. The upcoming October 2007 report will contain tax information for all twelve months of 2006, including the tax filing under Scottish Power as well as under the new owner, Mid-American.
6. Basing the SB 408 true-up for 2006 on the results of the upcoming October 2007 report will not disadvantage either the company or customers, because interest is accrued on the full amount of the difference, going back to 2006.

PGE

1. The amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations of PGE for the years 2003, 2004 and 2005 differs by more than \$100,000 from the amount authorized to be collected in rates.
2. For the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$111,036,300 less than the amount authorized to be collected in PGE's rates.

3. For the 2005 fiscal year, the amount of local income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$1,614,300 less the amount authorized to be collected in PGE's rates.

NWN

1. The amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations of NWN for the years 2003, 2004 and 2005 differs by more than \$100,000 from the amount authorized to be collected in rates.

2. For the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$2,957,000 more than the amount authorized to be collected in NWN's rates.

3. For the 2005 fiscal year, the amount of local income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$23,000 more than the amount authorized to be collected in NWN's rates.

AVISTA

1. The amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations of Avista for the years 2003, 2004 and 2005 differs by more than \$100,000 from the amount authorized to be collected in rates.

2. For the 2005 fiscal year, the amount of federal and state income taxes paid to units of government that is properly attributed to the regulated operations is approximately \$1,557,000 less than the amount authorized to be collected in Avista's rates.

3. For the 2005 fiscal year, because Avista is not subject to local income tax in Oregon, there is no difference between the amount of local income taxes paid to units of government that is properly attributed to the regulated operations and the amount authorized to be collected in Avista's rates.

V. CONCLUSION

For each utility, we have determined that the amount of income taxes paid to units of government that is properly attributed to regulated operations differs from the amount authorized to be collected in rates by more than \$100,000. As Staff notes, such findings would ordinarily trigger OAR 860-022-0041(8), which requires each utility to file an amended tariff, to become effective June 1 of each year, to implement any required rate adjustment. These findings, however, relate only to taxes paid and collected during the years 2003, 2004 and 2005, or, in the case of PacifiCorp address estimated actual results

actual results for a portion of 2006. Because SB 408 applies only to taxes paid and collected on or after January 1, 2006, there can be no rate adjustment for PGE, NW Natural or Avista. Moreover, we agree with Staff and conclude that no rate adjustment should be made at this time for PacifiCorp.

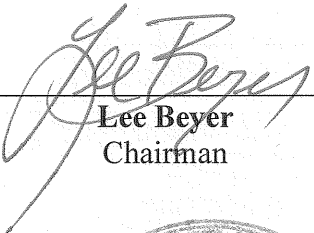
Commission counsel has advised that no formal tariff filing is needed at this time. Staff states that it has agreed to work with each utility to format a tariff for future filings.

ORDER


IT IS ORDERED that:

1. The Commission makes the required findings, set forth above, as required by OAR 860-022-0041(7).
2. No formal tariff filings are required of Portland General Electric Company, PacifiCorp, dba Pacific Power & Light Company, Northwest Natural Gas Company, and Avista Utilities.

Made, entered, and effective APR 11 2007.



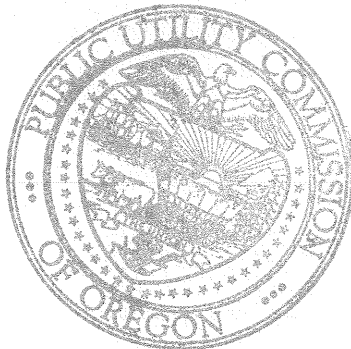
Lee Beyer
Chairman



John Savage
Commissioner



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.