

150-314.280-(O)

Public Utilities: Sale of Commodities

(1) The sale of a commodity such as electricity, water, steam, oil, oil products or gas, including but not limited to natural and liquid gas, which is delivered or shipped to a purchaser with a contractually specified point of physical delivery in Oregon, is a sale in this state. It does not matter whether the purchaser uses the property in Oregon, transfers the property to another state, or resells the property in Oregon. If the contract states the point of delivery is at the Oregon border with another state, the sale is presumed to be in Oregon unless the taxpayer can demonstrate to the satisfaction of the department that delivery occurred in some other place.

Example 1: A provider of wholesale electricity enters into a contract to deliver a specified amount and duration of a supply of electricity to a purchaser who takes possession at a contractually specified point of physical delivery in Oregon. The sale is an Oregon sale.

(2) A taxpayer who contracts to sell electricity to and also buy electricity from the same entity during the same period or partial period of time will have an offsetting contractual amount, also known as a book-out transaction. The gross sales of electricity, without regard to the offsetting purchase amount, are considered to be Oregon sales if the contractually specified point of physical delivery is in Oregon.

Example 2: Company A signed a contract on January 2, 2016, to purchase 50 megawatts of electricity for a period of 10 hours starting November 15, 2016, from Company B with a delivery point of Malin, Oregon. For this same time period, Company A signed a contract on March 15, 2014, to sell 30 megawatts of electricity to Company B with a point of delivery at Malin, Oregon. The 30 megawatts of power is recorded as a book-out transaction on both companies' books for reporting to Oregon. The offsetting transaction for the 30 megawatts is deemed to be delivered in Oregon for the purposes of computing the Oregon sales factor. Company A will report the sale of 30 megawatts in its Oregon sales factor numerator and Company B will report the sale of 50 megawatts (20 megawatts to complete the sales contract plus 30 megawatts from the book-out transaction) of electricity in its Oregon sales factor numerator.

Stat. Auth.: ORS 305.100; ORS 314.280

Stats. Implemented: ORS 314.280