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SB 408 PROPOSED RULES

I. TAX REPORT

Every public utility shall file a tax report with the Commission annually on or before October 15 following the year for which the report is being made. The tax report shall contain the following information:

a. The amount of Taxes Paid by the Utility in the three preceding years, or the amount of Taxes Paid by the Affiliated Group and that is Properly Attributed to the Regulated Operations of the Utility, determined without regard to the tax year for which the taxes were paid;

b. The amount of Taxes Authorized to Be Collected in Rates for the three preceding years.

II. ACCESS TO INFORMATION AND COMMISSION AUTHORITY

a. The Commission may disclose the difference between the amount of Taxes Paid to units of government during the three preceding years by the amount of costs for taxes collected, directly or indirectly, as part of rates paid by customers, including whether the difference is positive or negative.

b. The Commission may not use the tax information obtained under this rule for any purpose other than those described in this rule. An intervenor in a Commission proceeding to review the tax report or to implement the automatic adjustment clause described in this rule, upon signing a protective order prepared by the Commission, may obtain and use the information contained in the tax report that is not otherwise required to be made publicly available under this rule, according to the terms of the protective order. The terms of the protective order shall be substantially similar in form to the Commission's standard protective order and shall require that the information obtained under this rule may not be used for any purpose other than those described in this rule.

c. Notwithstanding anything in this rule, the Commission may authorize a Public Utility to include in rates:

   i. Deferred taxes resulting from accelerated depreciation or other tax treatment of utility investment; and

   ii. Tax requirements and benefits that are required to be included in order to ensure compliance with the normalization requirements of federal tax law.

III. DEFINITIONS

For purposes of these rules, the following definitions shall apply:

a. “Affiliated Group” means an affiliated group of corporations of which the public utility is a member and that files a consolidated federal income tax return.

b. “Deferred Taxes” means the total deferred tax expense of the Regulated Operations of the Utility as reported in the appropriate FERC deferred tax expense accounts that relate to the year being reported.

c. “Effective Tax Rate” means the ratio of tax expense (both current and deferred) to the pre-tax book regulatory income in the test year for the utility’s last general rate case, adjusted for rate proceedings other than general rate cases.

d. “Public Utility” or “Utility” means (i) a regulated investor-owned utility that provided electric or natural gas service to an average of 50,000 or more customers in Oregon in 2003; or (ii) a successor in interest to an entity described in subparagraph (i) of this definition that continues to be a regulated investor-owned utility.

e. "Regulated Operations of the Utility" means those activities of a public utility that are subject to rate regulation by the Commission.

f. "Tax" means:

   i. A federal, state or local tax or fee that is imposed on or measured by income and that is paid to units of government;

   ii. Does not include any amount that is refunded by a unit of government as a tax refund; and

   iii. Does not include franchise fee or privilege taxes.

g. "Taxes Authorized to Be Collected in Rates" means the product determined by multiplying the following three values:

   i. The revenues the Utility collects from ratepayers in Oregon, adjusted for any rate adjustment imposed under this rule;

   ii. The ratio of the net revenues from Regulated Operations of the Utility to gross revenues from Regulated Operations of the Utility, as determined by the Commission in establishing rates; and

   iii. The effective tax rate used by the Commission in establishing rates.

h. "Taxes Paid" means Tax payments received by units of government from the Utility or from the Affiliated Group of which the Utility is a member, whichever is applicable, adjusted as follows:

  i. Increased by the amount of tax savings realized as a result of charitable contribution deductions allowed because of charitable contributions made by the utility;

  ii. Increased by the amount of tax savings realized as a result of tax credits associated with the investment by the utility in the regulated operations of the utility, to the extent the expenditures giving rise to the tax credit and tax savings resulting from the tax credits have not been taken into account by the Commission in the utility's last ratemaking proceeding; and

  iii. Adjusted by deferred taxes related to the Regulated Operations of the Utility.