

**CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP**

**ATTORNEYS AT LAW  
SUITE 2000  
1001 SW FIFTH AVENUE  
PORTLAND, OREGON 97204-1136**

---

**TELEPHONE (503) 224-3092  
FACSIMILE (503) 224-3176**

EDWARD A. FINKLEA

[efinklea@chbh.com](mailto:efinklea@chbh.com)  
[www.cablehuston.com](http://www.cablehuston.com)

February 16, 2005

**COMMENTS OF THE NORTHWEST INDUSTRIAL GAS USERS  
ON STAFF WHITE PAPER**

The Northwest Industrial Gas Users (“NWIGU”) appreciate the opportunity to comment on the White Paper issued by the Staff of the Oregon Public Utility Commission (“OPUC”) entitled “Treatment of Income Taxes in Utility Ratemaking.”

NWIGU is a nonprofit association comprised of thirty-two industrial end users of natural gas with major facilities in the states of Oregon, Washington, and Idaho. NWIGU members include diverse industrial interests, including food processing, pulp and paper, wood products, electric generation, aluminum, steel, chemicals, electronics, and aerospace. The association provides an informational service to its members and participates in various regulatory matters that affect member interests. NWIGU member companies purchase natural gas sales and transportation services from three Oregon local distribution companies: Northwest Natural Gas Company; Cascade Natural Gas Corporation; and Avista Corporation.

The OPUC Staff White Paper raises many important issues regarding the treatment of income taxes for purposes of establishing rates for investor owned utilities in Oregon. NWIGU believes that utility rates should be cost based, and that income taxes can be a legitimate cost of doing business that should be reflected in the utility’s revenue requirement when establishing rates. As is the case with all of the cost components that go into determining what constitutes “fair, just and reasonable” rates, however, income taxes are a cost of service component that must be carefully audited. Under proper circumstances, income taxes can be reflected as part of the cost of service provided by an investor-owned regulated utility.

The OPUC Staff White Paper properly captures the issues that arise due to the convergence of utility accounting practices and federal and state tax laws. A single generic policy toward the treatment of income taxes should not be adopted. Instead, the Commission will need to exercise its discretion, using its authority over utility rates, to determine whether the utility’s income tax expense should be determined on a stand alone entity basis. In a given circumstance, the OPUC might find that for a utility’s rates to be fair, just and reasonable, the tax impact of a corporate conglomerate ownership structure should be reflected to lower rates below

Comments of the Northwest Industrial Gas Users on Staff White Paper

February 17, 2005

Page 2

---

the level that would result from treating the utility's tax liability on a stand alone basis. If the Oregon utility has been acquired by another entity, treating income taxes on a stand alone basis could be unjust and unreasonable and thus require some adjustment to the income tax figure that would result from treating the utility on a stand alone basis. If the utility has been thinly capitalized by a parent corporation for example, and the Commission has concerns about the utility's capital structure, an adjustment to the income tax figure of the stand alone entity could be appropriate.

NWIGU urges the Commission to decline suggestions that a single policy toward reflecting income taxes in rates should be adopted. A policy requiring the same treatment of income taxes under all circumstances when establishing rates for jurisdictional utilities in Oregon is inappropriate. While the "stand alone" method may be appropriate under many circumstances, it is possible that circumstances will arise in which stand alone tax treatment would result in unjust and unreasonable rates. The Commission should not limit its ratemaking discretion by adopting a single policy toward the treatment of income taxes. The Commission may need the flexibility to vary from the stand alone approach, depending upon the ownership and capital structure of Oregon's investor owned utilities in the future.

If the Commission needs additional information or clarification on any of the issues raised in these comments, NWIGU would be pleased to provide additional input.

Very truly yours,

Edward A. Finklea  
On behalf of the Northwest Industrial Gas Users