

**INFORMATIONAL MEETING: PUC
RECOMMENDATION ON TAX TREATMENT
TAPES 76, 77 A**

**SENATE REVENUE COMMITTEE
MARCH 24, 2005 9:00 AM STATE CAPITOL BUILDING**

Members Present: Senator Ryan Deckert, Chair
Senator Gary George
Senator Rick Metsger
Senator Floyd Prozanski
Senator Charles Starr, Vice Chair

Witnesses Present: Lee Beyer, Oregon Public Utility Commission Chairman
Lee Sparling, Oregon Public Utility Commission

Staff Present: Paul Warner, Legislative Revenue Officer
Barbara Guardino, Committee Assistant

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005 Chair Deckert Calls meeting to order at 9:05 a.m. Introduces Lee Beyer, chairman of the Public Utility Commission which developed recommendations.

INFORMATIONAL MEETING: PUC RECOMMENDATION ON TAX TREATMENT

025 Lee Beyer Begins overview of treatment of public utility income taxes with brief history of the issue. See memo RE: Recommendation on Treatment of utility income taxes (**EXHIBIT 1**). Notes this is an addendum to the "White Paper" provided to the committee during the February 9 informational meeting. All parties concerned responded to the white paper. Public Utility Commission has given unanimous support.

065 Beyer There has been a lot of criticism, particularly in the press. There is a perception that the system is not fair. Contends it is fair, it's good business practice and good economics. The vast majority of states use the same system. Suspects utility companies and consumer advocates will disagree with these recommendations.

099 Beyer Brings three recommendations. See exhibit 1: Summary
1) Require regulated utilities to file stand-alone (deconsolidated) income tax returns in Oregon.
2) Direct the Commission to consider consolidated tax benefits when it includes federal income taxes in customer rates.
3) Require regulated utilities to file a general rate case at least once every five years.

105 Beyer Discusses recommendation 1: Deconsolidation

155 Beyer Begins discussion of second recommendation.

180 Beyer Begins discussion of third recommendation.

205 Chair Deckert In regard to # 2, asks if PUC went back 5 or 6 test years. Notes, the Enron/PGE case is so much in the news, surely PUC took test cases

- 229 Beyer to see what the taxes paid to the state treasury were. Responds, PUC has been doing this on a theoretical basis, so the answer is no.
- 233 Lee Sparling Expands on Beyer's reply. Talks about discussions that PUC had on how # 2 would work.
- 266 Beyer Continues discussion with the idea of an annual true-up – doing forward-looking taxes and a rate adjustment. Asks lawmakers not to consider this option. PUC doesn't have access to information, and that could make the situation worse. It probably doesn't meet the symmetry test, and the IRS provision could trigger a repayment by the company.
- 287 Chair Deckert Asks how Pennsylvania gets around the IRS code in the symmetry argument.
- 293 Sparling Responds, Pennsylvania works hard not to run afoul of IRS requirements. It takes the losses elsewhere, and divides them up among utilities.
- 308 Beyer PUC is required to follow the advice of Oregon's attorney general. He believes Pennsylvania is in violation of federal law. There are a lot of differences in legal opinion.
- 323 Beyer Notes differences in opinion as to which utilities this might apply to. This gets into constitutional questions of fair treatment.
- 341 Chair Deckert Asks Paul Warner to walk the committee through the mechanics of recommendations 1 and 2.
- 349 Paul Warner Discusses # 1: Any corporation under Oregon's current law must file under a consolidated return. That's done to avoid spreading losses. This would require a calculation similar to what was presented in the White Paper.
- 390 Warner Discusses # 2: Would not see this as a straight-forward calculation.
- 431 Sen. Prozanski Asks question concerning Beyer's comments on what would be constitutional. If everyone were treated the same, there shouldn't be a conflict.
- 434 Beyer This is not a utility issue; it's a tax fairness issue.

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- 022 Sen. George Comments on Beyer's assertion that Oregon's system is similar to other states, and is fair and balanced. Assuming that's correct, and that Oregon is moving into a new realm, and that any of these three components would cost the utility more money. Could a utility legitimately come back to the PUC with additional costs which would be recovered at the expense of the ratepayer?
- 032 Beyer Responds, the argument is on a stand-alone basis. An argument many critics have is, within the rates, there's an assumption that those taxes would be paid. PGE/Enron example: PGE paid taxes to parent, but because of offsets elsewhere in Enron Corp. they effectively paid

little or no taxes to Oregon. Does not believe the cost would increase for a company, but the amount of retained earnings that they can keep may be decreased. The question is one of fairness to the ratepayers.

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| 053 | Sen. George | If these adjustments pass, would the state net more money? |
| 059 | Beyer | Believes it would. |
| 066 | Chair Deckert | Asks if there are downsides for Oregon to deconsolidate utility tax returns. |
| 074 | Beyer | Is not sure. Refers to a major court decision that says utilities have the right to earn a reasonable return on their investment. |
| 094 | Chair Deckert | If lawmakers adopt recommendation 1, would this be a disincentive for utilities with their parent companies in Oregon to remain headquartered here? |
| 112 | Beyer | Does not believe this would be the case. The issue for lawmakers to decide is whether the current approach is fair to constituents. There is a lot of perception that it's not. It's a judgment call. |
| 141 | Sen. Metsger | Asks Beyer to touch on the issue of the rate of return on equity. |
| 150 | Sparling | The first recommendation won't change the ratemaking. The second recommendation is where these effects would be considered. |
| 175 | Chair Deckert | Thanks Beyer and Sparling for their hard work. Adjourns meeting at 9:45 a.m. |

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

Exhibit Summary:

1. Informational, memo from Public Utility Commission to Senate Revenue Committee members, Beyer, 4 pp.