

December 6, 2005

INTEROFFICE MEMORANDUM

TO: Mayor Tom Potter  
Commissioner Sam Adams  
Commissioner Randy Leonard  
Commissioner Dan Saltzman  
Commissioner Erik Sten

FROM: Linda Meng  
City Attorney

SUBJECT: Report on documents received from Portland General Electric pursuant to  
Resolution No. 36337 (Substitute)

Resolution No. 36337, passed on September 21, 2005, directed me to make certain inquiries and request certain documents from Portland General Electric (PGE) regarding income taxes collected by PGE and debts owed by Enron to PGE. We received written responses and documents from PGE on October 12, 2005, along with the attached letter from PGE's legal counsel. PGE also provided additional documents on November 1, 2005. Phillip Gildan of Greenberg Traurig, who has been working with the City on matters relating to PGE, assisted in reviewing the responses and documents provided. This report and the information summaries set forth below rely upon the documents and information provided by PGE. We have not audited the documents or information provided by PGE nor undertaken to verify the information provided by PGE from independent sources.

INTRODUCTION

Regarding taxes, our inquiries asked PGE how much it a) was authorized by the PUC to collect in taxes, b) how much it actually collected, c) how much it paid over to Enron in taxes, and d) how much Enron paid to the respective taxing authorities.

PGE staff reviewed our initial summary and provided some additional information. For instance, in 1997, the year PGE was acquired by Enron, PGE's taxes were split between Portland General Corporation (PGC) and Enron. They agreed to provide us with information on the taxes PGE paid to PGC based upon PGC's filing a consolidated return with PGE. The PGC partial year tax effect has been removed from the report numbers (e.g., \$77,974,000 in Federal Income Taxes was paid by PGE to PCG in 1997). Because of the additional information they provided, there are some changes in the numbers included here from the draft numbers that were circulated earlier.

PGE staff emphasized what they say is the difficulty of determining how much was collected in income taxes and refer to their response to City's Question 001 (attached). They also noted that in looking at any one year there may be timing differences between what was collected and what was paid because collections are done on an accrual basis and payments are made on a cash basis.

#### SUMMARY OF INFORMATION

For the period 1997 through the third quarter of 2005:

Income taxes collected by PGE	\$683,449,044
Including deferred taxes of	\$ 65,535,000
Income taxes paid to Enron by PGE	\$594,306,907
Including federal, state and local	
Income taxes paid to taxing authorities	\$ 11,006,165
Including federal, state and local	
Income taxes retained by Enron	\$583,300,742
Income taxes retained by PGE	\$ 88,450,002

#### INCOME TAXES COLLECTED

Income taxes are collected as part of the general rates charged for electricity. The rates are set by the Public Utility Commission (PUC) based on a model year and are thereafter applied to the electricity sold. The rates are set to allow the utility to recover its costs and to earn a return on its investment. Once rates are set, they remain in effect until changed by a later rate-setting proceeding.

PGE's annual Results of Operations Reports provided to us include line items for income taxes. It begins with a column entitled "Actual Financial Statements," includes a column entitled "Regulated Utility Actuals," and a number of adjustments, and ends with a column entitled "Pro Forma Results." The Results of Operations report states that "Column 1 represents PGE's Financial Statements for External Reporting while column 3 is PGE's Financial Statement for Regulatory Reporting." We believe the most appropriate figure is the "Regulated Utility Actuals" column. Using those figures, a total of \$683,449,044 in income taxes were collected by PGE from 1997 through the third quarter of 2005. PGE has indicated it believes the "Actual Financial Statements" column of the Results of Operations report more accurately represents the taxes collected.

#### INCOME TAXES PAID TO ENRON

The total of federal, state and local taxes paid by PGE to Enron is \$594,306,907. This includes federal taxes of \$523,666,096, state taxes of \$63,833,891, and local taxes of \$6,806,920. As noted above, we have removed the 1997 partial year in which payments were made to PGC. The state taxes paid to Enron include both Oregon taxes and taxes for other states because those are included in total taxes collected.

## INCOME TAXES PAID TO TAXING AUTHORITIES

The total amount paid to taxing authorities by PGE and Enron for the period 1997 through the third quarter of 2005 is \$11,006,165. It should be noted that no 2005 tax payments to taxing authorities are included, as PGE states in its 10-Q of September 30, 2005, that Enron continues to have net operating losses and does not expect to pay any income taxes for 2005.

## TOTAL INCOME TAXES RETAINED BY ENRON

The total amount of federal, state and local taxes retained by Enron through September 30, 2005 is \$583,301,592. This number is simply a calculation of the amount paid to Enron less the amounts paid to taxing authorities.

## TOTAL INCOME TAXES RETAINED BY PGE

Deducting the amount paid to Enron or to taxing authorities from the amounts collected show that \$88,450,002 of the income taxes collected during the period was retained by PGE. PGE's staff states that the amounts retained result from accelerated depreciation and income tax credits allowed by Federal tax laws that allow PGE to defer payment of taxes into the future. However, the deferred taxes shown on the documents provided by PGE total \$65,535,000. As to any deferred taxes collected by PGE, we do not now have sufficient information to determine whether those taxes will ultimately be paid to taxing authorities or the impact on ratepayers of PGE's retention of those deferred taxes. Between now and the February hearing, if Council decides to hold a hearing, we will attempt to gather the necessary additional information and to obtain the outside tax expertise that will be needed to complete that analysis.

## PGE CLAIMS AGAINST ENRON

The second part of the Council request to PGE asked about claims PGE had against Enron that were waived or forgiven by PGE. According to our review of the material provided, PGE had claims of \$245,044,006 against Enron that it has not collected and has either transferred to Enron, waived, forgiven or compromised. PGE staff contend the amount is smaller and agreed to provide us with additional information regarding these claims, but we have not yet received it. Again, we will attempt to gather additional information before February to complete the necessary analysis.

List of attachments:

1. Resolution No. 36337
2. PGE's responses to City questions and information requests
3. City spreadsheet

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Attachments