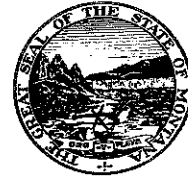




Dan Bucks  
Director


# Montana Department of Revenue



Brian Schweitzer  
Governor

## MEMORANDUM

To: Dan Bucks, Director

From: C. A. Daw, Chief Legal Counsel 

Date: February 6, 2008

Subject: Department of Revenue Major Case Update - December 2007 -- February 2008

### Montana Supreme Court:

PacifiCorp: Presently on appeal to the Supreme Court from Judge McCarter's denial of DOR's motion to dismiss on the basis of PacifiCorp filing a notice of appeal from the STAB decision, rather than a petition for judicial review, with the district court.

Gannett Satellite Information Network: (Corporate tax case.) Taxpayer recently appealed adverse ruling from the 1st Judicial District Court to the Montana Supreme Court. Issue before the Supreme Court is purely legal--does the definition of § 15-31-302(1), MCA, contain two independent tests for determining the presence of business income. DOR contends, and the District Court agreed, that two tests are present. Once the Supreme Court issues a decision, the case returns to STAB for consideration of the remaining legal/factual issues.

### District Court:

Fulton Fuel Companies: Final installment payment under the terms of the settlement agreement of \$392,000 was received in January 2008.

### State Tax Appeal Board (STAB):

Gold Creek Cellular, LLC (Verizon Wireless): Mediation conducted on November 20, 2007, resulted in an impasse. Taxpayer filed a Complaint with STAB on December 20, 2007. STAB forwarded the Complaint to the Department on December 24, 2007. The Department filed its Answer with STAB on January 22, 2008. A Scheduling Conference between the parties and STAB is currently set for February 20, 2008.

### Other:

PPL Montana 2003-2007: The parties are currently working to satisfy the conditions of the agreement.

**Montana Department of Revenue**  
**Schedule of Taxes Paid Under Protest by Centrally Assessed Companies with Outstanding Appeals**  
 As of February 6, 2008

Company	Year	Tax Protested	Total Uncontested	Total Tax	Protested %	State Portion of Protested Tax (Estimated)	Venue - Hearing Date
NorthWestern Energy	2005	\$ 11,589,368	\$ 54,814,764	\$ 66,404,152	17%	\$ 2,317,874	District Court - Scheduling Order has been requested
NorthWestern Energy	2006	\$ 16,415,170	\$ 55,325,109	\$ 71,740,279	23%	\$ 3,283,034	DOR - Held in Abeyance
NorthWestern Energy	2007	\$ 15,825,402	\$ 58,222,569	\$ 74,047,970	21%	\$ 3,165,080	DOR - Held in Abeyance
		\$ 43,829,940	\$ 168,362,461	\$ 212,192,401	21%	\$ 8,765,988	
Qwest	2007	\$ 6,874,454	\$ 8,402,311	\$ 15,276,764	45%	\$ 1,149,358	DOR to be moved to STAB
		\$ 6,874,454	\$ 8,402,311	\$ 15,276,764	45%	\$ 1,149,358	
Puget Sound Energy	2005	\$ 2,699,269	\$ 6,298,293	\$ 8,997,562	30%	\$ 539,854	STAB Hearing - 9/29/08 through 10/10/08
Puget Sound Energy	2006	\$ 4,136,011	\$ 5,055,125	\$ 9,191,136	45%	\$ 827,202	STAB Hearing - 9/29/08 through 10/10/08
Puget Sound Energy	2007	\$ 5,729,366	\$ 4,687,663	\$ 10,417,029	55%	\$ 1,145,873	STAB Hearing - 9/29/08 through 10/10/08
		\$ 12,564,646	\$ 16,041,081	\$ 28,605,727	44%	\$ 2,512,929	
Omimex Canada LTD	2004	\$ 653,266	\$ 217,762	\$ 871,048	75%	\$ 130,657	Supreme Court - Briefs are being filed
Omimex Canada LTD	2005	\$ 812,345	\$ 270,781	\$ 1,083,126	75%	\$ 162,469	District Court
Omimex Canada LTD	2006	\$ 982,388	\$ 229,689	\$ 1,212,077	81%	\$ 196,478	STAB
Omimex Canada LTD	2007	\$ 1,114,195	\$ 244,283	\$ 1,358,478	82%	\$ 234,419	DOR - Held in Abeyance
		\$ 3,562,214	\$ 962,516	\$ 4,524,730	79%	\$ 724,023	
PacifiCorp	2005	\$ 467,440	\$ 1,869,761	\$ 2,337,201	20%	\$ 93,488	STAB Decision 7/31/07 - Supreme Court - Procedural Appeal
PacifiCorp	2006	\$ 505,863	\$ 2,023,453	\$ 2,529,317	20%	\$ 101,173	STAB Fall 2009
PacifiCorp	2007	\$ 597,660	\$ 1,792,981	\$ 2,390,642	25%	\$ 214,214	STAB Fall 2009
		\$ 1,570,964	\$ 5,686,196	\$ 7,257,160	22%	\$ 408,875	
Verizon	2007	\$ 1,925,676	\$ 1,390,452.84	\$ 3,316,128.74	58%	\$ 333,693	STAB - Hearing date has not been set
<b>Total</b>		\$ 70,327,894.04	\$ 200,845,016.79	\$ 271,172,910.93	26%	\$ 13,894,865.40	