CUB
Spring 1996
THE BEAR FACTS
Citizens' Utility Board of Oregon...because the utilities bear watching

*Investors, Not Consumers, Assume Risk*

# CUB Wins $250 Million Trojan Lawsuit for PGE Ratepayers

PGE ratepayers won a stunning victory when Marion County Circuit Court Judge Paul Libscomb, in late March, upheld an Oregon law which prevents investors from profiting from the closed Trojan Nuclear Power Plant.

The decision reverses a Public Utility Commission (PUC) order which would have allowed PGE to continue to bill its customers for Trojan over the next 16 years.

According to the judge, PGE can recover its remaining investment in Trojan, but will be not allowed to earn a profit on that investment.

"This is a great decision for consumers," said CUB attorney John Stephens. "It has always been our position that, both as a matter of law and economic theory, the company should not be rewarded for Trojan and ratepayers should not have to pay for profits on a failed investment."

At issue was whether PGE ratepayers would have to continue paying for a power plant that no longer generates power.

In April 1995, the PUC ruled that PGE could recover most of their remaining investment in Trojan, and that shareholders could profit from that investment.

CUB filed an appeal of the decision in circuit court, setting the stage for Judge Libscomb's ruling.

PGE, of course, can and probably will appeal to a higher court.

If the decision stands, PGE customers could see rates drop by more than $30 million in the next year and by more than $250 million in the future.

"PGE has some of the highest residential rates in the Northwest," said Bob Jenks, CUB executive director. "Over the last two and one-half years, as the cost of electricity has declined, PGE's rates have gone up nearly 25%. Judge Libscomb's decision should lead to some very necessary rate relief."

*Energy and the Environment at Stake*

# Changes Coming in Power Industry Could Help or Hurt Consumers

The electric power industry is undergoing sweeping changes nationwide, and the Northwest is not immune to these pressures.

Deregulation, new markets, and rapidly falling energy prices are shattering the rules that have governed the electric power system for decades.

One response to these changes is to restructure the regulatory environment. The governors of Oregon, Washington, Idaho and Montana have joined in this approach by launching a yearlong comprehensive review of the Northwest's energy system.

A 19-member committee has been appointed to look at new approaches to meeting the region's energy goals--from clean, efficient, low-cost power to restoration of salmon runs damaged by hydroelectric dams. The committee has been instructed to report to the governors with legislative recommendations for Congress by the end of 1996.

Sitting on this historic committee are representatives of utilities; regulators; industrial and residential consumers; and conservation, renewable energy and salmon advocates.

CUB legal counsel Jason Eisdorfer has been appointed to represent the interests of residential customers throughout the Northwest.

### *Retail Wheeling and Dealing*

One of the issues driving this restructuring of the Northwest energy market is the demand by some of the largest industrial power customers to be allowed to buy electricity directly on the competitive wholesale energy market, a practice known as *retail wheeling*.

The main argument for allowing retail wheeling is that monopoly utilities must be deregulated now that independent power generating companies have entered the market. Cus-

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# From the Executive Director

Dear CUB member,

You don't normally expect to see multimillion dollar corporations throw public temper tantrums when they don't get their way, but that is exactly what happened this month with US West and PGE.

When US West heard that the PUC was penalizing them for poor customer service, they threatened to raise rates by 55%. And when PGE learned they weren't going to be able to earn a profit on the dead Trojan nuclear plant, they threatened to raise rates by 30%.

What is this? The reaction of two spoiled monopolies? Both companies seem to have the attitude that if they can't get their way, they're going to make their customers suffer.

However, the decisions this month--one by the PUC, the other by a Marion County judge--are about a lot more than whether two utilities can continue to have their way. Both of these decisions concern holding monopoly providers of essential services accountable for the impact of their actions upon their ratepayers.

In the case of US West, the question was whether consumers can hold the company accountable for the quality of the service provided. Do customers have the right to expect that their phones will work? Is it reasonable to not be billed for services not received?

In PGE's case, the question was about whether consumers can hold the company accountable to state law, which provides that the company cannot earn "profit" on a plant which is not providing service to customers.

Both PGE and US West know they're not going to get these rate hikes approved--CUB will work hard to ensure that. But their childish threats suggest they are just a little too spoiled and a little too used to getting their own way.

Maybe it is time to practice "tough love" with these utilities.

Bob Jenks, Executive Director

***THE BEAR FACTS*** **is the quarterly newsletter of the Citizens' Utility Board of Oregon (CUB).**

**CUB is a non-profit organization established by Oregon voters to advocate on behalf of Oregon's utility ratepayers.**

**CUB is governed by a Board of Governors elected by Congressional Districts throughout Oregon.**



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## *Old System Rewarded Poor Service*

# PUC Penalizes US West for Lousy Service

## *CUB Wins "Crummy-Service Credits" for Consumers*

At long last, customers of US West have won a measure of relief from the abysmal quality of service many have come to expect from the largest phone company in Oregon.

On March 27, the Oregon Public Utility Commission (PUC) voted to penalize US West for their declining service quality and to require the company to work out a system of credits for customers who cannot be provided reasonable service. The decision came after three years of complaints by CUB and hundreds of consumers over such problems as getting a new phone or having service repaired.

According to testimony from CUB, ten's of thousands of customers have had to wait up to five weeks for phone repair during winter months, and new customers have had to wait more than a month for new service.

In addition, out-of-service credits were provided only to customers who demanded it. If a customer called to report their phone was out, US West would continue to bill them unless the customer said the magic words: "I want a credit for the time my phone is out of service."

"In any other business, to bill someone for a service you knowingly did not deliver would be considered fraud," stated CUB's testimony.

### *Stiff Penalties*

In penalizing US West, the PUC adopted many of CUB's proposals:

1. Termination of US West's sweetheart regulatory deal (which CUB had opposed).

This Alternative Form of Regulation (AFOR) had allowed US West to keep all profits resulting from cost cutting measures. CUB has long maintained that AFOR regulation could lead to poor service as the phone company rushed to increase profits by cutting staff and other resources.

2. Declaring existing rates to be interim rates subject to a refund.

This should lead not only to lower rates, but to customers receiving a significant refund. Current rates allow US West to earn a higher profit than any other utility in the state. The current rate case should cut the company's profits, lower rates and refund excess earnings the company has over-collected.

If the PUC had allowed the rates to be considered permanent, consumers would not have enjoyed the significant refund they can now expect early next year.

3. Requiring US West to provide cellular phone service to customers waiting for installation.

For customers waiting more than seven days for new service, US West will have to provide either a cellular phone with unlimited local usage or a \$100 credit on the new bill.

4. Providing an automatic credit on phones out-of-service for more than 48 hours.

The longer someone's phone is out, the greater the "out-of-service" credit would be. A consumer will now automatically receive a credit equal to 1/2 a month's phone bill if their phone were out for 6 days, a full month's credit for 11 days without service, and 1 1/2 month's credit for a 16 day wait.

"These PUC rulings should have a big impact on customer service," said Jason Eisdorfer, CUB's legal counsel.

"Now it will be more profitable for US West to provide decent service in the first place."

## *Stranger than fiction...*

# US West Proposes 55% Residential Rate Hike

US West doesn't seem able to do anything right these days.

Sol Trujillo, CEO of US West Communications, was touring Oregon newspapers in early April to put the corporate spin on the phone company's embarrassing loss of its highly profitable regulatory status. At the Salem Statesman-Journal, however, Trujillo let slip US West's plans to file for a 55% residential rate hike, claiming that businesses were subsidizing residential customers.

"That's absurd," said CUB's Bob Jenks. "Rather than worrying about raising rates, US West needs to start providing adequate service."

Jenks cited cost studies dis-

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*Conservation at Odds with Profit Motive*

# Utility Companies Make More Money by Cutting Energy Efficiency Programs

Energy efficiency has been a corner stone of energy policy in the North west since the mid-1970s.

Common wisdom held that it is cheaper and cleaner in the long run to invest in energy efficiency programs--weatherization, shower-head programs, industrial motors, commercial lighting--than it is to build new electric power plants.

Since 1979, the Northwest has saved enough electricity to power a city the size of Seattle. Many utilities have seen the average use of electricity decline by as much as 20%.

Not only have we avoided the need to build new, expensive power plants, but less usage means smaller bills.

That's good news for consumers. But as utility executives see it, they just haven't been selling enough product.

### Investment in Conservation Declining

Between recent falling energy prices and a utility's inherent conflict over spending money to reduce demand for their product, conservation investment is disappearing.

"There is little doubt that using existing resources more efficiently is good for the Northwest's economy," said Bob Jenks, CUB Executive Director.

"It's good for the environment, and it puts money back in the pocket of consumers.

"Unfortunately, many utilities seem to care more about quarterly earnings than about the best interest of the communities they serve. By cutting energy efficiency, utilities can reduce their own costs immediately, while increasing demand for electricity in the long run," Jenks noted.

### Conservation Is Actually Cheaper

The irony, however, is that even in the short term energy efficiency *can* be cheaper than new power plants. PGE brought a new gas-fired power plant online last fall, charging ratepayers 3.8 cents per kilowatt hour for that electricity. At the same time, PGE cut a weatherization program that would have cost the company only 2.25 cents per kilowatt hour.

Utilities favor building power plants under traditional regulation. Once a plant is built, the regulatory process guarantees the company both recovery of construction costs and a reasonable profit on the investment.

### Energy at the Least Cost

One reform, backed by CUB and other conservation groups in the 1980s, was the "least cost plan." A utility company would develop a biennial plan, with input from community representatives, on how they would meet the anticipated power load at the lowest practical cost. The plans would then be approved by the PUC and implemented by the company.

Theory and practice can differ widely, however, as demonstrated by CUB's request that the PUC reject PGE's current least cost plan. According to CUB's testimony, PGE's plan placed too much emphasis on new power plants and too little on energy efficiency.

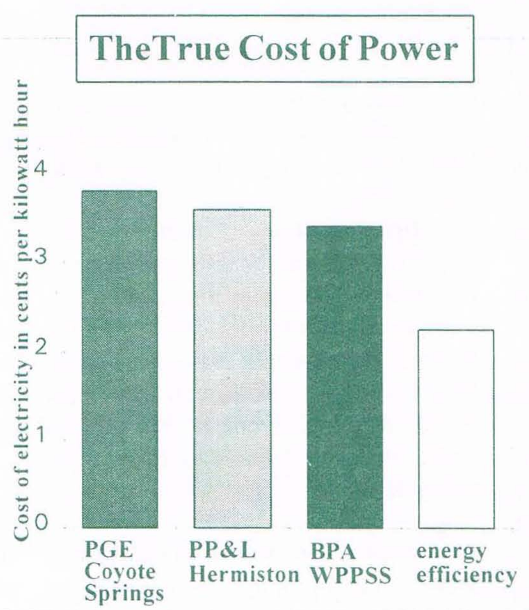
### Coalition Looks at Alternatives

"A utility has an inherent conflict of interest with energy efficiency," explained Jason Eisdorfer, CUB's Legal Counsel. "Energy efficiency programs require that they spend money to reduce demand for the very product they sell. It's like putting tobacco companies in charge of anti-smoking campaigns."

CUB is currently working with a coalition of public interest groups to consider whether to take energy efficiency programs out of the hands of utility companies. One proposal being considered is to establish a "systems benefit charge" to fund independently administered energy efficiency programs.

"Essentially, a systems benefit charge would involve the money we are already paying for things like energy efficiency," said Eisdorfer, "but it would give those funds to someone who really believes in these programs.

"Only then will ratepayers really have a shot at effective programs that could actually reduce their dependence on power."



## *Don't Rates Ever Go Down?*

# CUB Calls for 13% Roll Back of PGE Rates, Cites Windfall Profits

In the wake of the far-reaching Trojan court decision, CUB is calling for a 13% rate reduction for PGE customers--a reduction of more than $125 million per year.

"PGE's rates have increased while the cost of producing electricity has declined," said Bob Jenks. "Unfortunately, the rates we pay now no longer reflect the company's true cost of doing business."

CUB cited several reasons for reducting the rates PGE customers pay for electricity:

■ The recent court decision on Trojan, which forbids PGE from charging ratepayers for future profits, will reduce revenue needs by $30 million per year.

■ PGE's cost of fuel has declined by 50%, generating a savings of as much as $30.6 million for the company.

■ The cost of wholesale power purchased on the open market is down by $50 million.

■ Interest rates have declined, so PGE's rate of return (profit) should also decline by $17.8 million.

In short, PGE's costs have gone down by more than $100 million, while their rates have jumped 24% since 1993.

"When PGE's costs have gone up, they never wasted any time going to Salem and getting the PUC to raise their rates," said Jenks. "Now that their costs have gone down, it's about time for rates to go down, too.

# Changes Coming in Power Industry...

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tomers should be allowed to choose from competing companies, and the market should be allowed to set prices.

While these arguments may appear reasonable on the surface, they raise questions of fairness for the smaller customers who don't have the economic clout to negotiate lucrative deals of their own. And that puts affordable electricity for residential ratepayers at risk.

### *Many Questions*

The question is not "Can we stop these changes from occurring?" With independent power generating companies already in operation, the traditional relationship of captive customers to regulated monopoly is already being rewritten.

Some of the questions that need to be addressed include:

■ How can we shape these changes so that all consumers can benefit, not just the largest industrial customers?

■ What happens to the Bonneville Power Administration (BPA), with its cheap hydro resources and its huge nuclear debt?

■ How do we maintain investments in conservation and renewable resources when competition will emphasize short-term decisions over long-term benefit?

■ How do we protect our environment in a deregulated system?

### *The Solution?*

Finding answers to these questions and devising solutions is the challenge for the regional energy review committee. By December 1, 1996, the committee has been instructed to send legislative recommendations to the governors which addresses the following issues related to restructuring of the power industry:

***Affordable Power for All***--Since the Northwest has traditionally had some of the cheapest power in the country, we have taken affordable electricity for granted. As industrial customers clamor for reduced prices, will small consumers be left with higher bills? Will low-income ratepayers be able to afford electricity at all?

***Clean Environment***--The electric industry has become a huge source of pollution, generating 77% of sulfur oxides, 55% of nitrogen oxides, and 35% of carbon dioxide emissions in the country. The Northwest must invest in renewable energy and continue our investments in energy efficiency to halt this pollution, but will protecting the environment continue to be a goal of energy planners?

***Wild Salmon***--Wild salmon and electricity are interrelated. Dams, which produce two-thirds of the region's power, have cut some of the world's largest salmon runs to a fraction of their historic levels. Will we sacrifice these irreplaceable native fish for continued cheap power to industry?

***Who Pays for the Nuclear Debacle?***--BPA owes $7 billion on nuclear power plants. But if large industrial customers are allowed to shop elsewhere for the best deal on power, who will be stuck paying for these plants and at what cost?

This comprehensive energy review will be more than a debate over who runs the dams and who owns the transmission wires. These issues are about your money and about our quality of life!

# CUB Fights for Ratepayer Interests; Seeks Candidates for Board Election

## Cable Companies Say "Thanks" by Raising Rates

Cable TV companies throughout Oregon--and throughout the nation--have responded to the Congress' Telecommunications Act of 1996 by proposing significant rate hikes.

The bill, which passed earlier this year, deregulates monopoly cable rates, allowing those service providers to charge their still captive customers whatever the company and their stockholders desire.

In Oregon, TCI, one of the nations largest cable providers, is proposing an 18% increase to take effect this summer. Other cable companies are expected to follow suit.

"Members of Congress knew this would be the consequence of deregulating cable monopolies. CUB and other consumer groups made that clear," said CUB's legal counsel Jason Eisdorfer, "but Congress chose to listen to the industry, instead. Now the bill is coming due."

## Consumer Petition Halts Utility's 49% Rate Hike

Cascade Utilities, a small telephone company serving customers in Estacada, Eagle Creek and Elgin, has proposed raising residential telephone rates by 49.4%.

Because the company is small, the PUC only reviews rates hikes when they receive petitions from 500 customers asking the state to review the company's proposed rates.

CUB launched an effort to assist consumers petitioning for such a review, and in a matter of weeks more than 1,000 signatures were gathered. This petition guarantees that the PUC will subject Cascade Utilities' proposed rate hike to a regular rate case review. PUC review also suspends the rate hike for six-months.

## CUB Seeks Candidates for Summer Board Elections

CUB is taking applications from members wishing to run for the Board of Governors at an election to be held this summer. Terms are for four years, with three representatives elected from each of Oregon's five congressional districts.

The two most important qualities for Board members are leadership skills and a commitment to building CUB as an organization. Knowledge of utility issues is helpful, but one need not be a utility expert to run for the board.

To be a candidate, you must be a CUB member and be at least 18 years old. You are not eligible if you are an employee of a PUC-regulated utility, are a candidate for elective public office, are a public official, or own more than $3,000 worth of utility stocks or bonds.

Contact the CUB office at 503-227-1984 for more information.

## CUB Says 'No Way' to Higher Phone Rates

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proving US West's claim of inequitable rates for business customers:

"The numbers simply don't support it. It is not true. There is no subsidy."

A recent study by the American Association of Retired Persons (AARP) came to a similar conclusion: "...subsidy claims of the local [telephone companies] are not based on economic theory or data." AARP concluded that regulators should actually be requiring local phone companies to lower rates to their captive residential customers.

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