

# The Bear Facts

Spring  
2002

citizens' Utility Board of Oregon...because the utilities bear watching

The proposed purchase of PGE by NW Natural has been put on hold for 60 days in order to figure out whether Enron still wants to sell it or whether the potential PGE liabilities growing out of the Enron collapse could make NW Natural pull out. In the meantime, local governments have continued to explore the concept of public ownership of Oregon's largest utility.

While it's still impossible to predict where this roller coaster will lead, there are three options being discussed:

## **NW Natural.**

NW Natural, Oregon's largest natural gas utility, has proposed purchasing PGE for \$2.9 billion. NW Natural is a smaller company than PGE and would have to borrow most of the money to make this deal happen. CUB has expressed concern about the size of the debt NW Natural would incur and the lack of any benefits to customers for several years as this debt is paid off. In contrast, shareholders would see increases in their dividends well before the debt was paid off. CUB's analysis of the proposal suggests that customers are the ones who are ultimately paying for this deal, and the banks that lend NW Natural the money and NW Natural's shareholders are the ones who will benefit in the first 6 years. In response to CUB's challenge of their plan, NW Natural has committed to coming up with a new proposal for providing benefits to customers, but as we went to press the new plan has not been announced.

Complicating NW Natural's proposal

are fears that there could be liabilities growing out of the Enron bankruptcy that could fall on PGE. For example, while PGE electric rates included charges for Federal income taxes, Enron did not pay those taxes. If the IRS comes after PGE for back taxes, who pays? Since customers have already paid these costs once, it's not fair to charge them a second time. NW Natural has to be worried about this and other liabilities and may well be forced to withdraw from the deal because of these uncertainties.

## **Who Will Own PGE? Enron, NW Natural or Local Government?**

**Enron.** Enron has publicly stated that it may be interested in retaining PGE. This would keep the uncertainty surrounding Enron with PGE for several years. Enron would be focused on trying to drain as much money out of PGE as possible to

pay off its debts in bankruptcy court. In addition, this could make PGE customers face additional liabilities that grow out of the Enron bankruptcy.

**Local Government.** Many communities in the Northwest including Seattle, Tacoma, Eugene, McMinneville and Forest Grove had publicly-owned electric utilities. Several local governments in the PGE service territory have been discussing the idea of local governments coming together to purchase PGE and make it Oregon's largest publicly-owned electric utility. CUB has had several discussions with folks involved in this effort and is encouraging them to conduct further analysis on the rate effects of such a plan and to provide more details about how such a utility would be governed and managed. Right now, most of the details have not been disclosed.

**CAST YOUR VOTE, SEE PAGE 7**



# From the Executive Director

Dear CUB member,

There has been a great deal of discussion concerning the significant risk to PGE customers in Oregon because of Enron's bankruptcy. But there has been very little discussion of how Enron came to own Oregon's largest electric utility or why they purchased PGE.

In 1996, Enron proposed purchasing PGE, hoping to buy a local utility and set up a "model" deregulated system to prove to the rest of the country that deregulation was good. They claimed this would benefit Oregon customers.

CUB and others saw deregulation not as a benefit but as a significant risk. In CUB's testimony to the PUC we outlined several risks in addition to the deregulation risk, including the danger that the Company would manipulate the activities between regulated PGE and unregulated Enron that would harm customers, and that the Texas-based Enron simply did not recognize its role as a responsible community member in Oregon.

Utility regulation in Oregon is economic regulation. The regulatory response to our identification of risk was to place a price tag on the risk, one high enough to make many think the price tag would be above what Enron would be willing to pay. In fact, we almost stopped the merger because the Company refused to offer enough financial benefits to customers to overcome these risks. I got calls from Wall Street investment banks accusing CUB and Oregon of blackmailing the Company. In the end, however, Enron cut the amount that it was paying PGE shareholders and used this to offer the \$141 million in rate credits to customers that the PUC required as the price tag associated with the risks of the merger.

After the merger was approved, Enron proposed their radical deregulation plan that would have forced all customers to buy their power at the "market." Under this plan, energy rates would have been six times higher last year.

CUB led the fight to stop the deregulation scheme and we were successful. In the end, Enron agreed to pay \$141 million to PGE customers in order to propose a deregulation scheme that was rejected. Unfortunately, customers are still stuck with Enron.

The Bear Facts is the quarterly newsletter of CUB and the CUB Educational Fund.

CUB is

- \* a nonprofit organization established by Oregon voters to advocate on behalf of Oregon's utility ratepayers.
- \* governed by a Board of Governors from throughout Oregon, elected by Congressional District.
- \* a member of the National Association of State Utility Consumer Advocates (NASUCA) and the Consumer Federation of America (CFA).

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CUB's board meets 8 times per year. For the next meeting date, check CUB's web site. A proposed agenda for each meeting will be posted at least two days prior to the scheduled meeting.

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Bob Jenks  
Executive Director & CUB Charter Member

# RIPPED OFF BY QWEST? TWO WAYS TO FIGHT BACK!

## File a complaint against cramming and get a refund

In February 2002, Oregon Attorney General Hardy Myers filed a settlement agreement with Oregon's largest telephone service company, Qwest concerning "cramming;" unauthorized charges on consumers' bills and misrepresentations concerning wireless and DSL services.

Under the agreement, Qwest must make refunds or give credits of up to six months to eligible consumers who were harmed by their practices and who earlier filed signed complaints with Department of Justice, or who will file signed complaints with Department of Justice by June 12, 2002. Also, customers calling Qwest to establish new service must be told the price of basic telephone service.

The agreement resulted from a Department of Justice investigation of allegations of "cramming" telephone Line Feature Packages such as Custom Choice and Value Choice (now known as SelectPak) on customer bills. The practice was found to be especially flagrant with regard to consumers who contacted the company to establish local phone service for the first time. Qwest admitted that it treats every consumer contact as a sales opportunity. "Qwest's unethical practices railroaded new customers into paying increased fees for services they did not need," Myers said in a released statement. "Their practices were particularly predatory against the elderly and non-English speaking 'new connect' customers."

Consumers wanting information about "cramming" and "slamming" or who want more information on whether they qualify for a refund or credit may call the Attorney General's consumer hotline at (503) 378-4320 (Salem area only), (503) 229-5576 (Portland area only) or toll free at 1-877-877-9392. The Attorney General is online at [www.doj.state.or.us](http://www.doj.state.or.us).

## Join a class action lawsuit against Qwest Wireless

Do you have wireless phone service from Qwest? Do you feel like you had promises in hand when you bought your service but Qwest has been less than forthcoming? There's a class-action lawsuit that you might want to look into.

The Portland law firm of Garvey, Shubert and Barer filed a class action lawsuit in October 2001 on behalf of Qwest wireless customers after learning of questionable sales tactics by Qwest in marketing their wireless service. "We heard Qwest had quite a come-on during the sales pitch but then they didn't carry through on what they promised," remarked Jennifer Palmquist, the attorney who is heading up the case.

First, customers complain they were sold a certain number of minutes for a flat monthly fee in their home area. But many customers found they were being charged roaming fees for calls made within their home area. Second, Qwest offered free calls for the first minute and no charge for dropped calls. But after the customer was signed up, the company maintained that those services could not be provided. Finally, as customers began to realize the company's shady tactics and refused to pay their bills, Qwest would send out a notice threatening disconnection of home-based land line service if the wireless bill was not paid. This threat is in direct conflict with Oregon law and Public Utility Commission rules. "It is illegal to threaten a legal action you know you don't have under state law," Palmquist said.

For more information about the lawsuit and to find out if you can join the class, contact Jennifer Palmquist at Garvey, Shubert and Barer; 121 SW Morrison, 11<sup>th</sup> Floor; Portland, OR 97204 or call 503-228-3939.

# Low income assistance funds in jeopardy

Due to recent electric and natural gas rate increases and the state's faltering economy, human service agencies throughout the state are seeing tremendous increases in the number of people needing help. It has reached the point where all energy assistance funds in the state have either been depleted or stretched as far as they can go.

"People across Oregon are facing the grim prospect of having their power turned off because they cannot pay their bill," noted Debra Kennedy, coordinator of the Oregon Energy Partnership, a project of the Community Action Directors of Oregon. "Literally every available dollar has been spent or committed and still there are people having trouble paying their utility bills."

Agencies across the state estimate that approximately 20,000 Oregonians who have applied for assistance are on waiting lists. Although Oregon has spent all of its federal funds from the Low-Income Energy Assistance Program (LIEAP), Congress did appropriate \$600 million in emergency funding. Release of this emergency funding is at the discretion of the Bush Administration. However, the administration has been resistant to releasing any of the funds, citing mild winter weather and, despite the rate increases, saying that Oregon's energy prices are still below the national average.

Oregon Congressman Peter DeFazio of Eugene has been at the forefront trying to get funds released for Oregon citizens. "Many Oregonians are being forced

to choose between putting food on the table, paying their mortgage or filling their prescriptions and the basic necessities of heat and light," he stated. "No matter where you live and how your energy prices compare to the rest of the country, a huge increase in your electric bill will devastate your family budget. I wholeheartedly support the efforts of the Citizens' Utility Board and local community action agencies across Oregon to demand that the President bring some relief to Oregonians."

CUB is encouraging its members to call US Sen. Gordon Smith (R-OR) and US Sen. Ron Wyden (D-OR) to urge them to contact the White House and advocate for release of the funds. You can reach Sen. Smith at 202-224-3753. You can reach Sen. Wyden at 202-224-5244.

## Renewable Energy Options popular

Oregonians who get their electricity from Portland General Electric and Pacific Power recently got the opportunity to choose new energy options. And Oregonians have been choosing renewable options at a very strong rate, exceeding expectations.

Customers have the opportunity to

choose from three renewable energy options, a "time-of-use" option offering different rates for power used at different times of the day or staying with their existing service.

CUB supported the creation of this "portfolio" approach to

energy choice, as an alternative to deregulation as has been implemented in other states. "Oregon has done something that no other state has done," said Bob Jenks, CUB's executive director. "We gave residential customers energy options while retaining the benefits of regulated rates."

In 1998, Enron proposed a radical deregulation plan for PGE with little regard to consumer protection or environmental preservation. CUB vigorously opposed the Enron

### *Keep CUB Prowling*



If you have provided for CUB in your estate plans, please let us know. If not, let us show you how. Write Bob Jenks, Executive Director, CUB, 921 SW Morrison, #511, Portland, OR 97205, or call (503) 227-1984.

Your gifts ensure that CUB will always be around to fight for what you believe in.

# Utilities Assume Customers Are Guilty Until Proven Innocent To Increase Deposits

Utilities, including NW Natural, Portland General Electric, PacifiCorp, Qwest, and Verizon, are proposing new rules that would allow them to require deposits from many customers, if not most customers, before providing utility service.

Current law allows a utility to charge a deposit equal to two months of expected service only in cases where a customer is a known risk to that utility. The new utility proposals would allow them to charge deposits to customers who have always paid their utility bills on time. Once a utility collects a deposit from a customer, they can use it for any purpose they want but have to pay the customer a whopping 2% rate of interest.

During a routine rule-making procedure in response to a PUC staff proposal to require a "current valid" Oregon driver's license as identification verification, rather than simply an "Oregon license" as required now, the utilities took the opportunity to propose wholesale revisions that would turn the rule on its head. They suggested that before a customer could get utility service, they would have to demonstrate they were a good credit risk or be forced to pay a deposit.

"The utilities' revisions can be characterized as a presumption of guilt until proven innocent and will only serve to

make it more difficult for residential customers to obtain essential electricity, natural gas and telephone service for their homes," said Jeff Bissonnette, CUB's organizing director. "The utilities' position is totally unsupported by any factual background or demonstration of the need to implement these radical changes."

The utilities are proposing four new criteria for who can be charged deposits:

*Deposits can be collected based on the credit risk as evidenced by a third-party credit report source.* The utilities are not providing a clear standard for what constitutes a credit risk. They are not saying how many years of credit history they get to examine. Instead, they get to look at your credit report and decide if you should have to provide them a substantial deposit. This proposal is so broad that it could allow deposits to be charged to most customers.

*Deposits can be charged to customers who cannot provide proof of continuous employment during the prior 12 months and cannot prove current employment or a regular source of income.* Oregon is currently struggling with a recession and has the highest unemployment rate in the nation. How does charging a deposit to someone who has lost their job do any good? More importantly, why should I

have to tell my utility what my job is, let alone prove to them that I have been employed for the last year. It is none of their business.

*Deposits can be charged to customers living at a residence where there is a prior customer living who owes a past due bill.* This is guilt by association. Why should a utility have the right to know who you are living with, and charge you based on the action of your roommates. To enforce this requirement, will you be required to notify your utilities if someone moves into your home?

*Deposits can be collected from customers who were sent two 5-day notices of disconnection in the last twelve months.* This includes customers who responded to the notice of disconnection by paying their bill.

CUB believes that the only thing that needs to change with deposits is that utilities should be required to pay a higher interest rate to customers when they hold customers' money in a deposit. A 2% interest rate is simply too low and encourages utilities to aggressively charge deposits to anyone they can.

*Call the PUC at 1-800-522-2404 and urge them to reject the utilities' proposal to charge more deposits to customers. Tell them the only thing that needs to change is to increase the interest rate that the utility must pay customers on deposits.*

## CONTINUED FROM PAGE 4. RENEWABLE OPTIONS PROVE POPULAR

proposal and offered the portfolio approach as a way to allow choices within the regulated system. The PUC rejected Enron's deregulation model and indicated a willingness to adopt the CUB portfolio model.

"Residential consumers had nothing to gain from a deregulated market and everything to lose," Jenks remarked. "Now we have the best of both worlds: protection with regulation and the ability to choose an option that helps to make our energy system cleaner and more renewable."

Initial response to the new energy options has been impressive. As of early April 2002, almost 25,000 customers had signed up for one of the new options. Most of those – more than 20,000 – have chosen a renewable option. Advocates of deregulation often cite the ability of customers to purchase renewable energy as a benefit to deregulation. Pennsylvania is often used as a model of deregulation, but Oregon now has a higher percentage of customers purchasing renewable power after one month than Pennsylvania had after two years.

There is no deadline for consumers if they want to make a different choice from their basic service. Consumers will get quarterly reports about how their energy is produced and the environmental impact of their electricity generation. Information about the portfolio choices will be made available on an annual basis.

## CHANGES IN YOUR ENERGY BILL

If you are a PGE or Pacific Power customer, you will be seeing several changes on your bill. It's important for consumers to recognize that even with all the changes, your rates are still regulated by the state. Here is a quick explanation of some of the changes:

***Energy Options:*** You now have the ability to either stay with the basic service you have now or choose from other options. These options include:

\* **Renewable Usage:** You can buy all of your power usage each month from renewable energy sources (geothermal and wind). If you are an average customer using about 1000 kWh/ month, this will cost you about \$8 above what you are paying now. That price might fluctuate a little bit each month, depending on your monthly energy use.

\* **Fixed Renewable:** You can get increments or "blocks" of 100 kilowatt hours per month (kWh/month) for \$3.50 per month (PGE) or \$2.95 per month (Pacific Power). This is a good choice if you can't afford more or want to lock in a fixed price for buying green energy.

\* **Habitat:** Just like the Renewable Usage option, all of your power needs will be from green sources. In addition, your rate also supports projects managed by For the Sake of the Salmon to restore salmon habitat. You will pay about \$10 per month above what you are paying now, if you are an average customer using about 1000 kWh/month.

\* **Time of Use:** Power is priced differently at different times of the day. At "peak" times, when there is a high demand for power – in the early morning or late afternoon and early evening, electricity costs more than the middle of the day ("mid-peak"), when demand is lower, or during the night ("off-peak"), when demand is very low. The time of use option provides the opportunity for some cost savings if you can shift your usage to mid-peak or off-peak times. But this is not an easy task for many households and the option could cost more if there is too much usage at peak times.

***Public Purpose Charge:*** This charge is for energy efficiency and renewable investment, which are critical to preventing large rate hikes in the future. For years customers have paid for these programs, though their funding levels have varied widely from year to year. We could have softened the effects of last year's energy crisis if we had invested in energy conservation during the late 90s as we did in

the early 90s.

**Unbundling:** The most noticeable change in your bill is its appearance. Previously, all the parts of your bill were mixed together, including costs of generating your power, transmitting the power from the point of generation and the costs of distributing that power locally. Now, each of those costs will be listed separately. It will not change the bottom line of your bill but you will be able to see how the different parts of your bill add up.

If you have questions about the new aspects of your bill, please give the CUB office a call or send an e-mail.

## CUB FIGHTS PACIFIC POWER'S \$130 MILLION RATE HIKE

In December, Pacific Power and the staff of the State's Public Utility Commission agreed to allow Pacific to charge Oregon customers \$130 million in costs that the Company incurred purchasing power in 2000-01. CUB is aggressively challenging that agreement.

According to CUB's testimony and brief filed before the Public Utility Commission, much of Pacific Power's purchases were caused by "risky actions" the company took in the wholesale market which "were designed to create high profit margins even as they exposed customers to unwarranted risk." Pacific Power committed power from power plants that were built by ratepayers to wholesale contracts and left customers needing to buy power not from the power plants we paid for, but from marketers like Enron. Finally, Pacific Power destroyed documents which described the reasons they entered into these contracts, and the risks that were associated with these contracts. These contracts account for \$92 million that the company is attempting to allocate to Oregon customers.

In addition, CUB has identified additional costs that are associated with PacifiCorp meeting load growth in its Utah territory. It is not appropriate for the company to be asking Oregon customers to subsidize Utah load growth. CUB is also charging the company with making claims that are factually incor-

rect and attempting to mislead the Commission.

If the Company wins, Pacific Power customers will see a 6% surcharge on their bills for the next 3 years in order to pay for these costs.

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### CUB MEMBERS POLL

Who would you like to own PGE? Please check box below and mail to us!

- NW NATURAL
- ENRON
- Local Government
- Other \_\_\_\_\_

(See story on page 1)

# UPDATE: Qwest loses lawsuit on franchise fees

In March, Qwest lost its lawsuit challenging the way Oregon cities collected franchise fees. As we reported in our Fall 2001 newsletter, Qwest has been refusing to pay these fees to Oregon cities while it pursued litigation, but Qwest has continued to charge these fees to customers. "Franchise fees" are rent that Qwest and other utilities pay in order to use the public "rights-of-way," or the strips of publicly-owned land, for laying their cable or stringing their wire. Paying these franchise fees is a cost of doing business for Qwest and other utilities.

In June 2001, Qwest took the issue of franchise fees to court, claiming that cities are charging too much in franchise fees. Their lawsuit asked for a determination on whether the amount of franchise fees is legal.

While the legal case continued, Qwest refused to pay franchise fees to the cities, causing serious budget situations for many municipalities and calling into question what the company plans to do with the fees. Qwest continued to collect the fees from customers and refused to guarantee that they would fully refund the fees to customers if they won their lawsuit.

On Friday, March 1, in an unusually swift ruling, Federal Judge Jelderks ruled in favor of cities in the case. According to the League of Oregon Cities, the judge's one-sentence ruling issued orally from the bench is as follows: "Under the facts of this case, the federal law does not preempt the revenue based fees charged by cities for the use of the right of way." In short, message to Qwest: you lose.

Pendleton Mayor Bob Ramig stated in a news conference after the judge's decision, "Franchise fees by Qwest and other utilities constitute the second largest source of revenue for the city's general fund. They allow the provision of public safety services such as fire and police protection and other services to maintain the quality of life that the residents of Pendleton and other Oregon cities appreciate."

Qwest claimed that they would pay the fees quickly if they lost the case. But nearly two months have passed since the court ruled against Qwest and Qwest still has not paid the money it owes cities throughout Oregon.

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