



June 2005

The Bear Facts

Citizens' Utility Board of Oregon...because utilities bear watching

Taxes! Taxes! Taxes!

If you are reading the newspaper much these days, you're probably aware that there's some controversy over your taxes. Not the ones that you pay directly, but those that you pay indirectly, through your gas and electric utility bills. Chances are good that some of the money you have paid on your utility bill (if you are a customer of a for-profit utility) was intended to pay state and federal taxes, but has not been used to pay those taxes. How can this happen?

The Oregon Public Utility Commission (PUC) has traditionally included the taxes a utility pays in the rates the utility can charge its customers. When a utility is owned by another company, the PUC, when calculating customer rates, still calculates the utility's taxes as if the utility were not part of a larger corporate structure. However, this is not necessarily the amount of taxes the utility actually pays, because the utility can join with its parent company in filing taxes instead of filing alone. The parent company can then take advantage of certain tax deductions while collecting the amount of taxes from ratepayers as if those tax deductions didn't exist.

This system actually encourages the parent company to hold debt so that it can make extra profit on the taxes it collects from customers, but then doesn't pay to the government, and it's not peanuts either. For example, Pacific Power collects about \$15 million in taxes from customers each year that its parent company, ScottishPower, doesn't pay to the government. Instead, those ratepayer tax dollars ended up in corporate coffers and enriching shareholders. It may be legal, but it isn't right, and it has gone on for too long. CUB has been fighting for tax fairness both at the PUC - in Pacific Power rate case UE 170 - and at

**Money you pay
to utilities that is
earmarked for
taxes instead
goes to
corporate
coffers - and it's
legal!**

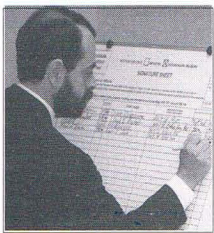
the State Legislature - in Senate Bill (SB) 408.

CUB has played a key role in writing SB 408-B. Senator Metsger asked CUB Staff Attorney Jason Eisdorfer to assist in crafting the policy and language of the bill, and Jason has dedicated an enormous amount of time to designing a bill that will represent the best interests of Oregon ratepayers. The resulting bill is a straightforward proposal to fix this problem, by preventing utilities from making money using creative accounting, instead of operating the utility. SB 408 instructs the PUC to align more closely the taxes collected from ratepayers with taxes actually paid to the government. SB 408 recently passed the Senate by a 26-4 vote and now moves on to the House.

In Pacific Power's current rate case, the utility is asking for an enormous rate hike. CUB has submitted testimony arguing that \$15 million should be removed from what the utility can charge customers, because we know this money won't get paid to state or federal governments. We filed our first round of testimony in May, will file again in the end of June, and will participate throughout the case with an expected ruling from the PUC in September. If this tax money isn't going to support schools or much-needed social programs, it certainly shouldn't be taken from the pockets of Oregon ratepayers.

We are tired of corporate shareholders pocketing money intended for government use, at the expense of utility customers. Both at the legislature and at the PUC, CUB is fighting hard to prevent utilities from collecting tax money from customers if they aren't going to pay the taxes. It's that simple!

PLEASE CALL (503-986-1000) or email (<http://www.leg.state.or.us/findlegsltr/>) your State Representative today. Tell them to vote YES on SB 408!



From the Executive Director

Dear member,

Ratepayers paying taxes that utilities do not pay to government has become a big issue (see page 1). It costs ratepayers millions of dollars in excessive rates and it is simply unfair.

It also highlights an additional problem: how a regulatory agency can become set in its ways. The Public Utility Commission (PUC) regulates utilities and sets their rates. When presented with evidence of these unfair tax policies, the response of the PUC staff is that Oregon has always ignored what a utility actually pays when projecting taxes to be included in rates.

In other words, "we do it this way, because we have always done it this way."

When the PUC developed its current system of projecting taxes, utilities were generally straightforward, locally-operated companies. They were not large diversified holding companies owned by Enron, or Scottish Power. What made sense 20 years ago does not make sense today.

CUB is leading the charge to change the way taxes are calculated and to reduce rates. Fundamentally, utility rates have to be set in a manner which is fair. If the old method of doing something is no longer fair then we need to change it.

In the article on the front page of this newsletter, we ask folks to call your State Representative on this issue. With your help we can win this one. The current policy has to be changed.

Bob Jenks
Executive Director & CUB Charter Member



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

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CUB's board meets 8 times per year.

CUB

610 SW Broadway Suite 308
Portland, OR 97205
(503) 227-1984 (phone)
(503) 274-2956 (fax)
E-mail: cub@oregoncub.org
web: www.oregoncub.org

CUB is a member of the National Association of State Utility Consumer Advocates (NASUCA) and the Consumer Federation of America (CFA).

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, 610 SW Broadway Suite 308, Portland, OR 97205, or call (503) 227-1984.

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

Here We Go Again! MidAmerican Wants to Purchase Pacific Power

While all eyes were following the tempestuous journey of Texas Pacific Group's attempt to purchase PGE, another utility deal was quietly making its way through the initial backroom channels, before appearing on the newspaper's front page. Last month, Warren Buffett's MidAmerican Energy Holdings Co. announced that it has reached an agreement with Scottish Power to buy PacifiCorp. Scottish Power is the parent company of Pacific Power, Oregon's second-largest electric utility.

CUB is certainly interested to what MidAmerican's initial offering holds. However, we already see potential problems on the horizon. PUHCA (see below) is in danger of being repealed, despite its 70-year history of protecting utilities and their customers. Warren Buffett's lobbyists in Washington D.C. are working hard to convince Congress to dismantle the protections provided by PUHCA. Because with PUHCA repealed, Buffett would be free to purchase utilities anywhere in the country and even the world, allowing him to create a mega-utility in which Pacific Power would be a tiny pawn.

If Pacific Power were to be absorbed into such a structure, CUB, the other customer groups, and even the Public Utility Commission would have a much harder time shaping the utility to better meet the needs of Oregon ratepayers. Customers would also be exposed to the risk of catastrophic corporate failure, as we have seen with enormous, extended companies such as Enron and WorldCom. The problem with Texas Pacific was that they didn't really want to own a utility; the problem with Warren Buffett is that he may want to own all of them!

Another serious issue is that both Pacific Power and MidAmerican Energy are very coal-dependent. CUB will be looking at MidAmerican's offer for that company's willingness and creativity in finding non-coal alternatives to create the electricity they provide to customers. We will be looking at their ideas for serving customers without placing customers in jeopardy as the cost of emitting carbon dioxide, both in the environment and in the energy markets, rises - perhaps astronomically.

CUB attorney Jason Eisdorfer and Utility Analyst Lowrey Brown met with Pacific Power and MidAmerican executives last month. It may take months for MidAmerican to file with the Oregon Public Utility Commission to seek approval of their offer, as they must also file for approval in the five other Western states

served by Pacific Power. A final decision on the merger will likely not happen for at least a year.

In the meantime, expect CUB to be heavily involved in this most-recent bid to purchase an Oregon utility. We will work diligently to create an acquisition that is in customers' best interest, and that protects Pacific Power from disappearing into Buffett's growing uber-utility. As our members expect, we will fight any deal that doesn't make the grade.

PUHCA Repeal Threatens Consumers

The Public Utility Holding Company Act (PUHCA) is an important law that has been protecting utility customers for almost 70 years. Unfortunately, current legislation in Congress would repeal the law, leaving customers unprotected. Without PUHCA, investment corporations could buy utilities and use ratepayers' money as security for high-risk deals that could damage the utilities we rely on for our electricity and gas service.

The House of Representatives has already passed an Energy Bill that repeals PUHCA, and the Senate is considering a version of the Energy Bill that would also repeal PUHCA. The Senate version contains a compromise that would give some power to the Federal Energy Regulatory Commission (FERC) to protect consumers. But the compromise would take away some of the power of the state to approve or deny utility mergers; a bad idea when the state has a much better understanding of the needs of its utility ratepayers, and the state is much more likely to aggressively defend the interests of its residents than FERC is.

One part of the Senate Energy Bill that CUB applauds is a proposal from Oregon Senator Ron Wyden, to create a national consumer advocate position within FERC, the first time consumers would have a voice within FERC. MedfordNews.com called this position the federal equivalent to Oregon CUB. Like CUB in Oregon, the proposed National Energy Consumer Advocate would protect utility ratepayers at the federal level in the issues that FERC regulates.

We may not know the fate of PUHCA until June or even later since much of the Energy Bill is even more contentious than PUHCA repeal. However, CUB will be watching closely, and we'll keep you up to date on our website, www.oregoncub.org.

CUB Leadership Adopts Climate Change Resolution

CUB is proud to announce that our Board of Directors has adopted a Climate Change Resolution. CUB's charge is to bring consumers' perspective to the regulation of energy production and to represent our rights and our interests in the utilities that serve us. The generation of electricity and the use of natural gas are significant contributors to the human emission of greenhouse gases which regulate earth's climate. The resolution:

The CUB Board of Directors is increasingly convinced by the science underlying global climate change, and is increasingly concerned about the potential financial, environmental, and social impacts of global climate change. Energy production is a significant contributor to greenhouse gas emissions. The impacts of global climate change could be devastating, and the true cost may be enormous. In analyzing the costs of resource development, CUB will not be constrained by attempts to impute the cost of potential carbon dioxide adders [in a utility's planning process, an additional fuel cost which represents the potential future cost of emissions], but may consider the greater costs of global climate change when establishing a position.

CUB supports policies and changes to policies that will reduce Oregon's emissions of greenhouse gases.

Why did we feel this resolution was necessary, and why now? Global climate change may well become the dominant energy policy influence in future decades, and the cause of significant increases in the cost of energy production. The evidence is strong, and the scientific community has reached consensus that most of the warming observed over the last 50 years is the result of human activities. Consider the following statements from the Intergovernmental Panel on Climate Change's 2001 report [on the web at http://www.grida.no/climate/ipcc_tar/].

* Globally, it is very likely that 1998 is the warmest year on record and the 1990s the warmest decade.

* The atmospheric concentration of carbon dioxide (CO₂) has increased 31% since 1750. The present CO₂ concentration has not been exceeded during the past 420,000 years and likely not during the past 20 million years.

* Emissions of CO₂ due to fossil fuel burning are virtually certain to be the dominant influence on the trends in atmospheric CO₂ during the 21st century.

* The average global surface temperature is projected to increase by 1.4 to 5.8 degrees centigrade in the next 100 years.

Recently the Oregon Governor's Advisory Group on Global Warming [<http://www.oregon.gov/ENERGY/GBLWRM/Strategy.shtml>] issued its strategy for greenhouse gas reductions in Oregon. This group recommends the following emission reduction goals:

* By 2020, achieve a 10% reduction below 1990 greenhouse gas levels

* By 2050, achieve a climate stabilization emissions level of at least 75% below 1990 levels

These kinds of greenhouse gas reductions will require serious changes to business-as-usual, especially for the energy sector. Keep in mind that annual CO₂ emissions are expected to double over the next 50 years, and that the electricity industry alone represents 40% of CO₂ emissions in the United States. CUB will be faced with some uphill battles in the years to come, and, due to other economic and social pressures in the Western region, we believe that if a sensible policy on coal and CO₂ is to emerge, it will emerge from Oregon.

CUB Opposes New Coal Plants

Climate change is a central theme that appears in much of CUB's work. Most recently, we filed comments with the Public Utility Commission on Pacific Power's "Least Cost Plan". This is the utility's official plan, including actions it must take, to meet its customers electricity needs. Pacific Power's latest plan includes not one, but TWO new coal-fired power plants. In a world where environmental degradation and climate change are threatening not only our health and wellbeing, but also the business-as-usual way utilities have been creating electricity, considering new coal-fired generation seems irresponsible.

Pacific Power serves not only Oregon, but also Washington, California, Idaho, Wyoming, and Utah. Of those six states, Oregon and Utah represent the bulk of the utility's customers. This is important, because Utah's demand for electricity is growing far more rapidly than Oregon's. We have been negotiating aggressively to protect Oregon customers from paying for growth in Utah's demand which is proving costly and is not rightfully our responsibility.

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Continued from page 4: CUB is demanding that Pacific Power not use new coal plants to meet the electricity demands of its customers. Pacific Power is already one of the most coal-dependent utilities in the West, and this over-dependence places enormous risks on the utility's customers. We strongly believe that investing in a new coal resource at this point would be irresponsible. For Pacific Power to be planning on two new coal plants exposes customers not only to the environmental risk of greenhouse gas emissions, but also to the financial risk that the emissions from those coal plants will be taxed heavily or become so expensive that the plants must be retired before they have served their useful life

Reading Pacific Power's "Least Cost Plan" gives one the impression that the utility has no other choice but coal to meet the growing demands of its customers. But there are numerous other ways for the utility to serve its customers without exposing those customers to the risks associated with massive CO₂ emissions. Energy efficiency programs can help customers meet their needs without generating additional electricity, renewable resources such as wind generate electricity without creating greenhouse gases, and creative programs to manage a utility's peak load, such as on a hot August afternoon, can ease the strain on the utility's system when electricity prices are the highest. None of these options were fully discussed or seriously addressed in Pacific Power's plan.

The increase in customer demand that Pacific Power now says must be met quickly with coal has actually been on the utility's radar screen for at least a decade. Utah's load growth is hardly a surprise as that state's peak electricity requirement has been growing at a rate of about 6% per year, while Oregon's has been declining partly because of energy conservation. Pacific Power has had plenty of lead time to address its growing electricity demand, and had it done so earlier, it wouldn't feel the pressure to invest in coal that it claims it does now. While Oregon's investments in energy efficiency are, and have been, paying off – in our pocket books, in our economy, and in our environment – Pacific Power and Utah still seem to feel it is our responsibility to bear higher rates and higher risk in order to build coal plants to serve an electricity load that could be managed more creatively, more responsibly, and more cheaply.

It seems clear to us that there are many options that are both more consistent with the long-run public interest and far less risky for ratepayers' wallets than building new coal plants at this time. Coal plants that would be built at ratepayers expense, and for which ratepayers would bear the risks. CUB's comments carried a strong message, and we are waiting to hear Pacific Power's response and the PUC's final decision.

Legislative Update: CUB Pushes for Good Consumer Policy

The 2005 session of the Oregon Legislature started six months ago and CUB has been there since day one. We're making sure that the interests of residential customers are not overwhelmed by the power the utilities wield under the Rotunda, and we're making headway. Here's a sample of what we've been up to:

Energy Efficient Appliances: House Bill (HB) 3363 establishes minimum energy efficiency standards for 11 products to save significant quantities of electricity, natural gas and water while benefiting the businesses and households that purchase these products. If the efficiency standards proposed in HB 3363 are adopted, Oregonians will realize a total net economic savings of approximately \$253 million after 14 years.

By 2020, assuming the standards are in place over the next 14 years, natural gas savings each year would equal approximately 3% of current statewide commercial consumption. Electricity savings would power about 50,000 homes. This means that homes and businesses would benefit through lower energy usage, resulting in lower energy bills. Within 8 years of implementing the standards, water savings would reach nearly 1 billion gallons each year.

CUB has been working closely with Rep. Jackie Dingfelder (D-Portland), Rep. Bob Jenson (R-Pendleton) and Sen. Jason Atkinson (R-Grants Pass) to pass HB 3363. The bill has already passed the House and is awaiting a hearing in the Senate. We are optimistic about the bill's chances for passage by the end of the session.

Ensuring Basic Phone Service for Domestic Violence Survivors: Often when a domestic violence survivor leaves an abusive situation, they confront tremendous financial challenges. In establishing a new life in a new home, difficulties are often encountered in setting up phone service because there can be an outstanding amount owed on an account with a former partner or the survivor does not have a credit history and would be required to pay a deposit. This puts a financial hardship on the survivor, requiring resources that are not available, and may prevent the survivor from establishing phone service. This creates a security risk for the survivor. It is important to have access to a phone to call police or other emergency service providers or to call support persons or services.

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Continued from page 5: To address this issue, CUB worked with the WomenSpace, a domestic violence shelter in Lane County, and with the Oregon Law Center to pass Senate Bill (SB) 983. SB 983 authorizes the Public Utility Commission to establish a "judicial certification" program to ensure that survivors of domestic violence can access basic telephone service. The judicial certification program allows a customer to provide proof that being without phone service would significantly endanger the customer, or an individual in the customer's household.

SB 983 was approved by both the House and Senate and was just signed into law by the Governor.

Future of PGE: There are several bills that propose different approaches to dealing with the future of Portland General Electric (PGE). CUB has been primarily involved with SB 1008, a bill that establishes a state-chartered public corporation to own and operate a utility in the PGE service territory. This bill has the support of all the major customer groups served by PGE, including the commercial and industrial customers.

CUB is opposing HB 3485, a proposal offered by a group made up mostly of former PacifiCorp executives to create an Oregon Mutual Utility. This proposal purports to create a customer-owned utility but falls short in demonstrating the accountability to customers and long-term stability that CUB looks for in evaluating these types

of proposals. CUB is joined in its opposition to the Oregon Mutual Utility proposal by both Associated Oregon Industries and the Industrial Customers of NW Utilities.

Solar Tax Credits: CUB has been working with the Oregon Solar Energy Industry Association (OSEIA) on SB 733, which would restructure an existing tax credit for residential customers who want to install a solar power system on their home. Currently, a customer can get up to \$1500 in a given tax year for installing a system with an output of up to 500 watts. If they add more output in following years, they can get additional tax credits.

SB 733 would allow a consumer to install an appropriately sized system all at once and then take their tax credit over several years. It will help encourage more solar usage for very little cost to the state. The bill is in the Senate Revenue Committee as this newsletter goes to press.

Utility Taxes: Consumers have been strongly demanding a fix to the long-standing problem of regulated utilities collecting money from ratepayers in rates for taxes that the utility never actually pays to the state or federal taxing authorities. Please see the "Taxes Taxes Taxes!" on our front page for more information about this issue and CUB's work in promoting a solution.

To contact your legislator about any of these bills, go to <http://www.leg.state.or.us/findlegsltr/> to send an e-mail, or call 1-800-332-2313 and ask to be connected to your legislator's office.

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