The Bear Facts
Citizens' Utility Board of Oregon...because utilities bear watching
Fall 2005

PUC Adopts CUB Recommendation on Taxes — Slashes Pacific Power Rate Hike

On September 28th, the Public Utility Commission (PUC) adopted CUB's recommendation to reduce Pacific Power's proposed collection of taxes in customer rates. CUB argued that the taxes that Pacific Power projected to collect in rates would be greater than would be paid to governments because of tax deductions at Pacific Power's parent company. The PUC agreed and cut $16 million of taxes from rates.

Pacific Power rates will be LOWER this winter than last winter.

Pacific Power was seeking a 12.5% rate increase, equaling more than $100 million. During the course of the rate case, working with other customer groups and the PUC staff, CUB was able to reduce the rate increase by half. With the further adjustment on taxes, the final overall increase is 3.2%, or $26 million, which means we successfully lowered their proposed increase by 75%.

Because a surcharge related to the 2001 energy crisis recently ended, the result is that rates this winter will be **lower** than last winter.

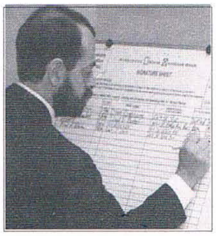
"This is a huge victory," said Bob Jenks, CUB Executive Director. "The utilities have been systematically overcharging customers for taxes that aren't being paid, and they have been resisting attempts to fix this. This decision by the PUC reflects the first attempt to set rates based on more realistic forecasts of taxes."

Earlier this year, the legislature passed SB 408 which directs the Commission to establish rates that reflect the amount of taxes that utilities pay. As this law gets fully implemented over the next year for utilities, CUB expects to see further reductions in customers' rates. (See Utilities Continue To Fight Tax Bill on page 4.)

The PUC decision also adopts CUB's rate structure for Pacific Power. Pacific Power charges customers one price for the first 500 kilowatt hours used, a higher price for the next 500 kWh, and still a higher price for any usage over 1000 kWh. CUB's analysis in this case showed that the number of days in a billing month increase in winter months when usage is highest. In 2004, 60,000 customers had January bills that were 36 days or longer. If a customer used exactly 1000 kWh in the first 30 days, then the next 6 days were billed at the highest rate. CUB's proposal fixed this by expanding and shrinking the usage bands depending on the number of days in a billing cycle. So if your January bill is 36 days, you get more than 1000 kWh before hitting the highest rate.

Finally, the decision incorporates CUB's recommended adjustment on employee health care costs. CUB discovered that when projecting next year's health care costs, the utility was inflating the number of its employees.

Large structures and small details – CUB's regulatory staff pays attention to all of it, because all of it impacts rates.



From the Executive Director

Dear Member,

There have been a lot of stories in the news recently about how energy costs are going up this winter due to the effects of Hurricanes Katrina and Rita, including some predictions that natural gas bills will be 50% to 75% higher than last winter.

In Oregon, our natural gas rates are going up around 15%. This will be difficult for customers, but much easier than a 75% increase. This isn't due to luck, or even geography. Instead, it has a lot to do with how we regulate our natural gas companies.

A lot of states jumped on the deregulation bandwagon several years ago and are now paying the price for it. In those states the price of natural gas a customer pays is closely tied to the spot market. When Hurricane Katrina hit, natural gas prices went up, and so this will be directly reflected in the natural gas rates of those states.

In Oregon, natural gas is still a regulated industry. Gas companies must get Public Utility Commission agreement to raise rates. Our gas companies still do resource planning, where they have to work with CUB and state regulators to come up with the least-cost strategy to purchase gas. Consequently, our gas companies have an incentive to buy gas ahead of time, build storage, and manage costs. The gas you use this winter was purchased before Katrina's devastation.

CUB has never been a fan of deregulating critical utility services such as electricity and natural gas. In a deregulated market, when supplies get tight, prices increase, profits skyrocket, and consumers suffer. While we are seeing record profits for the multinational oil companies that sell gasoline, our regulated utility system ensures that we don't see record-setting profits for (and record-setting bills from) our natural gas and electric companies.

This is just the latest example of why we cannot afford deregulation, which puts customers at the mercy of an unstable market. CUB is working hard to help Oregon residential utility customers keep their heads above water, no matter what the weather.

Bob Jenks

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 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.

Warren Buffett's Company Proposes to Buy PacifiCorp

MidAmerican Energy Holdings Company (MEHC), a utility holding company primarily owned by Warren Buffett's Berkshire Hathaway, has proposed purchasing PacifiCorp from Scottish Power. PacifiCorp, which does business in Oregon as Pacific Power, is the state's second largest utility.

MEHC's filing raises some serious concerns for CUB:

1. *The Congressional repeal of the Public Utility Holding Company Act (PUHCA), a law that prohibited large national holding companies from purchasing local utilities.* The law protected utilities which provide essential services from being affiliated with highly risky businesses through a holding company structure. Such affiliations led to several utility bankruptcies before PUHCA was passed in 1935. The repeal of PUHCA makes this deal possible, but subjects PacifiCorp customers to the risks that PUHCA was designed to prevent.

2. *The unknown rate impact of MEHC business plans.* MEHC argued that customers will benefit because they are prepared to invest a great deal of money into new generation facilities, new transmission lines, and environmental upgrades of their coal-fired power plants. But each of these investments will increase the utility's profits (utilities earn their profit by multiplying their allowed rate of return times their capital investment), and these investments will be paid for by customers. MEHC has not provided the cost to customers in their plans.

3. *The potential for even greater dependence on coal.* PacifiCorp gets most of its power from burning coal. So does MEHC. With growing concerns about the effects of global warming, this dependence on coal is of great concern. Carbon emissions from coal plants are likely to be highly regulated at some time in the future and the cost of this regulation on customers could be severe. When building new power plants, will MEHC fall back on what it and PacifiCorp knows best, coal, or will it recognize that it already has enough coal and be a leader in developing alternative sources of power?

4. *The shift of Company leadership to Utah.* MEHC is headquartered in the Midwest, but it owns a large pipeline company in Utah. PacifiCorp now has more customers in Utah than Oregon, and Utah is demanding that the utility shift more of its top jobs to Utah. Should this happen, Oregon will lose those jobs, and potentially much more, because the issue is greater than just jobs (as important as we know those are). The State of Utah has a much different energy policy than Oregon; it has shown less support for energy efficiency investment and renewable energy, and has been pushing PacifiCorp to build even more coal power plants. So CUB wonders: Will this shift be a shift in people only, or in policy as well? (Note: *The Daily Astorian* did a great editorial on this issue on 9/12/05 and it is available from our website: www.oregoncub.org/currentnews.htm.)

5. *Uncertain future of MEHC and Berkshire Hathaway after the leadership passes from Warren Buffett to someone else.* Utility ownership is usually considered in a long-term time frame, and we are concerned about the impact Buffett's retirement will have on the stability and vision of the companies he owns. CUB has never seen an application and a company that seems so dependent on a single individual. Regardless of how one views Buffett, we have to examine whether this deal makes sense in the long run, after Buffett is no longer in control.

6. *Uncertain future of ScottishPower.* Because ScottishPower does not want to keep PacifiCorp, what does saying "no" to MEHC mean for the utility?

7. *The traditional issues relating to a utility acquisition.* How will the amount of debt associated with this deal affect the utility? What is the impact of the double-leverage structure of this proposal? Is MEHC offering any real, tangible benefits for customers?

CUB will file testimony on this proposal in November. At this time we have a lot of questions and concerns.

PGE In The Process of Becoming an Independent Utility

After having the PUC reject its proposed sale of PGE to Texas Pacific Group, and then turning down an agreement with the City of Portland to create a publicly-owned PGE, Enron is implementing its back-up plan. This plan is to spin PGE off into an independent, publicly-traded utility.

PGE recently reached an agreement with CUB, the PUC staff, and the Industrial Customers of Northwest Utilities on a set of conditions associated with the spin-off. Those conditions include offsetting expected higher borrowing costs associated with Enron's bankruptcy by reserving $40 million to reduce rates, agreement on new service quality standards, and granting customer groups access to the new Board of Directors.

For more than 2 years, CUB has been supporting efforts to create a regional publicly-owned utility. We first worked to set up a plan called Willamette Valley Power which would work through county governments to purchase PGE, and later we worked with the City of Portland to help develop their proposal for purchasing PGE. We also supported legislative efforts to create a state power authority until fatal flaws in the plan would not be removed. The failure of these efforts is very disappointing to all of us at CUB. We believe that a regional publicly-owned utility contained significant long-term benefits for customers.

At the same time, as CUB testified to the PUC during the TPG case, TPG would have been a terrible deal for customers, much worse than the spin-off that Enron claimed was the alternative. That continues to be our analysis. This outcome has few of the benefits of the regional public ownership, but doesn't have the same harms to customers as the Texas Pacific acquisition would have had. Sadly, it is the only option remaining at this point to safely remove PGE from the rubble of Enron. (See p.6 for Texas Pacific Group Wins; Texas Ratepayers Lose.)

Utilities Continue to Fight Tax Bill

During the legislative session, the big utilities (Pacific Power, PGE, and NW Natural) tried hard to defeat Senate Bill 408, which changes the way taxes are calculated in rates. Thanks to media and grassroots political pressure, not to mention good advocacy from customer groups like CUB and ICNU, the bill did pass and the PUC is now beginning to implement its legal changes. Traditionally, the PUC has calculated a utility's taxes as if the utility were an independent, stand-alone company. But several Oregon utilities are not stand-alone companies, and are instead owned by large corporations who use the parent company's tax deductions to pay far less in income taxes than what is included in rates charged to customers.

SB 408 was specifically designed to change this unfair system. It requires the Commission to adjust rates to ensure that the amount charged to customers in rates is the customers' fair allocation of the *actual* tax burden that is paid to government.

Even with the passage of the legislation in August, the utilities continue to challenge the law. It was recently reported in the *Oregonian* that MidAmerican Energy Holdings Company (MEHC), the company trying to buy Pacific Power, met with the Governor and complained about the bill.

In addition, the utilities are challenging the way the PUC staff is attempting to interpret the law. The staff proposal would allocate holding company tax deductions to all the affiliates of the holding company, much as CUB proposed in the recent Pacific Power rate case (See PUC Adopts CUB Recommendation on Taxes, page 1). This means that the tax deductions that are being used to reduce the overall corporation's taxes would be allocated proportionally to the utility and then passed along to customers, so that rates more accurately reflect the taxes actually being paid.

The battle over phantom taxes is far from over, but we are happy to report that the situation is much improved. We will continue to defend against attacks on the Utility Tax Reform Bill, and work to make sure that taxes paid by customers and taxes paid by utility companies are more closely aligned.

Cascade Natural Gas To Join Energy Trust

Cascade Natural Gas announced their proposal this week to join the Energy Trust of Oregon. If the Public Utility Commission accepts their application, they would contribute to the Public Purpose fund that maintains the Energy Trust's conservation and efficiency programs. CNG customers would also become eligible for the conservation assistance currently offered to customers of Portland General Electric, Pacific Power, and NW Natural.

CUB has been pushing the natural gas utilities in this direction, since we feel that it is an inherent conflict of interest for a utility to be in charge of programs that cut back on consumption of the product they sell (and the profit they make). We are very pleased with this announcement and look forward to seeing increased energy efficiency opportunities in Bend and other cities in Central Oregon.

National and State Legislative Wrap-up

Since our last newsletter in June, a lot has happened in Salem and in Washington, D.C. On the national level, Congress passed an Energy Bill that gives away the store to big oil, gas, coal, and even nuclear industries. The bill also repealed the protections of the Public Utility Holding Company Act of 1935, which was designed to keep utilities from being used to support risky investment strategies. One of the main proponents of PUHCA repeal just happens to have been Warren Buffett, owner of Berkshire Hathaway, which in turn owns MidAmerican Energy Holdings Company, which is trying to buy PacifiCorp. CUB is involved in the MidAmerican case, and published an op-ed in the Oregonian about the case on Sept. 5th (available on our website at http://oregoncub.org/archives/2005/09/oregonian_runs.php).

The news from Salem was more positive. We helped pass SB408, the Utility Tax Reform Bill (see page 1), an energy efficiency standards bill for 11 common appliances, a domestic violence survivors' telecommunications bil, and a solar energy tax expansion bill. (To read more about these bills, see http://oregoncub.org/archives/2005/08/legislature_fin.php.)

NOTICE

CUB is currently seeking potential candidates for its Board of Governors. According to CUB's bylaws, CUB members elect the members of the Board and are eligible to run for a seat on the Board. CUB's Board is structured with three seats for each of Oregon's five congressional districts. One seat is up for election in each district and most are expected to involve a current Board member running for re-election.

To serve on the CUB Board, one must meet the following criteria on the date of this notice: be a member of CUB in good standing; live in the congressional district in which the member files to be a candidate; not be employed by a utility regulated by the Oregon Public Utility Commission; not currently hold elective office at any level; not currently be a candidate for elective office at any level; not be a state public official (i.e., hold an executive level position in a state agency); and not singly or in combination with an immediate family member own or control stocks or bonds issued by a utility regulated by the Oregon PUC with a total value in excess of $3,000.

Serving on the CUB Board involves regular attendance at board meetings which occur at least 8 times per year, setting organizational policy, providing general financial and program oversight, and communicating as needed with fellow CUB members.

To find out more about serving on the CUB Board or about the election process, you can go to the CUB website at www.oregoncub.org and click on About CUB, and follow the links from there. A candidate filing form, along with an election schedule and complete rules, is available at the website. To receive the candidate filing form via postal mail, call CUB at 503-227-1984. The deadline to file as a candidate is November 15th, 2005 by 5:00 pm.

Texas Pacific Group Wins; Texas Ratepayers Lose

A year ago, around the time that Texas Pacific Group was trying to buy PGE, they also bought a collection of power plants from CenterPoint Energy, a Texas utility. Texas Pacific bought the power plants for $900 million and today is selling them for $5.8 billion, six times the purchase price.

When CenterPoint Energy sold the plants to Texas Pacific, they claimed that $900 million was the value of the power plants, even though customers of CenterPoint still owed the utility $2.9 billion for the cost of building the power plants. Under Texas regulations, ratepayers are required to pay CenterPoint the $2 billion difference over the next 10 years even though the utility has sold the power plants.

Texas Pacific and its investors made almost $5 billion in a year. Ratepayers will continue to pay $2 billion for generation assets that they no longer own.

To all the CUB members who helped us rout Texas Pacific in Oregon, let this be a reminder of the importance of that fight and your contribution to it.

Idaho Power Victory

Who has saved you $3.8 million dollars recently? If you live in Idaho Power territory in Eastern Oregon, the answer is CUB. We argued in Idaho Power's most recent rate case that their proposed rate increase of $4.4 million dollars was way out of line. The PUC agreed, and gave them an increase of $600,000 instead.

CUB also argued successfully that charging higher rates in the summer was illogical in Eastern Oregon, where the highest usage tends to occur in the wintertime.

This was Idaho Power's first rate case in several years and they have filed a challenge to the PUC's decision, but we believe the decision will be upheld.

The Bear Facts is printed with soy-based ink on 50/35 recycled paper.

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