25 YEARS

The Bear Facts

Citizens' Utility Board of Oregon

Fall 2009

UTILITIES SEEK HIGHER RATES

As Oregon households are suffering through the worst recession in decades, most of the major energy utilities in the state are trying to significantly raise utility rates. Three utilities, Idaho Power, PacifiCorp and Avista Utilities, are asking for large increases in their allowable profit margin. Some of the utilities have more than one rate hike in the works.

Below is a summary of some of these requests to raise rates. For context, we are also listing the July unemployment rate for one or more counties in Oregon that the utility serves.

Idaho Power. Idaho Power serves about 18,000 Oregon customers in Eastern Oregon. It is proposing to ***increase residential rates by 37.3%.*** It is also proposing to charge customers higher rates in the summer by ***increasing summer residential rates by more than 50%.*** More than 20% of the proposed increase would go straight to shareholders as Idaho Power is requesting an increase in its profit margin (return on equity — ROE) from 10% to 11.25%. The unemployment rate in Malheur County, Idaho Power's main service area, was 11.2%.

Pacific Power. Pacific Power has more than one request for higher rates. In one case filed in April, Pacific Power is requesting a ***9.1% increase in rates,*** which would cost customers an additional $92.1 million. A significant part of this is their request to increase their profit margin (ROE) from 10% to 11%. CUB's testimony shows that more than $20 million of this increase (about 30%) comes from the increase in profit margin. In addition, industrial customers are asking the PUC to place a larger share of the increase onto residential customers. In another case filed in March, Pacific Power is requesting a 2.1 % increase. This increase is primarily caused by decreased demand because of the current economic recession. Between the two rate hikes, Pacific Power is looking at an increase that is ***greater than 11%.*** PacifiCorp serves some of the hardest hit areas of the state, including Crook County, which had an unemployment rate in July of 18.7%.

Avista Utilities. Avista, which serves natural gas customers in Southern and Eastern Oregon, has two filings before the Commission. In the first case the utility is seeking an increase of ***12.5% for residential customers***. This Includes a request to increase its profit margin up to 11%. In the second, Avista is asking to be allowed to retain a refund of $2 million plus interest that it owes customers. This refund comes from an overpayment of taxes by customers in 2007. Under state law, when a utility charges customers more for taxes than it actually pays to the government, it is required to refund the difference. Avista is asking the Commission to allow it to keep this overpayment and add it to the company's profits. Like Pacific Power, Avista serves some of the hardest hit areas of the state, including Douglas County, where unemployment was 16.3%.

Portland General Electric (PGE). PGE had a general rate increase last year and plans to file one next year. In the meantime, however, it has a number of requests to adjust rates. In April, PGE requested a rate increase of 1.5% related to the cost of new renewable energy development, which is offset by a requested rate decrease of 2.6% related to fuel and purchase power costs. However, PGE has also decided to flood the PUC with multiple requests to charge customers for costs outside of traditional rate cases: ***$2.2 million*** for tax changes related to its Colstrip power plant; ***$12.9 million*** associated with fish passage improvements at its Pelton-Round Butte dam; ***$26.4 million*** of power costs that were caused by the 2006 shut down of their Boardman power plant; ***$1.2 million*** from increased fees to use federal land; and costs associated with the Superfund clean-up of the Portland harbor, which PGE claims cannot be quantified. PGE's service territory includes Multnomah County which had an unemployment rate of 11.4%, and Yamhill County, which had a rate of 11.6%.

CUB is fighting these increases. We are offended that utilities are asking for significant increases in their allowable profits during a recession, while customers are having trouble paying bills.

From The Executive Director

Dear Member,

In the many years I have been at CUB, I have never seen a tougher economic time. Many businesses are closed or struggling. Thousands of Oregonians have lost their jobs, had their hours reduced, lost their health insurance, or seen their retirement savings slashed.

It seems like the utilities haven't noticed. Pacific Power, Avista Utilities and Idaho Power have decided that this is a good time to increase their corporate profits. In addition, Avista is asking to retain a refund it owes customers, and PGE seems to be looking for excuses to ask for higher rates. It really is incredible.

The utilities seem to have a sense of entitlement; that is, they feel like they are entitled to open our wallets whenever they want. No doubt that the recession is affecting them also, but most businesses respond to a recession by looking at ways to hold down costs. Most Oregon utilities seem to be responding to this recession by asking to raise rates.

In circumstances like this, CUB puts a lot of effort into examining their proposals and leads the fight against the requested rate hikes. We need to review their requests to ensure that they do not receive one dollar more than is reasonable.

We must also provide context about these proposals to state regulators ruling on these rate requests and remind them that these are not ordinary times for customers who pay the bills. The utilities want regulators to ignore the effect that their proposals will have on Oregon families and Oregon businesses, we think that would be irresponsible. For example, Idaho Power is proposing to increase its summer rates by more than 50% in Eastern Oregon, where summers get hot. What will be the consequences in the next heat wave for people who can no longer afford to run their air conditioning?

From a utility perspective, this boils down to an issue of costs, revenues and profits. From CUB's perspective, this is about people, many of whom are struggling. And part of our job is to give the customers a voice in the proceedings that will determine whether, and how much, your monthly bills will increase.

Sincerely

Bob

Bob Jenks

The Bear Facts is the periodic newsletter of CUB and the CUB Policy Center.

CUB's board meets 8 times per year.

NOTICE

CUB's Board of Governors is elected by CUB members. To find out more about serving on the CUB board and 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. A form and additional information can also be requested via postal mail by calling CUB at 503-227-1984.

Notice Date: 15 September 2009

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

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

CUB's Legislative Round-Up of 2009 Session

CUB entered the 2009 session in high spirits from gains in the 2007 session and with the ambitious goals to retain past successes and to move policy forward in four main categories: 1) Climate, 2) Energy Efficiency, 3) Renewable Energy, and 4) Telecommunications. We succeeded in meeting goals in each category, with particular gains in energy efficiency legislation and defeating bad telecom legislation.

However, this past legislative session was a hard one for renewable energy policy, and despite tireless work during the session by a wide range of allies, CUB had to join with many of those allies to request vetoes for three anti-renewable energy bills that we believed threaten Oregon's position as a leader in the national push for clean energy and proactive climate change policy. But overall, CUB was able to deliver several pro-consumer bills.

Climate Victories:

CUB was instrumental in passing two bills on climate. One, SB 38, expands the ability of the Oregon Department of Environmental Quality to track greenhouse gas emissions from sources outside the state – primarily utilities – that account for significant in-state use. The other, SB 101, establishes an emissions performance standard which requires that all new power generation sources have emissions that are equal to or better than the most modern natural gas plant. In general, the bill says you can't build a new coal plant unless you're willing to bury the carbon emissions. This means no new plants that will add significantly to climate change will be on the table.

Climate Losses:

SB 80 (Cap-and-Trade Authorization) This centerpiece of the climate agenda had many lives. It was clear relatively early in the session that a regional-cap-and-trade bill did not have adequate support to pass. However, a serious effort was undertaken to create a "planning and scoping" process to determine how to create a state interagency coordinating council and direct four main agencies to create plans to meet the state's statutory goals for greenhouse gas emissions reduction. This effort made significant headway, but ultimately industry demands would have watered down the bill to such an extent that it would have done little to reduce greenhouse gas emissions. The bill did not pass.

Energy Efficiency Wins:

Two key bills, HB 2626 and HB 2180, will help Oregonians make more gains in increasing energy efficiency. HB 2626 (Energy Efficiency and Sustainable Technology Act) was introduced to provide a series of pilot projects intended to deliver increased energy efficiency services to residential customers and businesses, such as on-bill financing, where homeowners can pay back loans for energy efficiency projects right on their gas or electricity bill. HB 2180 was introduced to enable local governments to establish "local improvement districts," or LIDs, to fund energy efficiency projects in particular areas. HB 2180 was ultimately folded into HB 2626, which passed overwhelmingly.

Another energy efficiency bill, SB 79, created a system of "reach codes" within the building codes system that would adopt two sets of codes at a time: a new building code and a "reach code" that would be the main code in three years' time. This will create an incentive for building designers and builders to "push the envelope" in terms of adopting efficiency measures earlier than current codes because they would have the certainty about future code standards. The bill originally sought to establish a system of providing an "energy performance score" to a residence or commercial building at the time of sale, much like a car has a mileage rating. But this piece was dropped from the bill, although there will be a task force that will look at establishing such a system in the future.

Renewable Energy

This was the most disappointing issue area for the session, since all of the bills that CUB opposed fell

continued on next page

into this category. The bills were bad enough on their own - though one actually had good things in it - but cumulatively they represented a retreat from the substantial renewable energy policy progress made in 2007. Thankfully, the Governor vetoed the worst of the bills – HB 2940 and HB 2742. Although HB 3039 was signed, it was the least troublesome of the bills and CUB will be working in the PUC process to ensure that the bill is implemented in the best way possible.

HB 2940 – The bill, as passed, added a significant amount of existing biomass generating resources to the state's new Renewable Portfolio Standard (RPS). Although biomass is a qualifying resource category, in order to qualify as a resource a generating facility must have been constructed after 1995. Most of the biomass facilities allowed under the bill were built between the late 1930s and the mid-1980s. In addition, the bill also allows up to 11 megawatts of power from municipal solid waste, a resource that is not currently allowed under the existing standard, which reduces the development of new renewable resources.

HB 2472 – The bill sought to reduce the amount of money directed through the state's Business Energy Tax Credit (BETC) for renewable generating facilities over 10 megawatts. This reduction primarily impacts large wind facilities and, ironically, biomass facilities. The reduction makes Oregon largely uncompetitive for siting these resources when compared to neighboring states, meaning that Oregon will lose the economic benefits associated with the building and ongoing operation of these facilities.

HB 3039 – This bill does have some parts that CUB supported, namely the creation of a pilot solar feed-in tariff, which would pay individuals and businesses that install solar generation systems for the energy generated from those systems. However, also included in the bill was a provision to allow "utility-scale" solar generating systems and allow the renewable energy certificates to count two-for-one against the RPS. While the overall impact on the standard is relatively minor, CUB believed that this would reduce the amount of renewable energy overall, increase carbon emissions and set a bad policy precedent for the future integrity of the RPS. That's why we opposed the bill.

In its veto request letter, CUB outlined potential steps forward on all of these issues, and that we remain committed to working constructively with all stakeholders.

Telecommunications

Most of CUB's work in this area was defensive – making sure that telecom companies didn't pass legislation harmful to consumers. The good news is that no bad telcom legislation passed. CUB's efforts were focused on two main bills.

HB 2405 – Verizon proposed legislation to prevent regulation of Voice-Over Internet Protocol (VOIP) which isn't regulated anyway - but also wanted to prevent regulation of any "internet-enabled protocol" service or any "successor technology." CUB thought this was overly broad language that could endanger regulated basic telephone service. We worked with cities, counties and Oregon's Attorney General to defeat the bill.

HB 3036 – Qwest and Verizon introduced a bill that would deregulate all telecommunications services, despite the fact that CUB had reached a settlement last year with Qwest to deregulate some competitive services but kept basic telephone service regulated. However, with all the controversy that HB 2405 (see above) engendered, HB 3036 never even got a hearing.

PUC Denies Verizon Request, CUB Cheers!

In mid-July, the Oregon Public Utilities Commission (PUC) announced an important ruling when it asserted its jurisdiction over the acquisition of Verizon's service territory by Frontier Communications. At a time when big players in the telecommunications industry are agitating for unregulated competition, this decision reaffirms the

continued on the next page

PUC's right and intention to oversee large transfers of telecommunications within the state.

A little background is essential here. During this last legislative session, while trying to pass a bill in the Oregon legislature that would make all internet protocol-enabled services (including traditional phone calls when sent over the internet) unregulated, Verizon announced its intention to transfer control of its local phone, internet and cable services to Frontier Communications. As if Verizon's legislative request (which didn't pass) wasn't dubious enough, on June 23, the two companies filled a joint application requesting that the PUC "decline to assert jurisdiction" over Verizon's transfer of control to Frontier.

Verizon and Frontier argued in their application and subsequent motion that their transaction fell outside the statutes under which the PUC could assert jurisdiction. This statement was far reaching at best, given that ORS 759.375 states that a telecom utility doing business in Oregon shall not, "without first obtaining the Public Utility Commission's approval of such transaction: (a) Sell, lease, assign or otherwise dispose of the whole of the property. . .or any part thereof of a value in excess of $100,000 . . ." and then in part (c) states: "By any means whatsoever, directly or indirectly, merge or consolidate any of its lines, plants, systems or other property whatsoever...with any other public utility or telecommunications utility," again, without first obtaining the PUC's approval of such a transaction.

Verizon and Frontier claim that ORS 759.375 and a similar statute pertaining to stock transfers (ORS 759.380) do not apply to their transfer because when it is complete, the companies will remain separate entities and neither company will own stocks, bonds, or property of the other.

However, this notion ignores the complexity of the transfer plan and its use of newly formed companies through which to transfer stock. The transfer plan was so complex and convoluted that CUB submitted a diagram of the transfer into the record in an attempt to clarify the plan for itself and others. We stated in the brief that the transfer plan was "akin to a magician's shell game or Three Card Monte, designed and implemented to try and avoid assertion of jurisdiction by State PUCs over these transactions."

CUB thinks the Verizon/Frontier transfer plan is exactly the kind of "indirect" transaction that the PUC *ought* to regulate. As CUB stated in its brief, few statutes have ever have been written so plainly or so broadly. Clearly the legislature did not intend for the name or type of transaction to be relevant; what is relevant is whether a large piece of telecommunications business is changing hands, as is clearly happening in this case. Moreover, the Verizon/Frontier transaction transfer will be well in excess of the $100,000 lower limit of sales and transfers over which the PUC has jurisdiction.

Thankfully, on July 17, the PUC denied Verizon and Frontier's request, instead asserting its jurisdiction over their transfer of control. This is an important message to Oregon telecom companies that the Commission is watching and intends to act upon its mandate to regulate large telecom transactions within the state. It is also an important precedent for other jurisdictions, who may face the same claim from Verizon regarding assertion of jurisdiction as Verizon and Frontier seek to accomplish the same transaction in other states. CUB applauds the Commission for flexing its jurisdictional muscle in this case.

LATE BREAKING NEWS: As this newsletter went to press in August, we received notice from the PUC that it had granted our joint motion (with IBEW) to amend the schedule and would give us, and the other parties participating in the case, an additional two months to work on all the complex issues raised by this docket.

CUB and IBEW had noted in their motion that as of August 13, 'there are more than 100 discovery requests outstanding, along with numerous others to which Verizon or Frontier have objected which objections have not yet resolved.' The PUC agreed with us and now we have more time to make sure this case is treated with all the seriousness it deserves.

CUB's First Law Clerk

Clerking Experience at CUB by Sakae Sakai (soon to be a 2L at Lewis & Clark Law School) – from the Law Clerk's point of view: Emerging out of my first year of law school, the prospect of applying what I learned in the classroom to a real world situation was very exciting. Specifically, I was excited to clerk with the Citizens' Utility Board of Oregon (CUB) as it is an organization which houses not only a staff attorney, but also utility analysts and other experts in the field of energy law. Learning about utility regulation from both economic and legal experts, attending administrative hearings before the Oregon Public Utility Commission, and conducting legal research and writing on on-going rate cases has been an invaluable experience.

On a holistic level, clerking with CUB has given me great legal experience and the mentoring aspect of the organization merits it as a clerking experience any law student interested in a career in energy law should consider.

Clerking Experience at CUB by Catriona McCracken, our staff attorney: Hurray!!! We are so happy to have developed a law clerk program this year and could not be happier that our first law clerk was Sakae Sakai. It has been simply delightful, and so wonderfully efficient, to be able to ask "my" law clerk to do some legal research, draft pleadings for my review, prepare filings, and attend hearings as an extra pair of ears.

Thanks to Sakae, CUB is very pleased with its law clerk experience and intends to continue, and build upon, its new law clerk program. In his piece above Sakae mentioned mentoring. Having had wonderful mentors myself when in law school, and later on in government practice, I know the value of a good mentor and I will continue to try to be one! CUB welcomes applications from law students in all law schools who are interested in the burgeoning field of energy law.

CUB Interns: Real Work Not Busy Work

For the last 15 years or so, CUB has had an active internship program where students have a chance to gain experience interning in an advocacy setting working on real policy issues. They research issues, write articles (including this one!) and bring up great ideas in staff meetings. CUB is able to pay its interns for 200 to 400 hours of work over the course of a term or semester.

Most of CUB's interns participate in the Eric Shaich Memorial Fund Internship Program. The principal of the fund was donated by the family of Eric Shaich, an early volunteer with the CUB campaign in 1984 and eventual energy professional. The Shaich Fund generates interest which supports 1-2 interns per year working 10-15 hours per week.

This summer, CUB has had a nearly full-time summer intern. Amani Smathers, a Tufts University student who will be starting her senior year in the fall, found out about CUB through family friends and wanted to learn more about energy and consumer issues. When she applied for a summer internship, Amani was taking a semester studying abroad in Jordan, so the interview process was a little more intricate (Skype works well, but Jordanian internet connections can be fickle).

Starting with CUB in mid-June, Amani got to participate in the last couple of frenetic weeks of Oregon's legislative session. "Getting a close-up look at consumer and environmental advocacy at the state legislature was something I'd really looked forward to," Amani noted. "After the experience of interacting with legislators and other advocates, it is something I'm interested in pursuing."

Since the end of the session, Amani has taken on a number of research and writing projects, covering a wide gamut from energy efficiency to telecommunications consumer information services. She's also helped get CUB's blog and

continued on next page

online newsletter operating more regularly, along with other "miscellaneous intern tasks," as Amani puts it. "But the great thing about interning for CUB is that that last category of tasks is relatively minute," she says. "Unlike cohorts who are fetching coffee and limited to making copies, CUB gives me the opportunity to contribute to the organization while also growing my own knowledge and skills."

Thanks, Amani, for spending your summer with CUB!

25 Years And Counting!

It's hard to believe but November 2009 marks 25 years since Oregon voters approved the initiative that created CUB. We've been celebrating this milestone, ending with a big party in November. (See page 8 for your save the date card!)

Here's some of the important things we've worked on that you might have forgotten:

1985: *After a CUB challenge, GTE (now Verizon) withdraws a request to increase phone rates by $7.4 million.*

1987: *CUB won its first refund when US West (now Qwest) was forced to give back $11 million to customers.*

1993: *The Oregon Supreme Court sides with CUB and orders US West to refund $15.5 million to its customers.*

1997: *CUB wins conditions on the PGE/Enron merger that guarantee $140 million in rate reductions, maintain service quality, and require Enron to invest in energy efficiency programs, renewable energy development and programs to protect endangered salmon while continuing to oppose deregulation plans.*

1998: *The Oregon Court of Appeals backs CUB's position that state law prevents PGE from collecting $300 million in profits it would have made on Trojan if it had remained open until 2011.*

1999: *CUB convinces the PUC to reject Enron/PGE's radical deregulation plan, which would have raised customer rates by 17.8%.*

2002: *The new Energy Trust of Oregon is created to administer new energy conservation and renewable energy investments mandated by CUB's Fair and Clean Energy Plan.*

2004: *CUB wins agreement to reduce NW Natural's rates by $1.5 million and prohibit the company from charging customers for the cost of parking until 2013. This grew out of discoveries that NW Natural had improperly accounted for costs and revenues associated with property sales and parking in downtown Portland.*

2005: *CUB helps write and pass Senate Bill 408, which requires that utility company taxes collected must "more closely align" with taxes paid to state and federal government.*

2006: *CUB saves Pacific Power ratepayers $76 million in 2006 rates by attaining PUC agreement on collection of "phantom taxes," billing cycle length, and other issues.*

2007: *CUB defeats the attempt of big telecommunications companies to deregulate Oregon residential phone service in the Oregon Legislature, saving customers $46.2 million in just two years.*

2008: *CUB reduced rate hikes by PGE and PacifiCorp, saving customers more than $1045 for every dollar contributed by our members.*

2009: *Stay tuned for more...*

And the envelope that came along with your newsletter will be updated soon. Where it says 'how much has CUB saved you' - we're changing the numbers to put in most up-to-date information. That $3,204 listed for savings for customers of PGE will be updated to $3,590. The $645 saved listed for Pacific Power is now

$982. And that $721 for Qwest/US West is now $815.

Keep an eye on our website, www.oregoncub.org, for more information about 25th Anniversary plans!

CUB IS HAVING A BIRTHDAY!

To salute 25 years of service, the Citizens' Utility Board will celebrate at our Anniversary Dinner.

Save the date: The Portland Hilton, 921 SW 6th Avenue.
NOVEMBER 14, 2009

The Bear Facts is printed with soy-based ink on 100% recycled paper.

Citizens' Utility Board of Oregon
PO Box 6345
Portland, OR 97228

RETURN SERVICE REQUESTED

Non-Profit Org.
US Postage
PAID
Portland, OR
Permit No. 2134