

## Oregon CUB

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### CUB Mission:

*As directed by Oregon voters in 1984, Oregon CUB represents the interests of Oregon's residential utility customers before administrative, judicial, and legislative bodies.*

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# The Bear Facts

QUARTERLY NEWSLETTER OF THE  
OREGON CITIZENS' UTILITY BOARD

Fall 2019

## CUB Warns Deregulation is Back

*a letter from Bob Jenks*

CUB led the successful fight against Enron's mid-1990s attempt to deregulate Oregon's electric system. The Legislature adopted our proposal to allow a limited amount of large industrial load to be purchased from the wholesale market, while maintaining a regulated electric system to protect residential and small commercial customers. California and Montana made the opposite choice. They deregulated their electric systems and saw electric prices go through the roof, rolling blackouts make electricity unreliable, and utilities forced into bankruptcy. If Enron's deregulation plan had been approved, CUB calculates that Oregon customers would have paid an additional \$1 billion for electricity during the California energy crisis.

You would think that we had learned our lesson. But deregulation proponents are back.

Currently wholesale electric prices – the prices utilities and other power generators charge each other for power – are at low levels. This has prompted significant interest in allowing more commercial and industrial customers to purchase directly from the wholesale market. One venue where this issue is under debate is the Oregon Public Utility Commission. CUB is tracking this closely to protect consumer interests because power brokers – businesses that buy and sell wholesale power – stand to make millions from deregulation.

Just like the '90s, much of the deregulation appeal is to get access to the low-cost wholesale market. Of course, when deregulation was allowed in the '90s, wholesale market prices increased by 800 percent and suddenly customers no longer wanted to participate in it.

Today's wholesale market prices are low because the market is flawed and is directly subsidized by residential and small commercial customers. Allowing more large customers into the wholesale market without addressing these subsidies will cause price increases for residential and small commercial customers and reliability problems on the power grid.

Generating electricity on a large scale is efficient but also expensive. Therefore, nearly all new generation in our region is built for utilities. As customers of these monopoly utilities, our electric rates reflect the fixed costs of building these large generating plants. When the utilities sell into the wholesale market, though, only their variable costs - primarily for fuel - are recovered, and renewable resources do not have fuel costs.

New power plants are not being built to serve the wholesale market, due to low market prices. The result is that residential and commercial customers pay the true cost of generating electricity, while large customers who can get access to the wholesale market only pay a portion of that true cost.

Expanding deregulation without first fixing the market threatens reliability of the Western power

**“Expanding deregulation without first fixing the (wholesale electric power) market threatens reliability of the Western power grid...CUB is prepared to lead this fight.”**

*(Letter from Bob Cont'd on Pg 2)*

*(Letter from Bob Cont'd from Pg 1)*

grid. Without generation being built to serve wholesale load, the region will find itself without enough generating capacity to serve regional loads and blackouts could come back to the grid.

There are solutions to this problem, such as requiring wholesale market participants to also invest in new generating capacity. Deregulation proponents in our region, though, are in a rush to get to the subsidized wholesale market without first fixing the flaws. This threatens the reliability of the system and could require even bigger market subsidies from residential customers.

At CUB, we have a long memory. We remember the Western Power Crisis. We remember leading the fight against Enron and preventing deregulation from harming electric ratepayers.

We are prepared to lead this fight again.

Sincerely,



Bob Jenks  
Executive Director, Oregon CUB



## Regulatory Update: Deregulation, and Utilities Keep Asking for More Money

### Deregulation: New Load Direct Access

In Portland General Electric's New Load Direct Access docket, CUB is concerned about inappropriate subsidies. First some background: Direct Access allows large commercial and industrial customers to go to the unregulated wholesale market to secure their power rather than pay the utility for power. The utility delivers the power and charges for use of the distribution and transmission network. Utilities can charge the direct access customer a transition charge to cover costs that the utility incurred to meet that customer's load before it left the system. New load direct access would allow large commercial and industrial customers who are new to the system to purchase power from the wholesale market and pay reduced transition charges.

CUB's concern is that direct access customers are served by wholesale market purchases which are subsidized by residential customers (see Pg. 1 letter from Bob Jenks). CUB argued that any expansion of deregulated markets must include reforms to ensure that market participants are paying for the generating plant needed to serve their load and maintain a reliable system, rather than just benefiting from a subsidy from other customers.

#### Avista Rate Case - CUB Victories:

- **Profit margin increase rejected**
- **No inclusion of failed Hydro One merger costs**
- **More equitable tax allocation**
- **Reduced conservation mechanism interest rate**

### Avista Utilities Rate Case

Avista is a natural gas utility that serves parts of southern and eastern Oregon. It proposed a rate increase of \$6.8 million (7.8 percent). CUB was successful in challenging several parts of the case and was able to limit the increase to \$3.6 million (4.2 percent). The Avista case did not raise significant policy issues; instead it required CUB to go through Avista's accounts and identify areas where the utility was proposing to overcharge customers. Avista asked for an

increase in its allowed profit margin, but this was rejected. CUB challenged the inclusion of costs that were associated with last year's failed merger with Hydro One. CUB got Avista to change the allocation of taxes within its multistate territory to equitably reduce Oregon's tax burden, and we reduced the interest rate that Avista charges customers on a regulatory mechanism related to conservation.

### PacifiCorp Renewable Adjustment Clause (RAC)

The RAC allows utilities to bring the costs of new renewable investments into rates without a general rate case that

*(Regulatory Update Cont'd on Pg 5)*

CUB is gearing up for the 2020 legislative session with a renewed effort to improve digital equity and inclusion through two pieces of legislation: the first would solve a longstanding fairness issue with the Oregon Universal Service Fund (OUSF) and establish a rural broadband infrastructure and planning grants program. The second bill would reduce electronic waste by facilitating greater access for consumers to personal electronics through a “right to repair” law. A third bill would address climate change and reduce economy-wide greenhouse gas (shorthand: carbon) emissions.

CUB’s continued advocacy of these important consumer issues reflects our tenacity; the policy vehicles to address digital inequality and climate change reprise three unsuccessful 2019 bills: HB 2184 (Oregon Universal Service Fund), HB 2688 (“Right to Repair”), and HB 2020 (Clean Energy Jobs).

### Oregon Universal Service Fund (OUSF) and Rural Telecommunications Investment Act

The OUSF’s fairness issue stems from its creation by the Oregon legislature in 1999. The Fund’s purpose was to ensure safe, reliable, and affordable advanced communication services across Oregon. 20 years ago, “advanced communication services” mostly referred to “plain old telephone service” (POTS).

In 1999, POTS was considered an essential utility by nearly every Oregon household. Wireless voice service was nothing like it is today and the Internet was still nascent, so voice over internet protocol (VoIP) was largely non-existent.

To compensate companies for ensuring safe, reliable, and affordable POTS across Oregon, the 1999 Legislature created the OUSF by applying a surcharge to the intrastate portion (calls delivered and received within state boundaries) of customer bills. The Legislature exempted wireless companies and their customers from the statute. The surcharge is currently capped at 8.5 percent.

After Senate inaction killed HB 2184 on the 2019 session’s final day, OUSF fairness proponents, including CUB and Representative Marsh, remain undeterred. Our 2020 bill is dubbed the “Rural Telecommunications Investment Act” (RUTIA) because it benefits rural communities by solving the fairness issue associated with POTS customers and establishes the broadband grants program.

Simply put, the advanced communications landscape is dramatically different than in 1999.

The number of POTS lines shrinks annually. The number of wireless and VoIP lines now exceeds the 1999 peak for POTS. Yet both wireless and VoIP carriers use the terrestrial networks built and maintained by telephone companies and their customers, without compensation. This is unfair to both the telephone companies and their customers, many of whom are older, rural, and low-income.

**Both wireless and VoIP carriers use the terrestrial networks built and maintained by telephone companies, without compensation. This is unfair to telephone customers, many of whom are older, rural, and low-income.**



*Contrasting technologies: POTS lines (left) and fiber-to-home lines (right) at Monitor Telecom in Marion County, OR, captured during a site visit by CUB Outreach Manager Sam Pastrick on August 20, 2019*

RUTIA solves this problem by spreading a lower, 6 percent surcharge across the intrastate portion of all voice customers’ bills – including wireless and VoIP. This would stabilize the OUSF and generate roughly \$5 million annually to fund broadband infrastructure and planning grants for rural communities.

CUB began RUTIA outreach to legislators and other stakeholders this summer. One such recent engagement was an August 20 tour of Monitor Telecom with the Oregon Telecommunications Association and Oregon Representative Rick Lewis, whose district includes Monitor – a small community in northeastern Marion County.

Monitor Telecom began in 1907 with a single telephone line and is a perfect example of a rural provider that benefits directly from OUSF support. With just over 1,000 lines today – most of which are now “fiber to the home” as opposed to POTS – the company represents an innovative model for other

*(Advocacy Roundup Cont'd from Pg 3)*

small, rural providers. RUTIA would bolster replication of this model.

The second event was the 8th annual Oregon Coastal Caucus' Economic Development Summit, on August 7 in Florence. The Summit convened many legislative leaders, making it an ideal setting for RUTIA advocacy. CUB Outreach Manager Samuel Pastrick joined a panel with Representative Marsh, Senator Arnie Roblan, and spokespeople from Link Oregon (formerly the Oregon Fiber Partnership), Charter, and Verizon to discuss RUTIA.

Verizon opposed HB 2184 earlier this year and continued its opposition at the summit but failed to offer an alternative policy solution to address digital inequality in Oregon. Instead, Verizon erroneously claimed that RUTIA would harm the homeless community. This claim is false because homeless populations either receive subsidized phones and plans through the Oregon Telephone Assistance Program or use pre-pay options which RUTIA exempts.

Heading into the 2020 legislative session, RUTIA is one of CUB's top priorities. Please sign onto our letter encouraging immediate legislative action: [oregoncub.org/get-involved/action-alerts/](https://oregoncub.org/get-involved/action-alerts/).

## Right to Repair

An increasing number of consumer products have digital components, which often complicate product repair. Personal electronics like smartphones, tablets, laptop computers, e-readers, and the like are especially difficult to repair, even for specialty shops or tech-savvy consumers, because the manufacturers often refuse to share essential diagnostic and repair information. This repair monopoly is unfair to both consumers and Oregon's repair-business community because they would otherwise extend the life of products to keep them out of the waste stream and potentially generate a robust secondhand market.

After a halted attempt during the 2019 session with HB 2688, CUB and Oregon State Public Research Interest Group (OSPIRG), in collaboration with repair shops

around the state, Oregon Association of Recyclers, Oregon's Department of Environmental Quality, and other interested stakeholders, are reprising this important legislative effort in 2020. CUB and our partners are still in the process of determining the best legislative path, but we anticipate a new approach: our coalition will submit an updated version to, hopefully, the House Committee on Energy and Environment to highlight the environmental value of reducing electronic waste by increasing repair opportunities.

Exact details of our 2020 strategy are still being determined, so we encourage readers to stay tuned to the CUB Blog ([oregoncub.org/news/blog](https://oregoncub.org/news/blog)) and social media channels for policy updates and action alerts on the Right to Repair bill.

## Economy-Wide Carbon Reduction, Clean Energy Jobs

Governor Brown and legislative leaders have signaled their intent to pass economy-wide carbon emissions reduction legislation. CUB expects the 2020 legislation to closely mirror the 2019 bill: a well-crafted and Oregon-specific cap, trade, and invest approach to reduce emissions 45 percent below 1990 levels by 2035 and 80 percent below 1990 levels by 2050.

CUB's input focuses on energy utility provisions. To maintain electricity affordability, legislation should recognize Pacific Power's and Portland General Electric's earlier commitments to remove coal from their generation mix, increase renewables, and invest in energy efficiency, battery storage, and electric vehicle (EV) infrastructure. Legislation must also facilitate new investment in transportation electrification to enable more households to purchase EVs and lower their overall costs, while implementing safeguards for low-income transportation fuel and natural gas customers.

We can reduce Oregon's overall carbon emissions output while protecting utility consumers. CUB eagerly awaits and is prepared for the fight ahead in 2020.



*CUB Economist Will Gebrke (l) and General Counsel Mike Goetz (r) visit PacifiCorp's Leaning Juniper wind facility in the Columbia Gorge*



## Our 2019 Consumer Champion: Representative Pam Marsh



CUB is pleased to announce Oregon State Representative Pam Marsh as our 2019 Consumer Champion, for her leadership at the intersection of energy and information & communications technology (ICT) policy on behalf of Oregon utility customers. Rep. Marsh was elected in 2016 to House District 5 in southern Oregon and has a keen understanding of the importance of rural broadband access and how “digitalization” informs today’s policy decisions, particularly regarding low-income Oregonians.

- After co-facilitating the Clean Energy Jobs Environmental Justice and Just Transition work group in 2018, Rep. Marsh joined the low-income issue work group. That group’s highlighting the need for broadband access is due to her persistent recognition that low-income energy utility customers may be left behind without adequate attention paid to ICT policy outcomes.
- Rep. Marsh was a consumer champion on the 2019 Joint Carbon Reduction Committee. Her speech on the House Floor for HB 2020 was vital.
- During the 2019 legislative session, she sponsored two ICT bills. HB 2173 created a state Broadband Office located in Business Oregon to serve as a policy and planning hub. HB 2184, had it passed, would have funded the Broadband Office and broadband planning and infrastructure development. Rep. Marsh will re-introduce the concept in 2020 as the Rural Telecommunications Investment Act (see page 3 for more information).

Rep. Marsh is a consumer champion due to her understanding of and advocacy for energy and ICT policy interconnections. CUB congratulates and thanks her on behalf of Oregon’s utility customers.

CUB will present Rep. Marsh with this award at the 2019 CUB Policy Conference, ***Clean Energy Communities / Reliable Systems***, where she will also deliver the day’s closing keynote address. The 2019 CUB Policy Conference takes place on Friday, November 8 at the Downtown Portland Hilton, and there are still tickets available – make sure to register by **Friday October 11** to take advantage of Early Bird Discount Rates!

Learn more and register at [oregoncub.org/cubcon19](http://oregoncub.org/cubcon19), and contact Communications Manager Amelia Lamb, at (503)227-1984 x17 or [amelia@oregoncub.org](mailto:amelia@oregoncub.org), with any questions.



### *(Regulatory Update Cont'd from Pg 2)*

systematically looks at all of the utility’s costs. This case was complicated because PacifiCorp was repowering existing wind facilities. Repowering a wind plant replaces 80 percent of the plant. By putting on new blades and a new turbine the company can increase generation and get new Production Tax Credits (PTC). PTCs are 10-year tax credits for wind production. PacifiCorp’s wind turbines were at the end of their stream of PTCs, but by repowering them, PacifiCorp became eligible for a new set of tax credits.

The biggest issue in the case was how to handle the remaining capital investment in the plant that was being replaced. When PacifiCorp built the original wind turbines, they expected to recover the capital investment in the plant over the turbines’

30-year useful life. CUB’s litigation over the Trojan nuclear power plant in the 1990s achieved a court decision concluding that Oregon law prohibits utilities from earning a profit margin on capital investment that is no longer being used to serve customers. This meant that PacifiCorp could not earn a profit on the equipment that it was removing from the wind turbines. PacifiCorp saw this as a disallowance and argued against it. CUB disagreed and argued that the utility could recover its initial investment, but it could not earn a profit on that investment since it no longer provided value to customers. CUB was able to work out an agreement with the company that removed the profit on the retired equipment from customer rates.



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## **CUB – Utility Policy Wonks for the People!**

CUB works for you in the Legislature and before the Public Utility Commission (PUC) as Oregon's dedicated advocate for residential utility service customers. On both energy and information/communications technology (ICT) issues large and small, we push back against corporate interests and advocate for everyday Oregonians.

CUB has a rich history of ICT policy successes at the Oregon Legislature:

- We led the advocacy push to adopt a second-in-the-nation net neutrality bill;
- We strengthened the Oregon Broadband Advisory Council by adding a consumer representative seat;
- We secured formation of the Oregon Broadband Office to direct comprehensive broadband policy, including digital equity across Oregon; and
- We defeated harmful CenturyLink-backed legislation to end their and other providers' "carrier of last resort" obligations to landline customers, potentially leaving seniors and low-income households in the lurch.

CUB's energy victories at the Legislature and before the PUC are just as remarkable:

- CUB's cutting-edge economic analysis led to closure of the Boardman coal plant and facilitated early ends of far more coal-powered electric generation facilities across the country.
- We secured a legislative mandate for PGE and Pacific Power to eliminate all coal from their generation mix by 2030.

All told, we've saved customers over \$8.5 billion since 1984 by slashing rate requests. But there's always more to do. We're focused in 2020 on enacting the Rural Telecommunications Investment Act, which will improve fairness for ICT customers. We're also working to enact the Clean Energy Jobs bill, which will drive economy-wide carbon reduction while protecting utility customers. And we're working hard at the PUC to facilitate more investment from energy utilities in transportation electrification and to protect residential consumers' interests.

**We can't do all of this without you and your support.** Please consider contributing to CUB by returning the enclosed envelope or visiting [oregoncub.org/get-involved/donate/](https://oregoncub.org/get-involved/donate/). Thank you for championing CUB's work on your behalf!