



Legal Eagle



Form a Mutual Utility

By Fred Buckman

News Flash >>

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KLAMATH TRIBE SUIT

PacifiCorp has asked the U.S. District Court in Medford, Ore. to dismiss a \$1 billion lawsuit filed by the Klamath Tribes for damage to salmon runs by a Klamath River dam.

The Portland utility said that the tribes needed to file for damages by 1977 given statutes of limitation.

FERC'S WESTAR REVIEW

The Federal Energy Regulatory Commission is studying Westar Energy's possible power market dominance.

Earlier, the commission announced it is studying several utilities to determine whether they should be able to sell electricity at market rates or at rates based on cost.

THE IDEA IS simple: Let the customers own their utility. Let each and every one of them be an equity owner in the company they rely on for electricity.

Over the past four years, customers and employees of Portland General Electric (PGE) have been faced with uncertain ownership. During this time, Enron has tried unsuccessfully to sell PGE to both Sierra Pacific and Northwest Natural Gas, included PGE as an asset in its bankruptcy, and negotiated an unsuccessful attempt to sell PGE through bankruptcy to Texas Pacific Group. During the same time, the City of Portland has proposed buying the utility, and a bill to create a state-owned entity is now before the Oregon legislature.

CUSTOMER OWNERS

The mutual utility structure allows customers to own their utility instead of renting it. By creating a securitized bond trust that purchases the equity of PGE, and by taking on the obligation of repaying the bond trust, utility customers buy back the utility's equity and take immediate control of PGE. Committing to a fixed acquisition charge that pays back the securitization trust gives customers the right to credit back to themselves the equity profit (PGE's net profit plus federal taxes). There are many other customer advantages with this mutual utility structure.

OVERSIGHT AND CONTROL

By securing bonds to purchase PGE, customers take ownership and the right to control the actions and future direction of PGE. The ongoing operation and future direction of the utility are managed through customers' elected representation — the board of directors.

With a reasonable amortization period or mortgage term, customers will have lower average rates. Currently, customers rent from the utility at a pre-tax cost of approximately 17 percent (a 10.5 percent return on equity (ROE) grossed up for federal taxes). The projected rate for the securitization bond trust is approximately 5 percent, plus principal repayment. Since the principal repayment and equity accretion will belong to customers, the implied saving is about 12 percent annually. Plus, securitization bond financing will be as cheap as or

cheaper than tax-exempt bond financing for a city or state purchase without the associated downward pressure on city or state bond ratings.

In addition to reducing the cost of ownership, customers realize a lower tax liability. Any utility profit is returned as credits to customers, effectively eliminating any federal tax liability. PGE will not pay federal taxes, and the customers will not bear any federal tax burden in their monthly bills. PGE will continue to pay state, local, and property taxes as it does today. In total, there is very little tax liability in this mutual structure, and the taxes paid are paid close to home.

As the securitization bond is paid off, customers increase their ownership share of PGE. As customers pay down the principal in the bond trust, their equity accounts increase as paid-in capital. It is very similar to paying down the principal on a home mortgage. In addition to building equity over time, customers also are entitled to any increases in value of that equity.

In addition to operational and financial benefits, local control and ownership of PGE is retained. Investments and reinvestments are retained in the local community. As local owners, customers become champions for investment by PGE in the community. These investments create jobs and economic vitality. PGE spends about \$200 million per year on recurring capital. Investments like this are meant to optimize efficiency, reduce emissions and add infrastructure to PGE's current asset base. In the mutual structure, customers are investing, creating jobs, and working toward a cleaner, safer community for everyone.

With very competent and experienced management in place at PGE, a mutual utility owned by customers is a great solution for the community and PGE. By creating lower rates for customers and keeping investment and ownership in PGE local, the future of the utility, its community and its customers looks bright.

Fred Buckman is the chairman of Oregon Mutual Utility Development, which is acting as an agent for PGE customers, chairman of Trans-Elect and former president and CEO of PacifiCorp.