

**Report to the
72nd Legislative Assembly**

**Evaluation of
a Competitive
Power Market
for Residential
Consumers**

Public Utility
Commission



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EXECUTIVE SUMMARY

The 1999 Oregon Legislature passed Senate Bill 1149. The law allows business and other nonresidential customers of Portland General Electric (PGE) and PacifiCorp to buy power from competing suppliers at prices determined by the market. Residential customers of PGE and PacifiCorp can choose from a menu of rate options offered by the utilities and regulated by the Public Utility Commission (PUC). The 2001 Legislature passed House Bill 3633 to delay these options until March 1, 2002.

SB 1149 states:

"The Public Utility Commission shall report to the Legislative Assembly not later than January 1, 2003, on whether residential electricity consumers would benefit from direct access to electricity services. The report shall address, at a minimum, issues of market development for residential and small-farm consumers and the impact of direct access on residential and small-farm consumers' access to benefits from the federal Columbia River power system."

The PUC reviewed in 2001 whether retail electric competition would jeopardize the ability of PGE and PacifiCorp to get cost-based power from the federal Columbia River power system on behalf of residential and small farm consumers. In April 2001, the PUC decided it would not for several reasons: First, SB 1149 does not require the utilities to restructure in a way that they could not meet Bonneville Power Administration (BPA) eligibility requirements. Second, BPA's contracts with the utilities allow for power deliveries to continue in the event that their net requirements are lower than the amount of power BPA offers. Further, agreements for cost-based power between BPA and the utilities provide that the benefits of the federal power system remain with residential and small farm customers regardless of their electricity supplier. Finally, PUC rules for certification of electricity suppliers prohibit them from entering into an agreement with BPA for these benefits, and suppliers must assign back to the utility any federal power system benefits.

To evaluate whether residential consumers would benefit today from a choice of competing power suppliers, the PUC used the following criteria, addressing first the issue of market development:

1. Is there likely to be robust competition among power suppliers for residential consumers?
2. Are the potential benefits of competition for residential consumers sufficient to justify the implementation costs?
3. Have other states' experiences shown that a competitive power market for residential consumers will succeed in the long run?
4. Can consumer risks and consumer protection concerns be adequately addressed?
5. Are the new market-based and renewable resource options a better way to give residential consumers choices?

The PUC concludes that residential consumers in Oregon would not benefit at this time from a choice of competing power suppliers for the following reasons:

- **There likely would be few, if any, power suppliers competing for residential consumers.** The PUC has certified seven electricity suppliers, but none has completed an agreement with PacifiCorp to provide service to Oregon businesses and only three have completed such an agreement with PGE. These suppliers have just begun accepting customers. Further, only a few states that have opened their retail electric markets to competition have several suppliers serving residential consumers. Some suppliers that had been serving the residential market abandoned it or went out of business. Customer acquisition and administrative costs to serve residential consumers are high. Combining consumers into a buying group makes them more attractive to serve, but aggregation has not yet developed in Oregon.
- **Today, the cost of implementing a competitive power market for residential consumers exceeds the likely benefits.** Informing residential consumers about their options in a competitive retail power market, changing utility information management, accounting and billing systems, responding to customer inquiries, resolving complaints, switching and billing problems, and overseeing suppliers and marketers would be costly. Some states have spent tens of millions of dollars on consumer education alone. For the small percentage of residents who chose a supplier other than their utility, the savings were small or they chose to spend more to get power from renewable resources — already an option in Oregon. Moreover, it may not pay Oregon residents to leave regulated utility service because a “transition adjustment” makes the cost of power from an alternative supplier comparable to the utility’s cost-of-service rate. The adjustment pays for any stranded costs of the generation resources customers leave behind.
- **Competitive power markets for residential consumers have not been in place long enough in other states to learn from their experiences.** California has suspended restructuring, but nearly half the states are experimenting with some form of retail competition for electricity service. Of those, 17 states and the District of Columbia allow residents to get electricity from a supplier other than their regulated utility. Residential electric rates have declined in those states. But that largely is the result of mandating rate reductions for regulated utilities and requiring competing offers to be lower during the transition to competitive markets. We do not know what will happen when these provisions expire. In addition, no state has tested policies for a long-term default rate for customers who do not have access to a competing supplier, are dropped by a supplier or choose not to switch from regulated utility service. This is a critical issue for residential consumers, particularly low-income households. Further, we have not yet seen in Oregon how well competition will work for even the largest business customers.

- **Residential consumers are not well suited to assess or manage the risks of a competitive retail power market that is just beginning to develop. Further, consumer protection concerns remain.** Residential consumers are not knowledgeable about energy procurement. A broad education effort would be necessary to inform consumers of potential risks of leaving regulated utility service, but may be only partially successful. Residential consumers are unwilling to spend a lot of time reviewing their energy options, and the information may be complicated. Because electricity is a necessity, the stakes are high for consumers who unwittingly find themselves subject to price swings tied to the volatile wholesale power market. In addition, some of the problems Oregon has seen with the deregulation of the telecommunications industry may occur in a deregulated electricity market, and the impact may be greater because electricity use is less discretionary. Most residential consumers are unable to reduce their energy use significantly in response to signing up for a misrepresented electricity product or if they have trouble resolving a billing problem involving more than one company, for example.
- **New utility rate options give residential consumers meaningful choices without the risks of a competitive power market.** Among the potential benefits of competition for consumers are lower prices and more products and services to choose from. New power options offered by PGE and PacifiCorp already give residential consumers an opportunity to reduce energy bills and provide more choices in the safety of a regulated environment. Consumers who can shift some electricity use from higher-cost to lower-cost times or use less electricity during high-priced months (an additional option for PacifiCorp customers) can save money. The renewable resource options let consumers choose power plants with fewer environmental impacts. Further, supplier(s) selected through competitive bidding provide two of the options, in collaboration with the utilities. About 30,000 residential consumers already are participating in the new options. Consumers remain with regulated utility service, and the PUC regulates prices and oversees the way utilities administer the options. There's no risk of being dropped by an electricity supplier, and rates cannot be increased without PUC approval.

POWER OPTIONS TODAY

On March 1, 2002, PGE and PacifiCorp began providing new power options required by Senate Bill 1149:

- A menu of rate options for residential and small business consumers, including market-based and renewable resource choices
- Access to competing electricity suppliers for all nonresidential customers, with the utility providing default service and at least one option based on its market purchases

All customers continue to have a regulated cost-of-service option based on traditional methods of determining and allocating the utility's costs.

Residential Consumers

The PUC assembled an advisory committee to recommend a portfolio of regulated options for residential consumers in addition to the cost-of-service rate. The Portfolio Advisory Committee consists of representatives of residential customers, small nonresidential customers, local governments, public and regional interest groups, PGE and PacifiCorp, the Office of Energy and the PUC.

Options include:

- *Time of Use* - Rates are lower than cost-of-service during hours when demand on the utility system is generally low and higher when demand is greatest.
- *Seasonal Flux* (PacifiCorp only) - Rates change monthly based on seasonal energy demand, published in advance for the year.
- *Fixed Renewable* – The customer buys a fixed amount of generation from renewable resources each month, in 100 kilowatt-hour blocks.
- *Renewable Usage* – All of the customer's electricity use is matched with generation from renewable resources.
- *Habitat* – Same as Renewable Usage, but with an additional contribution for salmon habitat restoration.

Detailed descriptions are on page 17.

Supplier(s) selected by competitive bidding provide two of the options, in collaboration with the utilities. Both utilities selected Green Mountain Energy Co. as the initial provider.

About 30,000 residential consumers are participating in the portfolio options.

Nonresidential Consumers

If residential consumers are allowed in the future to choose among competing power suppliers, their options may be similar to those available now for nonresidential consumers:

- *Cost-of-Service* - House Bill 3633, passed by the 2001 Legislature, ensures that nonresidential consumers continue to have a cost-of-service option through July 1, 2003, and thereafter until the PUC finds "...that a market exists in which retail electricity consumers...are able to:
 - (A) Purchase supplies of electricity adequate to meet the needs of the retail electricity consumers;
 - (B) Obtain multiple offers for electricity supplies within a reasonable period of time;
 - (C) Obtain reliable supplies of electricity; and
 - (D) Purchase electricity at prices that are not unduly volatile and that are just and reasonable."
- *Standard Offer Options* - PGE and PacifiCorp provide a daily market rate option for all nonresidential customers, based on utility market purchases. PGE also offers optional monthly and quarterly market rates for large nonresidential customers. A "transition adjustment" makes standard offer rates comparable to the cost-of-service rate. The transition adjustment is the difference between the utility's cost of production (and any power purchase commitments) and the market value of the generating resources that are freed up when a customer leaves the cost-of-service rate. It may be a charge or a credit and is set annually. The adjustment ensures that customers who want the utility to buy all the power needed to serve them from the market don't shift costs to customers who continue to be served primarily by the utility's own resources.

Nine percent of PGE's nonresidential electric load and 0.1 percent of PacifiCorp's chose a utility standard offer option in 2002.

- *Direct Access* - Any nonresidential customer may choose a PUC-certified electricity supplier that has the appropriate service and operating agreement with the utility. That agreement spells out requirements and obligations related to financial assurance, electronic data protocols, scheduling power deliveries and billing arrangements, among other things. Like standard offer service, customers who choose a different supplier get a transition credit or charge reflecting the value of the resources they freed up by leaving the cost-of-service rate.

PGE customers that leave the cost-of-service rate for the year cannot return to that rate within the year. PacifiCorp customers may return to a cost-of-service rate immediately if they pay a fee. The utility calculates the fee as the difference between energy prices expected for the rest of the year and energy prices at the time the transition adjustment was set. Under what conditions customers may return to a cost-of-service rate in the future is the subject of current PUC proceedings.

No customer is participating in direct access at this time.

- *Default Service* - The utilities provide emergency default service to ensure consumers have power if their alternative supplier terminates service. Rates are based on utility market purchases (daily index plus a premium).
- *Portfolio Options* - In addition to all the options above, small business customers (those with an energy demand of 30 kilowatts or less in any two months during the prior 13 months) have the same portfolio options as residential customers. About 1,200 small nonresidential customers are participating in a portfolio option at this time.

EVALUATION OF RETAIL ELECTRIC COMPETITION FOR RESIDENTIAL CONSUMERS

The PUC used the following criteria to evaluate whether residential consumers would benefit from a choice of competing power suppliers:

- 1. Is there likely to be robust competition among power suppliers for residential consumers? *The PUC concludes that there likely would be few, if any, power suppliers competing for residential consumers.***

The PUC has certified seven electricity service suppliers. But none has completed an agreement with PacifiCorp to offer service to Oregon business customers. And only three — IdaCorp Energy, Sempra Energy and Strategic Energy — have an agreement with PGE to do so. They have just begun accepting customers and are not yet providing service to even large business customers in Oregon.

Only a few states that have opened their retail electric markets to competition have several suppliers serving residential consumers. (See page 25.) Some suppliers that had been serving the residential market abandoned it or went out of business.

Customer acquisition and administrative costs to serve residential consumers are high. Some costs, such as advertising, would be higher in Oregon per customer than in states that already allow residential customers to choose their electricity supplier because our population is smaller and less dense, especially in PacifiCorp's dispersed service area.

Aggregators can combine residential consumers into a buying group for electricity services to increase bargaining power, make the load more attractive (steady or predictable) and reduce transaction costs for suppliers. The PUC has registered seven aggregators for electricity service to nonresidential customers, but aggregation has not yet developed in Oregon. Aggregation is likely to be most successful in higher priced areas of the country, just as retail competition has been more successful where electric rates are highest. And volatile wholesale power prices can make it as difficult for a supplier to serve an aggregated group as it can be to serve an individual customer.¹

- 2. Are the potential benefits of competition for residential consumers sufficient to justify the implementation costs? *The PUC concludes that the cost of implementing a competitive power market for residential consumers exceeds the likely benefits at this time.***

¹Matthew H. Brown, "An Analysis of Opt-Out Aggregation in Ohio and Massachusetts," *The Transition to Retail Competition in Energy Markets: How Have Residential Consumers Fared?*, National Center for Appropriate Technology, September 2002.

Potential benefits

In a competitive retail market for electricity, consumers have the freedom to choose a supplier based on price and any other factors important to them. Competition has the potential to benefit residential consumers several ways, including:

- *Lower rates* - Electric rates for Oregon residents have recently increased but still are lower than the average U.S. price. Nevertheless, if alternative suppliers have lower costs than the utilities, consumers may benefit from competition.

However, it may not pay residential consumers to switch suppliers because of Oregon's "transition adjustment" that ensures ratepayers who remain with regulated utility service are left unharmed. Any customer who leaves the utility's cost-of-service rate gets a monthly credit for the generation resources left behind or pays a monthly charge for any stranded costs. The transition adjustment is set annually.

For example, if the utility's cost-of-service rate is 6 cents per kilowatt-hour and the market price for power is 5-1/2 cents per kilowatt-hour, the transition charge would be set that year at half a cent per kilowatt-hour. The consumer needs to include this transition charge when comparing an alternative supplier's rate and the cost-of-service rate. The consumer will save money only if the alternative supplier is willing to sell power for less than the 5-1/2 cents per kilowatt-hour market price.

- *More products and services* - Competing suppliers may offer new or improved products and services. However, PGE and PacifiCorp just began offering residential customers many new power options. And the utilities may offer additional services to enhance them. For example, PGE is planning a load control pilot program for residential customers. The utility will install equipment in customers' homes and operate it remotely to reduce electricity use during high-cost times.

The Energy Trust of Oregon also will be offering new electric efficiency and renewable resource services for PGE and PacifiCorp consumers, largely provided by suppliers selected through competitive bidding.

- *Technology innovations* - Competition increases innovation as suppliers look to cut costs, add products and services, and distinguish themselves in the marketplace. However, many of the technologies developed probably will not be cost-effective for small customers, at least initially. And suppliers will focus first on large customers, a more profitable market.
- *More efficient resource decisions* - Consumers could benefit from more efficient resource decisions because private investors may bear more risks in the development of new energy resources. On the other hand, consumers benefit from the diverse resource portfolio and resource planning of their regulated utility.

- *Better customer service* - In a competitive market, suppliers risk losing customers who are dissatisfied with customer service. That drives suppliers to emphasize quality service. However, PGE and PacifiCorp must meet stringent Service Quality Measures regulated by the PUC, including customer service requirements. There are sizable financial penalties for failing to meet them. It's unclear whether consumers would get better service from unregulated suppliers.

Implementation costs

Significant efforts would be required to inform residential consumers about the potential benefits and risks of choosing an alternative electricity supplier. Some states have spent tens of millions of dollars on consumer education.

Additional millions of dollars would be required to change utility information management, accounting and billing systems, answer consumer questions, and resolve complaints, switching and billing problems.

If residential consumers were allowed to choose among competing power suppliers, the PUC would monitor the market and consumers' welfare and assist in resolving complaints and disputes. At the same time, the PUC would continue providing standard rate-of-return regulation for utilities. Thus the PUC's responsibilities and workload would be increased. The workload of the Department of Justice also might increase.

Further, some believe a competitive power market cannot be successful until consumers have advanced meter technology and automated data collection. That would reduce meter reading and billing costs and allow for rate structures and load control that reduce peak electricity demand, making it easier for aggregators and suppliers to serve consumers. The costs and benefits of advanced technology for residential consumers require further analysis.

Consumer interest

In April 2002, a market research firm conducted interviews with PacifiCorp residential customers to assess their interest in the new regulated portfolio options and their reaction to informational materials about them. The research report contained the following conclusions:

- *Research participants were not enthusiastic about having any energy options — let alone having so many. Participants complained about being burdened with so many choices. Electricity was not something they were accustomed to having to think about, and most would have preferred to keep it that way.*
- *Part of their reluctance stemmed from the widespread perception that the restructuring of electricity was comparable to the deregulation of the telephone industry. Participants feared that the introduction of new electricity*

*options would lead to problems similar to those they have experienced with telephone companies, such as hidden charges, unreliable service and aggressive phone solicitations.*²

Some 30,000 residential customers, however, have expressed their interest in regulated portfolio options by enrolling in them. And even non-participants appreciate having the additional choices. According to a survey of PGE customers, those who are not on the Time of Use rate but are aware of it are more satisfied with the utility because it offers that option.³

3. Have other states' experiences shown that a competitive power market for residential consumers will succeed in the long run? *The PUC concludes that competitive power markets for residential consumers have not been in place long enough in other states to learn from their experiences.*

California has suspended electric industry restructuring, but nearly half the states are experimenting with some form of retail competition for electricity service. Of those, the District of Columbia and 17 states let residential consumers choose among competing power suppliers: Arizona, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas and Virginia. Three other states, Arkansas, Montana and New Mexico, have set dates for residential direct access.

In most states where residential consumers can choose an alternative supplier, only a small percentage does so. Statewide participation varies from less than 1 percent to 19 percent. (See page 25.) In general, states with the highest participation allow "opt-out aggregation," where jurisdictions put all residential consumers into a single buying group. Only households that tell the jurisdiction they don't want to be part of the group are excluded. One supplier – the lowest bidder in an auction for electricity services – serves everyone in the buying group.

Residential electric rates have declined in states with competitive power markets. However, that largely is the result of mandating rate reductions for regulated utilities and requiring competing offers to be lower during the transition to competitive markets. We do not know what will happen when these provisions expire. Further, price changes may be the result of changes in fuel costs. In any case, typical monthly savings for residential consumers choosing an alternative electricity supplier have been small — from 2 percent to 10 percent of the generation portion of the bill. (The customer doesn't save on power delivery or other charges).⁴

A recent analysis of competitive energy markets in five states found that residential consumers are likely to be worse off with any price plan that exposes them to short-term volatile rates in an immature market. The study also found that none of the

²Curtis Research Associates, *Evaluation of New Power Options Enrollment Materials: Focus Group Research Report for PacifiCorp* (research conducted in April 2002).

³Survey of PGE customers conducted by Market Decisions Corp., May 2002.

⁴Brown.

states has sustained a robust market for energy services aimed at residential customers. Marketer offers and customer participation declined steadily over time.⁵

In addition, no state has tested policies for a long-term default rate for consumers who do not have access to a competitive supplier, are dropped by a supplier, or choose not to switch from utility service. This is an important issue for residential consumers, particularly low-income households.

Further, we have not yet seen in Oregon how well retail competition will work for even the largest business customers.

4. Can consumer risks and consumer protection concerns be adequately addressed? *The PUC concludes that residential consumers are not well suited to assess or manage the risks of a competitive retail power market that is just beginning to develop. Further, consumer protection concerns remain.*

Residential consumers are not knowledgeable about energy procurement. Consumers would need to be informed about potential risks of leaving regulated utility service, but such an effort would be only partially successful. Inevitably, the information would not reach a portion of the public, and some of the risks are difficult to explain or are not yet known.

Further, consumers may be unwilling to spend much time reviewing information on their energy options, according to interviews with PacifiCorp residential customers. Most research participants spent 20 minutes or less looking over the information PacifiCorp sent them on their new regulated portfolio options.⁶ Information on leaving regulated utility service and choosing an alternative supplier may be more complicated and may require a greater time investment.

Because electricity is a necessity, the stakes are high for consumers who unwittingly find themselves subject to price swings tied to the volatile wholesale power market. In addition, some of the problems Oregon has seen with the deregulation of the telecommunications industry may occur in a deregulated electricity market, and the impact may be greater because electricity use is less discretionary. Most residential consumers cannot make dramatic lifestyle changes and cut their electricity use by 50 percent if rates suddenly double, and a return to the utility's traditional cost-of-service rate may or may not be a readily available option. Consumers may be able to return immediately only to a default service rate, which may be higher than the cost-of-service rate. They also may be served on that rate if the supplier they choose goes out of business or drops the residential market, as has happened in other states.

⁵Barbara R. Alexander, "An Analysis of Residential Energy Markets in Georgia, Massachusetts, Ohio, New York and Texas," *The Transition to Retail Competition in Energy Markets: How Have Residential Consumers Fared?*, National Center for Appropriate Technology, September 2002.

⁶Curtis Research Associates.

Slamming and cramming⁷ are potential consumer concerns. But because the PUC can fine and revoke the certification of electricity suppliers, they're unlikely to occur. However, several consumer protection concerns remain:

- *Incorrect bills* – Problems occur when more than one company is involved in the billing process, because it is difficult to determine the entity responsible for an error.
- *Misrepresentations by telemarketers or door-to-door salespeople* – These pose a special risk for electricity consumers, because the average consumer will be forced to rely entirely on the marketer's description of the new, complex electricity "product." The ignorance of the general public creates a golden opportunity for marketers to shade the truth or otherwise deceive buyers — by implying, for example, that electric service would be terminated if a customer did not choose an alternative supplier. Senior citizens and consumers who speak English as a second language would be especially vulnerable to these scams.
- *Securing consumer information and honoring consumer requests* – When the utilities and suppliers exchange detailed customer information, issues arise relating to customer privacy, data integrity, and timely processing of customer requests for changing suppliers or returning to utility service.

Consumer confusion also is a concern. If only PGE and PacifiCorp customers can choose among competing power suppliers, consumers in adjacent areas may believe they have that option. The reach of most forms of marketing — newspaper, radio and TV ads, for example — cannot be limited to the utilities' service areas.

All these issues would increase the state's responsibility to inform consumers, resolve complaints and oversee suppliers and marketers.

5. Are the new market-based and renewable resource options a better way to give residential consumers choices? *The PUC concludes that the new utility rate options give residential consumers meaningful choices without the risks of a competitive power market.*

About 30,000 residential customers already have signed up for one of the new portfolio options offered by PGE and PacifiCorp. The vast majority, however, chose to remain on the traditional cost-of-service rate.

Both utilities offer a Time of Use rate that reflects the higher cost of power during hours when electricity use is highest. PacifiCorp offers an additional market-based rate, with prices that vary monthly based on projected market costs, published in

⁷*Slamming* is switching consumers to a new, often higher priced, supplier without the consumer's authorization. *Cramming* is packing a consumer's bill with unauthorized fees or products or selling a consumer an expensive product when a less expensive alternative can meet the consumer's needs.

advance for the year. The utilities also offer three renewable resource options that allow customers to support power plants that have fewer environmental impacts.

Following are enrollments in portfolio options for residential customers as of Oct. 1st:

	PGE	PacifiCorp
Fixed Renewable	5,198	4,000
Renewable Usage	6,835	5,459
Habitat	3,467	1,428
Time of Use	1,612	969
Seasonal Flux	N/A	1,237
Eligible customers	649,000	428,000
Participation rate	2.6% ⁸	3.1%

Oregon’s market-based options for residential consumers are different than those in states that allow a choice of competing suppliers. Here, consumers may choose a market-based option if they can save money by changing when they use electricity (or by using less in higher-priced months), and they stay with their regulated utility. In states where consumers may choose a different supplier based on energy prices or other factors, they leave regulated utility service.

Renewable resource options also vary among states, but to a lesser degree. Thus, comparisons of participation rates with Oregon’s are more useful. During the first six months of competition in Texas, for example, 1 percent of eligible customers signed up for a renewable resource option. That’s the same percentage of PGE and PacifiCorp residential consumers enrolling in a renewable resource option during the first six months portfolio options were available. In California, 0.4 percent of eligible customers chose a renewable resource option in the first six months. Only Pennsylvania’s customers had more interest than Oregon’s, at 1.8 percent.⁹

Today, about 2.5 percent of PGE and PacifiCorp's residential customers are enrolled in a renewable resource option, including customers who continue to participate in programs the utilities began offering before March 2002. Oregon's portfolio approach is the nation's fastest growing renewable resource program.

In fact, wanting power from renewable resources was the reason that many customers in other states chose an alternative supplier. In Pennsylvania, for example, a third of those choosing an alternative supplier chose a renewable resource option. In Texas, 12 percent did so.¹⁰

For all these reasons, the PUC concludes that residential consumers would not benefit at this time from a choice of competing power suppliers.

⁸About one-fourth of PGE customers who signed up for Time of Use also signed up for a renewable resource option. These customers are counted only once in the participation rate.

⁹Personal communication with Green Mountain Energy Co.

¹⁰Green Mountain Energy Co.; includes residential and nonresidential consumers.

IMPACT OF DIRECT ACCESS ON BENEFITS FROM THE FEDERAL COLUMBIA RIVER POWER SYSTEM

Key provisions of SB 1149 could not be implemented until the PUC concluded that direct access provisions under Section 2 and market structure requirements in Section 6 would not jeopardize PGE and PacifiCorp getting cost-based power from Bonneville Power Administration (BPA) for residential and small farm customers. This issue is addressed below. Pages 19 to 23 explain other direct access issues addressed in Oregon.

The Northwest Power Act requires that residential and small farm customers of PGE and PacifiCorp share in the benefits of the federal Columbia River power system. BPA provides the benefits through a program called the Residential Exchange in the form of money or cost-based power purchases and sales.

Federal statutes spell out whether, and to what extent, PGE and PacifiCorp may purchase BPA power. Among them, the utility must show a resource-to-load deficit as least as large as the amount of power BPA offers. The utility also must meet BPA eligibility standards. The standards require that the utility be responsible for operating and maintaining its distribution system and obligated to serve all of its customers.

The PUC reviewed last year whether retail electric competition would jeopardize the ability of PGE and PacifiCorp to get cost-based power from the federal Columbia River power system on behalf of residential and small farm customers. The PUC decided at a public meeting in April 2001 that SB 1149 does not require the utilities to restructure in a way that they could not meet BPA's eligibility requirements. The PUC also determined that BPA's contracts with the utilities allow for power deliveries to continue in the event that their net requirements are lower than the amount of power BPA offers. Thus, the PUC ruled that the restructuring bill would not have an adverse effect on access to cost-based power from BPA.

In addition, agreements for cost-based power between BPA and the two utilities provide that the benefits of the federal Columbia River power system remain with residential and small farm customers regardless of their electricity supplier.

Further, PUC rules for certification of electricity suppliers prohibit them from entering into a Residential Exchange agreement with BPA. They also must assign back to the utility any benefits from the federal power system.

How the utilities pass on those benefits to consumers who choose an alternative electricity supplier has been addressed for small farm customers, who already are eligible to do so. Customers who choose an alternative supplier will get a per kilowatt-hour credit on their monthly bills. Benefits could be provided to residential consumers the same way.

APPENDICES

PORTFOLIO OPTIONS FOR RESIDENTIAL CUSTOMERS OF PORTLAND GENERAL ELECTRIC AND PACIFICORP

Residential customers of PGE and PacifiCorp can choose a cost-of-service rate or any of the following portfolio options. PGE allows customers to participate in more than one option. Customers can enroll any time, except for PacifiCorp's Seasonal Flux rate. Portfolio options also are available to small business customers.

Market-based options

Time of Use – Rates vary by time of day and day of week to reflect on-peak, off-peak and mid-peak hours. Hours and rates vary slightly between the heating and cooling seasons. Customers can save money if they reduce electricity use during on-peak hours. For the first 12 months of enrollment, a price guarantee protects the consumer from paying more than 10 percent above what they would have paid on the cost-of-service rate (not including the monthly fee for the special meter), so long as they remain enrolled for the full term. A small monthly fee helps pay for the special meter the utility installs to track consumption by time of use.

Seasonal Flux (PacifiCorp only) – Energy rates change monthly based on projected costs, which vary with temperature and other factors. Rates are published in advance for the year. Unlike other options, there's an annual signup deadline. Minimum enrollment was 10 months in 2002 (because of the March 1st start date) and will be 12 months in 2003.

Renewable resource options

Fixed Renewable – Supports a fixed amount of energy from renewable resources each month, in 100 kilowatt-hour blocks. This is a continuation of the renewable resource options the utilities offered before March 2002. The customer remains on the cost-of-service rate and pays a premium for the renewable resource contribution. (PGE customers may be on the cost-of-service or Time of Use rate.)

Renewable Usage – Matches 100 percent of the customer's electricity use each month with generation from renewable resources. Green Mountain Energy Co. currently supplies this option with 15 percent new wind resources in the Northwest and 85 percent older geothermal resources in California. The customer pays a higher energy rate for all electricity the household uses to support the above-market cost of these resources.

Habitat – Same as Renewable Usage, with an additional contribution for salmon habitat restoration.

RETAIL ELECTRIC COMPETITION ISSUES ADDRESSED IN OREGON

SB 1149 and PUC rules have addressed issues related to a competitive power market for nonresidential consumers. Some of the solutions to these issues already apply to residential customers as well, including unbundling of electric rates (breaking out energy, distribution, transmission and other charges on monthly bills), disclosing electricity sources and environmental impacts, and changing how conservation programs are funded and administered. Some of the ways other issues were addressed for nonresidential customers would work equally well if the residential market were opened to competition. However, competition for residential consumers poses difficult issues related to the utilities' role in supplying power.

Utilities' Role in Supplying Power

Resource planning

Each utility will continue to develop a Resource Plan through a public process. The plan identifies which resources will continue to be dedicated to serve consumers and which new resources the utility plans to build or purchase. A Resource Plan is not final until the PUC acknowledges it. The plan can be changed as new information becomes available.

PUC rules also require PGE and PacifiCorp to continue long-term resource planning to ensure that their own generating facilities and additional power purchases are adequate to serve residential and small nonresidential consumers. The PUC is addressing a variety of issues related to resource planning in current proceedings. Among them: how the utilities should plan for customers who choose an alternative supplier and how utilities should acquire the resources necessary to serve their customers. Electric competition for residential consumers would increase uncertainty of the utilities' resource planning.

Valuation process

Whether a nonresidential consumer continues to buy power from the utility or chooses power from an alternative supplier, the consumer will continue receiving the benefits of the utility's existing generating assets — or help pay for their stranded costs — in the form of a rate credit or charge, called a transition adjustment.

SB 1149 requires the PUC to develop ways to value the utility's generating assets that are freed up when a customer chooses an alternative supplier. Currently, the PUC establishes the credit or charge through a method called ongoing valuation. Ongoing valuation compares what it would cost to supply the utility's electric loads for one year using only market purchases to what it would cost for the utility to provide the power from its own generating plants and contract purchase commitments. The transition adjustment is set annually.

Selling utility generating assets

SB 1149 does not require PGE or PacifiCorp to sell their generating resources. As before, however, the utilities may sell resources that the PUC determines are not needed to serve cost-of-service customers. Few of PGE's or PacifiCorp's power plants are expected to be sold over the next several years. The PUC must determine that any sale is in the public interest.

Multi-state regulatory treatment

PacifiCorp serves six states. A competitive power market raises issues about the regulatory treatment of PacifiCorp's Oregon share of resources. Other states might claim PacifiCorp generating resources that are freed up when Oregon customers choose a different supplier. Electric competition for residential consumers would affect efforts underway to resolve this issue.

Consumer Protection

Certification of suppliers

Electricity service suppliers must be certified annually by the PUC. The supplier must provide contact, financial and credit information, as well as information on services they will provide, targeted customers, service area, work experience of key personnel and technical competence. The supplier also must attest that it will provide a toll-free number to assist customers in resolving complaints and billing disputes, comply with the law, and maintain insurance coverage, a security bond or other financial assurance to protect consumers and creditors.

The PUC may revoke the license of a supplier. The rules list specific reasons, but revocation is not limited to the reasons listed.

Registration of aggregators

Aggregators are companies that combine retail consumers into a group to increase buying power for electricity and related services. The utilities must allow the aggregation of electricity loads. Aggregators must register with the PUC to demonstrate compliance with its consumer protection standards.

Billing

States that have separate billing by the regulated utility and the alternative electricity supplier have a high level of outstanding payments. Oregon rules require PGE and PacifiCorp to provide a consolidated bill unless the customer wants the alternative supplier to provide the consolidated bill or a separate bill. The utility and supplier must cooperate and ensure the timely exchange of information necessary for billing. Consumers may ask the PUC to help resolve billing disputes.

Metering

PUC rules require that the utility own or lease, maintain, install, test, read and remove as needed a meter for each consumer for billing. The utility must offer more technologically advanced meters (for a fee) to provide additional functions at the

request of the consumer or alternative supplier. If the request is denied, the consumer or supplier may appeal to the PUC for review.

Changing suppliers

An alternative supplier may not provide service unless it has written or electronic authorization from the consumer and it has provided a Direct Access Service Request to the utility. The request is an electronic notice that contains information required by the utility to make the switch. The request must conform to industry protocols. The utility and alternative supplier must comply with timelines in PUC rules.

Labeling

SB 1149 required specific power source labeling for nonresidential consumers. PUC rules also contain labeling requirements for residential consumers. Price, power source and environmental impacts are reported to nonresidential consumers on or with each bill from a utility or alternative supplier. The same information is reported quarterly to residential consumers.

Code of Conduct

SB 1149 required the PUC to adopt a code of conduct for utilities and their affiliates as a protection against market abuses and anti-competitive practices. The law also required the PUC to adopt policies to eliminate barriers to a competitive retail market, including policies that alleviate market power and prohibit preferential treatment by a utility of its own generating resources or market affiliates.

The PUC adopted rules that address conditioned and prohibited actions involving a utility and its competitive operations or affiliates. For example, the rules address the use of the utility name and logo by its affiliate, prohibit preferential access to confidential consumer information, prohibit cross-subsidization, regulate joint marketing and exclusive referral arrangements, and require utilities to make compliance filings and to fairly treat all electricity service suppliers. The PUC also adopted a transmission and distribution access rule for providing equal treatment to competing electricity suppliers.

Safety and Reliability

Electricity service suppliers applying for PUC certification must attest that they will comply with applicable laws, rules, PUC orders and utility tariffs. Failure to comply can result in loss of certification. In addition, if a supplier owns, operates or controls electrical supply lines and facilities, it must comply with the National Electrical Safety Code and have operation and maintenance programs similar to those required for all other electric system operators in Oregon. The rules require written plans and records that are available to the PUC upon request and the reporting of certain incidents. Scheduling requirements emphasize system reliability, and scheduling commitments must be fulfilled.

The utilities retain responsibility for metering services, meter ownership and meter reading. This ensures safety and reliability through uniform practices and qualified personnel, as well as protects against revenue loss and ensures correct customer

billing. The PUC also administers Service Quality Measures that provide PGE and PacifiCorp with strong regulatory incentives for maintaining high levels of safety, reliability and customer service.

Section 18 of SB 1149 provides that key provisions of the bill cannot go into effect unless the PUC certifies that a utility's ability to maintain safety and reliability will not be impaired by its implementation. The PUC made such a determination in PGE's and PacifiCorp's restructuring filings in 2001.

Public Purposes

SB 1149 requires PGE, PacifiCorp and alternative electricity suppliers to collect a public purpose charge from their customers for 10 years. The charge is 3 percent of the amount collected for electricity services, distribution, ancillary services, metering, billing, transition charges and other types of costs included in electric rates. (The charge is 1 percent for certain aluminum plants.) Customers started paying the charge on March 1, 2002, the date new energy options began.

Funds are for conservation, renewable resources, low-income weatherization and low-income housing. Programs like these used to be included in energy rates.

Based on the recommendations of staff and other parties, the PUC decided that a new nonprofit organization should administer the funds collected for conservation and renewable resources, in accordance with the authority granted in SB 1149. The new organization is called the Energy Trust of Oregon.

Large customers (with an energy demand over 1 average megawatt at a single site) can spend the conservation and renewable resources portions of their public purpose charges on their own facilities. The Office of Energy reviews proposed investments for eligibility.

The 3 percent public purpose charge also sets aside funds for improving the energy efficiency of more than 800 schools in the service areas of PGE and PacifiCorp. Education service districts administer the funds. Funds must first go to energy audits, then to measures recommended by those audits. The Office of Energy helps coordinate the program and provides technical help.

Low-Income Bill Payment Assistance

SB 1149 directs PGE and PacifiCorp to collect a charge from their retail customers to help low-income customers pay their electric bills. A total of \$10 million is collected per year. The Department of Housing and Community Services, in consultation with its Advisory Committee on Energy, provides funds monthly to its service delivery network as it receives payments from the utilities.

Franchise Fees and Privilege Taxes

Cities assess fees and taxes on electric utilities that conduct business in their jurisdiction. Historically, cities assessed fees and taxes as a percent of gross utility

revenues. SB 1149 addressed the potential reduction in cities' revenues resulting from utility customers switching to alternative suppliers. The law allows cities to assess fees and taxes on a kilowatt-hour basis to maintain revenues.

The PUC has a longstanding policy of allowing PGE and PacifiCorp to include in rates up to 3.5 percent of gross revenues for franchise fees and privilege taxes. Amounts above that level must be itemized and billed separately to the customers of the city imposing the fees.

PARTICIPATION IN RESIDENTIAL ELECTRIC COMPETITION IN OTHER STATES¹¹

	Number of Actively Competing Suppliers ¹²	Number and % of Participating Residential Consumers
Arizona	3	Not available (NA)
Connecticut	2	8,200 1%
Delaware	0	0
District of Columbia	2	17,000 10%
Illinois	0	0
Maine	7	5,800 <1% to 31% ¹³
Maryland	4	57,000 3%
Massachusetts	3	50,000 2%
Michigan	NA	3,200 ¹⁴
Montana	2	1,200 ¹⁵ 0.05%
New Hampshire	0	0
New Jersey	3	6,000 0.2%
New York	NA	328,000 5%
Ohio	5	665,000 19% ¹⁶
Pennsylvania	NA	259,000 5%
Rhode Island	NA	150 ¹⁷
Texas	10	319,000 6%
Virginia	1 ¹⁸	2,500 0.2%

¹¹Information as of October 2002 on U.S. Department of Energy, National Center for Appropriate Technology (NCAT) and state utility commission Web sites.

¹²Suppliers actively serving residential consumers. Not all suppliers serve statewide. Aggregators are not included.

¹³Percentages by utility service area. Figures combine residential and small nonresidential customers.

¹⁴Customer classes not identified.

¹⁵Figures combine residential and nonresidential customers.

¹⁶Eligible customers of major utilities. Opt-out aggregation (p. 10) accounts for 80 percent to 85 percent of switching.

¹⁷As of March 2002. NCAT says residential choice is "practically nonexistent" at this time.

¹⁸Renewable resource supplier.

