

# Utility taxes and rates

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Several news stories in recent weeks have focused on utility companies claiming that rates will inevitably go up once Measure 97 goes into effect. That's understandable -- even I once assumed that would be the case. But after considerable research I've learned that's simply not true. The Public Utility Commission has the final say on utility rates, and allowing corporations to perpetually defer billions of dollars in taxes is not in the best interest of ratepayers.

- The effective tax increase isn't as large as utilities act like it will be, because those taxes are deductible off federal tax returns. This means the amount left for corporations to absorb is greatly diminished. Federal deductions reduce state tax liabilities by as much as 35%.
- Oregon's Public Utility Commission (PUC) must approve all rate changes; it's not just up to the utilities to set prices. The PUC usually permits utilities to collect only a fraction of the increased revenue they request, and sometimes rejects the requests altogether. Many different factors play into rate adjustments. Sometimes rates go up and sometimes they go down— the final rates approved by the PUC depend on a lot more than taxes.
- Utilities have collected billions of dollars from customers for paying income taxes, but then use tax breaks to perpetually delay paying those taxes, even as they seek rate increases. Delayed taxes should be paid before new rate increases are awarded.
- Utilities pay the lowest effective tax rates of any industry, even though they collect money from ratepayers to cover their tax bills. Customers end up paying twice — once as ratepayers through the taxes included in their bills and a second time as taxpayers when they have to make up for public service funding gaps because utilities are not paying their fair share of taxes.

## Regulation and oversight

Claims that utilities will simply get a free pass to raise rates are not based in fact.

Unlike other industries, where customers have a choice of what companies to buy goods or services from, utility companies have discrete service areas. That's why Oregon has a [Public Utility Commission](#)<sup>1</sup> that approves utility rates, to protect consumers.

The nonprofit [Citizens' Utility Board of Oregon](#)<sup>2</sup> argues before the PUC against unnecessary rate hikes on behalf of residential utility customers. Since it was founded in 1984, CUB has saved Oregonians over \$6 billion. Another group that contests utility rate increases is the

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<sup>1</sup> [http://www.puc.state.or.us/Pages/about\\_us.aspx](http://www.puc.state.or.us/Pages/about_us.aspx)

<sup>2</sup> <http://oregoncub.org/about/>

[Industrial Customers of Northwest Utilities](#)<sup>3</sup>, which represents big power users like Intel and Precision Castparts.

Utilities must justify every requested rate increase, and thanks in part to ratepayer advocates the Public Utility Commission never approves these requests in full. For example, [PGE wanted to raise 2016 revenues by \\$66 million, but the PUC only approved an increase of \\$17.8 million, 73% less than requested.](#)<sup>4</sup>

Oregon law permits the PUC to require utilities and their shareholders cover the cost of income taxes if companies have a history of underpaying taxes, or for any other reasons [“the commission deems relevant to protect the public interest.”](#)<sup>5</sup> Oregon schools and services are underfunded because we have the country’s lowest effective corporate taxes. Requiring utilities and other major corporation to pay higher minimum income taxes is in the public interest.

Furthermore, state income taxes are a deductible business expense on federal tax returns. Depending on the top marginal federal income tax rate utilities pay, as much as 35% of the tax increase could be shifted off their federal taxes. That means the amount utilities have to pay is reduced by a substantial amount.

### **An embarrassment of riches**

Utilities generate a lot of profits for investors, and pay executives and directors handsomely. If utilities can afford these lavish compensation packages, they can afford to pay more in taxes.

Portland General Electric is a publicly traded company. In 2015, PGE reported \$172 million in after-tax profits on \$1.9 billion in revenue. Portland General Electric paid **ZERO** in state income taxes in 2013, the same year it reported a \$206 million profit.<sup>6</sup> CEO James Piro is paid more than \$3 million a year. [Retired PGE CEO Peggy Fowler still gets \\$790,000 a year.](#)<sup>7</sup> Fowler got a huge pay raise in her last few years on the job (in her last year as CEO she was paid \$4.5 million), which nearly doubled her retirement payout. Ratepayers continue to pay more so Fowler can get an extra \$376,000 a year in retirement. Furthermore, between cash and stock awards, PGE’s directors took home over \$162,000 a year, on average.<sup>8</sup>

PacifiCorp is a subsidiary of Berkshire Hathaway Energy (BHE), which is part of the massive conglomerate controlled by Warren Buffet, one of the world’s wealthiest men. Among the subsidiaries of BHE, PacifiCorp generates the most income. BHE reported \$2.4 billion in net

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<sup>3</sup> <http://www.nwenergyusers.org/>

<sup>4</sup> <http://apps.puc.state.or.us/orders/2015ords/15-356.pdf>

<sup>5</sup> <http://www.oregonlaws.org/ors/757.269>

<sup>6</sup> PGE 2015 10-k

<sup>7</sup> [http://www.oregonlive.com/business/index.ssf/2009/03/pge\\_defends\\_retiring\\_ceos\\_comp.html](http://www.oregonlive.com/business/index.ssf/2009/03/pge_defends_retiring_ceos_comp.html)

<sup>8</sup> PGE 2015 Proxy statement

income in 2015, with \$695 million from PacifiCorp. The CEO of BHE, Gregory Abel, was paid over \$40 million in 2015.<sup>9</sup>

NW Natural is the largest provider of natural gas in Oregon; their total operating revenues comprised 71 percent of the total for the state. NW Natural's delivered therm volumes, excluding transportation, accounted for 82 percent of Oregon natural gas utility therm sales. NW Natural reported \$724 million in revenue and \$54 million in profits in 2015. CEO Gregg Kantor received \$8.6 million in compensation over the past 3 years. Directors at NW Natural average over \$150,000 a year; \$115,000 to start, plus extra for showing up to meetings.<sup>10</sup>

Avista Natural Gas reported \$1.48 billion in revenues in 2015, and \$123 million in net income. CEO Scott Morris was paid over \$5.4 million in 2014. Between 2012 and 2014 Avista received \$1.9 million in Oregon Business Energy Tax Credits.<sup>11</sup>

Cascade Natural Gas is a subsidiary of MDU Resources. MDU reported \$4.2 billion in revenues in 2015, and \$254 million in operating income.<sup>12</sup> Natural gas distribution generated \$817 million in revenue and \$54 million in profits for MDU. CEO David Goodin was paid over \$10 million between 2013 and 2015.<sup>13</sup>

## Income taxes

Utilities collect money from customers to cover income taxes, but then use tax breaks to reduce their tax bills. For Oregon utilities, this means the state's largest energy providers owe billions in dollars in taxes to the state and federal government. According to a 2016 report from the Institute for Policy Studies,

*Because utilities are regulated, they have the good fortune of having their corporate taxes built in to the rates set by regulators. Thus, utilities collect taxes at the full rate from customers, but then are allowed to use loopholes to delay paying those taxes. In effect, this means customers are paying twice — once as ratepayers through the taxes in their monthly utilities bills and a second time as taxpayers when they have to make up for public service funding gaps because utilities are not paying their fair share of taxes.<sup>14</sup>*

Accelerated depreciation is the biggest federal corporate tax break.<sup>15</sup> Let's say an electric utility company builds a new power plant with a useful life of 30 years. The cost of the plant will ultimately be paid by customers on their electric bills over that time period. Utilities use a straight line depreciation method when requesting rate increases from the PUC, which spreads the costs out evenly over the years the plant will be operating. But when utilities file their taxes, they claim tax breaks for "bonus" or "accelerated" depreciation, which means they get to deduct all

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<sup>9</sup> Berkshire Hathaway Energy 2015 10-K

<sup>10</sup> NW Natural 2015 Proxy statement

<sup>11</sup> Oregon Department of Energy

<sup>12</sup> MDU Resources 10-K

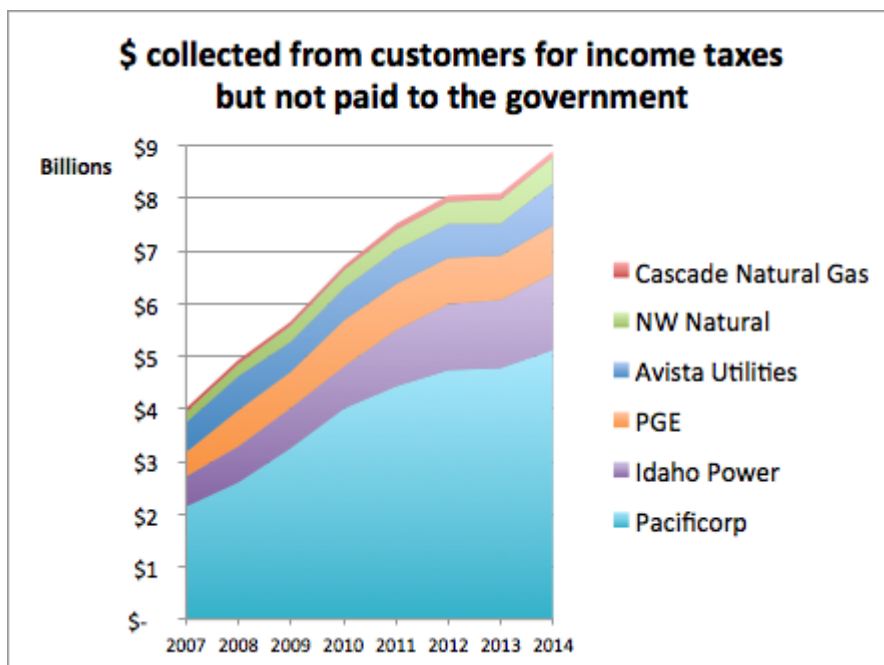
<sup>13</sup> MDU Resources 2016 Proxy statement

<sup>14</sup> Institute for Policy Studies, <http://www.ips-dc.org/wp-content/uploads/2016/07/IPS-Utilities-Tax-Report-FINAL.pdf>

<sup>15</sup> <http://crfb.org/blogs/tax-break-down-accelerated-depreciation>

the expenses off their taxes early on. This reduces their current tax payments below what is being collected from customers for tax purposes.

Taking accelerated depreciation now means less depreciation later, so in theory future tax bills will be higher. But in reality there's always something new to depreciate so the total amount of deferred tax liabilities keep piling up. In 2007 investor-owned utilities had around \$4 billion in accumulated deferred income taxes, but by the end of 2014 the amount had more than doubled to \$9 billion. Electric utilities had \$7.5 billion in accumulated deferred income taxes in 2014, including \$5.13 billion for Pacific Power and \$916 million for PGE. Investor-owned natural gas utilities had \$1.44 billion in accumulated deferred income taxes in 2014, including \$808 million for Avista and \$500 million for NW Natural.<sup>16</sup>



*Public Utility Commission Statistics Books, 2007 - 2014*

Accumulated deferred taxes are tracked for accounting purposes, but the cash itself is available for the utilities to use on whatever they'd like. Having cash on hand means utilities don't have to borrow from a bank to finance operations, and thus avoid financing costs. Essentially utilities are borrowing this cash interest-free from the government. The savings are paid back to utility customers by deducting a set percentage of the deferred taxes from the rate base, and because the amount of accumulated deferred income taxes is so large, the annual amount counted against the rate base runs to millions of dollars. But those amounts are still relatively small compared to the total cost of delivering electricity or gas to customers. While additional financing costs would add a small amount to the rate base, the benefits from tax spending would be much larger than any consumer impact.

<sup>16</sup> Public Utility Commission, 2014 Oregon Utility Statistics,