



## The Oregonian

### The case against Fowler's bonanza

Sunday, March 22, 2009

#### The Oregonian

There are two reasons to return this morning to Peggy Fowler's \$4.5 million going-away present. If you're a PGE customer, you're paying for the former chief executive's extravagant compensation package. And if that makes you angry -- as well it should -- you need some options on where to direct your wrath.

Both PGE and its benevolent regulator, Oregon's Public Utility Commission, want you to think Fowler's lush bonuses are borne by the utility's shareholders. Even devout fans of the PUC tell me that's just plain silly.

As Bob Jenks of the Citizens' Utility Board notes, "The regulatory process is fundamentally unbalanced in the utilities' favor. They control their own books. They control the filings. They can manipulate the information."

And manipulate it they do. When the utility makes its case in a rate hearing, it invariably pads its expenses or predicts worst-case cost scenarios.

"They're expected to argue in their own favor at the commission," said Robert McCullough, the managing partner at McCullough Research, a Portland consulting firm with an international practice in power and energy issues. "They're expected to be energetic advocates on behalf of stockholders. There's nothing wrong with that."

That energy, unfortunately, isn't always met with a corresponding sense of mission -- on behalf of the utility customers, at least -- at the PUC.

The PUC's job, you would think, is to hold the utility accountable. "Our duty," Commissioner John Savage assured me Friday, "is to protect ratepayers." And it's true that some past commissioners -- Ron Eachus comes to mind -- have been zealous in the customers' defense.

But the commission is also obligated to keep the utilities healthy, which requires, Savage said, granting them "all the money they need to run a safe, efficient system" and the return on investment necessary to keep the shareholders happy.

Thus, PGE is given the opportunity to make a guaranteed profit. The utility is also provided the perfect incentive to cut costs: It keeps the savings.

Several years ago, Jenks notes, PGE ended its tree-trimming operation six months early: "They saved a bunch of money. A few million dollars." That money wasn't returned to the ratepayers who paid for the tree trimming; it remained with the utility and, in one form or another, was converted into shareholder profits.

"That's the name of the game," said Ann Fisher, a utility lawyer. "You look for the places you can save money, and when you save money, that's to the benefit of the shareholders."

And guess what: It's a lot easier to save money when you have the ability to pad costs and you don't have to worry about audits, ratepayer refunds or "retroactive rate making."

As Lee Sparling, the PUC's utility program director, conceded Friday, "It's easier for (the utilities) to identify where costs have gone up than it is for us to identify where costs have gone down." PGE demands deferrals when it has unexpected costs; its customers don't have that privilege when the utility has "unexpected" savings.

In Fowler's final year at PGE, only her \$664,736 base salary was part of an approved rate case. Her compensation package, McCullough notes, was based on a complex formula:

"The largest component in 2008 was generation plant availability. This means that the company convinced the regulators that the plants would not run very well. When (the plants) did, the company gets to keep the proceeds, and the senior officers get rewarded appropriately.

"If the correct values for plant availability had been used in the rate case, consumer rates would have been lower," McCullough continues. "The PUC accepted a forecast biased in PGE's favor.

"Hence, Peggy's bonus came at the cost of ratepayers."

"Ratepayers," of course, is such a marvelous distancing device. It's more accurate to say that Fowler's bonus came at the expense of higher electric rates for single mothers, college seniors getting by on ramen noodles, and families juggling PGE bills and unemployment checks.

At the PUC, Savage argues, "This is self-correcting. Trust me." If the commission staff agrees that PGE channeled an obnoxious amount of ratepayer money (through a vote of its shareholders) into executive compensation, Savage said, "We will take that into account the next time they come in for a rate case."

If you're a PGE customer and you're angry now, what options do you have?

You can vent your displeasure, I suppose, on PGE's board of directors, a list of whom is available on PGE's Web site.

You can vote your annoyance the next time you see a PGE customer satisfaction survey, as those surveys also figure in the complex formula for executive compensation.

You can tell yourself you won't be persuaded by the utility's blanketing PR campaign the next time public utility districts appear on the ballot.

Jenks argues that the Public Utility Commission is not insensitive to public pressure. "If you're an angry ratepayer, there are other rate proceedings in front of the commission," he said. "You can intervene to make sure PGE doesn't have artificially inflated costs that pay for it."

But McCullough isn't encouraged that -- in the absence of a similarly outraged governor and commissioners -- lobbying the PUC will ever bring much satisfaction.

This is the commission, by the way, that never saw any reason to direct PGE to seek refunds from Enron on behalf of its customers.

Besides, McCullough notes, "The outrage you're seeing, unfortunately, is occurring after the storm is over." With board and shareholder approval, Fowler has already sailed off with the \$4.5 million.

By Jenks' calculation, that money could have provided emergency heating assistance to 12,460 Oregon families. And so it goes.

Steve Duin: 503-221-8597; 1320 S.W. Broadway, Portland, OR 97201 [steveduin@news.oregonian.com](mailto:steveduin@news.oregonian.com)  
<http://blog.oregonlive.com/steveduin>