



Seduced and Abandoned?: Utilities and WPPSS Nuclear Plants 4 and 5

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On January 22, 1982, the Washington Public Power Supply System (WPPSS) board of directors decided to terminate two partially-completed nuclear power plants. With less than a quarter of the work done on each, the agency had already borrowed and spent about \$2.25 billion. In 1975, when plans for the projects were taking shape, WPPSS thought this would be the total cost of the two plants. By May 1981, when WPPSS imposed a construction slowdown on these plants (designated WNP-4 and WNP-5), the estimated total costs to complete them were \$11.8 billion. Moreover, it had become increasingly apparent that the electricity they could supply would not be needed in the Northwest in this century. In June 1983 a Washington State Supreme Court ruling in effect relieved 88 Northwest utilities of their obligations to make payments on the \$2.25 billion. Within a few weeks WPPSS defaulted, creating the largest municipal bond default in American history.

The collapse of WPPSS projects 4 and 5 was perhaps the most dramatic aspect of the WPPSS fiasco. To understand it we must look back to the early and mid 1970s. It was then that regional power interests took the steps that led them into the morass. What circumstances induced 88 utilities to participate in projects 4 and 5? What choices did the utilities perceive at that time? What influences were brought to bear on them? To answer these questions, we must keep in mind the unique energy legacy of the Pacific Northwest.

The hydroelectric generating and transmission system of the Columbia River basin had fueled the region's growth since World War II. Yet by the early 1960s dam sites suitable for large-scale hydropower generation were close to being exhausted. In 1968 a Joint Power Planning Council set forth a regional energy program. Although the council had regional private and public utilities representatives, the head of the Bonneville Power Administration chaired it and BPA provided its technical expertise. Nothing if not ambitious, the Hydro-Thermal Power Program (HTPP) called for completion of 20 large thermal plants by 1990.

By 1973 WPPSS had agreed to finance, construct and operate three nuclear plants as part of the HTPP. A joint operating agency formed in 1957, WPPSS already ran a small hydroelectric plant and the Hanford Generation Project, the system attached to the military's plutonium-producing N- reactor.

A device known as net billing was essential to financing the first three WPPSS reactors. Under net billing, public utilities in the region assigned their shares of the plants' capabilities to the Bonneville Power Administration; in return, Bonneville would deduct from the utilities' power bills amounts equal to the sums the utilities paid to WPPSS. Although Bonneville did not have the legal authority to purchase non-federal power, the net billing agreements effectively made the agency the guarantor of WPPSS' debt for these facilities. In return BPA would get the output these plants were expected to produce. Net billing made the WPPSS plants into regional resources.

However, in 1973 net billing came to a halt. The Internal Revenue Service had ruled bonds issued for any future net-billed facilities would not be tax exempt. WPPSS financing depended upon selling municipal bonds on which the interest would be tax exempt. Without tax-exempt status financing additional net-billed plants would be too expensive. Moreover, the costs that could be net billed were limited by the size of BPA sales to its preferred customers (public utilities that by law had first priority as customers of BPA). With rising cost estimates on the three projects, BPA had run out of net billing capacity.

The curtailment of net billing brought Phase I of the Hydro-Thermal Power Plan to a halt. Yet regional energy planners felt that new generating facilities were needed more urgently than ever. Forecasts indicated severe shortages by the early 1980s if more new plants were not built. A dry winter in early 1973 had required voluntary curtailment of electrical usage that summer, heightening anxieties. The first petroleum crisis that year also indicated a need for more electrical energy.

Phase II

In September 1973 the BPA responded with Phase II of the Hydro-Thermal Power Plan. Bernard Goldhammer, BPA's power manager, sought a way for utilities to undertake projects for regional needs in the absence of net billing. Regional utilities met with BPA and negotiated acceptance of the outlines of Phase II at a December meeting that produced the so-called "Treaty of Seattle." BPA intended to enter into "trust agency" agreements with utilities that undertook new projects; with these pacts BPA would arrange to market their output. The plan "involve[d] BPA acquiring power but never owning it."

Phase II strategists hoped that this new effort would induce construction of eight new thermal plants in the next dozen years. WPPSS was among the organizations pledging to undertake construction. In mid 1973, even before the unveiling of Phase II, WPPSS had announced plans to build a fourth nuclear facility that would be operational by 1984. The next spring the Public Power Council, a policy group comprised of public-owned utilities in the Northwest, requested that WPPSS put yet another plant on its agenda. Plant 4 was to be paired with WPPSS 1 on the Hanford Reservation and plant 5 twinned with WPPSS 3 near Satsop. WPPSS and the utilities hoped that twinning the plants in this way would save nearly \$400 million in construction costs.

WPPSS soon assented to the Public Power Council's request, but the financing of plants 4 and 5 remained uncertain. Utilities in the region advocated the plants in principle, but would they make the commitment to building them? Between the Public Power Council's endorsement in 1974 and July 1976, when utilities signed participants' agreements for shares of the projects' capabilities, a complex set of inducements and pressures brought 88 publicly-owned facilities into the fold.

In 1983, in the aftermath of the projects' termination, several participants in plants 4 and 5 sued the BPA. The plaintiffs asserted that BPA had seduced them into buying shares of the two plants. Although the suit was not successful in court, we can scrutinize the evidence to judge the forces that led the public utilities into the venture. Later we will look at the decisions of two different utilities, the Springfield (Oregon) Utility Board and Seattle City Light, to examine the range of responses to these forces.

Clearly BPA leaders felt an urgent need for regional generating facilities to come on line after 1981, when the last net-billed plant was scheduled for completion. They promoted plants 4 and 5 actively. In the first place, the agency played an important role in the preparation of the region's official load forecasts, issued by the Pacific Northwest Utilities Conference Committee (PNUCC). BPA had five specialists assigned to work with preferred customers on their demand predictions. Some of the small utilities relied entirely on these experts. BPA also forecasted loads for its federal agency and direct service industry (DSI) customers, although these figures were largely set by contract. The DSIs were large industrial power users, mostly

aluminum reduction plants, which purchased electricity directly from Bonneville. In sum, Bonneville established about 40 percent of the region's demand projections. PNUCC's system planning committee took the individual utility forecasts and simply added them together for the regional prediction.

PNUCC's load forecasts were fairly accurate through about 1972, but from then on demand grew more slowly than earlier forecasts had predicted, and even though forecasts were revised downward from year to year they continued to overestimate demand. By 1974-75 the actual winter peak load was 11.1 percent lower than the estimated load. The estimates were flawed in at least two ways: by merely summing the individual estimates, PNUCC failed to take into account overly-optimistic estimates of local growth; and, more importantly, most utilities did not adequately consider the role of price elasticity in their projections, failing to realize how much large price increases might reduce consumption.

Demand forecasts were at the heart of BPA's pressure for new plant construction. In its annual reports and other documents it continually maintained that additional thermal facilities were the region's only hope. In 1972, even before the demise of net billing, Don Hodel (then BPA's deputy administrator) warned preferred customers of supply problems and added ominously: You may be thinking that "we don't have to worry about it. We are protected by the preference clause and we will be able to go on buying power from BPA..."

Consider this: In a time of regional shortage the preference clause may not mean very much. For then it may come to a political decision as to who gets the power.

As administrator, Don Hodel said in 1974 that the Hydro-Thermal Program was "about all we've talked about since 1969." Hodel and others were predicting energy shortages in the 1980s even with both phases of the program; without their success the situation would be grave. He showed little sympathy with environmentalists who endorsed vigorous conservation and lashed out at them in a 1975 speech, calling them "a small, arrogant faction [of]...anti-producers and anti- achievers." He labeled them the "Prophets of Shortage," although it was he who was predicting power scarcity.

The significance of Hodel's 1972 warning would not be lost on preferred utilities in the Northwest. For the next several years BPA dangled the threat of a "Notice of Insufficiency" over their heads. This notice would give the legally-required seven years' advance warning to preferred customers that Bonneville would not be able to serve all their needs after a given date. In March 1973 Interior Secretary Rogers Morton directed BPA to give this message to preferred customers informally.

A year later, BPA again told utilities, "Bonneville will no longer furnish its preference customers' power requirements after July 1, 1983." Because the actual Notice of Insufficiency would require BPA to devise a procedure for rationing its power, apparently the agency wished to postpone official notice until the last moment. In May 1975 Hodel informed the utilities that he would delay issuing the notification for another year. But in the spring of 1976, as pressure for final agreement on plants 4 and 5 financing mounted, Bonneville held a series of meetings around the Northwest outlining its intent to issue the notice. When it was officially sent out on June 24, it was almost anticlimactic. Yet, as one local public utility district commissioner later commented, the notice of insufficiency was "a gun...at the commission's head in 1975 and '76."

Bonneville offered inducements as well as warnings in its efforts to encourage public utilities to buy into plants 4 and 5. One such inducement was the indication that it would be able to spread the risk of a "dry hole," an unsuccessful project. Following discussions with BPA about Phase II of the Hydro-Thermal Plan, Ken Billington, Executive Director of the Washington Public Utilities Districts' Association told his members in December 1973:

It was agreed that no one utility or group of utilities should have to bear losses on a plant being built for a regional purpose which does not materialize and which results from factors beyond the control of the involved utility or utilities.

Similar assurances were heard in the following years. Billington indicated in 1975 that BPA's conception of Phase II included "a guarantee in case of possible default." Legally it appears that Bonneville made no binding promises to cover or reduce participants' losses in case of project failure. In the first place, indications of dry hole protection were associated with plans for Phase 11, which was derailed in 1975 and never implemented. Second, the clearest statements that BPA would protect participants in WPPSS projects came not from Bonneville spokespeople but from utility representatives; they say more about the participants' hopes than the BPA's pledges.

The Promise of Regionalization

More broadly, BPA enticed the utilities into plants 4 and 5 by suggesting that these, like the net-billed plants, could be made into regional projects. The thrust of Phase II was to find a way to allow BPA to acquire the expensive nuclear energy the plants would generate and meld it with its cheap hydropower for sale to the entire region. If such an arrangement could be devised, utilities participating in plants 4 and 5 could avoid paying premium prices for the quite ordinary kilowatts they were purchasing. Utilities continued for years to hope for some way to spread the costs and risk of plants 4 and 5; BPA seems to have encouraged these hopes.

Finally BPA, as the largest and most influential player in regional energy policy-making, kept up a stream of assistance and advice to its preferred customers, urging them to move onward with arrangements to participate in plants 4 and 5 and helping them plan the projects' financing. It was BPA, for instance, that in 1975 prepared option agreements for WPPSS and its preferred customers. Preferred customers promised to pay for an option to buy shares of plants 4 and 5 capabilities, and WPPSS then used these contracts to issue \$100 million in development bonds for interim plant financing.

When some utilities wondered if their purchases of those shares might be used to cut back on their allocations of BPA power, Hodel quickly wrote to reassure them, "I would not use a customer's participation to place it in a less favorable position than non-participants...with respect to future allocations of Bonneville power."

Especially for smaller utilities without experience in planning and implementing major projects, BPA's advice was crucial. When a small municipal utility in Heyburn, Idaho, informed WPPSS in 1974 that it did not wish to participate in the plants, the mayor found himself besieged by at least ten BPA executives, including Hodel himself. Despite reservations, Heyburn joined in for a miniscule share of the projects. As one utility official put it, "Bonneville was the godfather. They made the offer; you couldn't refuse."

Bonneville's public response to the seduction suit demands attention as well. Hodel pointed out that in fact at least some of the public utilities had wanted to build nuclear plants themselves without BPA involvement. He also maintained that he had resisted plants 4 and 5 because he had trepidations about their financing. Finally, he noted that about a quarter of the eligible public utilities in the Northwest had declined to take shares of the projects' capabilities. Bonneville's enticement, he suggested, could hardly have been irresistible.

Hodel was correct in claiming that not all utilities responded to BPA's entreaties. We can see this in a comparison of two different utilities' responses. For Seattle and its utility, Seattle City Light, the projects

provoked an extensive debate about nuclear power and energy policy. With two excellent earlier studies available, Seattle's story needs only a brief retelling here.

The City Light Story

Seattle had a unique position among regional public utilities. Light was by far the largest in the Northwest and it had extensive hydropower generating facilities of its own. Although it had joined WPPSS in 1971, it produced 70 percent of its own power and depended less on BPA energy than the small, non-generating utilities in WPPSS.

Nevertheless, when BPA and WPPSS offered option agreements in early 1975, City Light wanted the right to choose. Predicting a continuing load growth of 3 to 4 percent annually, it asked the city council to authorize purchase of an option on 10 percent of plants 4 and 5 capabilities. Local business interests and media endorsed the proposal and the council unanimously approved it in March 1975. When the Washington Environmental Council claimed that the matter required an environmental impact statement and sued to block the decision, officials from the utility and the mayor's office negotiated an agreement calling for an extensive analysis by an independent consultant. This became the Energy 1990 study.

A growing drive for citizen participation meant that the Energy 1990 study took place with intensive public scrutiny. A citizens' selection committee took part in choosing an independent consultant group to conduct the study, and a citizens' overview committee monitored the consultants' work. Meanwhile, both the mayor's policy planning office and Seattle City Light itself contained environmentalists who were skeptical of facile assertions that participation in WPPSS was necessary. Crucially, Mathematical Sciences Northwest was the consulting firm chosen for the forecasting component of Energy 1990. Combining environmentalist values with technical expertise, the consultants challenged some of the key assumptions of City Light's nuclear development supporters. Eventually, Math Sciences Northwest's forecast of 1.52 percent annual demand growth was less than half of City Light's 3.7 percent prediction.

The initial Energy 1990 report appeared at the end of February 1976, at a time when regional power leaders were intensifying the drive for participation in financing plants 4 and 5. It laid out seven energy policy scenarios, ranging from aggressive promotion of electricity usage to measures designed to reach a steady state with no growth in demand. The report made clear that investing in more thermal generating facilities was unappealing. "There appear to be no truly attractive central-station generation options available to Seattle...."

In the following months Seattle residents witnessed and, to a surprisingly large extent, participated in an intense debate about the city's energy future. Public hearings began in March and drew testimony and submissions from a wide variety of groups. The city council held a series of briefing sessions on energy policy. Seattle daily newspapers covered the issue regularly and television stations aired specials on it. The *Argus* and *The Weekly*, alternative newspapers, ran detailed analyses.

Late in April the citizens' overview committee transmitted its majority and minority reports. Eighteen members signed a statement calling for a vigorous conservation program and recommending "that no new additional generation be initiated at this time." The remaining nine filed a minority report calling reliance on conservation alone a "dangerous energy game" and endorsing City Light's purchase of 10 percent shares of plants 4 and 5 capabilities.

When the final Energy 1990 report made its appearance in May, City Light Superintendent Gordon Vickery transmitted it to Mayor Wes Uhlman with the utility's recommended course of action: purchase of 5 percent shares in the WPPSS projects and additional investments in hydropower and coal generation. Uhlman

accepted the nuclear aspect of the proposal, but added a proviso that participation should be "contingent upon the identification of specific customers which can reasonably be expected to purchase any surplus power which might accrue to us."

City Light's plan had the backing of a power coalition of downtown business interests, labor unions, construction contractors, the city's daily newspapers and the region's private utilities. Perhaps equally predictably, the opponents of nuclear involvement "formed a classic progressive coalition" environmentalists, academics, community councils, the League of Women Voters, People Power, Metrocenter and the Municipal League "the sort of middle-class groups that were coming to exercise more and more power" in Seattle, wrote political scientist J. Gregory Hill.

As Hill points out, the pro-nuclear forces were not as invincible as their economic importance might have suggested. Opponents of participation could portray themselves as fiscally responsible moderates backed by technical expertise and objective information. Moreover, they could cast themselves as the legatees of the democratic impulses of the public power movement and of City Light in particular. This was particularly true because advocates of nuclear participation had shown that their interests stretched beyond Seattle. The minority report of the overview committee contended that Seattle's energy supplies and responsibilities were linked to the region's, and that the city was obliged to take regional concerns into account in its planning. Late in the debate the regional pressure became somewhat heavy-handed. WPPSS representatives were alleged to have told the city council that "Seattle might be foreclosed from...nuclear power from potential additional nuclear plants in the future if the City does not now vote in favor of participation in the current plans." The anti-nuclear forces replied that WPPSS was attempting to blackmail the city to sacrifice its best interests for others elsewhere.

The city council delayed its vote on WPPSS projects 4 and 5 as long as possible, but the participant's agreement had to be returned by mid July. On July 12 the council voted 6-3 against acquiring the 5 percent shares. They also rejected, 7-2, a proposal for a 1 percent share designed to keep the city's foot in the door for future regional nuclear projects. Seattle was not seduced.

Springfield Utility Board

Developments in Springfield, Oregon, were far less dramatic and, unfortunately, far more typical of the responses of local utilities to the nuclear bargain. The Springfield Utility Board (SUB) began distributing electricity to the rapidly-growing blue-collar city in 1949. Although in its earlier years it had competed actively for customers against investor-owned Pacific Power & Light, SUB's culture had not developed in the years of bitter public-private utility rivalries during the 1930s and 1940s. Unlike Seattle, there was not much of a legacy of citizen participation or a sense of public power as a progressive crusade.

Even though SUB finally bought out Pacific Power & Light properties in its service area in 1975, when plants 4 and 5 were being planned, this public power victory passed with little public attention or excitement. Minutes and newspaper coverage indicate that few if any citizens attended board meetings. Board decisions were usually unanimous, following staff recommendations, and discussion seems seldom to have been more than perfunctory. The city's semi-weekly newspaper, the Springfield News, routinely covered board meetings, but reports were as likely to note a decision to purchase a new truck or offer service to a new housing tract as to analyze the board's impending policy choices.

Thus, Springfield signed its option agreement in July 1975 for the opportunity to buy a bit less than 2 percent of the capabilities of WPPSS projects 4 and 5 with virtually no board discussion and no mention in the local press of this action. BPA's announcement of its intention to issue notices of insufficiency was scarcely remarked in the spring of 1976. When it came time in July 1976 for the utility board to sign its

participant's agreement for plants 4 and 5, there was slightly more deliberation. At a work session on July 12, SUB General Manager Jack Criswell presented a forecast showing a 14-megawatt deficiency in 1983-84, even with vigorous conservation efforts. Two days later, at the board's monthly meeting, three citizens spoke out against the participant's agreement. One questioned Criswell's demand projections and called for a no-growth energy policy. Another opposed nuclear energy as experimental and noted the unsolved problems of waste disposal. A third announced that he was designing an invention that would generate electricity at a tenth of its current cost; details would soon be announced.

The SUB board nevertheless was resigned to executing the participant's agreement. They saw no alternative if Springfield was to meet its customers' requirements in the next decade. Board members were somewhat reassured by arrangements for short-term sales of any surplus power to the direct service industries, but one noted that he was voting for signing the agreement "reluctantly," and he spoke for his colleagues in this.

Springfield's situation contrasted in almost all respects with Seattle's. City Light owned hydroelectric plants that generated most of its power; SUB was a non-generating utility that relied on Bonneville for all of its electricity. Seattle's population was stable or declining, whereas Springfield's had grown and was expected to continue to increase. Springfield lacked the tradition of citizen involvement and the sense of mission that public power in Seattle had inherited. Moreover, the communities were strikingly dissimilar. Seattle, despite the class stratification to be found in any American city of its size, was in some very real senses a middle-class city; Springfield, less than a tenth Seattle's size, was predominantly a blue-collar mill town. It was unlikely that the environmentalist alliance that kept Seattle out of the projects could be duplicated in the Oregon community.

Ironically, however, although the Springfield community participated somewhat unthinkingly in the birth of plants 4 and 5, it was to play a crucial role in the events leading up to the default seven years later. The early 1980s were troubled times for SUB, along with other regional utilities, and controversy replaced the apparent indifference of the mid 1970s.

The woes affecting WPPSS' nuclear projects by the end of the 1970s are too numerous and complex to relate here. Suffice it to say that by 1980 plants 4 and 5 had slipped far behind schedule and cost estimates had soared to \$9.9 billion, nearly five times the original predictions. Underwriters and institutional investors were becoming increasingly jittery about the bonds for the projects, and interest rates were soaring. WPPSS board members ousted the agency's managing director and replaced him only after an arduous search. A Washington State Senate committee held embarrassing hearings about WPPSS management that summer and, in Oregon, Fourth District Representative Jim Weaver's prolonged complaints against WPPSS grew ever louder.

For Springfield the initial shock of the WPPSS fiasco came through increases in Bonneville's wholesale power rates. The need to begin repayment of bonds on the net-billed WPPSS plants accounted for a large fraction of rising costs. BPA's 85 percent hike in 1979 required an increase to SUB ratepayers of about 17 percent that year and 23 percent the next. When Springfield held hearings on the 1980 residential rate increase, opponents blamed WPPSS. According to the minutes, "Glenn Sofge...commented that he felt that if the Utility would quit pouring money into the nuclear projects that the rates would be more reasonable." Another ratepayer, representing Oregon Fair Share, pointedly asked the board if it realized that nuclear power was far more expensive than hydroelectric energy. A member ruefully replied that they were indeed aware of this, but the board nevertheless approved the rate increase unanimously. Only two weeks later, SUB heard that Bonneville anticipated raising its wholesale rates another 50 percent later in 1980.

By early 1981 Springfield's attention began to turn to plants 4 and 5. WPPSS, hoping to stabilize its cost of capital and maintain an adequate cash flow, had proposed a "balanced financing program" to the participants' committee that represented the 88 utilities. This would permit WPPSS to borrow some of the funds it needed in the short and intermediate-term markets instead of issuing long-term bonds for all its borrowings.

When this new program came before SUB in April 1981 for discussion, it encountered opposition from two board members. They realized that short-term borrowing would hasten the day when SUB would have to raise its rates to repay creditors for plants 4 and 5. A motion to reject the program was tabled, but the board decided at its May meeting that it could not make a decision without "much more information as to the need for the plants and the feasibility of the Balanced Financing Proposal."

The Sinking of WPPSS

Less than three weeks after SUB postponed its response to the program, WPPSS sank deeper into the quagmire. Faced with new cost estimates of \$23.9 billion for all five projects and \$11.8 billion for plants 4 and 5, WPPSS on May 29, 1981, placed a virtual moratorium on construction of the last two plants. Additionally, the PNUCC's forecast, completed earlier that spring, showed a sharp decrease in projected load growth throughout the coming decade. The gap between the 1980 and 1981 forecasts for 1990-91 was greater than the entire projected output of plants 4 and 5, calling into question whether these plants would be needed after all.

Springfield responded to the construction slowdown ambivalently, endorsing a six-month moratorium by a four-to-one margin but continuing to hope that the plants would be completed on schedule. Despite SUB's desire to see the projects restarted, the series of jolting rate increases made the utility wary of any financing measures that might require it to begin debt payments soon. In July, responding to rumors that investors were urging participants to raise utility rates to repay WPPSS bonds, the board labeled the proposal "preposterous and [it] will not even be considered." SUB members and utility staff continued to cling to the hope that two of the plants would be completed, with the costs spread among all the region's electric consumers. For SUB, the old promise of regionalization now was the best chance for the projects' salvation.

The second half of 1981 was a trying time for the Springfield Utility Board. At this point Springfield's utility policies had become visible public issues. SUB meetings brought out delegations from Fair Share and other community activists. Press coverage increased and routine management matters received decidedly less attention than the looming WPPSS crises.

As Springfield's economy plunged into a severe recession, the effects of WPPSS, BPA and SUB's policies on local ratepayers became the focus of intense concern. Citizens called for "life-line" rates to protect the poor; they opposed service termination for those unable to pay soaring utility rates, and objected to commercial and industrial customers' preferential rates. Members of the Fair Share community organization peppered board members with questions and complaints. Peter DeFazio, a member of Congressman Weaver's staff who later succeeded Weaver as Oregon's Fourth District Representative, also appeared regularly at SUB meetings and urged the board to extricate itself from WPPSS.

The board responded defensively to these new challenges. For example, DeFazio, despite his expertise on energy issues, was snubbed when he applied for a position on the board's budget committee. Meanwhile, the board watched schemes for regionalizing the costs of plants 4 and 5 fade away. Resentful of the investor-owned utilities and direct service industries that balked at picking up a share of the plants' costs, SUB members became increasingly doubtful that the projects could or should be maintained. One member,

Byron George, had by October 1981 decided that "only termination of the projects would be acceptable." While General Manager Steve Loveland still preferred mothballing the plants to terminating them, SUB was not willing to contribute to the mothballing costs unless expenses could be spread beyond the 88 participants. The participants themselves had begun to quarrel, and one board member reported that the participants' committee that advised WPPSS on the projects "has turned into 88 separate bodies looking out for their own interests."

Both the board and its critics were well aware that the participant's agreement signed in 1976 contained a "hell or high water" proviso. The debt obligations would have to be paid even if the plants were never built or operated. And the agreements specified that if the projects were terminated, repayments would start a year later. Any plan that would keep the projects going would doubtless require accelerated payment of the existing debt in order to reassure future lenders; yet canceling the plants would force Springfield to start repaying its share of the bonds.

To the angry ratepayers who crowded into the board's meetings, it was intolerable to suffer hefty rate increases for plants 4 and 5 with nothing at all in return. That fall DeFazio and Fair Share activist Pat Raymond discovered that Springfield's city charter appeared to require a public vote on any sizable borrowing that the utility board undertook. Consulting with local attorney Robert Ackerman, they decided to challenge SUB's authority to enter into the participant's agreement. At the November meeting, DeFazio "urged the Board to engage outside legal help in dealing with the WPPSS issue" and to find out if the board really was liable to WPPSS for its project share.

SUB, however, would not accept this suggestion. A few days before Christmas, DeFazio and two other ratepayers filed suit against both WPPSS and Springfield, contending that, for a variety of reasons, the participant's agreement was void because SUB had lacked the legal authority to sign it. During the next few months, DeFazio tried to persuade Springfield to join the plaintiffs in seeking a declaratory judgment against the agreement, but the board's legal counsel maintained that it would be self-destructive for the board to ask for a verdict that would deny it such a crucial power. It would be better, attorneys argued, to pursue the possibility of suing WPPSS for breaching a contract (the participant's agreement) that was originally authorized and valid.

When WPPSS decided on January 22, 1982, to terminate plants 4 and 5, Springfield found itself on a collision course with the start of repayment. Board members continued to hope that a regional bail-out of the projects would be arranged, but these plans foundered on the realities of Northwest energy politics and economics. Ironically, plummeting electricity demand made it clear even to SUB that the plants' energy would not be needed. On the sixth anniversary of SUB's signing the participant's agreement, Steve Loveland reported that the Northwest had a "significant, documented, regional power surplus that is projected into the fore-seeable future." But the region's nuclear ventures continued to afflict the utility and its customers. A 60 percent BPA wholesale rate increase led SUB staff to propose another jump in retail rates, and in September the board raised residential rates 28.4 percent.

Meanwhile, the DeFazio suit moved toward trial in Lane County Circuit Court. Fair Share organized a march of about 500 protesters on the SUB headquarters in February. The legal case became more complex. Three small municipal utilities intervened as plaintiffs, while two municipal and four public utility districts entered the case as defendants. When the case finally went to trial in late September 1982, there were more than 16 attorneys in Oregon Circuit Court Judge George Woodrich's courtroom.

In a series of rulings that fall, Judge Woodrich upheld virtually all of the contentions of DeFazio and the other plaintiffs, and declared the Oregon utilities' participant's agreements to be ultra vires and hence void. This case, DeFazio v. WPPSS, was to be the first of more than a score of legal actions related to WPPSS. In a

roughly comparable verdict in June 1983, the Washington State Supreme Court ruled in *Chemical Bank v. WPPSS* that Washington participants had no authority to enter into agreements for the purchase of project capability and that their agreements were also void. Shortly thereafter WPPSS defaulted. It mattered little that in March 1984 the Oregon Supreme Court reversed Judge Woodrich's rulings and held that Oregon utilities did have the authority to enter into the participant's agreements. By then the projects were finished. The lawsuits had only just begun.

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