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Oregon Public Utility Commission Administrative Overview November 2010

Introduction

In April 1987 the three-member Public Utility Commission (PUC) came into existence replacing the office of Public Utility Commissioner. The PUC regulates the state's investor owned electric, natural gas, telephone utilities and larger water companies. People's Utility Districts (PUD's) and municipally owned utilities are not regulated by the PUC per ORS chapters 756 through 772.

History

Before statehood, public utilities defined as organizations providing a public service under government, fell under government regulation. In 1843, the Territorial Legislature enacted laws to regulate granaries, mills and millers. In 1844, rates for eight different classes of ferry service were established and in 1845 bridges and toll roads were first regulated.

On September 19th, 1849 the Territorial Legislature passed an act that established a system for governing pilotage on the Columbia and Willamette rivers. The act required the establishment of a Board of Commissioners responsible for controlling the industry including setting policy and procedures, investigating complaints and taking action against negligent pilots.

The 1853 Territorial Legislature established regulations governing the development and opening of navigation above the head of tidewater on the Umpqua River. In 1854 the Territorial Legislature passed an act regulating the construction, operation, and rates of the Clackamas Railroad Company. In addition, the Territorial Legislature passed an act regulating the construction, operation and rates of the Oregon City Water Company. Both acts had a clause allowing Oregon to purchase the utilities within a set period after their completion.

The Legislative Assembly of 1860 passed an act that established a system for governing pilotage on the Umpqua River. The act required the establishment of a Board of Commissioners responsible for controlling the industry including setting policy and procedures, investigating complaints and taking action against negligent pilots.

The 1870 Legislative Assembly passed an act appropriating funds for the establishment and regulation of a company to build and operate a canal and locks on the west bank of the Willamette River at Willamette Falls.

An act passed in 1874 by the Legislative Assembly authorizing and establishing control over rates and service for Al Zeiber to establish a gas manufacturing operation in Portland from which he would furnish the city with gas to light streets and public places (O.L. 1874). Mr. Zeiber was allowed to sell

gas to others by arraignment. In addition, an act passed to allow the laying of a telegraph cable by Cyrus Fields, his associates, and successors the laying, constructing, and maintenance of one or more telegraphic cables to Asia over any lands and waters which Oregon has jurisdiction (O.L. 1874). In addition, the Legislative Assembly passed legislation for the improvement of navigation on Oregon's rivers, reducing the instances of obstructed navigation with all navigable river and water courses classified public highways free to vessel traffic.

In 1876, the Legislative Assembly passed an act regulating fees and actions allowed on the Willamette Falls locks and establishing a Board of Commissioners to regulate the use of the locks (O.L. 1876). In addition, an act providing for the construction and regulating of tolls for a set of locks to allow navigation on the Yamhill River at Lafayette was passed.

The transportation of passengers and freight by railroad corporations was regulated by Legislative Assembly in 1885 (O.L. 1885). A second act passed requiring corporations owning or operating railroads in Oregon to make annual reports to the Secretary of State on the state and composition of the railroad, business conducted, etc (O.L. 1885).

The 1887 Legislative Assembly established the Board of Railroad Commissioners (O.L. 1887). The Board consisted of two commissioners appointed by the Governor with the advice and counsel of the Senate. The term of office was four years and their duties covered the regulation of railroad operations. In 1889 the State Legislature expanded the Board's membership to three and cut the term of office to two years with appointments made by the Legislative Assembly. Warehouses were added to the regulatory duties of the Board (O.L. 1889).

In 1898 the Board of Railroad Commissioners was abolished by the Legislative Assembly (O.L. 1898).

The Railroad Commission of Oregon, established in 1907 by the Legislative Assembly, was charged with regulating commerce and transportation (O.L. 1907 ch. 53). The first three commission members were appointed by the Governor, Secretary of State, and State Treasurer to serve until the next general election when the members would stand for election.

Supervision and regulation of public utilities, with the exception of municipal organizations, were added to the Commission duties in 1911 by Oregon's Public Utilities Law (O.L. 1911 ch. 279). The Commission was charged with regulating the rates, service, and practices of railroad companies and public utility corporations. Municipally owned utilities were exempt from Commission regulation. The Commission was responsible for regulating telegraph, telephone, street railways, water, gas, and electrical services. In 1913, the regulation of railroad track scales was added to the duties of the Commission by the Legislative Assembly (O.L. 1911 ch. 57). In addition, the Commission was charged with the ability to convene rate hearings either when complaints were filed or upon their own volition (O.L. 1911 ch. 59).

In 1915 the Railroad Commission underwent a name change to the Public Service Commission (O.L. 1915 ch. 241).

The 1917 Legislative Assembly mandated the Public Service Commission regulate the catching, driving, booming, rafting, and sorting of logs and lumber on Oregon waterways (O.L. 1917 ch.160), known as the Log Boom Act. In addition, the Commission was charged with regulating the hauling, inspection and storing of grain, hay, and other agricultural products (O.L. 1917 ch. 128). The 1917 Legislative Assembly also passed the Certificate of Public Convenience and Necessity Law that required approval

from the Public Service Commission before the construction of a utility could begin (O.L. 1917 ch. 209).

Motor carrier regulation was a new duty added for the Public Service Commission created by an act of the 1921 Legislative Assembly special session (O.L. 1921 ch.10). Originally, Public Service Commission members were elected. In 1927 the statute was amended allowing the Governor to make direct appointments upon Senate approval to fill commission seats (O.L. 1927 ch. 246).

The Public Utility Commissioner replaced the three-member Public Service Commission in 1931 (O.L. 1931 ch. 315). Appointed to a four-year term by the Governor, the Commissioner retained the duties and responsibilities of the Public Service Commission.

The 1933 Legislative Assembly amended the Oregon Code 1930 section 61-272 extending, enhancing the rights and responsibilities of the Public Utility Commissioner to regulate and investigate public utilities (O.L. 1933 ch. 342). In addition, the Transportation Motor Act placed the regulation of motor carriers (common carriers) of people and freight rates, fees, fares, and charges under the Public Utility Commissioner (O.L. 1933 ch. 429). Beginning in 1933 the PUC was given the responsibility for oversight of public utility budgets and expenditures (O.L. 1933 ch. 441). The PUC was charged with monitoring utility budgeted expenditures, proposed executive officer salaries, political contributions, and donations. On or before November 1st of each year utilities were responsible for providing budget information showing the amount deemed necessary for the utilities above needs. In addition, the PUC scrutinized payments and contracts and regulated public utility securities.

In 1937 the Public Utility Commissioner was given the responsibility and right to directly control/regulate log booming on Oregon waterways (O.L. 1937 ch. 328). The booming, rafting, and transportation of logs on rivers was placed under the oversight of the PUC. In addition, the act declared all navigable waterways public highways for the purpose of transporting timber.

The form, content, and procedure of hearings convened by the Public Utility Commissioner were standardized by the Legislative Assembly under the Uniform Practices Act of 1939 (O.L. 1939 ch. 320).

In 1943 a log-branding act passed by the legislature placed the responsibility for enforcement, claim, and recovery of timber resources under the Commissioner (O.L. 1943 ch. 422).

In 1947 the Highway Crossing Act required loaded log trucks to stop at all railroad crossings (application for exceptions provided) (O.L. 1947 ch. 472). Private road crossings of state highways and speed regulation of trains through cities were placed under the Commissioner's jurisdiction as well. The Motor Transportation Code was established for the regulation of common carriers within Oregon (O.L. 1947 ch. 467). It assumed and extended the PUC responsibilities set forth in the Motor Transportation Act of 1933. The PUC powers were extended to include the regulation of accounts, manifests, receipts, and records including their format and style. In addition, common carriers were required to provide periodical or other reports by direction of the PUC and were required to provide adequate services and facilities to meet the public need. Henceforth the PUC was charged with proscribing/requiring reasonable precautions on the part of the carrier for the safe operation of their motor carrier assets.

In 1949 public road crossings on state highways were added to the highway-crossing act (O.L. 1949 ch.107). By 1951 legislation amending the log-branding act of 1943 required that logs be branded for transportation over highways by truck (O.L. 1951 ch.292). Previously only logs placed in waters west of the Cascade Mountains were required to be branded.

In 1955 the Highway Crossing Act was amended to include unloaded log trucks (O.L. 1955 ch. 539). The Log Boom Act of 1917 was repealed in 1957 through the joint effort of public and private interests (O.L. 1957 ch. 472). Their common goals were to stop destructive booming practices on rivers and to improve fish habitat. In 1959 the timber industry regulatory duties and responsibilities established by the Log Branding Act were transferred to Oregon's Forestry Department (O.L. 1959 ch. 95).

The Area Allocation Act of 1961 excluded electric, gas, and telephone companies operated by municipalities, cooperatives, and Public Utility District's from regulation by the Public Utility Commissioner (O.L. 1961 ch. 691). In 1969 the Legislative Counsel Committee was directed to prepare a proposal of substitutive revisions of the state's laws relating to public utilities and carriers. This work was to be supervised by the Law Improvement Committee. In 1971 laws regulating the commissioner were re-written as a result of the interim work done by the Legislative Counsel Committee. In 1973 the responsibility for the regulation of intrastate air commerce was assigned to the Commissioner (O.L. 1973 ch. 776). In 1977 public utilities supplying gas or electrical service were required to submit a residential energy conservation program to the commissioner for approval (O.L. 1977 ch. 197).

In 1983 water companies with less than 300 customers were exempted from regulation by the Commissioner (O.L. 1983 ch. 540). In 1985 the Legislative Assembly created a three-member Commission to replace the Commissioner (O.L. 1985 ch. 834). The act was to be submitted to voters at the next general election. Oregon voters approved the creation of the Public Utility Commission (PUC) which retained the duties and responsibilities of the Public Utility Commissioner.

The responsibility for regulating motor carriers and rail safety oversight moved from the Public Utility Commission to the Oregon Department of Transportation in 1995 (O.L. 1995 ch. 733). In 1999 privately held wastewater facilities were added to the list of utilities regulated by the Public Utility Commission (O.L. 1999 ch. 330).

The 2003 Legislative Assembly directed the PUC to form and support advocacy programs for customers of publicly held utility companies providing services within Oregon (O.L. 2003 ch. 234).

The 2005 Legislative Assembly directed the PUC to compile information and include the availability of broadband service in Oregon as part of the biennial telecommunication report sent to the Governor and Legislative Assembly (O.L. 2005 ch. 293). PUC final orders became subject to judicial review as contested cases under provision of ORS 183.480-.497, except .482 and ORS 758.440 (O.L. 2005 ch. 638). The Legislative Assembly acted to require each public utility to annually account for the tax monies collected/imposed on customers (O.L. 2005 ch. 835). The PUC can make further inquiries of utilities into the collection of taxes and may require utilities to adopt automatic adjustment clauses in specific cases.

In 2007 the fee amount payable by utilities and telecommunication providers to the PUC was clearly defined and set by the Legislative Assembly (O.L. 2007 ch. 245). The Board of Maritime Pilots was moved, for administrative purposes, from the Department of Transportation to the PUC (O.L. 2007 ch. 845). The Legislative Assembly specified all funds, records, data and resources migrated to PUC from ODOT.

The 2009 Legislative Assembly passed legislation for a pilot program to promote the generation of electricity from photovoltaic sources (O.L. 2009 ch. 748). The program is charged with demonstrating the use and effectiveness of volumetric incentive rates and payment for electricity delivered from solar

photovoltaic sources. In 2009 the PUC was charged with facilitating the availability of broadband services throughout Oregon at fair and reasonable rates (O.L. 2009 ch. 885). The PUC may use monies from the Universal Service Fund to fund their efforts and may expend up to the maximum amount available from federal sources and may use independent contractors to perform mapping services.

Current Organization

The **Oregon Public Utility Commission** is organized into the Public Utility Commission with its support service units, which include the Utility Regulation and Policy and Administration Program, the Residential Service Protection Fund, the Economic and Financial Analysis Division, Utility Program and the Regulatory Operations Division.

The **Utility Regulation Program** provides research, analysis, and technical expertise to the PUC to ensure that private utilities provide safe, quality, and reliable service at reasonable rates.

The Policy and Administration Program

The Commission Services Section provides direct administrative support to the Commissioners.

The Business Services Section provides budget and financial services, operates the agency mailroom, and provides clerical support.

The Consumer Protection Services provides the public with assistance in conflict and dispute resolution.

The Administrative Hearings Division conducts rulemaking and contested case hearing relating to utility services. Hearings address major industry changes, rate proposals, and consumer complaints.

The Human Resources Division provides personnel resource services to the PUC.

The **Residential Service Protection Fund** serves the speech and hearing impaired and other disabilities to access reliable, functional phone services meeting their particular needs. In addition, the program serves low-income households with special needs dictating continuing phone service.

The Oregon Telephone Assistance Program ensures low income Oregonian's retaining local phone service at reduced rates.

The Telecommunications Devices Access Program provides special telecommunications devices to the deaf, speech/hearing impaired, or those with physical needs that prevent them from using standard telephones.

The Oregon Telecommunications Relay Services provides 24-hour telecommunications relay services for the speech, hearing, mobility impaired per the American with Disabilities Act.

The **Economic Research and Financial Analysis Division** researches and analyzes issues common to regulated industries.

The **Utility Program** is the technical arm of the PUC supporting the mission by ensuring that electricity, natural gas, telecommunications, and water utilities provide safe, reliable and high-quality service at reasonable rates, and promote effective competition in those industries.

The **Regulatory Operations Division** tracks and process all filings, maintains the PUC databases, organizes semi-monthly public meeting agendas, determines utility fee assessments, and coordinates administrative rule action.

Boards and Commissions

The **Public Utility Commission** regulates rates and services charged customers by the state's investor-owned electric, natural gas, telecommunication, and certain water utilities. The PUC conducts its business via biweekly hearings held in Salem and in public hearings held to address specific issues. The PUC's decisions and regulatory responsibilities are implemented and carried out by staff of PUC's support programs.

Chronology

- 1843 Territorial Legislature enacted laws regulating granaries mills, and millers.
- 1844 Rates established for eight different classes of ferry service.
- 1845 Bridges and toll roads regulated by Territorial Legislature.
- 1874 First state regulation of a utility.
- 1887 Board of Railroad Commissioners established.
- 1898 Board of Railroad Commissioners abolished.
- 1907 Oregon Railroad Commission established.
- 1911 Public Utility Law passed.
- 1915 Oregon Railroad Commission changed to Public Service Commission.
- 1921 Motor Carrier regulation commenced.
- 1931 Public Utility Commissioner replaced Public Service Commission.
- 1985 Public Utility Commission replaced Public Utility Commissioner.
- 1995 Regulation of Rail Safety and Motor Carriers shifted to the Oregon Department of Transportation.
- 1996 Per HB 3615 the Governor appoints the Commission chair.
- 2007 Board of Maritime Pilots relocated from the Oregon department of Transportation

Primary Agency Statutes and Administrative Rule Chapters

ORS 756

ORS 757

ORS 758

ORS 759

ORS 774

OAR 860

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