

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 7, 2001

REGULAR  CONSENT  EFFECTIVE DATE \_\_\_\_\_

DATE: July 31, 2001

TO: Chairman Roy Hemmingway  
Commissioners Joan Smith, and Roger Hamilton

FROM: Rick Willis

SUBJECT: Staff Update on Major Legislation that effects PUC -2001 Legislature

**SUMMARY RECOMMENDATION:**

None

**DISCUSSION:**

**Rick Willis:** Introduction and Overview

Bills to be discussed: (Please see Attachment A for a full summary of the bills)

**Rick Willis**

HB 5036 - PUC's Budget, approved for \$31,959,809 a six percent increase over the 1999 – 2001 Legislatively Approved Budget along with a \$243,100,000 Non-limited fund for the Oregon Universal Service Fund.

**Lee Sparling**

HB 2630 – Allows amortization of more than 3% for natural gas commodity and pipeline transportation costs, and amortization of up to 6% for electric utility deferrals.

HB 3009 – Allows charges for bill payment assistance to low income residential customers of natural gas utilities.

HB 3663 – Delays implementation of electric industry restructuring until March 1, 2002.

HB 3788 – Eliminates SB 1149 provision authorizing Commission to provide incentives for divestiture. Allows Boise Cascade to return to standard rates January 1, 2002.

**Phil Nyegaard**

HB 2727 – Eliminates PUC authority over extended area service offered by telecommunications cooperatives.

HB 2659 – Allows PUC to establish revenue neutral EAS prices for companies regulated under ORS 759.405 and 759.410, allows pay phone providers to seek refunds of state universal service surcharge payments, and gives money to the School Technology Account in the Connecting Oregon Communities Fund.

HB 2557 – Exempts telecommunications utilities with fewer than 50,000 access lines in Oregon from certain service quality standards.

HB 3500 – Makes service promotion filings of telecommunications utilities effective upon filing with the Commission.

**Marc Hellman**

HB 2535 – Rescinds Commission authority to recognize Yellow Pages revenues in setting rates. (Not passed)

HB 2572 – Revises utility exemption from obtaining Commission approval to issue securities.

HB 3502 – Adds language from the “Hope Decision” to clarify that, in establishing rates, the “Hope” standard is the appropriate standard.

HB 3696 – Allows the Commission and an electric utility to enter into binding contracts for new generation, power purchase and sales agreements.

SB 843 – Amends Commission statutes to authorize the use of arbitration for the valuation of utility resources.

SB 300 – Requires Commission approval of telecommunications mergers. (Not passed)

**Tom Barkin**

HB 2179 – Court of Appeals bill. Would eliminate appeals first going to the Circuit Court. (Not passed)

HB 2988 – Provides for a quorum of the Commission to be present for oral argument upon request of any party in a major proceeding.

**Damara Paris**

HB 2105 – Extends the sunset review of the Residential Service Protection Fund from January 1, 2002 to January 1, 2010.

**STAFF RECOMMENDATIONS:**

None

**PUBLIC UTILITY COMMISSION  
OVERVIEW OF LEGISLATION  
2001 SESSION**

**Rick Willis**

**HB 5036**

The Legislature approved a budget of \$275,059,809 Total Funds and 122.00 full-time positions for the PUC. This budget is 0.4 percent lower than our Governor's recommended budget. This includes \$243,100,000 in Nonlimited Other Funds for payments to be made from the Oregon Universal Service Fund established by Senate Bill 622 to telecommunications providers serving high-cost areas.

There are five Other Funds expenditure limitations: 1) The Utility Program, consisting of Electric/Natural Gas, Telecommunications and Water; 2) The Residential Service Protection Fund; 3) The Policy and Administration Program, consisting of Hearings, Consumer Services, ERFA, Regulatory Operations, Commission Office, Administration, and Central Services; 4) Federal Funds; and 5) Nonlimited OUSF Funds.

**Lee Sparling**

**HB 2630**

Allows amortization of deferred accounts at a rate greater than 3% of a utility's gross revenues for natural gas commodity and pipeline transportation costs. The Commission can also allow amortization up to 6% for electric utilities. If the Commission allows an electric utility more than 3%, then it must estimate the utility's cost of capital for the deferral period and may consider other changes in costs and revenues in reviewing earnings. The bill also permits financial reporting by utilities on a fiscal year basis (the original purpose of the bill).

**HB 3009**

Upon application by a natural gas utility, the Commission can allow charges for bill payment assistance to low income residential customers. The bill does not cap the charge for bill payment assistance.

## ATTACHMENT A

### HB 3633

Delays implementation of electric industry restructuring under SB 1149 until March 1, 2002, except that the bill payment assistance to be collected by PGE and Pacific increases to \$10 million a year on October 1 this year. The bill requires the electric utilities to offer a cost-of-service rate to all their customers. The Commission can waive this requirement for large nonresidential customers after July 1, 2003 if it makes certain findings about the performance of the market.

### HB 3788

Primarily addresses energy facility siting but has two provisions affecting the Commission.

First, it eliminates the SB 1149 language authorizing the Commission to provide incentives for divestiture. Second, it allows Boise Cascade to return to standard tariff rates as of January 1, 2002.

### **Phil Nyegaard**

### HB 2727

Eliminates PUC authority over extended area service (EAS) offered by telecommunications cooperatives. Previously, cooperatives were required to comply with the Commission's EAS policies. The bill specifically states that the Commission has authority over the access charges levied by cooperatives and makes clear that cooperatives must provide the Commission with information needed to establish new EAS routes.

### HB 2659

Early versions of this bill related to bringing Verizon, Sprint, and CenturyTel under price cap regulation and securing from them money for telecommunications infrastructure enhancements. The version of the bill passed by the Legislature does three things: (1) allows the Commission to establish revenue neutral EAS prices for companies regulated under ORS 759.405 and 759.410 even if the prices exceed previous price caps; (2) allows pay phone providers to seek from the Commission a refund of state universal service surcharge payments beginning July 1, 2003; and (3) gives money provided to the State of Oregon under a performance assurance plan implemented under Section 271 of the Telecommunications Act of 1996 to the School Technology Account in the Connecting Oregon Communities Fund.

### HB 2557

Exempts telecommunications utilities with fewer than 50,000 access lines in Oregon from the Commission's service quality standards that require companies to measure carrier inquiry response time.

## ATTACHMENT A

### HB 3500

Makes the service promotion filings of telecommunications utilities effective upon filing with the Commission. The Commission is required to establish rules governing such promotional filings.

### **Marc Hellman**

### HB 2535

Was sponsored by Verizon and would preclude the Commission from recognizing Yellow Pages revenues in establishing rates. The bill passed the House 32 to 21. Governor Kitzhaber wrote a letter of concern to the Senate and the bill never got a hearing.

### HB 2572

Was sponsored by Verizon and exempts utilities from first obtaining Commission approval to issue securities if the multi-state jurisdictional utility receives one half or more of its sources of gross revenues from other states.

### HB 3502

Was sponsored by Northwest Natural Gas and through amendments drafted by several parties including the Commission, adds language from the “Hope Decision” to clarify that, in establishing rates, the appropriate standard is the “Hope” decision of the United States Supreme Court. (Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944)). The “Hope” standard is the legal standard regarding the setting of utility customer rates that governs Commission decisions today.

### HB 3696

The bill that was enacted was a significantly scaled down version of a bill introduced by Portland General Electric. The bill allows the Commission and an electric utility to enter into a contract for the ratemaking treatment of a new generating resource, long-term power purchase or sales agreement. The bill represents the consensus of many parties. This bill should promote generating resource development by reducing the level of uncertainty regarding rate treatment for electric utilities.

### SB 843

One section of this bill amends Commission statutes to authorize the use of arbitration for the valuation of utility resources for purposes of implementing Resource Plans pursuant to SB 1149. The language reflects the consensus of many parties.

## ATTACHMENT A

### SB 300

Would have required Commission approval of telecommunications mergers. The bill was sponsored by the Commission and supported by a majority of the Commissioners as of January 1, 2001. The bill never got a hearing and the Commission never requested the bill get heard.

### **Tom Barkin**

### HB 2179

Would have required that petitions for judicial review of Commission orders be filed with the Court of Appeals, rather than the Circuit Court. This bill did not pass and the Commission's contested case decisions will continue to be reviewed by circuit courts.

### HB 2988

This bill does two things. First, upon request of any party in a major proceeding, the Commission must allow the parties an opportunity for oral argument before a final order is issued. A quorum of the Commission must be present for the oral argument. The Commission must adopt rules that establish criteria for determining which proceedings are "major." The act also authorizes the Commission to adopt rules governing participation in oral arguments, cross-examination of witnesses, draft or proposed orders or such other matters as the Commission deems appropriate.

The second provision of the bill provides that the Commission and staff may provide such assistance as is required by the legislature for the performance of its duties. In addition the Commission and its staff may furnish the Legislature such information, resources and advice as legislators consider necessary to perform their legislative duties.

### **Damara Paris**

### HB 2105

Extends the sunset review of the Residential Service Protection Fund programs from January 1, 2002 to January 1, 2010. This allows the Public Utility Commission to continue to operate the three RSPF programs serving disabled and low-income Oregonians, consistent with the Americans with Disabilities Act, The 1996 Telecommunications Act and Oregon Laws Chapter 290, all of which state the public policy of ensuring basic telephone service is available and affordable to all citizens.