

# **WATER ISSUES STEERING COMMITTEE REVIEW OF THE PUBLIC UTILITY COMMISSION'S WATER PROGRAM**

## **EXECUTIVE SUMMARY**

During the 2001 Legislative Session, concerns were expressed regarding the imbalance between the level of funding for and the cost of operating the Public Utility Commission's Water Program. In response to these concerns, the Public Utility Commission (Commission) convened a Water Issues Steering Committee (Committee) to conduct a broad review of the state's water regulation.<sup>1</sup> The members of the Committee are comprised of water utility owners (large, medium and small), customers and associations of customers, a public interest group, and an affected state government agency (Department of Human Services, Drinking Water Program). The Committee includes representatives from Central Oregon, the Willamette Valley and the Coast. The Committee was charged to consider the following issues:

- (a) Reducing, increasing or leaving unchanged the current level of water and wastewater regulation;
- (b) Changing the annual gross revenue fee paid by water and wastewater utilities;
- (c) Identifying ways of reducing the cost of regulation and increasing the efficiency of regulation.

The Committee was also charged with reporting its findings and recommendations to the Commission.

Based on our review of the Commission's water program, the Committee finds the following:

- 1. The Commission continues to serve a valuable and necessary role for Oregonians in regulating the price and service quality of investor-owned water utilities and joint water/wastewater utilities that provide service to customers residing within city limits.***

Providing reasonably priced and safe drinking water to residences and businesses is critical to the health and vitality of Oregon. Because the provision of water continues to be a "natural monopoly," regulation of price and service quality is needed to protect and preserve the public interest. All customers of public utilities are entitled to regulatory protections regardless of whether the public utility serving them is small or large.

---

<sup>1</sup> The Water Issues Steering Committee members are water company owners/operators Jan Wick, Buck Miller, Kevin Hunt; customer representatives Randy Wood, Brent Ricks, and Kristi Michaelis; public interest group representative Bob Jenks; and affected state government representative Dave Leland.

**2. *The Commission's Water Program will likely face a growing workload.***

The number of rate regulated water utilities has increased during the past decade, from five in 1992 to 25 in 2001. As noted by Committee member Jan Wick, this trend will likely continue and is primarily due to new federal water quality regulations that increase costs to water systems, and to some extent, the increase in population in some rural areas. To address this increasing workload, the Commission should consider providing additional resources for water regulation.

**3. *No significant changes to the funding approach of the Commission's Water Program are suggested or deemed necessary. The same Commission fee limit of 2½ mills applicable to telecommunications and natural gas utilities should also continue to apply to water utilities.***

The Water Issues Steering Committee strongly supports the policy that customers, through the rates of their regulated utilities, pay the same proportional Commission fee regardless of the industry type. Through that Commission fee, currently set at 2 ½ mills, customers and regulated utilities are entitled to the protections afforded by regulation. The Committee has specifically considered whether the funding of the Commission should match the customer benefits received. The Committee believes it is impractical to do so. We support the thoughts of our Steering Committee member Jan Wick, who wrote:

"The idea that individual industries should perfectly fund each service provided by the OPUC is contrary to the generally accepted view of how government services are provided. It is true that some services are provided by dedicated funds, for instance gas tax, but the benefits associated with the expenditure of the gas tax are by no means perfectly distributed amongst those who pay the tax in accordance with the amounts paid. It would be simply impossible to administer a program that guaranteed each payer of gas tax perfectly equal benefit from the gas tax paid."

Even if the Commission's Water Program were "self-funding," the result would likely be an internal subsidization within the Water Program. This result occurs because one company, Avion Water Company, represents half of the total investor-owned water utility business in Oregon and thus also one-half of all water fees paid. However, Avion is not responsible for one-half of the Commission's Water Program workload.

**4. *The Committee does not see a case for changing the statutes relating to Commission funding for water regulation based on the perceived economic harm to consumers.***

While some may contend that the Water Program is subsidized by the other regulated utilities, the extent of the subsidy is small on a rates and total bill basis. For example, the effect on either a typical residential electric, natural gas or telephone bill amounts to one-half-of-one penny per month. Representatives for PacifiCorp, Portland General Electric, Northwest Natural, and QWEST were contacted in late April 2002, and each expressed the view that the current level of subsidy was not sufficient to cause concern.

5. ***In our review of the Commission's Water Program, the Committee has identified several improvements that warrant implementation. Many are designed to foster much needed investment in water utility systems. Others serve to provide additional protections to customers or streamline regulation.***

The Committee recommends the following changes to water regulation in Oregon:

- ❑ Providing water utilities more timely funding of infrastructure investments by allowing Construction-Work-in-Progress funds to be included in rates.
- ❑ Requiring a water utility, once it qualifies as a public utility, and hence is obligated to pay Commission fees, remain a public utility thereafter.
- ❑ Allowing water utilities the option of requesting rate regulation. Currently only customers may petition the Commission for rate regulation.
- ❑ Improving Commission enforcement powers by allowing the Commission to directly levy modest fines, if voluntary compliance fails, to obtain compliance by water public utilities.
- ❑ Relaxing water utility service territory requirements to make it optional whether an investor-owned water utility seeks a Commission-approved service territory.
- ❑ Simplifying current statutes by removing the 300-customer threshold as one of the criteria for a water company to qualify as a Commission-regulated "public utility."
- ❑ Revising current statutes, as necessary, to include as water utilities associations providing water services to retail consumers.
- ❑ Establishing procedures through a rulemaking process, and as a last resort, for third-party operational control of a water utility when the operator has abandoned the system.
- ❑ Encouraging consolidation of water utilities by allowing an acquisition adjustment in rates contingent on a showing that customers benefit overall.
- ❑ Improving the long-term financial health of water utilities by no longer including contributed plant in rates. Including contributed plant in rates results in the long-term elimination of an earnings base because contributed plant offsets utility capital investments. In the event this new policy causes significant financial harm to a water public utility, the Committee recommends the Commission adopt ratemaking methods that mitigate the financial harm and allow for a transition period, that at its conclusion, has Contributions-in-Aid-of-Construction (CIAC) completely removed from ratemaking. In this regard, the Committee recommends the Commission balance the interest of the customers and the financial viability of the company. The Committee also recommends the Commission consider allowing a water/wastewater company to buy back historical CIAC that cannot be identified and removed.

The last three recommendations may be implemented without revisions to existing statutes.