Chapter 758

1961 REPLACEMENT PART
(1963 reprint)

Special Provisions Applicable to Telephone, Telegraph and Electric Companies

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758.010 Authority to construct lines; requirements and conditions by public officials. (1) Except within incorporated cities, any person or corporation has a right and privilege to construct, maintain and operate telegraph lines, telephone lines and lines and wires for the purpose of conveying electric power or electricity along the public roads, highways and streets of the state, or across rivers or over any lands belonging to the state, free of charge, and over lands of private individuals, as provided in ORS 772.205 to 772.220. Such persons or corporations may also erect the necessary fixtures therefor.

(2) The county courts or boards of county commissioners of the several counties through which such lines may be constructed, if the road upon which such lines are constructed is a county highway, and the State Highway Commission, if the road upon which such lines are constructed is a state highway, has power and authority to designate the location upon such roads and highways, outside of cities, where such fixtures may be located, and may order the location of any such fixture to be changed when such court, board or commission deems it expedient. Any fixture erected or remaining in a different location upon such highway than that designated in any order of such court, board or commission is a public nuisance and may be abated accordingly.

(3) The state officer, agency, board or commission having jurisdiction over any land belonging to the state with respect to which the right and privilege granted under subsection (1) of this section is exercised may impose reasonable requirements for the location, construction, operation and maintenance of the lines, wires and fixtures on such land; the person or corporation exercising such right and privilege over any land belonging to the state shall pay the current market value for the existing forest products that are damaged or destroyed in exercising such right and privilege; such right and privilege of any person or corporation is conditioned upon compliance of the requirements imposed pursuant to this subsection and upon making the payments required by this subsection.

[Amended by 1955 c.123 §1]

758.015 Certificate of public convenience and necessity. (1) When any person, as defined in ORS 757.605, providing electric utility service, as defined in ORS 757.605, proposes to construct an overhead transmission line which will necessitate a condemnation of land or an interest therein, it shall petition the Public Utility Commissioner for a certificate of public convenience and necessity setting forth a detailed description and the purpose of the proposed transmission line, the estimated cost, the route to be followed, the availability of alternate routes, a description of other transmission lines connecting the same areas, and such other information in such form as the commissioner may reasonably require in determining the public convenience and necessity.

(2) The commissioner shall give notice and hold a public hearing on such petition. The commissioner, in addition to considering facts presented at such hearing, shall make his own investigation to determine the necessity, safety, practicability and justification in the public interest for the proposed transmission line and shall enter his order accordingly. The order shall be subject to review as in other cases. In any proceeding for condemnation, a certified copy of such order shall be conclusive evidence that the transmission line for which the land is required is a public use and necessary for public convenience.

(3) This section shall not apply to construction of transmission lines in connection with a project for which a permit or license is otherwise obtained pursuant to state or federal law.

[1961 c.691 §19]

758.020 Joint occupancy of poles required. (1) The county court, board of county commissioners or the State Highway Commission, when designating the location where poles or facilities described in ORS 758.010 may be placed on a road or highway, may require all lines for conveying electric power or electricity to occupy a single pole line on one side of the highway right of way and may require all telegraph, telephone or other lines of communication to occupy a single pole line on the opposite side of the highway and, with respect to any road or highway which fronts on the ocean or on a river or other body of water and the water frontage of the highway is being developed or maintained for its scenic or recreational value, may require all lines to occupy the opposite side of the right of way, if such joint occupancy can be maintained without undue impairment of service or damage to public life and property.

(2) If the owners of such lines are unable to agree on the terms and conditions of joint occupancy, such commission, court or board shall request the Public Utility Commissioner to determine the practicability of such joint occupancy and the effect thereof upon adequate and safe service by the prospective joint occupants, the location of the lines, and, if found to be practicable, to fix and prescribe the terms and conditions pursuant to which joint occupancy shall be accomplished. Before making or entering an order, such commissioner shall hold a hearing and make findings in accordance with ORS 756.510 to 756.570, subject to review as provided in ORS 756.580 to 756.610. In fixing terms and conditions pursuant to which joint occupancy shall be accomplished, the Public Utility Commissioner shall require the installation by each occupant of standards, devices and equipment reasonably necessary to protect the equipment of the other occupants from damage and the public from injury arising from such joint occupancy.

(3) The right of any person or corporation to construct, maintain and operate on a public highway poles or fixtures for telegraph, telephone or power purposes is contingent on compliance with reasonable requirements established by the State Highway Commission, county courts, boards of county commissioners or the Public Utility Commissioner under authority of this section and ORS 758.010. Such rights are likewise contingent and conditioned on all facilities, equipment and installations being constructed and maintained in strict conformance with modern and approved standards.

758.030 Public agencies authorized to contract with Federal Government involving location of transmission lines on their property. The State of Oregon, any municipal corporation, including counties, incorporated cities, school districts, reclamation districts, irrigation districts and other public bodies of any kind owning or controlling any real property or rights therein, may enter into agreements with the United States or any agency thereof, relative to the conditions for and places where electrical and other transmission lines may be placed and maintained across any such property, which agreements may be in perpetuity or for such length of time as may be specified. However, no such agreement shall affect the constitutional rights of any owners of private property who do not join therein.

758.040 Sending telegrams in order of receipt. (1) Except as provided in ORS 758.050 and in subsection (2) of this section, any telegraph company doing business in this state who fails to transmit all dispatches in the order in which they are received, is subject to a penalty of $100, to be recovered with costs of suit by the person whose dispatch is postponed out of its order.

(2) Communications from other telegraphic lines in connection with lines in this state may have precedence over all ordinary private communications and intelligence of general and public interest may be transmitted for publication out of its order.

758.050 Telegrams having priority in time of war or crisis. Every telegraph company shall, on application of any officer of this state or the United States, in case of any war, insurrection, riot or other civil commotion, or resistance of public authority, or for the prevention and punishment of crime, or for the arrest of persons suspected or charged therewith, give to the communications of such officers, immediate dispatch, at the price of ordinary communications of the same length.

758.060 Wrongful disclosure or alteration of telegraphic message. (1) No officer, agent, operator, clerk or employe of any telegraph company, or any other person, shall wilfully:

(a) Divulge to any other person than the party from whom it was received, or to whom it is addressed, or his agent or attorney, any message received, sent or intended to be sent over any telegraph line, or the contents, substance, purport, effect or meaning of such message, or any part thereof; or

(b) Alter any such message by adding thereto or omitting therefrom any words or figures, so as to materially change the sense, purport or meaning of such message, to the injury of the person sending or desiring to send the message, or to whom it was directed.

(2) However, when numerals or words of number occur in any message, the operator or clerk sending or receiving may express the same in words or figures, or in both words and figures, and such fact shall not be deemed an alteration of the message, nor in any manner affect its genuineness, force, or validity.

(3) Any person violating this section, in addition to the penalty prescribed in ORS 758.990, is liable in a civil suit for all damages occasioned thereby.

758.070 Use by company's agent of information contained in message. (1) No agent, operator or employe in any telegraph office, shall in any way use or appropriate any information derived by him from any private message passing through his hands and addressed to any other person, or in any other manner acquired by him by reason of his trust as such agent, operator or employe, or trade or speculate upon any such information so obtained, or in any manner turn or attempt to turn the same to his account, profit or advantage.

(2) Any person violating this section, in addition to the penalty prescribed in ORS 758.990, is liable in treble damages to the party aggrieved, for all loss or injury sustained by reason of such wrongful act.

758.080 Refusing to send or deliver message or sending message out of order. (1) Except as provided in subsection (2) of this section, no agent, operator or employe in any telegraph office, shall unreasonably and wilfully:

(a) Refuse or neglect to send any message received at such office for transmission;

(b) Postpone any message out of its order; or

(c) Refuse or neglect to deliver any message received by telegraph.

(2) This section does not require:

(a) Any message to be received, transmitted or delivered, unless the charges thereon have been paid or tendered;

(b) The sending, receiving or delivery of any message counseling, aiding, abetting or encouraging treason against the Government of the United States or of this state, or other resistance to the lawful authority, or any message calculated to further any fraudulent plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or to facilitate the escape of any criminal or person accused of crime.

758.090 Meaning of "telegraphic copy" for ORS 758.100 and 758.110. As used in ORS 758.100 and 758.110, "telegraphic copy" means any copy of a message made or prepared for delivery at the office to which the message may have been sent by telegraph.

758.100 Making and drawing of checks and notes by wire. (1) Checks, duebills, promissory notes, bills of exchange and all orders or agreements for the payment or delivery of money or other thing of value may be made or drawn by telegraph, and when so made or drawn:

(a) Have the same force and effect to charge the maker, drawer, indorser or acceptor thereof;

(b) Create the same rights and equities in favor of the payee, drawee, indorsee, acceptor, holder or bearer thereof; and

(c) Are entitled to the same days of grace, as if duly made or drawn and delivered in writing.

(2) No person other than the maker or drawer thereof shall cause any such instrument to be sent by telegraph so as to charge any person thereby.

(3) Except as provided in ORS 41.730, whenever the genuineness or execution of any such instrument received by telegraph is denied on oath by the person sought to be charged thereby, it is incumbent upon the party claiming under or alleging the same to prove the existence and execution of the original writing from which the telegraphic copy was transmitted.

(4) The original message shall in all cases be preserved in the telegraph office from which it is sent.

758.110 Manner of expressing private and official seals in telegrams. Whenever any document to be sent by telegraph bears a seal, either private or official, it is not necessary for the operator to telegraph a description of the seal, or any word or device thereon, but the seal may be expressed in the telegraphic copy by the letters "L. S.," or by the word "seal."

758.120 to 758.980 [Reserved for expansion]

758.990 Penalties. (1) Any officer, agent, operator or employe of any telegraph company who refuses or wilfully omits to transmit communications in accordance with ORS 758.050, or designedly alters or falsifies such communications, is liable to indictment and, upon conviction, may be punished by fine or imprisonment, at the discretion of the court.

(2) Violation of ORS 758.060 or 758.070 is punishable, upon conviction, by a fine of

not exceeding $1,000 or imprisonment in the county jail for not exceeding one year, or both.

(3) Violation of ORS 758.080 is punishable, upon conviction, by a fine of not exceeding $500 or imprisonment in the county jail for not exceeding six months, or both.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel

CHAPTER 759

[Reserved for expansion]