# Chapter 757

## 1973 REPLACEMENT PART

# Utility Regulation Generally


DEFINITIONS; GENERAL PROVISIONS

757.005 "Public utility" defined
757.015 "Affiliated interest" defined
757.020 Duty of utilities to furnish adequate and safe service at reasonable rates
757.035 Adoption of safety regulations and enforcement of obedience thereto
757.039 Regulation of gas distribution and storage operations; cooperation with federal agencies
757.050 Authority of commissioner to order extension of service to unserved areas

BUDGET, ACCOUNTS AND REPORTS OF UTILITIES

757.105 Filing of budget; review by commissioner; pensions as operating expenses
757.107 Supplemental budgets and orders
757.110 Effect of commissioner's budget orders
757.120 Accounts required
757.125 Duty of utility to keep records and accounts; commissioner's duty to furnish blanks
757.135 Closing accounts and filing balance sheet; auditing accounts
757.140 Depreciation accounts

RATE SCHEDULES; MEASURING EQUIPMENT

757.205 Filing schedules with commissioner; data filed with schedules
757.210 Hearing to establish new schedules
757.215 Suspension of rates during hearings; order after hearing
757.220 Notice of schedule changes required
757.225 Utilities required to collect for their services in accordance with schedules
757.230 Control of commissioner over classification of services and forms of schedules
757.235 Emergency rate adjustments
757.240 Filing schedules in places where utility consumers make payments
757.245 Establishment of joint rates
757.250 Standards and appliances for measuring service
757.255 Testing of measuring appliances

ILLEGAL PRACTICES

757.305 Special privileges to political patrons
757.310 Unjust discrimination in charges for service
757.315 Transactions not constituting unjust discrimination
757.320 Reducing rates for persons furnishing part of necessary facilities
757.325 Undue preferences and prejudices
757.330 Soliciting or accepting special privileges from utilities

ISSUANCE OF SECURITIES

757.400 Definition of "stocks"
757.405 Commissioner's power to regulate issuance of utility securities
757.410 When issuance of securities is void
757.415 Purposes for which securities and notes may be issued; order required
757.417 Limitation on application of ORS 757.415
757.419 Limitation on application of ORS 757.480
757.420 Hearings and supplemental orders relating to issuance of securities; joint approval of issuance by interstate utility
757.425 State not obligated following approval of issuance
757.430 Conditional approval of issuance authorized
757.435 Disposal of proceeds from issuance of securities
757.440 Commissioner's approval required before utility may guarantee another's indebtedness
757.445 Wrongful issues or use of proceeds by utility
757.450 Wrongful acts relating to issuance of securities

TRANSACTIONS OF UTILITIES

757.480 Commissioner's approval needed prior to disposal, mortgage or encumbrance of operative utility property or consolidation with another public utility
757.485 Purchase of property or stocks of one utility by another
757.490 Commissioner's approval needed for certain contracts
757.495 Contracts involving utilities and persons with affiliated interests
757.500 Contracts between certain public utilities

TELEGRAPH REGULATION

757.606 Sending telegrams in order of receipt
757.611 Telegrams having priority in time of war or crisis
757.616 Wrongful alteration of telegraphic message
757.621 Use by company's agent of information contained in message
757.626 Refusing to send or deliver message or sending message out of order
757.631 Meaning of "telegraphic copy" in ORS 757.636 and 757.641
757.636 Making and drawing of checks and notes by wire
757.641 Manner of expressing private and official seals in telegrams

EMERGENCY CURTAILMENT OF ELECTRICITY OR NATURAL OR MANUFACTURED GAS

757.710 Emergency curtailment plans required
757.720 Factors to be considered in approving plan; commissioner's authority to establish plan
757.730 Liability when curtailment occurs

PENALTIES

757.990 Penalties
757.991 Civil penalty for noncompliance with gas regulations
757.992 Penalties for violation of telegraph regulations

## CROSS REFERENCES

Assessment of utility's property by Revenue Department, 308.505 to 308.655
Complaint, investigation and hearing procedure for public utilities, 756.500 to 756.610
Corporate excise tax, 317.070
Discrimination by creed, race, sex, marital status, color or national origin prohibited, 30.670
Electric cooperative's lien for irrigation power, 87.760 to 87.790
Electronic equipment workmen, licensing and registration, no effect on work performed on public utilities, 702.020
Joint operating agencies for electrical power, 262.005 to 262.115
Mass transit system, exemption from public utility regulation, 267.230
Municipal control over private utilities, 221.420, 221.450, 221.470, 221.916
Municipal utilities, Ch. 225
Nuclear power plants, regulation, 453.305 to 453.575
Overhead transmission, certificate of public convenience and necessity, 758.015
People's utility districts, Ch. 261
Political contributions, 260.280
Removal of structures from public property upon expiration of franchise, 221.470
Rural telephone exchanges, optional gross earnings tax, 308.705 to 308.730
Thermal power facilities:
Cities, 225.450 to 225.490
People's utility districts, 261.235 to 261.255
Regulation, 453.305 to 453.575
Transportation facilities operated by metropolitan service district exempted from public utility regulation, 268.040
Unclaimed deposits and refunds held by utilities, 98.316, 98.302 to 98.436

**757.005**

Irrigation district as public utility, 545.102

**757.035**

Electrical Safety Law, 479.510 to 479.850

**757.050**

Irrigation districts furnishing water outside district, 545.102
Municipal utilities furnishing service outside city, 225.030

**757.105**

Fees to be paid to commissioner by utilities, 756.310 to 756.350

**757.135**

Secretary or managing agent needed at principal office, 308.650

**757.636**

Contracts sent by telegraph a contract in writing, 41.570
Effect of instruments sent by wire, 41.730, 93.750
Notices given by telegraph, 193.050
Transmitting warrants, civil process and orders by telegram, 16.840, 133.360

## DEFINITIONS; GENERAL PROVISIONS

**757.005 "Public utility" defined.** (1) As used in this chapter, except as provided in subsection (2) of this section, the term "public utility" means:

(a) Any corporation, company, individual, association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the conveyance of telegraph or telephone messages, with or without wires, for the transportation of persons or property by street railroads or other street transportation as common carriers, or for the production, transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to or for the public, whether or not such plant or equipment or part thereof is wholly within any town or city.

(b) Any corporation, company, individual or association of individuals, which is party to an oral or written agreement for the payment by a public utility, for service, managerial construction, engineering or financing fees, and having an affiliated interest with said public utility.

(2) As used in this chapter, the term "public utility" does not include:

(a) Any plant owned or operated by a municipality.

(b) Any railroad, as defined in ORS 760.005, or any industrial concern by reason of the fact that it furnishes, without profit to itself, heat, light, water or power to the inhabitants of any locality where there is no municipal or public utility plant to furnish the same.

(c) Any water system owned by a corporation organized under the Oregon Nonprofit Corporation Law, whose articles of incorporation provide that after the indebtedness of the corporation has been paid the corporation is to tender by gift to a city in the State of Oregon all right, title and interest in and to the water system and any transactions by which a water system is sold to and purchased by such a corporation shall not be subject to this chapter including ORS 757.480.

(d) Any water utility serving less than 200 customers at a rate of $10 per month or less, which provides adequate and nondiscriminatory service, and has less than $20,000 annual gross operating revenues.

(e) Any telephone or telegraph corporation not providing intrastate telephone or telegraph service to the public in this state, whether or not such corporation has an office in this state or has an affiliated interest with a public utility as defined in this chapter.

(3) This section does not apply to street transportation in cities of less than 50,000 population.

[Amended by 1953 c.583 §2; 1967 c.241 §1; 1967 c.314 §1; 1971 c.655 §64a; 1973 c.726 §1]

**757.010** [Repealed by 1971 c.655 §250]

**757.015 "Affiliated interest" defined.** As used in subsection (1) of ORS 757.105 and in ORS 757.495, "affiliated interest" with a public utility means:

(1) Every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of such public utility.

(2) Every corporation and person in any chain of successive ownership of five percent or more of voting securities of such public utility.

(3) Every corporation five percent or more of whose voting securities are owned by any person or corporation owning five percent or more of the voting securities of such public utility or by any person or corporation in any chain of successive ownership of five percent or more of voting securities of such public utility.

(4) Every person who is an officer or director of such public utility or of any corporation in any chain of successive ownership of five percent or more of voting securities of such public utility.

(5) Every corporation which has two or more officers or two or more directors in common with such public utility.

(6) Every corporation or person which the commissioner determines as a matter of fact after investigation and hearing actually is exercising any substantial influence over the policies and actions of such public utility, even though such influence is not based upon stockholding, stockholders, directors or officers to the extent specified in this section.

(7) Every person or corporation who or which the commissioner determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of such public utility in conjunction with one or more other corporations or persons with whom they are related by ownership or blood or by action in concert that together

they are affiliated with such public utility within the meaning of this section even though no one of them alone is so affiliated.
[Amended by 1971 c.655 §65]

**757.020 Duty of utilities to furnish adequate and safe service at reasonable rates.** Every public utility is required to furnish adequate and safe service, equipment and facilities, and the charges made by any public utility for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited.
[Amended by 1971 c.655 §66]

**757.025** [Amended by 1971 c.655 §14; renumbered 756.062]

**757.030** [Repealed by 1971 c.655 §250]

**757.035 Adoption of safety regulations and enforcement of obedience thereto.** (1) The commissioner has power, after a hearing had upon his own motion or upon complaint, to require by general or special orders embodying reasonable rules or regulations, every person or municipality, their agents, lessees or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership or control of telegraph, telephone, signal or power lines within this state, upon the public streets or highways, and also upon all other premises used, whether leased, owned or controlled by them, to construct, maintain and operate every line, plant, system, equipment or apparatus in such manner as to protect and safeguard the health and safety of all employes, customers and the public, and to this end to adopt and prescribe the installation, use, maintenance and operation of appropriate safety or other devices, or appliances, to establish or adopt standards of construction or equipment, and to require the performance of any other act which seems to the commissioner necessary or proper for the protection of the health or safety of all employes, customers or the public.

(2) When acting pursuant to subsection (1) of this section, the commissioner shall adopt by rule as the standard of such construction, operation and maintenance the edition of the National Electrical Safety Code approved by the American Standards Association current as of January 1, 1969.
[Amended by 1969 c.530 §1; 1971 c.655 §68]

**757.039 Regulation of gas distribution and storage operations; cooperation with federal agencies.** (1) The commissioner has power, after a hearing had upon his own motion or upon complaint, to require by general or special orders embodying reasonable rules or regulations, every person or municipality, their agents, lessees or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership or control of facilities for the transmission or distribution of gas by pipeline, or facilities for the storage or treatment of gas to be transmitted or distributed by pipeline, upon the public streets or highways, and also upon all other premises used, whether leased, owned or controlled by them, to construct, maintain and operate every pipeline, plant, system, equipment or apparatus in such manner as to protect and safeguard the health and safety of all employes, customers and the public, and to this end to adopt and prescribe the installation, use, maintenance and operation of appropriate safety or other devices, or appliances, to establish or adopt standards of construction or equipment, and to require the performance of any other act which seems to the commissioner necessary or proper for the protection of the health and safety of all employes, customers or the public.

(2) The commissioner is authorized to cooperate with, make certifications to, and to enter into agreements with the Secretary of Transportation of the United States of America under provisions of the Natural Gas Pipeline Safety Act of 1968 and to assume responsibility for and to carry out on behalf of the Secretary of Transportation, safety jurisdiction as to pipeline facilities and transportation of gas in Oregon in any manner not otherwise subject to the jurisdiction of any other agency of this state.

(3) Notwithstanding any other provisions to the contrary, the commissioner shall make public such reports as are required to be made public under the Natural Gas Pipeline Safety Act of 1968 and the regulations thereunder and provide such information as is required thereunder to the Secretary of Transportation.
[Formerly 757.095]

**757.040** [Amended by 1971 c.655 §101; renumbered 758.035]

**757.045** [Amended by 1967 c.394 §1; repealed by 1971 c.781 §1]

**757.050 Authority of commissioner to order extension of service to unserved areas.** The commissioner has power to require any public utility, after a public hearing of all parties interested, to extend its line, plant or system into, and to render service to, a locality not already served when the existing public convenience and necessity requires such extension and service. However, no such extension of service shall be required until the public utility has been granted such reasonable franchises as may be necessary for the extension of service, and unless the conditions are such as to reasonably justify the necessary investment by the public utility in extending its line, plant or system into such locality and furnishing such service.

[Amended by 1971 c.655 §67]

**757.055** [Repealed by 1971 c.655 §250]

**757.060** [Amended by 1955 c.145 §1; repealed by 1961 c.691 §20]

**757.065** [Renumbered 756.370]

**757.070** [Renumbered 756.375]

**757.075** [Repealed by 1971 c.655 §250]

**757.080** [1953 c.356 §1; 1961 c.354 §1; 1971 c.655 §30a; renumbered 756.380]

**757.085** [1953 c.356 §2; 1961 c.354 §2; renumbered 756.385]

**757.090** [1953 c.356 §3; 1961 c.354 §3; renumbered 756.390]

**757.095** [1969 c.372 §2; 1971 c.655 §69; renumbered 757.039]

## BUDGET, ACCOUNTS AND REPORTS OF UTILITIES

**757.105 Filing of budget; review by commissioner; pensions as operating expenses.** (1) The commissioner has the right and power of regulation, restriction and control over the budgets of expenditures of public utilities, as to all items covering:

(a) Proposed payment of salaries of executive officers;

(b) Donations;

(c) Political contributions and political advertising;

(d) Expenditures for pensions or for a trust to provide pensions for employes and officers;

(e) Other expenditures and major contracts for the sale or purchase of equipment; and

(f) Any payment or contemplated payment to any person or corporation having an affiliated interest for service, advice, auditing, associating, sponsoring, engineering, managing, operating, financing, legal or other services.

(2) On or before November 1 of each year each public utility shall prepare a budget showing the amount of money which, in its judgment, shall be needed during the ensuing year for covering all such activities and expenditures, and file it with the commissioner.

(3) When any such budget has been filed with the commissioner he shall examine into and investigate the same and unless rejected within 60 days thereafter, the proposed budget is presumptively fair and reasonable and not contrary to public interest.

(4) Proposed expenditures for pensions or for a trust to provide pensions for the employes and officers of such utility whether for future service or past service or both, shall be recognized as an operating expense if the trust fund is irrevocably committed to the payment of pensions or benefits to employes and if such pensions are reasonable and nondiscriminatory. The commissioner may disallow as an operating expense any expenditure for pension purposes in excess of the amount necessary and proper to maintain an actuarially sound retirement plan for the employes of the utility in Oregon.

[Amended by 1957 c.593 §1; 1971 c.655 §82]

**757.107 Supplemental budgets and orders.** Adjustment and additions to such budget expenditures may be made from time to time during the year by filing supplementary budgets with the commissioner. The provisions of subsection (3) of ORS 757.105 apply to adjustments and additions to budgets.

[Amended by 1971 c.655 §83]

**757.110 Effect of commissioner's budget orders.** (1) Any finding and order made and entered by the commissioner under ORS 757.105 or 757.107, shall have the effect of prohibiting any unapproved or rejected expenditure from being recognized as an operating expense or capital expenditure in any rate valuation proceeding or in any proceeding or hearing unless and until the propriety thereof has been established to the satisfaction of the commissioner. Any such finding and order shall remain in full force and effect, unless and until it is vacated and set aside in a suit brought and prosecuted as provided in ORS 756.580 to 756.610 or modified or set aside by the commissioner.

(2) Nothing in ORS 757.105 or 757.107 prevents the commissioner from at any time making and filing orders rejecting imprudent and unwise expenditures or payments. Such orders when so made shall be in full force and effect, and the public utility shall not have the right to make such expenditures or payments found to be imprudent or unwise until the order has been vacated or set aside in a suit brought and prosecuted as provided in ORS 756.580 to 756.610 or modified or set aside by the commissioner.
[Amended by 1971 c.655 §84]

757.115 [Amended by 1971 c.655 §20; renumbered 756.105]

**757.120 Accounts required.** (1) Every public utility shall keep and render to the commissioner, in the manner and form prescribed by him, uniform accounts of all business transacted. All forms of accounts which may be prescribed by the commissioner shall conform as nearly as practicable to similar forms prescribed by federal authority.

(2) Every public utility engaged directly or indirectly in any other business than that of a public utility shall, if required by the commissioner, keep and render separately to the commissioner, in like manner and form, the accounts of all such other business, in which case all the provisions of this chapter shall apply with like force and effect to the accounts and records of such other business.
[Amended by 1971 c.655 §85]

**757.125 Duty of utility to keep records and accounts; commissioner's duty to furnish blanks.** (1) The commissioner shall prescribe the accounts and records required to be kept, and every public utility is required to keep and render its accounts and records accurately and faithfully in the manner prescribed by the commissioner and to comply with all directions of the commissioner relating to such accounts and records.

(2) No public utility shall keep any other accounts or records of its public utility business transacted than those prescribed or approved by the commissioner except such as may be required by the laws of the United States.

(3) The commissioner shall cause to be prepared suitable blanks for reports for carrying out the purposes of this chapter, and shall, when necessary, furnish such blanks for reports to each public utility.
[Amended by 1971 c.655 §86]

757.130 [Repealed by 1971 c.655 §250]

**757.135 Closing accounts and filing balance sheet; auditing accounts.** (1) The accounts shall be closed annually on December 31 and a balance sheet of that date promptly taken therefrom. On or before April 1 following, such balance sheet, together with such other information as the commissioner shall prescribe, verified by an officer of the public utility, shall be filed with the commissioner.

(2) The commissioner shall provide for the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the commissioner.

**757.140 Depreciation accounts.** Every public utility shall carry a proper and adequate depreciation account. The commissioner shall ascertain and determine the proper and adequate rates of depreciation of the several classes of property of each public utility. The rates shall be such as will provide the amounts required over and above the expenses of maintenance, to keep such property in a state of efficiency corresponding to the progress of the industry. Each public utility shall conform its depreciation accounts to the rates so ascertained and determined by the commission. The commissioner may make changes in such rates of depreciation from time to time as he may find to be necessary.
[Amended by 1971 c.655 §87]

757.145 [Repealed by 1971 c.655 §250]

757.150 [Repealed by 1971 c.655 §250]

757.155 [Amended by 1971 c.655 §90; renumbered 757.480]

757.160 [Amended by 1971 c.655 §91; renumbered 757.485]

757.165 [Amended by 1971 c.655 §92; renumbered 757.490]

757.170 [Amended by 1971 c.655 §93; renumbered 757.495]

757.175 [Amended by 1971 c.655 §94; renumbered 757.500]

757.180 [Amended by 1971 c.655 §21; renumbered 756.115]

## RATE SCHEDULES; MEASURING EQUIPMENT

**757.205 Filing schedules with commissioner; data filed with schedules.** (1) Every public utility shall file with the commissioner, within a time to be fixed by him, schedules which shall be open to public inspection, showing all rates, tolls and charges which it has established and which are in force at

the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it.

(2) Every public utility shall file with and as part of every such schedule all rules and regulations that in any manner affect the rates charged or to be charged for any service. Every public utility shall also file with the commissioner copies of interstate rate schedules and rules and regulations issued by it or to which it is a party.

(3) Where a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedules shall in like manner be printed and filed with the commissioner.

[Amended by 1971 c.655 §70]

**757.210 Hearing to establish new schedules.** Whenever any public utility files with the commissioner any rate or schedule of rates stating or establishing a new rate or schedule of rates or increasing an existing rate or schedule of rates, the commissioner may, either upon written complaint or upon his own initiative, after reasonable notice, conduct a hearing to determine the propriety and reasonableness of such rate or schedule. At such hearing the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is just and reasonable.

[Amended by 1971 c.655 §70a]

**757.215 Suspension of rates during hearings; order after hearing.** (1) The commissioner may, pending such investigation and determination, order the suspension of the rate or schedule of rates, provided the initial period of suspension shall not extend more than six months beyond the time when such rate or schedule would otherwise go into effect. If the commissioner finds that the investigation will not be completed at the expiration of the initial suspension, he may enter his order further suspending such rate or schedule for not more than three months beyond the last day of the initial suspension.

(2) This section does not prevent the commissioner and the utility from entering into a written stipulation at any time extending any period of suspension.

(3) After full hearing, whether completed before or after such rate or schedule has gone into effect, the commissioner may make such order in reference thereto as would be proper in a proceeding initiated after such rate or schedule has become effective.

**757.220 Notice of schedule changes required.** No change shall be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the commissioner. All changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 30 days prior to the time they are to take effect. However, the commissioner, for good cause shown, may allow changes without requiring the 30 days' notice by filing an order specifying the changes to be made and the time when they shall take effect.

**757.225 Utilities required to collect for their services in accordance with schedules.** No public utility shall charge, demand, collect or receive a greater or less compensation for any service performed by it within the state, or for any service in connection therewith, than is specified in printed rate schedules as may at the time be in force, or demand, collect or receive any rate not specified in such schedule. The rates named therein are the lawful rates until they are changed as provided in ORS 757.210 to 757.220.

[Amended by 1971 c.655 §71]

**757.230 Control of commissioner over classification of services and forms of schedules.** (1) The commissioner shall provide for a comprehensive classification of service for each public utility, and such classification may take into account the quantity used, the time when used, the purpose for which used, and any other reasonable consideration. Each public utility is required to conform its schedules of rates to such classification.

(2) The commissioner may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient.

[Amended by 1971 c.655 §72]

**757.235 Emergency rate adjustments.** (1) The commissioner may, when deemed by him necessary to prevent injury to the business or interests of the people or any public utility of this state in case of any emergency to be judged of by the commissioner, temporarily alter, amend or, with the consent of the public utility concerned,

suspend any existing rates, schedules and order relating to or affecting any public utility or part of any public utility in this state. Rates so made by the commissioner shall apply to one or more of the public utilities in this state or to any portion thereof as may be directed by the commissioner, and shall take effect at such time and remain in force for such length of time as may be prescribed by the commissioner.

(2) If any existing rate of any public utility or division or department of any public utility in this state is adjusted under the provisions of this section, it shall become effective 30 days thereafter unless, within that time, the commissioner, either on his own initiative or at the written request of any interested party, announces a hearing to determine the propriety and reasonableness of such rate. Notice of such hearing shall be mailed to all incorporated cities within the area to be affected thereby at least 20 days before any such hearing. Such notice shall set forth therein the place of hearing and a brief statement of the purpose therefor. A copy of such notice shall be published at the expense of the commissioner in a newspaper of general circulation within each county, or portion thereof which is affected by such rate adjustment once each week for two consecutive weeks. The hearings shall occur within 10 days from the date of the last publication of the notice. If, after the hearing, the commissioner determines that it is fair and reasonable and not contrary to the public interest, the adjustment shall remain in force for such length of time as may be ordered by the commissioner. Notice of the adjustment shall be given in the same manner as provided in this subsection for the hearing.

(3) No temporary or emergency rate adjustments other than pursuant to this section shall be authorized for any public utility.

(4) During the time an increased rate is in effect under the provisions of this section, the public utility concerned shall indicate separately in dollars and cents on the face of its statements or bills that portion of the statement or bill which is a surcharge.
[Amended by 1953 c.285 §2]

**757.240 Filing schedules in places where utility consumers make payments.** (1) A copy of so much of all schedules, including schedules of joint rates and charges, as the commissioner deems necessary for the use of the public shall be printed in plain type and kept on file in every business office of such public utility, open to the public, and in such form and place as to be readily accessible to the public for convenient inspection.

(2) Copies of all new schedules shall be filed in every business office of such public utility 30 days prior to the time the schedules are to take effect, unless the commissioner prescribes a shorter time.
[Amended by 1971 c.655 §73]

**757.245 Establishment of joint rates.** (1) A public utility may establish reasonable through service and joint rates and classifications with other public utilities. Public utilities establishing joint rates shall establish just and reasonable regulations and practices in connection therewith and just, reasonable and equitable divisions thereof as between the public utilities participating therein, which shall not unduly prefer or prejudice any of such participating public utilities, and every unjust and unreasonable rate, classification, regulation, practice and division is prohibited.

(2) The commissioner may, and he shall, whenever deemed by him to be necessary or desirable in the public interest, after full hearing upon complaint, or upon his own initiative without complaint, establish through service, classifications and joint rates, the divisions of such rates and the terms and conditions under which such through service shall be rendered. If any tariff or schedule canceling any through service or joint rate or classification without the consent of all the public utilities parties thereto or authorization by the commissioner is suspended by the commissioner for investigation, the burden of proof is upon the public utilities proposing such cancellation to show that it is consistent with the public interest.

(3) Whenever, after full hearing upon complaint or upon his own initiative without complaint, the commissioner is of the opinion that the divisions of joint rates between the public utilities are or will be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between the public utilities parties thereto, whether agreed upon by such public utilities or otherwise established, the commissioner shall, by order, prescribe the just, reasonable and equitable divisions thereof to be received by the several public utilities. In cases where the joint rate was established

pursuant to the finding or order of the commissioner and the divisions thereto are found by him to have been unjust, unreasonable or inequitable, or unduly preferential or prejudicial, the commissioner may also by order determine what, for the period subsequent to the filing of the complaint or petition or the making of the order of investigation, would have been the just, reasonable and equitable division thereof to be received by the several public utilities and require adjustment to be made in accordance therewith.

(4) In so prescribing and determining the divisions of joint rates, the commissioner shall give due consideration, among other things, to:

(a) The efficiency with which the public utilities concerned are operated;

(b) The amount of revenue to pay their respective operating expenses, taxes and a fair return on their public utility property held for and used in service;

(c) The importance to the public of the services of such public utilities;

(d) Whether any particular participating public utility is an originating, intermediate or delivering utility; and

(e) Any other fact or circumstance which ordinarily would entitle one public utility to a greater or less proportion of the joint rate than another.

[Amended by 1971 c.655 §74]

**757.250 Standards and appliances for measuring service.** (1) The commissioner shall ascertain and prescribe for each kind of public utility suitable and convenient standard commercial units of service. These shall be lawful units for the purposes of this chapter.

(2) The commissioner shall ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage or other conditions pertaining to the supply of the service rendered by any public utility and prescribe reasonable regulations for examination and testing of such service and for the measurement thereof. It shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for the measurements, and every public utility is required to carry into effect all orders issued by the commissioner relative thereto.

[Amended by 1971 c.655 §75]

**757.255 Testing of measuring appliances.** (1) The commissioner may provide for the examination and testing of any and all appliances used for the measuring of any service of a public utility, and may provide by rule that no such appliance shall be installed and used for the measuring of any service of any public utility until it has been examined and tested by the commissioner and found to be accurate.

(2) The commissioner shall declare and establish a reasonable fee governing the cost of such examination and test, which shall be paid to the commissioner by the public utility.

(3) The commissioner shall declare and establish reasonable fees for the testing of such appliances on the application of the customer, the fee to be paid by the customer at the time of his request, but to be repaid to the customer by the commissioner and to be paid by the public utility if the appliance is found defective or incorrect to the disadvantage of the customer or used beyond such reasonable limit as may be prescribed by the commissioner.

(4) All fees collected under the provisions of this section shall be paid by the commissioner into the State Treasury.

(5) The commissioner may purchase such materials, apparatus and standard measuring instruments for the examination and tests as he deems necessary.

[Amended by 1971 c.655 §76]

**757.260** [Amended by 1971 c.655 §18; renumbered 756.075]

**757.265** [Repealed by 1971 c.655 §250]

## ILLEGAL PRACTICES

**757.305 Special privileges to political patrons.** (1) No public utility or its agents or officers shall offer or give for any purpose to any political committee or any member or employe thereof or to any candidate for or incumbent of any office or position under the Constitution or laws or under any ordinance of any municipality of this state, or to any person at the request, or for the advantage of all or any of them, any reduced rate, frank or any privilege withheld from any person for any service which is or will be rendered by any public utility.

(2) No such committee, member, employe, candidate or incumbent shall ask for or accept from any utility, agent or officer described in subsection (1) of this section, or use in any manner or for any purpose any reduced rate, frank or privilege withheld from any person, for any service which is or will be rendered by any public utility.

[Amended by 1971 c.655 §77]

**757.310 Unjust discrimination in charges for service.** (1) Except as provided in ORS 757.315, no public utility or any agent or officer thereof shall, directly or indirectly, by any device, charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by it than:

(a) That prescribed in the public schedules or tariffs then in force or established; or

(b) It charges, demands, collects or receives from any other person for a like and contemporaneous service under substantially similar circumstances.

(2) Any public utility violating this section is guilty of unjust discrimination.

[Amended by 1971 c.655 §78]

**757.315 Transactions not constituting unjust discrimination.** (1) ORS 757.310 does not prevent any public utility from giving free service, or reduced rates therefor, to:

(a) Its officers, directors, employes and members of their families;

(b) Former employes of such public utilities or members of their families where such former employes have become disabled in the service of such public utility or are unable from physical disqualification, including retirement, to continue in the service; or

(c) Members of families of deceased employes of such public utility.

(2) The commissioner may require any public utility to file with him a list, verified under oath, of all free or reduced rate privileges granted by a public utility under the provisions of this section.

[Amended by 1971 c.655 §79]

**757.320 Reducing rates for persons furnishing part of necessary facilities.** (1) No public utility shall demand, charge, collect or receive from any person less compensation for any service rendered or to be rendered by the public utility in consideration of the furnishing by such person of any part of the facilities incident thereto.

(2) This section does not prohibit any public utility from renting any customer's facilities incident to providing its services and for paying a reasonable rental therefor.

(3) This section does not require a public utility to furnish any part of such appliances which are situated in and upon the premises of any customer, except meters and appliances for measurements of any service, unless otherwise ordered by the commissioner.

[Amended by 1971 c.655 §80]

**757.325 Undue preferences and prejudices.** (1) No public utility shall make or give undue or unreasonable preference or advantage to any particular person or locality, or shall subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.

(2) Any public utility violating this section is guilty of unjust discrimination.

**757.330 Soliciting or accepting special privileges from utilities.** No person shall knowingly solicit, accept or receive any rebate, concession or discrimination in respect to any service whereby any such service shall, by any device, be rendered free or at a lesser rate than that named in the published schedules and tariffs in force, or whereby any service or advantage is received other than authorized in this chapter.

[Amended by 1971 c.655 §81]

757.335 [Amended by 1971 c.655 §25; renumbered 756.185]

757.340 [Amended by 1971 c.655 §22; renumbered 756.125]

757.345 [Repealed by 1971 c.655 §250]

757.350 [Repealed by 1971 c.655 §250]

## ISSUANCE OF SECURITIES

**757.400 Definition of "stocks."** As used in ORS 757.400 to 757.450, "stocks" means stocks, stock certificates or other evidence of interest or ownership.

**757.405 Commissioner's power to regulate issuance of utility securities.** The power of public utilities to issue stocks and bonds, notes and other evidences of indebtedness and to create liens on their property situated within this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state. Such power shall be exercised as provided by law and under such rules and regulations as the commissioner may prescribe.

**757.410 When issuance of securities is void.** All stocks and bonds, notes or other evidences of indebtedness, and any security of a public utility shall be void when issued:

(1) Without an order of the commissioner authorizing the same then in effect except as provided in subsection (3) of ORS 757.415.

(2) With the authorization of the commissioner, but not conforming in its provisions to the provisions, if any, which it is

required by the order of authorization of the commissioner to contain; but no failure to comply with the terms or conditions of the order of authorization of the commissioner and no informality or defect in the application or in the proceedings in connection therewith or with the issuance of such order shall render void any stock or bond, note or other evidence of indebtedness, or security issued pursuant to and in substantial conformity with an order of the commissioner, except as to a person taking the same otherwise than in good faith and for value and without actual notice.

**757.415 Purposes for which securities and notes may be issued; order required.** (1) A public utility may issue stocks and bonds, notes and other evidences of indebtedness, and securities for the following purposes and no others, except as otherwise permitted by subsection (4) of this section:

(a) The acquisition of property, or the construction, completion, extension or improvement of its facilities.

(b) The improvement or maintenance of its service.

(c) The discharge or lawful refunding of its obligations.

(d) The reimbursement of money actually expended from income or from any other money in the treasury of the public utility not secured by or obtained from the issue of stocks or bonds, notes or other evidences of indebtedness, or securities of such public utility, for any of the purposes listed in paragraphs (a) to (c) of this subsection except the maintenance of service and replacements, in cases where the applicant has kept its accounts and vouchers for such expenditures in such manner as to enable the commissioner to ascertain the amount of money so expended and the purposes for which such expenditures were made.

(e) The compliance with terms and conditions of options granted to its employes to purchase its stock, if the commissioner first finds that such terms and conditions are reasonable and in the public interest.

(2) Before issuing such securities a public utility, in addition to the other requirements of law, shall secure from the commissioner upon application an order authorizing such issue, stating:

(a) The amount of the issue and the purposes to which the issue or the proceeds thereof are to be applied; and

(b) In the opinion of the commissioner, the money, property or labor to be procured or paid for by such issue reasonably is required for the purposes specified in the order and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility, and will not impair its ability to perform that service; and

(c) Except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

(3) This section and ORS 757.410 apply to demand notes but do not apply to the issuance or renewal of a note or evidence of indebtedness maturing not more than one year after date of such issue or renewal.

(4) Nothing in ORS 757.400 to 757.450 shall prevent issuance of stock to stockholders as a stock dividend if there has been secured from the commissioner an order:

(a) Finding that the stock dividend is compatible with the public interest;

(b) Authorizing such issue and a transfer of surplus to capital in an amount equal to the par or stated value of the stock so authorized; and

(c) Finding that a sum equal to the amount to be so transferred was expended for the purposes enumerated in subsection (1) of this section.

[Amended by 1961 c.319 §1]

**757.417 Limitation on application of ORS 757.415.** ORS 757.415 does not apply to the issuance, renewal or assumption of liability on any evidence of indebtedness when such issuance, renewal or assumption is for the purpose of acquiring specific real or personal property, if the aggregate principal amount thereof, together with all other then outstanding evidences of indebtedness issued, renewed or assumed under this section, does not exceed whichever is the greater of the following amounts:

(1) The amount of $75,000.

(2) The amount of one-half of one percent of the sum of:

(a) The total principal amount of all bonds or other securities representing secured indebtedness of the public utility issued or assumed and then outstanding; and

(b) The capital and surplus as then stated on the books of account of the public utility.

[1971 c.655 §88]

**757.419 Limitation on application of ORS 757.480.** ORS 757.480 does not apply to any mortgage or other encumbrance upon any real or personal property given to secure payment of any evidence of indebtedness issued under ORS 757.415.
[1971 c.655 §89]

**757.420 Hearings and supplemental orders relating to issuance of securities; joint approval of issuance by interstate utility.** (1) To enable him to determine whether he will issue an order under ORS 757.415, the commissioner may hold a hearing and may make such additional inquiry or investigation, examine such witnesses, books, papers, documents and contracts and require the filing of such data as he deems necessary. The application for such order shall be given priority and shall be disposed of by the commissioner within 30 days after the filing of such application, unless that period is extended with the consent of the public utility.

(2) The commissioner may, upon application of the public utility, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as he finds necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, extent to which, or the condition under which, any security theretofore authorized or its proceeds may be applied. Such supplemental orders are subject to the requirements of ORS 757.415. The period of time permitted under subsection (1) of this section for disposing of applications shall not apply to supplemental orders.

(3) If a commission or other agency is empowered by another state to regulate and control the amount and character of securities to be issued by any public utility within such other state, the commissioner of Oregon has power to agree with such commission or agency of such other state on the issue of stocks, bonds, notes, other evidences of indebtedness or securities by a public utility owning or operating a public utility both in such state and in this state, and has power to approve such issue jointly with such commission or agency and to issue a joint certificate of such approval. However, no such joint approval is required in order to express the consent to and approval of such issue by the State of Oregon if the issue is separately approved by the Oregon commissioner.

**757.425 State not obligated following approval of issuance.** No provision of ORS 757.405 to 757.450, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the State of Oregon to pay or guarantee, in any manner whatsoever, any stock or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of ORS 757.405 to 757.450.

**757.430 Conditional approval of issuance authorized.** The commissioner may by his order grant permission for the issue of stocks or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of his permission such condition or conditions as he deems reasonable and necessary.

**757.435 Disposal of proceeds from issuance of securities.** (1) No public utility shall, without the consent of the commissioner, apply the issue of any stock or bond, note or other evidence of indebtedness, or any part or proceeds thereof, to any purpose not specified in the commissioner's order, or to any purpose specified in the commissioner's order in excess of the amount authorized for such purpose, or issue or dispose of the same on any terms less favorable than those specified in such order, or a modification thereof.

(2) The commissioner has power to require public utilities to account for the disposition of the proceeds of all sales of stocks and bonds, notes and other evidences of indebtedness, in such form and detail as he deems advisable, and to establish such rules and regulations as he deems reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in his order.

**757.440 Commissioner's approval required before utility may guarantee another's indebtedness.** No public utility shall assume any obligation or liability as guarantor, indorser, surety or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than 12 months after the date thereof, without first having secured from the commissioner an order authorizing it so to do. Every assumption

made other than in accordance with such an order is void.

**757.445 Wrongful issues or use of proceeds by utility.** No public utility shall directly or indirectly, issue or cause to be issued any stock or bond, note or other evidence of indebtedness, in nonconformity with the order of the commissioner authorizing the same or contrary to the provisions of ORS 757.400 to 757.450, or of the Constitution of this state, or apply the proceeds from the sale thereof, or any part thereof, to any purpose other than the purposes specified in the commissioner's order, or to any purpose specified in the commissioner's order in excess of the amount in the order authorized for such purpose.

**757.450 Wrongful acts relating to issuance of securities.** No person shall:

(1) Knowingly authorize, direct, aid in, issue or execute, or cause to be issued or executed, any stock or bond, note or other evidence of indebtedness, in nonconformity with the order of the commissioner authorizing the same, or contrary to the provisions of ORS 757.400 to 757.450 or of the Constitution of this state.

(2) In any proceeding before the commissioner, knowingly make any false statement or representation or with knowledge of its falsity file or cause to be filed with the commissioner any false statement or representation which may tend in any way to influence the commissioner to make an order authorizing the issue of any stock or bond, note or other evidence of indebtedness, or which results in procuring from the commissioner the making of any such order.

(3) With knowledge that any false statement or representation was made to the commissioner in any proceeding tending in any way to influence him to make such order, issue, execute or negotiate, or cause to be issued, executed or negotiated, any stock or bond, note or other evidence of indebtedness.

(4) Directly or indirectly, knowingly apply, or cause or assist to be applied, the proceeds, or any part thereof, from the sale of any stock or bond, note or other evidence of indebtedness, to any purpose not specified in the commissioner's order, or to any purpose specified in the commissioner's order in excess of the amount authorized for such purpose.

(5) With knowledge that any stock or bond, note or other evidence of indebtedness, has been issued or executed in violation of ORS 757.400 to 757.450, negotiate, or cause the same to be negotiated.

## TRANSACTIONS OF UTILITIES

**757.480 Commissioner's approval needed prior to disposal, mortgage or encumbrance of operative utility property or consolidation with another public utility.** (1) No public utility doing business in Oregon shall, without first obtaining the commissioner's approval of such transaction:

(a) Sell, lease, assign or otherwise dispose of the whole of the property of such public utility necessary or useful in the performance of its duties to the public or any part thereof of a value in excess of $10,000, or sell, lease, assign or otherwise dispose of any franchise, permit or right to maintain and operate such public utility or public utility property, or perform any service as a public utility; or

(b) Mortgage or otherwise encumber the whole or any part of the property of such public utility necessary or useful in the performance of its duties to the public, including any franchise, permit or right to maintain and operate such public utility or public utility property, or perform any service as a public utility; or

(c) By any means whatsoever, directly or indirectly, merge or consolidate any of its lines, plant, system or other property whatsoever, or franchise or permit to maintain or operate any public utility property, or perform any service as a public utility, or any part thereof, with any other public utility.

(2) Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commissioner authorizing the same is void.

(3) This section does not prohibit or invalidate the sale, lease or other disposition by any public utility of property which is not necessary or useful in the performance of its duties to the public.

[Formerly 757.155]

**757.485 Purchase of property or stocks of one utility by another.** (1) No public utility shall, directly or indirectly, purchase, acquire or become the owner of any of the stocks or bonds or property utilized for utility purposes and having a value in excess of $10,000 of any other public utility unless authorized so to do by the commissioner.

(2) Every contract by any public utility for the purchase, acquisition, assignment or transfer to it of any of the stock of any other public utility by or through any person, partnership or corporation without the approval of the commissioner shall be void and of no effect, and no such transfer or assignment of such stock upon the books of the corporation pursuant to any such contract is effective for any purpose.
[Formerly 757.160]

**757.490 Commissioner's approval needed for certain contracts.** (1) Before any public utility doing business in this state enters into a contract with another corporation with relation to the construction, operation, maintenance or use of the property of said public utility in Oregon, or the use of the property of the other contracting party, or any part thereof, or for service, advice, engineering, financing, rentals, leasing or for any construction or management charges in respect of any such property, or for the purchase of property, materials or supplies, the proposed contract shall be filed with the commissioner for his investigation and approval when the public utility owns a majority of or controls directly or indirectly the voting stock of the other contracting corporations.

(2) When any such proposed contract has been filed with the commissioner he shall promptly investigate and act upon it in accordance with subsections (3) and (5) of ORS 757.495.

(3) In making such investigation the commissioner and his accountants, examiners and agents, appointed by him for the purpose, shall be given free access to all books, books of account, documents, data and records of the public utility as well as of the corporation with which it is proposing to contract, which the commissioner may deem material to the investigation. The failure or refusal of either of the parties to the proposed contract to comply with this subsection is prima facie evidence that such contract is unfair, unreasonable and contrary to public interest, and is sufficient to justify a determination and finding of the commissioner to that effect, which has the same force and effect as any other determination or order of the commissioner.
[Formerly 757.165]

**757.495 Contracts involving utilities and persons with affiliated interests.** (1) No public utility doing business in this state shall make or contract to make any payment, directly or indirectly, to any person or corporation having an affiliated interest, for service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal or other services, or enter any charges therefor on its books, which shall be recognized as an operating expense or capital expenditure in any rate valuation or any other hearing or proceeding, until the propriety and reasonableness of any such payment, or contract for payment, has been submitted to and approved by the commissioner.

(2) No public utility doing business in this state shall enter into any contract, oral or written, with any person or corporation having an affiliated interest relating to the construction, operation, maintenance, leasing or use of the property of such public utility in Oregon, or the purchase of property, materials or supplies, which shall be recognized as the basis of an operating expense or capital expenditure in any rate valuation or any other hearing or proceeding, unless and until such proposed contract has been submitted to and approved by the commissioner.

(3) When any such proposed contract has been submitted to the commissioner he promptly shall examine and investigate it. If, after such investigation, he determines that it is fair and reasonable and not contrary to the public interest, he shall enter his findings and order to this effect and serve a copy thereof upon the public utility, whereupon the contract may lawfully be recognized for the purposes entered into. If, after such investigation, he determines that the contract is not fair and reasonable in all its terms and is contrary to the public interest, he shall enter his findings and order accordingly and serve a copy thereof upon the public utility, and it shall be unlawful to recognize the contract for the purposes specified in this section.

(4) No public utility shall issue notes or loan its funds or give credit on its books or otherwise to any person or corporation having an affiliated interest, either directly or indirectly, without the approval of the commissioner.

(5) The action of the commissioner with respect to all the matters described in this section when submitted to him, shall be by findings and order to be entered within 90 days after the matter has been submitted to him for consideration, and the findings and order of the commissioner with respect to any of such matters shall be and remain in full

force and effect, unless and until set aside by suit brought and prosecuted, as provided in ORS 756.580 to 756.610, and the public utility, or any other person or corporation affected by any such findings and order, may bring and prosecute such suit.
[Formerly 757.170]

**757.500 Contracts between certain public utilities.** When any public utility is primarily engaged in another enterprise and is only indirectly engaged in the production, transmission, delivery or furnishing of heat, light, water or power to or for the public by reason of a contract or agreement, express or implied, between itself and another public utility which is directly engaged in such business, the jurisdiction of the commissioner over such public utility extends only to the right to modify, control, rescind, alter or amend any such existing contract or agreement where the interest of the customers of such public utility directly engaged in such business demands. No such contract or agreement is valid or enforceable until it has been approved by the commissioner as being in the public interest.
[Formerly 757.175]

**757.505** [Repealed by 1971 c.655 §250]

**757.510** [Repealed by 1971 c.655 §250]

**757.515** [Amended by 1971 c.655 §39; renumbered 756.515]

**757.520** [Repealed by 1971 c.655 §250]

**757.525** [Repealed by 1971 c.655 §250]

**757.530** [Repealed by 1971 c.655 §250]

**757.535** [Repealed by 1971 c.655 §250]

**757.540** [Amended by 1971 c.655 §53; renumbered 756.568]

**757.545** [Repealed by 1971 c.655 §250]

**757.550** [Repealed by 1971 c.655 §250]

**757.555** [Amended by 1971 c.655 §49; renumbered 756.555]

**757.560** [Repealed by 1971 c.655 §250]

**757.565** [Repealed by 1971 c.655 §250]

**757.570** [Repealed by 1971 c.655 §250]

**757.575** [Repealed by 1971 c.655 §250]

**757.580** [Repealed by 1971 c.655 §250]

**757.585** [Repealed by 1971 c.655 §250]

**757.590** [Amended by 1971 c.655 §48; renumbered 756.552]

**757.595** [Repealed by 1971 c.655 §250]

**757.605** [1961 c.691 §2; 1971 c.655 §97; renumbered 758.400]

## TELEGRAPH REGULATION

**757.606 Sending telegrams in order of receipt.** (1) Except as provided in ORS 757.611 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.
[Formerly 758.040]

**757.610** [1961 c.691 §18; renumbered 758.405]

**757.611 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.
[Formerly 758.050]

**757.615** [1961 c.691 §§3, 11; part renumbered 757.652; 1971 c.655 §98; renumbered 758.410]

**757.616 Wrongful alteration of telegraphic message.** (1) No officer, agent, operator, clerk or employe of any telegraph company, or any other person, shall wilfully 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) 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 it genuineness, force or validity.

(3) Any person violating this section, in addition to the penalty prescribed in ORS 757.992 is liable in a civil suit for all damages occasioned thereby.
[Formerly 758.060]

**757.620** [1961 c.691 §4; renumbered 758.415]

**757.621 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 757.992, is liable in treble damages to the party aggrieved, for all loss or injury sustained by reason of such wrongful act.
[Formerly 758.070]

**757.625** [1961 c.691 §5; renumbered 758.420]

**757.626 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.
[Formerly 758.080]

**757.630** [1961 c.691 §6; renumbered 758.425]

**757.631 Meaning of "telegraphic copy" in ORS 757.636 and 757.641.** As used in ORS 757.636 and 757.641, "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.
[Formerly 758.090]

**757.635** [1961 c.691 §7; renumbered 758.430]

**757.636 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.
[Formerly 758.100]

**757.640** [1961 c.691 §8; renumbered 758.435]

**757.641 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."
[Formerly 758.110]

**757.645** [1961 c.691 §9; renumbered 758.440]

**757.650** [1961 c.691 §10; renumbered 758.445]

**757.652** [Formerly part of 757.615; 1965 c.242 §1; renumbered 758.450]

**757.655** [1961 c.691 §13; renumbered 758.455]

**757.670** [1961 c.691 §14; renumbered 758.460]

**757.675** [1961 c.691 §12; 1971 c.655 §99; renumbered 758.465]

**757.680** [1961 c.691 §15; renumbered 758.470]

**757.685** [1961 c.691 §16; 1965 c.242 §2; 1971 c.655 §99a; renumbered 758.475]

**757.690** [1961 c.691 §17; repealed by 1967 c.164 §4]

## EMERGENCY CURTAILMENT OF ELECTRICITY OR NATURAL OR MANUFACTURED GAS

**757.710 Emergency curtailment plans required.** Any person, as defined in ORS 758.400, engaged in the sale or resale of electricity or natural or manufactured gas in this state shall present for approval by the commissioner a plan for curtailment of electrical or gas load in the event of emergencies. Utility plans shall be submitted in such form and within such time limits as the commissioner shall specify.
[1973 c.309 §2]

**757.720 Factors to be considered in approving plan; commissioner's authority to establish plan.** (1) Approval of utility plans for the curtailment of load shall be based on the following factors:

(a) The consistency of the plan with the public health, safety and welfare;

(b) The technical feasibility of implementation of the plan; and

(c) The effectiveness with which the plan minimizes the impact of any curtailment.

(2) In the event of an emergency threatening the health, safety and welfare of the general public, the commissioner may on his own motion and without hearing establish a plan for the curtailment of load by any person referred to in ORS 757.710. Where an emergency is not present, the commissioner shall prior to approval hold public hearings with respect to any proposed plan and give reasonable notice of such hearings.
[1973 c.309 §3]

**757.730 Liability when curtailment occurs.** A utility shall not be liable for damages to persons or property resulting from a curtailment of service in accordance with a plan approved by the commissioner.
[1973 c.309 §4]

## PENALTIES

**757.990 Penalties.** (1) Any person or municipality, or their agents, lessees, trustees or receivers, who omits, fails or refuses to do any act required by ORS 757.035, or fails to comply with any orders, rules or regulations of the commissioner made in pursuance of ORS 757.035, shall forfeit and pay into the State Treasury a sum of not less than $100, nor more than $10,000 for each such offense.

(2) Violation of ORS 757.305 is punishable, upon conviction, by a fine of not exceeding $1,000 or less than $200, or by imprisonment in the penitentiary for not more than five years, or both.

(3) Any public utility violating ORS 757.310 shall, upon conviction, forfeit and pay to the State Treasurer not less than $100 nor more than $1,000 for each offense. Violation of ORS 757.310 by an officer or agent of a public utility is punishable, upon conviction, by a fine of not less than $50 nor more than $100 for each offense.

(4) Any person violating ORS 757.325 shall, upon conviction, forfeit and pay to the State Treasurer not less than $100 and not more than $10,000 for each offense. Violation of ORS 757.325 by any agent or officer of any public utility or person is punishable, upon conviction, by a fine of not less than $100 and not more than $1,000 for each offense.

(5) Violation of ORS 757.330 is punishable, upon conviction, by a fine of not less than $50 nor more than $1,000 for each offense.

(6) Violation of ORS 757.445 is punishable, upon conviction, by a fine of not less than $500 nor more than $20,000 for each offense.

(7) Violation of ORS 757.450 is a felony and is punishable, upon conviction, by a fine of not less than $1,000 nor more than $20,000, or by imprisonment in the penitentiary for not less than one nor more than five years, or both.
[Amended by 1971 c.655 §95]

**757.991 Civil penalty for noncompliance with gas regulations.** Any person or municipality, or their agents, lessees, trustees or receivers, engaged in the management, operation, ownership or control of facilities for the transmission or distribution of gas by pipeline, or facilities for the storage or treatment of gas to be transmitted or distributed by pipeline, who fails to do any act required by ORS 757.039, or fails to comply with any orders, rules or regulations of the commissioner made in pursuance of ORS 757.039, shall forfeit and pay into the State Treasury a civil penalty not to exceed $1,000 for each such failure for each day such failure persists, except that the maximum civil penalty shall not

exceed $200,000 for any related series of failures.
[1969 c.372 §4]

**757.992 Penalties for violation of telegraph regulations.** (1) Any officer, agent, operator or employe of any telegraph company who refuses or wilfully omits to transmit communications in accordance with ORS 757.611, 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 757.616 or 757.621 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 757.626 is punishable, upon conviction, by a fine of not exceeding $500 or imprisonment in the county jail for not exceeding six months, or both.
[Formerly 758.990]

**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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 November 1, 1973.

Thomas G. Clifford
**Legislative Counsel**