



February 14, 2018

**Oregon Progressive Party**

**Position on Bill at 2018**

**Session of Oregon Legislature:**

**SB 1552: Oppose, mostly**

Dear Committee:

The Oregon Progressive Party opposes most of the elements of this bill, which we number as follows:

1. Specifies that public utility that makes sales of electricity may not establish rate for any service that provides public utility with rate of return that exceeds 4.5 percent.
2. Changes procedures by which public utilities that make sales of electricity file rate schedules with Public Utility Commission.
3. Reduces public purpose charge collected from retail electricity consumers.
4. Makes changes to agreement entered into between commission and nongovernmental entity for purpose of expending moneys collected as part of public purpose charge.
5. Repeals provisions of law related to collection of surcharge for removal of Klamath River dams upon failure of relevant parties to begin dam removal.
6. Directs PacifiCorp to credit electric bill of each customer from which PacifiCorp collected surcharge in amount that equals total amount paid by customer as surcharge, plus four percent.
7. Prohibits Public Utility Commission from approving rate schedule established by public utility that makes sales of electricity if moneys collected pursuant to imposition of those rates would be used to remediate Superfund site.
8. Specifies that each Public Utility Commissioner and each employee of commission must enter into noncompetition agreement with state under which commissioner or employee may not be subsequently employed by public utility that makes sales of electricity for two years.

We support elements 1 and 8 and oppose elements 2, 3, 4, and 7.

Legislative Counsel has produced a rudimentary analysis, concluding that element 1 would be unconstitutional. That analysis incorrectly concludes that restricting a public utility's rate of return to 4.5 percent will inevitably violate a public utility's constitutional right to a reasonable rate of return on investment." A 4.5% "rate of return" could reflect a very low embedded cost

of debt in a debt-heavy capital structure, combined with a very healthy return on equity (10% or more). So limiting the overall rate of return (which applies to the entire consolidated capital structure) would not necessarily result in a very low return on equity. In today's environment of very low interest rates, an overall 4.5% rate of return is quite reasonable. The Legislative Counsel analysis seems to believe that utilities are guaranteed rates sufficient to avoid bankruptcy. That is not the case; several U.S. utilities have declared bankruptcy in recent years, including the largest one in California (Pacific Gas & Electric and several of the largest utilities in Texas, including Energy Future Holdings (formerly TXU). The U.S. Constitution does not guarantee to any utility rates high enough to necessarily produce a profit or even high enough to avoid bankruptcy.

But, if Legislative Counsel is right, that would eliminate just about the entire positive rationale for this bill.

Element 2 of the bill reflects gaps in knowledge about Oregon PUC procedures. It mistakenly assumes that the 60-day requirement in existing law requires that the PUC complete its rate hearing process within 60 days, which it does not. It is just a deadline for the filing of a written complaint by a party, after a utility files a new schedule of rates. The bill unnecessarily requires that every public utility file new rates every year on July 1. Existing law already requires utilities to file new rates, whenever the utility seeks to change those rates.

We oppose reducing the public purpose charge and see no reason to change how it is currently administered.

We have no opinion on the elements pertaining to the Klamath River dams.

We oppose element 7, the disallowing of all rates that collect funds to remediate Superfund sites. Unfortunately, utilities have engaged in actions that have contributed to the hazards at Superfund sites and should be required to fund their remediation in proportion to that contribution. As those utility operations were presumably undertaken to provide service to customers and presumably in fact did provide service to customers, the cost of remediation should be borne by customers, unless the utility actions could be said to be imprudent. That is how the existing law of utility regulation works.

Element 8 prohibits for 2 years the "revolving door" for PUC commissioners and employees who wish to work for regulated utilities. This has definitely been a problem in Oregon. In 1984, former Commissioner John Lobdell retired (as the sole Commissioner at the time) and almost immediately became a vice-president of Northwest Natural Gas Co. Regulated utilities should not be allowed to dangle the lure of highly paid executive positions in front of PUC commissioners and employees, for obvious reasons.

### **Oregon Progressive Party**

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