

Montana Law	Oregon Law	Commentary
Who is subject to regulation?		
<p>Every public utility except rural electric and telephone cooperatives (35-8-104).</p>	<p>Every public utility.</p>	<p>(1) Cooperatives maintain that they should not be subject to state regulation because they are owned by their customers. However, as the number of customers served grows, the disconnect between the managers and board of directors on one hand, and the customers on the other, becomes large. Many cooperative customers feel that they are involuntary investors in the cooperative.  (2) In several of the recent public utility bankruptcies, only the fact that rates had to be approved by a regulatory commission, prevented Rural Utility Services from setting rates high enough to pay for investments which were not used or useful.</p>
What are the Regulatory Commission's General Powers		
<p>(1) Full power of supervision, regulation and control of public utilities <i>subject to provisions of chapter</i> (69-3-102).  (2) Power to prescribe rules of procedure and to do all things necessary and convenient in the exercise of its powers except judicial powers (69-3-103).</p>	<p>(1) <i>In addition to enumerated powers</i>, represent customers of public utilities and the public generally in all controversies respecting rates, valuations, service and protect customers and public from unjust and unreasonable exactions and practices (756.040(1)).  (2) Power and jurisdiction to supervise and regulate public utilities and to all things necessary and convenient in exercise of powers (756.040(2)).  (3) Authority to adopt and</p>	<p>Although the language in the statutes appears similar, the respective state courts have interpreted the regulatory commissions' powers vastly different. Oregon courts have interpreted this language as provide the PUC broad powers. Montana courts have interpreted this narrowly and stated that "The Commission's standing to seek civil remedies and its ratemaking authority are the only tools specifically provided by statute as methods by which</p>

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	<p>amend reasonable and proper rules and regulations relative to all statutes administered by it and to adopt and publish rules to govern proceedings before it (756.060).</p>	<p>the Commission may supervise, regulate and control utilities.” <i>Montana Power Co. v. Public Service Commission</i>, 206 Mont. 359, 376 (1983).</p>
<p>What are the Commission’s Enumerated Powers</p>		
<p>(1) Authority to inquire into management and right to obtain information necessary to perform duties (69-3-106).  (2) Investigate accidents occurring in the operation of a public utility (69-3-107).  (3) Investigate and ascertain property values of used and useful property (69-3-109).  (4) Approve changes in rates (69-3-302).  (5) Prescribe classifications of service (69-3-306).  (6) Investigate complaints made against public utilities (69-3-321).  (7) Initiate an investigation of rates, tolls, charges, rules, practices, and services of a public utility (69-3-324).  (8) Supervise and regulate the issuance, assumption, or guaranteeing of securities and creation of liens on Montana property (69-3-501).  (9) Adopt rules and guidelines used in preparing integrated least-cost plans and include portions therein in rates (69-3-1204, 1205, 1206).</p>	<p>(1) Represent the public and utility customers in any proceeding before any public officer, commission or body of the U.S. or any state (756.040(3)).  (2) Make joint investigations, hold joint hearings, and issue concurrent orders in conjunction with any official body of the U.S or any state (756.040(4)).  (3) Inquire into the management of public utilities, keep informed as to manner they are conducted, and obtain all necessary information (756.070)  (4) Inquire into any neglect or violation of any law of state or municipality by public utility, its officers, agents or employees, enforce all public utility laws, and report violations to Attorney General (756.160).  (5) Require utility to extend service to a locality not already served (757.050).  (6) Right and power of regulation, restriction and control over expenditures for salaries of executive officers, donations, political</p>	<p>Oregon’s enumerated powers are much broader. The statutes also provide means to carry out those broader powers. Utilities are required to file budgets on or before November 1 of each year. If the Commission does not reject the budget within 60 days it is presumptively fair and reasonable.</p>

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	<p>contributions and advertising, pensions, other expenditures and major contracts for the sale or purchase of equipment, and any payment to an affiliated interest for service, advice, auditing, associating, sponsoring, engineering, managing, operating, financing, legal or other services (757.105)</p> <p>(7) Supervision, regulation, restriction and control of the issuance of stocks, bonds, notes and other evidences of indebtedness and creation of liens (757.405)</p> <p>(8) Approval of rates (756.040(1)).</p> <p>(9) Approve the use of the proceeds from the issuance of securities (757.435).</p> <p>(10) Approve the guaranteeing of indebtedness of another by a public utility (757.440).</p> <p>(11) Approve the acquisition of property or stocks of one utility by another (757.485).</p> <p>(12) Approve or modify any contracts between public utilities (757.500).</p> <p>(13) Approve the direct or indirect acquisition of the power to exercise substantial influence of a public utility by any person (757.511).</p>	
Commissions' Authority with regard to Affiliates		
(1) Review cost of coal or other boiler fuel purchased from affiliates (69-3-112).	(1) Right and power of regulation, restriction and control over expenditures	The Commission asserts that this jurisdiction is included in its general grant

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	<p>for any payment to an affiliated interest for service, advice, auditing, associating, sponsoring, engineering, managing, operating, financing, legal or other services (757.105)</p> <p>(2) Approval of any contract with any person or corporation having an affiliated interest for any charges that could be considered an operating expense or capital expenditure (757.495(1)).</p> <p>(3) Approval of any notes or loan or credit to any person having a direct or indirect affiliated interest (757.495(5)).</p>	<p>of authority. However, if it were enumerated, as is Oregon's, many of the conflicts with utilities could be avoided.</p>