

Oregon Public Utility Commission – Administrative
Procedures Act Reform Bill



HB 2985





The Problem

- Oregon Public Utility Commission (PUC) Orders that leave issues raised and briefed by parties unaddressed.
- Leaves stakeholders feeling like their comments were not considered.

Other Oregon or Federal Agency Process



Issues particularized findings of fact and conclusions of law.



Organizes all comments submitted by stakeholders by topic and describes whether and/or how the comment was resolved or addressed.

The Oregon Administrative Procedures Act (APA): ORS 183

Background and Key Provisions of the APA

- General Provisions ORS 183.310 – 315
- Adoption of Rules ORS 183.325 – 410
- Contested Cases ORS 183.411 – 471
- Judicial Review ORS 183.480 – 497
- Other Provisions

“Agency” means any state board, commission, department, or division thereof, or officer authorized by law to make rules or to issue orders, except those in the legislative and judicial branches.

HB 2985 Removes the Oregon PUC Exemption from the Oregon APA

ORS 183.315 Application of provisions of chapter to certain agencies

- (6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do not apply to the Public Utility Commission. Except as provided in ORS 774.180, judicial review of an order issued by the commission in a contested case may be sought only by a party to the contested case.
- Those provisions largely govern the contested case process.


“Contested case” means a proceeding in which an agency determines individual legal rights, duties or privileges only after a hearing where those parties are entitled to appear and be heard.

It is essentially a quasi-judicial, adjudicative, or trial-like process.

Comparison of APA – PUC Provisions

APA	PUC
183.410 Agency determination of applicability of rule or statute to petitioner; effect; judicial review.	756.450 Declaratory rulings.
183.415 Notice of right to hearing.	756.512 Notice of complaint to defendant; responsive pleadings; setting cause for hearing.
183.417 Procedure in contested case hearing.	756.518 Procedures applicable to all matters before commission; oral hearing; rules. 756.521 Public hearings; record required; furnishing transcripts.
183.425 Depositions or subpoena of material witness; discovery.	756.538 Taking and use of depositions; rules.
183.440 Subpoenas in contested cases.	756.543 Issuance of subpoenas; failure to comply.
183.450 Evidence in contested cases.	
183.460 Examination of evidence by agency.	
183.470 Orders in contested cases.	756.558 Taking of evidence; findings; issuance of orders; providing copies of orders.

*Many provisions are very similar



ORS 183.470 Orders in contested cases.

In a contested case:

(1) Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

(2) A final order shall be accompanied by findings of fact and conclusions of law. **The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the agency's order.**

(3) The agency shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

(4) Every final order shall include a citation of the statutes under which the order may be appealed.



Marie Barlow

In-House Counsel

Regulatory and Policy Affairs

NewSun Energy LLC

Mbarlow@newsunenergy.net