

April 30, 2025

Position on Bills at 2025 Session of Oregon Legislature:

SB 845: Support, with reservations



The Consolidated Oregon Indivisible Network (COIN) is a coalition of over 50 local Indivisible groups throughout Oregon that cooperate and amplify their joint efforts to advance important federal and state legislation and engage with elected officials to promote causes for the benefit of all Oregonians.

COIN supports SB 845, with the reservations noted below. SB 845 would authorize the Oregon Public Utility Commission (OPUC) to order the sale of an incumbent water utility, if after a notice and contested case, it determines that the utility:

- violates statutory or regulatory standards that affect the safety and adequacy of its service
- fails to comply within a reasonable time with a commission order regarding service safety and adequacy
- is unable to provide and maintain safe and adequate service
- through its continued operation, poses an unreasonable risk to public health or safety due to contamination, dilapidated infrastructure, or inadequate water or sanitary facilities, and
- alternative actions to a sale have been considered but are impractical or economically unfeasible.

But SB 845 has some troublesome provisions. Note that all of the above factors must exist, before SB 845 allows the OPUC to order the sale of the utility. We would think that any of the first 4 factors, combined with the 5th factor, should be sufficient.

Further, Section 1(3) states:

If the commission orders the sale of an incumbent water utility under this section, the commission shall establish a process for the sale of the incumbent water utility. The price of the sale shall be determined by agreement between the incumbent water utility and acquiring entity.

What happens if there is no agreement on price? SB 845 does not appear to allow the OPUC to set the price, if the incumbent water utility's owner fails to agree to a reasonable price.

Another troublesome provision is Section 1(6)(a), which states:

If an incumbent water utility receives a notice under subsection (4) of this

section and files an application under ORS 757.480 for the sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation of property of the incumbent water utility, the commission shall set the incumbent water utility's rate base at no lower than the net book value of the incumbent water utility and no higher than the acquiring entity's offered purchased price of the incumbent water utility. To determine the value of the incumbent water utility's rate base, the commission shall consider the merits of the acquiring entity's application filed under ORS 757.480 based on the benefit to the incumbent water utility's customers and the public interest.

This appears to allow the OPUC to substantially raise the ratebase value of the assets of the incumbent water utility, whether or not the sale actually happens. If the sale happens to another regulated water utility, it allows the OPUC to recognize the higher value in the ratebase of the acquiring utility. This could well mean higher rates for the customers of the acquiring utility, including the former customers of the incumbent utility. We do not see why a negligent or defiant incumbent utility owner should benefit from a sale of the assets above book value, while ratepayers pay higher rates as a result. SB 845 does not allow the OPUC to consider the detriment to the ratepayers of the acquiring utility that results from recognizing for the transferred assets a higher ratebase value than their book value.

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