

TITLE 61
PUBLIC UTILITY REGULATION

CHAPTER 1
PUBLIC UTILITIES LAW -- APPLICATION AND DEFINITIONS

61-101. Title and application. This act shall be known as "The Public Utilities Law" and shall apply to the public utilities and public services herein described and to the commission herein referred to.

61-102. Commission. The term "commission" when used in this act means the Idaho public utilities commission.

61-103. Commissioner. The term "commissioner" when used in this act means one of the members of the commission.

61-104. Corporation. The term "corporation" when used in this act includes a corporation, a company, an association and a joint stock association, but does not include a municipal corporation, or mutual nonprofit or cooperative gas, electrical, water or telephone corporation or any other public utility organized and operated for service at cost and not for profit, whether inside or outside the limits of incorporated cities, towns or villages.

61-105. Person. The term "person" when used in this act includes an individual, a firm and a copartnership.

61-106. Transportation of persons. The term "transportation of persons" when used in this act includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported and the receipt, carriage and delivery of such person and his baggage.

61-107. Transportation of property. The term "transportation of property" when used in this act includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and handling, and the transmission of credit by express corporations.

61-108. Street railroad. The term "street railroad" when used in this act includes every railway and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city or county, or city or town, together with all real estate, fixtures and personal property of every kind and description used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property; but the term "street railroad" when used in this act shall not include a railway constituting or used as a part of a commercial or interurban railway.

61-109. Street railroad corporation. The term "street railroad corporation" when used in this act includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating or managing any street railroad for compensation within this state.

61-110. Railroad. The term "railroad" when used in this act includes every commercial, interurban and other railway other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, stations, tunnels, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property.

61-111. Railroad corporation. The term "railroad corporation" when used in this act includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any railroad for compensation within this state.

61-112. Express corporation. The term "express corporation" when used in this act includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or stage or auto stage line within this state.

61-113. Common carrier. The term "common carrier" when used in this act includes every railroad corporation, street railroad corporation, express corporation, dispatch, sleeping car, dining car, drawing room car, freight line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state.

61-114. PIPELINE. (1) The term "pipeline" when used in this act includes all real estate, gathering lines, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the transmission, storage, distribution or delivery of natural gas or manufactured gas, crude oil or other fluid substances except water through pipelines.

(2) "Gathering lines" means fixtures, valves, pipes and other property used to transport, deliver or distribute natural gas, manufactured gas, natural gas condensate, crude oil or other petroleum products from a wellhead to a transmission line.

61-115. Pipeline corporation. The term "pipeline corporation" when used in this act includes every corporation or person,

their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any pipeline for compensation within this state.

61-116. Gas plant. The term "gas plant" when used in this act includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas (natural or manufactured) for light, heat or power.

61-117. Gas corporation. The term "gas corporation" when used in this act includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any gas plant for compensation, within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

61-118. Electric plant. The term "electric plant" when used in this act includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of electricity for light, heat or power, and all conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

61-119. Electrical corporation. The term "electrical corporation" when used in this act includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone, solely for his own use or the use of his tenants and not for sale to others, and excepting also, where the electricity is to be used exclusively in operations incident to the working of metalliferous mines and mining claims, mills, or reduction and smelting plants, and the transmission lines and distribution systems are owned by the consumer or where several consumers severally own their individual distribution systems and jointly own, in their own names or through a trustee, the transmission lines used in connection therewith and transmit such electricity, whether generated by themselves or procured from some other source, over such transmission lines and distribution systems without profit, and to be used for their private uses for the purposes aforesaid in places outside the limits of incorporated cities, towns and villages, and not for resale or public use, sale or distribution.

61-120. Telephone line. The term "telephone line" when used in this act includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.

61-121. Telephone corporation -- Telecommunication services. (1) The term "telephone corporation" when used in title 61, Idaho Code, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing telecommunication services for compensation within this state. Except as otherwise provided by statute, telephone corporations providing radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are exempt from any requirement of title 61, or chapter 6, title 62, Idaho Code, in the provision of such services.

(2) "Telecommunication service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means (which includes message telecommunication service and access service), which originate and terminate in this state, and are offered to or for the public, or some portion thereof, for compensation. Except as otherwise provided by statute, "telecommunication service" does not include the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service, surveying, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), and such services shall not be subject to the provisions of title 61, Idaho Code, or title 62, Idaho Code.

61-124. Water system. The term "water system" when used in this act includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use for hire.

A water system which consists of a canal system, or irrigation project constructed pursuant to the act of congress known as the Carey act and the statutes of this state relating thereto, shall not be considered a public utility under the terms of this act, and neither such water system nor the corporation, company or association owning or managing the same shall be under the jurisdiction, control or regulation of the commission.

61-125. Water corporation. The term "water corporation" when used in this act includes every corporation or person, their lessees, trustees, receivers or trustees, appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this state.

61-129. Public utility. The term "public utility" when used in this act includes every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation and water corporation, as those terms are defined in this chapter and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and

regulation of the commission and to the provisions of this act. The term "public utility" as used in this act shall cover cases:

(1) Where the service is performed and the commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof; and

(2) Where a pipeline corporation delivers the commodity to any corporation, person, their lessees, receivers or trustees regardless of whether it offers the pipeline service or commodity to the public or some portion thereof. Such pipeline shall be subject to the safety supervision and regulation of the commission only, unless and until such pipeline corporation makes application to the commission to be regulated generally as a public utility.

61-130. Reference to other statutes and laws. Wherever the words "public utilities commission of the state of Idaho," or the words "public utilities commission" or "commission," are used in the existing laws or statutes of the state of Idaho, or in any laws enacted at the thirty-first session of the legislature of the state of Idaho, with respect to the administration of the public utilities law and refer to and mean the public utilities commission of the state of Idaho, said words shall be read and construed to mean the Idaho public utilities commission created by this act.

CHAPTER 3

DUTIES OF PUBLIC UTILITIES

61-301. Charges just and reasonable. All charges made, demanded or received by any public utility, or by any two (2) or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful.

61-302. Maintenance of adequate service. Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable.

61-303. Rules and regulations just and reasonable. All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.

61-304. Schedules of common carriers -- Contents -- Posting -- Form. Every common carrier shall file with the commission and shall print and keep open to the public inspection schedules showing the rates, fares, charge and classification for the transportation between termini within this state of persons and property from each point upon its route to all other points thereon and from all points upon its route to all points upon every other route leased, operated or controlled by it; and from each point on its route or upon any route leased, operated or controlled by it to all points upon the route of any other common carrier, whenever a through route and a joint rate shall have been established or ordered between any two (2) such points. If no joint rate over a through route has been established, the schedules of the several carriers in such through route shall show the separately established rates, fares, charges and classifications applicable to the through transportation.

The schedule printed as aforesaid shall plainly state the places between which such property and persons will be carried, and shall also contain the classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require to be stated, all privileges or facilities granted or allowed, and all rules or regulations which may in any wise change, affect or determine any part, or the aggregate of, such rates, fares, charges and classifications, or the value of the various services rendered to the passenger, shipper or consignee. Subject to such rules and regulations as the commission may prescribe, such schedules shall be plainly printed in large type and a copy thereof shall be kept by every such carrier readily accessible to and for inspection by the public in every station or office of such carrier where passengers or property are respectively received for transportation when such station or office is in charge of an agent, and in every station or office of such carrier where passenger tickets or tickets for sleeping, parlor car or other train accommodations are sold or bills of lading or waybills or receipts for property issued. Any or all of such schedules kept as aforesaid shall be immediately produced by such carrier for inspection upon the demand of any person.

A notice printed in bold type and stating that such schedules are on file with the agent and open to inspection by any person, and that the agent will assist any person to determine from such schedules any rates, fares, rules, or regulations in force, shall be kept posted by the carrier in two (2) public and conspicuous places in every such station or office.

The form of every such schedule shall be prescribed by the commission and shall conform in the case of common carriers subject to the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, as nearly as may be to the form of schedule prescribed by the interstate commerce commission under this act. When the schedules and classifications required by the said interstate commerce commission contain in whole or in part the information required by the provisions of this section, the posting, publishing and filing of a copy or copies of such schedules and classifications required by the interstate commerce commission shall be deemed a compliance with the requirements of this section in so far as such schedules and classifications contain the

information required by this section, and any additional or different information may be posted, published and filed in a supplementary schedule.

61-305. Schedules of others than common carriers. Under such rules and regulations as the commission may prescribe, every public utility other than a common carrier shall file with the commission within such time and in such form as the commission may designate, and shall print and keep open to public inspection schedules showing all rates, tolls, rentals, charges and classifications collected or enforced, or to be collected or enforced, together with all rules, regulations, contracts, privileges and facilities which in any manner affect or relate to rates, tolls, rentals, classifications or service. The rates, tolls, rentals and charges shown on such schedules when filed by a public utility as to which the commission by this act acquires the power to fix any rates, tolls, rentals or charges, shall not within any portion of the territory as to which the commission acquires as to such public utility such power, exceed the rates, tolls, rentals or charges in effect on the second day of January, 1913, the rates, tolls, rentals and charges shown on such schedules when filed by any public utility as to any territory as to which the commission does not by this act acquire as to such public utility such power, shall not exceed the rates, tolls, rentals and charges in effect at the time the commission acquires as to such territory and as to such public utility, the power to fix rates, tolls, rentals or charges. Nothing in this section contained shall prevent the commission from approving or fixing the rates, tolls, rentals or charges, from time to time, in excess or less than those shown by said schedules.

61-306. Schedules -- Change in form. The commission shall have the power, from time to time, in its discretion, to determine and prescribe by order such changes in the form of the schedules referred to in the two (2) preceding sections as it may find expedient, and to modify the requirements of any of its orders, rules or regulations in respect to any matter in this section referred to.

61-307. Schedules -- Change in rate and service. Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility except after thirty (30) days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the thirty (30) days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission by some character to be designated by the commission, immediately preceding or following the item.

61-308. Schedules -- Joint rates. The names of the several public utilities which are parties to any joint tariff, rate, fare, toll contract, classification or charge shall be specified in the schedule or schedules showing the same. Unless otherwise ordered by the commission, a schedule showing such joint tariff, rate, fare, toll, contract, classification or charge need be filed with the commission by only one (1) of the parties to it: provided, that there is also filed with the commission in such form as the commission may require a concurrence in such joint tariff rate, fare, toll, contract, classification or charge by each of the other parties thereto.

61-309. Schedules -- Filing by common carriers a precedent to do business. No common carrier subject to the provisions of this act shall engage or participate in the transportation of persons or property, between points within this state, until its schedules of rates, fares, charges and classifications shall have been filed and published in accordance with the provisions of this act.

61-310. Only schedule rates to be charged. No common carrier except as in this act otherwise provided shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares or charges so specified except upon order of the commission as hereinafter provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons.

61-327. Electric utility property -- Acquisition by certain public agencies prohibited. No title to or interest in any public utility (as such term is defined in [chapter 1, title 61](#), Idaho Code) property located in this state which is used in the generation, transmission, distribution or supply of electric power and energy to the public or any portion thereof, shall be transferred or transferable to, or acquired by, directly or indirectly, by any means or device whatsoever, any government or municipal corporation, quasi-municipal corporation, or governmental or political unit, subdivision or corporation, organized or existing under the laws of any other state; or any person, firm, association, corporation or organization acting as trustee, nominee, agent or representative for, or in concert or arrangement with, any such government or municipal corporation, quasi-municipal corporation, or governmental or political unit, subdivision or corporation; or any company, association, organization or corporation, organized or existing under the laws of this state or any other state, whose issued capital stock, or other evidence of ownership, membership or other interest therein, or in the property thereof, is owned or controlled, directly or indirectly, by any such government or municipal corporation, quasi-municipal corporation, or governmental or political unit, subdivision or corporation; or any company, association, organization or corporation,

organized under the laws of any other state, not coming under or within the definition of an electric public utility or electrical corporation as contained in [chapter 1, title 61](#), Idaho Code, and subject to the jurisdiction, regulation and control of the public utilities commission of the state of Idaho under the public utilities law of this state; provided, nothing herein shall prohibit the transfer of any such property by a public utility to a cooperative electrical corporation organized under the laws of another state, which has among its members mutual nonprofit or cooperative electrical corporations organized under the laws of the state of Idaho and doing business in this state, if such public utility has obtained authorization from the public utilities commission of the state of Idaho pursuant to section [61-328](#), Idaho Code.

61-328. Electric utilities -- Sale of property to be approved by commission. (1) No electric public utility or electrical corporation as defined in [chapter 1, title 61](#), Idaho Code, owning, controlling or operating any property located in this state which is used in the generation, transmission, distribution or supply of electric power and energy to the public or any portion thereof, shall merge, sell, lease, assign or transfer, directly or indirectly, in any manner whatsoever, any such property or interest therein, or the operation, management or control thereof, or any certificate of convenience and necessity or franchise covering the same, except when authorized to do so by order of the public utilities commission.

(2) The electric public utility or electrical corporation shall file a verified application setting forth such facts as the commission shall prescribe or require. The commission shall issue a public notice and shall conduct a public hearing upon the application.

(3) Before authorizing the transaction, the public utilities commission shall find:

- (a) That the transaction is consistent with the public interest;
- (b) That the cost of and rates for supplying service will not be increased by reason of such transaction; and
- (c) That the applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service.

The applicant shall bear the burden of showing that standards listed above have been satisfied.

(4) The commission shall have power to issue said authorization and order as prayed for, or to refuse to issue the same, or to issue such authorization and order with respect only to a part of the property involved. The commission shall include in any authorization or order the conditions required by the director of the department of water resources under section [42-1701\(6\)](#), Idaho Code. The commission may attach to its authorization and order such other terms and conditions as in its judgment the public convenience and necessity may require.

61-329. Unlawful transfer or acquisition -- Escheat. Any such property or interest in property hereafter transferred or acquired in violation of this act shall escheat to the state of Idaho. The attorney general of the state shall institute proceedings in the district court of any county in which such property, or any portion thereof, is situated, to have such escheat adjudged and decreed. If the property is operating property, the court shall continue the operation thereof under a receiver appointed by and under the control and supervision of the court, pending final determination of the action and the sale and disposition of the property. When the court has entered judgment escheating the property to the state, the court shall thereupon order a sale of the property, or interest therein, in the same manner as prescribed by the laws of the state of Idaho for the sale of real estate under mortgage foreclosure. Out of the proceeds arising from such sale, any valid liens or claims of third parties shall be paid, and the balance shall be paid into the state treasury for the credit of the school fund.

61-330. Evasions of act -- Conclusive presumptions. Every conveyance or transfer of property, or any interest therein, in violation of the provisions of this act, whether voluntary or involuntary, or though colorable in form, or if made with the intent or purpose to evade or avoid the provisions of this act, shall be void as to the state, and the property or interest thereby conveyed or transferred, shall escheat to the state as in this act provided. A conclusive presumption that the conveyance or transfer is made with the intent or purpose to evade or avoid the provisions of this act shall arise upon proof of any of the following facts:

a. The purchase, acquisition or taking of the property, or interest therein, in the name of a person or party other than persons or parties referred to in section [61-327](#)[, Idaho Code], if the consideration is paid, guaranteed or otherwise secured, or agreed or understood to be paid, guaranteed or otherwise secured, directly or indirectly, by a government or municipal corporation, quasi-municipal corporation, or governmental or political unit, subdivision or corporation referred to in section [61-327](#)[, Idaho Code].

b. The taking of the property in the name of a company, association, organization or corporation, if the shares of stock therein, or other evidence of ownership, membership or other interest therein, or in the property thereof, held by any government or municipal corporation, quasi-municipal corporation, or governmental or political unit, subdivision or corporation, or any other company, association, organization or corporation, referred to in section [61-327](#)[, Idaho Code], together with such shares or other evidence of ownership, membership or interest held by others but paid for, guaranteed or otherwise secured, directly or indirectly, by any such government or municipal corporation, quasi-municipal corporation, or governmental or political unit, subdivision or corporation, amount to a majority of the issued stock or other evidence of ownership, membership or other interest therein, or in the property thereof.

c. The purchase, acquisition or holding of the majority of the issued stock, or other evidence of ownership, membership or other interest therein, or the voting control of any such stock or other evidence of ownership, membership or interest, either directly or indirectly, by any government or municipal corporation, quasi-municipal corporation, or governmental or political unit, subdivision or corporation, or any other company, association, organization or corporation, referred to in section [61-327](#)[, Idaho Code], in any company, association, organization or corporation now or hereafter owning, holding or operating any property located in this state which is used in the generation, transmission, distribution or supply of electric power and energy to the public or any portion thereof.

The enumeration in this section of certain presumptions shall not be construed as to preclude other presumptions or inferences that reasonably may be made as to the existence of intent or purpose to evade or avoid the provisions of this act, or escheat as provided for herein.

61-331. Violation of act -- Criminal penalty. If any person, or two (2) or more persons, act, negotiate, participate, attempt, arrange or conspire to make or effect, or to receive or take, a transfer of any real or personal property used for the purposes specified in section [61-327](#) or section [61-328](#)[, Idaho Code], or of any interest therein, in violation of the prohibitions contained in section [61-327](#)[, Idaho Code,] or of any other provision of this act, each, any or all of such persons, upon conviction thereof, shall be punished by imprisonment in the county jail or state penitentiary not exceeding two (2) years or by a fine not exceeding \$5000, or by both such fine and imprisonment.

61-332. Purpose of electric supplier stabilization act. (1) This act includes sections [61-332](#) through [61-334C](#), Idaho Code, and shall be referred to herein as "this act" and may be cited and referred to as the "Electric Supplier Stabilization Act." (2) This act and its amendments are designed to promote harmony among and between electric suppliers furnishing electricity within the state of Idaho, prohibit the "pirating" of consumers of another electric supplier, discourage duplication of electric facilities, actively supervise certain conduct of electric suppliers as it relates to this act, and stabilize the territories and consumers served with electricity by such electric suppliers.

61-332A. Definitions for electric supplier stabilization act. As used in this act, unless the context requires otherwise:

- (1) "Public utility" means an electric utility regulated by the Idaho public utilities commission.
- (2) "Cooperative" means a cooperative corporation furnishing electric service in the state of Idaho to its consumer-members who own and operate the cooperative.
- (3) "Municipality" means any municipal corporation or quasi-municipal corporation furnishing electric service to the consumers of the municipality in the state of Idaho.
- (4) "Electric supplier" means any public utility, cooperative, or municipality supplying or intending to supply electric service to a consumer.
- (5) "Electric service" means electricity furnished to an ultimate consumer by an electric supplier.
- (6) "Consumer" is any person, firm, corporation, or other entity receiving or intending to receive electric service at a specific service entrance.
- (7) "Service entrance" means the location on the consumer's property where the consumer's main disconnect switch, fuses or other disconnect equipment exists, and which are intended to provide the means of cutoff of the supply.
- (8) "New service entrance" means a service entrance not previously served with electricity. A change, improvement, replacement, enlargement, or change in location of a service entrance shall not be deemed a "new service entrance" if utilized to serve any service or utilization equipment previously served with electricity from the former service entrance, but for the provisions of this act shall be deemed the former "service entrance." A change in consumer shall not be construed to make an existing service entrance a "new service entrance." A change, enlargement, or other modification of service or utilization equipment served from an existing service entrance shall not be construed to make it a "new service entrance."
- (9) "Transmission line," for the purposes of this act, means any electric line of an electric supplier carrying a voltage of sixty-nine (69) KV or more.
- (10) "Service line," for the purposes of this act, means any single or multi-phase electric line of an electric supplier used for carrying less than sixty-nine (69) KV and used or capable of use to provide electric service for a consumer.
- (11) "Existing service line" means any electric service line in existence at the time of the event in question and constructed to supply a consumer that could be lawfully served by that electric supplier under this act. It shall not mean any service line constructed to obtain an advantage under this act, or to evade its purpose or terms.
- (12) "Commission" means the Idaho public utilities commission.

61-332B. Electric supplier prohibited from serving consumers or former consumers of another electric supplier. No electric supplier shall supply or furnish electric service to any electric service entrance that is then or had at any time previously been lawfully connected for electric service to facilities of another electric supplier except as provided in this act.

61-332C. Provisions for selecting electric supplier for new electric service entrances. (1) In determining which electric supplier will provide electric service for a new service entrance, the following provisions will govern:

- (a) If no electric supplier has an existing service line within one thousand three hundred twenty (1,320) feet of a new service entrance the consumer shall have the right of choice of electric supplier.
 - (b) If only one (1) electric supplier has an existing service line within one thousand three hundred twenty (1,320) feet of the new service entrance that electric supplier shall have the right to serve the consumer at the new service entrance.
 - (c) If more than one (1) electric supplier has an existing service line within one thousand three hundred twenty (1,320) feet of the new service entrance the electric supplier whose existing service line is nearest the new service entrance shall have the right to serve the consumer at the new service entrance.
 - (d) If more than one (1) electric supplier has an existing service line within one thousand three hundred twenty (1,320) feet of the new service entrance and it cannot be determined by proof which service line is nearest the new service entrance, then the consumer or an electric supplier shall petition the commission for an order determining which electric supplier is nearest the new service entrance.
 - (e) For purposes of this act distances shall mean the exact distance measured using standard land surveying practices as established by the board of professional engineers and land surveyors of the state of Idaho.
- (2) No electric supplier shall construct or extend facilities, nor make any electric connections, nor permit any connection to be made from any of its facilities to any new service entrance nor shall it supply electric service to any new service entrance in violation of the provisions of this section, except as ordered by the commission pursuant to this act.

61-332D. Wheeling services. (1) An electric supplier shall not be required to provide wheeling service over its system if such service results in retail wheeling and/or a sham wholesale transaction.

(2) An electric supplier declining to furnish wheeling service pursuant to this section shall petition the commission for review of the electric supplier's action in respect to a request for such service. The commission shall, upon notice and opportunity for hearing, review the electric supplier's action for consistency with the purposes and provisions of this act, and issue an order in accordance with its finding, ordering either that the wheeling service shall, or shall not, be required.

61-333. Authorizing contracts among electric suppliers to resolve territories, consumers and to transfer facilities. (1) Any electric supplier may contract in writing with any other electric supplier for the purpose of allocating territories, consumers, and future consumers between the electric suppliers and designating which territories and consumers are to be served by which contracting electric supplier. The territories and consumers so allocated and designated may include all or any portion of the territories and consumers which are being served by any or all of the contracting electric suppliers at the time the contract is entered into, or which could be economically served by the then existing facilities of any contracting electric supplier, or by reasonable and economic extensions thereto. All such contracts shall be filed with the commission. The commission shall, after notice and opportunity for hearing, review and approve or reject contracts between cooperatives, between cooperatives and public utilities and between public utilities. The commission shall, after notice and opportunity for hearing, review and approve or reject contracts between municipalities and cooperatives, as well as between municipalities and public utilities, provided however, the commission shall have jurisdiction only over cooperatives and public utilities in such approvals. The commission shall approve such contracts only upon finding that the allocation of territories or consumers is in conformance with the provisions and purposes of this act.

(2) Any electric supplier may also contract in writing with any other electric supplier for the sale, exchange, transfer, or lease of equipment or facilities located within territory which is the subject of any allocation contracted for under subsection (1) of this section and any contract validly entered into and approved by the commission after notice and opportunity for hearing shall be binding and shall be legally enforceable pursuant to this act, or by any other remedy provided by law.

61-333A. Increased area -- Extension of service permitted. In the event an area hereafter shall be included as a result of incorporation or annexation within the boundaries of a city, town or village, any public utility and any cooperative association organized for the purpose of furnishing electric service to its members or consumers only, furnishing electric service or operating electric facilities in such area prior to such inclusion, shall, unless the municipality acquire such facilities pursuant to section [61-333B](#), Idaho Code, and subject to the provisions of sections [61-332B](#) and [61-332C](#), Idaho Code, have the right to continue and extend the furnishing of electric services in such area, and to utilize public streets, alleys and thoroughfares, or such portion of such annexed area as is designated on the recorded plat for the installation of utilities, for such purpose. Such public utility or cooperative association shall comply with all lawful and reasonable safety requirements and the laws of the state of Idaho and nondiscriminatory ordinances of the city, town or village, as to the manner of constructing and maintaining electrical facilities therein.

61-333B. Municipal corporation restricted in serving new area previously served by utility or cooperative association -- Voluntary agreements -- Election -- Appeals. In the event the annexing municipality has been furnishing electric service to its residents at the time of such annexation, or thereafter commences the furnishing of such service to its residents, nothing in this chapter shall prevent such municipality from extending its service to the annexed or incorporated area, upon the payment of just compensation, as defined in section [7-711](#), Idaho Code, to such public utility or cooperative serving such area prior to annexation, for any property, real or personal, including damages to the remainder of the system, if any, of such cooperative or public utility, used in distribution, transmission or supply of electrical energy to such

area prior to annexation. As used herein, just compensation shall include consideration of new installations necessarily made between the time of annexation or incorporation and final settlement.

Provided, however, in case the annexed area was previously served by a cooperative association, no extension shall be made by the municipal corporation, except upon the following conditions:

1. Until the terms and conditions of such extension, including just compensation therefor, have been finally determined by voluntary agreement between the annexing municipality and the servicing cooperative association, or
2. In the event that such voluntary agreement cannot be made within ninety (90) days of the date of incorporation or annexation of such territory served by such cooperative association, then the municipal corporation may, if so determined by unanimous vote of its governing body, submit to the qualified electors of such municipality upon a special ballot to be voted upon at the next regular election of such municipality, the question "Shall portions of the of, Idaho which have heretofore been served electrical energy by become a part of the electrical system of the of, Idaho. Said areas are generally known and described as follows: (Insert description)."

A majority of the votes cast on said special ballot must be in favor of the proposition in order to approve the transaction on the part of the municipal corporation. Further, the cooperative association shall submit either by mail or at an annual or special meeting to its members, at the same time of the municipal election above mentioned, the question of whether or not the board of such cooperative association be authorized to sell to the municipality upon payment of just compensation, to be agreed upon, or if agreement be not reached, upon compensation determined as provided hereinafter. A majority of the votes cast must be in favor of the proposition in order to approve the transaction on the part of the cooperative association. At least 15 days before the vote by the members of the cooperative association, the association shall submit to the municipality a list of members eligible to vote and the municipality is hereby authorized to submit to said members a written statement of the reasons for the transfer to electric service by the municipality.

If agreement cannot be reached upon the amount of just compensation, the matter shall be submitted to the district court of the county wherein the municipality is located pursuant to procedures of [title 10](#), chapter 12, Idaho Code, for this purpose of fixing and determining the amount of just compensation as hereinbefore defined.

The court may appoint not more than two (2) experts to advise the court, and the costs of the action, including fees of such experts, shall be taxed equally to the parties.

Either party may appeal from the decision of the court in the same manner that other appeals are taken therefrom. No transfer of facilities shall be made until the amount of compensation has been finally determined and paid.

61-333C. Nonmunicipal service organizations prohibited from extending service. Nothing contained herein shall authorize any cooperative association or public utility having transmission lines presently within corporate limits of any municipal corporation, presently engaged in the sale of electrical energy to its citizens, to make any service connections within corporate limits of such municipal corporation from such transmission lines.

61-334. Special rules of interpretation. Nothing contained in this act shall be construed to:

- (1) Grant the commission jurisdiction over cooperatives or municipalities except as authorized in this act.
- (2) Apply to controversies between two (2) or more public utilities.
- (3) Preclude any electric supplier from extending electric service to its own property or facilities or to another electric supplier for resale, provided any line extension made under this clause shall not be considered in determining the right of electric suppliers to serve new service entrances under section [61-332C](#), Idaho Code.
- (4) Abrogate or limit the authority of any municipality under any other statute or law with respect to the municipality providing electricity to the municipality or the consumers of the municipality within the boundaries of the municipality.

61-334A. Remedies for violation of this act. (1) Any electric supplier or consumer whose rights under this act shall be violated or threatened with violation may file a complaint with the commission against an electric supplier and any other person responsible for the violation.

(2) After notice and opportunity for hearing, the commission shall make findings of fact and conclusions of law determining whether this act or any orders issued under this act have been violated or threatened to be violated and shall determine whether there is actual or threatened irreparable injury as to the electric supplier or consumer whose rights are violated or threatened with violation as a basis for granting relief.

(3) The relief to be granted under this section for violation of this act shall forbid further acts in violation of such orders, shall order the removal of any electric connections, facilities or equipment that constitute the violation, or a combination thereof necessary to enforce compliance with this act.

61-334B. Commission supervision and authority. (1) Upon a petition by an electric supplier or consumer for an exception to the provisions of section [61-332B](#) or [61-332C](#)(1)(a), (b) or (c), Idaho Code, the commission shall issue an order granting such request only upon finding that granting the request is consistent with the purposes of this act as set forth in section [61-332](#), Idaho Code.

(2) The commission shall have power to issue authorizations and orders requested under this act, or to refuse to issue the same, and may attach to any authorization and order as a condition of approval such terms and conditions as it determines are consistent with the purposes and provisions of this act.

(3) In all matters arising under this act, which are submitted to the commission for decision, order or review, the procedure shall be governed by chapters 6 and 7, [title 61](#), Idaho Code, and the commission's rules of procedure. Reconsideration of, appeal from, enforcement of, and stay of orders issued pursuant to this act shall be governed by law as for other orders of the commission in other matters.

61-334C. Electric supplier immunity. No action under the Idaho competition act, [chapter 1, title 48](#), Idaho Code, or any other provision or doctrine of law of the state of Idaho shall lie against an electric supplier for action or inaction that is in compliance with the provisions of this act or any commission order issued pursuant to this act.

61-336. Additional authorities of electrical or natural gas corporations. The commission may authorize any public utility that is an electrical or natural gas corporation to file and place into effect schedules establishing rates or charges for energy conservation measures, services or payments provided to individual property owners or customers. Application of the schedule shall be subject to agreement between the public utility and the property owner or customer receiving service at the time the conservation measures, services or payments are initially provided. The schedule may include provisions for the payment of the rates or charges over a period of time and for the application of the payment obligation to successive property owners or customers at the premises where the conservation measures or services were installed or performed or with respect to which the conservation payments were made. The public utility shall record a notice of the payment obligation with the county recorder in the county where the property is located. The commission may prescribe by rule other methods by which the public utility shall notify property owners or customers of any such payment obligation.

61-337. Fish and wildlife mitigation information. (1) On and after July 1, 2004, each electric utility with one thousand (1,000) customers or more may provide information in its bills to its customers regarding the percentage of the electric utility's costs of supplying electric energy to its customers which is utilized for fish and wildlife mitigation purposes on the electric utility's system.

(2) On and after July 1, 2004, each cooperative and municipality furnishing electric service, as those terms are defined in section [61-332A](#), Idaho Code, (excepting a cooperative that serves less than one thousand (1,000) customers and also serves consumers in other states) may provide information on its bills to its customers of the percentage cost of fish and wildlife mitigation included in the cost of electric energy sold to the cooperative or municipality's customers.

(3) Annually, at a time at the discretion of the utility or entity, a statement shall be posted on the utility's or entity's website detailing to whom and the amount spent on fish and wildlife mitigation by the utility or entity for the most recent fiscal year.

CHAPTER 4 REPORTS BY PUBLIC UTILITIES

61-401. Information to be furnished. Every public utility shall furnish to the commission, in such form and such detail as the commission shall prescribe, all tabulations, computations and all other information required by it to carry into effect any of the provisions of this act and shall make answers to the best of their knowledge, to all questions submitted by the commission.

61-402. Inventory of physical properties. Every public utility, except railroad corporations, shall file with the commission an inventory of all its physical properties within the state, designating the exact location of its property within the several counties of the state; such inventory shall show in detail the cost of construction together with the depreciation charges incident thereto since construction, or may show the cost of replacement of such properties, if in the opinion of the commission the original cost and depreciation charges cannot be obtained: provided, that in the event any public utility refuses or neglects to file such inventory, or the inventory so filed is inaccurate, the commission may send its agents upon the ground and make an inventory as desired by the commission. The entire cost of making such inventory by the agents of the commission shall be paid by the public utility from its profit and loss account and shall not be charged to operating expenses, and such payment shall be made to the treasurer of the state, who shall deposit the same to the credit of the fund provided for the engineering department of said commission.

Every public utility shall file the inventory herein required within six (6) months after the approval of this section by the governor unless for just cause shown the commission may extend such time and shall file new, amended or supplemental inventories at such times thereafter as the commission may require.

61-403. Blanks -- Filling out by utility. Every public utility receiving from the commission any blanks, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question propounded therein; in case it is unable to answer any question, it shall give a good and sufficient reason for such failure.

61-404. Copies of maps and records to be furnished. Whenever required by the commission every public utility shall deliver to the commission copies of any and all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business containing evidence relating to the merits of or pertinent to the hearing of any issue pending before the commission.

61-405. Annual report. Every public utility shall file an annual report with the commission, verified by the oath of an officer thereof. The verification shall be to the best of said official's knowledge, information and belief. The commission shall prescribe the form of such report and the character of the information to be contained therein, and may from time to time make such changes and such additions in regard to the form and contents thereof as it may deem proper, and on or before January first in each year shall furnish a blank form for such annual reports to every public utility. The contents of such reports and the form thereof shall conform, as nearly as may be, in the case of public utility subject to an act of congress, entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, to that required by the interstate commerce commission; and the commission may also require the report to contain such additional information as is reasonably practicable for the public utility to furnish in relation to rates or regulations concerning fares, rates, agreements or contracts affecting the same, so far as such rates or regulations pertain to transportation within this state. In case it is unable to give such information, it shall give a good and sufficient reason for such failure. When the report of such corporation is defective, or believed to be erroneous, the commission shall notify the corporation or person to amend the same within the time prescribed by the commission. The originals of the reports subscribed to and sworn to as prescribed by law, shall be filed on or before the fifteenth day of April in each year and preserved in the office of the commission. The commission may extend the time for making and filing such report for a period not exceeding sixty (60) days. Provided, that the commission may in its discretion, prescribe an abbreviated or modified form for such annual report, to be used by persons or corporations who operate or control any plant or system for distributing electric current but who do not generate such current, or by persons or corporations who operate on a small scale or serve a small community of persons.

61-406. Compliance with commission's orders. Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees.

CHAPTER 5 POWERS AND DUTIES OF PUBLIC UTILITIES COMMISSION

61-501. Investment of authority. The public utilities commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the provisions of this act.

61-502. Determination of rates. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursions or commutation tickets, or that the rules, regulations, practices, or contracts or any of them, affecting such rates, fares, tolls, rentals, charges or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges or classifications are insufficient, the commission shall determine the just, reasonable or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force and shall fix the same by order as hereinafter provided, and shall, under such rules and regulations as the commission may prescribe, fix the reasonable maximum rates to be charged for water by any public utility coming within the provisions of this act relating to the sale of water.

61-502A. Restriction on rates authorizing return on property not providing utility service. Except upon its explicit finding that the public interest will be served thereby, the commission is hereby prohibited in any order issued after the effective date of this act, from setting rates for any utility that grants a return on construction work in progress or property held for future use and which is not currently used and useful in providing utility service. Except as authorized by this section, any rates granting a return on construction work in progress or property held for future use are hereby declared to be unjust, unreasonable, unfair, unlawful and illegal. When construction work in progress is excluded from the rate base, the commission must allow a just, fair and reasonable allowance for funds used during construction or similar account to be accumulated, computed in accordance with generally accepted accounting principles. If the commission sets rates for any utility including a return on property held for future use and subsequently determines that such property is not needed to provide utility service, then the commission shall determine whether any gain or loss occurring from the sale or other disposition of the property may be included in the utility's rates.

61-502B. Allocation of gain upon sale of water right. The gain upon sale of a public utility's water right used for the generation of electricity shall accrue to the benefit of the ratepayers.

61-503. Power to investigate and fix rates and regulations. The commission shall have power, upon a hearing, had upon its own motion or upon complaint, to investigate a single rate, fare, toll, rental, charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices, or any thereof, of any public utility, and to establish new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices or schedule or schedules in lieu thereof.

61-504. Establishment of through route and joint rate. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares or charges in force over two (2) or more common carriers, between any two (2) points in this state, are unjust, unreasonable or excessive, or that no satisfactory through route or joint rate, fare or charge exists between such points, and that the public convenience and necessity demand the establishment of a through route and joint rate, fare or charge between such points, the commission may order such common carriers to establish such through route and may establish and fix a joint rate, fare or charge which will be fair, just and reasonable and sufficient to be followed, charged, enforced, demanded and collected in the future and the terms and conditions under which such through route shall be operated. In case the common carriers do not agree upon the division between them of the joint rates, fares or charges established by the commission over such through routes, the commission shall, after hearing, by supplemental order, establish such division. The commission shall have the power to establish and fix through routes and joint rates, fares or charges over stage or auto lines and to fix the division of such joint rates, fares or charges.

61-505. Joint hearings and investigations -- Reciprocity -- Contracts with regulatory agencies of neighboring states. (1) The commission shall have full power and authority to make joint investigations, hold joint hearings within or without the state of Idaho with any official, board, commission, or agency of any state or of the United States, whether in the holding of the investigations or hearings the commission shall function under agreements or compacts between states or under the concurrent power of states to regulate the interstate commerce, or as an agency of the federal government, or otherwise.

(2) The commission shall have full power and authority to contract with the regulatory agencies of neighboring states to hold hearings and set rates and charges for customers in Idaho located in or nearby border communities served by utilities principally located in states other than Idaho. These contracts may have a term that extends beyond the terms of the current commissioners.

(3) The commission shall have this authority under subsection (2) of this section only if it finds that:

(a) The affected Idaho residents live in or nearby a border community that is or may be served by a utility principally located in a state other than Idaho;

(b) The provision of utility service to such a community by a utility located principally in a state other than Idaho is in the public interest;

(c) It is impractical or not in the public interest to conduct proceedings for these affected Idaho residents separate from proceedings conducted by the regulatory agency of the neighboring state for rate payers of that utility located in that state;

(d) The affected Idaho residents have full rights of participation in the hearings conducted by the regulatory agency with which the commission has contracted, as well as the same rights that customers in the neighboring state have to pursue service-related issues; and

(e) The rates, charges and service regulations for Idaho customers are not less favorable than those of similarly situated customers in the neighboring state.

(4) When the commission has entered into a contract authorized in subsection (2) of this section, the findings, decisions and orders of the regulatory agency of the neighboring state are presumptively correct and will take effect according to the terms of the order of the regulatory agency of the neighboring state. Affected Idaho customers may petition the commission for a review of the contract or the rates set under the contract upon a showing that:

(a) All remedies with the neighboring state's utility have been exhausted;

(b) All remedies with the neighboring state's regulatory agency with which the commission has signed a contract have been exhausted; and

(c) Idaho customers have been discriminatorily, preferentially or otherwise unlawfully treated by the regulatory agency of the neighboring state.

The commission, upon its preliminary finding that rates set by the regulatory agency of the neighboring state are prima facie discriminatory, preferential or otherwise unlawful, and that all remedies with the neighboring state's utility and commission have been exhausted, may initiate proceedings to review the decision of the regulatory agency of the neighboring state. Any subsequent order of the commission altering the decision of the regulatory agency of the neighboring state will be of prospective effect only.

(5) The contract authorized in subsection (2) of this section, may be revoked if the commission finds that the affected Idaho residents have been unreasonably, discriminatorily, preferentially or otherwise unlawfully treated by the neighboring state's regulatory agency.

61-506. Interstate rates. The commission shall have the power to investigate all existing or proposed interstate rates, fares, tolls, charges and classifications, and all rules and regulations and practices in relation thereto, for or in relation to the transportation of persons or property or the transmission of messages or conversations, where any act in relation thereto shall take place within this state; and when the same are, in the opinion of the commission, excessive or discriminatory or in violation of the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, or of any other act of congress, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the commission may apply by petition or otherwise to the interstate commerce commission or to any court of competent jurisdiction for relief.

61-507. Determination of rules and regulations. The commission shall prescribe rules and regulations for the performance of any service or the furnishings of any commodity of the character furnished or supplied by any public utility, and, on proper demand and tender of rates, such public utility shall furnish such commodity or render such service within the time and upon the conditions provided in such rules.

61-508. Improvements may be ordered -- Cost. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to or changes in the existing plant, scales, equipment, apparatus, facilities or other physical property of any public utility or of any two (2) or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing such additions, extensions, repairs, improvements, or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If any additions, extensions, repairs, improvements or changes, or any new structure or structures which the commission has ordered to be erected, requires joint action by two (2) or more public utilities the commission shall notify the said public utilities that such additions, extensions, repairs, improvements or changes or new structure or structures have been ordered and that the same shall be made at the joint cost, whereupon the said public utilities shall have such reasonable time as the commission may grant within which to agree upon the portion or division of cost of such additions, extensions, repairs, improvements or changes or new structure or structures, which each shall bear. If at the expiration of such time, such public utilities shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of the cost or expense of such additions, extensions, repairs, improvements or changes, or new structures or structure, the commission shall have authority, after further hearing, to make an order fixing the proportion of such cost or expense to be borne by each public utility and the manner in which the same shall be paid or secured.

61-509. Regulation of train and street car service. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any railroad corporation or street railroad corporation does not run a sufficient number of trains or cars, or possess or operate sufficient motive power, reasonably to accommodate the traffic, passenger or freight, transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop the same at proper places, or does not run any train or trains, car or cars upon a reasonable time schedule for the run, the commission shall have the power to make an order directing any such railroad corporation or street railroad corporation to increase the number of its trains or of its cars or its motive power or to change the time for starting its trains or cars, to change the time schedule for the run of any train or car, or to change the stopping place or places thereof or to make any other order that the commission may determine to be reasonably necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation.

61-510. Railroad service -- Physical connections. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the public convenience and necessity would be subserved by having connections made between the tracks of any two (2) or more railroad or street railroad corporations, so that the cars may readily be transferred from one to the other, at any of the points hereinafter in this section specified, the commission may order any two (2) or more such corporations owning, controlling, operating, or managing tracks of the same gauge to make physical connections at any and all crossings, and at all points where a railroad or street railroad shall begin or terminate or run near to any other railroad or street railroad. After the necessary franchise or permit has been secured from the city and county, or city or town, the commission may likewise order such physical connection, within such city and county, or city or town, between two (2) or more railroads which enter the limits of the same. The commission shall by order direct whether the expense of the connections referred to in this section shall be borne jointly or otherwise.

61-511. Railroad service -- Spurs and switch connections. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that application has been made by any corporation or person to a railroad corporation for a connection or spur as provided in sections [61-324](#) and [61-325](#), and that the railroad corporation has refused to provide such connection or spur and that the applicant is entitled to have the same provided for him under said sections, the commission shall make an order requiring the providing of such connection or spur and the maintenance and use of the same upon reasonable terms which the commission shall have the power to prescribe. Whenever any such connection or spur has been so provided any corporation or persons shall be entitled to connect with the private track, tracks or railroad thereby connected with the railroad of the railroad corporation and to use the same or to use the spur so provided upon payment to the person or persons incurring the primary expense of such private track, tracks or railroad, or the connection therewith or of such spur, of a reasonable proportion of the cost thereof to be determined by the commission, after notice

to the interested parties and a hearing thereon: provided, that such connection and use can be made without unreasonable interference with the rights of the party or parties incurring such primary expense.

61-512. Railroad service -- Cars of connecting railroad. The commission shall likewise have the power to require any railroad corporation to switch to private spurs and industrial tracks upon its own railroad the cars of a connecting railroad corporation and to prescribe reasonable terms and compensation for such service.

61-513. Telephone companies -- Physical connections. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two (2) or more telephone corporations whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections for the transfer of messages or conversations, and that public convenience or necessity will be subserved thereby, or shall find that two (2) or more telephone corporations have failed to establish joint rates, tolls or charges for service by or over their said lines and that joint rates, tolls or charges ought to be established, the commission may, by its order, require that such connections be made, and that conversations be transmitted and messages transferred over such connection under such rules and regulations as the commission may establish, and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and in force in the future. If such telephone corporations do not agree upon the division between them of the cost of said physical connections or connections of the division of the joint rates, tolls or charges established by the commission over such through lines, the commission shall have authority after further hearing, to establish such division by supplemental order.

61-514. Joint use of plant and equipment. Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that public convenience and necessity require the use by one (1) public utility of the conduits, subways, tracks, wires, poles, pipes or other equipment, or any part thereof, on, over or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner, or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment for such damage as may result therefrom to the property of such owner or other users thereof.

61-515. Safety regulations. The commission shall have the power, after a hearing had upon its own motion or upon complaint, by general or special orders, or regulations, or otherwise, to require every public utility to maintain and operate its line, plant, system, equipment, apparatus and premises in such manner as to promote and safeguard the health and safety of its employees, customers and the public, and to this end to prescribe the installation, use, maintenance and operation of appropriate safety or other devices or appliances, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, customers or the public may demand.

61-515A. Safety and sanitary equipment and conditions. Every person operating a common carrier railroad in this state shall equip each locomotive and caboose used in train or a yard switching service and every car used in passenger service with a first aid kit of a type approved by the commission, which kit shall be plainly marked and be readily visible and accessible and be maintained in a fully equipped condition.

Each locomotive, caboose and change room shall be furnished with sanitary cups and sanitary ice-cooled or refrigerated drinking water.

Each locomotive, caboose and change room shall be maintained in a safe and sanitary condition at all times.

For the purpose of this section a "locomotive" shall include all railroad engines propelled by any form of energy and used in rail line haul or yard switching service.

61-516. priority designation for electric transmission projects. (1) The legislature finds that the timely review and permitting of electric transmission facilities is critical to the well-being of the citizens and the economy of this state and the region. The legislature further finds that enactment of this section is necessary to promote the public interest. The purpose of this section is for the public utilities commission to determine whether the construction of electric transmission facilities should be designated to receive priority processing by state agencies. This section is not intended to affect a state agency's decision-making authority to approve, deny or condition an application to construct electric transmission facilities.

(2) For purposes of this section the following definitions shall apply:

(a) "Electric transmission facilities" means the construction of high voltage transmission lines with an operating level capacity of two hundred thirty thousand (230,000) volts or more and associated substations and switchyards.

(b) "State agency" means every state department, division, commission or board.

(3) Any person intending to construct eligible electric transmission facilities in Idaho may file an application with the public utilities commission seeking priority designation. An order granting priority designation shall not constitute regulatory approval or bind any state agency. If the commission issues an order granting priority designation, state agencies

subsequently involved in the permitting or siting processes for such electric transmission facilities shall be required to give the application priority or immediate attention as it relates to reviews, permits, reports, studies or comments.

(4) In reviewing an application for priority designation, the public utilities commission shall base its findings on whether the proposed construction of electric transmission facilities will:

- (a) Benefit Idaho customers and the Idaho economy;
- (b) Improve electric transmission capacity and reliability in Idaho and the region; and
- (c) Promote the public interest.

(5) Applications for priority designation filed with the public utilities commission shall be governed by the commission's rules of administrative procedure. The commission may promulgate administrative rules in compliance with [chapter 52, title 67](#), Idaho Code, or may issue procedural orders necessary to implement this section.

61-517. Accidents -- Investigation -- Order or recommendation of commission -- Report by utility. The commission shall investigate the cause of all accidents occurring within this state upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the commission, investigation by it, and shall have the power to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable: provided, that neither the order or recommendation of the commission, nor any accident report filed with the commission, shall be admitted as evidence in any action for damages based on or arising out of the loss of life, or injury to person or property in this section referred to. Every public utility is hereby required to file with the commission, under such rules and regulations as the commission may prescribe, a report of each accident so occurring of such kinds or classes as the commission may from time to time designate.

61-518. Railroad service -- Furnishing cars. Every railroad company shall, upon reasonable notice, furnish to all persons or corporations who may apply therefor and offer property for transportation, sufficient and suitable cars for the transportation of such property in carload lots. In case at any time a railroad company has not sufficient cars to meet all the requirements for transportation of property in carload lots, all cars available for such purpose shall be distributed among the several applicants therefor without unjust discrimination between shippers, localities or competitive or noncompetitive points, but preference may always be given in the supplying of cars for shipment of live stock or perishable property.

61-519. Express service -- Delivery of telephone messages. The commission shall also have power to provide the time within which express packages shall be received, gathered, transported and delivered at destination and the limits within which express packages shall be gathered and distributed and telephone messages delivered without extra charge.

61-520. Service of electric, gas, and water corporations -- Determination of standards. The commission shall have power, after hearing had upon its own motion or upon complaint, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas and water corporations; to ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product, commodity or service furnished or rendered by any such public utility; to prescribe reasonable regulations for the examination and testing of such product, commodity or service and for the measurement thereof; to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements; and to provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such public utility.

61-521. Authority to enter premises. The commissioners and their officers and employees shall have power to enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any of the other powers provided for in this act, and to set up and use on such premises any apparatus and appliances necessary therefor. The agents and employees of such public utility shall have the right to be present at the making of such examination and tests.

61-522. Consumer may have commodity or appliance tested. Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user under such rules and regulations as may be prescribed by the commission.

61-523. Valuation. The commission shall have power to ascertain the value of the property of every public utility in this state and every fact which, in its judgment, may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain all new construction, extensions and additions to the property of every public utility.

61-524. System of accounts. The commission shall have power to establish a system of accounts to be kept by the public utilities subject to its jurisdiction, or to classify said public utilities and to establish a system of accounts for each class and to prescribe the manner in which such accounts shall be kept: provided, that the system of accounts to be kept by railroad corporations and common carriers shall conform to the rules and requirements of the interstate commerce commission in all respects. It may also in its discretion prescribe the forms of accounts, records and memoranda to be kept by such public utilities, including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of moneys, and any other forms, records and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this act.

The systems of accounts established by the commission and the forms of accounts, records and memoranda prescribed by it shall not be inconsistent, in the case of corporations subject to the provisions of the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereto, with the systems and forms from time to time established for such corporations by the interstate commerce commission.

Where the commission has prescribed the forms of accounts, records or memoranda to be kept by any public utility not subject to the provisions of the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereto, for any of its business, it shall thereafter be unlawful for such public utility to keep any accounts, records or memoranda for such business other than those so prescribed, or those prescribed by or under the authority of any other state or of the United States, excepting such accounts, records or memoranda as shall be explanatory of and supplemental to the accounts, records or memoranda prescribed by the commission.

61-525. Depreciation account. The commission shall have power, after hearing, to require any or all public utilities, except such as are subject to the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of accounts as the commission may prescribe. The commission may from time to time ascertain and determine and by order fix the proper and adequate rate of depreciation of the several classes of property of each public utility. Each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of the earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement as the commission may prescribe. The income from investments of moneys in such public fund shall likewise be carried in such fund.

61-526. Certificate of convenience and necessity. No street railroad corporation, gas corporation, electrical corporation, telephone corporation or water corporation, shall henceforth begin the construction of a street railroad, or of a line, plant, or system or of any extension of such street railroad, or line, plant, or system, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction: provided, that this section shall not be construed to require such corporation to secure such certificate for an extension within any city or county, within which it shall have theretofore lawfully commenced operation, or for an extension into territory whether within or without a city or county, contiguous to its street railroad, or line, plant or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it necessary in the ordinary course of its business: and provided further, that if any public utility in constructing or extending its lines, plant or system, shall interfere or be about to interfere with the operation of the line, plant or system of any other public utility already constructed, or if public convenience and necessity does not require or will require such construction or extension, the commission on complaint of the public utility claiming to be injuriously affected, or on the commission's own motion, may, after hearing, make such order and prescribe such terms and conditions for the locating or type of the line, plant or system affected as to it may seem just and reasonable: provided, that power companies may, without such certificate, increase the capacity of their existing generating plants.

61-527. Certificate of convenience and necessity -- Exercise of right or franchise. No public utility of a class specified in the foregoing section shall henceforth exercise any right or privilege, or obtain a franchise, or permit, to exercise such right or privilege, from a municipality or county, without having first obtained from the commission a certificate that the public convenience and necessity require the exercise of such right and privilege: provided, that when the commission shall find, after hearing, that the public utility has heretofore begun actual construction work, and is prosecuting such work in good faith, uninterruptedly, and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise or permit heretofore granted, but not heretofore actually exercised, such public utility may proceed to the completion of such work and may after such completion exercise such right and privilege: provided further, that this section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state, nor impair any vested right in any franchise or permit heretofore granted.

61-528. Certificate of convenience and necessity -- Conditions. Before any certificate of convenience and necessity may issue[,] a certified copy of its articles of incorporation, or charter, if the applicant be a corporation, shall be filed in the office of the commission. The commission shall have power, after hearing involving the financial ability and good faith of

the applicant and necessity of additional service in the community to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the construction of any portion only of the contemplated street railroad, line, plant or system or extension thereof, or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by said certificate, such terms and conditions as in its judgment the public convenience and necessity may require.

61-529. Certificate of convenience and necessity -- Electricity exclusively for mines excepted. No certificate of convenience and necessity shall be required under any provision of this act where the electricity is to be used exclusively in operations incident to the working of metalliferous mines and mining claims, mills, or reduction and smelting plants, and the transmission lines and distribution systems are owned by the consumer or where several consumers severally own their individual distribution systems and jointly own, in their own names or through a trustee, the transmission lines used in connection therewith and transmit such electricity, whether generated by themselves or procured from some other source, over such transmission lines and distribution systems without profit, and to be used for their private uses for the purposes aforesaid in places outside the limits of incorporated cities, towns and villages, and not for resale or public use, sale or distribution.

61-530. Certificate of convenience and necessity -- Port districts and industrial development districts. No port district or industrial development district within a port district shall acquire by eminent domain any existing and operating railroad facilities, without first having secured from the commission, after hearing, a certificate that such acquisition is necessary for the public convenience and necessity.

61-531. Plan for curtailment of electric or gas consumption. The Idaho public utilities commission shall forthwith direct and require all suppliers of electric power and energy, or natural or manufactured gas, including those otherwise excepted under section [61-104](#), Idaho Code, except agencies of the federal government, to file with the commission, within a designated time period, a plan for the curtailment of electric or gas consumption during an emergency.

61-532. Adoption or rejection of plans -- Procedure. The commission, after notice and hearing pursuant to its rules of practice and procedure, shall consider and act upon the plan or plans submitted and may adopt or reject such plan or plans, or adopt other plan or plans, for such curtailment. In acting upon such plan or plans the commission shall consider 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.

61-533. Authority to declare emergency. The commission shall have authority to declare an emergency, with or without notice, upon finding that an inadequacy or insufficiency of electric power and energy, or natural or manufactured gas threatens the health, safety and welfare of the citizens of this state.

61-534. Curtailment of service by suppliers in accordance with plans. Upon declaration that such an emergency exists, the commission shall have authority to require all suppliers of electric power and energy, or natural or manufactured gas, except agencies of the federal government, to curtail service in accordance with the curtailment plans on file with and approved by the commission.

61-535. Order for curtailment of consumption by consumers. The commission, in addition to the powers herein granted, upon the declaration of an emergency, may order the curtailment of electric power and gas consumption by consumers as the commission finds reasonable and necessary.

61-536. Liability of suppliers. No supplier of electric power or gas shall be liable for (a) actions taken pursuant to an order of the commission, or by reason of curtailment of such electric or gas service pursuant to such order or its curtailment plan on file with and approved by the commission; or (b) inability of a supplier to furnish adequate or sufficient supplies of electric power or gas or refusal to supply electric power or gas when such inability or refusal is due to inadequate or insufficient supplies on the supplier's system occurring as a result of the supplier's being unable to obtain from the commission an order which allows adequate time to construct necessary generating and transmission facilities.

61-537. Contracts of suppliers subject to provisions of law. All contracts of suppliers shall be subject to actions taken and the immunities provided hereunder.

61-538. Pole attachments -- Regulation. As used in this section, the term "public utility" includes any person, firm or corporation except a publicly owned utility which owns or controls poles, ducts, conduits or rights-of-way used or useful, in whole or in part, for wire communication, and which are not subject to the jurisdiction of the commission under section [61-129](#), Idaho Code.

The term "cable television company" means any individual, firm, partnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof, which transmits television signals for distribution to subscribers of its services for a fee by means of wires or cables connecting its

distribution facilities with the customer's television receiver or the customer's equipment connecting to the customer's receiver rather than by transmission of the television signal through the air.

The term "pole attachment" when used in this section means any wire or cable for the transmission of cable television, and any related device, apparatus, or auxiliary equipment, installed upon any pole or in any telegraph corporation, telephone corporation, electrical corporation or communications right-of-way, duct, conduit or other similar facilities owned or controlled, in whole or in part, by one or more public utilities.

The legislature hereby finds that many public utilities have, through a course of conduct covering many years, made available space on and in their poles, ducts, conduits, and other support structures for use by the cable television industry for pole attachment service, and that the provision of such pole attachment service by such public utilities is and has been a public utility service.

Whenever a public utility and a cable television company are unable to agree upon the rates, terms or conditions for pole attachments or the terms, conditions or cost of production of space needed for pole attachments, then the commission shall establish and regulate the rates, terms and conditions, and cost of providing space needed for pole attachments so as to assure a public utility the recovery of not less than all the additional costs of providing and maintaining pole attachments nor more than the associated capital cost and operating expenses of the public utility attributable to that portion of the pole, duct, or conduit used for the pole attachment including a share of the required support and clearance space. In determining and fixing the rates, terms and conditions, the commission shall consider the interest of the customers of the attaching cable television company, the public utility upon which the attachment is made as well as the customers of the public utility. To the extent applicable, the procedures set forth in [title 61](#), Idaho Code, shall apply under the provisions of this section.

61-539. Water rights of an electrical corporation -- No commission jurisdiction. The commission shall have no power or jurisdiction to make any determination, decision, rule, demand, requirement, or issue any order or decree involving or related to the failure or refusal of an electrical corporation to protect its hydropower water rights from depletion or loss to (1) junior priority consumptive water uses for any consumptive purpose prior to November 19, 1982, (2) junior priority consumptive water uses for irrigation where substantial investments in irrigation wells and irrigation equipment were made prior to November 19, 1982, but were not operating in 1982, and (3) junior priority consumptive water uses for domestic, nonconsumptive commercial, nonconsumptive industrial or nonconsumptive municipal uses occurring from and after November 19, 1982.

This section shall apply not only to future proceedings concerning claims the cause for which arose prior to November 19, 1982, but also to proceedings pending before the commission at the time this act becomes effective, and any claims which might be asserted against the electrical corporation for depletions from uses within (1), (2) or (3) above.

61-540. Authorizing negotiation and execution of contracts by the state of Idaho with electrical corporations regarding certain water rights identified in section [61-539](#), Idaho Code. The governor of the state of Idaho or his designee is hereby empowered to negotiate and the governor to execute a contract on behalf of the state of Idaho with any electrical corporation which has filed or may file suit against water users or possible water users, said electrical corporation seeking to stop junior prior consumptive water uses as a result of Idaho Supreme Court Opinion No. 13794 in "Idaho Power Company vs. State of Idaho, et al," filed November 19, 1982. Each contract shall provide, among other things, that (1) all consumptive water users who have beneficially used water for any consumptive purpose prior to November 19, 1982, or any person or persons who have previously made substantial investments in irrigation wells and irrigation equipment and have pending a water permit or application, even though such irrigation wells and irrigation equipment were not in operation prior to November 19, 1982, may continue the water licensing process, (2) persons included within the provisions of (1) above are third party beneficiaries of said contract, (3) the electrical corporation shall, where any suit is pending in which a person is within the class of consumptive users identified in (1) above, move the court for the dismissal from the suit of such person or persons, (4) said contract shall be conditional upon the passage and approval of this act but shall terminate if section [61-539](#) or [61-540](#) [this section], Idaho Code, be subsequently amended or repealed, and (5) in the event this act be amended or repealed, the defenses of statute of limitations, abandonment, adverse possession, statutory forfeiture, laches [laches], waiver, estoppel and other applicable common law defenses shall not be available against said electrical corporation following said contract termination for a period of two (2) years, unless the parties mutually consent to keep said contract in effect by addendum.

61-541. Binding ratemaking treatments applicable when costs of a new electric generation facility are included in rates. (1) As used in this section, "certificate" means a certificate of convenience and necessity issued under section [61-526](#), Idaho Code.

(2) A public utility that proposes to construct, lease or purchase an electric generation facility or transmission facility, or make major additions to an electric generation or transmission facility, may file an application with the commission for an order specifying in advance the ratemaking treatments that shall apply when the costs of the proposed facility are included in the public utility's revenue requirements for ratemaking purposes. For purposes of this section, the requested ratemaking treatments may include nontraditional ratemaking treatments or nontraditional cost recovery mechanisms.

(a) In its application for an order under this section, a public utility shall describe the need for the proposed facility, how the public utility addresses the risks associated with the proposed facility, the proposed date of the lease or purchase or

commencement of construction, the public utility's proposal for cost recovery, and any proposed ratemaking treatments to be applied to the proposed facility.

(b) For purposes of this section, ratemaking treatments for a proposed facility include but are not limited to:

(i) The return on common equity investment or method of determining the return on common equity investment;

(ii) The depreciation life or schedule;

(iii) The maximum amount of costs that the commission will include in rates at the time determined by the commission without the public utility having the burden of moving forward with additional evidence of the prudence and reasonableness of such costs;

(iv) The method of handling any variances between cost estimates and actual costs; and

(v) The treatment of revenues received from wholesale purchasers of service from the proposed facility.

(3) The commission shall hold a public hearing on the application submitted by the public utility under this section. The commission may hold its hearing in conjunction with an application for a certificate.

(4) Based upon the hearing record, the commission shall issue an order that addresses the proposed ratemaking treatments. The commission may accept, deny or modify a proposed ratemaking treatment requested by the utility. In determining the proposed ratemaking treatments, the commission shall maintain a fair, just and reasonable balance of interests between the requesting utility and the utility's ratepayers.

(a) In reviewing the application, the commission shall also determine whether:

(i) The public utility has in effect a commission-accepted integrated resource plan;

(ii) The services and operations resulting from the facility are in the public interest and will not be detrimental to the provision of adequate and reliable electric service;

(iii) The public utility has demonstrated that it has considered other sources for long-term electric supply or transmission;

(iv) The addition of the facility is reasonable when compared to energy efficiency, demand-side management and other feasible alternative sources of supply or transmission; and

(v) The public utility participates in a regional transmission planning process.

(b) The commission shall use its best efforts to issue the order setting forth the applicable ratemaking treatments prior to the date of the proposed lease, acquisition or commencement of construction of the facility.

(c) The ratemaking treatments specified in the order issued under this section shall be binding in any subsequent commission proceedings regarding the proposed facility that is the subject of the order, except as may otherwise be established by law.

(5) The commission may not require a public utility to apply for an order under this section.

(6) The commission may promulgate rules or issue procedural orders for the purpose of administering this section.

CHAPTER 6

PROCEDURE BEFORE COMMISSION AND IN COURTS

61-601. Practice -- Evidence. All hearings and investigations before the commission or any commissioner shall be governed by this act and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission nor any commissioner shall be bound by the technical rules of evidence.

61-602. Process. The commission and each commissioner shall have power to issue writs of summons and subpoenas, warrants of attachment in the like manner and to the same extent as courts of record. The process issued by the commission or any commissioner shall extend to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the commission or commissioner. The person executing any such process shall receive such compensation as may be allowed by the commission not to exceed the fees prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for payment of the fees of witnesses.

61-603. Witnesses -- Attendance -- Fees -- Mileage. The commission and each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state.

Each witness who shall appear, by order of the commission or a commissioner, shall receive for his attendance the same fees allowed by law to a witness in civil cases, in the district court, and mileage at ten cents (10¢) for every mile of travel one (1) way by the nearest generally traveled route in going to the place where the attendance of a witness is required, which amount shall be paid by the party at whose request such witness was subpoenaed.

When any witness who has not been required to attend at the request of any party shall be subpoenaed by the commission, his fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid: provided, that the commission may at its discretion refuse to allow

the mileage and attendance of any witness subpoenaed before it that is in the employ of any public utility defined in this act.

Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the commission, may at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear and one (1) day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission or commissioner, as directed in the subpoena, unless the commission shall by order indorsed on the subpoena require any such witness to attend, irrespective of the fact that such mileage and attendance are not paid on demand. All fees or mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. No witness furnished with free transportation shall receive mileage for the distance he may travel on such free transportation.

61-604. Witnesses -- District court may compel attendance -- Procedure. The district court in and for the county, or city and county in which any inquiry, investigation, hearing or proceeding may be held by commission or any commissioner shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including waybills, books, accounts and documents as required by any subpoena issued by the commission or any commissioner.

The commission or the commissioner before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the district court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission or commissioner, in the cause or proceeding named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court compelling the witness to attend and testify or produce said papers before the commission.

The court, upon the petition of the commission or such commissioner, shall enter an order directing the witnesses to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten (10) days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before the commission. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or a commissioner and regularly served, the court shall thereupon enter an order that said witness appear before the commission or said commissioner at the time and place fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

The remedy provided in this section is cumulative and shall not be construed to impair or interfere with the power of the commission or a commissioner to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as [a] court of record.

61-605. Depositions. The commission or any commissioner or any party may in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the district courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers and accounts.

61-606. No privilege to witnesses -- Immunity from self-incriminating testimony. No person shall be excused from testifying or from producing any book, waybill, document, paper or account in any investigation or inquiry by or hearing before the commission or any commissioner, when ordered to do so, upon the ground that the testimony or evidence, book, waybill, document, paper or account, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any forfeiture or penalty for or on account of any act, transaction, matter or thing concerning which he shall, under oath have testified or produced documentary evidence: provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained shall be construed as in any manner giving to any public utility immunity of any kind.

61-607. Certified copies of documents as evidence. Copies of official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary under the official seal of the commission to be true copies of the original shall be evidence in like manner as the originals.

61-608. Recording of orders, authorizations and certificates. Every order, authorization or certificate issued or approved by the commission under any provision of sections [61-510](#) to [61-514](#), and 61-526 to 61-529, Idaho Code, shall be in writing and entered on the records of the commission.

Any such order, authorization or certificate, or a copy thereof, or a copy of the record of any such order, authorization or certificate, certified by a commissioner or by the secretary or assistant secretary under the official seal of the commission to be a true copy of the original order, authorization, certificate or entry, may be recorded in the office of the recorder of any county or city and county, in which is located the principal place of business of any public utility affected thereby, or in which is situated any property of any such public utility, and such record shall impart notice of its provisions to all persons. A certificate under the seal of the commission that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same offices in the same manner and with like effect.

61-609. Fees. The commission shall charge and collect reasonable fees for copies of papers and records as established by rule or general order of the commission.

No fees shall be charged or collected for copies of papers, records or official documents, furnished to the public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution, but the commission may fix reasonable charges for publications issued under its authority.

All fees charged or collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the state of Idaho to the public utilities commission account.

61-610. Right to inspect books and examine employees. (1) The commission, each commissioner and each person employed by the commission shall have the right at any and all reasonable times to inspect the accounts, books, papers and documents of any public utility. The commission shall also have the right to inspect the records of a public utility's holding company, parent, affiliate, or subsidiary that engages directly in any transaction with the regulated utility which results in expenses being incurred, allocated or otherwise attributed to regulated services of a public utility; provided however, the commission may inspect only those records which are necessary to determine whether such expense was properly incurred and should be included, in whole or in part, in the public utility's rates.

(2) The commission, each commissioner and any employee authorized to administer oaths shall have power to examine under oath any officer, agent or employee of such public utility in relation to the business and affairs of said public utility: provided, that any person other than a commissioner demanding such inspection shall produce under the seal of the commission his authority to make such inspection. A written record of the testimony or statement so given under oath shall be made and filed with the commission.

61-611. Production of books without state. The commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this state at such time and place as it may designate, of any books, accounts, papers or records kept by said public utility in any office or place without this state, or, at its option, verified copies in lieu thereof so that an examination thereof may be made by the commission or under its direction.

61-612. Complaint against utility. Complaint may be made by the commission of its own motion or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public utility including any rule, regulation or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation of any provision of law or of any order or rule of the commission: provided, that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rate or charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission or other legislative body of the city or county or city or town, if any, within which the alleged violation occurred, or not less than 25 consumers or purchasers or prospective consumers or purchasers of such gas, electricity, water or telephone service.

61-613. Complaint against utility -- Joinder. All matters upon which complaint may be founded may be joined in one (1) hearing, no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties; and in any review by the courts of orders or decisions of the commission the same rule shall apply with regard to the joinder of causes and parties as herein provided.

61-614. Complaint against utility -- No dismissal. The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant.

61-615. Complaint against utility -- Service of copy of complaint. Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the corporation, or person complained of. Service in all hearings, investigation and proceedings pending before the commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the Code of Civil Procedure of this state, and may be made personally or by mailing in a sealed envelope, registered, with postage prepaid.

61-616. Complaint against utility -- Time and place of hearing. The commission shall fix the time when and place where a hearing will be had upon the complaint and shall serve notice thereof, not less than twenty (20) days before the time set for such hearing, unless the commission shall find that public necessity requires that such hearing be held at an earlier date.

61-617. Hearing -- Process for attendance of witnesses. At the time fixed for any hearing before the commission or a commissioner, or the time to which the same may have been continued, the complainant and the corporation or person complained of, and such corporations or persons as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses.

61-617A. Award of costs of intervention. (1) It is hereby declared the policy of this state to encourage participation at all stages of all proceedings before the commission so that all affected customers receive full and fair representation in those proceedings.

(2) The commission may order any regulated electric, gas, water or telephone utility with gross Idaho intrastate annual revenues exceeding three million five hundred thousand dollars (\$3,500,000) to pay all or a portion of the costs of one (1) or more parties for legal fees, witness fees, and reproduction costs, not to exceed a total for all intervening parties combined of forty thousand dollars (\$40,000) in any proceeding before the commission. The determination of the commission with regard to the payment of these expenses shall be based on the following considerations:

(a) A finding that the participation of the intervenor has materially contributed to the decision rendered by the commission; and

(b) A finding that the costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor; and

(c) The recommendation made by the intervenor differed materially from the testimony and exhibits of the commission staff; and

(d) The testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers.

(3) Expenses awarded to qualifying intervenors shall be an allowable business expense in the pending rate case or, if the proceeding is not a rate case, in the utility's next rate case. Expenses awarded shall be chargeable to the class of customers represented by the qualifying intervenors.

(4) The commission may adopt rules for the implementation of this statute.

(5) The payment of expenses of intervenors who are in direct competition with a public utility involved in proceedings before the commission is prohibited.

61-618. Decision -- Service of order -- Time effective -- Extension of time. After the conclusion of the hearing, the commission shall make and file its order, containing its decision. A copy of such order, certified under the seal of the commission, shall be served upon the corporation or person complained of, or its or his attorney. Said order shall, of its own force, take effect and become operative twenty (20) days after the service thereof, except as otherwise provided, and shall continue in force, either for a period which may be designated therein or until changed or abrogated by the commission. If an order cannot, in the judgment of the commission, be complied with within twenty (20) days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

61-619. Record. A full and complete record of all proceedings had before the commission or any commissioner on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney.

61-621. Complaint by utility. Any public utility shall have a right to complain on any of the grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases, except that the complaint may be heard ex parte by the commission or may be served upon any parties designated by the commission.

61-622. Finding of commission necessary for increase in rate and approval of a new tariff or schedule -- suspension. (1) No public utility shall raise any existing rate, fare, toll, rental or charge or so alter any existing classification, contract, practice, rule, service or regulation as to result in an increase in any rate, fare, toll, rental or charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified.

(2) Whenever there shall be filed with the commission any tariff or schedule stating a new individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation that does not increase or result in the increase of any existing rate, fare, toll, rental or charge, such tariff or schedule shall not become effective except upon a showing to and a finding by the commission that such tariff or schedule is justified.

(3) The commission shall have power and is hereby given authority to suspend the proposed effective date of any new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities. The commission shall provide reasonable notice that it intends to conduct a hearing or other proceeding concerning the propriety of such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation. Pending the subsequent hearing or proceeding and decision thereon, such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation shall not go into effect.

(4) The period of suspension of such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation shall not extend beyond thirty (30) days when such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation would otherwise go into effect, pursuant to section 61-307, Idaho Code, unless the commission in its discretion extends the period of suspension for an initial period not exceeding five (5) months, nor unless the commission after a showing of good cause on the record grants an additional sixty (60) days. Prior to the expiration of said periods of suspension the commission may, with the consent in writing signed by the party filing such new tariff or schedule, permanently or further suspend the same.

(5) After such hearing or other proceeding during the suspension period, the commission shall issue its order approving, denying or amending the proposed tariffs, schedules, rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules, services or regulations in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable.

61-622A. Commission authority -- Cost allocation. For any telephone corporation which provides telecommunication services pursuant to both [title 61](#), Idaho Code, and [title 62](#), Idaho Code, the commission may, or at the request of a telephone corporation shall, establish procedures for allocation of costs between telecommunication services provided pursuant to [title 61](#), Idaho Code, and telecommunication services provided pursuant to [title 62](#), Idaho Code. Such allocations shall reasonably reflect how joint-use facilities are utilized, provide reasonable stability for telephone corporations to do business planning and pricing and minimize the cost of accounting and record keeping to the extent possible. In developing such allocation methods, the commission may adopt procedures which are based on gross allocation factors derived from relative changes in total intrastate telecommunication service revenues or expenses or other measures of relative change between the provision of telecommunication services subject to [title 61](#), Idaho Code, and telecommunication services subject to [title 62](#), Idaho Code. The commission shall have authority to establish just and reasonable rates for all telecommunication services which remain subject to [title 61](#), Idaho Code, and for basic local service in accordance with the provisions of [chapter 6, title 62](#), Idaho Code.

61-624. Rescission or change of orders. The commission may at any time, upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any order or decision made by it. Any order rescinding, altering or amending a prior order or decision shall, when served upon the public utility affected, have the same effect as is herein provided for original orders or decisions.

61-625. Orders not subject to collateral attack. All orders and decisions of the commission which have become final and conclusive shall not be attacked collaterally.

61-626. Reconsideration -- Procedure -- Order not stayed -- Change of original order. (1) After an order has been made by the commission, any corporation, public utility or person interested therein shall have the right, within twenty-one (21) days after the date of said order, to petition for reconsideration in respect to any matter determined therein. Within seven (7) days after any corporation, public utility or person has petitioned for reconsideration, any other corporation, public utility, or person may cross-petition for reconsideration in response to any issues raised in any petition for reconsideration. Cross-petitions for reconsideration may be granted if any petition for reconsideration to which they respond is granted on the issues to which the cross-petition is directed, but cross-petitions for reconsideration will be denied when the petitions for reconsideration to which they are directed are denied.

(2) Within twenty-eight (28) days after the filing of a petition for reconsideration the commission shall determine whether or not it will grant such reconsideration, and make and enter its order accordingly. If reconsideration be granted, said order shall specify how the matter will be reconsidered and whether any cross-petitions for reconsideration will be granted. The matter must be reheard, or written briefs, comments or interrogatories must be filed, within thirteen (13) weeks after the date for filing petitions for reconsideration. If reconsideration is ordered, the commission must issue its order upon reconsideration within twenty-eight (28) days after the matter is finally submitted for reconsideration.

(3) A petition for such reconsideration shall not excuse any corporation, public utility or person from complying with or obeying any order or any requirement of any order of the commission or operate in any manner, to stay or postpone the enforcement thereof, except as the commission may by order direct. If after reconsideration, including consideration of matters arising since the making of the order, the commission shall be of the opinion that the original order or any part thereof is in any respect unjust or unwarranted or should be changed, the commission may abrogate or change the same. An order made after any such reconsideration, abrogating or changing the original order, shall have the same force and effect as an original order, and shall not affect any right or the enforcement of any right arising from or by virtue of the original order.

61-627. Appeal to supreme court -- Notice of appeal -- Matters reviewable on appeal -- Extent of review -- Record on appeal. After a petition for reconsideration is denied, or, if the petition is granted, then after the rendition of the decision on reconsideration, the state of Idaho or any party aggrieved may appeal to the supreme court from any order of the public utilities commission by filing a notice of appeal and serving the same in the manner provided by the rules of the supreme court. Upon the payment of the fee therefor, the secretary of the public utilities commission shall prepare, certify, and deliver to the clerk of the supreme court copies of the transcript of the testimony and the relevant documents from the commission files as required under rules adopted by the supreme court for its appeals and shall also certify and deposit with the clerk of the supreme court the original exhibits from that proceeding.

61-629. Matters reviewable on appeal -- Extent of review -- Judgment. No new or additional evidence may be introduced in the Supreme Court, but the appeal shall be heard on the record of the commission as certified by it. The review on appeal shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order appealed from violates any right of the appellant under the constitution of the United States or of the state of Idaho. Upon the hearing the Supreme Court shall enter judgment, either affirming or setting aside or setting aside in part the order of the commission. In case the order of the commission is set aside or set aside in part, the commission, upon its own motion or upon motion of any of the parties, may alter or amend the order appealed from to meet the objections of the court in the manner prescribed in section [61-624](#), Idaho Code.

61-630. Right to be heard on appeal. The commission and any party to the proceeding whether served with notice of appeal or not shall have the right to appear and be heard on any appeal taken hereunder.

61-631. Costs on appeal -- Enforcement. Whenever costs are awarded to a party by the supreme court, the party claiming such costs shall file a memorandum of costs in such manner as the supreme court shall direct by its rules. Costs taxed in the supreme court shall be added to any order required by the remittitur. The payment of costs on appeal shall be enforced by the public utilities commission.

61-633. Stay of order -- Notice. No court of this state shall enjoin or restrain the enforcement of any order of the commission or stay the operation thereof, unless the applicant for such writ shall give three (3) days' notice of said application to all adverse parties and to the commission. On the hearing of such application, the applicant shall present to the court a transcript of the proceedings had before the commission, including the evidence, and such transcript shall be considered by the court in determining the applicant's right to an injunction, restraining order or other order suspending or staying the operation of the order or decision of the commission, and if an injunction, restraining order or other order suspends or stays the order of the commission as issued, such order shall contain a specific finding based upon the evidence submitted to the court and identified by reference thereto that great and irreparable damage would result to the petitioner and specifying the nature of the damage.

61-634. Stay of order -- Bond. In case the order or decision of the commission is stayed or suspended, the order shall not become effective until a suspending bond has been executed and filed with and approved by the commission, or by the court of review, conditioned in manner and form as the suspending bond specified in section [61-637](#)[, Idaho Code], and the court shall direct that all moneys involved in said proceeding shall be paid into court under the terms and conditions and subject to the disposition thereof, provided in sections [61-637](#) and [61-638](#)[, Idaho Code].

61-635. Stay of order on appeal. The pendency of an appeal shall not of itself stay or suspend the operation of the order of the commission, but during the pendency of such appeal, the Supreme Court may stay or suspend, in whole or in part, the operation of the commission's order.

61-636. Stay of order on appeal -- Notice. No order so staying or suspending an order or decision of the commission shall be made by the court otherwise than upon a three (3) days' notice and after hearing, and if the order or decision of the commission is suspended, the order suspending the same shall contain a specific finding based upon the evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage.

61-637. Stay of order on appeal -- Bond. In case the order or decision of the commission is stayed or suspended, the order of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by the commission (or approved on review by the court), payable to the people of the state of Idaho, and sufficient in amount and security to insure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the order or decision of the commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity, or service in excess of the charges fixed by the order or decision of the commission, in case said order or decision is sustained. The court, in case it stays or suspends the order or decision of the commission in any matter affecting rates, fares, tolls, rentals, charges or classifications, shall also by order direct the public utility affected to pay into court, from time to time, there to be impounded until the final decision of the case or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the order or decision of the commission had not been stayed or suspended.

61-638. Stay of order on appeal -- Accounts pending final decision. In case the court stays or suspends any order or decision lowering any rate, fare, toll, rental, charge or classification, the commission, upon the execution and approval of said suspending bond, shall forthwith require the public utility affected under the penalty of the immediate enforcement of the order or decision of the commission (pending the review and notwithstanding the suspending order) to keep such accounts verified by oath, as may in the judgment of the commission suffice to show the amounts being charged or

received by such public utility, pending the review, in excess of the charges allowed by the order or decision of the commission, together with the names and addresses of the corporations or persons to whom overcharges will be refundable in case the charges made by the public utility, pending the review, be not sustained by the court. The court may, from time to time, require said party petitioning for a review to give additional security on or to increase the said suspending bond whenever in the opinion of the court the same may be necessary to insure the prompt payment of said damages and said overcharges. Upon the final decision by the court, all moneys which the public utility may have collected, pending the appeal in excess of those authorized by such final decision, together with interest in case the court ordered the deposit of such moneys in a bank or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such manner and through such methods of distribution as may be prescribed by the commission. If any such moneys shall not have been claimed by the corporations or persons entitled thereto within one (1) year from the final decision of the court, the commission shall cause notice to such corporation or person to be given by publication, once a week for two (2) successive weeks, in a newspaper of general circulation, printed and published in the city of Boise, and such other newspaper or newspapers as may be designated by the commission, said notice to state the names of the corporations or persons entitled to such moneys and the amount due each corporation or person. All moneys not claimed within three (3) months after the publication of said notice shall be paid by the public utility under the direction of the commission, into the state treasury for the benefit of the general fund.

61-640. Hearings to determine valuations. For the purpose of ascertaining the matters and things specified in section [61-523](#)[, Idaho Code], concerning the value of the property of public utilities, the commission may cause a hearing or hearings to be held at such time or times and place or places as the commission may designate. Before any hearing is had the commission shall give the public utility affected thereby at least thirty (30) days' written notice, specifying the time and place of such hearing and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section and in said section [61-523](#)[, Idaho Code], but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to, or from inquiring into such matters in any other investigation or hearing.

All public utilities affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The evidence introduced at such hearing shall be reduced to writing and certified under the seal of the commission.

The commission shall make and file its findings of fact in writing upon all matters concerning which evidence shall have been introduced before it which in its judgment have bearing on the value of the property of the public utility affected. Such findings shall be subject to review by the court of this state in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed, when properly certified under the seal of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court, in which the commission, the state or any officer, department or institution thereof or any county, city and county, municipality or other body politic and the public utility affected may be interested whether arising under the provisions of this act or otherwise, and such findings, when so introduced, shall be prima facie evidence of the facts therein stated as to the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined.

The commission may from time to time cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any betterments, improvements, additions or extensions made by any public utility subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and shall be conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings: provided, that such findings made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings, except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation.

61-641. Overcharge -- Reparation. When complaint has been made to the commission concerning any rate, fare, toll, rental or charge for any product, or commodity, furnished or service performed by any public utility, and the commission has found, after investigation, that the public utility has charged an excessive or discriminatory amount for such product, commodity or service, the commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection: provided, no discrimination will result from such reparation.

61-642. Overcharge -- Recovery of payment. If the public utility does not comply with the order for the payment or reparation within the time specified in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning excessive or discriminatory charges shall be filed with the commission within three (3) years from the time the cause of action accrues, and the petition for the enforcement of the order shall be filed in the court within one (1) year from the date of the order of the commission. The remedy in this section provided shall be cumulative and in addition to any other remedy or remedies in this act provided in case of failure of a public utility to obey an order or decision of the commission.