

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 20, 2017

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Hagedorn, Senators Winder, Lodge, Lakey, Stennett, and Buckner-Webb

ABSENT/ EXCUSED: Chairman Siddoway, Senators Davis, and Hill

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Vice Chairman Hagedorn** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. . He explained that the gubernatorial hearings would be today and then the voting would be on Monday.

GUBERNATORIAL APPOINTMENT: The Gubernatorial Reappointment of Paul Kjellander to the Public Utilities Commission (PUC).

Mr. Kjellander stated he was first appointed to the PUC in 1999 and served until 2007 before assisting with the start-up of the Office of Energy Resources. Mr. Kjellander was reappointed as a Commissioner in 2011. The PUC regulates investor-owned utilities including companies in the electric sector, water companies, and natural gas distribution companies. **Mr. Kjellander** noted the Commission does not regulate cooperatives or municipal utility providers.

Senator Buckner-Webb asked what the greatest challenge facing the Commission is over the next six years. **Mr. Kjellander** said the biggest challenge would be dealing with what other states' policies are relating to the utilities the Commission regulates. **Mr. Kjellander** indicated that many of the utilities they regulate are multi-jurisdictional. Policies in Washington, Oregon, and California are different. Those policies impact the utilities the Commission regulates and some bleed over into cases the Commission must adjudicate. Additional costs arising from these complications might be passed onto customers. The Commission tries to avoid those increasing costs. A meeting is scheduled for regulators from six states that are served by PacifiCorp, which includes Rocky Mountain Power, to discuss these issues. Many of those policies deal with coal-fired generators and affects PacifiCorp where there is a fleet of 24 coal-fired generators and each state has a portion of all of those generators. Idaho Power is contemplating the decommissioning of North Valmy Power Plant in Nevada. There could be broad implications that would affect depreciation schedules and replacement of resources. These discussions will be long term lasting five to six years. Idaho is already on this path but there are many unintended consequences because of policy decisions and those must be closely monitored.

Senator Lodge commented that rural court systems require faster internet connections because that is where the magistrates spend most of their time. Can the Commission do anything to help rural telephone companies provide broadband to those employees who are away from their families during the week?

Mr. Kjellander replied that the Commission does not have direct oversight over broadband deployment other than through the investment tax credit. **Mr. Kjellander** suggested that the investment tax credit established about 15 years ago may need to be updated to increase the value of the credit but narrow the criteria to access that credit.

Mr. Kjellander noted that eight rural telephone companies access the State Universal Service Fund (SUSF) to receive funds to upgrade systems by replacing copper wiring with fiber, ultimately helping with broadband deployment. He proposed taking another look at how the SUSF is funded as it could be considered a declining business model. **Mr. Kjellander** also talked about issues that need to be resolved at the federal level because of implications related to the Federal Communications Commission. **Mr. Kjellander** indicated that regulations will be changing for the Federal Communications Commission through Congress in upcoming years.

Senator Stennett asked what Mr. Kjellander predicted would replace those coal-fired generators being decommissioned. **Mr. Kjellander** replied that it could be a combination of resources. The current low cost and lower carbon footprint of natural gas is making it a top fuel choice for utilities around the country. A natural gas fired facility can be built closer to load, thus less transmission is required, and if there is a pipeline nearby, there is access to natural gas. **Mr. Kjellander** remarked that many utilities will most likely incorporate a combination of resources such as solar. The tax credit issue tied to solar has some pros and cons. There is also some zero priced electricity coming into the market, but that could replace other resources that may be revenue streams for other utilities. **Mr. Kjellander** believed that in the next 18 months the Commission will utilize a combination of solar and natural gas energy, as well as some other renewable sources.

GUBERNATORIAL APPOINTMENT: The Gubernatorial Appointment of Chris Jensen as Administrator of the Division of Building Safety.

Mr. Jensen stated he was from Blackfoot, Idaho, and a native Idahoan. He has worked for the Division of Building Safety (Division) for about 10 years serving as Regional Manager for Eastern Idaho. Mr. Jensen owned Snake River Electric for 30 years and was on the Idaho Electrical Board for eight years prior to working for the Division.

Senator Winder asked about the challenges the Division is facing. **Mr. Jensen** explained that construction is deeply tied to overall economic trends and one of the Division's biggest challenges now, is hiring inspectors because the economy is booming again. **Mr. Jensen** noted that wages the Division can offer are not as competitive as the Division would like them to be. Wages are sometimes up to \$10 an hour less than in the private sector.

Mr. Jensen explained that changes in building codes are always an issue because they change often. Some are good and some are product driven which can make adapting difficult and expensive. The Division makes sure any changes in code are really needed.

Senator Stennett remarked that the position serves at the Governor's leisure with no end date. **Mr. Jensen** stated that he only intended to serve for a couple years. **Senator Stennett** asked if there was someone Mr. Jensen was grooming for his replacement.

Mr. Jensen answered that typically, new Governors usually replace the administration. The Governor asked Mr. Jensen to have a plan and a successor in place. The Division has some very good talent who will be happy to accept that opportunity.

Senator Lakey asked Mr. Jensen to elaborate on his philosophy to get input from those on the ground who have to apply the code and how that input would be applied to the adoption or rejection of the code or any portion of it. **Mr. Jensen** remarked that the Division has hired people from the industry who see the codes differently than the inspectors. The people on the ground are the ones who work with that code every day. Those are the people the Division goes to for information. The rules go through the negotiated rule making process and the Division reaches out to as many electricians as possible. **Mr. Jensen** emphasized that the Division makes sure that codes are benefitting the public rather than companies trying to sell a new product.

IDAPA 31 - Idaho Public Utilities Commission.

31.46.02 Rules for Telecommunications Relay Services (TRS).

**DOCKET NO.
31-4602-1602**

Paul Kjellander, Idaho Public Utilities Commission (PUC), noted that the Telecommunications Relay Services allows those with hearing and/or speech disabilities to place and receive telephone calls. The service requires special equipment and access to a service provider call center staffed 24/7 with trained personnel to speak or type communication between the hearing and the non-hearing population. Idaho State Statute requires an outside contractor to administrate the service and the Commission must put out a Request for Proposal (RFP) every five years to decide on a contractor. The RFP must go through an advisory committee before it is approved. **Mr. Kjellander** recognized that the rule regarding these RFP's was antiquated because many members of the advisory committee were no longer active. This rule would change the advisory committee makeup from seven people to three people while also adding a representative of the deaf and hard-of-hearing community to the committee. The rule was previously in place as a temporary rule, and Mr. Kjellander is now proposing that it becomes a permanent rule.

Vice Chairman Hagedorn asked if Baudot requirements, a special code for the deaf and hard of hearing invented in the 19th century, was still necessary. **Mr. Kjellander** noted that many elderly deaf citizens and deaf people who are unfamiliar with new technology still use the Baudot code. **Mr. Kjellander** also noted that many in the industry are working on real-time texting to help those in the community adapt to new technologies. **Mr. Kjellander** noted that Baudot code is becoming less popular but it is still necessary.

MOTION:

Senator Buckner-Webb moved to approve **Docket No. 31-4602-1602**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

IDAPA 15 - Military Division - Office of Emergency Management.

15.06.06 Rules Governing Use of Disaster Emergency Account Funds.

**DOCKET NO.
15-0606-1601**

Brad Richy, Director, Office of Emergency Management, Idaho Military Division, stated that his office is responsible for the State disaster fund used to help local jurisdictions respond to disasters when local resources are exhausted. **Mr. Richy** stated the purpose of the rule is to clarify and qualify what funds are available during a disaster event. The change to Section 100.01 (page 17) of the Rules Book is to clarify that disaster funds are only used in the event of a disaster and by the public entity named in the disaster declaration. Section 100.02 (page 17),

of the Rules Book clarifies that all funds used must be for projects necessary for recovery and directly tied to the disaster. Section 100.03, of the Rules Book, spells out the cost share for the disaster fund for non-state recipients when a Presidential declaration has been put out. This could be up to 40% for non-state recipients, including counties, cities and local jurisdictions. **Mr. Richy** noted that given the large amount of snowfall during the winter these funds may have to be used very soon.

Senator Buckner-Webb asked if there had ever been a situation where there was ambiguity about whether a specific recovery project was tied to a disaster. **Mr. Richy** responded that there had been confusion especially in regards to federal disaster declarations. **Mr. Richy** gave an example of a wind storm followed by winter weather, which received a Presidential declaration. When the Federal Emergency Management Agency (FEMA) offered up to 15% of the total for mitigation projects, meaning projects used to prevent similar disasters in that area, which counties can use if they have a plan in place. FEMA allows the State of Idaho to use that money in other sections of the area if counties do not have a plan or project in place. Sometimes other nearby counties are given this money instead, and this rule clarifies that the money received should not be used in areas where a disaster did not occur. **Senator Buckner-Webb** asked how quickly the decision is made about who pays and how much is paid when FEMA is in the midst of a disaster scenario. **Mr. Jensen** replied that it happens almost immediately, and the majority of counties have existing plans in place for mitigation projects should a disaster happen. The proposed rule will clarify and help local entities automatically know how much they are expected to pay.

Senator Lakey asked if the disaster fund comes from both federal and state sources. **Mr. Jensen** replied that it was only state dollars in the fund.

MOTION: **Senator Buckner-Webb** moved to approve **Docket No. 15-0606-1601**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

IDAPA 15 - Idaho Public Safety Communications Commission - Military Division.

15.06.01 Rules Governing the Idaho Public Safety Communications Commission.

DOCKET NO.
15-0601-1601

Craig Logan, Idaho Public Safety Communications Commission, stated that this rule changes the name of the Idaho Emergency Communications System to the Idaho Public Safety Communications Commission, a change implemented in Senate Bill 1212 from 2016. It also updates code citations and business hours to include holidays. **Mr. Logan** explained that the rule also updated data responsibilities. Those responsibilities were recently given to the Commission.

MOTION: **Senator Lodge** moved to approve **Docket No. 15-0601-1601**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

15.06.02 Rules Governing the Idaho Emergency Communications Commissions Grants.

DOCKET NO.
15-0602-1601

Mr. Logan explained that this rule changes grant rules to allow applicants to change aspects of their applications if that amendment results in a more efficient use of grant funds. The rule also adds criteria upon which the priority of grant applications are weighted to include Internet Protocol (IP) enabled equipment. **Mr. Logan** added that the rule also updates code citations, adds a website address, and clarifies Commission office hours.

Vice Chairman Hagedorn asked if the Idaho Emergency Communications Fund was changed with the passage of Senate Bill 1212 (2016). **Mr. Logan** responded the change was handled with the passage of a temporary rule.

Senator Lakey asked Mr. Logan to describe the scenarios the rule is addressing and why the rule change would allow those applying for grants more time to edit their application. **Mr. Logan** gave an example of a grant in one of the northern counties where one county was initially awarded the grant. Surrounding counties then asked to share equipment. The negotiation time for the grant was

pushed back resulting in additional cost. The original county ended up losing the grant because of the delay even though the overall plan was going to be beneficial for more counties than initially planned. The rule change would allow changes to the scope of the grant applications. **Senator Lakey** asked for confirmation that amounts awarded in grants cannot be amended up, only down. **Mr. Logan** confirmed that grant monies can only be amended downward. **Senator Lakey** asked if those saved resources could then be applied to another grant. **Mr. Logan** said those resources could then be given to other communities.

MOTION: **Senator Lakey** moved to accept **Docket No. 15-0602-1602**. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 15-0602-1602 **Mr. Logan** explained that this rule changes the name of the Idaho Emergency Communications Commission to the Idaho Public Safety Communications Commission. This rule also updates code citations.

MOTION: **Senator Lodge** moved to accept **Docket No. 15-0602-1602**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Hagedorn welcomed Ardie Noyes, Management Assistant, Idaho State Racing Commission, to present the next pending rule.

IDAPA - Idaho State Police.

11.04.03 Rules Governing Licensing and Fees.

DOCKET NO. 11-0403-1601

Ardie Noyes, Management Assistant, Idaho State Racing Commission, stated that the proposed rule change clarified the existing rule governing licensing requirements for live horse racing and will allow proper fees to be collected. The Idaho State Racing Commission (Commission) is responsible to license anyone who participates directly or indirectly in a race in the State of Idaho. The Commission sends in fingerprints to the Federal Bureau of Investigation (FBI) before granting a license to make sure no crimes specifically banned from racing in Idaho statute has been committed by the applicant. **Ms. Noyes** explained the Commission currently charges \$15 per licensing request. However, the Idaho State Police's Bureau of Identification, the agency used to submit fingerprints to the FBI, charges the Commission \$25 per set of fingerprints, an amount set by the FBI. The Commission is now facing a deficit of \$22,700. This rule change will allow the Commission to charge licensing applicants the \$25 mandated by the FBI, thus eliminating any future deficit.

Senator Lodge asked what crimes prevent applicants from receiving a racing license. **Ms. Noyes** elaborated that felony probation, misrepresentation, unqualified in skill or age, refusal to provide proof of ownership of a horse, anyone ejected from a racing jurisdiction, racing infractions in other jurisdictions, conduct demonstrating financial instability, bad reputation for truth, honesty, or integrity, narcotics, drug probation, anyone not permitted to engage in the racing occupation by statute, anyone who has violated rules in another state, and underage applicants are all factors barring applicants from receiving a license.

Senator Lodge asked Ms. Noyes to confirm that anyone involved in any racing violation would not be allowed to receive a license. **Ms. Noyes** confirmed that they would not be able to receive a license and noted that the racing industry nationwide prides itself on keeping the sport clean. **Senator Lodge** stated her appreciation for Ms. Noyes and for the work that goes into regulating racing.

Senator Stennett asked how many people the Commission had serviced in the time it took to accumulate a \$22,000 deficit. **Ms. Noyes** replied that even with last year being a quieter year for applications, 811 were licensed in 2016. The year before that 1,740 were licensed, 1,900 in 2014, and 1,500 in 2013. **Ms. Noyes** stated that the numbers fluctuated based on which tracks were running.

MOTION: **Senator Stennett** moved to accept **Docket No. 11-0403-1601**. **Senator Winder** seconded the motion. The motion was carried by **voice vote**.

ADJOURNMENT: There being no further business, **Vice Chairman Hagedorn** adjourned the meeting at 9:10 a.m.

Senator Siddoway
Chair

Twyla Melton, Secretary

David Bajarski, Assistant Secretary