

TITLE 61
PUBLIC UTILITY REGULATION

CHAPTER 9
ISSUANCE OF SECURITIES BY PUBLIC UTILITIES

61-901. ELECTRIC, TELEPHONE, WATER AND GAS UTILITIES -- ISSUANCE OF SECURITIES AUTHORIZED -- LIENS -- PLEDGES -- PURPOSES -- TERMS -- SUPERVISION AND CONTROL OF PUBLIC UTILITIES COMMISSION. The right of every public utility, as defined in section 61-129, Idaho Code, furnishing electric, telephone, water or gas service in the state of Idaho, to issue, assume or guarantee securities and to issue mortgages, deeds of trust or other instruments of security with respect to its property situated within the state of Idaho, is hereby subjected to the regulation and supervision of the public utilities commission of the state of Idaho, as hereinafter set forth in this act. Such public utility when authorized by order of the commission and not otherwise, may issue stocks and stock certificates and may issue, assume or guarantee bonds or other securities payable at periods of more than twelve (12) months after the date thereof, for the following purposes; for the acquisition of property; for the construction, completion, extension or improvement of its facilities; for the improvement or maintenance of its service; for the discharge or lawful refunding of its obligations; for the reimbursement of moneys actually expended for said purposes from income or from other moneys in the treasury not secured by or obtained from the issue, assumption or guarantee of securities; or for any other purpose approved by the commission, provided, however, this section shall not apply to any telephone corporation when three-fourths (3/4) or more of the total gross revenue of such corporation is derived from sources outside the state of Idaho.

[61-901, added 1951, ch. 143, sec. 1, p. 333; am. 1961, ch. 130, sec. 1, p. 190.]

61-902. PETITION FOR AUTHORITY -- NOTICE AND HEARING -- ORDER -- REFUND. Such public utility shall, by written petition, filed with the commission and setting forth the pertinent facts involved, make application to the commission for an order authorizing the proposed issue, assumption or guarantee of securities, and the application of the proceeds therefrom for the purpose specified in such application. The commission shall, after such hearing and upon such notice as the commission may prescribe, enter its written order approving the petition and authorizing the proposed securities transactions, unless the commission, for good cause shown, shall find: That such transactions are inconsistent with the public interest and not necessary or appropriate for or consistent with the proper performance by applicant of service as a public utility; or that the purpose or purposes thereof are not permitted by this act.

[61-902, added 1951, ch. 143, sec. 1, p. 333.]

61-903. SECURITIES WHICH MAY BE ISSUED WITHOUT ORDER OF COMMISSION. Such public utility may issue securities, other than stock or stock certificates, payable at periods of not more than twelve (12) months after date of issuance of the same, secured or unsecured, and aggregating (together with all other then outstanding notes and drafts of a maturity of one (1) year or less on which such public utility is primarily or secondarily liable) not more than five per cent (5%) of the par value or, in the case of

securities having no par value, the fair market value of the other securities of the public utility then outstanding, without application to or order of the commission, but no such securities so issued shall in whole or in part be refunded by any issue of stocks, stock certificates or other securities having a maturity of more than twelve (12) months, except on application to and approval of the commission.

[61-903, added 1951, ch. 143, sec. 1, p. 333.]

61-904. PETITIONS -- PROMPT DISPOSITION -- CONTINUANCES. All applications for the issuance, assumption or guarantee of securities shall be disposed of promptly, and within thirty (30) days after petition is filed with the commission unless it is necessary, for good cause, to continue same for a longer period. Whenever such application is continued beyond thirty (30) days after the time it is filed, the commission shall enter an order making such continuance and stating fully the facts necessitating same.

[61-904, added 1951, ch. 143, sec. 1, p. 333.]

61-905. FEES TO BE PAID. Prior to the issuance of an order and security authorization under this act, the commission shall require the payment of a fee by the applicant in the amount of one dollar (\$1.00) for each one thousand dollars (\$1,000) of the aggregate principal amount or par or stated value of the security or securities involved up to one hundred thousand dollars (\$100,000), and twenty-five cents (25¢) for each one thousand dollars (\$1,000) over one hundred thousand dollars (\$100,000) and up to one million dollars (\$1,000,000), and ten cents (10¢) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000), provided, that only twenty-five per cent (25%) of the amount of the fee determined as hereinabove specified shall be payable on such portion of any issue of securities as may be for the purpose of guaranteeing, taking over, refunding, discharging, replacing or retiring any security on which a fee was previously paid to the commission under this act; and provided further, that if the property of the public utility proposing to issue such securities shall be located in part in the state of Idaho and in part in some other state or states, only such percentage of the amount of the fee determined as hereinabove specified shall be payable as the percentage ratio of the book value of such property located in the state of Idaho shall bear to the total book value of the property of such public utility, said book values to be determined as of the close of the preceding calendar year. Provided, however, that in no event shall the fee be less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000) per application.

[61-905, added 1951, ch. 143, sec. 1, p. 333; am. 1974, ch. 88, sec. 1, p. 1184.]

61-906. NO LIABILITY ON PART OF STATE. No provision of this act, or any act or deed done or performed in connection therewith, shall be construed to obligate the state of Idaho to pay or guarantee in any manner whatsoever any security authorized, issued, assumed or guaranteed under the provisions of this act.

[61-906, added 1951, ch. 143, sec. 1, p. 333.]

61-907. ACT SUPERIOR TO ALL LAWS. Wherever any provisions of the existing laws of the state of Idaho, or of any laws enacted at the thirty-first session of the legislature of the state of Idaho, are in conflict with the

provisions of this act, it is the declared intention of the legislature that the provisions of this act shall control and supersede all conflicting provisions of any such laws.

[61-907, added 1951, ch. 143, sec. 1, p. 333.]

61-908. SAVING CLAUSE. If any part or parts of this act shall be adjudged by the courts to be unconstitutional or invalid, the same shall not affect the validity of any part or parts thereof which can be given effect without the part or parts adjudged to be unconstitutional or invalid.

[61-908, added 1951, ch. 143, sec. 1, p. 333.]

61-909. EXEMPTIONS. The commission may from time to time by order or rule, and subject to such terms and conditions as may be prescribed therein, exempt any security or any class of securities for which an application is required under this chapter or any public utility or class of public utility from the provisions of this chapter if it finds that the application thereof to such security, class of securities, public utility or class of public utility is not required by the public interest.

[61-909, added 1997, ch. 239, sec. 1, p. 700.]