

# FitchRatings

## U.S. UTILITIES SURVEY OF STATE PUBLIC SERVICE COMMISSIONS

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Global Power/North America  
Special Report

## Fitch Utility Regulatory Survey of State Public Service Commissions

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The focus of Fitch's survey was to determine the extent that individual state PSCs have authority to control jurisdictional utilities in several important areas of activity relating to utility credit. These areas include:

- Approving long-term and short-term financing and the use of financing proceeds.
- Controlling a utility's capital structure.
- Supervising transactions of a utility with affiliated companies.
- Approving mergers and acquisitions and the ownership of the utility.
- Assessing penalties on utilities that violate PSC rules or orders.

This report includes the survey responses of 48 PSCs, provides Fitch's view of the current state regulatory environment and includes company-specific examples of regulatory efforts to ring-fence utilities.

### ■ Introduction

Fitch Ratings' survey of public service commissions (PSCs) was launched to provide an inside look at the way state utility regulators perceive their authorities on subjects including: securities issuance, affiliate transactions, merger approval and penalties for violations of regulations. The actions of state utility regulators can insulate a utility from the credit risks of its holding and affiliate companies. The evaluation of the state regulatory environment is a key component of Fitch's credit ratings of investor-owned utilities (IOUs).

The financial condition of a utility's holding company and affiliates often has significant effects on its rating. Group rating linkage recently has proven to be the most frequent cause of ratings changes for electric and gas utilities, accounting for approximately one-half of Fitch's rating actions in the sector over the past few years. Furthermore, the ratings of 29 gas and power utilities are upwardly constrained due to affiliations with weak parent or affiliate companies (i.e., the utilities' individual business and financial conditions would warrant higher credit ratings, but for their ownership by a weaker parent company.)

Fitch's view of the state regulatory environment and the survey results are summarized as follows:

- While investors often believe that state PSCs have regulatory powers to control the actions of state-regulated IOUs, the actual statutory powers of the PSCs vary considerably from state to state. In many states, there are significant holes in the safety net. For example, many states have authority over long-term securities issuances but not short-term.
- Historically, even when explicit regulatory authority existed, PSCs often declined to use it unless the financial condition of the utility had already deteriorated.
- PSC efforts to ring-fence utilities are nonetheless becoming increasingly proactive in the face of a changing industry structure.
- Rate cases are a panacea for many PSCs lacking explicit regulatory authority over some spheres of utility business or financial activities, such as mergers, investments, dividends or short-term financing. Across categories, PSCs' survey responses often indicate that although there is no explicit statutory authority to prospectively control the utilities under their jurisdiction, indirect authority can be exerted through rate case proceedings.
- PSC orders issued in response to financing or merger applications are two additional methods used to assert regulatory authority when no direct statutory authority exists (i.e., in a settlement agreement accepted by the utility, a PSC may condition its approval of a merger request on maintenance of a certain capital structure or dividend payment policy).

**February 25, 2004**

**The Aim and Sources of a Ring-Fence**

The aim of a ring-fence is to insulate an issuer from the credit risks of its holding company and affiliate companies. Within corporate groups, either a single rating is assigned to all issuers within the group or each issuer is rated on a more distinct issuer by issuer basis, depending on the collective efficacy of the ring-fencing efforts. If ring-fencing efforts are viewed as effective, then within investment-grade categories, the debt ratings of a regulated utility subsidiary are usually 1–2 notches higher than the ratings of its parent company. A special-purpose subsidiary created to hold passive financial assets for a securitization can achieve complete credit isolation and bankruptcy remoteness. A normal operating subsidiary carrying out ongoing business generally cannot achieve this complete isolation from the risks of the corporate parent, but a strong ring-fence permits wider separation of the ratings of related companies. When one subsidiary approaches default, ring-fencing efforts become increasingly important, and the notching between parent and subsidiary ratings can widen considerably (e.g., Enron Corp. and Portland General Electric Company). The main sources of utility ring-fencing are federal code implemented through Federal Energy Regulatory Commission orders, state code implemented through PSC orders, financial covenants contained in loan agreements and bond indentures, and a corporation's own policies on corporate conduct. For more information, refer to Fitch's special report, "Rating Linkage within U.S. Utility Groups: Ring-Fencing Mechanisms," dated April 8, 2003.

**■ The Big Picture****Rate Orders are the Answer**

The authorities of states to create ring-fences around utilities range from weak or ambiguous to wide-ranging and prospective. Nevertheless, when a PSC lacks direct statutory authority, the ability to exact retribution on a wayward utility through punitive rate orders is omnipresent. PSCs generally have broad statutory mandates to do whatever is deemed necessary to uphold the public interest and ensure that reliable service is provided at just and reasonable rates. This broad authority can be used to disallow from customer rates any financing, affiliate transaction or other operating costs viewed as inconsistent with the public interest. The legitimacy of an order is often challenged when a PSC issues an order that is predicated on ambiguous language in the state code. In this case, the utility can choose to challenge the order through litigation and the courts may interpret the state code to deny authority. Generally, on the most contentious issues, Fitch has observed that a utility and PSC will more likely reach a settlement than litigate to a conclusion.

**Beyond Rate Orders: "Ring-Fencing" Is at the Top of Many PSC Agendas**

Prior to the recent financial upheaval in the sector, so long as jurisdictional utilities maintained investment-grade credit quality, many PSCs employed a relatively laissez-faire approach to the regulation of financing and affiliate activities. Proactive efforts to insulate the financial affairs of a public utility from affiliate companies were made only after there was severe deterioration in credit quality in the group, but

by this time, "the horse had already left the barn." It appears that state regulators are unlikely to take action when the credit of the holding company and the utility are descending gradually down the rating scale but are more likely to assert authority after a utility's credit quality changed from "acceptable" to "unacceptable." The public interest mandate also makes any test other than a simple binary one of "acceptability" difficult to implement in rate orders or regulatory action. Typically, therefore, action to insulate the financial affairs of the utility would occur only after the unsecured debt ratings of the utility had already passed into speculative grade.

Today, regulators' attention is keenly focused on ring-fencing as a way to protect the financial health of utilities. Fitch expects a continuing trend of preventive ring-fencing efforts, introduced through PSC orders for rates, financing plans or merger approvals, in tandem with other forward-looking regulatory efforts, such as preapproval of construction expenditures or automatic rate-adjustment mechanisms. The ring-fencing issue is on the radar screen of the National Association of Regulatory Utility Commissioners (NARUC), and the introduction of related legislation is being considered by more than one state.

**■ Summary of Survey Responses by Survey Topic****Response Quality Varies**

Although a number of PSCs provided seemingly accurate and comprehensive responses, there were deficiencies in response quality and/or timeliness by

other states. The deficiencies may indicate a lack of interest in communicating with the financial community or lack of staff within the commissions dedicated to addressing these types of matters. Some PSCs have separate departments of “Economic Research & Financial Analysis” (Oregon) or “Financial Review” (Texas), but many do not, and respondents were located variously in legal, electric or finance and accounting divisions.

Interestingly, there does not seem to be a relationship between the absolute level of PSC staffing and response quality. In fact, some of the more thorough survey responses were provided by PSCs with relatively small staffs, such as Minnesota (approximately 40 staff members), Iowa (70) and Oregon (110). The largest PSC staffs are maintained by California (940), New York (620), Virginia (600) and Pennsylvania (540), while the smallest are found in Rhode Island (8), Vermont (17), South Dakota (25) and Delaware (30), according to data from Regulatory Research Associates.

### Utility Financings

The issuance of long-term debt is widely regulated at the state level, while authority over short-term debt issuance is less prevalent and often limited to certain types of debt (e.g., secured debt or intercompany debt). Four state commissions, Iowa, Michigan, Mississippi and Texas, indicated no authority to regulate debt issuance of any tenor. Many PSCs have only contingent authority to regulate financings (i.e., if the utility is incorporated in the state). Some states prohibit long-term intercompany lending, but at the same time, many permit the formation of intercompany money pools. Loans to a holding company or affiliate on a short-term basis through a shared money pool can result in significant losses to a utility if the affiliate were to default while funds drawn by the affiliate from the pool were outstanding.

From the variety of different provisions in place, statutory language relating to securities’ issuance, which would promote effective utility ring-fencing, would include language that:

- Defines “securities” broadly to include secured and unsecured debt, hybrid securities, equity and other instruments.
- Includes both intercompany and external securities issuance and requires all debt, including internal shared money pool debt, to be

documented with notes that bear interest at market rates.

- Includes issuances of all tenors.
- Extends authority to any utility doing business in the state (rather than excluding utilities that are incorporated in other states, have less than a certain percentage of assets within the state, etc.).
- Requires preapproval for every issuance (or alternatively, permits shelf registrations or multiyear financial plans and requires demonstration of pro forma compliance with financial tests prior to each issuance) and invalidates securities issued without approval.
- Limits the use of proceeds to purposes clearly related to the utility business and consistent with the public interest (imperfect, but preferable to looser language, such as “any lawful purpose”).
- Applies whether or not the issuance is regulated by the Securities and Exchange Commission (SEC) or any other regulatory body.

The presence of authority to regulate short-term debt issuance, as with all other categories of questions, was subject to interpretation by individual respondents. Some PSCs responded affirmatively even though only contingent authority exists. For example, the Idaho PSC indicates that it has authority to regulate short-term debt, but according to the website for the relevant section of the Idaho code, no approval is required if the aggregate amount of short-term debt outstanding is less than 5% of securities outstanding and the cumulative term is less than 12 months. In a similar vein, the Illinois Commerce Commission (ICC) also responded affirmatively and then explained that short-term debt is regulated only if the cumulative term exceeds 24 months (the more prevalent definition would categorize any debt more than 12 months as long-term). The Maine PSC response took the opposite tack, responding negatively, but explaining that the lack of authority applied only if the debt is unsecured and not to an affiliate. Due to the lack of uniformity and the severe practical obstacles to imposing uniform standards, no tabular summation of the states’ “yes” and “no” answers was undertaken. Readers are encouraged to examine not only the individual state’s responses but also the rationales.

### Affiliate Transactions

The responses of most PSCs indicated the presence of authority to regulate affiliate transactions. Here again, PSCs’ interpretations of what constitutes

authority was often broad and frequently based on the ability to deny recovery of imprudent costs associated with affiliate transactions in rate cases. Some responses cited affiliate codes of conduct and established pricing mechanisms as indirect means to regulate affiliate transactions, in lieu of requiring specific prospective approval prior to each affiliate transaction. Generally, codes of conduct are not defined by state statutes but are rather established by a PSC order or in a settlement of a rate case or merger approval. Such codes are designed to separate the business affairs of utilities and nonregulated affiliates financially and functionally. Fitch did not survey whether PSCs carry out ongoing monitoring to ensure compliance with codes of conduct.

Creditors of regulated utilities and the unregulated affiliates/holding companies within the utility group may have different perspectives on the best way to price intercompany transactions involving a utility. From the perspective of a public utility subsidiary creditor (or the “public interest” of a ratepayer), pricing affiliate transactions at the lower of cost or market may seem to be the most beneficial approach for maintaining utility credit quality. However, this method of pricing can result in significant losses for the unregulated entity, and the credit quality of all entities in the group, including the utility, may suffer in the long term. Although by no means prescriptive, standards of conduct that require affiliate transactions to be conducted on an arm’s length basis seem to be the most even-handed way to deal with all entities in a group.

Two requirements that would probably provide the greatest degree of ring-fencing protection but could also entail heavy administrative and opportunity cost burdens relate to preapproval of affiliate transactions and guarantee or support arrangements. A requirement that the PSC prospectively approve all affiliate transactions over defined threshold amounts would assist in ring-fencing the utility. Such arrangements pose significant administrative, definitional and confidentiality challenges. This type of prospective approval exists in Maine (35-A-707), which permits the PSC to waive the requirement to seek approval under certain conditions (i.e., for affiliate transactions valued at less than \$500, the amount of which seems as anachronistic as \$100 penalties for violations of PSC regulations).

PSC responses also indicated varying levels of prohibition of support from the utility to the nonutility members of an integrated group. Most

protective of the utility credit would be provisions that prohibit or limit guarantees, keep-well or other support arrangements provided by the utility to holding and affiliate companies and requires such arrangements to be provided on an arm’s length, remunerated and regularly disclosed basis.

### **Acquisition and Ownership Regulation**

Many PSCs have used merger approval orders as a means to ring-fence utilities through the imposition of restrictions on dividend payments, capital structure, review of affiliate transactions, etc. This is illustrated by the Portland General Electric Company example on page 5. Merger approval orders are not to be underestimated as a tool. Preconditions placed by regulators on mergers can be so onerous as to cause the termination of the transaction, as was illustrated in the failed 1995 merger between Constellation Energy Group and PEPCO Holdings, Inc. The merger was called off after the companies concluded that required electricity price reductions would be detrimental to shareholders.

Sixteen PSCs indicated that they have the authority to prohibit or restrict the formation of utility holding companies. Setting conditions to the approval of applications to form utility holding companies can help insulate utilities from their corporate groups. Conditional approvals of requests to form a holding company have been used effectively to create indirect regulatory authority over intergroup transactions. The ability to set conditions on holding company formation can be important because PSCs generally lack direct authority to regulate a holding company’s nonregulated investment activities, but the relevance of this authority may be diminishing because most large utilities already operate within holding company groups. The California Public Utility Commission’s (CPUC) decision in 1988 to authorize Southern California Edison Co. (SCE) to reorganize into a holding company contained many conditions to regulate affiliate activities and relations, including:

- Providing the CPUC with access to books and records of Edison International (EIX) and its affiliates.
- Requiring EIX and its subsidiaries to employ accounting and other controls to ensure full review by the CPUC and to protect against subsidization of nonutility activities by SCE.
- Requiring all transfers of market, technological or similar data be made at market value.

- Precluding SCE from guaranteeing any obligations of SCE without prior consent from the CPUC.
- Providing that SCE shall maintain a balanced capital structure in accordance with prior CPUC decisions.
- Requiring SCE's dividend policies to be established by SCE's board of directors as if it were a stand-alone company.

Should the Public Utility Holding Company Act of 1935 (PUHCA) ever be repealed, states that have less extensive authority over mergers and acquisitions may experience increased merger and acquisition activities, and therefore, higher event risk, although this may be mitigated in part or in full by increased Federal Energy Regulatory Commission (FERC) and Department of Justice regulatory oversight of merger activities. The Florida PSC was the only one that said it does not have any authorities to regulate utility acquisition and ownership. Replies from other states were mixed.

## Penalties

PSCs have a wide variety of penalty authorities available for violations of regulations, and, of course, the authority to set “just and reasonable” rates is the ultimate hammer. It is logical to assume that the greater the penalty, the greater the deterrent. In terms of statutory authorities, some states reported only an ability to levy de minimus fines, but other states noted much more severe penalties, such as:

- Jail time — California and Virginia included statutory references that described jail time as a penalty that could be invoked to punish utility employees, officers or agents who committed misdemeanors by violating certain regulations.
- Revocation of operating certificate — Louisiana, North Carolina, New Jersey, South Carolina and Tennessee were among the states that reported that a utility's public certificate of need to operate could be revoked for violations.
- Material fines — New Mexico and New York indicated abilities to fine utilities material amounts (ranging from \$100,000–\$500,000 per day per violation).

In purely monetary terms, however, the greatest punitive action in almost all cases will still be the next rate case that the utility must bring before the commission. Occasionally, nonmonetary penalties are harsh, permitting application of monetary

penalties outside the rate order framework in the form of a settlement. For example, the Vermont Public Service Board threatened to use its ability to revoke the operating certificate of Citizens Utilities Company (Citizens Utilities) to punish the fraudulent regulatory accounts of its Vermont electric division in the mid-1990s, resulting in Citizens Utilities' acceptance of a 50% reduction in the allowed return on equity for five years instead of the potential loss of the operating certificate.

## ■ Examples of PSC Ring-Fencing

### Portland General Electric Company (PGE)

**State of Incorporation: Oregon**

**State Regulatory Authority: Oregon PUC**

**Senior Unsecured Rating: 'BB'**

PGE has frequently been cited as the poster child for effective ring-fencing due to the regulatory measures it used to keep the utility separate from its parent, Enron Corp. (Enron).

The Oregon PUC's authority to approve acquisitions of utilities (§757.511) is broad. The acquisition must meet a public interest standard, an applicant must file extensive information about its identity, financial condition and plans, and the PUC has the freedom to impose “specific requirements” as conditions to approval of the merger. This authority was exercised successfully in the PGE/Enron order.

The Oregon PUC's order to approve Enron's acquisition of PGE contained many ring-fencing provisions. The order stipulated the maintenance of a minimum equity ratio of 48% by PGE, placed restrictions on Enron's access to PGE's assets and limited PGE's ability to pay upstream dividends. As a result of these efforts, PGE's assets were not pledged to Enron lenders (unlike some regulated pipeline subsidiaries of Enron), and the financial integrity of PGE remained intact. Nevertheless, PGE did suffer from group contagion when Enron filed for bankruptcy. PGE lost access to the commercial paper market and was unable to obtain an unsecured bank credit facility despite its sound stand-alone financial condition. Its unsecured debt was downgraded to below-investment grade ('BB-'), albeit multiple categories above the 'D' rating assigned to parent Enron. Market counterparties requested collateral on trading obligations. The utility became the subject of FERC and SEC investigations regarding the possibility that PGE may have been involved in Enron trading strategies. The utility was potentially

exposed to tax, pension and health care liabilities as part of the Enron consolidated tax group. Enron and its status were mentioned explicitly in representations and warranties within the utility's revolving credit facility.

As uncertainties surrounding the Enron bankruptcy have dissipated, contingent liabilities have been quantified and access to markets regained. PGE's unsecured debt has since been upgraded to 'BB' and currently, the Rating Outlook is Positive.

**NorthWestern Corporation (NorthWestern)**  
**State of Incorporation: Montana**  
**State Regulatory Authority: Montana Public Service Commission (MT PSC)**  
**Senior Unsecured Rating: 'DD'**

NorthWestern exemplifies a company that lacks ring-fencing of the utility. NorthWestern made significant investments in unregulated subsidiaries that later proved to be unsuccessful. The company operates with a divisional structure, (e.g., the regulated utility operates within the parent company as a division, not as a distinct subsidiary). This corporate structure has often been cited by Fitch as entailing higher risk for the utility because the utility takes the equity risk of subsidiaries and the utility's finances are intertwined with nonutility businesses. The company filed a Chapter 11 bankruptcy petition on Sept. 14, 2003.

The Montana PSC response indicated it has no regulatory authority over affiliate transactions.

In response to NorthWestern's woes, the governor of Montana formed a task force in 2003 to investigate and recommend utility ring-fencing measures, and the PSC is investigating the company's financial condition and affiliate transactions.

**Westar Energy (Westar)**  
**State of incorporation: Kansas**  
**State Regulatory Authority: Kansas Corporation Commission (KCC)**  
**Indicative Senior Unsecured Rating: 'BB-'**

In some ways, the corporate structure of Westar is similar to that of NorthWestern. Westar is an operating utility and also a parent company. Kansas Power and Light operates as a division within the parent company, while Kansas Gas & Electric Co. (KG&E) is a subsidiary. However, KG&E and Kansas Power and Light are centrally managed, with KG&E providing service under the Westar name.

KG&E and Westar are rated the same, as it would be difficult to separate the credit of the two entities.

Westar engaged in unsuccessful nonregulated diversification in the mid- to late 1990s, most notably in the home security business, resulting in excessive debt leverage at Westar relative to the utility business. Westar, largely as a result of commission pressure, has made considerable progress in its plan to sell unregulated assets and go back to basics as a utility. Assuming that the recently announced Protection One sale closes by the end of the first quarter of 2004, all of the company's significant nonutility investments will have been sold.

The KCC's response to the Fitch survey indicates that the PSC has the authority to regulate long-term securities issuance (§66-125). This section states that among the allowable purposes for a public utility to issue securities is, "...for other such purposes as may be authorized by law." From a credit perspective, this broad language seems to give free rein to issuance for almost any purpose and may have enabled Westar to issue debt in support of nonregulated activities. After the overleveraging occurred at Westar, a 2001 KCC order instituted requirements for commission preapproval of any debt issuance, considerably tightening restrictions.

The KCC's response to Fitch's survey also indicated that it does not have explicit authority to regulate nonutility investment by utilities or utility holding companies. Yet, after the overleveraging occurred at Westar, the KCC exerted authority through a series of orders issued in the beginning of 2001 that ultimately resulted in the adoption of a financial plan designed to reduce debt and focus operations on the utility business. The lack of statutory authority did not prevent the KCC from issuing an order that requires prospective KCC approval for any new investments in nonutility businesses. Among other things, these orders blocked the company from undertaking any action that would increase debt at the utility, prevented the utility from executing the announced management plan to de-merge the utility's unregulated assets (leaving the utility with the debt incurred to buy those assets) and ordered the utility to submit a financial restructuring plan to reduce debt.

It should be noted that the relationship between the KCC and Westar seems less contentious at present with a new management team in control of the company, since late 2002. Under the leadership of new management, Westar declared its intention to

jettison all of its nonutility operations and reached a settlement agreement regarding its debt reduction and restructuring plan that was approved by the KCC on July 25, 2003. The agreement requires the divestiture of Westar's nonregulated businesses and application of the proceeds to debt reduction. The Rating Outlook for both Westar and KG&E is Positive (see credit update report dated Dec. 19, 2003).

**Indianapolis Power & Light Co. (IP&L)**

**State of incorporation: Indiana**

**State Regulatory Authority: Indiana Utility Regulatory Commission (IURC)**

**Senior Unsecured Rating: 'BBB-'**

The ratings of IP&L are constrained by the ratings of its intermediate parent, IPALCO Enterprises, Inc. (IPALCO Enterprises, 'BB'), and ultimate parent, AES Corporation ('B'). IP&L's credit quality is largely insulated from its group through effective ring-fencing efforts, but the companies' ratings cannot be completely separated. The individual credit quality of IP&L is considerably stronger than current ratings indicate due to this constraint. Debt-service payments at IPALCO Enterprises are dependent upon upstream dividends from IP&L.

On Feb. 12, 2003, the IURC issued an order approving IP&L's multiyear financing plan petition. In this order, the IURC noted that it had the authority to regulate dividend payments stemming from

I.C.-8-1-2-80. This section of the code states that the commission can impose such conditions upon a public utility issuing securities as it deems reasonable. The order also stated that in the interest of avoiding a protracted hearing, the IURC declined to exert this authority, and dividend policy restrictions would be limited to information reporting requirements. The IURC's reliance on I.C.-8-1-2-80 exemplifies an attempt to assert authority by tying one action (issuance of debt) to another (paying dividends). On Feb. 28, 2003, IP&L petitioned for reconsideration or rehearing to clarify that the IURC has no authority over dividend policy, and then a negotiated settlement was reached in April 2003 that limits dividend payment restriction to information filings. The issue of whether statutory authority exists was never litigated, and as is the case with many PSC laws, the extent of authority remains unclear.

The April 2003 order (cause no. 42292) stipulates that IP&L must file a notice with the IURC 20 days in advance of any dividend disbursement and that this notice must include the amount of proposed dividend, the amount of dividends distributed over the past 12 months, an income statement for the same period, the most recent balance sheet, IP&L's capitalization as of the close of the proceeding month and a pro forma capitalization giving effect to the proposed dividend with sufficient detail to indicate the amount of the retained earnings after distribution.

**State Public Service Commission Survey Background and Methodology**

In 1995, the SEC carried out a survey of 42 PSCs (the 1995 Survey). The questions in the 1995 Survey formed the basis for the current Fitch survey. The main purpose of the 1995 Survey was to evaluate the extent of regulatory redundancy between PUHCA and state PSC regulatory authorities. The complete text of the SEC 1995 survey may be found on the SEC's web site at [www.sec.gov/news/studies/puhc.txt](http://www.sec.gov/news/studies/puhc.txt).

In the Fitch survey, PSCs were requested to update responses provided in the 1995 Survey as well as answer new questions about financial regulatory authorities and penalties for noncompliance.

Fitch received 48 replies to the survey from PSCs in 47 states plus the District of Columbia. The PSCs from Alaska, Nevada and Rhode Island did not participate in the survey, and Nebraska's reply was limited to a statement that it does not regulate the gas or electric industry and, therefore, cannot provide any additional information. Similarly, Alaska, which did not reply, does not regulate any public utilities. The vast majority of replies were received electronically, while a small number were received by phone or regular mail. Follow-up conversations were held with a number of respondents to clarify meaning or request verbal answers to omissions of the email replies.

It is important to note that many replies stated that the answers provided represent the opinion of the respondent, not an official response of the commission or commission staff.

Most replies were published verbatim. However, in a few instances when replies included significant quotations from state code, they were edited for the sake of brevity.

Fitch makes no legal representations or warranties regarding the accuracy of any response. Despite this caveat, much of the information that was collected is considered accurate. References and links to PSC web sites and state codes and statutes have been embedded in the report with the intent to provide a centralized research tool for readers who wish to independently assess PSC authorities.

Fitch extends its sincere appreciation to the members of the NARUC Staff Subcommittee on Accounting and Finance for their assistance in providing contact information and collecting replies.

# Alabama

**Commission** 3 members Elected  
**Staff Size** 120 employees



## Related Web Sites

Alabama Public Service Commission: [www.psc.state.al.us](http://www.psc.state.al.us)  
 Code of Alabama: [www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm](http://www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm)

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** Yes  
**Does this include long-term debt?** Yes

A2 If so, what general standards are applied in such regulation?  
 The merit of the filing is reviewed by the Commission Staff. The issuance must promote safe and adequate service to the public in a cost effective manner.

A3 **What is the procedure and timing of such regulation?**  
 A filing is for the issuance of securities is accomplished by delivery of a document detailing the type, amount, timing, nature, terms, and conditions of the issuance to the Secretary of the Commission and State Attorney General's Office, which becomes effective upon receipt by the Commission. To be considered at the monthly Commission meeting, the filing must be two weeks prior to the monthly Commission meeting or it will be carried over to the next Commission meeting. The Staff submits an analysis of the filing and recommendation to the Commissioners. Petitioners are permitted to intervene. If there are no intervenors, the Commissioners will rule on the matter at the monthly Commission meeting.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**  
 Those applicable in A3 above.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)**  
 The Commission has the authority to approve or disprove all above named transactions of utilities operating within the State of Alabama under the jurisdiction and supervision of the Alabama Public Service Commission.

B **With a utility affiliated through ownership or otherwise?**  
 The Commission has the authority to approve or disprove all above named transactions of utilities operating within the State of Alabama under the jurisdiction and supervision of the Alabama Public Service Commission.

C **With an unaffiliated utility?** None

D **With an affiliated nonutility company?**  
 The Commission has the authority to approve or disprove all above named transactions of utilities operating within the State of Alabama under the jurisdiction and supervision of the Alabama Public Service Commission.

E **With an unaffiliated nonutility company?** None

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> The Commission has the authority to approve or disprove financing request transactions of utilities operating within the State of Alabama under the jurisdiction and supervision of the Alabama Public Service Commission. No detailed capital structure regulations have been adopted because each financing request is evaluated on a case by case basis.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	Yes
	<b>If yes, what are existing regulatory limits for utilities in your state?</b> The Commission has the authority to limit intercompany loan transactions of utilities operating within the State of Alabama under the jurisdiction and supervision of the Alabama Public Service Commission. No intercompany loan regulations have been adopted because each request is evaluated on a case by case basis.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> The Commission has the power to impose monetary penalties, issue orders to suspend or shut down companies not adhering to Commission regulations.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

## Alaska

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<b>Commission</b>	5 members	Appointed
<b>Staff Size</b>	61 employees	

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### Related Web Sites

Regulatory Commission of Alaska: <http://www.state.ak.us/rca/>  
Alaska Statutes: <http://www.legis.state.ak.us/cgi-bin/folioisa.dll/stattx02?>

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The Regulatory Commission of Alaska did not respond to the Fitch survey.

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# Arizona

**Commission** 5 members Elected  
**Staff Size** 300 employees



## Related Web Sites

Arizona Corporation Commission: <http://www.cc.state.az.us>  
 Arizona Constitution: <http://www.azleg.state.az.us/const/15/title15.htm>  
 Arizona Administrative Code: [http://www.sosaz.com/public\\_services/Title\\_14/14-02.htm](http://www.sosaz.com/public_services/Title_14/14-02.htm)  
 Arizona Revised Statutes: <http://www.azleg.state.az.us/ars/40/title40.htm>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes

**Does this include short-term debt?**

Yes, if secured debt.  
 No, if operating revenues exceed \$250,000 and short-term debt does not exceed 7% of the capital structure.

**Does this include long-term debt?**

Yes

Note: Also, the financing statutes do not apply to some telecommunication companies incorporated in states other than Arizona.

A2 **If so, what general standards are applied in such regulation?**

AZ Revised Statute 40-301 et seq.

A3 **What is the procedure and timing of such regulation?**

Generally a few months for Staff Report, proposed order and final order.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**

See AZ Revised Statutes 40-285 and 40-301 et seq. Commission generally looks to "the public interest."

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes  
 See A.A.C. R14-2-801, et seq.

B **With a utility affiliated through ownership or otherwise?** Yes  
 See A.A.C. R14-2-801, et seq.

C **With an unaffiliated utility?** No  
 Unless a special power contract as a tariff filing.

D **With an affiliated nonutility company?** Yes  
 See A.A.C. R14-2-801, et seq.

E **With an unaffiliated nonutility company?** No  
 Unless a special power contract as a tariff filing.

Note: Although the commission may not regulate certain transactions, expenses incurred from those transactions are examined during rate cases for reasonableness.

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	No
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	No
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	Yes
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> Depends on sector. Recent minimums have been 40% equity for electrics and LDCs. Also, Tucson Electric Power Company is operating under dividend restrictions based on capital structure by commission order.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	Yes
	<b>If yes, what are existing regulatory limits for utilities in your state?</b> Unlimited	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> See Arizona constitution Article 15, Section 19 & Section 4 and Arizona Revised Statute 40-421 et seq.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.



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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes*
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes*
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes*
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes*
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	Yes*
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	No
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes*

Note: \*See Generally Arkansas statute section 23-3-3.

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	No
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If yes, would you please provide details of existing capital structure regulations of utilities in your state.

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F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	No*
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Note: \*The Commission regulates loans to affiliates under the same statutes it regulates nonaffiliates.

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If yes, what are existing regulatory limits for utilities in your state?

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F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? See 23 3 103, et seq.	
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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# California

**Commission** 5 members Appointed  
**Staff Size** 940 employees



## Related Web Sites

California Public Utilities Commission: <http://www.cpuc.ca.gov>  
 Code of California Public Utilities: <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=puc&codebody=&hits=20>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**

PU Code Sections 816-830

A3 **What is the procedure and timing of such regulation?**

Application

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**

PU Code Sections 816-830

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)**  
 Commission authorizes formation and affiliate transaction rules.

B **With a utility affiliated through ownership or otherwise?**  
 Intercompany transaction pricing.

C **With an unaffiliated utility?**  
 None

D **With an affiliated nonutility company?**  
 Intercompany transaction pricing.

E **With an unaffiliated nonutility company?**  
 None

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	Yes
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> Review as part of rate case application.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	No
	<b>If yes, what are existing regulatory limits for utilities in your state?</b>	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> PU Code Sections 2100 et al.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Colorado

**Commission** 3 members Appointed  
**Staff Size** 90 employees



## Related Web Sites

Colorado Public Utilities Commission <http://www.dora.state.co.us/puc>  
 Colorado Statutes: <http://198.187.128.12/colorado/lpext.dll?f=templates&fn=fs-main.htm&2.0>  
 Colorado Public Utilities Rules: <http://www.dora.state.co.us/puc/rules/723.htm>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**

Pursuant to C.R.S. 40-1-104(1)-40-1-104(9)

A3 **What is the procedure and timing of such regulation?**

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**

Pursuant to C.R.S. 40-1-104 (1)

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

Indirect authority pursuant to 4 (CCR) 723-47-5 where the pricing basis for transactions between a utility and non regulated division, subsidiaries or affiliates is established.

A **With its holding company (if any)** None

B **With a utility affiliated through ownership or otherwise?** None

C **With an unaffiliated utility?** None

D **With an affiliated nonutility company?** None

E **With an unaffiliated nonutility company?** None

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### 3 Acquisition and Ownership Regulation

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Governed by the process described in Rule 4 (CCR) 723-1-55.

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	No
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> The Commission has indirect authority. This indirect authority is exercised via the Commission's power to approve just and reasonable rates or Utility Applications requesting approval of the transfer of assets or mergers. Commission approval of any of these requests may include conditions (i.e. minimum equity or maximum debt percentages) related to the capital structure or any of its components.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	No
	<b>If yes, what are existing regulatory limits for utilities in your state?</b>	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> See C.R.S. 40-7, Enforcement of laws.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Connecticut

<b>Commission</b>	5 members	Appointed
<b>Staff Size</b>	145 employees	



## Related Web Sites

Connecticut Department of Public Utility Control:	<a href="http://www.state.ct.us/dpuc">http://www.state.ct.us/dpuc</a>
Connecticut Department of Public Utility Control Statutes:	<a href="http://www.dpuc.state.ct.us/DPUCinfo.nsf/DPUC%20State%20Statutes?OpenView&amp;Start=1&amp;Count=30&amp;Expand=1#">http://www.dpuc.state.ct.us/DPUCinfo.nsf/DPUC%20State%20Statutes?OpenView&amp;Start=1&amp;Count=30&amp;Expand=1#</a>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b>	No
	<b>Does this include long-term debt?</b>	Yes
A2	<b>If so, what general standards are applied in such regulation?</b>	
A3	<b>What is the procedure and timing of such regulation?</b>	Generally, DPUC has 30 days to act.
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b>	Approval is required for anything that obligates the utility for a year or more.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b>	None
B	<b>With a utility affiliated through ownership or otherwise?</b>	None
C	<b>With an unaffiliated utility?</b>	None
D	<b>With an affiliated nonutility company?</b>	None
E	<b>With an unaffiliated nonutility company?</b>	None

Note: Connecticut's code of conduct for electric utilities and their affiliates can be found as part of the Regulations of Connecticut State Agencies Sections 16-244h 1-7.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> Section 16-43.	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b> Section 16-47.	Yes
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b> *In rate case, a hypothetical capital structure is used. <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>	No*
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b> No limit on dividends. Inter-company loans are regulated. <b>If yes, what are existing regulatory limits for utilities in your state?</b>	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> Section 16-41.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Delaware

**Commission** 5 members Appointed  
**Staff Size** 30 employees



## Related Web Sites

Delaware Public Service Commission: <http://www.state.de.us/delpsc>  
Delaware Code: <http://www.delcode.state.de.us/title26/index.htm#TopOfPage>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** Yes  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
The issuance must be in accordance with law, for a proper purpose, and consistent with the public interest.

A3 **What is the procedure and timing of such regulation?**  
The filing must be acted on within 30 days or is deemed approved. Staff reviews filing and writes memo to the Commission either recommending approval or disapproval. An order is prepared for major utilities.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**  
The same standards, procedures and timing as securities issuance.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)**  
Services are to be priced at market price or cost.

B **With a utility affiliated through ownership or otherwise?**  
Services are to be priced at market price or cost.

C **With an unaffiliated utility?**  
Utility should have evidence of shopping for a good price, contract will be reviewed for reasonableness.

D **With an affiliated nonutility company?**  
Services are to be priced at market price or cost.

E **With an unaffiliated nonutility company?**  
Utility should have evidence of shopping for a good price, contract will be reviewed for reasonableness.

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> We look at the interest coverage ratio and expect a norm of 2.5.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	
	Indirectly through a rate case where the Commission determines a capital structure, cost of equity and rate of return. Also, in our state we have only seen where our regulated utility received loans from a parent, not the other way. <b>If yes, what are existing regulatory limits for utilities in your state?</b>	
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# District of Columbia

**Commission** 3 members Appointed  
**Staff Size** 70 employees



## Related Web Sites

District of Columbia Public Service Commission: <http://www.dcpssc.org>  
District of Columbia Code: <http://www.dcpssc.org/rmr/dccode/dccode.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**

A3 **What is the procedure and timing of such regulation?**

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)**  
Only as they impact the utility costs of service.

B2 **What standards, procedures and timing are involved in such regulation?**  
Case by case.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)**  
Only as they impact the utility costs of service.

B **With a utility affiliated through ownership or otherwise?**  
Only as they impact the utility costs of service.

C **With an unaffiliated utility?**  
Only as they impact the utility costs of service.

D **With an affiliated nonutility company?**  
Only as they impact the utility costs of service.

E **With an unaffiliated nonutility company?**  
Only as they impact the utility costs of service.

---

### 3 Acquisition and Ownership Regulation

---

A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets? Only as they impact the utility costs of service.	
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	If yes, would you please provide details of existing capital structure regulations of utilities in your state.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities? Only their inclusion in the costs of service.	
	If yes, what are existing regulatory limits for utilities in your state?	
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? Rate case penalties, limited monetary fines.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Florida

<b>Commission</b>	5 members	Appointed
<b>Staff Size</b>	380 employees	



## Related Web Sites

Florida Public Service Commission: <http://www.psc.state.fl.us/>  
 Florida Statutes: [http://www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0366/titl0366.htm&StatuteYear=2003&Title=%2D%3E2003%2D%3EChapter%20366](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0366/titl0366.htm&StatuteYear=2003&Title=%2D%3E2003%2D%3EChapter%20366)

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b>	Yes
	<b>Does this include long-term debt?</b>	Yes

#### A2 If so, what general standards are applied in such regulation?

Pursuant to Section 366.04, Florida Statutes, and Chapter 25-8, Florida Administrative Code, investor-owned electric and natural gas utilities are required to file formal applications for authority to issue and sell securities.

#### A3 What is the procedure and timing of such regulation?

Public utilities applying for authority to issue and sell securities have the option of filing an application for authority for a single transaction or an application to issue and sell one or more offerings of one or more types over a period of up to 12 months. The utility may file for an extension of the authority granted if additional monies are required within the 12 months.

Security applications are reviewed by staff in the Finance & Tax Section of the Division of Economic Regulation. Staff's recommendations are presented to the Commission at its regularly scheduled agenda conferences. Commission decisions are rendered through final Commission orders. On average, it is usually 8 to 10 weeks between the time a utility files its application and the Commission issues a final order.

The Commission's approval of a utility's application for authority to issue and sell securities does not indicate specific approval of any rates, terms, or conditions associated with the issuance. Such matters are properly reserved for review by the Commission within the context of a permanent rate proceeding. The Commission' approval of the issuance of securities shall constitute approval only as to the legality of the issue. In approving the subject financing, the Commission retains the right to disallow any of the costs incurred for ratemaking purposes.

#### B1 Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)

Section 366.04, F.S., specifies that "the Commission may deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the security, liability, or obligation is for non- utility purpose; and shall deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the financial viability of the public utility is adversely affected such that the public utility's ability to provide reasonable service at reasonable rates is jeopardized. Securities issued by a public utility as guarantor, endorser, or surety pursuant to an order of the Commission, which order is certified by the clerk of the Commission and which order approves or authorizes the issuance and sale of such securities or the assumption of such liabilities or obligations, shall not be invalidated by a modification, repeal, or amendment to that order or by a supplemental order; however, the Commission's approval of the issuance of securities or the assumption of liabilities or obligations shall constitute approval only as to the legality of the issue or assumptions, and in no way shall it be considered Commission approval of the rates, service, accounts, valuation, estimates, or determinations of cost or any other such matter."

#### B2 What standards, procedures and timing are involved in such regulation?

The standards, procedures, and timing involved in the analysis of applications for authority to enter other types of financing arrangements are the same as those outlined in the response to Question I. A. 3. However, in general, absent a clear demonstration of the benefits and appropriateness to utility operations, staff recommends the public utility to be restricted from issuing instruments of guaranty or collateralization in connection with debt obligations or other securities to be issued by one or more of its subsidiaries or affiliates. In turn, the Commission order generally specifies that the foregoing authorization relates only to the public utility's issuance of securities for utility purposes.

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## 2 Affiliate Transactions

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What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

A	With its holding company (if any)	None
B	With a utility affiliated through ownership or otherwise?	None
C	With an unaffiliated utility?	None
D	With an affiliated nonutility company?	None
E	With an unaffiliated nonutility company?	None

Note: Although the Commission does not specifically regulate any of the above mentioned transactions on a prospective basis, the Commission does have a rule in place regarding the appropriate cost allocation requirements associated with affiliate transactions. To prevent cost subsidization by utility ratepayers, the Commission reviews all costs applied to regulated operations within the context of its surveillance program and only reasonable, prudent, utility-related expenses are allowed for ratemaking purposes. (See Chapter 25-6.1351, Florida Administrative Code)

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## 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	No
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	No
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	No
B	Does the utility commission regulate the acquisition by a utility of utility assets?	No
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	No
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	No

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## Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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### 1 Utility Financings

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Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)? Yes

If yes, would you please provide details of existing capital structure regulations of utilities in your state.

For ratemaking purposes, the Commission has the authority to adjust the capital structure of utilities under its jurisdiction. In most cases, this has involved the setting of a maximum equity ratio the Commission will recognize for purposes of earnings surveillance. However, in a few rare cases the Commission has also used its discretion to waive certain ratemaking adjustments it might otherwise order a utility to make to prevent the utility's equity ratio from falling below a certain level as a percentage of investor capital.

F2 Does your commission have the authority to limit dividends or intercompany loans of utilities? No

If yes, what are existing regulatory limits for utilities in your state?

F3 Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?

Section 366.095, Florida Statutes, states that "the Commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter that is found to have refused to comply with or to have willfully violated any lawful rule of the Commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the Commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the Commission as a statutory lien under Chapter 85.

Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Georgia

<b>Commission</b>	5 members	Elected
<b>Staff Size</b>	95 employees	



## Related Web Sites

Georgia Public Service Commission: <http://www.psc.state.ga.us/>  
 Georgia Code: <http://www.legis.state.ga.us/legis/GaCode/Title46.pdf>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b>	No
	<b>Does this include long-term debt?</b>	Yes
A2	<b>If so, what general standards are applied in such regulation?</b>	
	<p>§ 46-2-28: Procedure for issuance of stocks, bonds, notes, or other debt by companies under commission's jurisdiction</p> <p>(a) Each of the companies over which the commission has jurisdiction shall be required to furnish the commission a list of any stocks and bonds the issuance of which is contemplated.</p> <p>(b) It shall be unlawful for any of such companies to issue stocks, bonds, notes, or other evidences of debt, payable more than 12 months after the date of issuance, except upon the approval of the commission, and then only when necessary and for such amount as may be reasonably required for the acquisition of property; the construction and equipment of power plants and carsheds; the completion, extension, or improvement of its facilities or properties; the improvement or maintenance of its service; the discharge or lawful refunding of its obligations; or other lawful corporate purposes falling within the spirit of this Code section.</p> <p>(c) The decision of the commission shall be final as to the validity of the issuance of stocks, bonds, notes, or other evidences of debt by companies under the jurisdiction of the commission.</p> <p>(d) Before issuing stocks, bonds, notes, or other evidence of debt, a company under the jurisdiction of the commission shall secure an order from the commission authorizing such issue, the amount thereof, and the purpose and use for which the issue is authorized. For the purpose of enabling it to determine whether such order should be issued, the commission shall make such inquiry or investigation, hold such hearings, and examine such witnesses, books, papers, documents, or contracts as it may deem advisable or necessary.</p>	
A3	<b>What is the procedure and timing of such regulation?</b>	
	See reply to 1-A2.	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b>	
	See reply to 1-A2.	

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b>	Yes
	<p>See O.C.G.A. 46-2-20 excerpt:</p> <p>§ 46 -2- 20 (e) The commission shall have authority to examine the affairs of all companies under its supervision and to keep informed as to their general condition, their capitalization, their franchises, and the manner in which the lines owned, leased, or controlled by them are managed, conducted, and operated, not only with respect to the adequacy, security, and accommodation afforded by their service to the public and their employees but also with reference to their compliance with all laws, orders of the commission, and charter requirements.</p> <p>(f) The commission shall have the power and authority, whenever it deems advisable, to prescribe, establish, and order a uniform system of accounts to be used by railroads and other companies over which it has jurisdiction, the same to be, as far as practicable, in conformity with the system of accounts prescribed by the Interstate Commerce Commission. The commission shall also have the power and authority to examine all books, contracts, records, papers, and documents of any person subject to its supervision and to compel the production thereof.</p>	
B	<b>With a utility affiliated through ownership or otherwise?</b>	Yes
	See O.C.G.A. 46-2-20.	
C	<b>With an unaffiliated utility?</b>	No
D	<b>With an affiliated nonutility company?</b>	Yes
	See O.C.G.A. 46-2-20.	
E	<b>With an unaffiliated nonutility company?</b>	No

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	No
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> General supervision authority. See § 46-2-20.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> General supervision authority. See § 46-2-20.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> General supervision authority. See § 46-2-20.	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b> General supervision authority. See § 46-2-20.	Yes
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b> General supervision authority. See § 46-2-20.	Yes
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> General supervision authority. See § 46-2-20.	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  If yes, would you please provide details of existing capital structure regulations of utilities in your state. See § 46-2-20.	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  If yes, what are existing regulatory limits for utilities in your state? See § 46-2-20.	Yes
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> See § 46-2-91: Penalties recoverable before commission.	

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# Hawaii

<b>Commission</b>	3 members	Appointed
<b>Staff Size</b>	45 employees	



## Related Web Sites

Hawaii Public Utilities Commission:	<a href="http://www.state.hi.us/budget/puc">http://www.state.hi.us/budget/puc</a>
Hawaii Revised Statutes:	<a href="http://www.capitol.hawaii.gov/hrscurrent/Vol05_C_h0261-0319/HRS0269/HRS_0269-.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol05_C_h0261-0319/HRS0269/HRS_0269-.htm</a>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	Does your commission regulate the issuance of securities by utilities?	Yes
	Does this include short-term debt?	No
	Does this include long-term debt?	Yes

A2 If so, what general standards are applied in such regulation?

A3 What is the procedure and timing of such regulation?

B1	Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)	No
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B2 What standards, procedures and timing are involved in such regulation?

### 2 Affiliate Transactions

What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

A	With its holding company (if any)	No
B	With a utility affiliated through ownership or otherwise?	No
C	With an unaffiliated utility?	No
D	With an affiliated nonutility company?	No
E	With an unaffiliated nonutility company?	No

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### 3 Acquisition and Ownership Regulation

---

A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	No
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	No
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	No
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	Yes
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?  If yes, would you please provide details of existing capital structure regulations of utilities in your state. Case by case.	Yes
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?  If yes, what are existing regulatory limits for utilities in your state? Case by case.	Yes
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? 269-28, Hawaii Revised Statutes.	

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# Idaho

**Commission** 3 members Appointed  
**Staff Size** 42 employees



## Related Web Sites

Idaho Public Utility Commission: <http://www.puc.state.id.us>  
Idaho Code: <http://www3.state.id.us/idstat/TOC/61FTOC.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** Yes  
Note that utilities use short-term lines where authority extends beyond one year so authority is required.  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
Idaho Code § 61-901 – 903 <http://www3.state.id.us/idstat/TOC/61009KTOC.html>

A3 **What is the procedure and timing of such regulation?**  
Idaho Code § 61-904. By application and order within 30 days.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**  
Same Idaho Code § 61-901 – 904 <http://www3.state.id.us/idstat/TOC/61009KTOC.html>

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

Idaho Code Title 61. <http://www3.state.id.us/idstat/TOC/61FTOC.html>  
61-328. ELECTRIC UTILITIES -- SALE OF PROPERTY TO BE APPROVED BY COMMISSION.  
<http://www3.state.id.us/cgi-bin/newidst?scid=610030028.K>

A **With its holding company (if any)**  
Authority to establish Holding Company used with Idaho Power.

B **With a utility affiliated through ownership or otherwise?**  
Authority over sale of plant and certificate for service of utility serving Idaho customers. Otherwise authority over rates of structure and allocation of costs.

C **With an unaffiliated utility?**  
Direct transactions with regulated utility and rate impact.

D **With an affiliated nonutility company?**  
Transactions with utility and rate impact.

E **With an unaffiliated nonutility company?**  
Transactions with utility and rate impact.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> Acquisitions or Mergers of entity but not purchase of stock for majority shareholder control.	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> Acquisitions or Mergers of entity.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> Acquisitions or Mergers of entity.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> Sale of assets.	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b> Case by Case.	
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b> Through mergers and acquisitions review, the security issuance filings and as reflected in rates. <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b> Dividends, No. Intercompany loans, Yes. <b>If yes, what are existing regulatory limits for utilities in your state?</b>	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> Chapter 7 Public Utilities Law – Enforcement, Penalties and interpretation. <a href="http://www3.state.id.us/idstat/TOC/61007KTOC.html">http://www3.state.id.us/idstat/TOC/61007KTOC.html</a>	

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# Illinois

<b>Commission</b>	5 members	Appointed
<b>Staff Size</b>	250 employees	



## Related Web Sites

Illinois Commerce Commission:	<a href="http://www.icc.state.il.us/home.aspx">http://www.icc.state.il.us/home.aspx</a>
Illinois Compiled Statutes:	<a href="http://www.legis.state.il.us/legislation/ilcs/ilcs.asp">http://www.legis.state.il.us/legislation/ilcs/ilcs.asp</a>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

Disclaimer: These answers do not represent the official position of the Illinois Commerce Commission ("Commission"); rather, these answers represent the opinions of the Staff of the Commission based upon Commission decisions and applicable law.

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b>	Yes*
	*If cumulative term exceeds 24 months.	
	<b>Does this include long-term debt?</b>	Yes
A2	<b>If so, what general standards are applied in such regulation?</b>	
	For an issuance under Section 6-102(b) of the Public Utilities Act ("PUA"), standards of reasonableness and public interest are applied. See the Commission's Order and Amendatory Order in Docket No. 02-0597 addressing a Section 6-102(b) financing. For an issuance under Section 6-102(d) of the PUA, no standards are considered. See Commission's Order in Docket No. 03-0154 addressing a Section 6-102(d) financing. See Section 6-102 of the PUA [220 ILCS (Illinois Compiled Statutes) 5/6-102].	
A3	<b>What is the procedure and timing of such regulation?</b>	
	For securities payable at periods of more than 12 months after issuance, the utility must apply for authorization, and the Commission will issue an Order.	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
	The Commission regulates loans and guarantees under Sections 7-101 and 7-102 of the PUA [220 ILCS 5/7-101 and 5/7-102]. See the Commission's Order in Docket No. 02-0800 addressing a loan. See the Commission's Order in Docket No. 02-0564 addressing a guarantee.	
B2	<b>What standards, procedures and timing are involved in such regulation?</b>	
	The utility must file a petition; after hearings, the Commission will issue an Order.	

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b>	
	The Commission has regulatory authority over a transaction of this type as an affiliated interest transaction under Sections 7-101 and 7-102 of the PUA [220 ILCS 5/7-101 and 5/7-102].	
B	<b>With a utility affiliated through ownership or otherwise?</b>	
	The Commission has regulatory authority over a transaction of this type as an affiliated interest transaction under Sections 7-101 and 7-102 of the PUA [220 ILCS 5/7-101 and 7-102]. See the Commission's Order in Docket No. 02-0428 addressing a holding company/utility agreement.	
C	<b>With an unaffiliated utility?</b>	
	The Commission has regulatory authority over a transaction of this type as an affiliated interest transaction under Sections 7-101 and 7-102 of the PUA [220 ILCS 5/7-101 and 5/7-102].	
D	<b>With an affiliated nonutility company?</b>	
	The Commission has regulatory authority over a transaction of this type as an affiliated interest transaction under Sections 7-101 and 7-102 of the PUA [220 ILCS 5/7-101 and 5/7-102]. See the Commission's Order in Docket No. 99-0114 addressing an affiliated non-utility company agreement.	
E	<b>With an unaffiliated nonutility company?</b>	
	The Commission has no regulatory authority over a transaction with an unaffiliated non-utility company other than the application of the just and reasonable standards to the transactions as the transactions are included in the determination of rates under Section 9-201 of the PUA [220 ILCS 5/9-201].	

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
	The Commission has authority to the extent that it safeguards the public interest for the acquisition of out-of-state utility facilities from an affiliated interest. See Section 7-101(3) of the PUA [220 ILCS 5/7-101(3)]. See the Commission's Order in Docket No. 02-0571.	
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
	The Commission has authority to the extent that it safeguards the public interest for the acquisition of in-state utility facilities by an out-of-state utility from an affiliated interest. See Section 7-101(3) of the PUA [220 ILCS 5/7-101(3)]. See Docket No. 03-0083.	
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
	The Commission has authority to approve reorganizations under Section 7-204 of the PUA [220 ILCS 5/7-204]. The Commission has approved two acquisitions of water utilities by international corporations. See the Commission's Order in Docket No. 01-0480, Amendatory Order in Docket No 01-0480, and Order in Docket No. 01-0832, respectively.	
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
	Yes, pursuant to Sections 6-103, 7-102, 7-204, and 7-204A of the PUA [220 ILCS 5/6-103, 5/7-102, 5/7-204, and 5/7204A]. See the Commission's Order in Docket No. 02-0428.	
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	Yes
	Yes, pursuant to Sections 7-204 and 7-204A of the PUA [220 ILCS 5/7-204 and 5/7-204A].	
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	
	Yes, pursuant to Sections 7-102 and 7-204 of the PUA [220 ILCS 5/7-102 and 5/7-204]. No, for utility holding companies.	
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	
	Yes, for all utilities except electric utilities and, after January 1, 2007, for electric utilities, pursuant to Sections 7-204 and 7-204A of the PUA [220 ILCS 5/7-204 and 5/7-204A]. Yes, for electric utilities through January 1, 2007, pursuant to Section 16-111(g) of the PUA [220 ILCS 5/16-111(g)].	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>	Yes
	Yes, the Commission has the authority through the issuance of securities pursuant to Section 6-102 of the PUA [220 ILCS 5/6-102]. <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> There are no capital structure regulations.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>	Yes
	Yes, the Commission has the authority pursuant to Sections 7-102 and 7-103 of the PUA [220 ILCS 5/7-102 and 5/7-103]. See the Commission's Interim Order in Docket No. 92-0415, Order in Docket No. 92-0415, Supplement Order in Docket No. 92-0415, and Order in Docket No. 02-0800, respectively. <b>If yes, what are existing regulatory limits for utilities in your state?</b> There are no formalized regulatory limits on dividends or intercompany loans.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>	
	The Commission can pursue the enforcement of its decisions through the circuit court system and levy a maximum fine of \$2,000 for each offence. See Sections 4-201, 5-201, and 5-202 of the PUA [220 ILCS 5/4-201, 5/5-201, and 5/5-202].	

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# Indiana

**Commission** 5 members Appointed  
**Staff Size** 70 employees



## Related Web Sites

Indiana Utility Regulatory Commission: <http://www.ai.org/iurc/index.html>  
 Indiana Code: <http://www.in.gov/legislative/ic/code/title8/ar1/>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
 IC 8-1-2-75.5 thru IC 8-1-2-81

A3 **What is the procedure and timing of such regulation?**  
 See 1-A2

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**  
 IC 8-1-2-80

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes  
 IC 8-1-2-49 (a)

B **With a utility affiliated through ownership or otherwise?** Yes  
 IC 8-1-2-49

C **With an unaffiliated utility?** No

D **With an affiliated nonutility company?** Yes  
 IC 8-1-2-49

E **With an unaffiliated nonutility company?** No

---

### 3 Acquisition and Ownership Regulation

---

A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	No
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	No
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?  If yes, would you please provide details of existing capital structure regulations of utilities in your state. IC 8-1-2-79(a)	Yes
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?  If yes, what are existing regulatory limits for utilities in your state? Yes. IC 8-1-2-79(a)	Yes
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? IC 8-1-2-115	

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# Iowa

**Commission Staff Size** 3 members Appointed  
70 employees



## Related Web Sites

Iowa Utilities Board: <http://www.state.ia.us/government/com/util/>  
Iowa Code: <http://www.legis.state.ia.us/IACODE/2003/476/>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	Does your commission regulate the issuance of securities by utilities?	No
	Does this include short-term debt?	No
	Does this include long-term debt?	No

A2 If so, what general standards are applied in such regulation?

A3 What is the procedure and timing of such regulation?

B1 Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)

The IUB does not explicitly regulate loans, guarantees, and hold harmless agreements; nevertheless the IUB can disapprove (the not infrequent) mergers and an order to not disapprove may be predicated upon the Board's understanding about certain financial operations. That is to say, while the IUB cannot explicitly condition a proposed merger under Iowa Code 476.76 and 476.77 and 199 IAC Chapter 32, applicants will often make commitments and assurances so that the merger will be allowed to go forward. Over time examples have included promises regarding minimum equity ratio levels, restraints on dividend payouts, and even prohibitions against the lending or investing of utility funds in affiliates or in assuming any responsibility for guaranteeing loans for the benefit of affiliates. Exact commitments and associated longevity are case-specific. For one example, see pages 8-10 of the order in Docket No. SPU-99-24, Global Crossing/Frontier Corporation, which can be found at [http://www.state.ia.us/government/com/util/\\_private/Orders/1999/0924\\_spu9924.pdf](http://www.state.ia.us/government/com/util/_private/Orders/1999/0924_spu9924.pdf).

Unfortunately, not all merger applicants are willing to give these assurances. One example of where assurances regarding financial matters were less thorough and limited in time can be seen on pages 6-8 of the Qwest/US West Docket No. SPU-99-27. See [http://www.state.ia.us/government/com/util/\\_private/Orders/2000/0317\\_spu9927.pdf](http://www.state.ia.us/government/com/util/_private/Orders/2000/0317_spu9927.pdf)

Nevertheless, if assurances are inadequate, the IUB does have the power to disapprove the proposed merger. In any case, the IUB has shown increasing interest in soliciting these types of commitments.

B2 What standards, procedures and timing are involved in such regulation?

See FN1

### 2 Affiliate Transactions

What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

A	With its holding company (if any)	See FN2
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B	With a utility affiliated through ownership or otherwise?	See FN2
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C	With an unaffiliated utility?	No
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D	With an affiliated nonutility company?	See FN2
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E	With an unaffiliated nonutility company?	No
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Note: The IUB has authority to access germane records of the utility and any affiliate and to deny cost recovery. In particular, Chapter 31 of the Board rules, entitled "Access to Affiliate Records, Requirements for Annual Filings, and Asset and Service Transfers" and Chapter 40, entitled "Competitive Bidding Process" are applicable. The latter requires standards of conduct to ensure that all transactions between the utility and its affiliates are conducted on an arm's-length basis [199 IAC 40.4(2)]. Germane records would also include the data behind any allocation methodology, e.g., billing records, etc. For Chapter 31, see <http://www.legis.state.ia.us/Rules/2003/iac/199iac/19931/19931.pdf>. For Chapter 40, see <http://www.legis.state.ia.us/Rules/2003/iac/199iac/19940/19940.pdf>

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### 3 Acquisition and Ownership Regulation

Acquisition and ownership regulation is found in Chapter 32, entitled "Reorganization."  
See <http://www.legis.state.ia.us/Rules/2003/iac/199iac/19932/19932.pdf>.

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>  Again, Chapter 32, entitled "Reorganization" of the Board rules regulates the utilities' ability to invest in non-utility operations. However, there is no explicit regulation of the utility holding companies' ability to invest. However, section 32.4(4) allows a company like Aquila to avoid some reorganization review under Chapter 32 unless its credit quality deteriorates.	See FN4
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>  The Iowa law states, "A reorganization shall not take place if the board disapproves." As mentioned above in FN1, there is no explicit conditioning authority.  For the authorizing law, see Sections 76 and 77 of Chapter 476 at <a href="http://www.legis.state.ia.us/IACODE/2003/">http://www.legis.state.ia.us/IACODE/2003/</a> and enter the chapter and section number for the state law. And, to reiterate, the associated administrative rule is Chapter 32 of the Board's rules. See <a href="http://www.legis.state.ia.us/Rules/2003/iac/199iac/19932/19932.pdf">http://www.legis.state.ia.us/Rules/2003/iac/199iac/19932/19932.pdf</a> .	See FN5

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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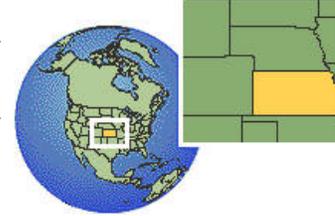
F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>  No specific authority. However, in practice, most recent merger dockets have not been disapproved with explicit recognition of specific commitments on a minimum equity ratio. For example, this includes MidAmerican Energy in Docket Nos. SPU-98-8 and SPU-99-32.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  <b>If yes, what are existing regulatory limits for utilities in your state?</b>  No specific authority. However, Global Crossing/Frontier case discussed in Footnote 1 (p. 9 of the Order) provided for a dividend payout for the utility of no more than 78 percent and limited the annual dividend payout ratio to 60 percent if the equity ratio for the consolidated Global Crossing (with all its subsidiaries, including the Iowa utilities) fell below 40 percent. This was operative for the next five years.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>  The Board rules at Chapter 8, entitled "Civil Penalties" and Chapter 476, Section 51, of the state law gives enforcement powers to the Board. Again, see <a href="http://www.legis.state.ia.us/IACODE/2003/">http://www.legis.state.ia.us/IACODE/2003/</a> and enter the chapter and section number for the state law. Chapter 8 of the Board rules can be found at <a href="http://www.legis.state.ia.us/Rules/2003/iac/199iac/1998/1998.pdf">http://www.legis.state.ia.us/Rules/2003/iac/199iac/1998/1998.pdf</a> .	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Kansas

**Commission** 3 members Appointed  
**Staff Size** 210 employees



## Related Web Sites

Kansas Corporation Commission: <http://www.kcc.state.ks.us>  
 Kansas Statutes: <http://www.kslegislature.org/cgi-bin/statutes/toc.cgi>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
 Only for utilities incorporated in KS.  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
 See KSA 66-125

A3 **What is the procedure and timing of such regulation?**  
 Application filed with Commission for review and approval/denial.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**  
 See KSA 66-1213; Application filed with Commission for review and approval/denial.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes  
 See KSA 66-1401 et seq.

B **With a utility affiliated through ownership or otherwise?** Yes

C **With an unaffiliated utility?** No

D **With an affiliated nonutility company?** Yes

E **With an unaffiliated nonutility company?** No

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	No
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets? Depends on asset; for example, if KS utility purchases another KS utility's assets, such acquisition is regulated.	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	No
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?  If yes, would you please provide details of existing capital structure regulations of utilities in your state.	Yes
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?  If yes, what are existing regulatory limits for utilities in your state? re: dividends - See KSA 66-1214.	Yes
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? See KSA 66-138, 66-139, 66-177, and 66-1,150	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Kentucky

**Commission** 3 members Appointed  
**Staff Size** 120 employees



## Related Web Sites

Kentucky Public Service Commission: <http://www.psc.state.ky.us>  
 Kentucky Revised Statutes: <http://www.lrc.state.ky.us/KRS/278-00/>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
 See Ky. Stats. Ch. 278.300, at <http://www.lrc.state.ky.us/krs/278-00/300.PDF>. In general, financing must be for lawful objects within the corporate purpose of the utility.

A3 **What is the procedure and timing of such regulation?**  
 Commission must rule on financing applications within 60 days unless extension is granted.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**  
 KRS 278.300. The Commission has authority over the issuance of securities or evidence of indebtedness or any obligation or liability in respect to the securities or evidence of indebtedness. See standards and procedures for utility financings above.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes  
 Kentucky Statutes prohibit cross-subsidization by a utility of any affiliate. The Commission has authority over affiliate transactions pursuant to KRS278.2201 through 2219. 2207 (1) states that the terms for transactions between utility and its affiliates shall be in accordance with the following: (a) Services and products provided to an affiliate by the utility pursuant to a tariff shall be at the tariffed rate, with nontariffed items priced at the utility's fully distributed cost but in no event less than market, or in compliance with the utility's existing USDA, SEC, or FERC approved cost allocation methodology. (b) Services and products provided to the utility by an affiliate shall be priced at the affiliate's fully distributed cost but in no event greater than market or in compliance with the utility's existing USDA, SEC or FERC approved cost allocation methodology. To the extent any transaction of a utility requires a certificate of public convenience and necessity or is considered an obligation pursuant to KRS 278.300, the Commission has oversight and approval authority.

B **With a utility affiliated through ownership or otherwise?** Yes. See 2A

C **With an unaffiliated utility?** No

D **With an affiliated nonutility company?** Yes. See 2A

E **With an unaffiliated nonutility company?** No\*  
 \*The Commission could have jurisdiction over this type of transaction only to the extent the Commission could disallow a cost in a rate case or in instances where the Commission has contract approval authority.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	No
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>  KRS 278.020(4) and (5) require prior Commission approval of transactions resulting in the acquisition or transfer of ownership or control of regulated utilities through the sale of assets or transfer of stock. Section (5) provides the Commission with the ability to grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every application.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>  See 3-A2	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>  To the extent a Certificate of Public Convenience and Necessity is required, the Commission has jurisdiction. This is pursuant to KRS 278.020.	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>  KRS 278.020(5) states "No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect."	Yes
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>  See Ky. Stats. Ch. 278.300, at <a href="http://www.lrc.state.ky.us/krs/278-00/300.PDF">http://www.lrc.state.ky.us/krs/278-00/300.PDF</a> . In general, financing must be for lawful objects within the corporate purpose of the utility. Commission must rule on financing applications within 60 days unless extension is granted.	Yes
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>  KRS 278.020(4) and (5) require prior Commission approval of transactions resulting in the acquisition or transfer of ownership or control of regulated utilities through the sale of assets or transfer of stock. Section (5) provides the Commission with the ability to grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every application.	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>  The Commission determines the reasonable capital structure of a utility for rate-making purposes. The Commission does not have a specific required equity ratio.	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  <b>If yes, what are existing regulatory limits for utilities in your state?</b>  The Commission exercises authority to limit dividends or intercompany loans through orders not regulations. There are no specific limits on dividends or intercompany loans at this time.	Yes
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>  The Commission's enforcement powers or authorized penalties for violations of Commission regulations is provided under KRS 278.990.	

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# Louisiana

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<b>Commission</b>	5 members	Elected
<b>Staff Size</b>	120 employees	

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## Related Web Sites

Louisiana Public Service Commission: <http://www.lpsc.org>  
Louisiana Revised Statutes: <http://www.legis.state.la.us/tsrs/>

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## 2003 Response to Original 1995 Securities and Exchange Commission Survey

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### 1 Utility Financings

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A1	<b>Does your commission regulate the issuance of securities by utilities?</b> Yes, unless under Federal jurisdiction or if debt amount is less than the lesser of \$1,000,000 or 10 % of Gross Assets. Louisiana Revised Statutes 45:1175 and LPSC General Order 11/13/96.	Yes
	<b>Does this include short-term debt?</b>	Yes
	<b>Does this include long-term debt?</b>	Yes

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A2 **If so, what general standards are applied in such regulation?**

As specified in the above citations or company specific orders.

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A3 **What is the procedure and timing of such regulation?**

As specified in the above citations or company specific orders.

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B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
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Yes, as specified in the above citations or company specific orders.

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B2 **What standards, procedures and timing are involved in such regulation?**

As specified in the above citations or company specific orders.

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### 2 Affiliate Transactions

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**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

The Commission exercises jurisdictions over transactions involving regulated utilities. As it relates to affiliate transactions, the Commission does review such transactions to ensure that the regulated entity is not harmed by said transactions. The Commission requires that any transaction between a regulated entity and its unregulated affiliate be an arms-length transaction. Further jurisdiction may be outlined in certain company specific orders. Presently, the Commission has a rulemaking docket open for the purpose of setting forth more concrete rules for affiliate transactions.

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A **With its holding company (if any)**

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B **With a utility affiliated through ownership or otherwise?**

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C **With an unaffiliated utility?**

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D **With an affiliated nonutility company?**

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E **With an unaffiliated nonutility company?**

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### 3 Acquisition and Ownership Regulation

Much of the regulations for the following questions fall under LPSC General Order 3/18/94.

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	No
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?  If yes, would you please provide details of existing capital structure regulations of utilities in your state. Through rate cases.	Yes
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?  If yes, what are existing regulatory limits for utilities in your state? Through rate cases. Loans need commission approvals.	Yes
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? Pull certificate to operate. Rate orders. Fines.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Maine

<b>Commission</b>	3 members	Appointed
<b>Staff Size</b>	60 employees	



## Related Web Sites

Maine Public Utilities Commission: <http://www.state.me.us/mpuc/>  
 Maine Statutes: <http://janus.state.me.us/legis/statutes/35-A/title35-Ach0sec0.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

Supporting Statutes and Rulings: See Maine Revised Statutes Annotated (M.R.S.A.) Title 35-A Sections 707, 708, 901, 902, 1101, 1102. Order in Central Maine Power Docket No.'s 99-411, and 97-930 (Phase I); Order in NiSource, Inc. Docket No. 2000-322; Order in Bangor Hydro-Electric Docket No. 2000-663; Order in Maine Public Service Company Docket No. 2002-676.

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b>	No
	No, if unsecured and unaffiliated	
	<b>Does this include long-term debt?</b>	Yes

A2	<b>If so, what general standards are applied in such regulation?</b>
	Financing must be necessary for "utility purposes." See M.R.S.A. Title 35-A, Section s 901 & 902.

A3	<b>What is the procedure and timing of such regulation?</b>
	None for external issuances. Inter-company transactions have a maximum of 120 days.

B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
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B2	<b>What standards, procedures and timing are involved in such regulation?</b>
	Same. Short-term debt (364 days or less) does not require approval unless it is secured by utility property or is issued by an affiliate.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b>	Yes
	All affiliate transactions must be approved. See M.R.S.A. 35-A, Section 707	
B	<b>With a utility affiliated through ownership or otherwise?</b>	Yes. Same as 2-A
C	<b>With an unaffiliated utility?</b>	No
D	<b>With an affiliated nonutility company?</b>	Yes. Same as 2-A
E	<b>With an unaffiliated nonutility company?</b>	No

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### 3 Acquisition and Ownership Regulation

---

A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	No
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?  If yes, would you please provide details of existing capital structure regulations of utilities in your state. We determine what is "reasonable" by industry standards. There is no prescription.	Yes
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?  If yes, what are existing regulatory limits for utilities in your state? Again, there is no prescription. We reserve the right to do so on a case-by-case basis.	Yes
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? We have fining ability of \$100 per day. Each day the violation occurs is considered a separate offense.	

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# Maryland

**Commission** 5 members Appointed  
**Staff Size** 142 employees



## Related Web Sites

Maryland Public Service Commission: <http://www.psc.state.md.us/>  
 Code of Maryland: <http://198.187.128.12/maryland/lpext.dll?f=templates&fn=fs-main.htm&2.0>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
 Stocks and other securities, both long term and short term, are covered under the Maryland Public Service Companies Article and Related Laws, 1999 Edition, §6-102.  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
 See Title 6 of MD PUC article.

A3 **What is the procedure and timing of such regulation?**  
 See Title 6 of MD PUC article.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes  
 See Title 5 of MD PUC article.

B **With a utility affiliated through ownership or otherwise?** Yes

C **With an unaffiliated utility?** Yes

D **With an affiliated nonutility company?** Yes

E **With an unaffiliated nonutility company?** Yes

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### 3 Acquisition and Ownership Regulation

---

A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> Yes. See Title 5.	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> Yes. See Title 6.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> Yes See. Title 5.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> Yes. See Title 4.	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b> Yes. See Title 5.	Yes
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b> Yes. See Title 5.	Yes
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b> Yes, if capital structure is inappropriate, a capital structure can be used as per Title 4. <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b> <b>If yes, what are existing regulatory limits for utilities in your state?</b> Only to the extent they impact functionings of the commission franchise, see Title 5.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> Enforcement regulations, including fines and penalties, can be located either in §13 of the Maryland Public Service Companies Article and Related Laws, 1999 Edition or under various provisions of Code of Maryland Regulations for transportation utilities and pipeline safety.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Massachusetts

**Commission** 5 members Appointed  
**Staff Size** 170 employees



## Related Web Sites

Massachusetts Public Service Commission: <http://www.state.ma.us/dpu>  
 Massachusetts General Laws: <http://www.state.ma.us/legis/laws/mgl/gl-164-toc.htm>  
 Massachusetts DTE Code of Massachusetts Regulations: <http://www.state.ma.us/dpu/cmr/cmr220-001-004.htm>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b> Yes. G.L. c. 164, §14	Yes
	<b>Does this include short-term debt?</b>	No
	<b>Does this include long-term debt?</b>	Yes
A2	<b>If so, what general standards are applied in such regulation?</b> Reasonably necessary for utility purpose.	
A3	<b>What is the procedure and timing of such regulation?</b>	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b> G.L. cc. 164, §17A	

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b> G.L. c. 164 §76A. For A–D, jurisdiction with respect to their dealings with utilities.	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b> G.L. c. 164 §76A. For A–D, jurisdiction with respect to their dealings with utilities.	Yes
C	<b>With an unaffiliated utility?</b> G.L. c. 164 §76A. For A–D, jurisdiction with respect to their dealings with utilities.	Yes
D	<b>With an affiliated nonutility company?</b> G.L. c. 164 §76A. For A–D, jurisdiction with respect to their dealings with utilities.	Yes
E	<b>With an unaffiliated nonutility company?</b>	None

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets? Yes. G.L. c. 164 §96	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	Yes
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<p><b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b></p> <p>The Commission does not have the authority to regulate utility capital structure. The Commission can and does take into account the capital structure of a company during a rate case proceeding, and will impute for ratemaking purposes if necessary.</p> <p><b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b></p>
F2	<p><b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b></p> <p>The Commission does not have the power to limit dividends, but stock dividends need Department approval under G.L. c. 164 §11.</p> <p><b>If yes, what are existing regulatory limits for utilities in your state?</b></p> <p>The Commission, however, has to approve the establishment of a money pool within a holding company. Also, any investment by a utility in other companies (including money pools) needs Department approval under G.L. c.164, §17A.</p>
F3	<p><b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b></p> <p>The Commission has the authority to set a company's Rate of Return and Return on Equity during a rate case proceeding. It can use this discretion to lower these returns to make certain a regulated company is adhering to state regulations. In addition, the Commission imposes penalties for companies that fail to meet certain standards with regard to Performance Based Ratemaking or P.B.R. G.L. c.164, §79 gives the SJC equity jurisdiction to enforce our rulings. Service Quality standards are enforceable under G.L. c. 164 §1E</p>

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Michigan

**Commission** 3 members Appointed  
**Staff Size** 130 employees



## Related Web Sites

Michigan Public Service Commission: <http://www.michigan.gov/mpsc>  
 MI Compiled Laws: <http://www.michiganlegislature.org/law/mileg.asp?page=getobject&objName=mcl-chap460>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** No  
**Does this include short-term debt?** No  
**Does this include long-term debt?** No

A2 **If so, what general standards are applied in such regulation?**

A3 **What is the procedure and timing of such regulation?**  
 Not applicable.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)**

The Commission does have a Code of Conduct, Case No. U-12134, that applies to utility companies serving electric customers. One provision is that it prohibits a regulated entity from financing or co-signing loans of affiliates. Utility companies are also subject to affiliated transaction guidelines, which require each utility to provide information on any arrangement that allows an affiliate to obtain credit in a manner that permits a creditor, upon default to have recourse to or in any way encumber the utility's assets.

B2 **What standards, procedures and timing are involved in such regulation?**

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

The Commission has no authority over the utility's holding company's parent company or its unregulated sister subsidiaries or affiliates. The MPSC does require the utility to file an annual report on affiliated transactions between the utility and its affiliated companies including information, like: loans, employee transfers, intercompany transactions and sale of assets. The MPSC also has a code of conduct that all electric utilities have to follow with affiliates which was established in the restructuring act, PA 141 of 2000.

A **With its holding company (if any)** Yes  
 Yes, through rate cases and affiliate code of conduct.

B **With a utility affiliated through ownership or otherwise?** Yes  
 Yes, through rate cases and affiliate code of conduct.

C **With an unaffiliated utility?** Yes  
 Yes, through rate cases and affiliate code of conduct.

D **With an affiliated nonutility company?** Yes  
 Yes, through rate cases and affiliate code of conduct.

E **With an unaffiliated nonutility company?** Yes  
 Yes, through rate cases and affiliate code of conduct.

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### 3 Acquisition and Ownership Regulation

Commission grants approvals for all franchises.

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	No
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	No
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	No

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1 Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?

If yes, would you please provide details of existing capital structure regulations of utilities in your state.

The MPSC can regulate the capital structure that is allowed a return in a rate case through its ratemaking authority.

F2 Does your commission have the authority to limit dividends or intercompany loans of utilities?

Dividends: Yes, under its ratemaking powers.

If yes, what are existing regulatory limits for utilities in your state?

F3 Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?

There are fines or penalties that the MPSC can apply to violations, depending on the violation. Ratemaking authority and enforcement powers are pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules and Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Minnesota

**Commission** 5 members Appointed  
**Staff Size** 40 employees



## Related Web Sites

Minnesota Public Utilities Commission: <http://www.puc.state.mn.us/>  
 Minnesota Statutes: <http://www.revisor.leg.state.mn.us/stats/216.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes

**Does this include short-term debt?**

Minn. Stat. 216B.49, <http://www.revisor.leg.state.mn.us/stats/216B/49.html>,  
 Minn. Rules 7825.1000-7825.1500, <http://www.revisor.leg.state.mn.us/arule/7825/>

**Does this include long-term debt?**

Minn. Stat. 216B.49, <http://www.revisor.leg.state.mn.us/stats/216B/49.html>,  
 Minn. Rules 7825.1000-7825.1500, <http://www.revisor.leg.state.mn.us/arule/7825/>

A2 **If so, what general standards are applied in such regulation?**

Minn. Stat. 216B.49, <http://www.revisor.leg.state.mn.us/stats/216B/49.html>

A3 **What is the procedure and timing of such regulation?**

Minn. Rules 7825.1000-7825.1500, <http://www.revisor.leg.state.mn.us/arule/7825/>

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**

Same references as 1-A1.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes

Minn. Stat. 216B.48, <http://www.revisor.leg.state.mn.us/stats/216B/48.html>  
 Minn. Rules 7825.1900-7825.2200, <http://www.revisor.leg.state.mn.us/arule/7825/>  
 General ratemaking, quality of service, review for reasonableness.

B **With a utility affiliated through ownership or otherwise?** Yes

Yes. Same references as 2-A.

C **With an unaffiliated utility?** No

No. General ratemaking, quality of service, review for reasonableness.

D **With an affiliated nonutility company?** Yes

Yes. Same references as 2-A.

E **With an unaffiliated nonutility company?** No

No. Same reference as 2-C.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> Yes. Minn. Stat. 216B.50, <a href="http://www.revisor.leg.state.mn.us/stats/216B/50.html">http://www.revisor.leg.state.mn.us/stats/216B/50.html</a> Minn. Rules 7825.1600-7825.1800, <a href="http://www.revisor.leg.state.mn.us/arule/7825/">http://www.revisor.leg.state.mn.us/arule/7825/</a>	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> Yes. Same references as 3-A1.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> Yes. Same references as 3-A1.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> Yes. Minn. Stat. 216B.50, <a href="http://www.revisor.leg.state.mn.us/stats/216B/50.html">http://www.revisor.leg.state.mn.us/stats/216B/50.html</a> Minn. Rules 7825.1600-7825.1800, <a href="http://www.revisor.leg.state.mn.us/arule/7825/">http://www.revisor.leg.state.mn.us/arule/7825/</a> Minn. Stat. 216B.243, <a href="http://www.revisor.leg.state.mn.us/stats/216B/243.html">http://www.revisor.leg.state.mn.us/stats/216B/243.html</a> Minn. Stat. 216B.2421, <a href="http://www.revisor.leg.state.mn.us/stats/216B/2421.html">http://www.revisor.leg.state.mn.us/stats/216B/2421.html</a> Minn. Rules 7849.0010-7849.0400, <a href="http://www.revisor.leg.state.mn.us/arule/7849/">http://www.revisor.leg.state.mn.us/arule/7849/</a> General ratemaking, quality of service, review for reasonableness.	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> Same references as 3-A1.	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> Minn. Stat. 216B.49, <a href="http://www.revisor.leg.state.mn.us/stats/216B/49.html">http://www.revisor.leg.state.mn.us/stats/216B/49.html</a> Minn. Rules 7825.1000-7825.1500, <a href="http://www.revisor.leg.state.mn.us/arule/7825/">http://www.revisor.leg.state.mn.us/arule/7825/</a>	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b> Yes. We would assert authority under Minn. Stat. 216B.49, <a href="http://www.revisor.leg.state.mn.us/stats/216B/49.html">http://www.revisor.leg.state.mn.us/stats/216B/49.html</a> to the extent that securities are involved. Also, general ratemaking authority would be exerted.  <b>If yes, what are existing regulatory limits for utilities in your state?</b> Minnesota has not conducted a proceeding and has not established general limits.	Yes
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> The Commission can refer to the County Attorney for prosecution. Commission retains authority to adjust for unauthorized actions in rate proceedings. General ratemaking, quality of service, review for reasonableness.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Mississippi

**Commission** 3 members Elected  
**Staff Size** 140 employees



## Related Web Sites

Mississippi Public Service Commission: <http://www.psc.state.ms.us/>  
 Mississippi State Code: <http://198.187.128.12/mississippi/lpext.dll?f=templates&fn=fs-main.htm&2.0>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	Does your commission regulate the issuance of securities by utilities? Does this include short-term debt? Does this include long-term debt?	No No No
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A2 If so, what general standards are applied in such regulation?

A3 What is the procedure and timing of such regulation?

B1	Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)	No
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B2 What standards, procedures and timing are involved in such regulation?

### 2 Affiliate Transactions

What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

A	With its holding company (if any) MS Code 77-3-10(2)	Yes
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B	With a utility affiliated through ownership or otherwise? MS Code 77-3-10(2)	Yes
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C	With an unaffiliated utility? MS Code 77-3-23	Yes
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D	With an affiliated nonutility company? MS Code 77-3-10	Yes
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E	With an unaffiliated nonutility company?	No
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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> Yes. MS Code 77-3-23	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> Yes. MS Code 77-3-23	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> Yes. MS Code 77-3-23	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> MSPSC may impute capital structure.	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  <b>If yes, what are existing regulatory limits for utilities in your state?</b>	No
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> MS Code 77-1-53 77-3-79 up to \$5,000 per day per violation.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Missouri

**Commission** 5 members Appointed  
**Staff Size** 220 employees



## Related Web Sites

Missouri Public Service Commission: <http://www.psc.state.mo.us/>  
 Code of State Regulations: <http://www.psc.state.mo.us/rules.asp>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
 §393.180; § 393.200 RSMo (2000).

A3 **What is the procedure and timing of such regulation?**  
 Commission authorization required.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**  
 Commission authorization required.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes  
 Yes. Affiliate transactions rules – financial standards, asymmetrical pricing and reporting of transactions and Commission authorization prior to the sale, transfer, assignment of assets that are useful and necessary to the provision of service.

B **With a utility affiliated through ownership or otherwise?** Yes  
 Yes. Affiliate transactions rules – financial standards, asymmetrical pricing and reporting of transactions and Commission authorization required prior to the sale, transfer, assignment of assets that are useful and necessary to the provision of service. §393.190 (RSMo 2000).

C **With an unaffiliated utility?** Yes  
 Yes. Commission authorization required prior to the sale, transfer, assignment of assets that are useful and necessary to the provision of service. §393.190 (RSMo 2000).

D **With an affiliated nonutility company?** Yes  
 Yes. Affiliate transactions rules – financial standards, asymmetrical pricing and reporting of transactions and Commission authorization required prior to the sale, transfer, assignment of assets that are useful and necessary to the provision of service.

E **With an unaffiliated nonutility company?** Yes  
 Yes. Commission authorization required prior to the sale, t transfer, assignment of assets that are useful and necessary to the provision of service. §393.190 (RSMo 2000).

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> Yes. Commission authorization required. §393.190 (RSMo 2000).	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> Yes. Commission authorization required. §393.190 (RSMo 2000).	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> Yes. Commission authorization required. §393.190 (RSMo 2000).	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> Yes. Commission authorization required. §393.190 (RSMo 2000).	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> Yes. Commission authorization required. §393.190 (RSMo 2000).	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b> <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> Indirectly in a rate case or complaint case.	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b> <b>If yes, what are existing regulatory limits for utilities in your state?</b>	No
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> §386.570 RSMo (2000) Monetary penalties §386.360 RSMo (2000) Mandamus.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Montana

<b>Commission</b>	5 members	Elected
<b>Staff Size</b>	34 employees	



## Related Web Sites

Montana Public Service Commission: <http://www.psc.state.mt.us/>  
 Montana Code Annotated 2003: [http://data.opi.state.mt.us/bills/mca\\_toc/69.htm](http://data.opi.state.mt.us/bills/mca_toc/69.htm)

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes

**Does this include short-term debt?**

Issuance of certain short-term obligations. Such public utility may issue notes or drafts maturing not more than 1 year after the date of such issue, renewal, or assumption of liability and aggregating, together with all other then outstanding notes and drafts of a maturity of 1 year or less on which such public utility is primarily or secondarily liable, not more than 5% of the par value of the other securities of the public utility then outstanding, without application to or order of the commission.

**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**

Securities applications are reviewed to see that the purpose of the application is for one of the following purposes:

- (a) the acquisition of property
- (b) the construction, completion, extension, or improvement of its facilities
- (c) the improvement or maintenance of its service
- (d) the discharge or lawful refunding of its obligations
- (e) the reimbursement of money actually expended for said programs from income
- (f) any other purpose approved by the commission

A3 **What is the procedure and timing of such regulation?**

Staff analysis and recommendation followed by a Commission decision. The majority of all security issue applications are reviewed and acted on within 30 days.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes

B2 **What standards, procedures and timing are involved in such regulation?**

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** None

B **With a utility affiliated through ownership or otherwise?** None

C **With an unaffiliated utility?** None

D **With an affiliated nonutility company?**

Very high level of scrutiny over transactions between the utility and the affiliate. This type of transaction must be carefully reviewed to prevent abuse of utility customers. General powers are conferred on the PSC by statute. 69-3-102 which provides: "The commission is hereby invested with full power of supervision, regulation, and control of such public utilities, subject to the provisions of this chapter..."

E **With an unaffiliated nonutility company?** None

PSC authority comes from our general (not specific) supervisory powers. Those general powers are conferred on the PSC by statute. 69-3-102 provides: "The commission is hereby invested with full power of supervision, regulation, and control of such public utilities, subject to the provisions of this chapter..."

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	No
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> Yes, the Montana PSC asserts its authority over the sale or transfer of utility assets.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	Yes
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> PSC authority comes from our general (not specific) supervisory powers. Those general powers are conferred on the PSC by statute. 69-3-102 provides: "The commission is hereby invested with full power of supervision, regulation, and control of such public utilities, subject to the provisions of this chapter..."	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  If yes, would you please provide details of existing capital structure regulations of utilities in your state.  There are no regulations per se. This issue is dealt with on a case by case basis as it comes up. No, the authority over capital structure does not apply to security issuance applications.	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  If yes, what are existing regulatory limits for utilities in your state?	No
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>  Generally the Commission has the authority to enforce its regulations by filing a complaint in district court. The complaint could seek fines, or could take the form of injunction or mandamus. The Commission itself has the authority to assess fines against telecommunications carriers for slamming or cramming violations.	

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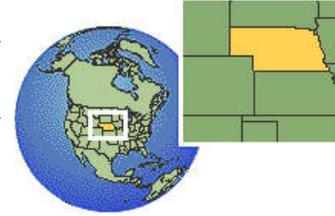
Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

## Nebraska

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<b>Commission</b>	5 members	Elected
<b>Staff Size</b>	40 employees	

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### Related Web Sites

Nebraska Public Service Commission: <http://www.psc.state.ne.us/>  
Nebraska Statutes: <http://statutes.unicam.state.ne.us/corpus/chapall/chap75.html>

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### 2003 Response to Original 1995 Securities and Exchange Commission Survey

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#### Nebraska Public Service Commission Survey Response:

The Nebraska Public Service Commission did not regulate gas or electricity in 1995. As such, no information was included for Nebraska in the initial 1995 survey. As the Commission still does not regulate either industry today, we are unable to provide any additional information.

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

## Nevada

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**Commission**  
**Staff Size**

3 members      Appointed  
85 employees

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### Related Web Sites

Nevada Public Utilities Commission: <http://puc.state.nv.us/>  
Nevada Revised Statutes: <http://www.leg.state.nv.us/NRS/NRS-704.html#NRS704>

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### 2003 Response to Original 1995 Securities and Exchange Commission Survey

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There was no response from the Nevada Public Utilities Commission.

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# New Hampshire

**Commission** 3 members Appointed  
**Staff Size** 70 employees



## Related Web Sites

New Hampshire Public Utilities Commission: <http://www.puc.state.nh.us/>  
 New Hampshire Revised Statutes Annotated: <http://www.gencourt.state.nh.us/rsa/html/indexes/XXXIV.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

- A1 Does your commission regulate the issuance of securities by utilities?** Yes  
 Yes, except unincorporated utilities, (See NH RSA 369:1 & 3)  
**Does this include short-term debt?**  
 See NH RSA 369: 7 & 8 and PUC Admin Rule 508.08  
**Does this include long-term debt?**
- 
- A2 If so, what general standards are applied in such regulation?**  
 See NH RSA 369.
- 
- A3 What is the procedure and timing of such regulation?**  
 See NH RSA 369. Also pursuant to the NH Business Corporation Act (NH RSA 293-A).
- 
- B1 Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes
- 
- B2 What standards, procedures and timing are involved in such regulation?**  
 See NH RSA 369.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

See RSA 366 for this Section. Also, the Public Utility Holding Company Act of 1935, 15 U.S.C. 79.

- A With its holding company (if any)**  
 Contracts having a value greater than \$500 must be filed with the Commission within ten days of execution for Commission Review. See NH RSA 366.
- 
- B With a utility affiliated through ownership or otherwise?**  
 See NH RSA 366.
- 
- C With an unaffiliated utility?**  
 Unaffiliated utilities do not fall under Commission Affiliate Transactions and are therefore subject to normal procedures of Title 34 and PUC Administrative Rules.
- 
- D With an affiliated nonutility company?**  
 The regulated utility is subject to NH RSA 366. See RSA 366.
- 
- E With an unaffiliated nonutility company?**  
 See 'C' above.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> See NH RSA 369:8.	No
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> See NH RSA 374:24.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> See NH RSA 374.	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  If yes, would you please provide details of existing capital structure regulations of utilities in your state. Done as part of individual rate cases.	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  If yes, what are existing regulatory limits for utilities in your state? Done on a case by case basis; See also RSA 374:12 regarding payment of dividends.	Yes
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> Examples include RSA 374:17 Neglect to Report; 365:41 Penalty Against Utility; 365:42 Penalty Against Agent.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# New Jersey

**Commission** 5 members Appointed  
**Staff Size** 280 employees



## Related Web Sites

New Jersey Board of Public Utilities: <http://www.bpu.state.nj.us/home/home.shtml>  
 New Jersey Statutes: [http://lis.njleg.state.nj.us/cgi-bin/om\\_isapi.dll?clientID=146018&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={12D48}&softpage=Doc\\_Frame\\_PG42](http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=146018&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={12D48}&softpage=Doc_Frame_PG42)

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b> Security issuances must be approved by the Board. N.J.S.A. 48:3-9. <b>Does this include short-term debt?</b> <b>Does this include long-term debt?</b>	Yes  No Yes
A2	<b>If so, what general standards are applied in such regulation?</b> Public Interest Standard.	
A3	<b>What is the procedure and timing of such regulation?</b> Varies.	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b> Board must approve sales, leases, mortgages, encumbrances, or consolidations of utility property, franchises, privileges, or rights. N.J.S.A §48:3-7.	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b> Public Interest Standard; Varies.	

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b> Contracts over \$25,000 with and affiliate (5% of stock) must be approved by the Board. N.J.S.A. §48:3- 7.1. Loans of money or property from public utility to affiliate must be approved by Board. N.J.S.A. §48:3-7.2.	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b> Contracts over \$25,000 with and affiliate (5% of stock) must be approved by the Board. N.J.S.A. §48:3-7.1. Loans of money or property from public utility to affiliate must be approved by Board. N.J.S.A. §48:3-7.2.	Yes
C	<b>With an unaffiliated utility?</b> Board must approve sales, leases, mortgages, encumbrances, or consolidations of utility property, franchises, privileges, or rights. N.J.S.A §48:3-7.	Yes
D	<b>With an affiliated nonutility company?</b> Contracts over \$25,000 with and affiliate (5% of stock) must be approved by the Board. N.J.S.A. §48:3- 7.1. Loans of money or property from public utility to affiliate must be approved by Board. N.J.S.A. §48:3-7.2.	Yes
E	<b>With an unaffiliated nonutility company?</b> Board must approve sales, leases, mortgages, encumbrances, or consolidations of utility property, franchises, privileges, or rights. N.J.S.A §48:3-7.	Yes

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
	Board has jurisdiction over both the public utility subsidiary and any entity that owns, operates, manages or controls the public utility. N.J.S.A. §48:2-13. Board has jurisdiction over mergers in general. N.J.S.A. §48:2-51.1. Board must approve the sale or transfer of stock of the public utility. N.J.S.A §48:3-10.	
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
	Board has jurisdiction over both the public utility subsidiary and any entity that owns, operates, manages or controls the public utility. N.J.S.A. §48:2-13. Board has jurisdiction over mergers in general. N.J.S.A. §48:2-51.1. Board must approve the sale or transfer of stock of the public utility. N.J.S.A §48:3-10.	
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
	Board has jurisdiction over both the public utility subsidiary and any entity that owns, operates, manages or controls the public utility. N.J.S.A. §48:2-13. Board has jurisdiction over mergers in general. N.J.S.A. §48:2-51.1. Board must approve the sale or transfer of stock of the public utility. N.J.S.A §48:3-10.	
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
	Board must approve sales, leases, mortgages, encumbrances, or consolidations of utility property, franchises, privileges, or rights. N.J.S.A §48:3-7.	
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	No

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> Varies considerably.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>	Yes
	<b>If yes, what are existing regulatory limits for utilities in your state?</b> Dividends: The board may prohibit any public utility from paying dividends except from surplus or net profits, and may prohibit or limit payment of dividends if it fails to comply with any order of the board: ascertaining, determining and fixing reasonably adequate a) working capital, or b) rates of depreciation; or requiring by adequate maintenance to keep its property or equipment in condition to furnish safe, adequate, and proper service. Intercompany Loans: Loans of money or property from public utility to affiliate must be approved by Board.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> 48:2-16.3: \$5 per day fine for failure to submit annual report; 48:2-42: \$100 per day fine for failure to comply with a Board order; \$250 per day for failure to comply with a Board order to resume service; 48:2-41: Enforcement of Board orders may be by actions in court of law or in equity; 48:2-49, 50, 51: Violations of statute are misdemeanors; 48:3-81: Board may rescind license of any electric or gas supplier under certain conditions; 48:3-82: Board may assess civil penalties on electric or gas supplier; 48:3-83: Violations of competition statute (EDECA) may be assessed a \$5,000 penalty for first offense for each day, and in some circumstances may be assessed \$25,000 per offense for each day.	

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# New Mexico

**Commission** 5 members Elected  
**Staff Size** 270 employees



## Related Web Sites

New Mexico Public Regulation Commission: <http://www.nmprc.state.nm.us/>  
 New Mexico Statutes and Administrative Code: <http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=newmexico:statutes>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	Does your commission regulate the issuance of securities by utilities? Does this include short-term debt? Does this include long-term debt? Yes, if over 18 months.	Yes No Yes
A2	If so, what general standards are applied in such regulation?	17.1.2NMAC.
A3	What is the procedure and timing of such regulation?	17.1.2NMAC.
B1	Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)	Yes
B2	What standards, procedures and timing are involved in such regulation?	17.1.2NMAC, 17.6.450NMAC.

### 2 Affiliate Transactions

What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?  
 17.6.450NMAC.

A	With its holding company (if any)	Yes
B	With a utility affiliated through ownership or otherwise?	Yes
C	With an unaffiliated utility?	No
D	With an affiliated nonutility company?	Yes
E	With an unaffiliated nonutility company?	No

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies? NMSA62-3A-4.	Yes
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets? Yes for utilities, but no for holding companies.	
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?  If yes, would you please provide details of existing capital structure regulations of utilities in your state.  The NMPRC does not regulate capital structure per se, but for rate setting purposes can impute a prudent capital structure to assure that ratepayers do not overpay for capital costs.	No
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?  If yes, what are existing regulatory limits for utilities in your state?  Case by case.	Yes
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?  NMSA 62-12-4  The NMPRC's enforcement powers are through the NM Attorney General. The AG can take action to enforce Commission orders. The Commission's fining authority is by statute (NMSA 62-12-4) and provides for penalties of from \$100 to \$100,000 per violation at the Commission's discretion. The Commission has held that a separate violation occurs for each day of violation.	

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# New York

<b>Commission</b>	5 members	Appointed
<b>Staff Size</b>	620 employees	



## Related Web Sites

New York State Public Service Commission:	<a href="http://www.dps.state.ny.us/">http://www.dps.state.ny.us/</a>
New York State Public Service Law:	<a href="http://www.dps.state.ny.us/psclaw.htm">http://www.dps.state.ny.us/psclaw.htm</a>
New York State Statutes Pertaining to the PSC:	<a href="http://www.dps.state.ny.us/other_statutes.htm">http://www.dps.state.ny.us/other_statutes.htm</a>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b> PSL 69	Yes
	<b>Does this include short-term debt?</b>	No
	<b>Does this include long-term debt?</b> Yes both inter-company and external.	Yes
A2	<b>If so, what general standards are applied in such regulation?</b> Electric utility must file a sources and uses to show that funds are needed. No jurisdiction over securities issuance by holding companies.	
A3	<b>What is the procedure and timing of such regulation?</b>	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b> PSL 69.	

### 2 Affiliate Transactions

#### What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

Limitation on using utility revenues for non-utility purposes: PSL 107.  
 Jurisdiction over holding companies and affiliated transactions: PSL 110.  
 General Requirements of PSL 65 (Electric and Gas) and PSL 91 (Telecom) regarding safe and adequate service at a reasonable price provide a generic basis for arguing that without access to affiliate books and records, we cannot meet this objective.

A	<b>With its holding company (if any)</b>	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b>	Yes
C	<b>With an unaffiliated utility?</b>	No
D	<b>With an affiliated nonutility company?</b>	Yes
E	<b>With an unaffiliated nonutility company?</b>	No

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### 3 Acquisition and Ownership Regulation

Electric and Gas: PSL 69-a, 70, General Corporate Structure: PSL 108.

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	Yes
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<p>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</p> <p>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</p> <p>Commission can impute capital structure in rate cases or through securities issuance approval process.</p>
F2	<p>Does your commission have the authority to limit dividends or intercompany loans of utilities?</p> <p>If yes, what are existing regulatory limits for utilities in your state?</p> <p>Inter-company debt must be evidenced by demand notes. In Jamaica Water case the DPS prevented Jamaica Water from paying a dividend using a safe and adequate service standard.</p>
F3	<p>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</p> <p>Penalty of up to \$100,000 per day for any violation of PSL or PSC Order. Penalty of up to \$250,000 per day for any violation of PSL or PSC Order governing personal safety that results in injury or death. Penalty of up to \$500,000 per day for any violation of PSL or PSC Order governing the overall reliability and continuity of electric service in NYS.</p>

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# North Carolina

**Commission Staff Size**      7 members      Appointed  
 60 employees



## Related Web Sites

North Carolina Utilities Commission: <http://www.ncuc.commerce.state.nc.us/>  
 North Carolina General Statutes: [http://www.ncleg.net/Statutes/GeneralStatutes/HTML/ByChapter/Chapter\\_62.html](http://www.ncleg.net/Statutes/GeneralStatutes/HTML/ByChapter/Chapter_62.html)

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

- A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?**  
 See G.S. 62-167 and G.S. 62-160.  
**Does this include long-term debt?**
- 
- A2 **If so, what general standards are applied in such regulation?**  
 See N.C.G.S., Chapter 62, Article 8, specifically 62-161(b).
- 
- A3 **What is the procedure and timing of such regulation?**  
 See G.S. 62-164.
- 
- B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes  
 See G.S.62-160 and 62-161.
- 
- B2 **What standards, procedures and timing are involved in such regulation?**  
 Timing: See G.S.62-164.  
 Standards: See G.S. 62-161(b).

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

- A **With its holding company (if any)**  
 See G.S. 62-153.
- 
- B **With a utility affiliated through ownership or otherwise?**  
 See G.S. 62-153 and 62-3(23)c.
- 
- C **With an unaffiliated utility?**  
 See G.S. 62-153.and 62-3(23)c.
- 
- D **With an affiliated nonutility company?**  
 See G.S. 62-133, 62-130, 62-131, 62-132, 62-153, and 62-3(23)c.
- 
- E **With an unaffiliated nonutility company?**  
 See G.S. 62-133, 62-130, 62-131, and 62-132.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
	See G.S. 62-111. N.C.G.S, Chapter 62, Article 8, may apply in certain instances, which would subject the present transactions in those respects to regulation.	
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
	See G.S. 62-111.	
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
	See G.S. 62-111.	
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	
	See G.S. 62-110. Also see all of the above.	
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	
	See G.S. 62-111. The creation of a public utility holding company must be approved pursuant to G.S. 62-111.	
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	
	Not directly. See N.C.G.S., Ch. 62, Article 8.	
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	
	See G.S. 62-111.	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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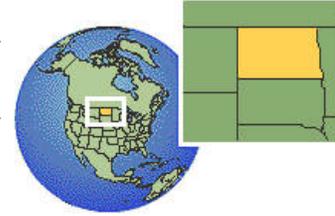
F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>	
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>	
	Not in an absolute sense. See G.S. 62-160. Commission can impute appropriate capital structure for ratemaking purposes.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>	
	<b>If yes, what are existing regulatory limits for utilities in your state?</b>	
	Intercompany loans: See G.S. 62-153 Dividends: Nothing specific - may have general authority - never been an issue.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>	
	See G.S. 62-310.	

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# North Dakota

**Commission** 3 members Elected  
**Staff Size** 40 employees



## Related Web Sites

North Dakota Public Service Commission: <http://pc6.psc.state.nd.us/>  
North Dakota Century Code: <http://www.state.nd.us/lr/cencode/t49.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

- A1 **Does your commission regulate the issuance of securities by utilities?**  
We have some authority.  
**Does this include short-term debt?** Yes  
**Does this include long-term debt?** Yes
- A2 **If so, what general standards are applied in such regulation?**
- A3 **What is the procedure and timing of such regulation?**
- B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)**
- B2 **What standards, procedures and timing are involved in such regulation?**

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

- A **With its holding company (if any)**  
Limited to prudency test in a rate case proceeding.
- B **With a utility affiliated through ownership or otherwise?**  
Limited to prudency test in a rate case proceeding.
- C **With an unaffiliated utility?**  
Limited to prudency test in a rate case proceeding.
- D **With an affiliated nonutility company?**  
Limited to prudency test in a rate case proceeding.
- E **With an unaffiliated nonutility company?**  
Limited to prudency test in a rate case proceeding.

---

### 3 Acquisition and Ownership Regulation

---

A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	No
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> Commission approval required for disposition of assets.	
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> Commission approval required for disposition of assets.	
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> Limited to prudence test in a rate case proceeding.	
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

---

F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  If yes, would you please provide details of existing capital structure regulations of utilities in your state. Limited to prudence test in a rate case proceeding.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  If yes, what are existing regulatory limits for utilities in your state?	No
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> Levy penalties, revoke PCN certificate, reduce rates.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Ohio

**Commission** 5 members Appointed  
**Staff Size** 400 employees



## Related Web Sites

Ohio Public Utilities Commission: <http://www.puc.state.oh.us/>  
 Ohio Revised Code: <http://onlinedocs.andersonpublishing.com/oh/lpExt.dll?f=templates&fn=main-h.htm&cp=PORC>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b> Yes, only for electric utilities if short-term debt exceeds over 5% of capitalization O.R.C. §4905.	Yes
	<b>Does this include long-term debt?</b> O.R.C. §4905.40. Does not apply to competitive telecommunication companies (OAC 49011-6-09).	Yes
A2	<b>If so, what general standards are applied in such regulation?</b> O.R.C. §4905.40(F).	
A3	<b>What is the procedure and timing of such regulation?</b> Case by case, generally processed within 30 days.	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b> Case by case. Same as 1-A3.	

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b> None, except through rate case investigations.
B	<b>With a utility affiliated through ownership or otherwise?</b> See ORC 4905.48.
C	<b>With an unaffiliated utility?</b> See ORC 4905.48.
D	<b>With an affiliated nonutility company?</b> None, except through rate cases.
E	<b>With an unaffiliated nonutility company?</b> None, except through rate cases

Note: Also, see PUCO Commission Rules 4901:1029-16 1-20-16 OAC Corporate Separation Rules for electric utilities which prohibit affiliate cross subsidies.

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### 3 Acquisition and Ownership Regulation

The PUCO has initiated a range of actions to intercede under general authorities, and has done so in the past.

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	No
	No, but the Commission may take an interest in such activities pursuant to sections 4905.04, .05, and .06.	
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
	Yes, for a domestic telephone company or a holding company controlling a domestic telephone company or a domestic electric utility or a holding company controlling domestic electric utility. (See ORC 4905.402 B). For other utilities, no, but the Commission may take an interest in such activities pursuant to ORC 4905.04., .05, and .06.	
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
	Yes, for a domestic telephone company or a holding company controlling a domestic telephone company or a domestic electric utility or a holding company controlling domestic electric utility. (See ORC 4905.402 B). For other utilities, no, but the Commission may take an interest in such activities pursuant to ORC 4905.04., .05, and .06.	
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
	See ORC 4905.48.	
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	
	The Commission may take an interest in such activities pursuant to ORC 4905.04, .05, and .06.	
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	
	See above.	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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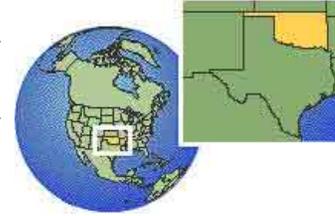
F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>	
	A utility company's capital structure is evaluated when financing approvals are sought, and the companies' overall cost of capital would be determined through a rate case proceeding.	
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>	
	<b>If yes, what are existing regulatory limits for utilities in your state?</b>	
	Yes for telephones utility cash dividends, O.R.C. §4905.406. 4905.46 Electric utility dividend authority generally limited to declaration of stock or scrip dividends. See ORC 4905.46 A.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>	
	Section 4905.42, ORC (Hearings on issuance of stocks, bonds, and notes) includes "All stocks, bonds, notes, or other evidence of indebtedness issued by any public utility or railroad without the permission of the commission are void."	
	Also under Section 4905.54, ORC (Compliance with Orders): "Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission made under authority of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, so long as they remain in force. Except as otherwise specifically provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 4923.99 of the Revised Code, a public utility or railroad that violates a provision of those chapters or that after due notice fails to comply with an order, direction, or requirement of the commission that was officially promulgated shall forfeit to the state not more than one thousand dollars for each such violation or failure. Each day's continuance of the violation or failure is a separate offense." Also, see ORC 4903.25, 4905.56, 4905.99, and 4909.99.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Oklahoma

<b>Commission</b>	3 members	Elected
<b>Staff Size</b>	480 employees	



## Related Web Sites

Oklahoma Corporation Commission: <http://www.occ.state.ok.us/>  
 Oklahoma Statutes: <http://www.lsb.state.ok.us/>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b> Pursuant to 17 O.S. Section 181(3) debts for a term of less than twelve (12) months is not included within the definition of "securities."	No
	<b>Does this include long-term debt?</b>	Yes

**A2 If so, what general standards are applied in such regulation?**

The general standards required that the issuance must be "...necessary for the acquisition of property, the construction, extension or improvement of its facilities, or the improvement of its service, or for the discharge or lawful refunding of its obligations, or reimbursement or monies actually expended from income from any source, or for any other corporate purpose authorized by the Commission." 17 O.S. Section 184 (Okla. 1947) and OAC 165:5-7-52. The statute was construed in Oklahoma Supreme Court Case of Public Service Co. of Oklahoma v. State, 645 P.2d 465 (1982) to prohibit the Oklahoma Corporation Commission from substituting its judgment for the management discretion of the public utility. The Commission could not restrict the utility from issuing the securities based upon the Commission's view that the construction of a facility was not prudent but was left to exclude any expenditure from rates that were deemed unnecessary or imprudent.

**A3 What is the procedure and timing of such regulation?**

A certificate for issuance of the securities must be obtained from the Commission pursuant to 17 O.S. Section 183. 17 O.S. Section 185 provides for the filing of an application which shall state: " (1) The amount and character of the proposed securities of liens; (2) the general purposes for which they are to be issued or created, including a description and statement of the value of any property or services that are to be received in full or partial payment for the securities or in proper case the evidences of indebtedness to be secured by the lien or liens, and of any property or services already received by the public utility by the proceeds of such securities or evidences of indebtedness; and (4) a balance sheet of the public utility as of the most recent available date." The timing of the hearing and issuance of an order regarding these applications is set by procedural schedule order of the Commission.

**B1 Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)**

Yes, if the transaction falls into the category of "Securities" as defined by 17 O.S. Section 181 which defines securities as: "...capital stock and evidences of indebtedness having the standing of negotiable instruments of a public utility, not including, however, any such obligation falling due twelve (12) months or less after its issuance."

**B2 What standards, procedures and timing are involved in such regulation?**

Same standards are utilized as set forth above.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b>	
	The Commission has authority under the Oklahoma Constitution Article IX Section 18 et seq. and case law to regulate transactions between an affiliates of any type. See Turpen v. Corp. Comm., 769 P.2d 1309 (1988) and Lone Star Gas v. Corp. Comm. 39 P.2d 547 (1935).	
B	<b>With a utility affiliated through ownership or otherwise?</b>	Same
C	<b>With an unaffiliated utility?</b>	Same
	As noted in the cases cited above, the burden of proof is upon the Commission in transactions with unaffiliated entities to prove the transaction or expenditure is not appropriate. The burden of proof is upon the utility with regard to transactions with its affiliates.	
D	<b>With an affiliated nonutility company?</b>	Same
E	<b>With an unaffiliated nonutility company?</b>	Same

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	No
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> 17 O.S. Section 191.1 et seq. governs the regulation of these type transactions. See also Commission Rules OAC 165:5 7 52 and OAC 165:35-1-5.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> 17 O.S. Section 191.1 et seq. governs the regulation of these type transactions. See also Commission Rules OAC 165:5 7 52 and 165:35-1-5.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	No
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	Yes
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> 17 O.S. Section 191.1 et seq. governs the regulation of these type transactions.	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> Pursuant to case law <i>Turpen v. Corp. Comm.</i> , 769 P.2d 1309 (1988); the capital structure of the company is in the companies management discretion, however, if the Commission does not believe the capital structure to be appropriate a hypothetical capital structure can be used to set rates.  This is accomplished by setting the capital structure in the rate case not by specific regulations. See answer to 2A above.	No
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  <b>If yes, what are existing regulatory limits for utilities in your state?</b> No. However, the Commission does have the authority to disallow the recovery of any amounts in a rate case.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> The Commission's contempt authority is set forth in the Oklahoma Constitution Article IX Section 19. The maximum amount per day, per count is \$500.00. The Commission's contempt procedure is found at OAC 165:5 19 1.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Oregon

**Commission** 3 members Appointed  
**Staff Size** 110 employees



## Related Web Sites

Oregon Public Utility Commission: <http://www.puc.state.or.us/>  
 Oregon Statutes: [www.leg.state.or.us/ors/757.html](http://www.leg.state.or.us/ors/757.html)

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**

ORS 757.405 Power to regulate issuance of utility securities. Power to issue shall be exercised as provided by law and under such rules and regulations as the Commission prescribes.  
 ORS 757.410 When issuance of securities is void. Evidences of indebtedness and any security issuance is void when issued:  
 (1) Without an order by the Commission authorizing the indebtedness or security issuance.  
 (2) When the issuance does not conform with the required provisions.  
 ORS 757.412 Exemption from securities regulation.  
 Applies when issuance is not required by the public interest.  
 ORS 757.415 Purposes for which securities and notes may be issued; order required.  
 A Commission order is required for the issuances of securities when:  
 (a) The acquisition of property, or the construction, completion, extension or improvement of its facilities.  
 (b) The improvement or maintenance of its service.  
 (c) The discharge or lawful refunding of its obligations.  
 (d) The reimbursement of money actually expended from income or from any other money in the treasury of the public utility not secured by or obtained from the issue of stocks or bonds, notes or other evidence of indebtedness, or securities of such public utility, for any of the purposes listed in paragraphs (a) to (c) of this subsection except the maintenance of service or replacements.  
 (e) The compliance with terms and conditions of options granted to its employees to purchase its stock, if the commission first finds that terms and conditions are reasonable and in the public interest.  
 (f) The finance or refinance of bondable conservation investment as described by ORS 757.455.  
 ORS 757.417 Limitation on application of ORS 757.415.  
 An order is not required if the aggregate principal amount, together with all outstanding evidences of indebtedness issued, renewed or assumed does not exceed whichever is the greater of the following amounts:  
 (1) The amount of \$75,000.  
 (2) The amount of one-half of one percent of the sum of: (a) the total principal amount of all bonds or other securities representing secured indebtedness of the public utility issued or assumed and then outstanding; and (b) the capital and surplus as then stated on the books of account of the public utility.  
 ORS 757.419 Limitation on application of ORS 757.480.  
 ORS 757.480 does not apply to any mortgage or other encumbrance upon any real or personal property given to secure payment of any evidence of indebtedness issued under ORS 757.415.  
 ORS 757.420 Hearings and supplemental orders relating to issuance of securities; joint approval of issuance by interstate utilities.  
 Shall be given priority and shall be disposed of by the Commission within 30 days after filing.  
 Additional statutes include:  
 ORS 757.425 State not obligated following approval of issuance.  
 ORS 757.430 Conditional approval of issuance authorized.  
 ORS 757.435 Disposal of proceeds from issuance of securities.  
 ORS 757.445 Wrongful issues or use of proceeds by utility.  
 ORS 757.450 Wrongful acts relating to issuance of securities.  
 ORS 757.455 Conservation program investment policy; application for bondable investments; utility rates to include investment costs.  
 ORS 757.460 Pledge of conservation investment assets as bond collateral; perfection of security interest; foreclosure.

A3 **What is the procedure and timing of such regulation?**

The applications will be processed within 30 days after filing.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** Yes  
 ORS 757.440 Approval required before utility may guarantee another's indebtedness.

B2 **What standards, procedures and timing are involved in such regulation?**

Guarantees will be longer than 12 months; however guarantees of any duration to affiliates require approval under ORS 757.495. Non-affiliate applications will be processed within 30 days after filing. Affiliate applications will be processed within 90 days.

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## 2 Affiliate Transactions

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### What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

Pursuant to ORS 757.490 and ORS 757.495, transactions between utilities and affiliates require Commission approval if the utility is the purchaser of the service (Forward transactions). Also, Commission approval is required before a public utility can issue notes or loan its funds or give credit on its books or otherwise to any person or corporation having an affiliated interest, either directly or indirectly. When the public utility is the seller of goods (Reverse transactions), the public utility is required to submit an informational filing to the Commission.

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A	<b>With its holding company (if any)</b> See above.	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b> See above.	Yes
C	<b>With an unaffiliated utility?</b> See above.	Yes
D	<b>With an affiliated nonutility company?</b> See above.	Yes
E	<b>With an unaffiliated nonutility company?</b>	No

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## 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> ORS 757.511 Application for authority to exercise influence over utility: dissemination of information about acquisition.	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> ORS 757.511 applies.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> ORS 757.506 Findings and policy regarding exercise of influence over utility by person not engaged in utility business and ORS 757.511 apply.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> ORS 757.500 and ORS 757.511 apply.	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b> Yes, when it involves contracts with affiliates and other public utilities. ORS 757.490, ORS 757.495 and ORS 757.500 apply.	Yes
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> ORS 757.511 applies.	Yes

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**Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey**

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**1 Utility Financings**

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F1 **Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?** Yes

Occurs as conditions to Commission orders.

**If yes, would you please provide details of existing capital structure regulations of utilities in your state.**

PGE - 48% common equity (Commission Order No. 97-196)

PacifiCorp - 35% common equity (Commission Order No. 99-616)

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F2 **Does your commission have the authority to limit dividends or intercompany loans of utilities?** Yes

**If yes, what are existing regulatory limits for utilities in your state?**

Company and docket specific per conditions in Commission Orders. Financial structure of utility and affiliates examined.

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F3 **Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?**

ORS 756.160 Enforcement of statutes and ordinances relating to utilities

(1) The Commission shall inquire into any neglect or violation of any law of this state....and may enforce all such laws. The Commission shall report all violations of such laws to the Attorney General.

(2) The Attorney General, district attorneys, state, county or city police officers shall assist the Commission in the administration and enforcement of all laws administered by the Commission.

ORS 756.180 Enforcing utility laws

(1) Whenever it appears to the Commission that any public utility is engaged or about to engage in any acts or practices that constitute a violation of Commission statutes, rule, order, regulation, the Commission may apply to any circuit court of the state.

The Commission only imposes penalties for failure to pay prescribed fees.

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Pennsylvania

**Commission** 5 members Appointed  
**Staff Size** 533 employees



## Related Web Sites

Pennsylvania Public Utility Commission: <http://puc.paonline.com/>  
 The Pennsylvania Code: <http://www.pacode.com/secure/data/052/052toc.html>  
 Pennsylvania Statutes: <http://members.aol.com/RulesPA/66.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	Does your commission regulate the issuance of securities by utilities? Does this include short-term debt? Does this include long-term debt?	Yes No Yes
A2	If so, what general standards are applied in such regulation?	
A3	What is the procedure and timing of such regulation?	
B1	Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)	Yes
B2	What standards, procedures and timing are involved in such regulation?	

### 2 Affiliate Transactions

What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

A	With its holding company (if any)	Yes
B	With a utility affiliated through ownership or otherwise?	Yes
C	With an unaffiliated utility?	No
D	With an affiliated nonutility company?	Yes
E	With an unaffiliated nonutility company?	No

---

### 3 Acquisition and Ownership Regulation

---

A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> Regulation is flexible. Refer to Title 66, Pennsylvania Consolidated Statutes, Section 1901.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	No
	<b>If yes, what are existing regulatory limits for utilities in your state?</b>	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> Penalties vary with the offense. Refer to Title 66, Pennsylvania Consolidated Statutes, Section 3301, et. seq.	

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## Rhode Island

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**Commission** 3 members Appointed  
**Staff Size** 8 employees

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### Related Web Sites

Rhode Island Public Utilities Commission: <http://www.ripuc.state.ri.us/>  
Rhode Island General Laws: <http://www.rilin.state.ri.us/Statutes/TITLE39/INDEX.HTM>

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## 2003 Response to Original 1995 Securities and Exchange Commission Survey

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### 1 Utility Financings

The Rhode Island Public Utilities Commission did not provide a response.

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# South Carolina

**Commission** 7 members Elected by legislature  
**Staff Size** 75 employees



## Related Web Sites

South Carolina Public Service Commission: <http://www.psc.state.sc.us/>  
 South Carolina Code of Laws: <http://www.scstatehouse.net/code/titl58.htm>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
 Commission staff reviews proposed financing to determine if it will be used for the benefit of the ratepayer (improve reliability or efficiency, reduce pollution, etc.) and will not have a negative impact on the utility's financial rating.

A3 **What is the procedure and timing of such regulation?**  
 Utility submits an application to the Commission requesting authority to issue debt securities or stock. Application is reviewed by staff and presented to Commissioners for a formal vote.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)** No

B2 **What standards, procedures and timing are involved in such regulation?**

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes

B **With a utility affiliated through ownership or otherwise?** Yes

C **With an unaffiliated utility?** No

D **With an affiliated nonutility company?** Yes

E **With an unaffiliated nonutility company?** No

---

### 3 Acquisition and Ownership Regulation

---

A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?	Yes
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	No

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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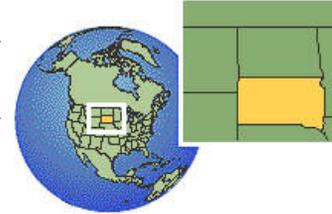
F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?	Yes
	If yes, would you please provide details of existing capital structure regulations of utilities in your state.	
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?	No
	If yes, what are existing regulatory limits for utilities in your state?	
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? Revoke certificate.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# South Dakota

**Commission** 3 members Elected  
**Staff Size** 25 employees



## Related Web Sites

South Dakota Public Utilities Commission: <http://www.state.sd.us/puc/puc.htm>  
 South Dakota Public Utilities Statutes: <http://legis.state.sd.us/statutes/Index.cfm?FuseAction=DisplayStatute&FindType=Statute&txtStatute=49>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

- A1 Does your commission regulate the issuance of securities by utilities?**  
 Only for companies incorporated in this state and not under Federal jurisdiction which leaves only 1 utility. See SDCL 49-34A-29 and following statutes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes  
 See SDCL 49-34A-30.
- A2 If so, what general standards are applied in such regulation?**  
 No formal standards. Measures used have been the financing must relate to regulated utility costs and must not create high risk or high cost capital structure.
- A3 What is the procedure and timing of such regulation?**  
 Company must file application for approval of securities issuance prior to issuance and Commission has 30 days to approve. See SDCL 49-34A-31.
- B1 Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)**  
 As described above, Commission regulates issuance of securities or debt.
- B2 What standards, procedures and timing are involved in such regulation?**

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

- A With its holding company (if any)**  
 Commission has authority to analyze purchases or sales regarding reasonableness of transaction for inclusion in rates.
- B With a utility affiliated through ownership or otherwise?**  
 Same as A above.
- C With an unaffiliated utility?**  
 For inclusion in rates see A above. For utilities not regulated by federal authorities see SDCL 49-34A-35 - 37
- D With an affiliated nonutility company?**  
 Same as A above.
- E With an unaffiliated nonutility company?**  
 Same as A above.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	No
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> See SDCL 49-34A-38.1	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> See SDCL 49-34A-38.1	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> See SDCL 49-34A-36	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> See SDCL 49-34A-35. Utilities under federal jurisdiction are not subject to state review.	No

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> During a rate case capital structure may be adjusted to appropriate proportion for ratemaking purposes.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  <b>If yes, what are existing regulatory limits for utilities in your state?</b> Dividends - No. Loans - Yes. See SDCL49-34A-29	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> Minimum of \$100 and maximum of \$1000 for each infraction.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Tennessee

<b>Commission</b>	4 members	Appointed
<b>Staff Size</b>	90 employees	



## Related Web Sites

Tennessee Regulatory Authority:	<a href="http://www.state.tn.us/tra/">http://www.state.tn.us/tra/</a>
Tennessee Code:	<a href="http://198.187.128.12/tennessee/lpext.dll?f=templates&amp;fn=fs-main.htm&amp;2.0">http://198.187.128.12/tennessee/lpext.dll?f=templates&amp;fn=fs-main.htm&amp;2.0</a>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b>	No
	<b>Does this include long-term debt?</b>	Yes

#### A2 If so, what general standards are applied in such regulation?

The statute governing such regulation is Tenn. Code Ann. § 65-4-109. The TRA's authority is somewhat limited by the state's "interstate commerce clause", which is stated in Tenn. Code Ann. § 65-4-103. Where the Authority has jurisdiction over issuances of securities, it applies the standards stated in Tenn. Code Ann. § 65-4-109 (above): 1) Is the issuance made in accordance with all applicable laws? and 2) Are the funds to be used for a proper purpose (generally, to enable, improve or enhance services to utility customers)?

#### A3 What is the procedure and timing of such regulation?

Prior approval by the Authority is required. Complete Petitions from utility companies are put before the TRA Directors for a decision within 30 days of the filing.

#### B1 Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)

Under the same statute, the Authority has jurisdiction over loans and/or any "other evidence of indebtedness payable in more than one (1) year from the date [of issue]."

#### B2 What standards, procedures and timing are involved in such regulation?

Same as in A3 above.

### 2 Affiliate Transactions

#### What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

A	<b>With its holding company (if any)</b>	None
B	<b>With a utility affiliated through ownership or otherwise?</b>	None
C	<b>With an unaffiliated utility?</b>	None
D	<b>With an affiliated nonutility company?</b>	None
E	<b>With an unaffiliated nonutility company?</b>	None

Note: The TRA exercises no direct front-end jurisdiction over these on a transaction by transaction basis unless specifically brought to the attention of the Authority. However, all affiliated company transactions are subject to review for reasonableness and appropriateness as part of a rate case, earnings review, or other action before the Authority.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>  The Authority has jurisdiction of the acquisition of utility assets by a utility only when such acquisition constitutes a lease, merger or consolidation of utility assets, as governed by Tenn. Code Ann. § 65-4-112. The Authority has taken the position that asset transfers between and among public utilities only constitute a "merger or consolidation" if substantially all of the assets of one utility are transferred to another, such that the transferring utility will no longer be in a position to provide service after the transaction. The Authority has jurisdiction over the acquisition by a public utility of another utility's certification, as provided in Tenn. Code Ann. § 65-4-113. The Authority has taken the position that the definition of a public utility in Tenn. Code Ann. § 65-4-101(a) includes all levels of ownership of that utility's assets, so that ownership changes accomplished through the transfer of parent or indirect parent companies, or through the transfer of a majority share of voting control of the company's stock at any level of ownership, constitute a transfer of certification and must be approved by the Authority. Tenn. Code Ann. § 65-4-101(a).	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>  Yes, as governed by Tenn. Code Ann. § 65-4-112 above.	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  Yes, but limited authority. The Authority has jurisdiction over capital structure only at initial granting of certification or transfer of certification, and only to the extent that such structure might be considered to make the utility financially unstable (such as during a rate case or earnings review).  <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>  In practice, as long as the utility can demonstrate that it has access to additional funds if necessary, Authority does not dictate its capital structure.	Yes
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  <b>If yes, what are existing regulatory limits for utilities in your state?</b>  The Authority has no jurisdiction over dividends, though utilities under rate-of-return regulation could be made to lower their rates if dividend payments combined with profits exceeded the approved rate of return on investment. The Authority has jurisdiction over intercompany loans only to the extent that they fall under the provisions of Tenn. Code Ann. § 65-4-109 above. Complaints concerning excessive rates of return would generally be initiated by the Consumer Advocate Division of the Attorney General's office or by another utility with an interconnection agreement or one that purchases services wholesale, though the Authority has the ability to initiate such proceedings on its own. Intercompany loans that fall under the provisions of Tenn. Code Ann. § 65-4-109 must meet the requirements that they are for a proper purpose and that they are made in compliance with all applicable laws. A review of the legality of such loans would pay particular attention to possible violations of rules and statutes governing cross-subsidy and anticompetitive behavior.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>  The Authority has the ability to fine a utility up to \$50 per day for any time in which the utility is deemed to be out of compliance with Authority orders, judgments, findings, rules or requirements (Tenn. Code Ann. § 65-4-120). The Authority may cancel the certification of a utility for reasons enumerated in the rules covering each type of utility. Generally, the Authority has the ability to cancel certification at its discretion for noncompliance with statutes and/or rules governing the provision of public utility services. A period in which the utility may appeal the cancellation exists before such cancellation becomes permanent. Authority decisions may be appealed to other courts in the state; the appropriate courts are defined in Tenn. Code Ann. § 65-4-121.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Texas

<b>Commission</b>	3 members	Appointed
<b>Staff Size</b>	210 employees	



## Related Web Sites

Public Utility Commission of Texas: <http://www.puc.state.tx.us/>  
 Texas Public Utility: <http://www.puc.state.tx.us/rules/statutes/Pura03.doc>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b> <b>Does this include short-term debt?</b> <b>Does this include long-term debt?</b>	No No No
A2	<b>If so, what general standards are applied in such regulation?</b>	
A3	<b>What is the procedure and timing of such regulation?</b>	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>  1. Commission Rule 25.271(c) applies "safe harbor" provisions to investments in foreign utilities by exempt holding companies affiliated with electric utilities subject to the regulatory jurisdiction of the commission. These provisions protect the public interest by ensuring that just, fair, and reasonable rates are unaffected by investments by exempt holding companies in foreign utilities.	
B2	<b>What standards, procedures and timing are involved in such regulation?</b>  See Note 1. above.	

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b>  From Commission Rule 25.272(e): "A utility shall not subsidize the business activities of any affiliate with revenues from a regulated service."	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b>  From Commission Rule 25.272(e): "A utility shall not subsidize the business activities of any affiliate with revenues from a regulated service."	Yes
C	<b>With an unaffiliated utility?</b>	No
D	<b>With an affiliated nonutility company?</b>  From Commission Rule 25.272(e)(2): "...transactions between a utility and its competitive affiliates shall be at arm's length."	Yes
E	<b>With an unaffiliated nonutility company?</b>	No

Note: §25.272. Code of Conduct for Electric Utilities and Their Affiliates. The provisions of this section establish safeguards to govern the interaction between utilities and their affiliates, both during the transition to and after the introduction of competition, to avoid potential market-power abuses and cross-subsidization between regulated and unregulated activities.

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>  Commission Rule 25.271(c) (attached) applies "safe harbor" provisions to investments in foreign utilities by exempt holding companies affiliated with electric utilities subject to the regulatory jurisdiction of the commission. These provisions protect the public interest by ensuring that just, fair, and reasonable rates are unaffected by investments by exempt holding companies in foreign utilities.	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>  The Texas Public Utility Regulatory Act (PURA), Section 14.101 (attached) requires that a public interest finding be made on the sale, transfer, or merger of facilities with other public utilities. See also attached Commission Rules 25.74 and 25.75, which require the reporting of sales of facilities at prices exceeding \$100,000 or mergers involving 50% or more of the utility's stock.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>  See A2 Above.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	No
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>  See A2 Above.	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>  If yes, would you please provide details of existing capital structure regulations of utilities in your state.	No
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>  If yes, what are existing regulatory limits for utilities in your state?	No
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>  The Commission may assess administrative penalties of up to \$5000 per day for violations of the statute or rules. See PURA Sections 15.021 - 15.023.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Utah

<b>Commission</b>	3 members	Appointed
<b>Staff Size</b>	12* employees	
	*Many staff functions performed by Division of Public Utilities, Department of Commerce	



## Related Web Sites

Public Service Commission of Utah: <http://www.psc.state.ut.us/>  
 Utah Code: <http://www.le.state.ut.us/~code/TITLE54/TITLE54.htm>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b>	No
	<b>Does this include long-term debt?</b>	Yes
A2	<b>If so, what general standards are applied in such regulation?</b> UCA 54-4-31 - Electrical corporations to issue securities only on consent of commission - Securities with a maturity date of less than 1 year are exempt.	
A3	<b>What is the procedure and timing of such regulation?</b> Written approval of Commission before securities can be issued.	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b> General regulatory authority of the Commission.	

### 2 Affiliate Transactions

<b>What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?</b>		
A	<b>With its holding company (if any)</b> General regulatory authority of the Commission.	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b> General regulatory authority of the Commission.	Yes
C	<b>With an unaffiliated utility?</b> General regulatory authority of the Commission.	Yes
D	<b>With an affiliated nonutility company?</b> General regulatory authority of the Commission.	Yes
E	<b>With an unaffiliated nonutility company?</b> General regulatory authority of the Commission.	Yes

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
	UCA 54-4-28 - Merger, consolidation, or combination. UCA 54-4-29 - Acquiring voting stock or securities of like utility only on consent of commission. UCA 54-4-30 - Acquiring properties of like utility only on consent of commission.	
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
	UCA 54-4-28 - Merger, consolidation, or combination. UCA 54-4-29 - Acquiring voting stock or securities of like utility only on consent of commission. UCA 54-4-30 - Acquiring properties of like utility only on consent of commission.	
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
	UCA 54-4-28 - Merger, consolidation, or combination. UCA 54-4-29 - Acquiring voting stock or securities of like utility only on consent of commission. UCA 54-4-30 - Acquiring properties of like utility only on consent of commission.	
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
	UCA 54-4-25 - Certificate of convenience and necessity prerequisite to construction and operation. UCA 54-4-26 - Contracts calling for expenditures.	
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	Yes
	UCA 54-4-28 - Merger, consolidation, or combination. UCA 54-4-29 - Acquiring voting stock or securities of like utility only on consent of commission. UCA 54-4-30 - Acquiring properties of like utility only on consent of commission.	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>	No
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> There is no explicit statutory authority to regulate a utility's capital structure. However, the Commission's ability to limit dividends or the issuance of debt securities could impact a utility's capital structure. For ratemaking purposes, the Commission has [at times] used a hypothetical capital structure.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>	Yes
	<b>If yes, what are existing regulatory limits for utilities in your state?</b> UCA 54-4-27 – Gas and electric utilities cannot pay a dividend prior to 30 days after the declaration of the dividend. Commission must be notified within 5 days of declaration of a dividend. If the Commission finds after investigation that the capital of the utility will be impaired, it can order the utility to refrain from paying the dividend.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>	
	UCA 54-7-20 - Reparations. UCA 54-7-23 - Penalties. UCA 54-7-24 - Injunction to stop violations or threatened violations. UCA 54-7-25 - Violations by utilities - \$500 to \$2,000 per offense per day. UCA 54-7-26 - Violations by officers or agents of utility - class A misdemeanor. UCA 54-7-27 - Violations by corporations other than utilities - \$500 to \$2,000 per offense. UCA 54-7-28 - Violations by individuals - class A misdemeanor.	

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# Vermont

**Commission** 3 members Appointed  
**Staff Size** 17 employees



## Related Web Sites

Vermont Public Service Board: <http://www.state.vt.us/psb/>  
 The Vermont Statutes: <http://www.leg.state.vt.us/statutes/chapters.cfm?Title=30>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	Does your commission regulate the issuance of securities by utilities? Does this include short-term debt? Does this include long-term debt?	Yes Yes Yes
A2	If so, what general standards are applied in such regulation? Promote the general good.	
A3	What is the procedure and timing of such regulation? No specific timing.	
B1	Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)	Yes
B2	What standards, procedures and timing are involved in such regulation? No specific timing.	

### 2 Affiliate Transactions

What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

A	With its holding company (if any)	None
B	With a utility affiliated through ownership or otherwise?	None
C	With an unaffiliated utility?	None
D	With an affiliated nonutility company?	None
E	With an unaffiliated nonutility company?	None

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### 3 Acquisition and Ownership Regulation

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A1	Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?	Yes
A2	Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?	Yes
A3	Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?	Yes
B	Does the utility commission regulate the acquisition by a utility of utility assets?	Yes
C	Do state laws or regulations prohibit or restrict the formation of utility holding companies?	No
D	Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets? Not usually, the Board has imposed limits certain times.	
E	Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?  If yes, would you please provide details of existing capital structure regulations of utilities in your state. Rate Case.	Yes
F2	Does your commission have the authority to limit dividends or intercompany loans of utilities?  If yes, what are existing regulatory limits for utilities in your state?	Yes
F3	Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations? 30 V.S.A. Sec. 30.	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Virginia

**Commission** 3 members Elected  
**Staff Size** 600 employees



## Related Web Sites

Virginia State Corporation Commission: <http://www.state.va.us/scc>  
Code of Virginia: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5600000>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b> Yes, if short term debt exceeds 12% of capitalization.	Yes
	<b>Does this include long-term debt?</b>	Yes
A2	<b>If so, what general standards are applied in such regulation?</b> See Title 56 Chapter 3 of the Code of Virginia. There are specific purposes for which securities can be issued.	
A3	<b>What is the procedure and timing of such regulation?</b> From time of receipt of application, Commission has 25 day time limit to decide. The 25 day deadline can be extended by the Commission.	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b> Same standards, procedures and statutes apply.	

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A	<b>With its holding company (if any)</b> Needs approval from the Commission under Chapter 4 of Title 56 of the Code of Virginia.	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b> Needs approval from the Commission under Chapter 4 of Title 56 of the Code of Virginia.	Yes
C	<b>With an unaffiliated utility?</b> Under certain circumstances the Commission may have jurisdiction over these transactions. See Chapter 4 of Title 56 for the 6 criteria that define an affiliate.	
D	<b>With an affiliated nonutility company?</b> Needs approval from the Commission under Chapter 4 of Title 56 of the Code of Virginia.	Yes
E	<b>With an unaffiliated nonutility company?</b> Under certain circumstances the Commission may have jurisdiction over these transactions. See Chapter 4 of Title 56 for the 6 criteria that define an affiliate.	

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### 3 Acquisition and Ownership Regulation

The change in ownership or control of public utilities in Virginia is regulated under Chapter 5 of Title 56. In addition, the transfer of all public utility assets situated in Virginia is regulated under Ch. 5.

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b> The formation of utility holding companies need approval from the Commission.	
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b> The Commission has no jurisdiction over the investments of holding companies. However, Virginia statute does require Virginia utilities to conduct only businesses that are related or incidental to its public service business. Moreover, since the Commission regulates the issuance of securities by utilities the Commission does control the ability of utilities issue securities to make investments.	
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b> Not directly. However the Commission limited a utilities ability to issue debt because of concerns about that utility's low equity ratio. <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b> There is not believed to be any explicit statutory authority to regulate a utilities capital structure, however the Commission's ability to limit dividends or the issuance of debt securities would impact a utilities capital structure.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b> The Commission has the authority to prohibit dividend payments from Virginia utilities to affiliates. See Chapter 4 for further details. <b>If yes, what are existing regulatory limits for utilities in your state?</b>	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> The Commission has the ability to fine a Company up to \$10,000 a day for violating a Commission order. In addition, Chapters 3 and 4 allow for 4 other fines and penalties, including jail time for employees and/or officers of Companies that knowingly violate Chapter 3 (see § 56-73).	

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Washington

**Commission** 3 members Appointed  
**Staff Size** 150 employees



## Related Web Sites

Washington Utilities and Transportation Commission: <http://www.wutc.wa.gov/>  
 Revised Code of Washington: <http://www.leg.wa.gov/pub/rcw/rcw%20%2080%20%20TITLE/rcw%20%2080%20%20%20TITLE.htm>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b>	Yes
	<b>Does this include short-term debt?</b> Yes, but authority is limited to demand notes.	Yes
	<b>Does this include long-term debt?</b>	Yes
A2	<b>If so, what general standards are applied in such regulation?</b> See RCW 80.08.030	
A3	<b>What is the procedure and timing of such regulation?</b> RCW 80.08.040	
B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b> Yes for loans and guarantees.	Yes
B2	<b>What standards, procedures and timing are involved in such regulation?</b> Same as 1-A1 and 1-A2.	

### 2 Affiliate Transactions

#### What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?

RCW 80.16.020 Dealings with affiliated interests-Prior filing with commission required-Commission may disapprove. Every public service company shall file with the commission a verified copy, or a verified summary if unwritten, of a contract or arrangement providing for the furnishing of management, supervisory[,] construction, engineering, accounting, legal, financial, or similar services, or any contract or arrangement for the purchase, sale, lease, or exchange of any property, right, or thing, or for the furnishing of any service, property, right, or thing, other than those enumerated in this section, hereafter made or entered into between a public service company and any affiliated interest as defined in this chapter, including open account advances from or to the affiliated interests. The filing must be made prior to the effective date of the contract or arrangement. Modifications or amendments to the contracts or arrangements with affiliated interests must be filed with the commission prior to the effective date of the modification or amendment. Any time after receipt of the contract or arrangement, the commission may institute an investigation and disapprove the contract, arrangement, modification, or amendment thereto if the commission finds the public service company has failed to prove that it is reasonable and consistent with the public interest. The commission may disapprove any such contract or arrangement if satisfactory proof is not submitted to the commission of the cost to the affiliated interest of rendering the services or of furnishing the property or service described in this section.

A	<b>With its holding company (if any)</b>	Yes
B	<b>With a utility affiliated through ownership or otherwise?</b>	Yes
C	<b>With an unaffiliated utility?</b> Prudence: see 19th supp in UE-921262.	Yes
D	<b>With an affiliated nonutility company?</b>	Yes
E	<b>With an unaffiliated nonutility company?</b>	Yes

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### 3 Acquisition and Ownership Regulation

RCW 80.12.020 Order required to sell, merge, etc. No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public service company, without having secured from the commission an order authorizing it so to do: PROVIDED, That this section shall not apply to any sale, lease, assignment or other disposal of such franchises, properties or facilities to a special purpose district as defined in RCW 36.96.010, city, county, or town. [1981 c 117 ' 1; 1961 c 14 ' 80.12.020. Prior: 1945 c 75 ' 1; 1941 c 159 ' 2; Rem. Supp. 1945 ' 10440b.]

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	Yes
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b> No, except through securities issuance regulations.	No
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1 **Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?**

In rate case prudence reviews.

**If yes, would you please provide details of existing capital structure regulations of utilities in your state.**

Prudence issue as with all cost components in a rate proceeding.

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F2 **Does your commission have the authority to limit dividends or intercompany loans of utilities?**

Loans if between affiliates.

**If yes, what are existing regulatory limits for utilities in your state?**

None.

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F3 **Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?**

Can issue penalties. \$100/day/violation upon notice RCW 80.04.405.  
\$1000/day/violation after action in superior court; RCW 80.04.380-400.

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# West Virginia

<b>Commission</b>	3 members	Appointed
<b>Staff Size</b>	200 employees	



## Related Web Sites

West Virginia Public Service Commission: <http://www.psc.state.wv.us/>  
 West Virginia Code: <http://129.71.164.29/wvcode/24/masterfrm2frm.htm>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1	<b>Does your commission regulate the issuance of securities by utilities?</b> Yes. However, direct regulation involving Commission approval in advance of issuance of securities is limited to the issuance of any instrument that would effectively change the ownership of the utility or allow any entity to acquire a majority interest in a utility.	Yes
	<b>Does this include short-term debt?</b>	No
	<b>Does this include long-term debt?</b>	No

#### A2 If so, what general standards are applied in such regulation?

The Commission generally applies a public interest standard. The Commission jurisdiction is guided by the West Virginia Statute. Specifically, the WV Law states: Unless the consent and approval of the public service commission of West Virginia is first obtained: (g) no person or corporation, whether or not organized under the laws of this state, may acquire either directly or indirectly a majority of the common stock of any public utility organized and doing business in this state. The commission may grant its consent in advance or exempt from the requirements of this section. any merger or consolidation thereof and every contract, purchase of stocks, arrangement, transfer or acquisition of control, or other transaction referred to in this section, upon proper showing that the terms and conditions thereof are reasonable and that neither party thereto is given an undue advantage over the other, and do not adversely affect the public in this state. (West Virginia Code §24-2-12.)

Further, the issuance of stock is specifically addressed in a subsequent section of the West Virginia Code, which states:

No public utility may issue stocks and stock certificates, or other evidence of interest or ownership unless, in addition to the other requirements of law, it shall first have secured from the commission an order authorizing the issue, stating the amount thereof and the purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the commission, the issue is reasonably required for the purposes specified in the order. The commission may by its order grant permission for the issue of such stocks or stock certificates or other evidence of interest or ownership in the amount applied for, or in a lesser amount, or refuse such permission, or grant it subject to such conditions as it deems reasonable and necessary. (West Virginia Code §24-2-12a.)

#### A3 What is the procedure and timing of such regulation?

Utilities must file a petition describing the transaction that requires Commission approval. The utility should file supporting documents and a demonstration that the transaction is reasonable and does not adversely affect the public. Notice of the filing is required and Staff or other interested parties may file a recommendation for approval, denial, modification or conditions. The Commission may issue an order based upon the pleadings, or may schedule the matter for hearing. Cases may be resolved in 30 days or less. However, if there is significant controversy or adverse recommendations from one or more parties, the case may require more time.

B1	<b>Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)</b>	Yes
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#### B2 What standards, procedures and timing are involved in such regulation?

(See answer A3, above.)

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## 2 Affiliate Transactions

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**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

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**A With its holding company (if any)**

Pre-approval authority. The Commission has full jurisdiction to approve or disapprove transactions between a utility and its affiliates. This jurisdiction is specifically prescribed in West Virginia Law, which states: Unless the consent and approval of the public service commission of West Virginia is first obtained: ... (f) no public utility... may, by any means, direct or indirect, enter into any contract or arrangement for management, construction, engineering, supply or financial services or for the furnishing of any other service, property or thing, with any affiliated corporation, person or interest. (West Virginia Code §24-2-12.)

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**B With a utility affiliated through ownership or otherwise?**

Pre-approval authority. Same jurisdiction as described in 2A, above.

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**C With an unaffiliated utility?**

Pre-approval authority. The Commission has full jurisdiction to approve or disapprove transactions between utilities. This jurisdiction is specifically prescribed in West Virginia Law, which states: Unless the consent and approval of the public service commission of West Virginia is first obtained: (a) No public utility... may enter into any contract with any other utility to operate any line or plant of any other utility subject thereto, nor which will enable such public utility to operate their lines or plants in connection with each other,....; (b) no public utility... may purchase, lease, or in any other manner acquire control, direct or indirect, over the franchises, licenses, permits, plants, equipment, business or other property of any other utility; (c) no public utility... may assign, transfer, lease, sell, or otherwise dispose of its franchises, licenses, permits, plants, equipment, business or other property or any part thereof. ...; (d) no public utility... may, by any means, direct or indirect, merge or consolidate its franchises, licenses, permits, plants, equipment, business or other property with that of any other public utility; (e) no public utility... may purchase, acquire, take or receive any stock, stock certificates, bonds, notes or other evidence of indebtedness of any other public utility. (West Virginia Code §24-2-12.)

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**D With an affiliated nonutility company?**

See 2A, above.

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**E With an unaffiliated nonutility company?**

No pre-approval authority. The Commission does review the prudence unaffiliated transactions in rate cases.

The Commission reviews the prudence of transactions between a utility and an unaffiliated nonutility company as part of a rate case review. If costs are determined to be unreasonable, unnecessary or in any way imprudent, the Commission can disallow such costs from inclusion in revenue requirements.

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## 3 Acquisition and Ownership Regulation

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**A1 Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?** Yes

Pre-approval is required for any entity to acquire in-state utility facilities. (See 2C, above)

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**A2 Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?** Yes

Pre-approval is required for any entity to acquire in-state utility facilities. (See 2C, above)

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**A3 Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?** Yes

Pre-approval is required for any entity to acquire in-state utility facilities. (See 2C, above)

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**B Does the utility commission regulate the acquisition by a utility of utility assets?** Yes

If acquisition is from another utility or from an affiliate, pre-approval is required. If the acquisition is from a non-utility or non-affiliate, pre-approval is required unless the addition of utility assets is an ordinary extension in the normal course of business. All additions that are not pre-approved will be subject to a prudence test in future rate cases.

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**C Do state laws or regulations prohibit or restrict the formation of utility holding companies?** No

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**D Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?** No

No, with regard to holding companies. However, if a regulated utility is investing in nonutility operations or assets the prudence of its acquisition and the separation of costs will be scrutinized in future rate cases.

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**E Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?** Yes

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**Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey**

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**1 Utility Financings**

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F1 **Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?** Yes

While not specific, it is believed that the Commission's jurisdiction over utility practices would extend to capital structure decisions. Normally, the Commission would exercise ratemaking jurisdiction only, i.e. imputation of a capital structure for rate making purposes. However, if the Commission was concerned that imputation that was not reflective of the actual capital structure could impair the utility, it could order modifications to actual capitalization.

**If yes, would you please provide details of existing capital structure regulations of utilities in your state.**

There are no specific regulations. The Commission considers capital structure issues in individual rate cases.

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F2 **Does your commission have the authority to limit dividends or intercompany loans of utilities?** Yes

**If yes, what are existing regulatory limits for utilities in your state?**

There are no specific limits established by rule. Intercompany loans must be pre-approved by the Commission. Dividend limitations have not occurred often, but arise on a case by case basis. When this issue has been considered by the Commission, the limits have been set based on payout ratio limits.

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F3 **Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?**

The Commission has limited enforcement powers of its own. Violation of Commission orders or rules or other violations of laws pertaining to public utilities are subject to penalties as set forth in West Virginia Code §24-4. Violations range from misdemeanors to felonies and are subject to fines and imprisonment. Generally, the Commission would seek enforcement through the courts.

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Note: Responses from state regulators have been transcribed by Fitch, and may have been edited for brevity. Responses are provided for the convenience of the reader and do not represent any abbreviated form of legal opinion or advice.

# Wisconsin

**Commission** 3 members Appointed  
**Staff Size** 185 employees



## Related Web Sites

Public Service Commission of Wisconsin: <http://psc.wi.gov/>  
 Wisconsin Statutes: [http://folio.legis.state.wi.us/cgi-bin/om\\_isapi.dll?clientID=1023858452&infobase=stats.nfo&jump=ch.%20201](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=1023858452&infobase=stats.nfo&jump=ch.%20201)  
 Wisconsin Administrative Code: <http://www.legis.state.wi.us/rsb/code/psc/psc.html>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

The responses relate to energy utilities. Most of the regulations do not apply to telecommunications utilities in Wisconsin.

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
 See Wis. Stat. s. 201.01(3), for a definition of a security covered by Commission regulation.  
**Does this include long-term debt?** Yes

A2 **If so, what general standards are applied in such regulation?**  
 See Wis. Stats. Ch. 201.

A3 **What is the procedure and timing of such regulation?**  
 See Wis. Stats. Ch. 201.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)**  
 Loans from third parties may fall under Wis. Stats. Ch. 201. Loans from affiliates are regulated under Wis. Stats. S. 196.52. Loans to officers, directors, and upstream loans to parent corporations under Wis. Stats. S. 196.525. Any of these transactions involving energy holding companies are regulated under Wis. Stats. S. 196.795.

B2 **What standards, procedures and timing are involved in such regulation?**  
 See answer to B1.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)** Yes  
 See Wis. Stats. ss. 196.52 and 196.795.

B **With a utility affiliated through ownership or otherwise?** Yes  
 See Wis. Stats. ss. 196.52 and 96.795.

C **With an unaffiliated utility?** No

D **With an affiliated nonutility company?** Yes  
 See Wis. Stats. ss. 196.52 and 196.795.

E **With an unaffiliated nonutility company?** No

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### 3 Acquisition and Ownership Regulation

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A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b> See Wis. Stats. s. 196.80.	Yes
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b> See Wis. Stats. s. 196.80.	Yes
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b> See Wis. Stats. s. 196.80.	Yes
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b> See Wis. Stats. s. 196.80.	Yes
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b> See Wis. Stats. s. 196.795.	Yes
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b> See Wis. Stats. ss. 196.795 and 196.80.	Yes
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b> See Wis. Stats. s. 196.80.	Yes

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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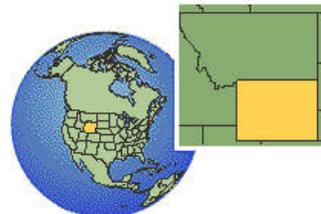
F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b> Wis. Stats. Ch. 201 and excerpts from select Commission orders, below. <b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b> <b>If yes, what are existing regulatory limits for utilities in your state?</b> Application of the Wisconsin Power and Light Company, as an Electric, Water and Natural Gas Public Utility, to Change Electric, Water and Natural Gas Rates. WP&L shall not pay dividends, including pass-through of subsidiary dividends, in excess of \$70,580,000 if its actual average common equity ratio, on a ratemaking basis, is or will fall below the test year authorized level of 51.72 percent. Application of Wisconsin Public Service Corporation to Adjust Rates 6690-UR-114 WPSC shall not pay, without Commission approval, normal dividends greater than 109 percent of the prior year's common dividend. WPSC shall notify the Commission if any special dividend is contemplated. No special dividend that might cause the common equity, on a financial basis, to drop below the projected calendar year average of 55.61 percent or the dollar amount of equity reflected in the test year is permitted without Commission approval.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b> See Wis. Stats. ss. 201.09, 196.65, and 196.66	

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# Wyoming

<b>Commission</b>	3 members	Appointed
<b>Staff Size</b>	35 employees	



## Related Web Sites

Wyoming Public Service Commission: <http://psc.state.wy.us>  
 Wyoming Rules: <http://soswy.state.wy.us/RULES/1201.pdf>

## 2003 Response to Original 1995 Securities and Exchange Commission Survey

### 1 Utility Financings

A1 **Does your commission regulate the issuance of securities by utilities?** Yes  
**Does this include short-term debt?** No  
**Does this include long-term debt?** Yes  
 Yes, if term exceeds 18 months.

A2 **If so, what general standards are applied in such regulation?**  
 Utilities need Commission approval if period is over 18 months; the aggregate amount of current and proposed securities cannot be greater than the fair value of the business and properties of the utility.

A3 **What is the procedure and timing of such regulation?**  
 Applications must be docketed, reviewed, and approved/denied within 30 days of receipt.

B1 **Does your commission regulate other types of financing operations? (e.g., loans, guarantees, hold harmless agreements)**  
 Any type of financing that creates liens against a utility's property is subject to Commission supervision. This includes loans and guarantees for REA's and IOU's.

B2 **What standards, procedures and timing are involved in such regulation?**  
 Applications must be docketed, reviewed, and approved/denied within 30 days of receipt.

### 2 Affiliate Transactions

**What regulatory authority does your commission have over transactions (e.g., contracts for sales, services and construction) between a utility and the following entities?**

A **With its holding company (if any)**  
 The WY PSC has jurisdiction over any transactions that a regulated utility conducts with any type of entity to ensure that the utility's actions are in the public interest.

B **With a utility affiliated through ownership or otherwise?** Yes  
 See 2A

C **With an unaffiliated utility?** Yes  
 See 2A

D **With an affiliated nonutility company?** Yes  
 See 2A

E **With an unaffiliated nonutility company?** Yes  
 See 2A

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### 3 Acquisition and Ownership Regulation

---

A1	<b>Does the commission or other state authority regulate acquisition or ownership by an in-state utility or other person of utility facilities located outside the state?</b>	Yes
	The WY PSC has jurisdiction over the operations of any utility providing service to Wyoming customers. The ownership of out-of-state facilities will affect the financials and operations of those utilities.	
A2	<b>Does the commission or other state authority regulate acquisition or ownership by an out-of-state utility or other person of in-state utility facilities?</b>	Yes
	The WY PSC has jurisdiction over the operations of any utility providing service to WY customers.	
A3	<b>Does the commission or other state authority regulate acquisition or ownership by a foreign utility or other person of in-state utility facilities?</b>	Yes
	The WY PSC has jurisdiction over the operations of any utility providing service to WY customers.	
B	<b>Does the utility commission regulate the acquisition by a utility of utility assets?</b>	Yes
	An acquisition is considered to be a reorganization where majority ownership has changed. The WY PSC is authorized by Statute to approve any reorganization if it will not adversely affect the utility's ability to serve the public.	
C	<b>Do state laws or regulations prohibit or restrict the formation of utility holding companies?</b>	No
D	<b>Does the utility commission regulate the ability of utilities or utility holding companies to invest in nonutility operations or acquire nonutility assets?</b>	Yes
	If the utility or holding company acquires a controlling share then it is a reorganization and the WY PSC has jurisdiction. However, the PSC does not have jurisdiction over the operations of the nonutility. Also, the operations of the nonutility cannot be included in rates.	
E	<b>Does the utility commission or other state authority have special regulatory procedures for mergers that involve public utilities?</b>	Yes
	An acquisition is considered to be a reorganization where majority ownership has changed. The WY PSC is authorized by Statute to approve any organization if it will not adversely affect the utility's ability to serve the public.	

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### Fitch Ratings Questions, Supplemental to Original 1995 Securities and Exchange Commission Survey

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#### 1 Utility Financings

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F1	<b>Does your commission have the authority to regulate utility capital structure (i.e., limit on debt to capital or minimum required equity ratio)?</b>	Yes
	<b>If yes, would you please provide details of existing capital structure regulations of utilities in your state.</b>	
	Analysis is done to compare the utility's structure to others in the industry for reasonableness; a structure can be recommended to be imposed to help set rates.	
F2	<b>Does your commission have the authority to limit dividends or intercompany loans of utilities?</b>	
	Dividends - No; loans - Yes	
	<b>If yes, what are existing regulatory limits for utilities in your state?</b>	
	If the loan falls under the parameters of: over 18 months to repay, and the utility's assets are used for collateral, then the loan must go to the Commission for approval is the total amount outstanding isn't more than the FV of the company's assets.	
F3	<b>Please describe your commission's enforcement powers or authorized penalties for violations of commission regulations?</b>	
	Can levy fines but must be enforced through the courts.	

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