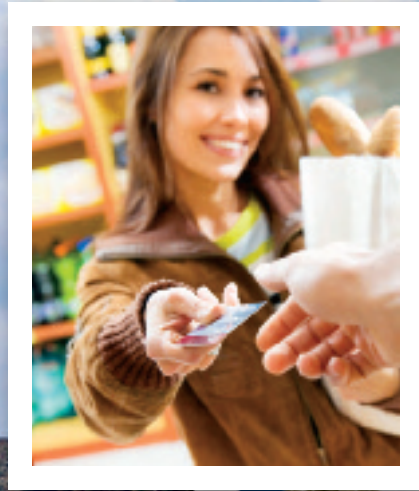


UTAH Department of Commerce

2009 Annual Report



Utah Department of Commerce

2009 Annual Report

A Message from Governor Gary R. Herbert

STATE OF UTAH
OFFICE OF THE GOVERNOR



GARY R. HERBERT
GOVERNOR



As Governor, it is my privilege to present the 2009 Annual Report for the Utah Department of Commerce. This state agency enables Utah's economy, business, and citizens to grow and prosper. I would like to offer my thanks and appreciation to all Department of Commerce employees for their tireless contributions and excellent public service. Their combined efforts continue to make Utah one of the best managed states in the country.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor

Utah Department of Commerce

Our Mission

To protect the public interest by ensuring fair commercial and professional practices.









Our Vision

The Department of Commerce contributes to the success of Utah businesses, professionals and consumers by creating a favorable economic environment.

Table of Contents

Executive Director's Statement	1
--------------------------------------	---

Division Reports

 Administration.....	2
 Office of Consumer Services.....	8
 Consumer Protection	14
 Corporations and Commercial Code	18
 Occupational and Professional Licensing	24
 Public Utilities	32
 Real Estate	40
 Securities	46

Web Trends	52
------------------	----

Financial Summary	54
-------------------------	----

A Message from Francine A. Giani, Executive Director



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah Department of Commerce

FRANCINE A. GIANI
Executive Director

THAD LEVAR
Deputy Director



Governor Herbert, Members of the Utah Legislature, Citizens of Utah:

It is my pleasure to present the Annual Report for Fiscal Year 2009 for the Utah Department of Commerce, recording how our agency and employees serve the people of Utah.

With responsibility for issuing over 300,000 licenses and regulating hundreds of industries, the Department of Commerce is one of the Utah's chief regulatory agencies. Our employees are dedicated to fair and efficient regulation across a variety of industries which impact Utah's citizens.

During fiscal year 2009, our Divisions expanded their efforts to protect Utah consumers, while regulating business and industry to promote healthy commerce in the state. The following are highlighted achievements for each Division:

Administration reduced three department fleet vehicles for a 9% reduction in total fleet and maintained an agency travel freeze which netted \$54,000 in savings.

Office of Property Rights Ombudsman prepared abstracts for past advisory opinions for new online database to launch during fiscal year 2010.

The Office of Consumer Services Senate Bill 214 replaced the Committee of Consumer Services with the new Office of Consumer Services which expanded the Office's mission and goals on energy related issues.

Division of Consumer Protection recovered benefits for consumers totaling over 2.9 million dollars.

Division of Corporations and Commercial Code One Stop Business Registration program reached online registration milestone of 100,000.

Division of Occupational and Professional Licensing decreased all initial application processing from 8-24 days in 2008 to 3-5 days in 2009 in a continued effort to reduce costs and increase efficiency.

Division of Public Utilities helped negotiate settlement agreement with Rocky Mountain Power over initial \$160.6 million rate increase down to \$45 million which lessened the financial burden to consumers.

Division of Real Estate successfully added appraisers to the online license management system which completed the transition of all Real Estate licensee designations online.

Division of Securities increased the number of investor education presentations by 168% over fiscal year 2008 despite budget cuts.

These advancements and others made Fiscal Year 2009 one of great progress. Commerce employees look forward to serving the citizens of Utah and building on our accomplishments in the years ahead. I invite you to visit our website at www.commerce.utah.gov to learn more about the Utah Department of Commerce.

Respectfully yours,

Francine A. Giani
Executive Director





Utah Department of Commerce **Administration**

Mission

Administration's mission is to provide administrative support (financial, human resources, information technology, public relations, and adjudicative) to the following Divisions within the Department of Commerce:

- Office of Consumer Services (OCS)
- Occupational and Professional Licensing (DOPL)
- Consumer Protection (DCP)
- Public Utilities (DPU)
- Corporations and Commercial Code (CORP)
- Securities (DS)
- Real Estate (DRE)

Administration

Internal Efficiencies

The Department of Commerce is continually looking for ways to increase operating efficiency and has implemented new programs to lower costs. The following are measures taken by the entire Department during fiscal year 2008-2009. Additional cost-saving programs are in each Division's report.

- Maintained a travel freeze for any non-mandatory trips (statutorily required/mission critical). 2009 travel savings were \$54,000 a 29% reduction.
- Had a hiring freeze in place; nine positions vacated through attrition in FY 2009 netted approximately \$522,000 toward absorbing imposed budget reductions.
- Reduced fleet by 3 vehicles used for investigations to increase utilization of remaining vehicles.
- Began sharing one individual's dedicated vehicle as a pooled vehicle throughout the Division of Public Utilities.
- Combined investigative duties in DOPL between some Medical and Construction investigators to absorb impact of fewer investigators.

Serving the Public

Commerce Administration oversees the following programs and procedures:

Office of the Property Rights Ombudsman

New Automobile Franchise Act

Powersport Vehicle Franchise Act

Agency Review of Administrative Actions



Office of Property Rights Ombudsman

Mission

The mission of the Office of the Property Rights Ombudsman (OPRO) is to:

- educate citizens and government officials regarding private property rights and the protection of those rights;
- encourage state and local government agencies to regulate and acquire land in a manner consistent with applicable statutes and constitutional law;
- advocate for fairness and compliance with state and local laws and ordinances; and
- assist citizens and government agencies to resolve property disputes fairly, in accordance with existing law, without expensive and time-consuming litigation.

Goal of OPRO

The goal of the OPRO is to provide a balance in property rights protection, so that government agencies can acquire, burden, or regulate real property to further the public good without placing an unfair burden on private individuals, families and businesses. The OPRO is neutral and assists both private property owners and governmental entities to meet this goal.

Fiscal Year 2009 Highlights

OPRO Dispute Resolution Record

State agencies and local governments throughout the state continue to plan and implement many extensive public improvement and infrastructure projects. Many of these projects require the acquisition of private property for public uses through eminent domain. Moreover, residential and commercial real estate development, although down in recent years, continues to steadily move forward, and regulation of land uses remains an important concern for both private property owners and government agencies.

During the 2009 fiscal year, the attorneys at the OPRO assisted private citizens and state and local governments in resolving hundreds of disputes outside of litigation. The OPRO

- logged 467 telephone calls from citizens and government agencies where questions were answered or concerns resolved with one phone call;
- formally opened 247 cases where work beyond the initial phone call was necessary to resolve a dispute;
- closed or resolved 251 formally opened cases;
- conducted 129 formal mediations of disputes between private citizens and government entities, the vast majority of which were resolved by formal settlement; and
- issued 42 formal advisory legal opinions, advising parties regarding their legal status in an attempt to facilitate resolution and settlement of disputes.

OPRO Training Programs

During the 2009 fiscal year, the attorneys at the OPRO provided numerous training opportunities and informational material to various groups. The OPRO provided training or materials on the subjects of eminent domain laws and practice, land use laws and practice, avoiding lawsuits and dispute resolution, and many other topics related to public vs. private real property issues. Attorneys at the OPRO provided

training to the Utah State Bar, private right-of-way companies, concerned citizens groups, and local governments.

Staff Highlights

Brent N. Bateman, Lead Attorney, was named one of 2009 Utah's Legal Elite by *Utah Business Magazine* in the field of Government Law. Brent also authored an article which was published in the July/August 2009 issue of the *Utah Bar Journal* titled "Preparing for Future Development: Government Entities and Developers Should Take Time to Solve Problems that Arose During the Recent Market Boom."

Su J. Chon, staff attorney, was named one of 2009 Utah's Legal Elite by *Utah Business Magazine*. Su prepared and presented numerous training sessions throughout the year regarding the OPRO and eminent domain law.

Elliot R. Lawrence, staff attorney, prepared abstracts for seventy (70) previously issued advisory opinions and performed many other tasks in preparation for an online database of advisory opinions accessible by the public, projected to go live on the internet during the 2010 fiscal year.

More information can be found on the OPRO webpage at www.propertyrights.utah.gov.

**Questions specific to
the Office of the Property
Rights Ombudsman
may be directed to:**

Brent Bateman, Lead Attorney
(801) 530-6391
bbateman@utah.gov
or via our webpage at
www.propertyrights.utah.gov



New Automobile Franchise Act and Powersport Vehicle Franchise Act

The *New Automobile Franchise Act* (NAFA) and the *Powersport Vehicle Franchise Act* (PVFA) protect the public interest by helping ensure fair business practices between vehicle franchisors and franchisees. The Acts establish a standard of conduct and clarify the duties of a franchisor (generally a manufacturer) and franchisee (a dealer). In addition, they establish a right to notice and hearing for franchisees with regards to a franchisor's intent to terminate, relocate, or establish a new franchised dealership. Franchisors and franchisees must pay an annual registration fee to cover the cost of adjudication.

	Fiscal Year 2007		Fiscal Year 2008		Fiscal Year 2009	
New Automobile Franchise Act (NAFA)						
Franchisor/Franchisee Registrations	213		285		185	
Powersport Vehicle Franchise Act (PVFA)						
Franchisor/Franchisee Registrations	41		54		35	
Franchise Cases Adjudicated						
	Fiscal Year 2007		Fiscal Year 2008		Fiscal Year 2009	
	Filed	Closed	Filed	Closed	Filed	Closed
New Automobile Franchise Act (NAFA)	0	0	2	2	1	1
Powersport Vehicle Franchise Act (PVFA)	0	3	0	0	0	0

Administrative Actions

A business registrant or licensee, having been adversely impacted by a Department of Commerce Division action, may request agency review by the Executive Director. Upon review, the decision could be upheld, reversed, modified, or remanded to the Division for further consideration.

Administrative Actions

Division Cases	Total		DCP		CORP		DOPL		DRE		DS	
	FY 2008	FY 2009	FY 2008	FY 2009	FY 2008	FY 2009	FY 2008	FY 2009	FY 2008	FY 2009	FY 2008	FY 2009
Filed	70	66	13	10	2	0	42	49	13	6	0	1
Closed	62	68	11	11	2	0	41	46	8	10	0	1
Affirmed	12	13	3	3	0	0	7	6	2	3	0	1
Remanded	12	31	1	3	0	0	9	24	2	4	0	0
Dismissed	36	23	7	5	1	0	24	16	4	2	0	0
Reversed	2	0	0	0	1	0	1	0	0	0	0	0
Modified	0	1	0	0	0	0	0	0	0	1	0	0

Working 4 Utah Initiative

Program Launch

Governor Jon Huntsman announced the "Working 4 Utah" initiative on June 26, 2008, extending state government service hours from 7 a.m. to 6 p.m., Monday through Thursday beginning the first week of August. Huntsman also stated that state administrative offices will close on Fridays but essential public services will remain open that already run on extended hours and during the weekends.

"As we go forward with this initiative, we will conserve energy, save money, improve our air quality, and enhance customer service." Governor Huntsman said. "We live in a dynamic, ever-changing environment, and it's crucial that we take a serious look at how we can adapt and maintain our state's unparalleled quality of life."

During the first week of August 2008, Governor Huntsman was joined by Commerce Executive Director, Francine A. Giani, in welcoming employees and the

public to the extended hours of service at the Heber M. Wells building. Utah's "Working 4 Utah" program attracted local and national media with the Department of Commerce as the focus of numerous television interviews and news stories. One notable interview was with CNN national news whose crew travelled to Utah to portray the state's new 4-day work week. CNN reporter John Zarella interviewed Francine Giani and Commerce employees who spoke favorably of the new changes

In addition to media coverage, the Department coordinated banners, flyers, automated telephone messages and the Commerce website to make the public aware of the new "Working 4 Utah" operating hours and provided links to online services for each Division.



After his inauguration, Governor Gary Herbert polled the public and state employees on the 4-day work schedule and announced that he was extending the "Working 4 Utah" initiative.

Administration

Impact

As one of the state's largest regulatory agencies, the Department of Commerce kept a commitment to customer service by enabling the public to continue accessing services online on both Friday and holidays, responding to Friday emergency requests during the first months of the "Working 4 Utah" Initiative, and tracking productivity through metrics in the "Balanced Scorecard" program across each Division.

Results

After the transition of Governor Jon Huntsman to the U.S. Ambassador post to China, Governor Gary Herbert polled the public and state employees on the 4-day work schedule during the Fall of 2009. Governor Herbert announced that he was extending the "Working 4 Utah" initiative on December 2nd with the following modifications; in addition to state government operating from 7 a.m. to 6 p.m.

Monday through Thursday, one centrally located office of the Division of Motor Vehicles and Driver License Division will provide 11 extra hours of access on Fridays and the Department of Public Safety and Utah Tax Commission will provide extended service through its Draper co-location on Fridays as well.

"Our top priority is to provide the best possible customer service to Utah citizens," Governor Herbert said upon making the announcement, "Utahns have told us they like the extra hours in the morning and evening, but that they also need access to these two areas of state government on Fridays, and we've listened."

Data collected during the pilot program indicate the initiative resulted in several million dollars in cost savings and a 10 percent decrease in energy usage at state-owned buildings over the past year.



According to a Dan Jones poll on the "Working 4 Utah" program, 60 percent polled thought the program was good for Utah residents and another 72 percent said the program was a good way for the state to save money.



During the first week of August 2008, Governor Huntsman was joined by Commerce Executive Director, Francine A. Giani, in welcoming employees and the public to the extended hours of service at the Heber M. Wells Building.



Questions specific to Commerce Administration may be directed to:

Francine A. Giani, Executive Director
(801) 530-6431
fgiani@utah.gov

Thad LeVar, Deputy Director
(801) 530-6431
tlevar@utah.gov



Office of **Consumer Services**

Residential and Small Commercial Utility Consumer Advocate

Mission

The Utah Committee of Consumer Services (Committee or CCS) was created by Utah legislators in the 1977 General Legislative Session. In the wake of an energy crisis and rising prices, Utah legislators had the foresight to understand the need for someone to represent consumer interests. Subsequently, a six-member Committee was given the statutory responsibility to represent the interests of small business owners, farmers and ranchers, and residential customers of natural gas, electric, and telephone utilities in Utah.



Governor Jon Huntsman, Jr. signs Senate Bill 214, creating the Office of Consumer Services.

This year during the 2009 legislative session, the legislature created the Office of Consumer Services in SB 214 and transferred the duties and mission of the Committee to the Office. The legislation kept the Committee itself as an important element within the Office and clarified its role. In addition, the legislation also expanded Committee membership to nine and outlined preferred expertise to be maintained within the Committee members.

The mission of the Office of Consumer Services is essentially the same as its predecessor, only under a new name. The Office will:

- assess the impact of utility rate changes and other regulatory actions on residential consumers and small commercial consumers in the state of Utah,
- assist residential and small commercial consumers in appearing before the Public Service Commission of the state of Utah, and
- advocate on its own behalf and in its own name, positions most advantageous to residential and small commercial consumers.

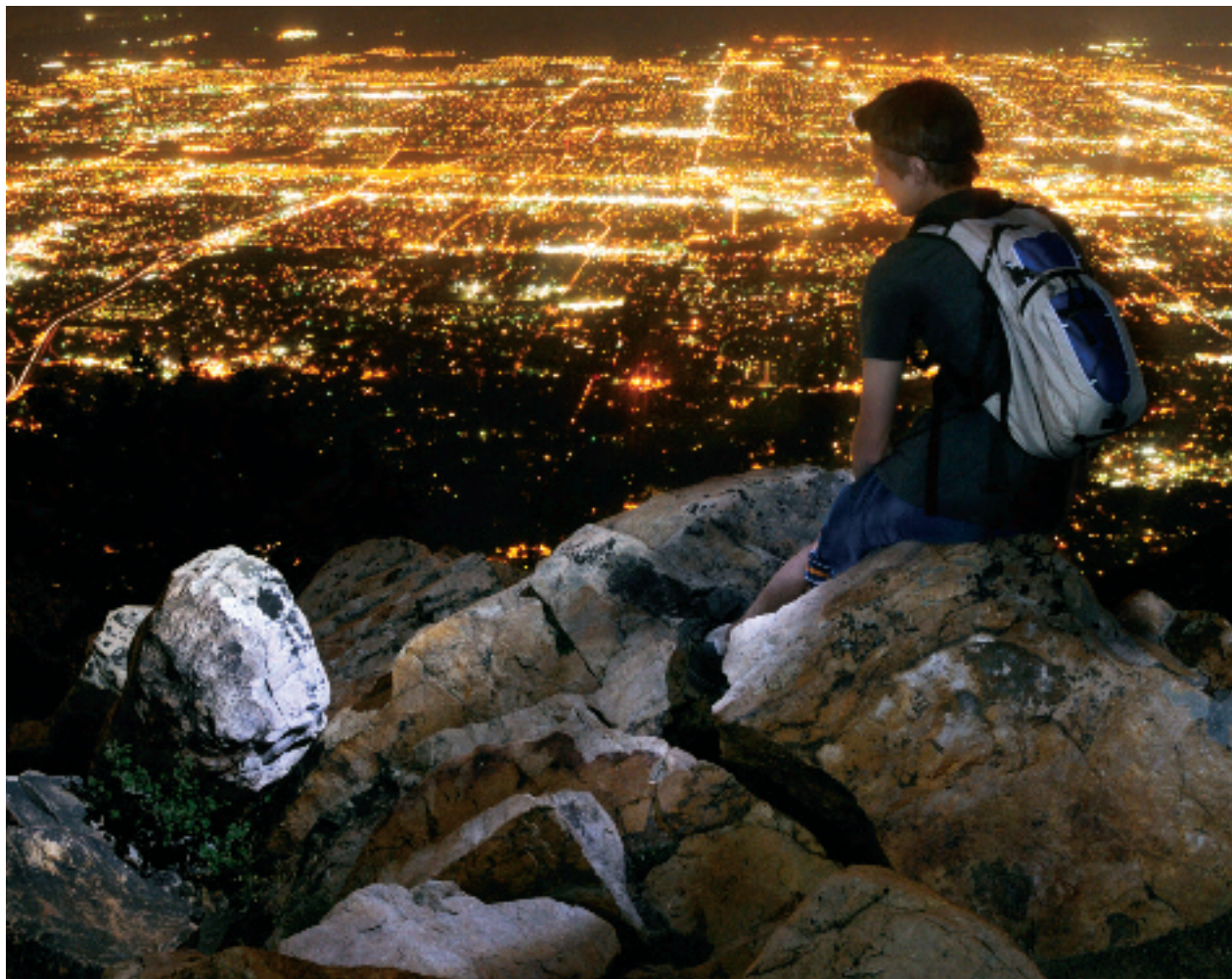
The Office is committed to advocate for what is fair for Utah residential and small commercial utility consumers and will continue in the tradition of the strong advocacy for small consumers. It serves Utah consumers by making certain that small consumer interests are fully represented in all electric, natural gas, and telecommunication policy matters — which

includes vigilant assessment of regulatory actions impacting customer rates, resource reliability, and policy issues.

Other Legislative Issues

The 2009 legislative session addressed many energy and telecommunications issues. The Office monitored and participated in an unprecedented number of bills and resolutions to analyze the rate impacts on small utility consumers and provide feedback to the legislature on how to best protect these consumers.

One important piece of legislation, SB 75, addressed several aspects of utility regulation, including the establishment of a new regulatory tool by which utilities can receive rate recovery for new, major plant additions outside of a general rate case. The Office supported this legislation because it balances the interests of the utilities and the consumers. Consumer interests include having a utility that invests wisely in appropriate resources to maintain reliability and resource adequacy. This new regulatory tool helps to promote such investment, while maintaining regulatory review over the costs and prudence of the investments. In addition, SB 75 provided new provisions for low income bill credits, clarified a few regulatory provisions, and included a requirement to establish official rules to ensure that certain utility filings include adequate supporting evidence which



will help to facilitate appropriate review of these filings.

The Office was also actively involved in revising the language in a resolution supporting energy efficiency to ensure that it reflects a policy that supports energy efficiency in a manner that maintains consumer protections.

Regulatory Issues

During fiscal year 2009, the Office continued to face the challenges of a significant workload with ongoing rate cases as well as quickly developing policy initiatives that have the potential for significant impact on small utility consumers. The Office's participation in regulatory cases resulted in consumer

Office of Consumer Services

protections maintained or enhanced as well as in significant savings to Utah residential, agricultural and small business customers. The following is a brief summary of the major cases in which the Office has taken action on in behalf of consumers:

Rocky Mountain Power Rate Cases

Unfortunately, the fiscal year began with the potential for a cut in service quality for Utah consumers. Rocky Mountain Power announced its intentions after receiving a lower rate increase than it had requested. The result was a difficult and public disagreement during which the Office continued to advocate for appropriate treatment of Utah consumers. The issues were eventually resolved through negotiations that resulted in SB75 described above. However, the Office carefully scrutinized the 2008 and 2009 rate cases to avoid any potential negative consequences from the earlier actions.

In addition, regulatory agencies worked on three different requests for rate increases from Rocky Mountain Power during fiscal year 2009. First, the final phase of the 2007 rate case addressed how to allocate the rate increase to the various customer classes. The parties reached a settlement on these issues since the next rate case had already been filed and the rates from the 2007 case would only be in effect a short period of time. The 2008 rate case involved several contested phases as the Public Service Commission ruled on both the appropriate timing of the filing and the appropriate time period to be considered for the next rate increase. After the parameters had been resolved and based upon the recent rulings from the 2007 rate case, the parties were able to achieve settlement on both the amount of the rate increase and the allocation to customer classes. Even in the context of these settlements, the Office staff and expert consultants spent many hundreds of hours analyzing the proposals and ensuring that the agreements resulted in fair treatment for small consumers. The Office was also instrumental in achieving a settlement on the design of rates, which was the only option that could result in implementation before the 2008 summer season.

This is important since the rate design is intended to provide consumers with price signals to conserve summer usage, a major driver of increasing costs. Finally, the fiscal year ended with Rocky Mountain Power filing its next rate case at the end of June. Thus, this important work will continue into next year as well. After this 2009 case, Rocky Mountain Power plans to utilize the new regulatory tool from the legislation to address new capital investment next year and the following rate case won't be filed until on or after Jan 1, 2011.

Rocky Mountain Power Resource Planning and Acquisition

The Office participated in several significant proceedings related to Rocky Mountain Power's planning for and acquisition of new generating resources.

This spring, Rocky Mountain Power's parent company, PacifiCorp, filed its integrated resource plan. This is a detailed technical report showing the anticipated growth in electric needs and the company's plans for meeting those needs. The Office, and many other parties, filed comments with the Public Service Commission outlining concerns about some of the modeling assumptions as well as significant concerns stemming from the company's ongoing over-reliance on market energy in lieu of building new generating resources. The Commission is expected to act on the matter later this fall.

The outcome of two separate, but related processes does not mitigate the situation of pending resource deficits. Due to a variety of factors, including current market conditions, PacifiCorp cancelled the acquisition of a new generating plant that would have been the outcome of a long-running RFP process. In addition, PacifiCorp suspended another RFP for new generating resources.

The long-term implications of these resource decisions will be an ongoing issue. The Office will closely monitor the situation and work to ensure that the company's actions do not shift risks or unnecessary costs to Utah consumers.

Questar Gas Company 2007 Rate Case

After the request for a rate increase was analyzed last year, the final step was to determine how those rates are allocated to the various customer classes. The Office worked on behalf of small consumers throughout this phase of the rate case which ultimately resulted in only minor changes for most customers. One important issue that emerged from the case was the question of appropriate rate treatment for natural gas vehicles. The Office will closely follow this issue as it continues to be studied.

The natural gas commodity has declined significantly over the course of this year resulting in rate decreases for that portion of consumer bills as well as a rebate to consumers. The Office reviews these changes attributable to market conditions to ensure that savings are appropriately passed on to consumers.

Demand Side Management (DSM) or Energy Conservation Programs

The Office continued its participation in the Demand-Side Management (DSM) advisory groups for both Rocky Mountain Power and Questar Gas and reviewed a number of specific program changes. The Rocky Mountain Power DSM Advisory Group also worked on the Company's strategic communications and outreach program for DSM as well as an evaluation of proposed revision to the Utah DSM program performance standards. These additional analyses are important as interest in DSM programs has increased requiring that the oversight and communication regarding these programs also be increased.



This year, the DSM advisory groups faced a challenge as the home insulation program saw much greater participation than anticipated. The program remained cost effective, but acquired these demand-side resources much more quickly than planned leading to higher demand-side resource costs than expected. These issues were addressed at length in front of the Commission, resulting a change in the incentive levels as well as the launching of a lengthier review of Rocky Mountain Power's overall programs (to be completed next year).

The Office took the opportunity of these processes to emphasize the need for consumer communication on these programs and will continue to represent small consumer interests in the ongoing review. With appropriate design and public notice regarding the DSM programs, they can be a double benefit for consumers. Participating consumers can see savings on their bills due to a more efficient use of energy and all consumers benefit from acquiring resources that are more cost effective than new generating resources.



Telecommunications Cases

The Office monitored a wide variety of telecommunication cases in front of the Public Service Commission. The Office participates in these cases as appropriate with the intent to support robust service offerings to all consumers, particularly in rural areas that may have been previously underserved.

The new 385 area code was implemented this year as an overlay on the 801 area code. The Office worked with a wide variety of other organizations on consumer education for the new area code. Although a large number of concerns were raised just prior to official implementation, the transition occurred relatively smoothly. The overlay now requires 10-digit dialing, but also allows all consumers to keep their existing phone numbers which is of increasing consumer interest in today's technological world.

Looking Ahead

Utah's electric and natural gas utilities project ongoing system investment to meet the state's needs. Thus, the Office anticipates ongoing participation in more frequent rate requests and other regulatory proceedings that review these investments and their rate treatment. In addition, policy initiatives at the

federal and regional level are expected to continue to develop and will likely have great impact on Utah's consumers. As these processes unfold, the Office will continue to represent the interests of small consumers and seek out opportunities to provide these consumers with additional education on the issues and access to information.

Our Valued Staff

Employee Spotlight

Eric Orton, has been with the Office for over ten years and is the utility analyst responsible for natural gas and telecommunications issues within the Office. He came to the Office after having earned an MBA and with twelve years experience in the telecommunications and insurance industries, including responsibilities such as work as an Area Finance Manager. Eric's industry experience and financial background provide a solid foundation that he utilizes well as a strong advocate on behalf of Utah's consumers. Eric's work as a consumer advocate also extends beyond the state of Utah. While employed here he has been a guest speaker at the National Association of State Consumer Advocates (NASUCA) annual convention, where he was recognized as an expert in an emerging area of rate regulation. He is a past member of the Center of Advancement of Energy Matters (CAEM) which is a Washington based energy think tank and the current chairman of the Public Interest Advisory Committee (PIAC) of Gas Technology Institute, an independent non-profit natural gas research firm.

**Questions specific
to the Office of
Consumer Services
may be directed to:**

**Michele Beck, Director
(801) 530-6674
ocs@utah.gov**





Division of Consumer Protection

Mission

The mission of the Division of Consumer Protection is to respond to consumer complaints, to protect consumers from unfair and deceptive practices, to encourage businesses to develop fair practices and to provide consumer education.

About the Division

Employees accomplish the Division's mission through a three-pronged approach: education, registration, and enforcement.

Division of Consumer Protection



The Division worked with the U.S. Postal Service in educating the public during Consumer Protection Week in March 2009 about various consumer scams.



Education

The Division works with the Federal Trade Commission, U.S. Consumer Product Safety Commission, AARP, local schools and universities, and other consumer groups in distributing brochures and other educational materials and in providing consumer awareness of deceptive business practices. The Division also works with trade groups in explaining their obligations to consumers under state and federal consumer protection laws.

Registration

The Division regulates the following business organizations:

- Business Opportunities
- Charitable Organizations
- Credit Service Organizations
- Debt-Management Service Providers
- Health Spas
- Postsecondary Proprietary Schools
- Professional Fund Raisers
- Telemarketers

Enforcement

The Division administers the following statutes:

- Business Opportunity Disclosure Act
- Child Protection Registry
- Consumer Sales Practices Act
- Credit Services Organizations Act
- Health Spa Services Protection Act
- Music Licensing Act
- New Motor Vehicle Warranties Act
- Pawnshop Transaction Information Act
- Postsecondary Proprietary School Act
- Price Controls During Emergency Act
- Prize Notices Regulation Act
- Telephone and Facsimile Solicitation Act

- Telephone Fraud Prevention Act
- Unfair Practices Act
- Uniform Debt-Management Services Act

Fiscal Year 2009 Highlights

The Division recovered over \$2.9 million in benefits for consumers during FY2009.

Division of Consumer Protection joins state and federal efforts to protect consumers.

The Division worked with several federal and state agencies to prosecute violators and to warn the public of unfair and deceptive practices. The Division participated in a national sweep, named "Operation False Charity," which was conducted by the Federal Trade Commission (FTC) regarding professional fund raisers who solicit donations for charitable organizations that promise to use the donations to benefit police and firemen's agencies and veteran's groups. The charities and their fundraisers were alleged to have misrepresented the amounts and uses of the donations that were collected. "Operation False Charity" was the fourth national sweep coordinated by the FTC during the past 15 years.

In addition, the Division worked with the Utah Attorney General's Office and the National Association of Attorneys General in taking several multi-state actions against national companies that were alleged to have engaged in unfair and deceptive practices.

Finally, the Division worked with the U.S. Postal Service in educating the public during Consumer Protection Week in March 2009 about various consumer scams. Kevin Olsen and Division staffers participated in a press conference at the US Postal Service where they conducted media interviews highlighting consumer issues.

Top Ten Consumer Complaints

The top consumer complaints received during FY2009 are as follows:

1 Commerce/Internet Offers: Deceptive practices conducted over the Internet continue to dominate the types of scams that the division sees. These complaints represent 27% of the top ten complaints. Con artists are able to use the Internet to exploit the consumer's vulnerability. There are several reasons for this vulnerability. The pitch is made in the privacy of the consumer's home where the consumer is less guarded. Consumers tend to believe what they read. The method of payment is quick and easy. Finally, consumers have little recourse if they find themselves victims of deceptive practices. Some of the more common tactics used are the unauthorized debiting of a consumer's bank account, the automatic billing of a monthly fee until notice of cancellation is received (negative option), and the failure to provide a three-day right of rescission.

2 Coaching Services: When a consumer purchases a business opportunity, it is not uncommon for the seller or one of its associates to follow up and offer the purchaser coaching services to make the business opportunity more profitable. These services tend to cost many thousands of dollars more than the purchase of the original business opportunity. Some of the deceptive practices common to this type of complaint are the misrepresentation of potential

earnings and the qualifications or experience of their coaches. They often encourage consumers to contract for services that the consumers cannot benefit from.

3 Retail Sales: The deceptive practices that are common to this category of complaints include the failure to deliver products in the time represented, the failure to make refunds when required, the failure to disclose refund policies, and the failure to honor warranties.

4 Health Spas: The bad economy during the year caused many health spas to close their doors. The closures have resulted in refunds becoming due to members.

5 Alarm Systems: Alarm system companies usually sell their products by going door-to-door where aggressive sales tactics are used. In many instances, the company sells a new service as if it were an upgrade to an existing service resulting in the consumer being obligated to pay on two separate contracts.

6 Personal Services: Personal services are those economic services involving the personal effort of an individual as opposed to the sale of a product or commodity. Common deceptive practices are the unauthorized withdrawal of money from the consumer's bank account and the representation of an understated or misstated price, delivery date or other material term with the intent to induce the consumer to enter into a contract knowing that the



7 Home Improvement/Repair: The deceptive practices include the failure of the contractor to provide the service after receiving the consumer's deposit, the failure of the contractor to honor its warranties, the misrepresentation of the work of another as being the work of the contractor, and the refusal by the contractor to continue working until the consumer agreed to a higher price.

8 Debt Collection: The deceptive practices include the debt collector attempting to collect a debt from someone other than the debtor, attempting to collect more than what the debtor owes, or misrepresenting its legal status.

9 Auto Repair: Some of the deceptive practices common to this group are that the repair shop performed unneeded repairs, failed to disclose refund policies, and failed to obtain the consumer's express authorization for the repairs.

10 Billing Fraud: The deceptive practices include the unauthorized charge on the consumer's credit card and advertising that deceptively presents itself to the consumer as a bill.

Statistics

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Total Benefit Recovered for Consumers	\$4,345,252	\$2,774,183	\$2,999,272
Total Fines Paid	\$ 280,652	\$ 205,495	\$ 203,778

Complaints

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Complaints Received	4,010	3,647	3,758	3,995
Complaints Opened	2,875	2,708	2,945	3,129
Complaints Closed	2,711	2,433	2,701	2,937
Cases Not Assigned	1,263	937	813	866

Registrations

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Active Registrations			
Bus Opportunities	—	22	12
Bus Opportunities Exempt	1,282	1,505	996
Charitable Organizations	2,549	2,767	2,750
Charitable Organizations Exempt	—	402	940
Credit Service Organizations	49	41	12
Debt Management Service Providers	N/A	21	27
Health Spas	203	274	251
Professional Fundraisers	200	252	216
Proprietary Schools	316	79	65
Proprietary Schools Exempt	—	289	316
Telemarketers	175	81	69
Telemarketers Exempt	—	92	110

Legislative Highlights

House Bills:

HB 163: Property Transaction Amendments, *Rep. R. Lockhart*

This bill modifies the Secondhand Merchandise Information Transaction Act by providing that scrap and secondary metals dealers are exempt from the act, and providing transaction and record keeping provisions regarding precious metals and coins.

Senate Bills:

SB 167: Uniform Debt-Management Services Act, *Sen. Hillyard*

This bill amends the Uniform Debt-Management Services Act by amending insurance requirements of a debt management service provider, by amending the advertising requirements of a debt management service provider, and making technical corrections.

Staff Highlights

Kent Nelson is the Division's Chief Investigator. He was honored this year with the Governor's Award for Excellence in the area of leadership. When he came to work for the Division in 1995, he brought with him an extensive law enforcement background. He has used this experience to help thousands of consumers in Utah and throughout the country resolve their disputes. He understands how scammers work and how to see through their deceptive practices. Kent looks at each case carefully to determine the facts. When he believes a consumer has been wronged, he is tenacious in fighting for that consumer's interest. During his time with the Division, Kent has taken on large and small cases. His work has resulted in the recovery of millions of dollars in consumer restitution.

Questions specific to the Division of Consumer Protection may be directed to:

Kevin Olsen, Director
(801) 530-6601
kolsen@utah.gov





Division of Corporations and Commercial Code

Mission

The Division of Corporations and Commercial Code serves business enterprises by providing registration and informational assistance. Additionally, the Division serves the public by facilitating access to all of its records and data. The Division functions as Utah's filing office and repository for all corporations, commercial code filings, business registrations, limited partnerships, limited liability companies, limited liability partnerships, collection agencies, and trademarks.

Division of Corporations and Commercial Code

About the Division

The Division of Corporations and Commercial Code in the Utah Department of Commerce registers all statutory business entities, state trademarks, and Article Nine lien notice filings. The Division also records certain service of process and bankruptcy filings. There are other less noticeable, but equally important filings.

Those businesses which should register with the Division are: profit and non-profit corporations, limited liability companies, limited partnerships, limited liability partnerships, unincorporated cooperative associations, general partnerships, sole proprietors who have an assumed name, business trusts, real estate investment trusts, tribal businesses, and any other assumed business name.

Those entities which are created by filing with the Division are: corporations and limited liability companies. All other filings are notice filings and those entities can exist without the filing.

The Division now also collects voluntarily provided gender and race demographic information.

The trademark law covers notice for the State of Utah only. Federal trademark law will offer protection for the entire United States. The state law ties into the federal statute in that it requires the filer to affirm that they checked the federal registry and their filing will not infringe on any federal filing. It is the responsibility of the filer to discover any similar filings. Out-of-state motorist service of process is also filed with the Division. Bankruptcy filings are sent to the Division for notice. The Division also files Uniform Commercial Code filings relative to Revised Article Nine. These are notice filings which report the existence of a secured transaction. The Division also files agricultural liens under the CFS (Federal Food Security Act) filing guidelines.

In addition to the above mentioned activities, the Division is charged with a variety of small filings, such as: the Governmental Entity Database — an online directory of contact for any governmental entity; One Stop Business Registration web site — a partnership with multiple agencies from local, state and federal level; archival business research — searching old stock certificates to find disposition of business entity; and individual name searches — those people involved as principals in businesses.

The Division staffs an information and help/phone center that answers an average of 8,000 phone calls per month. The Help Center staff also provides an online information chat for those using online services. The agency has two customer service counters for walk-in assistance and partners with the Tax Commission to provide walk-in assistance at satellite offices in Washington County (Hurricane), Provo, and Ogden, Utah.

The Division of Corporations and Commercial Code provides many services, but is neither an investigative nor an enforcement agency. The Division will not compel anyone to make statutorily required filings, but will, in good faith, accept any statutorily compliant filings.



Division of Corporations and Commercial Code

The Division of Corporations and Commercial Code continues to look for innovative ways to give business filers access to services 24 hours a day, 7 days a week.

Help Center

The Help Center answers an average of 2,000+ calls a week. The five member Help Center field questions ranging from "How do I start up a new business?" to "How do I reinstate an old business?" With courtesy and understanding, the members of the Help Center educate citizens of Utah on business filings over the phone and in live online chats.

Service Center

The Division has two service centers which have streamlined the process of filing documents so customers face a minimal wait time. As a result, the Division of Corporations and Commercial Code usually keeps within the 24 to 48 hour turnaround time on all incoming documents.

Customer service is not something we can achieve with systems and processes alone. The Division's goal is to empower our employees, particularly those on the front line, to make a difference as they are the face of the Division. The Division of Corporations and Commercial Code continues to be committed to adopting new technology in order to better serve our customers.

Records Group

The records group processes amendments, mergers, share exchanges, domestications, conversions, transfers, trademark filings, collection agency filings, archive recalls, dissolutions, resignations, and out of state motorist service of process. The Records Group is also responsible for our "Live Chat" where customers can speak to a "live" person through an online chat and have their questions answered or be referred to the appropriate government agency.

UCC Group

The UCC Group maintains the Division UCC database, processes filings sent in and prepares all filings for scanning. They also process customer UCC or CFS inquiries. CFS or agricultural filings are done in the Division as well.

Data Entry Group

During fiscal year 2009, the Data Entry Group was able to maintain a 5 day turnaround on documents filed with the Division, at times they were able to reach a 48 hour turnaround time. Along with entering in-house filings, the Data Entry group is also responsible for checking name availability on business names submitted through the OneStop Business Registration web site. Business names submitted online will be approved or denied by no later than the following business day and often times they are handled within hours, if not minutes, of the customer's submission.

Scanning Group

The scanning group has maintained the Division's goal of imaging documents within 48 hours of data entry being completed. This has enabled the Division to give the public the most current information on our website.

Upgrades for 2009

The Division of Corporations and Commercial Code has implemented the following changes;

- Adopt a redaction system for online images which will bar users from viewing sensitive information that may be present in filings
- Have UCC amendment filing available online
- Implement an online "chat" for user of the
- Move limited liability reinstatements online
- Move trademarks online
- Create a commercial registered agent filing

Division of Corporations and Commercial Code

One Stop Business Registration

The One Stop Business Registration web site continues to improve and be recognized in the national and international community. Representatives from foreign countries continue to look at this site as a model of government filing efficiency.

The One Stop Business Registration program has seen some enhancements with the launch of Phase III. The OSBR Group was able to target problem areas based on customer input and adapt the flow of the application to allow for a more user-friendly experience. These enhancements have resulted in the Division reaching 42% online adoption for new filings. This encouragement of online filings helps the



		Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
All Online Services	Total Online Filings	83,800	212,497	255,616	332,613
	Adoption Rate	35%	64%	77%	81.00%
	Difference from previous year	15,573	128,697	43,119	76,9979
	% Increase	22.83%	153.58%	20.29%	30.12%
Annual Business Renewal	In-House Renewals	103,296	35,790	22,111	22,132
	Online Renewals	39,308	113,733	149,447	160,163
	Total	142,999	149,523	171,558	182,295
	Adoption Rate	27.56%	76.06%	87.11%	87.86%
	Difference from previous year	11,561	74,425	35,714	10,716
	% Increase	41.67%	189.34%	31.40%	7.17%
Certificates of Existence	In-House Renewals	856	682	678	422
	Online Renewals	10,116	12,163	11,337	10,530
	Total	10,972	12,845	12,015	10,952
	Adoption Rate	92.20%	94.69%	94.36%	96.15%
	Difference from previous year	1,515	2,047	-826	-1,633
	% Increase	17.61%	20.24%	-6.79%	-13.43%
One Stop Business Registration	In-House Renewals	41,237	43,052	36,690	30,365
	Online Renewals	11,600	14,030	18,751	19,613
	Total	52,827	57,082	55,441	49,978
	Adoption Rate	21.52%	24.58%	34.13%	39.24%
	Difference from previous year	2,144	2,430	4,721	862
	% Increase	22.67%	20.95%	33.65%	4.60%

Division of Corporations and Commercial Code

Uniform Commercial Codes

Year	UCC-1	UCC-1 Addendum	UC 2	UCC 3
2006	24,322	8,609	1,145	19,145
2007	24,744	10,629	1,365	18,311
2008	23,115	7,805	1,265	18,748
2009	18,295	4,565	1,113	17,394

Year	CFS-1	CFS 3
2006	419	724
2007	319	612
2008	303	668
2009	361	537

Division manage growth in business without requiring growth of government.

The following local partners offer business licensing services through OSBR; Salt Lake City, Sandy City, West Valley City, Provo, Logan, and Ogden.

Beginning in September 2006, the Division of Corporations and Uniform Commercial Code changed the annual report/renew process. The Division began sending out postcard renewal notices directing customers to the Division's website to renew and update their entities. The adoption rate for the online renewal process skyrocketed from a previous high of around 40% to over 90% in the first month. Since that time, the adoption rate has been fairly steady around the 90% mark.

		Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
UCC-1	In-House	10,394	10,564	8,281	4,391
	Online	13,928	14,180	14,834	13,904
	Total	24,322	24,744	23,115	18,295
	Adoption Rate	57.27%	57.31%	64.1%	76.00%
	Difference from previous year	-254	252	654	-930
	% Increase	-1.79%	1.81%	4.61%	-6.27%
UCC-2	In-House	115	206	146	164
	Online	1,030	1,159	1,119	949
	Total	1,145	1,365	1,265	1,113
	Adoption Rate	89.96%	84.91%	88.46%	85.27%
	Difference from previous year	-300	129	-40	-170
	% Increase	-22.56%	-12.52%	-3.45%	-15.19%
UCC-3 Termination/ Continuations	In-House Filings	6,782	5,687	2,659	1,915
	Online Filings	7,437	8,731	11,376	10,603
	Total	14,219	14,418	14,035	12,518
	Adoption Rate	52.30%	60.56%	81.05%	84.70%
	Difference from previous year	526	1,294	2,645	-733
	% Increase	7.61%	17.40%	30.29%	-6.80%

Division of Corporations and Commercial Code

New Filings

Year	Corporation	Percent Increase	DBA	Percent Increase	LLC	Percent Increase	LP	Percent Increase	Total Filings	Percent Increase
2005	11,423	5%	17,325	-1%	19,018	39%	556	-1%	48,322	13%
2006	12,674	11%	17,296	0%	23,320	23%	618	11%	53,908	12%
2007	12,633	11%	16,780	-3%	27,643	19%	744	20%	57,800	7%
2008	11,491	-9%	16,793	0%	27,283	-1%	618	-17%	56,185	-3%
2009	9,256	-27%	15,659	-7%	24,344	-12%	515	-31%	49,744	-14%

Year	Average Number of Entities Gained per Month	Yearly Total	Percent Increase
2006	1,503	18,036	8%
2007	1,669	20,030	11%
2008	1,512	18,144	-9%
2009	494	5,928	-70%

Other Data Entry

Year	Reinstatements	Amendments	Mergers	Conversions	Renewals	Change Forms
2006	4,504	4,001	413	1,298	15,629	20,590
2007	5,009	4,132	296	1,293	13,844	13,578
2008	3,232	4,401	499	1,618	22,111	6,288
2009	2,259	4,042	463	1,458	21,176	5,371

Legislative Highlights

HB 320: Collection Agency Amendments,*Rep. R.C. Webb*

Bill exempts title businesses from collection agency registration

SB 148: Low-profit Limited Liability Act,*Sen. Lyle Hillyard*

Bill creates a variation on regular limited liability companies that allows for a partnership between non-profit entities and for-profit entities. This type has a very narrow scope of purpose.

SB 192: Corporation Amendments,*Sen. Lyle Hillyard*

Bill makes several amendments to the non-profit corporation statute, as well as amendments that clean up the service of process statutes. The Division of Corporations and Commercial Code is no longer the default agent for service of process for businesses.

Employee Spotlight

Valeri Stewart has been the lead worker for the Data Entry Group for the past several years. She enables the Division to give excellent customer service by studying legislative changes to make sure documents are compliant as laws change, managing staff training to make sure all are properly trained in the latest technology to ensure consistent document processing, and always looking for new ways to improve service to the public. Valeri has been a great asset to the Division and businesses in Utah.

Questions specific to the Division of Corporations and Commercial Code may be directed to:

Kathy Berg, Director
(801) 530-4849
kberg@utah.gov





Division of Occupational and Professional Licensing

Mission

The mission of Division of Occupational and Professional Licensing (DOPL) is to safeguard the public health, safety and welfare and to enhance commerce through licensing and regulation.

Division of Occupational and Professional Licensing

DOPL Objectives

- Professional customer service that is informative, accurate and responsive.
- Collaborating with boards, industry, legislators and the public to balance regulation and commerce.
- Efficiently process applications and administer related programs.
- Enforcement of ethical and practice standards.
- Facilitate training and development of staff.

Internal Efficiencies

Timeliness of Initial Application Processing

The Division continued to focus on improving the timeliness of initial application processing. The average processing time was decreased from 8-24 days in 2008 to 3-5 days in 2009. Timeliness has been improved by:

- Better tracking and reporting of performance metrics.
- Better utilization of staffing resources.
- Centralized application data inputting.
- Continued centralization of criminal history and compliance functions.

On-Line Renewal

The Division increased the ratio of on-line renewals vs paper renewals from 80% in 2008 to 89% in 2009, in a continued effort to reduce renewal costs and increase renewal efficiency.

Investigative Improvements

With staff reductions in the investigation area due to budget cuts, the Division worked to maintain the same level of service by:

- Moving two medical investigators to Southern Utah, reducing travel costs and increasing response time on complaints.
- Shifting selected investigative procedures to electronic media in order to reduce the costs and more speedily notify law enforcement where potential control substance violations occurred.

Licensing Statistics

One of the primary purposes of the Division is to protect the public by ensuring that a holder of a professional license achieves at least a minimal level of competence.

Total Licensees

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Total Licensees	152,116	158,001	169,093	169,380

New Applications Submitted

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Applications	27,696	33,205	31,954

Licensees Renewal

Renewals	Fiscal Year 2008	Fiscal Year 2009
Online	70,087	64,264
Manual	17,378	7,905
Total	87,465	72,169
Online Percent	80.13%	89.05%



Division of Occupational and Professional Licensing

State Construction Registry

The State Construction Registry provides full disclosure to property owners, contractors, and other interested parties, of people or entities providing goods and services to a construction project. The registry is a standardized statewide system for protecting construction lien rights through preliminary notices, notice of completions and notices of commencements.

	Fiscal Year 2008	Fiscal Year 2009
Notice of Commencement Filings	50,503	43,623
Filed by Municipalities	45,562	38,031
Filed by Users	4,941	5,592
Preliminary Notice Filings	133,885	109,198
Notice of Completion Filings	3,501	4,483

Licensees by Profession Including Temporary Licenses

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Difference (08-09)
Acupuncturists	87	81	102	+21
Alternative Dispute Resolution Providers.....	52	59	49	-10
Architects	2,163	2,063	2,286	+223
Athlete Agents	5	8	9	+1
Athletic Trainer.....	161	223	214	-9
Barber/Barber School	64	66	59	-7
Building Inspectors.....	647	657	425	-232
Burglar Alarm Company Agents.....	3,205	5,561	4,126	-1,435
Burglar Alarm Companies	142	168	160	-8
Certified Court Reporters	144	129	137	+8
Certified Public Accountants	3,936	4,258	4,183	-75
Certified Public Accountancy Firms.....	617	659	612	-47
Chiropractic Physicians	781	756	813	+57
Contractors & Handyman.....	21,363	22,259	22,261	+2
CS Handler: Facility and Individual	82	97	92	-5
Controlled Substance Precursors: Purchaser and Distributor.....	10	15	10	-5
Cosmetologist / Barbers	23,853	22,679	24,025	+1,346
Cosmetology / Barber Schools	38	44	52	+8
Deception Detection Examiners and Interns.....	29	31	29	-2
Dental Hygienists.....	1,795	1,883	2,074	+191
Dentists.....	2,385	2,422	2,528	+106
Dietitians, Certified.....	505	584	579	-5
Direct-Entry Midwives	16	16	21	+5
Electricians	10,210	11,756	9,354	-2,402
Electrologists.....	149	122	131	+9
Electrology Schools	1	1	1	0
Engineers: Professional and Structural	6,715	7,537	7,439	-98
Environmental Health Scientists.....	220	244	227	-17
Estheticians and Master Estheticians.....	2,190	2,335	2,685	+350
Esthetics Schools	18	22	28	+6
Factory Built Housing Dealers.....	49	55	45	-10
Funeral Directors Apprentices	331	337	348	+11
Funeral Service Establishments	104	104	108	+4
Genetic Counselors	29	39	43	+4
Geologists	858	888	843	-45

Division of Occupational and Professional Licensing

Residence Lien Recovery Fund

The Utah Residence Lien Recovery Fund is an alternate payment source for contractors, laborers or suppliers whose liens are voided because a homeowner qualifies for protection under the Residence Lien Restriction and Lien Recovery Fund Act.

Residence Lien Recovery Fund Claim Totals	Fiscal Year 2009	Since Program's Inception
Filed	235	2,378
Amount	\$2,070,433	\$16,267,319
Paid	157	1,622
Amount	\$1,300,929	\$9,980,469
Denied	21	455
Dismissed	8	215

Licensees by Profession Including Temporary Licenses (Continued)

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Difference (08-09)
Health Facility Administrators	288	323	301	-22
Hearing Instrument Specialists	109	108	108	0
Land Surveyors	662	726	692	-34
Landscape Architects	402	387	426	+39
Marriage and Family Therapists	498	531	528	-2
Massage Therapists	4,095	4,841	4,405	-436
Nail Technicians	3,405	3,419	3,924	+505
Nail Technician Schools	5	6	9	+3
Naturopathic Physicians	22	30	31	+1
Nurses	25,283	26,406	27,676	+1,270
Occupational Therapists and Assistants	623	706	684	-22
Optometrists	428	429	457	-28
Osteopathic Physicians	358	351	429	+78
Pharmacists, Interns, and Technicians	6,283	6,893	7,499	+606
Pharmacies	1,256	1,229	1,304	+75
Physical Therapists	1,458	1,587	1,714	+127
Physician Assistants	611	641	771	+130
Physician / Surgeons	7,596	7,719	8,221	+502
Plumbers	4,537	5,064	4,294	-770
Podiatric Physician	182	185	191	+6
Preneed Funeral Arrangement Providers and Sales Agents	185	180	361	+181
Private Probation Providers	46	62	37	-25
Professional Counselors	723	826	917	-91
Psychologists Psychology	817	842	840	-2
Radiology Technologists and Practical Technicians	2,293	2,584	2,450	-134
Recreational Therapists	682	763	659	-104
Respiratory Care Practitioners	1,117	1,248	1,220	-28
Security Companies	66	85	68	-17
Security Personnel: Armed and Unarmed Officers	4,023	5,686	3,715	-1,971
Social Workers:	5,423	5,343	5,776	-433
Speech-Language Pathologists and Audiologists	661	755	712	-43
Substance Abuse Counselors	301	423	415	-8
Veterinarians and Interns	591	622	649	+27
Total	158,001	169,093	169,380	+287

Division of Occupational and Professional Licensing

Prelitigation

The Division's prelitigation program is intended to expedite early evaluation and settlement, or other appropriate disposition, of medical malpractice claims. Parties in a medical malpractice suit are legally required to present their claims prior to filing in District Court, though parties are not bound by the prelitigation program findings. The program's duties and responsibilities are to provide medical malpractice prelitigation hearing panels when properly requested by a party initiating a medical malpractice action.

Prelitigation Statistics

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Action			
Cases Opened	384	359	338
Requests Denied	35	42	37
Hearings Scheduled	223	193	196
Cases Closed	379	341	361
Outcome of Cases			
No Merit	176	143	144
Meritorious	17	22	20
Stipulated	65	76	72
Dismissed	77	69	67
Split Decision	38	28	29
Jurisdiction	6	3	29

Investigations

One of the Divisions most important functions is to investigate violations of Utah's professional licensing laws. Investigative efforts are intended to protect the public from fraud and ensure compliance with the law.

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Felony Filings	36	52	47
Misdemeanor Filings	31	58	15
Administrative Filings	185	202	245
Letters of Concern	609	640	501
Diversion Referrals	25	31	32
Citations Issued	1,107	908	510
Complaints Received	4,384	3,926	4,549
Complaints Assigned	3,897	3,302	3,995
Closed Cases	4,306	4,243	4,147



Utah Recovery Assistance Program (URAP) and Probation

For license holders who commit or are likely to commit unlawful or unprofessional conduct but who are not a serious offenders, the Division offers two types of programs to correct behavior while allowing the individual an opportunity to make a living. URAP currently offers the option of diversion to any licensee who needs rehabilitative assistance and who has not been previously sanctioned by a licensing board. The URAP program is a non-public confidential program designed to assist and guide licensees to full recovery.

Probation may occur when disciplinary action is warranted against a licensee or a license. When a license is placed on probation the licensee is made aware of the terms and conditions of a probation program. The licensee completes the program when all terms and conditions are met.

	June 2008	Fiscal Year End 2009
Total Number of Active Licensees	170,032	169,380
Total Number of Diversionees (URAP)	131	148
Total Number of Probationers	337	410
Number of Probationers Compliant	75%	80%
Number of Probationers Non-Compliant	25%	20%

Division of Occupational and Professional Licensing



Controlled Substance Data Base

The Utah Controlled Substance Database Program tracks and collects data on the dispensing of Schedule II-V drugs by all retail, institutional, and outpatient hospital pharmacies, and in-state/out-of-state mail order pharmacies. The data is disseminated to medical and law enforcement professionals and used to identify potential cases of drug over-utilization, misuse, and over-prescribing of controlled substances throughout the state.

Total prescriptions CSDB	30,232,450
Total prescriptions processed	5,325,089
CSDB Reports	140,835
Online Reports	117,890
In-House Reports	22,945
Reporting Pharmacies	577
Cases vs Non-Reporting Pharmacies	5
Letters sent	8,667
Cases referred to Insurance Fraud	405
Letters regarding forged prescriptions	30
Denial Letters	13
Active Online Users	
Law Enforcement	362
Pharmacist	527
Practitioner	2,038

Legislative Highlights

House Bills:

HB 17: Expedited Partner Therapy Treatment, *Rep. Jennifer Seelig*

This bill allows a practitioner to issue a prescription for an antibiotic to an unnamed partner of a person who has any one of certain designated sexually transmitted diseases, and

- does not mandate the use of expedited partner therapy;
- provides an option for physicians to use expedited partner therapy.

HB 106: Controlled Substance Database Amendments, *Rep. Bradley M. Daw*

This bill expands the purposes for which a practitioner or pharmacist may access information on the controlled substance database:

- grants access to the controlled substance database to a mental health therapist under certain circumstances; and
- permits a practitioner to designate up to three employees, subject to approval by the Division of Occupational and Professional Licensing, who can access the controlled substance database on the practitioner's behalf.

HB 108: Hormone Restoration Amendments, *Rep. Douglas C. Aagard*

This bill allows a practitioner to prescribe or administer testosterone in specified forms for the purpose of restoring a low testosterone level to a normal level.

HB 121: Retired Volunteer Health Care Practitioner Act, *Rep. Melvin R. Brown*

This bill establishes eligibility for a volunteer health care practitioner license:

- provides a waiver of division fees for licensing of a volunteer health care practitioner;
- limits the practice of a volunteer health care practitioner to exclusive charity care at a charity location; and
- requires supervision of a volunteer health care practitioner.

Division of Occupational and Professional Licensing

HB 128: Electronic Prescribing Act,

Rep. Ronda Menlove

This bill requires a practitioner to provide each existing patient of the practitioner with the option to participate in electronic prescribing, if the practitioner prescribes a drug or device for the patient on or after July 1, 2012; and

- requires a pharmacy to accept and comply with an electronic prescription.

HB 144: Medical Language Interpreter Act,

Rep. Rebecca Chavez-Houck

This bill provides that a person who renders language interpretation services between a health care provider who speaks English and another person (medical interpreter services), in Spanish, Russian, Bosnian, Somali, Mandarin Chinese, Cantonese, or Navajo may voluntarily obtain certification as a certified medical language interpreter.

HB 154: State Construction Registry Amendments, *Rep. Michael T. Morley*

This bill:

- modifies the definition of final completion of an original contract and project;
- modifies the subcontractor preliminary notice requirements;
- modifies the notice of commencement filing requirements;
- modifies the DOPL standardized building permit numbering system; and
- prohibits a compliance agency from deviating from the DOPL standardized building permit numbering system.

HB 173: Outdoor Guides and Outfitters Licensing Act, *Rep. Evan J. Vickers*

This bill provides for the licensing of hunting guides and outfitters by the Division of Occupational and Professional Licensing.

HB 174: Licensing of Vocational Rehabilitation Counselors, *Rep. Ronda Menlove*

This bill provides for the licensing of vocational rehabilitation counselors by the Division of Occupational and Professional Licensing.

HB 327: Building Inspector Amendments, *Rep. Douglas C. Aagard*

This bill requires that a local regulator issuing a single-family residential building permit provide for a review of the building permit inspection.

HB 356: Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Amendments,

Rep. Merlynn T. Newbold

This bill modifies qualifications for licensure as a barber, a cosmetologist/barber, an esthetician, a master esthetician, and a nail technician:

- modifies apprenticeship provisions for barbershop apprenticeships and nail technician apprenticeships; and allows licensees to perform certain cosmetic laser procedures under the supervision of licensed health care practitioner.

Senate Bills:

SB 137: Physical Therapy Practice Act, *Sen. Wayne Niederhauser*

This bill recodifies the "Physical Therapist Practice Act" as the "Physical Therapy Practice Act";

- requires the board to designate a member of the board to assist the division in reviewing and investigating complaints of unlawful or unprofessional conduct;
- prohibits a person from practicing physical therapy in Utah, unless the person is licensed to practice physical therapy in Utah or is exempt from the requirements of this bill;
- exempts a physical therapist assistant from licensure under the Massage Therapy Practice Act; and
- includes a physical therapist assistant as a health care provider covered under the provisions of the Utah Health Care Malpractice Act.

Division of Occupational and Professional Licensing

SB 163: Construction Trade Exemption,

Sen. Stephen H. Urquhart

This bill provides that electrical and plumbing work done within a six month period on a building project with a value of less than \$3,000 must be done by a licensed electrical or plumbing contractor if the project involves an electrical or plumbing system; and

- provides that the electrical or plumbing work may be done by a licensed journeyman electrician or plumber if the project involves a component of an electrical or plumbing system such as a faucet, toilet, fixture, device, outlet, or electrical switch.

SB 211: Building Code Amendments,

Sen. Curtis S. Bramble

This bill modifies the powers and duties of the Uniform Building Code Commission, including authorizing the commission to recommend building codes to the Legislature for adoption; and authorizing the commission to adopt building codes for public welfare during the legislative interim that are repealed at the end of the next legislative session:

- modifies the powers and duties of the Fire Prevention Board, including:
- authorizing the board to recommend fire codes to the Legislature for adoption; and
- authorizing the board to adopt fire codes for public welfare during the legislative interim that are repealed at the end of the next legislative session.

SB 230: Construction Payment Amendments,

Sen. Curtis S. Bramble

This bill amends the portion of the Utah Code relating to mechanic's liens by changing notification requirements. This bill:

- requires an owner and a lender to file a notice of completion with the State Construction Registry;
- requires certain owners or contractors of a commercial nonresidential construction project to file a notice of intent to file a notice of completion with the State Construction Registry; and
- requires a person to file a balance statement with the State Construction Registry.

Staff Highlight

Jacky Adams began as a licensing technician with the Division on June 27, 2001. She is currently a Board Secretary handling over 16 licensed professions. Jacky's job duties require a high attention to detail and an ability to communicate with various constituents. Jacky was recognized by Utah Public Employee Association with the public employee salute for her exceptional work and professionalism in June 2009.

Carolyn Dennis is the manager of the customer service and criminal history teams within DOPL. Carolyn's top priority is to provide excellent customer service to Division customers by making sure all citizens are greeted with a positive and informative employee. She has accomplished this goal by developing the Division's customer service training program and has trained all Division staff in this program. Carolyn's positive attitude and high level of professionalism continue to make her a valuable member of the DOPL team.

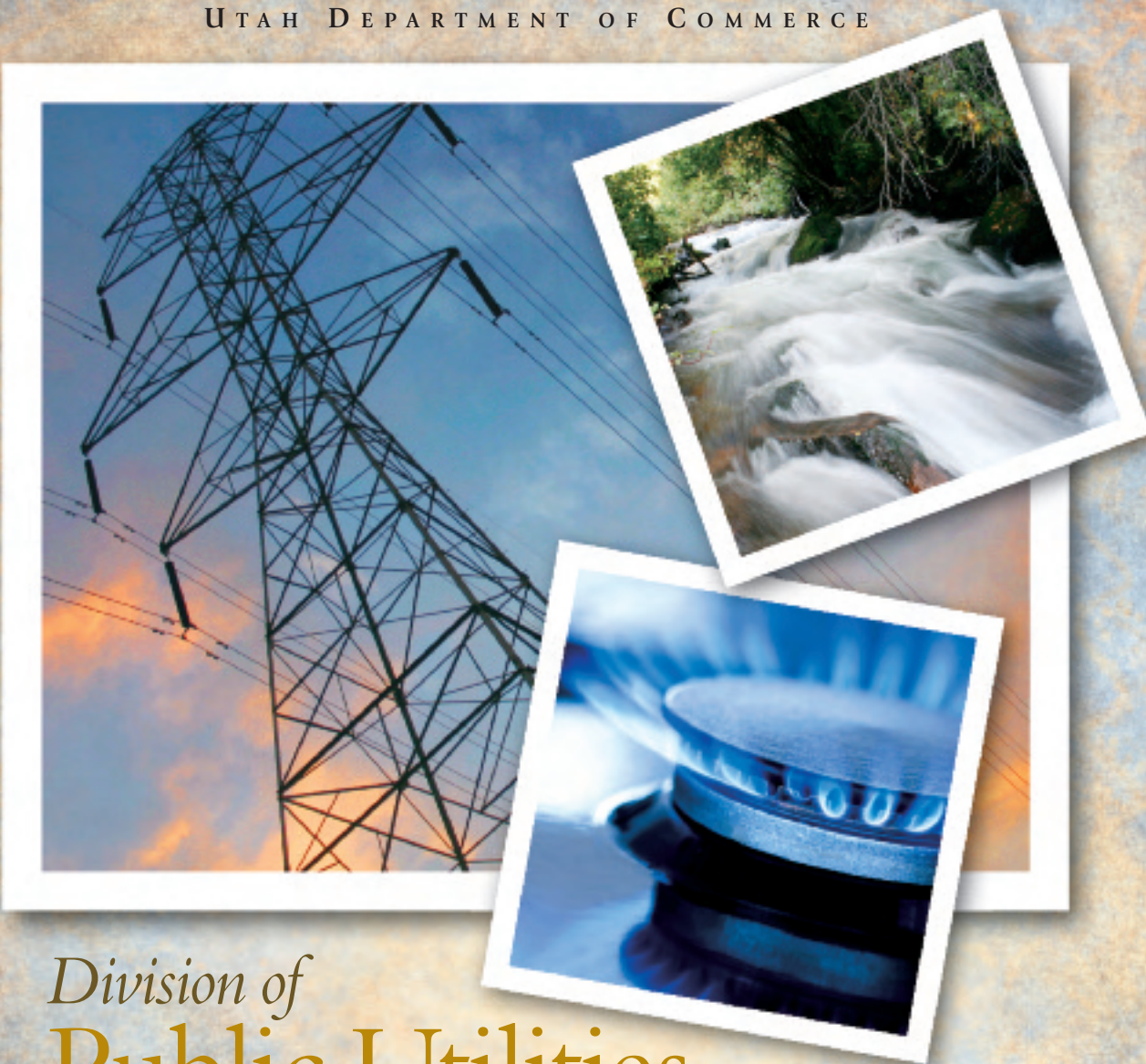
Division Announces New Director, Mark B. Steinagel

Mark Steinagel was appointed Director of the Division of Occupational and Professional Licensing in June 2008 with the retirement of F. David Stanley. Mark was previously Director over the Division of Real Estate within Commerce. Before coming to the Department of Commerce, Mark worked as a Policy Analyst with Utah State legislature. He holds a Masters of Public Administration from the Marriott School of Management at Brigham Young University and a Bachelors of Science degree in Geography from Brigham Young University where he was also a member of the Geographic Honor Society.

Questions specific to the Division of Occupational and Professional Licensing may be directed to:

Mark Steinagel, Director
(801) 530-6626
msteinagel@utah.gov





Division of Public Utilities



Mission

The Division of Public Utilities promotes the public interest in public utility regulation and works to assure that all customers of regulated gas, electric, telephone and water utilities have access to safe, reliable service at reasonable rates. The Division supports the Utah Public Service Commission (PSC) in all matters within the PSC's jurisdiction.

Division of Public Utilities

Division activities include:

- Investigating applications for certificates of convenience and necessity to provide utility service or to build new utility facilities;
- Auditing, analyzing, and investigating proposed rate increases or changes;
- Investigating and resolving complaints of utility customers;
- Monitoring the safety of natural gas pipelines within the state;
- Reviewing reports of all utilities;
- Auditing the finances and activities of utilities doing business in Utah;
- Assisting in the monitoring and management of the Universal Service Fund (which provides support for telecommunications customers in high-cost areas);
- Monitoring compliance with Utah law and PSC rules and orders;
- Coordination and consultation with other state agencies in developing and implementing utility and other state policies;
- Advising the Governor and Legislature as requested.

About the Division

The Division's staff of approximately thirty-five employees works with the PSC, the Office of Consumer Services and other state agencies, regulated telecommunications, electric, natural gas and water utilities, the public, outside experts, attorneys, and other states' utility regulators. Staff members have expertise in accounting, auditing, business, finance, economics, statistics, and engineering.

Division staff members have high educational achievements and professional skills. As of the end of FY2008, five employees hold Ph.D degrees, five have an M.S. degree, five are MBA's, two are Certified Public Accountants, and one is a Certified Rate of Return Analyst. The staff also includes five engineers.

Highlights

PacifiCorp Rate Case

In July 2008, Rocky Mountain Power requested a rate increase of \$160.6 million, later modified to \$116.1 million. The Division and other parties settled all aspects of the case, with most issues resolved at or near the Division's positions. The settlement reduced the proposed rate increase by \$71 million to \$45 million.

All West Communications

All West Communications filed a request for an allowed revenue increase of approximately \$765,000 per year by raising customers' rates by \$216,000 and by receiving an additional subsidy of \$549,000 per year from the Utah Universal Service Fund. The Division and All West reached a settlement that calls for an increase in customer rates of \$227,176 and a decrease in USF payments of \$147,443 per year.

Senate Bill 76

In its 2009 General Session, the Utah legislature passed, and Governor Huntsman signed, Senate Bill 76, which included significant changes to statutes governing energy utility rate cases. Specifically, SB 76 permits gas and electric utilities to file "single-item rate cases" where they may seek to recover the costs of discrete major capital additions. The new statute also specifically permits pass-through accounts for fuel costs, allows the Commission to increase low-income energy assistance through electricity rates, mandates rulemaking to codify what constitutes a "complete" rate case filing, and provides mechanisms to protect regulators and ratepayers if a company makes an incomplete filing.

Energy Section

The Energy Section assists the PSC in regulating electric and natural gas utilities. Electric utilities that are subject to PSC jurisdiction include Rocky Mountain Power, rural electric cooperatives, and one electric service district. Questar Gas Company is the only regulated natural gas company in the state. The Division also actively follows and participates in

Division of Public Utilities

proceedings before the Federal Energy Regulatory Commission (FERC), as well other national or regional organizational meetings involving issues relevant to Utah's energy consumers.

Demand-Side Management Programs

In recent years, both utility companies and state regulators have determined that, in many cases, the least expensive unit of energy is the unit that is not used. As a result, demand-side management (or DSM) programs have been implemented to provide incentives for customers to reduce their energy usage. DSM programs collect funds from regular customer bills in order to provide rebates or others incentives for customers that undertake energy savings measures. This provides not only direct cost saving to individuals, but also savings to all customers by reducing the need for third-party energy purchases or by reducing or slowing a utility's capital investment needs. DSM programs also result in environmental benefits by decreasing emissions from burning fossil fuels. In recent years, the Division has placed an increasing emphasis on DSM and both Questar Gas and Rocky Mountain Power operate robust and growing programs.

Rocky Mountain Power's programs cover all of its residential, commercial, and most of its industrial customers. It includes familiar programs such as "See Ya Later Refrigerator" and "Cool Keeper," as well as programs providing rebates for efficient machinery, appliances, and cooling equipment, Energy Star new homes, and building upgrades such as adding insulation. From 2003 to 2008, these programs grew from annual estimated kilowatt hour (kWh) savings of 72,700 to 193,300. For 2009, the Company foresees electricity savings of 280,000 kWh, nearly a four-fold increase in just six years. This represents about 140 megawatts of capacity or about one-third of the load of a new natural gas power plant.

Questar Gas began its Thermwise DSM program in 2007. Unlike Rocky Mountain Power, Questar's largest industrial and commercial customers do not take part, as many purchase their gas directly from third parties, using Questar's pipes solely to transport their gas. Nevertheless, with only residential and smaller

commercial customers taking part, the program has become a national model for success. From an initial estimate for 2007 of 28,500 customers participating to save 133,300 decatherms of gas, the program achieved 61,500 actual participants saving an estimated 348,500 decatherms in 2008. And in the first half of 2009 alone, 82,400 customers have participated for an estimated annual savings of 510,000 decatherms.

The Division is working with both Rocky Mountain Power and Questar Gas to further expand and improve their DSM programs in order to help slow energy consumption, save customer costs, and to help Utah to meet its energy goals. The Division has also begun to advocate for customer rate structures that further encourage efficiency energy use.

Electricity

Despite the recent economic downturn, projections of Utah's demand for electricity indicate a relatively fast rate of growth over the next several years. As a result, Rocky Mountain Power has sought additional generation and transmission resources to meet its load requirements. The Division will continue to monitor the Rocky Mountain Power's resource acquisition to ensure safe, reliable, and low-cost service for Utah's citizens.

In July 2008, Rocky Mountain Power requested a rate increase of \$160.6 million. The Company's request was subsequently modified to \$116.1 million to reflect orders issued by the Public Service Commission. Between December 2008 and February 2009, Division auditors and other staff members investigated the basis for the request and determined that a rate increase substantially less than the Company's request was justified. From February to May 2009, the Division actively participated with other parties in negotiating a settlement with the Company for a rate increase of \$45 million. Other aspects of the case (e.g. rate design and return on capital) were settled at or very near the Division's positions. The Company filed a new rate case in June requesting an additional \$67 million.

Division of Public Utilities

Since 2006, PacifiCorp (parent company to Rocky Mountain Power) has built two and purchased one natural gas combined-cycle power plants to meet growing Utah and regional electricity demand. In 2007, PacifiCorp began the process for approval of a Request for Proposals — required by Utah statute — to build or purchase base-load power generation resources. In October 2008, the Request was issued and on December 3 the Company sought approval to build a second, 607 megawatt natural gas fired plant at the existing Lakeside facility in Utah County. The Division reviewed the Company's application and recommended conditional approval of the plant's purchase. However, shortly after the Division filed its recommendation, PacifiCorp withdrew its request and sought Commission approval to suspend the RFP until economic conditions improved. The Commission approved the suspension and the Division continues to monitor the PacifiCorp's resource acquisition strategy and its ability to provide reliable electric services to Utah.

In the winter of 2008-2009, Rocky Mountain Power's home insulation program (a part of its overall DSM program) saw a rapid increase in participants. With the downturn in the housing and construction markets, contractors moved into the home insulation market. A related decrease in material costs resulted in contractors offering attic insulation that, when combined with utility rebates, was effectively free. As a result, DSM expenditures increased significantly through the first quarter of 2009. In the spring, the Company filed for approval to decrease incentive levels by nearly 70% for most insulation projects. Many contractors testified at hearing that this would effectively stop people from insulating their homes. The Division argued instead for 45% decrease in order to reduce costs while maintaining a reasonable program activity level. The Commission accepted the Division's recommendation and ordered an effective date of June 1, 2009 for the changes.

Natural Gas

The past year saw tremendous volatility in regional and national natural gas prices. In July of 2008, responding to sharp natural gas price increases,

Questar Gas raised its rates by 20%, with another 20% increase anticipated for the fall. However, prices quickly stabilized and then dropped through the winter of 2009. Whereas gas had been \$9.70 per decatherm in June 2008, it fell to a low of \$2.33/Dth in February 2009. As a result, Questar collected more in rates than it needed to purchase gas for its customers. The Division worked with the Company and agreed that a one-time refund would be the fastest way to return the over-collected balance. In April 2009, Questar filed for an expedited one-time refund of \$50 million based on customers' actual gas consumption during the winter heating season of 2008-09. The Commission approved the request, which resulted in gas customers receiving an average credit of \$41 on their May 2009 gas bills.

Questar Gas did not file a rate case during FY2009. It had been anticipated that a rate case during this period would include a three-year review and evaluation of the Conservation Enabling Tariff (or CET) used to decouple fixed costs from variable customer usage. However, upon request from the Company, the Public Service Commission extended the CET pilot program through 2010 to allow for an additional heating season of data collection. The Division anticipates that Questar will file a rate case in the spring of 2010, which will then include a review of the CET mechanism.

As with Rocky Mountain Power, Questar Gas also experienced a drastic increase in insulation rebates under its DSM program. In its March 11, 2009 application to alter incentive levels, Questar indicated that expenditures in January and February of 2009 for its Weatherization Program had already reached 98% of its approved 2009 annual budget. Questar proposed decreasing the incentives for attic insulation from \$0.35 to \$0.20 per square foot. After reviewing Questar's application, the Division recommended approval of the changes in the incentive levels but opposed Questar's requested short deadline for customer applications. In the end, the Commission agreed with the Division's recommendations approving the decrease in incentive levels and allowing customers an additional month to complete insulation projects.

Division of Public Utilities

The Questar Gas transponder case was resolved in the fall of 2008. This case involved erroneous installations of the radio transponders that allow for efficient remote reading of gas meters. After receiving several customer complaints regarding back-billing for under-read meters, the Utah Public Service Commission opened an investigation in April 2008. The Division estimated the total under-billed amount at approximately \$1,000,000. Of this total, Questar sought approval to back-bill approximately 500 customers \$448,000, based on a 24-month back-billing period, with the remaining amount being paid by all customers through increased commodity prices. After the Division released its report on the matter, the Division, the Company, and other parties, reached an agreement to split the under-collection between individuals who were under-billed, the Company, and ratepayers at-large. However, the Commission ultimately approved only part of that settlement. Of the total \$1,000,000, the Commission allowed Questar to collect \$224,089 from under-billed customers based on six-months of back-billing, with the remaining amount borne solely by Questar.

Telecommunications and Water Section

The Telecommunications and Water Section of the Division of Public Utilities advises the Utah Public Service Commission (UPSC) on issues relating to regulated telecommunications and water companies in Utah. Typical issues include:

- Requests for rate changes;
- Rulemakings;
- Applications for Certificates of Public Convenience and Necessity;
- Hearings on disputed issues;
- Compliance and financial audits; and
- Investigation of other issues as requested by the UPSC.

Telecommunications Regulation

As the administrator of the Utah Universal Service Fund (USF), the Division conducts regular reviews of the USF support received by the rural telecommunications carriers. These carriers receive

support to help defray the expense of servicing high-cost areas in order to maintain lower consumer rates. USF funds also support the cost of providing service to qualifying Lifeline (low-income) customers. Since the fund is supported by a small surcharge on all retail telecommunications services, the DPU is responsible for carefully monitoring the expenditures from the fund. During FY09, the USF fund balance ranged between \$8-9 million. This level was maintained despite the Commission reducing the surcharge rate from .050% to 0.45% in October, 2008. The growth in the USF fund balance is due to the elimination of payments to three rural companies in the 2006 - 2007 timeframe, as well as increasing revenue from the growth in wireless telephone customers.

Two telecommunications rate cases were filed and investigated in FY09.

In April, 2008, Manti Telephone filed for a new rate case that included an increase in requested USF support in the amount of \$3.2 million per year. In the summer of 2008, the Division began a review of the financial statements filed by the company. This investigation revealed accounting practices that did not meet the standards required by federal and state rules. The Division reached an interim solution to provide USF support while the Company worked to improve its accounting practices to the point where an examination of rates could take place in early 2010.

The second case was filed by All West Communications in January, 2009. All West (which provides local telephone service to parts of Summit, Wasatch, and Rich counties) filed a request for an annual revenue increase of approximately \$765,000. This would have been accomplished through raising customers' rates to the affordable base rate as defined by the Commission. This increase would cover \$216,000. The other \$549,000 would come from an increased distribution from the Utah Universal Service Fund (USF). The USF is used to assist companies in hard-to-serve areas and is funded through monthly charges on all telephone customers throughout the state. The Division reviewed the records of All West and reached a settlement in July, 2009. The settlement calls for an increase in

Division of Public Utilities

Customer rates of \$227,000 and a decrease in USF payments of \$147,000.

The other major issue that dominated the telecommunications landscape involved competitive entry into rural areas. While urban areas of Utah are open to telecommunications competition, small companies with exchanges of fewer than 5,000 lines may challenge the entry of competitors into their service territories. This issue was tested in three cases during the fiscal year.

The first case was the entry of Bresnan Communications into the Vernal area. Bresnan Communications was granted a certificate to operate in the Vernal area in 2007 and sought interconnection with the incumbent telephone provider. The incumbent refused to interconnect and after various attempts at mediation, Bresnan sought arbitration through the Commission. A hearing was held on this matter in January with the Commission eventually ordering the incumbent to interconnect.

The second case involved the entry of All-American Telephone into Beehive territory. In this case Beehive allowed All American into its territory and signed an interconnection agreement, even though All American's certificate expressly prohibited it from serving outside the Qwest area. This case is still on-going.

The third case is the application of Beehive Telecom to provide competitive service in the Moab area. In this case, an interconnection agreement was entered into between Beehive Telecom and Frontier Communications (who serves Moab). The Division recommended that the agreement be rejected by the Commission because Beehive Telecom did not have authority granted by their CPCN to serve outside of the Qwest service area. In July, 2009 Beehive Telecom filed for an amended CPCN to serve in the Moab and Bullfrog (Lake Powell) exchanges.

The DPU reviewed 66 interconnection agreements (agreements between new competitive entrants and existing companies to handle each others' traffic) and advised the PSC on whether they were in the public interest. The Division is also involved in settling disputes between interconnecting companies when necessary.

During FY09, there was a net increase of five Competitive Local Exchange Providers (CLEC) in Utah: nine new CLECs were granted certificates and four CLECs relinquished their certificates. There were also a number of mergers, name changes and transfers of control within the CLEC industry.

The Division, the Utah Rural Telecomm Association (URTA), and other interested parties developed a proposed rule concerning capital structure that was presented to the Commission in September, 2008. The proposed rule was rejected by the Commission and was not published. However, the Division has adopted portions of the rule as policy guidance for future rate cases.

The Division assisted in public education regarding the 801/385 area code overlay. The Division was involved in writing news releases, developing training aids, speaking at community events, and appearing in the media to inform and educate the public about the upcoming overlay. The overlay was completed on March 1, 2009.

Water Regulation

Fiscal Year 2009 was unusually busy with rate cases for water companies. Three companies (Pineview West Water Company, Highland Water Company and White Hills Water Company) filed for rate increases and had their cases settled during the year. Two additional companies (Hidden Creek Water and Cedar Point Water) filed for rate increases near the end of FY09. These cases will be reviewed during the first half of FY10.

During FY09, the Division formally audited seven regulated water companies. Ten companies were informally reviewed or had issues that were resolved through Division investigations. Two of these companies joined Special Service Districts chartered by their respective counties and are no longer regulated utilities. In addition, two water companies were issued Certificates of Public Convenience and Necessity, and five other companies were issued Letters of Exemption from regulation by the Commission.

In 2008, the Division collaborated with the Division of Drinking Water (DDW) to develop a Memorandum

Division of Public Utilities

of Understanding whereby the two divisions will jointly create a training program to ensure future water systems are built to DDW standards. This program involves training of county planning agencies on the respective roles of DDW and DPU. The first presentations of this training took place in August 2008 and other presentations were made throughout the year.

Customer Service Section

The Customer Service Section helps to answer utilities customers' questions and works with customers and utilities to resolve informal complaints. Unresolved disputes are referred to the Public Service Commission for formal action, which can include a hearing before the PSC's Administrative Law Judge. Various requests or inquiries about non-regulated companies are forwarded to the appropriate federal or state agency. The Division's goal is to try to help resolve customers' issues as seamlessly as possible.

During Fiscal Year 2009, the Customer Service Section fielded 943 informal complaints from utility customers, a 4% decrease from the previous year. (The breakdown by utility is seen in the tables to the right.) The utility companies and the Division work together to educate consumers about changes to their bills or services. The Division encourages utility companies to distribute bill inserts each month and to be pro-active in consumer outreach pertaining to tree trimming, safety, demand response, and other issues.

Most complaints typically involve billing and shut off issues. During certain months of the year there is an increase in complaints for electric companies due to power outages. Telecomm company complaints nearly are all due to billing and shut off issues. This year there was an increase in complaints about Qwest regarding bundled service packages (telephone service packaged with cable TV and internet services) and related restrictions, fees, and charges.

In all cases, the Division first works with customers and utilities to resolve complaints informally. As shown below, most complaints were resolved by the Division working with the customer and utility company. The unresolved disputes are referred to the Public Service Commission for formal action or hearing

Four Year History of Utility Complaints

Utilities	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Electric	232	261	265	229
Natural Gas	520	253	261	233
Telecomm —				
ILEC* & Qwest	252	309	306	333
Telecomm — CLEC**	190	169	112	84
Telecomm —				
Long Distance	81	54	35	44
Water/Sewer	7	7	4	20
Total	1,282	1,053	983	943

Utility Complaints Resolved Fiscal Year 2009

Utilities	Informal/Resolved Without Hearing	Resolved by Hearing Officer
Electric	225	4
Natural Gas	231	2
Telecomm — ILEC* & Qwest	326	7
Telecomm — CLEC*	81	3
Telecomm — Long Distance	44	0
Water/Sewer	20	0
Total	927	16

*Incumbent Local Exchange Carriers, e.g. Qwest, All West, Frontier, Beehive

**Competitive Local Exchange Carrier, e.g. AT&T, McLeod USA, Integra

The Customer Service Section also provides internal administrative and research support to the staff at the Division. It responds to requests for documents and records under GRAMA, performs records management duties, web support, risk management responsibilities, and employee training and safety. It is also responsible for the formal submission of Division reports and testimony to the Public Service Commission.

Pipeline Safety

The Pipeline Safety Group operates under federal statutes to investigate safety and other conditions relative to the piping of natural gas within Utah. Pipeline Safety works with leading local natural gas distribution companies such as Questar Gas Company,

as well as municipal and intrastate transmission operators. In addition, several hundred small gas system operators (master meters) that purchase gas from a distribution company and further distribute it within their facilities fall under the Section's jurisdiction.

Each year the federal Office of Pipeline Safety (OPS) evaluates the performance of state programs in fulfilling the requirements of the federal program. The Utah Pipeline Safety program continues to score high grades in its evaluation, which results in a high percent of Utah's program being funded by OPS.

During fiscal year 2009, Pipeline Safety personnel conducted comprehensive inspections of Questar Gas Company operations, municipal gas distribution operators, intrastate transmission operators, and master meters. These inspections assure that operator procedures and operations are consistent with federal regulations for safe functioning of natural gas systems.

Pipeline Safety Section also inspects pipeline construction projects and investigates incidents on pipelines. During Fiscal Year 2009, pipeline construction notices received by the Section from operators were down by 62% compared to the previous year. Third party damage continues to be the main cause of accidents on pipelines, however, due to decreased construction activity during this year, there were 56% fewer pipeline damage incidents than last year.

One serious incident in March at the University of Utah resulted in evacuation of 23 buildings, the interruption of TRAX service, and closure of two streets. The investigation of this incident is being completed and a report will be submitted to the PSC shortly.

Pipeline Safety Inspections Fiscal Year 2009

Questar Gas Company Regions	8
Municipal Gas Distribution Operators	6
Intrastate Transmission Operators	6
Small Gas System Operators (Master Meters)	158
Construction	64
Incident	51

Staff Highlights

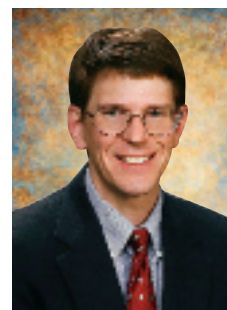
This year saw the departure of one energy utility analyst and a telecomm section technical consultant. However, the Division was pleased to have recruited and hired the following new staff members:

Douglas Wheelright is a Utility Analyst in the Energy Section. Before joining the Division in September 2008, Doug spent ten years as a financial analyst and adviser with first the Edward Jones and later Raymond James investment firms. Prior to that he was also a credit analyst and loan officer at First Security Bank of Utah. Doug's primary responsibility will be natural gas issues, however he has already applied his experience to working on other finance-related issues, such as utility hedging practices and resource acquisitions.

Mark Long is a Utility Analyst in the Telecommunications and Water Section. He spent nearly twenty years as an auditor with the Utah State Tax Commission. Before coming to the Division in December 2008, Mark also served brief stints at the Office of Education and Department of Workforce Services. Mark's years of experience working with the accounts of small businesses is especially valuable, as many of the water and rural telecomm companies with which the Division interacts are in need of assistance in modernizing their accounting practices. He also brings years of auditing experience at a time when the Telecomm and Water Section is particularly busy with new rate cases.

**Questions specific
to the Division
of Public Utilities
may be directed to:**

Philip Powlick, Director
(801) 530-7622
philippowlick@utah.gov





Division of **Real Estate**

Mission

Our mission is to protect the public through education, licensure and regulation of appraisal, mortgage and real estate professionals.

The Division's informal mission statement is to "make things as easy as possible for the good guys and as difficult as possible for the bad guys."

2009 Fiscal Year Highlights

The Division's major achievements during Fiscal Year 2009 include:

- Developed a successful partnership between local, state, and federal law enforcement through participation in the Utah Mortgage Fraud Task Force. The task force's work resulted in several newsworthy prosecutions and convictions.
- Worked with the Real Estate Commission and Attorney General's Office to approve a major revision to the Real Estate Purchase Contract.
- Approved a new 120 hour pre-licensing course and examination for real estate agents who wish to become associate or principal brokers.
- Brought appraisers into the "online license management system," bringing all of the Division's licensing groups on board. The system allows licensees to complete licensing actions online including renewing licenses, managing company rosters, and updating addresses, license status and company affiliation.
- Worked with the Governor, Utah State Legislature, and the Residential Mortgage Regulatory Commission to prepare for implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act (SAFE).
- Implemented the Appraisal Management Company Registration and Regulation Act.
- Conducted industry outreach by visiting and training licensees in Richfield, Moab, St. George, Logan, Layton, Vernal, Tooele, and surrounding areas.

Internal Efficiencies

The Division continued to operate during FY2009 with no backlog for processing licenses, renewals, and change cards. The elimination of the backlog allows Division licensing staff to improve customer service by responding quickly to individual licensee requests.

Examples of other improvements to division efficiencies include:

- Developed new metrics to better track the length of time from receiving a complaint to concluding an investigation.
- By adding appraisers, allowed licensees in all of the Division's licensing areas to use the online license management system.
- Implemented 100% of "banking" of continuing education hours by education providers for real estate and mortgage licensees, eliminating the need for licensees to bank their own hours.
- Absorbed budget reductions while maintaining service levels to licensees and the public.

The Division's motivated and dedicated staff are the reason the Division continues to develop methods to improve productivity and efficiency.

Customer Service

We serve our customers in three main areas:

- Education
- Licensure
- Enforcement

Education

Within the appraisal, mortgage and real estate industries, the Division is charged with certifying courses and providers for both pre-licensing and continuing education. The Division also, through a private contractor, administers pre-licensing examinations for all three industries.

Additionally, the Division produces and provides courses and information directly to licensees. The Division publishes and mails to each licensee a quarterly newsletter.

The Division has an Education Coordinator for each of the three industries, as well as a Licensing and Education Director who oversees the activities outlined above.

Utah Department of Commerce
Division of Real Estate

The following tables show the number of certifications and exams over the past four years.

Certifications

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Educational Programs	24	16	32	53
Real Estate Pre-Licensing Instructors	46	54	68	129
Real Estate CE Courses	659	815	1,202	1,111
Real Estate CE Instructors	369	486	467	503
Mortgage Pre-Licensing Instructors	53	62	47	40
Mortgage CE Courses	308	395	733	503
Mortgage CE Instructors	102	156	153	159
Appraisal Instructors	29	28	25	94

Pre-Licensing Examinations

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Real Estate Agent Exams	5,606	4,235	3,357	1,536
Real Estate Broker Exams	426	394	389	304
Mortgage Officer Exams	4,365	2,522	2,177	1,152
Mortgage PLM Exams	1,905	429	395	163
Appraiser Exams	130	101	299	189



Licensure

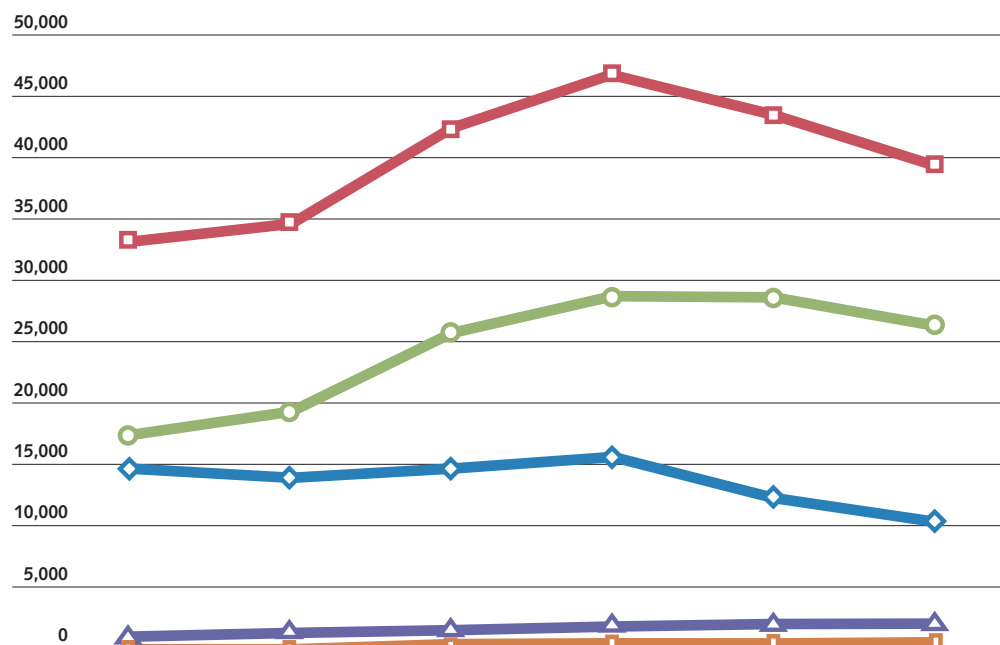
The first few years in the early 2000's saw a notable decrease in the number of appraisers. Since hitting a low of 991 appraisers in FY2003, the State has seen a steady increase. At the end of FY2009 there were 2,094 licensed/certified appraisers and appraiser trainees.

The last two years have brought a decrease in the total number of real estate and mortgage licensees. The Division has worked hard to maintain a high level of customer service whether customer numbers are increasing or decreasing.

The licensing staff consists of Licensing Specialists for each of the three industries, as well administrative staff support for scanning/filing, license updates, and reception. The Licensing and Education Director oversees these efforts.

Utah Department of Commerce
Division of Real Estate

**Total Number
of Licenses /
Registrations**



Licenses/Registrations	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Real Estate	17,500	19,405	25,829	28,833	28,735	26,425
Mortgage	14,746	14,001	14,756	15,702	12,354	10,416
Appraiser	1,034	1,336	1,561	1,859	2,064	2,094
Subdivision/Timeshare	—	—	422	489	477	571
Total	33,280	34,742	42,568	46,883	43,630	39,506

New Licenses / Registrations Issued

Licenses	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Real Estate	3,159	3,609	4,666	5,697	3,591	2,209
Mortgage	4,693	2,944	3,669	3,649	2,032	1,028
Appraiser	176	99	160	481	531	307
Timeshare	280	194	156	199	216	173
Total	8,308	6,846	8,651	10,026	6,370	3,717

Licenses / Registrations Renewed

Licenses	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Real Estate	7,387	6,863	7,601	8,071	9,340	9,550
Mortgage	3,555	3,296	1,998	3,065	3,367	3,086
Appraiser	405	539	390	544	463	586
Timeshare	1	69	122	135	185	140
Total	11,348	10,767	10,111	11,815	13,355	13,362

Division of Real Estate

Enforcement

One of the Division's primary duties is to protect the public through the enforcement of appraiser, mortgage and real estate statutes and regulations. The goal of the Division as it relates to bad actors in all three industries is to "keep them out or kick them out."

The Division's enforcement staff consists of several Investigators, an Enforcement Secretary, and the Enforcement Director. In addition to audits and special assignments, the main source of information regarding licensees is the complaint process. This Division uses information obtained through complaints to regulate licensees. The Division does not mediate or resolve complaints between licensees and/or private parties and the Division does not represent individuals in legal actions.

When a complaint is received, an Investigator makes an initial determination as to whether a violation of the relevant law is alleged. Complaints are prioritized according to the seriousness of the allegation, current workload levels, as well as other variables. If a case is opened, an Investigator is assigned and will collect relevant documents and testimony. Based on the findings, the Investigator will recommend the appropriate disciplinary sanction, if any. If a sanction is recommended, the case is referred to a prosecutor in the Attorney General's Office and, if not resolved by settlement negotiations, will proceed to an administrative hearing before the appropriate Board/Commission. Possible sanctions include remedial education, fines, probation, and license suspension or revocation. Cases with possible criminal violations are referred to the Attorney General's Office, County Prosecutors, and U.S. Attorney's Office.

During FY2009, the Division conducted a significant number of investigations, which resulted in the disciplinary sanctions detailed in the following table.

FY2009 Enforcement Statistics

Sanctions	Appraisal	Mort- gage	Real Estate	Total
Remedial Education	9	1	2	12
Fines	18	24	33	75
Probation	0	55	106	161
Suspension	0	7	13	20
Revocation/Surrender	9	38	36	83
Cease and Desist Orders	0	4	1	5
Total	36	129	191	356

	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
--	---------------------------------	---------------------------------	---------------------------------	---------------------------------	---------------------------------	---------------------------------

Complaints Received

Real Estate	281	328	429	559	675	440
Appraiser	111	91	85	89	142	145
Mortgage	247	313	251	345	401	278

Cases Opened

Real Estate	110	337	329	289	215	189
Appraiser	47	80	61	47	85	118
Mortgage	92	162	110	71	104	53

Cases Closed

Real Estate	80	208	657	329	220	153
Appraiser	78	34	34	26	106	127
Mortgage	27	60	104	91	136	71

Total Open Cases

Real Estate	208	281	191	179	175	112
Appraiser	61	80	103	121	100	91
Mortgage	107	111	127	99	68	49

Employee Highlight

Elizabeth Beazley — The Division of Real Estate, the mortgage industry, and Utah's citizens are lucky to have Elizabeth Beazley on the job. She joined the Division just over two years ago as a welcome addition to mortgage investigations and enforcement. She enjoys the challenge and rewards of a long career in the mortgage industry. Elizabeth previously worked for the Housing Corporation of New Zealand. Since

Division of Real Estate

immigrating to the United States in 1991 she has worked in almost all aspects of the mortgage business, including experience as a loan processor, a loan closer, an underwriter, and an operations manager. Elizabeth's favorite job in the private sector was working as a corporate trainer for a mortgage closing and document software company.

Elizabeth enjoys and excels at all aspects of the investigation business. She especially appreciates the challenge of taking a case she initiated from beginning to end. Striving for open-mindedness and consistency in her investigations, Elizabeth prides herself in always looking at the big picture and in being fair.

The most rewarding part of Elizabeth's job is her knowing she is doing her best to help the Utah public resolve complaints effectively. She understands that all complaints cannot be resolved to everyone's desired outcomes. She approaches all of her interviews, whether face-to-face or telephonic, by leaving an impression of the seriousness with which the Division takes each case. Elizabeth wants the citizens of Utah to know the Division of Real Estate takes seriously its mission to combat mortgage fraud.

Legislative Highlights

HB 86: Division of Real Estate Related Amendments, *Representative Gage Froerer*

This bill implemented changes to multiple statutes by:

- lengthening timeshare registrations to two years;
- increasing real estate pre-licensing education;
- improving real estate continuing education;
- increasing broker responsibility to pay agents by making it a prohibited conduct to violate an independent contractor agreement;
- improving recovery fund accessibility by increasing the cap per claim and by permitting not only civil, but criminal restitution judgments to qualify for a claim;
- elevating appraiser trainee oversight; and
- implementing guidelines for retention and destruction of mortgage records.

HB 152: Appraisal Management Company Regulation, *Representative Michael T. Morley*

This bill enacted the Appraisal Management Company Registration and Regulation Act, including:

- requiring registration of appraisal management companies;
- imposing operational requirements; and
- creating enforcement provisions and fines for violations.

SB 31: Utah Residential Mortgage Practices and Licensing Act, *Senator Wayne L. Niederhauser*

This bill implemented changes to bring Utah into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act, including:

- modifying requirements for examinations, pre-licensing education, and continuing education; and
- making changes to disciplinary action and prohibited conduct; and implementing transition provisions.

Real Estate Announces New Director, Deanna D. Sabey

Deanna Sabey was appointed Director of the Utah Division of Real Estate in August 2009 after Mark Steinagel was appointed to take over as Director of the Division of Occupational and Professional Licensing within Commerce. Deanna previously worked as legal counsel for Marquette Equipment Finance, established her own law practice advising mortgage industry clients on federal and state laws, and served as General Counsel for Mountain State Mortgage Center in Utah. She earned her Juris Doctor degree from Golden Gate University, School of Law and a Bachelor of Arts in Psychology from Brigham Young University.

Questions specific to the Division of Real Estate may be directed to:

Deanna D. Sabey, Director
(801) 530-6436
dsabey@utah.gov





Division of **Securities**

Mission

The Division of Securities enhances Utah's business climate by protecting Utah's investors through education, enforcement, and fair regulation of Utah's investment industry while fostering opportunities for capital formation.

Focus on Investor Protection

The past two years have seen unprecedented attention on financial and securities markets worldwide. Unfortunately, much of that attention was due to well publicized collapses of large multi-national financial institutions and multi-billion dollar Ponzi schemes. During this time the Division of Securities has maintained its focus on protecting Utah's investors. During the 2009 fiscal year, the Division significantly increased its investor education efforts, with in-person presentations to over 4,000 Utah citizens and multiple media interviews. All to convey a simple message: "take control of your savings and investments and let us help you recognize and avoid investment fraud." This investor education effort represents a 168% increase over the 2008 fiscal year (59 presentations in FY2009 vs. 22 presentations in FY2008) despite a decrease in the Division's budget due to state-wide cuts.

Trends and Impact of Economic Recession

During fiscal year 2009, the Division saw a small decrease in the number of license applications from 110,908 in FY2008 to 107,993 in FY2009 (a decrease of 2.6%). Numbers of securities registration filings were also down in most categories. This was largely a result of the national economic recession. Levels of securities fraud in Utah, on the other hand, have not experienced a similar decline. In fact, while con men and scammers do react quickly to changing economic conditions to adjust their sales pitch, levels of securities fraud frequently increase during economic recessions. The number of complaints received by the Division in FY2009 increased 75% (283 in FY2009 compared to 162 in FY2008).



Legislative Changes and a New Securities Commission

New legislation in the 2009 General Session (HB 78, "Utah Uniform Securities Act," sponsored by Rep. Jim Bird) made several changes to the law regulating securities transactions in Utah. The legislation updated several provision of the Utah Uniform Securities Act (Utah Code Ann. § 61-1-1 et. seq.) to more easily allow for electronic filing of securities registration and licensing documents, to update and modernize securities licensing laws and penalties for fraud, and to create a new Utah Securities Commission. The Utah Securities Commission is a five member panel with representatives from the securities industry, the legal community, and the public. The Commission provides guidance to the Division on budget and rulemaking issues and is the body which conducts administrative hearings for enforcement actions brought by the Division.

Licensing

The Division of Securities licenses and regulates those in the securities industry that sell securities, offer advice about securities, or manage the investments of others.

These include: broker-dealers, securities agents, investment advisers, investment adviser representatives, issuer agents, and certified dealers and their agents.

The Division works closely with the U.S. Securities and Exchange Commission (SEC) and securities regulators from other states to streamline the licensing process and to ensure consistency.

Securities Licensing

License	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Broker – Dealers	1,704	1,733	1,766	1,815	1,819	1,775
Broker – Dealer Agents	77,594	83,797	89,516	97,506	103,174	100,677
Investment Advisers	132	143	157	176	323	183
Federal Covered Advisers	643	701	1,398	877	945	985
I.A. Representatives	2,451	3,088	3,445	3,711	4,445	4,189
Certified Broker – Dealers	18	25	23	20	21	15
Certified Investment Advisers	—	—	—	—	—	4
Certified Broker – Dealer Agents	78	85	90	97	72	63
Issuer Agents	83	87	83	117	109	102
Total	82,625	89,574	96,478	104,319	110,908	107,993

Corporate Finance/Securities Registration

Another key component of the Division's efforts to promote legitimate capital markets is to register securities offerings that are qualified to be sold in this state and review the adequacy of disclosures to potential investors by companies offering certain types of securities. In addition, Division employees meet with companies seeking to raise capital to explain the many options for raising capital and to discuss how to improve the quality of disclosure to potential investors.

The chart below lists the number of registrations, exemption offerings, and other filings reviewed by the Corporate Finance Section of the Division.

Securities Filings

Filing	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Registrations						
Coordination	136	146	128	123	116	102
Qualification	1	2	1	1	0	0
Exemptions	63	36	41	40	50	27
Opinion / No Actions Letters	3	7	4	4	3	4
Mutual Funds	3,998	4,252	4,514	4,911	5,150	5,541
Rule 506	531	659	808	1,032	1,076	712
Total	4,732	5,102	5,496	6,111	6,395	6,386

Compliance and Enforcement

The Compliance Section of the Division of Securities conducts routine and “for cause” examinations pertaining to the operations of licensed broker-dealers, investment advisers, and their agents. If misconduct is found, the Division will work with the licensed individual or firm to bring them into compliance with the applicable laws or initiate disciplinary proceedings against the licensee depending upon the nature of the violation or misconduct.

The Division of Securities actively seeks to identify those investment offerings that are fraudulent or otherwise fail to comply with the law’s requirements. Enforcement is a key component in promoting legitimate capital markets by preventing the loss of investor monies to fraudulent schemes and promoting investor confidence in the integrity of the markets.

The Division becomes aware of possible frauds as a result of investor complaints, referrals from other government and consumer agencies, and the Division’s own investigative efforts (including undercover work). For allegations that prove valid, the Division can bring enforcement actions administratively (cease and desist orders or licensing discipline), in civil court (seeking court-imposed injunctions and restitution) or by referring cases for criminal prosecution. The Division works closely with criminal prosecutors in the U.S. Attorney’s Office, the Utah Attorney General’s Office and multiple counties to obtain criminal convictions against the most egregious violators.

The following chart summarizes some of the Division’s compliance and enforcement activities.

Compliance and Enforcement

Activity	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009
Complaints Received	171	98	85	115	162	283
Cases Opened	87	70	61	77	149	66
Cases Closed	86	66	47	75	126	63
Administrative Cases						
Cases Opened	70	55	87	108	123	78
Orders to Show Cause	41	13	63	82	115	64
Cease and Desist Orders	32	8	7	44	26	20
Stipulated Settlements	29	30	4	30	0	0
Denials and Revocations	20	4	11	13	2	6
Civil Cases						
Lawsuits Filed	0	1	7	2	1	0
Judgements	2	0	1	0	0	0
Criminal Cases						
Criminal Charges Filed	54	35	19	24	34	31
Convictions	38	20	9	12	9	19
Pleas in Abeyance	—	—	9	4	3	2
Audits	50	36	54	23	34	41
Fines Paid	\$3,353,142	\$880,333	\$450,393	\$690,066	\$210,090	\$56,460
Restitution Ordered	\$28,167,307	\$63,649,804	\$2,480,666	\$25,026,659	\$31,036,757	\$31,906,009

Investor Education

The Division exerts significant effort in not only punishing those who engage in investment fraud, but also trying to prevent future losses due to fraud. The best way to prevent investment fraud is by educating investors, those raising capital, and professionals who deal with finances. During the year, the Division presented at 59 seminars directed at investors, teachers, or securities professionals, reaching over 4,000 citizens. Among these are specialized education efforts, such as those directed at:

Schools

The Division sponsors the "Stock Market Game" in schools throughout Utah. The Stock Market Game is a national competition that promotes financial literacy and investment knowledge among students as they work in teams to invest a hypothetical account of \$100,000. Awards are given twice yearly to winning teams. Division employees train school teachers on how the Stock Market Game works and provide instruction to student teams to help them understand stock quotes, learn to research publicly traded companies, and apply current events and economic news while



experiencing a simulated trading platform. In FY2009, 119 schools and 5075 students participated in the Stock Market Game.

The Division also partners with the Utah Jump\$tart Coalition and Junior Achievement of Utah to help provide high school financial literacy teachers with the training and resources they need to prepare the next generation of consumers and investors to make wise financial decisions.

Seniors

Partnering with AARP, the Division made presentations to seniors in Salt Lake City, Tooele, Riverton, St. George, Magna, Sandy, South Jordan, and Logan. The Division also sponsored a booth at



the Utah Senior Expo and worked with the University of Utah to educate students in the gerontology program on financial fraud targeting seniors.



Division employees train school teachers on how the Stock Market Game works and provide instruction to student teams to help them understand how the market, current events and economic trends are related.



Professional Groups

Employees in the Division are active in professional groups relating to securities topics including the Securities Section of the Utah State Bar and the capital formation group, the Wayne Brown Institute. Division staff has presented seminars to multiple professional audiences.

Staff Highlight

Chip Lyons has been with the Division of Securities since June 2004. After moving to Salt Lake City from the east coast in 1995, he worked for Fidelity Investments for several years as a registered representative. He then attended law school at the University of Utah's S.J. Quinney College of Law. Following his graduation in 2000, Chip worked at Christensen & Jensen, P.C., where his civil litigation practice included defending broker-dealers and agents

in securities arbitration matters. Chip works in the Division's Licensing and Compliance sections, where he assists in examinations and investigations involving broker-dealers, investment advisers, their agents and representatives. Chip is also actively involved in Division litigation, drafting administrative actions and other pleadings, and in negotiating case settlements. He is a member of the Securities Section of the Utah State Bar as well as the American Bar Association. Since 2008 he has served on a national committee of state regulators that reviews and comments on broker-dealer and market regulatory issues. In his free time, Chip enjoys mountain-biking, playing his guitar, camping, and spending time with his family in the great Utah outdoors.

**Questions specific to
the Division of Securities
may be directed to:**

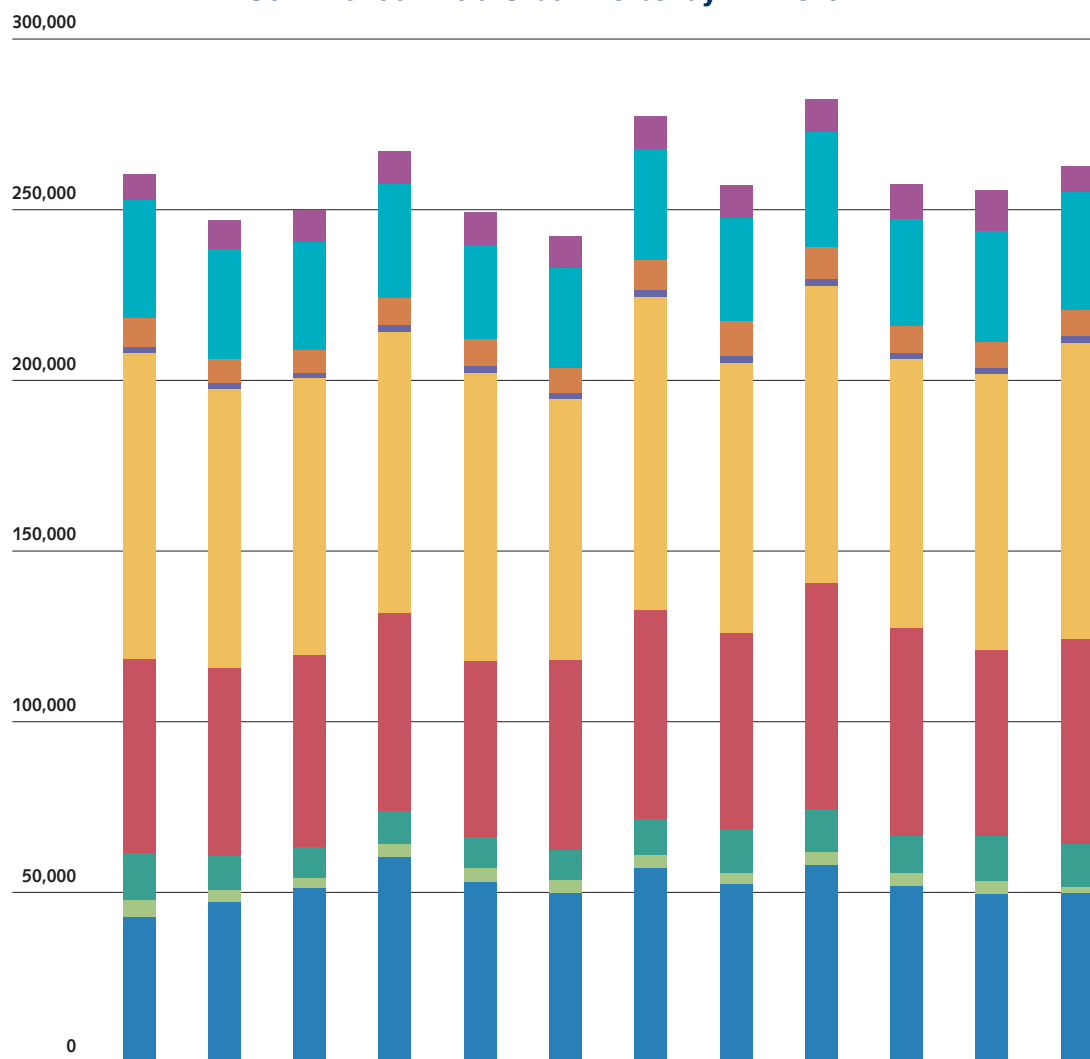
Keith Woodsell, Director
(801) 530-6600
kwoodwell@utah.gov



Web Trends

The Department of Commerce continues to improve customer service across all Divisions through our online business, information and licensing services. The table below reflects monthly visitor totals and online adoption by division.

Commerce Web Site Visits by Division



	Jul '08	Aug '08	Sep '08	Oct '08	Nov '08	Dec '08	Jan '09	Feb '09	Mar '09	Apr '09	May '09	Jun '09
Securities (DS)	7,575	8,371	9,159	9,543	9,653	9,357	9,602	9,370	9,651	10,330	11,941	7,773
Real Estate (DRE)	34,570	32,369	31,669	33,173	27,601	29,195	32,389	30,340	33,702	31,457	32,670	34,247
Public Utilities (DPU)	8,471	6,937	6,664	8,133	7,924	7,263	8,971	10,243	9,486	7,920	7,407	7,741
Property Rights	1,860	1,919	1,548	1,891	1,968	1,970	2,061	1,939	2,087	1,766	1,888	1,904
Occupational & Professional Licensing (DOPL)	89,413	81,412	81,047	82,400	84,327	76,199	91,480	78,985	86,604	78,505	80,679	86,828
Corporations (CORP)	56,558	55,131	56,120	57,952	51,302	55,623	61,236	57,781	66,074	60,688	54,602	59,798
Consumer Protection (DCP)	13,989	9,736	8,946	9,524	9,149	8,923	10,436	12,348	12,703	11,034	12,955	12,632
Consumer Services (CCS)	4,857	3,791	3,197	3,955	4,135	3,851	3,865	3,329	3,886	3,710	4,010	1,701
Commerce	43,254	47,465	51,537	60,601	53,436	50,025	57,477	52,804	58,340	52,335	49,778	50,242
Total	260,547	247,131	249,887	267,172	249,495	242,406	277,517	257,139	282,533	257,745	255,930	262,866

Web Trends

Utah Department of Commerce Web Usage

Division	Application	Online	Paper	Total	Percent
Division of Corporations and Commercial Codes	OSBR — New Business Reg	19,613	30,346	49,959	39%
	ABR — Business Renewals	160,672	21,714	182,386	88%
	ABR — Business Updates	51,171	5,371	56,542	91%
	BES — Business Search	488,423	—	488,423	100%
	Business Image Search	43,140	650	43,790	99%
	Certificate of Existence	10,498	422	10,920	96%
	Business Search — View Principals	205,176	—	205,176	100%
	Principal Search — View Businesses	23,770	—	23,770	100%
	Uniform Commercial Code Searches	184,836	—	184,836	100%
	Uniform Commercial Code Certified Search	642	62	704	91%
	Uniform Commercial Code Image Search	28,666	—	28,666	100%
	Uniform Commercial Code Filings	25,053	6,381	31,434	80%
	UCC Initial Filings	13,893	4,381	18,274	76%
	UCC Continuations	4,233	1,067	5,300	80%
	UCC Terminations	6,927	933	7,860	88%
	Trademarks	175	227	402	44%
Division of Occupational and Professional Licensing	DOPL Verifications	1,657	3,223	4,880	34%
	DOPL Renewals	66,168	7,765	73,933	89%
	DOPL Search — Pageviews	3,313,202	—	3,313,202	100%
	State Construction Registry Total Filings	155,652	—	155,652	100%
	SCR Commencements	3,413	—	3,413	100%
	Preliminary	110,374	—	110,374	100%
	Completion	4,429	—	4,429	100%
	Commencements — Cities	37,436	—	37,436	100%
Division of Real Estate	Real Estate Renewal	9,258	3,392	12,650	73%
	Real Estate License Management System	6,746	6,569	13,315	51%
	Real Estate Search	705,837	—	705,837	100%
All Divisions	Totals	5,681,060	92,503	5,773,563	98%



FY2009 Expenditure Summary

Department of Commerce Expenditures Fiscal Year 2009

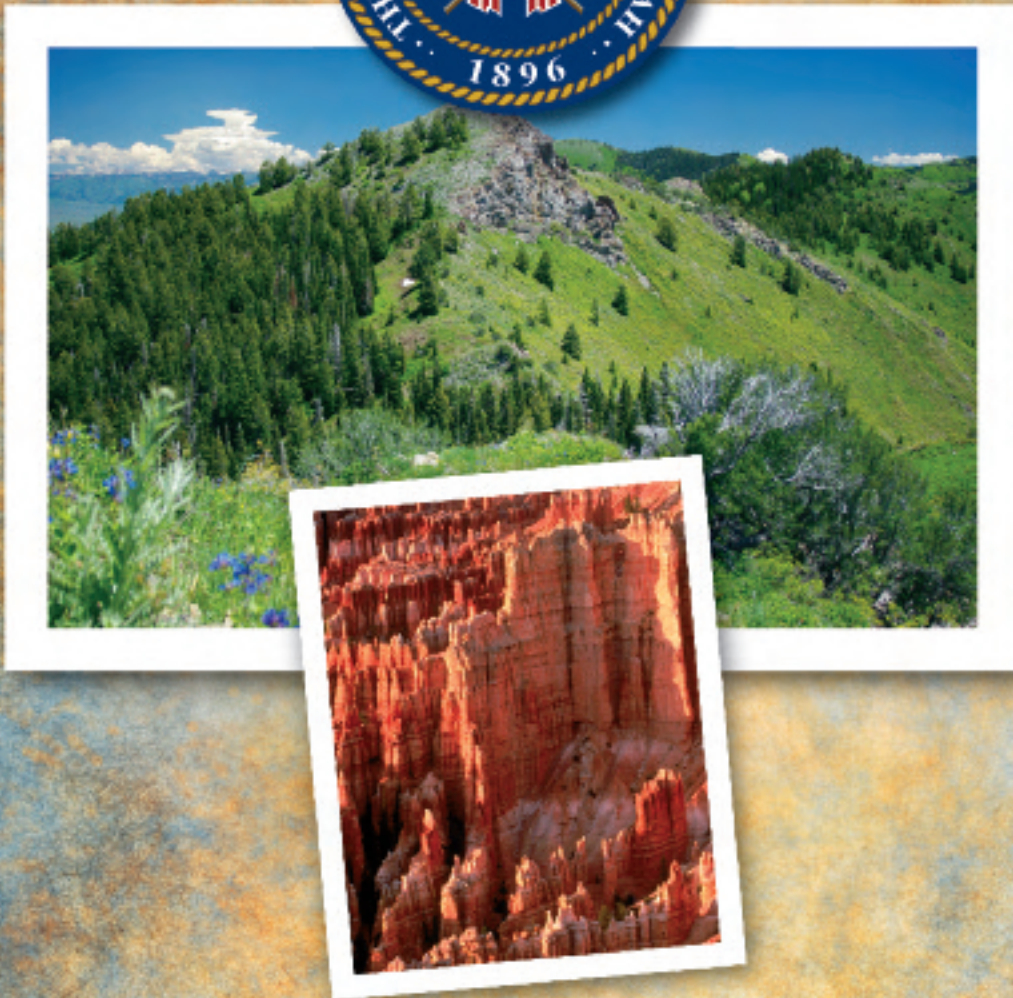
July 1, 2008, through June 30, 2009

Expenditures by Division:

(in dollars)

Administration.....	\$ 4,151,000
Occupational and Professional Licensing (DOPL)	7,882,000
Securities (DS)	1,686,000
Consumer Protection (DCP)	1,558,000
Corporations and Commercial Code (CORP)	1,997,000
Real Estate (DRE)	2,052,000
Public Utilities (DPU)	3,392,000
Committee of Consumer Services (CCS)	931,000
Building Rent	273,000

Total **\$23,922,000**



Utah Department of Commerce

Heber M. Wells Building • 160 East 300 South • Salt Lake City, UT 84111