

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission	860
<small>Agency and Division</small>	<small>Administrative Rules Chapter Number</small>
Diane Davis	(503) 378-4372
<small>Rules Coordinator</small>	<small>Telephone</small>
550 Capitol St NE – Suite 215, Salem OR 97301-2551	
<small>Address</small>	

RULE CAPTION

In the Matter of Amending OARs 860-021-0033 and 860-021-0034 implementing HB 2053 and correcting references.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (adopted or renumbered) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 860-021-0033 and 860-021-0034

REPEAL:

RENUMBER:

AMEND and RENUMBER:

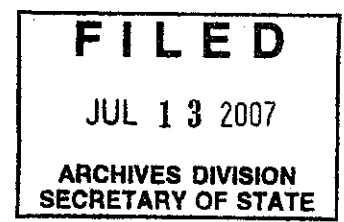
ORS Ch. 183, 756 & 757

Stat. Auth:

Other Authority

ORS 756.310, 756.320 & 756.350

Stats. Implemented:



RULE SUMMARY

This rulemaking implements HB 2053 which changes the calculation of the annual fees payable to the Public Utility Commission by electric companies. Currently regulated electric companies pay an annual fee to the Public Utility Commission based on a kWh charge; this rulemaking implements HB 2053 which changes the fee calculation to be revenue-based. The rulemaking also makes housekeeping rule reference changes to both 860-021-0033 and 860-021-0034.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

August 24, 2007, 5:00 p.m.
Last day for Public Comment
Last day to submit written comments to the Commission

Diane Davis

Signature

Diane Davis

Printed Name

7-13-07

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 p.m. on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, by an association with 10 or more members, within 21 days following publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Agency and Division

Administrative Rules Chapter Number

Public Utility Commission

860

In the Matter of Amending OARs 860-021-0033 and 860-021-0034 implementing HB 2053 and correcting references.

Rule Caption: In the Matter of Amending OARs 860-021-0033 and 860-021-0034 implementing HB 2053 and correcting references.

Statutory Authority: ORS Ch. 183, 756 & 757

Other Authority: HB 2053

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Need for the Rule(s): This rulemaking is needed to implement House Bill 2053, signed by Governor Kulongoski June 1, 2007, effective January 1, 2008. House Bill 2053 changes the calculation of the annual fees payable to the Public Utility Commission by regulated utility companies. In addition, the rulemaking makes housekeeping rule reference changes to OAR 860-021-0033 and 860-021-0034.

Documents Relied Upon, and where they are available:

Oregon Revised Statutes, Chapters 183, 756 and 757 are available online at <http://www.leg.state.or.us/ors/home.htm>

House Bill 2053 (enrolled) is available online at

<http://www.leg.state.or.us/07reg/measpdf/hb2000.dir/hb2053.en.pdf>

Fiscal and Economic Impact, including Statement of Cost of Compliance:

The revenue-based fees will be levied on the individual electric companies of PacifiCorp, Portland General Electric, and Idaho Power Company. These companies will then pass the fees through to their customers, including state agencies, units of local government, industries and other members of the public. Any units of state agencies, local governments, industries, small businesses, or other members of the public that pay electric utility bills to PacifiCorp, Portland General Electric, or Idaho Power Company will be impacted. It is not possible to estimate the impact on state agencies, units of local government, industries, small businesses or other members of the public because individual utility bills are confidential. There will be no additional costs of compliance for state agencies, units of local government, industries, small businesses or other members of the public since paying utility bills are already a cost of

doing business. There will be no increased reporting, recordkeeping, or administrative activities for state agencies, units of local government, industries, small businesses or other members of the public associated with this rule change. There is currently a kWh charge to electric companies; all this change would do is to make the fee revenue-based. There will be no increased need for equipment, supplies, labor, or administration for state agencies, units of local government, industries, small businesses or other members of the public because of this rule change. The overall economic impact for customers of PacifiCorp, Portland General Electric, and Idaho Power Company will be approximately \$1.3 million. The economic impact is the result of the passage of HB 2053, not the adoption of the rules implementing the law.

How were small businesses involved in the development of this rule?

This rulemaking is the result of legislative action. The public, including small businesses were able to participate in the legislative process.

Administrative Rule Advisory Committee consulted? No
If not, why?

This rulemaking is the result of legislative action.

Diane Davis
Authorized Signer

Diane Davis
Printed Name

7-13-07
Date

860-021-0033

Annual Fees Payable to the Commission by an Electric Company

~~(1) By September 1, 1998, the Commission must determine the following for each electric company:~~

~~(a) The gross revenue fees per kilowatt-hour delivered to retail electric customers paid by the electric company in 1997 relative to the gross revenue fees per kilowatt-hour paid by all electric companies; and~~

~~(b) The average gross revenue for each retail customer class designation, calculated using 1997 loads and revenues and expressed on a per kilowatt-hour basis.~~

~~(2) By February 1 of each year, each electric company must provide the Commission with the amount of kilowatt-hours delivered during the prior calendar year to each retail customer class designation.~~

~~(3) By March 1 of each year, the Commission must determine the average rate per kilowatt-hour to be charged each electric company. The determination must maintain the same approximate fee relationships established in section (1)(a) of this rule between each electric company. The average annual fee paid by each electric company must not exceed eighteen hundredths of one mill per kilowatt-hour applied to kilowatt-hours delivered to retail electric customers in the preceding calendar year.~~

~~(41) On statement forms prescribed by the Commission, each electric company must provide the requested information for the subject year.~~

~~(52) Each electric company must pay to the Commission an annual fee on gross operating revenues derived within Oregon at a rate determined by Commission orders entered on or after March 1 of each year. Each electric company must pay the annual fee on or before the date specified in a notice, which date must be at least 15 days after the mailing of the notice. For the purpose of this section, the gross operating revenues of an electric company do not include revenues from sales of power for resale to the extent that the revenues from those sales exceed an amount equal to 25 percent of the total revenues received by the electric company from sales of electricity to end users in the preceding calendar year.~~

~~(63) Each electric company must pay to the Commission:~~

~~(a) A minimum annual fee of \$10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based.~~

~~(b) A late statement fee in accordance with OAR ~~860-011-0080~~860-011-0110, if the Commission has not received the electric company's statement form, completed in compliance with section (41) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.~~

~~(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.~~

~~(d) A service fee in accordance with OAR ~~860-011-0080~~860-011-0110 for each payment returned for non-sufficient funds.~~

~~(e) All costs incurred by the Commission to collect a past-due annual fee from the electric company.~~

~~(74) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.~~

~~(85) For any year in which an electric company's statement form was due, the Commission may audit the electric company as the Commission deems necessary and practicable:~~

~~(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.~~

~~(b) If the Commission determines that the electric company has underreported its subject kilowatt hours delivered revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.~~

~~(c) If the Commission determines that the electric company has overpaid its annual fee, the Commission may, at its discretion, recompense the electric company with a refund or a credit against annual fees subsequently due.~~

~~(9) Rate filings made by an electric company pursuant to ORS 757.210 must allocate the company's total annual fees so that fees collected among different retail customer classes bear the same approximate relationship as the information developed by the Commission pursuant to section (1)(b) of this rule.~~

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 14-1998, f. & ef. 7-15-98 (Order No. 98-276); PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753); PUC 7-2005, f. & ef. 11-30-05 (Order No. 05-1229)

860-021-0034

Annual Fees Payable to the Commission by Gas Utility or Steam Heat Utility

(1) On statement forms prescribed by the Commission, each gas utility and steam heat utility must provide the requested information for the subject year.

(2) Each gas utility and steam heat utility must pay to the Commission an annual fee on gross operating revenues derived within Oregon at a rate determined by Commission orders entered on or after March 1 of each year.

(3) Each gas utility and steam heat utility must pay to the Commission:

(a) A minimum annual fee of \$10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the Oregon revenue during the prior calendar year.

(b) A late statement fee in accordance with OAR 860-011-~~00800110~~, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee in accordance with OAR 860-011-~~00800110~~ for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(4) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(5) For any year in which a gas utility or steam heat utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission may, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630); Hist.: PUC 14-1998, f. & ef. 7-15-98 (Order No. 98-276); PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)