

ITEM NO. CA4

**PUBLIC UTILITY COMMISSION OF OREGON
AHD REPORT
PUBLIC MEETING DATE: August 11, 2015**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ **N/A** _____

DATE: July 30, 2015

TO: Public Utility Commission

FROM: Diane Davis

THROUGH: Michael Grant, Lori Koho, and Kevin Hennessy

SUBJECT: OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE HEARINGS DIVISION: (Docket No. AR 589) Adopt permanent rule changes to OAR 860-031-0035, Civil Penalties.

AHD RECOMMENDATION:

Adopt the rule modifications as proposed.

DISCUSSION:

This rulemaking implements Senate Bill 286 changes to ORS 757.991, effective June 2, 2015, increasing the amount of maximum civil penalties for gas storage and pipeline safety violation to comport with the Federal standards, and allowing the PUC to directly assess and collect the penalties. No comments were filed in response to the Notice of Proposed Rulemaking.

PROPOSED COMMISSION MOTION:

Adopt the modifications to 860-031-0035 as set forth in Appendix A of the attached draft order.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 589

In the Matter of Rulemaking to Implement
2015 Senate Bill 286 – Gas Pipeline Safety
Violations Civil Penalties Changes.

ORDER

DISPOSITION: MODIFICATIONS TO RULE ADOPTED

I. INTRODUCTION

In this order, we adopt changes to OAR 860-031-0035 to implement 2015 Senate Bill 286 changes to ORS 757.991. The changes to ORS 757.991 became effective on June 2, 2015. The changes to rule resulting from SB 286 increase the amount of the maximum civil penalties for gas storage and pipeline safety violations to comport with the Federal standards, and allow the PUC to directly assess and collect any such penalty. The maximum civil penalty is increased from \$10,000 to \$200,000 per event per day and the maximum penalty for a series of failures is raised from \$500,000 to \$2,000,000.

II. PROCEDURAL HISTORY

On June 9, 2015, we filed a Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact for this rulemaking with the Secretary of State. On June 10, 2015, we provided notice to all interested persons on the service lists established under OAR 860-001-0030(1)(b) and to legislators specified in ORS 183.335(1)(d). Notice of the rulemaking was published in the July 2015 *Oregon Bulletin*. The notice established a comment due date of July 22, 2015. No comments were filed.

III. ORDER

IT IS ORDERED that:

1. The modifications to OAR 860-031-0035, as shown in Appendix A, are adopted.

2. The rule changes become effective upon filing with the Secretary of State.

Made, entered, and effective _____.

Susan K. Ackerman
Chair

John Savage
Commissioner

Stephen M. Bloom
Commissioner

A person may petition the Public Utility Commission of Oregon for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

860-031-0035
Civil Penalties

(1) Civil penalties for failure to comply with gas pipeline safety rules or regulations ~~shall be~~ based on the gravity of the violation, the extent of the operators' past violations, and other matters as justice may require.

(2) ~~NOTE: ORS 756.180 provides for the enjoining of a violation of the utility laws.~~ ORS 757.991 provides for penalties for failure to comply with gas pipeline safety rules or regulations of ~~\$10,000~~ 200,000 per day, to a maximum of ~~\$500,000~~ 2,000,000 for any related series of failures.

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

Stats. Implemented: ORS 756.040, & ~~ORS~~ 757.039, 756.991

Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685); PUC 1-1998, f. & cert. ef. 1-12-98; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 9-2001, f. & cert. ef. 3-21-01