

ITEM NO. CA13

PUBLIC UTILITY COMMISSION OF OREGON  
AHD REPORT  
PUBLIC MEETING DATE: November 12, 2014

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: November 6, 2014

TO: Public Utility Commission

FROM: Diane Davis

THROUGH: Michael Grant, Shani Pines, and Phil Boyle

SUBJECT: OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE HEARINGS DIVISION: (Docket No. AR 584) Adopt permanent rule changes to OAR 860-021-0135, 860-036-0135, and 860-037-0120.

**AHD RECOMMENDATION:**

Adopt the rule modifications as proposed.

**DISCUSSION:**

This rulemaking provides flexibility to the utilities by eliminating the requirement established in docket AR 579 to “back-bill” closed accounts for under-billed amounts. According to the subject utilities, these changes will reduce administrative burden and provide utilities discretion in the treatment of errors or incorrect information.

**PROPOSED COMMISSION MOTION:**

Adopt the modifications to 860-021-0135, 860-036-0135, and 860-037-0120 as set forth in Appendix A of the attached draft order.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 584

In the Matter of a Rulemaking to Amend  
Rules Regarding Adjustment of Utility  
Bills.

ORDER

DISPOSITION: MODIFICATIONS TO RULES ADOPTED

**I. INTRODUCTION**

In this order, we adopt changes to rules regarding adjustment of utility bills.

In a prior rulemaking, docket AR 579, we adopted rules mandating that certain utilities seek payment of all amounts under-billed for all accounts—including closed accounts. To reduce administrative burdens and reduce costs, we amend those rules to provide utilities the discretion to seek payment of under-billed amounts. This discretion would allow a utility to forego remedial actions when the costs of seeking payment exceed the actual amounts under-billed.

**II. PROCEDURAL HISTORY**

On September 15, 2014, we filed a Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact for this rulemaking with the Secretary of State. On September 17, 2014, 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 October 2014 *Oregon Bulletin*. The notice established a comment due date of October 22, 2014.

PacifiCorp, dba Pacific Power and the Citizens' Utility Board of Oregon filed comments supporting the proposed changes.

**III. ORDER**

IT IS ORDERED that:

1. The modifications to 860-021-0135, 860-036-0135 and 860-037-0120, as shown in Appendix A, are adopted.
2. The rule changes become effective upon filing with the Secretary of State.

Made, entered, and effective \_\_\_\_\_.

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**Susan K. Ackerman**  
Chair

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**John Savage**  
Commissioner

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**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.

**860-021-0135**

**Adjustment of Utility Bills**

(1) Except as provided in section (7) of this rule, when a large telecommunications utility has incorrectly billed a customer, the large telecommunications utility must take corrective action as follows:

(a) If the date of the error can be determined, the large telecommunications utility must issue a bill credit or refund for the over charge or a corrected bill for the under charge back to such date. If the date of the error cannot be determined, the large telecommunications utility must refund the over charge or rebill the under charge for no more than six months' usage.

(b) In no event may a large telecommunications utility issue a corrected bill or refund for more than three years of incorrectly billed charges.

(2) Except as provided in sections (6) and (7) of this rule, if an energy utility determines that a current or former customer of the energy utility was under-billed or over-billed for a service provided by the energy utility under rate schedules or tariffs in effect when the service was provided:

(a) The energy utility ~~must~~may issue a bill to collect amounts previously under-billed during the 12-month period ending on the date on which the customer or former customer was last under-billed. The energy utility may not bill for services provided more than two years before the date the energy utility discovered the under-billing.

(b) The energy utility must issue a refund or bill credit for amounts previously over-billed during the 12-month period ending on the date on which the customer or former customer was last over-billed. The energy utility is not required to issue a refund or bill credit for amounts over-billed more than three years before the date the energy utility discovered the over-billing.

(3) Notwithstanding subsections (1)(a) and (2)(a) of this rule, if the under-billing was the result of fraud, tampering, diversion, theft, misinformation, false identification, or other unlawful conduct on the part of the customer or former customer of the energy or large telecommunications utility, the utility may collect full payment for any amount owed without limitation.

(4) When a utility issues a bill to collect under-billed amounts, a current or former customer of an energy utility, or current customer of a telecommunications utility, may enter into a time-payment agreement as provided in OAR 860-021-0415. If the utility customer is already on a time-payment plan, the utility must offer to renegotiate the payment plan to include the under-billing error. If the customer and utility cannot agree upon payment terms, the Commission will establish terms and conditions to govern the customers' obligation. This section does not apply if the corrected billing is the result of the conditions listed in section (3) of this rule.

(5) When an energy or large telecommunications utility requires payment for amounts previously under-billed, the utility must provide a written notice that explains:

(a) The circumstance and time period of the under-billing;

(b) The corrected bill amount and the amount of the necessary adjustment,

(c) The Commission's consumer complaint process; and

(d) The right of current or former customers of an energy utility or current customers of a telecommunications utility to enter into a time-payment agreement with the utility.

(6) A billing adjustment is not required if an electric or gas meter registers less than a two percent error under conditions of normal operation.

(7) The energy or large telecommunications utility may waive rebilling or issuing a refund check when costs make such action uneconomical.

Stat. Auth.: ORS 183, ORS 756, ORS 757 & ORS 759

Stats. Implemented: ORS 756.040 & ORS 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0030; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 13-1997, f. & cert. ef. 11-12-97 (Order No. 97-434); PUC 11-1998, f. & cert. ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & cert. ef. 8-12-99 (Order No. 99-488); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488); PUC 5-2014, f. & cert. ef. 6-26-14 (Order No. 14-230)

### **860-036-0135**

#### **Adjustment of Bills**

(1) Except as provided in sections (4) and (5) of this rule, if a water utility determines that a current or former customer of the water utility was under-billed or over-billed for a service provided by the water utility under rate schedules or tariffs in effect when the service was provided:

(a) The water utility ~~must~~may issue a bill to collect amounts previously under-billed during the 12-month period ending on the date on which the customer or former customer was last under-billed. The water utility may not bill for services provided more than two years before the date the utility discovered the under-billing.

(b) The water utility must issue a refund or bill credit for amounts previously over-billed during the 12-month period ending on the date on which the customer or former customer was last over-billed. The water utility is not required to issue a refund or bill credit for amounts over-billed more than three years before the date the utility discovered the over-billing.

(c) Notwithstanding subsection (1)(a) of this rule, if the under-billing was the result of fraud, tampering, diversion, theft, misinformation, false identification, or other unlawful conduct on the part of the customer or former customer of the water utility, the water utility may collect full payment for any amount owed without limitation.

(2) When a water utility issues a bill to collect under-billed amounts, a current or former customer of a water utility may enter into a time-payment agreement as provided in OAR 860-036-0125. If the utility customer is already on a time-payment plan, the water utility must offer to renegotiate the payment plan to include the under-billing error. If the customer and water utility cannot agree upon payment terms, the Commission will establish terms and conditions to govern the customers' obligation. This section does not apply if the corrected billing is the result of the conditions listed in subsection (1)(c) of this rule.

(3) When a water utility requires payment for amounts previously under-billed, the utility must provide a written notice that explains:

- (a) The circumstance and time period of the under-billing;
  - (b) The corrected bill amount and the amount of the necessary adjustment,
  - (c) The Commission's consumer complaint process; and
  - (d) The right for a current or former customer to enter into a time-payment agreement with the utility.
- (4) A billing adjustment is not required if a water meter registers less than a two percent error under conditions of normal operation.
- (5) The water utility may waive rebilling or issuing a refund check when the costs make such action uneconomical.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.250

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97 (Order No. 97-434); PUC 15-1998, f. & cert. ef. 8-27-98 (Order No. 98-359); PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00 (Order No. 99-650); PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00 (Order No. 00-194); PUC 5-2014, f. & cert. ef. 6-26-14 (Order No. 14-230)

### **860-037-0120**

#### **Adjustment of Bills**

(1) Except as provided in sections (4) and (5) of this rule, if a wastewater utility determines that a current or former customer of the utility was under-billed or over-billed for a service provided by the wastewater utility under rate schedules or tariffs in effect when the service was provided:

(a) The wastewater utility ~~must~~may issue a bill to collect amounts previously under-billed during the 12-month period ending on the date on which the customer or former customer was last under-billed. The wastewater utility may not bill for services provided more than two years before the date the utility discovered the under-billing.

(b) The wastewater utility must issue a refund or bill credit for amounts previously over-billed during the 12-month period ending on the date on which the customer or former customer was last over-billed. The wastewater utility is not required to refund amounts which were received more than three years before the date the wastewater utility discovered the over-billing.

(c) Notwithstanding subsection (1)(a) of this rule, if the under-billing was the result of fraud, tampering, diversion, theft, misinformation, false identification, or other unlawful conduct on the part of the customer or former customer of the wastewater utility, the wastewater utility may collect full payment for any amount owed without limitation.

(2) When a wastewater utility issues a bill to collect under-billed amounts, a current or former customer of a wastewater utility may enter into a time-payment agreement as provided in OAR 860-037-0110. If the wastewater utility customer is already on a time-payment plan, the utility must offer to renegotiate the payment plan to include the under-billing error. If the customer and wastewater utility cannot agree upon payment terms, the Commission will

establish terms and conditions to govern the customers' obligation. This section does not apply if the corrected billing is the result of the conditions listed in subsection (1)(c).

(3) When a wastewater utility requires payment for amounts previously under-billed, the utility must provide a written notice that explains:

- (a) The circumstance and time period of the under-billing;
- (b) The corrected bill amount and the amount of the necessary adjustment,
- (c) The Commission's consumer complaint process; and
- (d) The right for a current or former customer to enter into a time-payment agreement with the wastewater utility.

(4) A billing adjustment is not required if a wastewater meter registers less than a two percent error under conditions of normal operation.

(5) The wastewater utility may waive rebilling or issuing a refund check when the costs make such action uneconomical.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.250

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00 (Order No. 99-650); PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00 (Order No. 00-194); PUC 5-2004, f. & cert. ef. 1-29-04 (Order No. 04-039); PUC 5-2014, f. & cert. ef. 6-26-14 (Order No. 14-230)