



# Oregon

Kate Brown, Governor

## Public Utility Commission

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April 6, 2016

### Notice of Rulemaking Workshop – AR 595

The Commission is holding another informal meeting with stakeholders to further address the revision and clarification of rules set forth in Division 036 governing water utilities. The second workshop will be held as follows:

**DATE:** April 27, 2016

**TIME:** 9:30 a.m.

**PLACE:** Public Utility Commission – Meadow Conference Room (2<sup>nd</sup> Floor)  
201 High Street SE  
Salem, OR 97301

I appreciate all the comments provided by those who participated in our first workshop. At that workshop, some stakeholders questioned whether we should adopt stand-alone rules to govern customer-utility issues, such as applications, deposits, termination of service, etc. Others expressed concern about whether amendments to the water rules would dictate changes to rules governing other utilities.

We have discussed those comments internally and have decided to continue our efforts to revise rules governing water utilities. Although having uniform rules to govern all customer-oriented rules for all utilities has merit (and would be greatly appreciated by the employees of the Consumer Services Section), we determined that the inherent differences among the energy, telecommunications, and water utilities frustrate this possibility. In addition to a unified set of rules common to all utilities, each utility type would still require its own separate set of rules to govern the unique aspects of each industry, which would ultimately create confusion as utilities and customers would be required to track two sets of rules.

Accordingly, we encourage representatives from the water utilities to participate in our workshops, and have sent this letter to all members of our water utility rulemaking mailing list. We also welcome the continued participation of those from the energy utilities, but emphasize that changes adopted in these rules will not dictate future changes to rules set forth in Division 021. The Commission will aim for uniformity when possible, so the changes adopted here may be used to help inform later rulemaking. As discussed, however, our goal is to adopt rules that consider and address any unique needs of each industry.

Our April 27 Workshop will be divided into two-parts. First, we will quickly review the specific concerns raised at the January 27 Workshop and our responses to them. To facilitate that discussion, I have attached two documents summarizing the comments and responses, as well as a new version

of the proposed rules with our changes in redline. Second, we will address the next 15 pages of the proposed rules, starting with OAR 860-036-1230: Surety Agreements.

Please let me know if you have any questions or are unable to attend the workshop but would like to be placed on the service list for future events.

*/s/ Michael Grant*

Michael Grant  
Chief Administrative Law Judge  
Public Utility Commission of Oregon  
503-378-6102

Attachments

Summary of PUC Responses to Stakeholder Comments

The table below summarizes the comments the PUC received at the January 27, 2016 workshop and the response to them. This table is meant for discussion purposes only.

Dec 24 Draft Rule Section	Stakeholder Comment	PUC Response
General comment	Make combined rules for energy and water utilities to cover common subjects, separate, smaller subset of industry-specific rules for each industry.	After consideration, we will continue with separate rules. Changes adopted here will help inform but not dictate changes to Division 021.
860-036-1010(4)	"Customer" is used before it is defined.	We moved the definition of "customer" to the general definitions section.
860-036-1100	Does this section apply to all classes of customers, or just residential?	We added language clarifying that section (3) concerning Customer Rights and Responsibilities applies only to residential customers. The rest of this section 1100 applies to all customers.
860-036-1100	It may be confusing to move definitions out of a single, first section.	The definitions of "applicant" and "customer" are now in the general definitions section. Overall, we moved definitions out of the general definitions section only where the defined term is used in just that section.
860-036-1100(1)(a) & (b)	Could "applicant" be a group of persons, such as roommates? Should the definition be changed to <i>person(s)</i> ? What about co-customers? Utilities' software contemplates co-customers.	Utilities can use their own definitions for their purposes; the language in the proposed rules does not preclude multiple applicants or customers
860-036-1100(1)(a)	"Person" suggests a natural person; definition should be revised to ensure this covers business applicants as well.	"Person" commonly used to define business, corporations, etc. For example, ORS 756.525(2) allows "any person" to intervene in PUC proceedings.
860-036-1100(1)(b)	Move 20-day grace period from the general definition of "customer" to just the few, specific provisions where this exception applies. Determine for each issue if this "exception" should apply.	Will consider when examining specific provisions.
860-036-1100(2)	Would utilities be required to offer a physical office location to receive customers?	We deleted the provision regarding a utility keeping tariffs etc. on file and open for public inspection.
860-036-1100(2)	In practice, utilities offer their own version of the customer rights and responsibilities brochure, not the Commission's version. To reflect this, add <i>or an approved copy</i> here.	We deleted this provision.
860-036-1100(3)	Modify rule to allow utilities to provide an electronic version (of their own brochure) on their website rather than mail out a paper copy.	We revised to read "or a Commission-approved version prepared by the utility" but still require utilities to provide customers a copy.
860-036-1100(4)	Strike <i>email</i> and replace it with <i>website address with contact information</i> . Utilities may not have a general email address and instead use phone or web portal.	We revised to read "email address or website."
860-036-1100(5)(a)	Many utilities do not use paper applications and just take applications over the phone. To reflect this practice, change to <i>all information needed to make an application</i> .	We removed this requirement from this section.
860-036-1100(5)(c)	How would the requirement to send customers information how to read meters apply to smart meters, which are difficult to read and require training?	We moved this provision to the water meters section at OAR 860-036-1350. We can revisit there and adjust the language as necessary.
860-036-1100(5)(d)	What specific "notices" are intended to be within the scope of this section? Clarify to read <i>electronic copies of all notices issued on the customer's account</i> .	See revised language.

Dec 24 Draft Rule Section	Stakeholder Comment	PUC Response
860-036-1120	In practice, explaining the option to designate a third party to receive notices is not part of utilities' script for the first application phone call. They wait for a trigger to bring it up to the customer. Customers have this information in the customer rights and responsibilities sheet.	We want this to be part of the initial script, at least for water utilities.
860-036-1120	What if customer only wants bills sent to a third party (not notices)? Change to <i>bills and/or notices</i> . What if customer wants duplicates of bills?	See revised language. We changed to bills and/or notices and further clarified this section.
860-036-1150	Add cross-reference to OAR 860-036-1510, which now contains provision for obligation to continue service/what is required to restore service.	We believe it is clear enough as drafted; also, the formal (and informal) complaint form indicates this.
860-036-1150(1)	Clarify or further define "dispute." What about an issue raised by a customer in an everyday conversation? What if a customer disputes a utility rule or process (rather than a bill or meter reading)? These requirements could be onerous in that context.	The rule says a dispute "regarding any charge or service." That is the definition of dispute. This is not intended to change current practice, i.e., require any new reports. "Investigation" could simply entail researching a rule and reporting it back to the customer.
860-036-1150(2)	Rather than require utility to provide all forms of contact information, just require they provide the form of contact information the customer requests. Onerous to spell out all this information over the telephone.	See revised language now requiring less information.
860-036-1150(4)(d)	Use business days instead of calendar days, that way no "lost" days because of holidays.	We considered this but concluded that business day was inherently confusing. We weighed the uncertainty of business day versus the certainty of calendar days and the occasional "lost" calendar day for a holiday and decided to use calendar days.
860-036-1160	Change subheading to make clear this pertains only during the dispute process. Change to <i>Continued or Restored Service During Dispute Resolution</i>	See revised language "Pending Informal or Formal Dispute."
860-036-1160(1)(a)	Add <i>failure to establish credit</i> to the list of terminations excluded from this section. What if utility denies service because it can't identify the person? Should the utility have to continue serving someone they cannot identify?	We removed this deliberately; our concern is someone could be disconnected for not paying a deposit while their dispute is having to pay a deposit in the first place. Consumer Services will work diligently to close the complaint quickly; utility will only be continuing service during the pendency of this dispute.
860-036-1160(1)(a)	What if someone is tampering but has not yet filed a complaint? Does utility have right to disconnect? This seems to apply only where customer is currently without power.	Where a utility believes there is tampering, this becomes a safety issue, and the utility can disconnect. If the customer disagrees, they can file a complaint with the PUC. The utility can also seek an order from the PUC authorizing disconnection.
860-036-1160(1)(d)	Change "complainant agrees to pay" to <i>must pay</i> .	See revised language "complainant pays all undisputed amounts."
860-036-1160(2)	Unless utilities know there is a complaint, they will not know to check with Consumer Services if these conditions are met. Consumer Services should contact utility when complaint is filed to alert utility it must consult with PUC staff before disconnecting. Rework to better match practice. <b>*Utilities indicted they will propose revision.</b>	There is no intent to change what is currently being done. In practice, when a complaint is filed, either formally or informally, there are discussions going on between the utility and Consumer Services.

Dec 24 Draft Rule Section	Stakeholder Comment	PUC Response
860-036-1200	Might be useful to differentiate between residential and nonresidential. (Throughout, there are a number of rules (deposits, establishing credit, etc.) where should specify “for nonresidential, utility will file provisions in its tariff.”) May not be a problem where utilities tariff nonresidential.	20-day grace period is intended just for residential customers. We do not want an established customer to have to go through the ID and credit screen again. We have added language to clarify limited scope.
860-036-1200(1)	Whether or not service in past 20 days, anyone should have to apply, especially since the info to apply is basic, just who you are and how to bill you, and it not reasonably burden (would probably just be matter if verifying info currently on file). Common to confirm, every time a customer calls, the info the utility has on file.	It could be discrimination to make an established “customer” (within 20 day window) give ID again etc. Can you ask an established customer to do same steps as new applicant?
860-036-1200(2)	Is intent is to put a two business day timeline on the energy utilities? Leave the language just stating an application is a “request for service.”	We think a two business day turnaround is reasonable for all utilities. To the concern that it may take longer to verify credit—if applicant has not provided all information required by the rules then it’s not a complete application and the time clock has not started. (Note we moved this provision to the end of the section.)
860-036-1200(2)	OAR 860-036-1270 does not include ID as a reason for refusal, but this rule states it is required. Need to resolve this conflict.	We will revise section 1270 to include fails to provide ID or other required info under 1200.
860-036-1200(3)(d)	A business applicant would not have a name or birthday.	We clarified this applies only to residential applicants.
860-036-1200(3)(f)	Why changed to “government-issued”? Current rule is state or federal.	We deliberately include non-U.S. identification. We note this is not the sole requirement. If the utility questions whether it is a valid ID, they can deny service and the customer can come to us with a complaint.
860-036-1200(4)	Consider adding a cross-reference to OAR 860-036-1270.	Added.
860-036-1200(5)	What if customer disagrees with how utility is securing personal info? What if customer does not like utilities’ firewall? (Sec. 21 says “upon request utility will do this.”) Seems to apply each time a customer accesses their account. What about spouses who separate and one calls and represents they are someone who they are not? Maybe change to, upon request, <i>customer will be allowed to secure their account with a password.</i>	We are going to rely on other requirements imposed by non-PUC laws governing personal information, so we are taking this provision out of our rules.
860-036-1210	Provisions of Division 21 are preferable.	We think either of these showing is sufficient for establishing credit. We are not going to put back in provision about 3rd party credit reports. We can revisit this issue at another date. This gives utilities more leeway than the current rule. Only real change we made was to get rid of the 3rd party credit score - which we understand are not currently being used by the utilities.
860-036-1210(1)(a)	What does “timely paid” for all service rendered mean?	We think this is clear enough from the language; timely paid means by the due date.
860-036-1210(1)	Restore the ability to use 3rd party credit report or utility formula that is Commission approved.	We considered this proposal and decided not to include this option.

Dec 24 Draft Rule Section	Stakeholder Comment	PUC Response
860-036-1210(1)	What if you have a customer with questionable credit history at one location requesting service at another? Would that person fall under the 20-day customer exception and not be an applicant for this section?	See revised language. We clarified to qualify the customer must be a prior/former residential customer requesting new service and the old service was voluntarily disconnected.
860-036-1210(1)(b)	Providing a regular source of income is not a strong standalone. Just because someone has a job does not mean they are going to pay their bill. In practice, collecting deposits makes a big difference. <b>*Utilities indicated they will propose language.</b>	We considered further language here. We took out detail but actually in doing so we gave the utilities more flexibility in determining; the old rules provide specificity about how they establish; here we just say they can use these general means. We have decided against including third party credit scores. We will consider any utility-proposed language.
860-036-1220(1)	Is section (1) is superfluous? Move out second sentence of (1) that talks about deposit. Move others up. New (3) is the second sentence of (1).	To be clear, this section 1220 deals with two different types of deposits. Section (2) applies to deposits imposed prior to service. Section (3) applies to when a deposit may be required after service is initiated.
860-036-1220(2)	Clarify the deposit may be required <i>prior to service being provided</i>	See revised language.
860-036-1220(2)	Change to <i>from an applicant</i> instead of “at the time of filing an application”	See revised language “require an applicant to pay.”
860-036-1220(2)(c)(B)	Should “timely pay” be defined? What is timely? Past the due date? Change to <i>didn’t pay by the due date</i>	See revised language “by the due date.”
860-036-1220(3)	Utilities should receive deposit before service. Need something to capture that initiation of service is conditioned upon receipt of deposit payment. <b>*Utilities indicated they will propose language.</b>	“After service is initiated” just means this section applies to customers (not applicants). It allows utility to require an existing customer to pay a deposit if utility finds out customer did something warranting this. (Section (2) applies to applicants and requires deposit before starting service to an applicant.)
860-036-1220(3)	Does current Division 21 have a time frame for payment of deposits (like the seven calendar days in this Division 36 provision)?	No. We added the seven-day time frame when revising Division 36, deciding it was needed. To be clear, this provision applies as a corrective action, where it turns out the customer should have paid a deposit to begin with (or did something to warrant one now).
860-036-1220(4)	As written, only adjust the deposit amount where anticipated bill at new residence is 20% greater than basis of existing deposit—but most of the time deposit at new residence is based on prior resident’s usage. What if prior owner’s usage was abnormal? In practice, unless a customer calls and asks to change, utilities don’t change the amount. Note utility can only give an inquiring applicant the history of highs/lows for the residence.	We leave the provision as drafted. We note this is discretionary (“utility <i>may</i> adjust the deposit amount”) and only applies when a residential customer moves to a different location. Also, this is part of the exception for current customers, that is, the 20-day rule.
860-036-1220(5)	Must the utilities provide a separate written document with all of this information? Could it just be a message on bill? To have to follow up with a receipt and this information is burdensome. What is the value? Structure differently or eliminate this provision.	Our concern is that customers know that they get their deposit back plus interest. Utilities say they tell customers this when they require deposit, that it is stated in the Customer Rights and Responsibilities brochure, and they would inform a customer who asked. This is important information and can (as drafted) simply be on the bill; it does not require a separate notice.

Dec 24 Draft Rule Section	Stakeholder Comment	PUC Response
860-036-1510(3)(c)	(To be discussed at next workshop.)	Note: We deleted the requirement to include translations of the disconnection document and the web link to PUC forms, as we do not currently have translations and we have not had any requests for these languages.

DIVISION 36

WATER UTILITIES

General

**860-036-1000**

**Scope and Applicability of Rules**

(1) The rules contained in Division 036 are applicable to water utilities providing water service in the State of Oregon.

(2) All water utilities must comply with applicable Commission rules, regulations, statutes, and orders, including those related to the filing of applications and petitions.

(3) Upon request or its own motion, the Commission may waive any of the Division 036 rules for good cause shown. A request for waiver must be made in writing and filed with the Commission's filing center.

(4) The rules contained in Division 036 do not restrict the authority of the Commission to require repairs or service improvements incorporating standards other than those set forth in this division when, after investigation, the Commission determines they are necessary.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.075, 756.515, 757.020, 757.035, 757.310-757.330

Hist.: NEW

**860-036-1010**

**Definitions**

As used in Division 036:

(1) "Applicant" means a person who does not meet the definition of a customer, who applies for service with a water utility.

(2) "Customer" means a person who has applied for, been accepted, and is currently receiving service. A residential customer who voluntarily disconnects service and subsequently asks for service with the same water utility at a new or existing location within 20 calendar days after disconnection retains customer status.

Comment [A1]: Limited to residential

(3) "Formal complaint" means a written complaint filed with the Commission's Administrative Hearings Division.

(4) "Informal complaint" means a complaint registered with the Consumer Services Section, which is not the subject of a formal complaint.

(5) "Rate-regulated water utility" means a water utility that is subject to regulation of its rates and service under ORS 757.061.

(6) "Residential service" means a type of service provided by the water utility for general domestic use. ~~where the customer primarily uses the water for domestic purposes.~~



(75) "Served" for purpose of delivery of any required notice or document, unless otherwise specifically noted, means: delivered in person, by personal contact over the telephone, or in writing delivered to the party's last known address. If delivered by US Mail, the notice is considered served two calendar days after the date postmarked, the date of postage metering, or deposit in the US Mail, excluding Sundays and postal holidays.

(86) "Service-regulated water utility" means a water utility that is subject to regulation of its service under ORS 757.061.

(97) "Statement of rates" means a list of water service rate schedules and charges, including the terms and conditions for each service, for water utilities that are not rate regulated.

(108) "Tariff" means a rate-regulated water utility's published rates and charges, terms and conditions for each type of service, and rules and regulations.

(119) "Water system" means all assets, equipment, and infrastructure necessary in the provision of water service to customers.

(129) "Water utility" means a water system that is subject to Commission regulation as provided under ORS 757.005 and ORS 757.061. "Water utility" may include an association that provides water to its members if the association also serves the public or becomes regulated under ORS 757.063 and OAR 860-036-1930.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.061

Hist.: NEW

## PUC Annual Fees

### 860-036-1050

#### Annual Fees Payable to the Commission by a Water Utility

(1) Subject to the provisions of this rule, each calendar year all water utilities under some form of Commission regulation must:

(a) Pay an annual revenue fee to the Commission as authorized in ORS 756.310; and

(b) Provide all information required in the Commission's approved annual fee statement form available on the Commission's website at [www.puc.state.or.us/Pages/water/indexII.aspx](http://www.puc.state.or.us/Pages/water/indexII.aspx).

(2) A fee payment may be made by cash, money order, bank draft, sight draft, cashier's check, certified check, 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.

(3) In addition to the annual fee payable under section (1) of this rule, the Commission may impose the additional fees and penalties as authorized by ORS 756.350 and OAR 860-001-0050.

(4) For any year in which a water utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and

practicable. The audit must begin no later than three years after the statement form's due date. If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty for failure to pay under ORS 756.350. 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 charges subsequently due.

Stat. Auth.: ORS 183, 756  
Stats. Implemented: ORS 756.310, 756.320, 756.350  
Hist.: NEW

#### **860-036-1060**

##### **Estimated Annual Fees Payable to the Commission by a Water Utility**

(1) For any year in which a water utility fails to file a completed annual statement form as required under OAR 860-036-1050(1), the Commission may determine a proposed annual fee based upon any information available to the Commission. The Commission will provide written notice of the proposed annual fee to the water utility. The notice must:

- (a) Include a penalty for failure to pay as required by ORS 756.350;
- (b) Include a late statement fee in accordance with OAR 860-001-0050;
- (c) Be made no later than three years after the statement form's due date;

and

(d) Include a statement that the water utility may request a hearing on the proposed annual fee within 30 calendar days of the notice.

(2) If the water utility has not filed a petition by the end of the 30-calendar day period, the proposed annual fee is due and payable.

Stat. Auth.: ORS 183, 192, 756, 757  
Stats. Implemented: ORS 756.040, 756.310, 756.320, 756.350  
Hist.: NEW

### **Communications with Applicants and Customers**

#### **860-036-1100**

##### **Information for Applicants and Customers**

~~(1) As used in OAR 860-036-1100 through 860-036-1720:~~

~~(a) "Applicant" means a person who does not meet the definition of a customer, who applies for service with a water utility.~~

~~(b) "Customer" means a person who has applied for, been accepted, and is currently receiving service. A customer who voluntarily disconnects service and subsequently asks for service with the same water utility at a new or existing location within 20 calendar days after disconnection retains customer status.~~

~~(2) A water utility must keep on file and open for public inspection at its offices copies of its approved tariffs or statement of rates, service applications, contract forms, the utility's rules and regulations, the Commission's Customer~~

~~Rights and Responsibilities summary, and the Administrative Rules governing water service (OAR Chapter 860, Division 036).~~

~~(3) When service is initiated and not less than once a year thereafter, a water utility must provide its residential customers with a copy of the Customer Rights and Responsibilities summary, or a Commission-approved version prepared by the utility, available on the Commission's website at~~

~~<http://www.puc.state.or.us/consumer/>~~

~~Customer%20Rights%20and%20Responsibilities.pdf. A copy of the Customer Rights and Responsibilities summary must be posted in a conspicuous place in the water utility's business office. Upon request, the Commission will provide a translation of the Commission's Customer Rights and Responsibilities summary in Spanish, Vietnamese, Cambodian, Laotian, or Russian.~~

~~(24) All required notices and filings must include the water utility's legal name, name of the water system, mailing address, location address if different, telephone number, emergency telephone number, and email address or and website address if available.~~

~~(35) Upon request by an applicant or customer, a water utility must provide:~~

~~(a) any of the following:~~

~~(a) An application for service and all information necessary to secure service;~~

~~(b) A copy of its approved tariffs or statement of rates;~~

~~(b) A copy of the utility's rules and regulations applicable to the type of service being provided; and~~

~~(c) The option to receive information about how to read meters (if the water utility is providing metered service); and~~

~~(d) Electronic copies of all written notices to be issued on the customer's account required in under these rules in addition to any other required form of notice.~~

Comment [A2]: Moved to water meters section at OAR 860-036-1350.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

## 860-036-1110

### Water Utility Emergency and Nonemergency Response Requirements

(1) Each water utility must maintain a business location and a telephone number at which it may be contacted directly during its regular business hours. A water utility must respond to nonemergency inquiries, complaints, and service problems within one business day.

(2) A water utility must provide a means by which it may be contacted at any hour regarding a water failure or emergency. A water utility must respond to the caller within one hour of the time of the call or message and promptly take appropriate action to resolve the failure or emergency. If extenuating circumstances exist that prevent the water utility from responding to the caller within one hour, the Commission may require the water utility to justify the delay.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1120**

**Designation of Third Party to Receive Copies of Bills and Notices**

A water utility must offer applicants and customers the option to designate a third party to receive copies of bills, and notices, or both set forth in these rules. When a water utility receives such designation, it must send duplicate copies of bills and or notices required under these rules to the customer's representative. ~~with duplicate copies of disconnect notices also served on the customer according to the delivery of disconnection notice rule in OAR 860-036-1520. Give customer option of receiving duplicate copies?~~

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**Informal and Formal Complaints**

**860-036-1150**

**Dispute Resolution**

- (1) When a dispute occurs between an applicant or a customer and a water utility regarding any charge or service, the water utility must:
- (a) Thoroughly investigate the matter;
  - (b) Promptly report the results of its investigation to the complainant;
  - (c) Inform the complainant of the right to have a water utility supervisor review any dispute;
  - (d) Prepare a written record of the dispute including the name and address of the complainant involved, the date the complaint was received, the issues in dispute, a summary of the water utility's efforts to resolve the dispute, and the disposition of the matter; and
  - (e) Retain records of the dispute for at least 36 months after the investigation is closed.
- (2) If the water utility and the complainant cannot resolve the dispute, the water utility must inform the complainant of the right to contact the Consumer Services Section and request assistance in resolving the dispute. The water utility must provide the following the complainant contact information about how to contact for the Consumer Services Section.:
- (a) Telephone: ~~503-378-6600; 1-800-522-2404; TTY 711;~~
  - (b) Mailing address: ~~Public Utility Commission of Oregon, Consumer Services Section, PO Box 1088, Salem, OR 97308-1088;~~
  - (c) Physical address: ~~Public Utility Commission of Oregon, 201 High Street SE, Suite 100, Salem, Oregon, 97301;~~
  - (d) Electronic mail address: ~~puc.consumer@state.or.us; and~~

(e) Website:

<http://puc.state.or.us/consumer/customer%20complaint%20process.pdf>

(3) The Consumer Services Section will investigate any dispute upon request to determine whether it can be resolved as an informal complaint.

(4) If the Consumer Services Section cannot resolve the dispute, the complainant may file a formal written complaint with the Commission under ORS 756.500. The formal complaint must be submitted on an approved form available from the Consumer Services Section.

(a) The complaint must be filed electronically with the Filing Center at PUC.FilingCenter@state.or.us.

(b) If the complainant does not have access to electronic mail,

(A) The complaint may be mailed, faxed, or delivered to the Filing Center at the address set out in OAR 860-001-0140; and

(B) The complaint must include a request for waiver of electronic service and filing requirements. This request is included on the form available from the Consumer Services Section.

(c) The Commission will serve the complaint on the water utility. The Commission may electronically serve the water utility with the complaint if the electronic mail address is verified prior to service of the complaint and the delivery receipt is maintained in the official file.

(d) The water utility must answer the complaint within 15 calendar days of service of the complaint by the Commission. The water utility must serve a copy of its answer on the complainant.

(A) If the water utility files a motion to dismiss, the complainant may file a response within 15 calendar days of the motion. If the complainant responds, the complainant must file the response with the Filing Center and send a copy to the utility. The Commission may make a decision on the formal complaint based on the information in the complaint, the utility's response and motion to dismiss, and the complainant's response to the utility's motion; or

(B) The Commission may set a procedural schedule for the complaint proceedings, including, but not limited to, scheduling dates for receiving additional information from the parties, telephone conferences, or a hearing. A hearing may be held on less than 10 calendar days' notice when good cause is shown.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.500

Hist.: NEW

**860-03604-1160**

**Continued or Restored Service Pending Informal or Formal Dispute**

(1) A complainant with an informal or formal complaint is entitled to continued or restored service if:

(a) If disconnection of service is or was based on grounds other than Service was not terminated for tampering with water utility property, stealing, diverting, or engaging in unauthorized use of water;

**Comment [A3]:** Revise to include proposed disconnection

(b) A bona fide dispute exists in which the facts asserted entitle the complainant to service;

(c) The complainant diligently pursues dispute resolution under the Commission's rules; and

(d) The complainant agrees to pay all undisputed amounts for water service pending resolution of the dispute.

(2) In determining whether the conditions in section (1) are met for a complainant with an informal complaint, the water utility must consult with the Consumer Services Section.

(3) A complainant with a formal complaint may request a hearing to determine entitlement to continued or restored service. Unless extraordinary circumstances exist, the Commission will conduct the hearing by telephone within 3 business days. Notice of the hearing will be provided to the complainant and the water utility at least 12 hours before the date and time of the hearing.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.500

Hist.: NEW

### Request for Service

#### 860-036-1200

#### Applications for Water Utility Service

~~(1) An applicant must submit a separate application for each property to be served. An application for service must be filed when:~~

~~(a) Service is requested by an applicant who has not previously received service by the water utility; or~~

~~(b) The applicant was a prior customer of the water utility and:~~

~~(A) Service was involuntarily disconnected under these rules; or~~

~~(B) Service was voluntarily disconnected and the applicant failed to request service within 20 calendar days of the disconnection.~~

~~(2) Once an applicant has submitted all information required by these rules, a water utility must either accept or refuse an application process an application within two business days of its receipt. The water utility may refuse service for cause under OAR 860-036-1270.~~

~~(3) A water utility may require an applicant to provide the following information when applying for service:~~

~~(a) The applicant's name, service address, and billing address;~~

~~(b) The contact information where the applicant can be reached;~~

~~(c) The type of water service requested and its intended use;~~

~~(d) The names and birth dates of all persons responsible for payment on the account;~~

~~(e) The name to be used to identify the account, if different than the actual name; and~~

~~(f) If the account is for residential service:~~

~~(A) The names and birth dates of all persons responsible for payment on the account; and~~

(B) For each person responsible for payment on the account, two forms of government-issued photo identification, or one U.S. government-issued photo identification and one of the following:

(iA) A valid social security number;

(iiB) A current photo identification from a school or employer and the name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or

(iiiC) Other information deemed sufficient by the water utility to establish an applicant's identification.

(2) Once an applicant has submitted all information required by these rules, a water utility must either accept or refuse an application within two business days of its receipt. The water utility may also refuse service for cause under OAR 860-036-1270.

(34) If an applicant is denied service for failure to provide an acceptable form of identification, the applicant may pursue dispute resolution under the Commission's rules.

~~(5) The water utility must protect customer account information from access by others through means acceptable to both the water utility and the customer.~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

#### **860-036-1210**

##### **Establishing Credit for Residential Service**

(1) Except as provided by section (3), aA water utility may require an applicant to establish satisfactory credit for new residential service by showing one of the following:

(a) The applicant received 12 months of continuous water service during the preceding 24 months, and the water utility can verify that the applicant voluntarily terminated service and timely paid for all services rendered; or

(b) The applicant provides proof of a regular source of income.

(2) If an applicant is unable to establish satisfactory credit, a water utility may ~~assess-require~~ a deposit under OAR 860-036-1220(2) or allow a written surety agreement under OAR 860-036-1230.

(3) A water utility may not require a prior residential customer to establish satisfactory credit for new residential service if:

(Aa) Service was voluntarily disconnected under these rules; and

(Bb) The former customer requests new service within 20 calendar days of the disconnection.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

## Deposits and Surety Agreements

### 860-036-1220

#### Deposits for Residential Service

(1) Under conditions set forth below, a water utility may require an applicant or customer to pay a deposit as a guarantee of payment for services provided. Amounts held by a water utility may not exceed one-sixth of the actual or estimated annual billing for the premises.

(2) A water utility may require an applicant to pay, prior to service being provided, a deposit at the time of filing an application if:

(a) The applicant is unable to establish credit under OAR 860-036-1210;

(b) The applicant was previously disconnected by the water utility for tampering with water utility facilities, theft of service, or unauthorized use of water under OAR 860-036-1590; or

(c) The applicant was a prior customer of the water utility during the last 24 months and either:

(A) Was disconnected for nonpayment; or

(B) Failed to timely pay the account final bill by the due date.

(3) After service is initiated, water utility may require a customer to pay a deposit, from a customer to be paid in full within seven calendar days, if:

(a) The customer provided false information to establish credit; or

(b) The customer tampered with water utility facilities or engaged in theft of service or unauthorized use of water under OAR 860-036-1590.

(4) The water utility may adjust the deposit amount when a customer moves to a new location within the water utility's service area, and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the existing deposit.

(5) When the customer pays the deposit in full, the water utility must provide the customer with a written document showing the date, the service address, the amount of deposit, the customer's payment made in full, the interest rate to be applied to the deposit, and an explanation of the conditions under which the deposit will be refunded.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

### 860-036-1230

#### Surety Agreements

(1) The water utility must notify an applicant or customer of the opportunity to provide a written surety agreement in lieu of paying a deposit. A surety agreement obligates another customer in good standing with the same water utility to pay an amount up to the deposit for services provided if the account is terminated.

(2) The surety agreement obligation automatically terminates when:



(a) The customer meets the requirements for the refund of a deposit under OAR 860-036-1260(2); or

(b) The customer providing the surety agreement no longer meets the requirements for credit under OAR 860-036-1210.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

#### **860-036-1240**

##### **Deposit Payment Arrangements for Residential Service**

(1) A water utility must allow a deposit to be paid in three installments unless the deposit:

(a) Is required to restore service that was disconnected for failure to pay a deposit; or

(b) Was assessed under OAR 860-036-1220(3).

(2) Under a deposit installment agreement, the first installment is due immediately; the remaining installments are due 30 calendar days and 60 calendar days after the first payment.

(3) For each deposit installment agreement, the water utility must provide a written agreement that specifies the amount and date each installment payment is due. The agreement must also include a statement, printed in bold-face type, that water service will be disconnected if an installment payment is not paid.

(4) A customer's failure to abide by the terms of a deposit installment agreement is grounds for disconnection under OAR 860-036-1500.

(5) If a water utility adjusts the deposit amount under OAR 860-036-1220(4), the water utility must adjust the remaining payments to include the additional amounts required.

(6) When a payment is made for both water service and a deposit installment, the payment must be applied first to the deposit installment due.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

#### **860-036-1250**

##### **Interest on Deposits for Residential and Nonresidential Service by Rate-Regulated Utilities**

(1) Rate-regulated water utilities must pay interest on all customer deposits. Each year the Commission will notify all rate-regulated water utilities of the required interest rate to be applied to deposits held during January 1 through December 31 of the subsequent year.

(2) If the deposit is held beyond one year, accrued interest must be paid by a credit to the customer's account. If held less than one year, interest must be prorated.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1260**

**Refund of Deposits**

- (1) A water utility must refund all deposits and accrued interest once credit is established, reestablished, or when service is terminated. The water utility must issue a credit to the customer's account or mail the refund to the customer's last known address unless otherwise specified. Customer refunds must first be applied to any unpaid balance on the customer's account.
- (2) For purposes of this rule, credit is considered established or reestablished one year after the deposit is paid in full if:
  - (a) The account is current;
  - (b) Not more than two 7-calendar day disconnection notices were issued to the customer during the previous 12 months; and
  - (c) The customer was not disconnected for nonpayment during the previous 12 months.
- (3) Deposits plus accrued interest may be refunded or credited, in whole or in part, to the customer's account at any time earlier than prescribed in this rule, provided the water utility's procedures are nondiscriminatory.
- (4) The water utility must honor valid claims for payment of refunds if received within one year of the date service is terminated. Funds held beyond one year after the date service is terminated will be disposed of in accordance with ORS 98.316.
- (5) Accrued interest must be paid in accordance with OAR 860-036-1250. A water utility must keep a detailed record of each deposit received until the deposit is credited or refunded.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 98.316, 756.040  
Hist.: NEW

**Refusal of Service**

**860-036-1270**

**Refusal of Water Utility Service**

- (1) A water utility must refuse to provide service if:
  - (a) The applicant's facilities do not comply with the codes, rules, or regulations of the appropriate governing authorities or the best practices governing safe and adequate water service, or with the reasonable rules and regulations of the water utility;
  - (b) The water utility does not have adequate facilities, resources, or capacity to provide the requested service without impairing service to other customers; or
  - (c) The water utility is prohibited by law from providing the service.

(2) If a water utility refuses to provide service under section (1), the water utility must provide the applicant with written notice of the refusal within seven calendar days of the request for service. The notice must:

- (a) Provide the information required by OAR 860-036-1100(4);
- (b) Explain the specific reasons for refusing water service;
- (c) Inform the applicant of the right to request details upon which the water utility's decision was based; and
- (d) Inform the applicant of the right to dispute the refusal by contacting the Consumer Services Section at the contact information provided in OAR 860-036-1150.

(3) Except as provided in section (4) of this rule, a water utility may refuse to provide service until it receives full payment for any unpaid amounts and applicable charges related to a prior account if:

- (a) The applicant was a prior customer and has amounts owing under a tariff or statement of rates; or
- (b) The applicant for residential service has a roommate with amounts owing under a tariff or statement of rates, and the applicant lived with the roommate at the time the amounts owing were incurred.

(4) If the applicant was a prior customer with amounts owing and was involuntarily terminated for non-payment and applies for service within 20 calendar days of the termination, the water utility must provide service upon receipt of one-half of the amount owed with the remainder due within 30 calendar days.

(a) If the remaining amounts are not paid within 30 calendar days, the utility may disconnect service after issuing a 7-calendar day disconnect notice in accordance with OAR 860-036-1510(4).

(b) If service is disconnected, the utility may refuse to restore service until it receives full payment of all amounts owing.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.035, 757.225

Hist.: NEW

## Service

### 860-036-1300

#### Water Service Connection

(1) A water service connection is defined as the facilities used to connect a water utility's distribution network to the point of connection at the customer's service line. The water utility owns and maintains the water service connection.

(2) A customer's service line is defined as the facilities used to convey water from the point of connection to the customer's point of usage. The customer owns and maintains the customer service line.

(3) If authorized by its tariff or statement of rates, a water utility may recover the actual cost of the service connection from the customer.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1310**

**Main Line Extensions**

(1) A main line extension is defined as the extension of a water utility's main line necessary to provide service to a customer when the property does not currently have main-line frontage.

(2) A water utility may charge a reasonable non-discriminatory main line extension charge if the charge and policy are stated in the water utility's tariff or statement of rates.

(3) A water utility must have a main line extension policy that:

- (a) Lists all applicable charges;
- (b) Describes the advance and refund provisions, including a description of the mechanisms for collecting and rebating the amount charged equitably among the customers who paid for the cost of the line; and
- (c) Provides the time period during which the advance and rebate provisions apply.

(4) Upon request, the water utility must provide a written breakdown of its main line extension costs and the allocation of those costs to the customer.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1320**

**Temporary Service**

A water utility may provide temporary service to a customer and charge all costs of installing and removing the temporary service, in excess of any salvage realized, if the costs are stated in the water utility's tariff or statement of rates.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1330**

**Restrictions on Entering a Customer Residence**

A water utility employee or representative may not enter the residence of a customer without proper authorization except during an emergency endangering life or property.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

## Water Meters

**Comment [A4]:** Add language "Upon request by an applicant or customer, a water utility must provide information about how to read meters (if the water utility is providing metered service)." Will need to consider how this would apply to smart meters, which are complicated to read and require some training or detailed instruction.

### 860-036-1350

#### Use of Water Meters

(1) The water utility must provide and install at its expense any water meter used to calculate a customer's bill, unless the water utility's tariff or statement of rates allows the recovery of the cost, including installation, from the customer. No rental charge may be assessed for a meter used to calculate a customer's bill.

(2) All meters must be tested before installation or within 30 calendar days thereafter. Meters must be accurate to no more than two percent fast or slow under normal operating conditions. The water utility must prepare a test record and retain the current and immediately prior test records for all meters tested.

The test record must include:

- (a) Meter identification number and location;
- (b) The reason for the test;
- (c) The testing method;
- (d) The beginning and ending meter readings;
- (e) The test results and conclusion; and
- (f) All data taken at the time of the test.

(3) Upon request by a customer, a water utility must provide information about how to read the water meter.

(4) Meters registering in excess of the two percent standard must be repaired or replaced within 30 calendar days after discovery. Pending repair or replacement of the meter, the water utility must adjust the customer's bill to compensate for any identified inaccuracy.

(5) All meters must be in good working condition, adequate in size and design, and display the units of service measured.

(6) If the Commission determines that a water utility has not complied with section (1) and a customer refund is appropriate, the water utility must credit the customer at least one half of the monthly bill until the refund has been paid, provided the refund payments do not run for more than 36 months from the date the refund began.

(7) A water utility may assess the customer the actual cost incurred for any meter relocation that is requested by the customer for the customer's convenience.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.250

Hist.: NEW

### 860-036-1360

#### Customer Requested Meter Tests

(1) A customer may ask the water utility to test the water meter once every 12 months at no cost. The water utility must test the water meter within seven calendar days of the request unless conditions are such that the meter is not accessible.

(2) A customer or a designated representative has the right to be present at any on-site meter test. The test must be conducted at a mutually acceptable time.

(3) Within seven calendar days of performing the requested meter test, the water utility must provide a meter test report to the customer. A sample report form is available at [www.puc.state.or.us/Pages/water/forms\\_notices/water\\_notices.aspx](http://www.puc.state.or.us/Pages/water/forms_notices/water_notices.aspx). The report must include:

- (a) The information required by OAR 860-036-1100(4);
- (b) The name of the customer requesting the test and the service address where the meter was tested;
- (c) The date the meter test was requested and the date the meter test was performed;
- (d) The name of the person performing the test;
- (e) The meter identification number and location;
- (f) The beginning and ending meter readings; and
- (g) The actual test results and conclusion.

(4) If a customer requests more than one meter test within any 12-month period and the test results indicate that the meter is registering within the two percent performance standard, the customer may be assessed a reasonable charge for the test if the charge is included in a water utility's tariff or statement of rates. If the meter registers outside the two percent performance standard, the water utility may not charge the customer for the meter test.

Stat. Auth.: ORS 183, 756 & 757  
Stats. Implemented: ORS 756.040  
Hist.:NEW

#### **860-036-1370 Meter Readings**

(1) A water utility must read meters that are used to calculate a customer's bill on monthly intervals and as near as possible on the same corresponding day of each month unless otherwise indicated in its tariff or statement of rates.

(2) Upon customer request, a water utility manually reading meters must leave the meter reading information at the customer's premise at the time of the meter reading. The information must contain the date and time of the meter reading and the meter reading data.

(3) A customer must provide the water utility with regular access to the meter on the customer's property. Failure to permit reasonable access is grounds for disconnection under OAR 860-036-1500.

(4) When access to a meter is difficult due to the meter's location or other circumstances, the water utility may seek the customer's cooperation in obtaining meter readings.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.250  
Hist.: NEW

### Billings & Payments

#### 860-036-1400

##### Customer Billings

(1) A water utility must provide its customers with timely billings every month or as indicated in its tariffs or statement of rates.

(2) A water utility must prepare bills, including opening and closing bills, from actual meter readings. A water utility may prepare bills using estimated consumption only when conditions prevent an actual meter reading. If billings are based on estimated readings, the water utility must clearly note the estimated consumption on the bill and must verify the actual meter reading at least once every four months and adjust the customer's bill as needed.

(3) Customer bills must include the information required by OAR 860-036-1100(4). A sample bill form is available at [www.puc.state.or.us/Pages/water/forms\\_notices/water\\_notices.aspx](http://www.puc.state.or.us/Pages/water/forms_notices/water_notices.aspx).

(4) The water utility must provide information in the bill sufficient for the customer to understand and compute the charges being assessed, including:

(a) Separate line items for past due balance, payments and credits, new charges, late fees, and total account balance;

(b) The date new charges are due (at least 15 calendar days from the date the bill was served);

(c) Calculation of new charges including base or flat rate, usage billing tiers and rates, beginning and ending meter readings, the dates the meter was read, rate schedule, billing period, and number of days in the billing period; and

(d) The date any late payment charge was applied and an explanation of the terms of the late payment charge; i.e., "A late charge of (insert charge) may be applied to all past due balances carried forward to the next billing cycle."

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

#### 860-036-1410

##### Application of Partial Payments

Absent written instructions from the customer, and consistent with OAR 860-036-1240(6), the water utility must apply payments in the following order:

- (1) Past due regulated tariff or statement of rates services;
- (2) Currently due regulated tariff or statement of rates services; and
- (3) Non-regulated services.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1420**

**Time-Payment Plans for Residential Water Service**

(1) Except as provided by section (5) of this rule, a customer with residential service who has a past-due amount may enter into a time-payment plan with the water utility. Under the time-payment plan, the customer pays the past-due amount over a period of time, while also paying for current service. The customer must make the initial payment within one business day of agreeing to the time-payment plan.

(2) A water utility must offer the customer the option to choose between a levelized-pay arrearage plan or an equal-pay arrearage plan:

(a) A customer who selects a levelized-pay arrearage plan must make an initial payment equal to one-twelfth of the sum of the average annual bill and past-due balance. The customer will make a like payment each month for the next 11 months. The water utility must review the levelized-pay arrearage plan within four to six months of the agreement and modify payments if there is a change in rates or significant variations in the amount of water consumed by the customer.

(b) A customer who selects an equal-pay arrearage plan must make an initial payment equal to one-twelfth the account amount and a like payment for each of the next 11 months, plus pay monthly amounts billed for current usage.

(3) The water utility and customer may agree to an alternate time-payment plan provided the utility informs the customer of the options in section (2) of this rule.

(4) Upon request, a water utility must provide a written explanation of the terms of an agreed-upon time-payment plan.

(5) A water utility is not required to offer a time payment plan for past due amounts related to theft of service, tampering, unauthorized use of water, or failure to abide by the terms of a time-payment plan.

(6) If the customer changes residence within the water utility's service area during a time-payment plan, the terms of the time-payment plan continue.

(7) A customer's failure to abide by the terms of a time-payment plan agreement is grounds for disconnection after providing notice as required by OAR 860-036-1510(4)(b).

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1430**

**Late-Payment Charge**

(1) A water utility may include a late payment charge in its tariffs or statement of rates that:



(a) May be applied to residential accounts with a past-due balance at the time the water utility prepares the subsequent bill for the next billing cycle;

(b) May be applied to all other accounts with a past-due balance if payment is not received by the bill due date; but

(c) May not be applied to a residential account with a current time-payment plan.

(2) For rate-regulated water utilities, the Commission determines the late-payment rate based on a survey of prevailing market rates for late-payment rates of commercial enterprises. The Commission will advise all rate-regulated water utilities of any change in the rate used to determine late-payment charges on past-due customer accounts.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

#### **860-036-1440**

##### **Adjustment of Utility 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 utility was under-billed or over-billed for a service provided by the utility under rate schedules or tariffs in effect when the service was provided:

(a) The water utility 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 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 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 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 860-036-1420. 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 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 current or former customers 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, 757.077,

Hist.: NEW

#### **860-036-1450**

##### **Transfer Billings**

(1) Except as provided in section (3) of this rule, if a water utility identifies an amount a customer owes to the water utility from a prior account, the water utility may transfer the prior account balance to the customer's current account. The water utility must give the customer a separate, written notice of the transfer, including the amount owing, the time period when the balance was incurred, and the service address where the balance owing was incurred.

(2) If the customer has a balance owing on an existing time-payment plan, the customer may enter into a new time-payment plan under OAR 860-036-1420 incorporating all amounts owing.

(3) A water utility may not transfer a balance owing on a non-residential account to a residential account.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.225

Hist.: NEW

### **Disconnecting and Reconnecting Water Service**

#### **860-036-1500**

##### **Grounds for Involuntary Disconnection**

A water utility may disconnect water service when:

(1) A customer fails to pay charges due for services rendered under a water utility tariff or statement of rates;

(2) A customer fails to pay a deposit or comply with the terms of a surety agreement under OAR 860-036-1230 or a deposit installment agreement under OAR 860-036-1240.

(3) A customer fails to abide by the terms of a payment agreement under OAR 860-036-1240(3) or 860-036-1420;

(4) A customer provided false identification to establish or to continue service;

(5) A customer has facilities that do not comply with the applicable codes, rules, regulations, or the best practices governing safe and adequate water service, including compliance with the water utility's Cross Connection Control Program;

(6) A customer fails to provide reasonable access to the meter or premises;

(7) A customer tampers with water utility facilities or engages in theft of service or unauthorized use of water;

(8) A customer fails to comply with water restriction requirements under OAR 860-036-1670; or

(9) The Commission approves the disconnection of service.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.035, 757.225, 757.750-757.760

Hist.: NEW

### **860-036-1510**

#### **Required Notices for Involuntary Disconnection**

(1) Except as provided in sections (4) and (5) of this rule, the water utility must provide the customer with two written notices in advance of disconnection: a 15-calendar day disconnection notice and a 7-calendar day disconnection notice.

(2) The 15-calendar day and 7-calendar day disconnection notices under this rule must be printed in bold face type and use plain, simple language. The notices must:

(a) Provide the information required by OAR 860-036-1100(4);

(b) State that the customer's water service is subject to disconnection on or after a specific date;

(c) Provide the grounds for the proposed disconnection;

(d) State what action the customer must take to avoid disconnection; and

(e) State that the customer may dispute the disconnection by contacting the Consumer Services Section at the contact information provided in OAR 860-036-1150.

(3) If the disconnection notice is for nonpayment, the notice must also:

(a) State the amount the customer must pay to avoid disconnection;

(b) Provide information about the customer's eligibility for a time-payment agreement provided in OAR 860-036-1420 for residential customers, unless the customer is being disconnected for failing to comply with an existing time-payment agreement or has engaged in theft of service, tampering with utility property, diverting water, or unauthorized use of water;

~~(c) Include the multi-language disconnection document that explains that the customer's water service is about to be disconnected in Spanish, Vietnamese, Cambodian, Laotian, and Russian. The document is available at [www.puc.state.or.us/Pages/water/forms\\_notices/water\\_notices.aspx](http://www.puc.state.or.us/Pages/water/forms_notices/water_notices.aspx) or by contacting the Consumer Services Section; and~~

(~~ec~~) State that once service is disconnected, the water utility will reconnect service only after the customer reapplies for service and pays all applicable charges.

(4) Only one written 7-calendar day disconnection notice is required if the customer:

(a) Fails to abide by a deposit installment agreement under OAR 860-036-1240;

(b) Fails to abide by terms of a payment arrangement under OAR 860-036-1270(4) or 860-036-1420; ~~or-~~

(c) Engaged in theft of service, tampering with utility property, diverting water, or unauthorized use of water under OAR 860-036-1590.

(5) A water utility may disconnect a customer without issuing either a 15-calendar day or 7-calendar day notice of disconnection if the customer has been informed of water restriction requirements and fails to comply.

(6) All disconnection notices under this rule must comply with OAR 860-036-1550 relating to the disconnection of service to tenants, and OAR 860-036-1120 relating to the designated representatives.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.750 – 757.760

Hist.: NEW

#### **860-036-1520**

##### **Delivery of Notices for Involuntary Disconnection**

(1) The 7-calendar day and 15-calendar day advance written notices of disconnection must be hand-delivered in person to the customer or adult at the premises, or sent via the US Mail to the customer's billing address and designated representative. Mailed notices are considered served two calendar days after deposited in the US Mail, excluding Sundays and postal holidays.

(2) In addition to the notice required by section (1), the water utility must provide an electronic notice to customers who requested to receive notices electronically.

(3) The water utility may not send disconnection notices for non-payment before the date payment is due.

(4) The water utility must keep a record of how disconnection notices were served to the customer.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.750-757.760

Hist.: NEW

#### **860-036-1530**

##### **Water Utility Requirements on the Day of Involuntary Disconnection**

(1) On the day of disconnection and prior to disconnecting service, the water utility must make a good-faith effort to personally advise the customer or an adult at the residence of the proposed disconnection.

(2) The water utility representative attempting to make personal contact must be authorized to accept payment of the amount identified in OAR 860-036-1510(3)(a) to avoid disconnection;

(3) If personal contact is not made, the water utility must leave a notice in a conspicuous place informing the customer that service has been disconnected.

(4) When personal contact has been made under section (1) of this rule, and the circumstances are such that a reasonable person would conclude that the customer or the adult at the residence does not understand the possible consequences of disconnection, the utility must:

(a) Immediately notify the Consumer Services Section; and

(b) Delay the proposed disconnection date for an additional seven calendar days.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.225, 757.061

Hist.: NEW

#### **860-036-1540**

##### **Disconnection of Service on Weekends and Holidays**

A water utility may not disconnect service on a non-business day, or the day immediately preceding a non-business day, of either the utility or the Commission.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.760

Hist.: NEW

#### **860-036-1550**

##### **Disconnection of Water Service to Tenants**

(1) If a water utility's records show that a residential billing address is different from the service address, the water utility must mail a duplicate notice to the service address.

(2) If a water utility's records show that the service location is a master-metered, multi-dwelling service address, the water utility must provide a duplicate of the 7-calendar day disconnect notice to each unit at the service address. The disconnection notice must be addressed to "Tenant." The envelope must bear a bold notice stating, "IMPORTANT NOTICE REGARDING DISCONNECTION OF WATER UTILITY SERVICE." Tenant notices may not include the dollar amount owing.

(3) The water utility must notify the Consumer Services Section at least seven calendar days before disconnecting service to a master-metered, multi-dwelling premise.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.760

Hist.: NEW

**860-036-1560**

**Voluntary Disconnection**

A customer requesting disconnection of service must provide the water utility with at least seven calendar days advance notice.

(1) The customer is responsible for all service provided for seven calendar days following the request for disconnection or until service is disconnected, whichever comes first; or

(2) If the customer identified a specific date for disconnection in excess of seven calendar days, the customer is responsible for service rendered up to and including the requested date of disconnection.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

**860-036-1570**

**Reconnection of Residential Water Service**

(1) The water utility must reconnect service as soon as reasonably possible within the normal course of business after the applicant has:

- (a) Paid all applicable charges;
- (b) Applied for service;
- (c) Requested reconnection; and
- (d) Satisfied all requirements for service.

(2) The water utility must provide a means by which an applicant or customer may contact the water utility during normal business hours to request a service reconnection. Normal business hours are defined as 8:00 a.m. to 5:00 p.m., Monday through Friday, regardless of the water utility's business hours.

(3) The water utility must offer reconnections during normal business hours and after hours. The water utility must specify reconnection times and associated charges and post the information in the water utility's office.

(4) The water utility may charge for reconnections during normal business hours and after hours if the charges are stated in its tariffs or statement of rates.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040

Hist.: NEW

**860-036-1580**

**Disconnection, Reconnection, and Field Visit Charges**

If authorized by the water utility's tariffs or statement of rates, a water utility may assess one or both of the following as applicable:

(1) A reasonable disconnection and reconnection charge if the water service was involuntarily disconnected, or

(2) A reasonable field visit charge if the water utility visits a service address intending to disconnect or reconnect service, but due to customer action, the utility is unable to disconnect or reconnect service.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.225

Hist.: NEW

### **Tampering & Theft of Service**

#### **860-036-1590**

##### **Tampering with Water Utility Facilities, Theft, or Unauthorized Use of Water**

(1) Customers are prohibited from tampering with the water utility's property and facilities or stealing, diverting, or engaging in unauthorized use of water.

(2) If a water utility discovers that a customer has tampered with water utility property or facilities, or has engaged in theft or unauthorized use of water, the water utility must notify the customer of the violations and may take one or more of the following actions:

(a) Repair or restore the facilities and charge the customer the costs incurred;

(b) Adjust the customer's prior billing for loss of revenue under the applicable tariffs or schedule of rates;

(c) Initiate action to disconnect service. As provided by OAR 860-036-1510, the water utility need only provide a written 7-calendar day disconnection notice prior to service disconnection;

(d) Require a new application for service that accurately reflects the customer's proposed water use; and

(e) Assess a deposit for restored or continued service.

(3) In addition to actions taken by the water utility, the Commission may assess civil penalties under ORS 756.990 and ORS 757.994 against customers who violate section (1) of this rule.

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

Stats. Implemented: ORS 756.040, 756.990, 757.994

Hist.: NEW

### **Adequate Service**

#### **860-036-1600**

##### **Adequacy of Water Service**

(1) A water utility must maintain its facilities according to industry rules, regulations, and standards and in such condition to provide safe, adequate, and continuous service to its customers. This includes, but is not limited to:

(a) Maintaining a current knowledge of the condition and adequacy of its facilities;

(b) Regularly inspecting and testing equipment and plant;

(c) Regularly exercising valves and hydrants;

- (d) Maintaining regular system flushings;
  - (e) Making timely repairs;
  - (f) Replacing parts and equipment as necessary;
  - (g) Making necessary improvements to the water system;
  - (h) Reasonably restoring areas disturbed by construction, repairs, or improvements; and
  - (i) Preparing work and maintenance records, and retaining those records consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.
- (2) A water utility is prohibited from intentionally diminishing the quality of service below the level that can reasonably be provided by its facilities.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.020, & 757.250  
Hist.: NEW

**860-036-1610**  
**Quality of Water Supply for Domestic Purposes**

A water utility must provide a domestic water supply that is free from bodily injurious physical elements and disease-producing bacteria and reasonably free from elements that cause physical damage to customer property, including but not limited to pipes, valves, appliances, and personal property.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.020  
Hist.: NEW

**860-036-1620**  
**Water Utility Responsibilities Regarding Service Complaints**

- (1) The water utility must prepare and retain a log of all service complaints consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.
- (2) When the water utility receives a complaint regarding a service problem, the water utility must immediately inform all customers materially affected. The information must include:
  - (a) The source or suspected source of the service problem;
  - (b) The expected date, time, and duration of the repair or action by the water utility; and
  - (c) Any effects the repairs or water utility action may have on the customer's service.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.020  
Hist.: NEW



**860-036-1630**

**Unscheduled Interruptions of Service**

(1) Unscheduled interruptions of service must be reported to the Consumer Services Section at the contact information provided in OAR 860-036-1150.

(2) If an unscheduled interruption of service is required, the water utility must:

(a) Make a reasonable effort to notify the customers affected and the Consumer Services Section in advance of the interruption, and

(b) Restore service as soon as it is reasonably possible after resolving the issue, unless other arrangements are agreed to by the affected customers.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: 756.040

Hist.: NEW

**860-036-1640**

**Scheduled Interruptions of Service**

(1) A water utility may schedule water service interruptions for maintenance and repairs. A water utility must schedule service interruptions to reasonably minimize customer inconvenience.

(2) A water utility must provide advance written notice to all customers affected by any scheduled service interruption. In addition, the notice must be posted in the utility's office and on its website, if available. The notice must include:

(a) The information required by OAR 860-036-1100(4);

(b) The date, time, and estimated duration of the scheduled interruption;

(c) The purpose of the interruption;

(d) A statement cautioning customers to avoid using water during service interruptions to prevent debris in the customers' service lines; and

(e) The contact information for the Consumer Services Section found in OAR 860-036-1150.

(3) Notices of scheduled interruptions of service must be served by:

(a) A door hanger or personal delivery to an adult at the affected premises at least five calendar days in advance of the service interruption; or

(b) US Mail at least ten calendar days prior to the service interruption.

(4) In addition to the notice requirements in section (3), the water utility must provide an electronic notice to customers who requested to receive notices electronically.

(5) A water utility must keep a record of all scheduled service interruptions. The record must include the time, duration, and cause of the planned service interruption. The record must be retained consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.125

Hist.: NEW

**860-036-1650**

**Adequate Water Pressure Required**

(1) A water utility must maintain adequate water pressure. In general, water pressure measuring between 45 and 80 pounds per square inch in the water mains is adequate for the purpose of this rule. However, adequate pressure may vary depending on each individual water system.

(2) A water utility may temporarily reduce or increase water pressure for fire flows, noticed repairs and maintenance, scheduled or emergency flushings, and unscheduled or emergency repairs and outages.

(3) Each water utility must maintain permanent pressure recording gauges at various locations to measure the system's water pressure. A water utility must have a portable gauge to measure water pressure in any part of the system. The water utility must maintain all pressure gauges in good operating condition, test periodically for accuracy, and recalibrate or replace when necessary.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040 757.020, 757.250

Hist.: NEW

**860-036-1660**

**Customer Requested Pressure Test**

(1) A customer may request the water utility to perform a water pressure test. The first test in a 12-month period is free of charge and must be completed within seven calendar days. If the customer requests an additional pressure test within the 12-month period at the same premise, the water utility may assess the customer a reasonable charge, unless the pressure is not adequate.

(2) A customer or a designated representative has the right to be present at the pressure test. The test must be conducted at a mutually acceptable time.

(3) The pressure must be measured at a point adjacent to the meter on the customer service line or other reasonable point most likely to reflect the actual service pressure.

(4) The water utility must provide a written report to the customer within seven calendar days of the pressure test. The report must include:

- (a) The information required by OAR 860-036-1100(4);
- (b) The customer's name and service address where the pressure was tested;
- (c) The date the pressure test was requested and the date the pressure test was performed;
- (d) The name of the company or employee performing the test;
- (e) The place where the pressure was measured;
- (f) The actual pressure reading; and
- (g) The conclusion based on the test result.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.020, 757.250  
Hist.: NEW

**860-036-1670**

**Water Use Restrictions**

(1) In times of water shortages, a water utility may restrict customer usage after providing written notice to its customers and the Consumer Services Section. In addition, the notice must be posted in the water utility's office and on its website, if available. The notification must specify the reason and nature of the restrictions, the date restrictions will become effective, and the estimated date the restrictions end.

(2) The Commission may investigate the water utility's water restriction plan and change it as the Commission deems necessary.

(3) During times of water shortage, the water utility must equitably apportion its available water supply among its customers with regard to public health and safety.

(4) If a customer fails to comply with the water restrictions after receiving written notification, the water utility must provide a separate written letter to the customer including:

- (a) The date;
- (b) The information required by OAR 860-036-1100(4);
- (c) The customer's name, account number, mailing address, service address if different;
- (d) The restrictions;
- (d) The customer's current violations;
- (e) A statement that the customer's water service is subject to disconnection on or after a specific date;
- (f) A warning to the customer that failure to immediately comply with the restrictions may result in disconnection of service; and
- (g) A statement that the customer may dispute disconnection by contacting the Consumer Services Section. The notice must include the Consumer Services Section's contact information provided in OAR 860-036-1150;

(5) If a customer fails to comply with the water restrictions after receiving written notification and the warning letter under section (4) of this rule, the water utility must consult with the Consumer Services Section, at the contact information provided in OAR 860-036-1150, to determine if disconnection is appropriate.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-1680**

**Cross Connection Control**

(1) All customers must comply with the water utility's Cross Connection Control Program to protect the water system from contamination. A customer's failure to comply is grounds for disconnection under OAR 860-036-1500.

(2) The water utility's cross connection protection rules will be included, as necessary, in the water utility's tariffs or statement of rates.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020

Hist.: NEW

**860-036-1690**

**Maps and Records**

(1) A water utility must prepare current maps and records of the entire plant showing size, location, character, and date of installation of major plant items, including but not limited to pumps, reservoirs, main lines, distribution lines, and valves. The water utility must retain the maps and records consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

(2) Upon Commission request, a water utility must file the water system maps in a format satisfactory to the Commission.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020

Hist.: NEW

**860-036-1700**

**Appointment of Regent to Operate and Manage a Water System**

If the Commission determines that a water utility's ownership or management results in inadequate service, threatens the health or safety of the customers, or threatens the financial viability of the water utility, then the Commission may appoint a regent to operate and manage the water utility.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020

Hist.: NEW

**860-036-1710**

**Expenditure of Charges Collected Under ORS 756.310 to Make Emergency Repairs**

(1) The Commission may use up to \$5,000 per biennium of the charges collected under ORS 756.310 to make emergency repairs for water utilities. The Commission may expend monies under the provisions of this rule if the

Commission determines that repairs to the water system are necessary for the health and safety of the customers or the water utility.

(2) The Commission will seek recovery of charges used under this rule from the water utility providing service. Interest will not accrue on the outstanding balance.

(3) The Commission may also recover penalties as provided in ORS 756.350 from the time the charges are expended.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.068, ORS 757.310

Hist.: NEW

#### **860-036-1720**

##### **Commission-Assessed Civil Penalties for Noncompliance**

(1) In addition to any other penalty provided by law, the Commission may impose a civil penalty not to exceed \$500 per day for each violation of Commission statute, rule, or order as provided in ORS 757.994.

(2) The Commission must give notice of proposed civil penalty by registered or certified mail to the water utility. The notice must provide:

(a) A concise statement of the alleged violations, including cites to applicable statutes, rules, or orders;

(b) The amount of proposed civil penalty; and

(c) Notice that the water utility may request a hearing to challenge the proposed penalty. The request for hearing must be in writing and be received by the Commission within 20 calendar days of the date the notice was served.

(3) If the water utility does not request a hearing within the time allowed, or if the water utility requesting a hearing fails to appear at the scheduled hearing, the Commission may issue a final order by default imposing the proposed penalty.

Stat. Auth.: ORS 757.994

Stats. Implemented: ORS 183.090, 756.040, 757.068

Hist.: NEW

### **Service Territory Allocation**

#### **860-036-1800**

##### **Definitions**

For purposes of service territory allocation OAR 860-036-1800 through 860-036-1850:

(1) "Allocated territory" means an approved area with boundaries set out by Commission order granting an exclusive service territory.

(2) "Community water supply system" has the meaning provided by ORS 758.300.

(3) "Water utility" has the meaning provided in ORS 758.300.

Stat. Auth.: ORS 183, 756, 757, 758  
Stats. Implemented: ORS 758.300-758.320  
Hist.: NEW

**860-036-1810**

**Allocation of Service Territory**

(1) Any water utility may apply for an order designating the territory it serves adequately and exclusively as its exclusive service territory. The application must include:

- (a) The information required by OAR 860-036-1100(4);
- (b) The water utility's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, association, etc.;
- (c) The name and address of each corporate officer, director, partner, and all other persons owning an interest in the water utility;
- (d) A statement showing the financial and technical ability of the water utility to provide service to the territory;
- (e) A detailed map of the water utility's existing lines and facilities;
- (f) A detailed map of the water utility's current service territory. The water utility must identify the source of the map, which may include a GIS map, city or county map, tax lot map, or plat map;
- (g) A written description of the water utility's current service territory. The description may be a legal description or may reference township, range, and section; interstates, state roads, and local streets; rivers, streams, and major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;
- (h) Evidence that the water utility owns the land upon which the water utility facilities are located, or a copy of an agreement that provides for the continued use of the land, such as an easement or lease;
- (i) A schedule showing the number of customers currently served by class and meter size. If the service area is not built out, indicate the number of proposed customers expected to be served when the current service territory is fully occupied;
- (j) The name and address of the nearest municipalities, the county, any known planning councils or governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the service territory the water utility is seeking; and
- (k) A copy of the customer notice of application required under OAR 860-036-1820 and a complete customer mailing list.

(2) Within 15 calendar days of the filing date of the application for exclusive service territory, a water utility must provide written notice to each customer affected by the application. The notice must include:

- (a) The information required by OAR 860-036-1100(4)
- (b) The purpose of the notice;
- (c) An accurate and detailed written description of the territory applied for;
- (d) The date the filing was submitted to the Commission;
- (e) A statement that customers may file a protest with the Commission; and

(f) The contact information for the Consumer Services Section provided in OAR 860-036-1150.

Stat. Auth.: ORS 183, 756, 757, 758  
Stats. Implemented: ORS 758.300-758.320  
Hist.: NEW

#### **860-036-1820**

##### **Filing an Application to Expand Exclusive Service Territory**

(1) A water utility may apply to expand its designated service territory to serve an area not currently being provided water service by filing an application under ORS 758.302(2). The application must include:

- (a) The information required in OAR 860-036-1810(2)(a) through (k);
- (b) A statement describing the need and reasons for water service in the proposed expanded service territory;
- (c) The approximate date the water utility plans to begin providing service to the proposed expanded service territory;
- (d) The proposed rates and charges to customers in the expanded service territory. Include customer growth projections that support the proposed water service rates and charges;
- (e) A study showing the projected cost to provide service to the proposed expanded service territory. Identify the amount per each operating expense account at full build out;
- (f) A schedule showing the projected capital structure including the methods of financing the construction and operation of the utility until it reaches 100 percent of the design capacity of the system;
- (g) Evidence of existing or proposed capacities of the system and facilities to adequately serve the proposed expanded territory. Provide estimated average daily customer demand, customer peak demand, and daily pumping capacity per water source in gallons or cubic feet. If development will be in phases, separate this information by phase;
- (h) A written description of the type of water treatment necessary, if required;
- (i) A schedule showing the projected cost of the capital improvements necessary to serve the proposed service territory by plant accounts and the expected date the plant is projected to go into service. If the system is to be built in phases, show information for each phase individually;
- (j) A list of all entities, including affiliates, upon which the applicant is relying to provide funding to the water utility for capital improvement, and an explanation of the manner and amount of such funding, including their financial statements and a copy of all contracts or agreements with the utility. This requirement will not apply to any person or entity holding less than 10 percent ownership interest in the utility;
- (k) Financial statements demonstrating applicant's financial capability;
- (l) A statement showing applicant's technical ability or capacity to procure technical skill necessary to provide service; and

(m) A statement describing any impact the expansion of service territory may have on existing customers.

(2) Within 15 calendar days of the filing date of the application, a water utility must provide written notice to existing customers that contains the information required by OAR 860-036-1810(2) as modified to reflect the request to expand service territory.

Stat. Auth.: ORS 183, 756, 757, 758  
Stats. Implemented: ORS 758.300-758.320  
Hist.: NEW

**860-036-1830**  
**Reduction of Approved Service Territory Boundaries**

(1) A water utility may apply to decrease its designated service territory. The application must demonstrate that the water utility is not providing adequate service to its customers or does not have the capacity to serve the designated exclusive service territory.

(2) Within 15 calendar days of the filing date of the application, a water utility must provide written notice to each customer that contains the information required by OAR 860-036-1810(2) as modified to reflect the request to decrease service territory.

Stat. Auth.: ORS 183, 756, 757, 758  
Stats. Implemented: ORS 758.300 - 758.320  
Hist.: NEW

**860-036-1840**  
**Transfer of Approved Service Territory**

(1) The rights acquired by an approved service territory may be transferred only with the approval of the Commission. The application must include:

- (a) The application requirements as provided in OAR 860-036-1810;
- (b) Evidence demonstrating that the transfer of the service territory is in the public interest.

(2) Within 15 calendar days of the filing date of the application, a water utility must provide written notice to each customer affected by the application that contains the information required by OAR 860-036-1810(2) as modified to reflect the request to transfer designated service territory.

(3) Designated service territory will not be altered solely as the result of a change in ownership or form of ownership.

Stat. Auth.: ORS 183, 756, 757, 758  
Stats. Implemented: ORS 758.300 - 758.320  
Hist.: NEW



**860-036-1850**

**Exclusive Obligation to Serve**

(1) A water utility has an obligation to serve all applicants for service within its designated territory and may only refuse service as provided in OAR 860-036-1270.

(2) A water utility or community water supply system may not provide water utility service within an approved exclusive service territory of another water utility without the express approval of the Commission.

Stat. Auth.: ORS 183, 756, 757, 758

Stats. Implemented: ORS 758.300 - 758.320

Hist.: NEW

**Rate and Service Regulation**

**860-036-1900**

**Regulation of Water Utilities**

(1) Except as provided in section (2) and (3) of this rule, a water utility serving less than 500 customers is not subject to Commission regulation and need not pay an annual revenue fee.

(2) A water utility serving less than 500 customers is subject to service regulation if:

(a) The Commission determines that the water utility has provided discriminatory service; or

(b) The water utility charges an average annual residential rate that exceeds \$24 per month.

(3) A water utility serving less than 500 customers is subject to rate and service regulation if:

(a) The water utility also provides wastewater services within the boundaries of a city;

(b) The water utility requests that it be subject to rate and service regulation as provided in OAR 860-036-1940; or

(c) The water utility proposes to charge a monthly rate that exceeds the threshold level set forth in OAR 860-036-1910 and at least 20 percent of the customers petition the Commission requesting the water utility be subject to rate and service regulation.

(4) A water utility serving 500 or more customers is subject to rate and service regulation. When a water utility's customer count exceeds 500 customers, the Commission will issue an order establishing the water utility's regulatory status as a rate-regulated water utility.

Stat. Auth.: ORS 183, 756, 757, 758

Stats. Implemented: ORS 758.300 - 758.320

Hist.: NEW

**860-036-1910**

**Threshold Levels for Rate Regulation of Water Utilities Serving less than 500 Customers**

A water utility serving less than 500 customers must notify its customers of the right to petition for rate regulation if it proposes to charge residential or commercial rates exceeding the following amounts:

- (1) For unmetered customers with a pipe diameter of one inch or less, an annual average monthly water service charge of \$33;
- (2) For metered customers with a meter diameter of one inch or less, an annual average monthly water service charge of \$36;
- (3) For unmetered customers with a pipe diameter larger than one inch, an annual average monthly water service charge of \$110; and
- (4) For metered customers with a meter diameter larger than one inch, an annual average monthly water service charge of \$119.

Stats. Implemented: ORS 757.061

Stat. Auth.: ORS 183, 756, 757

Hist.: NEW

**860-036-1920**

**Notice Requirements and Customers Right to Petition for Rate Regulation**

(1) If a water utility that serves less than 500 customers and is not rate regulated seeks to increase its rates to a level that exceeds a threshold established in OAR 860-036-1910, the water utility must:

- (a) Provide a separate written notice to all customers of the proposed increase that complies with the notice requirements under section (2) of this rule;
- (b) Post the notice in its office and website, if available; and
- (c) On the same day that notice is provided to the customers, mail or deliver a copy of the customer notice to the Consumer Service Section and attach a current customer list that includes the customer name, account number, mailing address, and service addresses if different.

(2) The customer notice must:

(a) State in bold letters at the top of the notice, "NOTICE OF PROPOSED WATER RATE INCREASE AND CUSTOMERS RIGHT TO PETITION FOR RATE REGULATION;"

(b) State the date of the notice;

(c) Provide the information required by OAR 860-036-1100(4);

(d) State the reasons the water utility is requesting the proposed change;

(e) Show a comparison of the current rates and the proposed rates for each affected customer classes;

(f) State the date when the proposed rates are intended to become effective. The effective date must be at least 60 calendar days from the date of the notice or the date the Consumer Services Section receives its copy of the notice, whichever is later;

(g) State that customers may request a complete customer list from the water utility to be provided within 10 business days; and

(h) Include the following statement:

**"NOTICE FROM THE PUBLIC UTILITY COMMISSION OF OREGON**

Customers have the opportunity to file a petition to have the water utility's rates regulated by the Commission. The water utility is proposing rates in excess of the threshold levels set by the Commission. If the Commission receives valid petitions from at least 20 percent of the customers, the Commission will assert jurisdiction over your water utility. Rate regulation requires that all rates and rate changes be approved by the Commission. If the Commission does not receive the sufficient number of valid customer petitions, the water utility's proposed rates will take effect on the date indicated."

"Petition forms are available on the Commission's website at <http://www.puc.state.or.us/Pages/Information-for-Customers.aspx>. The petitions must be completed and signed by the customer and must be received by the Commission within 45 days of this notice. Copies of petitions or petitions without an original signature will not be accepted."

"Completed petitions must be mailed to the Consumer Services Section, PO Box 1088, Salem, Oregon 97308-1088 or delivered to 201 High Street SE, Suite 100, Salem, Oregon 97301. Petitions may not be filed electronically. Petitions may not be withdrawn or rescinded. Customers with questions may contact the Consumer Services Section at 1-800-522-2404."

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

**860-036-1930**

**Petition for Rate Regulation of Association by Members**

(1) For purposes of this rule, "association" means an association of individual members that owns, operates, provides, manages, or controls a water system that provides water service to only its members.

(2) Current members of any association providing water service exclusively to its membership may petition the Commission at any time requesting the association be rate regulated.

(a) Petition forms are available on the Commission's website at [www.oregon.gov/puc](http://www.oregon.gov/puc). Petition forms must be complete and signed by the customer;

(b) Original petitions must be mailed to the Consumer Services Section, PO Box 1088, Salem, Oregon 97308-1088 or personally delivered to 201 High Street SE, Suite 100, Salem, Oregon, 97301.

(c) Copies of petitions or petitions without an original signature will not be accepted. Petitions may not be filed electronically; and filed petitions may not be withdrawn or rescinded.

(2) If the Commission receives petitions from 20 percent of the association's members and determines that regulation is in the public interest, it will issue an order establishing the association's regulatory status as a rate-regulated water utility.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.063  
Hist.: NEW

#### **860-036-1940**

##### **Water Utility Requesting Rate Regulation and Notice Requirements**

(1) A water utility serving fewer than 500 customers may request to be rate regulated by the Commission. The water utility must electronically file a letter of application specifically stating that it is requesting rate regulation and the reasons for the request.

(2) The same day it files the application, the water utility must provide a separate written notice to its customers and the Consumer Services Section. The notice must be posted in the utility's office and on its website, if available. The notice must provide:

- (a) The date;
- (b) The information required by OAR 860-036-1100(4);
- (c) A statement that the water utility is seeking to be rate regulated by the Public Utility Commission of Oregon;
- (d) The reasons the water utility is seeking rate regulation; and
- (e) A statement that customers with questions regarding the filing may contact the Consumer Services Section at the contact information provided in OAR 860-036-1150.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.061  
Hist.: NEW

#### **860-036-1950**

##### **Removal of Rate Regulation**

(1) When a rate-regulated water utility is reorganized through the sale, merger, or transfer of the water system or the transfer of all the water utility's customers to a non-jurisdictional entity, the rate-regulated water utility no longer meets the definition of a public utility under ORS 757.005. Non-jurisdictional entities include municipal entities, quasi-municipal entities, or a non-rate regulated association that serves only its members.

(2) If the regulated water utility is reorganized into an association, association members retain their right to petition the Commission for rate regulation at any time under ORS 757.063 and OAR 860-036-1930.

(3) A private buyer of a rate-regulated water utility serving fewer than 500 customers may petition the Commission to have rate regulation, but not service regulation, removed upon the close of the buyer's purchase of the water utility if:

- (a) The rate-regulated water utility is currently operating under a Commission-appointed regent; or

(b) A court has ordered the sale of the rate-regulated water system as part of the resolution of a complaint filed in court by the Oregon Health Authority Drinking Water Section.

(4) If the Commission grants removal of rate regulation per section (3) of this rule, customers retain their right to petition for rate regulation under ORS 757.061 and ORS 757.063.

Stat. Auth.: ORS Ch. 183,756, 757  
Stats. Implemented: ORS 757.061, 757.063  
Hist.: NEW

### **Tariffs and Advice Letters**

#### **860-036-2000**

##### **Tariff Filings**

(1) All rate-regulated water utilities must file all proposed rate schedules, charges, special contracts, and the water utility's rules and regulations relating to the provision of water service.

(2) A filing may request approval of individual revised tariffs, supplemental tariffs, special contract tariffs, or a general rate revision.

(3) The filing must be attached to an electronic mail message and electronically filed with the Commission's Filing Center at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us).

(4) The water utility must keep a copy of the filing at its main office where customers can request a copy.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.205  
Hist.: NEW

#### **860-036-2010**

##### **Tariff Content and Advice Letter**

(1) Tariffs must be written using Commission-provided tariff forms and must be accompanied by an Advice Letter. Forms required under this rule are available at the Commission's water web page at [http://www.puc.state.or.us/Pages/water/forms\\_notices/applications.aspx](http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx).

(a) The initial complete schedule of tariffs is designated as PUC Oregon No. 1 in the upper left hand corner. Each successive complete replacement of the tariff schedules thereafter is designated with the next number in consecutive numerical order, i.e., PUC Oregon No. 2, etc.;

(b) Each tariff sheet must state the effective date on the bottom of the sheet. The effective date must be at least 30 days from the date the water utility electronically files the proposed tariffs, unless the water utility requests the changes go into effect with less than the required 30 day notice. To make this request, the tariff must be accompanied by a Less Than Statutory Notice (LSN) form; and

(c) Any supplemental information, not otherwise provided within the tariff sheet, must be designated by the previous sheet number plus a letter, for example, Original Sheet No. 3A, Original Sheet No. 3B, etc.

(2) An Advice Letter must include:

(a) The information required by OAR 860-036-1100(4);

(b) A statement plainly indicating the purpose of the filing;

(c) A statement indicating the revenue change the water utility is requesting and any other provisional requested changes;

(d) A statement indicating the number of customers affected by the proposed changes and the estimated effect upon rates, if any;

(e) The reasons the water utility is requesting the proposed changes; and

(f) The signature of a water utility officer or representative;

(g) If the tariff filing proposes to increase rates, the water utility must also provide the following for each rate schedule being increased:

(A) The total number of customers in each customer class affected;

(B) A comparison showing current rates and the proposed rates for each customer class affected;

(C) A comparison showing the total annual revenue derived under the current rates and the total annual revenue to be derived under the proposed rates for each customer class affected;

(D) The average monthly water use for each customer class affected; and

(E) A comparison showing the average monthly bill under the current rates and the proposed rates.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: NEW

### General Rate Revisions

#### 860-036-2020

##### Filing a General Rate Revision

(1) To file a general rate revision, a rate-regulated water utility must submit a rate case application, including tariffs, and an Advice Letter, as required by OAR 860-036-2010.

(2) The same day notice is provided to customers, the water utility must mail or deliver a copy of the notice to the Commission's Consumer Services Section at the address provided in OAR 860-036-1150.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: NEW

**860-036-2030**

**Customer Notice Requirements for a General Rate Revision**

(1) After electronically filing a general rate revision, the water utility must provide a separate written notice of the filing to all customers within 15 calendar days of the date the general rate revision was filed. In addition, the notice must be posted in the utility's office and on its website, if available, and provided to the Consumer Services Section.

(2) The notice to the customers must be provided as either a separate written notice inserted in the water utility's regular billing or a written notice delivered to each customer.

(3) The customer notice must include:

(a) The information required by OAR 860-036-1100(4);

(b) The following statement:

"This notice is to inform customers that (insert name of water utility) filed a general rate revision with the Public Utility Commission. This notice provides general information regarding the utility's proposed changes and the effect it will have on customers' bills if approved by the Commission. Customers may request to receive notice of the time and place of any hearing on the matter by contacting the Public Utility Commission of Oregon, Administrative Hearings Division, at 503-378-6678. The calculations and statements contained in the water utility's filing and this notice are not binding on the Commission."

(c) The amount of the change in annual revenue the water utility is seeking;

(d) The total amount of annual revenue the water utility is requesting;

(e) A comparison of the current and the proposed average monthly bills for each customer class expressed in dollars;

(f) The reasons the water utility is requesting the proposed change;

(g) A statement that copies of the water utility's application, testimony, and exhibits are available at the water utility's main office; and

(h) The contact information of the water utility's representative that customers may contact to receive additional information or a copy of the filing. Contact information includes name, address, telephone number, and email address if available.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

**Financial Transactions & Applications**

**860-036-2100**

**Form and Filing of Applications**

(1) All applications submitted to the Commission must be filed electronically with the Commission's Filing Center. To file an application, attach the application and all required documents to an electronic mail message addressed to the Commission's Filing Center at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us). Procedural rules

regarding filing and service of documents are found in OAR Chapter 860, Division 001.

(2) Applications must be filled out completely.

(3) Any required financial statements must include the most current data available. The Income Statement must be for the most recent 12-month period.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105

Hist.: NEW

### **860-036-2110**

#### **Application to Terminate, Abandon, or Dispose of a Water System**

(1) All water utilities must obtain Commission approval to terminate, abandon, or dispose of a water system. The water utility must file an application using the form available at [http://www.puc.state.or.us/Pages/water/forms\\_notices/applications.aspx](http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx).

(2) Within seven calendar days from the date the application, the water utility must provide customers and the Consumer Services Section with a separate, written notice. In addition, the notice must be posted in the utility's office and on its website, if available. The notice must:

(a) Include the information required by OAR 860-036-1100(4);

(b) State what action the water utility is requesting in bold letters at the top of the notice;

(c) State the reason for the termination, abandonment, or disposal;

(d) State the proposed effective date;

(e) Describe the customers' alternative water service options and average estimated customer cost for each option; and

(f) Provide the Consumer Services Section's contact information provided in OAR 860-036-1150.

(3) The notice must be delivered in person to the customer or an adult at the premises or sent via the US Mail to the customer's billing address and designated representative.

(a) If notice is served by personal delivery to the premises, the water utility must attempt personal contact with the customer or an adult resident at the premises. If personal contact cannot be made, the water utility must leave the notice in a conspicuous place at the premises and mail a copy of the notice to the customer's last known mailing address and the customer's designated representative; or

(b) If notice is served upon the customers by US Mail, the notice must be mailed to the customer's last known address. The notice is considered served as defined in OAR 860-036-1010.

(4) If the water utility's records show that the billing address is different from the service address or that the premises is a master-metered multi-unit dwelling, the notice may be addressed to "Tenant." The envelope must bear bold language stating, "IMPORTANT NOTICE REGARDING WATER UTILITY SERVICE."



Stat. Auth.: ORS Ch. 183, 756  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-2120**

**Application to Dispose of or Acquire Property**

(1) Water utilities must obtain Commission approval to sell, lease, assign, or otherwise dispose of the whole of the property of such necessary or useful in performance of its duties, or any part thereof with a value in excess of \$10,000.

(2) Rate-regulated water utilities must obtain Commission approval to directly or indirectly purchase or acquire of any stocks, bonds, or utility property of any other public utility valued in excess of \$10,000.

(3) A water utility or the other party to these transactions must request authorization using the application form available at [http://www.puc.state.or.us/Pages/water/forms\\_notices/applications.aspx](http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx).

(3) No less than 60 calendar days prior to the closing date of the transaction, the water utility must provide a separate written notice to customers with a copy to the Consumer Services Section. In addition, the notice must be posted in the utility's office and on its website, if available. The notice must include:

- (a) The information required by OAR 860-036-1100(4);
- (b) The purpose of notice;
- (c) The proposed closing date of the transaction;
- (d) The proposed effective date of sale (minimum of 60-calendar days);
- (e) The name, address, and telephone number of the potential buyer;
- (f) The reasons for sale;
- (g) How the sale will affect customers; and

(h) The statement, "The property transaction being proposed by the water utility is under review by the Public Utility Commission of Oregon. For more information about the filing or to follow the regulatory process of the Commission's review check the Commission's website at [www.puc.state.or.us](http://www.puc.state.or.us) or contact the Consumer Services Section at 503-378-6600; 1-800-522-2404; or TTY 711."

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.480, 757.485  
Hist.: NEW

**860-036-2130**

**Acquisition Adjustment**

(1) When seeking to acquire a water utility that would be rate-regulated under the proposed transaction, the applicant may request that some or all of the difference between the net book value and the purchase prices be included in the purchasing utility's rate base. The request for an acquisition adjustment must be made with the property disposition application filed under OAR 860-036-2120.

(2) The purchasing utility must demonstrate that the benefits of the acquisition outweigh the increase to customers' rates resulting from an acquisition adjustment.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.105, 757.120, 757.125, 757.135

Hist.: NEW

#### **860-036-2140**

##### **Filing for Approval of a Special Contract**

A rate-regulated water utility may file a special contract tariff to establish a rate, service, or practice that is not covered by or permitted in the water utility's general tariffs, schedules, or rules. A special contract tariff must include:

- (1) The date;
- (2) The information required by OAR 860-036-1100(4);
- (3) A copy of the special contract;
- (4) A statement summarizing the basis of the terms of the contract and an explanation of the deviation from the tariffs on file;
- (5) An explanation of all cost computations involved;
- (6) A statement indicating the basis for use of a special contract rather than a filed tariff for the specific service involved; and
- (7) Documentation necessary to show that the terms are fair, just, and reasonable to the remaining customers.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.007

Hist.: NEW

#### **860-036-2150**

##### **Application for Authority to Issue Stocks, Bonds, Notes, or Other Securities**

An application by a rate-regulated water utility to issue securities under ORS 757.405 to 757.435 inclusive, 757.445, and 757.450, must comply with rules set forth in OAR 860-027-0030 governing energy and telecommunication utilities.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.405 - 757.450, 757.495

Hist.: NEW

#### **860-036-2160**

##### **Application for Authority to Guarantee Indebtedness**

An application by a rate-regulated water utility to assume any obligation or liability as guarantor, endorser, surety or otherwise must comply with rules set forth in OAR 860-027-0035 governing energy and telecommunication utilities.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.440  
Hist.: NEW

**860-036-2170**

**Use of Deferred Accounting**

An application by a rate-regulated water utility to defer amounts under ORS 757.259 must comply with rules set forth in OAR 860-027-0300 governing energy and telecommunication utilities.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 756.105, 757.259  
Hist.: NEW

**Affiliated Interests**

**860-036-2200**

**Definitions**

As used in rules OAR 860-036-2200 through OAR 860-036-2230:

- (1) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a water utility;
- (2) "Affiliate transaction" means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a water utility and accounts for nonregulated activities of a separate entity that is either an affiliated interest or another company in which the water utility owns a controlling interest. The term also means a transfer of assets, a sale of supplies, or a sale of services between accounts for the regulated and nonregulated activities of a single water utility;
- (3) "Asset" means any tangible or intangible property of a water utility or other right, entitlement, business opportunity, or other thing of value to which a water utility holds claim that is recorded or should be recorded as a capital expenditure in the water utility's financial statements. All water utility tangible or intangible property, rights, entitlements, business opportunities and things of value should be considered assets, services, or supplies;
- (4) "Cost" means fully distributed cost, including the water utility's authorized rate of return and all overheads;
- (5) "Fair market value" means the potential sales price that could be obtained by selling an asset in an arm's-length transaction to a nonaffiliated entity, as determined by commonly accepted valuation principles;
- (6) "Market rate" means the lowest price that is available from nonaffiliated suppliers for comparable services or supplies;
- (7) "Net book value" means original cost less accumulated depreciation;
- (8) "Nonregulated activity" means an activity that is not a regulated activity of the water utility;
- (9) "Regulated activity" means a Commission regulated activity that is provided by a water utility directly or indirectly relating to the general operations

of the water utility such as production, transmission, delivery, or provision of water;

(10) "Services" means labor-related activities including, but not limited to advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, and legal. All water utility tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies; and

(11) "Supplies" means any tangible or intangible property of a water utility or other thing of value that a water utility holds claim that is recorded or should be recorded as an operating expense in the water utility's financial statements. All water utility tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.005 - 757.495

Hist.: NEW

#### **860-036-2210**

##### **Applications to Receive or Provide Goods or Services with an Affiliated Interest**

(1) A rate-regulated water utility must seek Commission approval to contract to provide or receive services, directly or indirectly, with an affiliated interest using the form available at: [http://www.puc.state.or.us/Pages/water/forms\\_notices/applications.aspx](http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx).

(2) An application must be filed no later than 90-calendar days after the execution of the contract giving rise to the application. The contract is deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

(3) A water utility's failure to submit this required information does not limit the Commission's authority to recognize or impute revenues to the water utility pursuant to such contract in any rate valuation, hearing, or proceeding.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.005 - 757.495

Hist.: NEW

#### **860-036-2220**

##### **Application for Waiver of Requirements under OAR 860-036-2210**

The Commission will not waive the requirements of OAR 860-036-2210 for any rate-regulated water utility transactions exceeding 0.1 percent of the previous calendar year's Oregon utility operating revenues unless the transaction can be demonstrated in advance to be fair and reasonable and not contrary to the public interest.

Stat. Auth.: ORS 183, 756  
Stats. Implemented: ORS 756.040  
Hist.: NEW

**860-036-2230**  
**Allocation of Costs**

(1) For purposes of this rule, regulated and nonregulated activities of a water utility must be accounted for using the Uniform System of Accounts for Water Utilities published by the National Association of Regulatory Utility Commissioners as modified by the Commission.

(2) When a water utility is conducting an affiliate interest transaction, as defined in this rule, the water utility must use the following cost allocation methods:

(a) When an asset is transferred to a water utility from an affiliate, the transfer must be recorded in the water utility's accounts at the lower of net book value or fair market value;

(b) When an asset is transferred from a water utility to an affiliate, the transfer must be recorded in the water utility's accounts at the tariff rate if an appropriate tariff is on file with the Commission. If no tariff is applicable, proceeds from the transfer must be recorded in the water utility's accounts at the higher of net book value or fair market value;

(c) When an asset is transferred from a water utility to an affiliate at a fair market value that is greater than net book value, the difference is considered a gain to the water utility. The water utility must record the gain so the Commission can determine the proper disposition of the gain in a subsequent rate proceeding;

(d) When services or supplies are sold by a water utility to an affiliate, sales must be recorded in the water utility's accounts at rates per the tariff, if an applicable tariff is on file with the Commission. Rates per the tariff must be established whenever possible. If services or supplies are not sold per a tariff, sales must be recorded in the water utility's accounts at the water utility's cost or the market rate, whichever is higher;

(e) When services or supplies are sold to a water utility by an affiliate, sales must be recorded in the water utility's accounts at the affiliate's cost or the market rate, whichever is lower. The affiliate's cost must be calculated using the water utility's most recently authorized rate of return; and

(f) Income taxes must be calculated for the water utility on a standalone basis for both ratemaking purposes and regulatory reporting. When income taxes are determined on a consolidated basis, the water utility must record income tax expense as if it were determined for the water utility separately for all time periods.

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.490, 757.495  
Hist.: NEW

## City and Local Government Charges, Taxes, and Other Assessments

### 860-036-2300

#### Relating to City Charges, Taxes, and Other Exactions

(1) A rate-regulated water utility may recover the aggregate amount of all business or occupation taxes, licenses, franchise or operating permit charges, or other similar exactions imposed by any city in Oregon for engaging in business or for use and occupancy of city streets and public ways.

(2) The water utility may recover these amounts up to 3.5 percent of the water utility's gross revenue as operating expenses from all water utility customers. The utility may collect any remaining amounts in excess of 3.5 percent of its gross revenues on a pro rata basis to customers within the applicable city if separately stated on the regular billings to the customers. "Gross revenues" means revenues received from water utility operations within the city less related net uncollectibles, but do not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the water utility purchasing the service is not the ultimate customer.

(3) To calculate the amounts to be recovered under this rule, the water utility may not include:

(a) Permit or similar charges for street opening, installations, construction, and the like if the charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers; or

(b) The value of any water utility service or use of facilities provided on or before November 6, 1967, to a city without charge. These services may be continued within the same category or type of use.

(4) This rule does not affect franchises granted by a city on or before November 6, 1967. Payments made or value of service rendered by a water utility must be collected from all customers.

(a) When a franchise agreement existing on November 6, 1967, specifies a different compensation percentage than set forth in section (2), the compensation continues to be treated by the affected water utility as an operating expense during the balance of the term of such franchise.

(b) If a city unilaterally imposes or increases any tax, charge, or other exaction specified in section (2) of this rule during the unexpired term of a franchise existing on November 6, 1967, for use and occupancy of streets and public ways, the water utility must charge the additional amounts on a pro rata basis to local users.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

**860-036-2310**

**Relating to Local Government Charges, Taxes, and Other Assessments**

(1) A rate-regulated water utility must collect from customers located within a county or portion thereof, the following amounts imposed by a county in Oregon, other than a city-county:

(a) Any license, franchise, or operating permit fee applicable to the county or portion thereof; and

(b) Any new or increased taxes imposed on and after December 16, 1971, including new or increased taxes imposed retroactively after that date, applicable to the county or portion thereof.

(2) "Taxes," as used in this rule, means sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, charges, or charges other than ad valorem taxes.

(3) The amount collected from water utility customer under this rule must be separately stated and identified in all customer billings.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.110

Hist.: NEW

**Annual Reports, Accounts, Accounting Treatments, and Record Keeping**

**860-036-2350**

**Annual Report of Results of Operations**

(1) By May 1 of each year, all rate-regulated water utilities must submit a financial Annual Report of Results of Operations for the preceding calendar year using the current form approved by the Commission. The annual report form is available at <http://www.puc.state.or.us/Pages/Information-for-Water-Utility-Companies.aspx>.

(2) The report must be filed electronically with the Commission's Filing Center at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us).

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.120, 757.125, 757.135

Hist.: NEW

**860-036-2360**

**Annual Affiliated Interest Report**

(1) By June 1 of each year, all rate-regulated water utilities having an affiliated interest transaction occurring during the period from January 1 through December 31 of the immediately preceding year must file an Affiliated Interest Report using the form available at <http://www.puc.state.or.us/Pages/Information-for-Water-Utility-Companies.aspx>.

(2) As used in this rule, "affiliated interest transactions" means transactions between affiliated interests as defined by ORS 757.015.

(3) The report must be filed electronically with the Commission's Filing Center at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us).

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 756.105  
Hist.: NEW

**860-036-2370**

**Uniform System of Accounts**

All rate-regulated water utilities must conform to the Commission's Uniform System of Accounts for water utilities for ratemaking purposes. The Commission's Uniform System of Accounts is a modified version of the National Association of Regulatory Utility Commissioners' published Uniform System of Accounts for Class A, B, and C Water Utilities, 1996.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756, 757  
Stats. Implemented: ORS 756.040, 757.105, 757.120, 757.125, 757.135  
Hist.: NEW

**860-036-2380**

**Accounting for Contributions in Aid of Construction (CIAC) and Construction Work In Progress (CWIP)**

- (1) This rule applies to rate-regulated water utilities.
- (2) CIAC is any money, services or property received by a water utility to fund capital investments at no cost to the company with no obligation to repay.
- (3) Each water utility must provide an accounting of CIAC upon Commission request. CIAC accounting must include contributions in any form including contributed utility plant. CIAC record keeping must identify the contributed plant, original date of installation, and original cost.
- (4) Each water utility must keep a record as described in section (3) of this rule and record CIAC on a separate plant and depreciation schedule.
- (5) The water utility will record plant assets at market value and an amount of CIAC equal to that value which will be an increase in equity of the utility. The net effect of these balance sheet accounts will be zero, and both sides must be considered in the ratemaking process.
- (6) CIAC related assets will be depreciated in the same method as purchased assets, and an amount equal to the depreciation expense will be taken as amortization of CIAC. Both the depreciation expense (debit) and the amortization expense (credit) will be coded to the depreciation expense on the income statement. This will result in an expense that nets to zero and has no effect on ratemaking.
- (7) CWIP is an accounting treatment for capital improvement projects under construction, but not yet placed in service. The treatment allows rate-regulated water utilities to place recoverable capital improvements costs into plant. The



Commission may approve the cost of a specific capital improvement project into rates if:

- (a) The capital improvement project is under construction;
- (b) The water utility uses the additional revenues solely for the purpose of completing the capital improvement project;
- (c) The water utility demonstrates that it is in the public interest to provide funding for the capital improvement through rates; and
- (d) The costs are approved by the Commission in a rate case.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.120, 757.125, 757.135

Hist.: NEW

#### **860-036-2390**

##### **Annual Budget Reports**

- (1) This rule applies to rate-regulated water utilities.
- (2) Each water utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file with the Commission on or before the first day of November of each year, a copy of its proposed Budget of Expenditures, on forms provided by the Commission.
- (3) Each water utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file annually on or before December 31, on forms provided by the Commission, information on new construction, extensions, and additions to the property of the water utility.

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

Stats. Implemented: ORS 756.040, 756.105 & 757.105

Hist.: NEW

#### **860-036-2400**

##### **Preservation and Destruction of Records**

All rate-regulated water utilities must conform to the Commission's Preservation of Records for Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.105

Hist.: NEW