

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

WJ 34

In the Matter of)
)
Request for Rate Regulation of Aspen Lakes)
Utility, LLC)
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_____)

**OPENING TESTIMONY OF
CHARLES FADELEY
ON BEHALF OF
ASPEN LAKES ESTATES OWNERS, INC.**

July 20, 2018

1 **Q. PLEASE STATE YOUR NAME, YOUR BUSINESS ADDRESS, AND A BRIEF**
2 **DESCRIPTION OF YOUR PROFESSIONAL BACKGROUND.**

3 A. My name is Chuck Fadeley. I am a practicing attorney in Sisters, Oregon, and my business
4 address is PO Box 1408, Sisters, OR 97759. I have been in private practice in Oregon for
5 37 years and my clients include consumer-owned electric utilities. I have also served as
6 the Deschutes County Justice of the Peace on a part-time basis since 2004.

7 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

8 A. I am testifying on behalf of Aspen Lakes Estates Owners, Inc. (the “HOA”).

9 **Q. WHAT IS YOUR ROLE WITH THE HOA?**

10 A. I serve as the Vice President on the HOA Board of Directors.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 A. The purpose of my testimony is to explain to the Commission why the HOA is seeking to
13 have the Commission exercise rate regulation over Aspen Lakes Utility (the “Company”).
14 I will also offer some observations about the service customers receive.

15 **Q. WHERE DO YOU RESIDE?**

16 A. My home is located at 16975 Green Drake Ct., Sisters, OR 97759. This is in the Aspen
17 Lakes development.

18 **Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE ASPEN LAKES**
19 **DEVELOPMENT.**

20 A. The Aspen Lakes development is located just outside the city limits of Sisters, Oregon. The
21 development consists of 81 improved residential lots and 34 unimproved lots. A major
22 feature of the development is a golf course.

23 **Q. ARE YOU A CUSTOMER OF THE COMPANY?**

24 A. Yes. I purchased my home in 2004 and have been a customer of the Company since that
25 time.

1 **Q. BESIDES BEING A HOMEOWNER, DO YOU HAVE ANY OTHER**
2 **EXPERIENCE AS A CUSTOMER OF THE COMPANY?**

3 A. Yes. As I noted earlier, I serve as the Vice President on the HOA's Board. The HOA is
4 also a customer of the Company,

5 **Q. WHY DID THE HOA FILE THE PETITION THAT INITIATED THIS DOCKET?**

6 A. The HOA and other customers have experienced multiple water rate increases over the past
7 couple of years. In May 2016, the Company billed customers for the 4th quarter of 2015
8 and the first quarter of 2016. Those bills included a rate increase from \$1.00 per 1,000
9 gallons to \$2.00 per 1,000 gallons. The bills caught our attention for a couple of reasons.
10 First, the bills did not include any meter readings or the dates when meters were read.
11 Second, the portion of the bill for the 4th quarter of 2015 contained a retroactive increase
12 beyond the rates that had previously been published for that time period. Based on my
13 experience advising clients in the utility industry, I knew this was unusual, so the HOA
14 formed a subcommittee on Water Service to start looking more closely at the service being
15 provided to the HOA and its members.

16 As part of the HOA's effort to investigate our water bills and service, the Water
17 Service subcommittee contacted the Company seeking additional information. While the
18 Company was initially willing to meet with the HOA and provide information about its
19 services, it was willing to provide only generic information and refused to produce detailed
20 cost information I believed would help customers understand the basis for their rates.

21 As year-round residents, the HOA and its members rely on the presence of safe,
22 reliable, and affordable water. While residents are willing to pay just and reasonable rates
23 for that service, they have no process by which to ensure rates are justified or that they are
24 adequate to maintain a safe system. Without a clear cost explanation from the Company

1 for why water rates are increasing, the only recourse for customers is to have the
2 Commission exercise rate regulation and force the Company to demonstrate the lawfulness
3 of its rates through a general rate case proceeding.

4 **Q. DO THE HOA AND OTHER CUSTOMERS HAVE OTHER CONCERNS**
5 **BESIDES THE REASONABLENESS OF THE COMPANY'S RATES?**

6 A. Yes. Through our efforts to seek information about our water service, we began to believe
7 that the rates the Company charges the golf course are not in line with the rates charged to
8 other customers. This is significant because it is my understanding that the same family
9 that owns the Company also owns the golf course. The testimony of Mr. Thompson on
10 behalf of the HOA explains those discrepancies. This illustrates our broader concern that
11 the Company simply needs more oversight to ensure that its residential customers are not
12 subsidizing other customer classes.

13 **Q. ARE THERE ANY OTHER CONCERNS?**

14 A. Yes. While the Company has generally been good about sharing rate increase notices to
15 customers, the level of detail it shares is not adequate. Further, the information the
16 Company provides to customers is not consistent. For example, I noted earlier that bills to
17 customers did not previously include meter data. Such data only began appearing on bills
18 after customers complained to the Commission. One recent example of inconsistency
19 relates to the Company's charge for Standby Fire Protection. As shown on page 5 of 15 in
20 Exhibit A to the Company's Answer to the HOA's Petition, that charge was part of the
21 Company's water service rates that went into effect in January 2017. That charge has been
22 part of the Company's water rates for years and is not new. During discovery in this
23 proceeding, however, the Company responded that the Standby Fire Protection Charge is
24 not part of its water service – something the HOA disputes – and that the charge is not

1 mandatory. If that is true, then the Company has for years been collecting non-mandatory
2 charges from customers through its water rates. These are issues the HOA believes will
3 not be resolved without the kind of rigorous review that gets applied through a general rate
4 case proceeding before the Commission.

5 **Q. THE PETITION INCLUDES INDIVIDUAL PETITIONS FROM 50 DIFFERENT**
6 **CUSTOMERS. DID THE HOA PLAY A ROLE IN COLLECTING THOSE**
7 **INDIVIDUAL PETITIONS?**

8 A. Yes. Based on our initial investigation and feedback from HOA members, we determined
9 there was a high level of interest in seeking rate regulation at the Commission. As a result,
10 the HOA's Water Service subcommittee volunteered to collect individual petitions when
11 there was an opportunity to do so.

12 **Q. WHY IS THERE A NEED TO COLLECT INDIVIDUAL PETITIONS?**

13 A. Based on information provided by the Commission, and which appears to be required by
14 the Commission's administrative rules, the Commission needs to receive petitions from
15 20% of a water company's customers before it will exercise rate regulation over a non-
16 rate-regulated company. With 115 residential customers, the Commission would therefore
17 need to receive petitions from 23 or more customers.

18 **Q. ARE THE COMPANY'S RATES OVER THE THRESHOLD ESTABLISHED IN**
19 **THE COMMISSION'S ADMINISTRATIVE RULES?**

20 A. Yes. The testimony of Mr. Thompson on behalf of the HOA describes in more detail the
21 calculation for determining the annual average monthly charge for customers.

22 **Q. DO YOU HAVE ANY OBSERVATIONS ABOUT THAT TESTIMONY?**

23 A. Just one. Almost all of the customers on the Company's system have two meters – one for
24 potable water and one for irrigation water. The Commission's threshold for rate regulation

1 is based on meter size and the current threshold is \$45 for metered customers with a meter
2 diameter of one inch or less. Both meters for each customer are one-inch meters.

3 The Company's Answer asserts that "the flow rate through the two combined
4 meters exceeds the rate of a single one-inch diameter connection." The Company appears
5 to be arguing that customers are receiving service that is greater than the service they would
6 receive through a single, one-inch meter. This is simply not true. Customers could receive
7 the entirety of their water needs through a single, one-inch meter. Indeed, the Company's
8 Answer acknowledges that at least two customers do receive service this way. The reason
9 for the multiple meters is a convenience to the Company and not to the customers. The
10 potable water and the irrigation water come from different sources. By metering irrigation
11 water separately, the Company can simply pull water from the irrigation pond that was
12 originally designed for the golf course.

13 In response to the Company's assertion, I inquired with other water utilities about
14 their level of service. Tollgate is a 440-lot residential development two miles west of
15 Sisters (Aspen Lakes is 3 miles east of Sisters). Tollgate owners own the water system.
16 The water comes from two on-site wells. The connections are up to one inch and all water
17 comes through a single connection to each customer. The lots in the Tollgate development
18 are 1/2 acre. The water system that serves these relatively large lots allow for significant
19 levels of irrigation along with domestic water through a single one-inch meter. Tollgate
20 charges \$44/month for unlimited usage.

21 Black Butte Ranch is eight miles west of Sisters. I do not know the precise number
22 of lots in that development but based on my familiarity with Black Butte Ranch and the
23 Tollgate developments, I estimate that Black Butte Ranch has approximately three to four

1 times as many lots as Tollgate. Lots at Black Butte Ranch vary in size from smaller lots
2 one might find in an incorporated city, up to 1-acre and greater. Most lots are bigger than
3 a normal city lot, but less than 1/2 acre. The owners own the system and each lot has one
4 connection up to one inch in diameter. The charge for water service at Black Butte Ranch
5 in 2017 was \$28/month for 10,000 gallons. Monthly usage above that costs \$0.90/1000
6 gallons.

7 **Q. ONCE IT IS DETERMINED THAT A COMPANY'S PROPOSED RATES ARE**
8 **BEYOND THE THRESHOLD, WHAT IS THE NORMAL OPPORTUNITY FOR**
9 **COLLECTING AND SUBMITTING INDIVIDUAL PETITIONS FOR RATE**
10 **REGULATION?**

11 A. Based on information provided by the Commission, and which appears to be required by
12 the Commission's administrative rules, a water company that proposes to increase rates
13 beyond a certain threshold is required to send notice to its customers of their right to seek
14 rate regulation. Customers then have 45 days to petition the Commission and, if enough
15 petitions are received, the Commission will exercise rate regulation.

16 **Q. HOW DID THAT PROCESS UNFOLD IN THE PRESENT CASE?**

17 A. The Company sent out notices of a rate increase dated January 1, 2017. Despite the fact
18 that the rates in that increase were beyond the threshold stated in the Commission's
19 administrative rules, the rate increase notice did not include any notice to customers of
20 their right to petition the Commission for rate regulation.

21 Apparently in response to inquiries from other Company customers, the
22 Commission reviewed the Company's rate increases and determined that the Company's
23 rates were indeed beyond the threshold and that customers should have received notice of
24 their right to petition for rate regulation. As a result, not until around March 9, 2017, more

1 than two months after increased rates were being charged, did the Company send out the
2 required notice.

3 **Q. WHEN DID THE HOA LEARN ABOUT THE NOTICE AND OPPORTUNITY TO**
4 **PETITION FOR RATE REGULATION?**

5 A. The HOA received the notice on or about March 14, 2017. Mr. Thompson, on behalf of
6 the HOA, began communicating with Commission Staff via email on March 21, 2017 to
7 inquire about the effectiveness of the notice. As shown on pages 3 and 4 of Exhibit C to
8 the Petition, Mr. Thompson highlighted to Commission Staff several deficiencies in the
9 notice. It was not until April 14, 2017 that Commission Staff confirmed that the
10 Commission deemed the notice to be in effect and that customers had until April 24th to
11 submit the requisite number of petitions for rate regulation to occur.

12 **Q. WHAT WAS THE HOA'S RESPONSE TO THAT INFORMATION?**

13 A. The HOA began contacting customers to inform them of the official deadline and to collect
14 individual petitions. While we were able to collect some petitions initially, we were not
15 able to collect the required amount before the April 24th deadline.

16 **Q. CAN YOU DESCRIBE WHAT HAPPENED AFTER THAT?**

17 A. On June 30, 2017, Commission Staff sent a letter to those individuals who had submitted
18 petitions for rate regulation, informing them that the Commission had not received the
19 requisite number of petitions. As shown in Exhibit E to the Petition, that letter also noted
20 that the deadlines for receiving petitions had been extended to May 1, 2017. This was the
21 first notice to any customers, including the HOA, that the deadline was not April 24th and
22 that we had an additional week to collect petitions.

23 **Q. WHAT IS THE SIGNIFICANCE OF THAT CHANGE TO THE DEADLINE?**

1 A. If the HOA had known there was an additional week to help collect and to submit petitions,
2 more petitions would have been submitted and the Commission would have received
3 enough individual petitions to warrant rate regulation by the deadline. Indeed, once we
4 determined that we would like to proceed with this Petition, we were able to quickly collect
5 enough individual petitions and include those in our filing. The petitions in our Petition
6 far exceed the minimum number of petitions the rules require.

7 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

8 A. Yes, it does.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

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In the Matter of)
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Request for Rate Regulation of Aspen Lakes)
Utility, LLC)
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**OPENING TESTIMONY OF
THOMAS THOMPSON
ON BEHALF OF
ASPEN LAKES ESTATES OWNERS, INC.**

July 20, 2018

1 **Q. PLEASE STATE YOUR NAME AND PROVIDE A BRIEF DESCRIPTION OF**
2 **YOUR PROFESSIONAL BACKGROUND.**

3 A. My name is Thomas Thompson. I am retired and living in Sisters, Oregon. I have a BS in
4 Law from the University of Oregon and a Master’s Degree in Public Administration (Public
5 Finance) from the University of Colorado. My professional background consists of 30 plus
6 years in designing, operating and managing a variety of financial management services
7 across the Departments of Defense and Interior. For the latter six years of my career I was
8 appointed to the Senior Executive Service of the Federal Government, planning and
9 directing the Government's effort to reform the \$3 billion Indian Trust Fund Management
10 operation. We employed accountants, auditors, records specialists and contractors to
11 perform a reconciliation and forensic accounting for 500,000 individual Indian and 550
12 Tribal account holders and install a modern trust accounting system.

13 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

14 A. I am testifying on behalf of Aspen Lakes Estates Owners, Inc. (the “HOA”).

15 **Q. WHAT IS YOUR ROLE WITH THE HOA?**

16 A. I am an elected member of the Board of Directors and serve as Board Treasurer. I also
17 serve on the HOA’s Design Review Committee.

18 **Q. WHERE DO YOU RESIDE?**

19 A. My home is located at 17100 Golden Stone Drive, Sisters, OR 97759. This is in the Aspen
20 Lakes development.

21 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

22 A. The purpose of my testimony is to demonstrate that the Aspen Lakes Utility’s (the
23 “Company”) water rates--by any calculation--are above the Commission’s threshold
24 established in OAR 860-036-1910.

1 **Q. ARE YOU A CUSTOMER OF THE COMPANY?**

2 A. Yes. I purchased Lot 78 in the Aspen Lakes development in 2003 and completed
3 construction of our home in 2006. I have been a customer of the Company since 2003.

4 **Q. BESIDES BEING A HOMEOWNER, DO YOU HAVE ANY OTHER**
5 **EXPERIENCE AS A CUSTOMER OF THE COMPANY?**

6 A. Yes. As I noted earlier, I serve as the Treasurer on the HOA Board. The HOA is also a
7 customer of the Company,

8 **Q. WHAT IS THE COMMISSION'S THRESHOLD FOR RATES THAT MAY**
9 **RESULT IN RATE REGULATION?**

10 A. OAR 860-036-1910 addresses threshold rates for water utilities serving fewer than 500
11 customers. That rule states that the water utility must notify its customers of the right to
12 petition for rate regulation "if it proposes to charge residential or commercial customers
13 more than" certain amounts specified in the rule, including "[f]or metered customers with
14 a meter diameter of one inch or less, an annual average monthly charge of \$45 per
15 customer."

16 **Q. ARE YOU FAMILIAR WITH HOW THE COMMISSION CALCULATES THE**
17 **ANNUAL AVERAGE MONTHLY CHARGE?**

18 A. Yes. In response to a discovery request to the Company, the Company provided an email
19 communication with Commission Staff in which the Commission Staff describes how to
20 calculate the annual average monthly charge. I have included that email communication
21 as Exhibit HOA/201 to my testimony. According to Commission Staff, the calculation
22 essentially has two components. The first component is any base charge to a customer,
23 including a base charge for a specified amount of water usage. The second component is
24 an amount that is based on the annual total gallons of use (minus an amount for leakage)
25 that is above any usage included in a base charge. That amount is then multiplied by the

1 usage rate, divided by the number of customers, and then divided by 12 to obtain an annual
2 monthly average charge for that usage. The two components are added together to
3 determine the total annual monthly average.

4 **Q. USING THIS CALCULATION, DO THE COMPANY'S RATES EXCEED THE**
5 **THRESHOLD ESTABLISHED IN THE RULE?**

6 A. Yes. First, I note that the Company, in response to the Commission Staff's instructions,
7 performed this calculation for rates that were in effect in 2016. Based on that calculation,
8 the Company determined that its annual monthly average charge was \$77.95. The
9 Company and the Commission apparently did not believe, at that time, that the resulting
10 rate exceeded the threshold in the rule because a large portion of the monthly charge was
11 the result of irrigation water usage. However, it is my understanding that that issue has
12 since been resolved and that there is no longer any dispute that irrigation water is part of
13 the water services to which the rate thresholds apply. The fact that the Company's rates
14 have only increased since that time further cements the fact that the rates are over the
15 threshold.

16 Second, I have reviewed the Company's recent usage data and confirmed that the
17 annual average monthly charge using 2017 rates remains over the threshold. Depending
18 on the specific methodology used, the annual average monthly charge ranges from \$45.68
19 to \$72.06.

20 **Q. WHY DO YOU SAY THERE IS A RANGE OF ANNUAL AVERAGE MONTHLY**
21 **CHARGES?**

22 A. I performed the calculation using different scenarios. For example, the Company
23 apparently now disputes whether the Standby Fire Protection charge that appears in its rate
24 schedules is part of the water service it provides. I therefore included a scenario that
25 removes that charge from the calculation for all customers. Similarly, the Company

1 provides customers with the option of paying the base charge for the entire year and, if they
2 do so, they receive a discount. I therefore included a scenario in which every customer
3 received the discount, and a scenario in which no customer received a discount. Each of
4 my scenarios are shown in Exhibit HOA/202 included with my testimony.

5 **Q. IN WHICH SCENARIO ARE THE RATES THE LOWEST?**

6 A. My “Case 3” scenario shows the Company’s annual average monthly charge as being
7 \$45.68. In this scenario, I have looked at charges to just the 80 developed lots (those the
8 Company says are the only ones receiving water service) and excluded irrigation charges.
9 By excluding irrigation charges, I am showing what customers are paying to receive only
10 potable water through a single, one-inch meter.

11 **Q. DO YOU THINK THE COMMISSION SHOULD USE THIS CALCULATION?**

12 A. No. As I noted earlier, and as Mr. Fadeley notes in his testimony on behalf of the HOA,
13 the irrigation water customers use is still part of the water service customers receive from
14 the Company. The fact that the irrigation water and the potable water come through
15 different meters is more of a convenience to the Company than to the customers.
16 Customers could easily obtain all their water through a single meter.

17 I also believe that the calculation the Commission uses should include the Standby
18 Fire Protection charge. The Commission includes such charges as a line item on its
19 Application for Utility Rate Increase/Decrease, meaning that rate regulated “water
20 services” includes services for fire protection. The Company has also included this charge
21 in its water rates and Annual Base Charge billings to Customers for years.

22 Furthermore, based on documents produced by the Utility regarding this action, the
23 Commission, on February 23, 2017, sent a letter to the Company stating that the annual
24 average monthly charge calculation "includes all regular monthly charges that a customer

1 must pay, including fire protection and irrigation used in residential areas for non-
2 commercial purposes....” Accordingly, the Company is above the \$45 per month threshold.
3 I have included the Commission’s letter as Exhibit HOA/203 with my testimony.

4 Despite my concerns using the Case 3 scenario as the basis for the calculation, the
5 resulting annual average monthly charge is still over the threshold and can serve as the
6 basis for the Commission to exercise rate regulation over the Company.

7 **Q. DO YOU HAVE ANY OTHER OBSERVATIONS ABOUT THE COMPANY’S**
8 **RATES?**

9 A. Yes. As Mr. Fadeley notes, I reviewed the charges from the Company to the Aspen Lakes
10 Golf Course. I also reviewed the charges to four lots still owned by the developer. It is
11 my understanding that the golf course and developer owned by or affiliated with the same
12 family as the Company.

13 Based on data provided by the Company, it appears the golf course pays a total rate
14 that is about 1/14th the rate for residential customers. Because the golf course and
15 customers use virtually the same distribution system, it is not clear what the basis is for
16 such a disparate rate.

17 I have also noticed that the golf course and the developer-owned lots have
18 continuously carried rather larger amounts owing on their accounts. The golf course alone
19 shows a balance of \$16,367.42, and the four undeveloped lots show a balance of \$3,620.00.
20 These are just the most current balances reflected in the documents the Company provided.

21 In addition to those accounts in arrears, I noted multiple journal ledger entries
22 providing what appears to be a credit to the golf course without an explanation or
23 corresponding payment shown from the golf course on its invoices. This occurred in
24 November 2015 in the amount of \$11,534.96 and in December 2017 in the amounts of

1 \$20,566.42 and \$13,176.12. Without full information or evidence that these payments
2 were actually received from the golf course, it again appears that other customers are
3 subsidizing service to the golf course and the developer.

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 **A. Yes, it does.**

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

WJ 34

EXHIBIT 201

**TO THE OPENING TESTIMONY OF
THOMAS THOMPSON**

**ON BEHALF OF
ASPEN LAKES ESTATES OWNERS, INC.**

July 20, 2018

From: HARI Celeste <celeste.hari@state.or.us>
Sent: Tuesday, May 3, 2016 7:06 AM
To: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Good morning Matt,

I apologize for not getting back! I was out for a few days.

I am looking at the rule regarding thresholds, OAR 860-036-0030, and it states, “ An annual average monthly RESIDENTIAL rate of \$33 for unmetered water systems and \$36 for metered water systems;..”

There is no mention of irrigation. The discussion of fees is a separate item in that rule and just says these charges must be reasonable and cost based. I’m going to run this past my attorney to be certain, but I don’t think you have to notice because I don’t think all of these things are included in the average residential rate. Hang in there for another day and I should have a real answer. Sometimes it takes a day for my attorney to respond.

Thanks,
Celeste

From: Matt Cyrus [mailto:Matt@aspenlakes.com]
Sent: Monday, May 2, 2016 4:08 PM
To: HARI Celeste
Cc: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

What are your thoughts? Do we need to count irrigation water in our calculations?

From: Matt Cyrus
Sent: Wednesday, April 27, 2016 4:45 PM
To: 'HARI Celeste'
Subject: RE: Aspen Lakes Utility, LLC rate questions

We calculated it by taking the annual residential water sales of \$29,869.29 plus the residential overage of \$3,496.38 plus irrigation water fees of \$57,199.91, plus undeveloped fees of \$8,005.36 plus hookup and meter charges of \$9,000 divided by 12 divided by 115 customers for an average monthly billing of \$77.95. Of this, more than half is irrigation. If we back out irrigation and hookup and meter fees, the average monthly charge is only \$29.98.

From: HARI Celeste [mailto:celeste.hari@state.or.us]
Sent: Wednesday, April 27, 2016 2:52 PM
To: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Hi Matt,

The calculation is the annual total gallons of use (minus any leak amount) above the 3,000, divided by 1000. That result is then multiplied by the price per unit of 1,000. That result is then divided by 12.

For example: Say the company has 10 customers and a base rate of \$25, which includes 3,000 gallons of water. The usage rate is \$2.00/1000 gal. You would take the use above 3000 allowance = I'm going to use 100,500 gallons per year and adjust it for a hypothetical leak calculation of 500 gallons = 100,000 gallons used above the allowance. $100,000\text{gal}/1000 = 100 \times 2.00 = \200 . $200/10 = 20$ per month on average per customer. $\$20 +$ base rate of $\$25 = \45 average annual monthly rate.

Is this what you are doing? Or does my explanation only make things confusing?

Celeste

From: Matt Cyrus [<mailto:Matt@aspenlakes.com>]
Sent: Wednesday, April 27, 2016 8:35 AM
To: HARI Celeste
Subject: RE: Aspen Lakes Utility, LLC rate questions

As I understand it, the threshold is calculated by dividing the total amount charged by the number of customers. If we include monthly minimums and overage charges for watering their large lawns, the charges average more than the threshold. Let me know if this is not the correct way to calculate it.

-----Original Message-----

From: HARI Celeste [<mailto:celeste.hari@state.or.us>]
Sent: Wed 4/27/2016 7:11 AM
To: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Hi Matt,

Are you certain the new rates will go over the \$36 threshold? It looks like it may be close but I don't have the data to calculate it. I just want you to be certain before you send this out. We are also looking at increasing the threshold but I don't know how soon that will go through. Give me a call if you have questions.

Thanks,
Celeste
(503) 378-6628

From: Matt Cyrus [<mailto:Matt@aspenlakes.com>]
Sent: Tuesday, April 26, 2016 3:53 PM
To: HARI Celeste
Cc: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Hi Celeste,

We are planning to send the attached notice of intent to raise rates to our customers in their upcoming bill. Please let me know if you see anything that needs changed.

Thanks,
Matt

From: HARI Celeste [<mailto:celeste.hari@state.or.us>]
Sent: Monday, October 26, 2015 3:37 PM
To: Matt Cyrus

Subject: RE: Aspen Lakes Utility, LLC rate questions

Probably a wise decision!

Celeste

From: Matt Cyrus [<mailto:Matt@aspenlakes.com>]
Sent: Monday, October 26, 2015 3:35 PM
To: HARI Celeste
Subject: RE: Aspen Lakes Utility, LLC rate questions

No. We decided not to send it along with their highest bills of the year. Specifically, the third quarter billings that include summer irrigation overage charges.

Sent from my U.S. Cellular® Smartphone

----- Original message -----

From: HARI Celeste
Date: 10/26/2015 3:20 PM (GMT-08:00)
To: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Hi Matt,

So you did not actually send a notice out to customers?

Thanks,
Celeste

From: Matt Cyrus [<mailto:Matt@aspenlakes.com>]
Sent: Monday, October 26, 2015 3:05 PM
To: HARI Celeste
Cc: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Hi Celeste,

Thanks for all your help with this. We decided to wait on changing the rates until this winter. We will send you new copies of the letter at that time.

Thanks,
Matt

From: HARI Celeste [<mailto:celeste.hari@state.or.us>]
Sent: Monday, October 12, 2015 3:23 PM
To: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Hi Matt,

I made a few slight changes and highlighted them in red so it would be easier to find them. Make sure you change them back to black before printing and mailing or emailing the notices! I also put the company name in where it was left off above the chart and changed the name font to match the rest of the letter.

When you send it out, please email me a copy too.

Thanks,
Celeste

From: Matt Cyrus [<mailto:Matt@aspenlakes.com>]
Sent: Monday, October 12, 2015 2:56 PM
To: HARI Celeste
Subject: RE: Aspen Lakes Utility, LLC rate questions

How does this look?

From: HARI Celeste [<mailto:celeste.hari@state.or.us>]
Sent: Monday, October 12, 2015 9:03 AM
To: Matt Cyrus
Subject: RE: Aspen Lakes Utility, LLC rate questions

Good morning again!

It was nice to talk with you earlier.

There is a checklist of sorts in our rules under OAR 860-036-0405, of individual requirements of a notice to increase rates and the right for customers to petition. That might also be helpful to ensure you get all of the necessary pieces in the notice. I have attached that rule to this email.

I have also attached a form that contains all of the required information necessary in a customer notice of rate increase. There are items requirements missing in your draft and I thought this form would help you see what those specific requirements are and how to include them. The format doesn't have to be followed, but all of the information must be included. If you use the format, you don't need to use the giant title on the top of the example form. That is there for us to use to identify the form amidst all of the forms we have! The title you have in your draft is fine. You may use your own wording for the rest of the notice, just as long as the specific information is included.

Feel free to leave in the part regarding that the Commission may set rates set higher than those you are proposing. I believe it is important for that information to be there so perhaps people understand that coming to the Commission does not mean they are rescued from a rate increase. It's been my experience that customers think the Commission is here to not allow increases, when that is not the case at all. In fact, the more recent cases I have worked on resulted in increases greater than those originally proposed by the companies.

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

WJ 34

EXHIBIT 202

**TO THE OPENING TESTIMONY OF
THOMAS THOMPSON**

**ON BEHALF OF
ASPEN LAKES ESTATES OWNERS, INC.**

July 20, 2018

Summary of Statements & Average Monthly Bills

	DOMESTIC Total	IRRIGATION Total	FIRE STANDBY Total	SEWER Total
Statement Date	Developed Lots (80)	Developed Lots (80)	Undeveloped Lots (35)	8 Developed Lots 6 Undeveloped Lots
10/01/2107	\$927.38 ^{1/}	\$25,180.46		
04/01/2017	\$687.40	\$141.88		
01/06/2017			\$9,240.00 ^{2/}	\$8,664.00 ^{3/}
Totals	\$1,614.78	\$25,322.34	\$9,240.00	\$8,664.00

^{1/} Actuals from Utility Spreadsheet - (Presumably Domestic and Irrigation "Overage" charges)

^{2/} Calculated: 12 @ \$22.00 X 35 lots = \$9,240.00 - (Not included in Utility Spreadsheet)

^{3/} Sewer Standby Rate: Undeveloped Lots--6 lots X 12 months @ \$35.00 = \$2,520.00
 Sewer Base Rate: Developed Lots-- 8 lots X 12 months @ \$64.00 = \$6,144.00
\$8,664.00

Case 1. 2017 charges for 80 lots that show water usage, add \$251 x 80 (Fire Standby, assumes all receive discount).

Calculation: \$927.38 + \$687.40 + \$25,180.45 + \$141.88 (Spreadsheet Totals) + \$20,080.00 (discounted Fire Standby) = **\$47,017.11**. \$47,017.11 divided by 80 = \$587.71 per year, divided by 12 months =

\$48.98 annual average monthly bill.

(Note: Omits \$22.00 of \$44.00 Base Rate)

Case 2: Calculate Average Monthly Billing for 80 Lots including Annual Base Rate (assumes no accounts receive discounts).

Calculation: \$42,240.00 (Annual Base Rate for 80 Lots times 12 months @ \$44.00 per month) + \$927.38 + \$687.40 + \$25,180.45 + \$141.88 (Spreadsheet Totals) = **\$69,177.11**. \$69,177.11 divided by 80 Lots = \$864.71, divided by 12 months =

\$72.06 average monthly bill.

Case 3: Calculate Average Monthly Billing for 80 Developed Lots Excluding Irrigation Charges.

Calculation: \$42,240.00 (Annual Base Rate for 80 Lots times 12 months @ \$44.00 per month) + \$927.38 + \$687.40 (Spreadsheet Domestic Totals) = **\$43,854.78**. \$43,854.78 divided by 80 Lots = \$548.18, divided by 12 months =

\$45.68 average monthly bill.

Summary of Statements & Average Monthly Bills

Case 4: Calculate the Monthly Average presuming all discounts are applied for each of the 115 Lots.

Calculation: \$40,128.00 (Annual Base Rate for 80 Lots times 12 months @ \$44.00 per month-discounted) + \$927.38 + \$687.40 + \$25,180.45 + \$141.88 (Spreadsheet Totals) + \$7,182.00 (35 lots times 12 months @ \$22.00 months-discounted) = **\$74,247.11**. \$74,247.11 divided by 115 lots = \$645.63 per year, divided by 12 months =

\$53.80 average monthly bill.

Case 5. Use the PUC's February 23, 2017 instruction letter to calculate the average annual monthly residential rate for 115 Lots including all regular monthly charges that a customer must pay, including fire protection and irrigation...

Calculation: \$42,240.00 (Annual Base Rate for 80 Lots times 12 months @ \$44.00 per month) + \$927.38 + \$687.40 + \$25,180.45 + \$141.88 (Spreadsheet Totals) + \$9,240.00 (35 lots times 12 months @ \$22.00) = **\$78,417.11**. \$78,417.11 divided by 115 lots = \$681.89 per year, divided by 12 months =

\$56.82 average monthly bill.

Case 6. Use PUC's February 23, 2017 instruction letter, plus include Sewer Fees, as billed on the Utility Statement for 115 Lots.

Calculation: \$42,240.00 (Annual Base Rate for 80 Lots times 12 months @ \$44.00 per month) + \$927.38 + \$687.40 + \$25,180.45 + \$141.88 (Spreadsheet Totals) + \$9,240.00 (35 lots times 12 months @ \$22.00 (Fire Standby) + \$8,664.00 (Sewer Fees for 14 Lots) = **\$87,081.11**. \$87,081.11 divided by 115 lots = \$757.23 per year, divided by 12 months =

\$63.10 average monthly bill.

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July 20, 2018



Oregon

Kate Brown, Governor

Public Utility Commission

201 High St SE Suite 100
Salem, OR 97301

Mailing Address: PO Box 1088
Salem, OR 97308-1088

Consumer Services

1-800-522-2404

Local: 503-378-6600

Administrative Services

503-373-7394

February 23, 2017

Aspen Lakes Utility, LLC
Matt Cyrus
16900 Aspen Lakes Dr.
Sisters, OR 97759

Mr. Cyrus,

Aspen Lakes Utility, LLC is currently a service-only regulated water utility under the jurisdiction of the Oregon Public Utility Commission (OPUC). ORS 757.061 provides the Commission with authority to regulate the rates of water utilities with fewer than 500 customers if the water utility proposes to charge a rate for water service that exceeds the thresholds set by Commission rule and twenty percent or more of the water utility's customers file a petition with the Commission requesting rate regulation.

The OPUC recently established an average annual monthly residential rate threshold of \$45 as the threshold for notifying customers of their right to petition the OPUC for rate regulation. OAR 860-036-1910.

The calculation of the average annual monthly residential rate includes all regular monthly charges that a customer must pay, including fire protection and irrigation used in residential areas for non-commercial purposes. Aspen Lakes charges \$22 for base residential service, \$22 for fire protection, and \$2.00/1,000 gallons for residential irrigation service. Together, these charges are above the \$45 per month threshold set by the Commission before including any residential commodity use. Accordingly, Aspen Lakes is above the \$45 per month threshold and must notify its customers of their right to petition the OPUC for rate regulation pursuant to ORS 757.061 and OAR 860-036-1900.

Written notice of customers' right to petition for rate regulation must be sent out within 14 days of the date of this letter. I have attached a sample notice for your convenience. Aspen Lakes may make its own notice so long as the information required by OAR 860-036-1920 is contained in the notice. On the same date that notice is provided to customers, a copy of the notice must be mailed or delivered to the Consumer Services Section of the PUC at the address listed above. A current customer list, including customer names, account numbers, mailing addresses and service addresses (if different) must also be provided to the Consumer Services Section.

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February 23, 2017

If more than 20 percent of Aspen Lake's customers petition the Commission to review rates, and such petition is determined to be valid by the OPUC, Aspen Lakes will become a rate regulated water utility subject to the Commission's jurisdiction.

Please feel free to contact me if you have any questions.

Celeste Hari
Public Utility Commission of Oregon
(503) 378-6628
celeste.hari@state.or.us