

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket WJ 34

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

RESPONDENT TESTIMONY OF

MATT K. CYRUS

ON BEHALF OF

ASPEN LAKES UTILITY COMPANY, LLC

August 23, 2018

Q: PLEASE INTRODUCE YOURSELF AND PROVIDE BACKGROUND ON YOUR POSITION WITH ASPEN LAKES UTILITY COMPANY, LLC.

A. My name is Matt Cyrus. I am the Manager Member of Aspen Lakes Utility Company, LLC (the "Utility"). The Utility was formed in 1996 for the purpose of supplying water to the Aspen Lakes Planned Community. I have been the Manager Member of the Utility from its formation to the present.

Q: PLEASE DESCRIBE THE ASPEN LAKES PLANNED COMMUNITY.

A: The Aspen Lakes Planned Community is comprised of 115 individual residential single-family home lots, a golf course, a clubhouse and an HOA recreation building that includes a swimming pool. Of the residential single-family home lots, 81 have houses constructed on them or are under construction and 34 are vacant.

Q: PLEASE DESCRIBE THE FACILITIES MAINTAINED BY THE ASPEN LAKES UTILITY COMPANY.

A: The Utility maintains facilities that provide residential domestic service, residential irrigation service, commercial domestic service and commercial irrigation service. The Utility also maintains fire hydrants throughout the entire development that protect all lots whether or not the lots receive domestic or irrigation service. Vacant lots do not receive domestic or irrigation service.

Residential domestic service is provided through a 1-inch meter. Residential irrigation service is provided through a separate 1-inch meter, with the exception of one lot that uses its domestic supply also for irrigation. The exception is due to the proximity to the golf course distribution system and the corresponding difficulty in serving the customer from the irrigation source. There will likely be two other customers with a single service when the community is built out.

The residential and irrigation systems are separate. The residential domestic is served primarily from a small well that produces about 200 gpm. The irrigation is served via a 2,000 gpm well that provides water to a pond on the golf course that is then pressurized and distributed throughout the golf course. The golf course's distribution system also serves the irrigation needs of the residential community. The exception is that the two wells are interconnected so that the irrigation well can provide fire flows and serve as an emergency backup to the domestic well.

The golf course receives irrigation service through a 8-inch meter and the HOA recreation building receives service through a 2-inch meter.

The system was overbuilt to accommodate fire flows that were not a government development condition. The expanded fire capabilities have allowed the community to obtain an ISO rating of 3, which results in substantially lower fire insurance for the properties within the service area. This provides the fire department and each customer equally with access to a 6" service with a fire hydrant.

Q: PLEASE DESCRIBE THE HISTORY AND CURRENT RATES CHARGED BY THE BY THE ASPEN LAKES UTILITY.

A: Current rates are provided on the attached Exhibit ALU/101. Those rates were phased in with the residential overage charge of \$2 per thousand gallons above 3000 gallons effective on April 1, 2016, and the \$22 base rate for residential service and Stand-by Fire Protection effective on January 1, 2017. The prior rate schedule in effect from 2009 until dates above is attached as Exhibit ALU/102.

As for the current charges, Customers are charged separately but billed together for both domestic and irrigation usage. One-inch domestic use is charged a \$22 base rate that includes the first 3,000 gallons per month, plus \$2 per 1,000 gallons over the base

allowance. Irrigation has no base rate and is billed at \$2 per 1,000 gallons used.

Completely separate from the \$22 Monthly Base Rate charge on Schedule No. 1 for domestic service, there is a Schedule No. 3 Monthly Base Rate charge of \$22 for Stand-By Fire Protection. These two \$22 charges are often combined on invoices and show as a monthly charge of \$44.

Receiving residential or commercial service is not conditioned upon paying the charge for Stand-by Fire Protection and residential or commercial service is not disconnected for failure to pay the Stand-by Fire Protection charge. The \$22 per month Stand-by Fire Protection charge is not related to receiving either domestic or irrigation service. All properties within the development are billed for this service regardless of whether they have domestic or irrigation water service.

Q: HAVE YOU REVIEWED THE TESTIMONY OF CHARLES FADELEY?

A: Yes.

Q: DO YOU HAVE A RESPONSE TO CHARLES FADELEY'S TESTIMONY ON RATE INCREASES AND THE NOTICES PROVIDED?

A: Yes. Contrary to Mr. Fadeley's testimony for the HOA, there have not been multiple water rate increases over the past couple of years. The only rate increase since 2009 is that reflected in the rate schedules ALU/101 and ALU/102. Further, regarding Mr. Fadeley's claim of a retroactive increase, that was the result of an accounting error, which was corrected. Notice of the correction was sent to customers and is attached as Exhibit ALU/103 dated August 8, 2016. Finally, the Utility sent notice of the 2016 rate increase to all customers on May 1, 2016, attached as Exhibit ALU/104, that included the notice of right to petition for rate regulation to the Commission.

Q: DO YOU HAVE A RESPONSE TO CHARLES FADELEY'S TESTIMONY ON IRRIGATION SERVICE?

A: Yes. The lots in Aspen Lakes are an average of an acre in size and many of those lots have more irrigated landscape area than the total size of most residential lots outside of Aspen Lakes. While it is true that one or two of lots have only one meter and some lots could receive all of their water from one meter, others are much larger and would likely not be able to utilize one meter. Further, Mr. Fadely's comments on the ability to serve both irrigation and domestic service through one, 1-inch meter, is pure speculation without any qualifications and fails to take into account the difference in pumps and flow that serve the two different systems.

In most instances, the irrigation water is provided by an entirely different system that is not connected to the domestic water system. This water is pumped to the golf course pond, where it is pressurized by the golf course system and delivered to the customers via the golf course irrigation system. The domestic system is much too small to accommodate the volume of water that would be required to maintain all of the acres currently being irrigated by homeowners. An upgrade to a system of that size would require a significant capital investment and in turn, a substantial increase in monthly charges.

The comparison to Tollgate is not a like comparable system and again made without qualifications and includes hearsay. Tollgate has much smaller lots and significantly less irrigated area per lot. In many cases, the irrigated portion of most Aspen Lakes' lots exceed the total area of a lot in Tollgate.

The attempted comparison with Black Butte is purely speculative and hearsay.

Q: DO YOU HAVE A RESPONSE TO CHARLES FADELEY'S TESTIMONY ON THE STAND-BY FIRE PROTECTION CHARGE?

A: Yes. The Utility's treatment of its Stand-by Fire Protection charge has been consistent. The Utility has always listed the charge separately and bills all lot owners the charge because the fire protection system protects all lots, whether the lot receives domestic or irrigation service or not. Finally, what is, and is not, a "water service" for purposes of calculating the average rate for purposes of OAR 860-036-1910 is a question of regulatory interpretation and even Commission Staff's position on whether irrigation should be included in the calculation have varied. Attached as Exhibit ALU/105 are email messages from February 7 and 9, 2018, that state that irrigation is not to be included or may be included in the calculation depending on the facts. There has never been a Commission order determining that either irrigation or the Stand-by Fire Protection charge should be included in the average rate calculation for "water service."

Q: HAVE YOU REVIEWED THE TESTIMONY OF TOM THOMPSON?

A: Yes.

Q: DO YOU HAVE A RESPONSE TO TOM THOMPSON'S TESTIMONY ON IRRIGATION SERVICE?

A: Yes. The golf course does indeed pay less per gallon of water than residential customers. The difference is that the golf course buys bulk, non-pressurized water delivered to the pond on the 11th hole. The golf course then pays for the power and pump station to pressurize the water for delivery throughout the golf course. In addition, the golf course pays to pressurize and deliver all of the irrigation water to the residential customers from water that it has already paid for, and through a delivery system that it owns and

maintains. Thus, the golf course is categorized as commercial service different from residential service.

Q: DO YOU AGREE WITH TOM THOMPSON'S DETERMINATION OF AVERAGE RATES AND APPLICABLE THRESHOLDS?

A: No. If the Stand-by Fire Protection charge is included in the averaging then the average must be based on all 115 customers that pay that charge. To do otherwise would fail to recognize the entire rate base served by the system. If the irrigation charge is included, then the applicable threshold must take into account the cumulative connection at greater than 1-inch. To do otherwise would fail to recognize the actual physical system used to provide the service and basis upon which the Commission's regulations govern the threshold determination for rate regulation.

Using the 2017 numbers as identified by HOA witness Mr. Thompson, the average rate for domestic service using one, 1-inch meter, is \$23.68 per month $((22 \times 80 \times 12) + 1614) / 80 / 12$, which is below the \$45 threshold in OAR 860-036-1910(2). Even if the Stand-by Fire Protection rate is added and the rate is averaged over all 115 "customers," the average rate is only \$38.47 $((22 \times 80 \times 12) + (22 \times 115 \times 12) + 1614) / 115 / 12$,

If the irrigation variable charge is added using two, 1-inch meters – thus greater by any measurement than a single 1-inch meter – the average rate is only \$50.06 $((22 \times 80 \times 12) + 1614 + 25322) / 80 / 12$, which is significantly lower than \$128 monthly threshold OAR 860-036-1910(3). Adding sewer into this second scenario raises the average to only \$59.08 $((22 \times 80 \times 12) + 1614 + 25322 + 8664) / 80 / 12$. Adding the Stand-by Fire Protection charge is still only an average of \$63.10 per month not even close to the \$128 threshold $((22 \times 80 \times 12) + (22 \times 115 \times 12) + 1614 + 25322 + 8664) / 115 / 12$.

In fact, none of the scenarios run by the Aspen Lakes Estates Owners, Inc., exceeds the \$128 threshold, and every scenario that exceeds the \$45 threshold either includes the Stand-by Fire Protection charge but does not average the rate over the full 115 “customers” or includes irrigation but disregards the fact that the meter connection exceeds 1-inch.

Q: HOW WOULD YOU CALCULATE THE AVERAGE RATES?

A: Average rates should be calculated as either: (1) \$50.06 by adding the \$22 base rate, the domestic overage, and the irrigation and dividing by the 80 lots service if using the greater than 1-inch meter threshold of \$128; or (2) \$23.68 by adding the \$22 base rate and domestic overage divide by 80 lots served if using the not more than 1-inch meter threshold of \$45 .

The Stand-by Fire Protection charge should not be included because it is not a “water service” as defined by either the statutes or regulations.

Q: HAS ASPEN LAKES UTILITY PROVIDED THE GOLF COURSE WITH PREFERENTIAL TREATMENT?

A: No. As described above, because of the system design, the golf course pays not only for water, but pressurizes and maintains the irrigation system that delivers water to the homeowners.

Q: DOES THE DESIGN OF THE WATER SYSTEM PROVIDE ANY OTHER BENEFITS?

A: Yes. The water system was built with excess capacity in order to accommodate fire flows for the benefit of the community, which enjoys lower fire insurance than most of the surrounding areas. The additional pumping capacity, pipe sizes, and hydrants themselves added significantly to the initial cost of the water system, as well as to the

annual upkeep and readiness. Fire protection covers both developed lots as well as unimproved lots. None of these upgrades are required by the fire department and are for the primary benefit of those who own property within Aspen Lakes. This service is provided in addition to domestic and/or irrigation water.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes.

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

WJ 34

EXHIBIT 101

TO THE OPENING TESTIMONY OF
MATT K. CYRUS

ON BEHALF OF
ASPEN LAKES UTILITY COMPANY

August 23, 2018

NAMING RATES FOR

ASPEN LAKES UTILITY COMPANY, LLC
16900 Aspen Lakes Drive
Sisters, OR 97759
(541) 549-3660

Serving water in the vicinity of Aspen Lakes, Oregon

**Containing Rules and Regulations
Governing Service**

Effective: January 1, 2017

INDEX

<u>Schedule No.</u>	<u>Title of Sheet</u>	<u>Sheet No.</u>
	Title Page	1
	Index Page	2
1	Residential Metered Rates	3
2	Commercial Metered Rates	4
3	Stand-by Fire Protection Rates	5
4	Miscellaneous Charges	6
	Rules and Regulations	7

SCHEDULE NO. 1

RESIDENTIAL METERED RATE

Available: To customers of the Utility at Aspen Lakes, Oregon, and vicinity.

Applicable: To residential premises for residential and irrigation use.

Base Rate

<u>Size of Meter</u>	<u>Monthly Base Rate</u>	<u>Usage Allowance (Gallons)</u>
1 inch	\$22.00	3,000
1 ½ inch	\$35.00	3,000

Variable Usage Rate

\$2.00 per 1,000 gallons above 3,000 gallons per month for domestic water usage.

Irrigation usage will be separately metered and charged at \$2.00 per 1,000 gallons used.

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

SCHEDULE NO. 2

COMMERCIAL METERED RATES

Available: To customers of the Utility at Aspen Lakes, Oregon, and vicinity.

Applicable: To commercial premises.

Base Rate

<u>Size of Meter</u>	<u>Monthly Base Rate</u>	<u>Usage Allowance (Gallons)</u>
1 inch	\$22.00	3,000
1 ½ inch	\$35.00	3,000
2 inch	\$60.00	3,000
3 inch plus	\$125.00	10,000

Variable Usage Rate

\$2.00 per 1,000 gallons above 3000 gallons for meters smaller than 3"
\$2.00 per 1,000 gallons above 10,000 gallons for meters 3" and larger

Water Trucks - \$30.00 per 1,000 gallons - \$35.00 per load minimum

Commercial Irrigation water: \$550 per month base price for the first 50,000 gallons plus \$1.20 per 7,500 gallons above the 50,000 base volume.

Special Provisions:

1. These rates are based on continuous service. Discontinuance of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

SCHEDULE NO. 3

STAND-BY FIRE PROTECTION

Available: To customers of the Utility at Aspen Lakes, Oregon, and vicinity.

Applicable: To customers for service at one or more locations for fire protection purposes.

Base Rate

Stand-by Fire Protection Only

Monthly Rate

6 inch valve and fire hydrant

\$22.00

SCHEDULE NO. 4

MISCELLANEOUS SERVICE CHARGES

This schedule lists the miscellaneous charges that are included in the utility's Rules and Regulations; refer to the appropriate rules for an explanation of charges and conditions under which they apply.

<u>Connection Charge for new Service (Rule No. 9):</u>	
Standard 1 inch service	\$4,500.00
Larger than 1 inch	\$4,500.00 plus any additional costs
Meter Charge	\$1,000.00
New account set up fee (Rule No. 4)	\$100.00
<u>Meter Tests (Rule No. 21):</u>	
First test within 12-month period	No charge
Second test within 12-month period	\$50.00
<u>Cross Connection Tests (Rule No. 31)</u>	\$50.00
<u>Late Payment Charge (Rule No. 22)</u>	
Charged on amounts more than 30 days past due	1 ½ %
<u>Returned Check Charge (Rule No. 24):</u>	\$25.00 each occurrence
<u>Trouble-Call Charge (Rule No. 32):</u>	
After normal office hours / emergency	\$30.00 per hour \$50.00 per hour
<u>Re-connection Charge (Rule No. 33)</u>	
During normal office hours	\$30.00
After normal office hours on special request	\$50.00
<u>Unauthorized Restoration of Service (Rule No.34):</u>	Re-connection charge plus costs
<u>Unauthorized-Use Charge</u>	\$100.00 plus costs
<u>Damage / Tampering Charge (Rule 37):</u>	At Cost
<u>Disconnect-Visit Charge (Rule No. 33)</u>	\$25.00

RULES AND REGULATIONS

Rule 1: Jurisdiction of the Commission

The Rules Regulations herein shall be subject to the rules and regulations of the Public Utility Commission of Oregon.

Rule 2: Definitions

- A. "Utility" shall mean the Aspen Lakes Utility Company, LLC.
- B. "Applicant shall mean any person, business, or organization who applies for service, or reapplies for service at a new or existing location after service has been discontinued, except as noted in the definition of "Customer".
- C. "Commission" shall mean the Public Utility Commission of Oregon.
- D. "Customer" shall mean any person, business, or organization who has applied for, been accepted to receive, or is currently receiving service. A customer who voluntarily discontinues service at the same or different premises within 20 days after discontinuance retains customer status.
- E. "Residential premises" shall mean any dwelling and its land, including, but not limited to, a house, apartment, condominium unit, townhouse, cottage, cabin, mobile home, or trailer house.
- F. "Commercial premises" shall mean any premises at which a customer carries on any major activity of gaining a livelihood or performing a public service. Such activity may be of a business, industrial, professional, or public nature.
- G. "Main" shall mean the pipe laid in the street, alley, or other right-of-way, for the distributions of water to customers. It shall not include service connection.
- H. "Service connection" shall mean the pipe, valves, stops, fittings, and meter and meter box, if any, laid from the main to the property line of the premises served.
- I. "Customer line" shall mean the pipe, stops, and fittings leading from the property line to the premises served, excluding any meter or meter box.

APPLICATION FOR SERVICE

Rule 3: Customer/Applicant information (OAR 860-036-0015)

The utility shall provide or be able to provide customers or applicants with the following information:

- A. Instructions on how to read meters, either in writing or by explanation;
- B. Application and contract forms;
- C. Utility rules and regulations;
- D. Commission rules and regulations;
- E. Approved tariffs;
- F. Rights and Responsibilities Summary for Oregon Utility Consumers;
- G. Notices in foreign languages, if applicable;
- H. The utility's business address, telephone number, and emergency telephone number; and
- I. Notices approved by the Commission.

Rule 4: Application for Service (OAR 860-036-0035)

Application for water service must be made for each individual service. The application shall identify the applicant, the premises to be served, the billing address if different, the type of use to which the water is to be put, and an agreement to conform to the Rules and Regulations of the utility as a condition for receiving such service. The applicant shall, at this time, pay any scheduled fees or deposits. An application is a request for water utility service and shall not be accepted until the applicant establishes credit as set forth in OAR 860-036-0040.

An application for water service must be made where:

- A. An applicant who has not previously been served by the water utility requests service;
- B. Service has been involuntarily discontinued in accordance with the utility and Commission rules, and service is sought;
- C. Service has been voluntarily discontinued and a request to restore service has not been made within 20(twenty) days; or
- D. There is a change in the identity of a customer, the type of use to which the water is put, or the number of premises served.

Rule 5: Deposit for Service (OAR 860-036-0040)

In accordance with the Commission's rules for credit establishment and deposit waiver, an applicant or a customer may be required to make a deposit to secure payment of bills for service. The deposit shall not exceed one-sixth (1/6) the amount of reasonable estimated billings for one year's use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service. (OAR 860-036-0040)

The utility shall pay interest on deposits at the rate established by the Commission. After the customer has paid bills for service for 12 (twelve) consecutive months without having had service discontinued for nonpayment or more than 2 (two) occasions in which a shut-off notice was issued, and the customer is not then delinquent in the payment of bills, the company shall promptly and automatically refund the deposit plus accrued interest.

Rule 6: Customer Service Line

The customer shall own and maintain the customer service line and promptly repair all breaks and leaks. The utility shall not be responsible for any damage or poor service due to inadequacy of the customer line or any portion of the customer's plumbing. All leaks in the customer line, faucets, and all other parts of the plumbing owned or controlled by the customer shall be promptly repaired so as not to waste water.

Rule 7: Separate Control of Service

All premises supplied with water will be served through service lines so placed as to enable the utility to control the supply to each individual premises using a valve placed within and near the line of the street, the utility right-of-way, or at the meter.

Rule 8: Service Connections (OAR 860-036-0060)

The utility shall furnish and install at its own expense, all trenching, pipe, valves, and fittings between its main line and the customer's service line. Such installation shall be designed as the service connection. The utility shall own, operate, maintain, and replace the service connection when necessary and promptly repair all breaks and leaks. The customer shall not be responsible for any damage or poor service due to inadequacy of the service lines or any portion of the utility's plumbing.

Rule 9: Service Connection Charge

An applicant requesting permanent water service to a premises not previously supplied with permanent water service by the utility shall be required to pay the service connection charge listed in the utility's Miscellaneous Service Charges Schedule.

Rule 10: Main Line Extension Policy (OAR 860-036-0065)

The utility shall specify the size, character, and location of pipes and appurtenances in any main line extension. Main line extensions shall normally be along streets, roads, highways, or satisfactory rights-of-way. All construction work shall conform to all applicable rules, regulations, codes, and industry standards. Each mainline extension shall normally extend along applicant's property line to the point the applicant's service line would be at a 90-degree angle to the street or main line.

Rule 11: Main Line Advances and Refunds Policy

Each new customer requesting a main line extension shall advance the utility the cost-base amount necessary to extend the main line to provide service.

For a period of 1 (one) year after construction of the requested main line extension, the utility shall also collect from any additional applicants whose service connections or service lines shall connect to said main line extension an amount per foot equal to the new applicant's share of the main line extension cost for that portion used. The utility will then refund the share differential amount to those customers who previously shared the cost of said main line extension. Refunds shall not exceed the amount originally advanced. No part of the distribution system installed prior to the request for a main line extension shall be used to calculate any customer advance or refund.

Rule 12: Types of Use

Water service may be supplied for residential, commercial, irrigation, or fire prevention purposes. The service will normally be supplied on a metered basis.

Rule 13: Multiple Residences

An apartment building, mobile home park, motel, trailer camp, duplex, townhouse, or any other property consisting of more than one residential unit, if served through one service line, shall be considered to be equivalent to the number of dwelling units.

Rule 14: Utility Access to Private Property (OAR 860-036-0120(3)(b) and OAR 860-036-0205(3))

Customers shall provide access during reasonable hours to company-owned service lines that extend onto the premises of the customer, for the purposes of reading meters, maintenance, or removal of company property at the time service is to be terminated.

Rule 15: Restriction on Entering a Customer Residence (OAR 860-036-0085)

No water utility employee shall enter the residence of its customers without proper authorization except in an emergency when life or property is endangered.

REFUSAL OF SERVICE

Rule 16: Refusal of service Due to Customer Accounts (OAR 860-036-0080(1-3))

The utility may refuse to serve an applicant until receipt of full payment of overdue amounts, or other obligations related to a prior account of the applicant with the utility, when the following circumstances exist:

- A. An overdue amount remains outstanding by a customer at the service address;
- B. The applicant resided at the service address indicated in (A) during the time the overdue charges were incurred; or
- C. The person indicated in (A) will reside at the location to be served under the new application. (OAR 860-036-0080)

Service shall not be refused for matters not related to water service. Residential service shall not be refused due to obligations connected with nonresidential service.

If service is refused under this rule, the utility shall inform the applicant or customer of the reasons and of the Commission's dispute resolution process.

Rule 17: Refusal of Service Due to Utility Facilities (OAR 860-036-0080(7))

The utility shall not accept an application for service or materially change service to a customer if the utility does not have adequate facilities or water resources to render the service applied for, or if the

desired service is of a character that is likely to unfavorably affect reasonable service to other customers.

For refusal of service under this rule, the utility shall provide a written letter of refusal to the applicant informing applicant that the details upon which the utility's decision was based may be requested. A copy of such notice will be sent to the Commission. The details will include, but not be limited to:

- A. Current capacity and load measured in gallons or cubic feet per minute;
- B. Current capacity and load measured in pounds per square inch;
- C. Cost to the utility for additional capacity in order to provide the additional service; and
- D. Information regarding the appeal process of the utility's refusal to provide service, available through the Commission's dispute resolution process pursuant to OAR 830-036-0025.

Rule 18: Refusal of Service Due to Customer Facilities (OAR 860-036-0080(4-6))

The utility shall refuse service to an applicant or customer whose facilities do not comply with applicable plumbing codes, or, if in the best judgment of the utility, are of such a character that safe and satisfactory service cannot be given.

If service is refused under this rule, the utility will provide written notification to the customer within 10 (ten) working days stating the reason(s) for refusal and providing information regarding the Commission's complaint process. A copy of the notification will also be sent to the Commission.

METERS

Rule 19: Utility Meters (OAR 860-036-0105)

The utility shall own, maintain, and operate all meters. Meters placed in service shall be adequate in size and design for the type of service, set at convenient locations, accessible to the utility, subject to the utility's control, and placed in a meter box or vault between the street curb and property line or within the utility easement. Each meter box or vault shall be provided with a suitable cover.

Where additional meters are furnished by the utility or relocated for the convenience of the customer, a reasonable charge may be made in accordance with a schedule approved by the Commission.

The water utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste without notice to the customer.

Each customer shall provide the utility with regular access to the meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice by the utility requesting access is grounds for disconnection. (OAR 860-036-0120) Should damage result to the meter from molesting, tempering, or willful neglect on the part of the customer, the utility shall repair or replace the meter and may bill the customer for the reasonable cost. (OAR 860-036-0105(6))

Rule 20: Meter Testing (OAR 860-036-0110)

The meter shall be tested prior to or within 30 (thirty) days of installation to determine it is accurate to register not more than 2 (two) percent error. No meter shall be allowed to remain in service if it registers

an error in excess of 2 (two) percent under normal operating conditions. The utility shall maintain a record of all meter tests and results. Meter test result records shall include:

- A. Information necessary to identify the meter;
- B. Reason for making the test;
- C. Date of test;
- D. Method of testing;
- E. Meter readings;
- F. Test results; and
- G. Any other information required to permit convenient checking of methods employed.

Rule 21: Customer-Requested Meter Test (OAR 860-036-0115)

A customer may request that the utility test the service meter; such test shall be made within 20 (twenty) working days of the receipt of such request at no cost to the customer. The customer has the right to be present during said test, which is to be scheduled at a mutually agreeable time. A written report shall be provided to the customer stating:

- A. Customer's name;
- B. Date of the customer's request;
- C. Address at which the meter has been installed;
- D. Meter identification number;
- E. Date of actual test; and
- F. Test results.

If a customer requests a meter test more often than once in any 12 (twelve) month period, the deposit listed on the Miscellaneous Service Charges Schedule may be required to recover the cost of the test. If the meter is found to register more than 2 (two) percent fast under conditions of normal operation, the utility shall refund the deposit to the customer.

BILLING

Rule 22: Billing Information / Late Payment Charge (OAR 860-036-0120 and OAR 860-036-0125)

Bills are due and payable when rendered by deposit in the mail or other reasonable means of delivery. As near as practical, meters shall be read at monthly intervals on the corresponding day of each meter reading or billing period. The bill shall be rendered immediately thereafter. (OAR 860-036-0120(3) requires water utilities to bill at monthly intervals. A utility may request upon application, special authority by the Commission to bill at intervals other than monthly.)

The utility shall make reasonable efforts to prepare opening and closing bills from actual meter readings. When there is good reason for doing so, estimated bills may be submitted. Any estimated billings shall be clearly designated as such.

The late-payment charge determined by the Commission and listed on the miscellaneous Service Charges Schedule shall be applied to all overdue balances at the time of preparing the subsequent month's bill for

balances owing that are 30 (thirty) days old.

All bills become delinquent if not paid within 15 days of the date of transmittal of the bill. (OAR 860-036-0125 requires a minimum of 15 (fifteen) days.) If permitted to become delinquent, water service may be terminated after proper notice as provided in Rule 29, Disconnection / Re-connection Visit Charge.

All water service bills shall show:

Rule 23: Information

All bills shall state the delinquent date of the bill and the type of rate schedule or schedule number under which the bill was computed. All metered bills shall show the readings of the meter at the beginning and end of the period of service to which the bill applies, the dates of the meter reading, the amount of water consumed, and any other information necessary to the computation of the bill. However, when there is good reason for so doing, estimated bills may be submitted.

Rule 24: Returned Check Charge

The returned check charge listed on Schedule No. 5 shall be billed for each occasion a customer submits a check for payment which is not honored, for any reason, by a bank or other financial institution.

Rule 25: Prorating of Bills

Initial and final bills will be pro-rated according to the number of days service was rendered and on the basis of a thirty-day month. For metered services, the meter will be read upon opening and closing a customer's account. Consumption will be charges at scheduled rates, and any minimum monthly charge will be pro-rated.

Rule 26: Adjustment of Bills

When an under or over billing occurs, the company shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to some cause, the date of which can be fixed, the over or undercharge shall be computed back to such date. If no date can be fixed, the company shall refund the overcharge or re-bill the undercharge for no more than six months' usage. In no event shall an over or under billing be for more than three years' usage.

No billing adjustment shall be required to repay an under billing, the customer shall be entitled to enter into a time payment agreement without regard to whether the customer already participates in such an agreement. If the customer and company cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The company shall provide written notice advising the customer of the opportunity to enter into a time payment agreement and of the Commission's appeal and complaint process.

Rule 27: Voluntary Discontinuance

Except for emergencies, a notice must be given to the company five days in advance and payment in full of all arrears must be made should a customer desire discontinuance of service. Until receipt of notice,

the customer shall be held responsible for all service rendered.

RESPONSIBILITY OF COMPANY AND CUSTOMER

Rule 28: Service Lines

The company will make all connections to its mains and will furnish, install, maintain and own all service lines from the main to the property line.

Rule 29: Customer Lines

The customer shall furnish, install, maintain, and own the customer line. The company shall not be responsible for any damage or poor service due to inadequacy of the customer line or any portion of the customer's plumbing.

Rule 30: Permission Required for Connection Work

No person shall be allowed to make connections with the mains, or to make any alterations to service lines, or to turn a meter stop off or on to any premises, without permission of the company.

Rule 31: Cross-Connection (OAR 333-061-0070)

Aspen Lakes Utility Company, LLC is required under OAR 333-061-0070 to undertake a cross connection control program to protect the public water system from pollution and contamination.

The customers of the company, for the elimination or control of existing cross-connections, actual or potential, between the customer's potable water system and non-potable water systems, plumbing fixtures or industrial piping systems, must comply with Aspen Lakes Utility, LLC cross-connection backflow prevention program.

The company's cross connection control program consists of the following requirements;

a) All connections made after June 1, 2009 must have a testable, state approved backflow prevention assembly installed downstream from the water meter at the street.

b) All connections installed prior to June 1, 2009 shall will be required to have a testable, state approved backflow prevention assembly installed downstream from the water meter at the street on or before June 1, 2014 or upon the sale of that lot, whichever is sooner. Exceptions, which would require immediate installation, include systems that are hooked up to an irrigation system, water feature, hot tub, or any other such installation as might be required by current plumbing code.

c) The company will test all backflow prevention devices annually and make repairs as necessary to ensure that they are in working order. This work will be billed to the customer.

The company has the right to turn off water to the customer if the customer fails to comply with the provisions of the cross connection control program.

Rule 32: Customer Requested Service Visits

The fee listed on Schedule No. 5 will be charged whenever a customer requests the company to visit the customer's premises during normal business hours to interrupt service or to remedy a service problem and the problem is due to the customer's facilities. The emergency or non-emergency off-hours fee will be charged when the visit is requested for other than the normal business hours.

Rule 33: Turning Water Off / On and Charges for Delinquency / Noncompliance

When a customer fails to comply with the company's rules and regulations, or permits any bill or charge to become delinquent, the company shall give 5 days written notice before the water may be shut off. The notice shall state the reasons for shut off, the earliest date for shut off, and shall inform the customer of the Commission's appeal and complaint process. Service shall not be restored until the rules and regulations are complied with or payment is made in the amount due, including charges for the expense of turning the water off and on.

Rule 34: Unauthorized Restoration of Service

After the water has been shut off at the meter stop or at the meter, if it should be turned on by any person not authorized by the company, the water service line may be disconnected. Service shall not be reconnected until all arrears and all costs of service disconnection and re-connection are paid.

Rule 35: Shut Off for Repairs

The company shall have the right to shut off the water supply temporarily for repairs or other necessary purposes. The company shall use all reasonable and practicable measures to notify the customer in advance of such discontinuance of service except in the case of emergency repairs. The company shall not be liable for any inconvenience suffered by the customer or damage to his property arising from such discontinuance of service.

Rule 36: Irrigation

Special restrictions on irrigation and other outside uses may be established by the company. Irrigation may be prohibited entirely in cases of emergency or water shortage to maintain service for domestic purposes.

Rule 37: Damages

Should damage result to any of the company's property from molesting or willful neglect by the customer, or to a meter or meter box located in the customer's building from molesting or willful neglect by any person, the company will repair or replace such equipment and may bill the customer for the costs incurred.

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

WJ 34

EXHIBIT 102

TO THE OPENING TESTIMONY OF
MATT K. CYRUS

ON BEHALF OF
ASPEN LAKES UTILITY COMPANY

August 23, 2018

NAMING RATES FOR

ASPEN LAKES UTILITY COMPANY, LLC
16900 Aspen Lakes Drive
Sisters, OR 97759
(541) 549-3660

Serving water in the vicinity of Aspen Lakes, Oregon

**Containing Rules and Regulations
Governing Service**

Effective: January 1, 2016

INDEX

<u>Schedule No.</u>	<u>Title of Sheet</u>	<u>Sheet No.</u>
	Title Page	1
	Index Page	2
1	Residential Metered Rates	3
2	Commercial Metered Rates	4
3	Irrigation Metered Rates	5
4	Stand-by Fire Protection Rates	6
5	Miscellaneous Charges	10
	Rules and Regulations	11

SCHEDULE NO. 1

RESIDENTIAL METERED RATE

Available: To customers of the Utility at Aspen Lakes, Oregon, and vicinity.

Applicable: To residential premises.

Base Rate

<u>Size of Meter</u>	<u>Monthly Base Rate</u>	<u>Usage Allowance (Gallons)</u>
1 inch	\$18.00	3,000
1 ½ inch	\$30.00	3,000

Variable Usage Rate

\$1.00 per 1,000 gallons above 3,000 gallons.

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

SCHEDULE NO. 2

COMMERCIAL METERED RATES

Available: To customers of the Utility at Aspen Lakes, Oregon, and vicinity.

Applicable: To commercial premises.

Base Rate

<u>Size of Meter</u>	<u>Monthly Base Rate</u>	<u>Usage Allowance (Gallons)</u>
1 inch	\$18.00	3,000
1 ½ inch	\$30.00	3,000
2 inch	\$54.00	3,000
3 inch plus	\$100.00	10,000

Variable Usage Rate

\$2.00 per 1,000 gallons above 3000 gallons for meters smaller than 3"
\$2.00 per 1,000 gallons above 10,000 gallons for meters 3" and larger

Water Trucks - \$30.00 per 1,000 gallons - \$35.00 per load minimum

Irrigation water: \$500 per month base price for the first 50,000 gallons plus \$1.00 per 7,500 gallons above the 50,000 base volume.

Special Provisions:

1. These rates are based on continuous service. Discontinuance of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

SCHEDULE NO. 3

STAND-BY FIRE PROTECTION

Available: To customers of the Utility at Aspen Lakes, Oregon, and vicinity.

Applicable: To customers for service at one or more locations for fire protection purposes.

Base Rate

<u>Stand-by Fire Protection Only</u>	<u>Monthly Rate</u>
6 inch valve and fire hydrant	\$18.00

SCHEDULE NO. 4

MISCELLANEOUS SERVICE CHARGES

This schedule lists the miscellaneous charges that are included in the utility's Rules and Regulations; refer to the appropriate rules for an explanation of charges and conditions under which they apply.

<u>Connection Charge for new Service (Rule No. 9):</u>	
Standard 1 inch service	\$4,500.00
Larger than 1 inch	\$4,500.00 plus any additional costs
Meter Charge	\$1,000.00
New account set up fee (Rule No. 4)	\$100.00
<u>Meter Tests (Rule No. 21):</u>	
First test within 12-month period	No charge
Second test within 12-month period	\$50.00
<u>Cross Connection Tests (Rule No. 26)</u>	\$50.00
<u>Pressure Test (Rule No. 40)</u>	
First test within 12-month period	No Charge
Second test within 12-month period	\$50.00
<u>Late Payment Charge (Rule No. 22)</u>	
Charged on amounts more than 30 days past due	1 ½ %
<u>Returned Check Charge (Rule No. 23):</u>	\$25.00 each occurrence
<u>Trouble-Call Charge (Rule No. 36):</u>	\$30.00 per hour
<u>Re-connection Charge (Rule No. 29)</u>	
During normal office hours	\$15.00
After normal office hours on special request	\$30.00
<u>Unauthorized Restoration of Service (Rule No.30):</u>	Re-connection charge plus costs
<u>Unauthorized-Use Charge (Rule No. 31)</u>	\$100.00 plus costs
<u>Damage / Tampering Charge (Rule 34):</u>	At Cost
<u>Disconnect-Visit Charge (Rule No. 29)</u>	\$15.00

RULES AND REGULATIONS

Rule 1: Jurisdiction of the Commission

The Rules Regulations herein shall be subject to the rules and regulations of the Public Utility Commission of Oregon.

Rule 2: Definitions

- A. "Utility" shall mean the Aspen Lakes Utility Company, LLC.
- B. "Applicant shall mean any person, business, or organization who applies for service, or reapplies for service at a new or existing location after service has been discontinued, except as noted in the definition of "Customer".
- C. "Commission" shall mean the Public Utility Commission of Oregon.
- D. "Customer" shall mean any person, business, or organization who has applied for, been accepted to receive, or is currently receiving service. A customer who voluntarily discontinues service at the same or different premises within 20 days after discontinuance retains customer status.
- E. "Residential premises" shall mean any dwelling and its land, including, but not limited to, a house, apartment, condominium unit, townhouse, cottage, cabin, mobile home, or trailer house.
- F. "Commercial premises" shall mean any premises at which a customer carries on any major activity of gaining a livelihood or performing a public service. Such activity may be of a business, industrial, professional, or public nature.
- G. "Main" shall mean the pipe laid in the street, alley, or other right-of-way, for the distributions of water to customers. It shall not include service connection.
- H. "Service connection" shall mean the pipe, valves, stops, fittings, and meter and meter box, if any, laid from the main to the property line of the premises served.
- I. "Customer line" shall mean the pipe, stops, and fittings leading from the property line to the premises served, excluding any meter or meter box.

APPLICATION FOR SERVICE

Rule 3: Customer/Applicant information (OAR 860-036-0015)

The utility shall provide or be able to provide customers or applicants with the following information:

- A. Instructions on how to read meters, either in writing or by explanation;
- B. Application and contract forms;
- C. Utility rules and regulations;
- D. Commission rules and regulations;
- E. Approved tariffs;
- F. Rights and Responsibilities Summary for Oregon Utility Consumers;
- G. Notices in foreign languages, if applicable;
- H. The utility's business address, telephone number, and emergency telephone number; and
- I. Notices approved by the Commission.

Rule 4: Application for Service (OAR 860-036-0035)

Application for water service must be made for each individual service. The application shall identify the applicant, the premises to be served, the billing address if different, the type of use to which the water is to be put, and an agreement to conform to the Rules and Regulations of the utility as a condition for receiving such service. The applicant shall, at this time, pay any scheduled fees or deposits. An application is a request for water utility service and shall not be accepted until the applicant establishes credit as set forth in OAR 860-036-0040.

An application for water service must be made where:

- A. An applicant who has not previously been served by the water utility requests service;
- B. Service has been involuntarily discontinued in accordance with the utility and Commission rules, and service is sought;
- C. Service has been voluntarily discontinued and a request to restore service has not been made within 20(twenty) days; or
- D. There is a change in the identity of a customer, the type of use to which the water is put, or the number of premises served.

Rule 5: Deposit for Service (OAR 860-036-0040)

In accordance with the Commission's rules for credit establishment and deposit waiver, an applicant or a customer may be required to make a deposit to secure payment of bills for service. The deposit shall not exceed one-sixth (1/6) the amount of reasonable estimated billings for one year's use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service. (OAR 860-036-0040)

The utility shall pay interest on deposits at the rate established by the Commission. After the customer has paid bills for service for 12 (twelve) consecutive months without having had service discontinued for nonpayment or more than 2 (two) occasions in which a shut-off notice was issued, and the customer is not then delinquent in the payment of bills, the company shall promptly and automatically refund the deposit plus accrued interest.

Rule 6: Customer Service Line

The customer shall own and maintain the customer service line and promptly repair all breaks and leaks. The utility shall not be responsible for any damage or poor service due to inadequacy of the customer line or any portion of the customer's plumbing. All leaks in the customer line, faucets, and all other parts of the plumbing owned or controlled by the customer shall be promptly repaired so as not to waste water.

Rule 7: Separate Control of Service

All premises supplied with water will be served through service lines so placed as to enable the utility to control the supply to each individual premises using a valve placed within and near the line of the street, the utility right-of-way, or at the meter.

Rule 8: Service Connections (OAR 860-036-0060)

The utility shall furnish and install at its own expense, all trenching, pipe, valves, and fittings between its main line and the customer's service line. Such installation shall be designed as the service connection. The utility shall own, operate, maintain, and replace the service connection when necessary and promptly repair all breaks and leaks. The customer shall not be responsible for any damage or poor service due to inadequacy of the service lines or any portion of the utility's plumbing.

Rule 9: Service Connection Charge

An applicant requesting permanent water service to a premises not previously supplied with permanent water service by the utility shall be required to pay the service connection charge listed in the utility's Miscellaneous Service Charges Schedule.

Rule 10: Main Line Extension Policy (OAR 860-036-0065)

The utility shall specify the size, character, and location of pipes and appurtenances in any main line extension. Main line extensions shall normally be along streets, roads, highways, or satisfactory rights-of-way. All construction work shall conform to all applicable rules, regulations, codes, and industry standards. Each mainline extension shall normally extend along applicant's property line to the point the applicant's service line would be at a 90-degree angle to the street or main line.

Rule 11: Main Line Advances and Refunds Policy

Each new customer requesting a main line extension shall advance the utility the cost-base amount necessary to extend the main line to provide service.

For a period of 1 (one) year after construction of the requested main line extension, the utility shall also collect from any additional applicants whose service connections or service lines shall connect to said main line extension an amount per foot equal to the new applicant's share of the main line extension cost for that portion used. The utility will then refund the share differential amount to those customers who previously shared the cost of said main line extension. Refunds shall not exceed the amount originally advanced. No part of the distribution system installed prior to the request for a main line extension shall be used to calculate any customer advance or refund.

Rule 12: Types of Use

Water service may be supplied for residential, commercial, irrigation, or fire prevention purposes. The service will normally be supplied on a metered basis.

Rule 13: Multiple Residences

An apartment building, mobile home park, motel, trailer camp, duplex, townhouse, or any other property consisting of more than one residential unit, if served through one service line, shall be considered to be equivalent to the number of dwelling units.

Rule 14: Utility Access to Private Property (OAR 860-036-0120(3)(b) and OAR 860-036-0205(3))

Customers shall provide access during reasonable hours to company-owned service lines that extend onto the premises of the customer, for the purposes of reading meters, maintenance, or removal of company property at the time service is to be terminated.

Rule 15: Restriction on Entering a Customer Residence (OAR 860-036-0085)

No water utility employee shall enter the residence of its customers without proper authorization except in an emergency when life or property is endangered.

REFUSAL OF SERVICE

Rule 16: Refusal of service Due to Customer Accounts (OAR 860-036-0080(1-3))

The utility may refuse to serve an applicant until receipt of full payment of overdue amounts, or other obligations related to a prior account of the applicant with the utility, when the following circumstances exist:

- A. An overdue amount remains outstanding by a customer at the service address;
- B. The applicant resided at the service address indicated in (A) during the time the overdue charges were incurred; or
- C. The person indicated in (A) will reside at the location to be served under the new application. (OAR 860-036-0080)

Service shall not be refused for matters not related to water service. Residential service shall not be refused due to obligations connected with nonresidential service.

If service is refused under this rule, the utility shall inform the applicant or customer of the reasons and of the Commission's dispute resolution process.

Rule 17: Refusal of Service Due to Utility Facilities (OAR 860-036-0080(7))

The utility shall not accept an application for service or materially change service to a customer if the utility does not have adequate facilities or water resources to render the service applied for, or if the

desired service is of a character that is likely to unfavorably affect reasonable service to other customers.

For refusal of service under this rule, the utility shall provide a written letter of refusal to the applicant informing applicant that the details upon which the utility's decision was based may be requested. A copy of such notice will be sent to the Commission. The details will include, but not be limited to:

- A. Current capacity and load measured in gallons or cubic feet per minute;
- B. Current capacity and load measured in pounds per square inch;
- C. Cost to the utility for additional capacity in order to provide the additional service; and
- D. Information regarding the appeal process of the utility's refusal to provide service, available through the Commission's dispute resolution process pursuant to OAR 830-036-0025.

Rule 18: Refusal of Service Due to Customer Facilities (OAR 860-036-0080(4-6))

The utility shall refuse service to an applicant or customer whose facilities do not comply with applicable plumbing codes, or, if in the best judgment of the utility, are of such a character that safe and satisfactory service cannot be given.

If service is refused under this rule, the utility will provide written notification to the customer within 10 (ten) working days stating the reason(s) for refusal and providing information regarding the Commission's complaint process. A copy of the notification will also be sent to the Commission.

METERS

Rule 19: Utility Meters (OAR 860-036-0105)

The utility shall own, maintain, and operate all meters. Meters placed in service shall be adequate in size and design for the type of service, set at convenient locations, accessible to the utility, subject to the utility's control, and placed in a meter box or vault between the street curb and property line or within the utility easement. Each meter box or vault shall be provided with a suitable cover.

Where additional meters are furnished by the utility or relocated for the convenience of the customer, a reasonable charge may be made in accordance with a schedule approved by the Commission.

The water utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste without notice to the customer.

Each customer shall provide the utility with regular access to the meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice by the utility requesting access is grounds for disconnection. (OAR 860-036-0120) Should damage result to the meter from molesting, tempering, or willful neglect on the part of the customer, the utility shall repair or replace the meter and may bill the customer for the reasonable cost. (OAR 860-036-0105(6))

Rule 20: Meter Testing (OAR 860-036-0110)

The meter shall be tested prior to or within 30 (thirty) days of installation to determine it is accurate to register not more than 2 (two) percent error. No meter shall be allowed to remain in service if it registers

an error in excess of 2 (two) percent under normal operating conditions. The utility shall maintain a record of all meter tests and results. Meter test result records shall include:

- A. Information necessary to identify the meter;
- B. Reason for making the test;
- C. Date of test;
- D. Method of testing;
- E. Meter readings;
- F. Test results; and
- G. Any other information required to permit convenient checking of methods employed.

Rule 21: Customer-Requested Meter Test (OAR 860-036-0115)

A customer may request that the utility test the service meter; such test shall be made within 20 (twenty) working days of the receipt of such request at no cost to the customer. The customer has the right to be present during said test, which is to be scheduled at a mutually agreeable time. A written report shall be provided to the customer stating:

- A. Customer's name;
- B. Date of the customer's request;
- C. Address at which the meter has been installed;
- D. Meter identification number;
- E. Date of actual test; and
- F. Test results.

If a customer requests a meter test more often than once in any 12 (twelve) month period, the deposit listed on the Miscellaneous Service Charges Schedule may be required to recover the cost of the test. If the meter is found to register more than 2 (two) percent fast under conditions of normal operation, the utility shall refund the deposit to the customer.

BILLING

Rule 22: Billing Information / Late Payment Charge (OAR 860-036-0120 and OAR 860-036-0125)

Bills are due and payable when rendered by deposit in the mail or other reasonable means of delivery. As near as practical, meters shall be read at monthly intervals on the corresponding day of each meter reading or billing period. The bill shall be rendered immediately thereafter. (OAR 860-036-0120(3) requires water utilities to bill at monthly intervals. A utility may request upon application, special authority by the Commission to bill at intervals other than monthly.)

The utility shall make reasonable efforts to prepare opening and closing bills from actual meter readings. When there is good reason for doing so, estimated bills may be submitted. Any estimated billings shall be clearly designated as such.

The late-payment charge determined by the Commission and listed on the miscellaneous Service Charges Schedule shall be applied to all overdue balances at the time of preparing the subsequent month's bill for

balances owing that are 30 (thirty) days old.

All bills become delinquent if not paid within 15 days of the date of transmittal of the bill. (OAR 860-036-0125 requires a minimum of 15 (fifteen) days.) If permitted to become delinquent, water service may be terminated after proper notice as provided in Rule 29, Disconnection / Re-connection Visit Charge.

All water service bills shall show:

Rule 16: Information

All bills shall state the delinquent date of the bill and the type of rate schedule or schedule number under which the bill was computed. All metered bills shall show the readings of the meter at the beginning and end of the period of service to which the bill applies, the dates of the meter reading, the amount of water consumed, and any other information necessary to the computation of the bill. However, when there is good reason for so doing, estimated bills may be submitted.

Rule 17: Returned Check Charge

The returned check charge listed on Schedule No. 5 shall be billed for each occasion a customer submits a check for payment which is not honored, for any reason, by a bank or other financial institution.

Rule 24: Prorating of Bills

Initial and final bills will be pro-rated according to the number of days service was rendered and on the basis of a thirty-day month. For metered services, the meter will be read upon opening and closing a customer's account. Consumption will be charged at scheduled rates, and any minimum monthly charge will be pro-rated.

Rule 25: Adjustment of Bills

When an under or over billing occurs, the company shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to some cause, the date of which can be fixed, the over or undercharge shall be computed back to such date. If no date can be fixed, the company shall refund the overcharge or re-bill the undercharge for no more than six months' usage. In no event shall an over or under billing be for more than three years' usage.

No billing adjustment shall be required to repay an under billing, the customer shall be entitled to enter into a time payment agreement without regard to whether the customer already participates in such an agreement. If the customer and company cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The company shall provide written notice advising the customer of the opportunity to enter into a time payment agreement and of the Commission's appeal and complaint process.

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Except for emergencies, a notice must be given to the company five days in advance and payment in full of all arrears must be made should a customer desire discontinuance of service. Until receipt of notice,

the customer shall be held responsible for all service rendered.

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Aspen Lakes Utility Company, LLC is required under OAR 333-061-0070 to undertake a cross connection control program to protect the public water system from pollution and contamination.

The customers of the company, for the elimination or control of existing cross-connections, actual or potential, between the customer's potable water system and non-potable water systems, plumbing fixtures or industrial piping systems, must comply with Aspen Lakes Utility, LLC cross-connection backflow prevention program.

The company's cross connection control program consists of the following requirements;

- a) All connections made after June 1, 2009 must have a testable, state approved backflow prevention assembly installed downstream from the water meter at the street.
- b) All connections installed prior to June 1, 2009 shall will be required to have a testable, state approved backflow prevention assembly installed downstream from the water meter at the street on or before June 1, 2014 or upon the sale of that lot, whichever is sooner. Exceptions, which would require immediate installation, include systems that are hooked up to an irrigation system, water feature, hot tub, or any other such installation as might be required by current plumbing code.
- c) The company will test all backflow prevention devices annually and repairs made as necessary to ensure that they are in working order. This work will be billed to the customer.

The company has the right to turn off water to the customer if the customer fails to comply with the provisions of the cross connection control program.

Rule 27: Customer Requested Service Visits

The fee listed on Schedule No. 5 will be charged whenever a customer requests the company to visit the customer's premises during normal business hours to interrupt service or to remedy a service problem and the problem is due to the customer's facilities. The emergency or non-emergency off-hours fee will be charged when the visit is requested for other than the normal business hours.

Rule 28: Turning Water Off / On and Charges for Delinquency / Noncompliance

When a customer fails to comply with the company's rules and regulations, or permits any bill or charge to become delinquent, the company shall give 5 days written notice before the water may be shut off. The notice shall state the reasons for shut off, the earliest date for shut off, and shall inform the customer of the Commission's appeal and complaint process. Service shall not be restored until the rules and regulations are complied with or payment is made in the amount due, including charges for the expense of turning the water off and on.

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After the water has been shut off at the meter stop or at the meter, if it should be turned on by any person not authorized by the company, the water service line may be disconnected. Service shall not be reconnected until all arrears and all costs of service disconnection and re-connection are paid.

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The company shall have the right to shut off the water supply temporarily for repairs or other necessary purposes. The company shall use all reasonable and practicable measures to notify the customer in advance of such discontinuance of service except in the case of emergency repairs. The company shall not be liable for any inconvenience suffered by the customer or damage to his property arising from such discontinuance of service.

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Special restrictions on irrigation and other outside uses may be established by the company. Irrigation may be prohibited entirely in cases of emergency or water shortage to maintain service for domestic purposes.

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Should damage result to any of the company's property from molesting or willful neglect by the customer, or to a meter or meter box located in the customer's building from molesting or willful neglect by any person, the company will repair or replace such equipment and may bill the customer for the costs incurred.

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

WJ 34

EXHIBIT 103

TO THE OPENING TESTIMONY OF
MATT K. CYRUS

ON BEHALF OF
ASPEN LAKES UTILITY COMPANY

August 23, 2018

NOTICE OF WATER RATE INCREASE

August 8, 2016

Aspen Lakes Utility Co, LLC
16900 Aspen Lakes Drive
Sisters, OR 97759

Business Phone: 541-549-3660

Emergency Phone: 541-908-6539

Email Address: accounting@aspenlakes.com

The purpose of this notice is to inform you that Aspen Lakes Utility Co, LLC has raised rates on the overage charge effective April 1, 2016 and will raise the base rate effective January 1, 2017.

The current rates have remained unchanged since 2009. During that time, power rates and other expenses have continued to increase. In the past year alone, expensive upgrades have been made to the pump station in order to comply with regulatory requirements as well as improve reliability. Rate increases are necessary to keep up with expenses and maintain system reliability. As a comparison, the City of Bend charges residents outside the city a base rate of \$39.26 plus \$3.87 per 1,000 gallons of usage.

The table below shows Aspen Lakes Utility Co., LLC's old rates and the new rates:

SERVICE	Old Rates	New Rates
Fire Protection	\$18	\$22
Improved lots	\$18	\$22
Connection Charge	\$2,500	\$4,500
Meter Charge	\$500	\$1,000
Overage charge	\$1 per 1,000 gallons over 3,000 gallons per month	\$2 per 1,000 gallons over 3,000 gallons per month

The new rates were inadvertently applied to the meter readings that included the 4th quarter of 2015 and the first quarter of 2016. The additional charges are credited on this statement. Should you have any questions or if you would like a copy of the Naming Rates for the Aspen Lakes Utility Co., LLC, please contact Mandy at 541-549-3660.

We apologize for any confusion this may have caused.

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

WJ 34

EXHIBIT 104

TO THE OPENING TESTIMONY OF
MATT K. CYRUS

ON BEHALF OF
ASPEN LAKES UTILITY COMPANY

August 23, 2018

**NOTICE OF PROPOSED WATER RATE INCREASE
AND CUSTOMER'S RIGHT TO PETITION PUC FOR REGULATION**

May 1, 2016

Aspen Lakes Utility Co, LLC
16900 Aspen Lakes Drive
Sisters, OR 97759

Business Phone: 541-549-3660

Emergency Phone: 541-908-6539

Email Address: accounting@aspenlakes.com

The purpose of this notice is to inform you that Aspen Lakes Utility Co, LLC is proposing to increase your water service rates. The rates are scheduled to go into effect in 60 days from the date of this notice.

Aspen Lakes Utility Co, LLC is increasing its rates because rates have remained unchanged since 2009. During that time, power rates and other expenses have continued to increase. In the past year alone, expensive upgrades have been made to the pump station in order to comply with regulatory requirements as well as improve reliability. Rate increases are necessary to keep up with expenses and maintain system reliability. As a comparison, the City of Bend charges residents outside the city a base rate of \$39.26 plus \$3.87 per 1,000 gallons of usage.

The table below shows Aspen Lakes Utility Co., LLC's current rates and proposed new rates:

SERVICE	Current Rates	Proposed Rates
Fire Protection	\$18	\$22
Improved lots	\$18	\$22
Connection Charge	\$2,500	\$3,500
Meter Charge	\$500	\$750
Overage charge	\$1 per 1,000 gallons over 3,000 gallons	\$2 per 1,000 gallons over 3,000 gallons

As a customer, you have the right to petition the Commission to regulate and approve Aspen Lakes Utility Co, LLC water rates. The Commission must receive valid petitions from at least 20 percent of the customers requesting rate regulation. Customer petitions must be filed with the Commission within 45 days from the date of this notice.

If the Commission does not receive petitions from 20 percent or more of the customers, the rates proposed in this notice will become the lawful rates 60 days from the date of this notice.

If the Commission receives petitions from 20 percent or more of the customers requesting rate regulation, the proposed rates in this notice cannot go into effect and a rate investigation will be opened. Aspen Lakes Utility Co, LLC will have 60 days from the date of the Commission's order establishing Aspen Lakes Utility Co, LLC under rate regulation to file proposed rates schedules (tariffs) for Commission approval. Once filed, the Commission Staff will investigate

Notice of Proposed Rate Increase
Page 2

Aspen Lakes Utility Co, LLC proposed rates. The Commission will set appropriate cost-based rates, which in many cases, are actually higher than those proposed by the water utility.

Customer petition forms are available on the Commission's Water Website at www.oregon.gov/puc. Petitions must:

- (1) State of name of the water utility
- (2) State that the purpose of the petition is to request rate regulation;
- (3) State the customer's name;
- (4) State the customer's mailing address;
- (5) State the customer's service address if different; and
- (6) Include the customer's original signature (no photocopies will be accepted).

Petitions must be mailed or delivered to the Commission within 45 days of the date of this notice. Regarding customer petitions:

- Electronic petitions will not be accepted.
- Petitions will not be accepted by telephone.
- Customer petitions filed with the PUC cannot be withdrawn or rescinded.

Aspen Lakes Utility Co, LLC will provide a complete customer list (including names and addresses) within 10 days of receiving such a request from any customer.

Deliver Petitions to:
Public Utility Commission of Oregon
Consumer Services Section
201 High St. SE STE 100
Salem, Oregon 97301

Mail Petitions to:
Public Utility Commission of Oregon
Consumer Services Section
PO Box 1088
Salem OR 97308-1088

You may contact the Commission's Consumer Services Section at 1-800-522-2404; TTY 711 for further information.

cc: PUC Water Program, PO Box 1088, Salem OR 97308-1088, (Provide a copy of the customer notice and a list of all customers including name, account number, mailing address, and service address if different.).

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

WJ 34

EXHIBIT 105

TO THE OPENING TESTIMONY OF
MATT K. CYRUS

ON BEHALF OF
ASPEN LAKES UTILITY COMPANY

August 23, 2018

From: SHEARER Scott <scott.shearer@state.or.us>
Sent: Friday, February 10, 2017 9:43 AM
To: Matt Cyrus
Cc: HARI Celeste
Subject: RE: Water Rates Letter

Hi Matt,


Yes, there is some consideration for irrigation as a part of residential service in the new rules. However, it is not a black and white that all irrigation counts. There is a few things we would need to take into consideration to make a determination in a case by case basis (ex: Is the irrigation metered separately or together with the residential service? Is the irrigation infrastructure separate from the domestic water supply? Does the domestic rates subsidize the irrigation rates?, etc.). Celeste is looking at this to see where Aspen Lakes falls in these.

Ultimately, if we determine you are over the new thresholds, you'll need to notify customers of the option to petition the Commission for a rate case. Then if 20% or more of the customer's petition, we would do a rate case and determine what the rate should be/or that rates you are charging are adequate.

Remember, we look at rates from a "What rate does a company needs to charge to maintain the system (costs) and have the opportunity to make a reasonable return (profit)." Rates aren't based on what the customers want.

Celeste or I will be in touch on next steps (if any).

Sincerely,
Scott Shearer

 Oregon Senior Compliance Specialist
Public Utility Commission
503-373-1978

From: Matt Cyrus [mailto:Matt@aspenlakes.com]
Sent: Friday, February 10, 2017 9:22 AM
To: SHEARER Scott
Cc: Matt Cyrus
Subject: RE: Water Rates Letter

Scott,

It sounds as though the interpretation of irrigation vs domestic may have changed somewhat and I'd be interested in knowing how that might affect us and the rate change that we enacted last year as well as the one this year. Last year, after not changing rates for about nine years, we increased the overage from one cent to two cents per 1,000 gallons. Their attorney argues that the irrigation should be considered domestic, but these homesites average about an acre in size and many of the landscaped areas are larger than an entire typical city lot.

This year we raised the base rate by about 22%, from \$36 to \$44. Again, these rates have been the same for quite a few years. An

From: nsanesi@bendbroadband.com
Sent: Thursday, February 9, 2017 3:25 PM
To: Matt Cyrus
Cc: Boyd Levet; John Robertson; Diedra & Tom Thompson; Chuck Fadeley; Scott Lamoreaux; Eileen Rothrock; steve loveland; navebbr@aol.com
Subject: Fwd: OPUC Email Chain

Hi Matt,
This is the separate "attachment" of OPUC/lawyer emails referred to in my other email letter to you today.
Norm Sanesi.

----- Forwarded Message -----

Subject:FW: Follow Up Re Aspen Lakes HOA Water Rates
Date:Wed, 8 Feb 2017 00:28:19 +0000
From:Tommy Brooks
To:Chuck Fadeley

FYI

From: SHEARER Scott [scott.shearer@state.or.us]
Sent: Tuesday, February 07, 2017 4:27 PM
To: Tommy Brooks
Subject: RE: Follow Up Re Aspen Lakes HOA Water Rates

Mr. Brooks,

Thank you for following up on this issue in light of the Commission's recent rule change. Pursuant to OAR 860-036-1910, the Commission does intend to consider irrigation rates in the calculation of the rate threshold to the extent that the irrigation consistent with the definition of "residential service," as defined in OAR 860-036-1010(7).

Should you have any further questions, please let me know.

Sincerely,
Scott Shearer

Senior Compliance Specialist
Oregon Public Utility Commission
503-373-1978

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

From: Tommy Brooks [<mailto:tbrooks@cablehuston.com>]
Sent: Friday, February 3, 2017 2:16 PM
To: SHEARER Scott
Subject: Re: Follow Up Re Aspen Lakes HOA Water Rates

Thank you. And thanks for the quick response.

On Feb 3, 2017, at 2:04 PM, SHEARER Scott <scott.shearer@state.or.us> wrote:

Mr. Brooks,

There was a lot of discussion about this issue during the rule revision workshops. I have asked our attorney who specifically worked on these rules to review your request and reply. We will be in touch.

Sincerely,

Scott Shearer

Senior Compliance Specialist
Oregon Public Utility Commission
503-378-6600 or toll free 1-800-522-2404

From: Tommy Brooks [mailto:tbrooks@cablehuston.com]
Sent: Friday, February 3, 2017 1:52 PM
To: SHEARER Scott <SDSHEARE@puc.state.or.us>
Subject: Follow Up Re Aspen Lakes HOA Water Rates

Mr. Shearer -

I represent the Aspen Lakes HOA, which previously communicated to you through its representative Chuck Fadeley. I am following up on an email you sent to Mr. Fadeley on September 14, 2016. In that email, you indicated to Mr. Fadeley that the threshold for triggering PUC jurisdiction over small water systems applies only when the rates for "essential household uses" of water exceed the maximum rate in the rule, and that irrigation water, even for home use, is not an essential household use.

We are aware that the Commission recently adopted new rules, a portion of which addressed the jurisdictional thresholds. In light of the rule changes, we are posing the question to you again to determine if the Commission indeed excludes rates for irrigation water from the maximum rate for unregulated utilities set forth in OAR 860-036-0030 (now OAR 860-036-1910) as you initially suggested.

Prior to the recent rule amendments, the rule provided that the maximum "residential rate" for a metered water system was \$36/mo. OAR 860-036-0010(2) clearly defined a "residential customer" as a customer who receives "domestic or irrigation water" in a residential area, as long as the customer is not considered a commercial customer. The rule did not distinguish between "essential" and "non-essential" household uses. As part of its deliberation of the rule changes in Docker AR 595, the Commission considered a proposed rule that included OAR 860-036-1010, subsection (6) of which contained the following definition: "'Residential service' means a type of service provided by the water utility for general domestic use." This new definition arguably would have been more in-line with your interpretation below and may have excluded irrigation uses from residential service and, therefore, from the maximum rate. In the final version of the rule the Commission adopted, however, the Commission reverted back to a definition of "residential service" that includes domestic AND irrigation uses. The final definition reads as follows: "'Residential service' means water service provided for domestic or irrigation purposes in a residential area and is not considered a commercial service." The order adopting the rules addressed this change from the proposed version, stating "We also revise the definition of 'residential service' to make it consistent with current Commission practices in determining rate thresholds."

It is clear to us from the rule change that the Commission's prior practice, and policy for the future, is to include non-commercial irrigation in residential areas as being subject to maximum rates. Could you please confirm this interpretation?

Thank you for your attention to this matter.

Tommy Brooks

Tommy A. Brooks
Admitted in Oregon and Washington
Cable Huston
Suite 2000, 1001 SW Fifth Avenue
Portland, OR 97204-1136
tbrooks@cablehuston.com<blocked::mailto:tbrooks@cablehuston.com>
503.224.3092 - phone
503.224.3176 - fax

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CERTIFICATE OF SERVICE

I hereby certify that on the 23th day of August, 2018, I caused to be served the foregoing
RESPONDENT TESTIMONY OF MATT CYRUS on the following parties at the following
addresses:

Tommy A. Brooks
Chad M. Stokes
Cable Huston LLP
1001 SW Fifth Ave., Suite 2000
Portland, Oregon 97204-1136
(503) 224-3092 (phone)
tbrooks@cablehuston.com
cstokes@cablehuston.com

Joan Grindeland
Utility Analyst
Retail Telecom & Water Regulation
Oregon Public Utility Commission
201 High Street SE, Suite 100
Salem, OR 97301
PO Box 1088
Salem, OR 97308-1088
Joan.grindeland@state.or.us

by:

- U.S. Postal Service, ordinary first class mail
- U.S. Postal Service, certified or registered mail,
- return receipt requested
- hand delivery
- facsimile
- electronic service
- other (specify) _____

s/ William J. Ohle
William J. Ohle, OSB 913866