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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

AR 487

In the Matter of a Rulemaking to	)	
Adopt and Amend Rules to	)	ORDER
Implement eFiling.	)	

**DISPOSITION: RULES AMENDED AND ADOPTED**

Since 2002, the Commission has been working on developing electronic filing capabilities for documents in agency proceedings. The Commission initiated this effort for two reasons. First, the Governor has directed that all state agencies make services available electronically. Second, Commission stakeholders have asked for the ability to file and access documents electronically.

To date, the agency has implemented eFiling for CP and most ARB dockets. This rulemaking expands eFiling to a majority of Commission proceedings and will benefit parties and others interested in Commission proceedings. Once these rules are implemented, most critical case documents may be viewed electronically via the eDocket feature on the Commission’s website. Moreover, parties will be required to file fewer paper copies of pleadings and other documents, and will receive electronic notice of new filings in docketed proceedings.

The Commission provided notice of this rulemaking in the October 2004 Oregon Bulletin and to persons on the Commission’s rulemaking mailing lists. The Commission held a workshop on November 10, 2004, and a rulemaking hearing on November 17, 2004.

The proposed rules have broad support from the rulemaking participants, which include representatives from Portland General Electric, Verizon, Sprint/United, Idaho Power, NW Natural, PacifiCorp, Oregon Telecommunications Association, GVNW Consulting, various law firms that represent clients before the Commission, and the Commission Staff. These participants greatly assisted the rulemaking process by identifying areas of concern and offering alternative suggestions.

At its December 21, 2004, public meeting, the Commission considered this matter and adopted the rules as set forth in Appendix A.

## DISCUSSION

This rulemaking adopts, amends, repeals, and renumbers rules in 11 separate divisions in OAR Chapter 860. Rather than address each division separately, this order will address the substantive changes by topic.

### Scope

These rules generally require parties to supplement paper filings of pleadings, tariffs, and other legal documents with exact electronic copies via electronic mail, computer disk or online upload. *See* OAR 860-013-0021. These electronic copies will be placed on the Commission's website and can be accessed via the Commission's web page with eDockets. Moreover, those persons on the official Commission service list with an electronic mail address will receive notice of all new filings, as well as a link to the document.

Not all filings, however, will be subject to eFiling requirements. The rules apply to non-confidential filings related to matters requiring formal Commission action, including initial utility filings (tariffs, applications, petitions, etc.) and designated docketed filings. Parties unable to provide electronic copies, however, may request a waiver of this requirement. Moreover, the eFiling requirement will not apply to certain docket types, such as consumer complaint cases, and most utility reports and annual filings.

### Filing Center

Currently, the Commission lacks a centralized location for filings. Instead, filings are sent to one of four places: Regulatory Operations, Administrative Hearings Division (AHD), Administrative Services, or Commission Office. This lack of a centralized filing location has caused problems for parties who submit filings to the Commission. The agency's expectations of where certain documents should be filed are not set forth in rules or any written policy. Consequently, parties frequently file documents in the wrong division, causing extra work for Staff and a delay in processing.

These rules eliminate that problem by designating one official address for all legal filings. Specifically, the rules designate a physical address and an electronic mail address. *See* OAR 860-011-0010. To accommodate this change in Commission procedure, a Filing Center will be created in the Commission Office to receive and initially process all filings once these rules are effective.

### Filing Requirements

The rules establish various format and content requirements for both paper and electronic filings. OAR 860-011-0011 requires that all filings include a docket number of the proceeding, if assigned, and contact information to assist the Commission in responding. The rule also states that the Commission generally encourages parties to print text documents on both sides and use recyclable paper.

OAR 860-011-0012 establishes electronic file format requirements. First, the rule allows users to submit electronic files via disk, CD, DVD, electronic mail, or online upload. Second, the rule indicates that the Commission prefers to receive electronic copies of text documents in a text-searchable Portable Document File (.pdf). Users not capable of creating a text-searchable .pdf are required to submit a .pdf created via scanning or other technology and to supplement the filing with a copy in Microsoft Word format. The Commission will post the filings on its web page to allow users the ability to electronically access a true copy of the filed document and to search it for keywords and subjects. Finally, the rule provides certain naming conventions and other requirements to allow the reader the ability to identify its contents and view the files.

There are three issues relating to these filing requirements that require further explanation. The first relates to the filing of documents containing confidential information. Although documents containing confidential information are excluded from eFiling requirements, parties will be required to electronically file non-confidential, or so-called “redacted” copies. Parties need to be aware that many methods currently used to create redacted documents might enable others to alter the filings once posted on the Internet and recover the redacted information. These methods include the use of many features available in Microsoft Word, including the “highlighter,” “hidden font,” or “track changes” functions. To prevent the unauthorized disclosure of confidential information, parties should prepare redacted documents by permanently replacing the confidential information by overwriting it with other text, such as “CONFIDENTIAL.”

The second issue relates to the filer’s ability to determine whether the Commission received an electronic filing. Rulemaking participants indicated the need to obtain confirmation that a filing was received on a timely basis. The Commission is developing numerous processes to address this issue. A filer submitting a document via electronic mail will receive an automatic return message indicating that a message has been received. A filer using the online upload option will similarly receive confirmation that the document was successfully loaded onto the Commission’s network.<sup>1</sup> In addition to these preliminary notices, filers, as well as other persons on any applicable service list, will receive notice when the filing has been officially accepted.

The third issue relates to the Commission’s ability to match the electronic copy with the original, signed version. Obviously, a filing containing both the original version with an attached disk, CD, or DVD containing the electronic copy presents no problems. The difficulty arises when a party submits an electronic copy via an electronic mail attachment or online upload prior to submitting the original document. To help the Commission correctly match these non-simultaneous filings, filers are required to use identical naming conventions for each document, identifying the docket designation and number, if applicable, description of the document, name of filer, and filing date. In addition, filers submitting a document via electronic mail or online upload will receive a tracking number. Filers are encouraged to reference this tracking number

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<sup>1</sup> Prior to uploading documents, a filer will need to contact the Commission to create an account with a user name and password.

when submitting the original, signed document, or when contacting the Commission for information about the status of the filing.

### **Number of Paper Copies**

Currently, the Commission's rules generally require parties to file one original plus five copies of pleadings and other documents. Utilities filing general rate revisions must provide an original plus 20 copies. These rules reduce the number of copies required. Most pleadings and other documents require only an original signed copy for archiving requirements.

The rules specify whether additional paper copies are required. *See* OAR 860-013-0060. Generally, these filings are those that the Commission requires multiple copies but are difficult to replicate, such as multi-part applications. For example, given the size and organization of the documents, utilities will still be required to file 20 copies of initial general rate revisions. The rules also require all parties to file five copies of testimony and exhibits. Most pleadings, however, require no copies. These include generic petitions, motions, answers, and other routine documents.

### **Service**

These rules retain the requirement that parties serve copies of all pleadings and other filings on other parties to the case. *See* OAR 860-013-0070. However, the rules do allow parties to waive paper service, thus allowing the Commission and other parties to serve documents by electronic mail. As an incentive, any party that waives paper service is not subject to the two-person limit on the service list. This would allow a party the ability to place several representatives on the official mailing list for documents.

OAR 860-013-0070 also provides that, to assist the parties in providing service, the Commission's web page will contain an official service list for each docket. In addition to listing the representatives for each party, the list will also indicate which parties have waived paper service and may be served electronically.

### **Other Changes**

These rules make numerous organizational and housekeeping changes throughout the affected rule divisions. These changes include:

- Moving and clarifying the revenue fee requirements from the procedural rules (Division 011) to industry specific divisions (Divisions 021, 034, 036 and 037).
- Updating the schedule of fees and charges in OAR 860-011-0080.
- Codifying Commission practice that additional notice of a continued hearing involving the same issue need only be provided to parties attending the initial hearing and other parties who have requested continuing notice. (OAR 860-014-0010).
- Clarifying procedures for data requests and responses (OAR 860-014-0070).

**Implementation**

Finally, the Commission recognizes that these rule changes will require time for those appearing in Commission proceedings to modify procedures and processes. Accordingly, while the rules will become effective upon filing with the Secretary of State, the Commission acknowledges the need for a 90-day transition period to allow parties the ability to fully implement and comply with the amended rules. During this transition period, we expect all parties to make reasonable efforts to comply with the new rules; however, the Commission will not penalize any party who, despite making reasonable efforts, fails to comply with the new requirements. Rather, the Commission will work cooperatively with the party to help gain compliance and to ensure that the agency’s needs, as well as those of all parties, are satisfied.

**ORDER**

IT IS ORDERED that:

1. The modifications to Oregon Administrative Rules 860, Divisions 011, 012, 013, 014, 021, 022, 032, 033, 034, 036 and 037, as set forth in Appendix A, are adopted.
2. The amended rules shall become effective upon filing with the Secretary of State.
3. A person shall have 90 days from the date of filing with the Secretary of State to fully comply with the amended rules.

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

\_\_\_\_\_  
**Lee Beyer**  
Chairman

\_\_\_\_\_  
**John Savage**  
Commissioner

\_\_\_\_\_  
**Ray Baum**  
Commissioner

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

**860-011-0001**

**Notice to Interested Persons**

~~\_\_\_\_\_ (1) Prior to the adoption, amendment, or repeal of any permanent rule, the Commission shall notify, by mail, the persons whose names appear on the Commission's list of persons requesting notice of rule changes.~~

~~\_\_\_\_\_ (2) Any person who requests of the Commission, in writing, notice of proposed actions shall be included on the notice list.~~

(1) The Commission maintains mailing lists of persons interested in receiving notices of:

(a) Commission public meetings;

(b) Rulemaking proceedings that involve electric, natural gas, telecommunications, water, wastewater or procedural matters; and

(c) Contested case proceedings that concern particular regulated industries.

(2) The Commission will send advance notice of these events, by mail or electronic mail, to persons on these lists. Any person may request in writing to be included on the relevant list(s) for the person's particular area of interest.

(3) The Commission shall will not delete the names of persons from ~~thea~~ notice list without prior notification.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 169, f. & ef. 11-10-75 (Order No. 75-936); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

**860-011-0010**

**Address for Mailing or Filing; Status Inquiries Filing Information: Physical Address and Electronic Mail**

(1) The Commission's contact information, including physical and electronic mail address, is available on the Commission's website or by calling the Commission.

(2) All documents of any kind related to ~~docketed~~ Commission proceedings shall must be filed at the addresses in section (1) of this rule. ~~Unless otherwise provided by Commission instructions to parties, documents and facsimiles should be directed to the Administrative Hearings Division and should bear the number, if determined, for the docket in which they are to be filed.~~ Inquiries regarding docketed proceedings pending before the Commission should be directed to the Administrative Hearings Division, Support Unit.

~~\_\_\_\_\_ (3) The original document and all copies required by the Commission rules shall be filed in the same envelope or container. A party making simultaneous filings in more than one docket shall enclose the documents for each docket in a separate envelope or container.~~

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73,

ef. 7-15-73 (Order No. 73-436); Renumbered from 860-11-005; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 8-1999, f. & ef. 10-18-99 (Order No. 99-632); PUC 11-2003, f. & ef. 7-3-03 (Order No. 03-369)

**860-011-0011**

**Format and Content Requirements**

**(1) All text documents related to Commission proceedings must be prepared using a readable font that, when printed, will fit on an 8-1/2 by 11 inch page. Footnotes or quotations may be single spaced and indented. The first page of a pleading, exhibit, appendix, or other document must bear the docket number of the proceeding in which the document is filed, unless no docket number has been assigned.**

**(2) All persons who communicate with the Commission must provide their name, physical and electronic mail addresses, and telephone number to assist the Commission in responding. Persons who file on behalf of a business, organization, or other entity must also state their names and titles or positions, and the name of the entity on whose behalf the communication is sent.**

**(3) The original document and all copies required by the Commission rules must be filed in the same envelope or container to the extent practicable. A party making simultaneous filings in more than one docket must enclose the documents for each docket in a separate envelope or container.**

**(4) With the exception of tariff sheets, the Commission prefers to receive copies of text documents printed on both sides. The Commission encourages the use of recyclable paper.**

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

**Stats. Implemented: ORS 756.040 & 756.500 through 756.575**

**Hist.: NEW**

**860-011-0012**

**Electronic File Format Requirements**

**(1) Electronic filings required by rule may be provided as an electronic mail file attachment addressed to the Commission's electronic mail address provided in OAR 860-011-0010(1), submitted on a 3-1/2 inch formatted high-density disk, compact disk (CD) or DVD, or uploaded via the Commission's website. The filing must be labeled with any applicable docket number of the proceeding, the name of the party submitting the document, a description of the contents, and the date filed. Any filing submitted as an electronic mail attachment must be less than 20 megabytes in size and include the docket number and name of the file in the subject line of the electronic mail message.**

**(2) The Commission prefers to receive electronic copies of text documents in text-searchable Portable Document Format (i.e., pdf). Filers that cannot create text-searchable .pdf files are requested to provide a copy of the document converted to .pdf via scanning or other technology, and supplement the filing with a copy in Microsoft Word file format.**

(3) Electronic files must be named in a way that accurately describes the file contents. Filers must use a format that identifies the docket type or, if assigned, docket number, the nature of the document, and the person submitting it. For example, an electronic file containing a motion in a docketed proceeding should be identified as follows: UT 123, Motion to Amend Schedule (name of party) (date). Similarly, an electronic file containing an application for the approval of an affiliated interest contract should be identified as follows: UI Affiliated Interest Application (name of applicant) (date).

(4) Electronic filings containing numerous documents must be separated into multiple attachments or indexed and organized to allow the reader the ability to locate and view individual files. For example, a filing containing testimony from multiple witnesses should be divided into folders and subfolders and indexed accordingly as follows:

Folder Name: UE 123 Direct Testimony (name of party) (date)

Subfolders: Party/Exhibit 100 Witness Smith

Party/Exhibit 101 Witness Smith

Party/Exhibit 200 Witness Jones

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: NEW

#### **860-011-0015**

##### **Fees and Charges for Filings**

A filing will document shall not be accepted ~~for filing with~~by the Commission until all fees and charges required by law are paid.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-011-0020**

##### **~~Method of Payment of Fees and Charges~~**

~~(1) Payment of fees and charges shall be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check.~~

~~(2) A payment made by check shall be conditionally accepted until the check is cleared by the bank upon which it is drawn.~~

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

Stat. Implemented: ORS 756.040, 756.500 & 756.575

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203);

PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-011-0010; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 11-99, f. 11-18-99 (Order No. 99-708)

**860-011-0022**

**[ED. NOTE: Former OAR 860-011-0022 was renumbered to 860-021-0033.]**

**860-011-0023**

**~~Annual Fees to be Paid by Telecommunications Utilities and Competitive Telecommunications Providers~~**

~~—— (1) For payments due on or before April 1, 2000, each telecommunications utility shall pay to the Commission an annual fee equal to 25 hundredths of one percent (.25 percent) of gross operating revenues derived with Oregon.~~

~~—— (2) For payments due on and after April 1, 2001, each telecommunications utility and competitive telecommunications provider shall pay to the Commission an annual fee on gross retail intrastate revenue at a rate determined by Commission order. The Commission's order shall be entered by November 1 of the year prior to the calendar year upon which the annual fee is based.~~

~~—— (3) Each telecommunications utility and competitive provider shall pay the annual on or before April 1 of the year after the calendar year upon which the annual fee is based. The annual fee paid shall not exceed 25 hundredths of one percent (.25 percent) of the gross retail intrastate revenue during the calendar year upon which the annual fee is based.~~

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310 & 756.320

Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409)

**860-011-0024**

**~~Annual Fees to be Paid by Other Public Utilities~~**

~~—— (1) Each gas, steam heat, water, and wastewater public utility shall pay to the Commission an annual fee on gross operating revenues derived within Oregon at a rate determined by Commission order. The Commission's order shall be entered on or after March 1 of the year after to the calendar year upon which the annual fee is based.~~

~~—— (2) The annual fee shall be due on or before April 1 of the year after the calendar year upon which the annual fee is based. The annual fee rate shall not exceed 25 hundredths of one percent (.25 percent) of the Oregon revenue during the prior calendar year.~~

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310 & 756.320

Hist.: PUC 11-99, f. & ef. 11-18-99 (Order No. 99-708); PUC 14-2000, f. & ef. 8-23-00 (Order No. 00-458); PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409)

**860-011-0025**

**Acceptable Filings**

~~————(1) Pleadings or other documents shall be filed by mail, personal delivery, or any other reasonable means of delivery at the address listed in OAR 860-011-0010(1).~~

~~————(2) Documents received by the Commission which are incomplete or not in substantial compliance with these rules, the Commission’s orders, rulings or memoranda of an Administrative Law Judge (ALJ), or statutes shall not be accepted for official filing.~~

~~————(3) Documents required to be filed with the Commission within a specified time but which fail to substantially comply with these rules, the Commission’s orders, or statutes may be conditionally filed, to satisfy the filing date, on the date received by the Commission.~~

~~————(4) A telephonic facsimile copy of a document will be accepted for filing if the original signed document is deposited in the mail, addressed to the Commission, with proof of service as required by OAR 860-013-0070 on the date the facsimile copy is received. The complete facsimile copy must be received by the Commission by 5 p.m. Pacific Time on the filing deadline. Persons filing documents by facsimile copies accept all responsibility for timely filing. Delays in transmission shall not extend filing deadlines.~~

~~————(5) Conditionally received filings shall not be officially filed or entered on the Commission’s docket until approved as being in substantial compliance with these rules, the Commission’s orders, or statutes. Conditionally received filings shall be rejected unless brought into compliance within the time granted by the Commission.~~

~~————(6) The Commission shall provide the filer the reason for rejecting or conditionally accepting a filing.~~

~~————(7) The Commission or ALJ may require the filing of additional information to clarify or explain a filing at any stage of a proceeding, or in ex parte matters. If such information broadens or changes the scope or intent of the filing, the Commission or ALJ shall require notice be given to persons affected.~~

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-11-020; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 9-1989, f. & cert. ef. 7-10-89 (Order No. 89-818); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-011-0030**

**Filing Dates for Pleadings or Other Documents**

~~————(1) Except as modified by statute or by these rules, a document is filed on the date received by the Commission at Salem, Oregon, between the hours of 8 a.m. and 5 p.m. Pacific Time.~~

~~———— (2) If the prescribed filing date falls on a Saturday, Sunday, legal holiday, as defined in ORS 187.010; or when the Commission's office is closed pursuant to a Department of Administrative Services directive, the next business day following is the date of filing.~~

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 9-1989, f. & cert. ef. 7-10-89 (Order No. 89-818); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443)

### 860-011-0035

#### Definitions

(1) “Applicant” means any person requesting or applying for any right, privilege, power, or other authority or seeking permission to exercise any right or privilege under a statute requiring the filing of an application.

(2) “Complainant” means any person, including the Commission, who files a complaint under any statute providing for the filing of complaints before the Commission.

(3) **“Copy” means paper copy, unless otherwise specified.**

(4) **“Defendant”** means a person against whom a complaint is filed under ORS 756.500.

(5) **“Interested person,”** except as provided in ORS 756.450, means any person who is not a party or staff and who asks to be listed as an interested person in any docketed Commission proceeding. Interested persons **shall must** be served with copies of any orders, rulings, notices, or other documents issued by the Commission or Administrative Law Judge (ALJ) in the Commission proceeding for which they are listed. Unless permitted by the Commission or ALJ, interested persons are not entitled to service of documents from staff or parties; to present evidence for the record; to conduct cross-examination of witnesses; to file pleadings, testimony, exhibits, or briefs; or otherwise exercise the rights of a party.

(6) **“Intervenor”** means a person **named by the Commission to be a party to with the rights of a party who, pursuant to OAR 860-013-0021, the Commission has allowed to participate in** a proceeding.

~~———— (6) **“Mail, mailed, or mailing”** means a document is deposited in the United States mail, properly addressed, with first class postage prepaid.~~

(7) “Party” means any person entitled as a matter of right to a hearing before the Commission, **or** named as a party, **or admitted as a party under OAR 860-013-0021.**

(8) “Person” means individuals; joint ventures; partnerships; limited liability companies; corporations and associations; governmental entities; or their officers, employees, agents, lessees, assignees, trustees, or receivers.

(9) “Petitioner” means any person applying for permission to exercise any right or privilege or power under a statute requiring the filing of a petition, any person requesting a declaratory ruling under ORS 756.450, or any person applying for other relief for which no specific pleading is designated by statute.

(10) “Protestant” means any person opposing an application under ORS 759.020.

(11) “Respondent” means any person designated as such in any matter over which the Commission has jurisdiction.

(12) "Staff" means any employee of the Commission except ALJs.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-011-0080**

**Schedule of Fees and Charges for Copies and Services**

Unless otherwise ~~provided stated by separate rule~~, the Commission ~~shall make charges for copies and services as follows~~ **will impose the following fees and charges:**

(1) Photocopies:

(a) No charge for 20 pages or less, in excess of 20 pages, per page: 25 cents (for example, if 21 pages requested, charge would be \$5 minimum plus 25 cents, for a total of \$5.25).

(b) Other government agencies, per page from first page: 05 cents.

(2) Certification of true copies of public documents (per document certification): \$10.

(3) Maps of specific area boundaries: \$15.

(4) Hearing transcripts: At cost. A copy of a public hearing transcript shall be supplied to a party without cost upon the filing with the Commission of a satisfactory affidavit of indigency, pursuant to ORS 756.521. Such a request shall be filed on a form supplied by the Commission and contain information for the Commission to use to determine the eligibility of the requesting party.

(5) Statistical reports (second and subsequent copies): \$15.

(6) Facsimile transmission (FAX) charges: No charge for first 15 pages transmitted; additional pages, per page: \$1.

(7) ~~Tape~~ **Audio** recordings: **\$5 per package.**

~~\_\_\_\_\_ (a) Commission public meetings and hearings, first cassette: \$15.~~

~~\_\_\_\_\_ (b) Commission public meetings and hearings, additional cassettes on same invoice: \$5.~~

(8) Staff research time: At cost.

(9) Annual subscription to all Commission orders or notices of specific hearings will be provided under the following schedule. Subscribers will be notified of renewal requirements on a yearly basis.

Orders: \$100; Hearing Notices: \$50.

Administrative Rules update service: ~~Utility~~ **Utility** \$75.

(10) Computer services: At cost.

(11) Billing: The Commission may require cash payment before honoring any request. Billings for unpaid balances may accompany mailed copies.

(12) Waiver of fees: No fee shall be charged or collected for copies of published documents furnished to or provided for routine requests for one copy of a Commission order, administrative rules, and general publications. Requests for additional copies will be subject to applicable charges.

**(13) Late Fees and Penalties:**

- (a) Check Returned for Non-Sufficient Funds: \$25.
- (b) Costs Incurred by the Commission to Collect Past-Due Amounts: At Cost.
- (14) Late Payments:
  - (a) Interest on Annual Fees: None.
  - (b) Interest on Residential Service Protection Fund (RSPF): 9 percent per Annum.
  - (c) Penalty on Annual Fees: 2 Percent per Month.
  - (d) Penalty on RSPF: 9 percent of Unpaid Fee, up to \$500 maximum per reporting period.
- (15) Late Statements and Reports:
  - (a) Electric Utility Annual Fee Statement: \$100.
  - (b) Gas Utility Annual Fee Statement: \$100.
  - (c) Telecommunications Providers Annual Fee Statement: \$100.
  - (d) Water Utility Annual Fee Statement: \$25.
  - (e) RSPF Report: \$100.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 3-1996, f & ef. 7-19-96 (Order No. 96-181); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 16-1998, f. & ef. 10-12-98 (Order No. 98-410)

### **860-012-0001**

#### **Petitions to Intervene**

(1) Any person may petition to intervene in any proceeding before the Commission. The petition to intervene ~~shall~~**must** contain the following information:

- (a) The name and address of the petitioner;
- (b) The name and address of the attorney or authorized representative of the petitioner;
- (c) If the petitioner is an organization, the number of members in and the purposes of the organization;
- (d) The nature and extent of the petitioner's interest in the proceeding;
- (e) The issues petitioner intends to raise at the proceeding; and
- (f) Any special knowledge or expertise of the petitioner that would assist the Commission in resolving the issues in the proceeding.

(2) If the Commission or Administrative Law Judge (ALJ) finds the petitioner has sufficient interest in the proceeding and the petitioner's appearance and participation will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding, the Commission or ALJ ~~shall~~**will** grant the petition. The Commission or ALJ may impose appropriate conditions upon any intervenor's participation in the proceeding.

(3) Notwithstanding section (2) of this rule, the Citizens' Utility Board may intervene in Commission proceedings as of right, pursuant to ORS 774.180, by filing a notice of intervention containing the information required by sections (1)(a) and (b) of this rule.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-013-0021**

[ED. NOTE: Former OAR 860-013-0021 was renumbered to 860-012-0001.]

**860-013-0036**

**Acceptable Filings of Pleadings and Other Documents**

**(1) Persons must file one original, signed document and any copies required by OAR 860-013-0060.**

**(2) Except as otherwise provided by rule, persons must supplement any filing by submitting an exact copy of the document in electronic form, as specified in OAR 860-011-0012. This requirement does not apply to:**

**(a) Any party excused from the obligation by the Commission or Administrative Law Judge (ALJ);**

**(b) Any filing containing information designated as confidential under a protective order; or**

**(c) Miscellaneous utility filings, reports, and other documents that do not directly relate to Commission proceedings. A list of these documents is posted on the Commission's website or is available by calling the Commission.**

**(3) Filings received by the Commission that are incomplete or not in substantial compliance with these rules, the Commission's orders, rulings or memoranda of an ALJ, or statutes will not be accepted for official filing.**

**(4) Documents required to be filed with the Commission within a specified time but which fail to substantially comply with these rules, the Commission's orders, or statutes may be accepted as conditionally received to satisfy the filing date.**

**(5) The Commission or ALJ may require the filing of additional information to clarify or explain a filing at any stage of a proceeding, or in ex parte matters. If such information broadens or changes the scope or intent of the filing, the Commission or ALJ will require notice be given to persons affected.**

**(6) Parties are encouraged, but not required, to provide an electronic copy of all filings in dockets containing the following case designation:**

**ADR - Alternative Dispute Resolution**

**AP - Oregon Telephone Assistance Program (OTAP) Denial of Benefits**

**NC - Utility Notification Center Complaints**

**TT - Telecommunication Devices Assistance Program (TDAP) Equipment Abuse**

**UNC - Utility Notification Rulemaking**

**UCR - Customer Complaint - Residential**

**UCB - Customer Complaint - Business**

**UW - Water**

**WA - Water Territory Allocation**

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

**Stats. Implemented: ORS 756.040 & 756.500 through 756.575**

**Hist.: NEW**

**860-013-0037**

**Filing Dates for Pleadings or Other Documents**

**(1) Pleadings or other documents shall be filed by mail, personal delivery, or any other reasonable means of delivery at the address listed in OAR 860-011-0010(1). Except as modified by statute or by these rules, a document is filed on the date received by the Commission at Salem, Oregon, between the hours of 8 a.m. and 5 p.m. Pacific Time.**

**(2) If the prescribed filing date falls on a Saturday, Sunday, legal holiday, as defined in ORS 187.010, or when the Commission's office is closed pursuant to a Department of Administrative Services directive, the next business day following is the date of filing.**

**(3) A telephonic facsimile or electronic copy of a document will be accepted for filing if the original signed document is deposited in the mail and addressed to the Commission, with proof of service as required by OAR 860-013-0070 on the date the facsimile or electronic copy is received. The complete facsimile or electronic copy must be received by the Commission by 5 p.m. Pacific Time on the filing deadline.**

**(4) Conditionally received filings may not be officially filed until approved as being in substantial compliance with these rules, the Commission's orders, and statutes. Conditionally received filings will be rejected unless brought into compliance within the time granted by the Commission.**

**(5) The Commission must provide the filer the reason for rejecting or conditionally accepting a filing.**

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

**Stats. Implemented: ORS 756.040 & 756.500 through 756.575**

**Hist.: NEW**

**860-013-0040**

**Form and Size**

~~———— (1) Pleadings shall be fastened at the left margin and be legibly written or typed on paper 8-1/2 x 11 inches in size. Exhibits and appendices shall be folded to that size. The printing or writing shall be double spaced. Footnotes or quotations may be single spaced and indented. The first page of a pleading, exhibit, appendix, or other document shall bear the docket number of the proceeding in which the document is filed, unless no docket number has been assigned.~~

~~———— (2) Reproduction may be by any process, provided all copies are clear and permanently legible.~~

~~———— (3) Unless otherwise directed by the Administrative Law Judge, all written testimony and exhibits in utility proceedings shall be paginated in the top right corner as follows:~~

~~———— Party/Exhibit Number~~

~~———— Witness/Page Number~~

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-013-0055; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

### **860-013-0060**

#### **Copies of Filings Required**

~~Except as otherwise provided for general rate revisions and tariff filings in Divisions 022 and 034 of the Commission's rules, an original and five copies of any pleading, written testimony, exhibit, or brief in a utility proceeding shall be filed with the Commission.~~

(1) In addition to supplemental electronic copies required by rule, the following pleadings and other documents must be filed with the specified number of paper copies:

(a) General rate revisions filed pursuant to OAR 860-013-0075:

(A) Utility initial filing: 20 copies;

(B) Work papers: 3 copies;

(b) Testimony filed pursuant to OAR 860-014-0060: 5 copies;

(c) Briefs filed pursuant to OAR 860-014-0090: 5 copies;

(d) Applications for Allocation of Territory filed pursuant to OAR 860-025-0000 to 860-025-0050, OAR 860-034-0440 to 860-034-0495, or OAR 860-036-0900 to 860-036-0925: 3 copies;

(e) Financing applications filed pursuant to OAR 860-027-0020 to 860-027-0035, OAR 860-036-0715 to 860-036-0725, or OAR 860-037-0515 to 860-037-0525: 3 copies;  
and

(f) Affiliated interest applications filed pursuant to OAR 860-027-0040 to 860-027-0044, OAR 860-036-0730 to 860-036-0738, or OAR 860-037-0530 to 860-037-0545: 3 copies.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443)

### **860-013-0065**

#### **Signature on Pleadings Required**

(1) Every pleading ~~must~~shall be signed by ~~at least one of the pleaders, the pleader's~~the filer, the filer's attorney, or authorized representative.

- (2) ~~Signature of a pleading constitutes a certificate that:~~  
~~\_\_\_\_\_ (a) the person has read the pleading;~~  
~~\_\_\_\_\_ (b) to the best of the knowledge, information, and belief of the person, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and~~  
~~\_\_\_\_\_ (c) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. By signing the pleading, the signatory makes the certification set forth in ORCP 17C.~~
- (3) For electronic filings, a filer may use any identifier that is executed or adopted by the person using it with the intent to authenticate a writing.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-013-0070; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127)

#### **860-013-0070**

##### **Service by Parties**

(1) Parties ~~shall~~must serve copies of all filed documents, including correspondence with the Commission or Administrative Law Judge (ALJ), pleadings, testimony, exhibits, memoranda of law, and briefs on all persons designated on the official service list. The official service list for each proceeding is posted on the Commission's website or is available by calling the Commission. Unless a party waives other forms of service under section (4) of this rule, a party is limited to two persons on the service list~~the attorney of record or, if not represented, upon each party to the proceeding. Service need not be made upon persons listed as interested persons under OAR 860-011-0035.~~

(2) Unless waived pursuant to section (4) of this rule, p~~Parties shall~~must serve those documents in person, by mail, or by any other reasonable means of delivery. Service is complete when the documents are delivered in person, deposited in the mail, or as otherwise allowed by the Commission or ALJ. Unless otherwise specified by the Commission or ALJ, required filing dates are in-hand dates. A telephonic facsimile or electronic copy of a document will satisfy an in-hand filing date if paper copies are deposited in the mail and addressed to the other parties on the date the facsimile or electronic copy is sent.

(3) When a party has appeared by attorney or other duly authorized representative, service upon the attorney or representative ~~shall be deemed~~is valid service upon the party.

(4) A party may serve documents by electronic mail on parties that have waived other forms of service. The filing of a written waiver excuses the other parties and the Commission from the obligation to use methods of service specified in section (1) of this rule or in statute. Service by electronic mail is complete when the electronic message leaves the sender's electronic mail server. Parties effecting service by electronic mail are encouraged to secure electronic return receipts or otherwise confirm successful delivery.

(45) The original of all filed documents, including those listed in section (1) of this rule, **shall must** include an acknowledgement of service or a certificate in substantially the form shown as follows:

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, **or by electronic mail pursuant to OAR 860-013-0070**, to the following parties or attorneys of parties:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated at \_\_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
(Signature)  
of Counsel for \_\_\_\_\_

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55 ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 47783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-065; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-013-0071**

**Service of Complaints, Orders, and Rulings by the Commission**

The Commission **shall must** serve upon all parties all complaints in which the Commission is the complainant, all formal consumer complaints filed pursuant to OAR 860-021-0015(5), all proposed orders, final orders, Administrative Law Judges' rulings and memoranda, and all other documents issued by the Commission or Administrative Law Judge in a docketed proceeding. Service **shall must** be made by mail or any other reasonable means of delivery to the addresses appearing in the Commission's records. ~~Service shall be deemed complete when the document is mailed.~~

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-013-0075****Tariff Filings and Trial Briefs General Rate Revisions****(1) Initial filing:**

—~~(a)~~ Unless waived by the Commission or Administrative Law Judge (ALJ) for good cause, any utility filing new or revised tariff schedules **which that** constitute a general rate revision **shall must** include supporting testimony and exhibits, work papers, and trial briefs. A general rate revision is a filing by a utility **which that** affects all or most of the utility's rate schedules. The term "general rate revision" does not include rate changes set forth in OAR 860-022-0017(1).

**(ab)** As used in this rule, work papers **shall** consist of those documents **which that** show the source, calculations, and details supporting the testimony and other exhibits submitted. When, subsequent to the initial filing made by the utility, a party files testimony and exhibits, it **shall must** at the same time provide a copy of its work papers to any other party that has requested a copy. **Both the utility and any party must provide electronic copies of workpapers, if available.**

**(be)** The trial brief **shall must** contain an exhibit showing in summary form the following information:

(A) The dollar amount of total revenues **which that** would be collected under the proposed rates;

(B) The dollar amount of revenue change requested, total revenues, and revenues net of any credits from federal agencies;

(C) The percentage change in revenues requested, total revenues, and revenues net of any credits from federal agencies;

(D) The test period;

(E) The requested return on capital and return on equity;

(F) The rate base proposed in the filing;

(G) The results of operations before and after the proposed rate change; and

(H) The proposed effect of the rate change on each class of customers.

(2) The Commission or ALJ may require participants appearing in any proceeding to file ~~written~~ testimony or other documents by a specific time.

**(3) ~~Written testimony and other exhibits:~~**

—~~(a) Every utility required to submit written testimony or other exhibits pursuant to this rule shall file with the Commission an original and 20 copies unless fewer copies are authorized. A utility shall file with the Commission three sets of work papers.~~

—~~(b) All other persons submitting written testimony and other exhibits in a proceeding subject to this rule shall file with the Commission an original and five copies or such other number as the Commission or ALJ may prescribe~~—

~~(c) Parties shall serve copies of the written testimony and other exhibits on the other parties to the proceeding in the manner required by OAR 860-013-0070.~~

**(43)** Telecommunications utilities partially exempt from regulation under ORS 759.040 **shall must** file tariffs in the manner specified in OAR 860-034-0300.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709); PUC 3-2002, f. & ef. 2-5-02 (Order No. 02-010)

### **860-014-0005**

#### **Notice**

The Commission or Administrative Law Judge **shall must** set the time and place for hearings. Notice of a hearing **shall must** be served on all parties at least ten days before the hearing date. **For good cause, in person, by mail, or by any other reasonable means of delivery. By order,** the Commission may require a hearing to be held on less than ten days' notice. ~~(See OAR 860-022-0017.)~~

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

### **860-014-0010**

#### **Postponements and Continuances of Hearings**

(1) Any party may request a postponement of a hearing. The party **shall must** provide the reasons why the postponement is necessary. The Commission or Administrative Law Judge (ALJ) may require oral requests for postponement of a hearing to be confirmed in writing.

(2) The Commission or ALJ may grant a postponement of a hearing and may, at any time, order a postponement **upon** his/her own motion.

(3) The Commission or ALJ may continue a hearing or conference to receive additional evidence or argument. **Additional notice of a continued hearing involving the same issue need only be provided to parties attending the initial hearing and other parties who have requested continuing notice.**

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-014-0023**

**Major Proceeding**

(1) For purposes of ORS 756.518(2), a “major proceeding” is a proceeding that has, or is expected to have, a full procedural schedule with written testimony or written comments and that:

(a) Has a substantial impact on utility rates or service quality for energy utilities having more than 50,000 customers or telecommunications utilities having more than 50,000 access lines; or

(b) Has a significant impact on utility customers or the operations of a regulated utility for energy utilities having more than 50,000 customers or telecommunications utilities having more than 50,000 access lines.

(2) A party in a proceeding that does not meet the criteria in section (1) of this rule may petition the **Administrative Law Judge (ALJ)** for major case status if the case:

(a) Is likely to result in a significant change in regulatory policy; or

(b) Raises novel questions of fact or law.

(3) When a docket is opened, any party may file a motion with the **Administrative Law Judge (ALJ)** requesting that the case be classified as a major proceeding.

(a) The motion **shall must**:

(A) Set out with specificity how the case qualifies as a major proceeding under the criteria listed in section (1) of this rule; or

(B) Argue how the case qualifies as a major proceeding under section (2) of this rule.

(b) Answers to the motion are due within **10ten** days of filing.

(c) The ALJ **shall must** rule on the motion within 15 days of filing.

(4) If a case is classified as a major proceeding, parties **shall must** schedule a date for oral argument before the Commission at the prehearing conference or as soon thereafter as possible.

(5) Any party to a case may present argument before the Commission if the case is defined as a major proceeding.

(6) The ALJ **shall must** determine the length of each party’s presentation to the Commission, the right of any party to rebuttal of any other party’s presentation, and the order of presentation.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 19-2002 (Temp) f. & ef. 12-6-02 (Order No. 02-836); PUC 3-2003, f. & ef. 3-11-03 (Order No. 03-138)

**860-014-0060**

**Testimony and Exhibits**

~~(1) The form and size of testimony and exhibits shall conform to OAR 860-013-0040. When filed before hearing, the number of copies shall conform to OAR 860-013-0060. When offered at hearing, the number of copies shall conform to section (2) of this rule.~~

———(2) When testimony or exhibits are offered in evidence, copies **shall must** be furnished to each party, the Commission and Administrative Law Judge (ALJ). When

practicable, the parties **shall must** distribute copies of exhibits before or at the commencement of the hearing.

(23) When relevant evidence offered by a party is included in a book, paper, or document containing irrelevant material, the party offering the exhibit **shall must** plainly designate the matter offered:

(a) If irrelevant material is included in the exhibit ~~which that~~ would encumber the record, the exhibit **shall may** not be received in evidence. The exhibit may be marked for identification, and, if properly authenticated, the relevant matter may be read into the record;

(b) If the Commission or ALJ directs, a copy of the relevant portions of the exhibit may be received as evidence. The offering party **shall must** offer copies of the document to all other parties appearing at the hearing. The parties **shall must** be afforded an opportunity to examine the exhibit and to offer in evidence other portions of the exhibit found to be relevant.

(34) Papers and documents on file with the Commission may be introduced by reference to number, date, or by any other method of identification satisfactory to the Commission or ALJ.

(45)(a) **The Commission or ALJ may direct that the testimony of any witness, including supporting exhibits, be submitted in writing prior to hearing. A party may submit the direct testimony of a witness in writing in utility cases. Supporting exhibits may accompany written testimony. Parties shall serve copies of the written testimony and exhibits on the other parties to the proceeding.** Unless otherwise directed by the Commission or ALJ, such testimony, when sworn to orally or in writing by the witness under oath to be true, **shall will** be received in the same manner as an exhibit. ~~The Commission or ALJ may direct that any portion of the direct, redirect, or rebuttal testimony of any witness be submitted in writing;~~

(b) The written testimony **shall must** be **double spaced**, prepared in question and answer or narrative form, and ~~shall~~ contain a statement of the qualifications of the witness. The written testimony ~~shall be is~~ subject to ~~the same~~ rules of admissibility and cross-examination. **as if it were presented orally Unless otherwise directed by the ALJ, all written testimony and exhibits must be paginated in the top right corner as follows:**

**Party/Exhibit Number:**  
**Witness/Page Number:**

(c) The Commission or ALJ may direct that demonstrative evidence be reduced to a diagram, map, photograph, or similar representation.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & ef. 2-21-96 (Order 96-043); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-014-0065****Depositions**

(1) The testimony of any witness may be taken by deposition at any time before the hearing is closed.

(2) A party proposing to take a deposition **shall must** notify in writing every other party. Unless notice is waived, a party **shall must** provide ten days' notice to the parties of a deposition to be taken within the state and 15 days' notice for a deposition to be taken elsewhere. The notice **shall must** state the witness's name and address, the subject matter on which the witness is expected to testify, the time and place of taking the deposition, the name and address of the officer before whom the deposition is to be taken, and the reason why the deposition is to be taken. Other parties in the proceeding may make any appropriate response to the notice of deposition.

(3) A party may take a deposition before a person designated in the notice or agreed upon by the parties. The Commission or Administrative Law Judge (ALJ) may impose such conditions on the taking of the deposition as may be necessary to ensure fairness in the proceeding.

(4) Every person whose testimony is taken by deposition **shall must** swear or affirm concerning the matter about which s/he **shall will** testify. The testimony **shall must** be transcribed. The person before whom the deposition was taken **shall must** certify, under oath on the transcript, that the witness was sworn in the reporter's or transcriber's presence, and the transcript is a true record of the testimony or a correct transcription of the recording.

~~(5) The deposition shall conform to the requirements of OAR 860-013-0040.~~

~~(6)~~ A party may examine a deponent on any matter not privileged which appears reasonably calculated to lead to the discovery of evidence relevant to the issues involved in the pending proceeding, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of relevant facts.

~~(67)~~ Unless received in evidence by the Commission or ALJ, no portion of a deposition **shall may** constitute a part of the record in the proceeding. A party may object at the hearing in the proceeding to receiving in evidence any portion of the deposition. Upon request, the party examining the deponent **shall must** provide the Commission or ALJ a transcribed copy of any deposition taken in the proceeding.

~~(78)~~ The party requesting the deposition **shall must** pay the deponents and the person taking the deposition the same fees as are paid for like services in the courts of record of the state in which the deposition is taken.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709); PUC 4-2002, f. & ef. 2-8-02 (Order No. 02-055)

**860-014-0070****Data Requests**

(1) Subject to limitations imposed by the Commission or Administrative Law Judge (ALJ), the Commission, ALJ, or any party may submit data requests to any party. Data

requests are written interrogatories or requests for production of documents. The data requests **shall must** be answered within ten Commission business days from the date of service. Each data request **shall must** be answered fully and separately in writing or by production of documents, unless objected to, in which event the objection **shall will** be written in lieu of answer.

**(2) A party submitting a data request must serve the request on all parties to the proceeding. The party answering the data request need only file a response to the submitting party, unless another party files a written request for a copy of a specific response. A party may not file a blanket request to receive copies of responses to all data request.**

**(3)** If the party to whom the data requests are directed refuses to answer or objects to any data request, **a party may file a motion seeking to the Commission or ALJ shall rule upon the objection and may** compel an answer or impose sanctions for refusal to answer. Any motion regarding disputed data requests submitted to the Commission or ALJ, whether by motion or otherwise, **shall must** contain a certification that the parties have conferred and been unable to resolve the dispute. The certification may be included in the body of the motion. Any motion **which that** does not contain this certification will be denied.

**(34)** Any party may offer into evidence data requests and the answers to the data requests. **Upon request, the party answering the data request shall provide the Commission or ALJ a copy of the answer to any data request.** Any objection to substance or form of any data requests or answers **shall must** be attached to the submitted data requests with specific reference and grounds. The Commission or ALJ **shall must** rule on objections before receiving the submitted data requests in evidence. Every remedy available to a party using deposition procedures **shall must** be available to a party using data requests.

**(45)** Parties **are should** not **required to** file data requests or responses to data requests with the Commission **or ALJ**, except when **requested by the Commission or ALJ or when seeking requesting** resolution of a discovery dispute under these rules.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 13-1995, f. & ef. 12-12-95 (Order No. 95-1284); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709); PUC 4-2002, f. & ef. 2-8-02 (Order No. 02-055)

## **860-014-0090**

### **Briefs and Oral Arguments**

**(1) The form and size of briefs shall conform to OAR 860-013-0040, and the number of copies shall be as specified in OAR 860-013-0060.**

**(2)** Parties may file briefs in any proceeding. The Commission or Administrative Law Judge (ALJ) may require a party to file a brief.

**(3) Parties shall serve copies on all other parties. Proof of service shall be furnished to the Commission as provided by OAR 860-013-0070.**

——(42) The Commission or ALJ may require the parties to present their arguments and authority orally at the close of the hearing instead of by written brief.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-014-0080; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

### **860-014-0092**

#### **Proposed Order**

(1) After a contested case hearing, the Administrative Law Judge **shall**may issue a proposed order ~~at the Commission's direction~~.

(2) The Commission's staff and parties to the proceeding may file exceptions to a proposed order and a reply to the exceptions.

(3) The exceptions, if taken, **shall**must be:

(a) Confined to factual and legal issues ~~which~~that are essential to the ultimate and just determination of the proceeding and **shall**must be based on grounds that:

(A) A necessary finding of fact is omitted, erroneous, or unsupported by the preponderance of the evidence of record;

(B) A necessary legal conclusion is omitted or is contrary to law or the Commission's policy; or

(C) Prejudicial procedural error occurred.

(b) Numbered and ~~shall~~ specify the disputed findings, opinions, or conclusions.

Supporting citations to the record and authorities **shall**must be provided. The nature of the suggested error **shall**must be specified and alternative or corrective language provided.

(c) Filed on or before the 15th day after the service date of the proposed order.

(4) A reply to the exceptions, if made, **shall**must be filed on or before the tenth day after the exceptions are due.

(5) ~~Exceptions and replies shall be filed and served as specified in OAR 860-013-0060 and 860-013-0070(2).~~

——(6) The Commission may modify the proposed order, reject it, prepare a different order, or adopt the proposed order.

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

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: PUC 8-1980, f. & ef. 12-11-80; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

**860-021-0033****Annual Fees to be Paid by Electric Utilities Payable to the Commission by an Electric Utility**

(~~21~~) By September 1, 1998, the Commission ~~shall~~ **must** determine the following for each electric utility:

(a) The gross revenue fees per kilowatt-hour delivered to retail electric customers paid by the utility in 1997 relative to the gross revenue fees per kilowatt-hour paid by all electric utilities; and

(b) The average gross revenue for each retail customer class designation, calculated using 1997 loads and revenues and expressed on a per kilowatt-hour basis.

(~~32~~) By February 1 of each year, each electric utility ~~shall~~ **must** provide the Commission with the amount of kilowatt-hours delivered during the prior calendar year to each retail customer class designation.

(~~43~~) By March 1 of each year, the Commission ~~shall~~ **must** determine the average rate per kilowatt-hour to be charged each electric utility. The determination ~~shall~~ **must** maintain the same approximate fee relationships established in section (~~21~~)(a) of this rule between each electric utility. The average annual fee paid by each electric utility ~~shall~~ **must** not exceed eighteen-hundredths of one mill per kilowatt-hour applied to kilowatt-hours delivered to retail electric customers in the preceding calendar year.

**(4) On statement forms prescribed by the Commission, each electric utility provide the requested information for the subject year.**

(~~15~~) ~~In addition to all other fees payable, e~~Each electric utility ~~as defined in ORS 756.310(8)(a)~~ ~~shall~~ **must** pay to the Commission an annual fee determined by orders entered on or after March 1 of each year. Each utility ~~shall~~ **must** pay the annual fee on or before the date specified in a notice, which date ~~shall~~ **must** be at least 15 days after the mailing of the notice.

**(6) Each electric utility must pay to the Commission:**

**(a) A minimum annual fee of \$10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based.**

**(b) A late statement fee in accordance with OAR 860-011-0080, if the Commission has not received the utility's statement form, completed in compliance with section (4) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.**

**(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.**

**(d) A service fee in accordance with OAR 860-011-0080 for each payment returned for non-sufficient funds.**

**(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.**

**(7) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.**

**(8) For any year in which an electric utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:**

**(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.**

**(b) If the Commission determines that the utility has underreported its subject kilowatt hours delivered, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.**

**(c) If the Commission determines that the utility has overpaid its annual fee, the Commission may, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.**

(59) Rate filings made by an electric utility ~~ies~~ pursuant to ORS 757.210 ~~shall~~ **must** allocate the utility's total annual fees so that fees collected among different retail customer classes bear the same approximate relationship as the information developed by the Commission pursuant to section (21)(b) of this rule.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310, ~~& 756.320~~ **& 756.350**

Hist.: PUC 14-1998, f. & ef. 7-15-98 (Order No. 98-276); PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409)

#### **860-021-0034**

##### **Annual Fees Payable to the Commission by an ~~Energy Gas Utility or Steam Heat Utility~~**

(1) On statement forms prescribed by the Commission, each ~~energy gas utility and steam heat~~ utility ~~shall~~ **must** provide the requested information for the subject year.

~~—(2) Each electric utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0022.~~

~~(32) Each gas utility and steam heat utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0024~~ **must pay to the Commission an annual fee on gross operating revenues derived within Oregon at a rate determined by Commission orders entered on or after March 1 of each year.**

(53) Each ~~electric, gas~~ **utility**, and steam heat utility ~~shall~~ **must** pay **to the Commission:**

(a) A minimum annual fee of \$10. ~~The annual fee payment must be received by the Commission no later than 5 p.m. on the due date is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the Oregon revenue during the prior calendar year.~~

(b) A late statement fee ~~of \$100 in accordance with OAR 860-011-0080~~, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. **Pacific Time** on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee ~~of \$25 in accordance with OAR 860-011-0080~~ for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(4) The annual fee payment must be received by the Commission no later than 5 p.m. **Pacific Time** on the due date. **A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.**

(65) For any year in which an **energy gas utility or steam heat** utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission ~~shall~~ **may**, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

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

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

#### **860-021-0036**

##### **Annual Fees Payable to the Commission by a Large Telecommunications Utility**

(1) On statement forms prescribed by the Commission, each large telecommunications utility ~~shall~~ **must** provide the requested information for the subject year.

(2) Each large telecommunications utility ~~shall~~ **must** pay **to the Commission**:

(a) An annual fee ~~of in compliance with OARs 860-011-0020 and 860-011-0023.~~ **The annual fee shall be no less than \$100. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The payment must be received by the Commission no later than 5 p.m. on the due date annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the gross retail intrastate revenue during the calendar year on which the annual fee is based.**

(b) A late statement fee ~~of \$100~~ **in accordance with OAR 860-011-0080**, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. **Pacific Time** on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) A service fee ~~of \$25~~ **in accordance with OAR 860-011-0080** for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

**(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by**

**check will be conditionally accepted until the check is cleared by the bank on which it is drawn.**

~~(34) For retail intrastate service rendered on or after January 1, 2000, e~~Each large telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the utility throughout Oregon, and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

~~(45) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and:~~

~~(a) If~~ the utility does not separately charge the customer an additional amount for the apportioned annual fee, then the utility may comply with section ~~(34)~~ of this rule by merely describing the apportioned amount of the charge on the retail customer's bill.

~~(b) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and~~ the utility separately charges the customer an additional amount for the apportioned annual fee, then the utility must comply with ORS 756.310(6)(c).

~~(56) For any year in which a large telecommunications utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:~~

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission ~~shall may~~, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

(7) Each large telecommunications utility ~~shall must~~:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(8) If the Commission receives a public record request for the confidential information required by this rule, the Commission ~~shall may~~ assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. ~~The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."~~

Stat. Auth.: ORS 183, 192, 756, 757 & 759

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: PUC 8-2003, f. & ef. 4-28-03 (Order No. 03-222); PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

**860-021-0037****Estimated Annual Fees Payable to the Commission**

(1) For any year in which an energy or large telecommunications utility fails to file a completed statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee

**shall must:**

- (a) Include a penalty fee for failure to pay as required by ORS 756.350;
- (b) Include a late statement fee **of \$100 in accordance with OAR 860-011-0080**; and
- (c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission **shall must** provide written notice of the proposed annual fee to the energy or large telecommunications utility.

(3) Within 30 days after service of the notice of proposed annual fee, the energy or large telecommunications utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the energy or large telecommunications utility has not filed a petition by the end of the 30-day period, the Commission **shall will** enter an order based upon information in its files. The Commission's order is final upon service, and the ordered assessment is due and payable on the tenth day after the order becomes final.

(5) During the 30-day period allowed for filing a petition, the energy or large telecommunications utility may file its completed statement form and pay the annual fee, penalties, and late statement fee. The Commission **shall will** accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS Ch. 183, 192, 756 & 759

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: PUC 8-2003, f. & cert. ef. 4-28-03; PUC 15-2003, f. & cert. ef. 7-24-03; PUC 20-2003, f. & cert. ef. 11-14-03

**860-022-0005****Tariff Specifications for Energy Utilities and Large Telecommunications Utilities**

(1) Form and style of tariffs ~~filed by energy and large telecommunications utilities:~~

(a) All tariffs must be in ~~book, sheet, or pamphlet~~ **loose-leaf** form. ~~Loose leaf plan may be used~~ so changes can be made by reprinting and inserting a single leaf;

(b) ~~The initial tariff filed by e~~Each energy or large telecommunications utility **shall be must** designated **the initial tariff** as PUC Oregon No. 1, and ~~thereafter as other tariffs are filed, they shall be~~ designated **successive tariffs** with the next number in consecutive numerical order. Supplemental information not otherwise provided by the tariff **shall must** be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, for example, 3A, 3B, etc. Revisions to tariff ~~sheets~~ **shall must** be denoted by 1st Revised Sheet No. 3, 2nd Revised Sheet No. 3, etc.;

(c) The title page should be uniform. Rates, rules, and regulations **shall must** be written only on one side of a sheet. If a single sheet is insufficient, two or more pages should be used. ~~Blank forms will be furnished upon request; and~~

(d) Separate tariffs ~~shall~~**must** be filed for electric, telecommunications, telegraph, gas, heat, or for any other service entered.

(2) Size of tariffs and copies required ~~from energy and large telecommunications utilities:~~

(a) Tariffs and supplements thereto must be **prepared using a readable font that, when printed, will fit on an typewritten or printed on 8-1/2 x 11 inch paperpage;** and

(b) ~~The Energy and large telecommunication utilities must file with the Commission an original and four conformed copies of each tariff, rate schedule, revision, or supplement shall be filed with the Commission. The utility must supplement the filing with an exact copy of the tariff in electronic form as required in OAR 860-013-0036.~~

The advice letter accompanying the tariff ~~sheets~~ **shall****must** bear the signature of the issuing officer or utility representative. The tariff ~~sheets~~ do not require a signature.

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

Stat. Implemented: ORS 757.205 & 759.175

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 176, f. 11-17-76, ef. 12-1-76 (Order No. 76-806); PUC 15-1987, f. & ef. 12-3-87 (Order No. 87-1185); PUC 8-1995, f. & ef. 8-30-95 (Order No. 95-858); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

#### **860-022-0015**

##### **Tariff Changes by Energy Utilities and Large Telecommunications Utilities Require 30 Days' Notice to the Commission**

Except as hereinafter provided in this Division, energy utilities and large telecommunications utilities must file with the Commission all tariffs, rate schedules, or supplements thereto containing any change in rates, tolls, charges, rules, or regulations at least 30 days before the effective date of such changes. The Commission will reject tariffs or schedules not conforming with the rules in this Division ~~as provided in OAR 860-011-0025.~~

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

Stats. Implemented: ORS 757.007, 757.220 & 759.190

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 176, f. 11-17-76, ef. 12-1-76 (Order No. 76-806); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

#### **860-022-0020**

##### **Applications to Make Tariffs or Rate Schedules Effective on Less Than Statutory Notice**

~~Applications by~~**An** energy or large telecommunications utility**ies seeking authority** to make tariffs or rate schedules effective on less than statutory notice ~~shall be made in duplicate upon prescribed forms~~ **must use application forms approved by the Commission.**

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

Stat. Implemented: ORS 757.220 & 759.190

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

**860-022-0038**

**Notice to Interested Persons of Tariffs Filed Under ORS 757.205 or 759.175**

(1) This rule applies to any tariff filed by an energy utility under ORS 757.205 or by a telecommunications utility under ORS 759.175.

(2) Any person who requests of the Commission, in writing, to be notified of utility tariff filings covered under section (1) of this rule **shall must** be included on a notice list.

(3) The Commission **shall must** notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice **will be given shall be placed in the mail** within ten days of any tariff filing under section (1) of this rule that complies with OARs 860-022-0025 through 860-022-0035.

(4) The Commission may periodically delete persons' names from the notice list who do not demonstrate a continued interest in receiving the notices in section (2) of this rule. No person's name **shall may** be deleted from the list without 20 days' notice before deletion.

(5) The notice **shall must** include the following information:

- (a) Name of the filing utility;
- (b) Subject;
- (c) Advice number;
- (d) Filing date;
- (e) Effective date;
- (f) Date of the public meeting when the tariff will be considered (when the information is available);
- (g) Customer classes affected, if readily ascertainable from the utility's advice letter; and
- (h) Whether the tariff schedule is primarily related to price competition or a service alternative, if readily ascertainable from the utility's advice letter.

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

Stats. Implemented: ORS 757.205, 757.230, 759.175 & 759.210

Hist.: PUC 16-1988, f. & cert. ef. 10-21-88 (Order No. 88-1216); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

**860-032-0095**

**Annual Fees Payable to the Commission by a Competitive Provider**

(1) On statement forms prescribed by the Commission, each competitive provider **shall must** provide the requested information for the subject year.

(2) Each competitive provider **shall must** pay **to the Commission**:

(a) An annual fee **of in compliance with OARs 860-011-0020 and 860-011-0023. The annual fee shall be** no less than \$100. **The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The payment must be received by the Commission no later than 5 p.m. on the due date annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the gross retail intrastate revenue during the calendar year on which the annual fee is based.**

(b) A late statement fee ~~of \$100~~ **in accordance with OAR 860-011-0080**, if the Commission has not received the competitive provider's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. **Pacific Time** on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) A service fee ~~of \$25~~ **in accordance with OAR 860-011-0080** for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the competitive provider.

**(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.**

~~(34) For retail intrastate service rendered on or after January 1, 2000, e~~Each competitive provider must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the competitive provider through Oregon, and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

~~(45) Each competitive provider shall~~ **must**:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request. A competitive provider must keep all records supporting each statement form for three (3) years, or until a Commission review or audit is complete, whichever is later.

~~(56) For any year in which a competitive provider's statement form was due, the Commission may audit the competitive provider as the Commission deems necessary and practicable:~~

(a) The Commission's audit must begin no later than three years after the statement form's due date. However, if the competitive provider failed to obtain a certificate of authority, an audit may occur at any time.

(b) If the Commission determines that the competitive provider has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the competitive provider has overpaid its annual fee, the Commission ~~shall~~ **may**, at its discretion, recompense the competitive provider with a refund or a credit against annual fees subsequently due.

~~(67) If the Commission receives a public record request for the confidential information required by this rule, the Commission shall~~ **may** assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. ~~The material shall be marked "EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS."~~

(78) A cooperative that is a competitive provider ~~shall~~ **must** pay an annual fee only on the gross retail intrastate revenue from telecommunications services that are provided under the cooperative's ORS 759.020 certificate of authority. A cooperative ~~shall~~ **should** not pay an annual fee on revenue from telecommunications services that are provided under the cooperative's ORS 759.025 certificate of authority.

Stat. Auth.: ORS Ch. 183, 192, 756 & 759  
Stats. Implemented: ORS 756.310, 756.320 & 756.350  
Hist.: PUC 13-1999, f. & ef. 12-7-99 (Order No. 99-734); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

### **860-032-0097**

#### **Estimated Annual Fees Payable to the Commission**

(1) For any year in which a competitive provider fails to file a completed statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee **shall** must:

- (a) Include a penalty fee for failure to pay as required by ORS 756.350;
- (b) Include a late statement fee ~~of \$100~~ **in accordance with OAR 860-011-0080**;

**and**

- (c) Be made no later than three (3) years after the statement form's due date.

However, if the competitive provider failed to obtain a certificate of authority, an audit may occur at any time. ~~;~~ **and**

(2) The Commission **shall** must provide written notice of the proposed annual fee to the competitive provider.

(3) Within 30 days after service of the notice of proposed annual fee, the competitive provider may file a petition with the Commission for a hearing. In its petition, the competitive provider must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the competitive provider has not filed a petition by the end of the 30-day period, the proposed annual fee is due and payable.

(5) During the 30-day period allowed for filing a petition, the competitive provider may file its completed statement form and pay the annual fee, penalties, and late statement fee. The Commission **shall** will accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756 & 759  
Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350  
Hist.: PUC 8-2003, f. & ef. 4-28-03 (Order No. 03-222); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

### **860-032-0610**

#### **General Provisions**

(1) For the purpose of these rules, each calendar year has four quarters as follows: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

(2) For the purpose of OARs 860-032-0610 through 860-032-0660, the quarterly revenue worksheet identified as “OPUC OUS 2” ~~shall be~~ known as the “contribution report.”

(3) A telecommunications provider may pay any amounts due to the Public Utility Commission (Commission) by electronic transfer.

(4) The Commission may add all costs incurred in collecting a past-due “Oregon universal service” (OUS) contribution amount. In the event the Commission refers the debt to the Department of Revenue or to a collection agency, the Commission may add to the debt the anticipated amount necessary to generate a net return to the Commission of the amount of the debt.

(5) ~~The Commission shall impose a charge of \$25~~ **A telecommunications provider must pay a service fee in accordance with OAR 860-011-0080** for each payment returned for non-sufficient funds.

(6) In addition to any other penalty, obligation or remedy provided by law, the Commission may suspend or cancel the telecommunications provider’s certificate of authority to provide telecommunications service in Oregon for its failure to file its contribution report or its failure to pay its contribution amount in full.

(7) Except as otherwise provided by law, if after an audit or review the Commission determines that the telecommunications provider has overpaid its OUS contribution amount, the Commission ~~shall~~ **will** provide the telecommunications provider a credit in that amount against sums subsequently due from the telecommunications provider.

(8) In computing any ~~period of~~ time prescribed or allowed by these rules, the day of the act or event from which the designated ~~period of~~ time begins to run ~~shall~~ **may** not be included. The last day of the time period ~~shall~~ **must** be included, unless it is a Saturday or legal holiday, including Sunday, in which event the ~~time~~ period runs until the end of the next day ~~which that~~ is not a Saturday or a legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.

Stat. Auth.: ORS 183, 192, 756 & 759

Stats. Implemented: ORS 756.040, 759.015 & 759.425

Hist.: PUC 23-2002, f. & ef. 12-9-02 (Order No. 02-787)

### **860-033-0006**

#### **Monthly and Quarterly RSPF Surcharge Remittance Reports and Fees**

(1) Each telecommunications provider ~~shall~~ **must** submit the RSPF remittance report and surcharge fees each billing period. The remittance report and surcharge fees are due on the 21st calendar day after the close of each monthly or quarterly billing period. The telecommunications provider ~~shall~~ **must** send the remittance report and surcharge fees to the RSPF manager at the Commission.

(a) Each telecommunications provider who has 1,000 or more customers ~~shall~~ **must** collect and submit the RSPF surcharge fee and remittance report monthly.

(b) Each telecommunications provider who has fewer than 1,000 customers ~~shall~~ **must** collect the RSPF surcharge fee and submit the remittance report either monthly or quarterly at the telecommunication provider’s discretion.

(2) Each telecommunications provider ~~shall~~ **must** submit the remittance report and surcharge fee with no exceptions. If the surcharge collected is \$0.00, the telecommunications

provider ~~shall~~**must** still submit a monthly or quarterly remittance report, at the telecommunication provider's discretion.

(3) To cover administrative costs, for each billing period that a telecommunications provider fails to submit the surcharge fees in full on or before the day it is due as required by these rules, the ~~Commission shall impose telecommunications provider must pay~~ a late payment fee in accordance with OAR 860-011-0080 equal to 9 percent of the unpaid amount of the unpaid fee, up to a maximum of \$500. The Commission ~~shall~~**may** not impose a late payment fee until the surcharge fees are five business days past due.

(4) If a telecommunications provider fails to file a remittance report as required by these rules, the ~~Commission shall impose telecommunications provider must pay~~ a late report fee of \$100 in accordance with OAR 860-011-0080. The Commission ~~shall~~**may** not impose a late report fee until the remittance report is five business days past due.

(5) If the telecommunications provider fails to submit the surcharge fee in full on or before it is due, the Commission ~~shall~~**will** add interest in accordance with OAR 860-011-0080 on the unpaid amount at the rate of 9 percent per annum from the day payment was due until paid.

(6) If the amount shown due on a remittance report is not paid by the due date, the Commission may issue a proposed order to set the sum due. The Commission may waive late payment fees and interest if the evidence shows that the telecommunications provider submitted the surcharge fees late due to circumstances beyond its control.

**(7) The telecommunications provider must pay a service fee in accordance with OAR 860-011-0080 for each payment returned for non-sufficient funds.**

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & ef. 11-14-03 (Order No. 03-631)

### **860-034-0095**

#### **Annual Fees Payable to the Commission by a Small Telecommunications Utility**

(1) On statement forms prescribed by the Commission, each small telecommunications utility ~~shall~~**must** provide the requested information for the subject year.

(2) Each small telecommunications utility ~~shall~~**must** pay to the Commission:

(a) An annual fee ~~of in compliance with OARs 860-011-0020 and 860-011-0023~~. **The annual fee shall be no less than \$100. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The payment must be received by the Commission no later than 5 p.m. on the due date annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the gross retail intrastate revenue during the calendar year on which the annual fee is based.**

(b) A late statement fee ~~of \$100 in accordance with OAR 860-011-0080~~, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. **Pacific Time** on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350 and OAR 860-032-0008(1).

(d) A service fee ~~of \$25 in accordance with OAR 860-011-0080~~ for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

**(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier’s check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.**

~~(34) For retail intrastate service rendered on or after January 1, 2000, e~~Each small telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the utility throughout Oregon; and

(b) Describe the amount of the apportioned charge upon each retail customer’s bill.

~~(45) Each small telecommunications utility shall~~ **must**:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission’s request.

~~(56) For any year in which a small telecommunications utility’s statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:~~

(a) The Commission’s audit must begin no later than three years after the statement form’s due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission ~~shall may~~, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

~~(67) If the Commission receives a public record request for the confidential information required by this rule, the Commission shall may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked “EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS.”~~

Stat. Auth.: ORS Ch. 183, 192, 756 & 759

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 13-1999, f. & ef. 12-7-99 (Order 99-734); PUC 15-2001, f. & cert. ef. 6-21-01 (Order No. 01-488); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

**860-034-0097**

**Estimated Annual Fees Payable to the Commission**

(1) For any year in which a small telecommunications utility fails to file a completed statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee ~~shall~~ **must**:

- (a) Include a penalty fee for failure to pay as required by ORS 756.350;
- (b) Include a late statement fee ~~of \$100~~ **in accordance with OAR 860-011-0080**; and
- (c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission **shall must** provide written notice of the proposed annual fee to the small telecommunications utility.

(3) Within 30 days after service of the notice of proposed annual fee, the small telecommunications utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the small telecommunications utility does not file a petition within the 30-day period, the proposed annual fee is and payable.

(5) During the 30-day period allowed for filing a petition, the small telecommunications utility may file its completed statement form and pay the annual fee, penalties, and late statement fee. The Commission **shall will** accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756 & 759

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: PUC 8-2003, f. & ef. 4-28-03 (Order No. 03-222); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

### **860-034-0300**

#### **Tariffs of Small Telecommunications Utilities**

(1) Small telecommunications utilities not subject to ORS 759.175 **shall must**, upon the Commission's request, provide copies of any schedules showing rates, tolls, and charges, including all rules and regulations that in any manner affect the rates charged or to be charged for any service.

(2) Small telecommunications utilities subject to ORS 759.175 **shall must** file tariffs in accordance with the following provisions:

(a) Form and style of tariffs:

(A) All tariffs must be in ~~book, sheet, or pamphlet~~ **loose-leaf** form. ~~Loose leaf plan may be used~~ so changes can be made by reprinting and inserting a single leaf;

(B) ~~The initial tariff filed by e~~Each small telecommunications utility **shall be must** designated **the initial tariff** as PUC Oregon No. 1, and thereafter ~~as other tariffs are filed, they shall be~~ designated **successive tariffs** with the next number in consecutive numerical order. Supplemental information not otherwise provided by the tariff **shall must** be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, for example, 3A, 3B, etc. Revisions to tariff ~~sheets~~ **shall must** be denoted by 1st Revised Sheet No. 3, 2nd Revised Sheet No. 3, etc.;

(C) The title page should be uniform. Rates, rules, and regulations **shall must** be written only on one side of a sheet. If a single sheet is insufficient, two or more pages should be used. Blank forms will be furnished upon request;

(b) Size of tariffs and required:

(A) Tariffs and supplements thereto must be **prepared using a readable font that, when printed, will fit on an typewritten or printed on 8-1/2 x 11 inch paperpage;** and

(B) ~~The Small telecommunications utilities must file with the Commission an original and four conformed copies~~ of each tariff, rate schedule, revision, or supplement **shall be filed with the Commission. The utility must supplement the filing with an exact copy of the tariff in electronic form as required in OAR 860-013-0036.** The advice letter accompanying the tariff ~~sheet~~ **shall must** bear the signature of the issuing officer or utility representative. The tariff ~~sheet~~ do not require a signature.

(c) Tariffs must explicitly state the rates and charges for each class of service rendered, designating the area or district to which they apply;

(d) The small telecommunications utility's rules and regulations that in any manner affect the rates charged or to be charged or that define the extent or character of the service to be given **shall must** be included with each tariff;

(e) Changes in tariffs may be made by filing an entirely new tariff or by filing revised sheets which **shall must** refer to the tariff ~~sheet~~ on file. Additions to the tariff on file may be made by filing additional sheets;

(f) Each small telecommunications utility filing tariffs or schedules changing existing tariffs or schedules **shall must** submit in the advice letter or other document the following information:

(A) A statement plainly indicating the increase, decrease, or other change thereby made in existing rates, charges, tolls, or rules and regulations;

(B) A statement setting forth the number of customers affected by the proposed change and the resulting change in annual revenue; and

(C) A detailed statement setting forth the reasons or grounds relied upon in support of the proposed change;

(g) All tariff changes **shall must** be made applicable with service rendered on and after the effective date of the changes, unless the Commission by order provides otherwise. As used in this rule, "service rendered" means units of toll calls connected, basic service provided, or likewise as the context requires;

(h) Small telecommunications utilities entering into special contracts with certain customers prescribing and providing rates, services, and practices not covered by or permitted in the general tariffs, schedules, and rules filed by such utilities are in legal effect tariffs and are subject to supervision, regulation, and control to the extent not exempted under ORS 759.040; and

(i) All special agreements designating service to be furnished at rates other than those shown in tariffs now on file in the Commission's office ~~shall be classified as~~ **are** rate schedules. A true and certified copy **shall must** be filed pursuant to requirements of this Division.

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

Stats. Implemented: ORS 756.040, 759.045 & 759.175

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 15-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

**860-034-0320**

**Notice to Interested Persons of Tariffs Filed Under ORS 759.175 by Small Telecommunications Utilities**

- (1) This rule applies to any tariff filed under ORS 759.175.
- (2) Any person who requests of the Commission, in writing, to be notified of a small telecommunications utility's tariff filings covered under section (1) of this rule **shall**~~must~~ be included on a notice list.
- (3) The Commission **shall**~~must~~ notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice **will be given** ~~shall be placed in the mail~~ within ten days of any tariff filing under section (1) of this rule that complies with OAR 860-034-0300.
- (4) The Commission may periodically delete names of persons from the notice list who do not demonstrate a continued interest in receiving the notices set forth in section (2) of this rule. No person's name **shall**~~may~~ be deleted from the list without 20 days' notice before deletion.
- (5) The notice **shall**~~must~~ include the following information:
  - (a) Name of the filing small telecommunications utility;
  - (b) Subject;
  - (c) Advice number;
  - (d) Filing date;
  - (e) Effective date;
  - (f) Customer classes affected, if readily ascertainable from the small telecommunications utility's advice letter; and
  - (g) Whether the tariff schedule is primarily related to price competition or a service alternative, if readily ascertainable from the small telecommunications utility's advice letter.

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

Stat. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 15-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

**860-034-0440**

**Applicability and Formal Requirements for Small Telecommunications Utilities and Telecommunications Cooperatives**

- (1) The rules contained in this ~~d~~**D**ivision are auxiliary to and supplemental to the rules contained in ~~d~~**D**ivisions 011 through 014 of this chapter, Practice and Procedure, and all applications or petitions for approval of contracts or amendments thereto, allocations of territory, assignment or transfer of rights acquired pursuant to an allocation of territory, and all other pleadings filed with the Commission pursuant to ORS 759.500 to 759.595 inclusive, **shall**~~bear~~ be governed by the rules in ~~d~~**D**ivisions 011 through 014 of this chapter, Practice and Procedure, except as provided in sections (2) and (3) of this rule.
- (2) All applications and petitions **shall**~~must~~ contain the full and correct name and business address of the applicant or petitioner.
- (3) An original and three conformed of all applications and petitions, **as well as supplemental electronic copies, shall**~~must~~ be filed with the Commission.

Stat. Auth.: ORS Ch. 183, 756 & 759  
Stats. Implemented: ORS 759.045 & 759.500 through 759.675  
Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 13-2002, f. & ef. 3-26-02 (Order No. 02-179)

**860-034-0600**

**Definitions for Depreciation Guidelines for Small Telecommunications Utilities and Type 2 Cooperatives**

As used in OARs 860-034-0600 through 860-034-0670:

(1) "Exception" means a rate for the depreciation of an investment made by a small telecommunications utility or Type 2 cooperative that exceeds the guideline rate. "Exception" also includes a rate for amortization of retired investment if the rate of amortization exceeds the otherwise applicable guideline rate for depreciation of that investment.

(2) "File" means compliance with Commission rules ~~OARs 860-011-0025 and 860-011-0030~~.

(3) "Guidelines" means the standards used by this Commission to determine rates for the depreciation of investment made by a small telecommunications utility or Type 2 cooperative to provide a through service.

Stat. Auth.: ORS Ch. 183, 756 & 759  
Stats. Implemented: ORS 756.040, 759.135, 759.220 & 759.225  
Hist.: PUC 12-1994, f. & ef. 8-31-94 (Order No. 94-1242); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 15-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

**860-036-0095**

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

(1) On statement forms prescribed by the Commission, each water utility ~~shall~~ **must** provide the requested information for the subject year.

~~(32)~~ Each water utility ~~shall~~ **must** pay to the Commission:

~~(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0024.~~

~~(b)~~ **A minimum annual fee of \$10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the Oregon revenue during the prior calendar year.**

~~(c)~~ **A late statement fee of \$100 in accordance with OAR 860-011-0080**, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. **Pacific Time** on the fifth business day following the due date.

~~(d)~~ A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

~~(e)~~ **A service fee of \$25 in accordance with OAR 860-011-0080** for each payment returned for non-sufficient funds.

~~(f)~~ All costs incurred by the Commission to collect a past-due annual fee from the utility.

(23) The annual fee payment must be received by the Commission no later than 5 p.m. **Pacific Time** on the due date. **A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.**

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

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission ~~shall~~ **may**, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS Ch. 183 & 756  
Stats. Implemented: ORS 756.310, 756.320 & 756.350  
Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

#### **860-036-0097**

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

(1) For any year in which a water utility fails to file a completed statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee ~~shall~~ **must**:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee ~~of \$100~~ **in accordance with OAR 860-011-0080**; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission ~~shall~~ **will** provide written notice of the proposed annual fee to the water utility.

(3) Within 30 days after service of the notice of proposed annual fee, the water utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the water utility has not filed a petition by the end of the 30-day period, ~~the proposed annual fee is due and payable the Commission shall enter an order based upon information in its files. The Commission's order is final upon service, and the ordered assessment is due and payable on the tenth day after the order becomes final.~~

(5) During the 30-day period allowed for filing a petition, the water utility may file its completed statement form and pay the annual fee, penalties, and late statement fee. The Commission ~~shall~~ **will** accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756 & 757  
Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350  
Hist.: PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

**860-036-0605****Tariff Specifications**

(1) This rule applies to rate-regulated water utilities as defined in ORS 757.005 and ORS 757.061.

(2) Form and style of tariffs:

(a) All tariffs must be in loose-leaf form so that changes can be made by reprinting and inserting a single leaf;

(b) ~~The initial tariff filed by e~~Each water utility ~~shall be must d the initial tariff~~ as PUC Oregon No. 1, and ~~thereafter as other tariffs are filed, they shall be~~ designated successive tariffs with the next number in consecutive numerical order. Supplemental information not otherwise provided by the tariff shall must be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, for example, 3A, 3B, etc. Revisions to tariff ~~sheets~~ shall must be denoted by 1st Revised Sheet No. 3, 2nd Revised Sheet No. 3, etc.;

(c) The title page should be uniform. Rates, rules, and regulations shall must be written only on one side of a sheet. If a single sheet is insufficient, two or more pages should be used. Blank forms will be furnished by the Commission upon request; and

(d) Separate tariffs shall must be filed for water or for any other service entered.

(3) Size of tariffs and required:

(a) Tariffs and supplements thereto must be prepared using a readable font that, when printed, will fit on an typewritten or printed on 8-1/2 x 11 inch paperpage; and

(b) ~~The~~Water utilities must file with the Commission an original ~~and four~~ conformed copies of each tariff, rate schedule, revision, or supplement ~~shall be filed with the Commission. The advice letter accompanying the tariffs must bear the signature of the issuing officer or utility representative. The tariffs do not require a signature.~~

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

Stats. Implemented: ORS 756.040 & 757.205

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 15-1998, f. & ef. 8-27-98 (Order No. 98-359); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0615****Tariff Changes Require 30 Days' Notice to the Commission**

(1) This rule applies to rate-regulated water utilities as defined in ORS 757.005 and ORS 757.061.

(2) Except as hereinafter provided in this Division, a water utility must file with the Commission all tariffs, rate schedules, revisions, or supplements thereto containing any change in rates, charges, or rules and regulations ~~must be filed with the Commission~~ at least 30 days before the effective date of such changes. The Commission will reject t Tariffs or schedules not in conformityg with the rules ~~contained in this Division~~ ~~036 may be rejected as provided in OAR 860-011-0025.~~

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

Stats. Implemented: ORS 756.040, 757.007 & 757.220

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0625**

**Applications to Make Tariffs or Rate Schedules Effective on Less than Statutory Notice**

**Applications** **A water utility seeking authority** to make tariffs or rate schedules effective on less than statutory notice ~~shall be made in duplicate upon prescribed forms~~ **must use application forms approved by the Commission.**

Stat. Auth.: ORS 183, ORS 756 & ORS 757  
Stats. Implemented: ORS 756.040 & ORS 757.220  
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97

**860-036-0645**

**Notice to Interested Persons of Tariffs Filed Under ORS 757.205**

(1) This rule applies to rate-regulated water utilities as defined in ORS 757.005 and ORS 757.061.

(2) This rule applies to any tariff filing that is filed under ORS 757.205.

(3) Any person who requests of the Commission, in writing, to be notified of the water utility tariff filings covered under section (2) of this rule **shall must** be included on a notice list.

(4) The Commission **shall must** notify all persons on the notice list referred to in section (3) of this rule of any applicable tariff filing. The notice ~~will be given shall be placed in the mail~~ within ~~10~~**ten** days of any tariff filing under section (2) of this rule that complies with OAR 860-036-0605 through 860-036-0635.

(5) The notice **shall must** include the following information:

- (a) Name of the filing water utility;
- (b) Subject;
- (c) Filing date;
- (d) Effective date;
- (e) Date of the Commission's public meeting when the tariff will be considered; and
- (f) Customer classes affected.

(6) The Commission may periodically delete names of persons from the notice list who do not demonstrate a continued interest in receiving the notices set forth in section (3) of this rule. No person's name **shall may** be deleted from the list without 20 days' notice before deletion.

Stat. Auth.: ORS Ch. 183, 756 & 757  
Stats. Implemented: ORS 756.040 & 757.230  
Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-037-0095**

**Annual Fees Payable to the Commission by a Wastewater Utility**

(1) On statement forms prescribed by the Commission, each wastewater utility ~~shall~~ **must** provide the requested information for the subject year.

(~~3~~**2**) Each wastewater utility ~~shall~~ **must** pay **to the Commission:**

~~———(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0024.~~

**(ba)** A minimum annual fee of \$10. ~~The payment must be received by the Commission no later than 5 p.m. on the due date. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the Oregon revenue during the prior calendar year.~~

**(eb)** A late statement fee ~~of \$100 in accordance with OAR 860-011-0080~~, if the Commission has not received the utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. **Pacific Time** on the fifth business day following the due date.

**(dc)** A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

**(ed)** A service fee ~~of \$25 in accordance with OAR 860-011-0080~~ for each payment returned for non-sufficient funds.

**(fe)** All costs incurred by the Commission to collect a past-due annual fee from the utility.

**(23)** The annual fee payment must be received by the Commission no later than 5 p.m. **Pacific Time** on the due date. **A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.**

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

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission ~~shall may~~, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 14-2000, f. & ef. 8-23-00 (Order No. 00-458); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

### **860-037-0097**

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

(1) For any year in which a wastewater utility fails to file a completed statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee ~~shall~~**must**:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee ~~of \$100 in accordance with OAR 860-011-0080~~; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission ~~shall~~**will** provide written notice of the proposed annual fee to the wastewater utility.

(3) Within 30 days after service of the notice of proposed annual fee, the wastewater utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the wastewater utility has not filed a petition by the end of the 30-day period, **the proposed annual fee is due and payable the Commission shall enter an order based upon information in its files. The Commission's order is final upon service, and the ordered assessment is due and payable on the tenth day after the order becomes final.**

(5) During the 30-day period allowed for filing a petition, the wastewater utility may file its completed statement form and pay the annual fee, penalties, and late statement fee. The Commission **shall will** accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756 & 757

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409); PUC 20-2003, f. & ef. 11-14-03 (Order No. 03-630)

#### 860-037-0410

##### Tariff Specifications

(1) Form and style of tariffs:

(a) All tariffs must be in loose-leaf form so that changes can be made by reprinting and inserting a single leaf;

(b) ~~The initial tariff filed by e~~Each wastewater utility **shall be must** designated **the initial tariff** as PUC Oregon No. 1, and ~~thereafter as other tariffs are filed, they shall be~~ designated **successive tariffs** with the next number in consecutive numerical order. Supplemental information not otherwise provided by the tariff **shall must** be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, for example, 3A, 3B, etc. Revisions to tariff ~~sheets~~ **shall must** be denoted by 1st Revised Sheet No. 3, 2nd Revised Sheet No. 3, etc.;

(c) The title page should be uniform. Rates, rules, and regulations **shall must** be written only on one side of a sheet. If a single sheet is insufficient, two or more pages should be used. Blank forms will be furnished by the Commission upon request; and

(d) Separate tariffs **shall must** be filed for wastewater service or for any other service entered.

(2) Size of tariffs and required:

(a) Tariffs and supplements thereto must be **prepared using a readable font that, when printed, will fit on an typewritten or printed on 8-1/2 x 11 inch paperpage**; and

(b) ~~The~~Wastewater utilities must file with the Commission ~~an the original and four conformed copies~~ of each tariff, rate schedule, revision, or supplement ~~shall be filed with the Commission. The advice letter accompanying the tariffs must bear the signature of the issuing officer or utility representative. The tariffs do not require a signature.~~

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

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.205

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

**860-037-0420**

**Tariff Changes Require 30 Days' Notice to the Commission**

Except as hereinafter provided in this Division, a wastewater utility must file with the Commission all tariffs, rate schedules, revisions, or supplements thereto containing any change in rates, tolls, charges, or rules and regulations ~~must be filed with the Commission~~ at least 30 days before the effective date of such changes. The Commission will reject ~~Tariffs or schedules not in conformity with the rules contained in this Division may be rejected as provided in OAR 860-011-0025.~~

Stat. Auth.: ORS Ch. 183, 756 & 757  
Stats. Implemented: ORS 756.040, 757.005, 757.007, 757.061 & 757.220  
Hist.: PUC 9-1999 (Temp), f. 10-22-99 & ef 10-23-99 (Order No. 99-650); PUC 6-2000, f. 4-18-00 & ef. 4-20-00 (Order No. 00-194)

**860-037-0430**

**Applications to Make Tariffs or Rate Schedules Effective on Less Than Statutory Notice**

~~Applications to make A~~ wastewater utility seeking authority to make tariffs or rate schedules effective on less than statutory notice ~~shall be made in duplicate upon prescribed forms~~ must use application forms approved by the Commission.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759  
Stat. Implemented: ORS 757.220 & 759.190  
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

**860-037-0450**

**Notice to Interested Persons**

- (1) This rule applies to any tariff filing that is filed under ORS 757.205.
- (2) Any person who requests of the Commission, in writing, to be notified of wastewater utility tariff filings covered under section (1) of this rule shall must be included on a notice list.
- (3) The Commission shall must notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice will be given ~~shall be placed in the mail~~ within 10ten days of any tariff filing under section (1) of this rule that complies with OAR 860-037-0410 through 860-037-0440.
- (4) The notice shall must include the following information:
  - (a) Name of the wastewater utility submitting the filing;
  - (b) Subject;
  - (c) Filing date;
  - (d) Effective date;

(e) Date of the public meeting the tariff will be considered (when the information is available); and

(f) Customer classes affected.

(5) The Commission may periodically delete from the notice list names of persons who do not demonstrate a continued interest in receiving the notices set forth in section (2) of this rule. No person's name ~~shall~~must be deleted from the list without 20 days' notice before deletion.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.230

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 5-2004, f. & cert. ef. 1-29-04