

ORDER NO. 15 272  
ENTERED SEP 08 2015

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1631

In the Matter of  
ANGLERS COVE/SHADY COVE  
HEIGHTS WATER COMPANY,  
Request for Waiver of OAR 860-036-0130(3).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on September 8, 2015, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



*Becky L. Beier*

**Becky L. Beier**  
Commission Secretary

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

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ITEM NO. CA13


PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT

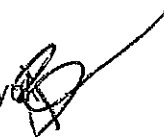
PUBLIC MEETING DATE: September 8, 2015

REGULAR \_\_\_\_\_ CONSENT ☒ EFFECTIVE DATE \_\_\_\_\_ NA \_\_\_\_\_

DATE: August 27, 2015

TO: Public Utility Commission

FROM: Celeste Hari 

THROUGH: Jason Eisdorfer, Bryan Conway, and Bruce Hellebuyck 

SUBJECT: ANGLERS COVE/SHADY COVE HEIGHTS WATER COMPANY:  
(Docket No. UM 1631) Requests a waiver of OAR 860-036-0130(3), the Late Payment Charge and requests to set the charge at \$10.00.

**STAFF RECOMMENDATION:**

I recommend that the Commission approve Anglers Cove/Shady Cove Water Company's (Anglers Cove or Company) request for waiver of the late payment charge rule (OAR 860-036-0130(3)). Secondly I recommend that the late payment fee be set at the Commission approved rate, currently 1.8 percent of the unpaid balance, or \$5.00 whichever is higher, rather than the \$10.00 requested by the company. The Company does not oppose Staff's change in the fee amount.

**DISCUSSION:**

*Issue:* The Company requested a waiver to the Commission's rules in order to charge a flat \$10 late fee rather than the late payment fee based on the percentage the Commission sets each year under its rules.

*Rules* – OAR 860-036-0130(3) states that the late payment fee will be determined by the Commission "...based on a survey of prevailing market rates for late-payment charges of commercial enterprises..." The fee is evaluated each year and adjusted accordingly. Currently the fee is set at 1.8 percent of the delinquent amount. OAR 860-036-0001(1) allows the Commission to waive any of its Division 036 rules "...for good cause shown."

*Staff Analysis* – In order to grant a waiver of a rule, the burden lies on the Company to demonstrate good and sufficient cause for the waiver. While Anglers Cove could not

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provide good and sufficient cause for a \$10.00 late charge, it did provide enough support for the waiver and a \$5.00 charge.

The Company filed the request for waiver on June 11, 2015. Staff spoke with the Company and followed up with an information request on July 1, 2015.

Anglers Cove is a small water company with 38 customers. It is run by a Board of Directors comprised of volunteers. In its request letter, the Company stated that in the past 12 months, there have been as many as six customers at one time who are not current within the 30 day billing cycle. The Company further states that to date in 2015, a collective seven customers have waited to pay their bills until the last day before disconnection was set to take place. The Company stated that it believes there is not enough punitive impact with the current late fee to compel customers to pay on time. Staff explained to the Company that rates are not set for punitive purposes. They are set to recover the cost of the utility providing the service. If the level of that charge also provides incentive for the customer to pay on time, that is a collateral benefit of the charge. The Company believes increasing the late payment fee will provide incentive and no one will pay late.

There is a financial impact when customers of a small water utility are habitually late with payments. Small water companies are not generally flush with cash and may face a cash flow problem when customers do not pay on time. This is the case for Anglers Cove. The monthly revenue for the Company is only about \$2,000 each month. When even a small number of customers do not pay on time, the company can be short approximately \$250 to \$300 of cash flow. This is approximately 12.5 percent to 15 percent of the monthly revenue. Unlike large utilities, this amount of shortage can result in the Company becoming strapped for cash. Approximately 12 percent of Anglers Cove customers do not pay on time, which leaves the Company and other customers to bear the burden of these expenses.

The Company provided information that does support the waiver and increasing the late fee to \$5.00, but not to \$10.00. The Company has contracted with an outside accounting agency to perform the billing duties. A very small portion of the accounting fee can be allocated to the costs involved in collecting delinquent accounts. Expenses such as stamps and envelopes may also be included in the allocation of costs. Staff believes a late fee of no less than \$5.00 will recover the costs associated with the Late Fee.

There is only one small water company that has been allowed a waiver of the late fee rule. That waiver was granted in UW 104, by Order No. 05-097. The Commission

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allowed the waiver and approved no more than \$3.00 for a late payment fee in that case.

**Conclusion:**

After Staff's analysis, a waiver of OAR 860-036-0130(3) allowed under OAR 860-036-0001(1) should be granted. The Late Payment Charge should be designated as the current Commission-set percentage (currently 1.8 percent) but not more than \$5.00.

The Company should file a Miscellaneous Charges tariff sheet showing the new late payment rate, within thirty days of the order approving the waiver and new late payment rate.

**PROPOSED COMMISSION MOTION:**

Anglers Cove/Shady Cove Water's request for waiver of OAR 860-036-0130(3) under OAR 860-036-0001(1) be granted and a \$5.00 minimum late fee be approved.

CA13 Anglers Cove Waiver