

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 20, 2018

REGULAR ___ CONSENT ___ RULEMAKING X EFFECTIVE DATE N/A

DATE: October 31, 2019

TO: Public Utility Commission

FROM: Joan Grindeland

THROUGH: *JE* Jason Eisdorfer, *BC* Bryan Conway, *BB* Bruce Hellebuyck, *DD* Diane Davis

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: (Docket No. AR 625)
Request for approval to open formal rulemaking to repeal water construction budget and expenditure reporting rules.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve the request to open the formal phase of rulemaking without informal proceedings and issue a notice of proposed rulemaking to repeal OAR 860-036-2400, 860-037-0615, and 860-037-0620.

DISCUSSION:

Need for Rulemaking

In 2011, Senate Bill 142 (now codified in ORS 757.061) exempted water and water/wastewater utilities from filing Budget of Expenditure and New Construction Budget reports pursuant to ORS 757.105 to ORS 757.110. Although the utilities have not filed reports since 2012; the Commission's rules have not been updated to comport with the change to the law.

Applicable Rules, Laws, Standards

Under ORS 756.060, the Commission is authorized to "adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission" and to "adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and telecommunications utilities and other parties before the commission."

Background

These reports should have been removed from the above referenced rules in 2012 after ORS 757.061 was codified. It appears that due to a simple oversight, these rules were not removed in subsequent rulemaking proceedings, including the recent AR 595 rulemaking proceeding in which the Commission reviewed and updated all of its Division 36 rules. The information required by Staff to monitor water and wastewater companies is contained in OAR 860-036-2350 and 860-037-0625. This process amounts to a simple housekeeping issue to update the Commission's compliance with its own rules.

Conclusion

As rate and service regulated water utilities are exempted from providing these reports by statute, the Commission's administrative rules should be updated accordingly.

Recommended Procedural Timeline

If the request to initiate the formal phase of the rulemaking is adopted before the end of the year, it can be published in the January 2019 Bulletin with comments due by the end of January. Staff does not anticipate a fiscal or economic impact since the rule has not been enforced since the legislation was passed. The request to repeal the rules could then be taken back to public meeting in mid to late February and the rules repeal would become effective.

PROPOSED COMMISSION MOTION:

Initiate formal phase of rulemaking and issue a notice of proposed rulemaking to repeal the rules set forth in the attachment.