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APR 21 2008

Public Utility Commission of Oregon
Administrative Hearings Unit Division

Memorandum

To: Kathy Miller, Senior Utility Analyst, Oregon Public Utility Commission
From: Amanda Rich, Western Advocates Inc.
Melvin Olson, Hiland Water Corporation
CC: Michael Dougherty, Water Program Manager, Oregon Public Utility Commission

Date: November 16, 2007

Re: Informal Comments on Draft Regulatory Rules for Water Utilities – 9-28-07 Version

Delivered via electronic mail – November 16, 2007

Thank you for giving us the opportunity to review and provide commentary on the PUC's draft water utility rules (September 28, 2007 version). We appreciate your efforts to seek stakeholder input prior to the commencement of a formal rulemaking process.

The following comments range from specific typographical notations to more general observation about the policy and impact of the rules. We hope these comments will be helpful to you as you prepare the next draft of the water utility rules. If the timing of your process allows, we would be very interested in meeting with you to discuss these comments prior to issuance of the formal draft rules.

Specific Comments

(As mentioned earlier, some of these comments are merely typo notations. We include them here just in case they haven't been caught by other reviewers.)

1. 860-036-0010 (4) – The word "Backflow" is misspelled "Blackflow"
2. 860-036-0015 (8) – In the second sentence, the word "language" has an unnecessary hyphen.
3. 860-036-0025 (9) – The reference to (7)(c) and (7)(d) should be changed to (8)(c) and (8)(d).
4. 860-036-0030 (1) (a) – The increase in the annual average monthly residential rate from \$24 to \$30, while an improvement, does not adequately raise the rate to keep pace with inflation and the current cost of providing service. The \$30 figure brings the rate in line with 2006 dollars, but by the time these rules are adopted in 2008 will be almost two and a half years out of date. At a minimum we would suggest revising the rule to reflect a rate that will be current at the time of the rule's adoption.
5. 860-036-0030 (1) (d) – The \$450 standard service connection charge should be updated to reflect current costs of installing a service connection.
6. 860-036-0364 – In the first sentence, there should be a "to" after the word "limited".

7. 860-036-0401 (8) (j) – Currently, ORS 192.502 (27) prohibits public water utilities from releasing personal information about customers, except under very specific circumstances. Although that statute is not applicable to the private water companies regulated by these rules, the requirement for a water utility to provide a customer with a complete customer list of names and addresses raises serious customer privacy concerns. To protect the privacy interests of utility customers and the legal interests of utilities, it might be wise to require customers to consent to the possible release of their personal information. (This comment applies to all instances in which this requirement occurs in the rules.)

General Comments

Our general comments about the draft water utility regulatory rules concern the way the current regulatory process impacts very small water utilities.

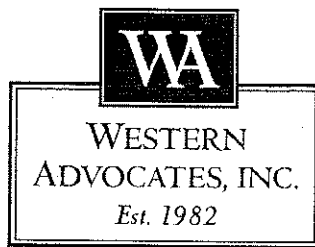
- A disconnect exists in the small water utility regulatory process between the concerns being regulated for and the type of regulation applied. The current process imposes rate regulation on small utilities based on the concerns of a very small number of customers. In most cases those customer complaints regard service issues or communication issues with their utility. Logically, those service concerns should bring about a higher level of service regulation, but in the case of small water utilities, it subjects them to financial or rate regulation. This lack of nexus between the customer concerns and the regulation applied leads to a system that is not addressing the needs of either the utility or the customers.
- The scope and complexity of current rate regulation is out of scale when applied to very small water utilities. The financial strictures that may make sense when applied to a larger utility do not work for small utilities. Current rate regulation is complex and time consuming and, most small utilities do not have the staff support necessary to navigate the process.
- Current rate regulation is unnecessarily rigid. The rules discourage utilities from working with their customers toward agreement on a rate schedule, because, even if agreement is reached, that schedule may be rejected by the process for technical reasons. In addition, the current regulatory process has the tendency to put customers and utilities in an adversarial relationship.
- The current regulatory process does not allow for utilities to get out of rate regulated status once they are in it – regardless of the quality of their current service.

Regulation that ensures quality service is necessary for all water utilities. Rate oversight that protects customers from exorbitant fees is also necessary. However, complex rate regulation is not necessary or helpful for customers or managers of most small water utilities. While we understand that some of the policy concerns raised here may stem from the statutory mandate under which the rules are promulgated, we also believe that the statute allows for more flexibility in the rules than is currently exhibited in the regulatory process. We encourage the PUC to take this rulemaking opportunity to review the regulatory process as it applies to very small water utilities. We suggest the following as questions to consider during that review.

1. Does the regulation applied match the concerns that gave rise to the regulation? (i.e. Is full rate regulation necessary to address customer service concerns?)
2. Does the regulation incentivize good service and good relationships with customers?
3. Is the regulation unnecessarily burdensome for the entity to which it is being applied?

Thank you very much for your time and attention to our concerns. We hope to have the opportunity to discuss these issues with you further as this rulemaking progresses.

Please do not hesitate to contact me if you have any questions. Amanda Rich,
amanda@westernadvocates.com, 503-588-8301.



Memorandum

To: Kathy Miller, Senior Utility Analyst, Oregon Public Utility Commission
From: Amanda Rich, Western Advocates Inc.
Melvin Olson, Hiland Water Corporation
CC: Michael Dougherty, Water Program Manager, Oregon Public Utility Commission

Date: January 7, 2008
Re: Estimated Fiscal Impact of Draft Regulatory Rules for Water Utilities – 9-28-07 Version

Delivered via electronic mail – January 7, 2008

Thank you for the opportunity to provide a fiscal impact estimate of the PUC's draft water utility rules (September 28, 2007 version).

We are not able to provide a specific dollar estimate of the fiscal impact of the draft rules. However, we can point out two portions of the rule that have the potential to create a financial loss for the utilities managed by Hiland Water Corporation.

- 860-036-0030 (1) (a) sets the threshold amount that a water utility may charge before being potentially subjected to PUC rate regulation. As mentioned in our earlier rule comments (dated November 16, 2007), the increase in the annual average monthly residential rate from \$24 to \$30, while an improvement, does not adequately raise the rate to keep pace with inflation and the current cost of providing service. The \$30 figure brings the rate in line with 2006 dollars, but by the time these rules are adopted in 2008 will be almost two and a half years out of date. By setting the threshold rate below the actual cost of providing service, the rules put a water utility in the position of taking a financial loss and charging less than the cost of the service or facing the potential of costly and time consuming rate regulation.
- 860-036-0030 (1) (d) sets the maximum charge for installation of a service connection. The current draft of the rules does not include an increase to the \$450 charge. In many instances \$450 is not adequate to cover the costs of installing a line for a new customer. Depending on the circumstances of each individual installation, the costs could be two or three times that amount. The gap between the maximum allowed charge and the actual cost of the installation represents a financial loss to the water utility.

Thank you for your consideration of these comments. Please do not hesitate to contact me if you have any questions. Amanda Rich, amanda@westernadvocates.com, 503-588-8301.