

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
 A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

Diane Davis

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**RULE CAPTION****In the Matter of a Rulemaking to Amend Timeframes for Audits of Fees Due**

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date

January 9, 2008

Time

9:30 a.m.

Location

Public Utility Commission  
Main Hearing Room, 1st Floor  
550 Capitol Street NE  
Salem, Oregon

Administrative Law Judge

Traci Kirkpatrick

*Auxiliary aids for persons with disabilities are available upon advance request.***RULEMAKING ACTION**

Secure approval of new rule numbers (adopted or renumbered) with the Administrative Rules Unit prior to filing.

**ADOPT:****AMEND:** 860-021-0033, 860-021-0034, 860-021-0036, 860-032-0095, 860-032-0640, 860-033-0008, 860-034-0095, 860-036-0095, and 860-037-0095.**REPEAL:****RENUMBER:****AMEND and RENUMBER:**

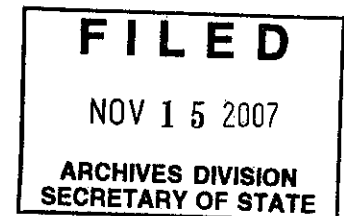
ORS Ch. 183, 192, 756, 757, 759 &amp; Ch.290, OL 1987

Stat. Auth:

Other Authority

ORS 756.040, 756.310, 756.320, 756.350, 759.015, 759.030, 759.425 &amp; Ch. 290, OL 1987

Stats. Implemented:

**RULE SUMMARY**

The proposed rule amendments allow the Commission an unlimited time to audit a company's fee records and supporting documentation if the company operated without a certificate of authority when a certificate is required; or if the Commission discovers fraud, negligence or misrepresentation or misappropriation of funds. The proposed amendments are intended to maintain the protection of programs and customers and to allow the Commission to collect the fees that support the PUC programs. There are also housekeeping changes to update rule references.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

January 9, 2008, 5:00 p.m.

Last day for Public Comment

Last day to submit written comments to the Commission



Signature

Diane Davis

Printed Name

11/15/07

Date

Secretary of State

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Agency and Division

Administrative Rules Chapter Number

Public Utility Commission

860

In the Matter of a Rulemaking to Amend Timeframes for Audits of Fees Due.

Rule Caption: In the Matter of a Rulemaking to Amend Timeframes for Audits of Fees Due.

Statutory Authority: ORS Ch. 183, 192, 756, 757, 759 & Ch.290, OL 1987

Other Authority:

Stats. Implemented: ORS 756.040, 756.310, 756.320, 756.350, 759.015, 759.030, 759.425 & Ch. 290, OL 1987

Need for the Rule(s):

The proposed rule amendments are necessary to maintain the protection of Commission programs and customers. Currently, the Commission is limited to a three-year audit period unless the provider is operating without a certificate of authority, if required. The proposed amendments allow the Commission an unlimited time to audit companies if Commission Staff discovers circumstances that provide insight into possible fraud, negligence or misrepresentation or misappropriation of funds. Allowing the unlimited audit time in the above circumstances provides the Commission opportunity to collect the fees due that support the Commission Programs.

Documents Relied Upon, and where they are available:

The statutes implemented are available online at <http://www.puc.state.or.us/PUC/commission/docs/lawsbook.pdf> and the Chapter 860 administrative rules can be found online at [http://arcweb.sos.state.or.us/rules/OARS\\_800/OAR\\_860/860\\_tofc.html](http://arcweb.sos.state.or.us/rules/OARS_800/OAR_860/860_tofc.html).

Fiscal and Economic Impact, including Statement of Cost of Compliance:

The Commission and the Department of Justice may be economically impacted by adoption of the proposed rule amendments. The Commission staff may be required to spend more time reviewing and auditing and may require additional legal advice from its attorneys. However, the potential magnitude of changes in cost will be variable upon the findings of each individual audit and cannot be quantified at this time. There are no units of local government economically impacted by the proposed rule amendments. The industries impacted by the proposed rules are those industries regulated by the

Commission, including energy utilities and telecommunications utilities, telecommunications providers, water and some wastewater providers. Some of the telecommunications providers, water and wastewater providers are small businesses and will be subject to the rules; however, for all sizes of providers subject to these rules, if the providers are operating in compliance with the applicable laws and rules, there will be no change to the providers' procedures or current cost of compliance.

If a provider is operating outside of the laws and rules, and it is discovered during the course of Commission Staff review, then the provider may need to obtain professional services; i.e., legal advice; and the provider would be required to pay any fees due plus applicable late charges, penalties and collection costs.

How were small businesses involved in the development of this rule?

Small businesses were not directly involved in the development of the rule amendments. There is no greater effect on small businesses than on any other subject provider; and there is no effect at all if the subject small business is operating in compliance with the applicable rules and laws.

Administrative Rule Advisory Committee consulted? No  
If not, why?

Providers subject to the rules who are operating in compliance with applicable rules and laws will not be affected by the rule amendments. Further, the Commission will consider input from the subject providers during the formal rulemaking process.

Diane Davis  
Authorized Signer

Diane Davis  
Printed Name

11/15/07  
Date

**860-021-0033**

**Annual Fees Payable to the Commission by an Electric Company**

(1) On statement forms prescribed by the Commission, each electric company must provide the requested information for the subject year.

(2) Each electric company 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. Each electric company must pay the annual fee on or before the date specified in a notice, which date must be at least 15 days after the mailing of the notice. For the purpose of this section, the gross operating revenues of an electric company do not include revenues from sales of power for resale to the extent that the revenues from those sales exceed an amount equal to 25 percent of the total revenues received by the electric company from sales of electricity to end users in the preceding calendar year.

(3) Each electric company 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 860-011-0110, if the Commission has not received the electric company'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 in accordance with OAR 860-011-0110 for each payment returned for non-sufficient funds.

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

(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.

(5) For any year in which an electric company's statement form was due, the Commission may audit the electric company 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) Notwithstanding subsection (a) of this rule, if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the electric company for the annual fees.**

~~(bc)~~ If the Commission determines that the electric company 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.

~~(ed)~~ If the Commission determines that the electric company has overpaid its annual fee, the Commission may, at its discretion, recompense the electric company 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 14-1998, 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); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753); PUC 7-2005, f. & ef. 11-30-05 (Order No. 05-1229); PUC 10-2007, f. & ef. 9-18-07 (Order No. 07-392)

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

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

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

(2) Each gas utility and steam heat utility 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.

(3) Each gas utility and steam heat 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. 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 in accordance with OAR 860-011-0110, 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 in accordance with OAR 860-011-0110 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.

(5) For any year in which a 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) Notwithstanding subsection (a) of this rule, if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the gas utility or steam heat utility for the annual fees.**

**(b)c** 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.

(ed) 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.

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); 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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753); PUC 10-2007, f. & ef. 9-18-07 (Order No. 07-392)

### **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 must provide the requested information for the subject year.

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

(a) An annual fee of 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 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 in accordance with OAR 860-011-~~00800110~~, 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 in accordance with OAR 860-011-~~00800110~~ 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.

(4) 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.

(5) 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 (4) of this rule by merely describing the apportioned amount of the charge on the retail customer's bill.

(b) If 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).

(6) 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) Notwithstanding subsection (a) of this rule, if the telecommunications utility did not hold a certificate of authority or if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the telecommunications utility for the annual fees.**

(bc) 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.

(ed) 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.

(7) Each large telecommunications utility 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 may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure.

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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

**860-032-0095**

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

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

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

(a) An annual fee of 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 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 in accordance with OAR 860-~~00800~~**110**, 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 in accordance with OAR 860-011-~~00800~~**110** 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.

(4) 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.

(5) Each competitive provider 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.

(6) 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) Notwithstanding subsection (a) of this rule, if the competitive provider did not hold a certificate of authority, or if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the competitive provider for the annual fees.**



(bc) 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.

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

(7) If the Commission receives a public record request for the confidential information required by this rule, the Commission may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure.

(8) A cooperative that is a competitive provider 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 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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

#### 860-032-0640

##### **Commission Audit and Proposed Assessment**

(1) For any quarter for which a telecommunications provider's contribution report was due, the Commission may audit the telecommunications provider as the Commission deems necessary and practicable.

(2) The Commission's audit must be commenced no later than three years after the quarter's contribution report's due date. After completion of its audit, the Commission may propose to assess an additional contribution amount due from the telecommunications provider.

**(3) Notwithstanding section (2) of this rule, if the telecommunications provider did not hold a certificate of authority, or if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the telecommunications provider for the universal service charges.**

(34) In the event the telecommunications provider failed to file a contribution report for the quarter, the Commission shall add to the proposed assessment a late payment fee equal to 9 percent of the amount of the proposed assessment, up to a maximum amount of \$500.

(45) Each proposed assessment shall bear interest on the additional amount proposed at the rate of 9 percent per annum from the day the original contribution amount was due.

**~~(5) Notwithstanding section (2) of this rule, if the telecommunications provider did not hold a certificate of authority, the Commission shall have an unlimited time to audit the telecommunications provider for universal service charges.~~**

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)

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**860-033-0008**

**Commission Audit and Proposed Assessment**

(1) For any time period for which a telecommunications provider's remittance report was due, the Commission may audit the telecommunications provider as the Commission deems necessary and appropriate.

(2) The Commission's audit must begin no later than three years after the remittance report's due date. After completion of the audit, the Commission may propose to assess an additional surcharge amount due from the telecommunications provider.

(3) If a telecommunications provider failed to file a remittance report the time period specified in these rules, the Commission shall add to the proposed assessment a late payment fee equal to 9 percent of the amount of the proposed assessment, up to a maximum of \$500.

(4) Each proposed assessment shall bear interest on the additional amount proposed at the rate of 9 percent per annum from the day the original surcharge amount was due.

(5) Notwithstanding section (2) of this rule, if the telecommunications provider did not hold a certificate of authority, if ~~one was required by law~~, or if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the telecommunications provider for the surcharge fees.

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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

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 must provide the requested information for the subject year.

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

(a) An annual fee of 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 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 in accordance with OAR 860-011-~~00800110~~110, 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 in accordance with OAR 860-011-~~00800110~~110 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.

(4) 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.

(5) Each small telecommunications utility 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.

(6) 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) Notwithstanding subsection (a) of this rule, if the small telecommunications utility did not hold a certificate of authority, or if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the small telecommunications utility for the annual fees.**

(bc) 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.

(ed) 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.

(7) If the Commission receives a public record request for the confidential information required by this rule, the Commission may assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure.

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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

**860-036-0095**

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

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

(2) Each water 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. 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 in accordance with OAR 860-011-~~00800110~~, 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 in accordance with OAR 860-011-~~00800110~~ 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.

(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) Notwithstanding subsection (a) of this rule, if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the water utility for the annual fees.**

**(bc)** 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.

**(ed)** 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.

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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004,

f. & ef. 12-30-04 (Order No. 04-753)

**860-037-0095**

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

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

(2) Each wastewater 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. 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 in accordance with OAR 860-011-~~00800110~~0110, 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 in accordance with OAR 860-011-~~00800110~~0110 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.

(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) Notwithstanding subsection (a) of this rule, if the Commission discovers fraud, negligence, misrepresentation or misappropriation of funds, the Commission shall have an unlimited time to audit the wastewater utility for the annual fees.**

~~(bc)~~ 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.

~~(ed)~~ 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.

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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)