

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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Rules Coordinator

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Address

RULE CAPTION

In the Matter of Additions, Deletions and Revisions to OAR Chapter 860, Division 036

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

Hearing Date (m/d/yyyy)	Time	Location	Hearings Officer
1 4/21/2008	9:30 a.m.	550 Capitol Street NE - Main Hearing Room - 1st Fl, Salem, OR	Sarah Wallace
2			
3			
4			

Auxiliary aids for persons with disabilities are available upon advance request

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

860-036-0243, 860-036-0247, 860-036-0364, 860-036-0401, 860-036-0408, 860-036-0712, 860-036-0713 and 860-036-0714

AMEND:

860-036-0001 through 860-036-0930

REPEAL:

860-036-0340, 860-036-0410 and 860-036-0810

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority: ORS

ORS Chapter 183, 756, 757, and 758

Other Authority:

Statutes Implemented: ORS

ORS 98.316, 183.090, 756.040, 756.105, 756.310, 756.320, 756.350, 756.500, 756.512, & 756.990, ORS 757.005 through 757.495 & ORS 758.300 through 758.320

Continued on next page

Secretary of State

Continuation of ... NOTICE OF PROPOSED RULEMAKING HEARING***RULE SUMMARY**

The primary purpose of this rulemaking is to clarify the applicability of the rules to each different water utility regulatory classification. Due to the differing rule requirements for water utilities classified at different levels of regulation it is necessary in each rule to identify the water utility classification subject to the rule. In addition to these clarifications, the proposed rules update and add definitions, make housekeeping changes, remove or simplify rules where appropriate, make language more consistent with other Commission rules, update the Commission's regulatory threshold, and update a reporting threshold.

The proposed new rules are:

- 860-036-0243 Disconnect Visit Charge - This rule is proposed to clarify what a disconnect visit charge is and when it can be charged to the customer.
- 860-036-0247 Reconnection of Residential Water Service - This rule is proposed to be consistent with the reconnect rule for other industry utilities. This is not a new requirement; it ensures customers' and water utilities' rights and responsibilities are defined concerning connection of water utility service.
- 860-036-0364 Emergency Jurisdiction Due to Inadequate Water Service - This rule is proposed to clarify the Commission's authority to declare emergency jurisdiction for water service posing a safety or health hazard pursuant to ORS 757.061.
- 860-036-0401 Relating to Water Utility Notification Requirements and Rate Regulation of a Water Utility by Customer Petition - This proposed rule replaces 860-036-0410. The proposed rule contains the water utility notification requirements and the customer petition process information.
- 860-036-0408 Notice of Customer's Right to Petition for Rate Regulation When an Otherwise - Exempt Public Utility Proposes a Rate change. This proposed rule addresses the customer petition process for an otherwise - exempt water utility; i.e., a water utility that previously went through the petition process but for which the Commission did not receive the required number of customer petitions.
- 860-036-0710 originally contained the requirements for abandoning, terminating, disposing of, selling, transferring, or merging a water utility. The proposed rules separate these requirements into four rules:

860-036-0710 relates to terminating or abandoning water service or disposing of a water utility,

860-036-0712 relates to sales, transfers, or mergers of rate-regulated water utilities,

860-036-0713 relates to sales, transfers, or mergers of public water utilities (excluding rate-regulated and otherwise - exempt water utilities), and

860-036-0714 relates to sales, transfers, or mergers of otherwise - exempt water utilities.

Proposed amendments to OAR 860-036-0030 and 860-036-0805 affect regulatory or reporting thresholds. The proposed changes to 860-036-0030 raise the Commission's existing regulatory thresholds to higher levels and add a new threshold of \$30 for the average annual monthly water service rate for small commercial customers. These changes could reduce the number of water systems coming under Commission regulation, but there is no reasonable method to estimate the number of water systems that might exceed the thresholds, and therefore, no reliable basis to determine the effect. The proposed changes to 860-036-0805 lower the gross operating revenue requirement, from \$500,000 to \$200,000, for rate-regulated water utilities filing annual Budget of Expenditures. Data shows that only 3 of the 32 rate-regulated utilities that were not previously required to file the budget report are approaching the proposed threshold for required reporting. Staff estimates that the affect would be minimal because the report should take no more than two hours to complete.

The proposed changes may reduce the workload on water utility personnel, Commission staff, and the Department of Justice. However, many immeasurable variables contribute to staff's workload and the use of the Department of Justice to regulate the water utilities. These variables include the unknown number of systems that will become regulated, and the unknown number of system failures, water contaminations, weather related supply concerns, customer complaints, and legal issues that will emerge requiring staff investigations. No reasonable means exists to establish a benchmark to measure the effect of the proposed rules.

ORS 183.335(2)(b)(G) 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.

04/21/2008	5:00 pm	Diane Davis	diane.davis@state.or.us	2/15/08
Last Day (m/d/yyyy) and Time for Public Comment		Printed Name	Email Address	Date Filed
Please enter date as m/d/yyyy or mm/dd/yyyy				

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 920-2003

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

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

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Additions, Deletions and Revisions to OAR Chapter 860, Division 036

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

In the Matter of:

Additions, Deletions and Revisions to OAR Chapter 860, Division 036

Statutory Authority: ORS

ORS Chapter 183, 756, 757, and 758

Other Authority:

Stats. Implemented: ORS

ORS 98.316, 183.090, 756.040, 756.105, 756.310, 756.320, 756.350, 756.500, 756.512, & 756.990, ORS 757.005 through 757.495 & ORS 758.300 through 758.320

Need for the Rule(s):

This rulemaking is needed to clarify the applicability of the rules in OAR Chapter 860, Division 036, to the different water utility classifications. It is also necessary to update the current threshold for regulation of water utilities by the Public Utility Commission. The water rules were first established as a separate division (OAR Chapter 860, Division 036) in a 1997 rulemaking. During the last 10 years, there have been statute changes, policy decisions, and legal interpretations that have necessitated the changes proposed in this rulemaking.

Staff will address similar issues in a rulemaking for the Division 037 rules for Wastewater Utilities after the completion of this rulemaking.

Documents Relied Upon, and where they are available:

Oregon Revised Statutes available online at http://www.leg.state.or.us/bills_laws/

Oregon Administrative Rules Chapter 860, Division 036 available online at http://arcweb.sos.state.or.us/rules/OARS_800/OAR_860/860_tofc.html

Continued on next page

Continuation of ... STATEMENT OF NEED AND FISCAL IMPACT**Fiscal and Economic Impact:**

The proposed rules clarify existing rules and update regulatory and reporting thresholds. The clarifications will decrease the administrative burden for some of the regulated water utilities and may decrease the workload of the staff of the Public Utility Commission and the Department of Justice. There is potential for a reduction in the number of customer petitions for Commission regulation. A positive fiscal impact may be experienced as a result of the potential reductions in administrative burden and workload. The proposed rules may require up to three water utilities to file one additional report if their gross operating revenues reach the proposed amended threshold; however, the estimated time and cost to complete the required report is minimal.

Statement of Cost of Compliance:**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

The adoption of the proposed rule changes will affect the Public Utility Commission and the Department of Justice. Rule clarification may reduce workload. Without these changes, growth in the identified agencies' workload would be even greater. Units of local government are not subject to the rules. Certain investor-owned or association water utilities may be impacted by the proposed changes to regulatory and reporting thresholds.

2. Cost of compliance effect on small business (ORS 183.336):**a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:**

Any investor-owned small business or association that is providing water service is potentially subject to these rules. Some of the proposed rules apply only to the 32 rate-regulated water utilities, and some of the proposed rules apply only to the 48 service-regulated water utilities. Some of the proposed rules will apply to water utilities coming under regulation in the future; however, due to the variable circumstances and means by which a system may come under regulation, the magnitude of the future affect cannot be determined.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed rules may require 3 of the rate-regulated water utilities to file an additional annual report at an estimated cost of compliance of \$40-\$60 per year; however, the 3 water utilities may not reach the filing threshold. The proposed rules decrease the administrative burden on the rate-regulated water utilities by removing the filing requirement for annual construction budgets and master plans. Additionally, the proposed rules simplify the application requirements for rate-regulated water utilities to issue stocks, bonds, notes, or other securities.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed rules do not require any additional equipment, supplies, labor or increased administration for compliance. The primary purpose of the proposed rules is clarification.

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

Public Utility Commission Staff consulted with a small, diverse group of water utilities and the public to review the proposed rules and provide informal comment. The reviewers also provided Commission Staff with informal comment on the fiscal impact of the proposed rules.

Administrative Rule Advisory Committee consulted?:

 Yes No

If not, why?:

The proposed rules provide clarifying language concerning applicability of each rule to the different classifications of water utilities and update Commission regulatory thresholds. A small, diverse group of water utilities and members of the public provided feedback on the proposal. The formal rulemaking process will afford all regulated water utilities, other water systems and the public the opportunity to provide comment on the proposed rules.

04/21/2008 5:00 pm	Diane Davis	diane.davis@state.or.us	2/15/08
Last Day (m/d/yyyy) and Time for Public Comment	Printed Name	Email Address	Date Filed

Please enter date as m/d/yyyy or mm/dd/yyyy

DIVISION 036

REGULATION OF WATER UTILITIES AND ASSOCIATIONS

General

860-036-0001

Scope and Applicability of Rules

(1) Adoption of these rules shall in no way preclude the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint or upon its own motion, or upon the application of any water utility subject to these rules. ~~Furthermore, these rules shall not in any way relieve any water utility subject to them from any of its duties under the laws of this State. Upon application by a water utility, the Commission may relieve it of any obligations under these rules.~~

(2) The rules contained in Division 036 are applicable to public utilities, as defined in OAR 860-036-0010, providing service in the State of Oregon.

(3) The rules contained in Division 036 do not restrict the authority of the Commission to require service improvements incorporating standards other than those set forth in this division when, after investigation, the Commission determines that such improvements are necessary.

(4) These rules shall not in any way relieve any person or entity from its duties under Oregon law.

(5) Upon application by any person or entity subject to these rules and for good cause shown, the Commission may relieve it of any obligation under these rules.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0005

Applicability and Formal Requirements

All applications or petitions filed under the rules contained in Division 036 must also comply with all other applicable Commission rules.

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

Stat. Implemented: ORS 756.040

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)

860-036-0010

Definitions for Water Utilities and Associations

As used in Division 036:

(1) ~~“Actual cost” means the direct cost of parts, materials and labor of a specific item or project separated from indirect costs~~**“Annual Fee” means the annual**

regulatory fee assessed to public utilities operating in Oregon and subject to regulation by the Commission. The annual fee is the gross operating revenues multiplied by 0.0025 or \$10, whichever is greater.

(2) "Applicant" means a person who:

(a) Applies for service with a **water** utility; or

(b) Reapplies for **water** service at a new or existing location after service has been discontinued.

(3) "Association" means ~~an incorporated or homeowner association providing water service, as defined in ORS 757.005~~ **ny association of individuals that furnishes water service to only members of the association.**

(4) **"Backflow prevention device" means a device, assembly, or method to prevent backflow into a potable water system."**

~~(5)~~ **"Co-customer"** means a person who meets the definition of "customer" and is jointly responsible with another person for payments for water ~~utility~~ service on an account with the water utility. If only one of the co-customers discontinues service in his/her name, the remaining co-customer shall retain customer status only if he/she reapplies for **water** service in his/her own name within 20 days of such discontinuance provided the water utility contacts the co-customer or mails a written request for an application to the remaining co-customer within one business day of the discontinuance.

~~(56)~~ "Commercial customer" means a customer who performs or produces a service or product that is a source of revenue, income or livelihood to the customer or others using the premises.

~~(67)~~ "Commission" means the Public Utility Commission of Oregon.

~~(78)~~ "Contributions in aid of construction (CIAC)" means any money, services or property received by a water utility to fund capital investments at no cost to the company with no obligation to repay.

~~(89)~~ "Construction work in progress (CWIP)" means account 105 in the utility plant section of the balance sheet representing the costs of utility plant under construction but not yet placed in service.

~~(910)~~ "Cooperative" means a cooperative corporation as defined in ORS Chapter 62.

~~(101)~~ "Cost-based" means the direct and indirect costs of a specific item or project, including overhead and a reasonable expected return on investment.

~~(112)~~ "Customer" means a person who has applied for, been accepted, and is currently receiving service unless otherwise noted. Notwithstanding section ~~(12)~~ of this rule, a customer who voluntarily disconnects service and subsequently asks for service with the same water utility at a new or existing location within 20 days after disconnection retains customer status.

(13) "Direct cost" means the cost of parts, materials and labor that can be directly tied to producing specific goods or services.

~~(124)~~ "District" means a corporation as defined under ORS Chapter 198.

~~(135)~~ "Emergency" means an extraordinary interruption of the usual course of water service by a natural cause, an unforeseen event, or a combination of unexpected circumstances; an urgent need for assistance or relief; or the resulting state that calls for immediate action.

~~(14) "End-user" means a domestic water user.~~

(15) ~~“Exempt water company utility”~~ means a water ~~company utility~~ that meets the definition of a public utility in ORS 757.005, but is exempt from regulation as provided in ORS 757.06105(1)(b)(E).

~~(16) “Forced connection” means a water utility or its customers being required by law, regulation, rule, or company policy to retrofit, improve, or change the original service connection. All retrofits, improvements, additions or changes to the original service connection will be the operational and financial responsibility of the company, with the following exceptions (1) any national or state laws or rules clearly assigning such costs to the customer, or (2) the Commission otherwise approves as provided in OAR 860-036-0105(1) and (2).~~

(17) “Formal complaint” means a written complaint filed with the Commission’s Administrative Hearings Division.

(18) “Gross operating revenues” means all revenue collected during one 12-month period from customers through water sales, miscellaneous service revenue, or other water revenue. It does not include connection charges or payments that are passed through to other entities.

(19) “Indirect cost” means a cost item that cannot be identified specifically with a single cost objective or is allocated to the utility by a parent or affiliate on a reasonable and Commission-approved basis, or both.

(20) “Irrigation customer” means a customer who receives potable or nonpotable water for the purpose of irrigation through a separate meter, line, or distribution system.

~~(1821)~~ “Large commercial customer” means a commercial customer with a meter or pipe diameter ~~of two~~ larger than one inches ~~or larger~~.

~~(19)~~(22) “Mainline extension” means the extension of a main line to an area not previously served. If the main line extension is required at the request of a potential customer to receive service, the cost of such extension shall comply with the water utility's main line extension policy.

~~(20) “Meter set” means the parts, material, and labor necessary to install a meter. The meter set assembly is owned, installed, and maintained by the utility. The meter set does not include any components of the service connection required to provide unmetered service.~~

(23) “Miscellaneous service revenue” includes revenue on maintenance or installation services provided by the water utility for the customer on the customer’s property, late payment charges, trouble call charges (if not a pass through), disconnect/reconnect charges, field visit charges, and other charges recorded in the Miscellaneous Services Revenue account. Miscellaneous service revenue does not include connection fees or charges collected from customers by the water utility and passed through to other service contractors.

(24) “Otherwise-regulated utility” means a water utility that has gone through the petition process for regulation; however, the Commission did not receive petitions from 20 percent or more of the customers. The otherwise-regulated utility is a public utility subject to service regulation, but not rate regulation.

~~(215)~~ (21) “People's utility district” (PUD) means a corporation as defined in ORS Chapter 261.

(226) "Public utility" has the meaning given the term in ORS 757.005 and **is not exempted by ORS 757.061. Public utility includes rate-regulated, service regulated and otherwise-regulated utilities.** The term does not include districts, ~~People's Utility Districts~~ (PUDs), cooperatives, or municipalities.

(237) "Rate-regulated utility" means a ~~waterpublic~~ utility that is ~~not exempt from certain financial regulations and conditions under ORS 757.061~~ **regulated by the Commission for rates and service. Rate-regulated water utility, as used in this division, has the same meaning as financially regulated water utility in ORS Chapter 757.**

(248) "Registered dispute" means an unresolved issue between a customer or applicant and a water utility that is under investigation by the Commission's Consumer Services **Section**, but is not the subject of a formal complaint.

(259) "Residential customer" means a customer who receives **potable** domestic ~~or irrigation~~-water **service in residential areas** and is not ~~considered~~ **classified as** a commercial customer.

(30) **"Service regulated utility" means a water utility regulated by the Commission for service under ORS 757.055 and 757.061.**

(2631) "Small commercial customer" means a commercial customer with a meter or pipe diameter of **one inch or less** ~~than two inches~~.

(27) ~~"System development fee or" is the proportionate fee charged by a water company prior to service being initiated that encompasses the cost of the system allocated to all potential customers.~~

(32) **"System impact fee" is a one-time fee imposed by a water utility in response to the increased burden on the utility's facilities created by new development.**

(2833) "Utility" means any water utility, except when a more limited scope is explicitly stated.

(2934) "Water utility" has the same meaning as **found in ORS 757.005 and ORS 758.300(3) as public utility in section (22) of this rule, except if a more limited scope is explicitly stated. Water utility does not include municipal or quasi-municipal corporations. It refers to any water system that is or may come under the Commission's jurisdiction and authority.**

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

Stats. Implemented: ORS 756.040 & 756.105

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 9-2001, f. & -ef. 3-21-01 (Order No. 01-248); PUC 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0015

Information for Customers and Applicants

(1) Upon request, ~~the~~ water utility shall furnish a customer or applicant with an application for service and such information as is reasonable to permit them to secure efficient service.

(2) Upon request, ~~the~~ water utility providing metered service shall inform its customers or applicants how to read meters, either in writing or by explanation at the water utility's office(s).

(3) A water utility shall keep on file and open for public inspection at its office(s): complete rate schedules, service application forms, contract forms, rules and regulations of the utility, and a copy of the Commission's rules and regulations.

(4) Upon request, ~~the~~ water utility shall supply a copy of its approved tariffs or statement of rates applicable to the type or types of service furnished to the customer.

(5) Upon application for new service, or upon later request, ~~the~~ water utility shall assist the customer or applicant in selecting the most advantageous rate to meet individual service requirements. The customer or applicant shall be responsible for making the final selection of an applicable rate schedule.

(6) When water service is initiated and not less than once each year thereafter, a ~~rate-regulated water~~ utility shall give its customers a written summary of their rights and responsibilities as they relate to the rate-regulated water utility providing service. If service is initiated without a personal contact between ~~the~~ rate-regulated utility and the customer, the rate-regulated utility shall mail the summary to the customer no later than when the first bill statement is mailed. The summary shall include the text approved by the Commission's Consumer Services Section and describe:

(a) The customer's option to designate a third party to receive bills and notices and the availability of notices in languages other than English;

(b) ~~Special payment options such as equal payment plans. Any late-payment charges shall be explained;~~

(c) ~~along with~~ The availability of any preferred billing date option;

(d) Procedures for ~~conflict~~ dispute resolution, including how to register a dispute with the water utility and with the Commission and the toll-free number of the Commission's Consumer Services Section.

~~(7) Water utilities exempt from rate regulation pursuant to ORS 757.061 and serving less than 500 customers shall annually notify their customers of the customers' right to petition the Commission for rate regulation provided the utility charges exceed the threshold levels established by the Commission in OAR 860-036-0030.~~

(8) When service is initiated, the ~~water~~ rate-regulated utility shall inquire if the customer would like to receive notices in a language other than English and will inform the customer of the types of notices and translations currently available. If the language chosen is not available, the rate-regulated utility will inform the customer or applicant that the translated version does not yet exist, but that the customer's or applicant's interest will be recorded for the Commission. Each rate-regulated utility shall report to the Commission the number of requests for notices and summaries in non-English languages. The report shall specify the number of requests for each language.

~~(a)~~ The Commission will translate the Rights and Responsibilities Summary for Oregon Utility Consumers into the designated non-English languages and provide copies to ~~water~~ rate-regulated utilities. The information published by a ~~water~~ rate-regulated utility pursuant to OAR 860-036-0015 shall prominently display the following statement in the designated non-English languages at the beginning of the summary and be printed in boldface: A version of the Rights and Responsibilities Summary for Oregon Utility

Consumers printed in this language is available by calling (name of utility) at (telephone number).

(98) Each water utility shall maintain a business location and a regular telephone number at which it may be contacted directly by customers, applicants, or the Commission during its regular business hours. The water utility shall respond to nonemergency customer inquiries, complaints, and service problems within a reasonable time period. For purposes of this rule, a reasonable time period is considered to be within 24 hours.

(109) The water utility shall provide a means by which it may be contacted at any hour in the event of a service failure or emergency or at which a customer or applicant may leave a message reporting such failure or emergency. The water utility shall respond to emergency calls or messages within one hour of the time of the call or message, unless extenuating circumstances exist that prevent such response. The water utility may be required to justify extenuating circumstances to the Commission's satisfaction.

(110) In the event of an emergency involving all customers, a major portion of customers, or a specific geographical area of customers, the water utility shall use its best efforts to communicate and provide information to all affected customers as soon as possible.

(121) Notices approved by the Commission shall be posted in a conspicuous place in each water utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The notices shall be printed and shall be written in language that is easy to understand.

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

Stat. Implemented: ORS 756.040

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 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0020

Designation of Third Party to Receive Notices

A water utility shall offer its customer or applicant the option to designate a third party to receive bills and notices set forth in these rules. When a water utility receives such designation, it shall send bills and notices required under these rules to the customer's representative, with duplicate copies of disconnect notices also served on the customer.

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

Stat. Implemented: ORS 756.040

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)

860-036-0025

Dispute Resolution

(1) When a dispute occurs between a customer or applicant and a water utility, about any bill, charge, or service, the water utility shall thoroughly investigate the matter and promptly report the results of its investigation to the customer or applicant. The water utility shall prepare a written record showing the name and address of the customer or applicant involved, the date and character of the dispute, and the disposition of the matter. The **water** utility shall retain records of the dispute pursuant to OAR 860-036-0760.

(2) The water utility shall inform the customer or applicant of the right to a water utility supervisory review of any dispute, including but not limited to, establishment of credit and termination of service. If a dispute is not resolved, the water utility shall notify the customer or applicant of the Commission's dispute resolution procedure and its toll-free telephone number.

(3) A customer or applicant may request the Commission's assistance in resolving the dispute by contacting the Commission's Consumer Services **Section** at:

(a) 1-800-522-2404; TTY 711;

(b) The Commission's mailing address: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148; ~~or~~

(c) The Commission's street address: Public Utility Commission of Oregon, 550 Capitol Street NE Suite 215, Salem, OR 97301-2551.;

(d) The Commission's website: www.puc.state.or.us; or

(e) The Commission shall notify the water utility upon receipt of such a request.

(4) The Commission may investigate any dispute between a customer or applicant and a water utility. All water utilities will be held to the Commission's service standards. Inadequate or discriminatory service by a water utility may cause a change in a water utility's regulatory status pursuant to ORS 757.061.

(5) The Commission's Consumer Services **Section** shall assist the complainant and the water utility in an effort to reach an informal resolution of the dispute.

(56) If a registered dispute cannot be resolved informally, the Commission's Consumer Services **Section** shall advise the complainant of the right to file a formal written complaint with the Commission. The complaint shall state the facts of the dispute and the relief requested. The water utility shall answer the complaint within 15 days of service of the complaint. The matter shall then be set for hearing. A hearing may be held on less than 10 days' notice when good cause is shown.

(67) Pending resolution of the dispute, the complainant's obligation to pay undisputed amounts continues.

(78) A customer who has a registered dispute or formal complaint pending with the Commission shall be entitled to continued or restored service provided:

(a) Service was not terminated for theft of service or failure to establish credit;

(b) A bona fide dispute exists in which the facts asserted by the customer entitle the customer to service;

(c) When termination is based on nonpayment, **and** the customer makes adequate arrangement to avoid future loss to the water utility, such as prepaying estimated monthly water utility charges; and

(d) The customer or applicant diligently pursues ~~conflict~~dispute resolution under the Commission's rules.

(89) If the conditions in section **(78)** of this rule are not satisfied, the water utility has no obligation to provide continued service. A water utility discontinuing service because of a failure to meet the conditions of subsections **(78)**(c) or **(78)**(d) of this rule shall give the customer a five-business-day disconnect notice. The notice shall be served in the same manner as provided by OAR 860-036-0245, except that it need only describe the defect in performance, the date and time when water utility service will terminate and the toll-free number of the Commission's Consumer Services Section. In deciding whether the conditions are met, the water utility shall consult with the Commission's Consumer Services Section. The customer who has filed a formal complaint, the water utility, or the Commission's Consumer Services Section may ask the Commission for a hearing to decide if the conditions are met. Unless extraordinary circumstances exist, the hearing will be conducted by telephone conference within three business days from the date requested. Notice of hearing will be given to the customer, the water utility, and the Commission's Consumer Services Section at least 12 hours before the date and time of the hearing. Notice is effective when given in person, by telephone, or in writing delivered to the party's last known address. Mailed notice is effective two days after deposit in the U.S. mail, excluding Sundays and holidays.

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

Stats. Implemented: ORS 756.040, 756.500 & 756.512

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 8-1999, f. & ef. 10-18-99 (Order No. 99-632); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0030

Threshold Levels of Rates and Charges for Water Utilities Serving Fewer than 500 Customers

(1) Pursuant to ORS 757.061(2) the Commission adopts the following maximum rates and charges for water utilities serving fewer than 500 customers that are not rate regulated:

(a) \$2430 annual average monthly residential rate;

(b) \$30 annual average monthly service rate for small commercial customers with a meter or pipe diameter one inch or less;

(bc) \$85110 annual average monthly service rate for large commercial customers with a meter or pipe diameter larger than one inch; and

(ed) \$450 for-standard service connection charge; and

(de) Any system developmentimpact fee, facilities charge, main line extension, or other like charge shall be cost based and demonstrated as such to the Commission's satisfaction upon request of the Commission.

(2) A standard service connection is defined in OAR 860-036-0060.

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

Stat. Implemented: ORS 757.061

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0035

Applications for Water ~~Utility~~ Service

(1) An application for water ~~utility~~ service must be made when:

- (a) Service is requested by an applicant who has not previously been served by the water utility;
- (b) Service has been involuntarily discontinued in accordance with these rules and the customer or applicant later seeks to have service restored; or
- (c) Service has been voluntarily discontinued and a request to restore service has not been made within 20 days.

(2) An application is a request for water ~~utility~~ service. **The water utility shall process each application in a timely manner. If a written application is required, the water utility shall provide an application form within 24 hours of the request. shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-036-0040. However, the water utility may refuse a service application under OAR 860-036-0080.**

(3) **Service may not be refused except for cause as found in OAR 860-036-0080.**

(4) **If a water utility refuses service for any reason, the water utility will provide a letter of refusal to the customer or applicant within 10 days of the request. The notice must comply with the requirements found in OAR 860-036-0080.**

(5) A water utility may require an applicant to provide the following information when applying for service:

- (a) The name of person(s) responsible for payment on the account;
- (b) The name to be used to identify the account, if different than the actual name;
- (c) The birth date of person(s) responsible for payment on the account;
- (d) The social security number of person(s) responsible for payment on the account;
- (e) A current valid Oregon driver license number of the person(s) responsible for payment on the account;
- (f) The service address;
- (g) The billing address, if different than service address; and
- (h) Any available telephone numbers where the applicant can be reached night and day.

(46) In lieu of providing a valid social security number or current valid Oregon driver license number under section (35) of this rule, an applicant may provide:

- (a) A valid state or federal identification containing name and photograph of the person(s) responsible for payment on the account;
- (b) A combination of:
 - (A) An original or certified true copy of his or her birth certificate;
 - (B) A current identification from school or employer containing a photograph; and
 - (C) The name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or
- (c) Other information deemed sufficient by the utility to establish an applicant's identification.

(57) If an applicant is denied service for failure to provide an acceptable form of identification, the applicant may pursue ~~conflict~~dispute resolution under the Commission's rules.

(68) Upon request, the water utility shall protect the account from access by others through the use of a personalized password or other means acceptable to both the water utility and the customer.

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

Stat. Implemented: ORS 756.040

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 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-036-0040

Establishing Credit for Residential Service

(1) An applicant or customer may demonstrate satisfactory credit for new or continuing service by showing any of the following, provided that a deposit is not required under section (2) of this rule:

(a) Received 12 months of continuous water ~~utility~~-service during the preceding 24 months and the water utility can verify, either by contacting the former water utility or through an authorized letter provided by the applicant or customer, that the applicant or customer voluntarily terminated service and timely paid for all services rendered;

(b) Meets the water utility's minimum credit requirements based on a third party credit report score or based on the water utility's own credit scoring formula. **For rate-regulated utilities, the minimum credit requirements and utility's credit scoring formula shall be** approved by the Commission; or

(c) Proof of ability to pay by providing either:

(A) Proof of employment during the entire 12 months previous to the application of service for person(s) responsible for payment on the account and a work telephone number to enable the water utility to verify employment; or

(B) A statement or other documentation from the income provider or an authorized representative, that the water utility can verify, indicating that the applicant or customer receives a regular source of income.

(2) An applicant or customer may be required to pay a deposit at the time of application for new or continued service when:

(a) The applicant or customer is unable to establish credit as defined in section (1) of this rule;

(b) The applicant or customer received the same type of water ~~utility~~-service from it or any Oregon water utility, as defined in ORS 757.005, within the preceding 24 months and owed an account balance that was not paid in full when service was terminated. Subsection (2)(b) of this rule does not apply to a customer who registered a dispute with the Commission within 60 days after service was terminated and who paid all undisputed or adjudicated amounts; or

(c) The applicant or customer was previously terminated for theft of service by any Oregon water utility (as defined in ORS 757.005) was found to have tampered with the

meter or other water utility facilities;² or was otherwise found to have diverted water utility service.

(3) In lieu of paying a deposit, an applicant or customer may provide the water utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For purposes of section (3) of this rule, a responsible party is a customer with the same water utility who meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate should the responsible party no longer meet the conditions set forth herein. In the event a responsible party is subsequently found not to qualify, the applicant or customer will be required to either pay a deposit or obtain a written surety agreement from another responsible party. The surety obligation ceases when the customer establishes good credit.

(4) Deposits for water utility service shall not exceed one-sixth the amount of reasonable billing for one year at the rates then in effect. The estimate shall be based on the use of the service at the premises during the prior year or on the type and size of the customer's equipment that will use the service. Each deposit shall be rounded to the nearest whole dollar.

(5) A new or additional deposit, calculated as provided by sections (4) of this rule with the most recent information available, may be required from a customer as a condition of continued service when:

(a) The water utility discovers that the customer gave false information to establish an account and/or credit status;

(b) The water utility discovers that the customer has stolen water utility service, has tampered with the meter or other water utility facilities, or was otherwise found to have diverted water utility service; or

(c) A customer moves and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the existing deposit.

(6) Paying a deposit does not excuse a customer from complying with the water utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(7) A water utility may file a tariff or include in its statement of rates (whichever is applicable) that contains less stringent deposit requirements less stringent than those specified in this rule.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); 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 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 2-2004 (Temp), f. & ef. 1-9-04 (Order No. 04-006); PUC 11-2004, f. & ef. 6-2-04 (Order No. 04-294); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-036-0045

Deposit Payment Arrangements for Residential Water Service

(1) When a water utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. Installments shall be one-third the deposit. The

first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment.

(2) When an installment payment for a deposit or a deposit is made with a payment for water-~~utility~~-service, the amount paid shall first be applied toward payment of the amount due for deposit.

(3) A customer who is required to pay an additional deposit shall pay one-third of the total deposit within five days. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has an existing deposit installment agreement, the remaining installment payments will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) If a customer is disconnected by the water utility for theft of service, the water utility may require the customer to pay a deposit in addition to any ~~overdue~~past due charges on the customer's account and repair charges as explained in OAR 860-036-0250. This deposit may be paid in one payment or in two equal installments. The deposit or first deposit installment is due upon restoration of service and the second installment is due within 30 days of the restoration of service.

(5) When a customer enters into an installment agreement for payment of a deposit under section (1) of this rule, the water utility shall provide written notice explaining the deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the person that water service will be disconnected if payment is not received when due.

(6) If a customer or applicant fails to abide by the terms of a deposit installment agreement, the water utility may disconnect service after providing a written five-business-day disconnect notice. The notice shall comply with the requirements of OAR 860-036-0245.

(7) When good cause exists, the water utility may provide, or the Commission may require, more liberal arrangements for payment of deposits than those set forth in this rule. The water utility shall keep a written record of the reasons for such action.

(8) If disconnection for nonpayment of a deposit occurs, the customer or applicant disconnected shall pay the full amount of the outstanding deposit, any applicable reconnection fee, late-payment fee, and past due amount before service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments.

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

Stat. Implemented: ORS 756.040

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 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0050

Interest on Deposits for Residential and Nonresidential Service

(1) Each year, the Commission shall establish an annual interest rate that must be paid on customer deposits. The Commission will base the rate upon consideration of the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October, the interest rate on the most recent issuance of one-year Treasury Bills, or the effective interest rate for the average yield of Treasury Bills of the closest term

issued during the last week of October. **If one-year Treasury Bills have not been issued at such times, the Commission shall use Treasury Bills of the closest term to one year that was issued.** This interest rate, rounded to the nearest one-half of one percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all **water-rate-regulated** utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) Upon payment of a deposit, the water utility shall provide the customer documentation showing the date, name of the customer or applicant, the service address, the amount of deposit, a statement that the deposit will accrue interest at the rate prescribed by the Commission, and an explanation of the conditions under which the deposit will be refunded.

(3) If the deposit is held beyond one year, accrued interest will be paid by a credit to the customer's account. If held less than one year, interest will be prorated. A water utility shall keep a detailed record of each deposit received until the deposit is credited or refunded.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-036-0055

Refund of Water Utility Deposits for Residential and Nonresidential Service

(1) A water utility shall promptly refund a customer's deposit with accrued interest when service is terminated, provided a refund due shall first be applied to any unpaid balance on the customer's account.

(2) A water utility may continue holding a deposit until credit is satisfactorily established or reestablished. For purposes of this rule, credit is considered established or reestablished one year after a deposit is made if:

(a) The account is current;

(b) Not more than two five-day disconnection notices were issued to the customer during the previous 12 months; and

(c) The customer was not disconnected for nonpayment during the previous 12 months.

(3) After satisfactory credit has been established or reestablished, the deposit plus any accrued interest shall be promptly refunded or credited to the customer's account. A customer shall be entitled to a refund upon request.

(4) When the customer moves to a new address within the water utility's service area, the deposit and accrued interest will be transferred to the new account.

(5) Deposits plus accrued interest may be refunded or credited, in whole or in part, to the customer's account at any time earlier than prescribed in this rule, provided the water utility's procedures are nondiscriminatory.

(6) Unless otherwise specified by the customer, a water utility shall mail deposit refunds to the customer's last known address. The water utility **willshall** honor valid claims for payment of refunds if received within one year of the date service is

terminated. Funds held beyond one year after the date service is terminated will be disposed of in accordance with ORS 98.316.

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

Stats. Implemented: ORS 98.316 & 756.040

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)

860-036-0060

Installation of Water Service Connection

(1) A water utility will, with the exceptions listed below, furnish and install at its own expense all necessary trenching, pipes, valves and fittings between its main line and the customer service line. Such installation shall be designated as "service connection." The water utility shall own, operate, maintain, repair, and replace the service connection when needed.

(2) A water utility may require the customer to pay a reasonable service connection charge to offset its expenses listed in section (1) of this rule. Such charge shall not include the cost or installation of the meter, ~~nor exceed the threshold level established in OAR 860-036-0030.~~ The meter is not considered to be a component of the service connection.

~~(3) A standard service connection charge that exceeds the threshold level established in OAR 860-036-0030 may be deemed unreasonable and may be subject to refund, unless exempted below.~~

~~(4) Notwithstanding section (2) of this rule, a water utility may charge a service connection charge in excess of the threshold level if:~~

~~(a) Circumstances exist that cause the service connection to be nonstandard;~~

~~(b) Such charge is cost based on actual cost and is reasonable; and~~

~~(c) The water utility and the customer shall agree on the amount of the charge prior to actual installation.~~

~~(5) The water utility shall bear the burden of proof to justify ~~that~~ the charge ~~in excess of the threshold~~ is necessary, reasonable and ~~at actual~~ cost based. Upon request, the water utility shall provide a written breakdown of all costs to the Commission or the customer, or both.~~

~~(6) Any connection longer than the width of the street, or public highway, or the width of a privately granted easement, located adjacent to the customer property will not be considered a service connection but will be treated as a main line extension. See OAR 860-036-0065.~~

~~(7) The customer shall furnish and install the necessary parts and materials to make the connection from the customer's premises to the water utility's service connection at the customer property line. Such installation shall be designated as the "customer service line." The customer shall own, maintain, repair, and replace the customer service line when needed.~~

~~(8) A customer service line shall extend from the premises served to that point on the customer's property line of easiest access to the water utility from its distribution system, or requiring the least extension of the system. In any case, where a reasonable doubt exists as to the proper location for the customer service line, the water utility should~~

be consulted and a location agreed upon. If agreement cannot be reached, the water utility and customer shall pursue dispute resolution pursuant to OAR 860-036-0025.

~~(98)~~ All construction and installation of water service connections shall comply with all applicable rules, regulations, codes, and best practices and standards of the water industry.

(9) The water utility will restore the surrounding area disturbed during utility construction or installation to its previous or better condition. The customer has the burden of demonstrating that the area has not been restored to its previous or better condition.

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

Stat. Implemented: ORS 756.040

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); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0065

Installation of Main Line Extension

(1) All water utilities may require customers serviced by a main line extension to pay a reasonable, cost-based, proportional charge for any main line extension required to provide a service connection to that customer in accordance with the water utility's main line extension policy.

~~(12)~~ ~~All rate-regulated water utilities~~ shall develop a Commission-approved uniform policy governing ~~their amount of~~ main extension and applicable charges that will be made to connect a new customer. This policy shall be related to the investment that can prudently be made for the probable revenue. **The main line extension policy and customer charge shall be nondiscriminatory and included in the rate-regulated utility's tariffs. The customer charge shall be proportional to the cost of the extension required to serve the customer.**

(3) All other water utilities shall develop a uniform policy governing main line extensions and the customer charge. The customer charge shall be proportional to the cost of the extension required to serve the customer. Such policy and charge shall be nondiscriminatory and included in the water utility's statement of rates, rules and regulations.

~~(2) Customers may be required to pay a reasonable, cost-based charge for any necessary main line extension to provide a service connection in accordance with the water utility main line extension policy. Such policy and charges must be filed as tariffs with the Commission or be included in the water utility's rules, whichever is applicable.~~

(34) Each water utility shall establish a main line extension policy that includes the following:

(a) Schedule of cost-based charges;

(b) Advance and refund provisions that describe the mechanism for collecting main line extension charges and rebating main line extension charges to customers that equitably distributes the cost of the main line extension among customers of the line who contributed to the payment of the cost of the line; and

(c) Time period during which advance and rebate provisions will be in effect.

~~(45) All main line extension policies shall be applied uniformly among the water utility's customers and must be on file with the Commission, if required, or contained within the water utility's rules and made available to the public.~~

(56) Upon request, the water utility shall provide to the Commission or the customer, or both, a written breakdown of all costs associated with the main line extension, including materials and labor that are necessary to construct and install the main line, and show how that customer's proportional cost is determined.

(7) All construction and installation of main lines and extensions shall comply with all applicable rules, regulations, codes, and best practices and standards of the water industry.

(68) The water utility will restore the surrounding area disturbed during utility construction or installation to its previous or better condition. The customer has the burden of demonstrating that the area has not been restored to its previous or better condition.

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

Stat. Implemented: ORS 756.040

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)

860-036-0070

Temporary Service

A water utility may render temporary service to a customer and may require the customer to bear all the cost of installing and removing the service in excess of any salvage realized. The length of temporary service shall be specified in the applicable tariffs approved by the Commission or contained within the water utility's rules.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)

860-036-0075

Interruption of Service

(1) A water utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration, and cause of interruption.

(2) A water utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the water utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) Each water utility shall make all reasonable efforts to notify every customer affected in advance of any scheduled work that will interrupt service, but such notice shall not be required in case of interruption due to emergency repairs or for repairs or maintenance work that results in an interruption of less than five minutes.

(4) In determining reasonable notice, the water utility shall consider the length of the planned interruption, the type and number of customers affected, the potential impact of the interruption on customers, and other surrounding circumstances. Notice may be given in writing, either via US mail or a door hanger on the affected premises, or by contact with the customer or an adult at the residence by personal visit or by telephone. **If notice is delivered by US Mail, service is complete on the day after the date of the US postal service postmark or on the day after the date of postage metering.**

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

Stat. Implemented: ORS 756.040

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); PUC 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-036-0080

Refusal of Water ~~Utility~~ Service

(1) A water utility may refuse to provide service to a customer or applicant until it receives full payment of any **overduepast due** amount of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account except as provided below:

(a) Except for residential customers or applicants who were disconnected for theft of service, a water utility shall provide service to a residential applicant upon receipt of payment equal to at least one-half of any **overduepast due** amount. The balance of the amount owed to the **water** utility shall be paid within 30 days of the date service is initiated. Except for the last payment, installments shall be the greater of \$30 or one-half the overdue amount.

(b) Upon failure to pay, the water utility may disconnect service after providing a written five-**business**-day notice. **If notice is delivered by US Mail, service is complete on the day after the date of the US postal service postmark or on the day after the date of postage metering.** The notice shall contain the information and be served in the manner prescribed as provided in OAR 860-036-0245. When a customer whose service was terminated applies for service within 20 days of the termination, the provisions of this rule apply.

(2) If water service is disconnected for failure to comply with the payment terms set forth in section (1)(a) of this rule, the water utility may refuse to restore service until it receives full payment of any overdue obligation of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account, including any reconnection fee, late payment fee, and past due bill.

(3) A water utility may refuse to provide service until payment is received when the following circumstances exist:

- (a) A residential customer has incurred an overdue balance at a service address;
- (b) A residential applicant for service resided at the service address described in subsection (1)(a) of this rule during the time the overdue balance was incurred; and
- (c) The residential customer described in subsection (1)(a) of this rule will reside at the location to be served under the new application.

(4) If a water utility refuses water service under sections (1), (2), or (3), the water utility will provide a letter of refusal to the customer or applicant within 10 days of the request for water service. The notice will state the following:

(a) Date;

(b) Name, address, and telephone number of the water utility;

(c) Name and address of customer being refused service;

(d) An explanation of the reason for the refusal;

(e) The grounds under which water service is refused;

(f) A statement that the customer or applicant may challenge the water utility's refusal of service through the Commission's dispute resolution process pursuant to OAR 860-036-0025; and

(g) The mailing address and telephone number for the Commission's Consumer Services Section.

(5) Any water utility shall refuse to provide service if a customer or applicant has not complied with state and municipal codes and regulations governing service and with the rules and regulations of the water utility; or

~~(5) A water utility shall refuse to serve a customer or applicant,~~ if, in the best judgment of the water utility, the facilities of the customer or applicant are of such a character that safe and satisfactory service cannot be given. In the case of a dispute, the Commission shall determine if the customer's or applicant's facilities are safe or if the water utility's rules and regulations are reasonable.

(6) If service is refused in accordance with section (5) of this rule, the water utility shall provide the customer and the Commission with a written notification letter explaining the reason(s) why service is refused within 10-~~working~~business-days of the receipt of the application. to the customer or applicant of the reasons for refusal and of the Commission's complaint process. A copy of the notice shall also be sent to the Commission unless service was refused for nonpayment. At a minimum, the letter shall include:

(a) Date;

(b) Name, address, and telephone number of the water utility;

(c) Name and address of customer being refused service;

(d) An explanation of the reason for the refusal;

(e) A statement that the customer or applicant may request the details upon which the water utility's decision was based;

(f) A statement of the state or municipal codes and regulations or of the water utility's rules and regulations that were violated, or both;

(g) Specific improvements necessary to the customer's facilities in order to receive service;

(h) A statement that the customer or applicant may challenge the water utility's refusal of service through the Commission's dispute resolution process pursuant to OAR 860-036-0025; and

(i) The mailing address and telephone number for the Commission's Consumer Services Section.

(7) A water utility shall ~~not accept an offer~~ refuse to service or materially change service to a customer if the water utility ~~it~~ does not have adequate facilities or ~~water resources~~capacity to render the service applied for, if the desired service is of a

character that is likely to unfavorably affect service to other customers, or if it is prohibited by law from providing the service. **In the case of a dispute, the Commission shall determine if the water utility's facilities are adequate and have capacity to render service.**

(8) If a water utility refuses service in accordance with section (7) of this rule, the water utility shall provide the customer and the Commission with a written letter explaining the reason(s) why service is refused within 10 business days of receipt of the application on the grounds of inadequate facilities or water resource, the water utility shall provide the customer or applicant with a written letter of refusal, a copy of which shall be sent to the Commission. At a minimum, the letter must shall include:

(a) Date

(b) Name, address, and telephone number of the water utility;

(c) Name and address of customer being refused service;

(ad) Provide An explanation of the reason for the refusal;

(be) Inform A statement that the customer or applicant ~~that he/she~~ may request the details upon which the water utility's decision was based, including but not limited to current capacity and load measured in gallons or cubic feet per minute and pounds per square inch (psi);

(ef) When capacity does not exist, provide tThe **estimated** costs **for improvements necessary** to provide capacity **or facilities to serve**for the customer or applicant; ~~and~~

(dg) Inform A statement that the customer or applicant ~~that he/she~~ may challenge the water utility's refusal of service through the Commission's dispute resolution process pursuant to OAR 860-036-0025; ~~and~~

(h) The mailing address and telephone number for the Commission's Consumer Services Section.

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

Stats. Implemented: ORS 756.040, 757.035 & 757.225

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 18-2003, f. & ef. 10-6-03 (Order No. 03-592); PUC 21-2003 (Temp), f. & ef. 11-14-03 (Order No. 03-634); PUC 8-2004, f. & ef. 4-9-04 (Order No. 04-191)

860-036-0085

Restrictions on Entering a Customer Residence

No water utility employee shall enter the residence of a customer without proper authorization except in an emergency endangering life or property.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)

860-036-0095

Annual Fees Payable to the Commission by a WaterPublic Utility

(1) On statement forms prescribed by the Commission, each **waterpublic** utility must provide the requested information for the subject year. **Public utilities must be regulated for six months or more during the calendar year to be assessed an annual fee for that calendar year.**

(2) Each **waterpublic** utility must pay to the Commission:

(a) A minimum annual fee of \$10 **or 25 hundredths of one percent (0.25 percent) of the Oregon gross operating revenue for the prior calendar year, whichever is greater. See the definition of gross operating revenue in OAR 860-036-0010.** 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 **public** 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 **waterpublic** utility's statement form was due, the Commission may audit the **public** 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 **public** 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 **public** utility has overpaid its annual fee, the Commission may, at its discretion, recompense the **public** 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)

860-036-0097

Estimated Annual Fees Payable to the Commission by a WaterPublic Utility

(1) For any year in which a **waterpublic** 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 must:

- (a) Include a penalty fee for failure to pay as required by ORS 756.350;
- (b) Include a late statement fee in accordance with OAR 860-011-~~00800110~~; and
- (c) Be made no later than three (3) years after the statement form's due date.

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

(3) Within 30 days after service of the notice of proposed annual fee, the **waterpublic** utility may file a petition with the Commission for a hearing. In its petition, the **public** 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 **waterpublic** utility 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 **waterpublic** utility may file its completed statement form and pay the annual fee, penalties, and late statement fee. The Commission 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); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

Water Meters and Billing

860-036-0105

Use of Water Meters

(1) ~~Unless otherwise authorized by the Commission, e~~Each water utility will own, maintain, and operate all equipment needed to regulate and measure water to its customers. When the water utility furnishes additional meters or relocates meters for the customer's convenience, the water utility may make a reasonable charge for such meters and installation. **The water utility bears the burden of proof that the charge to customers for additional or relocated meters is a reasonable charge.**

(2) **The water utility shall have the right to set meters or other devices for detecting and preventing fraud or waste, without notifying the customer.**

(3) ~~No water~~**rate-regulated** utility shall charge for furnishing, installing, or maintaining any meter or other appliance for measurement purposes except by the Commission's permission, or as provided in OARs 860-036-0060 and 860-036-0070.

(34) If the Commission determines that refunds are appropriate, the amount paid shall be refunded to the customer by allowing a credit of one-half of the monthly bill until the amount has been paid, provided such refund payments do not run for more than three years from the date when the refund began.

(45) No rental fee shall be charged by any water rate-regulated utility for any meter or appliance installed by the water utility and used as a basis for the rendering of bills, except when an additional meter or appliance is requested by the customer for his/her convenience.

~~(5) The water utility shall have the right to set meters or other devices for detecting and preventing fraud or waste, without notifying the customer.~~

(6) No water rate-regulated utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the Commission.

(7) If damage results to the meter from tampering or willful neglect by the customer, the water utility shall repair or replace the meter and may bill the customer for the reasonable cost. The water utility bears the burden of proof that the charge for meter repair or replacement due to tampering or willful neglect by the customers is reasonable and cost based.

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

Stats. Implemented: ORS 756.040 & 757.250

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); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0110

Testing Water Meters

(1) All water utility meters shall be tested before installation, or within 30 days thereafter. No meter will be placed in service or be allowed to remain in service that has an error in registration in excess of 2 percent under conditions of normal operation. The water utility may seek Commission approval for a waiver of this requirement if it can demonstrate to the satisfaction of the Commission a suitable random sampling technique for testing new meters.

(2) New meters, repaired meters, and meters that have been removed from service shall be correct to within 2 percent fast or slow before being installed or reinstalled.

(3) Each water utility shall adopt schedules for periodic tests and repairs of meters. The length of time meters may be allowed to remain in service before receiving periodic tests and repairs is to be determined from periodic analysis of the accuracy of meters tested. The schedules adopted by rate-regulated utilities shall be subject to the Commission's approval.

(4) Whenever any meter is tested, the water utility shall prepare a test record, including the information needed for identifying the meter, the meter number, the reason for making the test, the reading of the meter, the result of the test, and all data taken at the time of the test in complete form to permit the convenient checking of methods employed. The water utility shall retain the current and immediately prior test records for all meters tested.

(5) Each water utility shall provide such laboratory meter-testing equipment and other equipment and facilities as needed to make the tests required of it by these rules or other orders of the Commission. The apparatus and equipment so provided may be subject to the Commission's approval.

(6) All meters used for measuring the quantity of water to a customer shall be in good working condition. They shall be adequate in size and design for the type of service measured and shall be accurate to register no more than 2 percent fast or slow under conditions of normal operation. The water utility is responsible for repairing or replacing inaccurate or substandard meters at its own cost. Any such repair or replacement will be completed promptly at the water utility's expense and, until such completion, the customer water service bill must be adjusted to compensate for the inaccuracy.

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

Stats. Implemented: ORS 756.040 & 757.250

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)

860-036-0115

Customer Requested Meter Test

(1) Any customer may ~~ask~~request the water utility to test the water meter used to measure the customer's service. The water utility shall make such test within 20 ~~workingbusiness~~ days of the request at no cost to the customer. If a customer requests more than one meter test within any 12-month period, the water utility may charge the customer to recover the reasonable cost of the test.

(2) A rate-regulated utility's charge for additional meter tests shall be approved by the Commission and included in the rate-regulated utility's tariffs. All other water utilities must include additional meter test charges in their statement of rates. ~~The~~A water utility may not charge the customer **for any meter test** if the meter is found to register outside the 2 percent accepted tolerance standard under normal operating conditions.

(23) A customer or a designated representative shall have the right to be present at any meter test. The test shall be conducted at a mutually acceptable time during regular business hours, **unless other reasonable arrangements are agreed to by both the customer and the water utility.**

(34) The water utility ~~must~~shall provide a written **meter test** report to the customer within 10 ~~workingbusiness~~ days from the date ~~of~~ the meter test. **At a minimum, the report shall include showing** the customer's name, the request date, the address where the meter is installed, the meter's identification number, the date tested, and the test result.

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

Stat. Implemented: ORS 756.040

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); PUC 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-036-0120

Meter Readings and Bill Forms

(1) Every water utility providing metered service shall indicate clearly on the meter the units of service for which the charge is made to the customer, except when automatic meter reading systems preclude such facilities.

(2) All water service bills shall show the **actual** beginning and ending meter readings for the period the bills are rendered, the date of the meter readings, **the meter number**, the number of units of service supplied clearly stated (gallons or cubic feet), the schedule number under which the bill was computed, and any other information needed to compute the bill. Each bill shall bear on its face the delinquent date of the bill and the water utility's telephone number. When there is good reason for so doing, estimated bills may be submitted. Any estimated reading shall be clearly designated as such on the bill.

(3) As a matter of general practice, all service meters shall, as nearly as possible, be read at monthly intervals on the corresponding day of each meter reading period. Meters may be read at other than monthly intervals, if the Commission is given notice and does not object to the water utility's meter reading proposal. The water utility shall provide each customer a written statement that explains the disadvantages of having the meter read and billed less often than monthly. If at any time the Commission determines that circumstances warrant, a water utility may be required to return to monthly meter reading.

(a) When access to a meter is difficult due to the meter location or other circumstance, the water utility shall seek the customer's cooperation in obtaining monthly meter readings (for example, having the customer complete and return a meter reading form). Any customer reading shall be subject to actual verification by the water utility not less than once every four months;

(b) Each customer shall provide the water utility with regular access to the meter on the customer's property. Failure to permit the water utility access at reasonable times and after reasonable written notice of requested access is grounds for disconnection.

(4) Upon written request by a customer, the water utility shall cause the meter reader, when the customer's meter is read, to leave on such meter or with such customer, a card showing the actual meter reading and the date and time such reading was made.

(5) Water utilities shall make reasonable efforts to prepare opening and closing bills from actual meter readings.

(6) Every water utility must record actual beginning and ending meter readings for each customer and when actual meter readings are not used, the water utility may be required to demonstrate to the Commission's satisfaction that using the actual meter readings was not possible.

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

Stats. Implemented: ORS 756.040 & 757.250

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); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0125

Due and Payable Period; Time-Payment Agreements for Residential Service

(1) Each water utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment of the final bill, to the due

date is not less than 15 days. If the bill is delivered by US mail, the due and payable period begins the day after the US Postal Service postmark or the day after the date of postage metering.

(2) A water utility may not disconnect residential service for non-payment if a customer enters into a written time-payment plan. A water utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a levelized-payment plan and an equal-pay arrearage plan.

(3) A customer who selects a levelized-payment plan will pay a down payment equal to the average annual bill including the account balance, divided by 12, and a like payment each month for 11 months thereafter:

(a) The monthly installment plan shall be reviewed by the water utility periodically. If necessary, due to changing rates or variations in the amount of service used by the customer, the installment amount may be adjusted in order to bring the account into balance within the time period specified in the original agreement.

(b) If a customer changes service address at any time during the period of a time-payment agreement, provided that payments are then current and the customer pays other scheduled or tariffed charges associated with the change in residence, the water utility shall recalculate the customer's deposit or monthly installment. The recalculated amount shall reflect the balance of the account at the previous service address and the average annual bill at the new service address for the months remaining in the original time-payment agreement. When installments on a time-payment agreement have not been kept current, a customer shall be required to pay all past-due installments, together with any other applicable charges before service is provided at the new residence.

(4) A customer who selects an equal-pay arrearage plan will pay a down payment equal to 1/12 the amount owed for past water ~~utility~~-service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer). Each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for water utility service. If a customer changes service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the water utility provides service at the new address.

(5) The water utility and customer may agree in writing to an alternate payment arrangement, provided the water utility first informs the customer of the availability of the payment terms set forth in sections (3) and (4) of this rule.

(6) If a customer fails to abide by the time-payment agreement, the water utility may disconnect service after serving a 15-day disconnect notice. The notice shall comply with OAR 860-036-0245, except that subsection (5)(d) shall not be applicable. Such customers shall not be eligible for a renewal or renegotiation of a time-payment plan.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-036-0130

Late-Payment Charge

(1) Except as provided in section (2) of this rule, a water utility may apply a late-payment charge to customer accounts not paid in full each month, ~~provided the water utility has filed the late-payment charge in its tariffs or statement of rates.~~

~~(2) The charge will be~~ based on a monthly late-payment rate applied to only overdue account balances at the time of preparing the subsequent month's bill for residential accounts or by the bill due date for all other accounts. The late-payment charge may not be applied to time-payment or equal-payment accounts that are current.

(2) The Commission will determine the late-payment rate **for rate-regulated utilities** based on a survey of prevailing market rates for late-payment charges of commercial enterprises and will advise all ~~water~~**rate-regulated** utilities of the changes in the rate they may use to determine late-payment charges on overdue customer accounts as needed.

(3) A rate regulated utility's tariffs shall include the Commission-approved late payment rate.

(4) All other water utilities shall include late payment charges in their statement of rates.

(5) The current late-payment rate and the conditions for its application to customer accounts shall be specified on the utility bill.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-036-0135

Adjustment of Bills

(1) When an underbilling or overbilling occurs, the water utility shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to an identifiable cause, and the date can be fixed, then the overcharge or undercharge shall be computed back to such date. If no date can be fixed, the water utility shall refund the overcharge or rebill the undercharge for no more than six months' usage. In no event shall an overbilling or under billing be for more than three years' usage.

(2) When a customer is required to repay an under billing, the customer shall be entitled to enter into a time-payment agreement without regard to whether the customer already participates in such an agreement. If the customer and water utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The water utility shall provide written notice advising the customer of the opportunity to enter into a time-payment agreement and of the Commission's complaint process.

(3) No billing adjustment due to meter error shall be allowed if a water meter registers less than 2 percent error under conditions of normal operation.

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

Stats. Implemented: ORS 756.040 & 757.250

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 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)

860-036-0140

Transfer Billings

(1) If a water utility identifies a balance a customer owes the water utility from the customer's prior account for Oregon water service, the water utility shall have the option to transfer the amount to the customer's current account. The water utility must give the customer prior notice of the transfer, including the amount due under the prior account, the period when the balance was incurred, and the service address under which the bill was incurred; or the water utility may send a separate notice to the customer giving the same information as included in the transfer, but collecting the amount due separately from the customer's current account. If the bill is identified when a customer changes residences, the provisions of this rule apply.

(2) If the customer has an amount remaining on an existing time-payment agreement, the customer may enter into a new time-payment agreement to include the transfer.

(3) A water utility may not transfer an existing unpaid balance from one customer's account to another customer's account except as provided in section (1) of this rule.

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

Stats. Implemented: ORS 756.040 & 757.225

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)

Disconnection of Water Service

860-036-0205

Grounds for Disconnecting Water Utility Service

Water utility service may be disconnected:

(1) For failure to establish credit by:

~~(a) F~~ailing to pay a deposit or make payments in accordance with the terms of a deposit payment arrangement (OAR 860-036-0045); ~~or~~

(b2) Providing false identification or verification of identity. If a customer provided false identification to establish service, continue service, or verify identity.

~~(23)~~ When facilities provided are unsafe or do not comply with state and municipal codes governing service or the water utility's rules and regulations; or

~~(34)~~ When the customer does not cooperate in providing reasonable access to the meter (OAR 860-036-0120) or necessary inspections of the premises. Necessary in this context means required by law or to determine if a health or safety hazard exists.

~~(45)~~ When a customer requests the water utility to disconnect service or close an account (OAR 860-036-0210) or when a co-customer fails to reapply for service within 20 days after a joint account is closed by the other co-customer, so long as the water utility has provided a notice of pending disconnection.

(56) When dangerous or emergency conditions exist at the service premises (OAR 860-036-0215).

(67) For failure to pay Oregon tariffed rates, or applicable statement of rate charges, due for services rendered.

(78) For meter-tampering, diverting service, or other theft of service.

(89) When the Commission approves the disconnection of service.

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

Stats. Implemented: ORS 756.040, 757.035, 757.225 & 757.760

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)

860-036-0210

Voluntary Disconnection

(1) A customer who wishes to have service discontinued will provide the water utility a five-business-day notice in advance of the requested date of discontinuance of service. Until the water utility receives such notice, the customer shall be held responsible for all **charges for** service rendered.

(2) A water utility is not required to implement seasonal water service rates.

(3) Nonseasonal water service rates are calculated based on continuous service throughout a 12-month period. A water utility is entitled to charge monthly base rates to any customer requesting disconnection and reconnection of water service during the same 12-month period prior to reconnection.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0215

Emergency Disconnection

A water utility may terminate service in emergencies endangering life or property without following the procedures set forth in OAR 860-036-0245. However, the water utility shall immediately thereafter notify the customer and the Commission. In such cases, when the necessity for emergency termination was through no fault of the customer, the water utility will not make a charge to restore service.

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

Stats. Implemented: ORS 756.040 & 757.035

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)

860-036-0220

Disconnection of Service on Weekends and Holidays

Water utility service shall not be disconnected for non-emergencies on a weekend or a state-~~or water~~ utility-recognized holiday. Water utility service shall not be

disconnected for non-emergencies on a Friday or the day before a state-~~or water~~-utility-recognized holiday unless mutually agreed upon by the customer, the water utility, and the Commission's Consumer Services ~~Division~~Section.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.760
Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)

860-036-0225

Accounts Not Related to Residential Service

A water utility may not deny or disconnect residential service due to the failure to pay for nonresidential service, or to meet obligations in connection with nonresidential service.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.760
Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)

860-036-0230

Disconnection of Water Service to Tenants

(1) If a water utility's records show that a residential billing address is different from the service address, the water utility must provide a duplicate of the five-day disconnect notice required under OAR 860-036-0245 to the occupants of the service address in the manner described in OAR 860-036-0245(2) unless the water utility has evidence that the service address is occupied by the customer. Serving a notice addressed to "Tenants," as required in OAR 860-036-0245, satisfies this requirement. The notice to occupants need not include the dollar amount owing.

(2) When a water utility's records show that a residence is a master-metered multi-unit dwelling (including rooming houses), the water utility must notify the Commission's Consumer Services ~~Division~~Section at least five business days before disconnecting the service. The water utility will use reasonable efforts to notify occupants of the impending disconnection and alternatives available to them.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.760
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)

860-036-0235

Multilingual Disconnection Notice

(1) For rate-regulated utilities, Except as provided in section (2) of this rule, all disconnect notices shall contain the following information translated into Spanish, Vietnamese, Cambodian, Laotian, and Russian (translations are available from the Consumer Services ~~Division~~Section):

IMPORTANT NOTICE: Your water services will be shut off because of an unpaid balance on your account. You must act immediately to avoid shut-off. Important

information about how you can avoid shut-off is printed in English in the enclosed notice. If you cannot understand English, please find someone to translate the notice. If translation assistance is unavailable, please contact (name) at (phone number) who will try to help you. Information on customer's rights and responsibilities printed in this language is also available by calling that number. **YOU MUST ACT NOW TO AVOID SHUT-OFF.**

(2) Upon petition by a **water-rate-regulated** utility, the Commission shall waive the requirement to provide multilingual notice for two calendar years, which may be renewed upon a showing that the lesser of 5 percent or 500 of the water utility's Oregon customers would benefit from use of multilingual notification or show other reasons why such notices are not necessary.

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

Stat. Implemented: ORS 756.040

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)

860-036-0240

Reconnection Fee

When a water utility service is disconnected pursuant to OAR 860-036-0245 or OAR 860-036-0250, the water utility may charge the reconnection fee **included in** its tariff or **in its** statement of rates.

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

Stats. Implemented: ORS 756.040 & 757.225

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 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0243

Disconnection Visit Charge

A water utility may charge a disconnect visit charge whenever it visits a residential service address intending to disconnect service, but due to customer action, the water utility does not complete the disconnection. For a rate-regulated public utility, such charge shall be Commission approved and included in its tariffs. All other water utilities shall include the disconnect visit charge in their statement of rates.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.225

Hist.: NEW

860-036-0245

Disconnection Procedures for all Customers of Water ~~Utility~~ Services

(1) Involuntary termination of water ~~utility~~ service for all customers shall be under the provisions of this rule.

(2) Notice Requirements:

- (a) At least five business days before a water utility disconnects service, a written disconnect notice must be provided to the customer to be disconnected;
- (b) Before a water utility disconnects **residential** service due to a customer's failure to abide by a time-payment agreement, the water utility will provide the customer with a written 15-business-day disconnect notice and a written five-business-day disconnect notice;
- (c) The disconnection notice shall inform the customer that service will be disconnected on or after a specific date and shall explain the alternatives. The specified date must conform to OAR 860-036-0220, disconnection of service on Fridays, weekends and holidays.

(3) The water utility may serve the notice of disconnection in person or send it by first class mail to the last known **mailing** addresses of the customer and the customer's designated representative. **If notice is delivered by US Mail, service is complete on the day after the date of the US postal service postmark or on the day after the date of postage. Service is complete on the date of mailing or personal delivery.**

(4) If notification is made by delivery to the residence, the water utility shall attempt personal visit and contact. If personal contact cannot be made with the customer or an adult resident, the water utility shall leave the notice in a conspicuous place at the residence and mail a copy of the notice to the last known mailing addresses of the customer and the customer's designated representative.

(45) When a written notice is given under these rules:

- (a) The notice shall conform to the requirements of OAR 860-036-0235 concerning multilingual requirements and service on any designated representative; and
- (b) The notice shall conform to the requirements of OAR 860-036-0230 if the water utility's records show that the billing address is different than the service address or that the premises is a master-metered multi-unit dwelling. The notice may be addressed to "Tenant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

(56) The notice shall be printed in bold face type and shall state in easy to understand language:

- (a) The reason for the proposed disconnection;
- (b) The amount to be paid to avoid disconnection;
- (c) The earliest date for disconnection;
- (d) **For residential accounts, a** An explanation of the time-payment agreement provisions of OAR 860-036-0125; and
- (e) An explanation of the Commission's dispute resolution process and toll-free number **(1-800-522-2404; TTY 711)**.

(f) A statement that he water utility may reconnect service after all applicable charges are paid, necessary credit information has been submitted, the customer or applicant has satisfied all requirements for service, and the customer or applicant has requested reconnection.

(g) A statement that reconnections can be performed during normal business hours at the water utility's standard reconnection charge, and that After-hours reconnections will be performed after normal business hours and will be charged at the after-hours reconnection charge which exceeds the standard reconnection charge.

~~(67)~~ A notice of disconnection may not be sent prior to the due date for payment of a bill.

~~(7) At least five business days before the proposed disconnection date, the water utility must mail or deliver a written disconnection notice to the customer.~~

~~(8) A fee in an amount approved by the Commission may be charged whenever a water utility is required to visit a residential service address in order to serve a disconnection notice.~~

~~(98)~~ On the day that the water utility expects to disconnect service and prior to disconnection, the water utility must make a good faith effort to personally **visit and** contact the customer or an adult at the residence to be disconnected.

(a) If the contact is made, the water utility shall advise the person of the proposed disconnection; or

(b) If contact is not made, the water utility must leave a notice in a conspicuous place at the residence informing the customer that service has been, or is about to be, disconnected.

~~(109)~~ Where personal contact is made by a water utility under this rule, and the circumstances are such that a reasonable person would conclude that the customer does not understand the consequences of disconnection, the water utility must:

(a) Notify the Department of Human Services and the Commission; and

(b) Delay the proposed disconnection date for five additional business days.

~~(110)~~ When personal contact is made by the water utility under this rule, the representative of the water utility making contact shall be authorized to accept reasonable partial payment of the overdue balance in accordance with the time-payment provisions.

~~(121)~~ A water utility must document its efforts to provide notice under this rule and shall make that documentation available to the customer and the Commission upon request.

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

Stats. Implemented: ORS 756.040, 757.750 & 757.755

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 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 4-2001, f. & ef. 1-24-01 (Order No. 01-117); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0247

Reconnection of Residential Water Service

(1) This rule applies to water service reconnections.

(2) Each water utility shall provide a means by which an applicant or customer may contact the water utility at any time to request a service reconnection.

(3) A customer or application will be reconnected after the customer has paid all applicable charges, provided necessary credit information, and satisfied all requirements for service, and requested reconnection.

(4) For water service that has been disconnected for cause under OAR 860-036-0205, the water utility must reconnect service as soon as reasonably possible, within the normal course of business, but no later than 5:00 p.m. of the next calendar day, except on state-recognized holidays.

(5) Upon receiving a request for reconnection, a water utility will:

(a) Offer the customer or applicant a reconnect during normal business hours at its' Standard Reconnection Charge, and

(b) Offer the customer or applicant an After Hours Reconnect outside the water utility's normal hours of business at the water utility's After Hours Reconnect Charge, except on state-recognized holidays.

(c) State-recognized holidays and the water utility's normal business hours must be posted in plain view in the water utility office.

(6) The water utility must notify a customer of the customer's right to Standard Reconnection during regular office hours and an After Hours Reconnect in its 5-day disconnect notice and that the charges for an After Hours Reconnect exceed the water utility's standard reconnection charge.

(7) For water service that has been involuntarily disconnected in accordance with OAR 860-036-0215, service will be reconnected in accordance with section (3) of this rule. If the necessity for emergency termination was through no fault of the customer, the water utility will reconnect in accordance with section (3) of this rule, at no charge to the customer.

(8) Reconnection of service following an interruption of service must comply with the requirements of OAR 860-036-0075.

(9) With Commission concurrence, the reconnection requirements under this rule may be temporarily waived for any cause not reasonably within the control of the water utility including, but not limited to, the following:

(a) A documented Force Majeure event;

(b) An action or default by an applicant, customer, or other person outside of the water utility's control, including a cancellation of the request made by the applicant or customer;

(c) Major events, such as storms or system outages;

(d) Safety-related issues that preclude the utility from reconnecting service;

(e) The applicant's or customer's facilities cannot be accessed due to circumstances beyond the water utility's control;

(f) The water utility's equipment or facilities prevent the reconnection from occurring; or

(g) When the Commission approves a waiver.

Stat. Auth.: ORS 183 & 756

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-0250

Unapproved Diversion of Irrigation Water by Tampering with or Damaging Water Utility Equipment

(1) A customer may not tamper with or damage water utility equipment in order to divert irrigation water flow ~~without written permission of the water utility.~~

(2) If the water utility's equipment is tampered with or damaged by a customer, it may take any of the following actions:

- (a) Replace or repair the equipment and require the customer to reimburse the water utility for the actual reasonable cost to replace or repair.
- (b) Require the customer to pay a reconnection fee in compliance with OAR 860-036-0240.
- (c) Require the customer pay a deposit up to \$250 for the restoration of irrigation service. The payment of this deposit will be made in compliance with OAR 860-036-0045(4) and OAR 860-036-0055(4).
- (d) For repeat offenses, **the water utility may** require the customer to pay an additional deposit of \$250.- Notwithstanding the requirements of OAR 860-036-0045, no installment payment plan will be available to the customer to restore services.- Such additional deposits must be made immediately at the time irrigation service is restored.
- (e) Refuse irrigation service to the customer pursuant to OAR 860-036-0080.

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

Stats. Implemented: ORS 756.040 & 757.105, 757.120, 757.125 & 757.135

Hist.: PUC 9-2003, f. & ef. 5-15-03 (Order No. 03-287)

Service Quality

860-036-0301

Quality of Water Service

- (1) No water utility shall purposely or willfully provide substandard service or inadequate service where the water utility has the capacity to provide adequate service as determined by the Commission.
- (2) The Commission may impose additional requirements notwithstanding that the water utility meets the standards set forth in OAR Division 036.

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

Stats. Implemented: ORS 756.040, 757.020, & 757.250

Hist.: PUC 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0305

Maintenance and Repair of Plant and Equipment

- (1) A water utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service.
- (2) A water utility shall inspect its plant, distribution system, and facilities in such manner and with such frequency as necessary to ensure a reasonably complete knowledge about the condition and adequacy of the entire system at all times.
- (3) A water utility will keep maintenance and repair records consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities, except when the Commission specifies a more complete record.
- (4) A water utility shall flush dead end mains or other low flow portions of the distribution system as needed or at reasonable intervals to eliminate or minimize complaints from customers or applicants arising from an objectionable condition of water. A water utility must:

- (a) Provide prior notification to the customers of all routine (nonemergency) flushings. The notice must include:
- (A) The date, time, and approximate duration of the flushings; and
 - (B) A statement cautioning customers to avoid using water during flushing to prevent debris in the customers' service lines.
- (b) Keep a record of the date, place, time, and duration of all routine and emergency flushings.
- (5) A water utility shall inspect, exercise, and maintain valves and hydrants as necessary to ensure they are operable. A water utility shall keep records of all inspections, maintenance, repairs, and exercise of each valve and hydrant.
- (6) A water utility shall make repairs and perform maintenance to its water system in a timely manner to prevent future damage to the water system; to reduce wear and tear on equipment and water plant; and to minimize customers' inconvenience, loss of water flow, low water pressure, or inadequate service.
- (7) A water utility shall communicate with the customer(s) or person(s) reporting service problems, informing the customer(s) or person(s) of:
- (a) The source or suspected source of the service problem;
 - (b) The expected date and time of the repair;
 - (c) The length of time the repair is expected to take; and
 - (d) The effect the repairs may have on the customer's service.
- (8) All customers whose service is or may be affected by the service problem will be notified by the water utility in the same manner as stated in section (7) of this rule.
- (9) The water utility shall make repairs in a timely manner. In case of a dispute, the Commission will determine the reasonable amount of time necessary to make the repair. **~~If the water utility repair is determined to have taken longer than reasonably necessary, the water utility shall provide affected customers with service credits according to OAR 860-036-0330.~~**
- (10) The water utility will restore the surrounding area disturbed during utility repairs, maintenance, construction, or installation to its previous or better condition. The customer has the burden of demonstrating that the area has not been restored to its previous or better condition.

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

Stats. Implemented: ORS 756.040 & 757.020

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 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0310

Purity of Water Supply for Domestic Purposes

(1) A water utility delivering water for domestic purposes shall furnish a supply that shall at all times be free from bodily injurious physical elements and disease-producing bacteria. A water utility shall make such tests and take precautions as will ensure the constant purity of its water supply. A water utility shall keep a record of all such tests and reports.

(2) A water utility delivering water for domestic purposes shall furnish a supply that shall be reasonably free from elements that cause physical damage to customer's or applicant's property including but not limited to pipes, valves, appliances, and personal property. A water supply that causes such damage must be remedied within a reasonable time unless the conditions are such as to not reasonably justify the necessary investment. The water utility shall bear the burden of demonstrating that remedying the condition is not reasonably justified.

(3) Pursuant to ORS 756.160, ORS 756.515, ORS 757.020, and OAR 860-036-0301, the Commission may enforce any domestic water quality law of this state. The Commission may also assist, investigate, or enforce any domestic water quality law in conjunction with any other state agency.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-023-0060; PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0315

Adequate Water Pressure Required

(1) The standard for all water pressure is adequacy as determined by the Commission.

(2) As used in this rule, "customer" means an individual residential dwelling or commercial unit served by the water utility.

(3) Except as provided in section ~~(78)~~ of this rule, each water utility shall maintain pressure at a minimum of 20 pounds per square inch (psi) for health reasons **pursuant to OAR 333-061-0050**~~to each customer at all times and not exceed a maximum of 125 psi~~. The 20 psi ~~and 125 psi~~ standards ~~are~~is not presumed to be adequate service and ~~does~~not restrict the authority of the Commission to require improvements where water pressure or flow is inadequate.

(4) In general, ~~40 psi of~~ water pressure **measuring between 45 and 80 psi** in the water mains is ~~usually~~adequate for the purposes of this rule. Adequate pressure may vary depending on each individual water system and its customers' circumstances. In the case of a dispute, the Commission will determine the appropriate water pressure for the water utility.

(5) Each water utility shall maintain pressure recording gauges in good operating condition, test periodically for accuracy, and replace when necessary.

(6) Each water utility will have permanently placed pressure gauges at various locations on the main line and distribution lines that are representative of the entire system's water pressures. A portable gauge, in good working condition, shall be available for checking pressure conditions at any part of the system.

~~(7)~~ The Commission, either upon its own motion or upon customer complaints may investigate the operations and capacity of the water utility to provide adequate service. When necessary, the Commission may appoint a competent person or entity to monitor a water utility's water pressure at various points throughout the system and test the water utility's recording or measuring devices for accuracy.

~~(78)~~ Each water utility may temporarily reduce or increase water pressure for fire flows, announced scheduled repairs, emergency repairs, and outages.

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

Stats. Implemented: ORS 756.040, 757.005, 757.020 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-023-0065); PUC 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0320

Customer Requested Pressure Surveys Test

~~(1) Every water utility shall have permanently placed pressure gauges located at various locations on main lines and/or distribution lines that are representative of the entire system's water pressures. A portable gauge in good working condition shall be available for checking pressure conditions in any part of the distribution area.~~

~~(2)~~ Any customer may request the water utility to perform a water pressure test. Such test shall be made within 20 working days of the request at no cost to the customer.

~~(2)~~ If a customer requests more than one pressure test within any 12-month period, **the water utility may charge the customer** a deposit to recover the reasonable cost of the additional test ~~may be required of the customer.~~ **Customer deposits for additional pressure tests charged by a rate-regulated utility shall be included in the water utility tariffs. All other water utilities shall include deposit charges for additional pressure tests in their statement of rates.** The **customer's** deposit shall be ~~returned~~ **funded** if the pressure is not considered adequate according to OAR 860-036-0315.

(3) A customer or a designated representative shall have the right to be present at the water pressure test. The test shall be conducted at a mutually agreeable time during regular business hours, **unless other reasonable arrangements are agreed to by both the customer and the water utility.**

(4) Pressure tests shall be performed as follows:

(a) For metered service, the pressure will be measured at a point adjacent to the meter on the customer service line.

(b) For non-metered service, the pressure will be measured at the customer service line or hose bibb or other reasonable point likely to best reflect the actual service pressure.

(5) The water utility shall provide a written **pressure test** report to the customer within 10 ~~working business~~ days after completion of the pressure test. **At a minimum, the report shall include: showing** the name of the customer, the date of the request, the address where the pressure was tested, the actual test site(s), the date of the test, and the result of the test.

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

Stats. Implemented: ORS 756.040, 757.005, 757.020 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-023-0070; PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0325

Water Supply

(1) Every water utility shall exercise due diligence to furnish a continuous and adequate supply of water to its customers.

(2) If a water utility finds that it is necessary to conserve or restrict the customers' use of water, it must provide written notice to its customers and the Commission before such restriction becomes effective. Such notifications shall specify:

(a) The reason for the restriction;

(b) The nature and extent of the restriction; ~~for example, onno outdoor ~~use of~~ water use or outdoor water use by schedule only (odd/even days for odd/even address) ~~by certain classes of customers, etc.;~~~~

(c) The date such restriction is to go into effect; ~~and~~

(d) The probable date of termination of such restriction; ~~and,~~

(e) A statement that failure by the customer to comply with water restriction may result in disconnection of water service.

(3) The Commission may formally or informally investigate the water utility's conservation or water restriction plan either on its own motion or by customer complaint. During or after such investigation, the Commission may change or alter the water utility's water conservation or restriction plan as it deems necessary.

(4) During times of water shortage, the water utility shall equitably apportion its available water supply among its customers with due regard to public health and safety.

(5) If a customer fails to comply with water restriction during times of water shortages, after receiving written notification of such restrictions, the water utility may seek Commission approval to disconnect the customer's water service for cause pursuant to OAR 860-036-0205(8).

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

Stat. Implemented: ORS 756.040

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)

860-036-0335

Maps and Records

(1) A water utility shall keep on file current maps and records of the entire plant showing size, location, character, and date of installation of major plant items, including but not limited to main lines, distribution lines, pressure release valves, and shut-off valves.

(2) Upon request, a water utility shall file with the Commission maps as described above in section (1) of this rule. All maps and records filed with the Commission shall be in a form satisfactory to the Commission.

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

Stats. Implemented: ORS 756.040 & 757.020

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)

860-036-0340

Master Plan

~~A water utility that is required to develop and submit a master plan to the Oregon Health Division pursuant to OAR 333-061-0060(5) shall also submit a copy of such plan to the Commission. All amendments, changes, or updates to the plan shall also be provided to the Commission within a reasonable time period.~~

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

~~Stat. Implemented: ORS 756.040~~

~~Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)~~

860-036-0345

Location of Underground Facilities

A water utility and its customers shall comply with requirements of OAR Chapter 952 regarding the prevention of damage to underground facilities.

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

Stats. Implemented: ORS 756.040 & 757.542 through 757.562

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 12-1999, f. & ef. 11-18-99 (Order No. 99-709); PUC 23-2001, f. & ef. 10-11-01 (Order No. 01-839)

860-036-0350

Construction, Safety, and Reporting Standards for Water Utilities

If a water utility engages in the management, operation, ownership, or control of gas pipelines or communication, signal, or electrical supply lines within Oregon, the water utility shall comply with the construction, safety, and reporting standards set forth in OAR Chapter 860, Division 024.

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

Stats. Implemented: ORS 756.040 & 757.020, 757.035 & 757.039

Hist.: PUC 23-2001, f. & ef. 10-11-01 (Order No. 01-839)

860-036-0360

Attachments to Poles and Conduits Owned by Public, Telecommunications, and Consumer-Owned Utilities

Pole and conduit attachments shall comply with the rules set forth in OAR Chapter 860, Division 028.

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

Stats. Implemented: ORS 756.040, 757.270 through 757.290 & 759.650 through 757.675

Hist.: PUC 23-2001, f. & ef. 10-11-01 (Order No. 01-839)

860-036-0364

Emergency Jurisdiction Due to Inadequate Water Service

In extreme cases when a water utility's customers are experiencing inadequate or discriminatory water service, the Commission may declare jurisdiction pursuant

to ORS 757.061 and perform whatever actions it deems necessary to protect customers. Examples of inadequate or discriminatory water service include but are not limited to no water or receiving water that may pose a safety or health hazard.

Stat. Auth.: ORS Ch. 756 & 757

Stat. Implemented: ORS 756.020, 756.040, 756.160 & 757.105, 757.120, 757.125 & 757.135

Hist.: New

860-036-0365

Compliance Enforcement by Commission Appointment of Regent(s) to Operate and Manage a Water System

(1) In extreme circumstances when the water utility owner, operator, or representative demonstrates to the Commission's satisfaction an unwillingness or incapacity or refusal to effectively operate and manage the water system to provide safe and adequate service to its customers in compliance with Oregon statutes, rules, and standards, the Commission may appoint a regent(s) to operate and manage the water system. This procedure will be accomplished under an Interim Operating Agreement until long-term water provision can be ensured.

(2) The regent(s) appointed to operate, maintain, and repair the system must be a certified operator(s) or a qualified water utility(ies).

(3) The appointment of the regent(s) may also include responsibility for billing and collection, customer service, and administration of the system.

(4) If the Commission authorizes an operating account for receiving and dispersing funds by the regent(s), a Commission staff member will be a signator on such account to monitor all transactions.

(5) The regent will record all transactions in a general ledger and shall supply a copy of the ledger and bank statement to Commission staff member each month.

(6) At the end of the Interim Operating Agreement, Commission staff will make a final accounting of all monies received and transacted. Disbursement of surplus funds will be determined by the Commission.

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

Stats. Implemented: ORS 756.040 & 757.105, 757.120, 757.125 & 757.135

Hist.: PUC 9-2003, f. & ef. 5-15-03 (Order No. 03-287)

860-036-0370

Expenditure of Fees Collected Under ORS 756.310 to Make Emergency Repairs

(1) The Commission may use up to \$5,000 per biennium of the fees collected under ORS 756.310 to make emergency repairs for water utilities. The Commission may expend monies under the provisions of this rule if the Commission determines that:

(a) Customers of a water utility are without service and are likely to remain without service for an unreasonable period of time;

(b) The water utility is unwilling or unable to make emergency repairs, or cannot be found after reasonable effort; and

(c) Restoration of the service is necessary for the health and safety of the customers of the water utility.

(2) The Commission shall promptly attempt to recover fees used under this rule from the water utility providing water service. No interest shall accrue on the outstanding balance.

(3) The Commission may also recover penalties as provided in ORS 756.350 from the time the fees are expended.

Stat. Auth.: ORS Ch. 183, 756 & Ch. 202, OL 2003

Stats. Implemented: ORS 756.040 & Ch. 202, OL 2003

Hist.: PUC 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0380

Commission-Assessed Civil Penalties for Noncompliance

(1) In addition to any other penalty provided by law, the Commission may impose a civil penalty not to exceed \$500 for each violation of state statutes, Oregon administrative rules, or Commission orders related to water utilities.

(2) Prior to assessing civil penalties, the Commission may send a warning letter to the water utility by registered or certified mail. The warning letter must include, but not be limited to, the following:

(a) A statement that the water utility is in violation of state statutes, Oregon administrative rules, or Commission orders;

(b) The time allowed for correcting the violation(s); and

(c) A statement that, if the violations are not corrected within the time allowed, staff may make a recommendation to the Commission to assess civil penalties.

(3) The Commission must give notice of civil penalties by registered or certified mail to the water utility incurring the penalties. The notice must include, but is not limited to the following:

(a) The section of the statute, rule, or order violated;

(b) A concise statement of the violation(s) asserted or charged;

(c) A statement of the amount of civil penalties that may be assessed;

(d) A statement of the water utility's right to request a hearing within 20 calendar days of the date of service of the notice; and

(e) A statement of the authority and jurisdiction under which the hearing is to be held.

(4) Within 20 calendar days of the date of service of the notice, the water utility incurring the penalties may request a hearing. Such request must be in writing and shall state what actions, if any, have been made to correct the violation(s) stated in the notice.

The water utility bears the burden of proof to demonstrate that the violations have been remedied. If the water utility does not request a hearing within the time allowed, or if the water utility requesting a hearing fails to appear, the **water utility has waived its rights to contest the violations and the** Commission may issue a final order imposing the penalty.

(5) The Commission may require that penalties imposed under this rule be used for the benefit of the customers of water utilities affected by the violation(s).

Stat. Auth.: ORS Ch. 183, 756 & Ch. 202, OL 2003
Stats. Implemented: ORS 183.090, 756.040 & Ch. 202, OL 2003
Hist.: PUC 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

Changes in Regulatory Status

860-036-0401

Rate Regulation of a Water Utility by Customer Petition, Water Utility Notification Requirements, Customer Petition Requirements, and Petition Process

- (1) As used in the petition processes, "water utility" does not include rate-regulated utilities.**
- (2) As used in this rule, "customer" has the same meaning as OAR 860-036-0415.**
- (3) At least 60 days before a water utility serving less than 500 customers intends to exceed a threshold level established in OAR 860-036-0030, it shall provide all customers with written notice of the proposed change(s) in rates and inform the customers of their right to petition the Commission for rate regulation.**
- (4) Concurrently, the water utility shall provide the Commission with a copy of the customer notice and an accurate and current customer billing/mailling list, including each customer's name, service address (include mailing address if different), and telephone number if available.**
- (5) Customers have the right to petition the Commission for rate regulation of the water utility.**
- (6) Customer petitions may be submitted to the Commission up to 45 days from either the date the Commission received the customer notice or the date of the customer notice, whichever is later.**
- (7) If the water utility fails to provide the notice required in section (3) or (4) of this rule prior to exceeding a threshold level, it may be subject to refunds of customer charges, civil penalties, or both.**
- (8) Unless specified differently in a separate rule, the customer notice should state the following:**
 - (a) The date;**
 - (b) The water utility name, business address, contact person, and telephone number;**
 - (c) The water utility intends to (or has already) increase its rates and charges above the maximum level(s) established by the Commission;**
 - (d) The current rates and charges affected;**
 - (e) The proposed rates and charges;**
 - (f) The effective date of the proposed change (minimum of 60 days);**
 - (g) The reason for seeking the rate change;**
 - (h) Customers have a right to petition the Commission for rate and service regulation of the water utility, pursuant to ORS 757.061;**
 - (i) Petitioners must be current customers;**
 - (j) Upon request by any customer, a complete customer list (names and addresses) will be provided by the water utility within 10 days of the request;**

(k) Petitions should state its purpose and include the petitioner's name, service address (and mailing address is different), and signature;

(l) Petitions may be submitted to the Commission for 45 days from either the date the Commission received its copy of the customer notice or the date of the notice, whichever is later;

(m) Individual customer letters may be submitted in lieu of a petition. The Commission will consider them as petitions for the purposes of calculating the 20 percent requirement;

(n) Petitions submitted to the Commission may not be withdrawn or rescinded;

(o) Petitions will not be accepted by electronic mail;

(p) Petitions may be faxed to the Commission provided the original signed petition is mailed to the Commission and postmarked within the 45-day-petition deadline;

(q) Petitions postmarked after the 45-day deadline will not be accepted;

(r) It is the Commission's practice to make petitions available for public review. Petitioners may request in writing on the petition that their information be withheld from public disclosure. The Commission will honor such requests to the extent allowable by law; and

(s) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148.

(9) Petition should state its purpose and include the petitioner's name, service address (and mailing address is different), and signature. The Commission may request information from petitioners; however, a lack of information does not necessarily invalidate the petition.

(10) If 20 percent or more of total customers petition for Commission regulation, the Commission will notify the water utility of its change in regulatory status and the water utility's proposed rate(s), as outlined in its customer notice, shall not go into effect.

(11) Commission authority and jurisdiction commence on the day it is determined the 20 percent petition threshold has been met.

(12) As required by the regulatory change, the water utility must file tariffs pursuant to ORS 757.205 and ORS 757.215 within 60 days of the date of notification by the Commission.

(13) If the water utility fails to file appropriate tariffs within 60 days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.

(14) Upon Commission approval, the filed rates may be deemed interim rates. Rates and charges paid by customers during the interim may be subject to refunds. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers and determined by the Commission to be unreasonable, excessive, or not justified by the water utility's cost. At the discretion of the Commission, any such refund may include interest.

(15) The period of refund will begin on the date of the Commission notification of the water utility's change in regulatory status or requiring a tariff filing, or both, and end on the issue date of the Commission order establishing approved tariffs.

(16) Within 30 days of the Commission notification, the water utility may request a hearing to challenge the validity of the petitions. The request must be in writing and state the legal reasons why the petition(s) is invalid. The water utility bears the burden of proof to demonstrate that the petition(s) is not valid. The water utility remains subject to Commission statutes, rules, and regulations during any such challenge.

(17) If the water utility does not request a hearing within the time allowed, fails to appear at the hearing, or the Commission finds the petitions to be valid, the water utility remains a regulated public utility and is subject to Commission regulation.

(18) If the Commission does not receive petitions from 20 percent or more of total customers within the 45-day-petition deadline, the water utility will be notified that its proposed rates may become effective 60 days from either the date the Commission received a copy of the customer notice or the date of the notice, whichever is later. The water utility will be classified as an otherwise-regulated public utility and is subject to Commission service regulation.

(19) Customers of an otherwise-regulated public utility may submit petitions for rate regulation to the Commission at any time.

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

Stat. Implemented: ORS 756.040

Hist.: NEW

860-036-0405

Notice of Customer's Right to Petition for Full-Rate Regulation When a Water Utility's Residential Rates Exceeds the Commission's Established Rate Threshold

(1) At least 60 days before a water utility, ~~except rate-regulated utilities, or otherwise-exempt water utility~~ serving less than 500 customers ~~increases-intends to increase~~ its residential rates or charges to a level that exceeds the threshold levels established in OAR 860-036-0030, it shall provide a written notice to all customers of the proposed rate change(s) and inform all customers of their right to petition the Commission for rate regulation.

(2) The customer notice requirements are found in OAR-860-036-0401.

(3) The water utility will comply with all requirements found in OAR 860-036-0401.

~~The water utility must provide the Commission with a copy of the notice and a complete and current list of its customers' names and mailing addresses. The notice will advise customers of their right to file a petition to initiate full regulation of the water utility and, at a minimum, must include the following information:~~

~~(a) Name of water utility;~~

~~(b) A statement that the water utility intends to increase its residential rates and charges;~~

~~(c) Current rates and charges to residential customers;~~

~~(d) Proposed rates and charges to residential customers;~~

~~(e) Date the proposed rates are to become effective (minimum of 60 days);~~

- ~~(f) The reason(s) the water utility is seeking the rate increase;~~
~~(g) A statement informing customers of their right to petition the Commission to request that the proposed increase be investigated;~~
~~(h) A statement that all customers may submit petitions to the Commission for 45 days from the date of the customer notice;~~
~~(i) A statement informing customers that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;~~
~~(j) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;~~
~~(k) A statement that customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded;~~
~~(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and~~
~~(m) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.~~
- ~~(2) Any water utility that fails to provide the notice required in section (1) of this rule prior to increasing rates or charges above the threshold level shall be required to reduce such rates or charges to threshold levels and provide notification as required in section (1) of this rule.~~
- ~~(a) Failure to reduce rates or charges and provide notice as required may result in refunds of customer charges, civil penalties, or both.~~
- ~~(3) At least seven business days prior to sending notice to the customers, the water utility must provide the Commission with a draft copy of the customer notice referred to in sections (1) and (2) of this rule.~~
- ~~(4) The same time the water utility sends notice to its customers, it must provide the Commission with a final copy of the customer notice and a complete and current customer list including names and addresses.~~

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

Stats. Implemented: ORS 756.040, 757.750 & 757.755

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-022-0028 by PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 8-1999, f. & ef. 10-18-99 (Order No. 99-632); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0407

Notice of ~~Commercial and Other Water~~ Customers' Right to Petition for Full-Rate Regulation When a Water Utility's Commercial Rates Exceed the Commission's Established Rate Threshold

- (1) At least 60 days before a ~~public utility or otherwise exempt~~ water utility, except rate-regulated water utilities, serving less than 500 customers ~~increases~~ intends to increase its commercial rates or charges to a level that exceeds the threshold levels

established in 860-036-0030, it shall provide a written notice to all customers of the proposed rate change(s) and inform all customers of their right to petition the Commission ~~forecustomers' right to petition the Commission to initiate~~ rate regulation.

(2) The customer notice requirements are found in OAR-860-036-0401.

(3) The water utility will comply with all requirements found in OAR 860-036-0401.

~~Petitions may be submitted to the Commission for 45 days from the date of the customer notice.~~

~~(2) At least seven business days prior to sending notice to the customers, the water utility must provide the Commission with a draft copy of its customer notice referred to in section 1 of this rule.~~

~~(3) The same time the water utility sends notice to its customers, it must provide the Commission with a final copy of the customer notice and a complete and current customer list including names and addresses.~~

~~(4) At a minimum, the notice to the customers must include the following information:~~

~~(a) Name of water utility;~~

~~(b) A statement that the water utility intends to increase rates and charges;~~

~~(c) Current customer rates and charges;~~

~~(d) Proposed customer rates and charges;~~

~~(e) Date the proposed rates are to become effective (minimum of 60 days);~~

~~(f) The reason(s) the water utility is seeking the rate increase;~~

~~(g) A statement informing the customer of their right to petition the Commission to request that the proposed increase be investigated;~~

~~(h) A statement informing the customer that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;~~

~~(i) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;~~

~~(j) A statement that customers may petition the Commission for rate regulation for 45 days from the date of the customer notice;~~

~~(k) A statement that customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded;~~

~~(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and~~

~~(m) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, PO BOX 2148, SALEM OR 97308-2148.~~

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

Stats. Implemented: ORS 756.040, 757.750 & 757.755

Hist.: PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0408

Notice of Customers' Right to Petition for Rate Regulation When an Otherwise-Regulated Utility Proposes a Rate Change(s)

(1) At least 60 days before an otherwise-regulated utility serving less than 500 customers makes changes to any water service rate, it shall provide a written notice to all customers of the proposed change(s) and inform the customers' of their right to petition the Commission for rate regulation.

(2) The customer notice requirements are found in OAR-860-036-0401.

(3) Unless specifically stated in this section, the otherwise-regulated utility will comply with all requirements found in OAR 860-036-0401.

(4) If the Commission does not receive petitions from 20 percent or more of total customers within the 45-day-petition deadline, the otherwise-regulated utility will be notified that its proposed rates may become effective 60 days from either the date the Commission received a copy of the customer notice or the date of the notice, whichever is later. The otherwise-regulated utility's regulatory status will continue and it will remain subject to service regulation.

(5) Notwithstanding section 3 of this rule, customers of an otherwise-regulated utility may submit petitions for rate regulation to the Commission at any time.

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

Stats. Implemented: ORS 756.040, 757.750 & 757.755

Hist.: NEW

860-036-0410

Relating to Rate Regulation of Water Utility by Customer Petition

~~(1) As used in this section, "customer" means individual residential dwelling or commercial unit served by the water utility. Hotels, motels, and recreational vehicle (RV) parks shall be deemed one commercial customer, except those individuals who use such facilities as a primary residence shall also be counted as customers.~~

~~(2) Once a water utility has exceeded a threshold level, as defined in OAR 860-036-0030, and if the Commission did not receive a petition from 20 percent or more of the customers, the customers may submit a petition to the Commission at any time for full rate regulation. Petitioners must be current customers of the water utility. Such petitions are in effect for six months. Petitions older than six months must be resubmitted to the Commission.~~

~~(3) Petitions must be in writing, state the purpose of the petition, and include the customer's name, address, telephone number, and signature.~~

~~(4) Individual customer letters may be submitted in lieu of a petition.~~

~~(5) If 20 percent of customers petition the Commission, the water utility will be notified by the Commission, in writing, of its change in status to a rate-regulated water utility.~~

~~(6) The water utility must file appropriate tariffs pursuant to ORS 757.205 within 60 days after receiving notification from the Commission of its change in regulatory status.~~

~~(7) If the water utility fails to file appropriate tariffs within 60 days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.~~

~~(8) Customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded.~~

~~(9) Existing nonpetitioned rates and charges will be deemed interim rates and may be subject to refund during the pendency of the tariff filing application. The period of refund will begin on the date of the notice requiring a tariff filing sent by the Commission, unless the date the water utility began serving 500 customers can be reasonably determined, and end on the issuance date of the Commission order establishing new rates. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers determined by the Commission to be unreasonable, excessive, or not justified by the water utility's cost. At the discretion of the Commission, any such refund may include interest.~~

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

Stat. Implemented: ORS 756.040

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); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0412

Request for Rate Regulation of an Association by Members Petitions

(1) For purposes of this rule, "association" means any association of individuals that furnishes water to members ~~only of the association~~, even if the association does not furnish water directly to or for the public. ~~This rule does not apply to any cooperative formed under ORS chapter 62 or to any public body as defined by ORS 174.109.~~

(2) Association members may submit a petition to the Commission at any time ~~for requesting Commission~~ regulation of a water system owned, operated, managed, or controlled by an association.

(3) Petitioners must be current members of the water association.

(4) Petitions ~~must~~should be in writing, state the purpose of the petition, and include the member's name, address, ~~telephone number~~, and signature. Lack of information on a petition will not necessarily invalidate the petition.

(5) The Commission will consider individual letters submitted by association members, ~~which meet the criteria of subsection (3)~~, as petitions for the purposes of calculating the 20 percent requirement.

(6) Customer petitions will not be accepted by electronic mail.

~~(5) If 20 percent of association members petition the Commission, the Commission must issue an order notifying the association of its change in regulatory status to a regulated water utility.~~

~~(6) If required by the regulatory change, the association must file tariffs pursuant to ORS 757.205 within 60 days after receiving notification from the Commission of its change in regulatory status.~~

~~(7) If the association fails to file appropriate tariffs within 60 days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.~~

~~(8) Petitions filed with the Commission may not be withdrawn or rescinded and are valid for six months.~~

(8) It is the Commission's practice to make petitions available for public review. Petitioners may request in writing on the petition that their information be withheld from public disclosure. The Commission will honor such requests to the extent allowable by law.

(9) Petitions shall accumulate from month to month for a period of six months or until the Commission receives valid petitions from 20 percent or more of the members, whichever comes first.

(10) Commission authority and jurisdiction commence on the day it is determined the 20 percent petition threshold has been met.

(11) If the Commission receives petitions from 20 percent or more members, the Commission will notify the association of its change in regulatory status and, if applicable, require the association to file tariffs pursuant to ORS 757.205 and ORS 757.215 within 60 days of the notification.

(12) If the association fails to file appropriate tariffs within 60 days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.

(13) Upon Commission approval, filed rates may be deemed interim rates. Rates and charges paid by customers during the interim may be subject to refunds. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers and determined by the Commission to be unreasonable, excessive, or not justified by the association's cost. At the discretion of the Commission, any such refund may include interest.

(14) The period of refund will begin on the date of the Commission order reaffirming the association's regulatory status or requiring a tariff filing, or both, and end on the issue date of the Commission order establishing approved tariffs.

(15) Within 30 days of the Commission's notification, an association may request a hearing to challenge the validity of the petition(s). The request must be in writing and state the legal reasons why the petition(s) is invalid. The association bears the burden of proof to demonstrate that the petition(s) is not valid. The association is under the Commission's jurisdiction and all Commission statutes, rules, and regulations are in effect during any such challenge.

(16) If the association does not request a hearing within the time allowed, fails to appear at the hearing, or the Commission finds the petitions to be valid, the association continues as a rate-regulated public utility subject to Commission statutes, rules, and regulations.

(17) If the Commission does not receive valid petitions from 20 percent or more of total members, the association will be notified.

(18) Notwithstanding section (17) of this rule, the right of association members to petition the Commission at any time continues in effect.

Stat. Auth.: ORS Ch. 183, 756 & Ch. 082, OL 2003
Stat. Implemented: ORS 756.040 & Ch. 082, OL 2003
Hist.: PUC 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0415

Relating to Rate Regulation of Water Company by Customer Count

(1) As used in this section, "customer" means individual residential dwelling or commercial unit served by the water utility. Hotels, motels, and RV parks shall be counted as one commercial customer, except those individuals who use such facilities as a primary residence shall also be counted as customers. Multiple user units such as, but not limited to, apartment complexes, duplexes, triplexes, condominiums, and town houses shall be counted as the number of individual units within the building. For example, a duplex shall be counted as two customers and a 14-unit apartment complex shall be counted as 14 customers.

(2) The Commission may require a customer count as specified in this section from any water utility **and use such customer count to determine the number of customers for jurisdictional purposes.**

(3) If the Commission determines a water utility has a customer count of ~~over 500~~ **or more** customers, ~~it shall notify the water utility in writing~~ **the Commission shall notify the water utility** of its change in regulatory status ~~and~~ **and** require the water ~~company~~ **utility** to file tariffs, ~~or both,~~ **or both,** with the Commission within 60 days ~~of the Commission order~~ **of the Commission order** pursuant to ORS 757.205 ~~and ORS 757.215.~~

(4) If the water utility fails to file appropriate tariffs within 60 days of notification, the Commission may initiate a tariff filing proceeding to establish rates for the water utility.

(5) ~~Existing Filed~~ **Existing Filed** rates ~~and charges will~~ **may** be deemed interim rates subject to refund ~~during the pendency of the rate filing application.~~ Refunds ~~may~~ be limited to those charges and fees paid by customers ~~and~~ **and** determined by the Commission to be unreasonable, excessive, or not justified by the water utility's costs. At the discretion of the Commission, any such refund may include interest. The period of refund will begin on the date of the ~~notice~~ **Commission's notification requiring a tariff filing sent by Commission staff,** unless the date the water utility began serving 500 customers can be reasonably determined, and end on the issuance date of the Commission order establishing ~~new rates~~ **approved tariffs.**

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 756.040
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)

860-036-0420

Request for Rate Regulation by a Water Utility

(1) Any water utility, **except rate-regulated utilities,** serving fewer than 500 customers may, at any time, file a petition with the Commission for ~~full~~ **full**-rate regulation of the water utility.

~~(2) When the water utility files the petition with the Commission requesting rate.~~
The water utility must ~~shall~~ also provide written notification to its customers.

~~(3)~~ The water utility must ~~shall~~ provide the Commission with a copy of the customer notice.

~~(4)~~ At a minimum, the notice must ~~shall~~ include ~~state~~ the following ~~information~~:

~~(a)~~ Date

~~(b)~~ Name, address, contact person, and telephone number of the water utility;

~~(c)~~ The purpose of the notice;

~~(d)~~ The reason(s) the water utility is seeking rate regulation;

~~(e)~~ The Commission's toll-free telephone number, ~~TTY number~~ (1-800-522-2404; TTY 711), and its mailing and location addresses. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148; and

~~(f)~~ The ~~i~~ information is available on the Commission website or by calling the Commission.

~~(e) A statement informing customers that ORS 757.061 was amended in 2003 to allow water utilities to petition the Commission for rate regulation.~~

~~(34)~~ Within 30 days after the water utility files its petition requesting rate regulation, the Commission must ~~shall~~ issue an order notifying the water utility of its change in regulatory status ~~to a rate-regulated water utility~~.

(5) The water utility shall file tariffs with the Commission for approval pursuant to ORS 757.205 and ORS 757.215 within 60 days of the date of the Commission order.

(6) Commission authority and jurisdiction of the water utility commences on the date of the Commission order.

~~(4) Within 60 days after the Commission notifies the water utility of its change in regulatory status, the water utility must file appropriate tariffs pursuant to ORS 757.205.~~

(7) Upon Commission approval, filed rates may be deemed interim rates. Rates and charges paid by customers during the interim may be subject to refunds. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers and determined by the Commission to be unreasonable, excessive, or not justified by the water utility's cost. At the discretion of the Commission, any such refund may include interest.

(8) The period of refund will begin on the date of the Commission order notifying the water utility's regulatory status or requiring a tariff filing, or both, and end on the date of the Commission order establishing approved tariffs.

Stat. Auth.: ORS Ch. 183, 756 & Ch. 082, OL 2003

Stat. Implemented: ORS 756.040 & Ch. 082, OL 2003

Hist.: PUC 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

New Water Utilities

860-036-0505

Relating to New Water Utilities

(1) This rule applies to newly constructed water utilities ~~that have not previously offered water service to the public during the past 12 months~~. This rule does not apply to remodeled, renamed, new additions, or new ownership of existing water supply systems.

(2) A new water utility may initially establish a monthly residential rate exceeding the threshold level established in OAR 860-036-0030 provided it notifies each customer in writing at the time of connection, or earlier, of the customer's right to petition the Commission for ~~rate~~-regulation. The notice shall comply with OAR 860-036-04051. All subsequent rate increases will comply with the requirements of OAR 860-036-04051.

(3) If the Commission receives petitions from 20 percent or more of the new water utility's customers and the water utility charges or proposes to charge for services in excess of the threshold levels established in OAR 860-036-0030, the rules contained in OAR 860-036-041001 will become applicable.

(4) Customer count will be made pursuant to OAR 860-036-0415. The 20 percent calculation of customermers will be based upon the total number of customers existing in the month the Commission receives the petition. Petitions will carry over month to month and will be cumulative. Petitioners need not file petitions monthly in order to be counted for any particular month. Petitions cannot be withdrawn and
~~(5) Petitions~~ are valid for six months, after which they must be resubmitted to the Commission.

(5) It is the Commission's practice to make petitions available for public review. Petitioners may request in writing on the petition that their information be withheld from public disclosure. The Commission will honor such requests to the extent allowable by law.

(6) If the Commission receives petitions from 20 percent or more of the total customers, it will confirm the water utility's change in regulatory status by Commission order.

(7) Commission authority and jurisdiction commence on the day it is determined that the 20 percent petition threshold has been met.

(8) As required by the regulatory change, the utility must file tariffs pursuant to ORS 757.205 and ORS 757.215 within 60 days of the date of the Commission order notifying the water utility of its change in regulatory status.

(9) If the water utility fails to file appropriate tariffs within 60 days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.

(10) Upon Commission approval, filed rates may be deemed interim rates. Rates and charges paid by customers during the interim may be subject to refunds. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers and determined by the Commission to be unreasonable, excessive, or not justified by the water utility's cost. At the discretion of the Commission, any such refund may include interest.

(11) The period of refund will begin on the date of the Commission's notice of the water utility's change in regulatory status or requiring a tariff filing, or both, and end on the date of the Commission order establishing approved tariffs.

(12) The water utility may request a hearing to challenge the validity of the petition(s) within 30 calendar days of the date of the Commission notification. The request must be in writing and state the legal reasons why the petition(s) is invalid. The water utility bears the burden of proof to demonstrate that the petition(s) is not valid.

(13) If the water utility does not request a hearing within the time allowed, fails to appear at the hearing, or the Commission finds the petitions to be valid, the water utility remains subject to Commission rate and service regulation.

(14) If the Commission does not receive petitions from 20 percent or more of total customers, the water utility will be notified and the water utility's proposed rates may become the lawful rates effective 60 days from either the date the Commission received a copy of the customer notice or the date of the notice, whichever is later. The water utility will be classified as an otherwise-regulated public utility subject to service regulation.

(15) Customers of an otherwise-regulated utility may submit petitions for regulation to the Commission at any time.

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 8-2002, f. & ef. 2-26-2002 (Order No. 02-116); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

Tariffs

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) Each ~~water~~**rate-regulated** utility must designate the initial tariff as PUC Oregon No. 1, and designate successive tariffs with the next number in consecutive numerical order. Supplemental information not otherwise provided by the tariff 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 tariffs 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 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 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 8-1/2 x 11 inch page; and

(b) **WaterRate-regulated** utilities must file with the Commission an original of each tariff, rate schedule, revision, or supplement. 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); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

860-036-0610

Tariff Contents

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

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

(3) Rules and regulations of the **waterate-regulated** utility that in any manner affect the rates charged or to be charged or that defines the extent or character of the service to be given shall be included with each tariff filing.

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 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 **waterate-regulated** utility must file with the Commission all tariffs, rate schedules, revisions, or supplements thereto containing any change in rates, charges, or rules and 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.

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

860-036-0620

Announcement to Customers of Tariff Changes

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

(2) Within 15 days of filing new or revised tariff schedules with the Commission that constitute a general rate revision, a waterate-regulated utility shall inform its customers of the filing. A "general rate revision" is a filing by a waterate-regulated utility that affects all or most of the rate-regulatedwater utility's rate schedules. "General rate revision" does not include changes in an automatic adjustment clause under ORS 757.210(1) or similar changes in one rate schedule, such as for an amortization, that affect other rate schedules.

(3) A waterate-regulated utility filing a general rate revision shall inform its customers of its filing by:

(a) Insertion of a display announcement, not less than a three column standard advertising unit (SAU) by 10 inch advertisement, at least once in a newspaper of general circulation in the communities served by the waterate-regulated utility; or

(b) An announcement inserted in the waterate-regulated utility's regular billing to its customers; or

(c) An announcement mailed to each customer.

(4) At a minimum, the announcement must include the following information:

(a) The approximate current and proposed average monthly rate for each customer class expressed in dollar terms;

(b) A brief statement of the reasons why the change is sought;

(c) Notification that copies of the waterate-regulated utility's application, testimony, and exhibits are available at its main office;

(d) The mailing address and telephone number customers may use to contact the waterate-regulated utility to receive additional information about the filing;

(e) The waterate-regulated utility's office mailing address and office telephone number;

(f) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and mailing address (PUBLIC UTILITY COMMISSION OF OREGON, ADMINISTRATIVE HEARINGS DIVISION, P.O. BOX 2148, SALEM OR 97308-2148) where customers may request to receive notice of the time and place of any hearing on the matter;

(g) A statement that the purpose of the announcement is to provide customers with general information regarding the waterate-regulated utility's proposed tariffs and the effect the tariff filing may have on the customers; and

(h) A statement that "the calculations and statements contained in the waterate-regulated utility's announcement and filing are not binding on the Commission."

~~(5) At least seven business days prior to sending the announcement to the customers, the water utility must provide the Commission with a draft copy of the announcement referred to in sections (2), (3), and (4) of this rule.~~

~~(6)~~ Within 20 days of issuance of the announcement, the waterate-regulated utility shall file an affidavit with the Commission that notice has been given and include a copy of the announcement.

~~(7)~~ The Commission may waive the requirements of this rule upon a showing by the waterate-regulated utility that the announcement required by this rule has been given with respect to a particular general rate revision, and upon a further showing that

additional notice with respect to that rate revision would be duplicative, confusing to customers, and burdensome to the water utility.

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

Stat. Implemented: ORS 756.040

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); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0625

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

A **waterate-regulated** utility seeking authority to make tariffs or rate schedules effective on less than statutory notice 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; PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

860-036-0630

Requirements for Filing Tariffs or Schedules Changing Rates

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

(2) A **waterate-regulated** utility may make tariff changes by filing an entirely new tariff or by filing revised sheets that shall refer to the sheets of the tariffs currently on file with the Commission. Additions to the tariff on file may be made by filing additional sheets.

(3) Each **waterate-regulated** utility filing tariffs or schedules changing existing tariffs or schedules shall submit therewith the following information:

(a) A statement plainly indicating the increase, decrease, or other change thereby made in existing rates, charges, 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.

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)

860-036-0635

Requirements for Filing Tariffs or Schedules Increasing Rates

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

(2) Each **waterate-regulated** utility filing tariffs or schedules that increase rates must submit, in addition to requirements of OAR 860-036-0630, the following information:

(a) For each separate schedule, the total number of customers affected, the total annual revenue derived under the existing schedule, and the amount of estimated annual revenue the water utility expects to derive from the application of the proposed schedule;

(b) For each separate schedule, the average monthly use and resulting average bills under both the existing rates and the proposed rates for characteristic customers, that will fairly represent the application of the proposed tariff or schedules; and

(c) A detailed statement setting forth the reasons relied upon in support of the proposed increase.

(3) Additional information may be required to be filed either prior to acceptance by the Commission of the tendered filing or at any stage in the proceeding.

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 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0640

Tariff Changes Effective with Service Rendered

All tariff changes shall 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 water consumed, basic service provided, or likewise as the context requires.

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)

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 **waterate-regulated** utility tariff filings covered under section (2) of this rule must be included on a notice list.

(4) The Commission 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 within 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 must include the following information:

(a) Name of the filing **waterate-regulated** 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 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); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

Financial Transactions

860-036-0705

Form and Filing of Applications

(1) The Commission will furnish to applicant such information from the records on file as will assist in a full presentation of material facts required by OAR 860-036-0710 to 860-036-0735.

(2) When any document required to be filed under these rules has ~~heretofore~~previously been filed with the Commission, it shall be sufficient if the application makes reference to such filing and the capacity in which it was filed.

(3) Where the words "none" or "not applicable" truly and completely state the fact, they should be used in answering the requirement of any particular section of this rule.

(4) The Commission may require additional information when it appears to be pertinent in a particular case.

(5) Whenever these rules require the filing of financial statements, they shall be prepared as of the latest date available. The Income Statement shall be for the most recent 12-month period.

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

Stats. Implemented: ORS 756.040 & 756.105

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)

860-036-0710

Notice and Approval Requirements ~~for Relating to the Sale, Transfer, Merger, All Water Utilities Termination~~ng or ~~Abandoning~~ment of a Water Service, or ~~Disposing~~ing of a Water Utility

(1) Any water utility seeking to terminate, abandon service, or otherwise dispose of a water utility, excluding sales, transfers, assignments, or mergers, shall apply to and obtain approval from the Commission prior to executing such ~~transaction~~termination, abandonment, or disposal. Application requirements are found in OAR 860-036-0715.

(2) The water utility shall provide written notice to all customers of the proposed transaction no later than the date the application is filed with the Commission. A copy of the customer notice shall be concurrently provided to the Commission.

- (3) The notice will include the following information:
- (a) The water utility's name, mailing address (and business address if different), contact, and telephone number;
 - (b) The date and purpose of the notice;
 - (c) Details regarding the proposed transaction and the date the application was filed with the Commission;
 - (d) The water utility's reasons for requesting the proposed transaction;
 - (e) The effect the proposed transaction will have upon customers if approved by the Commission;
 - (f) Alternative water source(s) available to the customers; and
 - (g) The Commission's toll-free number (1-800-522-2404; TTY 711) and address. The Commission's street address is 550 Capital St NE Suite 215, Salem, Oregon. The Commission's mailing address is: PUBLIC UTILITY COMMISSION, CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148.
- ~~(2) Any rate-regulated water utility seeking to sell, transfer, or merge, shall apply to and obtain approval from the Commission prior to such transaction. Application requirements are found in OAR 860-036-0715.~~
- ~~(3) Any water utility that is not rate-regulated or exempt shall provide its customers with notice of the sale, transfer, or merger 60 days prior to the closing date of the transaction. The notice shall include the following information:~~
- ~~(a) Name, address, and telephone number of the water utility;~~
 - ~~(b) Purpose of notice;~~
 - ~~(c) Filing date;~~
 - ~~(d) Proposed effective date of sale (minimum of 60 days);~~
 - ~~(e) Name, address, and telephone number of potential buyer;~~
 - ~~(f) Reason(s) for sale;~~
 - ~~(g) Effect of sale upon customers; and~~
 - ~~(h) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.~~
- ~~(4) A water utility otherwise exempt by ORS 757.061 that charges for services in excess of threshold levels established in OAR 860-036-0030, must also provide its customers written notification of the customers' right to petition the Commission for regulatory approval of such transaction at least 60 days prior to the closing date of the transaction. If the Commission receives a petition from at least 20 percent of the customers prior to the closing date of the transaction, the water utility becomes rate regulated and the transaction requires Commission approval.~~
- ~~(5) At least seven business days prior to sending notice to customers, the water utility must provide the Commission with a draft copy of the notice referred to in section (4) of this rule and will include the following information:~~
- ~~(a) Name, address, and telephone number of the water utility;~~
 - ~~(b) Purpose of notice;~~
 - ~~(c) Proposed filing date;~~
 - ~~(d) Proposed effective date of sale;~~

- ~~(e) Name, address, and telephone number of potential buyer;~~
- ~~(f) Reason(s) for sale;~~
- ~~(g) Effect of sale upon customers;~~
- ~~(h) A statement informing customers of their right to petition the Commission for regulatory approval of the transaction;~~
- ~~(i) A statement informing customers that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;~~
- ~~(j) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;~~
- ~~(k) A statement that customers' petitions may be submitted to the Commission for 45 days from the date of the customer notice;~~
- ~~(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and~~
- ~~(m) The Commission's toll-free telephone number (1-800-522-2404) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.~~

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

Stats. Implemented: ORS 756.040 & 757.480

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 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 8-2002, f. & ef. 2-26-2002 (Order No. 02-116); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592)

860-036-0712

Rate-Regulated Utilities Notice and Approval Requirements Relating to Sales, Transfers or Mergers

(1) Any rate-regulated utility seeking to sell, transfer, lease, assign, or merge the whole of the utility or any part thereof with a market or book value in excess of \$10,000, shall apply to and obtain approval from the Commission prior to such transaction. Application requirements are found in OAR 860-036-0715. The rate-regulated utility shall provide written notice of the transaction to its customers and the Commission on the same date the application is filed with the Commission.

(2) The notice shall include the following information:

(a) The rate-regulated utility's name, mailing address (and business address if different), contact, and telephone number;

(b) The date and purpose of the notice;

(c) Details regarding the proposed transaction and the date the application was filed with the Commission;

(d) The rate-regulated utility's reasons for requesting the proposed transaction;

(e) The effect the proposed transaction will have upon customers if approved by the Commission; and

(f) The Commission's toll-free number (1-800-522-2404; TTY 711) and address. The Commission's street address is 550 Capital St NE Suite 215, Salem, Oregon.

**The Commission's mailing address is: PUBLIC UTILITY COMMISSION,
CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148.**

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.480
Hist.: NEW

860-036-0713

Service-Regulated Utilities Notice Requirement Relating to Sales, Transfers, or Mergers, (Excluding Rate-Regulated and Otherwise-Regulated Public Utilities)

(1) Any service-regulated utility seeking to sell, transfer, assign, or merge the whole of the utility or any part thereof with a market or book value in excess of \$10,000, shall provide written notice of the transaction to its customers and the Commission on the same date the notice is sent to the Commission.

(2) The notice shall include the following information:

(a) The service-regulated utility's name, mailing address (and business address if different), contact, and telephone number;

(b) The date and purpose of notice;

(c) Details regarding the proposed transaction;

(d) The service-regulated utility's reasons for requesting the proposed transaction;

(e) The effect the proposed transaction will have upon customers; and

(f) The Commission's toll-free number (1-800-522-2404; TTY 711) and address.

The Commission's street address is 550 Capital St NE Suite 215, Salem, Oregon.

**The Commission's mailing address is: PUBLIC UTILITY COMMISSION,
CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148.**

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.480
Hist.: NEW

860-036-0714

Otherwise-Regulated Public Utilities Notice Requirement Relating to Sales, Transfers, or Mergers

(1) Pursuant to ORS 757.061, an otherwise-regulated utility is not rate regulated because the Commission did not receive petitions from 20 percent or more of the customers requesting rate regulation.

(2) An otherwise-regulated utility seeking to sell, transfer, assign or merge the whole of the utility or any part thereof with a market or book value in excess of \$10,000, must provide written notice of the transaction to its customers 60 days prior to the closing date of the transaction.

(3) The otherwise-regulated utility shall concurrently provide the Commission with a copy of the customer notice and a complete and current customer mailing list, including each customer's name, service address (and billing address if different), and telephone number, if available.

(4) The customer notice shall include the following information:

- (a) The otherwise-regulated utility's name, mailing address (and business address if different), contact, and telephone number;
- (b) Date of notice;
- (c) Purpose of the notice;
- (d) Details regarding the proposed transaction and the proposed effective date of the transaction;
- (e) The otherwise-regulated utility's reasons for requesting approval of the proposed transaction;
- (f) The effect the proposed transaction will have upon customers if approved by the Commission;
- (g) A statement that the customers have a right to petition the Commission for regulatory approval of the transaction, pursuant to OAR 860-036-0408, which will result in rate and service regulation of the otherwise-regulated utility;
- (h) A statement that upon customer request, the otherwise-regulated utility will provide a complete customer list (names and addresses) within 10 days of the request;
- (i) A statement that the customers may submit petitions to the Commission for 45 days from the day the Commission receives a copy of the customer notice or the date of the notice, whichever is later;
- (j) A statement that customer petitions should state the purpose of the petition and include the customer's name, service address (and mailing address if different), and signature;
- (k) A statement that customer petitions filed with the Commission may not be withdrawn or rescinded;
- (l) A statement that it is the Commission's practice to make petitions available for public review. Individual petitioners may request that their information be withheld from public disclosure. The Commission will honor such requests to the extent allowable by law. If petitioners wish the Commission to withhold personal information from public disclosure, it must be stated on the petition;
- (m) A statement that customer petitions will not be accepted by electronic mail;
- (n) A statement that petitions may be faxed to the Commission provided the original signed petition is mailed to the Commission and postmarked within the 45-day petition deadline. If the original signed petition is not received or is postmarked after the 45-day deadline, the faxed petition will not be accepted;
- (o) A statement that the Commission will consider individual letters submitted by customers as petitions for the purposes of calculating the 20 percent requirement.
- (p) A statement that customer petitions postmarked on or before the petition deadline will be accepted; and
- (q) The Commission's toll-free number (1-800-522-2404; TTY 711) and address. The Commission's street address is 550 Capital St NE Suite 215, Salem, Oregon. The Commission's mailing address is: PUBLIC UTILITY COMMISSION, CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148.
- (5) The Commission may request information from petitioners; however, a lack of information does not necessarily invalidate the petition.

(6) If the Commission receives petitions from 20 percent or more of total customers within the 45-day deadline, the otherwise-regulated utility may not implement its proposed transaction. The Commission will notify the otherwise-regulated utility of its change in regulatory status, that the proposed transaction requires Commission approval, and require the otherwise-regulated utility to file proposed tariffs pursuant to ORS 757.205 and ORS 757.215 within 60 days of the date of the notification.

(7) Commission authority and jurisdiction of the otherwise-regulated utility commences on the date it is determined that the 20 percent petition threshold has been met.

(8) Upon Commission approval, filed rates may be deemed interim rates. Rates and charges paid by customers during the interim may be subject to refunds. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers and determined by the Commission to be unreasonable, excessive, or not justified by the otherwise-regulated utility's cost. At the discretion of the Commission, any such refund may include interest.

(9) The period of refund will begin on the date of the Commission notifies the otherwise-regulated utility of its change in regulatory status or requiring a tariff filing, or both, and end on the date of the Commission order establishing approved tariffs.

(10) Within 30 days of the Commission notification, the otherwise-regulated utility may request a hearing to challenge the validity of the petition(s). The request must be in writing and state the legal reasons why the petition(s) is invalid. The otherwise-regulated utility bears the burden of proof to demonstrate that the petition(s) are not valid. The otherwise-regulated utility remains subject to the Commission statutes, rules, and regulations during any such challenge.

(11) If the otherwise-regulated utility does not request a hearing within the time allowed, fails to appear at the hearing, or the Commission finds the petitions to be valid, the otherwise-regulated utility is subject to rate regulation and the Commission statutes, rules, and regulations.

(12) If the Commission does not receive petitions from 20 percent or more of total customers within the 45-day deadline, the otherwise-regulated utility will be notified and the transaction may be completed without Commission approval. The otherwise-regulated utility maintains its regulatory status and is subject to service regulation.

(13) Customers of otherwise-regulated utilities maintain the right to petition the Commission for rate regulation at any time.

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

Stats. Implemented: ORS 756.040 & 757.480

Hist.: NEW

860-036-0715

Applications Requirements for a Rate-Regulated Water Utility Seeking Authority to Sell, Lease, Assign, Mortgage, Merge, Consolidate, Terminate, Abandon, or

Otherwise Dispose of or Encumber its Property, or to Acquire Stock, Bonds, or Property of Another Public Utility

(1) Requirements of this rule apply to ~~rate-regulated~~ water utilities seeking authority under ORS 757.480 and ORS 757.485. Every applicant shall, at a minimum, utilize the form prescribed below and provide all required information. At its discretion, the Commission may require further or more detailed information.

(2) Every applicant will provide the following information in its application to the Commission in the manner and form indicated:

In the Matter of the Application of (Enter Exact Name of Applicant) for an Order Authorizing (Enter Authority Requested, for example, to Sell, Transfer, Abandon, or Otherwise Dispose of Utility Property) to (Enter Name, Address, and Telephone Number of Purchaser or Other Parties Concerned).

A copy of the contract or other agreement is attached to this application and contains the exact terms and provisions of the document that will be entered into. The Commission will be advised in writing of the exact date the transaction is entered into and that the terms and provisions of the contract or agreement are the same as set forth herein, if this application is approved.

(a) Utility Property

___ The affected water utility property consists of (explain or describe in general the water utility property).

(b) Sale Transaction

___ The sale price of the property is \$_____, payable as set forth in the contract or agreement attached to the application. The net book value of the system is \$_____. The reasons applicant desires to sell, transfer, **abandon**, or otherwise dispose of its utility property are (list the reasons and any facts supporting these reasons why the transaction is proposed).

(c) Effect Upon Customer

___ The effect(s) of the transaction upon the current customers is (state all effects of the transaction on current customers).

___ The current customers benefit from this transaction in the following ways: (List and explain all benefits current customers will realize from the transaction.)

(d) Buyers Qualifications

___ The purchasers are financially able and willing to take over and operate the utility property. (State any experience purchasers have that will assist or aid them in the operations of the water utility and the reasons why they desire to acquire the utility property. Attach to the application a financial statement of the purchasers.)

(e) Easements and Water Rights

___ Attached to this application is a copy of all grants of easement(s) to be transferred with the sale of the water system. Also attached is documentation of all water rights to be transferred with the water system.

Wherefore applicant respectfully requests that the Commission enter an appropriate order authorizing the transaction proposed herein.

Name of Utility _____ Dated:

Signature of Officer or Owner

State of _____) ss.
County of _____)

_____,
(Name of Party signing above)

being first duly sworn, deposes and says he/she is _____(Title)_____ of _____ (Name of Utility) _____, the applicant in the foregoing application, that he/she has read said application, including all exhibits thereto, knows the contents thereof, and the same are true to the best of his/her knowledge and belief.

(Signature) _____
(Notarial Seal).

(23) In the case of abandonment or termination of service by the water utility, in addition to the requirements in section (1) of this rule, the water utility must provide a description of all alternative water service options available to the customers and the estimated cost to customers of each alternative water service option.

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

Stats. Implemented: ORS 756.040, 757.105, 757.480 & 757.485

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)

860-036-0716

Acquisition Adjustments

(1) A rate-regulated water utility may petition the Commission for approval of an acquisition adjustment in rates for acquiring a water system when the benefits of the acquisition outweigh the increase to customers' rates resulting from an acquisition adjustment.

(2) The Commission will consider the merits of the **rate-regulated** utility's petition based on the benefit to the customers being acquired and the public interest on a case-by-case basis.

(3) The approval and determination of an acquisition adjustment is at the sole discretion of the Commission.

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

Stats. Implemented: ORS 756.040 & 757.105, 757.120, 757.125 & 757.135

Hist.: PUC 9-2003, f. & ef. 5-15-03 (Order No. 03-287)

860-036-0720

Application by a Rate-Regulated Water Utility for Authority to Issue Stocks, Bonds, Notes, or Other Securities

(1) This rule applies to rate-regulated water utilities seeking authority under ORS 757.495, 757.405 to 757.435 inclusive, 757.445, and 757.450. Every applicant shall set forth in this application to the Commission, in the manner and form and in the order indicated, the following information:

(a) The applicant's exact name and the address of its principal business office;

(b) The state in which incorporated, the date of incorporation, and the other states in which authorized to transact water utility business;

- (c) The name and address of the person authorized, on behalf of applicant, to receive notices and communications in respect to the application;
- (d) The names, titles, and addresses of the principal officers of the applicant;
- (e) A description of the general character of the business done and to be done, and a designation of the territories served. A map showing the territories served is desirable;
- (f) A statement, as of the date of the balance sheet submitted with the application, showing for each class and series of capital stock: brief description; amount authorized (face value and number of shares); amount outstanding (exclusive of any amount held in the treasury), held amount as reacquired securities; amount pledged by applicant; amount owned by affiliated interests, and amount held in any fund;
- (g) A statement, as of the date of the balance sheet submitted with the application, showing for each class and series of long-term debt or notes: brief description (amount, interest rate and maturity); amount authorized; amount outstanding (exclusive of any amount held in the treasury); amount held as reacquired securities; amount pledged by applicant; amount held by affiliated interests; and amount in sinking and other funds;
- (h) A full description of the securities proposed to be issued, showing: kind and nature of securities or liabilities; amount (face value and number of shares); interest or dividend rate, if any; date of issue and date of maturity; and voting privileges, if any;
- (i) A reasonably detailed and precise description of the proposed transaction, including a statement of the reasons why it is desired to consummate the transaction and the anticipated effect thereof. If the transaction is part of a general program, describe the program and its relation to the proposed transaction. Such description shall include, but is not limited to, the following:
 - (A) A description of the proposed method of issuing and selling the securities;
 - (B) ~~A statement of whether such securities are to be issued pro rata to existing holders of the applicant's securities or issued pursuant to any preemptive right or in connection with any liquidation or reorganization;~~
 - (C) A statement showing why it is in applicant's interest to issue securities in the manner proposed and the reason(s) why it selected the proposed method of sale; and
 - (~~D~~C) A statement that exemption from the competitive bidding requirements of any federal or other state regulatory body has or has not been requested or obtained, and a copy of the action taken thereon when available.
- (j) ~~The name and address of any person receiving or entitled to a fee for service (other than attorneys, accountants, and similar technical services) in connection with the negotiation or consummation of the issuance or sale of securities, or for services in securing underwriters, sellers, or purchasers of securities, other than fees included in any competitive bid; the amount of each such fee, and facts showing the necessity for the services and that the fee does not exceed the customary fee for such services in arm's-length transactions and is reasonable in the light of the cost of rendering the service and any other relevant factors;~~
- (~~k~~) A statement showing both in total amount and per unit the price to the public, underwriting commissions and net proceeds to the applicant. Supply also the information (estimated if necessary) required in section (4) of this rule. If the securities are to be issued directly for property, then a full description of the property to be acquired, its location, its original cost (if known) by accounts, with the identification of the person from whom the property is to be acquired, must be furnished. If original cost is not

known, an estimate of original cost based, to the extent possible, upon records or data of the seller and applicant or their predecessors must be furnished, with a full explanation of how such estimate has been made, and a description and statement of the present custody of all existing pertinent data and records. A statement showing the cost of all additions and betterments and retirements, from the date of the original cost, should also be furnished;

(~~h~~) The purposes for which the securities are to be issued. Specific information will be submitted with each filing for the issuance of bonds, stocks, or securities:

(A) Construction, completion, extension, or improvement of facilities. A description of such facilities and the cost thereof;

(B) Reimbursement of the applicant's treasury for expenditures against which securities have not been issued. A statement giving a general description of such expenditures, the amounts and accounts to which charged, the associated credits, if any, and the periods during which the expenditures were made;

(C) Refunding or discharging of obligations. A description of the obligations to be refunded or discharged, including the character, principal amounts discount or premium applicable thereto, date of issue and date of maturity, purposes to which the proceeds were applied and all other material facts concerning such obligations; and

(D) Improvement or maintenance of service. A description of the type of expenditure and the estimated cost in reasonable detail;

~~(m) A statement as to whether or not any application, registration statement, etc., with respect to the transaction or any part thereof, is required to be filed with any federal or other state regulatory body;~~

~~(n) The facts relied upon by the applicant to show that the issue:~~

~~(A) Is for some lawful object within the corporate purposes of the applicant;~~

~~(B) Is compatible with the public interest;~~

~~(C) Is necessary or appropriate for or consistent with the proper performance by the applicant of service as a water utility;~~

~~(D) Will not impair its ability to perform that service;~~

~~(E) Is reasonably necessary or appropriate for such purposes; and~~

~~(F) If filed under ORS 757.495, is fair, reasonable, and not contrary to the public interest;~~

~~(o) A brief statement of all rights to be a corporation, franchises, permits, and contracts for consolidation, merger, or lease included as assets of the applicant or any predecessor thereof; the amounts actually paid as consideration therefore, respectively; and the facts relied upon to show the issuance of the securities for which approval is requested will not result in the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract; and~~

~~(p)~~ If filed under ORS 757.490 or ORS 757.495:

(A) Provide a statement describing the relationship between the water-rate-regulated utility and the affiliated interest as defined in ORS 757.015 or ORS 757.490:

(i) Set forth the amount, kind, and ratio to total voting securities held, if applicable;

(ii) List all officers and directors of the affiliated interest who are also officers and/or directors of the applicant; and

(iii) State the pecuniary interest of any officer or director in compliance with ORS 757.490(1).

(B) State the reasons, in detail, relied upon by the water utility for entering into the proposed transaction and the benefits, if any, the customers of the water utility and the general public will derive from the transaction.

(2) Required Exhibits. ~~There~~ **following exhibits** shall be filed with the application ~~as part thereof the following exhibits:~~

~~(a) EXHIBIT A. A copy of the applicant's charter or articles of incorporation with amendments to date;~~

~~(b) EXHIBIT B. A copy of the bylaws with amendments to date;~~

~~(c) EXHIBIT C. A copy of each resolution of directors authorizing the issue in respect to which the application is made and, if approval of stockholders has been obtained, copies of the stockholder resolutions should also be furnished;~~

~~(da) EXHIBIT DA.~~ A copy of the mortgage, indenture, or other agreement under which it is proposed to issue the securities, and a copy of any mortgage, indenture, or other agreement securing other funded obligations of the applicant;

~~(eb) EXHIBIT EB.~~ Copies of balance sheets showing booked amounts, adjustments to record the proposed transaction and pro forma, with supporting fixed capital or plant schedules in conformity with the form in the annual report that the applicant is required to file with the Commission;

~~(fc) EXHIBIT FC.~~ A statement of all known contingent liabilities, except minor items such as damage claims and similar items involving relatively small amounts, as of the date of the application;

~~(gd) EXHIBIT GD.~~ Copies of comparative income statements showing recorded results of operations, adjustments to record the proposed transaction and pro forma in conformity with the form in the annual report that the applicant is required to file with the Commission;

~~(h) EXHIBIT H. A copy of an analysis of surplus for the period covered by the income statements referred to in Exhibit G;~~

~~(ie) EXHIBIT IE.~~ A copy of the registration statement proper, if any, and financial exhibits made a part thereof, filed with the Securities and Exchange Commission;

~~(jf) EXHIBIT JF.~~ A copy of the proposed and of the published invitation of proposals for the purchase of underwriting of the securities to be issued; of each proposal received; and of each contract, underwriting, and other arrangement entered into for the sale or marketing of the securities. When a contract or underwriting is not in final form so as to permit filing, a preliminary draft or a summary identifying parties thereto and setting forth the principal terms thereof, may be filed pending filing of the conformed copy in the form executed by final amendment to the application;

~~(k) EXHIBIT K. Copies of the stock certificates, notes, or other evidences of indebtedness proposed to be issued;~~

~~(lg)~~ An application for a **water rate-regulated** utility to loan its funds to an affiliated interest, in addition to Exhibits A through ~~KE~~, shall also include the following:

(A) EXHIBIT ~~LG~~. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(B) EXHIBIT ~~MH~~. The amount of money the applicant desires to loan to the affiliated interest, terms of said loan, rate of interest, method of repayment, security

given, if any, and if said loan is to be an open account or evidenced by a promissory note; and

(C) EXHIBIT ~~NI~~. The use to which funds derived from this loan are to be put by the affiliated interest; and

(~~mh~~) An application for a **waterate-regulated** utility to give credit on its books or otherwise by:

(A) Advancing cash through an open or loan account, in addition to EXHIBITS A through ~~KG~~, shall also include the following:

(i) EXHIBIT ~~LJ~~. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(ii) EXHIBIT ~~MK~~. The amount of cash the applicant proposes to receive, the rate of interest it will pay, and the date and method of repayment; and

(iii) EXHIBIT ~~NL~~. A definite statement of purpose for which the advance will be used.

(B) Payments by the affiliated interest of amounts owed, in addition to EXHIBITS A through ~~KG~~, shall include the following:

(i) EXHIBIT ~~LM~~. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction; and

(ii) EXHIBIT ~~MN~~. The amount that the affiliated interest proposes to pay on the **waterate-regulated** utility's behalf, with a description of the obligation, how the funds will be used, and how incurred.

(C) Credits or open accounts a **waterate-regulated** utility proposes to give to an affiliated interest, in addition to EXHIBITS A through ~~KF~~, shall include the following:

(i) EXHIBIT ~~LO~~. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction; and

(ii) EXHIBIT ~~MP~~. The amount and a description of each item for which the **waterate-regulated** utility proposes to give credit through its loan or open account.

(3) The following form of application may be filed by all **waterate-regulated** utilities with annual revenues of less than \$100,000 seeking authority to issue promissory notes maturing more than one year after date of issue or renewal and unsecured notes on motor vehicles in the principal amount of less than \$~~1025~~,000. In the instances when this provision is proper, the requirements of sections (1) and (2) of this rule do not apply. The Commission may require compliance with sections (1) and (2) of this rule if the Commission deems it necessary in a particular case.

In the Matter of the Application of (Enter Exact Name of Applicant) for an Order Authorizing the Issuance of a Note.

The above-named applicant desires to issue its (enter type of note) note to (enter to whom issued) in the principal amount of \$____ to be dated (date of note) and to mature (date due). The note will bear interest at ____ percent per annum and is payable in (number of payments) payments of \$____ with a final payment of \$_____.

A copy of the note proposed to be issued is attached to this application and contains the exact terms of the note that will be issued. The Commission will be advised in writing of the note's date and that the terms of the note are the same as set forth herein, if this application is approved.

The proceeds of the note are required for the purposes set forth in the following and are necessary to properly serve the public. The proceeds will be expended as follows (explain in detail the proposed use of the funds from the note):

No fees or payment will be or have been made to any person, association, or corporation for assistance in connection with this borrowing other than fees required by regulatory authorities.

Wherefore applicant respectfully requests that the Commission enter an appropriate order authorizing the note as herein set forth.

(Name of Water Utility)

Dated: _____

(Signature of Officer or Owner)

State of _____

County of _____ ,

(Name of Party signing above)

being first duly sworn, deposes and says he/she is _____ (Title) of _____ (Name of Water Utility), the applicant in the foregoing application, that he/she has read said application, including all exhibits thereto, knows the contents thereof, and the same are true to the best of his/her knowledge and belief.

(Signature)

Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this _____ day of _____, ____ .

(Signature)

(Notarial Seal)

My Commission expires _____, ____

REPORT OF SECURITIES ISSUED

Items Amount

(1) Face value or principal amount _____

(2) Plus premium or less discount _____

(3) Gross proceed _____

(4) Underwriter's spread or commission _____

(5) Securities and Exchange Commission registration fee _____

(6) State mortgage registration tax _____

(7) State Commission fee _____

(8) Fee for recording indenture _____

(9) United States document tax _____

(10) Printing and engraving expenses _____

(11) Trustee's charges _____

(12) Counsel's fees _____

(13) Accountant's fees _____

(14) Cost of listing _____

- (15) Miscellaneous expense of issue (describe large items) _____
(16) Total deductions _____
(17) Net amount realized _____

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

Stats. Implemented: ORS 756.040, 756.105, 757.405 through 757.450 & 757.495

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0725

Applications for by a Rate-Regulated Water Utility for Authority to Guarantee Indebtedness

(1) The requirements of this rule apply to rate-regulated water utilities seeking authority under ORS 757.440. Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information that should, to the extent possible, be furnished for each person, firm, or corporation involved:

- (a) The information required by OAR 860-036-0720(1)(a) to (g) inclusive;
 - (b) A full description of the securities for which applicant proposes to assume obligation or liability as guarantor, endorser, surety, or otherwise;
 - (c) The amount of other securities of said person, firm, or corporation now held, owned, or controlled by the applicant;
 - (d) A statement as to whether or not any application, with respect to the transaction or any part thereof, is required to be filed with any federal or other state regulatory body;
 - (e) The reasons, in detail, why it is in applicant's interest to guarantee such securities;
 - (f) The reasons, in detail, why it is necessary for applicant to guarantee such securities; and
 - (g) The facts relied upon by the applicant to show the assumption is:
 - (A) For some lawful object within the applicant's corporate purposes and compatible with the public interest;
 - (B) Necessary or appropriate for or consistent with the applicant's proper performance of service as a **water rate-regulated** utility;
 - (C) Will not impair its ability to perform that service; and
 - (D) Reasonably necessary or required for such purposes.
- (2) Required Exhibits. There **following exhibits** shall be filed with the application ~~as part thereof the following exhibits~~:
- ~~(a) EXHIBIT A. A copy of the applicant's charter or articles of incorporation with amendments to date;~~
 - ~~(b) EXHIBIT B. A copy of the bylaws with amendments to date;~~
 - ~~(c) EXHIBIT C. Copies of all resolutions of directors authorizing the assumption in respect to which the application is made and, if stockholders' approval has been obtained, a copy of the stockholders' resolution should also be furnished;~~
 - (da) EXHIBIT DA.** A copy of any mortgage, indenture, or other agreement securing any security that it proposes to guarantee; also, a copy of any mortgage, indenture, or other agreement securing applicant's funded obligations;

(~~eb~~) EXHIBIT ~~EB~~. Balance sheets with supporting fixed capital or plant schedules in conformity with the form set forth in the annual report that applicant is required to file with the Commission;

(~~fc~~) EXHIBIT ~~FC~~. A statement of all known contingent liabilities, except minor items such as damage claims and similar items involving relatively small amounts at the date of the application;

(~~g~~) EXHIBIT ~~G~~. ~~Comparative income statements in conformity with the form set forth in the annual report that applicant is required to file with the Commission;~~

(~~h~~) EXHIBIT ~~H~~. ~~An analysis of surplus for the period covered by the income statements referred to in Exhibit G; and~~

(~~id~~) EXHIBIT ~~ID~~. A statement showing the present market value or other basis of determining the value of the securities to be guaranteed.

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

Stats. Implemented: ORS 756.040 & 757.440

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0730

Applications by a Rate-Regulated Water Utility for Approval of Transactions Between Affiliated Interests

(1) Except as provided in section (3) of this rule, this rule applies to all rate-regulated water utilities seeking authority under ORS 757.490 and ORS 757.495. An application for financing to an affiliated interest shall be made under OAR 860-036-0720.

(2) Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information:

(a) The applicant's exact name and the address of its principal business office;

(b) The name, **telephone number**, and address of the person authorized, on the **waterate-regulated** utility's behalf, to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the **waterate-regulated** utility and the contracting entity as defined by ORS 757.015 and ORS 757.490;

(d) The amount, kind, and ratio to total voting securities held, if applicable;

(e) A list of all officers and directors of the affiliated interest who are also officers or directors of the applicant;

(f) The pecuniary interest, directly or indirectly, of any officer or director who is a party to the contract;

(g) A description of the goods or services to be provided, the cost incurred in providing each of the goods or services, the market value of the goods or services if different from the costs, and the method or methods proposed for pricing those goods or services;

(h) An estimate of the amount the **waterate-regulated** utility will pay annually for the goods or services and the accounts in which it will record the charges;

(i) The reasons, in detail, relied upon by the **waterate-regulated** utility for procuring the proposed goods or services from the affiliate and benefits, if any, utility customers and the general public will derive from the provision of goods or services;

(j) A description of the procurement process and the reasons, in pertinent detail appropriate to the complexity of the procurement, relied upon by the **waterate-regulated** utility for procuring the proposed goods or services without a competitive procurement process, if such a process is not used;

(k) Transfer prices in contracts or agreements for the procurement of goods or services under competitive procurement shall be presumed to be the market value, subject to evaluation of the procurement process;

(l) A copy of the proposed contract or agreement between the **waterate-regulated** utility and the contracting entity; and

(m) Copies of all resolutions of directors authorizing the proposed transactions and, if stockholders' approval has been obtained, copies of the resolutions approved by the stockholders.

(3) This rule shall not apply to **waterate-regulated** utilities seeking to purchase or contracting to purchase, directly or indirectly, from any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1):

(a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210; or

(b) Any service provided under a rate or schedule of rates that:

(A) Has been filed with an agency charged with the regulation of utilities;

(B) Has been approved as just and reasonable or in compliance with another comparable standard; and

(C) Is available to a broad class of customers.

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

Stats. Implemented: ORS 756.040 & 757.005 through 757.495

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0735

Information Required for WaterRate-Regulated Utility Goods or Services Provided to Affiliated Interests

(1) Except as provided in section (4) of this rule, this rule applies to rate-regulated water utilities seeking to provide, or contracting to provide, directly or indirectly, to any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1), service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal, or other services, or entering revenues or credits therefore on its books. This rule does not apply to transactions subject to ORS 757.490 or 757.495 and OAR 860-036-0030.

(2) A **waterate-regulated** utility's failure to submit this required information shall not limit the Commission's authority to recognize or impute revenues to the **waterate-regulated** utility pursuant to such contract in any rate valuation or other hearing or proceeding.

(3) For transactions provided in section (1) of this rule, every rate-regulated water utility shall submit to the Commission, in the manner and form indicated, the following information:

- (a) Its exact name and the address of its principal business office;
- (b) The name of the person authorized on the waterate-regulated utility's behalf to receive notices, inquiries, and communications regarding the information;
- (c) A statement describing the relationship between the waterate-regulated utility and the other contracting entity as defined by ORS 757.015 or ORS 757.490;
- (d) The pecuniary interest, directly or indirectly, of any officer or director who is a party to the contract;
- (e) A description of the goods or services to be provided, the costs incurred in providing those goods or services, the market value of the goods or services if different from the costs, and the method or methods proposed for pricing those goods or services;
- (f) An estimate of the amount the waterate-regulated utility will receive annually for the goods or services and the accounts in which it will record the payments;
- (g) The reasons relied upon by the waterate-regulated utility for providing the proposed goods or services and the benefits, if any, ~~water~~-utility customers and the general public will derive from the provision of goods or services;
- (h) A copy of the contract or agreement between the waterate-regulated utility and the contracting entity that is the subject of this filing; and
- (i) Copies of all resolutions of directors of the waterate-regulated utility authorizing the proposed transactions and, if approval of the waterate-regulated utility's stockholders was obtained, copies of the resolutions approved by the stockholders.

(4) This rule shall not apply to waterate-regulated utilities seeking to provide or contracting to provide, directly or indirectly, to any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1):

- (a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210; or
- (b) Any service provided under a rate or schedule of rates that:
 - (A) Has been filed with an agency charged with the regulation of waterate-regulated utilities;
 - (B) Has been approved as just and reasonable or in compliance with another comparable standard; and
 - (C) Is available to a broad class of customers.

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

Stats. Implemented: ORS 756.040 & 757.005 through 757.490

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0737

Timeliness of Applications Made Under OAR 860-036-0730 and Filings Made Under OAR 860-036-0735

An application made under OAR 860-036-0730 and a filing made under OAR 860-036-0735 shall occur no later than 90 days after the execution of the contract giving rise to the application or filing. The contract shall be deemed to be executed on the

date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

Stat. Auth.: ORS Ch. 183 & 756
Stat. Implemented: ORS 756.040
Hist.: PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-036-0738

Applications by a Rate-Regulated Water Utility for Waiver of Requirements Under OARs 860-036-0730 and 860-036-0735

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

(2) Upon petition by a rate-regulated water utility and approval by the Commission for good cause, the requirements of OARs 860-036-0730 and 860-036-0735 may be waived for individual transactions or classes of transactions. As a general guideline, in the absence of circumstances demonstrating in advance that the transaction or transactions will be fair and reasonable and not contrary to the public interest, transactions exceeding 0.1 percent of the previous calendar year's Oregon utility operating revenues will not qualify for waiver.

Stat. Auth.: ORS Ch. 183 & 756
Stat. Implemented: ORS 756.040
Hist: PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0739

Allocation of Costs by a Rate-Regulated Water Utility

(1) As used in this rule:

(a) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a **waterate-regulated** utility;

(b) "Affiliate transaction" means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a **waterate-regulated** utility and accounts for nonregulated activities of a separate entity that is either an affiliated interest or another company in which the **waterate-regulated** utility owns a controlling interest. The term also means a transfer of assets, a sale of supplies, or a sale of services between accounts for the regulated and nonregulated activities of a single **waterate-regulated** utility;

(c) "Asset" means any tangible or intangible property of a **waterate-regulated** utility or other right, entitlement, business opportunity, or other thing of value to which a **waterate-regulated** utility holds claim that is recorded or should be recorded as a capital expenditure in the **waterate-regulated** utility's financial statements. All **waterate-regulated** utility tangible or intangible property, rights, entitlements, business opportunities and things of value should be considered assets, services, or supplies;

(d) "Cost" means fully distributed cost, including the **waterate-regulated** utility's authorized rate of return and all overheads;

(e) "Fair market value" means the potential sales price that could be obtained by selling an asset in an arm's-length transaction to a nonaffiliated entity, as determined by commonly accepted valuation principles;

(f) "Market rate" means the lowest price that is available from nonaffiliated suppliers for comparable services or supplies;

(g) "Net book value" means original cost less accumulated depreciation;

(h) "Nonregulated activity" means an activity that is not a regulated activity of the **waterate-regulated** utility as defined in subsection (1)(i) of this rule;

(i) "Regulated activity" means a Commission regulated activity that is provided by a **waterate-regulated** utility directly or indirectly relating to the general operations of the **waterate-regulated** utility such as production, transmission, delivery, or furnishing of water unless the Commission has determined the activity to be exempt from regulation;

(j) "Services" means labor-related activities including, but not limited to advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, and legal. All **waterate-regulated** utility tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies; and

(k) "Supplies" means any tangible or intangible property of a **waterate-regulated** utility or other thing of value to which a **waterate-regulated** utility holds claim that is recorded or should be recorded as an operating expense in the **waterate-regulated** utility's financial statements. All **waterate-regulated** utility tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies.

(2) For purposes of this rule, regulated and nonregulated activities of a **waterate-regulated** utility shall be accounted for in accordance with the Uniform System of Accounts for Water Utilities published by the National Association of Regulatory Utility Commissioners as modified by the Commission.

(3) When a **waterate-regulated** utility is conducting an affiliate interest transaction, as defined in this rule, the **waterate-regulated** utility must use the following cost allocation methods:

(a) When an asset is transferred to a **waterate-regulated** utility from an affiliate, the transfer shall be recorded in the **waterate-regulated** utility's accounts at the lower of net book value or fair market value.

(b) When an asset is transferred from a **waterate-regulated** utility to an affiliate, the transfer shall be recorded in the **waterate-regulated** utility's accounts at the tariff rate if an appropriate tariff is on file with the Commission. If no tariff is applicable, proceeds from the transfer shall be recorded in the **waterate-regulated** utility's accounts at the higher of net book value or fair market value.

(c) When an asset is transferred from a **waterate-regulated** utility to an affiliate at a fair market value that is greater than net book value, the difference shall be considered a gain to the **waterate-regulated** utility. The **waterate-regulated** utility shall record the gain so the Commission can determine the proper disposition of the gain in a subsequent rate proceeding.

(d) When services or supplies are sold by a **waterate-regulated** utility to an affiliate, sales shall be recorded in the **waterate-regulated** utility's accounts at tariffed rates if an applicable tariff is on file with the Commission. Tariffed rates shall be established

whenever possible. If services or supplies are not sold pursuant to a tariff, sales shall be recorded in the **waterate-regulated** utility's accounts at the **waterate-regulated** utility's cost or the market rate, whichever is higher.

(e) When services or supplies are sold to a **waterate-regulated** utility by an affiliate, sales shall be recorded in the **waterate-regulated** utility's accounts at the affiliate's cost or the market rate, whichever is lower. The affiliate's cost shall be calculated using the **waterate-regulated** utility's most recently authorized rate of return.

(f) Income taxes shall be calculated for the **waterate-regulated** utility on a standalone basis for both ratemaking purposes and regulatory reporting. When income taxes are determined on a consolidated basis, the **waterate-regulated** utility shall record income tax expense as if it were determined for the **waterate-regulated** utility separately for all time periods.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.490 & 757.495

Hist.: PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

Special Contracts

860-036-0740

Rate-Regulated Water Utility Special Contracts

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

(2) Rate-regulated water utilities within Oregon 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 waterate-regulated~~ utilities are in legal effect tariffs and are subject to supervision, regulation, and control as such.

(3) All special contracts designating service to be furnished at rates other than those shown in tariffs currently on file with the Commission shall be classified as rate schedules. True and certified copies shall be filed subject to review and approval pursuant to the requirements of OARs 860-036-0605 through 860-036-0645.

(4) Special contracts shall be filed with the Commission not less than 30 days prior to the proposed effective date of the contract and shall become effective according to its terms the thirty-first day from the date of its filing unless earlier approved, suspended, or rejected by the Commission.

(5) Each special contract filed with the Commission shall be accompanied by documentation necessary to show that the terms are fair, just, and reasonable to the remaining customers, including but not limited to:

(a) A statement summarizing the basis of the terms of the contract and an explanation of the deviation from the tariffs on file;

(b) An explanation of all cost computations involved; and

(c) A statement indicating the basis for use of a contract rather than a filed tariff for the specific service involved.

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

Stats. Implemented: ORS 756.040 & 757.007

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)

Fees, Taxes, and Other Assessments

860-036-0745

Relating to City Fees, Taxes, and Other Assessments

(1) The aggregate amount of all business or occupation taxes, licenses, franchise or operating permit fees, or other similar exactions imposed upon **waterate-regulated** utilities by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, which does not exceed 3.5 percent, applied to gross revenues as defined herein, shall be allowed as operating expenses of **such waterate-regulated** utilities for rate-making purposes and shall not be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" means revenues received from utility operations within the city less related net uncollectibles. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the **waterate-regulated** utility purchasing the service is not the ultimate customer.

(3) Permit fees or similar charges for street opening, installations, construction, and the like to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers, and the value of any **waterate-regulated** utility services or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels herein set forth. Any such services may be continued within the same category or type of use. The value of any additional category of **waterate-regulated** utility service or use of facilities provided after November 6, 1967, to a city without charge shall be considered in computing the percentage levels herein set forth.

(4) This rule shall not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of service rendered by a **waterate-regulated** utility under such franchises shall not be itemized or billed separately. When compensation different from the percentage levels in section (1) of this rule is specified in a franchise existing on November 6, 1967, such compensation shall continue to be treated by the affected **waterate-regulated** utility as an operating expense during the balance of the term of such franchise. Any tax, fee, or other exaction set forth in section (1) of this rule, unilaterally imposed or increased by any city during the unexpired term of a franchise existing on November 6, 1967, and containing a provision for compensation for use and occupancy of streets and public ways, shall be charged pro rata to local users as herein provided.

(5) Except as provided in section (4) of this rule, to the extent any city tax, fee, or other exaction referred to in section (1) of this rule exceeds the percentage levels allowable as operating expenses in section (1) of this rule, such excess amount shall be charged pro rata to **waterate-regulated** utility customers within said city and shall be separately stated on the regular billings to such customers.

(6) The percentage levels in section (1) of this rule may be changed if the Commission determines after such notice and hearing, as required by law, that fair and

reasonable compensation to a city or all cities should be fixed at a different level or that by law or the particular circumstances involved a different level should be established.

(7) The amount allowed as an operating expense may be described on customers' bills in a manner determined by the **waterate-regulated** utility.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 14-2003, f. & ef. 7-24-03 (Order No. 03-394)

860-036-0750

Relating to Local Government Fees, Taxes, and Other Assessments

(1) If any county in Oregon, other than a city-county, imposes upon a **waterate-regulated** utility any new taxes or license, franchise, or operating permit fees, or increases any such taxes or fees, the **waterate-regulated** utility required to pay such taxes or fees shall collect from its customers within the county imposing such taxes or fees the amount of the taxes or fees, or the amount of increase in such taxes or fees. However, if the taxes or fees cover the operations of a **waterate-regulated** utility in only a portion of a county, then the affected **waterate-regulated** utility shall recover the amount of the taxes or fees or increase in the amount thereof from customers in the portion of the county that is subject to the taxes or fees. "Taxes," as used in this rule, means sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, fees, or charges other than ad valorem taxes.

(2) The amount collected from each **waterate-regulated** utility customer pursuant to section (1) of this rule shall be separately stated and identified in all customer billings.

(3) This rule applies to new or increased taxes imposed on and after December 16, 1971, including new or increased taxes imposed retroactively after that date.

(4) If any county, **waterate-regulated** utility, or customer affected by this rule deems the rule's application in any instance to be unjust or unreasonable, it may apply for a waiver of this rule by petition to the Commission, setting forth the reasons why the rule should not apply.

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

Stats. Implemented: ORS 756.040 & 757.110

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

Accounting Records

860-036-0755

Accounting for Directors' Fees

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

(2) Directors' fees paid by a rate-regulated water utility to members of its board of directors, who are also paid as officers of the **rate-regulated** utility, shall not be recognized as a charge to operating expenses in Oregon.

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

Stats. Implemented: ORS 756.040 & 757.110

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0756

Accounting for Contributions in Aid of Construction (CIAC)

(1) Each waterate-regulated utility shall provide an accounting of CIAC upon Commission request and in its annual reports and in its rate applications. CIAC accounting shall include contributions in any form including, but not limited to, cash or contributed utility plant. CIAC record keeping will identify the contributed plant, original date of installation, and original cost.

(2) Each waterate-regulated utility must keep a record as described in section (1) of this rule and record CIAC on a separate plant and depreciation schedule.

(3) As of November 2002, CIAC and its resulting depreciation will be generally excluded from water utility ratemaking. CIAC will be separated from utility plant and accounted for and depreciated on a separate schedule outside the ratemaking process. CIAC may be included in rates in such instances where the rate-regulated utility has a CIAC amortization plan approved by the Commission.

(4) In cases where previous CIAC depreciation was included in rates and removing it all at once would cause irreparable harm to the waterate-regulated utility, the Commission may systematically remove CIAC from rates over a period of time set forth in a schedule to be approved by the Commission.

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

Stats. Implemented: ORS 756.040 & 757.105, 757.120, 757.125 & 757.135

Hist.: PUC 9-2003, f. & ef. 5-15-03 (Order No. 03-287)

860-036-0757

Accounting for Construction Work In Progress (CWIP)

The Commission may allow into rates the costs of a specific capital improvement project in progress if:

(1) The water utility uses the additional revenues solely for the purpose of completing the capital improvement project;

(2) The waterate-regulated utility demonstrates that its access to capital is limited and it is in the public interest to provide funding for the capital improvement through rates; and

(3) Such costs are approved through tariffs filed with the Commission.

Stat. Auth.: ORS 183, 756, 757 & Ch. 202, OL 2003

Stats. Implemented: ORS 756.040, 757.355 & Ch. 202, OL 2003

Hist.: PUC 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0760

Preservation and Destruction of Records

(1) The Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, April 1974, revised May 1985, published by the National Association of Regulatory Utility Commissioners is hereby adopted as modified and prescribed by the Commission for all water utilities with the following exceptions:

(a) Operations and Maintenance, Records of Auxiliary, and other Operations. The Commission prescribes that records of operations other than water utility operations be retained for the same periods as prescribed for similar records pertaining to water utility operations;

(b) Revenue Accounting and Collecting. The Commission prescribes that contracts and card files or other records thereof with customers for water ~~utility~~-service be retained for one year after the expiration or cancellation of the agreement.

[Publications: The publications referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

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

Stats. Implemented: ORS 756.040 & 757.105

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); 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)

860-036-0765

Uniform System of Accounts for Water Utilities — Class A, B, and C

(1) Class A. The Uniform System of Accounts for Class A Water Utilities, 1996, published by the National Association of Regulatory Utility Commissioners, is hereby adopted **as modified** and prescribed by the Commission for all Class A Water Utilities.

(2) Class B. The Uniform System of Accounts for Class B Water Utilities, 1996, published by the National Association of Regulatory Utility Commissioners, is hereby adopted **as modified** and prescribed by the Commission for all Class B Water Utilities.

(3) Class C. The Uniform System of Accounts for Class C Water Utilities, 1996, published by the National Association of Regulatory Utility Commissioners, is hereby adopted **as modified** and prescribed by the Commission for all Class C Water Utilities.

[Publications: The publications referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

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

Stats. Implemented: ORS 756.040 & 757.105, 757.120, 757.125 & 757.135

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 177, f. 12-2-76, ef. 1-1-77 (Order No. 76-832); PUC 5-1985, f. & ef. 4-24-85 (Order No. 85-355); PUC 5-1992, f. & ef. 2-14-92 (Order No. 92-246); Renumbered from 860-027-0060, PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)

Annual Reports

860-036-0805

Budget of Expenditures

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

(2) Each rate-regulated water utility operating within Oregon and having gross operating revenues of \$5200,000 or more per annum is required to file with the Commission on or before the first day of November of each year, a copy of its proposed Budget of Expenditures, on forms approved by the Commission.

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

Stats. Implemented: ORS 756.040, 756.105 & 757.105

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)

860-036-0810

~~New Construction Budget~~

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

~~(2) Each rate-regulated water utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file annually on or before December 31, on forms approved by the Commission, information on new construction, extensions, and additions to the property of the water utility.~~

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

~~Stats. Implemented: ORS 756.040, 756.105 & 757.105~~

~~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. 2-26-02 (Order No. 02-116); PUC 12-2002, f. & ef 3-12-02 (Order No. 02-144)~~

860-036-0815

Annual Reports

All waterate-regulated water utilities shall submit annual reports to the Commission in the following manner:

(1) Each rate-regulated water utility shall submit a financial Result of Operations annual report using the most current form approved by the Commission and shall submit such report on or before April 1.

~~(2) Each water utility shall submit a Records and Accounts annual report using the most current form approved by the Commission and shall submit such report on or before April 1.~~

~~(3) By June 1, each rate-regulated water utilities shall submit on forms approved and provided by the Commission, a report of all affiliated interest, intercompany, and intracompany transactions that occurred during the period from January 1 through December 31 of the immediately preceding year.~~

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

Stats. Implemented: ORS 756.040, 756.105, 757.120, 757.125 & 757.135

Hist: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 8-2001, f. & ef. 3-21-01 (Order No. 01-247); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

860-036-0820

Use of Deferred Accounting as It Applies to Rate-Regulated Water Utilities

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

(2) As used in this rule:

(a) "Deferred Accounting" means the recording in a balance sheet account, with Commission authorization under ORS 757.259, of a current expense or revenue associated with current service for later reflection in rates;

(b) "Amortization" means the inclusion in rates of an amount that has been deferred under ORS 757.259 and is designed to eliminate, over time, the balance in an authorized deferred account. Amortization does not include the normal positive and negative fluctuations in a balancing account.

(3) Expiration: Any authorization to use a deferred account shall expire 12 months from the date the deferral is authorized to begin. If a deferral under ORS 757.259 is reauthorized, the reauthorization shall expire 12 months from the date the reauthorization becomes effective.

(4) Contents of Application: Application for deferred accounting, by a **waterate-regulated** utility, a ratepayer, or other applicant shall include:

(a) A description of the **waterate-regulated** utility expense or revenue for which deferred accounting is requested;

(b) The reason(s) deferred accounting is being requested and a reference to the section(s) of ORS 757.259 under which deferral can be authorized;

(c) The account proposed for recording of the amounts to be deferred and the account that will be used for recording the amounts in the absence of approval of deferred accounting;

(d) An estimate of the amounts to be recorded in the deferred account for the 12-month period subsequent to the application; and

(e) A copy of the notice of application for deferred accounting and list of persons served with the notice.

(5) Reauthorization: Application for reauthorization to use a deferred account shall be made not more than 60 days prior to the expiration of the previous authorization for the deferral. Application for reauthorization shall include the requirements set forth in subsections (4)(a) through (4)(e) of this rule and, in addition, the following information:

(a) A description and explanation of the entries in the deferred account to the date of the application for reauthorization; and

(b) The reason(s) for continuation of deferred accounting.

(6) Exceptions: Authorization under ORS 757.259 to use a deferred account is necessary only to add amounts to an account, not to retain an existing account balance and not to amortize amounts that have been entered in an account under an authorization by the Commission. Interest, once authorized to accrue on unamortized balances in an

account, may be added to the account without further authorization by the Commission, even though authorization to add other amounts to an account has expired.

(7) Notice of Application: The applicant shall serve a notice of application upon all persons who were parties in the **waterate-regulated** utility's last general rate case. If the applicant is other than a rate-regulated ~~water~~ utility, the applicant shall serve a copy of the application upon the affected **waterate-regulated** utility. A notice of application shall include:

(a) A statement that the applicant has applied to the Commission for authorization to use deferred accounting; or for an order requiring that deferred accounting be used by a rate-regulated water utility;

(b) A description of the **waterate-regulated** utility expense or revenue for which deferred accounting is requested;

(c) The manner in which an interested person can obtain a copy of the application;

(d) A statement that any person may submit to the Commission written comment on the application by the date set forth in the notice, which date can be no sooner than 25 days from the date of the application; and

(e) A statement that the granting of the application will not authorize a change in rates, but will permit the Commission to consider allowing such deferred amounts in rates in a subsequent proceeding.

(8) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's public meetings.

(9) Reply comments: Within 10 days of the due date for comments on the application from interested persons, the applicant and the **waterate-regulated** utility, if the **waterate-regulated** utility is not the applicant, may file reply comments with the Commission. Those comments shall be served on persons who have filed the initial comments on the application.

(10) Amortization: Amortization in rates of a deferred amount shall only be allowed in a proceeding, whether initiated by the **waterate-regulated** utility or another party. The Commission may authorize amortization of such amounts only for utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the **waterate-regulated** utility shall provide the Commission with its financial results for a 12-month period or for multiple 12-month periods to allow the Commission to perform an earnings review. The period selected for the earnings review will encompass all or part of the period during which the deferral took place or must be reasonably representative of the period of deferral. Unless authorized by the Commission to do otherwise:

(a) A **waterate-regulated** utility shall request that amortizations of deferred accounts commence no later than one year from the date that deferrals cease for that particular account; and

(b) In the case of ongoing balancing accounts, the **waterate-regulated** utility shall request amortization at least annually, unless amortization of the balancing account is then in effect.

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

Stats. Implemented: ORS 756.040, 756.105 & 757.259

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)

Service Territory Allocation

860-036-0900

Service Territory Allocation

(1) For purposes of service territory allocation OAR 860-036-0900 through OAR 860-036-0930:

(a) "Allocated territory" means an approved area with boundaries set out in a Commission order granting an application for the allocation of service territory.

(b) "Community water supply system" means a water source and distribution system, whether publicly or privately owned, that serves more than three residences or other users to whom water is provided for public consumption, including but not limited to schools, farm labor camps, industrial establishments, recreational facilities, restaurants, motels, mobile home parks, or group care homes.

(c) "Utility service" means service provided by a water utility as defined in subsection (1)(d) of this rule, any equipment, plant, or facility for the distribution of water to users through a connected and interrelated distribution system. "Utility service" does not include service provided through or by the use of any equipment, plant, or facilities solely for the production and sale of water to other water utilities.

(d) "Water utility" as used in OAR 860-036-0900 through OAR 860-036-0930 means any water system that meets the definition of a water utility in ORS 758.300.

(2) The requirements of this rule apply to all water utilities.

(3) A water utility providing water service may make application to the Commission, on forms provided by the Commission, for an order designating the territory it serves adequately and exclusively as its exclusive service territory.

(4) The Commission shall recognize the exclusive service territory of a water utility that has an existing franchise as of October 23, 1999, with a municipality. A water utility may apply to the Commission to designate exclusive service territory area other than that identified in the franchise agreement, if the water utility is currently providing adequate and exclusive service to areas identified in the franchise agreement.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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 8-2002, f. & ef. 2-26-2002 (Order No. 02-116); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592); PUC 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0905

Original Application Requirements

(1) A completed application requesting an exclusive service territory for area the water utility is currently serving shall include the following:

(a) The water utility's complete name, address, and telephone number;

- (b) The nature of the water utility's business organization, that is, corporation, partnership, limited partnership, sole proprietorship, association, etc.;
 - (c) The name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the water utility;
 - (d) A statement showing the financial and technical ability of the applicant to provide service to the current territory;
 - (e) A detailed map or maps of the water system showing the existing lines and facilities;
 - (f) A detailed map or maps identifying the boundaries of the water utility's current service territory marked with a fine-tipped RED pen. The map must identify the map source and the date of the map in the upper left corner of the map. Appropriate maps may include: a GIS map, city or county map, tax lot map, plat map, or telephone book map. The map must be of sufficient scale and detail to identify the utility's current service territory boundaries and enable correlation with a written description of such territory;
 - (g) A complete and accurate written description of the water utility's current service territory. The description may be a legal description or may reference township, range, and section; interstates, state roads, and local streets; rivers, streams, and major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;
 - (h) Evidence that the water utility owns the land upon which the water utility facilities are located, or a copy of an agreement that provides for the continued use of the land, such as an easement or 99-year lease;
 - (i) A schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the current service territory is fully occupied; and
 - (j) The name and address of the nearest municipality, county, any known planning councils, any known governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the current service territory.
- (2) The application may also include any adjacent territory that the water utility plans to serve within six months following the date of the application:
- (a) If another water utility or community water supply system is not serving such territory; and
 - (b) If the applicant demonstrates that it is more economical and feasible to serve the area by an extension of the applicant's existing facilities than by an extension of the facilities of another water utility or community water supply system. Application requirements for expanded service territory are contained in OAR 860-036-0915.
- (3) Within 15 days of making its proposed service territory filing pursuant to OAR 860-036-0906, a water utility must provide written notice to its customers by mail or hand delivery. The notice shall include the following information:
- (a) Name, address, and telephone number of water utility;
 - (b) The purpose of the notice;
 - (c) An accurate and detailed written description of the territory applied for;
 - (d) Filing date;
 - (e) A statement that customers may file a protest with the Commission's Administrative Hearings Division; and

(f) The Commission's toll-free telephone number, TTY number, and mailing and location addresses.

(4) The water utility's application to the Commission must include a copy of the notice to customers and a customer mailing list.

(5) In reviewing a completed application for current exclusive service territory, the Commission shall consider the applicant's ability to provide adequate and exclusive service to its existing customers which may include but is not limited to, financial resources, technical ability, customer service history, physical facilities, system capacity, revenue and cost studies, and system compliance with the Oregon Health Division's water rules and regulations.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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 13-2002, f & ef. 3-26-02 (Order No. 02-179); PUC 18-2003, f. & ef. 10-6-03 (Order No. 03-592); PUC 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0910

Commission Notice and Procedure

(1) Within 30 days of receipt of a completed service territory application, the Commission shall give written notice to any municipality, county, planning council, and governmental authority known to have a concern with the application, and to all known water utilities and community water supply systems in the areas adjacent to the proposed area described in the application.

(2) The Commission shall publish notice of the filing in a newspaper or newspapers of general circulation in the proposed territory at least once weekly for two consecutive weeks.

(3) Any objections to the application must be filed with the Commission no later than 30 days after the last date that the notice was mailed or published, whichever is later.

(4) The Commission may, on its own motion, hold a hearing on the application; however, the Commission must hold a hearing on the application if a customer of the water utility requests a hearing on the application within 30 days after the final publication of notice as required in section (2) of this rule.

(5) If a hearing is scheduled, the Commission shall give notice of the hearing, setting the time, date, and place of hearing. If the hearing is by reason of a customer's request, the Commission shall give notice of the hearing within 30 days after the request is received by the Commission. The hearing shall be held at a place within or conveniently accessible to the area described in the application.

(6) The Commission shall enter an order granting or denying an application for an exclusive service territory under OAR 860-036-0900. The Commission may grant an application subject to such conditions and limitations as the Commission deems appropriate.

(7) The applicable provisions of ORS 756.500 through 756.610 shall govern the conduct of hearings under this section and any appeal of the Commission's order.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0915

Filing an Application to Expand Exclusive Service Territory

(1) A water utility may apply to expand its service territory to serve an area not currently being provided water service. It shall file an expanded service territory application with the Commission.

(2) Upon application by the water utility or by the Commission's own motion, an approved service territory may be expanded to include unserved areas.

(3) In reviewing a completed application for an expanded exclusive service territory, the Commission shall consider the applicant's ability to adequately and exclusively provide service to the expanded territory, which may include but is not limited to, financial resources, technical ability, physical facilities, customer demand, system capacity, revenue and cost studies, regional planning, environmental impact, customer service history, impact on existing customers, compliance with the Oregon Health Division's water rules and regulations, economic and feasibility studies, and availability of alternate service.

(4) Notice and hearing of the proposed expansion shall be given as provided in OAR 860-036-0910.

(5) The application must include:

(a) The water utility's complete name and address;

(b) The nature of the utility's business organization, that is, corporation, partnership, limited partnership, sole proprietorship, association, etc.;

(c) The name and address of any other water utility or community water supply system that could potentially provide water service within the proposed expanded territory;

(d) The name and address of all corporate officers, directors, partners, or any other person owning an interest in the utility;

(e) The name and address of the nearest municipality, county, any known planning councils, any known governmental authorities that may have a concern with the application, and all known water utilities and community water supply systems in the general area of the proposed expanded service territory;

(f) A map identifying the boundaries of the proposed expanded service territory (currently unserved) marked with a fine-tipped BLUE pen. Appropriate maps may include: a GIS map, city or county map, tax lot map, plat map, or telephone book map. The map must be of sufficient scale and detail to identify the expanded service territory boundaries and enable correlation with the description of the proposed expanded territory;

(g) A complete and accurate written description of the proposed expanded territory. The description may reference township, range, and section; interstates, state roads, and local streets; rivers, streams, and major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;

- (h) The total projected number of customers to be served in the proposed expanded territory by meter size and customer class, that is, single family homes, mobile homes, duplexes, golf course clubhouse, commercial, etc.;
- (i) The estimated date applicant plans to begin providing service to customers in the proposed expanded territory;
- (j) The estimated flat rate or base and usage rate structure to be utilized, unless an alternative rate structure is supported by the applicant and authorized by the Commission;
- (k) A cost study including customer growth projections supporting the proposed water service rates and charges;
- (l) A schedule showing by account the projected operating expenses of the water system to serve the expanded service territory when 100 percent of the system is being utilized;
- (m) A schedule showing the projected capital structure including the methods of financing the construction and operation of the utility until the utility reaches 100 percent of the design capacity of the system;
- (n) A statement describing the need for water service in the proposed expanded service territory;
- (o) Evidence demonstrating adequate existing or proposed capacities of the system and facilities to serve the proposed expanded territory in terms of estimated average daily customer demand, customer peak demand, and daily pumping capacity per water source in gallons or cubic feet. If development will be in phases, separate this information by phases;
- (p) A written description of the type of water treatment required, if necessary;
- (q) A schedule showing the projected cost of the proposed system(s) by accounts. If the system is to be built in phases, show information for each phase individually;
- (r) A list of all entities, including affiliates, upon which the applicant is relying to provide funding to the water utility for capital improvement, and an explanation of the manner and amount of such funding, including their financial statements and a copy of all contracts or agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility;
- (s) Financial statements demonstrating applicant's financial capability to provide service;
- (t) A statement showing applicant's technical ability or capacity to procure technical skill necessary to provide service;
- (u) A statement describing any impact the expansion of service territory may have on existing customers.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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 24-2003 (Temp), f. & ef. 12-10-03 (Order No. 03-715); PUC 7-2004, f. & ef. 4-9-04 (Order No. 04-154)

860-036-0920

Reduction of Approved Service Territory Boundaries Procedure

(1) Upon petition by the water utility or a customer of the utility for an order, or by the Commission on its own motion, an approved service territory may be reduced upon a showing that the water utility is not providing adequate service to its customers or does not have the capacity to serve the designated exclusive service territory.

(2) Notice and procedure of the proposed decrease of an approved service territory shall be given as provided in ORS 860-036-0910.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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)

860-036-0925

Transfer of Approved Service Territory

(1) Except as provided in paragraph (6) of this rule, the rights acquired by an approved service territory may be transferred only with the approval of the Commission after a finding that the assignment or transfer is in the public interest.

(2) Service territory approved by Commission order shall not be altered solely as the result of a change in ownership or form of ownership.

(3) Upon the death of an applicant under an approved service territory, the executor or administrator shall continue operating the water utility for transferring such rights for a period not to exceed two years.

(4) Applicants must submit to the Commission an application to transfer an approved service territory. The application shall include:

(a) The application requirements as provided in OAR 860-036-0915;

(b) Evidence demonstrating that the transfer of the service territory is in the public interest.

(5) Notice and procedure of the proposed transfer shall be given as provided in ORS 860-036-0910.

(6) Commission approval is not required if at least 75 percent of the affected customers agree to the proposed transfer.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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 13-2002, f & ef. 3-26-02 (Order No. 02-179)

860-036-0930

Exclusive Obligation

(1) The approved service territory of a water utility shall be exclusive. A water utility or community water supply system shall not provide water utility service within the approved exclusive service territory of another water utility without the express approval of the Commission.

(2) A water utility shall serve **only all** customers within its approved exclusive service territory and shall serve all applicants **requesting for** service within such territory **unless otherwise authorized by the Commission**. The water utility may refuse service only as provided in OAR 860-036-0080.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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 13-2002, f & ef. 3-26-02 (Order No. 02-179)