

ORDER NO. 02-179

ENTERED MAR 22 2002

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BEFORE THE PUBLIC UTILITY COMMISSION**

OF OREGON

AR 436

In the Matter of a Rulemaking)	
Proceeding to Make Housekeeping)	
Revisions to the Safety and Territory)	ORDER
Allocation Rules in Oregon)	
Administrative Rules Chapter 860.)	

DISPOSITION: RULES AMENDED; RULES ADOPTED

At its public meeting on December 18, 2001, the Public Utility Commission (Commission) opened a rulemaking proceeding (AR 436) to consider housekeeping changes to the Commission's Safety and Territory Allocation rules for utilities and telecommunications cooperatives.

Notice of the Proposed Rulemaking was filed with the Secretary of State on January 14, 2002, and notice was subsequently provided to all interested persons on the Commission's rule changes list. The notice set out the amendments proposed by Commission Staff, and included a Statement of Need, Statutory Authority, Principal Documents Relied Upon, and Fiscal and Economic Impact. The notice was published in the February 2002 *Oregon Bulletin*.

There were no written comments nor was there a request for a public hearing as a result of the notice.

Subsequent to filing the Notice of Proposed Rulemaking with the Secretary of State, Staff moved OARs 860-036-0305 and 860-036-0900 from this rulemaking to docket AR 425; and the Commission adopted the proposed changes to those rules on February 19, 2002. Staff's proposal in AR 436 would (a) update the definitions and terms used in Oregon Administrative Rules (OAR) Chapter 860, Divisions 025 and 034 to conform to terms used in other rules and divisions; (b) add OARs 860-025-0050 and 860-034-0495 as cross-references to OAR 860-032-0220; and (c) make miscellaneous grammar and other housekeeping revisions.

Staff's proposed revisions are not intended to change the meanings or applications of any rules.

On March 21, 2002, the Commission adopted Staff's proposed amendments as set forth in Appendix A.

ORDER

IT IS ORDERED that:

1. The Oregon Administrative Rules attached as Appendix A and made part of this order are adopted.
2. The rules shall become effective upon filing with the Secretary of State.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A person may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

860-023-0005

Maintenance of Plant and Equipment by Energy Utilities and Large Telecommunications Utilities

Each energy and large telecommunications utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each energy and large telecommunications utility shall inspect its plant distribution system and facilities in such manner and with such frequency as may be needed to ensure a reasonably complete knowledge about their condition and adequacy at all times. ~~Such record shall be kept~~ **Each energy utility and large telecommunications utility shall keep such records** of the conditions found as the utility considers necessary to properly maintain its system, unless in special cases the Commission specifies a more complete record.

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

Stat. Implemented: ORS 757.020 & 759.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-025-0000

Exemptions Applicability of Division 025

The rules contained in this Division ~~do not~~ apply to: **electric utilities, gas utilities, and large telecommunications utilities, as defined in OAR 860-025-0001.**

— ~~(1) Telecommunications utilities partially exempt from regulation under ORS 759.040 (see Division 034 requirements).~~

— ~~(2) Unincorporated associations and cooperative corporations that only provide telecommunications services (see Division 034 requirements).~~

— ~~(3) Water utilities (see Division 036 requirements).~~

— ~~(4) Water/wastewater utilities (see Division 037 requirements).~~

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

Stats. Implemented: ORS 756.040, 759.030, 759.040 & ~~759.045~~ **759.500 through 759.595**

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 14-1997, f. & ef. 11-20-97 (Order No. 97-442); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 14-2000, f. & ef. 8-23-00 (Order No. 00-458)

860-025-0001

Definitions for Territory Allocated to Electric Utilities, Gas Utilities, and Large Telecommunications Utilities

For purposes of this Division, except when a different scope is explicitly stated:

(1) ~~“Energy~~ **Electric utility**” means a public utility as defined in ORS 757.005 ~~except a water utility that supplies electricity;~~

(2) **“Gas utility” means a public utility as defined in ORS 757.005 that supplies natural gas.**

(23) **“Large Ttelecommunications utility” has the meaning means any telecommunications utility** as defined in ORS 759.005, ~~unless it that is not~~ partially exempt from regulation under ORS 759.040; ~~and.~~

(34) **“Utility” means all energy and telecommunications utilities, as defined in sections (1) and (2) of this rule. “Utility service” means utility service as defined for electric and gas utilities in ORS 758.400(3) and telecommunications utility service as defined in ORS 759.500(3).**

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

Stats. Implemented: ORS 756.040, ~~757.005, 758.400, &~~ 759.005 ~~&~~ **759.500**

Hist.: PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-025-0010

Applications for Approval of Contracts to Avoid or Eliminate Duplicate Utility Service for Electric Utilities, Gas Utilities, and Large Telecommunications Utilities

~~Applications~~ **An application** for a Commission order under ORS 758.410 ~~or~~ **759.510** shall contain the following:

- (1) A copy of the contract.
- (2) A map or maps, drawn to appropriate scale, showing the general location and boundaries of the applicant’s service area.
- (3) A map or maps, drawn to appropriate scale, showing the location of customers who are being served by either or both of the parties, or who could be economically served by the then existing facilities of either party, or by reasonable and economic extensions thereto, who are covered by the contract.
- (4) A description by county, section lines, river, highway, road, street, or metes and bounds, where applicable and necessary, designating the boundaries of the territory to be served by each party to the contract. Such legal description of boundary lines may be drawn and described:
 - (a) To eliminate minor irregularities in the boundary of each party when to do so will include within each party’s territory only that unserved area which may be economically served by the then existing facilities of the respective parties or by reasonable and economic extensions thereto; and
 - (b) In the case of persons providing telecommunications utility service who entered into exchange boundary agreements before May 31, 1961, to define mutually exclusive exchange service areas, the area affected by such agreement may be described by reference to the exchange area map in that agreement. However, the applicant shall not be relieved by such reference from showing that it can economically serve the unserved areas within the exchange area map with its existing facilities or by a reasonable and economic extension thereto.
- (5) A description of the equipment and facilities of each party, which are the subject of sale, exchange, transfer, or lease pursuant to the contract and the consideration to be paid therefore.

(6) Facts showing that the contract will eliminate or avoid unnecessary duplicating facilities, and will promote the efficient and economic use and development and the safety of operation of the utility service systems of the parties to the contract, while providing adequate and reasonable service to all territories and customers affected thereby.

Stat. Auth.: ORS Ch. 183, 756, ~~&~~ 758 & 759

Stats. Implemented: ORS 758.400 through 758.475 & 759.500 through 759.595

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-025-0020

Applications for Allocation of Exclusively Served Territory for Electric Utilities, Gas Utilities, and Large Telecommunications Utilities

Applications ~~An application~~ under ORS 758.435 or ORS 759.535 for an order of the Commission to allocate territory to a person providing exclusive ~~electric, gas, or telecommunications~~ utility service in a territory shall contain the following information:

(1) A map or maps, drawn to appropriate scale, showing the general location and boundaries of the applicant's service area.

(2) A map or maps, drawn to appropriate scale, showing the location of applicant's customers and facilities in the vicinity of the boundaries of the territory applied for in sufficient detail to enable the Commission to determine the boundaries of that territory served exclusively by applicant.

(3) A description by county, section lines, river, highway, road, street, or metes and bounds, where applicable and necessary, of the boundaries of applicant's exclusive service area. Such map and legal description of boundary lines may be drawn and described ~~so as~~ to eliminate minor irregularities in the boundary.

(4) Facts showing that applicant is lawfully and in good faith providing exclusive ~~electric, gas, or telecommunications~~ utility service within the area described in the application and that no other person is providing a similar utility service within such territory.

(5) Such additional information as needed for a full understanding of the situation.

Stat. Auth.: ORS Ch. 183, 756, ~~&~~ 758 & 759

Stats. Implemented: ORS 758.400 through 758.475 & 759.500 through 759.595

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-025-0025

Applications for Allocation of Exclusively Served Territory and Adjacent Unserved Territory for Electric Utilities, Gas Utilities, and Large Telecommunications Utilities

~~Applications~~ **An application** under ORS 758.435 **or ORS 759.535**, for an order of the Commission to allocate territory to a person providing exclusive ~~electric, gas, or telecommunications~~ utility service in a territory and adjacent unserved territory shall contain the following information:

(1) The information required under OAR 860-025-0020.

(2) ~~Map~~ **A map or maps** similar to that required by OAR 860-025-0020(2) and description comparable to that required by OAR 860-025-0020(3), showing and describing the boundary of the adjacent unserved territory covered by the application.

(3) The names and addresses of all persons providing similar utility service in proximity to the unserved area applied for who may have an interest in or be affected by an approval or disapproval of the application.

(4) Facts showing that it is more economical and feasible to serve the adjacent unserved territory by an extension of the applicant's existing facilities than by an extension of the facilities of another person, including but not limited to the following:

(a) ~~Map~~ **A map or maps**, drawn to appropriate scale, showing location and capability of equipment, plant, or facilities including the capability, location, and route of proposed facilities, if any, which relate to the applicant's ability to extend utility service into the adjacent unserved area.

(b) Copies of such franchises or permits as the appropriate public authorities may require for extending service into the adjacent unserved area, or a statement that they will be filed at the hearing or a statement that no such authority is required by said public authorities.

(c) The kind or nature and extent of the need or demand, or reasonable anticipated need or demand, for utility service within the unserved area.

(d) The estimated construction, operating and related costs of and revenues from providing the proposed utility service within the unserved area.

(5) Such additional information as needed ~~to enable for~~ **for** a full understanding of the situation.

Stat. Auth.: ORS Ch. 183, 756, ~~&~~ 758 **& 759**

Stats. Implemented: ORS 758.400 through 758.475 **& 759.500 through 759.595**

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-025-0027

Application to Transfer Rights to Allocated Territory for Electric Utilities, Gas Utilities, and Large Telecommunications Utilities

(1) ~~Applications~~ **An application** under ORS 758.460 **or ORS 759.560** for an order of the Commission to approve the transfer of rights acquired by an allocation of territory

shall ~~comply with OAR 860-025-0005(2) and (3) and shall~~ contain the following information:

(a) A statement of the purposes for the transfer, the supporting reasons therefore, and a detailed explanation thereof justifying why the transfer will not be contrary to public interest.

(b) Copies of all written evidence and a statement of all oral understandings ~~compromising comprising~~ the agreement between the transferor and transferee covering the transfer of the territory described in the application and sought to be transferred.

(c) A map or maps, drawn to appropriate scale, showing the general location and boundaries of the allocated territory sought to be transferred and the transferor's and transferee's adjacent service areas.

(d) A map or maps, drawn to appropriate scale, showing:

(A) The number and, as practicable, the location of customers and equipment or facilities of the transferor with a detailed description of such equipment or facilities within the territory sought to be transferred; and

(B) The location of equipment or facilities of the transferor and transferee, with a detailed description of the same, which are in the territory immediately adjacent to that sought to be transferred and which are or will be interconnected therewith.

(e) A legal description, comparable to that required in OAR 860-025-0020(3), of the boundaries of the territory sought to be transferred.

(f) A legal description, comparable to that required in OAR 860-025-0020(3), of the resulting boundaries of the remaining allocated portion of the parcel of the transferor's territory where the territory sought to be transferred is only part of a parcel of transferor's allocated territory and a similar description of the resulting boundaries of the transferee's allocated territory where the territory sought to be transferred will be contiguous to a parcel of transferee's allocated territory.

(g) Copies of such franchises or permits, as the appropriate public authorities may require, authorizing the transferee to serve in the territory sought to be transferred, or evidence of the approval of the appropriate public authorities of the transfer to the transferee of the transferor's franchise or permit to serve the territory sought to be transferred.

(2) Applications under ORS 758.460 by an electric or utility for a Commission order approving the transfer of rights acquired by an allocation of territory, which would otherwise be subject to ORS 757.480 ~~or ORS 759.375~~, shall comply with OAR 860-027-0025.

(3) Applications under ORS 759.560 by a large telecommunications utility for a Commission order approving the transfer of rights acquired by an allocation of territory, which would otherwise be subject to ORS 759.375, shall comply with OAR 860-027-0025.

Stat. Auth.: ORS Ch. 183, 756, ~~&~~ 758 & 759

Stats. Implemented: ORS 758.400 through 758.475 & 759.500 through 759.595

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-025-0050

Application by an Unserved Person for Service from a Large Telecommunications Utility

An application under ORS 759.590 for an order of the Commission directing another telecommunications utility to provide local exchange service to an unserved person shall comply with OAR 860-032-0220.

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

Stats. Implemented: ORS 756.040, 759.580, 759.585, 759.590 & 759.595

Hist.: NEW

860-034-0400

Maps and Records of Small Telecommunications Utilities and Telecommunications Cooperatives

(1) Each **small telecommunications** utility and telecommunications cooperative shall keep on file current maps and records of the entire plant showing size, location, character, and date of installation of major plant items.

(2) Upon request, each **small telecommunications** utility and telecommunications cooperative shall file with the Commission an adequate description or maps to define the territory served. All maps and records, which the Commission may require the **small telecommunications** utility or telecommunications cooperative to file, shall be in a form satisfactory to the Commission.

Stat. Auth.: ORS Ch. 183, 756, 758 & 759

Stats. Implemented: ORS 756.040, 758.215 & 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0440

Applicability and Formal Requirements for Small Telecommunications Utilities and Telecommunications Cooperatives

(1) The rules contained in this division are auxiliary to and supplemental to the rules contained in divisions 011 through 014 of this chapter, Practice and Procedure, and all applications or petitions for approval of contracts or amendments thereto, allocations of territory, assignment or transfer of rights acquired pursuant to an allocation of territory, and all other pleadings filed with the Commission pursuant to ORS 759.500 to 759.595 inclusive, shall be governed by the rules in divisions 011 through 014 of this chapter, Practice and Procedure, except as provided in sections (2) and (3) of this rule.

(2) All applications and petitions shall contain the full and correct name and business address of the applicant or petitioner.

(3) An original and three conformed ~~copied~~ copies of all applications and petitions shall be filed with the Commission.

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

Stats. Implemented: ORS 759.045 & 759.500 through 759.675

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185)

860-034-0450

Applications for Approval of Contracts to Avoid or Eliminate Duplicate Utility Service for Small Telecommunications Utilities and Telecommunications Cooperatives

For purposes of this rule, “utility service” means telecommunications utility service as defined in ORS 759.500(3). ~~Applications~~ An application under ORS 759.500 through ORS 759.595 for an order of the Commission approving a contract authorized thereunder shall contain in addition to the contract, if not contained therein, the following information:

(1) A map or maps, to appropriate scale, showing the general location and boundaries of the respective applicant’s service areas.

(2) A map or maps, to appropriate scale, showing the location of customers who are being served by either or both of the parties, or who could be economically served by the then existing facilities of either party, or by reasonable and economic extensions thereto, who are covered by the contract.

(3) A description by county, section lines, river, highway, road, street, or metes and bounds, where applicable and necessary, designating the boundaries of the territory to be served by each party to the contract. Such legal description of boundary lines may be drawn and described:

(a) To eliminate minor irregularities in the boundary of each party when to do so will include within each party’s territory, only that unserved area which may be economically served by the then existing facilities of the respective parties or by reasonable and economic extensions thereto; and

(b) In the case of persons providing utility service who have entered into exchange boundary agreements before May 31, 1961, to define mutually exclusive exchange service areas, the area affected by such agreement may be described by reference to the exchange area map in that agreement. However, the applicant shall not be relieved by such reference from showing that it can economically serve the unserved areas within the exchange area map with its existing facilities or by a reasonable and economic extension thereto.

(4) A description of the equipment and facilities of each party, which are the subject of sale, exchange, transfer, or lease pursuant to the contract and the consideration to be paid therefore.

(5) Facts showing that the contract will eliminate or avoid unnecessary duplicating facilities, and will promote the efficient and economic use and development and the safety of operation of the utility service systems of the parties to the contract, while

providing adequate and reasonable service to all territories and customers affected thereby.

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

Stats. Implemented: ORS 756.040, 759.045 & 759.500 through 759.595

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-034-0460

Applications for Approval of Amendments to Contracts to Avoid or Eliminate Duplicate Utility Service for Small Telecommunications Utilities and Telecommunications Cooperatives

For purposes of this rule, “utility service” means telecommunications utility service as defined in ORS 759.500(3). ~~Applications~~ **An application** under ORS 759.530 for a Commission order approving an amendment to a contract approved pursuant to ORS 759.510 to ORS 759.520, inclusive, shall contain the amendatory contract and such information required by OAR 860-034-0450 as is pertinent to the Commission in making a decision thereon.

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

Stats. Implemented: ORS 756.040, 759.045 & 759.530

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0470

Applications for Allocation of Exclusively Served Territory by Small Telecommunications Utilities and Telecommunications Cooperatives

For purposes of this rule, “utility service” means telecommunications utility service as defined in ORS 759.500(3). ~~Applications~~ **An application** under ORS 759.535 for an order of the Commission to allocate territory to a person providing exclusive utility service in a territory shall contain the following information:

(1) A map **or maps, drawn** to appropriate scale, showing the general location and boundaries of the applicant’s service area.

(2) A map **or maps, drawn** to appropriate scale, showing the location of **the** applicant’s customers and facilities in the vicinity of the boundaries of the territory applied for in sufficient detail to enable the Commission to determine the boundaries of that territory served exclusively by applicant.

(3) A description by county, section lines, river, highway, road, street, or metes and bounds, where applicable and necessary, of the boundaries of applicant’s exclusive service area. Such map and legal description of boundary lines may be drawn and described ~~so as~~ to eliminate minor irregularities in the boundary.

(4) Facts showing that applicant is lawfully and in good faith providing exclusive utility service within the area described in the application and that no other person is providing a similar utility service within such territory.

(5) Such additional information as needed for a full understanding of the situation.

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

Stats. Implemented: ORS 756.040, 759.045 & 759.535

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0480

Applications for Allocation of Exclusively Served Territory and Adjacent Unserved Territory for Small Telecommunications Utilities and Telecommunications Cooperatives

For purposes of this rule, “utility service” means telecommunications utility service as defined in ORS 759.500(3). ~~Applications~~ **An application** under ORS 759.535, for an order of the Commission to allocate territory to a person providing exclusive utility service in a territory and adjacent unserved territory, shall contain the following information:

(1) ~~Information~~ **The information** required under OAR 860-034-0470.

(2) ~~Map~~ **A map or maps** similar to that required by OAR 860-034-0470(2) and description comparable to that required by OAR 860-034-0470(3), showing and describing the boundary of the adjacent unserved territory covered by the application.

(3) ~~Names~~ **The names** and addresses of all persons providing similar utility service in proximity to the unserved area applied for who may have an interest in or be affected by an approval or disapproval of the application.

(4) Facts showing that it is more economical and feasible to serve the adjacent unserved territory by an extension of the applicant’s existing facilities than by an extension of the facilities of another person, including but not limited to the following:

(a) ~~Map~~ **A map or maps, drawn** to appropriate scale, showing location and capability of equipment, plant, or facilities including the capability, location, and route of proposed facilities, if any, which relate to the applicant’s ability to extend utility service into the adjacent unserved area.

(b) Copies of such franchises or permits as the appropriate public authorities may require for extending service into the adjacent unserved area, or a statement that they will be filed at the hearing or a statement that no such authority is required by said public authorities.

(c) The kind or nature and extent of the need or demand, or reasonably anticipated need or demand, for utility service within the unserved area.

(d) The estimated construction, operating, and related costs of and revenues from providing the proposed utility service within the unserved area.

(5) Such additional information as needed ~~to enable for~~ **enable for** a full understanding of the situation.

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 756.040, 759.045 & 759.535
Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0490

Applications to Transfer Rights to Allocated Territory for Small Telecommunications Utilities and Telecommunications Cooperatives

For purposes of this rule, “utility service” means telecommunications utility service as defined in ORS 759.500(3). ~~Applications~~ **An application** under ORS 759.560 for an order of the Commission to approve the transfer of rights acquired by an allocation of territory ~~shall comply with OAR 860-034-0440(2) and (3) and~~ shall contain the following information:

- (1) A statement of the purposes for the transfer, the supporting reasons therefore and a detailed explanation thereof justifying why the transfer will not be contrary to the public interest.
- (2) A copy of all written evidence and a statement of all oral understanding ~~compromising~~ **comprising** the agreement between the transferor and transferee covering the transfer of the territory described in the application and sought to be transferred.
- (3) A map or maps, **drawn** to appropriate scale, showing the general location and boundaries of the allocated territory sought to be transferred and the transferor’s and transferee’s adjacent service areas.
- (4) A map or maps, **drawn** to appropriate scale, showing:
 - (a) The number and, as practicable, the location of customers and equipment or facilities of the transferor with a detailed description of such equipment or facilities within the territory sought to be transferred; and
 - (b) The location of equipment or facilities of the transferor and transferee, with a detailed description of the same, which are in the territory immediately adjacent to that sought to be transferred and which are or will be interconnected therewith.
- (5) A legal description comparable to that required in OAR 860-034-0470(~~34~~) of the boundaries of the territory sought to be transferred.
- (6) A legal description comparable to that required in OAR 860-034-0470(~~34~~) of the resulting boundaries of the remaining allocated portion of the parcel of the transferor’s territory where the territory sought to be transferred is only part of a parcel of transferor’s allocated territory and a similar description of the resulting boundaries of the transferee’s allocated territory where the territory sought to be transferred will be contiguous to a parcel of transferee’s allocated territory.
- (7) ~~Copies of such franchises or permits~~ **A copy of each franchise and permit**, as the appropriate public authorities may require, authorizing the transferee to serve in the territory sought to be transferred, or evidence of the approval of the appropriate public authorities of the transfer to the transferee of the transferor’s franchise or permit to serve the territory sought to be transferred.

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

Stats. Implemented: ORS 756.040, 759.045 & 759.560

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-034-0495

Application by an Unserved Person for Service from a Small Telecommunications Utility

An application under ORS 759.590 for an order of the Commission directing another telecommunications utility to provide local exchange service to an unserved person shall comply with OAR 860-032-0220.

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

Stats. Implemented: ORS 756.040, 759.045, 759.580, 759.585, 759.590 & 759.595

Hist.: NEW

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) In reviewing a completed application submitted under Chapter 695 Sections 2-4, Oregon Laws 1999 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)

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 ~~the purpose of~~ 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~~ **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)

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 customers within its approved exclusive service territory and shall serve all applicants for service within such territory. The water utility may refuse service only as provided ~~by Commission rule~~ 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)