

ORDER NO. 03-634

ENTERED NOV 05 2003

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 476

In the Matter of A Temporary Rule To)	
Allow A Water Utility To Refuse Service)	ORDER
To A Customer If The Utility Is Prohibited)	
By Law From Providing the Service.)	
(Amending OAR 860-036-0080(7)).		

DISPOSITION: TEMPORARY RULE ADOPTED

Commission Rule OAR 860-036-0080(7) provides that a water utility may refuse to serve a customer when (1) the utility does not have adequate resources or (2) serving the new customer would adversely affect other customers. In Order No. 03-633, the Commission noted that water utilities must follow laws from other jurisdictions that could prohibit it from serving a customer.

We conclude that OAR 860-036-0800(7) should be amended immediately to eliminate the conflict between our rule and the legal requirements imposed on water utilities by other jurisdictions. Allowing the conflict to continue will result in serious prejudice to the water utilities concerned. The Statement of Need for the temporary rule is attached as Appendix A. The rule change is shown in Appendix B.

IT IS ORDERED that the temporary rule attached as Appendix B is adopted.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A party may appeal this order to a court pursuant to applicable law.

Appendix A

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for filing temporary Administrative Rules accompanies this form.

Agency and Division

Administrative Rules Chapter Number

Public Utility Commission

860

In the Matter of A Proposed Rule To Allow A Water Utility To Refuse Service, If Required By Law.

Statutory Authority: ORS 758.305(2).

Other Authority:

Statutes Implemented: ORS 756.040, 757.035 & 757.225, ORS 758.305

Need for the Temporary Rule(s): The Commission’s rules narrowly proscribe the circumstances under which a water utility may refuse to serve a customer. The rules do not specify that a water utility may refuse to provide service if it is prohibited from doing so, by law. The Commission's rules may place a water utility in an untenable position and may adversely affect its ability to serve its customers. This temporary rule will allow a water utility to refuse to provide service, if it is prohibited by law from providing the service.

Documents Relied Upon:

Order No. 03-633

Justification of Temporary Rule(s):

A water utility could inadvertently violate the law if it refuses to serve a customer that it is prohibited by law from serving. This problem should be addressed immediately to avoid serious adverse harm to the water utility and the public.

Signature and Date

Printed Name

Appendix B

860-036-0080

Refusal of Service

(1) A water utility may refuse to provide service to a customer or applicant until it receives full payment of any overdue 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 overdue amount. The balance of the amount owed to the 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. Upon failure to pay, the water utility may disconnect service after providing a written five-day notice. 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) 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.

(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.

(6) If service is refused, the water utility shall provide written notification within 10 working days 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.

(7) A water utility shall not accept an application for service or materially change service to a customer if it does not have adequate facilities or water resources to render the service applied for, ~~or~~ 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.**

(a) If a water utility refuses service on the grounds of inadequate facilities or water resources, the water utility shall:

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(1) Provide the customer or applicant with a written letter of refusal, a copy of which shall be sent to the Commission, stating:

(A) Provide the reason for the refusal;

(B) Inform 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);

(C) When capacity does not exist, provide the costs to provide capacity for the customer or applicant; and

(D) Inform 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.

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 22-2002, f. & ef. 12-9-02 (Order No. 02-723)