

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 119

| | | |
|--|---|-------|
| In the Matter of |) | |
| |) | |
| AGATE WATER COMPANY |) | ORDER |
| |) | |
| Request for an increase in annual revenues |) | |
| of \$202,800 or 45.7 percent. |) | |

DISPOSITION: STIPULATION ADOPTED IN PART

On October 31, 2006, Agate Water Company (Agate or Company) filed tariff sheets in Advice No. 06-27 requesting a general rate increase of \$202,800 (45.7 percent) in total annual revenues, which would result in new total annual revenues of \$646,732. The Company requested a 1.75 percent return on a rate base of \$3,420,714. The Commission ordered the suspension of the tariffs for investigation.

On February 16, 2007, a prehearing conference and public comment meeting were held in Bend, Oregon. Following the conference, seven customers of the Company filed petitions to intervene, all of which were granted.

On April 30, 2007, Commission Staff (Staff) filed a Stipulation, along with supporting testimony, addressing all issues in the docket. The Stipulation was signed by Commission Staff and Agate. None of the Intervenors signed the Stipulation. The matter was set for hearing, pursuant to OAR 860-014-0085(5).

On May 10, 2007, a hearing was held in Bend. The following appearances were entered: Drew and Lynn Johnson, representing Agate; Jason Jones, Assistant Attorney General, representing Staff; David Anderson, intervenor, representing himself; Lawrence Riser, intervenor, representing himself; Tim Kelley, intervenor, representing himself; Stephanie Michelsen, intervenor, representing herself; Corine Fraser, intervenor, representing herself; David Westoby, intervenor, representing himself, and Timothy Rogers, intervenor, representing himself.

On July 16 and 18, 2007, respectively, Agate and Staff provided supplemental information, requested by the Commission, addressing the reasonableness of the proposed salary and wages. On August 2 and 3, 2007, respectively, two intervenors, Lawrence Riser and David Westoby, filed comments in response.

FINDINGS OF FACT

Agate is a medium-sized, privately-owned water company currently providing service to approximately 1,116 customers outside of Bend, Oregon, in the Deschutes River Woods area. Agate came under Commission regulation in 1999. Agate merged with Apache Water Company in 2002, under the name Agate Water Company.

Agate is owned by Fred Schilling, who also works on a half-time basis performing a range of duties, including that of general manager, water systems operator, and corporate officer. His wife, Beth Schilling, is employed as a Bookkeeping, Accounting, and Auditing Clerk. Their daughter, Lorna (Lynn) Johnson, is Administrative Services Manager, and her husband, Drew (Claude) Johnson, is Water Operations Manager. There are three other full-time, and one part-time, employees, who perform various tasks relating to company operation.

Agate has had two rate cases since coming under rate regulation. In the first, in 1999, docket UW 72, the parties stipulated to a revenue requirement of \$159,275, and to a three-tiered metered rate design. Customers, who had paid a systems development charge (SDC) prior to Commission regulation, were charged \$3.02 less in their monthly base rate than were customers who had come on the system after Commission regulation, and did not pay the SDC.

In Agate's second rate case, docket UW 108, filed in 2005, the Commission adopted a stipulation that authorized an annual revenue requirement of \$564,710. The substantial increase was the result primarily of the addition of \$2,323,307 of utility plant. At that time, Agate was in the final stages of completing a \$3.5 million capital improvement project financed by the Safe Drinking Water State Revolving Loan Fund (SDWSRLF) at one percent interest. The stipulation added most of the improvement project plant to rate base, but held back some plant that was not yet used and useful. In addition, the stipulation increased the differential between the base rates for customers who had paid the SDC and those who had not paid it from \$3.02 to \$7.64. This change provided a 30-year payback to those customers who paid the SDC.

Agate's present application asserts that a proposed increase of \$202,800 is necessary to: (1) add the remaining plant (not included in the previous rate case) from a \$3,500,000 capital improvement project to utility plant; and (2) keep up with the increased cost of running the system. It retains the two classes of customers: those who paid the SDC, and those who did not. The monthly base rate for the customers who paid the SDC would go from \$23.55 to \$27.04, a 15 percent increase. The monthly base rate for customers who did not pay the SDC would go from \$31.19 to \$34.68, an increase of approximately 11 percent. The differential between the two base rates would remain at \$7.64, as set in docket UW 108. Agate proposes to eliminate the third tier of the usage rate. The proposed rate for the first tier, \$1.04 per 100 cubic feet (cf) up to 2,000 cf, is a 53 percent increase. The proposed rate for the second tier, \$2.75 per 100 cf for usage of 2,000 cf and above, is a 57 percent increase.

The Stipulation

As noted above, Agate and Staff executed a Stipulation which would resolve all issues in this case. It is attached as Appendix B and incorporated by reference. None of the Intervenors joined the Stipulation and all oppose it.

Agate and Staff (Stipulating Parties) agree that Agate should be allowed to increase its revenues by \$100,324 or 19.07 percent over test period revenues, resulting in total annual revenues of \$626,443, with a one percent return on a rate base of \$3,167,532. The monthly base rate for customers who paid the SDC would be \$26.63, while the base rate for those who did not would be \$34.27. The Stipulation reduces the rate tiers for water usage from three to two. These monthly rates would be \$1.00 per 100 cubic feet (cf) for use up to 2,000 cf and \$2.56 per 100 cf for use above 2,000 cf. This rate design will divide the recommended revenue requirement of \$626,443 into a 40 percent/60 percent split between the variable rate and the base rate, respectively.

The major factors in the increase in revenue requirement are the addition of \$266,170 in utility plant and large increases in expenses for power, materials and supplies, property tax and depreciation. The rate increase will provide a one percent rate of return on rate base. That proposed return will provide Agate with \$31,675, sufficient to cover the annual interest payment on its loan from the SDWSRLF.

Procedural Issues

Before we address the Intervenors' objections to the Stipulation, we first respond to three procedural concerns raised in this matter. First, Intervenors object to the fact that Staff had entered into the Stipulation with Agate before Intervenor testimony was filed. Under these circumstances, Intervenors seem to ask, how could Staff have given due consideration to Intervenors' factual claims and policy or legal arguments, which were, for the most part, developed and expressed after the stipulated agreement was made? Intervenors also point out that Staff indeed vigorously contested Intervenors' testimony in its own written and oral testimony and briefs.

The Commission appreciates the Intervenors' concerns. It could appear that when Staff entered into a Stipulation, which it was thereafter required to defend, Staff was no longer in an investigatory posture, but instead in the adversarial stance of a party to a contested proceeding. In the latter role, in theory it might be difficult for Staff to be objective in judging any evidence which conflicted with the position it had already taken. To avoid any such perception, we trust Staff ensures that no settlement is reached prior to customers having an opportunity to identify issues for the Commission's consideration.

We do not, however, believe that the timing of the Stipulation has, in fact, interfered with the development of a sound record in this case or with Intervenors' ability to influence the Commission's final decision. We observe that Staff had the opportunity to discuss the Intervenors' concerns during the initial public comment hearing and during

settlement conferences. Unfortunately, as Staff testified, the Intervenors did not present any specific information for Staff to consider during discovery or at the settlement conference. *See* Staff/100, Miller-Doughtery/40. Moreover, the procedural schedule gave all parties ample opportunity to set out their views and to challenge others' testimony and argument. Indeed, no party claims to have been prevented from developing and expressing its position. The record is extensive and lays out the positions of all, in considerable detail. We find no procedural error.

Second, some Intervenors were critical because the settlement conference and the public comment meeting were neither recorded by electronic means nor by a court reporter. Statements made at these meetings, however, are not made under oath and are not admissible as evidence to be considered by the Commission in deciding a case. *See* OAR 860-014-0045(5). Moreover, as Staff points out, efforts at settlement, if they are to have any chance to succeed, require that the parties be able to speak openly and candidly without fear that their statements will be used to harm their case, if settlement is not reached. Recording such conferences would reduce the likelihood of resolution. As to the public comment meeting, we note that our Administrative Hearings Division has sought to make such proceedings less formal than in the past to encourage participation and increase the exchange of information among the customers, the utility, Staff, and the Administrative Law Judge. To this end, the discussions are usually not recorded. As is generally the case, individual comments by customers in this case may, if the customer desires, be recorded by a court reporter who was present at the public comment meeting. We are confident that the customers have had a full opportunity to express their views.

Finally, some Intervenors claim that they were hampered in obtaining pertinent information from the Commission. They note that one intervenor was initially charged for such information, but acknowledge that the payment was eventually refunded. They also note that some information from the Commission led them to believe they had to file their testimony electronically with the Commission, as well as by hardcopy, and that they wasted their time doing so. This problem was an unfortunate misunderstanding of a ruling relating to waiver of paper service among the Intervenors. However, it was clarified and it did not hamper the Intervenors' ability to prepare for or present their case.

ISSUES

Test Year

Intervenors raise questions about the appropriateness of Agate's filing at this time and about the appropriate period to be considered as the test year. Agate's filing used a 2005 test year. Intervenors claim that 2005 was not a normal year, because of above-normal rainfall, and should not be used as the test year. Staff argues that it did determine and use 2006 revenue as a base for developing the Stipulation. We conclude that Staff's analysis is sound.

Revenue

Staff removed certain items from revenues because they are not from the sale of water: hook-up fees, returned check charges, and disconnect visit charges, for example. Staff added additional revenues for the increased number of customers. With these adjustments taken into account, revenue requirement was calculated at \$626,443.

Expenses

Staff considered the appropriateness of various categories of expenses. Staff's analysis led to reductions in some items and increases in others. The Intervenor challenge the level of expenses allowed in many instances. Some Intervenor accuse Staff of not taking into account actual need or reasonableness, but instead merely relying on averages for prior years. Some also accuse Staff of failing to take note of "frivolous and abusive spending" by Agate, of not scrutinizing each employee position at the Company, of simply failing to recognize an exaggerated expense, and of not taking into account the "family" nature of the Company. We will discuss some of the issues related to expenses below.

Wages, Salaries and Number of Employees

Staff compared Agate's proposed wages to market rates using an American Water Work Association (AWWA) compensation survey and the Oregon Employment Department's Oregon Labor Market Information System (OLMIS). Staff averaged the two to arrive at market rates and compared those rates to the pay for the eight positions at Agate.¹ Staff concluded that Agate's overall wages are lower than market wages. For example, Drew Johnson's proposed hourly rate of \$17.33 is much lower than the averaged \$30.17 market rate for Water Operations Manager; the other Agate salaries range from slightly below the market rate to about half the market rate. Moreover, Agate does not provide health and life insurance benefits to employees, although it may provide some retirement benefits. The result is a low level of overall wage expense in customer rates.

Several Intervenor claim that the salaries and wages paid to Agate employees are excessive and that the Company has more employees than it needs. Some also assert that Agate had paid some salaries that exceed the amounts "allowed" for those salaries in the prior rate case. This criticism involves a misunderstanding of the rate establishment process. A rate case sets only one amount: the rates the utility may charge its customers. The rates are designed to allow recovery of reasonable amounts of expenses and provide a reasonable return on investment. Employee salaries are an expense included in the computation at a level deemed reasonable. That level is what will be recovered. If a utility decides to pay a salary at a higher rate than used to compute the rates, it is free to do so, but the amount in excess of the figure used to compute the

¹ Agate officers and employees are all paid a salary. In making this comparison, Staff converted the salary to an hourly rate.

rates will not be paid by the customers. Another way of putting it would be to say that a rate case does not establish a “budget” for a regulated utility. The utility may incur expenses at any level different from those used in the rate case, but it cannot raise rates to do so.

Intervenors make several claims relating to the number of employees. Some assert that Mr. Schilling does not perform significant duties. Some argue that certain positions could be combined. Some suggest that Agate should “lay off” employees during the winter, when demand is low. Generally, some of the Intervenors appear to be asserting that the fact that the Company is family owned and operated has led to abuse in the Company’s hiring practices.

Staff offers evidence that the level of Agate's staffing is similar to other water companies in the area. Such a comparison, as Staff acknowledges, is only of limited value, because it cannot take into account all the possible differences in circumstances among companies. Nevertheless, it provides support for Staff's position. Moreover, the evidence noted in the section above on Wages and Salaries, which shows that Agate's overall wage expense is low, casts doubt on the Intervenors’ claims on this issue. Staff notes that water company maintenance is often delayed until winter when the employees have more time for it. We find no reason to question Agate's decision not to lay off employees in the winter. Nothing in the record persuades us that any problem exists.

With one exception, we conclude that the Stipulation’s conclusions regarding wages and salaries are reasonable and should be adopted. The exception relates to the proposed salary of Mr. Schilling. Currently, Mr. Schilling is paid an hourly equivalent of \$26.88 per hour. The Stipulating Parties propose to double that rate to \$53.76, and contend the wage is comparable to the average of the hourly wages reported by OLMIS for “General and Operations Manager” and by AWWA for “Top Operations and Maintenance Executive.” The Stipulating Parties, however, fail to establish that Mr. Schilling’s duties are comparable to those reported in the government and industry data.

The OLMIS data reports wages for a general cross-section of industries. As Intervenors point out, the OLMIS website includes the disclaimer that the reported wage rates vary greatly among industries. There is little, if any evidence, to demonstrate that Mr. Schilling’s duties as owner and part-time operator, of a relatively small water utility, are comparable to those reported by OLMIS for “General and Operations Manager.” We cannot place great weight on the OLMIS data without some evidence that those reported duties are comparable to ones performed by Mr. Schilling.

Agate did provide a list of duties performed by Mr. Schilling. Unfortunately, the list of duties reports Mr. Schilling’s past and present activities in such a manner that it is impossible to determine which activities are current, ongoing responsibilities. Moreover, the list fails to indicate the number of respective hours worked in the different capacities. What the list does report casts doubt on whether

Mr. Schilling's duties are appropriately classified under AWWA's "Top Operations and Maintenance Executive." The majority of the duties listed are those associated with a water systems operator.

Based on the list of duties presented by the Company, we conclude that Mr. Schilling's duties are more reflective of the AWWA job category "Water Operations Manager," and should be compensated at the hourly rate of \$33.51 reported for those duties.² We recognize that this is the same classification used to compare the duties performed by Drew Johnson, Mr. Schilling's son-in-law. We note, however, that the Stipulation proposes an hourly rate of \$17.33 for Mr. Johnson. We believe that the much higher hourly rate of \$33.51--almost double that of Mr. Johnson's--will reasonably compensate Mr. Schilling for his additional experience as a water operator and additional management and corporate responsibilities.

Transportation Expenses

Staff removes, from rate consideration, some motor fuel purchases made away from the Bend area, as it appears that they may not be related to Agate's business. The Intervenors are not satisfied with this, however, and suggest in their Brief that "company employees may be purchasing fuel locally, and traveling out of Agate water's service area on personal business." They do not provide any support for this assertion. The Commission will not make any adjustment based on unsupported suspicion.

Small Tools Expense

Staff computed a four-year average of \$417 for small tools to be included in rates. It notes that the amount spent varies considerably from year to year, with need tending to be cyclical. Intervenors attack that amount as much too high. However, Intervenors do not provide any basis for questioning the figures Staff used. Staff's analysis is reasonable and is accepted.

Bad Debts

Agate inadvertently included no bad debt expense in its application. Staff computed an average annual bad debt expense for Agate of \$2,189, using information from a credit consulting company which Agate employs. The Commission concludes this is a reasonable amount.

Rate Level and Rate Comparison with other Companies

The Intervenors' chief concern is with the rates. Some Intervenors presented evidence that Agate's rates are higher than other water companies in the area, and thus should not be raised. Staff did not contest the veracity of this evidence and we

² This hourly rate was reported in Staff's testimony in support of the stipulation. See Staff/100, Miller/Dougherty/16.

accept it as accurate. An Intervenor argued that the rates are so high that many customers have removed lawns and other landscaping from their property. He averred that this reduction in watered foliage increased fire danger and hurt property values.

As Staff notes, such a comparison among companies is of limited significance. It might be misleading because of the differences in customers and territory, physical plant, and other factors. Staff is correct. As we stated in Agate's last rate case, rate comparisons with other companies are not the standard we use in determining fair, just, and reasonable rates. We must, instead, "look at each company's specific requirements rather than rates charged by other companies." *See Pacific Northwest Bell Tel. Co. v. Sabin*, 21 Or App 200, 205 n. 4, *rev den* (1975). To determine rates we use the traditional rate-making formula which bases rates upon cost of service and return on investment. That is the analysis Staff applies in this case.

Rate Design

The Stipulation reduces the water usage tiers from three to two. The base rate would continue to include no water usage. Some Intervenors object that the differential between the first tier and the second tier is too great, even "outrageous." They also object that the design continues to include no water usage in the base rate. One Intervenor suggests that lower rates, especially in the higher tier, would lead to an increase in Company revenues. Staff notes that the two-tier design will be of benefit to the large majority of customers, around 80 percent, based upon past usage patterns. Staff also notes that inclusion of water in a base rate is not the Commission's practice, in most instances. The Commission concludes that the stipulated rate design is appropriate.

Customer Complaints

Some customers have complained at various points in this proceeding about poor customer service. For example, some customers at the public comment meeting expressed unhappiness about construction areas left in an unfinished state. The Commission has received no additional complaints about that problem. Some customers also complained about low water pressure. Staff notes that installation of a new 560,000 gallon reservoir should alleviate that problem.

Agate has now adopted a written Customer Service Policy to address customer service problems. The Commission's Consumer Services Division reports that so far, in 2007, it has received only one service complaint (excluding those relating to rate issues). Some Intervenors claim that most customers were unaware of their option of bringing a problem to the attention of the Commission's Consumer Services Division. They should now be aware of this option. These facts give the Commission reason for optimism that complaints will remain at a low level. If not, our Staff will investigate the matter and take appropriate steps to help alleviate any problems.

Fostering of Competition

An Intervenor argues that the Commission is failing to foster competition as stated in its “Mission Statement.” The Commission notes that this provision is relevant to open access in electric service. It is not relevant to the regulation of water companies.

Appointment of a Regent

Several Intervenor ask the Commission to appoint a regent under OAR 860-036-0365. This provision applies to situations involving “extreme circumstances,” when the operator is unwilling or unable to operate and manage the water system “to provide safe and adequate service to its customers.” Nothing in this case suggests a situation of that gravity.

Stay Out Provision

One Intervenor asks that the Commission place a “stay out” provision in this order, prohibiting Agate from requesting a rate increase for at least 36 months. We understand that the customers may feel stressed by water rate increases, as this will be the second sizeable increase in a little over two years. However, we believe the circumstances justify both increases. We decline to include a stay out provision; further, the Commission lacks authority to impose a stay out provision on the Company.

CONCLUSION

With the one modification relating to employee wages, the Stipulation between Agate Water Company and Staff will result in rates that are fair, just, and reasonable. It is adopted as modified.

ORDER

IT IS ORDERED that:

1. Advice No. 06-27 is permanently suspended.
2. The Stipulation is adopted as modified in this order.

3. The revised tariffs, set forth in Appendix A, will become effective upon the date of issuance of this order.

Made, entered, and effective AUG 16 2007.



Lee Beyer *JH*
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

**Containing Rules and Regulations
Governing Water Utility Service**

NAMING RATES FOR

AGATE WATER COMPANY

**60107 MINNETONKA LANE
BEND, OREGON 97702**

541 382-2855

**SERVING WATER IN THE VICINITY OF
BEND, OREGON**

| | | | |
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| Issue Date | | Effective Date | |
| Issued By | AGATE WATER COMPANY | | |
| Signed By | FRED SCHILLING, OWNER | | |

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| Issued By | AGATE WATER COMPANY | | |
| Signed By | FRED SCHILLING, OWNER | | APPENDIX A PAGE 2 OF 20 |

SCHEDULE NO. 1

RESIDENTIAL METERED RATES

Customer Who Paid a System Development Charge

Available: To customers of the Utility at Bend, Oregon, and vicinity.

Applicable: To residential premises.

Base Rate

| Service Meter Size | Monthly Base Rate | Usage Allowance | Unit of Measure |
|--------------------|-------------------|-----------------|--|
| 5/8 or 3/4 inch | \$25.66 | none | <input checked="" type="checkbox"/> cubic feet |

Commodity Usage Rate

| | Commodity Rate | Number of Units | Unit of Measure | | Tier Consumption | Unit of Measure |
|--------|----------------|-----------------|--|-------|------------------|--|
| Tier 1 | \$1.00 | Per 100 | <input checked="" type="checkbox"/> cubic feet | Up to | 2000 | <input checked="" type="checkbox"/> cubic feet |
| Tier 2 | \$2.37 | Per 100 | <input checked="" type="checkbox"/> cubic feet | From | 2001 and Above | <input checked="" type="checkbox"/> cubic feet |

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

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| Signed By | FRED SCHILLING, OWNER | | |

SCHEDULE NO. 2

RESIDENTIAL METERED RATES

Customer Who DID NOT Pay a System Development Charge

Available: To customers of the Utility at Bend, Oregon, and vicinity.

Applicable: To residential premises.

Base Rate

| Service Meter Size | Monthly Base Rate | Usage Allowance | Unit of Measure |
|--------------------|-------------------|-----------------|--|
| 5/8 or 3/4 inch | \$33.30 | none | <input checked="" type="checkbox"/> cubic feet |

Commodity Usage Rate

| | Commodity Rate | Number of Units | Unit of Measure | | Tier Consumption | Unit of Measure |
|--------|----------------|-----------------|--|-------|------------------|--|
| Tier 1 | \$1.00 | Per 100 | <input checked="" type="checkbox"/> cubic feet | Up to | 2000 | <input checked="" type="checkbox"/> cubic feet |
| Tier 2 | \$2.37 | Per 100 | <input checked="" type="checkbox"/> cubic feet | From | 2001 and Above | <input checked="" type="checkbox"/> cubic feet |

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
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SCHEDULE NO. 3

MISCELLANEOUS SERVICE CHARGES

This schedule lists the miscellaneous charges included in the utility's Rules and Regulations; refer to the appropriate rules for an explanation of charges and conditions under which they apply.

| | |
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| <u>Connection Charge for New Service</u> (Rule No. 9) | |
| Standard 3/4-inch service | \$450.00 |
| Nonstandard 3/4 inch service | At cost |
| Larger than 3/4-inch | \$450.00 (plus additional costs) |
| Irrigation hookup (if provided on separate system) | \$450.00 |
| <u>Meter Test</u> (Rule No. 21) | |
| First test within 12-month period | N/C |
| Second test within 12-month period | \$20.00 |
| <u>Pressure Test</u> (Rule No. 40) | |
| First test within 12-month period | N/C |
| Second test within 12-month period | \$20 |
| <u>Late-Payment Charge</u> (Rule No. 22) | |
| Charged on amounts more than 30 days past due | Pursuant to OAR 860-036-0130 (as of 1/1/07 – 1.7%) |
| <u>Deposit for Service</u> (Rule No. 5) | |
| Pursuant to OAR 860-036-0040(2) | Pursuant to OAR 860-036-0050 (as of 1/1/07 – 5%) |
| <u>Returned-Check Charge</u> (Rule No. 23) | |
| | \$20 |
| <u>Trouble-Call Charge</u> (Rule No. 36) | |
| During normal office hours | \$25/hr |
| After normal office hours on special request | \$35/hr |
| <u>Disconnection/Reconnect Charge</u> (Rule No. 28 & 29) | |
| During normal office hours | \$25 |
| After normal office hours on special request | \$35 |
| <u>Unauthorized Restoration of Service</u> (Rule No. 30) | |
| | Reconnection charge plus costs |
| <u>Damage/Tampering Charge</u> (Rule No. 34) | |
| | At cost |
| <u>Disconnect-Visit Charge</u> (Rule No. 29) | |
| | \$20 |

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RULES AND REGULATIONS

Rule 1: Jurisdiction of the Commission

The Rules and Regulations herein shall be subject to the rules and regulations of the Public Utility Commission of Oregon.

Rule 2: Definitions

- A. "Utility" shall mean AGATE WATER COMPANY.
- B. "Applicant" shall mean any person, business, or organization who applies for service or reapplies for service at a new existing location after service has been discontinued, except as noted in the definition of "Customer."
- C. "Commission" shall mean the Public Utility Commission of Oregon.
- D. "Customer" shall mean any person, business, or organization who has applied for, been accepted to receive, or is currently receiving service. A customer who voluntarily discontinues service at the same or different premises within 20 (twenty) days after discontinuance retains customer status.
- E. "Residential customer premises" shall mean any dwelling and its land including, but not limited to, a house, apartment, condominium, townhouse, cottage, cabin, mobile home, or trailer house.
- F. "Commercial customer premises" shall mean any premises at which a customer carries on any major activity of gaining a livelihood or performing a public service. Such activity may be of a business, industrial, professional, or public nature.
- G. "Main" shall mean the pipe laid in the street, alley, or other right-of-way for the distribution of water to customers. It shall not include service lines.
- H. "Service connection" shall mean the pipe, stops, fittings, meter, and meter box laid from the main to the property line of the premises served.
- I. "Customer line" shall mean the pipe, stops, and fittings leading from the property line to the premises served.
- J. Point of Delivery is the property line or the outlet swivel/union of the meter defining where the service connection stops and the customer line starts.

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APPLICATION FOR SERVICE

Rule 3: Customer/Applicant Information (OAR 860-036-0015)

The utility shall provide or be able to provide customers or applicants with the following information:

- A. Instructions on how to read meters, either in writing or by explanation;
- B. Application and contract forms;
- C. Utility rules and regulations;
- D. Commission rules and regulations;
- E. Approved tariffs;
- F. Rights and Responsibilities Summary for Oregon Utility Consumers;
- G. Notices in foreign languages, if applicable;
- H. The utility's business address, telephone number, and emergency telephone number; and
- I. Notices approved by the Commission.

Rule 4: Application for Service (OAR 860-036-0035)

Application for water service must be made for each individual service. The application shall identify the applicant, the premises to be served, the billing address if different, the type of use to which the water is to be put, and an agreement to conform to the Rules and Regulations of the utility as a condition for receiving such service. The applicant shall, at this time, pay any scheduled fees or deposits. An application is a request for water utility service and shall not be accepted until the applicant establishes credit as set forth in OAR 860-036-0040.

An application for water service must be made where:

- A. An applicant who has not previously been served by the water utility requests service;
- B. Service has been involuntarily discontinued in accordance with the utility and Commission rules, and service is sought;
- C. Service has been voluntarily discontinued and a request to restore service has not been made within 20 days; or
- D. There is a change in the identity of a customer, the type of use to which the water is put, or the number of premises served.

Rule 5: Deposit for Service (OAR 860-036-0040)

In accordance with the Commission's rules for credit establishment and deposit waiver, an applicant or a customer may be required to make a deposit to secure payment of bills for service. The deposit shall not exceed one-sixth (1/6) the amount of reasonable estimated billings for one year's use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service. (OAR 860-036-0040)

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The utility shall pay interest on deposits at the rate established by the Commission. After the customer has paid bills for service for 12 consecutive months without having had service discontinued for nonpayment, or more than two occasions in which a shut-off notice was issued, and the customer is not then delinquent in the payment of bills, the utility shall promptly and automatically refund the deposit plus accrued interest by **(check one)**:

- 1) issuing the customer a refund check
- 2) crediting the customer's account

Rule 6: Customer Service Line

The customer shall own and maintain the customer service line and promptly repair all breaks and leaks. The utility shall not be responsible for any damage or poor service due to inadequacy of the customer line or any portion of the customer's plumbing. All leaks in the customer line, faucets, and all other parts of the plumbing owned or controlled by the customer shall be promptly repaired so as not to waste water.

Rule 7: Separate Control of Service

All premises supplied with water will be served through service lines so placed as to enable the utility to control the supply to each individual premises using a valve placed within and near the line of the street, the utility right-of-way, or at the meter.

Rule 8: Service Connections (OAR 860-036-0060)

The utility shall furnish and install at its own expense all necessary trenching, pipe, valves, and fittings between its main line and the customer's service line. Such installation shall be designated as the service connection. The utility shall own, operate, maintain, and replace the service connection when necessary and promptly repair all breaks and leaks. The customer shall not be responsible for any damage or poor service due to inadequacy of the service lines or any portion of the utility's plumbing.

Rule 9: Service Connection Charge

An applicant requesting permanent water service to premises not previously supplied with permanent water service by the utility shall be required to pay the service connection charge listed in the utility's Miscellaneous Service Charges Schedule.

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Rule 10: Main Line Extension Policy (OAR 860-036-0065)

The utility shall specify the size, character, and location of pipes and appurtenances in any main line extension. Main line extensions shall normally be along streets, roads, highways, or other satisfactory rights-of-way. All construction work shall conform to all applicable rules, regulations, codes, and industry standards. Each main line extension shall normally extend along applicant's property line to the point the applicant's service line would be at a 90-degree angle to the street or main line.

Rule 11: Main Line Advances and Refunds Policy

Each new customer requesting a main line extension shall advance the utility the cost-base amount necessary to extend the main line to provide service.

For a period of two (2) years after construction of the requested main line extension, the utility shall also collect from any additional applicants whose service connections or service lines shall connect to said main line extension an amount equal to the new applicant's proportionate share of the main line extension cost for that portion used. The utility will then refund the share differential amount to those customers who previously shared the cost of said main line extension. Refunds shall not exceed the amount originally advanced.

No part of the distribution system installed prior to the request for a main line extension shall be used to calculate any customer advance or refund.

Rule 12: Types of Use

Water service may be supplied for residential, commercial, irrigation, temporary construction, special contracts, fire prevention, and other uses. The utility shall file separate rate schedules for each type of use and basis of supply.

Rule 13: Multiple Residences

An apartment building, mobile home park, motel, trailer camp, duplex, townhouse, or any other property consisting of more than one residential unit, if served through one service line, shall be considered to be equivalent to the number of dwelling units when determining the customer count.

Rule 14: Utility Access to Private Property (OAR 860-036-0120(3)(b) and OAR 860-036-0205(3))

Customers shall provide access during reasonable hours to utility-owned service lines that extend onto the premises of the customer for the purposes of reading meters, maintenance, inspections, or removal of utility property at the time service is to be discontinued. Where the customer does not cooperate in

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providing reasonable access to the meter or to the premises, as required by law or to determine if a health or safety hazard exists, it is grounds for disconnection.

Rule 15: Restriction on Entering a Customer Residence (OAR 860-036-0085)

No water utility employee shall enter the residence of its customers without proper authorization except in an emergency when life or property is endangered.

REFUSAL OF SERVICE

Rule 16: Refusal of Service Due to Customer Accounts (OAR 860-036-0080(1-3))

The utility may refuse to serve an applicant until receipt of full payment of overdue amounts, or other obligations related to a prior account of the applicant with the utility, when the following circumstances exist:

- A. An overdue amount remains outstanding by a customer at the service address;
- B. The applicant resided at the service address indicated in (A) during the time the overdue charges were incurred; or
- C. The person indicated in (A) will reside at the location to be served under the new application. (OAR 860-036-0080)

Service shall not be refused for matters not related to water service. Residential service shall not be refused due to obligations connected with nonresidential service.

If service is refused under this rule, the utility shall inform the applicant or customer of the reasons for the refusal and of the Commission's dispute resolution process.

Rule 17: Refusal of Service Due to Utility Facilities (OAR 860-036-0080(7))

The utility shall not accept an application for service or materially change service to a customer if the utility 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 reasonable service to other customers.

For refusal of service under this rule, the utility shall provide a written letter of refusal to the applicant informing applicant that the details upon which the utility's decision was based may be requested. A copy of such notice will be sent to the Commission. The details will include, but not be limited to:

- A. Current capacity and load measured in gallons or cubic feet per minute;
- B. Current capacity and load measured in pounds per square inch;

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- C. Cost to the utility for additional capacity in order to provide the additional service; and
- D. Information regarding the appeal process of the utility's refusal to provide service is available through the Commission's dispute resolution process pursuant to OAR 860-036-0025.

Rule 18: Refusal of Service Due to Customer Facilities (OAR 860-036-0080(4-6))

The utility shall refuse service to an applicant or customer whose facilities do not comply with applicable plumbing codes or, if in the best judgment of the utility, are of such a character that safe and satisfactory service cannot be given.

If service is refused under this rule, the utility will provide written notification to the customer within 10 working days stating the reason(s) for refusal and providing information regarding the Commission's complaint process. A copy of the notification will also be sent to the Commission.

METERS

Rule 19: Utility Meters (OAR 860-036-0105)

The utility shall own, maintain, and operate all meters. Meters placed in service shall be adequate in size and design for the type of service, set at convenient locations, accessible to the utility, subject to the utility's control, and placed in a meter box or vault between the street curb and property line. Each meter box or vault shall be provided with a suitable cover.

Where additional meters are furnished by the utility or relocated for the convenience of the customer, a reasonable charge may be made in accordance with a schedule approved by the Commission.

The water utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste without notice to the customer.

Each customer shall provide the utility with regular access to the meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice by the utility requesting access is grounds for disconnection. (OAR 860-036-0120) Should damage result to the meter from molesting, tampering, or willful neglect on the part of the customer, the utility shall repair or replace the meter and may bill the customer for the reasonable cost. (OAR 860-036-0105(6))

Rule 20: Meter Testing (OAR 860-036-0110)

The meter shall be tested prior to or within 30 (thirty) days of installation to determine if it is accurate to register not more than 2 percent error. No meter shall be allowed to remain in service if it registers an error in excess of 2 percent under normal operating conditions.

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The utility shall maintain a record of all meter tests and results. Meter test result records shall include:

- A. Information necessary to identify the meter;
- B. Reason for making the test;
- C. Date of test;
- D. Method of testing;
- E. Meter readings;
- F. Test results; and
- G. Any other information required to permit convenient checking of methods employed.

Rule 21: Customer-Requested Meter Test (OAR 860-036-0115)

A customer may request that the utility test the service meter; such test shall be made within 20 working days of the receipt of such request at no cost to the customer. The customer has the right to be present during said test, which is to be scheduled at a mutually agreeable time. A written report shall be provided to the customer stating:

- A. Customer's name;
- B. Date of the customer's request;
- C. Address at which the meter has been installed;
- D. Meter identification number;
- E. Date of actual test; and
- F. Test results.

If a customer requests a meter test more often than once in any 12-month period, the deposit listed on the Miscellaneous Service Charges Schedule may be required to recover the cost of the test. If the meter is found to register more than 2 percent fast under conditions of normal operation, the utility shall refund the deposit to the customer.

BILLING

Rule 22: Billing Information/Late-Payment Charge (OAR 860-036-0120, OAR 860-036-0125 and OAR 860-036-0130)

Bills are due and payable when rendered by deposit in the mail or other reasonable means of delivery. As near as practical, **meters shall be read at monthly, bimonthly, quarterly, or annual intervals** on the corresponding day of each meter reading or billing period. The bill shall be rendered immediately thereafter. (OAR 860-036-0120(3) requires water utilities to bill at monthly intervals. A utility may request upon application special authority by the Commission to bill at intervals other than monthly.) The utility shall make reasonable efforts to prepare opening and closing bills from actual

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meter readings. When there is good reason for doing so, estimated bills may be submitted. Any estimated billings shall be clearly designated as such.

The late-payment charge determined by the Commission and listed on the Miscellaneous Service Charges Schedule shall be applied to all overdue balances at the time of preparing the subsequent months' bill or balances owing that are 30 days old.

All bills become delinquent if not paid within 15 days of the date of transmittal of the bill. (OAR 860-036-0125 requires a minimum of 15 days.) If permitted to become delinquent, water service may be terminated after proper notice as provided in Rule 29, Disconnection/Reconnection Visit Charge.

All water service bills shall show:

- A. Beginning and ending meter readings for the billing period;
- B. Beginning and ending dates of the period of service to which the bill applies;
- C. For all metered bills, beginning and ending meter readings for the period for which the bill is rendered;
- D. Number of units of service supplied stated in gallons or cubic feet;
- E. Schedule number under which the bill was computed;
- F. Delinquent date of the bill;
- G. Total amount due; and
- H. Any other information necessary for the computation of the bill.

Rule 23: Returned-Check Charge

The returned-check charge listed on the Miscellaneous Service Charges Schedule shall be billed for each occasion a customer submits a check for payment that is not honored, for any reason, by a bank or other financial institution.

Rule 24: Prorating of Bills

Initial and final bills will be prorated according to the number of days service was rendered and on the basis of a 31-day month. For metered services, the meter will be read upon opening and closing a customer's account. Consumption will be charged at scheduled rates. Any minimum monthly charge will be prorated.

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Rule 25: Adjustment of Bills (860-036-0135)

When an underbilling or overbilling occurs, the utility shall provide written notice to the customer detailing the circumstances, period of time, and the amount of the adjustment. If it can be shown that the error was due to an identifiable cause, the date of which can be fixed, the overcharge or undercharge shall be computed back to such date. If no date can be fixed, the utility shall refund the overcharge or rebill the undercharge for no more than six months' usage. In no event shall an overbilling or underbilling be for more than three years' usage. No billing adjustment shall be required if a meter registers less than 2 percent error under conditions of normal operation.

When a customer is required to repay an underbilling, 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 the utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The 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.

DISCONNECTION OF WATER SERVICE

Rule 26: Voluntary Discontinuance (OAR 860-036-0210)

Except for emergencies, customers who (for any reason) wish to have service discontinued shall provide the utility with at least five days' advance notice of the requested date of discontinuance of service. Until the utility receives such notice, the customer shall be held responsible for all service rendered. Should the customer wish to recommence service within 12 months at the same premises, the customer will be required to pay the customary minimum monthly charge as if service had been continuous. The reconnection charge listed on the Miscellaneous Service Charges Schedule will be applicable at the time of reconnection.

Rule 27: Emergency Disconnection (OAR 860-036-0215)

The utility may terminate service in emergencies when life or property is endangered without following the procedures set forth in OAR 860-036-0245. Immediately thereafter, the utility will notify the customer and the Commission. When the emergency termination was through no fault of the customer, there shall be no charge made for restoration of service.

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Rule 28: Disconnection of Water Service Charge for Cause (OAR 860-036-0205 and 0245)

When a customer fails to comply with the utility's rules and regulations, or permits a bill or charge for regulated services to become delinquent (except for nonpayment of a time-payment agreement*), the utility shall give at least five days' written notice before water may be shut off. The notice shall state:

- A. The reason(s) for the proposed disconnection;
- B. The earliest date for disconnection;
- C. The amount to be paid to avoid disconnection;
- D. An explanation of the time-payment provision of OAR 860-036-0125;
- E. Information regarding the Commission's dispute resolution process; and
- F. The Commission's Consumer Services toll-free number, 1-800-522-2404.

Prior to disconnection on the day that the water utility expects to disconnect service, the utility must make a good-faith effort to physically contact the customer to be disconnected or an adult at the customer's premise to be disconnected to advise the customer or adult of the proposed

disconnection. If contact is not made, the utility shall leave a notice in a conspicuous place at the customer's premise informing the customer that service has been or is about to be disconnected. The utility shall document its efforts to provide notice and make that documentation available to the customer upon request.

Service shall not be shut off for nonemergencies on a Friday or the day of a state- or utility-recognized holiday or the day prior to such holiday. (OAR 860-036-0220)

The utility shall not disconnect residential service due to the failure to pay or meet obligations associated with nonresidential service. (OAR 860-036-0225)

A water utility may not disconnect residential service for nonpayment if a customer enters into a written time-payment plan. The utility will offer such customers a choice of payment agreements between a levelized-payment plan and an equal-pay arrearage plan or some other mutually agreeable alternate payment arrangement agreed to in writing. (OAR 860-036-0125)

*When a customer fails to comply with the terms of a written time-payment agreement between the customer and/or the utility permits a time-payment agreement charge to become delinquent, the utility shall give at least 15 days' written notice before the water may be shut off.

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Rule 29: Reconnection Charge and Disconnection Visit Charge (OAR 860-036-0080 and 0245(7))

Service shall not be restored until the utility's rules and regulations are complied with and/or payment is made in the amount overdue and any additional disconnection, reconnection, or disconnection visit charges incurred as listed on the Miscellaneous Service Charges Schedule are paid.

Rule 30: Unauthorized Restoration of Service

After the water has been disconnected or shut off at the curb stop or at the meter, if any person not authorized by the utility should turn it on, the water service line may be disconnected without notice. Service shall not be reconnected until all arrearages, all cost-of-service disconnection and reconnection, and the reconnection charge listed on the Miscellaneous Service Charges Schedule are paid in full.

Rule 31: Unauthorized Use

No person shall be allowed to make connection to the utility mains, or to make any alteration to service connections, or to turn a curb stop off or on to any premises, without written permission of the utility. Meter tampering, diverting service, or any other unauthorized use of service will automatically cause a disconnection of the water service and meter removal. All fees, costs of disconnection and reconnection, past-due billings, and service charges listed on the Miscellaneous Service Charges Schedule must be paid in full before any service is restored. An advance deposit for restoration of service may be required.

Rule 32: Interruption of Service (OAR 860-036-0075)

The utility shall have the right to shut off the water supply temporarily for repairs and other necessary purposes. The utility shall use all reasonable and practicable measures to notify affected customers in advance of such discontinuance of service except in the case of emergency repairs. The utility shall not be liable for any inconvenience suffered by the customer or damage to the customer's property arising from such discontinuance of service.

The utility shall keep a record of all service interruptions affecting its whole system or a major section thereof, including the time and date of interruption, duration, and cause or purpose of interruption.

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Rule 33: Water Supply/Usage Restrictions (OAR 860-036-0325)

The utility shall exercise due diligence to furnish a continuous and adequate supply of water to its customers. If water restrictions are necessary to equitably apportion its available water supply among its customers with due regard to public health and safety, the utility shall provide written notification to its customers and the Commission including:

- A. Reason for the restriction;
- B. Nature and extent of the restriction;
- C. Effective date of the restriction; and
- D. Probable date of termination of such restriction.

Rule 34: Damages/Tampering

Should damage result to any of the utility's property from molesting or willful neglect by the customer to a meter or meter box located in the customer's building, the utility will repair or replace such equipment and will bill the customer for the costs incurred.

SERVICE QUALITY

Rule 35: System Maintenance (OAR 860-036-0305)

The utility shall have and maintain its entire plant, distribution system, and hydrants in such condition that it will furnish safe, adequate, and reasonable continuous service. The utility shall inspect its facilities in such manner and with such frequency as may be necessary to ensure a reasonably complete knowledge of its condition and adequacy at all times.

The utility shall keep such records of all routine maintenance as considered necessary for the proper maintenance of its system, including regular flushing schedules, exercising of valves, and valve inspections.

Rule 36: Trouble Call

The trouble-call charge listed on the Miscellaneous Service Charges Schedule may be billed whenever a customer requests that the utility visit the customer's premises to remedy a service problem and the problem is due to the customer's facilities.

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Rule 37: Water Purity (OAR 860-036-0310)

The utility shall deliver water for domestic purposes free from bodily injurious physical elements and disease-producing bacteria and shall cause such tests to be made and precautions taken as will ensure the constant purity of its supply.

The utility shall keep a record of all water quality testings, results, monitoring, and reports.

The utility shall deliver domestic water that is reasonably free from elements that cause physical damage to customer property such as pipes, valves, appliances, and personal property. A water supply that causes such damage will be remedied until the conditions are such as to not reasonably justify the necessary investment.

Rule 38: Water Pressure (OAR 860-036-0315)

Each water utility shall maintain pressure at a minimum of 20 pounds per square inch (psi) for health reasons to each customer at all times and not exceed a maximum of 125 psi. The 20 psi and 125 psi standards are not presumed to be adequate service and do not restrict the authority of the Commission to require improvements where water pressure or flow is inadequate.

In general, 40 psi of water pressure 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.

Rule 39: Pressure Surveys (OAR 860-036-0320)

The utility shall have a permanently placed pressure gauge located on a main that is representative of the system's pressure. A portable gauge in good working condition shall be available for checking pressure conditions in any part of the distribution area.

Rule 40: Customer-Requested Pressure Test (OAR 860-036-0320)

Upon customer request, the utility will perform a water pressure test within 20 working days of the request at no cost to the customer. If the customer requests more than one pressure test within any 12-month period, a deposit to recover the reasonable cost of the additional test may be required of the customer. The deposit shall be returned if the pressure test indicates less than 20 psi or more than 125 psi. The customer or designated representative has the right to be present at the pressure test, and said test shall be conducted at a mutually agreeable time.

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For metered service, the pressure will be tested at a point adjacent to the meter on the customer's service line. For nonmetered service, the pressure will be tested at the customer's service line or hose bibb or other reasonable point likely to best reflect the actual service pressure.

Rule 41: Maps/Records (OAR 860-036-0335)

The 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 shut-off valves.

Rule 42: Utility Line Location (One Call Program) (OAR 860-036-0345)

The utility and its customers will comply with the requirements of OAR 952-001-0010 through and including OAR 952-001-0090 (One Call Program) regarding identification and notification of underground facilities.

Rule 43: Cross Connection/Backflow Prevention Program

Agate does not provide Backflow Prevention Device Services. Customer Notice:

Backflow Program
Agate Water Company

60107 Minnetonka Lane, Bend, Oregon 97702 541-382-2855

IMPORTANT INFORMATION

In 1994, Agate Water adopted a Cross Connection Control Program (BACKFLOW PREVENTION PROGRAM) as required by the State Drinking Water Program (DWP). A copy of which is included in Agate's tariffs filed with the PUC (Original Tariff Sheet No. 19, Rule 43).

It is our mission with this program to provide safe and clean water to our customers. To do this we eventually want all of Agate service connections to be equipped with a **BACKFLOW PREVENTION ASSEMBLY (BPA)**.

The following listing of served properties must have a BPA installed by the water meter and tested on the domestic service line. In most cases, a Double Check Valve Assembly (DCVA) will suffice. If any special device is required, Agate Water will notify the property owner in writing.

1. Any new connection,

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2. Any property which is sold or transferred,
3. Any rental property that changes occupancy,
4. Any property on which any change in water use is made, i.e., new sprinkler system, hot tub, solar panels, dark room, etc., and
5. Any property on which Agate Water personnel detect a potential threat for the system.

What this means is that Agate Water cannot serve water to any property that has a new occupant until there is a BACKFLOW PREVENTION ASSEMBLY installed (using Agate's guidelines) on the domestic service line as close as it is practical to the water meter.

Agate Water may not install any Backflow Prevention Assemblies on the customer's service line unless it is a new hook-up. The property owner may hire a plumber or do the installation him/herself. A copy of the guidelines for small BPA'S is available at our office.

All Backflow Prevention Assemblies must pass Agate Water's inspection after installation. The property owner is responsible to have the Backflow Prevention Assembly tested and a copy of the test report sent to our office.

If you have any further questions, please call our office at 382-2855 to schedule an appointment with our certified inspector. (Agate is required by OAR 333-061-0070 to have a certified inspector). At that time, he will be able to answer any of your questions at no charge. Agate Water does not offer any backflow prevention assembly installations (except for new hook-ups), maintenance, repairs, or testing. Thank you for your cooperation regarding this matter.

With your help we are ensuring safe water!

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| Signed By | FRED SCHILLING, OWNER | | |

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UW 119

| | | |
|---------------------------------|---|-------------|
| In the Matter of the Revised |) | |
| Tariff Schedules Filed by Agate |) | |
| Water Company (General Rate |) | STIPULATION |
| Increase). |) | |

Agate Water Company (Agate or Company), appearing by and through its owner, John Fred Schilling and the Public Utility Commission Staff (Staff) appearing by and through its attorney, Jason W. Jones, Assistant Attorney General, enter into this agreement in settlement of all issues between them. Interveners David Westoby, Stephanie Michelsen, Lawrence Riser, Tim Kelley, David Anderson, Timothy Rogers, and Corine Fraser did not stipulate with Staff and the Company.

1.

The written testimony of Staff, which is attached hereto, will be received in evidence pursuant to this stipulation without requiring any Stipulating Party to lay a foundation for its admission.

2.

Staff and the Company agree to support an increase in total revenues of \$100,324 or 19.07 percent over test period revenues, resulting in total revenue of \$626,443. Attachment A shows the stipulated revenue requirement. Attachment B is the Company's tariff sheets PUC Oregon No. 3, which shows Agate's rates, rules, and regulations. Staff and the Company agree that such a change in revenue requirement would result in just and reasonable rates.

3.

To generate the percentage change in test period revenues identified in Paragraph 2, Staff and the Company agree to support the rates according to the rate schedule

1 set forth in tariff sheet designated PUC Oregon No. 3, Original Sheets No. 3 and 4,
2 Schedules 1 and 2.

3 4.

4 Staff and the Company agree that the Company may charge Miscellaneous
5 Service Charges according to the rate schedule set forth in tariff sheet designated PUC Oregon
6 No. 3, Original Sheet No. 5, Schedule No. 3, Miscellaneous Service Charges.

7 5.

8 By entering into this stipulation, no party shall be deemed to have approved,
9 accepted, or consented to the facts, principles methods, or theories employed by any other party
10 in arriving at the agreed revenue requirement and rate spread and design.

11 6.

12 The parties recommend that the Commission adopt this stipulation in its entirety.
13 The parties have negotiated this stipulation as an integrated document. Accordingly, if the
14 Commission rejects all or any material portion of this stipulation, each party reserves the right,
15 upon written notice to the Commission and all parties to this proceeding within 15 days of the
16 date of the Commission's order, to withdraw from the stipulation and request an opportunity for
17 the presentation of additional evidence and argument.

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7.

The parties understand that this stipulation is not binding on the Commission in ruling on this application and does not foreclose the Commission from addressing other issues.

DATED this 21st day of April 2007.

Respectfully submitted,

HARDY MYERS
Attorney General



Jason W. Jones, # 00059
Assistant Attorney General
Of Attorneys for PUC Staff

DATED this _____ day of _____, 2007.

John Fred Schilling
Agate Water Company

7.

The parties understand that this stipulation is not binding on the Commission in ruling on this application and does not foreclose the Commission from addressing other issues.

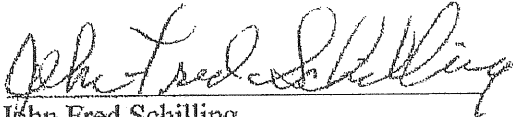
DATED this ____ day of April 2007.

Respectfully submitted,

HARDY MYERS
Attorney General

Jason W. Jones, # 00059
Assistant Attorney General
Of Attorneys for PUC Staff

DATED this 25 day of April, 2007



John Fred Schilling
Agate Water Company

Agate Water Company
Rate Application UW 119
Test Year: 2005

Company Case
45.68%

ORDER NO. 07-359

Staff Case
19.07%

UW 108 564,710
UW 119 626,443
% Above UW108 10.9%
CPI 9.3%

| Acct. No. | REVENUES | Balance Per Application Test Year: 2005 | Proposed Company Adjustments | Adjusted Results (A+B=C) | Interest Expense Tax Affect | Proposed Staff Adjustments | Adjusted Results (A+D=E) | Staff Proposed Rev Changes | Proposed Results (E+F=G) | |
|-----------|--|---|------------------------------|--------------------------|-----------------------------|----------------------------|--------------------------|----------------------------|--------------------------|--|
| 1 | 461.1 Residential Water Sales | 443,932 | 202,800 | 646,732 | | 82,187 | 526,119 | 100,323 | 626,442 | |
| 2 | 461.2 Commercial Water Sales | | | 0 | | 0 | 0 | 0 | 0 | |
| 3 | 462.1 Public Fire Protection | | | 0 | | 0 | 0 | 0 | 0 | |
| 4 | 462.2 Private Fire Protection | | | 0 | | 0 | 0 | 0 | 0 | |
| 5 | 471 Misc. Revenues | | | 0 | | 0 | 0 | 0 | 0 | |
| 6 | Special Contracts | | | 0 | | 0 | 0 | 0 | 0 | |
| 7 | TOTAL REVENUE | 443,932 | 202,800 | 646,732 | | 82,187 | 526,119 | 100,323 | 626,443 | |
| 8 | | | | 646,732 | | | 526,119 | 100,323 | 626,442 | |
| 9 | OPERATING EXPENSES | | | | | | | | | |
| 10 | 601 Salaries and Wages - Employees | 178,991 | 3,579 | 182,570 | | 3,871 | 182,862 | | 182,862 | |
| 11 | 603 Salaries and Wages - Officers | 57,250 | | 57,250 | | (1,450) | 55,800 | | 55,800 | |
| 12 | 604 Employee Pension & Benefits | 19,464 | | 19,464 | | 0 | 19,464 | | 19,464 | |
| 13 | 610 Purchased Water | 0 | | 0 | | 0 | 0 | | 0 | |
| 14 | 611 Telephone/Communications | 4,591 | | 4,591 | | (266) | 4,325 | | 4,325 | |
| 15 | 615 Purchased Power | 41,363 | 2,068 | 43,431 | | 9,799 | 51,162 | | 51,162 | |
| 16 | 618 Chemical / Treatment Expense | 0 | | 0 | | 0 | 0 | | 0 | |
| 17 | 619 Office Supplies | 1,357 | 24 | 1,381 | | 36 | 1,393 | | 1,393 | |
| 18 | 619.1 Postage | 7,028 | 380 | 7,408 | | (1,080) | 5,948 | | 5,948 | |
| 19 | 620 Materials/Supplies | 3,089 | | 3,089 | | 4,369 | 7,458 | | 7,458 | |
| 20 | 621 Repairs to Water Plant | 696 | | 696 | | 968 | 1,664 | | 1,664 | |
| 21 | 631 Contract Svcs - Engineering | 0 | 81,000 | 81,000 | | 0 | 0 | | 0 | |
| 22 | 632 Contract Svcs - Accounting | 1,000 | | 1,000 | | (150) | 850 | | 850 | |
| 23 | 633 Contract Svcs - Legal | 88 | 1,000 | 1,088 | | 657 | 745 | | 745 | |
| 24 | 634 Contract Svcs - Management Fees | 0 | | 0 | | 0 | 0 | | 0 | |
| 25 | 635 Contract Svcs - Testing | 7,300 | 8,225 | 15,525 | | (2,300) | 5,000 | | 5,000 | |
| 26 | 636 Contract Svcs - Labor | 3,793 | | 3,793 | | 403 | 4,196 | | 4,196 | |
| 27 | 637 Contract Svcs - Billing/Collection | 0 | | 0 | | 0 | 0 | | 0 | |
| 28 | 638 Contract Svcs - Meter Reading | 0 | | 0 | | 0 | 0 | | 0 | |
| 29 | 639 Contract Svcs - Other (Repairs) | 0 | | 0 | | 0 | 0 | | 0 | |
| 30 | 641 Rental of Building/Real Property | 15,600 | | 15,600 | | 0 | 15,600 | | 15,600 | |
| 31 | 642 Rental of Equipment | 0 | | 0 | | 0 | 0 | | 0 | |
| 32 | 643 Small Tools | 334 | | 334 | | 83 | 417 | | 417 | |
| 33 | 648 Computer/Electronic Expenses | 746 | | 746 | | (17) | 729 | | 729 | |
| 34 | 650 Transportation | 14,204 | | 14,204 | | 2,924 | 17,128 | | 17,128 | |
| 35 | 656 Vehicle Insurance | 3,342 | | 3,342 | | (1,282) | 2,080 | | 2,080 | |
| 36 | 657 General Liability Insurance | 2,204 | | 2,204 | | 984 | 3,188 | | 3,188 | |
| 37 | 658 Workers' Comp Insurance | 4,347 | 217 | 4,564 | | (505) | 3,842 | | 3,842 | |
| 38 | 659 Insurance - Other | 0 | | 0 | | 0 | 0 | | 0 | |
| 39 | 660 Public Relations/Advertising | 0 | | 0 | | 0 | 0 | | 0 | |
| 40 | 666 Amortz. of Rate Case | 200 | | 200 | | (200) | 0 | | 0 | |
| 41 | 667 Gross Revenue Fee (PUC) | 1,110 | 507 | 1,617 | | 205 | 1,315 | 252 | 1,568 | |
| 42 | 668 Water Resource Conservation | 0 | | 0 | | 0 | 0 | | 0 | |
| 43 | 670 Bad Debt Expense | 0 | | 0 | | 2,189 | 2,189 | | 2,189 | |
| 44 | 671 Cross Connection Control Program | 0 | | 0 | | 0 | 0 | | 0 | |
| 45 | 672 System Capacity Dev Program | 0 | | 0 | | 0 | 0 | | 0 | |
| 46 | 673 Training and Certification | 1,755 | | 1,755 | | (475) | 1,280 | | 1,280 | |
| 47 | 674 Consumer Confidence Report | 200 | | 200 | | 0 | 200 | | 200 | |
| 48 | 675 General Expense | 3,991 | | 3,991 | | (1,671) | 2,320 | | 2,320 | |
| 48a | 675 | 0 | | 0 | | 0 | 0 | | 0 | |
| 49 | TOTAL OPERATING EXPENSE | 374,043 | 97,000 | 471,043 | | 17,112 | 391,155 | 252 | 391,407 | |
| | | | | 471,043 | | | 391,155 | | 391,407 | |
| | OTHER REVENUE DEDUCTIONS | | | | | | | | | |
| 50 | 403 Depreciation Expense | 53,844 | | 53,844 | | 78,811 | 132,655 | | 132,655 | |
| 51 | 407 Amortization Expense | | | 0 | | 0 | 0 | | 0 | |
| 52 | 408.11 Property Tax | 14,427 | | 14,427 | | 35,514 | 49,941 | | 49,941 | |
| 53 | 408.12 Payroll Tax | 10,818 | | 10,818 | | 7,228 | 18,046 | | 18,046 | |
| 54 | 408.13 Other | 0 | | 0 | | 0 | 0 | | 0 | |
| 55 | 409.11 Oregon Income Tax | 10 | 4,725 | 4,735 | (2,176) | (3,560) | (5,727) | 6,605 | 878 | |
| 56 | 409.10 Federal Income Tax | 0 | 10,030 | 10,030 | (4,620) | (7,558) | (12,177) | 14,020 | 1,843 | |
| 57 | TOTAL REVENUE DEDUCTIONS | 453,142 | 111,755 | 564,897 | (6,796) | 127,546 | 573,892 | 20,877 | 594,769 | |
| 58 | NET OPERATING INCOME | (9,210) | 91,045 | 81,835 | 6,796 | (45,359) | (47,773) | 79,448 | 31,675 | |
| | | | | 81,835 | | | (47,773) | | 31,675 | |
| 59 | 101 Utility Plant in Service | 3,485,597 | | 3,485,597 | | 266,170 | 3,751,767 | | 3,751,767 | |
| 60 | Less: | | | | | | | | | |
| 61 | 108.1 Depreciation Reserve | 96,053 | | 96,053 | | 270,799 | 366,852 | | 366,852 | |
| 62 | 271 Contributions in Aid of Const | 0 | | 0 | | 250,000 | 250,000 | | 250,000 | |
| 63 | 272 Amortization of CIAC | 0 | | 0 | | 0 | 0 | | 0 | |
| 64 | 281 Accumulated Deferred Income Tax | 0 | | 0 | | 0 | 0 | | 0 | |
| 65 | Net Utility Plant | 3,389,544 | 0 | 3,389,544 | | (254,629) | 3,134,915 | 0 | 3,134,915 | |
| 66 | Plus: (working capital) | | | 3,389,544 | | | 3,134,915 | | 3,134,915 | |
| 67 | 151 Materials and Supplies Inventory | 0 | | 0 | | 20,034 | 20,034 | | 20,034 | |
| 68 | Working Cash (Total Op Exp /12) | 31,170 | | 31,170 | | 1,426 | 32,596 | 21 | 32,617 | |
| 69 | TOTAL RATE BASE | 3,420,714 | 0 | 3,420,714 | | (253,203) | 3,167,511 | 21 | 3,167,532 | |
| 70 | Rate of Return | -0.27% | | 2.39% | | | -1.51% | | 1.00% | |
| | | | | | | | 3,167,511 | | 3,167,532 | |

cash flow \$164,330

op exp/cuct/year \$356

2006 Payment 172,690
2007 Payment 131,550
3-Yr ave. payment 145,690
2007 Interest 32,974

Return on & of recover 164,330
over 3-yr ave 18,640
over 2007 payment 32,780
under 2006 (8,360)

APPENDIX B
PAGE 5 OF 25

594,769

31,674

\$100,881
man input j col

**Containing Rules and Regulations
Governing Water Utility Service**

NAMING RATES FOR

AGATE WATER COMPANY

60107 MINNETONKA LANE
BEND, OREGON 97702

541 382-2855

SERVING WATER IN THE VICINITY OF
BEND, OREGON

| | | | |
|------------|-----------------------|----------------|--|
| Issue Date | | Effective Date | |
| Issued By | AGATE WATER COMPANY | | |
| Signed By | FRED SCHILLING, OWNER | | |

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| 2 | Residential Metered Rates Did Not Pay SDC ... | 4 |
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|------------|----------------------------|----------------|--|
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| Issued By | AGATE WATER COMPANY | | |
| Signed By | FRED SCHILLING, OWNER | | |

SCHEDULE NO. 1

RESIDENTIAL METERED RATES

Customer Who Paid a System Development Charge

Available: To customers of the Utility at Bend, Oregon, and vicinity.

Applicable: To residential premises.

Base Rate

| Service Meter Size | Monthly Base Rate | Usage Allowance | Unit of Measure |
|--------------------|-------------------|-----------------|--|
| 5/8 or 3/4 inch | \$26.63 | none | <input checked="" type="checkbox"/> cubic feet |

Commodity Usage Rate

| | Commodity Rate | Number of Units | Unit of Measure | | Tier Consumption | Unit of Measure |
|--------|----------------|-----------------|--|-------|------------------|--|
| Tier 1 | \$1.00 | Per 100 | <input checked="" type="checkbox"/> cubic feet | Up to | 2000 | <input checked="" type="checkbox"/> cubic feet |
| Tier 2 | \$2.56 | Per 100 | <input checked="" type="checkbox"/> cubic feet | From | 2001 and Above | <input checked="" type="checkbox"/> cubic feet |

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

| | | | |
|------------|-----------------------|----------------|--|
| Issue Date | | Effective Date | |
| Issued By | AGATE WATER COMPANY | | |
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SCHEDULE NO. 2

RESIDENTIAL METERED RATES

Customer Who DID NOT Pay a System Development Charge

Available: To customers of the Utility at Bend, Oregon, and vicinity.

Applicable: To residential premises.

Base Rate

| Service Meter Size | Monthly Base Rate | Usage Allowance | Unit of Measure |
|--------------------|-------------------|-----------------|--|
| 5/8 or 3/4 inch | \$34.27 | none | <input checked="" type="checkbox"/> cubic feet |

Commodity Usage Rate

| | Commodity Rate | Number of Units | Unit of Measure | | Tier Consumption | Unit of Measure |
|--------|----------------|-----------------|--|-------|------------------|--|
| Tier 1 | \$1.00 | Per 100 | <input checked="" type="checkbox"/> cubic feet | Up to | 2000 | <input checked="" type="checkbox"/> cubic feet |
| Tier 2 | \$2.56 | Per 100 | <input checked="" type="checkbox"/> cubic feet | From | 2001 and Above | <input checked="" type="checkbox"/> cubic feet |

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

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|------------|-----------------------|----------------|--|
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SCHEDULE NO. 3

MISCELLANEOUS SERVICE CHARGES

This schedule lists the miscellaneous charges included in the utility's Rules and Regulations; refer to the appropriate rules for an explanation of charges and conditions under which they apply.

| | |
|--|---|
| <u>Connection Charge for New Service</u> (Rule No. 9) | |
| Standard 3/4-inch service | \$450.00 |
| Nonstandard 3/4 inch service | At cost |
| Larger than 3/4-inch | \$450.00 (plus additional costs) |
| Irrigation hookup (if provided on separate system) | \$450.00 |
| | |
| <u>Meter Test</u> (Rule No. 21) | |
| First test within 12-month period | N/C |
| Second test within 12-month period | \$20.00 |
| | |
| <u>Pressure Test</u> (Rule No: 40) | |
| First test within 12-month period | N/C |
| Second test within 12-month period | \$20 |
| | |
| <u>Late-Payment Charge</u> (Rule No. 22) | |
| Charged on amounts more than 30 days past due | Pursuant to OAR 860-036-0130 (as of 1/1/06 – 1.7%) |
| | |
| <u>Deposit for Service</u> (Rule No. 5) | |
| Pursuant to OAR 860-036-0040(2) | Pursuant to OAR 860-036-0050 (as of 1/1/06 – 4%) |
| | |
| <u>Returned-Check Charge</u> (Rule No. 23) | |
| | \$20 |
| | |
| <u>Trouble-Call Charge</u> (Rule No. 36) | |
| During normal office hours | \$25/hr |
| After normal office hours on special request | \$35/hr |
| | |
| <u>Disconnection/Reconnect Charge</u> (Rule No. 28 & 29) | |
| During normal office hours | \$25 |
| After normal office hours on special request | \$35 |
| | |
| <u>Unauthorized Restoration of Service</u> (Rule No. 30) | |
| | Reconnection charge plus costs |
| | |
| <u>Damage/Tampering Charge</u> (Rule No. 34) | |
| | At cost |
| | |
| <u>Disconnect-Visit Charge</u> (Rule No. 29) | |
| | \$20 |

| | | | |
|------------|-----------------------|----------------|--|
| Issue Date | | Effective Date | |
| Issued By | AGATE WATER COMPANY | | |
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RULES AND REGULATIONS

Rule 1: Jurisdiction of the Commission

The Rules and Regulations herein shall be subject to the rules and regulations of the Public Utility Commission of Oregon.

Rule 2: Definitions

- A. "Utility" shall mean AGATE WATER COMPANY.
- B. "Applicant" shall mean any person, business, or organization who applies for service or reapplies for service at a new existing location after service has been discontinued, except as noted in the definition of "Customer."
- C. "Commission" shall mean the Public Utility Commission of Oregon.
- D. "Customer" shall mean any person, business, or organization who has applied for, been accepted to receive, or is currently receiving service. A customer who voluntarily discontinues service at the same or different premises within 20 (twenty) days after discontinuance retains customer status.
- E. "Residential customer premises" shall mean any dwelling and its land including, but not limited to, a house, apartment, condominium, townhouse, cottage, cabin, mobile home, or trailer house.
- F. "Commercial customer premises" shall mean any premises at which a customer carries on any major activity of gaining a livelihood or performing a public service. Such activity may be of a business, industrial, professional, or public nature.
- G. "Main" shall mean the pipe laid in the street, alley, or other right-of-way for the distribution of water to customers. It shall not include service lines.
- H. "Service connection" shall mean the pipe, stops, fittings, meter, and meter box laid from the main to the property line of the premises served.
- I. "Customer line" shall mean the pipe, stops, and fittings leading from the property line to the premises served.
- J. Point of Delivery is the property line or the outlet swivel/union of the meter defining where the service connection stops and the customer line starts.

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| Issue Date | | Effective Date | |
| Issued By | AGATE WATER COMPANY | | |
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APPLICATION FOR SERVICE

Rule 3: Customer/Applicant Information (OAR 860-036-0015)

The utility shall provide or be able to provide customers or applicants with the following information:

- A. Instructions on how to read meters, either in writing or by explanation;
- B. Application and contract forms;
- C. Utility rules and regulations;
- D. Commission rules and regulations;
- E. Approved tariffs;
- F. Rights and Responsibilities Summary for Oregon Utility Consumers;
- G. Notices in foreign languages, if applicable;
- H. The utility's business address, telephone number, and emergency telephone number; and
- I. Notices approved by the Commission.

Rule 4: Application for Service (OAR 860-036-0035)

Application for water service must be made for each individual service. The application shall identify the applicant, the premises to be served, the billing address if different, the type of use to which the water is to be put, and an agreement to conform to the Rules and Regulations of the utility as a condition for receiving such service. The applicant shall, at this time, pay any scheduled fees or deposits. An application is a request for water utility service and shall not be accepted until the applicant establishes credit as set forth in OAR 860-036-0040.

An application for water service must be made where:

- A. An applicant who has not previously been served by the water utility requests service;
- B. Service has been involuntarily discontinued in accordance with the utility and Commission rules, and service is sought;
- C. Service has been voluntarily discontinued and a request to restore service has not been made within 20 days; or
- D. There is a change in the identity of a customer, the type of use to which the water is put, or the number of premises served.

Rule 5: Deposit for Service (OAR 860-036-0040)

In accordance with the Commission's rules for credit establishment and deposit waiver, an applicant or a customer may be required to make a deposit to secure payment of bills for service. The deposit shall not exceed one-sixth (1/6) the amount of reasonable estimated billings for one year's use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service. (OAR 860-036-0040)

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| Issue Date | | Effective Date | |
| Issued By | AGATE WATER COMPANY | | |
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The utility shall pay interest on deposits at the rate established by the Commission. After the customer has paid bills for service for 12 consecutive months without having had service discontinued for nonpayment, or more than two occasions in which a shut-off notice was issued, and the customer is not then delinquent in the payment of bills, the utility shall promptly and automatically refund the deposit plus accrued interest by (**check one**):

- 1) issuing the customer a refund check
- 2) crediting the customer's account

Rule 6: Customer Service Line

The customer shall own and maintain the customer service line and promptly repair all breaks and leaks. The utility shall not be responsible for any damage or poor service due to inadequacy of the customer line or any portion of the customer's plumbing. All leaks in the customer line, faucets, and all other parts of the plumbing owned or controlled by the customer shall be promptly repaired so as not to waste water.

Rule 7: Separate Control of Service

All premises supplied with water will be served through service lines so placed as to enable the utility to control the supply to each individual premises using a valve placed within and near the line of the street, the utility right-of-way, or at the meter.

Rule 8: Service Connections (OAR 860-036-0060)

The utility shall furnish and install at its own expense all necessary trenching, pipe, valves, and fittings between its main line and the customer's service line. Such installation shall be designated as the service connection. The utility shall own, operate, maintain, and replace the service connection when necessary and promptly repair all breaks and leaks. The customer shall not be responsible for any damage or poor service due to inadequacy of the service lines or any portion of the utility's plumbing.

Rule 9: Service Connection Charge

An applicant requesting permanent water service to premises not previously supplied with permanent water service by the utility shall be required to pay the service connection charge listed in the utility's Miscellaneous Service Charges Schedule.

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|------------|-----------------------|----------------|--|
| Issue Date | | Effective Date | |
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Rule 10: Main Line Extension Policy (OAR 860-036-0065)

The utility shall specify the size, character, and location of pipes and appurtenances in any main line extension. Main line extensions shall normally be along streets, roads, highways, or other satisfactory rights-of-way. All construction work shall conform to all applicable rules, regulations, codes, and industry standards. Each main line extension shall normally extend along applicant's property line to the point the applicant's service line would be at a 90-degree angle to the street or main line.

Rule 11: Main Line Advances and Refunds Policy

Each new customer requesting a main line extension shall advance the utility the cost-base amount necessary to extend the main line to provide service.

For a period of two (2) years after construction of the requested main line extension, the utility shall also collect from any additional applicants whose service connections or service lines shall connect to said main line extension an amount equal to the new applicant's proportionate share of the main line extension cost for that portion used. The utility will then refund the share differential amount to those customers who previously shared the cost of said main line extension. Refunds shall not exceed the amount originally advanced.

No part of the distribution system installed prior to the request for a main line extension shall be used to calculate any customer advance or refund.

Rule 12: Types of Use

Water service may be supplied for residential, commercial, irrigation, temporary construction, special contracts, fire prevention, and other uses. The utility shall file separate rate schedules for each type of use and basis of supply.

Rule 13: Multiple Residences

An apartment building, mobile home park, motel, trailer camp, duplex, townhouse, or any other property consisting of more than one residential unit, if served through one service line, shall be considered to be equivalent to the number of dwelling units when determining the customer count.

Rule 14: Utility Access to Private Property (OAR 860-036-0120(3)(b) and OAR 860-036-0205(3))

Customers shall provide access during reasonable hours to utility-owned service lines that extend onto the premises of the customer for the purposes of reading meters, maintenance, inspections, or removal of utility property at the time service is to be discontinued. Where the customer does not cooperate in

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providing reasonable access to the meter or to the premises, as required by law or to determine if a health or safety hazard exists, it is grounds for disconnection.

Rule 15: Restriction on Entering a Customer Residence (OAR 860-036-0085)

No water utility employee shall enter the residence of its customers without proper authorization except in an emergency when life or property is endangered.

REFUSAL OF SERVICE

Rule 16: Refusal of Service Due to Customer Accounts (OAR 860-036-0080(1-3))

The utility may refuse to serve an applicant until receipt of full payment of overdue amounts, or other obligations related to a prior account of the applicant with the utility, when the following circumstances exist:

- A. An overdue amount remains outstanding by a customer at the service address;
- B. The applicant resided at the service address indicated in (A) during the time the overdue charges were incurred; or
- C. The person indicated in (A) will reside at the location to be served under the new application. (OAR 860-036-0080)

Service shall not be refused for matters not related to water service. Residential service shall not be refused due to obligations connected with nonresidential service.

If service is refused under this rule, the utility shall inform the applicant or customer of the reasons for the refusal and of the Commission's dispute resolution process.

Rule 17: Refusal of Service Due to Utility Facilities (OAR 860-036-0080(7))

The utility shall not accept an application for service or materially change service to a customer if the utility 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 reasonable service to other customers.

For refusal of service under this rule, the utility shall provide a written letter of refusal to the applicant informing applicant that the details upon which the utility's decision was based may be requested. A copy of such notice will be sent to the Commission. The details will include, but not be limited to:

- A. Current capacity and load measured in gallons or cubic feet per minute;
- B. Current capacity and load measured in pounds per square inch;

| | | | |
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| Issue Date | | Effective Date | |
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- C. Cost to the utility for additional capacity in order to provide the additional service; and
- D. Information regarding the appeal process of the utility's refusal to provide service is available through the Commission's dispute resolution process pursuant to OAR 860-036-0025.

Rule 18: Refusal of Service Due to Customer Facilities (OAR 860-036-0080(4-6))

The utility shall refuse service to an applicant or customer whose facilities do not comply with applicable plumbing codes or, if in the best judgment of the utility, are of such a character that safe and satisfactory service cannot be given.

If service is refused under this rule, the utility will provide written notification to the customer within 10 working days stating the reason(s) for refusal and providing information regarding the Commission's complaint process. A copy of the notification will also be sent to the Commission.

METERS

Rule 19: Utility Meters (OAR 860-036-0105)

The utility shall own, maintain, and operate all meters. Meters placed in service shall be adequate in size and design for the type of service, set at convenient locations, accessible to the utility, subject to the utility's control, and placed in a meter box or vault between the street curb and property line. Each meter box or vault shall be provided with a suitable cover.

Where additional meters are furnished by the utility or relocated for the convenience of the customer, a reasonable charge may be made in accordance with a schedule approved by the Commission.

The water utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste without notice to the customer.

Each customer shall provide the utility with regular access to the meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice by the utility requesting access is grounds for disconnection. (OAR 860-036-0120) Should damage result to the meter from molesting, tampering, or willful neglect on the part of the customer, the utility shall repair or replace the meter and may bill the customer for the reasonable cost. (OAR 860-036-0105(6))

Rule 20: Meter Testing (OAR 860-036-0110)

The meter shall be tested prior to or within 30 (thirty) days of installation to determine if it is accurate to register not more than 2 percent error. No meter shall be allowed to remain in service if it registers an error in excess of 2 percent under normal operating conditions.

| | | | |
|------------|-----------------------|----------------|--|
| Issue Date | | Effective Date | |
| Issued By | AGATE WATER COMPANY | | |
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The utility shall maintain a record of all meter tests and results. Meter test result records shall include:

- A. Information necessary to identify the meter;
- B. Reason for making the test;
- C. Date of test;
- D. Method of testing;
- E. Meter readings;
- F. Test results; and
- G. Any other information required to permit convenient checking of methods employed.

Rule 21: Customer-Requested Meter Test (OAR 860-036-0115)

A customer may request that the utility test the service meter; such test shall be made within 20 working days of the receipt of such request at no cost to the customer. The customer has the right to be present during said test, which is to be scheduled at a mutually agreeable time. A written report shall be provided to the customer stating:

- A. Customer's name;
- B. Date of the customer's request;
- C. Address at which the meter has been installed;
- D. Meter identification number;
- E. Date of actual test; and
- F. Test results.

If a customer requests a meter test more often than once in any 12-month period, the deposit listed on the Miscellaneous Service Charges Schedule may be required to recover the cost of the test. If the meter is found to register more than 2 percent fast under conditions of normal operation, the utility shall refund the deposit to the customer.

BILLING

Rule 22: Billing Information/Late-Payment Charge (OAR 860-036-0120, OAR 860-036-0125 and OAR 860-036-0130)

Bills are due and payable when rendered by deposit in the mail or other reasonable means of delivery. As near as practical, meters shall be read at monthly, bimonthly, quarterly, or annual intervals on the corresponding day of each meter reading or billing period. The bill shall be rendered immediately thereafter. (OAR 860-036-0120(3) requires water utilities to bill at monthly intervals. A utility may request upon application special authority by the Commission to bill at intervals other than monthly.) The utility shall make reasonable efforts to prepare opening and closing bills from actual

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meter readings. When there is good reason for doing so, estimated bills may be submitted. Any estimated billings shall be clearly designated as such.

The late-payment charge determined by the Commission and listed on the Miscellaneous Service Charges Schedule shall be applied to all overdue balances at the time of preparing the subsequent months' bill or balances owing that are 30 days old.

All bills become delinquent if not paid within 15 days of the date of transmittal of the bill. (OAR 860-036-0125 requires a minimum of 15 days.) If permitted to become delinquent, water service may be terminated after proper notice as provided in Rule 29, Disconnection/Reconnection Visit Charge.

All water service bills shall show:

- A. Beginning and ending meter readings for the billing period;
- B. Beginning and ending dates of the period of service to which the bill applies;
- C. For all metered bills, beginning and ending meter readings for the period for which the bill is rendered;
- D. Number of units of service supplied stated in gallons or cubic feet;
- E. Schedule number under which the bill was computed;
- F. Delinquent date of the bill;
- G. Total amount due; and
- H. Any other information necessary for the computation of the bill.

Rule 23: Returned-Check Charge

The returned-check charge listed on the Miscellaneous Service Charges Schedule shall be billed for each occasion a customer submits a check for payment that is not honored, for any reason, by a bank or other financial institution.

Rule 24: Prorating of Bills

Initial and final bills will be prorated according to the number of days service was rendered and on the basis of a 31-day month. For metered services, the meter will be read upon opening and closing a customer's account. Consumption will be charged at scheduled rates. Any minimum monthly charge will be prorated.

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Rule 25: Adjustment of Bills (860-036-0135)

When an underbilling or overbilling occurs, the utility shall provide written notice to the customer detailing the circumstances, period of time, and the amount of the adjustment. If it can be shown that the error was due to an identifiable cause, the date of which can be fixed, the overcharge or undercharge shall be computed back to such date. If no date can be fixed, the utility shall refund the overcharge or rebill the undercharge for no more than six months' usage. In no event shall an overbilling or underbilling be for more than three years' usage. No billing adjustment shall be required if a meter registers less than 2 percent error under conditions of normal operation.

When a customer is required to repay an underbilling, 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 the utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The 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.

DISCONNECTION OF WATER SERVICE

Rule 26: Voluntary Discontinuance (OAR 860-036-0210)

Except for emergencies, customers who (for any reason) wish to have service discontinued shall provide the utility with at least five days' advance notice of the requested date of discontinuance of service. Until the utility receives such notice, the customer shall be held responsible for all service rendered. Should the customer wish to recommence service within 12 months at the same premises, the customer will be required to pay the customary minimum monthly charge as if service had been continuous. The reconnection charge listed on the Miscellaneous Service Charges Schedule will be applicable at the time of reconnection.

Rule 27: Emergency Disconnection (OAR 860-036-0215)

The utility may terminate service in emergencies when life or property is endangered without following the procedures set forth in OAR 860-036-0245. Immediately thereafter, the utility will notify the customer and the Commission. When the emergency termination was through no fault of the customer, there shall be no charge made for restoration of service.

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Rule 28: Disconnection of Water Service Charge for Cause (OAR 860-036-0205 and 0245)

When a customer fails to comply with the utility's rules and regulations, or permits a bill or charge for regulated services to become delinquent (except for nonpayment of a time-payment agreement*), the utility shall give at least five days' written notice before water may be shut off. The notice shall state:

- A. The reason(s) for the proposed disconnection;
- B. The earliest date for disconnection;
- C. The amount to be paid to avoid disconnection;
- D. An explanation of the time-payment provision of OAR 860-036-0125;
- E. Information regarding the Commission's dispute resolution process; and
- F. The Commission's Consumer Services toll-free number, 1-800-522-2404.

Prior to disconnection on the day that the water utility expects to disconnect service, the utility must make a good-faith effort to physically contact the customer to be disconnected or an adult at the customer's premise to be disconnected to advise the customer or adult of the proposed

disconnection. If contact is not made, the utility shall leave a notice in a conspicuous place at the customer's premise informing the customer that service has been or is about to be disconnected. The utility shall document its efforts to provide notice and make that documentation available to the customer upon request.

Service shall not be shut off for nonemergencies on a Friday or the day of a state- or utility-recognized holiday or the day prior to such holiday. (OAR 860-036-0220)

The utility shall not disconnect residential service due to the failure to pay or meet obligations associated with nonresidential service. (OAR 860-036-0225)

A water utility may not disconnect residential service for nonpayment if a customer enters into a written time-payment plan. The utility will offer such customers a choice of payment agreements between a levelized-payment plan and an equal-pay arrearage plan or some other mutually agreeable alternate payment arrangement agreed to in writing. (OAR 860-036-0125)

*When a customer fails to comply with the terms of a written time-payment agreement between the customer and/or the utility permits a time-payment agreement charge to become delinquent, the utility shall give at least 15 days' written notice before the water may be shut off.

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Rule 29: Reconnection Charge and Disconnection Visit Charge (OAR 860-036-0080 and 0245(7))

Service shall not be restored until the utility's rules and regulations are complied with and/or payment is made in the amount overdue and any additional disconnection, reconnection, or disconnection visit charges incurred as listed on the Miscellaneous Service Charges Schedule are paid.

Rule 30: Unauthorized Restoration of Service

After the water has been disconnected or shut off at the curb stop or at the meter, if any person not authorized by the utility should turn it on, the water service line may be disconnected without notice. Service shall not be reconnected until all arrearages, all cost-of-service disconnection and reconnection, and the reconnection charge listed on the Miscellaneous Service Charges Schedule are paid in full.

Rule 31: Unauthorized Use

No person shall be allowed to make connection to the utility mains, or to make any alteration to service connections, or to turn a curb stop off or on to any premises, without written permission of the utility. Meter tampering, diverting service, or any other unauthorized use of service will automatically cause a disconnection of the water service and meter removal. All fees, costs of disconnection and reconnection, past-due billings, and service charges listed on the Miscellaneous Service Charges Schedule must be paid in full before any service is restored. An advance deposit for restoration of service may be required.

Rule 32: Interruption of Service (OAR 860-036-0075)

The utility shall have the right to shut off the water supply temporarily for repairs and other necessary purposes. The utility shall use all reasonable and practicable measures to notify affected customers in advance of such discontinuance of service except in the case of emergency repairs. The utility shall not be liable for any inconvenience suffered by the customer or damage to the customer's property arising from such discontinuance of service.

The utility shall keep a record of all service interruptions affecting its whole system or a major section thereof, including the time and date of interruption, duration, and cause or purpose of interruption.

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Rule 33: Water Supply/Usage Restrictions (OAR 860-036-0325)

The utility shall exercise due diligence to furnish a continuous and adequate supply of water to its customers. If water restrictions are necessary to equitably apportion its available water supply among its customers with due regard to public health and safety, the utility shall provide written notification to its customers and the Commission including:

- A. Reason for the restriction;
- B. Nature and extent of the restriction;
- C. Effective date of the restriction; and
- D. Probable date of termination of such restriction.

Rule 34: Damages/Tampering

Should damage result to any of the utility's property from molesting or willful neglect by the customer to a meter or meter box located in the customer's building, the utility will repair or replace such equipment and will bill the customer for the costs incurred.

SERVICE QUALITY

Rule 35: System Maintenance (OAR 860-036-0305)

The utility shall have and maintain its entire plant, distribution system, and hydrants in such condition that it will furnish safe, adequate, and reasonable continuous service. The utility shall inspect its facilities in such manner and with such frequency as may be necessary to ensure a reasonably complete knowledge of its condition and adequacy at all times.

The utility shall keep such records of all routine maintenance as considered necessary for the proper maintenance of its system, including regular flushing schedules, exercising of valves, and valve inspections.

Rule 36: Trouble Call

The trouble-call charge listed on the Miscellaneous Service Charges Schedule may be billed whenever a customer requests that the utility visit the customer's premises to remedy a service problem and the problem is due to the customer's facilities.

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Rule 37: Water Purity (OAR 860-036-0310)

The utility shall deliver water for domestic purposes free from bodily injurious physical elements and disease-producing bacteria and shall cause such tests to be made and precautions taken as will ensure the constant purity of its supply.

The utility shall keep a record of all water quality testings, results, monitoring, and reports.

The utility shall deliver domestic water that is reasonably free from elements that cause physical damage to customer property such as pipes, valves, appliances, and personal property. A water supply that causes such damage will be remedied until the conditions are such as to not reasonably justify the necessary investment.

Rule 38: Water Pressure (OAR 860-036-0315)

Each water utility shall maintain pressure at a minimum of 20 pounds per square inch (psi) for health reasons to each customer at all times and not exceed a maximum of 125 psi. The 20 psi and 125 psi standards are not presumed to be adequate service and do not restrict the authority of the Commission to require improvements where water pressure or flow is inadequate.

In general, 40 psi of water pressure 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.

Rule 39: Pressure Surveys (OAR 860-036-0320)

The utility shall have a permanently placed pressure gauge located on a main that is representative of the system's pressure. A portable gauge in good working condition shall be available for checking pressure conditions in any part of the distribution area.

Rule 40: Customer-Requested Pressure Test (OAR 860-036-0320)

Upon customer request, the utility will perform a water pressure test within 20 working days of the request at no cost to the customer. If the customer requests more than one pressure test within any 12-month period, a deposit to recover the reasonable cost of the additional test may be required of the customer. The deposit shall be returned if the pressure test indicates less than 20 psi or more than 125 psi. The customer or designated representative has the right to be present at the pressure test, and said test shall be conducted at a mutually agreeable time.

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For metered service, the pressure will be tested at a point adjacent to the meter on the customer's service line. For nonmetered service, the pressure will be tested at the customer's service line or hose bibb or other reasonable point likely to best reflect the actual service pressure.

Rule 41: Maps/Records (OAR 860-036-0335)

The 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 shut-off valves.

Rule 42: Utility Line Location (One Call Program) (OAR 860-036-0345)

The utility and its customers will comply with the requirements of OAR 952-001-0010 through and including OAR 952-001-0090 (One Call Program) regarding identification and notification of underground facilities.

Rule 43: Cross Connection/Backflow Prevention Program

Agate does not provide Backflow Prevention Device Services. Customer Notice:

Backflow Program
Agate Water Company

60107 Minnetonka Lane, Bend, Oregon 97702 541-382-2855

IMPORTANT INFORMATION

In 1994, Agate Water adopted a Cross Connection Control Program (BACKFLOW PREVENTION PROGRAM) as required by the State Drinking Water Program (DWP). A copy of which is included in Agate's tariffs filed with the PUC (Original Tariff Sheet No. 19, Rule 43).

It is our mission with this program to provide safe and clean water to our customers. To do this we eventually want all of Agate service connections to be equipped with a BACKFLOW PREVENTION ASSEMBLY (BPA).

The following listing of served properties must have a BPA installed by the water meter and tested on the domestic service line. In most cases, a Double Check Valve Assembly (DCVA) will suffice. If any special device is required, Agate Water will notify the property owner in writing.

1. Any new connection,

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2. Any property which is sold or transferred,
3. Any rental property that changes occupancy,
4. Any property on which any change in water use is made, i.e., new sprinkler system, hot tub, solar panels, dark room, etc., and
5. Any property on which Agate Water personnel detect a potential threat for the system.

What this means is that Agate Water cannot serve water to any property that has a new occupant until there is a BACKFLOW PREVENTION ASSEMBLY installed (using Agate's guidelines) on the domestic service line as close as it is practical to the water meter.

Agate Water may not install any Backflow Prevention Assemblies on the customer's service line unless it is a new hook-up. The property owner may hire a plumber or do the installation him/herself. A copy of the guidelines for small BPA'S is available at our office.

All Backflow Prevention Assemblies must pass Agate Water's inspection after installation. The property owner is responsible to have the Backflow Prevention Assembly tested and a copy of the test report sent to our office.

If you have any further questions, please call our office at 382-2855 to schedule an appointment with our certified inspector. (Agate is required by OAR 333-061-0070 to have a certified inspector). At that time, he will be able to answer any of your questions at no charge. Agate Water does not offer any backflow prevention assembly installations (except for new hook-ups), maintenance, repairs, or testing. Thank you for your cooperation regarding this matter.

With your help we are ensuring safe water!

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