

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 143

In the Matter of

PELICAN BAY HEIGHTS WATER
SYSTEM LLC,

Request for a General Rate Revision.

ORDER

DISPOSITION: STIPULATION ADOPTED; TARIFF RATES
APPROVED

I. SUMMARY

In this Order, the Public Utility Commission of Oregon (Commission) adopts the stipulation entered into between Pelican Bay Heights Water System LLC (Pelican Bay or Company) and the Commission Staff (Staff), as modified, and approves the tariffs set forth in Appendix A to this Order.

II. PROCEDURAL HISTORY

On July 2, 2010, Pelican Bay filed tariff sheets in Advice No. 10-17 to be effective August 9, 2010. The filing seeks a general increase in customer rates. At its Public Meeting on July 27, 2010, the Commission found good and sufficient cause exists to investigate the propriety and reasonableness of the tariff sheets pursuant to ORS 757.210 and 757.215. The Commission ordered suspension of Advice No. 10-17 for a period of time not to exceed six months from August 9, 2010.

Shortly thereafter, petitions to intervene were filed by the following customers of the Company: Lisa Buscho (Buscho), Barry and Linda Gunderson (Gunderson), Ulysses Burns (Burns), Ronald and Cheryl Bodman (Bodman), Norma and Bill Bowles (Bowles), Barb and John Cary (Cary) and Steve and Cheryl McMahan (McMahan), (collectively, Intervenors).

A prehearing conference was held in Brookings, Oregon on September 9, 2010, at which time all petitions to intervene were granted without objection and a procedural schedule was established. Pursuant to the schedule, on October 22, 2010, lists of proposed issues were submitted by Staff and jointly by Intervenors Buscho,

Gunderson, Burns, Bodman, Bowles, and Cary. On October 28, 2010, the Administrative Law Judge (ALJ) issued a Ruling adopting an Issues List for the proceeding.

On November 23, 2010, Staff filed direct testimony and exhibits and the Company and Staff filed a joint stipulation settling all of the issues on the list adopted by the ALJ. None of the Intervenors joined in the stipulation.

The Company submitted prefiled testimony on January 7, 2011, to which Intervenors Buscho and Burns objected. The submission was authorized by ALJ ruling of January 11, 2011.

Pursuant to ORS 757.215(1), on January 13, 2011, by Order No. 11-018, the Commission ordered a further three-month suspension of the tariffs until May 9, 2011.

A hearing was held in Brookings, Oregon, on January 13, 2011, with examination of Company's witnesses and intervenors. Testimony and exhibits and comments were submitted by several Intervenors at and subsequent to the hearing, and a schedule was adopted for the remainder of the proceedings. Intervenors also examined witnesses of Staff and Company. Pursuant to the schedule adopted by the ALJ, parties filed briefs on March 7, 2011, and Reply Briefs on March 14, 2011.

III. THE INITIAL APPLICATION

Pelican Bay was legally organized on June 4, 2010, as a Limited Liability Company (LLC). Prior to that time it was one of several utilities operated by The Hills LLC. The Company serves 21 residential customers, all with 1" lines, with a total annual water consumption of 54,000 gallons.¹ The application proposed to establish rates with the Commission for the first time, increasing the Company's total annual revenues by \$20,645 from the calendar 2009 test year's \$7,778 to a proposed \$28,424, a 265.44 percent increase. Pelican Bay also sought a 10 percent rate of return on its rate base. To achieve these results, the Company estimates that average customer rates will increase from \$32.41 to \$60.37 per month.

IV. ISSUES IN THE PROCEEDING

In addition to establishing fair and reasonable rates for the provision of water utility service, the following issues were made part of this proceeding:

1. Does the Company have an obligation to supply water to fire hydrants on its system as part of its mandate to provide its customers with adequate service?
2. Should the Commission order the Company to make improvements and expansions to the system to provide adequate service? If so, what should be the extent of such improvements and expansions, and by what means shall the

¹ Company Testimony at 5, 15-16.

Company recover its reasonable and prudent expenses and its investment relative thereto?

3. What is the proper amount for a System Infrastructure Fee to be levied upon the Company's customers and how should the fee be calculated?"

V. THE STAFF ANALYSIS AND STIPULATED AGREEMENT

The Company and Staff settled all of the issues in the case by the stipulation filed on November 23, 2010, which was supported by Staff's testimony² and Attachments A and B to the stipulation.

A. Revenue Requirement, Rate Base and Rate Design

With respect to the standard issues common to all general rate revision cases, Staff analyzed the application and discussed the underlying data with the Company. Based upon that review and the Stipulation, the Company's original application was modified to indicate the following:

1. Total Revenue Requirement: \$20,046 (145% increase over test year revenue, after adjusting for an additional customer).³ Revenue Deductions: \$19,006;
2. Return on Rate Base: 10.0% on a rate base of \$10,400, resulting in a net income of \$1,040;
3. Residential Base rate: \$38.50 per month;
4. Commodity first-tier rate: 0.0062 per gallon;
5. Commodity second-tier rate: \$0.0134 per gallon;
6. Miscellaneous service charges in Schedule 2, set forth in tariff sheet designated PUC Oregon No.1, Original Sheet No. 4;
7. System Infrastructure Fee Charge: \$3,134; and
8. Effective Date: February 1, 2011.⁴

Staff explains that the rates were designed to have a base/variable split of 48.4 percent /51.6 percent and two tiers. Forty-two percent of the revenue requirement to be recovered from variable rates would be recovered from the first tier and fifty-eight percent from the second tier. The stipulated rate design results in an average rate of \$66.61 for 4,500 gallons.⁵

² Staff/100, Dougherty/1-26; Staff/101, Dougherty/1; Staff//102, Dougherty/1-7. (Nov 23, 2010).

³ Staff's analysis made numerous adjustments to the Company's test year expenses, moving some into more appropriate accounts, removing duplicate expenses and making other adjustments based on documentation provided by the Company. Changes stipulated by Staff and Company were slightly greater than first proposed in the Staff analysis. These included \$240 being added to Account 635, Contract Services-Testing (to account for required lead and copper monitoring), and \$125 to Account 673, Training and Certification. Staff/100, Dougherty/2, 10-13.

⁴ As noted in the procedural history, above, Intervenor objected to the stipulation. As a consequence, the tariff suspension period was extended by Commission Order 11-018, entered January 13, 2011, for an additional three months. The suspension period ends May 9, 2011.

⁵ *Id.* at 3.

In its testimony, Staff notes customers' concerns voiced at the August 23, 2010 settlement conference and September 9, 2010 public comment Open House, held in Brookings, with respect to the rate increase and rate design originally proposed by the application. Staff does not recommend a single-block suggested by some Intervenors, because average users would pay a higher rate than under Staff's proposed rate, and the burden would fall disproportionately on those who used less water. Under a single-tier structure, all customers would be paying higher rates during traditionally low usage months. Such a rate structure would give large users a smaller rate increase and provide a lesser incentive for conservation, thereby putting more stress on the system, raising electricity costs, and creating the need for a larger pump to supply sufficient flow during peak irrigation times.⁶

B. Added Issue 1. Obligation to Provide Water for Fire Suppression

Staff asserts that the stipulating parties agree that fire protection is an issue for the local fire district and not for the Commission, and Commission Rules do not require either fire hydrants or adequate pressure for fire flow.⁷

C. Added Issue 2. Capital Improvements—Storage Facility

Staff testimony notes customer concerns in several areas requiring capital improvements. Staff first discusses the customer concern that the system does not have storage capacity. Staff states that the stipulating parties agree that, because the system purchases all of its water and was approved as a "community" water system by the Drinking Water Program (DWP), the Company should not be compelled to install a storage facility. Such a facility would be extremely expensive relative to the small size of the customer base and its cost would be recoverable in rates.⁸

Staff testimony next addresses the issue of adequacy of service with respect to water pressure. The pumping station is approximately 191 feet above mean sea level (amsl) and the upper-most service connection is 485 feet amsl. A new variable speed booster pump was installed on September 7, 2010, and subsequently, a variable speed pump controller, in response to several customer complaints. Both improvements were approved by the DWP.⁹

The final concern voiced by Intervenors with respect to the adequacy of investment in facilities and discussed in the Staff testimony, is the issue of capacity to serve additional customers. Staff asserts that, based upon engineering reports, "the system as currently configured has sufficient capacity to serve the 27 lots that currently have meter connections to the mainline."¹⁰

⁶ *Id.* at 14-15.

⁷ *Id.* at 17. "Staff is aware of at least four Commission financially regulated small water utilities * * * that do not have fire protection."

⁸ *Id.* at 18.

⁹ *Id.* at 19.

¹⁰ *Id.* at 20.

D. Added Issue 3. System Infrastructure Fee (SIF)

Staff witness Dougherty describes the methods used to calculate the SIF of \$3,134, based on the initial plant in service, \$102,450, allocated among the 27 customer lots currently served, and subtracting the per customer service connection fee and meter cost. Witness Dougherty asserts that customers charged in excess of such amounts needed to recognize that the Company was not then regulated by the Commission.¹¹

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW**A. Jurisdiction***1. Discussion*

Oregon Revised Statute (ORS) 757.061 provides in pertinent part as follows:

(6) A water utility that serves fewer than 500 customers is subject to financial regulation under this chapter, and must pay the fee provided for in ORS 756.310, if:

* * * * *

(b) The water utility charges a rate for water service that exceeds a maximum rate established by the commission under subsection (7) of this section and 20 percent or more of the customers of the water utility file a petition with the commission requesting that the water utility be subject to financial regulation under this chapter.

Oregon Administrative Rule (OAR) 860-036-0030 provides in pertinent part as follows:

As required by ORS 757.061(7), the Commission adopts the following maximum rates and charges for water utilities that are not regulated and are serving fewer than 500 customers:

- (1) An annual average monthly residential rate of \$33 for unmetered water systems and \$36 for metered water systems;

2. Findings of Fact

By Commission Order No. 10-029 (docket WJ 25) entered February 3, 2010, the Commission found that the water company was charging in excess of the metered system threshold and, pursuant to that order, on January 21, 2010, the Company notified its customers of their opportunity to petition for rate regulation.

¹¹ *Id.* at 20-22.

3. *Conclusions of Law.*

Pelican Bay meets the conditions set forth in ORS 757.061 and OAR 860-036-0030 and we therefore conclude that the Company is subject to financial regulation by this Commission.

B. Revenue Requirement and Rate Design

The Commission has two responsibilities in every general rate revision case: first, to determine how much revenue the utility should receive from its customers to cover its reasonable expenses and a reasonable return on its investment going forward (the Revenue Requirement); and second, to assure that the rates charged fairly allocate the Revenue Requirement burden among the utility's customers.¹² The line items of the Revenue Requirement and adjustments by Staff, and as adopted by the Company and Staff in their stipulation, were set forth in Staff/102, Dougherty/2.

Intervenors raised several questions with Staff regarding the Revenue Requirement and Rate Design as agreed upon in the stipulation. Intervenor Buscho voiced concerns about the Rate Design, and contended that average water usage should be calculated using a month when all homeowners were using the water in the system. Intervenor Buscho also questioned the system development charges (SDC) incurred by homeowners prior to the assertion of Commission jurisdiction. Intervenor McMahon questioned the validity of certain plant expenses.

On December 29, 2010, Staff filed Reply Testimony Staff/200, Dougherty/1-7 and Staff/201, Dougherty/1-9, addressing these issues, revising the classification of three plant expenses and reducing the revenue requirement from the stipulated \$20,046 to \$20,029. The effect on rates would be a reduction of the base rate from \$38.50 per month to \$38.47 per month.¹³

Due to the continuing legal expenses associated with the Company's participation in the rate proceeding, Staff noted the need to revisit the stipulated Line Item 40, Account No. 666, Amortization of Rate Case: "\$3,153. Rate Case Legal fees to date amortized over 3-years." By the time Staff/201 was filed, "legal expenses were calculated at approximately \$23,487 and continuing to incur." As a consequence, Staff proposed a six-year amortization period for the legal expenses while retaining the stipulated rates, thereby enabling at least partial recovery of the legal expenses associated with the rate case. (Staff/201, Dougherty/6).

Intervenor Burns asserts that Company has "used the issue of legal fees to intimidate, deter, dissuade and prevent some of intervenors from pursuing, in good faith, their rights under the rules and statutes of the state" and to avoid its legal duties.¹⁴ In

¹² See *In the Matter of NW Natural*, Docket UG 132, Order No. 99-697 at 3 and cases cited therein.

¹³ However, due to the increase in legal expenses discussed *infra*, Staff did not recommend changing the base rate from \$35.50 to \$35.47.

¹⁴ Burns Opening Brief at 4 (Mar 8, 2011).

reply, Staff asserts that Intervenor Burns believes that legal expenses should be disallowed, but provides no detail on the proposal to limit legal fees. Staff contends that the stipulated legal expenses reflect the prudently occurred expenses of the Company.¹⁵

Staff recommends that Line Item 40 in the testimony associated with the stipulation in Staff/102, Dougherty/2, be amended to change the amortization period from three to six years. "At a 6-year amortization, the Company would recover \$18,918 in legal expenses, significantly below actual costs."¹⁶

1. Findings of Fact

With the exception of Rate Case Legal Fees, no party objected to amounts designated in the respective accounts in the proposed Revenue Requirement appended to the stipulation.

A utility is entitled to recover its reasonable expenses for participation in rate proceedings through rates charged to its customers and, accordingly, the line item is included in the Uniform System of Accounts utilized by the Commission in analyzing the Revenue Requirement. We find that the expenses incurred by the Company in this proceeding have been reasonable and prudent and concur in the Staff recommendation to allow recovery of a portion of those costs and amortize the allowed amounts over a six-year period, to reduce the rate impact on the utility's customers.

We have reviewed the proposed Revenue Requirement Accounts and find that the stipulation as modified and appended hereto reflects reasonable and prudent expenses and capital recovery costs.

We have also reviewed the rate design analysis provided by our Staff. In that review, Staff demonstrated that, based on records of customer usage during the Company's test year, a single-block rate, as suggested by some Intervenor, would produce a higher rate increases for average-use customers (4,500 gallons) than would a two-tier design; under a single-tier rate structure, all customers would be paying higher rates during traditionally low usage months. Furthermore, high usage customers put great stress on the system and are the cost-causers of the need for more electricity and larger pumps.¹⁷ We therefore concur with the Staff and find that the proposed rate design most fairly allocates the cost burden among the utility's customers.

The Stipulation set February 1, 2011, as the effective date for the tariffs included in the Stipulation. On January 13, 2011, by Order No. 11-018, the Commission ordered a further three-month suspension of the tariffs until May 9, 2011. The Company should therefore file new tariffs with an effective date no earlier than May 9, 2011.

¹⁵ Staff Reply Brief at 1 (Mar 14, 2011).

¹⁶ *Id.* at 2-3.

¹⁷ Staff/100, Dougherty/15.

2. *Conclusions of Law*

The Revenue Requirement and Rate Design set forth in Appendix B meet the requirements of ORS 757.210 for fair, just and reasonable rates.

C. Added Issue 1. Obligation to Provide Water for Fire Suppression

1. *Discussion*

Testimony elicited at the hearing, tended to prove that a system of pipes and fire hydrants (fire suppression system) is present in the area served by the Company, but that those pipes and hydrants were “stand-alone,” i.e., not connected to the system providing water to the utility’s customers. Thus, “fire flow”—water pumped into those pipes and hydrants and kept at an adequate pressure—was not present. The record also tended to prove that the Company currently lacks the water storage capacity to provide water to the stand-alone fire suppression system.

A great deal of testimony related to matters occurring prior to the initiation of the current proceeding, with respect to representations that may or may not have been made by the Company regarding the availability of fire flow to customers’ residences. Matters relating to such representations are beyond the scope of Commission jurisdiction, which looks to present and future service obligations of utilities. The question, simply put, is “should the Commission require Pelican Bay to make fire flow available to its customers as an integral part of its service obligations?”

The question presented to the Commission by this issue is solely a matter of the interpretation of the statutes, rules and a review of prior case law of Oregon which might tend to support or refute the contention that fire flow is a required service. Utilities are “required to furnish adequate and safe service, equipment and facilities, and the charges made by any public utility for any service rendered or to be rendered in connection therewith shall be reasonable and just.” (ORS 757.020).

2. *The Regulatory Framework—Authority to Impose Requirements such as Fire Flow*

The Commission has authority to adopt “rules and regulations relative to all statutes administered by the Commission.” (ORS 756.060). The Commission also has jurisdiction over any entity that “owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of * * * water * * * to or for the public.” (ORS 757.005(1)(a)(A); ORS 756.040). Thus, the Commission has jurisdiction over public water utilities who meet this definition and can issue regulations to ensure customers of such water utilities receive adequate services at just and reasonable rates. ORS 756.040; ORS 756.060.¹⁸

¹⁸ The statute is administered under OAR 860-036-0010 et seq.

The purpose of the regulations is “to provide a clear interpretation of the service standards for public water utilities.” (See Order No. 02-116 (formally adopting temporary rules promulgated in Order No. 01-828)). Under these rules “no water utility shall purposely or willfully provide substandard service or inadequate service where the water utility has the *capacity* to provide adequate service as determined by the Commission.” OAR 860-036-0301(1) (emphasis added). Moreover, “the Commission may impose additional requirements notwithstanding that the water utility meets the standards set forth in OAR Division 036.” (OAR 860-036-0301(2)).

A water utility is forbidden from providing substandard or inadequate service when it “has the capacity to provide adequate service as determined by the Commission.” (OAR 860-036-0301(1)). Subsection (2) makes it clear that the Commission retains authority, without further rulemaking, to impose additional requirements beyond those that are expressly required. (OAR 860-036-0301(2)). Thus, the Commission clearly has the authority to require small water utilities to provide fire flow. However, the Commission does not enforce regulations promulgated by other state agencies or entities, such as OAR 333-061-0050(6)(a)(H).¹⁹

3. *Commission Policy with Respect to the Utility Responsibility for Fire Flow*

The only Commission regulation with respect to fire flow facilities provides that “a water utility shall inspect, exercise, and maintain valves and hydrants as necessary to ensure they are operable.” OAR 860-036-0305(5). While this regulation requires water utilities to maintain hydrants, it does not expressly provide that the hydrants must have fire flow.²⁰

In prior rate proceedings, the Commission has declined to uniformly require small water utilities such as Pelican Bay to provide fire flow; instead, the Commission balances the costs and rate impact with the benefits of providing fire flow in rendering a decision.

In docket UF 4086, Order 92-1679, entered November 25, 1992, the Commission approved an application that authorized the issuance of a 10-year note so that the Roats Water System, Inc., could provide “fire flow service to the Quality Centers Mall.” In that case, the customer was a commercial customer, not a residential customer or residential customer group.

In docket UW 106, the Shadow Wood Water Service (Shadow), serving 64 residential customers, requested a revenue increase to increase the utility’s water capacity and to provide fire flow. Prior to issuing the final order, the Commission issued

¹⁹ OAR 333-061-0060(6)(a)(H) is an Oregon Department of Human Services, Public Health Division regulation; it provides, in pertinent part, as follows: “Finished water storage: The finished water storage capacity shall be increased to accommodate fire flows when fire hydrants are provided.” This regulation may apply to the Company because there are hydrants associated with the Pelican Bay system; however, any relief under this regulation must come from the Public Health Division.

²⁰ Staff Opening Brief at 5-6, relying on this subsection in asserting Company is not required to provide fire flow, notwithstanding the existence of a stand-alone fire suppression system.

an interim rate increase of “\$9,578 to provide cash to finish a fire protection upgrade” subject to refund if the Commission did not deem the expenditure prudent. The Commission approved a stipulation that increased Shadow’s revenue requirement by \$10,936 to \$39,372. The cost of providing fire flow was deemed prudent and the interim rate increase was retained, and highlights three policy principles with respect to the provision of fire flow by small water utilities: (1) the Commission approaches fire flow for small water utilities on a case-by-case basis, (2) fire flow has been deemed a prudent expense for small water utilities (the facts of this particular case approved a rate increase of \$10,000 per year with a customer base of 64 residential customers), and (3) the Commission is willing to approve expenditures that provide fire flow to some customers if non-fire flow customers are provided credits.²¹

In docket UW 128, Staff rejected North Hill Water Corporation’s proposal to provide fire flow when the utility only had 28 residential customers and the cost of construction for fire flow alone would have been \$379,500, a substantial hardship on the utility’s customers.²²

Thus, in fulfilling the mandate to assure “just and reasonable rates,” the Commission policy is to not compel or approve fire flow service for small water utilities when it would result in a large increase in customers’ rates. The Commission has adopted a policy of balancing the need for fire flow service with the need of keeping rates reasonable for small water utility customers. Indeed, at least four other water utilities regulated by the Commission do not have fire flow service.²³

4. Findings of Fact

Pelican Bay contends that the cost of installing a water system capable of providing adequate fire flow would be so expensive as to preclude customers from being charged just and reasonable rates and still provide the utility with recovery of its reasonable and prudent expenses and a reasonable return on its investment. In support of that position, Company submitted a letter from Steve McMahan, a licensed mechanical engineer, dated September 9, 2009. According to Mr. McMahan, “the only reliable system for fire protection and uninterrupted service during power outages is an elevated storage tank.” (Westbrook Exhibit 9S at 3). After describing the project in detail, Mr. McMahan states, in pertinent part, “Based on the estimates above, the total cost to install and connect the tanks would be about \$80,000.” (*Id.* at 4). No evidence was submitted which tended to show a lesser cost for the provision of fire flow.

We find that the \$80,000 cost to provide fire flow to the twenty-seven Pelican Bay residential lots, when added to the increases in rates described above and scheduled to shortly go into effect, would not result in just and reasonable rates.

²¹ Order No. 05-993 (Sept 15, 2005).

²² Order No. 08-433 at 4, fn 8 (Aug 26, 2008).

²³ See Staff /100, Dougherty/17 citing South Coast Water District, Hillview Water, Lakeshore Water District, and Wilderness Canyon Water.

5. *Conclusions of Law*

The proposal by Intervenors to add the requirement that the Company provide fire flow service is rejected. However, the Commission encourages the Company to consult with Intervenors and its other customers on seeking alternative and less costly solutions to the issue of fire protection for the customers.²⁴

D. Added Issue 2. Capital Improvements—Storage Facility

Intervenors raised the issue of a need for storage facilities apart from the issue of fire flow. Staff and Company oppose the position that the Company should be compelled to install storage. Staff cited the fact that other water utilities in Oregon purchase all water and do not have independent storage facilities,²⁵ and testified that the purchase costs for two 10,000 gallon plastic water tanks, exclusive of shipping, installation and connection costs would be approximately \$9,380.²⁶

1. *Findings of Fact*

Based upon the record, we find that the current water service is adequate. To the extent that other entities, including the DWP which approved Pelican Bay as a community water system not requiring storage²⁷, ultimately may require the installation of water storage facilities, the Company would be able to request recovery of the infrastructure additions in rates.

2. *Conclusions of Law*

We will not require the addition of storage facilities by Pelican Bay, as we deem the service adequate.

E. Added Issue 3. System Infrastructure Fee (SIF)²⁸

OAR 860-036-0030(4) requires service connection fees to be cost-based. Staff witness Dougherty described the calculation methodology revisions based on the existence of 27 lots within the Company's service area, yielding an SIF of \$3,314.²⁹ Several customers indicated their belief that more lots could eventually be added to the system. Evidence was provided in the proceeding that tended to prove that, prior to regulation by the Commission, Pelican Bay's SIF charges paid by some of its customers were substantially in excess of the calculated amount.

²⁴ See, e.g., Staff Opening Brief at 6 and reference to McMahan testimony of February 7, 2011.

²⁵ Staff/100, Dougherty/18.

²⁶ *Id.* at fn. 7.

²⁷ Company Opening Brief, Exhibit 4 at 25 and Exhibit 9, Internal Exhibit R.

²⁸ At times during the proceeding, the SIF has also been referred to by the Company and the Intervenors as the System Development Charge (SDC).

²⁹ Staff/100, Dougherty/20-22.

1. *Findings of Fact*

We have reviewed the methodology and calculations of the SIF proposed by Staff and find that the SIF charge accurately reflects the imbedded costs of plant of \$102,450 and the number of customers that can connect to the system at 27. No evidence has been submitted tending to show charges in excess of the SIF recommended by Staff have been applied by the Company to any customer's bill since the Company was found to be subject to regulation by the Commission.

2. *Conclusions of Law*

The Staff calculation of the SIF complies with OAR 860-036-0030(4) and is adopted by the Commission.

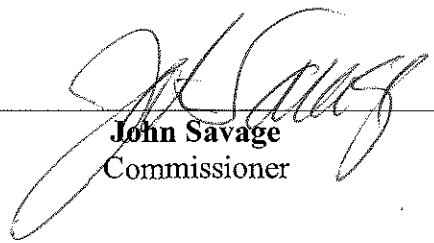
VII. ORDER

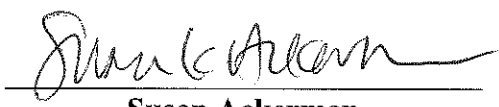
IT IS ORDERED that:

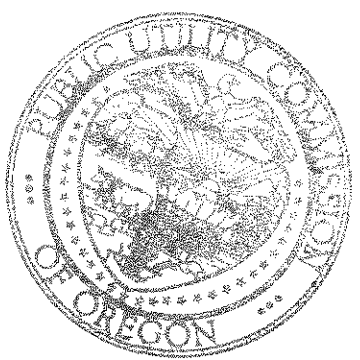
1. The Stipulation as modified by this order is attached as Appendix A and is adopted. Pelican Bay Heights Water System, LLC is authorized to increase rates by \$11,848, or 145 percent, resulting in total annual revenues of \$20,046.
2. Pelican Bay Heights Water System, LLC shall charge rates in accordance with the rate schedules in tariff PUC Oregon No. 1, Original Sheets Nos. 1-20 set forth in Appendix B of this Order, except that the effective date shall be no earlier than May 9, 2011. The Company shall file such rates in compliance with this Order.

3. Advice No. 10-17 is permanently suspended.

Made, entered, and effective MAY 03 2011


John Savage
Commissioner


Susan Ackerman
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 to a court pursuant to applicable law.



BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UW 143

In the Matter of PELICAN BAY HEIGHTS)	
WATER SYSTEM LLC)	
Proposed Tariffs for)	STIPULATION
Water Service.)	

Pelican Bay Heights Water System LLC ("Pelican Bay" or "Company"), appearing by and through its Attorney Jerry Lesan and the Public Utility Commission Staff (Staff) appearing by and through its attorney, Jason W. Jones, Assistant Attorney General, (inclusively referred to as "Parties") enter into this settlement of all issues. Intervenors Lisa Buscho, Ulysses Burns, Ron and Cheryl Bodman, Bill and Norma Bowles, Barry and Linda Gunderson, John Cary,¹ and Steve and Cheryl McMahan are not a part of this stipulation.

1.

The Parties support entering into evidence, without requiring any Party to lay a foundation for its admission, Staff's written testimony, marked as Staff/100, Dougherty/1-26; Staff/101, Dougherty/1; Staff/102, Dougherty 1-7; and Attachments A and B to this stipulation.

2.

The Parties support and recommend the Commission adopt a 145.4 percent increase over test year revenues. Based on the test period, this increase results in a

¹ Lisa Buscho, Ulysses Burns, Ron and Cheryl Bodman, Bill and Norma Bowles, Barry and Linda Gunderson, and John Cary were originally represented by Donald Brookhyser. On November 9, 2010, Mr. Brookhyser filed a Notice of Withdrawal as Counsel for the above stated intervenors.

1 total revenue requirement of \$20,046. The stipulated Revenue Requirement is
2 included as Attachment A.

3 3.

4 The Parties support and recommend the Commission adopt total revenue
5 deductions of \$19,006. Additionally, the Parties support and recommend the
6 Commission adopt a 10.0 percent return on rate base of \$10,400 resulting in net
7 income of \$1,040.

8 4.

9 The Parties support and recommend the Commission adopt a residential base
10 rate of \$38.50, and a commodity first tier rate of 0.0062 per gallon and a second tier
11 rate of \$0.0134 per gallon. These rates are set forth in the tariff sheet designated
12 PUC Oregon No. 1, Original Sheet No. 3. The Company's tariffs and rules are
13 contained in Attachment B.

14 5.

15 The Parties also support and recommend the Commission adopt the
16 Miscellaneous Services Charges according to Schedule No. 2 as set forth in the tariff
17 sheet designated as PUC Oregon No. 1, Original Sheet No. 4.

18 6.

19 The Parties also support and recommend the Commission adopt the System
20 infrastructure Fee Charge of \$3,134 according to Schedule No. 3 as set forth in the
21 tariff sheet designated as PUC Oregon No. 1, Original Sheet No. 5.

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The Parties support the stipulated tariffs going into effect for service on and after February 1, 2011.

8.

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

9.

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

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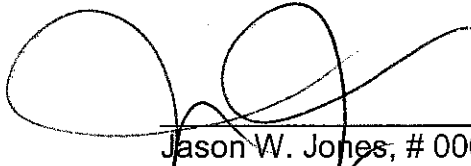
10.

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 November 2010.

Respectfully submitted,

JOHN KROGER
Attorney General



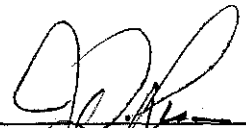
Jason W. Jones, # 000594
Assistant Attorney General
Of Attorneys for PUC Staff

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10.

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 22nd day of November 2010.



Jerry O. Lesan, #670745
Attorney Representing
Pelican Bay Heights Water System LLC

Pelican Bay Heights
DOCKET NO. UW 143
Test Year: 2009

Company Case
265.4%

Staff
145.4%

UW 143 Stipulation
Attachment A

Acct. No.	REVENUES	A	B	C	D	E	F	G	Staff %	H Difference between Staff & Company
		Balance Per Application Test Year: 2009	Proposed Company Adjustments	Adjusted Results (A+B=C)	Proposed Staff Adjustments	Adjusted Results (A+D=E)	Staff Proposed Rev Changes	Proposed Results (E+F=G)		
1	461.1 Residential Water Sales	7,778	20,645	28,423	389	8,167	11,877	20,044	145.44%	-\$8,379
2	461.2 Commercial Water Sales			0	0	0	0	0		\$0
3	465 Irrigation -			0	0	0	0	0		\$0
4	462 Irrigation - Golf Course			0	0	0	0	0		\$0
5	471 Misc. Revenues			0	0	0	0	0		\$0
6	Special Contracts			0	0	0	0	0		\$0
7	TOTAL REVENUE	7,778	20,645	28,423	389	8,167	11,877	20,044		-\$8,377
8				28,423	389	8,167		20,044		
9	OPERATING EXPENSES									
10	601 Salaries and Wages - Employees	2,000	0	2,000	(2,000)	0		0		-\$2,000
11	603 Salaries and Wages - Officers			0	0	0		0		\$0
12	604 Employee Pension & Benefits			0	0	0		0		\$0
13	610 Purchased Water	6,102	0	6,102	(856)	5,246		5,246		-\$856
14	611 Telephone/Communications	100	0	100	(0)	100		100		\$0
15	615 Purchased Power	1,102	50	1,152	(115)	987		987		-\$165
16	618 Chemical / Treatment Expense			0	0	0		0		\$0
17	619 Office Supplies	100	0	100	(0)	100		100		\$0
18	619.1 Postage	100	100	200	55	155		155		-\$45
19	620 O&M Materials/Supplies	65		65	(3)	63		63		-\$3
20	621 Repairs to Water Plant			0	344	344		344		\$344
21	631 Contract Svcs - Engineering			0	0	0		0		\$0
22	632 Contract Svcs - Accounting	0	100	100	100	100		100		\$0
23	633 Contract Svcs - Legal			0	0	0		0		\$0
24	634 Contract Svcs - Management Fees			0	2,220	2,220		2,220		\$2,220
25	635 Contract Svcs - Testing	250	500	750	330	580		580		-\$170
26	636 Contract Svcs - Labor			0	4,200	4,200		4,200		\$4,200
27	637 Contract Svcs - Billing/Collection			0	0	0		0		\$0
28	638 Contract Svcs - Meter Reading			0	264	264		264		\$264
29	639 Contract Svcs - Other			0	0	0		0		\$0
30	641 Rental of Building/Real Property			0	0	0		0		\$0
31	642 Rental of Equipment			0	0	0		0		\$0
32	643 Small Tools	0	100	100	50	50		50		-\$50
33	648 Computer/Electronic Expenses			0	0	0		0		\$0
34	650 Transportation			0	0	0		0		\$0
35	656 Vehicle Insurance	92	10	102	3	95		95		-\$7
36	657 General Liability Insurance	242	25	267	0	242		242		-\$25
37	658 Workers' Comp Insurance	25	25	50	(25)	0		0		-\$50
38	659 Insurance - Property	114	15	129	5	119		119		-\$10
39	660 Public Relations/Advertising			0	0	0		0		\$0
40	666 Amortz. of Rate Case			0	3,153	3,153		3,153		\$3,153
41	667 Gross Revenue Fee (PUC)	19	2	21	0	19	30	49		\$28
42	668 Water Resource Conservation			0	0	0		0		\$0
43	670 Bad Debt Expense			0	0	0		0		\$0
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	0	250	250	125	125		125		-\$125
47	674 Consumer Confidence Report	0	100	100	100	100		100		\$0
48	675 General Expense	0	120	120	154	154		154		\$34
49	TOTAL OPERATING EXPENSE	10,311	1,397	11,708	8,104	18,415	30	18,445		\$6,737
50				11,708	8,104	18,415		18,445	92.02%	
51	OTHER REVENUE DEDUCTIONS									
52	403 Depreciation Expense	3,008		3,008	(2,717)	291		291		-\$2,717
53	407 Amortization Expense			0	0	0		0		\$0
54	408.11 Property Tax			0	0	0		0		\$0
55	408.12 Payroll Tax			0	0	0		0		\$0
56	408.13 Other			0	0	0		0		\$0
57	409.11 Oregon Income Tax	(214)	(248)	(462)	(482)	(696)	782	86	86	\$548
58	409.10 Federal Income Tax	(454)	(526)	(980)	(1,022)	(1,476)	1,660	184	184	\$1,164
59	TOTAL REVENUE DEDUCTIONS	12,651	623	13,274	3,883	16,534	2,472	19,006	19,006	\$6,732
60	NET OPERATING INCOME	(4,873)	20,022	15,149	(3,494)	(8,367)	9,407	1,040	1,040	-\$14,108
61									5.19%	
62	101 Utility Plant in Service	131,250		131,250	(122,071)	9,179		9,179	9,179	-\$122,071
63	Less:									
64	108.1 Depreciation Reserve	29,041		29,041	(28,727)	314		314	314	-\$28,727
65	271 Contributions in Aid of Const			0	0	0		0	0	\$0
66	272 Amortization of CIAC			0	0	0		0	0	\$0
67	281 Accumulated Deferred Income Tax			0	0	0		0	0	\$0
68	Net Utility Plant	102,209	0	102,209	(93,344)	8,865	0	8,865	8,865	-\$93,344
69	Plus: (working capital)			102,209		8,865		8,865		
70	151 Materials and Supplies Inventory		0	0	0	0		0	0	\$0
71	Working Cash (Total Op Exp /12)	859	116	975	676	1,535	0	1,535	1,535	\$560
72	TOTAL RATE BASE	103,068	116	103,184	(92,668)	10,400	0	10,400	10,400	-\$92,784
73	Rate of Return	-4.73%		14.68%		-80.45%		10.00%		

Company	Staff
number of customer	21
op/exp/cust/year	\$878
Cash Flow	\$1,331

PUC Oregon No. 1

PELICAN BAY HEIGHTS WATER SYSTEM, LLC

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

NAMING RATES FOR

**Pelican Bay Heights Water System, LLC
PO Box 2767
Harbor, OR 97415**

541-661-0089

Serving water in the vicinity of

Brookings, Oregon

Issue Date / Filing Date		Effective for Service on or after	February 1, 2011
Issued By Utility	Pelican Bay Heights Water System LLC		

Advice No. _____
(FOR PUC USE ONLY)

PUC Oregon No. 1
PELICAN BAY HEIGHTS WATER SYSTEM, LLC

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Issue Date / Filing Date		Effective for Service on or after	February 1, 2011
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(FOR PUC USE ONLY)

PUC Oregon No. 1
PELICAN BAY HEIGHTS WATER SYSTEM, LLC

SCHEDULE NO. 1
RESIDENTIAL METERED RATES

Available: To customers of Pelican Bay Heights Water System at Harbor, Oregon.

Applicable: To residential premises.

Base Rate

SERVICE METER SIZE	MONTHLY BASE RATE	USAGE ALLOWANCE	MEASURING UNIT
1 inch	\$38.50	None	Gallons

Commodity (Or Variable) Usage Rate

	COMMODITY RATE	NO. OF UNITS	UNIT	MEASURING UNIT
Tier 1	\$0.0062	Per 1	Gallon	From 1 to 4,500 gallons
Tier 2	\$0.0134	Per 1	Gallon	Above 4,500 gallons

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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(FOR PUC USE ONLY)

PUC Oregon No. 1
PELICAN BAY HEIGHTS WATER SYSTEM, LLC

SCHEDULE NO. 2

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 Nos. 8 & 9)	
Standard 1-inch service	At cost
Nonstandard 1-inch service	At cost
Larger than 1-inch	At cost
Irrigation hookup (if provided on separate system)	At cost
 <u>Meter Test</u> (Rule No. 21)	
First test within 12-month period	N/C
Second test within 12-month period	\$30.00
 <u>Pressure Test</u> (Rule No. 40)	
First test within 12-month period	N/C
Second test within 12-month period	\$30.00
 <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 1/1/10 – 1.5%)
 <u>Deposit for Service</u> (Rule No. 5)	
Pursuant to OAR 860-036-0040(2)	Pursuant to OAR 860-036-0050 (as of 1/1/10 – 0.5%)
 <u>Returned-Check Charge</u> (Rule No. 23)	
	\$30.00 per incident
 <u>Trouble-Call Charge</u> (Rule No. 36)	
During normal office hours	\$30.00 per hour
After normal office hours on special request	\$45.00 per hour
 <u>Disconnection/Reconnect Charge</u> (Rule Nos. 28 & 29)	
During normal office hours	\$30.00
After normal office hours on special request	\$45.00
 <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 Site-Visit Charge</u> (Rule No. 29)	
	\$30.00

Issue Date / Filing Date		Effective for Service on or after	February 1, 2011
Issued By Utility	Pelican Bay Heights Water System LLC		

Advice No. _____
(FOR PUC USE ONLY)

PUC Oregon No. 1
PELICAN BAY HEIGHTS WATER SYSTEM, LLC**SCHEDULE NO. 3****WATER SYSTEM INFRASTRUCTURE FEE****Available:** To the Property Owners of the Pelican Bay Heights Subdivision at Harbor, Oregon.**Applicable:** To residential premises that have not previously been connected to the water system and have not previously paid a water system development charge or buy-in charge to Pelican Bay Heights Water System.

System Infrastructure Fee \$3,134

Special Provisions

1. Payment of the system infrastructure fee is to be paid prior to the service connection installation.
2. The system infrastructure fee does not include the cost of the service connection. Pursuant to Schedule No. 2, the service connection fee is charged "at cost". Please see Rule 8 and rule 9 for definition of a service connection.

Issue Date / Filing Date		Effective for Service on or after	February 1, 2011
Issued By Utility	Pelican Bay Heights Water System LLC		

Advice No. _____
(FOR PUC USE ONLY)

PUC Oregon No. 1
PELICAN BAY HEIGHTS WATER SYSTEM, LLC**RULES AND REGULATIONS**Rule 1: Jurisdiction of the Commission

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

Rule 2 Definitions

- A. **"Utility" shall mean: Pelican Bay Heights Water System, LLC**
- B. "Applicant" shall mean any person, business, or organization that applies for service or reapplies for service at a new or 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.

Issue Date / Filing Date		Effective for Service on or after	February 1, 2011
Issued By Utility	Pelican Bay Heights Water System LLC		

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(FOR PUC USE ONLY)

PUC Oregon No. 1
PELICAN BAY HEIGHTS WATER SYSTEM, LLC

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 or statement of rates, whichever is applicable;
- 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;
- 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 service and shall not be accepted until the applicant establishes credit as set forth in OAR 860-036-0040.

An application for service must be made where:

- A. An applicant, who has not previously been served by the Utility, requests service;
- B. Service has been involuntarily discontinued in accordance with the Utility and Commission rules, and service is requested;
- 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 type of use to which the water is put, or the number of premises served.

Issue Date / Filing Date		Effective for Service on or after	February 1, 2011
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PELICAN BAY HEIGHTS WATER SYSTEM, LLC

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)

The Utility shall pay interest on deposits at the rate established by the Commission. After the customer has paid its water service bills for 12 consecutive months without having had service discontinued for nonpayment, or did not have 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:

- 1. Issuing the customer a refund check, or
- 2. Crediting the customer's account.
(The customer is entitled to a refund check upon request.)

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 premise 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 service connection is that portion of the water system between the Utility's main line and the customer's property line, including all material and installation (hot tap, pipes, fittings, meter, etc.) necessary to provide water service to the customer. 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 Utility's service lines or any portion of the Utility's plumbing.

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(FOR PUC USE ONLY)

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PELICAN BAY HEIGHTS WATER SYSTEM, LLC

- A. The Utility may purchase and install the service connection and meter and, generally all materials and labor are included in rate base; or
- B. The Utility may purchase and install the service connection and charge the customer the cost of the service connection less the cost of the meter. Generally, the cost of the meter is included in rate base; or
- C. The customer may purchase the meter (or have the Utility purchase the meter for the customer) and contribute or gift the meter to the Utility. Contributions of this type are generally excluded from rate base.
- D. In special cases and upon approval by the Commission, a customer may purchase and install the service connection (including meter, meter box, parts, and all excavation and plumbing) and contribute or gift the entire service connection to the Utility. Contributions of this type are generally excluded from rate base.

Rule 9: Service Connection Charge

An applicant requesting permanent water service to a premise not previously supplied with permanent service by the Utility may be required to pay the cost of the service connection, including or excluding the meter as provided in Rule No. 8 and the Utility's Miscellaneous Service Charges in this tariff.

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-based amount necessary to extend the main line to provide service.

For a period of **5 years** after construction of the requested main line extension, the Utility shall also collect from any additional applicants who connect to the main line extension an amount per foot 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.

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PELICAN BAY HEIGHTS WATER SYSTEM, LLC

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/Commercial Users

An apartment building, mobile home park, motel, trailer camp, duplex, townhouse, or any property consisting of more than one residential/commercial 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 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 SERVICERule 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; and
- C. The person indicated in (A) will reside at the location to be served under the new application. (OAR 860-036-0080)

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

Issue Date / Filing Date		Effective for Service on or after	February 1, 2011
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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;
- 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.

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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(7))

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

The meter shall be tested prior to or within 30 (thirty) days of installation to determine 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 (fast or slow) under normal operating conditions. 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 the request. The customer or the customer's representative has the right to be present during the 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.

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The first meter test in a twelve-month period is at no cost to the customer. 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 or slow 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 & OAR 860-036-0130)

All bills, including closing bills, are due and payable at the Utility office within 15 days when rendered by deposit in the mail or other reasonable means of delivery, unless otherwise specified on the bill. The date of presentation is the date on which the Utility mails the bill.

As near as practical, meters shall be read at monthly intervals, bimonthly, quarterly, semi-annually, or annually 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. However, a Utility may request upon application special authority by the Commission to bill at intervals other than monthly.)

The Utility will keep at least 10 years of all billings records (flat or metered rates) and three years of meter readings. The Utility shall make a reasonable effort to prepare opening and closing bills from actual meter readings. When there is good reason for doing so, estimated bills may be submitted. Any estimated billings shall be clearly designated as such. When requested, the Utility shall demonstrate to the Commission the reason for the estimated billing.

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.

All bills become delinquent if not paid within 15 days of the date the Utility mailed or delivered the bill. (OAR 860-036-0125 requires a minimum of 15 days.)

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A late-payment charge may be assessed against any account that has an unpaid balance when the next bill is being prepared. The charge will be computed on the delinquent balance owing at the time of preparing the subsequent month's bill at the late-payment rate specified in the Miscellaneous Service Charges Schedule. The late-payment rate is determined annually by the Commission, and the Utility will be notified of the rate.

If an account is permitted to become delinquent, the Utility may disconnect water service by giving proper notice to the customer as provided in Rules 28/29, prior to or after the Utility assesses the late payment charge.

Rule 23: Returned Payment Charge

The Returned Payment Charge listed on the Miscellaneous Service Charges Schedule shall be billed for each occasion a customer submits any type of noncash payment (check, debit, electronic, etc.) 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, a reasonable effort will be made to read the meter upon opening and closing a customer's account. Consumption will be charged at scheduled rates. Any minimum monthly charge will be prorated.

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.

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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 at least five business-days' advance notice of the requested to discontinue service. The customer is responsible to identify the date of disconnection and for all service rendered until the Utility receives the customer's notice and the service is discontinued on the requested date.

Rates are based on continuous service. Disconnect and reconnect transactions do not relieve a customer from the obligation to pay the base rate or minimum charge that accumulates during the period of time the service is voluntarily disconnected for up to 12 months. Should the customer wish to recommence service within 12 months at the same premise, the customer will be required to pay the accumulated minimum monthly charge or base rate 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, the utility shall not charge the customer for disconnection or restoration of service.

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 business days' written notice before water service 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 Utility intends 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

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customer that service has been or is about to be disconnected. The Utility shall document its efforts to contact the customer or an adult at the premises 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)

Residential customers who are notified of pending disconnection may choose between two Time Payment Agreement options. The Utility will offer such customers a choice of a levelized-payment plan and an equal-pay arrearage plan. A Utility and customer may mutually agree to an alternate payment arrangement provided it be in writing and signed by all parties.

Disconnection of a Time Payment Agreement

A time-payment agreement disconnection occurs when a customer fails to comply with the terms of a written time-payment agreement between the customer and the Utility, or the Utility permits a time-payment agreement charge to become delinquent. The Utility shall give the customer at least 15 days' written notice and a 5 business day written notice before the water service may be disconnected.

Rule 29: Disconnection and Reconnection of Water Service and Field Visit Charge

Disconnection Charge

When service was disconnected pursuant to OAR 860-036-0245 or OAR 860-036-0250, the water utility may charge the disconnect fee stated in its tariff.

Reconnection Charge

Service must be reconnected after the customer or applicant has requested reconnection, paid all applicable charges, provided necessary credit information, and satisfied all requirements for service. When service was disconnected pursuant to OAR 860-036-0245 or OAR 860-036-0250, the water utility may charge the reconnection fee stated in its tariff.

Field Visit Charge

A water utility may assess a field visit charge whenever the water utility visits a residential service address intending to reconnect or disconnect service, but due to customer action, the water utility is unable to complete the reconnection or disconnection at the time of the visit. The field visit charge must be either filed in its tariffs or included in its statement of rates, whichever is applicable.

A field visit charge may not be assessed to a customer for delivery of any disconnect notice when the Utility has a viable address (es) for the customer. If a Utility delivers a disconnect notice, it is responsible to document its efforts to send the disconnect charge by mail and demonstrate to the Commission the reasonableness of delivering any disconnect notice to the customer's residence.

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PELICAN BAY HEIGHTS WATER SYSTEM, LLCRule 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, charges 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 may result in meter removal. All applicable 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.

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.

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PELICAN BAY HEIGHTS WATER SYSTEM, LLCRule 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 QUALITYRule 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.

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 tests, 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.

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PELICAN BAY HEIGHTS WATER SYSTEM, LLCRule 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. The 20 psi standard is 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. However, adequate pressure may vary depending on each individual water system and 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. The first pressure test in any 12-month period shall be at no charge. 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. 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.

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.

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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

The Utility will comply with the rules and regulations for the Cross Connection/Backflow Prevention Program, as provided for in ORS Chapter 333 and the Utility's approved Backflow Prevention Program.

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