

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 595

In the Matter of
Revisions to Rules in Division 036 – Water
Rules

ORDER

DISPOSITION: RULES REPEALED; NEW RULES ADOPTED

I. INTRODUCTION

In this order, we adopt new rules that extensively amend and replace the provisions governing water utilities subject to Commission regulation. We also increase the threshold amount a small water utility may charge its customers before being potentially subject to rate regulation by the Commission. These changes will become effective upon filing with the Secretary of State.

II. BACKGROUND

We initiated this rulemaking with the goal of improving the organization and clarity of the rules to make them easier to understand and follow. The current rules are lengthy, poorly organized, and reflect many years of piecemeal rulemaking that encompasses all aspects of water utility operations and activities.

Given the significance of this undertaking, representatives from our Utility Program, Consumer Services Division, Administrative Hearings Division, and Department of Justice met internally on several occasions to craft proposed rules. We then provided broad notice of the proposed revisions and held informal workshops with stakeholders. A total of three workshops were held in Salem, Oregon—on January 27, 2016, April 27, 2016, and November 10, 2016.

The early workshops were well attended, with representatives appearing from the water, electric, and natural gas utilities. Based on their input, we modified the proposed rules and were able to reach general consensus on the proposed changes. Due to this consensus, and likely because the rule changes affect only water utilities, no rulemaking participants appeared for the final workshop.

On October 13, 2016, we filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact with the Secretary of State. On that same day, we provided notice to certain legislators specified in ORS 183.335(1)(d) and to all interested persons on the service lists maintained pursuant to OAR 860-011-0001. Notice of a rulemaking hearing was published in the November 2016 *Oregon Bulletin*.

We held a rulemaking hearing on November 29, 2016. No rulemaking participant appeared and no written comments were received by the comment deadline.

III. DISCUSSION

This proposed rulemaking repeals all existing rules and replaces them with new streamlined and improved rules governing all aspects of water utility regulation, including consumer complaints, deposits, billings, territory allocation, rates, etc. In addition, proposed OAR 860-036-1910 increases the threshold amount a small water utility may charge its customers before being potentially subject to rate regulation by the Commission.

Given the extent of the revisions, we will not address each change. Instead, we provide the following general observations and specific rule highlights:

- **Organization**

As noted above, the rules currently contained in Division 036 represent many years of piecemeal rulemaking and, consequently, are poorly organized. To improve the rules, we reorganized them in two ways to make them easier to understand. First, we arranged the proposed rules by the nature of their applicability. Rules applying to all regulated water utilities come first, followed by additional provisions governing service-regulated and fully rate-regulated water utilities.¹ The rules within these broader groups are then organized to make them as intuitive as possible. For example, rules governing customer relations are organized sequentially beginning with requirements to apply for service and to establish credit, deposits, billings and payments, disconnections, etc.

- **Redundant and Unnecessary Provisions**

The proposed rules eliminate redundant or unnecessary provisions. The proposed rules contain just 13 general definitions, compared to the 29 in existing rules. They also drop provisions that simply referred to existing statutory requirements (*i.e.*, OAR 860-036-0345 – location of underground facilities), or do not apply to water utilities (*i.e.*, OAR 860-036-0360-pole attachments). By ridding the rules of unnecessary provisions and simplifying them, their length is reduced by about 30 percent. Currently the Division 036 rules exceed over 70 pages in printed form—the proposed rules total just 46 pages.

¹ ORS 757.061 exempts certain water utilities from specific statutory requirements depending upon whether the water utility is subject to “rate regulation” or “service regulation.”

- **Consumer Protection Rules**

The proposed rules modify rules governing utility interactions with customers to ensure that all duties and responsibilities are clear and explicit. They clarify provisions governing dispute resolution (proposed OAR 860-036-1150), and create a separate section to address requests for continued or restored service pending an informal or formal dispute (proposed OAR 860-036-1160). They also clarify the two types of deposits that a water utility may require of an applicant or customer (proposed OAR 860-036-1220), as well as provisions governing the use of a surety agreement in lieu of a deposit (proposed OAR 860-036-1230). The proposed rules also add examples to rules about billing adjustments to better demonstrate when and how such adjustments are permitted (proposed OAR 860-036-1440).

- **Regulatory Thresholds**

Proposed OAR 860-036-1910 increases the amounts a small water utility may charge without the need to notify its customers of the right to petition for rate regulation. Under ORS 757.061(3), a water utility that serves less than 500 customers is generally exempt from our oversight of the rates the water utility charges its customers. Such a utility may become subject to rate regulation, however, if it charges an annual monthly rate in excess of that determined by the Commission.

ORS 757.061(5) requires this Commission to adopt rules establishing maximum rates a small water utility may charge for purposes of determining when a petition for regulation may be filed. The current rates, set back in 2008 and 2009, are \$33 and \$36 per month for customers with unmetered systems and metered systems, respectively.² Recognizing inflation and the increased costs of providing safe drinking water, the proposed rules increase those threshold rates to \$42 and \$45 per month. We also revise the definition of “residential service” to make it consistent with current Commission practices in determining rate thresholds.

- **Calendar Days**

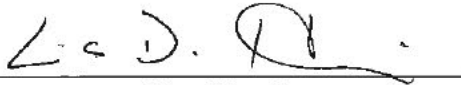
The time requirements in current rules use both “calendar” and “business days.” To provide consistency—both within Division 036 and with other Commission rules—and to eliminate customer confusion, the proposed rules generally use “calendar days” for deadlines for action.

² See Order Nos. 08-289 and 09-462. Other threshold rates are set for large customers with a pipe diameter larger than one inch.

IV. ADOPTION

At our January 24, 2017 Public Meeting, we repealed OAR 860-036-0001 through 860-036-0930 and adopted the proposed rules as set forth in Appendix A. The rule changes become effective upon filing with Secretary of State.

Made, entered, and effective JAN 24 2017.



Lisa Hardie
Chair





John Savage
Commissioner



Stephen M. Bloom
Commissioner

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

DIVISION 36**WATER UTILITIES**

Repeal OAR 860-036-0001 through 860-036-0930 (Replace with new rules below).

General**860-036-1000****Scope and Applicability of Rules**

(1) The rules contained in Division 036 are applicable to water utilities providing water service in the State of Oregon.

(2) All water utilities must comply with applicable Commission rules, regulations, statutes, and orders, including those related to the filing of applications and petitions.

(3) Upon request or its own motion, the Commission may waive any of the Division 036 rules for good cause shown. A request for waiver must be made in writing and filed with the Commission's Filing Center.

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

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.075, 756.515, 757.020, 757.035, 757.310-757.330

Hist.: NEW

860-036-1010**General Definitions**

As used in Division 036:

(1) "Applicant" means a person who does not meet the definition of a customer, who applies for service with a water utility.

(2) "Commercial service" means water service provided by the water utility that the customer uses in the promotion of a business or business product that is a source of revenue or income to the customer or others using the premises.

(3) "Customer" means a person who is currently receiving water service and is entitled to certain rights as a customer under these rules. A residential customer retains customer status for 20 calendar days following voluntary disconnection of service and must be treated as a customer if he or she reapplies for service within that 20 calendar day period.

(4) "Formal complaint" means a written complaint filed with the Commission's Administrative Hearings Division.

(5) "Informal complaint" means a complaint, registered with the Consumer Services Section, which is not the subject of a formal complaint.

(6) "Rate-regulated water utility" means a water utility that is subject to regulation of its rates and service under ORS 757.061.

(7) "Residential service" means water service provided for domestic or irrigation purposes in a residential area and is not considered a commercial service.

(8) "Served" for purpose of delivery of any required notice or document, unless otherwise specifically noted, means: delivered in person, by personal contact over the telephone, or in writing delivered to the party's last known address. If delivered by US Mail, the notice is considered served two calendar days after the date postmarked, the date of postage metering, or deposit in the US Mail, excluding Sundays and postal holidays.

(9) "Service-regulated water utility" means a water utility that is subject to regulation of its service under ORS 757.061.

(10) "Statement of rates" means a list of water service rate schedules and charges, including the terms and conditions for each service, for water utilities that are not rate regulated.

(11) "Tariff" means a rate-regulated water utility's published rates and charges, terms and conditions for each type of service, and rules and regulations.

(12) "Water system" means all assets, equipment, and infrastructure necessary in the provision of water service to customers.

(13) "Water utility" means a water system that is subject to Commission regulation as provided under ORS 757.005 and ORS 757.061. "Water utility" may include an association that provides water to its members if the association also serves the public or becomes regulated under ORS 757.063 and OAR 860-036-1930.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.061

Hist.: NEW

PUC Annual Fees

860-036-1050

Annual Fees Payable to the Commission by a Water Utility

(1) Subject to the provisions of this rule, each calendar year all water utilities under some form of Commission regulation must:

(a) Pay an annual revenue fee to the Commission as authorized in ORS 756.310; and

(b) Provide all information required in the Commission's approved annual fee statement form available on the Commission's website at www.puc.state.or.us/Pages/water/index.aspx.

(2) A fee payment may be made by cash, money order, bank draft, sight draft, cashier's check, certified check, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(3) In addition to the annual fee payable under section (1) of this rule, the Commission may impose the additional fees and penalties as authorized by ORS 756.350 and OAR 860-001-0050.

(4) For any year in which a water utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable. The audit must begin no later than three years after the statement form's due date. If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty for failure to pay under ORS 756.350. If the Commission determines that the utility has overpaid its annual fee, the Commission may, at its discretion, recompense the utility with a refund or a credit against annual charges subsequently due.

Stat. Auth.: ORS 183, 756
 Stats. Implemented: ORS 756.310, 756.320, 756.350
 Hist.: NEW

860-036-1060

Estimated Annual Fees Payable to the Commission by a Water Utility

(1) For any year in which a water utility fails to file a completed annual statement form as required under OAR 860-036-1050(1), the Commission may determine a proposed annual fee based upon any information available to the Commission. The Commission will provide written notice of the proposed annual fee to the water utility. The notice must:

- (a) Include a penalty for failure to pay as required by ORS 756.350;
- (b) Include a late statement fee in accordance with OAR 860-001-0050;
- (c) Be made no later than three years after the statement form's due date; and
- (d) Include a statement that the water utility may request a hearing on the proposed annual fee within 30 calendar days of the notice.

(2) If the water utility has not filed a petition by the end of the 30-calendar day period, the proposed annual fee is due and payable.

Stat. Auth.: ORS 183, 192, 756, 757
 Stats. Implemented: ORS 756.040, 756.310, 756.320, 756.350
 Hist.: NEW

Communications with Applicants and Customers

860-036-1100

Information for Applicants and Customers

(1) When service is initiated and not less than once a year thereafter, a water utility must provide its residential customers with a copy of the Customer Rights and Responsibilities available on the Commission's website at

<http://www.puc.state.or.us/consumer/Customer%20Rights%20and%20Responsibilities.pdf>, or a Commission-approved version prepared by the utility. A copy of the Customer Rights and Responsibilities summary must be posted in a conspicuous place in the water utility's business office. Upon request, the Commission will provide a translation of the Commission's Customer Rights and Responsibilities summary in Spanish, Vietnamese, Cambodian, Laotian, or Russian.

(2) All required notices and filings must include the water utility's legal name, name of the water system, mailing address, telephone number, emergency telephone number, and email address or website.

(3) Upon request by an applicant or a customer, a water utility must provide:

- (a) A copy of its approved tariffs or statement of rates;
- (b) A copy of the utility's rules and regulations applicable to the type of service being provided; and

(c) The option to receive electronic copies of all written notices to be issued on the customer's account under these rules.

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

860-036-1110

Water Utility Emergency and Nonemergency Response Requirements

(1) Each water utility must maintain a business location and a telephone number at which it may be contacted directly during its regular business hours. A water utility must respond to nonemergency inquiries, complaints, and service problems within one business day.

(2) A water utility must provide a means by which it may be contacted at any hour regarding a water failure or emergency. A water utility must respond to the caller within one hour of the time of the call or message and promptly take appropriate action to resolve the failure or emergency. If extenuating circumstances exist that prevent the water utility from responding to the caller within one hour, the Commission may require the water utility to justify the delay.

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

860-036-1120

Designation of Third Party to Receive Copies of Bills and Notices

A water utility must offer applicants and customers the option to designate a third party to receive copies of bills, notices, or both. When a water utility receives such designation, it must send duplicate copies of bills or notices required under these rules to the customer's representative.

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

Informal and Formal Complaints

860-036-1150

Dispute Resolution

(1) When a dispute occurs between an applicant or a customer and a water utility regarding any charge or service, the water utility must:

- (a) Thoroughly investigate the matter;
- (b) Promptly report the results of its investigation to the complainant;
- (c) Inform the complainant of the right to have a water utility supervisor review any dispute;
- (d) Prepare a written record of the dispute including the name and address of the complainant involved, the date the complaint was received, the issues in dispute, a summary of the water utility's efforts to resolve the dispute, and the disposition of the matter; and
- (e) Retain records of the dispute for at least 36 months after the investigation is closed.

(2) If the water utility and the complainant cannot resolve the dispute, the water utility must inform the complainant of the right to contact the Consumer Services Section and request

assistance in resolving the dispute. The water utility must provide the complainant information about how to contact the Consumer Services Section.

(3) The Consumer Services Section will investigate any dispute upon request to determine whether it can be resolved as an informal complaint.

(4) If the Consumer Services Section cannot resolve the dispute, the complainant may file a formal written complaint with the Commission under ORS 756.500. The formal complaint must be submitted on an approved form available from the Consumer Services Section.

(a) The complaint must be filed electronically with the Filing Center at PUC.FilingCenter@state.or.us.

(b) If the complainant does not have access to electronic mail,

(A) The complaint may be mailed, faxed, or delivered to the Filing Center at the address set out in OAR 860-001-0140; and

(B) The complaint must include a request for waiver of electronic service and filing requirements. This request is included on the form available from the Consumer Services Section.

(c) The Commission will serve the complaint on the water utility. The Commission may electronically serve the water utility with the complaint if the electronic mail address is verified prior to service of the complaint and the delivery receipt is maintained in the official file.

(d) The water utility must answer the complaint within 15 calendar days of service of the complaint by the Commission. The water utility must serve a copy of its answer on the complainant.

(A) If the water utility files a motion to dismiss, the complainant may file a response within 15 calendar days of the motion. If the complainant responds, the complainant must file the response with the Filing Center and send a copy to the utility. The Commission may make a decision on the formal complaint based on the information in the complaint, the utility's response and motion to dismiss, and the complainant's response to the utility's motion; or

(B) The Commission may set a procedural schedule for the complaint proceedings, including, but not limited to, scheduling dates for receiving additional information from the parties, telephone conferences, or a hearing. A hearing may be held on less than 10 calendar days' notice when good cause is shown.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.500-558

Hist.: NEW

860-036-1160

Continued or Restored Service Pending Informal or Formal Dispute

(1) A complainant with an informal or formal complaint is entitled to continued or restored service if:

(a) Disconnection of service is or was based on grounds other than tampering with water utility property, stealing, diverting, or engaging in unauthorized use of water;

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

(c) The complainant diligently pursues dispute resolution under the Commission's rules; and

(d) The complainant pays all undisputed amounts for water service pending resolution of the dispute.

(2) In determining whether the conditions in section (1) of this rule are met for a complainant with an informal complaint, the water utility must consult with the Consumer Services Section.

(3) A complainant with a formal complaint may request a hearing to determine entitlement to continued or restored service. Unless extraordinary circumstances exist, the Commission will conduct the hearing by telephone within three business days. Notice of the hearing will be provided to the complainant and the water utility at least 12 hours before the date and time of the hearing.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.500

Hist.: NEW

Request for Service

860-036-1200

Applications for Water Utility Service

(1) Any person wanting water service must submit an application to the water utility. A separate application is required for each property to be served.

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

- (a) The applicant's name, service address, and billing address;
- (b) The contact information where the applicant can be reached;
- (c) The type of water service requested and its intended use; and
- (d) The name to be used to identify the account, if different than the applicant's actual name.

(3) If the account is for residential service, the water utility may also request the applicant to provide the following information:

- (a) The names and birth dates of all persons responsible for payment on the account; and
- (b) For each person responsible for payment on the account, two forms of government-issued photo identification, or one government-issued photo identification and one of the following:
 - (A) A valid social security number;
 - (B) A current photo identification from a school or employer and the name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or

(C) Other information deemed sufficient by the water utility to establish an applicant's identification.

(4) Once an applicant has submitted all information required by the water utility under these rules, a water utility must either accept or refuse an application within two business days of its receipt.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1210

Establishing Credit for Residential Service

(1) Except as provided by section (3) of this rule, a water utility may require an applicant to establish satisfactory credit for new residential service by showing one of the following:

(a) The applicant received 12 months of continuous water service during the preceding 24 months, and the water utility can verify that the applicant voluntarily disconnected service and timely paid for all services rendered; or

(b) The applicant provides proof of a regular source of income.

(2) If an applicant is unable to establish satisfactory credit, a water utility may require a deposit under OAR 860-036-1220(2) or allow a written surety agreement under OAR 860-036-1230.

(3) An applicant who has customer status under OAR 860-036-1010(3) is not required to establish credit for new residential service.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

Deposits and Surety Agreements

860-036-1220

Deposits for Residential Service

(1) Under conditions set forth below, a water utility may require an applicant or customer to pay a deposit as a guarantee of payment for services provided. Amounts held by a water utility may not exceed one-sixth of the actual or estimated annual billing for the premises.

(2) A water utility may require an applicant to pay, prior to service being provided, a deposit at the time of filing an application if:

(a) The applicant is unable to establish credit under OAR 860-036-1210;

(b) The applicant was previously disconnected by the water utility for tampering with water utility facilities, theft of service, or unauthorized use of water under OAR 860-036-1590; or

(c) The applicant was a prior customer of the water utility during the last 24 months and either:

(A) Was disconnected for nonpayment; or

(B) Failed to pay the account final bill by the due date.

(3) After service is initiated, the water utility may require a customer to pay a deposit, to be paid in full within seven calendar days, if:

(a) The customer provided false information to establish credit; or

(b) The customer tampered with water utility facilities or engaged in theft of service or unauthorized use of water under OAR 860-036-1590.

(4) A customer's failure to pay a deposit imposed under section (3) of this rule within seven calendar days is grounds for disconnection under OAR 860-036-1500.

(5) The water utility may adjust the deposit amount when a customer moves to a new location within the water utility's service area, and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the existing deposit.

(6) When the customer pays the deposit in full, the water utility must provide the customer with a written document showing the date, the service address, the amount of deposit, the customer's payment made in full, the interest rate to be applied to the deposit, and an explanation of the conditions under which the deposit will be refunded.

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

860-036-1230**Surety Agreements**

(1) A water utility must inform any residential applicant or customer who is required to pay a deposit of the opportunity to provide a written surety agreement in lieu of paying the deposit. A surety agreement obligates another qualifying residential customer of the same water utility to pay an amount up to the required deposit if the secured account is later disconnected and a balance remains owing following the due date for the closing charges. To qualify as a surety, the other residential customer must have had 12 months of continuous service with the water utility without a late payment.

(2) If the deposit is required of an applicant under OAR 860-036-1220(2), the water utility may require the signed surety agreement prior to service being provided.

(3) If the deposit is required of a customer under OAR 860-036-1220(3), the water utility may require a signed surety agreement within seven calendar days. A customer's failure to timely provide a surety agreement is grounds for disconnection under OAR 860-036-1500.

(4) If the secured account is disconnected and a balance remains following the due date for closing charges, the water utility may bill the surety for amounts up to the surety agreement amount. The water utility may apply any payment received from the surety first to the amount due under the surety agreement. The water utility may disconnect the surety's service for non-payment of the surety agreement amount after providing notice to the surety under OAR 860-036-1510.

(5) The surety may terminate the surety agreement after 12 months upon seven calendar days' advance written notice to the water utility.

(6) A water utility may terminate a surety agreement at any time upon seven calendar days' notice to both the surety and the secured customer if the surety no longer meets the qualifications under section (1) of this rule.

(7) In the event a surety agreement is terminated under section (5) or (6) of this rule, the water utility will provide notice of the termination of the surety agreement to the customer. The water utility may require the customer, within seven calendar days, to pay the required deposit amount, enter into a deposit payment arrangement, or obtain a written surety agreement from another qualifying customer.

(8) The surety agreement automatically terminates when:

(a) The secured account is closed and paid in full;

(b) The secured account is closed and the surety pays the full amount secured by the surety agreement; or

(c) The customer with the secured account establishes credit under OAR 860-036-1260(2) or pays a deposit under OAR 860-036-1220.

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

860-036-1240**Deposit Payment Arrangements for Residential Service**

(1) A water utility must allow a deposit for residential service to be paid in three installments unless the deposit:

- (a) Is required to restore service that was disconnected for failure to pay a deposit; or
- (b) Was assessed under OAR 860-036-1220(3).

(2) Under a deposit installment agreement, the water utility may require the first installment to be paid immediately and the remaining two installments to be paid 30 and 60 calendar days after the first installment payment.

(3) For each deposit installment agreement, the water utility must provide a written agreement that specifies the amount and date each installment payment is due. The agreement must also include a statement, printed in bold-face type, that water service will be disconnected if an installment payment is not paid.

(4) A customer's failure to abide by the terms of a deposit installment agreement is grounds for disconnection under OAR 860-036-1500.

(5) If a water utility adjusts the deposit amount under OAR 860-036-1220(5), the water utility must adjust the remaining payments to include the additional amounts required.

(6) When a payment is made for both water service and a deposit installment, the payment must be applied first to the deposit installment due.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1250**Interest on Deposits for Residential and Nonresidential Service by Rate-Regulated Utilities**

(1) Rate-regulated water utilities must pay interest on all customer deposits. Each year the Commission will notify all rate-regulated water utilities of the required interest rate to be applied to deposits held during January 1 through December 31 of the subsequent year.

(2) If the deposit is held beyond one year, accrued interest must be paid by a credit to the customer's account. If held less than one year, interest must be prorated.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1260**Refund of Deposits**

(1) A water utility must refund all deposits and accrued interest once credit is established, reestablished, or when service is disconnected. The water utility must issue a credit to the customer's account or mail the refund to the customer's last known address unless otherwise specified. Customer refunds must first be applied to any unpaid balance on the customer's account.

(2) For purposes of this rule, credit is considered established or reestablished one year after the deposit is paid in full if:

- (a) The account is current;

(b) Not more than two 7-calendar day disconnection notices were issued to the customer during the previous 12 months; and

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

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

(4) The water utility must honor valid claims for payment of refunds if received within one year of the date service is disconnected. Funds held beyond one year after the date service is disconnected will be disposed of in accordance with ORS 98.316.

(5) Accrued interest must be paid in accordance with OAR 860-036-1250. A water utility must keep a detailed record of each deposit received until the deposit is credited or refunded.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 98.316, 756.040

Hist.: NEW

Refusal of Service

860-036-1270

Refusal of Water Utility Service

(1) A water utility must refuse to provide service if:

(a) The applicant's facilities do not comply with the codes, rules, or regulations of the appropriate governing authorities or the best practices governing safe and adequate water service, or with the reasonable rules and regulations of the water utility;

(b) The water utility does not have adequate facilities, resources, or capacity to provide the requested service without impairing service to other customers; or

(c) The water utility is prohibited by law from providing the service.

(2) If a water utility refuses to provide service under section (1) of this rule, the water utility must provide the applicant with written notice of the refusal within seven calendar days of the request for service. The notice must:

(a) Provide the information required by OAR 860-036-1100(2);

(b) Explain the specific reasons for refusing water service;

(c) Inform the applicant of the right to request details upon which the water utility's decision was based; and

(d) Inform the applicant of the right to dispute the refusal by contacting the Consumer Services Section at the contact information provided in OAR 860-001-0020(2).

(3) Except as provided in section (4) of this rule, a water utility may refuse to provide service if:

(a) The applicant has amounts owing under a tariff or statement of rates; or

(b) The applicant for residential service has a roommate with amounts owing under a tariff or statement of rates, and the applicant lived with the roommate at the time the amounts owing were incurred.

(4) If the applicant for residential service was a former residential customer with amounts owing and was involuntarily disconnected for non-payment and applies for service within 20 calendar days of the disconnection, the water utility must provide service upon receipt of one-half of the amount owed with the remainder due within 30 calendar days.

(a) If the former customer fails to pay the remaining amounts within 30 calendar days, the utility may disconnect service after issuing a 7-calendar day disconnection notice in accordance with OAR 860-036-1510(4).

(b) If service is disconnected, the utility may refuse to restore service until it receives full payment of all amounts owing, including reconnection charges allowed under OAR 860-036-1580.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.035, 757.225

Hist.: NEW

Service

860-036-1300

Water Service Connection

(1) A water service connection is defined as the facilities used to connect a water utility's distribution network to the point of connection at the customer's service line. The water utility owns and maintains the water service connection.

(2) A customer's service line is defined as the facilities used to convey water from the point of connection to the customer's point of usage. The customer owns and maintains the customer service line.

(3) If authorized by its tariff or statement of rates, a water utility may recover a reasonable, cost-based service connection charge to offset the expense listed in section (1) of this rule.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1310

Main Line Extensions

(1) A main line extension is defined as the extension of a water utility's main line necessary to provide service to a customer when the property does not currently have main line frontage.

(2) A water utility may charge a reasonable non-discriminatory main line extension charge if the charge and policy are stated in the water utility's tariff or statement of rates.

(3) A water utility must have a main line extension policy that:

(a) Lists all applicable charges;

(b) Describes the advance and refund provisions, including a description of the mechanisms for collecting and rebating the amount charged equitably among the customers who paid for the cost of the line; and

(c) Provides the time period during which the advance and rebate provisions apply.

(4) Upon request, the water utility must provide a written breakdown of its main line extension costs and the allocation of those costs to the customer.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1320**Temporary Service**

A water utility may provide temporary service to a customer and charge all costs of installing and removing the temporary service, in excess of any salvage realized, if the costs are stated in the water utility's tariff or statement of rates.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1330**Restrictions on Entering a Customer Residence**

A water utility employee or representative may not enter the residence of a customer without proper authorization except during an emergency endangering life or property.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

Water Meters**860-036-1350****Use of Water Meters**

(1) The water utility must provide and install at its expense any water meter used to calculate a customer's bill, unless the water utility's tariff or statement of rates allows the recovery of the cost, including installation, from the customer. A rental charge may not be assessed for a meter used to calculate a customer's bill.

(2) All meters must be tested before installation or within 30 calendar days thereafter. Meters must be accurate to no more than two percent fast or slow under normal operating conditions. The water utility must prepare a test record and retain the current and immediately prior test records for all meters tested. The test record must include:

- (a) Meter identification number and location;
- (b) The reason for the test;
- (c) The testing method;
- (d) The beginning and ending meter readings;
- (e) The test results and conclusion; and
- (f) All data taken at the time of the test.

(3) Upon request by a customer, a water utility must provide information about how to read the water meter.

(4) Meters registering in excess of the two percent standard must be repaired or replaced within 30 calendar days after discovery. Pending repair or replacement of the meter, the water utility must adjust the customer's bill to compensate for any identified inaccuracy in accordance with OAR 860-036-1440.

(5) All meters must be in good working condition, adequate in size and design, and display the units of service measured.

(6) A water utility may assess the customer the actual cost incurred for any meter relocation that is requested by the customer for the customer's convenience.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.250

Hist.: NEW

860-036-1360

Customer Requested Meter Tests

(1) A customer may ask the water utility to test the water meter once every 12 months at no cost. The water utility must test the water meter within seven calendar days of the request, unless the customer fails to provide the water utility reasonable access to the meter.

(2) A customer or a designated representative has the right to be present at any on-site meter test. The test must be conducted at a mutually acceptable time.

(3) Within seven calendar days of performing the requested meter test, the water utility must provide a meter test report to the customer. A sample report form is available at www.puc.state.or.us/Pages/water/forms_notices/water_notices.aspx. The report must include:

(a) The information required by OAR 860-036-1100(2);

(b) The name of the customer requesting the test and the service address where the meter was tested;

(c) The date the meter test was requested and the date the meter test was performed;

(d) The name of the person performing the test;

(e) The meter identification number and location;

(f) The beginning and ending meter readings; and

(g) The actual test results and conclusion.

(4) If a customer requests more than one meter test within any 12-month period and the test results indicate that the meter is registering within the two percent performance standard, the customer may be assessed a reasonable charge for the test if the charge is included in a water utility's tariff or statement of rates. If the meter registers outside the two percent performance standard, the water utility may not charge the customer for the meter test.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1370

Meter Readings

(1) A water utility must read meters that are used to calculate a customer's bill on monthly intervals and as near as possible on the same corresponding day of each month unless otherwise indicated in its tariff or statement of rates. A water utility may use estimated readings for billing purposes under OAR 860-036-1400(3), but must actually read a meter at least once every four months.

(2) Upon customer request, a water utility manually reading meters must leave the meter reading information at the customer's premises at the time of the meter reading. The information must contain the date and time of the meter reading and the meter reading data.

(3) A customer must provide the water utility with regular access to the meter on the customer's property. Failure to permit reasonable access is grounds for disconnection under OAR 860-036-1500.

(4) When access to a meter is difficult due to the meter's location or other circumstances, the water utility may seek the customer's cooperation in obtaining meter readings.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.250

Hist.: NEW

Billings & Payments

860-036-1400

Customer Billings

(1) A water utility must provide its customers with timely billings every month or as indicated in its tariffs or statement of rates.

(2) A water utility must prepare bills, including opening and closing bills, from actual meter readings, unless conditions prevent an actual meter reading.

(3) If billings are based on estimated readings, the water utility must clearly identify the estimated meter reads and the estimated consumption on the bill. The water utility must verify the actual meter reading at least once every four months and adjust the customer's bill as needed.

(4) Customer bills must include the information required by OAR 860-036-1100(2). A sample bill form is available at

www.puc.state.or.us/Pages/water/forms_notices/water_notices.aspx.

(5) The water utility must provide information in the bill sufficient for the customer to understand and compute the charges being assessed, including:

(a) Separate line items for past due balance, payments and credits, new charges, late fees, and total account balance;

(b) The date new charges are due (at least 15 calendar days from the date the bill was served);

(c) Calculation of new charges including base or flat rate, usage billing tiers and rates, beginning and ending meter readings, the dates the meter was read, rate schedule, billing period, and number of days in the billing period; and

(d) The date any late payment charge was applied and an explanation of the terms of the late payment charge; i.e., "A late charge of (insert charge) may be applied to all past due balances carried forward to the next billing cycle."

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1410

Application of Partial Payments

Absent written instructions from the customer, and consistent with OAR 860-036-1240(6), the water utility must apply payments in the following order:

(1) Past due regulated tariff or statement of rates services;

- (2) Currently due regulated tariff or statement of rates services; and
- (3) Non-regulated services.

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

860-036-1420

Time-Payment Plans for Residential Water Service

(1) A water utility must offer time-payment plans to allow a customer to pay past-due amounts over a period of time, unless the amounts owing relate to theft of service, tampering, unauthorized use of water, or failure to abide by the terms of a time-payment plan. The customer must make the initial payment within one business day of agreeing to the time-payment plan.

(2) A water utility must offer time-payment plans to:

- (a) A current residential customer with past-due amounts; and
- (b) A residential customer whose service was voluntarily disconnected and who reapplies for service within 20 calendar days of disconnection.

(3) A water utility must offer the customer the option to choose between a levelized-pay arrearage plan and an equal-pay arrearage plan:

(a) A customer who selects a levelized-pay arrearage plan must make an initial payment equal to one-twelfth of the sum of the average annual bill and past-due balance. The customer will make a like payment each month for the next 11 months. The water utility must review the levelized-pay arrearage plan within four to six months of the agreement and modify payments if there is a change in rates or significant variations in the amount of water consumed by the customer.

(b) A customer who selects an equal-pay arrearage plan must make an initial payment equal to one-twelfth the account amount and a like payment for each of the next 11 months, plus pay monthly amounts billed for current usage.

(4) The water utility and customer may agree to an alternate time-payment plan provided the utility informs the customer of the options in section (3) of this rule.

(5) Upon request, a water utility must provide a written explanation of the terms of an agreed-upon time-payment plan.

(6) If the customer changes residence within the water utility's service area during a time-payment plan, the terms of the time-payment plan continue.

(7) A customer's failure to abide by the terms of a time-payment plan agreement is grounds for disconnection after providing notice as required by OAR 860-036-1510(4)(b).

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

860-036-1430

Late-Payment Charge

(1) A water utility may include a late payment charge in its tariffs or statement of rates that:

- (a) May be applied to residential accounts with a past-due balance at the time the water utility prepares the subsequent bill for the next billing cycle;

(b) May be applied to all other accounts with a past-due balance if payment is not received by the bill due date; but

(c) May not be applied to a residential account with a current time-payment plan.

(2) For rate-regulated water utilities, the Commission determines the late-payment rate based on a survey of prevailing market rates for late-payment rates of commercial enterprises. The Commission will advise all rate-regulated water utilities of any change in the rate used to determine late-payment charges on past-due customer accounts.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1440

Adjustment of Utility Bills

(1) If a water utility determines that it incorrectly billed a current or former customer for tariffed services, the water utility may take corrective action depending upon the time the billing error occurred and the date the water utility discovered the error.

(2) If the utility billed and collected more than the amounts stated on its tariff for services, the water utility must refund or credit amounts incorrectly collected during the 12-month period ending on the date on which the water utility issued the last incorrect bill. However, if the incorrect billing occurred more than three years before the incorrect billing is discovered, no refund or credit is required. For example, if the water utility discovers in July 2016 that it over collected amounts from January 2013 to January 2015, the utility must refund or credit amounts over collected for the period from January 2014 to January 2015. However, if that billing error occurred from January 2013 to January 2014, the water utility is only required to refund or credit amounts over collected from July 2013 to January 2014.

(3) If the utility billed and collected less than the amounts stated on its tariff for services, the utility may issue a bill to collect amounts owing for the 12-month period ending on the date on the water utility issued the last incorrect bill. However, the utility may not bill for services provided more than two years before the date the utility discovered the billing error. For example, if a utility discovers in July 2015 that it under collected amounts from July 2012 to July 2014, it may bill the customer or former customer for amounts owed for the period from July 2013 to July 2014. However, if the water utility discovered that billing error in January 2016, it may only collect amounts incorrectly billed during the period from January 2014 to July 2014.

(4) Notwithstanding section (3) of this rule, if the utility's under collection for tariffed services was the result of fraud, tampering, diversion, theft, misinformation, false identification, or other unlawful conduct on the part of the customer or former customer of the water utility, the water utility may collect full payment for any amount owed without limitation.

(5) When a water utility issues a bill to collect under collected amounts, a current or former customer of a water utility may enter into a time-payment agreement as provided in OAR 860-036-1420. If the customer is already on a time-payment plan, the utility must offer to renegotiate the payment plan to include the billing error. If the customer and utility cannot agree upon payment terms, the Commission will establish terms and conditions to govern the customers' obligation. This section does not apply if the corrected billing is the result of the conditions listed in section (4) of this rule.

(6) When a water utility requires payment for amounts previously under collected, the utility must provide a written notice that explains:

- (a) The circumstance and time period of the billing error;
- (b) The corrected bill amount and the amount of the necessary adjustment;
- (c) The Commission's consumer complaint process; and
- (d) The right for a current or former customer to enter into a time-payment agreement with the utility.

(7) A billing adjustment is not required if a water meter registers less than a two percent error under conditions of normal operation.

(8) The water utility may waive rebilling or issuing a refund check when the costs make such action uneconomical.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.077,

Hist.: NEW

860-036-1450

Transfer Billings

(1) Except as provided in section (3) of this rule, if a water utility determines that a customer owes an amount from a closed account the customer previously held with the water utility, the water utility may transfer the closed account balance to the customer's current account. The water utility must give the customer a separate, written notice of the transfer, including the amount owing, the time period when the balance was incurred, and the service address where the balance owing was incurred.

(2) If the customer has a balance owing on an existing time-payment plan, the customer may enter into a new time-payment plan under OAR 860-036-1420 incorporating all amounts owing.

(3) A water utility may not transfer a balance owing on a non-residential account to a residential account.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.225

Hist.: NEW

Disconnecting and Reconnecting Water Service

860-036-1500

Grounds for Involuntary Disconnection

(1) A water utility may disconnect water service when:

(a) A customer fails to pay charges due for services rendered under a water utility tariff or statement of rates;

(b) A customer fails to pay a deposit, fails to timely provide a surety under OAR 860-036-1230 or comply with its terms, or fails to comply with the terms of a deposit installment agreement under OAR 860-036-1240.

(c) A customer fails to comply by the terms of a payment agreement under OAR 860-036-1240(3) or 860-036-1420;

(d) A customer provides false identification to establish or to continue service;

(e) A customer has facilities that do not comply with the applicable codes, rules, regulations, or the best practices governing safe and adequate water service, including compliance with the water utility's Cross Connection Control Program;

(f) A customer fails to provide reasonable access to the meter or premises;

(g) A customer tampers with water utility facilities or engages in theft of service or unauthorized use of water;

(h) A customer fails to comply with water restriction requirements under OAR 860-036-1670; or

(i) The Commission approves the disconnection of service.

(2) Nothing in this rule prevents a water utility from temporarily interrupting service to protect the health and safety of its customers or to maintain the integrity of its system.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.035, 757.225

Hist.: NEW

860-036-1510

Required Notices for Involuntary Disconnection

(1) Except as provided in sections (4) and (5) of this rule, the water utility must provide the customer with two written notices in advance of disconnection: a 15-calendar day disconnection notice and a 7-calendar day disconnection notice.

(2) The 15-calendar day and 7-calendar day disconnection notices under this rule must be printed in bold face type and use plain, simple language. The notices must:

(a) Provide the information required by OAR 860-036-1100(2);

(b) State that the customer's water service is subject to disconnection on or after a specific date;

(c) Provide the grounds for the proposed disconnection;

(d) State what action the customer must take to avoid disconnection; and

(e) State that the customer may dispute the disconnection by contacting the Consumer Services Section at the contact information provided in OAR 860-001-0020(2).

(3) If the disconnection notice is for nonpayment, the notice must also:

(a) State the amount the customer must pay to avoid disconnection;

(b) Provide information about the customer's eligibility for a time-payment agreement provided in OAR 860-036-1420 for residential customers, unless the customer is being disconnected for failing to comply with an existing time-payment agreement or has engaged in theft of service, tampering with utility property, diverting water, or unauthorized use of water; and

(c) State that once service is disconnected, the water utility will reconnect service only after the customer reapplies for service and pays all applicable charges.

(4) Only one written 7-calendar day disconnection notice is required if the customer:

(a) Fails to timely pay a deposit under OAR 860-036-1220(3) or secure a surety agreement under OAR 860-036-1230, or to abide by a deposit installment agreement under OAR 860-036-1240;

(b) Fails to abide by terms of a payment arrangement under OAR 860-036-1270(4) or 860-036-1420; or

(c) Engaged in theft of service, tampering with utility property, diverting water, or unauthorized use of water under OAR 860-036-1590.

(5) A water utility may disconnect a customer without issuing either a 15-calendar day or 7-calendar day disconnection notice if the customer has been informed of but fails to comply with a water use restriction imposed under OAR 860-036-1670.

(6) All disconnection notices under this rule must comply with OAR 860-036-1550 relating to the disconnection of service to tenants, and OAR 860-036-1120 relating to the designated representatives.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1520

Delivery of Notices for Involuntary Disconnection

(1) The 7-calendar day and 15-calendar day advance written notices of disconnection must be hand-delivered in person to the customer or adult at the premises, or sent by the US Mail to the customer's billing address and designated representative. Mailed notices are considered served two calendar days after deposited in the US Mail, excluding Sundays and postal holidays.

(2) In addition to the notice required by section (1) of this rule, the water utility must provide an electronic notice to customers who requested to receive notices electronically.

(3) The water utility may not send disconnection notices for non-payment before the date payment is due.

(4) The water utility must keep a record of how disconnection notices were served to the customer.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1530

Water Utility Requirements on the Day of Involuntary Disconnection

(1) Within 48 hours prior to disconnecting service, the water utility must make a good-faith effort to contact the customer or an adult at the residence and provide notice of the proposed disconnection.

(2) The notice may be provided in person or by telephone. The water utility must keep records to document how and when contact was made or attempted.

(3) When personal contact has been made under section (1) of this rule, and the circumstances are such that a reasonable person would conclude that the customer or the adult at the residence does not understand the possible consequences of disconnection, the water utility must:

(a) Immediately notify the Consumer Services Section; and

(b) Delay the proposed disconnection date for an additional seven calendar days.

(4) If the water utility is unable to make personal contact under section (1) of this rule, the water utility must leave a notice in a conspicuous place informing the customer that service has been disconnected.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.061, 757.225
Hist.: NEW

860-036-1540**Disconnection of Service on Weekends and Holidays**

A water utility may not disconnect service for non-payment on a non-business day, or the day immediately preceding a non-business day, of either the utility or the Commission.

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

860-036-1550**Disconnection of Water Service to Tenants**

(1) If a water utility's records show that a residential billing address is different from the service address, the water utility must mail a duplicate notice to the service address, unless the utility has verified that the service address is occupied by the customer.

(2) If a water utility's records show that the service location is a master-metered, multi-dwelling service address, the water utility must provide a duplicate of the 7-calendar day disconnection notice to each unit at the service address. The disconnection notice must be addressed to "Tenant." The envelope must bear a bold notice stating, "IMPORTANT NOTICE REGARDING DISCONNECTION OF WATER UTILITY SERVICE." Tenant notices may not include the dollar amount owing.

(3) The water utility must notify the Consumer Services Section at least seven calendar days before disconnecting service to a master-metered, multi-dwelling premise.

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

860-036-1560**Voluntary Disconnection**

A customer requesting disconnection of service must provide the water utility with at least seven calendar days' advance notice.

(1) The customer is responsible for all service provided for seven calendar days following the request for disconnection or until service is disconnected, whichever comes first; or

(2) If the customer identified a specific date for disconnection in excess of seven calendar days, the customer is responsible for service rendered up to and including the requested date of disconnection.

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

860-036-1570**Reconnection of Residential Water Service**

(1) The water utility must reconnect service as soon as reasonably possible within the normal course of business after the applicant has:

- (a) Paid all applicable charges;
- (b) Applied for service;
- (c) Requested reconnection; and
- (d) Satisfied all requirements for service.

(2) The water utility must provide a means by which an applicant or customer may contact the water utility during normal business hours to request a service reconnection. Normal business hours are defined as 8:00 a.m. to 5:00 p.m., Monday through Friday, regardless of the water utility's business hours.

(3) The water utility must offer reconnections during normal business hours and after hours. The water utility must specify reconnection times and associated charges and post the information in the water utility's office.

(4) The water utility may charge for reconnections during normal business hours and after hours if the charges are stated in its tariffs or statement of rates.

Stat. Auth.: ORS Ch. 183, 756

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1580**Disconnection, Reconnection, and Field Visit Charges**

If authorized by the water utility's tariffs or statement of rates, a water utility may assess and require payment of one or both of the following as applicable prior to reconnecting service:

(1) A reasonable disconnection and reconnection charge if the water service was involuntarily disconnected, or

(2) A reasonable field visit charge if the water utility visits a service address intending to disconnect or reconnect service, but due to customer action, the utility is unable to disconnect or reconnect service.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.225

Hist.: NEW

Tampering & Theft of Service**860-036-1590****Tampering with Water Utility Facilities, Theft, or Unauthorized Use of Water**

(1) Customers are prohibited from tampering with the water utility's property and facilities or stealing, diverting, or engaging in unauthorized use of water.

(2) If a water utility discovers that a customer has tampered with water utility property or facilities, or has engaged in theft or unauthorized use of water, the water utility must notify the customer of the violations and may take one or more of the following actions:

- (a) Repair or restore the facilities and charge the customer the costs incurred;

(b) Adjust the customer's prior billing for loss of revenue under the applicable tariffs or schedule of rates;

(c) Initiate action to disconnect service. As provided by OAR 860-036-1510, the water utility need only provide a written 7-calendar day disconnection notice prior to service disconnection;

(d) Require a new application for service that accurately reflects the customer's proposed water use; and

(e) Assess a deposit for restored or continued service.

(3) In addition to actions taken by the water utility, the Commission may assess civil penalties under ORS 757.994 against customers who violate section (1) of this rule.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.994

Hist.: NEW

Adequate Service

860-036-1600

Adequacy of Water Service

(1) A water utility must maintain its facilities according to industry rules, regulations, and standards and in such condition to provide safe, adequate, and continuous service to its customers. This includes, but is not limited to:

(a) Maintaining a current knowledge of the condition and adequacy of its facilities;

(b) Regularly inspecting and testing equipment and plant;

(c) Regularly exercising valves and hydrants;

(d) Maintaining regular system flushings;

(e) Making timely repairs;

(f) Replacing parts and equipment as necessary;

(g) Making necessary improvements to the water system;

(h) Reasonably restoring areas disturbed by construction, repairs, or improvements; and

(i) Preparing work and maintenance records, and retaining those records consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

(2) A water utility is prohibited from intentionally diminishing the quality of service below the level that can reasonably be provided by its facilities.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020, 757.250

Hist.: NEW

860-036-1610

Quality of Water Supply for Domestic Purposes

A water utility must provide a domestic water supply that is free from bodily injurious physical elements and disease-producing bacteria and reasonably free from elements that cause physical damage to customer property, including but not limited to pipes, valves, appliances, and personal property.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.020
Hist.: NEW

860-036-1620**Water Utility Responsibilities Regarding Service Complaints**

(1) The water utility must prepare and retain a log of all service complaints consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

(2) When the water utility receives a complaint regarding a service problem, the water utility must immediately inform all customers materially affected. The information must include:

- (a) The source or suspected source of the service problem;
- (b) The expected date, time, and duration of the repair or action by the water utility; and
- (c) Any effects the repairs or water utility action may have on the customer's service.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.020
Hist.: NEW

860-036-1630**Unscheduled Interruptions of Service**

(1) A water utility may perform an unscheduled interruption of service as necessary to protect the health and safety of its customers or to maintain the integrity of its system.

(2) If an unscheduled interruption of service is required, the water utility must:

(a) Make a reasonable effort to notify the customers affected and the Consumer Services Section in advance of the interruption;

(b) Report the unscheduled interruption to the Consumer Services Section at the contact information provided in OAR 860-001-0020(2), and

(b) Restore service as soon as it is reasonably possible after resolving the issue, unless other arrangements are agreed to by the affected customers.

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

860-036-1640**Scheduled Interruptions of Service**

(1) A water utility may schedule water service interruptions for maintenance and repairs. A water utility must schedule service interruptions to reasonably minimize customer inconvenience.

(2) A water utility must provide advance written notice to all customers affected by any scheduled service interruption. In addition, the notice must be posted in the utility's office and on its website, if available. The notice must include:

- (a) The information required by OAR 860-036-1100(2);
- (b) The date, time, and estimated duration of the scheduled interruption;
- (c) The purpose of the interruption;

(d) A statement cautioning customers to avoid using water during service interruptions to prevent debris in the customers' service lines; and

(e) The contact information for the Consumer Services Section provided in OAR 860-001-0020(2).

(3) Notices of scheduled interruptions of service must be served by:

(a) A door hanger or personal delivery to an adult at the affected premises at least five calendar days in advance of the service interruption; or

(b) US Mail at least ten calendar days prior to the service interruption.

(4) In addition to the notice requirements in section (3), the water utility must provide an electronic notice to customers who requested to receive notices electronically.

(5) A water utility must keep a record of all scheduled service interruptions. The record must include the time, duration, and cause of the planned service interruption. The record must be retained consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.125

Hist.: NEW

860-036-1650

Adequate Water Pressure Required

(1) A water utility must maintain adequate water pressure. In general, water pressure measuring between 45 and 80 pounds per square inch in the water mains is adequate for the purpose of this rule. However, adequate pressure may vary depending on each individual water system.

(2) A water utility may temporarily reduce or increase water pressure for fire flows, noticed repairs and maintenance, scheduled or emergency flushings, and unscheduled or emergency repairs and outages.

(3) Each water utility must maintain permanent pressure recording gauges at various locations to measure the system's water pressure. A water utility must have a portable gauge to measure water pressure in any part of the system. The water utility must maintain all pressure gauges in good operating condition, test periodically for accuracy, and recalibrate or replace when necessary.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040 757.020, 757.250

Hist.: NEW

860-036-1660

Customer Requested Pressure Test

(1) A customer may request the water utility to perform a water pressure test. The first test in a 12-month period is free of charge and must be completed within seven calendar days. If the customer requests an additional pressure test within the 12-month period at the same premises, the water utility may assess the customer a reasonable charge, unless the pressure is not adequate.

(2) A customer or a designated representative has the right to be present at the pressure test. The test must be conducted at a mutually acceptable time.

(3) The pressure must be measured at a point adjacent to the meter on the customer service line or other reasonable point most likely to reflect the actual service pressure.

(4) The water utility must provide a written report to the customer within seven calendar days of the pressure test. The report must include:

- (a) The information required by OAR 860-036-1100(2);
- (b) The customer's name and service address where the pressure was tested;
- (c) The date the pressure test was requested and the date the pressure test was performed;
- (d) The name of the company or employee performing the test;
- (e) The place where the pressure was measured;
- (f) The actual pressure reading; and
- (g) The conclusion based on the test result.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020, 757.250

Hist.: NEW

860-036-1670

Water Use Restrictions

(1) In times of water shortages, a water utility may restrict water usage after providing written notice to its customers and the Consumer Services Section. In addition, the notice must be posted in the water utility's office and on its website, if available. The notification must state the reason and nature of the restrictions, the date restrictions will become effective, the estimated date the restrictions end, and that failure to comply with the restrictions is grounds for disconnection.

(2) The Commission may investigate the water utility's water restriction plan and change it as the Commission deems necessary.

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

(4) If a customer fails to comply with the water restrictions after receiving written notification, the water utility must provide a separate written warning letter to the customer including:

- (a) The date;
- (b) The information required by OAR 860-036-1100(2);
- (c) The customer's name, account number, mailing address, service address if different;
- (d) The water use restrictions and statement of how the customer is violating those restrictions;

(e) A statement that the customer's water service is subject to disconnection on or after a specific date;

(f) A warning to the customer that failure to immediately comply with the restrictions may result in disconnection of service; and

(g) A statement that the customer may dispute disconnection by contacting the Consumer Services Section. The notice must include the Consumer Services Section's contact information provided in OAR 860-001-0020(2);

(5) If a customer fails to comply with the water restrictions after receiving written notification and the warning letter under section (4) of this rule, the water utility must consult with the Consumer Services Section, at the contact information provided in OAR 860-001-0020(2), to determine if disconnection is appropriate.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.020
Hist.: NEW

860-036-1680

Cross Connection Control

(1) All customers must comply with the water utility's Cross Connection Control Program to protect the water system from contamination. A customer's failure to comply is grounds for disconnection under OAR 860-036-1500.

(2) The water utility's cross connection protection rules will be included, as necessary, in the water utility's tariffs or statement of rates.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.020
Hist.: NEW

860-036-1690

Maps and Records

(1) A water utility must prepare current maps and records of the entire plant showing size, location, character, and date of installation of major plant items, including but not limited to pumps, reservoirs, main lines, distribution lines, and valves. The water utility must retain the maps and records consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

(2) Upon Commission request, a water utility must file the water system maps in a format satisfactory to the Commission.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.020
Hist.: NEW

860-036-1700

Appointment of Regent to Operate and Manage a Water System

If the Commission determines that a water utility's ownership or management results in inadequate service, threatens the health or safety of the customers, or threatens the financial viability of the water utility, then the Commission may appoint a regent to operate and manage the water utility.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.020
Hist.: NEW

860-036-1710**Expenditure of Charges Collected Under ORS 756.310 to Make Emergency Repairs**

(1) The Commission may use up to \$5,000 per biennium of the charges collected under ORS 756.310 to make emergency repairs for water utilities. The Commission may expend monies under the provisions of this rule if the Commission determines that repairs to the water system are necessary for the health and safety of the customers or the water utility.

(2) The Commission will seek recovery of charges used under this rule from the water utility providing service. Interest will not accrue on the outstanding balance.

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

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.068, 757.310

Hist.: NEW

860-036-1720**Commission-Assessed Civil Penalties for Noncompliance**

(1) In addition to any other penalty provided by law, the Commission may impose a civil penalty not to exceed \$500 per day for each violation of Commission statute, rule, or order as provided in ORS 757.994.

(2) The Commission must give notice of proposed civil penalty by registered or certified mail to the water utility. The notice must provide:

(a) A concise statement of the alleged violations, including cites to applicable statutes, rules, or orders;

(b) The amount of proposed civil penalty; and

(c) Notice that the water utility may request a hearing to challenge the proposed penalty. The request for hearing must be in writing and be received by the Commission within 20 calendar days of the date the notice was served. The request must comply with the requirements set forth in OAR 860-001-0140 and 860-001-0170.

(3) If the water utility does not request a hearing within the time allowed, or if the water utility requesting a hearing fails to appear at the scheduled hearing, the Commission may issue a final order by default imposing the proposed penalty.

Stat. Auth.: ORS 757.994

Stats. Implemented: ORS 183.745, 756.040, 757.068

Hist.: NEW

Service Territory Allocation**860-036-1800****Service Territory Allocation Definitions**

For purposes of service territory allocation OAR 860-036-1800 through 860-036-1850:

(1) "Allocated territory" means an approved area with boundaries set out by Commission order granting an exclusive service territory.

(2) "Community water supply system" has the meaning provided by ORS 758.300.

(3) "Water utility" has the meaning provided in ORS 758.300.

Stat. Auth.: ORS 183, 756, 757, 758

Stats. Implemented: ORS 758.300-758.320

Hist.: NEW

860-036-1810

Allocation of Service Territory

(1) Any water utility may apply for an order designating the territory it serves adequately and exclusively as its exclusive service territory. The application must include:

- (a) The information required by OAR 860-036-1100(2);
- (b) The water utility's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, association, etc.;
- (c) The name and address of each corporate officer, director, partner, and all other persons owning an interest in the water utility;
- (d) A statement showing the financial and technical ability of the water utility to provide service to the territory;
- (e) A detailed map of the water utility's existing lines and facilities;
- (f) A detailed map of the water utility's current service territory. The water utility must identify the source of the map, which may include a GIS map, city or county map, tax lot map, or plat map;
- (g) A written description of the water utility's current service territory. The description may be a legal description or may reference township, range, and section; interstates, state roads, and local streets; rivers, streams, and major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;
- (h) Evidence that the water utility owns the land upon which the water utility facilities are located, or a copy of an agreement that provides for the continued use of the land, such as an easement or lease;
- (i) A schedule showing the number of customers currently served by class and meter size. If the service area is not built out, indicate the number of proposed customers expected to be served when the current service territory is fully occupied;
- (j) The name and address of the nearest municipalities, the county, any known planning councils or governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the service territory the water utility is seeking; and
- (k) A copy of the customer notice of application required under section (2) of this rule and a complete customer mailing list.

(2) Within 15 calendar days of the filing date of the application for exclusive service territory, a water utility must provide written notice to each customer affected by the application. The notice must include:

- (a) The information required by OAR 860-036-1100(2)
- (b) The purpose of the notice;
- (c) An accurate and detailed written description of the territory applied for;
- (d) The date the filing was submitted to the Commission;
- (e) A statement that customers may file a protest with the Commission; and

(f) The contact information for the Consumer Services Section provided in OAR 860-001-0020(2).

Stat. Auth.: ORS 183, 756, 757, 758
Stats. Implemented: ORS 758.300-758.320
Hist.: NEW

860-036-1820

Filing an Application to Expand Exclusive Service Territory

(1) A water utility may apply to expand its designated service territory to serve an area not currently being provided water service by filing an application under ORS 758.302(2). The application must include:

- (a) The information required in OAR 860-036-1810(1)(a) through (k);
- (b) A statement describing the need and reasons for water service in the proposed expanded service territory;
- (c) The approximate date the water utility plans to begin providing service to the proposed expanded service territory;
- (d) The proposed rates and charges to customers in the expanded service territory. Include customer growth projections that support the proposed water service rates and charges;
- (e) A study showing the projected cost to provide service to the proposed expanded service territory. Identify the amount per each operating expense account at full build out;
- (f) A schedule showing the projected capital structure including the methods of financing the construction and operation of the utility until it reaches 100 percent of the design capacity of the system;
- (g) Evidence of existing or proposed capacities of the system and facilities to adequately serve the proposed expanded territory. Provide estimated average daily customer demand, customer peak demand, and daily pumping capacity per water source in gallons or cubic feet. If development will be in phases, separate this information by phase;
- (h) A written description of the type of water treatment necessary, if required;
- (i) A schedule showing the projected cost of the capital improvements necessary to serve the proposed service territory by plant accounts and the expected date the plant is projected to go into service. If the system is to be built in phases, show information for each phase individually;
- (j) A list of all entities, including affiliates, upon which the applicant is relying to provide funding to the water utility for capital improvement, and an explanation of the manner and amount of such funding, including their financial statements and a copy of all contracts or agreements with the utility. This requirement will not apply to any person or entity holding less than 10 percent ownership interest in the utility;
- (k) Financial statements demonstrating applicant's financial capability;
- (l) A statement showing applicant's technical ability or capacity to procure technical skill necessary to provide service; and
- (m) A statement describing any impact the expansion of service territory may have on existing customers.

(2) Within 15 calendar days of the filing date of the application, a water utility must provide written notice to existing customers that contains the information required by OAR 860-036-1810(2) as modified to reflect the request to expand service territory.

Stat. Auth.: ORS 183, 756, 757, 758
Stats. Implemented: ORS 758.300-758.320
Hist.: NEW

860-036-1830**Reduction of Approved Service Territory Boundaries**

(1) A water utility may apply to decrease its designated service territory. The application must demonstrate that the water utility is not providing adequate service to its customers or does not have the capacity to serve the designated exclusive service territory.

(2) Within 15 calendar days of the filing date of the application, a water utility must provide written notice to each customer that contains the information required by OAR 860-036-1810(2) as modified to reflect the request to decrease service territory.

Stat. Auth.: ORS 183, 756, 757, 758
Stats. Implemented: ORS 758.300 - 758.320
Hist.: NEW

860-036-1840**Transfer of Approved Service Territory**

(1) The rights acquired by an approved service territory may be transferred only with the approval of the Commission. The application must include:

- (a) The application requirements as provided in OAR 860-036-1810;
- (b) Evidence demonstrating that the transfer of the service territory is in the public interest.

(2) Within 15 calendar days of the filing date of the application, a water utility must provide written notice to each customer affected by the application that contains the information required by OAR 860-036-1810(2) as modified to reflect the request to transfer designated service territory.

(3) Designated service territory will not be altered solely as the result of a change in ownership or form of ownership.

Stat. Auth.: ORS 183, 756, 757, 758
Stats. Implemented: ORS 758.300 - 758.320
Hist.: NEW

860-036-1850**Exclusive Obligation to Serve**

(1) A water utility has an obligation to serve all applicants for service within its designated territory and may only refuse service as provided in OAR 860-036-1270.

(2) A water utility or community water supply system may not provide water utility service within an approved exclusive service territory of another water utility without the express approval of the Commission.

Stat. Auth.: ORS 183, 756, 757, 758
Stats. Implemented: ORS 758.300 - 758.320
Hist.: NEW

Rate and Service Regulation

860-036-1900

Regulation of Water Utilities

(1) Except as provided in section (2) and (3) of this rule, a water utility serving less than 500 customers is not subject to Commission regulation and need not pay an annual revenue fee.

(2) A water utility serving less than 500 customers is subject to service regulation if:

(a) The Commission determines that the water utility has provided discriminatory service; or

(b) The water utility charges an average annual residential rate that exceeds \$24 per month.

(3) A water utility serving less than 500 customers is subject to rate and service regulation if:

(a) The water utility also provides wastewater services within the boundaries of a city;

(b) The water utility requests that it be subject to rate and service regulation as provided in OAR 860-036-1940; or

(c) The water utility proposes to charge a monthly rate that exceeds the threshold level set forth in OAR 860-036-1910 and at least 20 percent of the customers petition the Commission requesting the water utility be subject to rate and service regulation.

(4) A water utility serving 500 or more customers is subject to rate and service regulation. When a water utility's customer count exceeds 500 customers, the Commission will issue an order establishing the water utility's regulatory status as a rate-regulated water utility.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 757.061, 757.063

Hist.: NEW

860-036-1910

Threshold Levels for Rate Regulation of Water Utilities Serving less than 500 Customers

A water utility serving less than 500 customers must notify its customers of the right to petition for rate regulation if it proposes to charge residential or commercial customers more than the following amounts in order to obtain water service:

(1) For unmetered customers with a pipe diameter of one inch or less, an annual average monthly charge of \$42 per customer;

(2) For metered customers with a meter diameter of one inch or less, an annual average monthly charge of \$45 per customer;

(3) For unmetered customers with a pipe diameter larger than one inch, an annual average monthly charge of \$119 per customer; and

(4) For metered customers with a meter diameter larger than one inch, an annual average monthly charge of \$128 per customer.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 757.061

Hist.: NEW

860-036-1920**Notice Requirements and Customers Right to Petition for Rate Regulation**

(1) If a water utility that serves less than 500 customers and is not rate regulated seeks to increase its rates to a level that exceeds a threshold established in OAR 860-036-1910, the water utility must:

(a) Provide a separate written notice to all customers of the proposed increase that complies with the notice requirements under section (2) of this rule;

(b) Post the notice in its office and website, if available; and

(c) On the same day that notice is provided to the customers, mail or deliver a copy of the customer notice to the Consumer Services Section and attach a current customer list that includes the customer name, account number, mailing address, and service addresses if different.

(2) The customer notice must:

(a) State in bold letters at the top of the notice, "NOTICE OF PROPOSED WATER RATE INCREASE AND CUSTOMERS RIGHT TO PETITION FOR RATE REGULATION;"

(b) State the date of the notice;

(c) Provide the information required by OAR 860-036-1100(2);

(d) State the reasons the water utility is requesting the proposed change;

(e) Show a comparison of the current rates and the proposed rates for each affected customer classes;

(f) State the date when the proposed rates are intended to become effective. The effective date must be at least 60 calendar days from the date of the notice or the date the Consumer Services Section receives its copy of the notice, whichever is later;

(g) State that customers may request a complete customer list from the water utility to be provided within 10 business days; and

(h) Include the following statement:

"NOTICE FROM THE PUBLIC UTILITY COMMISSION OF OREGON

Customers have the opportunity to file a petition to have the water utility's rates regulated by the Commission. The water utility is proposing rates in excess of the threshold levels set by the Commission. If the Commission receives valid petitions from at least 20 percent of the customers, the Commission will assert jurisdiction over your water utility. Rate regulation requires that all rates and rate changes be approved by the Commission. If the Commission does not receive the sufficient number of valid customer petitions, the water utility's proposed rates will take effect on the date indicated."

"Petition forms are available on the Commission's website at <http://www.puc.state.or.us/Pages/Information-for-Customers.aspx>. The petitions must be completed and signed by the customer and must be received by the Commission within 45 days of this notice. Copies of petitions or petitions without an original signature will not be accepted."

"Completed petitions must be mailed to the Consumer Services Section, PO Box 1088, Salem, Oregon 97308-1088 or delivered to 201 High Street SE, Suite 100, Salem, Oregon 97301. Petitions may not be filed electronically. Petitions may not be withdrawn or rescinded. Customers with questions may contact the Consumer Services Section at 1-800-522-2404."

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-1930**Petition for Rate Regulation of Association by Members**

(1) For purposes of this rule, "association" means an association of individual members that owns, operates, provides, manages, or controls a water system that provides water service to only its members.

(2) Current members of any association providing water service exclusively to its membership may petition the Commission at any time requesting the association be rate regulated.

(a) Petition forms are available on the Commission's website at www.oregon.gov/puc. Petition forms must be complete and signed by the customer;

(b) Original petitions must be mailed to the Consumer Services Section, PO Box 1088, Salem, Oregon 97308-1088 or personally delivered to 201 High Street SE, Suite 100, Salem, Oregon, 97301.

(c) Copies of petitions or petitions without an original signature will not be accepted. Petitions may not be filed electronically; and filed petitions may not be withdrawn or rescinded.

(2) If the Commission receives petitions from 20 percent of the association's members and determines that regulation is in the public interest, it will issue an order establishing the association's regulatory status as a rate-regulated water utility.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.063

Hist.: NEW

860-036-1940**Water Utility Requesting Rate Regulation and Notice Requirements**

(1) A water utility serving fewer than 500 customers may request to be rate regulated by the Commission. The water utility must electronically file a letter of application specifically stating that it is requesting rate regulation and the reasons for the request.

(2) The same day it files the application, the water utility must provide a separate written notice to its customers and the Consumer Services Section. The notice must be posted in the utility's office and on its website, if available. The notice must provide:

(a) The date;

(b) The information required by OAR 860-036-1100(2);

(c) A statement that the water utility is seeking to be rate regulated by the Public Utility Commission of Oregon;

(d) The reasons the water utility is seeking rate regulation; and

(e) A statement that customers with questions regarding the filing may contact the Consumer Services Section at the contact information provided in OAR 860-001-0020(2).

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.061

Hist.: NEW

860-036-1950**Removal of Rate Regulation**

(1) When a rate-regulated water utility is reorganized through the sale, merger, or transfer of the water system or the transfer of all the water utility's customers to a non-jurisdictional entity, the rate-regulated water utility no longer meets the definition of a public utility under ORS 757.005. Non-jurisdictional entities include municipal entities, quasi-municipal entities, or a non-rate regulated association that serves only its members.

(2) If the regulated water utility is reorganized into an association, association members retain their right to petition the Commission for rate regulation at any time under ORS 757.063 and OAR 860-036-1930.

(3) A private buyer of a rate-regulated water utility serving fewer than 500 customers may petition the Commission to have rate regulation, but not service regulation, removed upon the close of the buyer's purchase of the water utility if:

(a) The rate-regulated water utility is currently operating under a Commission-appointed regent; or

(b) A court has ordered the sale of the rate-regulated water system as part of the resolution of a complaint filed in court by the Oregon Health Authority Drinking Water Section.

(4) If the Commission grants removal of rate regulation per section (3) of this rule, customers retain their right to petition for rate regulation under ORS 757.061 and ORS 757.063.

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

Stats. Implemented: ORS 757.061, 757.063

Hist.: NEW

Tariffs and Advice Letters**860-036-2000****Tariff Filings**

(1) All rate-regulated water utilities must file all proposed rate schedules, charges, special contracts, and the water utility's rules and regulations relating to the provision of water service.

(2) A filing may request approval of individual revised tariffs, supplemental tariffs, special contract tariffs, or a general rate revision.

(3) The filing must be attached to an electronic mail message and electronically filed with the Commission's Filing Center at puc.filingcenter@state.or.us.

(4) The water utility must keep a copy of the filing at its main office where customers can request a copy.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: NEW

860-036-2010**Tariff Content and Advice Letter**

(1) Tariffs must be written using Commission-provided tariff forms and must be accompanied by an Advice Letter. Forms required under this rule are available at the Commission's water web page at

http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx.

(a) The initial complete schedule of tariffs is designated as PUC Oregon No. 1 in the upper left hand corner. Each successive complete replacement of the tariff schedules thereafter is designated with the next number in consecutive numerical order, i.e., PUC Oregon No. 2, etc.;

(b) Each tariff sheet must state the effective date on the bottom of the sheet. The effective date must be at least 30 days from the date the water utility electronically files the proposed tariffs, unless the water utility requests the changes go into effect with less than the required 30 day notice. To make this request, the tariff must be accompanied by a Less Than Statutory Notice (LSN) form; and

(c) Any supplemental information, not otherwise provided within the tariff sheet, must be designated by the previous sheet number plus a letter, for example, Original Sheet No. 3A, Original Sheet No. 3B, etc.

(2) An Advice Letter must include:

(a) The information required by OAR 860-036-1100(2);

(b) A statement plainly indicating the purpose of the filing;

(c) A statement indicating the revenue change the water utility is requesting and any other provisional requested changes;

(d) A statement indicating the number of customers affected by the proposed changes and the estimated effect upon rates, if any;

(e) The reasons the water utility is requesting the proposed changes; and

(f) The signature of a water utility officer or representative;

(g) If the tariff filing proposes to increase rates, the water utility must also provide the following for each rate schedule being increased:

(A) The total number of customers in each customer class affected;

(B) A comparison showing current rates and the proposed rates for each customer class affected;

(C) A comparison showing the total annual revenue derived under the current rates and the total annual revenue to be derived under the proposed rates for each customer class affected;

(D) The average monthly water use for each customer class affected; and

(E) A comparison showing the average monthly bill under the current rates and the proposed rates.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: NEW

General Rate Revisions

860-036-2020

Filing a General Rate Revision

(1) A general rate revision is a filing by a water utility that affects all or most of the water utility's rate schedules, but does not include changes in automatic adjustment clauses under ORS 757.201(1) or similar changes in one rate schedule, such as for an amortization, that affect other rate schedules.

(2) To file a general rate revision, a rate-regulated water utility must submit a rate case application, including tariffs, and an Advice Letter, as required by OAR 860-036-2010.

(3) On the same day notice is provided to its customers, the water utility must mail or deliver a copy of the notice to the Consumer Services Section at the address provided in OAR 860-001-0020(2).

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: NEW

860-036-2030

Customer Notice Requirements for a General Rate Revision

(1) After electronically filing a general rate revision, the water utility must provide a separate written notice of the filing to all customers within 15 calendar days of the date the general rate revision was filed. In addition, the notice must be posted in the water utility's office and on its website, if available, and provided to the Consumer Services Section.

(2) The notice to the customers must be provided as either a separate written notice inserted in the water utility's regular billing or a written notice delivered to each customer.

(3) The customer notice must include:

(a) The information required by OAR 860-036-1100(2);

(b) The following statement:

"This notice is to inform customers that (insert name of water utility) filed a general rate revision with the Public Utility Commission. This notice provides general information regarding the utility's proposed changes and the effect it will have on customers' bills if approved by the Commission. Customers may request to receive notice of the time and place of any hearing on the matter by contacting the Public Utility Commission of Oregon, Administrative Hearings Division, at 503-378-6678. The calculations and statements contained in the water utility's filing and this notice are not binding on the Commission."

(c) The amount of the change in annual revenue the water utility is seeking;

(d) The total amount of annual revenue the water utility is requesting;

(e) A comparison of the current and the proposed average monthly bills for each customer class expressed in dollars;

(f) The reasons the water utility is requesting the proposed change;

(g) A statement that copies of the water utility's application, testimony, and exhibits are available at the water utility's main office; and

(h) The contact information of the water utility's representative that customers may contact to receive additional information or a copy of the filing. Contact information includes name, address, telephone number, and email address if available.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

Financial Transactions & Applications

860-036-2100

Form and Filing of Financial Transaction Applications

(1) All applications submitted to the Commission must be filed electronically with the Commission's Filing Center. To file an application, attach the application and all required documents to an electronic mail message addressed to the Commission's Filing Center at puc.filingcenter@state.or.us. Procedural rules regarding filing and service of documents are found in OAR Chapter 860, Division 001.

(2) Applications must be filled out completely.

(3) Any required financial statements must include the most current data available. The Income Statement must be for the most recent 12-month period.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105

Hist.: NEW

860-036-2110

Application to Terminate, Abandon, or Dispose of a Water System

(1) All water utilities must obtain Commission approval to terminate, abandon, or dispose of a water system. The water utility must file an application using the form available at http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx.

(2) Within seven calendar days from the date the application, the water utility must provide customers and the Consumer Services Section with a separate, written notice. In addition, the notice must be posted in the utility's office and on its website, if available. The notice must:

(a) Include the information required by OAR 860-036-1100(2);

(b) State what action the water utility is requesting in bold letters at the top of the notice;

(c) State the reason for the termination, abandonment, or disposal;

(d) State the proposed effective date;

(e) Describe the customers' alternative water service options and average estimated customer cost for each option; and

(f) Provide the Consumer Services Section's contact information provided in OAR 860-001-0020(2).

(3) The notice must be delivered in person to the customer or an adult at the premises or sent by the US Mail to the customer's billing address and designated representative.

(a) If notice is served by personal delivery to the premises, the water utility must attempt personal contact with the customer or an adult resident at the premises. If personal contact cannot be made, the water utility must leave the notice in a conspicuous place at the premises and mail a copy of the notice to the customer's last known mailing address and the customer's designated representative; or

(b) If notice is served upon the customers by US Mail, the notice must be mailed to the customer's last known address. The notice is considered served as defined in OAR 860-036-1010.

(4) If the water utility's records show that the billing address is different from the service address or that the premises is a master-metered multi-unit dwelling, the notice may be addressed

to "Tenant." The envelope must bear bold language stating, "IMPORTANT NOTICE REGARDING WATER UTILITY SERVICE."

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

860-036-2120

Application to Dispose of or Acquire Property

(1) Water utilities must obtain Commission approval to sell, lease, assign, or otherwise dispose of the whole of the property of such necessary or useful in performance of its duties, or any part thereof with a value in excess of \$10,000.

(2) Rate-regulated water utilities must obtain Commission approval to directly or indirectly purchase or acquire of any stocks, bonds, or utility property of any other public utility valued in excess of \$10,000.

(3) A water utility or the other party to these transactions must request authorization using the application form available at

http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx.

(4) No less than 60 calendar days prior to the closing date of the transaction, the water utility must provide a separate written notice to customers with a copy to the Consumer Services Section. In addition, the notice must be posted in the utility's office and on its website, if available. The notice must include:

- (a) The information required by OAR 860-036-1100(2);
- (b) The purpose of notice;
- (c) The proposed closing date of the transaction;
- (d) The proposed effective date of sale (minimum of 60-calendar days);
- (e) The name, address, and telephone number of the potential buyer;
- (f) The reasons for sale;
- (g) How the sale will affect customers; and
- (h) The statement, "The property transaction being proposed by the water utility is under review by the Public Utility Commission of Oregon. For more information about the filing or to follow the regulatory process of the Commission's review check the Commission's website at www.puc.state.or.us or contact the Consumer Services Section at 503-378-6600; 1-800-522-2404; or TTY 711."

review by the Public Utility Commission of Oregon. For more information about the filing or to follow the regulatory process of the Commission's review check the Commission's website at www.puc.state.or.us or contact the Consumer Services Section at 503-378-6600; 1-800-522-2404; or TTY 711."

Stat. Auth.: ORS 183, 756, 757
 Stats. Implemented: ORS 756.040, 757.480, 757.485
 Hist.: NEW

860-036-2130

Acquisition Adjustment

(1) When seeking to acquire all or part of a water utility, the applicant may request that some or all of the difference between the net book value and the purchase price be included in the purchasing utility's rate base.

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

Stat. Auth.: ORS 183, 756, 757

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

Hist.: NEW

860-036-2140

Filing for Approval of a Special Contract

A rate-regulated water utility may file a special contract tariff to establish a rate, service, or practice that is not covered by or permitted in the water utility's general tariffs, schedules, or rules. A special contract tariff must include:

- (1) The date;
- (2) The information required by OAR 860-036-1100(2);
- (3) A copy of the special contract;
- (4) A statement summarizing the basis of the terms of the contract and an explanation of the deviation from the tariffs on file;
- (5) An explanation of all cost computations involved;
- (6) A statement indicating the basis for use of a special contract rather than a filed tariff for the specific service involved; and
- (7) Documentation necessary to show that the terms are fair, just, and reasonable to the remaining customers.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020

Hist.: NEW

860-036-2150

Application for Authority to Issue Stocks, Bonds, Notes, or Other Securities

An application by a rate-regulated water utility to issue securities under ORS 757.405 to 757.435 inclusive, 757.445, and 757.450, must comply with rules set forth in OAR 860-027-0030 governing energy and telecommunication utilities.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.405 - 757.450, 757.495

Hist.: NEW

860-036-2160

Application for Authority to Guarantee Indebtedness

An application by a rate-regulated water utility to assume any obligation or liability as guarantor, endorser, surety or otherwise must comply with rules set forth in OAR 860-027-0035 governing energy and telecommunication utilities.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.440

Hist.: NEW

860-036-2170**Use of Deferred Accounting**

An application by a rate-regulated water utility to defer amounts under ORS 757.259 must comply with rules set forth in OAR 860-027-0300 governing energy and telecommunication utilities.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.259

Hist.: NEW

Affiliated Interests**860-036-2200****Affiliated Interest Definitions**

As used in rules OAR 860-036-2200 through OAR 860-036-2230:

(1) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a water utility;

(2) "Affiliate transaction" means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a water utility and accounts for nonregulated activities of a separate entity that is either an affiliated interest or another company in which the water utility owns a controlling interest. The term also means a transfer of assets, a sale of supplies, or a sale of services between accounts for the regulated and nonregulated activities of a single water utility;

(3) "Asset" means any tangible or intangible property of a water utility or other right, entitlement, business opportunity, or other thing of value to which a water utility holds claim that is recorded or should be recorded as a capital expenditure in the water utility's financial statements. All water utility tangible or intangible property, rights, entitlements, business opportunities and things of value should be considered assets, services, or supplies;

(4) "Cost" means fully distributed cost, including the water utility's authorized rate of return and all overheads;

(5) "Fair market value" means the potential sales price that could be obtained by selling an asset in an arm's-length transaction to a nonaffiliated entity, as determined by commonly accepted valuation principles;

(6) "Market rate" means the lowest price that is available from nonaffiliated suppliers for comparable services or supplies;

(7) "Net book value" means original cost less accumulated depreciation;

(8) "Nonregulated activity" means an activity that is not a regulated activity of the water utility;

(9) "Regulated activity" means a Commission regulated activity that is provided by a water utility directly or indirectly relating to the general operations of the water utility such as production, transmission, delivery, or provision of water;

(10) "Services" means labor-related activities including, but not limited to advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, and legal. All water utility tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies; and

(11) "Supplies" means any tangible or intangible property of a water utility or other thing of value that a water utility holds claim that is recorded or should be recorded as an operating expense in the water utility's financial statements. All water utility tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies.

Stat. Auth.: ORS 183, 756, 757
 Stats. Implemented: ORS 756.040, 757.015
 Hist.: NEW

860-036-2210

Applications to Receive or Provide Goods or Services with an Affiliated Interest

(1) A rate-regulated water utility must seek Commission approval to contract to provide or receive services, directly or indirectly, with an affiliated interest using the form available at: http://www.puc.state.or.us/Pages/water/forms_notices/applications.aspx.

(2) An application must be filed no later than 90-calendar days after the execution of the contract giving rise to the application. The contract is deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

(3) A water utility's failure to submit this required information does not limit the Commission's authority to recognize or impute revenues to the water utility pursuant to such contract in any rate valuation, hearing, or proceeding.

Stat. Auth.: ORS 183, 756, 757
 Stats. Implemented: ORS 756.040, 757.015, 757.495
 Hist.: NEW

860-036-2220

Application for Waiver of Requirements under OAR 860-036-2210

The Commission will not waive the requirements of OAR 860-036-2210 for any rate-regulated water utility transactions exceeding 0.1 percent of the previous calendar year's Oregon utility operating revenues unless the transaction can be demonstrated in advance to be fair and reasonable and not contrary to the public interest.

Stat. Auth.: ORS 183, 756
 Stats. Implemented: ORS 756.040, 757.015, 757.495
 Hist.: NEW

860-036-2230

Allocation of Costs

(1) For purposes of this rule, regulated and nonregulated activities of a water utility must be accounted for using the Uniform System of Accounts for Water Utilities published by the National Association of Regulatory Utility Commissioners as modified by the Commission.

(2) When a water utility is conducting an affiliate interest transaction, as defined in this rule, the water utility must use the following cost allocation methods:

(a) When an asset is transferred to a water utility from an affiliate, the transfer must be recorded in the water utility's accounts at the lower of net book value or fair market value;

(b) When an asset is transferred from a water utility to an affiliate, the transfer must be recorded in the water utility's accounts at the tariff rate if an appropriate tariff is on file with the Commission. If no tariff is applicable, proceeds from the transfer must be recorded in the water utility's accounts at the higher of net book value or fair market value;

(c) When an asset is transferred from a water utility to an affiliate at a fair market value that is greater than net book value, the difference is considered a gain to the water utility. The water utility must record the gain so the Commission can determine the proper disposition of the gain in a subsequent rate proceeding;

(d) When services or supplies are sold by a water utility to an affiliate, sales must be recorded in the water utility's accounts at rates per the tariff, if an applicable tariff is on file with the Commission. Rates per the tariff must be established whenever possible. If services or supplies are not sold per a tariff, sales must be recorded in the water utility's accounts at the water utility's cost or the market rate, whichever is higher;

(e) When services or supplies are sold to a water utility by an affiliate, sales must be recorded in the water utility's accounts at the affiliate's cost or the market rate, whichever is lower. The affiliate's cost must be calculated using the water utility's most recently authorized rate of return; and

(f) Income taxes must be calculated for the water utility on a standalone basis for both ratemaking purposes and regulatory reporting. When income taxes are determined on a consolidated basis, the water utility must record income tax expense as if it were determined for the water utility separately for all time periods.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.490, 757.495

Hist.: NEW

City and Local Government Charges, Taxes, and Other Assessments

860-036-2300

Relating to City Charges, Taxes, and Other Exactions

(1) A rate-regulated water utility may recover the aggregate amount of all business or occupation taxes, licenses, franchise or operating permit charges, or other similar exactions imposed by any city in Oregon for engaging in business or for use and occupancy of city streets and public ways.

(2) The water utility may recover these amounts up to 3.5 percent of the water utility's gross revenue as operating expenses from all water utility customers. The utility may collect any remaining amounts in excess of 3.5 percent of its gross revenues on a pro rata basis to customers within the applicable city if separately stated on the regular billings to the customers. "Gross revenues" means revenues received from water utility operations within the city less related net uncollectibles, but do not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the water utility purchasing the service is not the ultimate customer.

(3) To calculate the amounts to be recovered under this rule, the water utility may not include:

(a) Permit or similar charges for street opening, installations, construction, and the like if the charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers; or

(b) The value of any water utility service or use of facilities provided on or before November 6, 1967, to a city without charge. These services may be continued within the same category or type of use.

(4) This rule does not affect franchises granted by a city on or before November 6, 1967. Payments made or value of service rendered by a water utility must be collected from all customers.

(a) When a franchise agreement existing on November 6, 1967, specifies a different compensation percentage than set forth in section (2), the compensation continues to be treated by the affected water utility as an operating expense during the balance of the term of such franchise.

(b) If a city unilaterally imposes or increases any tax, charge, or other exaction specified in section (2) of this rule during the unexpired term of a franchise existing on November 6, 1967, for use and occupancy of streets and public ways, the water utility must charge the additional amounts on a pro rata basis to local users.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

860-036-2310

Relating to Local Government Charges, Taxes, and Other Assessments

(1) A rate-regulated water utility must collect from customers located within a county or portion thereof, the following amounts imposed by a county in Oregon, other than a city-county:

(a) Any license, franchise, or operating permit fee applicable to the county or portion thereof; and

(b) Any new or increased taxes imposed on and after December 16, 1971, including new or increased taxes imposed retroactively after that date, applicable to the county or portion thereof.

(2) "Taxes," as used in this rule, means sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, charges, or charges other than ad valorem taxes.

(3) The amount collected from water utility customer under this rule must be separately stated and identified in all customer billings.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: NEW

Annual Reports, Accounts, Accounting Treatments, and Record Keeping

860-036-2350

Annual Report of Results of Operations

(1) By May 1 of each year, all rate-regulated water utilities must submit a financial Annual Report of Results of Operations for the preceding calendar year using the current form approved

by the Commission. The annual report form is available at <http://www.puc.state.or.us/Pages/Information-for-Water-Utility-Companies.aspx>.

(2) The report must be filed electronically with the Commission's Filing Center at puc.filingcenter@state.or.us.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.120, 757.125, 757.135

Hist.: NEW

860-036-2360

Annual Affiliated Interest Report

(1) By June 1 of each year, all rate-regulated water utilities having an affiliated interest transaction occurring during the period from January 1 through December 31 of the immediately preceding year must file an Affiliated Interest Report using the form available at <http://www.puc.state.or.us/Pages/Information-for-Water-Utility-Companies.aspx>.

(2) As used in this rule, "affiliated interest transactions" means transactions between affiliated interests as defined by ORS 757.015.

(3) The report must be filed electronically with the Commission's Filing Center at puc.filingcenter@state.or.us.

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

Stats. Implemented: ORS 756.105

Hist.: NEW

860-036-2370

Uniform System of Accounts

All rate-regulated water utilities must conform to the Commission's Uniform System of Accounts for water utilities for ratemaking purposes. The Commission's Uniform System of Accounts is a modified version of the National Association of Regulatory Utility Commissioners' published Uniform System of Accounts for Class A, B, and C Water Utilities, 1996.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756, 757

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

Hist.: NEW

860-036-2380

Accounting for Contributions in Aid of Construction (CIAC)

(1) This rule applies to rate-regulated water utilities.

(2) CIAC is any money, services or property received by a water utility to fund capital investments at no cost to the company and with no obligation to repay.

(3) Each water utility must provide an accounting of CIAC upon Commission request. CIAC accounting must include contributions in any form including contributed utility plant. CIAC record keeping must identify the contributed plant, original date of installation, and original cost.

(4) Each water utility must keep a record as described in section (3) of this rule and record CIAC on a separate plant and depreciation schedule.

(5) The water utility will record plant assets at market value and an amount of CIAC equal to that value which will be an increase in equity of the utility. The net effect of these balance sheet accounts will be zero, and both sides must be considered in the ratemaking process.

(6) CIAC related assets will be depreciated in the same method as purchased assets, and an amount equal to the depreciation expense will be taken as amortization of CIAC. Both the depreciation expense (debit) and the amortization expense (credit) will be coded to the depreciation expense on the income statement. This will result in an expense that nets to zero and has no effect on ratemaking.

Stat. Auth.: ORS 183, 756, 757

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

Hist.: NEW

860-036-2390

Accounting for Construction Work in Progress (CWIP)

(1) This rule applies to rate-regulated water utilities.

(2) CWIP is an accounting treatment for capital improvement projects under construction, but not yet placed in service. The treatment allows rate-regulated water utilities to place recoverable capital improvements costs into plant. The Commission may approve the cost of a specific capital improvement project into rates if:

(a) The capital improvement project is under construction;

(b) The water utility uses the additional revenues solely for the purpose of completing the capital improvement project;

(c) The water utility demonstrates that it is in the public interest to provide funding for the capital improvement through rates; and

(d) The costs are approved by the Commission.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.120, 757.355

Hist.: NEW

860-036-2400

Annual Budget Reports

(1) This rule applies to rate-regulated water utilities.

(2) Each water utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file with the Commission on or before the first day of November of each year, a copy of its proposed Budget of Expenditures, on forms provided by the Commission.

(3) Each water utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file annually on or before December 31, on forms provided by the Commission, information on new construction, extensions, and additions to the property of the water utility.

Stat. Auth.: ORS Ch. 183, 756, 757
Stats. Implemented: ORS 756.040, 756.105, 757.105
Hist.: NEW

860-036-2410

Preservation and Destruction of Records

All rate-regulated water utilities must conform to the Commission's Preservation of Records for Water Utilities available at <http://www.puc.state.or.us/Pages/General-Information-for-Water-Utilities.aspx>.

Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.125
Hist.: NEW