

ORDER NO. 22-459

ENTERED Nov 18 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 779

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Determination of Late-payment Rate and
Interest Accrued on Customer Deposits.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on November 15, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



Nolan Moser
Chief Administrative Law Judge



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 15, 2022**

REGULAR CONSENT EFFECTIVE DATE January 1, 2023

DATE: November 7, 2022

TO: Public Utility Commission

FROM: Madison Bolton

THROUGH: Bryan Conway, Caroline Moore, and Scott Gibbens **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 779)
Commission determination of late-payment rate and interest accrued on customer deposits.

STAFF RECOMMENDATION:

Staff makes the following recommendations:

1. Approve a late-payment rate of 2.2 percent monthly on overdue customer accounts;
2. Approve an annual interest rate of 4.5 percent on customer deposits for calendar year 2023; and
3. Direct the affected utilities to refile their respective tariffs to reflect the new rates.

DISCUSSION:

Issue

Whether the Commission should change the late payment rate to 2.2 percent and change the interest rate for customer deposits applicable for customer accounts in 2023 to 4.5 percent.

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Applicable Rules or Laws

Oregon Administrative Rules (OAR) 860-021-0126(4), 860-036-1430(2), and 860-037-0115(2) specify that the Commission will determine the late-payment rate applicable to past-due accounts based on a survey of prevailing market rates for late-payment charges of commercial enterprises. Additionally, the OAR specify that the Commission will advise all energy, large telecommunications, regulated water, and wastewater utilities of the changes in the rate they may use to determine late-payment charges on overdue customer accounts. The current late-payment rate and the conditions for its application to customer accounts shall be specified on the utility bill.

OAR 860-021-0210(1), 860-034-0160(1), 860-036-1250(1), and 860-037-0045(1) specify that “each year, the Commission shall establish an annual interest rate that must be paid on customer deposits.” The rules specify that for energy and large telecommunications, small telecommunications, rate-regulated water utilities, and wastewater utilities, the Commission will:

Base the rate upon consideration of the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October, the interest rate on the most recent issuance of one-year Treasury Bills, or the effective interest rate for the average yield of Treasury Bills of the closest term issued during the last week of October. This interest rate, rounded to the nearest one-half of one percent, shall apply to deposits held during January 1 through December 31 of the subsequent year.

These rules, and OAR 860-036-1240 relating to regulated water utilities, also specify that the Commission will advise the respective utilities of the changes in the rate to be paid on customer deposits.

In Order No. 22-353, the Commission adopted proposed and amended rules for Chapter 860, Division 21 to strengthen protections for low-income energy customers.¹ Staff reviewed the Oregon Administrative Rules and has determined that the amendments and additions to Division 21 do not impact Staff’s methodology for the purposes of UM 779. Staff notes that the updated rules will except income qualifying customers from the requirement to pay late-payment fees and deposits.

¹ *In the Matter of Revisions to Division 21 Rules to Strengthen Customer Protections Concerning Disconnections*, Order No. 22-353 (September 29, 2022)

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Analysis

Analysis of Late-payment Charge on Customers' Past Due Balance

Nationally, many utility companies establish a monthly percentage rate for determining late-payment charges such that the cost of not paying a utility bill is roughly equal to the cost of not paying a credit card. However, some publicly-owned utilities (water/sewer and electricity) and insurance companies choose not to charge a late-payment fee. Generally, in either case, past due accounts are subject to cancellation of the services or policies.

The late payment rate adopted by the Commission is based on an average Annual Percentage Rate (APR) from survey results of commercial enterprise late payment charges. The rate sets forth the maximum amount any energy, large telecommunications, regulated water, and wastewater utility may assess for a late fee. Utilities may not include an additional flat fee.²

To collect the appropriate data for the late payment rate, Staff recently surveyed over 40 commercial enterprises believed to be reasonably representative of a range of businesses patronized by utility customers.

The survey included department stores, retailers of gasoline, passenger rail and airline travel, hotels, household appliances, furniture, clothing, tires, hardware, consumer electronics, groceries, books, office supplies, home improvement products and services, and other general merchandise. The survey also included providers of water and sewer services, recycling and disposal services, electricity and telecommunications services, and insurance companies.

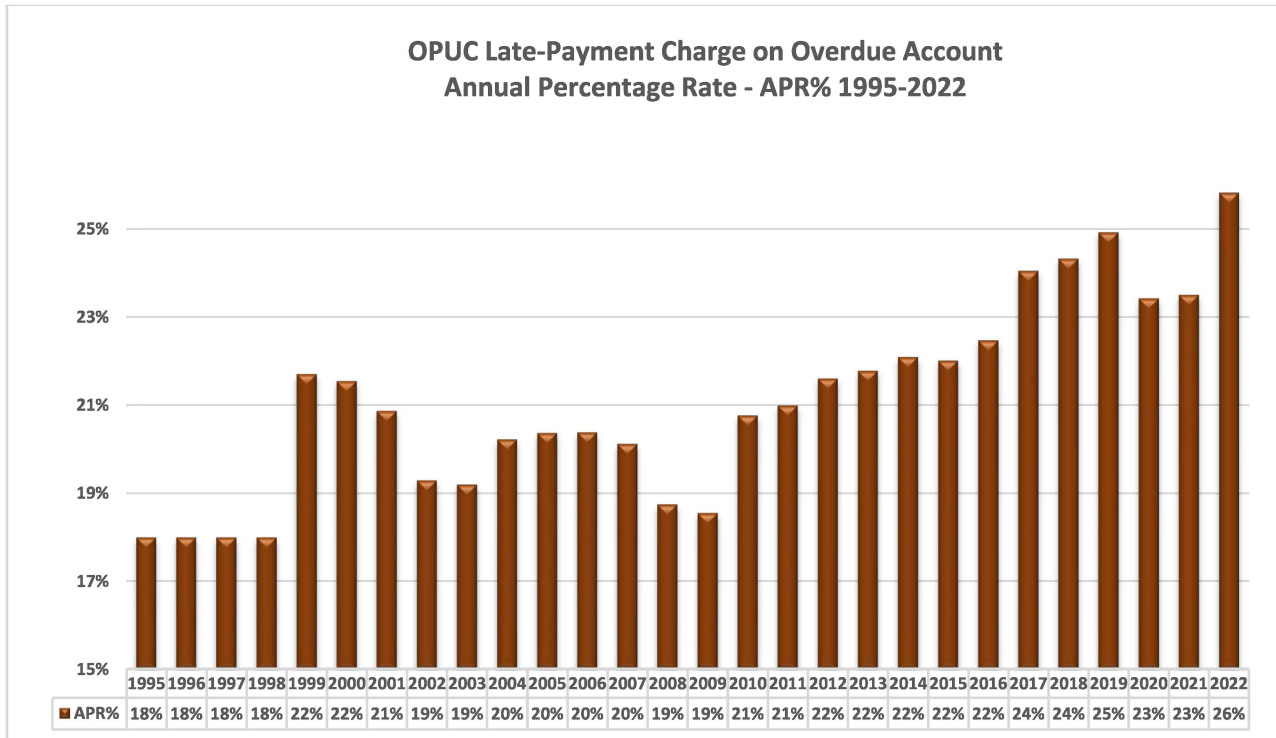
The survey indicated that a 2.15 (rounded to 2.2) percent monthly charge, or an average APR of 25.8 percent, is commonly applied by businesses for late payments. Staff recommends changing the current maximum late-payment rate of 2.0 percent monthly to 2.2 percent monthly (23.5 percent in 2022 to 25.8 percent APR) for calendar year 2023.

Staff concludes that the monthly 2.2 percent late payment charge is reasonably consistent with the practices of commercial enterprises based on the results of Staff's survey.

² Many unregulated businesses (commercial enterprises) surveyed charge a flat fee for late payments up to \$41, in addition to a finance charge of 1.52 percent to 2.50 percent per month.

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The figure below shows the late-payment rates that the Commission established from 1995 to 2022.³



Analysis of Interest Paid on Customer Deposits

The Commission bases the rate upon consideration of the effective interest rate for new issues of 1-year Treasury Bills (T-bills)⁴ issued during the last week of October, the interest rate on the most recent issuance of 1-year T-bills, or the effective interest rate for the average yield of T-bills of the closest term issued during the last week of October.⁵

There were no new issuances of 1-year T-bills that took place during the last week of October 2022. Staff used the average yields of T-bills of the closest term issued during

³ The rates shown reflect the average APR for commercial enterprises as surveyed by Staff. The averages are shown with the year they were calculated.

⁴ Treasury bills, or T-bills, are short-term debt instruments issued by the U.S Treasury and issued for a term of one year or less. They do not pay interest, but rather are sold a discount to their face value. ‘Treasury Yield’ is the return on investment. T-bills are considered the world’s safest debt as they are backed by the full faith and credit of the United States government.

⁵ OAR 860-037-0045(1); OAR 860-036-1250. Although OAR 860-036-1250 specifies that the Commission will determine the customer deposit interest rate for regulated water utilities, it does not include the guide for calculating the rate that is included in the rules for the other utilities. Nonetheless, Staff recommends that the Commission use the same rate for regulated water utilities.

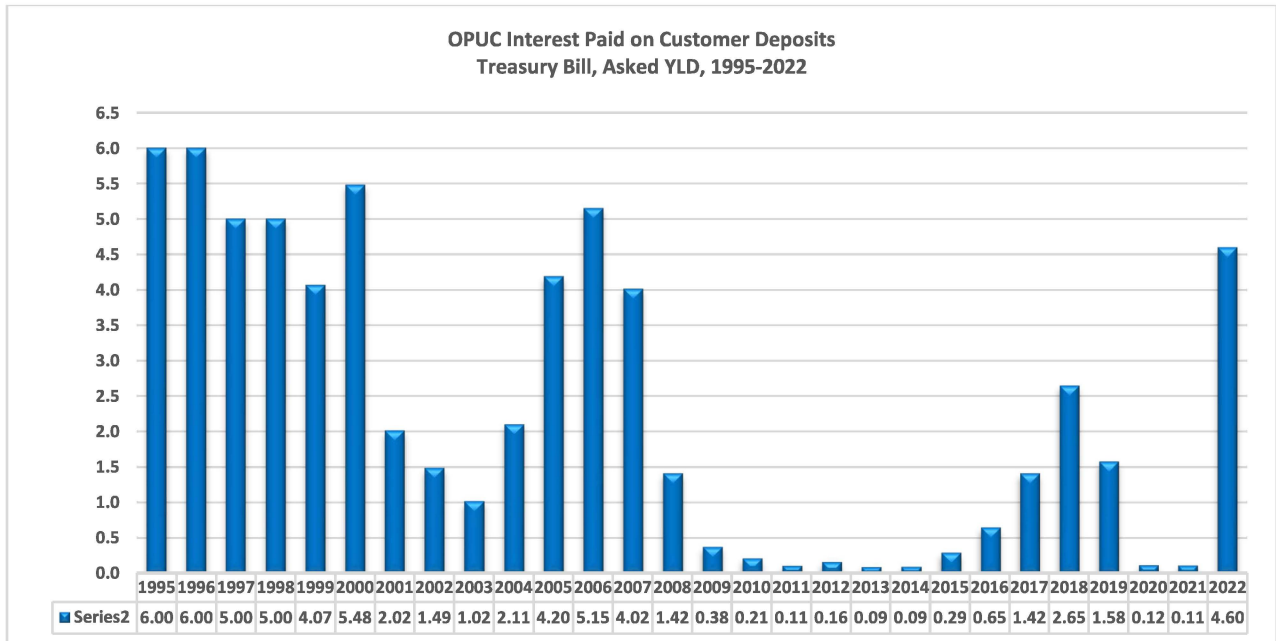
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the last week of October. On October 24, 25, 26, 27, and 28, 2022, *The Wall Street Journal* reported that the T-bills maturing on October 5, 2023 (342-346 days to maturity), had asking yields averaging 4.5972 percent for the week.

Based on Staff’s analysis, Staff recommends that the Commission change the annualized minimum interest rate at which utilities must credit customers for deposits to 4.5 percent, effective January 1, 2023.

Per the applicable rules, the interest rate used for customer deposits should round to the nearest 0.5 percent. By applying the rules’ 0.5 percent rounding requirements, Staff rounds the 4.597 interest rate obtained in the analysis to 4.5 percent. Accordingly, Staff recommends a 4.5 percent minimum interest rate at which utilities must credit customers for deposits for calendar year 2023.

The figure below shows the changes of the Interest Paid on Customer Deposits Rates that the Oregon PUC used from 1995 to 2022.⁶



The increase from the currently effective 0.1 percent to 4.5 percent is supported by information from the September meeting of the Federal Open Market Committee (FOMC or the Committee). The Federal Reserve controls the three tools of monetary

⁶ The rates shown reflect the average effective interest rate on 1-year T-Bills for the most recently available issuances in the month of October. The averages are shown with the year they were calculated.

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policy: open market operations, the discount rate, and reserve requirements. On September 21, 2022, the Federal Reserve issued a press release regarding the FOMC's current goals related to federal funds rate and inflation.⁷ The FOMC has determined that raising the target range for federal funds to 3 to 3-1/4 percent is necessary to lower inflation and anticipates continual increases to the target range in the future. The September FOMC statement summarized the Committee's intent regarding the federal funds rate and inflation activity in the following excerpt:

Recent indicators point to modest growth in spending and production. Job gains have been robust in recent months, and the unemployment rate has remained low. Inflation remains elevated, reflecting supply and demand imbalances related to the pandemic, higher food and energy prices, and broader price pressures.

Russia's war against Ukraine is causing tremendous human and economic hardship. The war and related events are creating additional upward pressure on inflation and are weighing on global economic activity. The Committee is highly attentive to inflation risks.

The Committee seeks to achieve maximum employment and inflation at the rate of 2 percent over the longer run. In support of these goals, the Committee decided to raise the target range for the federal funds rate to 3 to 3-1/4 percent and anticipates that ongoing increases in the target range will be appropriate. In addition, the Committee will continue reducing its holdings of Treasury securities and agency debt and agency mortgage-backed securities, as described in the Plans for Reducing the Size of the Federal Reserve's Balance Sheet that were issued in May. The Committee is strongly committed to returning inflation to its 2 percent objective.

Conclusion

Staff concludes that a monthly 2.2 percent late payment charge for calendar year 2023 is reasonably consistent with the practices of commercial enterprises based on the results of Staff's survey.

Staff concludes that a 4.5 percent minimum interest rate at which utilities must credit customers for deposits for calendar year 2023 is consistent with federal funds rate and monetary policy.

⁷ Press Release, September 21, 2022, Federal Reserve issues FOMC statement:
<https://www.federalreserve.gov/newsevents/pressreleases/monetary20220921a.htm>.

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PROPOSED COMMISSION MOTION:

Staff recommends the Commission:

1. Approve a late-payment rate of 2.2 percent monthly on overdue customer accounts.
2. Approve an annual interest rate of 4.5 percent on customer deposits for calendar year 2023.
3. Direct affected utilities to refile their respective tariffs to reflect the new rates set forth in Staff's memorandum.

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