

ORDER NO. 99-650

ENTERED OCT 21 1999

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

AR 369

In the Matter of Temporary Rules	)	
Relating to Allocation of Water Service	)	ORDER
Territory (SB 712) and Wastewater	)	
Regulation (HB 2681).	)	

**DISPOSITION: TEMPORARY RULES ADOPTED**

At its public meeting on October 18, 1999, the Commission considered Staff's proposal to adopt temporary rules relating to allocation of water service territory as provided by SB 712 and wastewater regulation as provided by HB 2681 and certain housekeeping changes to OAR Chapter 860, Division 036 pertaining to regulation of public water utilities.

On July 14, 1999, Governor John Kitzhaber signed into law Chapter 695, OR Laws 1999 (SB 712) to become effective October 23, 1999. The law requires public water utilities to apply to the Public Utility Commission for exclusive service territory allocation within 120 days of the effective date of the bill. The purpose of the law is to protect investor-owned water companies and their customers from inefficient duplication of water utility facilities by providing a process for exclusive service territory designation. The temporary rules for service territory allocation and housekeeping changes are attached as Appendix A.

A temporary rulemaking is necessary so that the rules can become effective at the same time as the law becomes effective (October 23, 1999). The new statute is quite general. The regulated companies and the public will suffer serious prejudice if they do not have detailed procedures and guidelines on how to comply with the law. Companies will not know what information to provide to the Commission. Customers and others will not know how to comment on the company proposals. A permanent rulemaking will proceed during the time the temporary rules are in effect.

On June 23, 1999, Governor Kitzhaber signed into law Chapter 330, OR Laws 1999 (HB 2681). The law became effective on the date it was signed. This bill directs the Public

Utility Commission to regulate wastewater services provided within city boundaries by public water utilities. The proposed rules for water/wastewater regulation are attached as Appendix B.

Because HB 2681 is already in effect, a temporary rule is necessary so there will be guidelines for regulation of wastewater services provided by public water utilities within city boundaries while a permanent rulemaking is proceeding. Without a temporary rule in place, the public, including the regulated entities, will not know how to comply with the law and customers will not receive the protections intended by the legislature.

**ORDER**

IT IS ORDERED that:

1. The temporary rules attached as Appendix A are adopted.
2. The temporary rules attached as Appendix B are adopted.
3. The temporary rules shall be effective October 23, 1999.

Made, entered, and effective \_\_\_\_\_.

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**Ron Eachus**  
Chairman

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**Roger Hamilton**  
Commissioner

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**Joan H. Smith**  
Commissioner

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

**860-036-0010**

**Definitions**

As used in this Division:

**(1) "Allocated territory" means an area with boundaries set out in an order granting an application for the allocation of territory.**

~~(1)~~**(2)** "Applicant" means a person that:

(a) Applies for service with a utility; or

(b) Reapplies for service at a new or existing location after service has been discontinued.

~~(2)~~**(3)** "Co-customer" means a person who meets the definition of "customer" and is jointly responsible with another person for payments for water utility service on an account with the water utility. If only one of the co-customers discontinues service in his/her name, the remaining co-customer shall retain customer status only if he/she reapplies for service in his/her own name within 20 days of such discontinuance provided the water utility actually contacts the co-customer or mails a written request for an application to the remaining co-customer within one business day of the discontinuance.

~~(3)~~**(4)** "Commission" means the Public Utility Commission of Oregon.

**(5) "Community water supply system" means a water source and distribution system, whether publicly or privately owned, that serves more than three residences or other users to whom water is provided for public consumption, including but not limited to schools, farm labor camps, industrial establishments, recreational facilities, restaurants, motels, mobile home parks, or group care homes.**

~~(4)~~**(6)** "Cooperative or association" means a cooperative corporation, unincorporated association, or homeowner association, as defined in ORS 757.005(1)(a)(A), that provides water service solely to its membership.

~~(5)~~**(7)** "Customer" means a person who has applied for, been accepted, and is currently receiving service unless otherwise noted. Notwithstanding section (1) of this rule, a customer who voluntarily disconnects service and subsequently asks for service with the same water utility at a new or existing location within 20 days after disconnection retains customer status.

~~(6)~~**(8)** "Formal complaint" means a written complaint filed with the Commission's Administrative Hearings Division.

~~(7)~~**(9)** "Fully regulated" means a water utility that is not exempt under ORS 757.061.

~~(8)~~**(10)** "Public utility" has the meaning given the term in ORS 757.005. The term does not include people's utility districts, municipalities, or cooperatives and homeowner associations that provide service solely to their membership.

~~(9)~~**(11)** “Registered dispute” means an unresolved issue between a customer or applicant and a water utility that is under investigation by the Commission’s Consumer Services Division, but is not the subject of a formal complaint.

~~(10)~~**(12)** “Utility” means all water utilities, except when a more limited scope is explicitly stated.

**(13) For purposes of service territory allocation, "utility service" means service provided by any equipment, plant, or facility for the distribution of water to users through a connected and interrelated distribution system. "Utility service" does not include service provided through or by the use of any equipment, plant, or facilities for the production of water.**

~~(11)~~**(14)** “Water utility” means all water utilities that meet the definition of a public utility found in ORS 757.005.

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

Stats. Implemented: ORS Ch. 695, OR Laws 1999 & 756.040 & 756.105

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

## **860-036-0135**

### **Adjustment of Bills**

(1) When an underbilling or overbilling occurs, the water utility shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to an identifiable cause, and the date can be fixed, then the overcharge or undercharge shall be computed back to such date. If no date can be fixed, the water utility shall refund the overcharge or rebill the undercharge for no more than six months’ usage. In no event shall an overbilling or under billing be for more than three years’ usage.

(2) When a customer is required to repay an under billing, the customer shall be entitled to enter into a time-payment agreement without regard to whether the customer already participates in such an agreement. If the customer and water utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The water utility shall provide written notice advising the customer of the opportunity to enter into a time-payment agreement and of the Commission’s complaint process.

(3) No billing adjustment **due to meter error** shall be allowed if a water meter registers less than 2 percent error under conditions of normal operation.

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

Stats. Implemented: ORS 756.040 & 757.250

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 15-1998, f. & ef. 8-27-98 (Order No. 98-359)

**860-036-0245**

**Disconnection Procedures for all Customers of Water Utility Services**

(1) Involuntary termination of water utility service for all customers shall be under the provisions of this rule.

**(2) Notice Requirement:**

~~(2)(a)~~ At least five business days before a water utility disconnects service, written notice of disconnection must be provided to the customer;

**(b) At least fifteen days before a water utility disconnects service due to customer failure to abide by a time-payment agreement, written notice of disconnection must be provided to the customer;**

~~(a)(c)~~ The disconnection notice shall inform the person that service will be disconnected on or after a specific date and shall explain the alternatives;

(3) The water utility may serve the notice of disconnection in person or send it by first class mail to the last known addresses of the customer and the customer's designated representative. Service is complete on the date of mailing or personal delivery.

(a) If notification is made by delivery to the residence, the water utility shall attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the water utility shall leave the notice in a conspicuous place at the residence.

(4) When a written notice is given under these rules:

(a) The notice shall conform to the requirements of OAR 860-036-0235 concerning multilingual requirements and service on any designated representative;

(b) The notice shall conform to the requirements of OAR 860-036-0230 if the water utility's records show that the billing address is different than the service address or that the premise is a master-metered multi-unit dwelling. The notice may be addressed to "Tenant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

(5) The notice shall be printed in bold face type and shall state in easy to understand language:

(a) The reason for the proposed disconnection;

(b) The amount to be paid to avoid disconnection;

(c) The earliest date for disconnection;

(d) An explanation of the time-payment agreement provisions of OAR 860-036-0125;  
and

(e) An explanation of the Commission's dispute resolution process and toll-free number.

(6) A notice of disconnection may not be sent prior to the due date for payment of a bill.

(7) At least five business days before the proposed disconnection date, the water utility must mail or deliver a written disconnection notice to the customer. A fee in an amount approved by the Commission may be charged whenever a water utility is required to visit a residential service address in order to serve a disconnection notice.

(8) On the day that the water utility expects to disconnect service and prior to disconnection, the water utility must make a good faith effort to personally contact the customer or an adult at the residence to be disconnected.

(a) If the contact is made, the water utility shall advise the person of the proposed disconnection; or

(b) If contact is not made, the water utility must leave a notice in a conspicuous place at the residence informing the customer that service has been, or is about to be, disconnected.

(9) Where personal contact is made by a water utility under this rule, and the circumstances are such that a reasonable person would conclude that the customer does not understand the consequences of disconnection, the water utility must:

(a) Notify the Department of Human Resources and the Commission; and

(b) Delay the proposed disconnection date for five additional business days.

(10) When personal contact is made by the water utility under this rule, the representative of the water utility making contact shall be authorized to accept reasonable partial payment of the overdue balance in accordance with the time-payment provisions.

(11) A water utility must document its efforts to provide notice under this rule and shall make that documentation available to the customer and the Commission upon request.

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

Stats. Implemented: ORS 756.040, 757.750 & 757.755

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 15-1998, f. & ef. 8-27-98 (Order No. 98-359)

## **860-036-0710**

### **Notice and Approval Requirements Relating to the Sale, Transfer, Merger, or Disposal of a Water Utility**

(1) Notice Requirements:

(a) All water utilities shall provide written notification to customers and the Commission of any sale, transfer, or merger, or disposal of the company 60 days prior to the closing date of the transaction. **The notice shall include the following information:**

**(A) Name, address, and telephone number of water utility;**

**(B) Purpose of notice;**

**(C) Filing date;**

**(D) Effective date of sale;**

**(E) Name, address, and telephone number of potential buyer;**

**(F) Reason(s) for sale;**

**(G) Effect of sale upon customers.**

(b) A non-fully regulated water utility which charges for services in excess of threshold levels established in OAR 860-036-0030 must also provide its customers written notification at least 60 days prior to the closing date of the transaction of the customers' right to petition the Commission for regulatory approval of the sale, transfer, or merger of the water utility. If the Commission receives a petition from at least 20 percent of the customers prior to the closing date of the transaction, the water utility becomes fully regulated and the transaction requires Commission approval.

**(A) The notice shall include the information required in (1)(a) of this rule;**

**(B) The notice shall inform the customers of their right to petition the Commission for Commission approval of the proposed transaction.**

(2) Approval Requirements:

(a) Fully regulated water utilities must file an application to obtain Commission approval prior to the sale, transfer, or merger of the company. Application requirements are found in OAR 860-036-0715.

(b) All water utilities seeking to terminate service, abandon, or otherwise dispose of the water utility, excluding sales, transfers or mergers, shall make application to and obtain Commission approval prior to such termination, abandonment, or disposal.

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

Stats. Implemented: ORS 756.040 & 757.480

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 15-1998, f. & ef. 8-27-98 (Order No. 98-359)

**860-036-0760**

**Preservation and Destruction of Records**

(1) The Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, April 1974, revised May 1985, published by the National Association of Regulatory Utility Commissioners is hereby **modified as appropriate and** adopted and prescribed by the Commission for all water utilities with the following exceptions:

(a) Operations and Maintenance, Records of Auxiliary, and other Operations. The Commission prescribes that records of operations other than water utility operations be retained for the same periods as prescribed for similar records pertaining to water utility operations;

(b) Revenue Accounting and Collecting. The Commission prescribes that contracts and card files or other records thereof with customers for water utility service be retained for one year after the expiration or cancellation of the agreement.

[Publications: The publications referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 756 & 757  
Stats. Implemented: ORS 756.040 & 757.105  
Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)

**Service Territory Allocation**

**860-036-0900**

**Service Territory Allocation**

- (1) The requirements of this section apply to all water utilities.**
- (2) A water utility providing water service shall make application to the Commission, on forms provided by the Commission, for an order designating the territory it serves adequately and exclusively as its exclusive service territory.**
- (3) The Commission shall recognize the service territory of a water utility that has an existing franchise as of October 23, 1999, with a municipality, as an exclusive service territory. Upon application, any such water utility may also request an order from the Commission to designate exclusive service territory in addition to that territory identified in the franchise agreement, if the water utility is providing adequate and exclusive service to territory outside the areas identified in the franchise agreement.**

**Stat. Auth.: ORS Ch. 183, 695, 756 & 757**  
**Stats. Implemented: ORS Ch. 695, OR Laws 1999**  
**NEW**

**860-036-0905**

**Original Application Requirements**

- (1) A completed application requesting an exclusive service territory for area the water utility is already serving shall include the following:**
  - (a) The water utility's complete name, address, and telephone number;**
  - (b) The nature of the water utility's business organization, that is, corporation, partnership, limited partnership, sole proprietorship, association, etc.;**
  - (c) The name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the water utility;**
  - (d) A statement showing the financial and technical ability of the applicant to provide service to the proposed territory;**
  - (e) A statement describing the need for service in that area;**
  - (f) A detailed map of the water system showing the existing lines and facilities;**
  - (g) A detailed map identifying the boundaries of the proposed territory marked with a fine-tipped RED pen. Identify the map source and the date of the map in the**



upper left corner of the map. Appropriate maps may include: a GIS map, city or county map, tax lot map, plat map, or telephone book map. The map must be of sufficient scale and detail to identify exclusive service territory boundaries and enable correlation with the description of proposed territory;

(h) A complete and accurate description of the proposed 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;

(i) A statement identifying any other water utility or community water supply system within the proposed territory that could potentially provide water service to that area, and the steps the applicant took to ascertain whether such other water service is available;

(j) 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 99-year lease;

(k) A schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the proposed service territory the water utility is currently serving is fully occupied; and

(l) A list of the names and addresses of the municipalities, the counties, any known plan-ning councils, any known governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the proposed territory.

(2) The application may also include any adjacent territory that the water utility plans to serve within six months following the date of the application:

(a) If another water utility or community water supply system is not serving such territory; and,

(b) If the applicant demonstrates that it is more economical and feasible to serve the area by an extension of the applicant's existing facilities than by an extension of the facilities of another water utility or community water supply system.

Application requirements for expanded service territory are contained in 860-036-0915.

Stat. Auth.: ORS Ch. 183, 695, 756 & 757

Stats. Implemented: ORS Ch. 695, OR Laws 1999

NEW

860-036-0910

Commission Notice and Procedure

(1) Within 30 days of receipt of a completed exclusive service territory application, the Commission shall give notice to the municipalities, the counties, any known planning councils, any known governmental authority having concern with the application, and to all known water utilities and community water supply systems in the general area the water utility is applying for exclusive service territory.

(2) The Commission shall publish notice of the filing in a newspaper or newspapers of general circulation in the proposed territory.

(3) Any objections to the application must be filed with the Commission no later than 30 days after the last date that the notice was mailed or published, whichever is later.

(4) The Commission may, on its own motion, hold a hearing on the application, but the Commission must hold a hearing on the application if a customer of the water utility requests a hearing on the application within 30 days of the notice.

(5) If a hearing is scheduled, the Commission shall give notice of the hearing, setting the date and place of hearing. If the hearing is at a customer's request, the Commission shall give notice of the hearing within 30 days of the request. The hearing shall be held at a place within or conveniently accessible to the territory covered by the application.

(6) The Commission may make such investigations respecting an application for the designation of exclusive service territory as the Commission deems proper, including physical examination and evaluation of the facilities and systems of the applicant, estimates of their operating costs and revenues, and studies of such other information as the Commission deems relevant.

(7) The applicable provisions of ORS 756.500 to 756.610 shall govern the conduct of hearings under this section.

(8) If the Commission considers competing applications to serve the same territory, there shall be a disputable presumption that applicants have an equal ability to extend, improve, enlarge, build, operate, and maintain existing or proposed facilities.

Stat. Auth.: ORS Ch. 183, 695, 756 & 757

Stats. Implemented: ORS Ch. 695, OR Laws 1999

NEW

860-036-0915

Filing an Application to Expand Exclusive Service Territory

(1) A water utility may apply to expand its designated exclusive service territory to serve a territory not currently being provided service. It shall file an application with the Commission.

**(2) Upon application by the water utility or by the Commission's own motion, a designated exclusive service territory may be expanded to include unserved areas.**

**(3) In reviewing an application, the Commission shall at least consider the current ability of the water utility to serve the expanded area, the demand for service in the expanded area, the impact on existing customers, and the availability of alternative service.**

**(4) Notice and hearing of the proposed expansion shall be given as provided in OAR 860-036-0910.**

**(5) The application must include:**

**(a) The water utility's complete name and address;**

**(b) The nature of the utility's business organization, that is, corporation, partnership, limited partnership, sole proprietorship, association, etc.;**

**(c) A statement identifying any other water utilities or community water supply systems within the proposed expanded territory that could potentially provide water service, and the steps the applicant took to ascertain whether such other water service is available;**

**(d) The name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the utility;**

**(e) A list of the names and addresses of the municipalities, the counties, any known planning councils, any known governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the proposed expanded exclusive service territory;**

**(f) A map identifying the boundaries of the proposed expanded service territory (currently unserved) marked with a fine-tipped BLUE pen. Identify the map source and date of map in the upper left corner of the map. Appropriate maps may include: a GIS map, city or county map, tax lot map, plat map, or telephone book map. The map must be of sufficient scale and detail to identify expanded exclusive service territory boundaries and enable correlation with the description of the proposed expanded territory;**

**(g) A complete and accurate description of the proposed expanded territory. The description 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) The number of connections projected in the proposed expanded territory to be served, by meter size and customer class, that is, single family homes, mobile homes, duplexes, golf course clubhouse, commercial, etc.;**

**(i) The estimated date applicant plans to begin providing service to customers in the proposed expanded territory;**

(j) The estimated flat rate or base and usage rate structure to be utilized, unless an alternative rate structure is supported by the applicant and authorized by the Commission;

(k) A cost study including customer growth projections supporting the proposed water service rates and charges;

(l) A schedule showing the projected operating expenses of the proposed system by account numbers when 100 percent of the system is being utilized;

(m) A schedule showing the projected capital structure including the methods of financing the construction and operation of the utility until the utility reaches 100 percent of the design capacity of the system;

(n) Evidence demonstrating adequate existing or proposed capacities of the system and facilities to serve the proposed expanded territory in terms of 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 phases;

(o) A written description of the type of water treatment required, if necessary;

(p) A schedule showing the projected cost of the proposed system(s) by uniform system of accounts approved by the Commission. If the system is to be built in phases, show information for each phase individually; and

(q) 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 shall not apply to any person or entity holding less than 10 percent ownership interest in the utility.

Stat. Auth.: ORS Ch. 183, 695, 756 & 757

Stats. Implemented: ORS Ch. 695, OR Laws 1999

NEW

### 860-036-0920

#### Reduction of Approved Service Territory Boundaries Procedure

(1) Upon petition by the water utility or a customer of the utility for an order, or by the Commission on its own motion, a designated exclusive service territory may be reduced upon a showing 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) Notice and procedure of the proposed decrease of designated exclusive service territory shall be given as provided in ORS 860-036-0910.

Stat. Auth.: ORS Ch. 183, 695, 756 & 757

Stats. Implemented: ORS Ch. 695, OR Laws 1999  
NEW

860-036-0925

Transfer of Approved Service Territory

(1) Except as provided in paragraph (6) of this rule, the rights acquired by an approved designated exclusive service territory may be transferred only with the approval of the Commission after a finding that the assignment or transfer is in the public interest.

(2) An approved designated exclusive service territory, under an order of the Commission, shall not be altered solely as the result of a change in ownership or form of ownership.

(3) Upon the death of an applicant under an approved designation, the executor or administrator shall continue operating the water utility for the purpose of transferring such rights for a period not to exceed two years from the date of death.

(4) Applicants must submit to the Commission an application to transfer an approved designated exclusive service territory. The application:

(a) Shall include the application requirements as provided in OAR 860-036-0915;

(b) Shall include evidence demonstrating that the transfer of the service territory is in the public interest.

(5) Notice and procedure of the proposed transfer shall be given as provided in ORS 860-036-0910.

(6) The Commission will approve the proposed transfer if at least 75 percent of the affected customers agree to the proposed transfer. The Commission may require a petition from or a survey of affected customers to determine whether 75 percent of such customers agree to the proposed transfer.

Stat. Auth.: ORS Ch. 183, 695, 756 & 757

Stats. Implemented: ORS Ch. 695, OR Laws 1999

NEW

860-036-0930

Exclusive Obligation

(1) Approved designated exclusive service territories of a water utility shall be exclusive. A water utility or community water supply system shall not provide water utility service within the designated exclusive service territory of another water utility without the express approval of the Commission.

(2) A water utility shall serve only customers within its designated exclusive service territory and shall serve all applicants for service within its designated territory. The water utility may refuse service only as provided by the Commission.

ORDER NO. 99-650

**Stat. Auth.: ORS Ch. 183, 695, 756 & 757**

**Stats. Implemented: ORS Ch. 695, OR Laws 1999**

**NEW**

DIVISION 037

WASTEWATER SERVICE  
REGULATION FOR JOINT  
WATER/WASTEWATER UTILITIES

GENERAL

860-037-0001

Scope and Applicability of Rules

(1) Adoption of these rules shall in no way preclude the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint or upon its own motion, or upon the application of any water/wastewater utility subject to these rules. Furthermore, these rules shall not in any way relieve any water/wastewater utility subject to them from any of its duties under the laws of this State. Upon application by a water/wastewater utility the Commission may relieve it of any obligations under these rules.

(2) The rules contained in this division are applicable to wastewater service provided by public water/wastewater utilities, as defined in OAR 860-037-0010(14), providing service in the State of Oregon.

(3) A water/wastewater utility is subject to Division 037, only when it engages in activity that affects wastewater rates or wastewater service to its wastewater customers. A water/wastewater utility shall comply with Division 036 of the Commission's rules when it engages in activity that affects the water rates or water service

to customers receiving both water and wastewater service or to customers receiving only water service.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0005

Applicability and Formal Requirements

All applications or petitions filed under the rules contained in this division must also comply with all other applicable Commission rules.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0010

Definitions

As used in this Division:

(1) "Applicant" means a person that:

(a) Applies for service with a water/wastewater utility; or

(b) Reapplies for service at a new or existing location after service has been discontinued.

(2) "Co-customer" means a person who meets the definition of "customer" and is jointly responsible with another person for payments for wastewater utility service on an account with the water/wastewater utility. If only one of the co-customers discontinues service in his/her name,

the remaining co-customer shall retain customer status only if he/she reappplies for service in his/her own name within 20 days of such discontinuance, provided the water/wastewater utility actually contacts the co-customer or mails a written request for an application to the remaining co-customer within one business day of the discontinuance.

(3) "Commission" means the Public Utility Commission of Oregon.

(4) "Cooperative or association" means a cooperative corporation, unincorporated association, or homeowner association, as defined in ORS 757.005(1)(a)(A), that provides water/wastewater service solely to its membership.

(5) "Customer" means any person, partnership, association, corporation, or governmental agency who has applied for, been accepted, and is currently receiving service unless otherwise noted. Notwithstanding section (1) of this rule, a customer who voluntarily terminates service and subsequently asks for service with the same water/wastewater utility at a new or existing location within 20 days after disconnection retains customer status.

(6) "Customer's service pipe" means any wastewater pipe extending from the customer's residence or other structure receiving and transporting wastewater to the utility's collecting wastewater, but excluding service wyes.

(7) "Formal complaint" means a written complaint filed with the

Commission's Administrative Hearings Division.

(8) "Public utility" has the meaning given the term in ORS 757.005. The term does not include people's utility districts, municipalities, or cooperatives and homeowner associations that provide service solely to their membership.

(9) "Registered dispute" means an unresolved issue between a customer or applicant and a water/wastewater utility that is under investigation by the Commission's Consumer Services Division, but is not the subject of a formal complaint.

(10) "Public Utility" means all water/wastewater utilities, except when a more limited scope is explicitly stated.

(11) "Wastewater" means the combination of the liquid and water-carried pollutants from a residence, commercial building, industrial plant, or institution, together with any groundwater, surface runoff, or leachate that may be present.

(12) "Wastewater service" means the collection, transportation, treatment, and disposal of wastewater for the public or any other beneficial or necessary purpose. Wastewater service does not include septic pumping.

(13) "Wastewater treatment facilities" includes all pipes, pumps, canals, lagoons, plants, structures, and appliances, and all other real estate, fixtures and personal property, owned, operated, and controlled or managed in connection with or to facilitate the collection, carriage, treatment, and disposal of wastewater for the public,



or any other beneficial or necessary purpose.

(14) "Water/wastewater utility" means all public water utilities as defined ORS 757.005, that also provide wastewater service inside the boundaries of a city, either directly or through an affiliate, regardless of the number of customers receiving wastewater service.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 756.105

NEW

860-037-0015

Information for Customers and Applicants

(1) Upon request, the water/wastewater utility shall furnish a customer or applicant with such information as is reasonable to permit them to secure efficient service.

(2) A water/wastewater utility shall keep on file and open for public inspection at its offices: complete rate schedules, contract forms, rules and regulations of the utility, and a copy of the Commission's rules and regulations.

(3) Upon request, the water/wastewater utility shall supply a copy of its approved tariffed rates applicable to the type or types of wastewater service furnished to the customer by the water/wastewater utility.

(4) When service is initiated and not less than once each year thereafter, a water/wastewater utility shall give

its customers a written summary of the customers' rights and responsibilities, as they relate to the water/wastewater utility providing service. If service is initiated without a personal contact between the utility and the customer, the water/wastewater utility shall mail the summary to the customer no later than when the first bill statement is mailed. The summary shall include the text approved by the Commission's Consumer Services Division and describe:

(a) The customer's option to designate a third party to receive bills and notices and the availability of notices in languages other than English;

(b) Special payment options such as equal payment plans. Any late-payment charges shall be explained, along with the availability of any preferred billing date option;

(c) Procedures for conflict resolution, including how to register a dispute with the utility and with the Commission and the toll-free number of the Commission's Consumer Services Division.

(5) When service is initiated, the water/wastewater utility shall inquire if the customer would like to receive notices in a language other than English and will inform the customer of the types of notices and translations currently available. If the language chosen is not available, the utility will inform the customer or applicant that the translated version does not yet exist, but that the customer's or applicant's interest will be recorded for the Commission. Each utility shall

report to the Commission the number of requests for notices and summaries in non-English languages. The report shall specify the number of requests for each language.

(a) The Commission will translate the Rights and Responsibilities Summary for Oregon Utility Consumers into the designated non-English languages and provide copies to water/wastewater utilities. The information published by a water/wastewater utility pursuant to OAR 860-037-0015 shall prominently display the following statement in the designated non-English languages at the beginning of the summary and be printed in boldface: A version of the Rights and Responsibilities Summary for Oregon Utility Consumers printed in this language is available by calling (name of utility) at (phone number).

(6) Each water/wastewater utility shall maintain a business location and a regular telephone number at which it may be contacted directly by customers, applicants, or the Commission during its regular business hours. The utility shall provide a means by which it may be contacted at any hour in the event of a service failure or emergency or at which a customer or applicant may leave a message reporting such failure or emergency.

(7) Notices approved by the Commission shall be posted in a conspicuous place in each water/wastewater utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The

notices shall be printed and shall be written in language that is easy to understand.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0020

Designation of Third Party to Receive Notices

A water/wastewater utility shall offer its customer or applicant the option to designate a third party to receive bills and notices set forth in these rules. When a water/wastewater utility receives such designation, it shall send bills and notices required under these rules to the customer's representative, with duplicate copies of disconnect notices also served on the customer.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0025

Dispute Resolution

(1) When a dispute occurs between a customer or applicant and a water/wastewater utility about any bill, charge, or service, the water/wastewater utility shall thoroughly investigate the matter and promptly report the results of its investigation to the customer or applicant. The water/wastewater utility

shall prepare a written record showing the name and address of the customer or applicant involved, the date and character of the dispute, and the disposition of the matter. The utility shall retain records of the dispute pursuant to OAR 860-037-0605.

(2) The water/wastewater utility shall inform the customer or applicant of the right to a water/wastewater utility supervisory review of any dispute, including but not limited to, establishment of credit and termination of water service for wastewater service. If a dispute is not resolved, the water/wastewater utility shall notify the customer or applicant of the Commission's dispute resolution procedure and its toll-free telephone number.

(3) A customer or applicant may request the Commission's assistance in resolving the dispute by contacting the Consumer Services Division at 1-800-522-2404; TDD 1-800-648-3458; or at 550 Capitol St. NE, Suite 215, Salem, Oregon 97301-2551. The Commission shall notify the water/wastewater utility upon receipt of such a request.

(4) The Commission's Consumer Services Division shall assist the complainant and the water/wastewater utility in an effort to reach an informal resolution of the dispute.

(5) If a registered dispute cannot be resolved informally, the Commission's Consumer Services Division shall advise the complainant of the right to file a formal written complaint with the Commission. The complaint shall state the facts of the dispute and the relief requested. The

water/wastewater utility shall answer the complaint within 15 days of service of the complaint. The matter shall then be set for expedited hearing. A hearing may be held on less than 10 days' notice when good cause is shown.

(6) Pending resolution of the dispute, the complainant's obligation to pay undisputed amounts continues.

(7) A customer who has a registered dispute or formal complaint pending with the Commission shall be entitled to continued or restored service provided:

(a) Service was not terminated for theft of service or failure to establish credit;

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

(c) When termination is based on nonpayment, the customer makes adequate arrangement to avoid future loss to the water/wastewater utility, such as prepaying estimated monthly wastewater utility service charges; and

(d) The customer or applicant diligently pursues conflict resolution under the Commission's rules.

(8) If the conditions in section (7) of this rule are not satisfied, the water/wastewater utility has no obligation to provide continued service. A water/wastewater utility discontinuing water service because of a failure to meet the conditions of subsections (7)(c) or (7)(d) of this rule for wastewater utility service shall give the customer a five-day disconnect notice. The notice shall be served in the same manner as provided by OAR 860-

037-0245, except that it need only describe the defect in performance, the date and time when water utility service will terminate and the toll-free number of the Commission's Consumer Services Division. In deciding whether the conditions are met, the water/wastewater utility shall consult with the Commission's Consumer Services Division. The customer who has filed a formal complaint, the water/wastewater utility, or the Commission's Consumer Services Division may ask the Commission for a hearing to decide if the conditions are met. Unless extraordinary circumstances exist, the hearing will be conducted by telephone conference within three business days from the date requested. Notice of hearing will be given to the customer, the water/wastewater utility, and the Commission's Consumer Services Division at least 12 hours before the date and time of the hearing. Notice is effective when given in person, by telephone, or in writing delivered to the party's last known address. Mailed notice is effective two days after deposit in the U.S. mail, excluding Sundays and holidays.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 756.500 & 756.512

NEW

860-037-0030  
Applications for Water/Wastewater Utility Service

(1) An application for water/wastewater utility service must be made when:

(a) Service is requested by an applicant who has not previously been served by the water/wastewater utility;

(b) Service has been involuntarily discontinued in accordance with these rules and the customer or applicant later seeks to have service restored; or

(c) Service has been voluntarily discontinued and a request to restore service has not been made within 20 days.

(2) An application is a request for water/wastewater utility service. The water/wastewater utility shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-037-0040. However, the water/wastewater utility may refuse a service application under OAR 860-037-0075.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0035  
Establishing Credit for Residential Service

(1) A water/wastewater utility may require a deposit from a customer or applicant who:

(a) Received service from it or any Oregon regulated water/wastewater utility within the preceding 24 months and, at the time service was terminated, owed an

account balance that was not paid according to its terms. This section does not apply to customers who registered a dispute with the Commission within 60 days after service terminated and who promptly paid all undisputed or adjudicated amounts; or

(b) Was previously terminated for theft of service by it or any Oregon regulated utility or was otherwise found to have diverted utility service.

(2) A water/wastewater utility shall not require a deposit from an applicant it served within the preceding 24-month period who voluntarily terminated service and whose final bill was paid in full by its due date.

(3) In all other cases, a customer or applicant may choose whether to submit one of the following:

(a) A letter from another water/wastewater utility on that utility's official stationary and signed by an authorized employee stating that it served the named applicant within the preceding 24 months for water/wastewater service, that the applicant voluntarily terminated service and paid his/her final bill in full by its due date; or

(b) A written surety agreement from a responsible party to secure payment in an amount equal to two month's average usage. For the purpose of this rule, a water/wastewater utility customer who has received service continuously for the preceding 12 months from the same water/wastewater utility company without a late payment is considered a

responsible party. The obligation of the surety ceases when the customer establishes good credit; or

(c) A customer or applicant provides a deposit and positive identification by providing the customer's or applicant's name, address, date of birth, social security number, if any, and is supported by any one of the following:

(A) An Oregon license from the Department of Transportation, Driver and Motor Vehicle Service Branch, or other state identification containing a photograph of the customer or applicant or other identifying information such as name, date of birth, sex, height, color of eyes, and address; or

(B) U.S. passport, certificate of citizenship or naturalization, Immigration and Naturalization Service temporary resident card, employment authorization card, or equivalent identification, with photograph; or a combination of one from each of the following groups:

(i) Birth certificate or social security card; and

(ii) Current identification from school, employment, Adult and Family Services Division, or other State of Oregon assistance program; and

(iii) The name, address, and telephone number of a person who can verify the customer's or applicant's identity as shown, such as a teacher, employer, or caseworker.

(4) A deposit required under these rules shall not exceed one-sixth of the amount of a reasonable estimated billing for one year at rates then in

effect. This estimate shall be based upon the use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service.

(5) Any additional or subsequent deposit required shall be calculated as provided for by section (4) of this rule using the most recent information available. Such deposits may be required as a condition of continued service:

(a) If the customer moves and the anticipated bill at the new residence will be at least 20 percent greater than that upon which the prior deposit was based; or

(b) In the case of a customer who established credit by providing "positive identification" under these rules, the customer gave false information to establish identify.

(6) Paying a deposit does not excuse a customer or applicant from complying with the water/wastewater utility's tariffs, rules and regulations, such as the obligation to promptly pay bills.

(7) A water/wastewater utility may require less stringent deposit requirements than those specified in this section provided the requirements used by the water/wastewater utility are nondiscriminatory.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0040

Deposit Payment Arrangements for Residential Water/Wastewater Service

(1) When a water/wastewater utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. Installments shall be one-third of the deposit. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment.

(2) When an installment payment or a deposit is made with a payment for water/wastewater utility service, the amount paid shall first be applied toward payment of the amount due for deposit.

(3) A customer who is required to pay an additional deposit shall pay one-third of the total deposit within five days. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has an existing deposit installment agreement, the remaining installment payments will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) When a customer enters into an installment agreement for payment of a deposit under section (1) of this rule, the water/wastewater utility shall provide written notice explaining the deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the person that water/wastewater service will be

disconnected if payment is not received when due.

(5) If a customer or applicant fails to abide by the terms of a deposit installment agreement, the water/wastewater utility may disconnect water service after providing a written notice. The notice shall comply with the requirements of OAR 860-037-0245.

(6) When good cause exists, the water/wastewater utility may provide, or the Commission may require, more liberal arrangements for payment of deposits than those set forth in this rule. The water/wastewater utility shall keep a written record of the reasons for such action.

(7) If termination of service for nonpayment of a deposit occurs, the customer or applicant disconnected shall pay the full amount of the outstanding deposit, any applicable reconnection fee, late-payment fee, and past due amount before service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0045

Interest on Deposits for Residential and Nonresidential Service

(1) Unless otherwise specified by the Commission, customer deposits shall accrue interest at a rate based

upon the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October. This interest rate, rounded to the nearest percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all water/wastewater utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) The water/wastewater utility shall furnish, upon payment of a deposit, a receipt showing the date, name of the customer or applicant, the service address, the amount of deposit, a statement that the deposit will accrue interest at the rate prescribed by the Commission, and an explanation of the conditions under which the deposit will be refunded.

(3) If the deposit is held beyond one year, accrued interest will be paid by a credit to the customer's account. If held less than one year, interest will be prorated. A water/wastewater utility shall keep a detailed record of each deposit received until the deposit is credited or refunded.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0050

Refund of Water/Wastewater Utility Deposits for Residential and Nonresidential Service

(1) A water/wastewater utility shall promptly refund a customer's

deposit with accrued interest when service is terminated, provided a refund due shall first be applied to any unpaid balance on the customer's account.

(2) A water/wastewater utility may continue holding a deposit until credit is satisfactorily established or reestablished. For purposes of this rule, credit is considered established or reestablished one year after a deposit is made if:

(a) The account is current;

(b) Not more than two five-day water disconnection notices were issued to the customer for wastewater service during the previous 12 months; and

(c) The customer's water was not disconnected for nonpayment of wastewater charges during the previous 12 months.

(3) After satisfactory credit has been established or reestablished, the deposit plus any accrued interest shall be promptly refunded or credited to the customer's account. A customer shall be entitled to a refund upon request.

(4) When the customer moves to a new address within the water/wastewater utility's service area, the deposit and accrued interest will be transferred to the new account.

(5) 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/wastewater utility's procedures are nondiscriminatory.

(6) Unless otherwise specified by the customer, a water/wastewater

utility shall mail deposit refunds to the customer's last known address. The water/wastewater utility will honor valid claims for payment of refunds if received within one year of the date service is terminated. Funds held beyond one year after the date service is terminated will be disposed of in accordance with ORS 98.316.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 98.316 & 756.040  
NEW

860-037-0055

Installation of Water/Wastewater Service Pipe Connection

(1) A water/wastewater utility shall furnish and install that portion of the service pipe from the main to the boundary line of the easement, public road, or street, under which such main is located. Such installation shall be designated as "service pipe connection." The water/wastewater utility shall own, operate, maintain, and replace the service pipe connection when necessary.

(2) A water/wastewater utility may require the customer to pay a reasonable service pipe connection charge to offset its expenses listed in section (1) of this rule.

(3) The customer shall furnish, install, and maintain that portion of the service pipe from the end of the water/wastewater's portion into the premises serviced. Such installation shall be designated as the "customer service pipe."



(4) All construction and installation of water/wastewater service pipes and connections shall comply with all applicable rules, regulations, codes, and industry standards.

(5) A wastewater service pipe shall not be laid in the same trench with a water pipe.

(6) If a governmental agency requires an inspection of the customer's plumbing, the water/wastewater utility shall not connect the customer's service pipe until it has received notice from the inspection agency certifying that the customer's plumbing is satisfactory.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0060

Installation of Main Line Extension

(1) A water/wastewater utility shall develop a Commission-approved uniform policy governing the amount of main extension and applicable charges which will be made to connect a new customer. This policy shall be related to the investment that can prudently be made for the probable revenue.

(2) Customers may be required to pay a reasonable, cost-based charge for any necessary main line extension to provide a service pipe connection in accordance with the water/wastewater utility main line extension policy. Such policy and charges must be filed as tariffs with the Commission.

(3) Each water/wastewater utility shall establish a main line extension policy that includes the following:

(a) Schedule of cost-based charges;

(b) Advance and refund provisions which describe the mechanism for collecting main line extension charges and rebating main line extension charges to customers which equitably distributes the cost of the main line extension among customers of the line who contributed to the payment of the cost of the line; and

(c) Time period during which advance and rebate provisions will be in effect.

(4) All main line extension policies shall be applied uniformly among the water/wastewater utility's customers and must be on file with the Commission and made available to the public.

(5) All construction and installation of main lines and extensions shall comply with all applicable rules, regulations, codes, and industry standards.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0065

Design, Construction, and Operation

(1) Each water/wastewater utility shall maintain and operate wastewater treatment facilities of adequate size and

properly equipped to collect, transport, and treat wastewater, and discharge the effluent at the degree of purity required by the health laws of Department of Environmental Quality, and all other regulatory agencies, federal, state, and local, having jurisdiction over such matters.

(2) Wastewater treatment facilities shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

(3) The design and construction of the water/wastewater utility's collecting mainlines, treatment plant and facilities, and all additions thereto and modifications thereof, shall conform to the requirements of all regulatory authorities, construction codes, and industry standards.

(4) The capacity of the treatment facilities for the collection, treatment, and disposal of wastewater and wastewater effluent must be sufficiently sized to meet all normal demands for service and provide reasonable reserve for emergencies.

(5) Each water/wastewater utility shall adopt procedures for inspection of its plant and facilities to assure safe and adequate operation and shall make inspections of its plant on a regular basis. The procedures shall be filed with the Commission. The water/wastewater utility shall maintain a record of inspections, findings, and corrective action

required and/or taken, by location and date.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0070

Interruption of Service

(1) A water/wastewater utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the date, time, duration, and cause of interruption, remedy, and steps taken to prevent reoccurrence.

(2) A water/wastewater utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the water/wastewater utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) To the extent practical, every customer affected shall be notified in advance of any contemplated work which will interrupt service of the date, time, and duration of the interruption, but such notice shall not be required in case of interruption due to emergency repairs. Whenever possible, scheduled interruptions shall be at such hours as will provide the least inconvenience to the customer.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0075

Refusal of Service

(1) A water/wastewater utility may refuse to provide wastewater service to an applicant applying for wastewater service until it receives full payment of any overdue amount and any other obligation related to a prior account except as provided below:

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

Except for the last payment, installments shall be the greater of \$30 or one-half the overdue amount;

(b) Upon failure to pay, the water/wastewater utility may disconnect water service after providing a written five-day notice. The notice shall contain the information and be served in the manner prescribed as provided in OAR 860-036-0245.

When a customer whose service was terminated applies for wastewater service within 20 days of the termination, the provisions of this rule apply.

(2) If water service is disconnected for failure to comply with the payment terms for wastewater service set forth in section (1) of this rule, the water/wastewater utility may refuse to restore water service until it receives full payment of any overdue

obligation, including any reconnection fee, late payment fee, and past due bill.

(3) A water/wastewater utility may refuse to provide wastewater service until payment is received when the following circumstances exist:

(a) The customer has incurred an overdue balance at a service address;

(b) An applicant for service resided at the service address described in subsection (1)(a) of this rule during the time the overdue balance was incurred; and

(c) The customer described in subsection (1)(a) of this rule will reside at the location to be served under the new application.

(4) Any water/wastewater utility shall refuse to provide wastewater service if a customer or applicant has not complied with state and municipal codes and regulations governing service and with the rules and regulations of the water/wastewater utility.

(5) A water/wastewater utility shall refuse to serve a customer or applicant, if, in the best judgment of the water/wastewater utility, the facilities of the customer or applicant are of such a character that safe and satisfactory service cannot be given.

(6) If service is refused, the water/wastewater utility shall provide written notification within 10 working days to the customer or applicant of the reasons for refusal and of the Commission's complaint process. A copy of the notice shall also be sent to the Commission unless service was refused for nonpayment.

(7) A water/wastewater utility shall not accept an application for wastewater service or materially change service to a customer if it does not have adequate facilities or water/wastewater resources to render the service applied for, or if the desired service is of a character that is likely to unfavorably affect service to other customers.

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

(A) Provide the customer or applicant with a written letter of refusal, a copy of which shall be sent to the Commission, stating the reason for the refusal;

(B) Inform the customer or applicant that he/she may request the details upon which the water/wastewater utility's decision was based, including but not limited to current capacity and demand;

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

(D) Inform the customer or applicant that he/she may challenge the water/wastewater utility's refusal of wastewater service through the Commission's dispute resolution process pursuant to OAR 860-037-0025.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 757.035 & 757.225

NEW

860-037-0080

Restrictions on Entering a Customer Residence

No water/wastewater utility employee shall enter the residence of a customer without proper authorization except in an emergency endangering life or property.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

Billing and Payments

860-037-0105

Bill Forms

(1) Every water/wastewater utility providing service shall indicate clearly on the bill the date of the billing period, the schedule number under which the bill was rendered, and any other information needed to compute the bill. Each bill shall bear on its face the delinquent date of the bill.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0110

Due and Payable Period; Time-Payment Agreements for Residential Service

(1) Each water/wastewater utility shall establish procedures to ensure that the period from billing transmittal to due date is not less than 15 days for all customers.

(2) A water/wastewater utility may not disconnect residential water service for non-payment of wastewater service charges if a customer enters into a written time-payment plan. A water/wastewater utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a levelized-payment plan and an equal-pay arrearage plan.

(3) A customer who selects a levelized-payment plan will pay a down payment equal to the average annual bill including the account balance, divided by 12, and a like payment each month for 11 months thereafter:

(a) The monthly installment plan shall be reviewed by the water/wastewater utility periodically. If necessary, due to changing rates or variations, the installment amount may be adjusted in order to bring the account into balance within the time period specified in the original agreement.

(b) If a customer changes his/her service address at any time during the period of a time-payment agreement, provided that payments are then current and the customer pays other scheduled or tariffed charges associated with the change in residence, the water/wastewater utility shall recalculate the customer's deposit or monthly installment. The recalculated amount shall reflect the

balance of the account at the previous service address and the average annual bill at the new service address for the months remaining in the original time-payment agreement. When installments on a time-payment agreement have not been kept current, a customer shall be required to pay all past-due installments, together with any other applicable charges before service is provided at the new residence.

(4) A customer who selects an equal-pay arrearage plan will pay a down payment equal to 1/12 the amount owed for past water/wastewater utility service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer). Each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for wastewater service. If a customer changes service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the water/wastewater utility provides service at the new address.

(5) The water/wastewater utility and customer may agree in writing to an alternate payment arrangement, provided the water/wastewater utility first informs the customer of the availability of the payment terms set forth in sections (3) and (4) of this rule.

(6) If a customer fails to abide by the wastewater time-payment agreement, the water/wastewater utility may disconnect water service

after serving a 15-day disconnect notice. The notice shall comply with OAR 860-037-0245, except that subsection (5)(d) shall not be applicable. Such customers shall not be eligible for a renewal or renegotiation of a time-payment plan.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0115

Late-Payment Charge

(1) Except as provided in section (2) of this rule, a water/wastewater utility may apply a late-payment charge to customer accounts not paid in full each month, provided the water/wastewater utility has filed the late-payment charge in its tariffs.

(2) The charge will be based on a monthly late-payment rate applied to only overdue account balances at the time of preparing the subsequent month's bill. The late-payment charge may not be applied to time-payment or equal-payment accounts that are current. The Commission will determine the late-payment rate based on a survey of prevailing market rates for late-payment charges of commercial enterprises and will advise all water/wastewater utilities of the changes in the rate they may use to determine late-payment charges on overdue customer accounts as needed. The current late-payment rate and the conditions for its application to

customer accounts shall be specified on the utility bill.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0120

Adjustment of Bills

(1) When an underbilling or overbilling occurs, the water/wastewater utility shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to an identifiable cause, and the date can be fixed, then the overcharge or undercharge shall be computed back to such date. If no date can be fixed, the water/wastewater utility shall refund the overcharge or rebill the undercharge for no more than six months' usage. In no event shall an overbilling or underbilling be for more than three years' usage.

(2) When a customer is required to repay an underbilling, the customer shall be entitled to enter into a time-payment agreement without regard to whether the customer already participates in such an agreement. If the customer and water/wastewater utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The water/wastewater utility shall provide written notice advising the customer of the opportunity to enter into a time-

payment agreement and of the Commission's complaint process.

(3) No billing adjustment shall be allowed if a water/wastewater utility bases its wastewater service charges on the water meter and the water meter registers less than 2 percent error under conditions of normal operation.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.250

NEW

860-037-0125

Transfer Billings

(1) If a water/wastewater utility identifies a balance a customer owes the water/wastewater utility from the customer's prior account for Oregon service, the water/wastewater utility shall have the option to transfer the amount to the customer's current account. The water/wastewater utility must give the customer prior notice of the transfer, including the amount due under the prior account, the period when the balance was incurred, and the service address under which the bill was incurred; or the water/wastewater utility may send a separate notice to the customer giving the same information as included in the transfer, but collecting the amount due separately from the customer's current account. If the bill is identified when a customer changes residences, the provisions of this rule apply.

(2) If the customer has an amount remaining on an existing time-payment

agreement, the customer may enter into a new time-payment agreement to include the transfer.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.225

NEW

Disconnection of Water Service for Wastewater Service Customer Obligations

860-037-0205

Grounds for Disconnecting Water Service for Wastewater Service

A water/wastewater utility may disconnect water service for wastewater service customer obligations:

(1) For failure to establish credit by:

(a) Failing to pay a deposit or make payments in accordance with the terms of a deposit payment arrangement (OAR 860-037-0040); or

(b) Providing false identification or verification of identity.

(2) When facilities provided are unsafe or do not comply with state and municipal codes governing service or the water/wastewater utility's rules and regulations.

(3) When the customer does not cooperate in providing reasonable access for necessary inspections. Necessary in this context means required by law or to determine if a health or safety hazard exists.

(4) When a customer requests the water/wastewater utility to disconnect

water service or close an account (OAR 860-037-0210) or when a co-customer fails to reapply for service within 20 days after a joint account is closed by the other co-customer, so long as the water/wastewater utility has provided a notice of pending disconnection.

(5) When dangerous or emergency conditions exist at the service premises (OAR 860-037-0215).

(6) For failure to pay Oregon tariffed wastewater rates due for services rendered.

(7) For diverting service, or other theft of service.

(8) When the Commission approves the disconnection of water service.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 757.035, 757.225 & 757.760

NEW

860-037-0210  
Voluntary Water Disconnection for Wastewater Service

A customer who for any reason wishes to have service discontinued, shall provide the water/wastewater utility five day's notice in advance of the requested date of discontinuance of service. Until the water/wastewater utility shall have such notice, the customer shall be held responsible for all service rendered.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0215  
Emergency Water Disconnection for Wastewater Service

A water/wastewater utility may terminate water service in emergencies endangering life or property without following the procedures set forth in OAR 860-037-0245. However, the water/wastewater utility shall immediately thereafter notify the customer and the Commission. In such cases, when the necessity for emergency termination was through no fault of the customer, the water/wastewater utility will not make a charge to restore service.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.035

NEW

860-037-0220  
Disconnection of Water Service for Wastewater Service on Weekends and Holidays

Water and therefore wastewater service shall not be disconnected for non-emergencies on a weekend or a state- or water/wastewater utility-recognized holiday. Water service shall not be disconnected for non-emergencies on a Friday or the day before a state- or water/wastewater utility-recognized holiday unless mutually agreed upon by the customer, the water/wastewater utility, and the



Commission's Consumer Services Division.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.760

NEW

860-037-0225

Accounts Not Related to Residential Service

A water/wastewater utility may not deny or disconnect residential water service due to the failure to pay for nonresidential wastewater service, or to meet obligations in connection with nonresidential wastewater service.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.760

NEW

860-037-0230

Disconnection of Water and Therefore Wastewater Service to Tenants

(1) If a water/wastewater utility's records show that a residential billing address is different from the service address, the water/wastewater utility must provide a duplicate of the five-day water disconnect notice required under OAR 860-037-0020 to the occupants of the service address in the manner described in OAR 860-037-0245) unless the water/wastewater utility has reason to believe that the service address is occupied by the customer. This requirement is satisfied

by serving a notice addressed to "Tenants," as required in OAR 860-037-0245 for wastewater service. The notice to occupants need not include the dollar amount owing.

(2) When a water/wastewater utility's records show that a residence is a master-metered multi-unit dwelling (including rooming houses), the water/wastewater utility must notify the Commission's Consumer Services Division at least five business days before disconnecting the water service for wastewater service obligations. The water/wastewater utility will use reasonable efforts to notify occupants of the impending disconnection and alternatives available to them.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.760

NEW

860-037-0235

Multilingual Disconnection Notice

(1) Except as provided in section (2) of this rule, all disconnect notices shall contain the following information translated into Spanish, Vietnamese, Cambodian, Laotian, and Russian (translations are available from the Consumer Services Division):  
IMPORTANT NOTICE: Your water service will be shut off because of an unpaid balance on your wastewater account. You must act immediately to avoid shut-off. Important information about how you can avoid shut-off is printed in English in the enclosed

notice. If you cannot understand English, please find someone to translate the notice. If translation assistance is unavailable, please contact (name) at (phone number) who will try to help you. Information on customer's rights and responsibilities printed in this language is also available by calling that number. YOU MUST ACT NOW TO AVOID SHUT-OFF.

(2) Upon petition by a water/wastewater utility, the Commission shall waive the requirement to provide multilingual notice for two calendar years, which may be renewed upon a showing that the lesser of 5 percent or 500 of the water/wastewater utility's Oregon customers would benefit from use of multilingual notification or show other reasons why such notices are not necessary.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

#### 860-037-0240

##### Reconnection Fee

When a water/wastewater service is disconnected for wastewater service, pursuant to OAR 860-037-0245, the water/wastewater utility may charge the reconnection fee in its tariff.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.225

NEW

#### 860-037-0245

##### Disconnection Procedures for all Customers of Water/Wastewater Utility Services

(1) Involuntary termination of water service for all customers shall be under the provisions of this rule.

(2) At least five business days before a water/wastewater utility disconnects water service for wastewater service, written notice of disconnection must be provided to the customer.

(a) The disconnection notice shall inform the person that water service will be disconnected on or after a specific date for violation of a wastewater service rule and shall explain the alternatives.

(3) The water/wastewater utility may serve the notice of disconnection in person or send it by first class mail to the last known addresses of the customer and the customer's designated representative. Service is complete on the date of mailing or personal delivery.

(a) If notification is made by delivery to the residence, the water/wastewater utility shall attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the water/wastewater utility shall leave the notice in a conspicuous place at the residence.

(4) When a written notice is given under these rules:

(a) The notice shall conform to the requirements of OAR 860-037-0235 concerning multilingual requirements

and service on any designated representative;

(b) The notice shall conform to the requirements of OAR 860-037-0230 if the water/wastewater utility's records show that the billing address is different than the service address or that the premise is a multi-unit dwelling. The notice may be addressed to "Tenant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of water service," or words to that effect.

(5) The notice shall be printed in bold face type and shall state in easy to understand language:

(a) The reason for the proposed disconnection;

(b) The amount to be paid to avoid disconnection;

(c) The earliest date for disconnection;

(d) An explanation of the time-payment agreement provisions of OAR 860-037-0110; and

(e) An explanation of the Commission's dispute resolution process and toll-free number.

(6) A notice of disconnection may not be sent prior to the due date for payment of a bill.

(7) At least five business days before the proposed disconnection date, the water/wastewater utility must mail or deliver a written disconnection notice to the customer. A fee in an amount approved by the Commission may be charged whenever a water/wastewater utility is required to visit a residential service address in order to serve a disconnection notice.

(8) On the day that the water/wastewater utility expects to disconnect service and prior to disconnection, the water/wastewater utility must make a good faith effort to personally contact the customer or an adult at the residence to be disconnected.

(a) If the contact is made, the water/wastewater utility shall advise the person of the proposed disconnection; or

(b) If contact is not made, the water/wastewater utility must leave a notice in a conspicuous place at the residence informing the customer that water service has been, or is about to be, disconnected.

(9) Where personal contact is made by a water/wastewater utility under this rule, and the circumstances are such that a reasonable person would conclude that the customer does not understand the consequences of disconnection, the water/wastewater utility must:

(a) Notify the Department of Human Resources and the Commission; and

(b) Delay the proposed disconnection date for five additional business days.

(10) When personal contact is made by the water/wastewater utility under this rule, the representative of the water/wastewater utility making contact shall be authorized to accept reasonable partial payment of the overdue balance in accordance with the time-payment provisions.

(11) A water/wastewater utility must document its efforts to provide

notice under this rule and shall make that documentation available to the customer and the Commission upon request.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 757.750 & 757.755

NEW

### Service Quality

860-037-0305

#### Service Credit for Inadequate Service

(1) Upon finding that a water/wastewater utility rendered inadequate wastewater service, the Commission may require the water/wastewater utility to provide service credits to affected customers as follows:

(a) Credits shall be based upon the duration of the inadequate service as follows: 1 - 30 days, one third of customer regular fixed or flat monthly charges; 31 - 60 days, one half of customer regular fixed or flat monthly charges; 61 - 90 days, two thirds of customer regular fixed or flat monthly charges; 91 days until corrected, credit entire monthly fixed or flat charges.

(b) Such credits shall be limited to a six-month period unless otherwise extended by the Commission.

(2) Inadequate service credits are applicable only to deficiencies found in the water/wastewater utility's system or those found to be in the control of the water/wastewater utility.

Deficiencies originating on the customer's portion of the system, caused by the customer's negligence or willful misconduct, caused by a natural disaster, or stemming from damage to the wastewater system caused by a third party unaffiliated with the water/wastewater utility, will not be eligible for inadequate service credits.

(3) The utility shall make all reasonable efforts to eliminate or prevent the entry of surface or ground water, or any corrosive or toxic industrial liquid waste into its sanitary wastewater system. A utility may request assistance from the appropriate state, county, or municipal authorities in its efforts, but such a request does not relieve the utility of its aforementioned responsibilities.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0310

#### Maps and Records

(1) A water/wastewater utility shall keep on file current maps and records of the entire plant showing size, location, character, and date of installation of major plant items including, but not limited to, effluent discharge, collection mains, and manholes.

(2) Upon request, a water/wastewater utility shall file with the Commission an adequate description or maps to define the wastewater territory serviced. All

maps and records that the Commission may require the water/wastewater utility to file shall be in a form satisfactory to the Commission.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.020

NEW

860-037-0315

Service Territory Allocation

(1) The requirements of this rule apply solely to the water portion of the business of the joint water/wastewater utility.

(2) The service territory allocation rules, as set forth in 860-036-0900 through and including 860-036-0930, shall apply to water/wastewater utilities.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 695, OR Laws 1999 & 756.040

NEW

860-037-0320

Location of Underground Facilities

(1) A water/wastewater utility and its customers shall comply with requirements of OAR 952-001-0010 through and including OAR 952-001-0090 regarding identification and notification of underground facilities.

(2) Colors for marking location of underground facilities shall be listed as indicated:

(a) Red - Electric power lines, cables or conduit, and lighting cables;

(b) Yellow - Gas, oil, steam, petroleum, or other hazardous liquid or gaseous materials;

(c) Orange - Communications, cable televisions, alarm or signal lines, cables, or conduits;

(d) Blue - Water, irrigation, and slurry lines;

(e) Green - Wastewater and drain lines; and

(f) White - For voluntary premarking of the outer limits of the proposed excavation of marking the centerline of proposed lineal installations of pipe, cables, conduits, or other items where the trench will not exceed 24 inches in width.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.561

NEW

Rate Regulation and Tariff Filings

860-037-0405

Relating to New Water/Wastewater Utilities

This rule is applicable to newly constructed investor-owned water/wastewater utilities which have not previously offered water/wastewater service to the public during the past 12 months. A new water/wastewater utility must initially and immediately file tariffs with the Commission to establish approved rates and charges. All subsequent rate increases will comply with the requirements of OAR 860-037-0410 through 860-037-0445.

Stat. Auth.: ORS Ch. 183, 330,  
756 & 757

Stats. Implemented: ORS Ch.  
330, OR Laws 1999 & 756.040 &  
757.205

NEW

860-037-0410

Tariff Specifications

(1) Form and style of tariffs:

(a) All tariffs must be in sheet  
form. A loose leaf plan may be used so  
that changes can be made by reprinting  
and inserting a single leaf;

(b) The initial tariff sheets filed  
by a water/wastewater utility shall be  
designated as PUC Oregon No. 1, and  
thereafter as other tariffs are filed, they  
shall be designated with the next  
number in consecutive numerical  
order. Supplemental information not  
otherwise provided for by the tariff  
shall be inserted in the most  
appropriate location and denoted by the  
previous sheet numbers plus a letter,  
for example, 3A, 3B, etc. Revisions to  
tariff sheets shall be denoted by 1st  
Revised Sheet No. 3, 2nd Revised Sheet  
No. 3, etc.;

(c) The title page should be  
uniform. Rates, rules, and regulations  
shall be written only on one side of a  
sheet. If a single sheet is insufficient,  
two or more pages should be used.  
Sample forms will be furnished upon  
request; and

(d) Separate tariffs shall be filed  
for wastewater service or for any other  
service entered.

(2) Size of tariffs and copies  
required:

(a) Tariffs and supplements  
thereto must be typewritten or printed  
upon paper 8-1/2 x 11 inches in size;  
and

(b) The original and four  
conformed copies of each tariff, rate  
schedule, revision, or supplement shall  
be filed with the Commission.

Stat. Auth.: ORS Ch. 183, 330,  
756 & 757

Stats. Implemented: ORS Ch.  
330, OR Laws 1999, 756.040 & 757.205

NEW

860-037-0415

Tariff Contents

(1) Tariffs must explicitly state  
the rates and charges for each class of  
wastewater service rendered,  
designating the area or district to  
which they apply.

(2) Rules and regulations of the  
water/wastewater utility that in any  
manner affect the rates charged or to be  
charged or which define the extent or  
character of the wastewater service to  
be given shall be included with each  
tariff.

Stat. Auth.: ORS Ch. 183, 330,  
756 & 757

Stats. Implemented: ORS Ch.  
330, OR Laws 1999, 756.040 & 757.205

NEW

860-037-0420

Tariff Changes Require 30 Days' Notice  
to the Commission

Except as hereinafter provided,  
all tariffs, rate schedules, revisions, or  
supplements thereto containing any

change in rates, tolls, charges, or rules and regulations must be filed with the Commission at least 30 days before the effective date of such changes. Tariffs or schedules not in conformity with the rules contained in this division may be rejected as provided in OAR 860-011-0025.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 757.007 & 757.220

NEW

860-037-0425

Announcement of Tariff Changes

(1) Within 15 days of filing with the Commission new or revised wastewater tariff schedules which constitute a general rate revision, a water/wastewater utility shall inform its customers of the filing. A “general rate revision” is a filing by a water/wastewater utility that affects all or most of a water/wastewater utility’s wastewater rate schedules. “General rate revision” does not include changes in an automatic adjustment clause under ORS 757.210(1) or similar changes in one rate schedule, such as for an amortization, that affect other rate schedules.

(2) A water/wastewater utility shall inform its customers by:

(a) Insertion of a display announcement, not less than a three column standard advertising unit (SAU) by 10 inch advertisement, at least once in a newspaper of general circulation

in the communities served by the water/wastewater utility;

(b) An announcement inserted in the water/wastewater utility’s regular billing to its wastewater customers; or

(c) An announcement mailed to each wastewater customer.

(3) The announcement shall include:

(a) The approximate annualized amount of the proposed total change, expressed both in dollar and in percentage terms; and the approximate amount of the proposed change for an average residential customer’s monthly bill, expressed in dollar terms;

(b) A brief statement of the reasons why the change is sought;

(c) Notification that copies of the water/wastewater utility’s application, testimony, and exhibits are available for inspection at its main and district offices;

(d) The mailing address and telephone number of the water/wastewater utility’s office that customers may contact for additional information about the filing;

(e) The mailing address and toll free telephone number of the Commission to which requests to receive notice of the time and place of any hearing on the matter may be directed; and

(f) A statement that the purpose of the announcement is to provide customers of the water/wastewater utility with general information as to the proposed tariffs and their effect on customers, and that the calculations and statements contained in the

announcement are not binding on the Commission.

(4) Within 20 days of issuance of the announcement, the water/wastewater utility shall file an affidavit with the Commission that notice has been given and a copy of the notice.

(5) The Commission may waive the requirements of this rule upon a showing by the water/wastewater utility that the notice required by this rule has been given with respect to a particular general rate revision, and upon a further showing that additional notice with respect to that rate revision would be duplicative, confusing to customers, and burdensome to the water/wastewater utility.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0430

Applications to Make Tariffs or Rate Schedules Effective on Less Than Statutory Notice

Applications to make wastewater tariffs or rate schedules effective on less than statutory notice shall be made in duplicate upon prescribed forms available from the Commission.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.220

NEW

860-037-0435

Requirements for Filing Tariffs or Schedules Changing Rates

(1) A water/wastewater utility may make wastewater tariff changes by filing an entirely new tariff or by filing revised sheets that shall refer to the sheets of the tariffs on file. Additions to the tariff on file may be made by filing additional sheets.

(2) Each water/wastewater utility filing wastewater tariffs or schedules changing existing tariffs or schedules shall submit therewith the following information:

(a) A statement plainly indicating the increase, decrease, or other change thereby made in existing rates, charges, tolls, or rules and regulations;

(b) A statement setting forth the number of customers affected by the proposed change and the resulting change in annual revenue; and

(c) A detailed statement setting forth the reasons or grounds relied upon in support of the proposed change.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.205

NEW

860-037-0440

Requirements for Filing Tariffs or Schedules Naming Increased Rates

(1) A water/wastewater utility filing wastewater tariffs or schedules which name increased rates shall submit therewith, in addition to



requirements of OAR 860-037-0435, the following information:

(a) A statement setting forth for each separate schedule the total number of customers affected, the total annual revenue derived under the existing schedule, and the amount of estimated annual revenue which will be derived from the application of the proposed schedule;

(b) A statement setting forth for each separate schedule the monthly bills under both the existing rates and the proposed rates for characteristic customers, which will fairly represent the application of the proposed tariff or schedules; and

(c) A detailed statement setting forth the reasons or grounds relied upon in support of the proposed increase.

(2) Additional information may be required to be filed either prior to acceptance by the Commission of the tendered filing or at any stage in the proceeding.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.205

NEW

860-037-0445  
Tariff Changes Effective with Service Rendered

All tariff changes shall be made applicable with service rendered on and after the effective date of the changes, unless the Commission by order provides otherwise. As used in this rule, "service rendered" means

basic service provided, or likewise as the context requires.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 757.007 & 757.220

NEW

860-037-0450  
Notice to Interested Persons

(1) This rule applies to any tariff filing that is filed under ORS 757.205.

(2) Any person who requests of the Commission, in writing, to be notified of water/wastewater utility tariff filings covered under section (1) of this rule shall be included on a notice list.

(3) The Commission shall notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice shall be placed in the mail within 10 days of any tariff filing under section (1) of this rule that complies with OAR 860-037-410 through 860-037-0440.

(4) The notice shall include the following information:

(a) Name of the water/wastewater utility submitting the filing;

(b) Subject;

(c) Filing date;

(d) Effective date;

(e) Date of the public meeting at which the tariff will be considered (when the information is available); and

(f) Customer classes affected.

(5) The Commission may periodically delete names of persons from the notice list who do not demonstrate a continued interest in receiving the notices set forth in section (2) of this rule. No person's name shall be deleted from the list without 20 days' notice before deletion.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757  
Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.230  
NEW

Financial Transactions

860-037-0505

Form and Filing of Applications

(1) The Commission will furnish to applicant such information from the records on file as will assist in a full presentation of material facts required by OAR 860-037-0510 to 860-037-0535.

(2) When any document required to be filed under these rules has heretofore been filed with the Commission, it shall be sufficient if the application makes reference to such filing and the capacity in which it was filed.

(3) Where the words "none" or "not applicable" truly and completely state the fact, they should be used in answering the requirement of any particular section of this rule.

(4) The Commission may require additional information when it appears to be pertinent in a particular case.

(5) Whenever these rules require the filing of financial statements, they shall be prepared as of the latest date

available. The Income Statement shall be for the most recent 12-month period.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757  
Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 756.105  
NEW

860-037-0510

Notice and Approval Requirements Relating to the Sale, Transfer, Merger, or Disposal of a Water/Wastewater Utility

(1) Notice Requirements:

(a) All water/wastewater utilities shall provide written notification to customers and the Commission of any sale, transfer, or merger, or disposal of the company 60 days prior to the closing date of the transaction.

(2) Approval Requirements:

(a) Water/wastewater utilities must file an application to obtain Commission approval prior to the sale, transfer, or merger of the company. Application requirements are found in OAR 860-037-0515.

(b) All water/wastewater utilities seeking to terminate wastewater service, abandon, or otherwise dispose of the wastewater utility, excluding sales, transfers, or mergers, shall make application to and obtain Commission approval prior to such termination, abandonment, or disposal.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.480  
NEW

860-037-0515

Applications for Authority to Sell, Lease, Assign, Mortgage, Merge, Consolidate, or Otherwise Dispose of or Encumber its Property, or to Acquire Stock, Bonds, or Property of Another Public Utility

(1) Requirements of this rule apply to water/wastewater utilities seeking authority under ORS 757.480 and ORS 757.485. Every applicant shall, at a minimum, utilize the form prescribed below and provide all required information. At its discretion, the Commission may require further or more detailed information.

In the Matter of the Application of (enter exact name of applicant) for an Order Authorizing (enter authority requested, for example, to sell, transfer, or dispose of wastewater property) to (enter name, address, and telephone number of purchaser or other parties concerned).

A copy of the contract or other agreement is attached to this application and contains the exact terms and provisions of the document that will be entered into. The Commission will be advised in writing of the exact date the transaction is entered into and that the terms and provisions of the contract or agreement are the same as set forth herein, if this application is approved.

The wastewater utility property to be sold consists of (explain or

describe in general the property proposed to be sold).

The sale price of the property is \$ \_\_\_\_\_, payable as set forth in the contract or agreement attached to the application. The net book value of the wastewater system is \$ \_\_\_\_\_.

The reasons applicant desires to sell, transfer, or otherwise dispose of its wastewater utility property are (list the reasons and any facts supporting these reasons why the transaction is proposed).

The effect(s) of the transaction upon the current customers is (state all effects of the transaction on current customers).

The current customers benefit from this transaction in the following ways: (list and explain all benefits current customers will realize from the transaction.)

The purchasers are financially able and willing to take over and operate the wastewater utility property. (State any experience purchasers have that will assist or aid them in the operations of the wastewater utility and the reasons why they desire to acquire the wastewater utility property. Attach to the application a financial statement of the purchasers.)

Attached to this application is a copy of all grants of easement(s) to be transferred with the sale of the wastewater system. Also attached is documentation of all water/wastewater utility rights to be transferred with the wastewater system.

Wherefore applicant respectfully requests that the Commission enter an

appropriate order authorizing the transaction proposed herein.

Name of Utility

Dated:

Signature of Officer or Owner

State of )

ss.

County of )

(Name of Party signing above)  
being first duly sworn, deposes and says  
he/she is (Title) of

(Name of Utility)  
, the applicant in the  
foregoing application, that he/she has  
read said application, including all  
exhibits thereto, knows the contents  
thereof, and the same are true to the  
best of his/her knowledge and belief.  
(Signature)

(Notarial Seal).

Stat. Auth.: ORS Ch. 183, 330,  
756 & 757

Stats. Implemented: ORS Ch.  
330, OR Laws 1999, 756.040, 757.105,  
757.480 & 757.485

NEW

860-037-0520

Application by a Water/Wastewater  
Utility for Authority to Issue  
Water/Wastewater Stocks, Bonds,  
Notes, or Other Securities

(1) This rule applies to  
water/wastewater utilities seeking  
authority under ORS 757.495, 757.405  
to 757.435 inclusive, 757.445, and  
757.450. Every applicant shall set forth  
in this application to the Commission,  
in the manner and form and in the  
order indicated, the following  
information:

(a) The applicant's exact name  
and the address of its principal business  
office;

(b) The state in which  
incorporated, the date of incorporation,  
and the other states in which authorized  
to transact water/wastewater utility  
business;

(c) The name and address of the  
person authorized, on behalf of  
applicant, to receive notices and  
communications in respect to the  
application;

(d) The names, titles, and  
addresses of the principal officers of  
the applicant;

(e) A description of the general  
character of the business done and to be  
done, and a designation of the  
territories served. A map showing the  
territories served is desirable;

(f) A statement, as of the date of  
the balance sheet submitted with the  
application, showing for each class and  
series of capital stock: brief  
description; amount authorized (face  
value and number of shares); amount  
outstanding (exclusive of any amount

held in the treasury); held amount as reacquired securities; amount pledged by applicant; amount owned by affiliated interests; and amount held in any fund;

(g) A statement, as of the date of the balance sheet submitted with the application, showing for each class and series of long-term debt or notes: brief description (amount, interest rate, and maturity); amount authorized; amount outstanding (exclusive of any amount held in the treasury); amount held as reacquired securities; amount pledged by applicant; amount held by affiliated interests; and amount in sinking and other funds;

(h) A full description of the securities proposed to be issued, showing: kind and nature of securities or liabilities; amount (face value and number of shares); interest or dividend rate, if any; date of issue and date of maturity; and voting privileges, if any;

(i) A reasonably detailed and precise description of the proposed transaction, including a statement of the reasons why it is desired to consummate the transaction and the anticipated effect thereof. If the transaction is part of a general program, describe the program and its relation to the proposed transaction. Such description shall include, but is not limited to, the following:

(A) A description of the proposed method of issuing and selling the securities;

(B) A statement of whether such securities are to be issued pro rata to existing holders of the applicant's securities or issued pursuant to any

preemptive right or in connection with any liquidation or reorganization;

(C) A statement showing why it is in applicant's interest to issue securities in the manner proposed and the reason(s) why it selected the proposed method of sale; and

(D) A statement that exemption from the competitive bidding requirements of any federal or other state regulatory body has or has not been requested or obtained, and a copy of the action taken thereon when available.

(j) The name and address of any person receiving or entitled to a fee for service (other than attorneys, accountants, and similar technical services) in connection with the negotiation or consummation of the issuance or sale of securities, or for services in securing underwriters, sellers, or purchasers of securities, other than fees included in any competitive bid; the amount of each such fee, and facts showing the necessity for the services and that the fee does not exceed the customary fee for such services in arm's-length transactions and is reasonable in the light of the cost of rendering the service and any other relevant factors;

(k) A statement showing both in total amount and per unit the price to the public, underwriting commissions, and net proceeds to the applicant. Supply also the information (estimated if necessary) required in section (4) of this rule. If the securities are to be issued directly for property, then a full description of the property to be acquired, its location, its original cost

(if known) by accounts, with the identification of the person from whom the property is to be acquired, must be furnished. If original cost is not known, an estimate of original cost based, to the extent possible, upon records or data of the seller and applicant or their predecessors must be furnished, with a full explanation of how such estimate has been made, and a description and statement of the present custody of all existing pertinent data and records. A statement showing the cost of all additions and betterments and retirements, from the date of the original cost, should also be furnished;

(l) The purposes for which the securities are to be issued. Specific information will be submitted with each filing for the issuance of bonds, stocks, or securities:

(A) Construction, completion, extension, or improvement of wastewater facilities. A description of such facilities and the cost thereof;

(B) Reimbursement of the applicant's treasury for expenditures against which securities have not been issued. A statement giving a general description of such expenditures, the amounts and accounts to which charged, the associated credits, if any, and the periods during which the expenditures were made;

(C) Refunding or discharging of wastewater obligations. A description of the obligations to be refunded or discharged, including the character, principal amounts discount or premium applicable thereto, date of issue and date of maturity, purposes to which the proceeds were applied and

all other material facts concerning such obligations; and

(D) Improvement or maintenance of wastewater service. A description of the type of expenditure and the estimated cost in reasonable detail;

(m) A statement as to whether or not any application, registration statement, etc., with respect to the transaction or any part thereof, is required to be filed with any federal or other state regulatory body;

(n) The facts relied upon by the applicant to show that the issue:

(A) Is for some lawful object within the corporate purposes of the applicant;

(B) Is compatible with the public interest;

(C) Is necessary or appropriate for or consistent with the proper performance by the applicant of service as a water/wastewater utility;

(D) Will not impair its ability to perform that service;

(E) Is reasonably necessary or appropriate for such purposes; and

(F) If filed under ORS 757.495, is fair and reasonable and not contrary to the public interest;

(o) A brief statement of all rights to be a corporation, franchises, permits, and contracts for consolidation, merger, or lease included as assets of the applicant or any predecessor thereof; the amounts actually paid as consideration therefore, respectively; and the facts relied upon to show the issuance of the securities for which approval is requested will not result in the capitalization of the right to be a

corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract; and

(p) If filed under ORS 757.490 or ORS 757.495:

(A) Provide a statement describing the relationship between the water/wastewater utility and the affiliated interest as defined in ORS 757.015 or ORS 757.490:

(i) Set forth the amount, kind, and ratio to total voting securities held, if applicable;

(ii) List all officers and directors of the affiliated interest who are also officers and/or directors of the applicant; and

(iii) State the pecuniary interest of any officer or director in compliance with ORS 757.490(1);

(B) State the reasons, in detail, relied upon by the water/wastewater utility for entering into the proposed transaction and the benefits, if any, the customers receiving wastewater service and the general public will derive from the transaction.

(2) Required Exhibits. There shall be filed with the application as part thereof the following exhibits:

(a) EXHIBIT A. A copy of the applicant's charter or articles of incorporation with amendments to date;

(b) EXHIBIT B. A copy of the bylaws with amendments to date;

(c) EXHIBIT C. A copy of each resolution of directors authorizing the

issue in respect to which the application is made and, if approval of stockholders has been obtained, copies of the stockholder resolutions should also be furnished;

(d) EXHIBIT D. A copy of the mortgage, indenture, or other agreement under which it is proposed to issue the securities, and a copy of any mortgage, indenture, or other agreement securing other funded obligations of the applicant;

(e) EXHIBIT E. Copies of balance sheets showing booked amounts, adjustments to record the proposed transaction and pro forma, with supporting fixed capital or plant schedules in conformity with the form in the annual report which applicant is required to file with the Commission;

(f) EXHIBIT F. A statement of all known contingent liabilities, except minor items such as damage claims and similar items involving relatively small amounts, as of the date of the application;

(g) EXHIBIT G. Copies of comparative income statements showing recorded results of operations, adjustments to record the proposed transaction and pro forma in conformity with the form in the annual report which applicant is required to file with the Commission;

(h) EXHIBIT H. A copy of an analysis of surplus for the period covered by the income statements referred to in Exhibit G;

(i) EXHIBIT I. A copy of the registration statement proper, if any, and financial exhibits made a part

thereof, filed with the Securities and Exchange Commission;

(j) EXHIBIT J. A copy of the proposed and of the published invitation of proposals for the purchase of underwriting of the securities to be issued; of each proposal received; and of each contract, underwriting, and other arrangement entered into for the sale or marketing of the securities. When a contract or underwriting is not in final form so as to permit filing, a preliminary draft or a summary identifying parties thereto and setting forth the principal terms thereof, may be filed pending filing of the conformed copy in the form executed by final amendment to the application;

(k) EXHIBIT K. Copies of the stock certificates, notes, or other evidences of indebtedness proposed to be issued;

(l) An application for a water/wastewater utility to loan its funds to an affiliated interest, in addition to Exhibits A through K, shall also include the following:

(A) EXHIBIT L. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(B) EXHIBIT M. The amount of money which the applicant desires to loan to the affiliated interest, terms of said loan, rate of interest, method of repayment, security given, if any, and if said loan is to be an open account or evidenced by a promissory note; and

(C) EXHIBIT N. The use to which funds derived from this loan are to be put by the affiliated interest.

(m) An application for a water/wastewater utility to give credit on its books or otherwise by:

(A) Advancing cash through an open or loan account, in addition to EXHIBITS A through K, shall also include the following:

(i) EXHIBIT L. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(ii) EXHIBIT M. The amount of cash which the applicant proposes to receive, the rate of interest it will pay, and the date and method of repayment; and

(iii) EXHIBIT N. A definite statement of purpose for which the advance will be used.

(B) Payments by the affiliated interest of amounts owed, in addition to EXHIBITS A through K, shall include the following:

(i) EXHIBIT L. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction; and

(ii) EXHIBIT M. The amount which the affiliated interest proposes to pay on the water/wastewater utility's behalf, with a description of the obligation, how the funds will be used, and how incurred.

(C) Credits or open accounts a water/wastewater utility proposes to give to an affiliated interest, in addition to EXHIBITS A through K, shall include the following:

(i) EXHIBIT L. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction; and



(ii) EXHIBIT M. The amount and a description of each item for which the water/wastewater utility proposes to give credit through its loan or open account.

(3) The following form of application may be filed by all water/wastewater utilities with annual revenues of less than \$100,000 seeking authority to issue promissory notes maturing more than one year after date of issue or renewal and unsecured notes on motor vehicles in the principal amount of less than \$10,000. In the instances when this provision is proper, the requirements of sections (1) and (2) of this rule do not apply. The Commission may require compliance with sections (1) and (2) of this rule if the Commission deems it necessary in a particular case.

In the Matter of the Application of (enter exact name of applicant) for an Order Authorizing the Issuance of a Note.

The above-named applicant desires to issue its (enter type of note) note to (enter to whom issued) in the principal amount of \$ to be dated (date of note) and to mature (date due). The note will bear interest at percent per annum and is payable in (number of payments) payments of \$ with a final payment of \$.

A copy of the note proposed to be issued is attached to this application and contains the exact terms of the note that will be issued. The Commission will be advised in writing of the note's date and that the terms of the note are

the same as set forth herein, if this application is approved.

The proceeds of the note are required for the purposes set forth in the following and are necessary to properly serve the public. The proceeds will be expended as follows (explain in detail the proposed use of the funds from the note):

No fees or payment will be or have been made to any person, association, or corporation for assistance in connection with this borrowing other than fees required by regulatory authorities.

Wherefore applicant respectfully requests that the Commission enter an appropriate order authorizing the note as herein set forth.

\_\_\_\_\_

\_\_\_\_\_  
(Name of Water/wastewater Utility)

Dated:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature of Officer or Owner)  
State of

\_\_\_\_\_  
County of,  
\_\_\_\_\_

\_\_\_\_\_  
(Name of Party signing above)  
being first duly sworn, deposes

and says he/she is (Title) of (Name of Water/wastewater Utility), the applicant in the foregoing application, that he/she has read said application, including all exhibits thereto, knows the contents thereof, and the same are

true to the best of his/her knowledge and belief.

\_\_\_\_\_

(Signature)

Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

(Signature)

(Notarial Seal)

My Commission expires \_\_\_\_\_, \_\_\_\_\_.

REPORT OF SECURITIES ISSUED

<u>Items</u>	<u>Amount</u>
<u>(1) Face value or principal amount</u>	_____
<u>(2) Plus premium or less discount</u>	_____
<u>(3) Gross proceed</u>	_____
<u>(4) Underwriter's spread or commission</u>	_____
<u>(5) Securities and Exchange Commission registration fee</u>	_____
<u>(6) State mortgage registration tax</u>	_____
<u>(7) State Commission fee</u>	_____
<u>(8) Fee for recording indenture</u>	_____
<u>(9) United States document tax</u>	_____
<u>(10) Printing and engraving expenses</u>	_____
<u>(11) Trustee's charges</u>	_____
<u>(12) Counsel's fees</u>	_____
<u>(13) Accountant's fees</u>	_____
<u>(14) Cost of listing</u>	_____
<u>(15) Miscellaneous expense of issue (describe large items)</u>	_____
<u>(16) Total deductions</u>	_____
<u>(17) Net amount realized</u>	_____

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 756.105, 757.405 through 757.450 & 757.495

NEW

860-037-0525

Applications for Authority to Guarantee Indebtedness

(1) The requirements of this rule will apply to water/wastewater utilities seeking authority under ORS 757.440. Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information which should, to the extent possible, be furnished for each person, firm, or corporation involved:

(a) The information required by OAR 860-037-0520(1)(a) to (g) inclusive;

(b) A full description of the securities for which applicant proposes to assume obligation or liability as guarantor, endorser, surety, or otherwise;

(c) The amount of other securities of said person, firm, or corporation now held, owned, or controlled by the applicant;

(d) A statement as to whether or not any application, with respect to the transaction or any part thereof, is required to be filed with any federal or other state regulatory body;

(e) The reasons, in detail, why it is in applicant's interest to guarantee such securities;

(f) The reasons, in detail, why it is necessary for applicant to guarantee such securities; and

(g) The facts relied upon by the applicant to show the assumption is:

(A) For some lawful object within the applicant's corporate purposes and compatible with the public interest;

(B) Necessary or appropriate for or consistent with the applicant's proper performance of service as a water/wastewater utility;

(C) Will not impair its ability to perform that service; and

(D) Reasonably necessary or required for such purposes.

(2) Required Exhibits. There shall be filed with the application as part thereof the following exhibits:

(a) EXHIBIT A. A copy of the applicant's charter or articles of incorporation with amendments to date;

(b) EXHIBIT B. A copy of the bylaws with amendments to date;

(c) EXHIBIT C. Copies of all resolutions of directors authorizing the assumption in respect to which the application is made and, if stockholders' approval has been obtained, a copy of the stockholders' resolution should also be furnished;

(d) EXHIBIT D. A copy of any mortgage, indenture, or other agreement securing any security which it proposes to guarantee; also, a copy of any mortgage, indenture, or other agreement securing applicant's funded obligations;

(e) EXHIBIT E. Balance sheets with supporting fixed capital or plant schedules in conformity with the form set forth in the annual report which

applicant is required to file with the Commission;

(f) EXHIBIT F. A statement of all known contingent liabilities, except minor items such as damage claims and similar items involving relatively small amounts at the date of the application;

(g) EXHIBIT G. Comparative income statements in conformity with the form set forth in the annual report which applicant is required to file with the Commission;

(h) EXHIBIT H. An analysis of surplus for the period covered by the income statements referred to in Exhibit G; and

(i) EXHIBIT I. A statement showing the present market value or other basis of determining the value of the securities to be guaranteed.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.440  
NEW

860-037-0530

Applications for Approval of Transactions Between Affiliated Interests

(1) Except as provided in section (3) of this rule, the requirements of this rule will apply to all water/wastewater utilities seeking authority under ORS 757.490 and ORS 757.495. An application for financing to an affiliated interest shall be made under OAR 860-037-0520.

(2) Every applicant shall set forth in its application to the

Commission, in the manner and form indicated, the following information:

(a) The applicant's exact name and the address of its principal business office;

(b) The name and address of the person authorized, on the water/wastewater utility's behalf, to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the water/wastewater utility and the contracting entity as defined by ORS 757.015 and ORS 757.490;

(d) The amount, kind, and ratio to total voting securities held, if applicable;

(e) A list of all officers and directors of the affiliated interest who are also officers or directors of the applicant;

(f) The pecuniary interest, directly or indirectly, of any officer or director who is a party to the contract;

(g) A description of the goods or services to be provided, the cost incurred in providing each of the goods or services, the market value of the goods or services if different from the costs, and the method or methods proposed for pricing those goods or services;

(h) An estimate of the amount the water/wastewater utility will pay annually for the goods or services and the accounts in which it will record the charges;

(i) The reasons, in detail, relied upon by the water/wastewater utility for procuring the proposed goods or

services from the affiliate and benefits, if any, utility wastewater service customers and the general public will derive from the provision of goods or services;

(j) A description of the procurement process and the reasons, in pertinent detail appropriate to the complexity of the procurement, relied upon by the water/wastewater utility for procuring the proposed goods or services without a competitive procurement process, if such a process is not used;

(k) Transfer prices in contracts or agreements for the procurement of goods or services under competitive procurement shall be presumed to be the market value, subject to evaluation of the procurement process;

(l) A copy of the proposed contract or agreement between the water/wastewater utility and the contracting entity; and

(m) Copies of all resolutions of directors authorizing the proposed transactions and, if stockholders' approval has been obtained, copies of the resolutions approved by the stockholders.

(3) This rule shall not apply to water/wastewater utilities seeking to purchase or contracting to purchase, directly or indirectly, from any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1):

(a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210; or

(b) Any service provided under a rate or schedule of rates which:

(A) Has been filed with an agency charged with the regulation of utilities;

(B) Has been approved as just and reasonable or in compliance with another comparable standard; and

(C) Is available to a broad class of customers.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.005 through 757.495

NEW

860-037-0535

Information Required for Water/Wastewater Utility Goods or Services Provided to Affiliated Interests

(1) Except as provided in section (4) of this rule, this rule applies to water/wastewater utilities seeking to provide, or contracting to provide, directly or indirectly, to any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1), service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal, or other services, or entering revenues or credits therefor on its books. This rule does not apply to transactions subject to ORS 757.490 or 757.495 and OAR 860-037-0030.

(2) A water/wastewater utility's failure to submit this required information shall not limit the

Commission's authority to recognize or impute revenues to the water/wastewater utility pursuant to such contract in any rate valuation or other hearing or proceeding.

(3) For transactions provided in section (1) of this rule, every water/wastewater utility shall submit to the Commission, in the manner and form indicated, the following information:

(a) Its exact name and the address of its principal business office;

(b) The name of the person authorized on the water/wastewater utility's behalf to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the water/wastewater utility and the other contracting entity as defined by ORS 757.015 or ORS 757.490;

(d) The pecuniary interest, directly or indirectly, of any officer or director who is a party to the contract;

(e) A description of the goods or services to be provided, the costs incurred in providing those goods or services, the market value of the goods or services if different from the costs, and the method or methods proposed for pricing those goods or services;

(f) An estimate of the amount the water/wastewater utility will receive annually for the goods or services and the accounts in which it will record the payments;

(g) The reasons relied upon by the water/wastewater utility for providing the proposed goods or services and the benefits, if any,

water/wastewater utility customers and the general public will derive from the provision of goods or services;

(h) A copy of the contract or agreement between the water/wastewater utility and the contracting entity that is the subject of this filing; and

(i) Copies of all resolutions of directors of the water/wastewater utility authorizing the proposed transactions and, if approval of the water/wastewater utility's stockholders was obtained, copies of the resolutions approved by the stockholders.

(4) This rule shall not apply to water/wastewater utilities seeking to provide or contracting to provide, directly or indirectly, to any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1):

(a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210; or

(b) Any service provided under a rate or schedule of rates which:

(A) Has been filed with an agency charged with the regulation of water/wastewater utilities;

(B) Has been approved as just and reasonable or in compliance with another comparable standard; and

(C) Is available to a broad class of customers.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040 & 757.005 through 757.490

NEW

860-037-0540

Timeliness of Applications Made Under OAR 860-037-0530 and Filings Made Under OAR 860-037-0535

An application made under OAR 860-037-0530 and a filing made under OAR 860-037-0535 shall occur no later than 90 days after the execution of the contract giving rise to the application or filing. The contract shall be 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.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040

NEW

860-037-0545

Applications for Waiver of Requirements Under OARs 860-037-0530 and 860-037-0535

Upon petition by a water/wastewater utility and approval by the Commission for good cause, the requirements of OARs 860-037-0530 and 860-037-0535 may be waived for individual transactions or classes of transactions. As a general guideline, in the absence of circumstances demonstrating in advance that the transaction or transactions will be fair and reasonable and not contrary to the public interest, transactions exceeding

0.1 percent of the previous calendar year's Oregon utility operating revenues will not qualify for waiver.

Stat. Auth.: ORS Ch. 183 & 756  
Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040  
NEW

Special Contracts

860-037-0550

Special Contracts

(1) Water/wastewater utilities within Oregon entering into special contracts with certain customers prescribing and providing wastewater rates, services, and practices not covered by or permitted in the general tariffs, schedules, and rules filed by such water/wastewater utilities are in legal effect tariffs and are subject to supervision, regulation, and control as such.

(2) All special contracts designating wastewater service to be furnished at rates other than those shown in tariffs currently on file with the Commission shall be classified as rate schedules. True and certified copies shall be filed subject to review and approval pursuant to the requirements of OARs 860-037-0405 through 860-037-0445.

(3) Special contracts shall be filed with the Commission not less than 30 days prior to the proposed effective date of the contract and shall become effective according to its terms the thirty-first day from the date of its filing unless earlier approved,

suspended, or rejected by the Commission.

(4) Each special contract filed with the Commission shall be accompanied by documentation necessary to show that the terms are fair, just, and reasonable to the remaining customers, including but not limited to:

(a) A statement summarizing the basis of the terms of the contract and an explanation of the deviation from the tariffs on file;

(b) An explanation of all cost computations involved; and

(c) A statement indicating the basis for use of a contract rather than a filed tariff for the specific service involved.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.007

NEW

Fees, Taxes, and Other Assessments

860-037-0555

Relating to City Fees, Taxes, and Other Assessments

(1) The aggregate amount of all business or occupation taxes, licenses, franchise or operating permit fees, or other similar exactions imposed upon water/wastewater utilities by any city in Oregon for engaging in wastewater business within such city or for use and occupancy of city streets and public ways, which does not exceed 3.5 percent, applied to gross revenues as defined herein, shall be allowed as

operating expenses of such water/wastewater utilities for rate-making purposes and shall not be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" means revenues received from utility wastewater service operations within the city less related net uncollectibles. Gross revenues shall 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/wastewater utility purchasing the service is not the ultimate customer.

(3) Permit fees or similar charges for street opening, installations, construction, and the like to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers, and the value of any wastewater utility service or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels herein set forth. Any such service may be continued within the same category or type of use. The value of any additional category of wastewater utility service or use of facilities provided after November 6, 1967, to a city without charge shall be considered in computing the percentage levels herein set forth.

(4) This rule shall not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of wastewater service

rendered by a water/wastewater utility under such franchises shall not be itemized or billed separately. When compensation different from the percentage levels in section (1) of this rule is specified in a franchise existing on November 6, 1967, such compensation shall continue to be treated by the affected water/wastewater utility as an operating expense during the balance of the term of such franchise. Any tax, fee, or other exaction set forth in section (1) of this rule, unilaterally imposed or increased by any city during the unexpired term of a franchise existing on November 6, 1967, and containing a provision for compensation for use and occupancy of streets and public ways, shall be charged pro rata to local users as herein provided.

(5) Except as provided in section (4) of this rule, to the extent any city tax, fee, or other exaction referred to in section (1) of this rule exceeds the percentage levels allowable as operating expenses in section (1) of this rule, such excess amount shall be charged pro rata to wastewater utility service customers within said city and shall be separately stated on the regular billings to such customers.

(6) The percentage levels in section (1) of this rule may be changed if the Commission determines after such notice and hearing, as required by law, that fair and reasonable compensation to a city or all cities should be fixed at a different level or that by law or the particular circumstances involved a different level should be established.



Stat. Auth.: ORS Ch. 183, 330,  
756 & 757

Stats. Implemented: ORS Ch.  
330, OR Laws 1999, 756.040

NEW

860-037-0560

Relating to Local Government Fees,  
Taxes, and Other Assessments

(1) If any county in Oregon, other than a city-county, imposes upon a water/wastewater utility any new taxes or license, franchise, or operating permit fees, or increases any such taxes or fees, the water/wastewater utility required to pay such taxes or fees shall collect from its wastewater customers within the county imposing such taxes or fees the amount of the taxes or fees, or the proportional share of increase in such taxes or fees. However, if the taxes or fees cover the operations of a water/wastewater utility in only a portion of a county, then the affected water/wastewater utility shall recover the amount of the taxes or fees or increase in the amount thereof from wastewater customers in the portion of the county which is subject to the taxes or fees. "Taxes," as used in this rule, means sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, fees, or charges other than ad valorem taxes.

(2) The amount collected from each wastewater service customer pursuant to section (1) of this rule shall be separately stated and identified in all wastewater customer billings.

(3) This rule applies to new or increased taxes imposed on and after

December 16, 1971, including new or increased taxes imposed retroactively after that date.

(4) If any county, water/wastewater utility, or customer affected by this rule deems the rule's application in any instance to be unjust or unreasonable, it may apply for a waiver of this rule by petition to the Commission, setting forth the reasons why the rule should not apply.

Stat. Auth.: ORS Ch. 183, 330,  
756 & 757

Stats. Implemented: ORS Ch.  
330, OR Laws 1999, 756.040 & 757.110

NEW

#### Accounting Records

860-037-0565

Accounting for Director's Fees

Director's fees paid by a water/wastewater utility to members of its board of directors, who are also paid as officers of the utility, shall not be recognized as a charge to operating expenses in Oregon.

Stat. Auth.: ORS Ch. 183, 330,  
756 & 757

Stats. Implemented: ORS Ch.  
330, OR Laws 1999, 756.040 & 757.110

NEW

#### Record and Reporting Requirements

860-037-0605

Preservation and Destruction of  
Records

(1) The Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, April 1974, revised May 1985, published by the National Association of Regulatory Utility Commissioners as applicable for wastewater utility service and operation is hereby modified as appropriate and adopted and prescribed by the Commission for all wastewater service documents and records, with the following exceptions:

(a) Operations and Maintenance, Records of Auxiliary, and other Operations. The Commission prescribes that records of operations other than wastewater utility operations be retained for the same periods as prescribed for similar records pertaining to wastewater utility operations;

(b) Revenue Accounting and Collecting. The Commission prescribes that contracts and card files or other records thereof with customers for wastewater utility service be retained for one year after the expiration or cancellation of the agreement.

[Publications: The publications referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.105

NEW

860-037-0610

Uniform System of Accounts for Water/Wastewater Utilities

The Uniform System of Accounts for Class A Water Utilities, 1996, published by the National Association of Regulatory Utility Commissioners, is hereby modified as appropriate and adopted and prescribed by the Commission for all wastewater service and operations.

[Publications: The publications referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040 & 757.105, 757.120, 757.125 & 757.135

NEW

Annual Reports

860-037-0615

Budget of Expenditures

Each water/wastewater utility operating wastewater service 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 approved by the Commission.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999 & 756.040, 756.105 & 757.105

NEW

860-037-0620

New Construction Budget

Each water/wastewater utility operating wastewater service within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file annually on or before December 1, on forms approved by the Commission, information on new construction, extensions, and additions to the property of the water/wastewater utility.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 756.105 & 757.105

NEW

860-037-0625

Annual Reports

All water/wastewater utilities shall submit a financial Result of Operations annual report using the most current form approved by the Commission and shall submit such report on or before April 1.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 756.105, 757.120, 757.125 & 757.135

NEW

860-037-0630

Use of Deferred Accounting as it Applies to Wastewater Operations by Water/Wastewater Utilities

(1) Definitions: The following definitions shall be used in this rule:

(a) "Amortization" means the inclusion in rates of an amount that has been deferred under ORS 757.259 and which is designed to eliminate, over time, the balance in an authorized deferred account. Amortization does not include the normal positive and negative fluctuations in a balancing account.

(a) "Deferred Accounting" means the recording in a balance sheet account, with Commission authorization under ORS 757.259, of a current expense or revenue associated with current service for later reflection in rates;

(2) Expiration: Any authorization to use a deferred account shall expire 12 months from the date the deferral is authorized to begin. If a deferral under ORS 757.259 is reauthorized, the reauthorization shall expire 12 months from the date the reauthorization becomes effective.

(3) Contents of Application: Application for deferred accounting, by a water/wastewater utility, a ratepayer, or other applicant shall include:

(a) A description of the wastewater utility expense or revenue for which deferred accounting is requested;

(b) The reason(s) deferred accounting is being requested and a reference to the section(s) of ORS 757.259 under which deferral can be authorized;

(c) The account proposed for recording of the amounts to be deferred and the account which would be used for recording the amounts in the absence of approval of deferred accounting;

(d) An estimate of the amounts to be recorded in the deferred account for the 12-month period subsequent to the application; and

(e) A copy of the notice of application for deferred accounting and list of persons served with the notice.

(4) Reauthorization: Application for reauthorization to use a deferred account shall be made not more than 60 days prior to the expiration of the previous authorization for the deferral. Application for reauthorization shall include the requirements set forth in subsections (3)(a) through (3)(e) of this rule and, in addition, the following information:

(a) A description and explanation of the entries in the deferred account to the date of the application for reauthorization; and

(b) The reason(s) for continuation of deferred accounting.

(5) Exceptions: Authorization under ORS 757.259 to use a deferred account is necessary only to add amounts to an account, not to retain an existing account balance and not to amortize amounts which have been entered in an account under an authorization by the Commission. Interest, once authorized to accrue on unamortized balances in an account, may be added to the account without further authorization by the Commission, even though authorization

to add other amounts to an account has expired.

(6) Notice of Application: The applicant shall serve a notice of application upon all persons who were parties in the water/wastewater utility's last general rate case. If the applicant is other than a water/wastewater utility, the applicant shall serve a copy of the application upon the affected water/wastewater utility. A notice of application shall include:

(a) A statement that the applicant has applied to the Commission for authorization to use deferred accounting; or for an order requiring that deferred accounting be used by a water/wastewater utility;

(b) A description of the wastewater utility expense or revenue for which deferred accounting is requested;

(c) The manner in which an interested person can obtain a copy of the application;

(d) A statement that any person may submit to the Commission written comment on the application by the date set forth in the notice, which date can be no sooner than 25 days from the date of the application; and

(e) A statement that the granting of the application will not authorize a change in rates, but will permit the Commission to consider allowing such deferred amounts in rates in a subsequent proceeding.

(7) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred

accounting will be considered at the Commission's public meetings.

(8) Reply comments: Within 10 days of the due date for comments on the application from interested persons, the applicant and the water/wastewater utility, if the water/wastewater utility is not the applicant, may file reply comments with the Commission. Those comments shall be served on persons who have filed the initial comments on the application.

(9) Amortization: Amortization in rates of a deferred amount shall only be allowed in a proceeding, whether initiated by the water/wastewater utility or another party. The Commission may authorize amortization of such amounts only for wastewater utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the water/wastewater utility shall provide the Commission with its financial results for a 12-month period or for multiple 12-month periods to allow the Commission to perform an earnings review. The period selected for the earnings review will encompass all or part of the period during which the deferral took place or must be reasonably representative of the period of deferral. Unless authorized by the Commission to do otherwise:

(a) A water/wastewater utility shall request that amortizations of wastewater deferred accounts commence no later than one year from

the date that deferrals cease for that particular account; and

(b) In the case of ongoing balancing accounts, the water/wastewater utility shall request amortization at least annually, unless amortization of the balancing account is then in effect.

Stat. Auth.: ORS Ch. 183, 330, 756 & 757

Stats. Implemented: ORS Ch. 330, OR Laws 1999, 756.040, 756.105 & 757.259

NEW