ORDER NO. 00-543

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# BEFORE THE PUBLIC UTILITY COMMISSION

# OF OREGON

UW 65/68

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|---|---|---|
| In the Matter of the Tariffs Filed by Juniper Utility Company for Water Service, (UW 65). | ) ) | |
| | ) | ORDER |
| In the Matter of the Tariffs Filed by Juniper Utility Company for Sewer Service, (UW 68). | ) ) | |

## INTRODUCTION

### Procedural History

Juniper Utility Company (JUC) is a privately owned utility in the Bend area that provides wastewater, irrigation water and domestic water to approximately 1,000 individuals. On December 17, 1998, the Commission determined that JUC was a public utility subject to the Commission's jurisdiction (Order 98-529). JUC was ordered to file tariffs and to not increase the current rates of its water customers until a determination was made regarding those tariffs. On March 24, 1999, JUC filed its initial tariff sheets (docket UW 65). These tariffs combined the rates for the three services provided by JUC.

On June 25, 1999, JUC filed revised tariff sheets. Pursuant to an amendment of ORS 757.005(1)(a)(A)[1], the Commission found that JUC's sewer services were now under the jurisdiction of the Commission. A new docket was opened (docket UW 68) for determining fair and reasonable wastewater rates. The two dockets were consolidated for future proceedings (Order 99-450).

The implementation date for the new tariffs was extended several times, with the final stipulated date of suspension set for September 15, 2000. Numerous prehearing conferences were held and rulings were issued in these dockets.

An evidentiary hearing was held before Administrative Law Judges (ALJ) Sam Petrillo and Kathryn Logan on May 10 and 11, 2000, in Bend, Oregon. An additional day of hearing was held on May 26, 2000, in Bend, Oregon, before ALJ Logan. Appearances were entered by:

[1] The definition of a public utility was expanded to include "a privately owned water utility that provides wastewater services inside the boundaries of a city, regardless of the number of customers receiving wastewater services."

Martin Hansen for JUC
Robert Nash for Kim Ward and Kim D. Ward, LLC
Greg Hendrix for Paul Brewer d.b.a. The Pines Mobile Home Park
Kimberly Cobrain for Commission Staff
Charles Hansen for Mountain High Homeowners Association[2]
Ronald Reed for Tillicum Village Homeowners Association
Ted Roghair for Nottingham Square Homeowners Association
and Timber Ridge Homeowners Association

A public comment hearing was held before ALJ Logan on May 10, 2000, in Bend, Oregon. Approximately 12 people made comments about the proposed tariffs and about service received from JUC.

## Issues

There are numerous issues on which the parties have not agreed, most of which involve operating costs for providing service. These issues are:

1) Was JUC's decision to remain independent and not connect to the City of Bend imprudent and unreasonable? If so, should expenses that would not have been incurred if JUC had connected to the City be disallowed?
2) What is the appropriate salary rate and number of employees needed?
3) What is the appropriate allowance for pension and benefits for the employees?
4) What is the appropriate allowance for chemical expenses?
5) What is the appropriate allowance for land use disposal of the effluent?
6) What is the appropriate expense for renting equipment?
7) What is the appropriate expense for wastewater disposal?
8) What is the appropriate amount for officer's salaries?
9) What is the appropriate allowance for materials and supplies?
10) What amount should be allowed for contract services for accounting expenses?
11) What amount should be allowed for contract services for legal expenses?
12) What is the appropriate allowance for lab fees?
13) What is the appropriate allowance for office supplies, office rental and communication expenses?
14) What amount should be allowed for liability insurance costs?
15) What are the general expenses and what amount should be allowed for them?

[2] Mr. Hansen has passed away since the hearing was held. The Mountain High Homeowners Association's Board of Directors authorized Ms. Teddie Allison to replace Mr. Hansen as its representative.

16) How should the rates be designed?
17) What should the company rules and regulations be?
18) What are the appropriate miscellaneous service charges?
19) What is the proper cross-connection policy?
20) Should JUC's special provisions be adopted?
21) Should charges be assessed against an unoccupied space?
22) Should JUC be required to map its territory?
23) Should JUC develop a comprehensive metering plan and issue individual bills?

**Stipulations**

The parties were able to stipulate to the costs of the following operating revenue items:

| | |
|---|---|
| Purchased Water (line 8) | $37,519 |
| Purchased Power (line 9) | $85,000 |
| Contract Services - Labor (line 13) | - $0 - |
| Pumping Services (line 21)[3] | - $0 - |
| Transportation (line 22) | - $0 - |
| Vehicle Insurance (line 23) | - $0 - |

While we are not bound by the parties' stipulations, we agree that these costs are reasonable and should be factored into the operating costs for JUC.

Additionally, the parties agreed on the methodology to calculate the Regulatory Commission expense (line 27). As required by ORS 756.310, this expense is calculated by multiplying the Company's total gross revenues by .25 percent. The parties further agreed that this expense is allocated based on .25 percent of the gross revenues for each business segment.[4]

**Test Year**

An historical test period, calendar year 1998, was used to determine revenues. Adjustments were made to test year data "to remove abnormal events not expected to recur and . . . to include the effect of known changes in data which are expected to persist into the future." PUC Order No. 80-021 at 24.

Based on the preponderance of evidence in the record, the Commission makes the following:

[3] The expenses previously allocated to this category were reclassified to Material and Supplies (line 10).
[4] This calculated expense is found in Appendix A, p. 1 on line 27, which is attached to and incorporated in this Order.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Background

This utility company has a fairly lengthy history with the Commission. Due to the interplay among the various entities owned or operated by Mr. Jan Ward, it is helpful to have an understanding of the genesis of these entities, and their role in the current JUC configuration. Therefore, for historical purposes, we adopt the findings of fact from Order No. 98-529, which are set out below:

> **Juniper Utility Company**
>
> JUC was created in March 1972 to provide water, sewage, garbage, road and park maintenance, and similar services to persons using property owned or developed by JUC or others associated with it. The water distribution system was originally owned by Jan Ward, a land developer, his brother Kim Ward, their mother Iris Ward, and two corporations. In 1975, the water and sewer assets were transferred to JUC. Jan Ward manages and controls the business and property of JUC, including utility systems operations, accounting and rate-setting.
>
> **Juniper Water Company**
>
> Juniper Water Company (JWC) was created in April 1975 to own a water source and distribution system to supply domestic and irrigation water to several neighborhood associations and subdivisions. In June 1977 JUC transferred all its interest in water source, distribution, and storage facilities to JWC. JUC and JWC agreed in May 1977 that JUC would have sole responsibility for the operation and maintenance of JWC's water system. The term of the agreement is 75 years. Jan Ward is the president of JWC. JWC has a board of directors, but their function is to maintain the non-profit status of JWC, and they do not participate in business decisions.
>
> **J.L. Ward Construction Company**
>
> J.L. Ward Construction Company (JLWCC) was created in 1974 to engage in property development and residential construction as well as other lawful activities. Jan Ward owns and operates JLWCC. JLWCC has been the source of manpower, equipment and management of companies owned or controlled by Jan Ward. JLWCC owns two pump houses and the distribution system that delivers water for irrigation to a golf course it owns, five homeowner associations, and other areas. JLWCC provides that service to approximately 427

customers. JUC provides the domestic water to those customers and irrigation water to certain customers in those developments not served by JLWCC.

**Customers, Service Agreements, and Rates**

JUC has approximately 963 customers, comprised of 644 residents of areas served by homeowner associations, 304 customers in mobile home and recreational vehicle parks, and 15 miscellaneous customers. However, it sends out only 11 monthly and 14 annual bills to homeowner associations and mobile home and recreational vehicle parks, which in turn bill individuals who live in their areas. Some of the bills are for both water and sewer service. The associations and parks act as intermediaries in collecting funds for JUC, but have no role in setting the rates.

JUC does not use individual customer meters, so it has a flat per-period rate that does not vary with usage. A look at the rate history of JUC reveals that rates in January 1981 were $25 per single family house and $19.30 per mobile home park unit per month. The rates increased through the years, so that since August 1, 1996, they have been $44 per single family house and $31.30 per mobile home park unit per month. On December 16, 1997, JUC sent a letter to its homeowner association customers stating that the rate would increase to $51 per month effective January 1, 1998. On December 29, 1997, JUC sent a letter to its mobile home and recreational vehicle park customers stating that the rate would increase to $42.50 per month per occupied space and to $21.15 per unoccupied space, effective January 1, 1998.

JUC has written service agreements with five homeowner associations, mobile home parks, and recreational vehicle parks. Three of the agreements are with homeowner associations. He signed the agreement for both contracting parties. The two remaining service agreements were signed by Jan Ward for JUC and Kim Ward for the mobile and recreational vehicle parks. JUC provides water service without a service agreement to 295 residents of homeowner associations, a mobile home park, and nine individuals.

One major change has occurred since these findings were made. Effective October 1, 1998, JLWCC is no longer providing labor to JUC. Five JLWCC employees became employees of JUC. Further, JLWCC has relinquished all interest in JUC, and will not be "subsidizing" JUC. Mr. Jan Ward's intent was to separate the two companies.

**Wastewater issues**

**Connecting to City of Bend**

On July 1, 1999, the City of Bend (City) annexed the territory currently serviced by JUC. As the City was interested in providing service to its new City residents, Assistant City Manager Ron Garzini asked Jan Ward if he wanted to sell JUC to the City. Mr. Ward declined the offer.

On September 1, 1999, Mr. Ted Roghair was hired as general manager of JUC, replacing Mr. Jan Ward. Shortly thereafter, Mr. Garzini asked Mr. Roghair if JUC was interested in hooking JUC's wastewater system to the City and becoming a wholesale customer. This began a series of discussions about the possibility of a hook-up and the City's ability to obtain a grant to pay for construction costs. Because JUC supported the project, Mr. Garzini then asked the Oregon Department of Environmental Quality (DEQ) to write a letter in support of the grant, which it did. With letters in hand, Mr. Garzini went to the City Council, who determined that seeking the grant funds was the City's highest priority for rural investment funding.

Subsequent to the City Council's approval to seek funds, Mr. Roghair informed Mr. Garzini that JUC no longer supported obtaining a grant to build a line to JUC's system. On December 10, 1999, Mr. Garzini spoke with Jan Ward, trying to encourage him to allow the City to seek the grant. Mr. Garzini told Mr. Ward that JUC could decide the cost-effectiveness of connecting to the line after it was built. Mr. Ward replied that he was not interested in the grant, and that connecting to the City did not fit his corporate objectives. Without JUC's support, the City could no longer proceed on the grant. At its next meeting, the City Council changed the priority of the project from first to last on its project list.

Due to the lack of interest by JUC, discussions never went beyond preliminary stages. Mr. Garzini's plan, however, was to obtain a grant to cover the capital costs for the connection. The City would then enter into a franchise wholesale contract with JUC, the monthly cost of which was estimated at $9,500.[5] The City also had a telemetry system available for JUC. Finally, it was Mr. Garzini's intent that system development charges would not be incurred as the sewer system was already in place. The estimated time to complete the project was approximately six months. All of these plans were subject to City Council ratification.

The City saw numerous benefits in having JUC as a wholesale customer. Adding JUC's residential waste could dilute the City's industrial waste product. The City would be providing a service to the recently annexed residents. Under a wholesale agreement, the City would monitor a single contract rather than servicing individual accounts. Finally, the City could rely on JUC's expertise to operate its pressure sewer system, as the City currently uses a gravity feed system.[6] Because of these benefits, the City is still willing to work with JUC to obtain a grant to build a line and connect with JUC.

[5] A third party jointly hired by JUC and the City could also determine the contract amount.

[6] The record indicated that the City was exploring a change from gravity feed to pressure sewer system, but a timeline for such a change is not yet known.

JUC is not interested in connecting to the City sewer system. It is concerned that the rates to the customers will increase, and the capital costs for construction would exceed the grant and be passed on to the customers. JUC also wants the sewer by-products for agricultural use.[7] Finally, JUC wishes to maintain its independence as a small utility.

**Commission Resolution**

The issue of whether JUC should connect to the City of Bend as a wholesale customer is an extremely contentious issue among the parties. Staff, along with Brewer and Kim Ward, wants JUC to connect to the City of Bend as a wholesale customer, arguing that the costs to the ratepayers will decrease. JUC, on the other hand, wants to maintain its status as an independent provider of sewer service and is afraid that customer rates will increase if the connection occurs. Mountain High Home Owners Association (Mountain High HOA) and Nottingham Home Owners Association (Nottingham HOA) are concerned about potential system development charges if JUC connects to the City of Bend, the amount of time needed for the project and the operation of JUC in the interim.

The details of the proposed connection are a bit sketchy. While the City's representative, Mr. Garzini, has definite ideas as to what should occur, the proposal never went beyond initial planning stages. While we appreciate the City's position in not expending resources to formulate a complete plan in light of JUC's objections, we are left with uncertainty as to the exact nature of the expenses involved. We acknowledge and understand Staff's position in attempting to reduce costs to the ratepayers. In the final analysis, however, the Commission does not have the authority in this case to require JUC to connect to the City.

ORS 757.210 (1) provides for a public utility to file its new rate schedules with the Commission. The Commission then conducts a hearing to "determine the propriety and reasonableness of such rate or schedule." The utility bears the burden of showing that the proposed rate schedule is just and reasonable. Therefore, we are to determine whether JUC met its burden of showing that its proposed rate is just and reasonable, and if not, to adjust the rate to meet that standard. We were not granted the statutory authority in a rate case to make business decisions for a utility regarding the advantages and disadvantages of a particular business proposal or plan. On the other hand, we do have authority to hold a utility accountable for imprudent business decisions. We do so by setting rates that reflect the costs the utility would have incurred if it had made a prudent business decision. We determine the prudence of a business decision by focusing on what the utility knew or should have known at the time that it made its decision. We do not use 20-20 hindsight.

Staff also argues that JUC's decision to not connect its wastewater system to the City was imprudent and unreasonable. Therefore, contends Staff, any expenses incurred by JUC which

[7] The City was willing to allow JUC to have a priority usage of the effluent for agricultural purposes.

otherwise would not have been incurred if it had connected to the City's wastewater system should be disallowed. In support of this proposition, Staff cites *In the Matter of the Application of Northwest Natural Gas for a General Rate Revision,* Order 99-697. In that rate case, we reviewed the development of the utility's customer information system (CIS) to determine if any part of it was not "used and useful" or if the development costs were too high. We were trying to ascertain whether the utility's actions and decisions were prudent based on existing circumstances and what the company either knew or should have known at the time it was making its decisions. We agreed that expenditures "found excessive, unaccounted for, or caused by lack of proper foresight should be deemed imprudent and disallowed." *Ibid.* at 52.

That case is somewhat different in that we were determining whether monies already expended should be factored in as costs for determining future rates. In the present case, we are being asked to disallow JUC's current expense of its wastewater connection because it is greater than a hypothetical future expense of a wastewater connection to the City. While it is theoretically possible for JUC to connect to the City in the future, the record is insufficient to establish the costs and amount of time needed for a future connection. If the evidence had shown that JUC had an established lower cost option of connecting to the City, and that the expenses were imprudent, the Commission could have disallowed any expenses incurred by JUC's decision to remain independent. The rates then would have been based only on the allowed expenses. In this case, however, the record is incomplete in establishing what the cost would be to JUC if it connected to the City. Therefore, the rates in this case will be set without regard to the possible connection to the City.

**Salaries and Wages (line 5); Pension and Benefits (line 7)**

Staff recommends that JUC have five full time employees (FTE) for a total cost of $175,383. This consists of one full time office employee at an hourly rate of $17.50, two full time journeyman utility employees at hourly rates of $14.00 and $15.75, and two full time entry level employees at an hourly rate of $12.00. Staff's initial recommendation was 6.5 FTE, but it reduced the number of employees by 1.5 FTE (from 6.5 to 5) due to its recommendation that JUC connect to the City for wastewater. The hourly rates used by Staff were the rates proposed by JUC in its October 1999 rebuttal testimony. Mr. Brewer and Mr. Kim Ward agree with Staff's recommendation.

JUC claims a need for 7.95 FTE for a total cost of $292,945. This consists of 5.62 FTE utility workers ranging in salary from $12.50 - $20 per hour, 1.18 FTE utility workers for summer only at $10 per hour, and 1.15 FTE office employee at $17.50 per hour. Both the number of employees and salary change considerably in each successive filing of JUC's testimony, as shown below:

Initial filing - $29,751 payroll

March 1999 filing - 6.78 FTE and $320,599 payroll
October 1999 rebuttal – 6.5 FTE and $256,848 payroll
April 2000 surrebuttal – 7.95 FTE and $292,945 payroll

Mountain High HOA wants to make certain that there is sufficient labor to operate the system. Nottingham HOA wants increased pay scales to pay for employee certifications, along with making certain that there are enough employees to do the necessary work.

Regarding pension and benefits, JUC's final request in April 2000 was $81,476. This amount includes an employer paid medical and dental plan for employee and family at $500 per month, an employer contribution of 15% of gross salary to a retirement plan, employer paid life insurance and employer paid disability insurance. JUC states that it wants to increase the benefits to provide a program that is similar to the City. Currently JUC pays $13,978 for employee only medical and dental benefits. Nottingham HOA agrees with this position.

Staff recommends that only the current program be continued. According to Staff, JUC has failed to provide verifiable information as to the benefits to be offered to the employees, and as to the actual cost of those benefits. Mr. Brewer and Mr. Kim Ward agree with Staff.

Mountain High HOA wants the benefits offered to employees to be fair and reasonable to maintain a competent staff.

**Commission Resolution**

The parties use different numbers of hours in computing an FTE, along with using different hourly rates for wages. The standard formula for determining FTE is 2080 hours in one year equals one FTE. In computing costs for salaries and benefits, we will use that standard.

In October 1999, JUC and Staff agreed that 6.5 FTE were needed for JUC. Later, Staff reduced this number to 5 FTE because of its position that JUC should connect to the City. JUC, on the other hand, increased its request to 7.95 FTE.[8] Due to our earlier determination that JUC cannot be required to connect to the City, we will add an additional 1.5 FTE for the wastewater services for a total of 6.5 FTE. While JUC can allocate these positions as it sees fit, we will determine the payroll expenses by adding one fulltime journeyman position and one half time entry position.

[8] JUC did not use the standard of 2080 hours for a FTE when making its determinations. By recalculating JUC's staffing requirement using that standard (multiplying work days by 8 and dividing by 2080), fulltime utility workers decreased from 6.8 FTE to 5.75, and office staff decreased from 1.15 to .97, making a total of 6.72 FTE.

JUC argues that its prior method of using JWLCC employees "as needed" was more efficient, but that it was required to move the employees from the JWLCC payroll to JUC payroll due to the "current regulatory environment." JUC Post Hearing Brief, pp. 8-9. We are unaware of any requirement placed on JUC to employ the JWLCC employees. Our need is to be able to distinguish the costs that belong to JUC. Obviously, it is easier to make that determination if employees are separately hired by the various entities. But there is nothing that required JWLCC to transfer its employees to JUC. JUC had a number of options available to it for resolving its labor issues. For example, JUC could hire contract labor, or JWLCC could apportion a part of its employees' time to JUC, subject to compliance with our rules regarding affiliation. JUC was not required to transfer its employees from JWLCC to JUC.

Having responded to JUC's contention regarding its employees, we now turn to the issue of salaries. In its April 2000 sur-surrebuttal testimony, JUC claims a higher salary rate for its employees than it did in its October 1999 rebuttal testimony. For example, the top salary went from $15.75 to $20.00 per hour, an increase of almost 27%. Other than the office staff, all of the other positions increased by $1.00 to $3.50 an hour in a six month period. JUC fails to justify the need for these increases. Therefore, we will use the wage rates used by JUC in October 1999 rebuttal testimony, and also used by Staff in its February 2000 surrebuttal testimony. These hourly rates were $12.00 for the entry level utility workers, $15.75 and $14.00 for the two journeyman utility workers and $17.50 for the office employee.

The additional fulltime journeyman wage is calculated on $14.00 per hour. The half time entry level is based on $12.00 per hour. The payroll taxes are based upon a percentage of salary and are established by law. By utilizing these figures, $47,677 should be added to the staff calculation of $175,384 for a total of $223,061.

As for the pension and benefits portion, we agree with Staff that only the current medical and dental plan should be used for determining operating expenses. JUC has failed to provide verifiable information as to benefits, level of benefits, and cost of plan. Rather, JUC has taken what the City pays and assumes that it should pay close to the same amount to provide a similar benefit. Initially, we are not convinced that the City is an appropriate comparator, and it certainly should not be the sole comparator. Even if the City is an appropriate comparator, however, it is impossible to equate similar payment with similar benefits. Without some properly documented expenses for benefit plans, we allow $16,777 to cover the expenses of maintaining the current level of pensions and benefits for the 6.5 FTE employees and the general manager.

Finally, we need to address the apportionment of these expenses. JUC proposed that these expenses be allocated as follows: 40% for wastewater, 35% for irrigation water and 25% for domestic water. Staff reviewed JUC's allocation factors and adopted them. We concur with these allocation factors. Unless otherwise noted in this order, these are the allocation factors we will apply to all expenses.

**Chemical Expenses (line 14)**

Staff's initial allowance for chemical expenses was $12,702, which was based on the test year expenses of $12,631 along with some additional invoices not included in the application. The only chemical used is chlorine, which is used as part of the wastewater treatment. Staff's allowance was later reduced to zero due to its belief that JUC should connect to the City.

JUC did not request a specific amount in its application. Subsequent to its application, JUC requested an allowance of $22,687 to cover costs of chlorine, aluminum sulfate and hydrated lime, along with freight costs for transporting chemicals and returning empty cylinders. This amount was later increased to $25,000 with no supporting documentation.

**Commission Resolution**

An amount of $22,687 will be allowed to cover JUC's chemical expenses. There is nothing in the record to refute the information given by JUC in its rebuttal testimony. Further, there is nothing in the record to support an increase to $25,000. Although JUC argues that inflation, along with rising chemical and fuel costs, account for the increase, the evidence does not substantiate this assertion.

**Land Use Disposal (line 18)**

JUC rents land from JLWCC for effluent disposal at $100 per day or $36,500 for a year. JUC did not submit any documentation to support this expense. There is no written contract for this rental. Finally, JUC did not file an affiliated interest application with the Commission even though JUC had notice of the requirements.

**Commission Resolution**

Mr. Jan Ward is a majority stockholder in both JLWCC and JUC. As such, JWLCC has an affiliated interest with JUC. See ORS 757.015. Pursuant to ORS 757.495, a contract must be filed with the Commission within 90 days of execution before any expenses related to the contract are recognized as an expense for rate valuation. In this case, an affiliated interest application needed to be filed along with the information regarding the rental of real property. Until such a filing has been made and approved by the Commission, this expense cannot be part of the rate calculation. Therefore, we will not authorize any expenses due to rental of land for effluent disposal to be included for rate valuation.[9]

### Equipment Rental (line 19)

In its direct testimony, JUC sought an allowance of $89,958 for equipment rental. This amount was reduced by Staff due to a calculation error on JUC's behalf (- $3,564), by eliminating an expense of $1,026 for rental of a truck which was not justified as an on-going expense, and by disallowing an expense of $22,572 for rental of a full-time tank truck, tractor and trailer and other part-time equipment. This expense was disallowed because Staff asserted the equipment was not necessary if JUC connected its wastewater to the City. Staff's final estimate for equipment rental was $61,776.

In sur-surrebuttal testimony, JUC claimed $91,250 was the proper expense amount for equipment. However, a calculation error was again made by JUC, reducing the total amount by $3,590 for a total of $87,660.[10]

JUC believes that the $22,572 allowance for a tank truck and other equipment is necessary for emergency spills. JUC rents this equipment on a yearly basis from JLWCC, an affiliated interest.

### Commission Resolution

We would have allowed an expense of $84,348 ($61,776 + $22,572) for rental of equipment. However, as we discussed above, the appropriate affiliated interest filing has not been made. Therefore, this expense cannot be allowed as part of the rate calculation.

### Wastewater Disposal (line 26)

Staff recommended an amount of $114,000 for the costs associated with connecting to the City sewer system. JUC recommended $0 as it wants to remain an independent provider of wastewater service.

### Commission Resolution

[9] JUC and Mr. Ward were notified that a filing needed to be made. We note that JUC's initial testimony of March 1999 acknowledged the existence of affiliated interests (JUC Direct Testimony at 3). Further Staff stated in its testimony the need for JUC to file affiliated interest applications with the Commission, and the consequences of failing to make such a filing. Staff Exhibit B, Staff/1 Riordan/16-17.

[10] In JUC sur-surrebuttal, page 27, dated April 12, 2000, JUC added the amounts in "Section a (Vehicles)" incorrectly.

As discussed above, we are neither requiring JUC to connect to the City nor limiting their expenses to what would have been incurred if JUC had connected to the City. This line item, which should be $0, will not be included in the expenses.

**Officer's Salary and Wage (line 6)**

JUC requests $98,181 to pay the expenses of Jan Ward, the General Manager of JUC. This amount is broken down into a weekly salary of $1,750 (yearly = $91,250) plus yearly payroll taxes of $7,181.[11]

JUC contends that this salary is reasonable for several reasons. First, the General Manager of Roats Water Company (Roats) receives $48,000 annually. Since JUC supplies almost twice as much water as Roats, Mr. Ward should receive almost twice as salary. The salary for the Avion Water Company (Avion) general manager is greater than JUC's general manager, but Avion serves more water customers. Avion does not provide any wastewater collection, treatment or disposal services. Second, the JUC General Manager position is very time consuming due to all of the legal and accounting issues, along with managing the inadequate funds to perform JUC duties. Mr. Ward anticipates spending at least 1800 hours annually in managing JUC.

Staff argues that the salary paid to Mr. Roghair when he was General Manager is sufficient. Mr. Roghair worked fulltime for an annual salary of $52,000 plus payroll taxes of $7,597 for a total of $59,597.[12]

Staff surveyed other area general managers, including those employed by Avion and Sunriver. Their annual salaries are $99,900 and $66,600 respectively. Additionally, Sunriver provides wastewater service along with potable water to approximately 3800 customers.

**Commission Resolution**

We again have some difficulty in trying to align the information provided by JUC. Assuming that Mr. Ward works 1800 hours a year for JUC at a rate of $31.25 per hour ($250 a day

[11] JUC actually requested $98,435. In JUC's submitted sur-surrebuttal testimony, Mr. Jan Ward claimed that his weekly salary was $1750. Multiplying that amount by 52 weeks equals $91,000, not $91,250. This lower amount causes a reduction in payroll taxes from $7,185 to $7,181as some of the taxes are a percentage of gross salary. However, in his testimony at hearing (Tr. 14), Mr. Ward claimed a salary of $91,250 which he calculated by multiplying 365 days by $250 a day. We suspect that many of Mr. Ward's calculations were made in the same manner.

[12] It seems incongruous that Mr. Roghair's payroll taxes on $52,000 are greater than Mr. Ward's taxes on $91,000. However, we have nothing in the record to dispute these amounts, so we accept the determination of the amount of Mr. Roghair's payroll taxes.

divided by 8 hours equals $31.25 per hour), these figures support a yearly salary of $56,250 plus payroll tax, not $91,250. Based on the salaries of other general managers, based on the salary provided to Mr. Roghair, and based on the information provided by Mr. Ward's testimony, we allow $59,597 for this expense.

**Materials and Supplies Expense and Inventory (lines 10 and 44)**

Initially JUC requested $90,000 to cover costs of materials and supplies. This amount was later increased to $110,000. Staff recommends $64,910 for the materials and supplies expense and $39,320 for inventory.

Determining the materials and supplies expense was a difficult task for Staff. Some materials and supplies were purchased by JWLCC and then transferred to JUC by journal entry at the end of each month. Staff reviewed the transferred JWLCC purchases to make certain that the transfers to JUC were used to provide utility services. Staff also reallocated some expenses to other categories and eliminated duplicate expenses. Based on its review, the initial Staff recommendation for this expense was $100,054 for all three services.

Staff later amended its recommendation, reducing the expense to $39,799. This reduction of $60,254 reflects the materials and supplies inventory documented by JUC. According to Staff, this reduction was made to properly reflect materials and supplies purchases used and expensed during the test year.

JUC submitted additional information in May 2000 regarding materials and supplies, and specifically regarding its carryover of inventory. Two employees submitted affidavits stating that JUC keeps materials and supplies inventory on hand for use in emergencies and for routine maintenance. They determined the value of JUC's inventory on December 31, 1999 to be approximately $60,000. Further, they believe that the amount of inventory has remained stable over the past three years, although conceding that materials and supplies were not physically inventoried or recorded in December 1997 and December 1998.

Staff concluded that JUC did not maintain $60,000 of inventory. The basis of this determination is that JUC's purchase detail listing and general ledger listing show materials and supplies purchases of $47,490 in 1997, $110,481 in 1998 and $54,939 in 1999. To have the same amount of inventory each year meant that the amount of consumption equaled the amount of purchases. Staff did not find this to be a likely scenario.

JUC's 1997 and 1998 financial statements and tax returns did not include any dollar amount for inventory. The initial rate application also did not list an amount for inventory. JUC's general ledger did not contain an amount for inventory.

**Commission Resolution**

This was another hotly debated issue between Staff and JUC. JUC's position is that it has to have inventory to provide its services, and the fact that none was ever documented before 1999 does not mean that inventory did not exist. Staff argues that without proper documentation it is not possible to include an inventory figure for rates based upon speculation.

As stated in Staff's brief, the difficulty is the lack of documentation, other than the two employee affidavits, to determine a value for a beginning inventory. Once purchased, an item is placed in inventory. Upon use, it becomes a materials and supplies expense. Without an identifiable beginning inventory amount, a calculation cannot be made as to which items remain in inventory and which items were used and became an expense.

A further difficulty is the possibility of duplicating costs due to the inability to determine whether an item is an expense or in inventory. It is certainly possible to have amounts "double counted." This would increase the rates unjustifiably for JUC's customers.

We are cognizant that this is JUC's first rate case. We are also aware of some of the difficulties presented to both JUC and Staff in trying to work through these issues due to either poor or non-existent documentation for certain expenses. While we believe that JUC had inventory carryover from year to year, it is puzzling to us that JUC did not record the amount of inventory carryover in any company ledgers, tax returns or financial statements. JUC wants us to find that a stable amount of inventory was carried forward each year. While this is a reasonable practice for a company, it is equally reasonable for a company to carry forward differing amounts each year.

This issue then turns on who has the burden of proof to establish the operating cost. That burden is upon JUC to show that its rates are reasonable based upon the operating costs it incurs. It has not established that it had an on-going beginning inventory of $60,000.
We adopt the Staff recommendations of $64,910 for the materials and supplies expense and $39,320 for inventory.

The allocation for these expenses is slightly different than the standard allocation. Based upon Staff's review of JUC's documents related to materials and supplies, the allocations are as follows: 60.12% to wastewater, 16.75% to domestic water and 23.13% to irrigation water.

**Contract services – Accounting (line 11)**

JUC originally considered this expense as part of the lump sum expenses categorized for office/bookkeeping functions. However, upon further reflection, it decided that the services of an accountant were needed for closing the books each month and that it should be set forth as a separate operating expense. To arrive at the amount it believed was necessary, JUC took the cost for the one month's billing, multiplied by 12, and added $389 for preparation of corporate income tax returns to arrive at a total of $4,805. JUC October 1999 rebuttal testimony, pp. 49–51.

By the time of the filing of JUC's sur-surrebuttal testimony in April 2000, the expense estimates for accounting services had increased to $25,000. JUC's rationale for this increase was that JLWCC was no longer providing support to JUC, and that while at some point these expenses could be substantially reduced, at the current time JUC needed the assistance of an accountant.

Subsequent to the filing of the sur-surrebuttal testimony, JUC submitted additional billing statements from its accountants. These monthly bills, which range from $96 to $1,936, cover a time period from February 1999 through April 2000 for a total of 63.5 hours. Multiplied by the accountant's hourly rate of $160, this totals $10,160.

At least through March 1999, JUC had utilized a different accountant to perform the monthly closings. She charged in the range of $40 to $90 a month to complete these duties. The current accounting firm charges in the range of $90 to $816 to perform similar monthly duties. Staff contends that it is not reasonable to contract with a firm who charges $160 per hour to provide monthly financial statements.

Staff contends the correct amount of additional expense for contract accounting service is $5,552. This recommendation is based on multiplying the current accountant's hourly wage of $160 by 34.7 hours – the number of hours spent on PUC matters.[13] Staff further recommends that this amount be amortized over three years as the expense is not an annual re-occurring expense. Finally, Staff recommends that the full-time office person could prepare the monthly financial statements.

**Commission Resolution**

JUC has failed to substantiate its need for $25,000 for contract accounting services. For the 15 month period from February 1999 through April 2000, JUC has incurred slightly over $10,000 in accountant fees. It is reasonable to presume that the use of an accountant's time during these months would be greater as JUC was preparing and presenting its initial rate filing. In the future,

[13] Staff did not factor in any hours from the April 2000 statement as Staff did not have that bill when it made its recommendation.

however, the use of time should be able to be minimized to the preparation of monthly statements and tax filings.

As for the monthly financial statements, we agree with Staff's recommendation that the office staff person should prepare these statements. The expenses of a fulltime person have been allocated to that position, and he or she should be able to fulfill the duties necessary to complete a financial statement.

We will add $240 to the amount suggested by Staff due to the addition of the April 2000 billing submitted by JUC. Therefore, $5792 should be included as an amortized non-recurring expense related to the rate case. This amount should be amortized over three years, which we hold is a reasonable time period in cases such as this. Finally, we will allow an on-going expense of $389 for preparation of income tax returns.

**Contract services – Legal (line 12)**

JUC initially requested $20,000 for contract legal services. This amount increased to a request of $40,000. Staff initially recommended that contract legal expenses not be included as part of operating costs. This was later amended to an amount of $2,424 to be amortized over three years, along with an on-going expense of $3,600.

JUC supports its request by listing the various law suits and administrative proceedings in which it is involved. These are two circuit court cases in which JUC is a defendant, the current rate case, and two complaint cases filed with this Commission.[14] Additionally, JUC will be involved in service territory issues before this Commission and will be completing a franchise agreement with the City.

JUC submitted an affidavit by William Buchanan as to its legal fees. Mr. Buchanan is one of the attorneys involved in the rate case and complaint cases. JUC's total expenses with Mr. Buchanan's firm through April 2000 were approximately $19,000, although Mr. Buchanan did not attach any invoices to verify the billings. Since the submission of the affidavit, three days of hearing were held in this rate case involving Mr. Buchanan and Mr. Martin Hansen, another member of the same law firm (Karnopp, Petersen, Noteboom, Hansen, Arnett & Sayeg, LLP). Finally, the affidavit indicated that JUC has incurred legal fees from two other law firms: Jensen, Elmore & Stupasky, PC in the amount of $16,770.01 and Brant, Emerson & Fitch in the amount of $7,278.60. Invoices for these firms were attached to the affidavit. JUC anticipates an on-going need of $60,000 to cover its expenses, but is requesting only $40,000.

[14] We take official notice that five complaint cases are currently pending before the Commission.

Staff initially disallowed all contract legal expenses, stating that they were not prudently incurred. This position was based on Staff's interpretation of the position taken by JUC in terminating wastewater and irrigation service to Mr. Kim Ward, and proposing to terminate service to Mr. Paul Brewer for failure to comply with installing cross-connection devices.[15]

Staff also contends that without redacted invoices from Mr. Buchanan, it is unable to determine what expenses are prudent. As the burden is on JUC to adequately document its expenses, all expenses related to Mr. Buchanan's firm should be disallowed.

**Commission Resolution**

Again the parties have come to loggerheads about the expense for this issue. JUC asserts that to provide more information regarding the legal billings would waive privileged information, thereby compromising pending litigation. JUC is "outraged" that Staff disallowed all of the legal expenses of the Karnopp firm, particularly in light of Staff's attendance at hearing and settlement conferences regarding this rate case in which the Karnopp firm was a participant.

We agree with JUC that as a defendant in these various actions, it has to have the ability to defend itself. Assuming, without deciding, that some of JUC's actions have precipitated its legal conflicts, we are not in the position to make judgments about the necessity for legal representation in those circumstances. Clearly, costs were incurred for this rate case, and on-going costs will be incurred to resolve complaints, and satisfy regulatory requirements.

As with the materials and supplies category, however, we are left with a dearth of information as to how to establish the expense. JUC submitted the Karnopp firm billings without itemization at its own peril. Counsel could have sanitized the billing descriptions to omit any legal theories or privileged communications. It is within our authority to grant nothing for the Karnopp firm expenses due to JUC's failure to supply any documentation other than a total expenditure. However, we will use 40% of its listed expense ($7,754) and add it to the amount proposed by Staff. We admit that this is an estimate as to the expenses incurred, but we find it reasonable in light of the time we know has been spent in this case.[16] We adopt the amount of $10,178 to be used for contract legal expenses, and to have this amount amortized over a three year period.

We have the same difficulty in establishing on-going legal expenses. Without redacted billings, we do not know the total amount of the legal expenses for JUC issues not involving this rate case. While we are aware that other matters may entail the need for legal counsel in the future, we do

[15] The purpose of this discussion is to set forth Staff's position. The Commission is not making findings of fact as to what actually occurred, or as to the merits of any cases.
[16] This includes hearing time, hearing preparation, numerous prehearing conferences, and briefing.

not have documentation in this record to establish the amount of the expense. Staff recommended $3,600 for on-going legal expenses after reviewing 1997 and 1998 legal expenses of other regulated water utilities. Staff's recommendation is also based on its review of the redacted legal expenses from other firms serving JUC. We adopt Staff's recommendation for on-going expenses in the amount of $3,600.

**Lab fees (line 15)**

JUC believes it needs $10,000 for lab fees. Documentation previously given to Staff by JUC in January 2000 indicated a need for $3,522 for lab fees per year. JUC's basis for increasing the amount in April 2000 is due to the need for additional soil tests in the effluent and biosolids disposal area, and due to additional system testing because of lack of maintenance. No evidence was submitted to support the need for additional testing.

Staff recommends the amount of $3,522 as the appropriate expense. Staff contends that this is the amount supported by JUC's documentation. There have not been any complaints from customers regarding water quality, and there is no documented need for any additional testing.

**Commission Resolution**

The evidence presented supports an amount of $3,722 to be included as an operating expense.

**Office Supplies, Office Space Rental, and Communications Expense (lines 16, 20, 25)**

JUC estimates that it needs $10,000 for office supplies; $24,000 for office space rental; and $7,500 for communications expenses for a total of $41,500. The figures for supplies and rental are not supported by documentation, and appear to be the result of estimates on JUC's behalf. The communications expense of $7,500 is within the range of documented expenses of $7,421 and appears to have been calculated by "rounding up" the numbers.

Staff believes that a total of $52,136 is necessary to cover these expenses. The amounts are allocated as follows:

| | |
|---|---|
| Office supplies | $32,775 |
| Office space rental | $11,940 |
| Communications | $ 7,421 |

The communication expense is based upon the receipts presented by JUC. Other past expenditures form the basis for Staff's recommendation for office supplies and space rental.

**Commission Resolution**

This is an interesting switch in this case, where JUC is asking for less than the recommendation presented by Staff. It is interesting to note JUC's response in its brief:

> "While historic expenditures may justify Staff's recommendation that Juniper [JUC] expend $52,136 for this category of expense, Juniper [JUC] is requesting just $41,500." JUC Post-hearing Brief at 21.

Apparently JUC concedes that it has spent this amount in the past, but it will not need to expend this amount in the future. Again, however, JUC does not provide any documentation or clearly reasoned argument as to why its position is reasonable, or why Staff's position should be discounted.

We also have the difficulty with the lack of an affiliated interest filing from JUC for the rent being paid to JWLCC for office equipment and office space. As we previously stated, these expenses cannot be included for purposes of rate valuation. Therefore, we only approve the office supplies and communications expense at this time, for a total of $40,196.

**Liability Insurance (line 24)**

JUC estimated its annual liability insurance expense at $15,000. The documentation submitted by JUC, based on recent invoices, is $14,596. JUC never provided any additional information to support the additional $404.

JUC claims in its brief that the parties agreed to $15,000 as the appropriate allowance for liability insurance. However, a stipulation signed by the parties at the evidentiary hearing does not show that an agreement was reached on this issue.

**Commission Resolution**

We will allow $14,596 as the liability insurance expense. This is the amount that is supported by the evidence. Further, as suggested in Staff's brief, we will order that JUC obtain and carry liability insurance. JUC must submit verification of coverage within 30 days of the issuance of this Order.

**General Expenses (line 29)**

JUC requests that $25,000 needs to be allocated for general expenses. It anticipates the need to participate in utility trade association meetings, to pay for continuing education of its employees, and to purchase books and other trade literature to ensure the continued safe operation of JUC. It contends that Staff's recommendation does not take into account that JUC shared expenses with JLWCC in the past.

Staff recommends that $1,706 be allocated to this expense. These expenses totaled only $1,613 during the test year. Some documented expenses initially placed in this category were moved to Office Supplies, and some documented expenses placed in Material and Supplies were moved to this category, resulting in Staff's final recommendation. Staff contends that JUC has always had the expenses of training, meetings, and literature. These expenses are not "new" to JUC as a regulated entity.

**Commission Resolution**

It is incumbent upon JUC to provide information upon which this Commission may make its decision. To claim a need for $25,000 for general expenses without showing the need for such monies is not sufficient. To then complain that Staff's recommendation is "woefully inadequate" is failing to take the responsibility that is placed upon JUC by the statute. It is JUC's burden to show that its expenses are just and reasonable. It has failed to do so. We adopt the recommendation of Staff that $1,706 be designated as general expenses.

**Rate Design**

JUC contends that a combined flat rate is fair to all customers, that it maintains the status quo, and that it should be maintained until such time as meters are installed. While acknowledging the differences among its various customers (RV parks, mobile homes, and single family wood-frame homes), JUC contends that those differences are more easily accommodated by use of a flat rate. JUC's main concern is that it has sufficient revenues to operate its water services.

Staff has gone through various permutations of separate rates for the three services, and determined that the most equitable solution is to use the equivalent dwelling unit (EDU) factors developed and used by the City of Redmond (Redmond) in setting domestic water and wastewater rates. Redmond has a similar dry climate to Bend and is a relevant comparator. The EDU factors used by Redmond are based in part on the number of occupants per residence, which is an issue in determining the rate design in this case. The EDU factor used for mobile home parks should be .80, and the EDU factor for RV parks should be .50. The EDU for a single family wood-frame home is 1.

As for schools, the EDU should be 1 for each 20 students, which increases the EDU for the elementary school to 28, based on an approximate enrollment of 550 students.

**Commission Resolution**

We adopt the rate design and rate spread recommended by Staff. We agree with JUC that it needs sufficient revenues to operate, and we believe that separate rates for each service for each type of dwelling will accomplish that goal. This rate design will generate the same amount of revenues each month as would a flat rate design. The difference, as pointed out by Staff in its brief, is that dwellings that historically consume less water or produce less waste will not pay as much as dwellings which historically consume more water and produce more waste.

The monthly rates will be based on the application of the rate design to the revenue requirement outlined in this order. The rates for the most of JUC's customers are as follows:[17]

| | Residential | Mobile Home Park | RV Park |
|---|---|---|---|
| Wastewater | $18.59 | $13.61 | $8.50 |
| Domestic Water | 12.43 | 9.11 | 5.69 |
| Irrigation Water | 18.21 | 12.15 | 12.15 |
| Total for all Services | $49.23 | $34.87 | $26.34 |

**Company Rules and Regulations**

The parties' positions are fairly clear. Staff asserts that JUC's tariffs should recite PUC rules and regulations. JUC agrees that it is bound by the law, but argues that only those rules and regulations that apply to JUC's "unique utility operation" should be part of the tariff. There are two types of changes urged by Staff. One, is that JUC did not include any rules covering the below listed subject areas:

1. Application of Service
2. Separate Control of Service
3. Service Connections
4. Service Connection Charge
5. Mainline Extension Policy
6. Mainline Advances and Refunds Policy

[17] The rest of the rates are set forth in Appendices B and C which are incorporated in and attached to this Order.

7. Meter Testing
8. Customer Requested Meter Testing
9. Prorating Bills (initial and final)
10. Adjustments to Bills and Time Payment
11. Voluntary Disconnection

JUC made changes in other rules as follows:

1. The term "Applicant" was changed to delete persons who reapply for service at a new location after service had been disconnected at a previous location.
2. The term "Customer" was defined as a billing entity rather than a user of service.
3. The term "Residential Premises" was altered to include mobile home parks and RV parks, making the entire park a residential premise.
4. The term "Customer Line" was altered, possibly altering the point where JUC's responsibility ends and the customer's responsibility begins.
5. Rule 5 does not state that JUC will provide separate rate schedules.
6. Rule 4 does not state that the service line in question is the customer's service line.
7. Rule 13 does not indicate what information JUC would provide in its billing statements.
8. According to Rule 19, a customer is not authorized to use potable water for irrigation purposes. This unauthorized use is grounds for automatic disconnection of water service. Therefore, watering your flowers with a watering can filled with tap water could subject a customer to having his or her water disconnected.
9. Rule 28 does not specify the location for a pressure test for non-metered services in accordance with OAR 860-036-0320.

**Commission Resolution**

All water company tariffs restate the rules and regulations of the PUC. Although we agree with JUC that only rules applicable to JUC should be adopted, the rules proposed by JUC are not acceptable. They conflict with the Commission rules, are confusing, and lead to nonsensical results. We adopt the rules recommended by Staff.[18]

**Miscellaneous Service Charges**

JUC requests that various miscellaneous service charges be approved. These are:

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[18] The rules and regulations are part of the tariffs which are attached as Appendix C and incorporated in this Order. Although there are several rules that will not become effective until individual metering and billing is accomplished, we are placing those rules in the tariffs at this time.

| | |
|---|---|
| Pressure Test (Rule No. 28) | |
| First test within 12-month period | N/C |
| Second test within 12-month period | $50 |
| Late Payment Charge (Rule No. 13) | |
| Charged on amount more than 30 days past due | 1½% |
| Persistently Delinquent Accounts | 10% |
| Returned Check Charge (Rule No. 14) | $50 each occurrence |
| Trouble Call Charge (Rule No. 24) | $50 per hour |
| Reconnection Charge (Rule No. 17) | |
| During normal office hours | $50 |
| After normal office hours on special request | $100 |
| Unauthorized Restoration of Service (Rule No. 18) | $250 plus reconnect charge and costs |
| Unauthorized Use Charge (Rule No. 19) | $250 plus costs |
| Damage/Tampering Charge (Rule No. 22) | At cost |
| Disconnect Visit Charge (Rule No. 17) | $50 |

JUC asserts that these charges are necessary for its unique business.

Staff contends that the miscellaneous service charges should be the ones established by PUC rule and industry standards. Additionally, Staff believes that a $300 connection charge for new service should be added to the charges. Finally, the amount of the charges should be consistent with other water utility tariffs previously approved by the Commission.[19]

[19] Exhibit A, Staff/4, Hathhorn/13, labeled "Schedule No. 11" sets forth Staff's recommended charges.

**Commission Resolution**

We adopt the miscellaneous service charges as set forth by Staff. Those charges comport to charges we have previously accepted, and meet the requirement of rule and law. JUC did not present any convincing evidence as to any of the changes that it recommends.

**Cross–connection Control Policy**

JUC submitted a revised cross-connection policy for Commission approval. The major distinction between this policy and the former policy is that JUC is the responsible entity for testing and maintenance of backflow devices after initial installation. According to Mr. Jan Ward, the Oregon Health Division had no complaints about the policy, and informed him that "It was one of the better ones that had been submitted." Tr. at 108, lines 7–14.

Staff objects to the revised policy, stating that the Oregon Health Division has not approved the revised policy. Further, Staff argues that the testing of backflow devices is the responsibility of the customer who may choose any certified tester to perform the annual testing. See OAR 333-061-0070. Staff recommends that the Commission approve the policy which has already received Oregon Health Division approval.[20]

**Commission Resolution**

We agree that JUC should not be responsible for testing all backflow devices. It also should not be in the position of telling customers what tester should be selected. We approve the policy submitted as Staff Exhibit 11.

**JUC's Special Provisions**

JUC is requesting three special provisions on all its rates. The first one covers new utility service, stating that only users that have paid JLWCC for the right to have service will be granted service from JUC. The second covers the issue of continuous service, and that disconnection may not be used to avoid monthly charges. Finally, the third item states that the "quantity of water contemplated and authorized herein are only those amount that a prudent person using good conservation techniques would find necessary." It goes on to state that wasting water is an unauthorized use of water. JUC wishes to incorporate this provision as a recognition that water supply is limited and should be used efficiently.

[20] This policy was made part of the record as Staff Exhibit 11.

Staff is requesting one provision covering continuous service, and that discontinuation of service may not be used to avoid monthly charges. Other than citing the rule to which this refers, Staff and JUC are in accord on this provision.

Staff argues that the other two provisions are in violation of state law, or are designed to extract additional service charges from customers. For example, under the provisions, new service users must gain approval from, and make payment to, JLWCC before having the right to receive service from JUC. This, according to Staff, is an untariffed system development charge. As for the provision regarding water usage, it is a limitation on how water is to be used that is unclear and can lead to disconnection.

**Commission Resolution**

We agree with Staff that JUC's provisions are either illegal or not prudent. They arguably set forth unidentified system development charges, and unclear limitations regarding water usage. We adopt the single special provision recommended by Staff, which reads as follows:

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

**Billing, Mapping and Metering**

JUC issues 12 monthly bills to cover domestic, irrigation and wastewater usage of approximately 1,000 residents. These bills are issued to seven homeowners associations, two mobile home parks, a recreational vehicle park, JLWCC and the Bend Golf course. It is the responsibility of the homeowners associations to collect payments for these bills. Additionally, nine annual bills are sent to various customers for irrigation water.

Customers are charged a flat rate for services due to the lack of individual meters. For customers, metering is advantageous because then each customer pays for what he or she uses. This promotes water conservation for customers who want to keep their expenses down, and eliminates low quantity users from subsidizing high quantity users.

Mapping is a process by which green space can be measured to estimate the amount of irrigation water used. The theory is that green areas have received irrigation water, although it is not possible to determine the exact amount of water used.[21] Prior technology was fairly crude, resulting in measurements of green area that were not accurate. A local Bend business, however, now has the

[21] Of course, whether an area is green is not completely dependent on the amount of water used to irrigate the area. It could be green because it had been fertilized. Likewise, it could be brown because it had been given too much fertilizer. Also, rainfall would need to be factored in, along with the growing conditions of the area.

capability to fly over the JUC area and take specialized photographs that can be converted into digital information. The detail of the photographs should be sufficient to adequately measure the green space. The cost of these maps is approximately $250 per 640 acres photographed.

JUC agrees that metering is a more equitable way to distribute the cost, and has no objections to metering as long as it has sufficient revenue to provide the service. However, JUC does not see any advantage to itself to meter as long as the rates (flat or individual) cover the expenses. JUC believes a metering plan should be implemented after its transition from a non-regulated utility to a regulated utility.

As for individual billing, JUC is quite happy that the cost of this process falls on the homeowners associations. JUC argues that it has not had any bad debt expenses due, in part, to the way it bills.[22] Finally, JUC saves the expenses involved with mailing, record keeping and the other tasks involved with individualized billing.

JUC sees little purpose in mapping, claiming that the techniques are unreliable and the information provided is of little use. Further, JUC contends that adding mapping to the process would only delay the use of metering.

Staff recommends that JUC develop a comprehensive meter installation plan, including a cost analysis and specific timelines for installation, by January 1, 2001. Staff further requests that such plan include a detailed plan for implementing individual billing at the same time metering is implemented. Staff believes that mapping would be useful in providing some information for rate development.

**Commission Resolution**

Both Staff and JUC agree that individual metering should be accomplished. They differ only as to the time line. It makes sense to initiate the process by requiring JUC to make a detailed plan for metering which includes an analysis of costs and a time line for implementation.

Similarly, it makes sense to begin individual billing at the time the metering is established. While JUC reaps the benefits of the bulk billing at this time, JUC should implement individualized billings once customers have their separate meters. It can be confusing to the customer to have utility billings from the homeowners association rather than the utility company. Further, we are unaware of any utility that uses meters that does not also provide individual bills.

[22] Testimony established that in some cases the homeowners association is paying the bills for delinquent or non-paying customers. In essence, the bad debts are transferred to the associations rather than JUC.

Therefore, JUC must also submit a plan for designing and implementing individual billing. The plans for metering and for billing may be incorporated into one document. We also agree with Staff's deadline of January 1, 2001, as we believe that four months is sufficient time for preparing this plan.

Because of the relatively short time frame given for presenting a metering and billing plan, and because the ultimate goal is for individual meters to assess water usage, we will not require mapping to be included as part of the process. We agree with JUC that this would add some expense in the short run for a process that would produce only marginally useful information.

**Charges Assessed Against Unoccupied Spaces**

This issue involves what charges, if any, should be assessed against a space that is not occupied by a tenant. JUC wishes to charge $75 for unoccupied spaces at the RV park or mobile home park. It claims that it is unfair to the homeowners who reside only part-time in their homes to pay during their absence, and not require payment for unoccupied spaces in mobile home and RV parks. Staff argues that it is not appropriate to charge where a service is not provided.

**Commission Resolution**

This problem arises due to the lack of individual meters and bulk-billing methodology discussed above. If customers are individually billed, then it is easy to ascertain the amount of water used and bill accordingly. But that is not what we are faced with in the current situation.

JUC tries to equate fulltime homeownership with absences to unoccupied spaces. The analogy does not fit. The homeowners pay minimum electric or gas bills, have year around property taxes assessed, and generally maintain the indicia of ownership even if the residence is unoccupied. In the case of a vacant mobile home or RV space, however, there is no ongoing expense paid by a resident. These expenses are terminated when a resident leaves, and do not begin again until new resident moves into the space.

In the situation presented by JUC, the park owner would be responsible for paying the unoccupied space amount until such time as the space is occupied. While this may be an incentive to keep one's spaces rented, the cost of the vacant space would either end up being transferred to the other residents, or coming from the park owner.

We view it as a cost for services not rendered, and therefore we cannot agree with JUC's proposal. We adopt Staff's recommendation that no charge be assessed for unoccupied spaces.

**Commission Comments**

This order approves and adopts first time rate schedules for Juniper Utility Company (JUC). Under the new schedules, JUC's rates are no longer combined in a single flat rate. Separate rates are established for wastewater, irrigation water and domestic water using equivalent dwelling units. Lump sum costs covering more than one service are allocated on a percentage basis to the services. Based on the evidence presented, the approved tariffs are just and reasonable.

We want to remind all involved that the relationship needs to be maintained. Our purpose as a Commission is to determine a fair and reasonable rate for the ratepayer, and to provide sufficient revenues to the utility company so that it can operate its business. It is not helpful to the process if the involved parties present positions which are outside of our authority, which are not lawful, or which do not take into account our prior determinations. We urge the parties to proceed from this point on to determine the appropriate plans for a metering system, to prepare and present affiliated interest filings, and to make clearly documented requests. In the long run, this will benefit all involved.

**ORDER**

IT IS ORDERED that:

1. The revised tariffs filed by Juniper Utility Company on June 25, 1999, are rejected.
2. Juniper Utility Company must obtain and maintain liability insurance equivalent to the levels of coverage purchased for calendar year 1999.
3. The revised tariff sheets, attached to this Order as Appendix C, are approved and become effective upon the date of entry of this Order.

Made, entered, and effective ______________________________.

______________________________
**Ron Eachus**
Chairman

______________________________
**Roger Hamilton**
Commissioner

______________________________
**Joan H. Smith**

Commissioner

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