

At its Public Meeting on January 23, 2001, the Commission approved Staff's recommendation to adopt the proposed rules as set forth in Appendix A.

ORDER

IT IS ORDERED that:

1. The following Oregon Administrative Rules, as set forth in Appendix A, are adopted:

860-021-0011, 860-021-0126, 860-022-0000, 860-022-0001, 860-022-0055, 860-022-0060, 860-022-0110, 860-022-0120, 860-022-0150, 860-022-0170, 860-022-0190, 860-022-0200, 860-022-0210, 860-022-0220, 860-022-0230, 860-027-0041, 860-027-0050, 860-032-0060, 860-033-0005, 860-034-0010, 860-034-0120, 860-034-0360, 860-034-0370, 860-034-0393, 860-034-0450, 860-034-0490, 860-034-0730, 860-034-0810, 860-034-0820, 860-034-0850, 860-034-0870, 860-034-0890, 860-034-0900, 860-034-0910, 860-034-0920, 860-034-0930, 860-036-0130, 860-036-0245, 860-036-0735, 860-037-0115, 860-037-0245, 860-037-0535.

2. The changes shall be effective upon filing with the Secretary of State.

Made, entered, and effective _____.

BY THE COMMISSION:

Vikie Bailey-Goggins
Commission Secretary

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.

860-021-0011

Multilingual Notices

(1) All disconnect notices shall contain the following information translated into Spanish, Vietnamese, Cambodian, Laotian, and Russian:

IMPORTANT NOTICE: Your (electric~~s~~, gas~~s~~, or telephone) services will be shut off due to an unpaid balance on your account. You must act immediately to avoid shutoff. Important information about how you can avoid shutoff 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 SHUTOFF.**

(2) The Commission will translate a consumer's rights and responsibilities summary into the designated non-English languages and provide copies to utilities. The customer information published by a utility pursuant to OAR 860-021-0010 shall prominently display the following information printed in the designated non-English languages, in boldface, at the beginning of the summary:

A version of a consumer rights and responsibilities summary printed in this language is available by calling (name of utility) at (phone number).

(3) The utility shall record all requests and promptly mail the requested version of the summary to the consumer.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 756.040 & Ch. 290, OL 1987

Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105), PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 14-1997, f. & ef. 11-20-97 (Order No. 97-442)

860-021-0126

Late-Payment Charge

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

(2) Energy utilities shall not impose late-payment charges on residential customers unless:

(a) The utility offers residential customers a preferred billing date option under which the customer can select or change a bill date. Utilities shall not be required to change a customer's bill date more than once in any 12-month period;

(b) The utility's rate schedule provides that the late charge is not applied on residential balances less than \$200; or

(c) The charge is applied only to amounts carried forward for two consecutive months.

(3) The charge will be based on a monthly late-payment rate applied to overdue account balances at the time of preparing the subsequent month's bill **for residential accounts or by the bill due date for all other accounts**. 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 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 & 756

Stat. Implemented: ORS 756.040

Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-022-0000

Exemptions

The rules contained in this Division do not apply to:

(~~2~~1) Telecommunications utilities partially exempt from regulation under ORS 759.040 (see Division 034 requirements).

(~~2~~2) Unincorporated associations and cooperative corporations which only provide telecommunications services (see Division 034 requirements).

(3) Water utilities (see Division 036 requirements).

(4) Water/wastewater utilities (see Division 037 requirements).

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 756.040, 759.030, 759.040 & 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 14-1997, f. & ef. 11-20-97 (Order No. 97-442); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 14-2000, f. & ef. 8-23-00 (Order No. 00-458)

860-022-0001

Definitions

For purposes of this Division, except when a different scope is explicitly stated:

(~~1~~1) “Consumer-owned utility” has the meaning given to the term under ORS 757.270(2);

(~~2~~2) “Energy utility” means a public utility as defined in ORS 757.005 except a water utility;

(~~3~~3) “Telecommunications utility” has the meaning as defined in ORS 759.005 unless it is partially exempt from regulation under ORS 759.040; and

(~~3~~4) “Utility” means all energy and telecommunications utilities, as defined in sections (~~2~~2) and (~~3~~3) of this rule.

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

Stats. Implemented: ORS 756.040 & 759.005

Hist.: PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-022-0055

Pole Attachments to Poles Owned by Public, Telecommunications, and Consumer-Owned Utilities

(1) This rule applies whenever a party files a complaint with the Commission pursuant to ORS 757.270 through ORS 757.290 or ORS 759.650 through ORS 759.675.

(2) In this rule:

(a) “Carrying Charge” means the percentage of operation, maintenance, administrative, general, and depreciation expenses, taxes, and money costs attributable to the facilities used by the licensee. The cost of money component shall be equal to the return on investment authorized by the Commission in the pole owner’s most recent rate proceeding.

(b) “Pole Cost” means the depreciated original installed cost of an average bare pole of the pole owner.

(c) “Support Equipment” means guy wires, anchors, anchor rods, grounds, and other accessories of the pole owner used by the licensee to support or stabilize pole attachments.

(d) “Support Equipment Cost” means the average depreciated original installed cost of support equipment.

(e) “Usable Space” means all the space on a pole, except the portion below ground level, the 20 feet of safety clearance space above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole are buried below ground level.

(3) A disputed pole attachment rental rate will be computed by taking the pole cost times the carrying charge times the portion of the usable space occupied by the licensee’s attachment.

(4) A disputed support equipment rental rate will be computed by taking the support equipment cost times the carrying charge times the portion of the usable space occupied by the licensee’s attachment.

(5) The minimum usable space occupied by a licensee’s attachment is one foot.

(6) The rental rates referred to in sections (3) and (4) of this rule do not cover the costs of special inspections or preconstruction, make ready, change out, and rearrangement work. Charges for those activities shall be based on actual (including administrative) costs.

(7) Licensees shall report all attachments to the pole owner. A pole owner may impose sanctions for violations of OAR 860-022-0120. A pole owner may also charge for any expenses it incurs as a result of an unauthorized attachment.

(8) All attachments shall meet state and federal clearance and other safety requirements, be adequately grounded, guyed, and anchored, and meet the provisions of contracts executed between the pole owner and the licensee. A pole owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the pole owner for any fines, fees, damages, or other costs the licensee’s attachments cause the pole owner to incur.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 9-1984, f. & ef. 4-18-84 (Order No. 84-278); PUC 16-1984, f. & ef. 8-14-84 (Order No. 84-608); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0060**Conduit Attachments to Conduits Owned by Public, Telecommunications, and Consumer-Owned Utilities**

(1) This rule applies whenever a party files a complaint with the Commission pursuant to ORS 757.270 through ORS 757.290 or ORS 759.650 through ORS 759.675.

(2) In this rule:

(a) “Annual Carrying Charge” shall be equal to the return on investment authorized by the Commission in the conduit owner’s most recent rate proceeding times the conduit cost.

(b) “Annual Operating Expense” means annual operating maintenance, administrative, general, depreciation, and income tax, property tax, and other tax expenses attributable, on a per-duct basis, to the section of conduit occupied by the licensee.

(c) “Attachment” means any attachment defined in ORS 757.270(1) or ORS 759.650, except attachments to poles.

(d) “Conduit” means any structure, or section thereof, containing one or more ducts, conduits, manholes, handholes, bolts, or other facilities used for any telegraph, telephone, cable television, electrical, or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by one or more **public, telecommunications, or consumer-owned** utilities ~~or people’s utility districts~~.

(e) “Conduit Cost” means the depreciated original installed cost, on a per-duct basis, of the section of conduit occupied by the licensee.

(f) “Duct” means a single enclosed raceway for conductors or cable.

(g) “Licensee” means any entity defined to be a licensee by ORS 757.270(2) or ORS 759.650(2).

~~(h) “People’s Utility District” means any entity as defined in ORS 757.270(4) or ORS 759.750(3).~~

(h) “Public utility” means a public utility as defined in ORS 757.005.

(i) “Surplus Ducts” means ducts other than those occupied by the utility or a prior licensee, one unoccupied duct held as an emergency use spare, and other unoccupied ducts that the utility reasonably expects to use within the next 18 months.

(3) A disputed conduit rental rate will be computed by adding the annual operating expense to the annual carrying charge and then multiplying by the number of ducts occupied by the licensee.

(4) A licensee occupying part of a duct shall be deemed to occupy the entire duct.

(5) Licensees shall report all attachments to the conduit owner. A conduit owner may impose a penalty charge for failure to report or pay for all attachments. If a conduit owner and licensee do not agree on the penalty and submit the dispute to the Commission, the penalty amount will be five times the normal rental rate from the date the attachment was made until the penalty is paid. If the date the attachment was made cannot be clearly established, the penalty rate shall apply from the date the conduit owner last inspected the conduit in dispute. The last inspection shall be deemed to be no more than three years before the unauthorized attachment is discovered. The conduit owner also shall charge for any expenses it incurs as a result of the unauthorized attachment.

(6) The conduit owner shall give a licensee 18 months' notice of its need to occupy licensed conduit and shall propose that the licensee take the first feasible action listed:

(a) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with multiplexing, optical fibers, or other space-saving technology sufficient to meet the utility's space needs;

(b) Pay revised conduit rent based on the cost of new conduit constructed to meet the utility's space needs;

(c) Vacate ducts that are no longer surplus;

(d) Construct and maintain sufficient new conduit to meet the utility's space needs.

(7) When two or more licensees occupy a section of conduit, the last licensee to occupy the conduit shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting of space-saving technology or construction of new conduit, all licensees shall bear the increased cost.

(8) All attachments shall meet local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between the conduit owner and the licensee. A conduit owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the conduit owner for any fines, fees, damages, or other costs the licensee's attachments cause the conduit owner to incur.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 2-1986, f. & ef. 2-7-86 (Order No. 86-107); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

Sanctions and Rental Reductions by Public, Telecommunications, and Consumer-Owned Utilities for Pole Attachments

860-022-0110

Definitions for Pole Attachment Rules

The following definitions apply to OAR 860-022-0120 through 860-022-0240:

(1) "Commission pole attachment rules" mean OAR 860-022-0055 and OAR 860-022-0110 through OAR 860-022-0240;

(2) "Commission safety rules" mean OAR 860-024-0010 and OAR 860-034-0430;

(3) "Government entity" means a city, a county, or the state;

(4) "Notice" means written notification sent by mail, electronic mail, or telefax;

(5) "Pattern" means a pattern of behavior that results in a material breach of a contract, or permits, or in frequent or serious violations of OAR 860-022-0120;

(6) "**Pole owner**" means a **public, telecommunications, or consumer-owned utility**.

(7) "Serious injury" means "serious injury to person" or "serious injury to property" as defined in OAR 860-028-0005;

(78) "Service drop" means a connection from distribution facilities to a single family, duplex, or triplex residence or similar small commercial facility.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0120

Duties of Pole Users

(1) Except as provided in sections (2) and (3) of this rule, a pole user attaching to one or more poles of a pole owner shall:

(a) Have a written contract with the pole owner that specifies general conditions for attachments on the poles of the pole owner;

(b) Have a permit issued by the pole owner for each pole on which the pole user has attachments;

(c) Install and maintain the attachments in compliance with the written contracts required under ~~subsection (1)(a) of this section rule~~ and with the permits required under ~~subsection (1)(b) of this section rule~~; and

(d) Install and maintain the attachments in compliance with Commission safety rules.

(2) A pole user that is a government entity is not required to enter into a written contract required by ~~subsection (1)(a) of section (1) of this rule~~, but when obtaining a permit from a pole owner under ~~subsection (1)(b) of section (1) of this rule~~, the government entity shall agree to comply with Commission safety rules.

(3) A pole user may install a service drop without the permit required under ~~subsection (1)(b) of section (1) of this rule~~, but the pole user must:

(a) Apply for a permit within seven days of installation;

(b) Except for a pole user that is a government entity, install the attachment in compliance with the written contract required under ~~subsection (1)(a) of section (1) of this rule~~; and

(c) Install the service drop in compliance with Commission safety rules.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0150

Sanctions for Violation of Other Duties

(1) Except as provided in sections (2) and (3) of this rule, a pole owner may impose a sanction on a pole user that is in violation of OAR 860-022-0120(1)(c), (1)(d), or (3). The sanction may be the higher of:

(a) \$200 per pole; or

(b) ~~20~~ **Twenty** times the pole owner's annual rental fee per pole.

(2) A pole owner shall reduce the sanction provided in section (1) of this rule by 70 percent if the pole user complies with OAR 860-022-0120 within the time allowed by OAR 860-022-0170.

(3) This rule does not apply to a pole user that is a government entity.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0170

Time Frame for Securing Reduction in Sanctions

(1) Except as provided in section (2) of this rule, a pole owner shall reduce the sanctions provided in these rules, if the pole user:

(a) On or before the 60th day of its receipt of notice, complies with OAR 860-022-0120 and provides the pole owner notice of its compliance; or

(b) On or before the 30th day of its receipt of notice, submits to the pole owner a reasonable plan of correction, and thereafter, complies with that plan, if the pole owner accepts it, or with another plan approved by the pole owner.

(2) Notwithstanding section (1) of this rule, a pole owner may, if there is a critical need, or if there is no field correction necessary to comply with OAR 860-022-0120, shorten the times set forth in section (1). A pole user that disagrees with the reduction must request relief under OAR 860-022-0220 prior to the expiration of the shortened time period, or within seven days of its receipt of notice of the reduction, whichever is later.

(3) A plan of correction shall, at a minimum, set out:

(a) Any disagreement, as well as the facts on which it is based, that the pole user has with respect to the violations alleged by the pole owner in the notice;

(b) The pole user's suggested compliance date, as well as reasons to support the date, for each pole that the pole user agrees is not in compliance with OAR 860-022-0120.

(4) If a pole user suggests a compliance date of more than 60 days following receipt of notice, then the pole user must show good cause.

(5) Upon its receipt of a plan of correction that a pole user has submitted under ~~sub~~section (1)(b) of this rule, a pole owner shall give notice of its acceptance or rejection of the plan.

(a) If the pole owner accepts the plan, then the pole owner shall reduce the sanctions to the extent that the pole user complies with OAR 860-022-0120 and provides the pole owner notice of its compliance, on or before the dates set out in the plan;

(b) If the pole owner rejects the plan, then it shall set out all of its reasons for rejection and, for each reason, shall state an alternative that is acceptable to it;

(c) Until the pole owner accepts or rejects a plan of correction, the pole user's time for compliance with OAR 860-022-0120 is tolled;

(d) If a plan of correction is divisible and if the pole owner accepts part of it, then the pole user shall carry out that part of the plan.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0190**Notice of Violation**

A pole owner that seeks, under these rules, any type of relief against a pole user for violation of OAR 860-022-0120 shall provide the pole user notice of each attachment allegedly in violation of the rule, including the provision of the rule each attachment allegedly violates.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0200**Joint-Use Association**

(1) Pole owners and pole users shall establish a Joint-Use Association (JUA). The Association shall elect a Board from the JUA, which shall include representatives of pole owners, pole users, and government entities. The Board shall act as an advisor to the Commission with respect to:

(a) Adoption, amendment, or repeal of administrative rules governing pole owners and pole users; and

(b) Settlement of disputes between a pole owner and a pole user that arise under administrative rules governing pole owners and pole users.

(2) In the event a representative is involved in a dispute under ~~subsection (1)(b) of section (1) of~~ this rule, then the representative shall not participate in resolution of the dispute, and the JUA shall appoint a temporary representative with a similar interest.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0210**Resolution of Disputes over Plans of Correction**

(1) If a pole user and a pole owner have a dispute over the reasonableness of the plan of correction, then either party may request an order from the Commission to resolve the dispute. The party requesting resolution shall provide notice of its request to the Commission and to the other party:

(a) Upon receipt of a request, the Commission Staff shall, within 15 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 15 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 15 days, issue an order.

(2) Notwithstanding section (1) of this rule, either the pole owner or pole user may request a settlement conference with the ~~JUA~~ **Joint-Use Association**. The settlement conference shall be in addition to, not in lieu of, the process set forth in section (1).

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0220

Resolution of Factual Disputes

(1) If a pole user and pole owner have a dispute over facts that the pole user and pole owner must resolve so that the pole owner can impose appropriate sanctions, or in the event that a pole user is alleging that a pole owner is unreasonably delaying the approval of a written contract or the issuance of a permit, then either the pole owner or the pole user may request a settlement conference before the **Joint-Use Association (JUA)**. The party making the request shall provide notice to the other party and to the JUA.

(2) If the JUA does not settle a dispute described in section (1) of this rule within 90 days of the notice, then either the pole owner or the pole user may request a hearing before the Commission and an order from the Commission to resolve the dispute:

(a) Upon receipt of a request, the Commission Staff shall, within 30 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 30 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 30 days, issue an order.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ **& 759**

Stats. Implemented: ORS 757.270 through 757.290 **& 759.650 through 759.675**

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-022-0230

Pole Attachment Rental Reductions

(1) Except as provided in section (3), a licensee shall receive a rental reduction.

(2) The rental reduction shall be based on ORS 757.282(3) and on OAR 860-022-0055.

(3) A pole owner or the Commission may deny the rental reduction to a licensee, if either the pole owner or the Commission can show that:

(a) The licensee has caused serious injury to the pole owner, another pole joint-use entity, or the public resulting from non-compliance with Commission safety rules and Commission pole attachment rules or its contract or permits with the pole owner;

(b) The licensee does not have a written contract with the pole owner that specifies general conditions for attachments on the poles of the pole owner;

(c) The licensee has engaged in a pattern of failing to obtain permits issued by the pole owner for each pole on which the pole user has attachments;

(d) The licensee has engaged in a pattern of non-compliance with its contract or permits with the pole owner, Commission safety rules, or Commission pole attachment rules;

(e) The licensee has engaged in a pattern of failing to respond promptly to the pole owner, PUC Staff, or civil authorities in regard to emergencies, safety violations, or pole modification requests; or

(f) The licensee has engaged in a pattern of delays in payment of fees and charges due the pole owner.

(4) A pole owner that contends that a licensee is not entitled to the rental reduction provided in section (1) of this rule shall notify the licensee of the loss of reduction in writing. The written notice shall:

(a) State how and when the licensee has violated either the Commission's rules or the terms of the contract;

(b) Specify the amount of the loss of rental reduction which the pole owner contends the licensee should incur; and

(c) Specify the amount of any losses that the conduct of the licensee caused the pole owner to incur.

(5) If the licensee wishes to discuss the allegations of the written notice before the Joint-Use Association (JUA), the licensee may request a settlement conference. The licensee shall provide notice of its request to the pole owner and to the JUA. The licensee may also seek resolution under section (6) of this rule.

(6) If the licensee wishes to contest the allegations of the written notice before the Commission, the licensee shall send its response to the pole owner, with a copy to the Commission. The licensee shall also attach a true copy of the written notice that it received from the pole owner.

(a) Upon receipt of a request, the Commission Staff shall, within 30 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 30 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 30 days, issue an order.

(7) Except for the rental reduction amount in dispute, the licensee shall not delay payment of the pole attachment rental fees due to the pole owner.

Stat. Auth.: ORS Ch. 183, ~~& 757~~ & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-01-01 (Order No. 00-467)

860-027-0041

Information Required for Utility Goods or Services Provided to Affiliated Interests

(1) Except as provided in section (4) of this rule, this rule applies to all 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 ORS 759.010 or any corporation defined in ORS 757.490(1) or ORS 759.385(1), service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal, or other services, or enter revenues or credits therefor on its books. This rule does not apply to transactions subject to ORS 757.490, ORS 757.495, ORS 759.385, or ORS 759.390 and OAR 860-027-0040.

(2) A utility's failure to submit this required information shall not limit the Commission's authority to recognize or impute revenues to the 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 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 utility's behalf to receive notices, inquiries, and communications regarding the information;
- (c) A statement describing the relationship between the utility and the other contracting entity as defined by ORS 757.015, ORS 757.490, ORS 759.010, or ORS 759.385;
- (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 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 utility for providing the proposed goods or services and the benefits, if any, 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 utility and the contracting entity that is the subject of this filing; and
- (i) Copies of all resolutions of directors of the utility authorizing the proposed transactions and, if approval of the utility's stockholders was obtained, copies of the resolutions approved by the stockholders.

(4) This rule shall not apply to 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 ORS 759.010 or any corporation defined in ORS 757.490(1) or ORS 759.385(1):

- (a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210 or ORS 759.180; 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, 756, 757 & 759

Stats. Implemented: ORS 756.040, 757.005, 757.015, 757.490, 759.005 & 759.385

Hist.: PUC 21-1990, f. & cert. ef. 12-31-90 (Order No. 90-1904); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0050

Telecommunications Utilities

(1) The Uniform System of Accounts for Telecommunications Companies, Part 32, adopted by the Federal Communications Commission (FCC) with revisions to October 1, 1998, is hereby

adopted and prescribed for all telecommunications utilities except as modified in section (2) of this rule.

(2) Exceptions to section (1) of this rule:

(a) The rule changes adopted by the FCC on May 18, 1999, in FCC Order No. 99-106, Appendix B, are adopted;

(b) The rules related to accounts in general, unusual items and contingent liabilities, property held for future use, construction work in progress, and the expense matrix filing requirements, adopted by the FCC in FCC Order **No.** 00-78, Appendix B, are prescribed as follow: CFR Parts 32.13, 32.25, 32.2002, 32.2003, and 32.5999;

(c) For intrastate purposes, the allocation rules in Sections 32.27(a), 32.27(b), 32.27(c), and 32.27(d) are replaced by OAR 860-027-0052(3);

(d) For construction work in progress, each telecommunications utility shall maintain subsidiary records consistent with ORS 759.285; and

(e) Each telecommunications utility shall maintain its accounting records at an adequate level of detail to comply with other rules and statutes, as needed.

[Publications: The publication(s) 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 & 759

Stats. Implemented: ORS 756.105, 759.120, 759.125 & 759.130

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 8-1981, f. & ef. 9-8-81 (Order No. 81-626); PUC 5-1985, f. & ef. 4-24-85 (Order No. 85-355); PUC 13-1987, f. & ef. 11-16-87 (Order No. 87-1176); PUC 17-1989, f. & cert. ef. 12-14-89 (Order Nos. 89-1508 & 89-1672); PUC 6-1998, f. & cert. ef. 3-13-98 (Order No. 98-090); PUC 3-2000, f. & ef. 2-9-00 (Order No. 00-067); PUC 9-2000, f. & ef. 5-26-00 (Order No. 00-264); PUC 16-2000, f. & ef. 9-12-00 (Order No. 00-540)

860-032-0060

Reporting Requirements

The purpose of this rule is to provide the Commission with accurate information in order to carry out the Legislative policy of ORS 759.015.

(1) The books and records of all telecommunications providers shall be open to the Commission and subject to audit to the extent needed to verify required reports.

(2) Annual report – form and filing date:

(a) Competitive providers – On forms provided by the Commission, each competitive provider, including shared service providers, shall submit an annual report before April 1, containing data required by section (3) of this rule related to its operations for the preceding calendar year.

(b) Telecommunications utilities – Telecommunications utilities shall submit annual reports as required by OARs 860-027-0070 or 860-034-0395.

(c) Cooperatives – Cooperatives shall submit annual reports as required by OAR 860-034-0750. Each cooperative that does not file an annual report pursuant to OAR 860-034-0750 shall

submit an annual report before April 1, on forms provided by the Commission, containing data required by section (3) of this rule related to its operations for the preceding calendar year.

(3) Annual report – contents:

(a) Exact legal business name, street address, mailing address, and telephone number; and

(A) Name, address, telephone number, and position of the person who is the contact for the Commission and its staff; and

(B) Name, address, telephone number, and position of the person who is the contact for the general public;

(b) Other names used in Oregon, including Assumed Business Names, “Doing Business As” names, and “Also Known As” names;

(c) Former names used in Oregon during the past three calendar years;

(d) Interests, as defined by ORS 759.010, which are affiliated with the telecommunications provider and which are authorized to provide service, or are actually providing service, in Oregon;

(e) Areas in Oregon served;

(f) Types of telecommunications services provided;

(g) How the services are provided, whether by resale, the telecommunications provider’s own facilities, use of building blocks (unbundled network elements), or a combination of the above;

and

(h) As applicable: number of customers, number of lines, originating conversation minutes, percent of conversation minutes which are intrastate and percent which are interstate, and revenue from Oregon operations;

(4) If the Commission receives a public records request for information submitted pursuant to subsection (3)(h) of this rule, the Commission shall assert that, subject to the limitations of the Public Records Law, the materials are trade secrets and, therefore, exempt from disclosure. The material shall be marked “EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS.” Subject to the applicable requirements of the Public Records Law or ORS 759.060, access to this material shall be limited to Commissioners, their Counsel, and Commission staff. The materials shall be segregated and maintained in a locked file.

Stat. Auth.: ORS Ch. 183, 192, 756 & 759

Stats. Implemented: ORS 756.040, 756.105, 759.020 & 759.050

Hist.: PUC 17-1988, f. & cert. ef. 11-15-88 (Order No. 88-1306); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 4-2000, f. & ef. 2-9-00 (Order No. 00-068)

860-033-0005

OTAP Definitions

For the purpose of this division:

(1) “Residential Service Protection Fund” means a legislatively approved fund in the Oregon State Treasury.

(2) “Residential Service Protection Fund Surcharge” means a specified amount up to 35 cents per month against each paying retail subscriber who has telecommunications service with access to the telecommunications relay service:

(a) The surcharge shall be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line shall be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit. For providers of central office based services, the surcharge shall be applied to each line that has unrestricted connection to the telecommunications relay service. These central office based service lines that have restricted access to the Oregon Telecommunications Relay Service (OTRS) shall be charged based on software design. For cellular, wireless, or other radio common carriers, the surcharge shall be applied on a per-instrument basis.

(b) The surcharge does not apply to interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications providers certified pursuant to ORS 759.020, radio common carriers, and interexchange carriers or other services exempt by the Constitution or laws of the United States or the State of Oregon.

(3) “Local Exchange Service” means a “local exchange telecommunications service” as defined in ORS 759.005(1)(c).

(4) “Oregon Telephone Assistance Program (OTAP)” means a program established by the Commission which offers reduced local exchange rates to eligible low-income residential customers.

(5) The Commission annually shall review the surcharge and the balance in the Residential Service Protection Fund and may make adjustments to the amount of the surcharge to ensure the fund has adequate resources but does not exceed six months of projected expenses. The annual review by the Commission shall take place every January.

(6) “Outstanding Accounts” means amounts owing to the Commission including, but not limited to, current accounts receivable and accounts which the Commission has written off through appropriate legal procedures. The term does not include amounts owing to the Commission which have been lawfully discharged through bankruptcy proceedings or amounts which are the subject of a proceeding pending before the Commission.

(7) “Eligible Telecommunications Carrier” means a provider of telecommunications service, designated as such by the Commission to receive universal service support throughout the service area for which the designation is received, who meets the following criteria:

(a) The telecommunications service provider must offer the services supported by the federal universal service fund under 47 CFR Section 54.101 as adopted by the FCC on May 8, 1997, in CC Docket 96-45, either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier) throughout the service area, and

(b) The telecommunications service provider must advertise the availability of such services and the charges therefore using a medium of general distribution.

(8) A cellular, wireless, or other radio common carrier is eligible for designation as an “eligible telecommunications carrier” for purposes of the Residential Service Protection program.

(9) “Toll Limitation Service” means a service provided by eligible telecommunications carriers that allows OTAP recipients to elect not to allow the completion of outgoing toll calls from their telecommunications circuits (toll blocking) or to specify a certain toll usage that may be incurred on their telecommunications circuits per month or per billing cycle (toll control).

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.030 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 3-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 14-1995, f. & ef. 12-20-95 (Order No. 95-1328); PUC 18-1997, f. & ef. 12-17-97 (Order No. 97-489)

860-034-0010

Scope of the Rules

(1) The adoption of these rules shall not 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 upon a complaint, Commission motion, or utility application. Furthermore, these rules shall not in any way relieve any utility from any of its duties under Oregon law.

(2) The rules contained in this Division apply exclusively to telecommunications **cooperatives and** utilities ~~partially exempt from regulation under ORS 759.040, except as provided defined~~ in section (4) of this rule.

(3) As used in this Division, ~~except as provided in section (4) of this rule:~~

(a) “Telecommunications utility” has the meaning given the term in ORS 759.005.

(b) “Utility” means a telecommunications utility partially exempt from regulation under ORS 759.040.

(c) “Telecommunications cooperative” or “Type 1 cooperative” means an unincorporated association or cooperative corporation that provides telecommunications services; and

(d) “Type 2 cooperative” means an unincorporated association or cooperative corporation that charges joint rates or provides through services as defined in OAR 860-034-0015.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.045, 759.220 & 759.225

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1994, f. & ef. 8-31-94 (Order No. 94-1242); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0120

Late-Payment Charge

(1) A utility may apply a late-payment charge to customer accounts not paid in full each month, provided the utility has filed the late-payment charge in its rate schedule.

(2) The charge will be based on a monthly late-payment rate applied to overdue account balances at the time of preparing the subsequent month’s bill **for residential accounts or by the bill due date for all other accounts**. The late-payment charge may not be applied to time-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 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, 756 & 759

Stat. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-034-0360

Pole Attachments to Poles Owned by Utilities

(1) This rule applies whenever a party files a complaint with the Commission pursuant to ORS 759.650 through ORS 759.675 and the pole owner is a utility.

(2) In this rule:

(a) “Carrying charge” means the percentage of operation, maintenance, administrative, general, and depreciation expenses, taxes, and money costs attributable to the facilities used by the licensee. The cost of money component shall be equal to the return on investment authorized by the Commission in the pole owner’s most recent rate proceeding;

(b) “Licensee” means any entity defined to be a licensee by ORS 759.650(2).

(c) “Pole cost” means the depreciated original installed cost of an average bare pole of the pole owner;

(d) “Support equipment” means guy wires, anchors, anchor rods, grounds, and other accessories of the pole owner used by the licensee to support or stabilize pole attachments;

(e) “Support equipment cost” means the average depreciated original installed cost of support equipment;

(f) “Usable Space” means all the space on a pole, except the portion below ground level, the 20 feet of safety clearance space above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole is buried below ground level.

(3) A disputed pole attachment rental rate will be computed by taking the pole cost times the carrying charge times the portion of the usable space occupied by the licensee’s attachment.

(4) A disputed support equipment rental rate will be computed by taking the support equipment cost times the carrying charge times the portion of the usable space occupied by the licensee’s attachment.

(5) The minimum usable space occupied by a licensee’s attachment is one foot.

(6) The rental rates referred to in sections (3) and (4) of this rule do not cover the costs of special inspections, preconstruction, make ready, change out, and rearrangement work. Charges for those activities shall be based on actual (including administrative) costs.

(7) Licensees shall report all attachments to the pole owner. A pole owner may impose sanctions for violations of OAR 860-034-0720. A pole owner may also charge for any expenses it incurs as a result of an unauthorized attachment.

(8) All attachments shall meet state and federal clearance and other safety requirements, be adequately grounded, guyed, and anchored, and meet the provisions of contracts executed between the pole owner and the licensee. A pole owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the pole owner for any fines, fees, damages, or other costs the licensee's attachments cause the pole owner to incur.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stat. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0370

Conduit Attachments to Conduits Owned by Utilities

(1) This rule applies whenever a party files a complaint with the Commission pursuant to ORS 759.650 through ORS 759.675 and the conduit owner is a utility.

(2) In this rule:

(a) "Attachment" means any attachment defined in ORS 759.650(1), except attachments to poles;

(b) "Annual operating expense" means annual operating maintenance, administrative, general, depreciation, and income tax, property tax, and other tax expenses attributable, on a per-duct basis, to the section of conduit occupied by the licensee;

(c) "Annual carrying charge" shall be equal to the return on investment authorized by the Commission in the conduit owners' most recent rate proceeding times the conduit cost;

(d) "Conduit cost" means the depreciated original installed cost, on a per-duct basis, of the section of conduit occupied by the licensee;

(e) "Duct" means a single enclosed raceway for conductors or cable;

(f) "Conduit" means any structure, or section thereof, containing one or more ducts, conduits, manholes, handholes, bolts, or other facilities used for any telegraph, telephone, cable television, electrical, or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by one or more telecommunications utilities;

(g) "Licensee" means any entity defined to be a licensee by ORS 759.650(2); and

(h) "Surplus ducts" are ducts other than those occupied by the utility or a prior licensee, one unoccupied duct held as an emergency use spare, and other unoccupied ducts that the utility reasonably expects to use within the next 18 months.

(3) A disputed conduit rental rate will be computed by adding the annual operating expense to the annual carrying charge and then multiplying by the number of ducts occupied by the licensee.

(4) A licensee occupying part of a duct shall be deemed to occupy the entire duct.

(5) Licensees shall report all attachments to the conduit owner. A conduit owner may impose a penalty charge for failure to report or pay for all attachments. If a conduit owner and licensee do not agree on the penalty and submit the dispute to the Commission, the penalty amount will be five times the normal rental rate from the date the attachment was made until the penalty is paid. If the date the attachment was made cannot be clearly established, the penalty rate shall

apply from the date the conduit owner last inspected the conduit in dispute. The last inspection shall be deemed to be no more than three years before the unauthorized attachment is discovered. The conduit owner also shall charge for any expenses it incurs as a result of the unauthorized attachment.

(6) The conduit owner shall give a licensee 18 months' notice of its need to occupy licensed conduit and shall propose that the licensee take the first feasible action listed:

(a) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with multiplexing, optical fibers, or other space-saving technology sufficient to meet the utility's space needs;

(b) Pay revised conduit rent based on the cost of new conduit constructed to meet the utility's space needs;

(c) Vacate ducts that are no longer surplus; and

(d) Construct and maintain sufficient new conduit to meet the utility's space needs.

(7) When two or more licensees occupy a section of conduit, the last licensee to occupy the conduit shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting of space-saving technology or construction of new conduit, all licensees shall bear the increased cost.

(8) All attachments shall meet local, state, and federal clearance and other safety requirements; be adequately grounded and anchored; and meet the provisions of contracts executed between the conduit owner and the licensee. A conduit owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the conduit owner for any fines, fees, damages, or other costs the licensee's attachments cause the conduit owner to incur.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 759.045 & 759.650 through 759.675

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-034-0393

Uniform System of Accounts for Utilities

(1) The Uniform System of Accounts for Telecommunications Companies, Part 32, adopted by the Federal Communications Commission (FCC) with revisions to October 1, 1998, is hereby adopted and prescribed for all utilities except as modified in section (2) of this rule.

(2) Exceptions to section (1) of this rule:

(a) The rule changes adopted by the FCC on May 18, 1999, in FCC Order No. 99-106, Appendix B, are adopted;

(b) The rules related to accounts in general, unusual items and contingent liabilities, property held for future use, construction work in progress, and the expense matrix filing requirements, adopted by the FCC in FCC Order **No.** 00-78, Appendix B, are prescribed as follow: CFR Parts 32.13, 32.25, 32.2002, 32.2003, and 32.5999;

(c) For intrastate purposes, the allocation rules in Sections 32.27(a), 32.27(b), 32.27(c), 32.27(d), and 32.27(f) are replaced by OAR 860-034-0394(3);

(d) For construction work in progress, each utility shall maintain subsidiary records consistent with ORS 759.285; and

(e) Each utility shall maintain its accounting records at an adequate level of detail to comply with other rules and statutes, as needed.

[Publications: The publication(s) 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 & 759

Stats. Implemented: ORS 756.040 & 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 6-1998, f. & cert. ef. 3-13-98 (Order No. 98-090); Renumbered from 860-034-0510 by PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 3-2000, f. & ef. 2-9-00 (Order No. 00-067); PUC 9-2000, f. & ef. 5-26-00 (Order No. 00-264); PUC 16-2000, f. & ef. 9-12-00 (Order No. 00-540)

860-034-0450

Applications for Approval of Contracts to Avoid or Eliminate Duplicate Utility Service

For purposes of this rule, “utility service” means telecommunications utility service as defined in ORS 759.500(3). Applications under ORS 759.500 through ORS 759.595 for an order of the Commission approving a contract authorized thereunder shall contain in addition to the contract, if not contained therein, the following information:

(1) A map or maps, to appropriate scale, showing the general location and boundaries of the respective applicant’s service areas.

(2) A map or maps, to appropriate scale, showing the location of customers who are being served by either or both of the parties, or who could be economically served by the then existing facilities of either party, or by reasonable and economic extensions thereto, who are covered by the contract.

(3) A description by county, section lines, river, highway, road, street, or metes and bounds, where applicable and necessary, designating the boundaries of the territory to be served by each party to the contract. Such legal description of boundary lines may be drawn and described:

(a) To eliminate minor irregularities in the boundary of each party when to do so will include within each party’s territory, only that unserved area which may be economically served by the then existing facilities of the respective parties or by reasonable and economic extensions thereto; and

(b) In the case of persons providing utility service who have entered into exchange boundary agreements before May 31, 1961, to define mutually exclusive exchange service areas, the area affected by such agreement may be described by reference to the exchange area map in that agreement. However, the applicant shall not be relieved by such reference from showing that it can economically serve the unserved areas within the exchange area map with its existing facilities or by a reasonable and economic extension thereto.

(4) A description of the equipment and facilities of each party which are the subject of sale, exchange, transfer, or lease pursuant to the contract and the consideration to be paid therefor.

(5) Facts showing that the contract will eliminate or avoid unnecessary duplicating facilities, and will promote the efficient and economic use and development and the safety of operation of the utility systems of the parties to the contract, while providing adequate and reasonable service to all territories and customers affected thereby.

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.045 & 759.500 through 759.595

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0490

Applications to Transfer Rights to Allocated Territory

For purposes of this rule, “utility service” means telecommunications utility service as defined in ORS 759.500(3). Applications under ORS 759.560 for an order of the Commission to approve the transfer of rights acquired by an allocation of territory shall comply with OAR 860-034-0440(2) and (3) and shall contain the following information:

(1) A statement of the purposes for the transfer, the supporting reasons therefore and a detailed explanation thereof justifying why the transfer will not be contrary to the public interest.

(2) A copy of all written evidence and a statement of all oral understanding compromising the agreement between the transferor and transferee covering the transfer of the territory described in the application and sought to be transferred.

(3) A map or maps, to appropriate scale, showing the general location and boundaries of the allocated territory sought to be transferred and the transferor’s and transferee’s adjacent service areas.

(4) A map or maps, to appropriate scale, showing:

(a) The number and, as practicable, the location of customers and equipment or facilities of the transferor with a detailed description of such equipment or facilities within the territory sought to be transferred; and

(b) The location of equipment or facilities of the transferor and transferee, with a detailed description of the same, which are in the territory immediately adjacent to that sought to be transferred and which are or will be interconnected therewith.

(5) A legal description comparable to that required in OAR 860-034-0470(3) of the boundaries of the territory sought to be transferred.

(6) A legal description comparable to that required in OAR 860-034-0470(3) of the resulting boundaries of the remaining allocated portion of the parcel of the transferor’s territory where the territory sought to be transferred is only part of a parcel of transferor’s allocated territory and a similar description of the resulting boundaries of the transferee’s allocated territory where the territory sought to be transferred will be contiguous to a parcel of transferee’s allocated territory.

(7) Copies of such franchises or permits as the appropriate public authorities may require authorizing the transferee to serve in the territory sought to be transferred, or evidence of the approval of the appropriate public authorities of the transfer to the transferee of the transferor’s franchise or permit to serve the territory sought to be transferred.

Stat. Auth.: ORS Ch. 183, 756 & 759
Stats. Implemented: ORS 756.040, 759.045 & 759.560
Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & ef. 5-7-98
(Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0730

Uniform System of Accounts for Type 2 Cooperatives

(1) The Uniform System of Accounts for Telecommunications Companies, Part 32, adopted by the Federal Communications Commission (FCC) with revisions to October 1, 1998, is hereby adopted and prescribed for all Type 2 cooperatives except as modified in section (2) of this rule.

(2) Exceptions to section (1) of this rule:

- (a) The rule changes adopted by the FCC on May 18, 1999, in FCC Order No. 99-106, Appendix B, are adopted;
- (b) The rule changes adopted by the FCC in FCC Order No. 00-78 are adopted; and
- (c) For construction work in progress, each Type 2 cooperative shall maintain subsidiary records consistent with ORS 759.285.

[Publications: The publication(s) 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 & 759
Stats. Implemented: ORS 756.040, 759.220 & 759.225
Hist.: PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 3-2000, f. & ef. 2-9-00 (Order No. 00-067); PUC 9-2000, f. & ef. 5-26-00 (Order No. 00-264); PUC 16-2000, f. & ef. 9-12-00 (Order No. 00-540)

Sanctions and Rental Reductions by Utilities for Pole Attachments

860-034-0810

Definitions for Pole Attachment Rules

The following definitions apply to OAR 860-034-0820 through 860-034-0940.

(1) "Commission pole attachment rules" mean OAR 860-034-0360 and OAR 860-034-0810 through OAR 860-034-0940.

(2) "Commission safety rules" mean OAR 860-024-0010 and OAR 860-034-0430.

(3) "Government entity" means a city, a county, or the state.

(4) "Notice" means written notification sent by mail, electronic mail, or telefax.

(5) "Pattern" means a pattern of behavior that results in a material breach of a contract, or permits, or in frequent or serious violations of OAR 860-034-0820.

(6) **"Pole owner" means a utility, as defined in OAR 860-034-0010.**

(7) "Serious injury" means "serious injury to person" or "serious injury to property" as defined in OAR 860-~~028-0005~~**034-0570**.

(~~78~~) "Service drop" means a connection from distribution facilities to a single family, duplex, or triplex residence or similar small commercial facility.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0820

Duties of Pole Users

(1) Except as provided in sections (2) and (3) of this rule, a pole user attaching to one or more poles of a pole owner shall:

(a) Have a written contract with the pole owner that specifies general conditions for attachments on the poles of the pole owner;

(b) Have a permit issued by the pole owner for each pole on which the pole user has attachments;

(c) Install and maintain the attachments in compliance with the written contracts required under ~~subsection (1)(a) of this section rule~~ and with the permits required under ~~subsection (1)(b) of this section rule~~; and

(d) Install and maintain the attachments in compliance with Commission safety rules.

(2) A pole user that is a government entity is not required to enter into a written contract required by ~~subsection (1)(a) of section (1) of~~ this rule, but when obtaining a permit from a pole owner under ~~subsection (1)(b) of section (1) of~~ this rule, the government entity shall agree to comply with Commission safety rules.

(3) A pole user may install a service drop without the permit required under ~~subsection (1) of section (1) of~~ this rule, but the pole user must:

(a) Apply for a permit within seven days of installation;

(b) Except for a pole user that is a government entity, install the attachment in compliance with the written contract required under ~~subsection (1)(a) of section (1) of~~ this rule; and

(c) ~~Install~~ the service drop in compliance with Commission safety rules.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0850

Sanctions for Violation of Other Duties

(1) Except as provided in sections (2) and (3) of this rule, a pole owner may impose a sanction on a pole user that is in violation of OAR 860-034-0820(1)(c), (1)(d), or (3). The sanction may be the higher of:

(a) \$200 per pole; or

(b) ~~20~~ **Twenty** times the pole owner's annual rental fee per pole.

(2) A pole owner shall reduce the sanction provided in section (1) of this rule by 70 percent if the pole user complies with OAR 860-034-0820 within the time allowed by OAR 860-034-0870.

(3) This rule does not apply to a pole user that is a government entity.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0870

Time Frame for Securing Reduction in Sanctions

(1) Except as provided in section (2) of this rule, a pole owner shall reduce the sanctions provided in these rules, if the pole user:

(a) On or before the 60th day of its receipt of notice, complies with OAR 860-034-0820 and provides the pole owner notice of its compliance; or

(b) On or before the 30th day of its receipt of notice, submits to the pole owner a reasonable plan of correction, and thereafter, complies with that plan, if the pole owner accepts it, or with another plan approved by the pole owner.

(2) Notwithstanding section (1) of this rule, a pole owner may, if there is a critical need, or if there is no field correction necessary to comply with OAR 860-034-0820, shorten the times set forth in section (1). A pole user that disagrees with the reduction must request relief under OAR 860-034-0920 prior to the expiration of the shortened time period, or within seven days of its receipt of notice of the reduction, whichever is later.

(3) A plan of correction shall, at a minimum, set out:

(a) Any disagreement, as well as the facts on which it is based, that the pole user has with respect to the violations alleged by the pole owner in the notice;

(b) The pole user's suggested compliance date, as well as reasons to support the date, for each pole that the pole user agrees is not in compliance with OAR 860-034-0820.

(4) If a pole user suggests a compliance date of more than 60 days following receipt of notice, then the pole user must show good cause.

(5) Upon its receipt of a plan of correction that a pole user has submitted under ~~sub~~section (1)(b) of this rule, a pole owner shall give notice of its acceptance or rejection of the plan.

(a) If the pole owner accepts the plan, then the pole owner shall reduce the sanctions to the extent that the pole user complies with OAR 860-034-0820 and provides the pole owner notice of its compliance, on or before the dates set out in the plan;

(b) If the pole owner rejects the plan, then it shall set out all of its reasons for rejection and, for each reason, shall state an alternative that is acceptable to it;

(c) Until the pole owner accepts or rejects a plan of correction, the pole user's time for compliance with OAR 860-034-0820 is tolled;

(d) If a plan of correction is divisible and if the pole owner accepts part of it, then the pole user shall carry out that part of the plan.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0890

Notice of Violation

A pole owner that seeks, under these rules, any type of relief against a pole user for violation of OAR 860-034-0820 shall provide the pole user notice of each attachment allegedly in violation of the rule, including the provision of the rule each attachment allegedly violates.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0900

Joint-Use Association

(1) Pole owners and pole users shall establish a Joint-Use Association (JUA). The Association shall elect a Board from the **Joint-Use Association (JUA)**, which shall include representatives of pole owners, pole users, and government entities. The Board shall act as an advisor to the Commission with respect to:

(a) Adoption, amendment, or repeal of administrative rules governing pole owners and pole users; and

(b) Settlement of disputes between a pole owner and a pole user that arise under administrative rules governing pole owners and pole users.

(2) In the event a representative is involved in a dispute under ~~subsection (1)(b) of section (1) of~~ this rule, then the representative shall not participate in resolution of the dispute, and the JUA shall appoint a temporary representative with a similar interest.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0910

Resolution of Disputes over Plans of Correction

(1) If a pole user and a pole owner have a dispute over the reasonableness of the plan of correction, then either party may request an order from the Commission to resolve the dispute. The party requesting resolution shall provide notice of its request to the Commission and to the other party:

(a) Upon receipt of a request, the Commission Staff shall, within 15 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 15 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 15 days, issue an order.

(2) Notwithstanding section (1) of the rule, either the pole owner or pole user may request a settlement conference with the ~~JUA~~ **Joint-Use Association**. The settlement conference shall be in addition to, not in lieu of, the process set forth in section (1).

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0920

Resolution of Factual Disputes

(1) If a pole user and pole owner have a dispute over facts that the pole user and pole owner must resolve so that the pole owner can impose appropriate sanctions, or in the event that a pole user is alleging that a pole owner is unreasonably delaying the approval of a written contract or the issuance of a permit, then either the pole owner or the pole user may request a settlement conference before the **Joint-Use Association (JUA)**. The party making the request shall provide notice to the other party and to the JUA.

(2) If the JUA does not settle a dispute described in section (1) of this rule within 90 days of the notice, then either the pole owner or the pole user may request a hearing before the Commission and an order from the Commission to resolve the dispute:

(a) Upon receipt of a request, the Commission Staff shall, within 30 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 30 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 30 days, issue an order.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-034-0930

Pole Attachment Rental Reductions

(1) Except as provided in section (3), a licensee shall receive a rental reduction.

(2) The rental reduction shall be based on ORS 757.282(3) and on OAR 860-034-0360.

(3) A pole owner or the Commission may deny the rental reduction to a licensee, if either the pole owner or the Commission can show that:

(a) The licensee has caused serious injury to the pole owner, another pole joint-use entity, or the public resulting from non-compliance with Commission safety rules and Commission pole attachment rules or its contract or permits with the pole owner;

(b) The licensee does not have a written contract with the pole owner that specifies general conditions for attachments on the poles of the pole owner;

(c) The licensee has engaged in a pattern of failing to obtain permits issued by the pole owner for each pole on which the pole user has attachments;

(d) The licensee has engaged in a pattern of non-compliance with its contract or permits with the pole owner, Commission safety rules, or Commission pole attachment rules;

(e) The licensee has engaged in a pattern of failing to respond promptly to the pole owner, PUC Staff, or civil authorities in regard to emergencies, safety violations, or pole modification requests; or

(f) The licensee has engaged in a pattern of delays in payment of fees and charges due the pole owner.

(4) A pole owner that contends that a licensee is not entitled to the rental reduction provided in section (1) shall notify the licensee of the loss of reduction in writing. The written notice shall:

(a) State how and when the licensee has violated either the Commission's rules or the terms of the contract;

(b) Specify the amount of the loss of rental reduction which the pole owner contends the licensee should incur; and

(c) Specify the amount of any losses that the conduct of the licensee caused the pole owner to incur.

(5) If the licensee wishes to discuss the allegations of the written notice before the **Joint-Use Association (JUA)**, the licensee may request a settlement conference. The licensee shall provide notice of its request to the pole owner and to the JUA. The licensee may also seek resolution under section (6) of this rule.

(6) If the licensee wishes to contest the allegations of the written notice before the Commission, the licensee shall send its response to the pole owner, with a copy to the Commission. The licensee shall also attach a true copy of the written notice that it received from the pole owner.

(a) Upon receipt of a request, the Commission Staff shall, within 30 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 30 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 30 days, issue an order.

(7) Except for the rental reduction amount in dispute, the licensee shall not delay payment of the pole attachment rental fees due to the pole owner.

Stat. Auth.: ORS Ch. 183, 757 & 759

Stats. Implemented: ORS 757.270 through 757.290 & 759.650 through 759.675

Hist.: PUC 15-2000, f. 8-23-00 & ef. 1-1-01 (Order No. 00-467)

860-036-0130

Late-Payment Charge

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

(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 **for residential accounts or by the bill due date for all other accounts**. 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 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, 756 & 757

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434)

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 Requirements:

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

(b) At least 15 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;

(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; **and**

(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 premises 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 Services 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); PUC 9-1999 (Temp), f. 10-22-99 & ef. 10-23-99 (Order No. 99-650); PUC 6-2000, f. 4-18-00 & ef. 4-20-00 (Order No. 00-194)

860-036-0735

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

(1) Except as provided in section (4) of this rule, this rule applies to fully regulated water 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 860-036-0030.

(2) A fully regulated water utility's failure to submit this required information shall not limit the Commission's authority to recognize or impute revenues to the fully regulated water 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 fully regulated water 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 fully regulated water utility's behalf to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the fully regulated water 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 fully regulated water 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 fully regulated water utility for providing the proposed goods or services and the benefits, if any, water 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 fully regulated water utility and the contracting entity that is the subject of this filing; and

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

(4) This rule shall not apply to fully regulated water 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 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, 756 & 757

Stats. Implemented: ORS 756.040 & 757.005 through 757.490

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)

860-037-0115

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 **for residential accounts or by the bill due date for all other accounts**. 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, 756 & 757

Stats. Implemented: ORS 756.040, 757.005 & 757.061

Hist.: PUC 9-1999 (Temp), f. 10-22-99 & ef 10-23-99 (Order No. 99-650); PUC 6-2000, f. 4-18-00 & ef. 4-20-00 (Order No. 00-194)

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) Notice Requirements:

(a) 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;

(b) At least 15 days before a water/wastewater utility disconnects service due to customer failure to abide by a time-payment agreement, written notice of disconnect must be provided to the customer; **and**

(c) 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 Services 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, 756 & 757

Stats. Implemented: ORS 756.040, 757.005, 757.061, 757.750 & 757.755

Hist.: PUC 9-1999 (Temp), f. 10-22-99 & ef 10-23-99 (Order No. 99-650); PUC 6-2000, f. 4-18-00 & ef. 4-20-00 (Order No. 00-194)

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, 756 & 757

Stats. Implemented: ORS 756.040 & 757.005 through 757.490

Hist.: PUC 9-1999 (Temp), f. 10-22-99 & ef 10-23-99 (Order No. 99-650); PUC 6-2000, f. 4-18-00 & ef. 4-20-00 (Order No. 00-194)