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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 395

In The Matter of the Triennial Review)
of Chapter 860 of the Oregon)
Administrative Rules Pursuant to)
ORS 183.545.)

ORDER

DISPOSITION: RULEMAKING DOCKETS OPENED

At the regular public meeting held on November 21, 2000, the Public Utility Commission (Commission) initiated this docket for the purpose of conducting the triennial review of its administrative rules, as required by ORS 183.545. That statute provides:

"Each agency periodically, but not less than every three years, shall review all rules that have been issued by the agency. The review shall include an analysis to determine whether such rules should be continued without change or should be amended or rescinded, consistent with the stated objective of applicable statutes, to minimize the economic effect on businesses and the effect due to the size and type of business."

ORS 183.550 further provides that, as part of the triennial review, the agency shall invite public comment upon the rules. The agency review shall consider (a) the continued need for the rule; (b) the nature of complaints or comments received concerning the rule from the public; (c) the complexity of the rule; (d) the extent to which the rule overlaps, duplicates or conflicts with other state rules or federal regulations and, to the extent feasible, with local governmental regulations; (e) the degree to which technology, economic conditions or other factors have changed in the subject area affected by the rule; and (f) the statutory citation or legal basis for each rule.

On November 28, 2000, the Commission filed Notice of its triennial review with the Secretary of State. The Notice was published in the Oregon Bulletin on January 1, 2001. The Commission received proposals for rule changes from utility customers, Roats Water System, Northwest Natural Gas Company, Portland General Electric Company, PacifiCorp, Qwest Corporation (Qwest), and; Verizon Northwest Inc. (Verizon). The Commission Staff (Staff) also recommended rule changes.¹

¹ In some cases, Staff recommended changes to similar rules in other divisions to ensure consistency among rules.

The Staff analyzed all of the requested rule changes and prepared recommendations regarding each proposed change. The Staff recommendations are summarized in Appendix A. A detailed discussion of each proposed rule change, together with proposed rule language is set forth in Appendices B through R.

At its July 24, 2001 public meeting, the Commission decided to defer consideration of the proposed rule changes so that interested persons might have additional time to comment upon the Staff recommendations. PacifiCorp, Qwest, Verizon, Northwest Natural and Avion Water Company, Inc. filed comments in response to the Staff recommendations.

At its August 7, 2001 public meeting, the Commission considered the Staff recommendations and received comments from interested parties. The Commission adopted all of the recommendations set forth in Appendices A through R, with limited exceptions. Specifically, it concluded that separate rulemaking dockets should be initiated to consider revisions in OARs 860-021-0200 (Credit Issues); 860-021-0335 (Refusal of service); 860-022-0400 (City fees, taxes); 860-026-0025 and 860-026-0030 (Promotional Concessions). In addition, the Commission invited interested parties to consult with Staff to determine if rulemaking dockets should be initiated to modify OARs 860-014-0050 (Official Notice) and 860-035-0090 (CPNI).

The purpose of this docket has been accomplished and the docket should be closed.

ORDER

IT IS ORDERED that:

1. As recommended in Appendix B, OARs 860-011-0010, 860-011-0025, 860-022-0005, 860-013-0060, and 860-013-0075(3) shall not be revised.
2. As recommended in Appendix C, OARs 860-021-0010, 860-021-0017, 860-021-0215, 860-021-0334, 860-021-0405, 860-021-0410, 860-021-0415, 860-021-0505, 860-021-0510, 860-022-0017 shall not be revised. One or more rulemaking dockets shall be opened to revise OARs 860-021-0021, 860-021-0125, 860-021-0130, 860-021-0205, 860-021-0206, 860-021-0210, 860-021-0420, 860-034-0090, 860-034-0110, 860-034-0140, 860-034-0150, 860-034-0160, 860-034-0250, 860-036-0040, 860-036-0050, 860-036-0080, 860-036-0115, 860-036-0125, 860-037-0035, 860-037-0045, 860-037-0075, and 860-037-0110. In addition, as ordered by the Commission at the August 7, 2001 public meeting, a separate rulemaking docket shall be opened to consider the revisions that should be made to OARs 860-021-0200 and OAR 860-021-0335.

3. As recommended in Appendix D, OARs 860-012-0015 and 860-014-0060 shall not be revised. A rulemaking docket shall be opened to revise OARs 860-012-0010 and 860-013-0075.
4. As recommended in Appendix E, OARs 860-013-0040, 860-014-0050, and 860-014-0092 shall not be revised. A rulemaking docket shall be opened to revise OARs 860-013-0050, 860-014-0065, 860-014-0070, and 860-014-0096.
5. As recommended in Appendix F, OARs 860-021-0120 and 860-028-0010 shall not be revised. A rulemaking docket shall be opened to revise OAR 860-021-0050.
6. As recommended in Appendix G, OARs 860-021-0315, 860-022-0058, 860-022-0059, 860-022-0120, 860-022-0130, 860-022-0140, 860-022-0150, 860-022-0180, 860-024-0010, and 860-028-0005(1)(b)(A) shall not be revised. A separate rulemaking docket, AR 401, has been established to consider revisions that should be made to OAR 860-028-0005(2) and (3).
7. As recommended in Appendix H, OARs 860-022-0042, 860-022-0045, 860-027-0005, 860-027-0070, 860-034-0330, 860-034-0340, 860-034-0395, 860-034-0750, 860-036-0745, 860-036-0750, 860-037-0555, and 860-037-0560 shall not be revised. In addition, as ordered by the Commission at the August 7, 2001 public meeting, a separate rulemaking docket shall be opened to consider whether revisions should be made to OAR 860-022-0040.
8. As recommended in Appendix I, OARs 860-023-0055 and 860-034-0390 shall not be revised.
9. As recommended in Appendix J, OARs 860-025-000 through 860-025-0027, 860-032-0001(11), 860-032-0020, 860-032-0023, 860-032-0035, 860-032-0040, 860-032-0080, and 860-032-0200 shall not be revised.
10. As recommended in Appendix K, OAR 860-027-0001 shall not be revised. A docket shall be opened to investigate OAR 860-026-0022(3)(a) and develop a policy for advertising expense classification.
11. The recommendation in Appendix L is not adopted. As ordered by the Commission at the August 7, 2001 public meeting, a separate rulemaking docket shall be opened to revise OARs 860-026-0025 and 860-026-0030 consistent with the requirements of House Bill 3500, effective January 1, 2002.

12. As recommended in Appendix M, OARs 860-035-0090 and 860-035-0100 shall not be revised. A rulemaking docket shall be opened to revise OAR 860-026-0035.
13. As recommended in Appendix N, a rulemaking docket shall be opened to revise OAR 860-027-0031.
14. As recommended in Appendix O, OARs 860-027-0050 and 860-027-0052 shall not be revised.
15. As recommended in Appendix P, OARs 860-027-100 and 860-034-0396 shall not be revised.
16. As recommended in Appendix Q, a rulemaking docket shall be opened to revise OARs 860-033-0035 and 860-033-0050.
17. As recommended in Appendix R, OAR 860-036-0040(3)(a) shall not be revised. A rulemaking docket shall be opened to revise OAR 860-036-0315.
18. Docket AR 395 is closed.

Made, entered and effective _____.

BY THE COMMISSION:

Vikie Bailey-Goggins
Commission Secretary

A party 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.

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