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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 413

In the Matter of an Temporary Rulemaking)
Pursuant to ORS 183.335(5) to Revise OARs)
860-036-0010, 860-036-0015, 860-036-0305,)
and 860-036-0315 and to Add 860-036-0301)
Relating to Water Regulation Service)
Standards.)

ORDER

DISPOSITION: TEMPORARY RULES ADOPTED

At its September 25, 2001, Public Meeting, the Public Utility Commission approved Staff's recommendation to adopt temporary rules relating to water utility service standards. The temporary rules clarify service standards in response to questions raised by members of the water industry.

Staff first recommended the temporary adoption of new or amended rules to clarify a utility's required response time for non-emergency customer inquiries, complaints, and service problems, as well as emergency customer calls and messages. OAR 860-036-0010(6) provides a definition of an "Emergency," while amended OAR 860-036-0015(9) and (10) provide a standard response time for non-emergencies and emergencies of within 24 hours and one hour, respectively. Staff's proposed OAR 860-036-0015(11) addresses the utility's response to customers experiencing emergency service conditions where all or a large portion of customers are affected. Staff also proposed adding sections (5) and (6) to OAR 860-036-0305 to provide guidelines concerning notice to customers about service problems, scheduled maintenance, and repairs.

Staff also recommended the adoption of OAR 860-036-0301 to prohibit a water utility from purposely or willfully providing substandard or inadequate service where the utility has the capacity to provide adequate service. The rule also states that the Commission has the power to require needed improvements even if the water utility meets the standard of the regulation in the rules.

Staff's request for temporary rulemaking also included rulemaking changes related to adequate water pressure that were pending in the Commission's triennial rule docket, AR 395. Because the adequacy of water pressure is an issue in several ongoing investigations, Staff recommended that certain rule changes first proposed in AR 395 be included in this temporary rulemaking. Accordingly, Staff proposed amending OAR 860-036-0315 to specify that the standard for all water pressure is adequacy as determined by the Commission. The amended rule clarifies that the water pressure standard of 20 pounds per square inch (psi) is for

health reasons and is not presumed to be adequate service. The Commission, either upon its own motion or upon a showing of water pressure complaints from 20 percent or more of the customers, may investigate the water utility's operations and capacity. The temporary rule also provides that the Commission may appoint a competent person or entity to monitor a water utility's water pressure and test its pressure recording equipment.

The Commission agrees that prompt action to adopt temporary rules is necessary to avoid serious prejudice to the public interest. Adoption of the temporary rules will provide clear service standards regarding the Commission's requirement for water utilities when responding to customers and the determination of adequate water pressure. Absent the temporary rules, current and future water service customers may be subject to inadequate service and possible health hazards.

The failure of a utility to respond or provide information to its customers about service problems, outages, and downtime can cause unnecessary customer confusion and distrust of the utility, and may increase the severity of the initial problem. Inadequate water pressure can result in unsanitary conditions, back siphonage of contaminants into the utility's water supply, fire hazards from inadequate fire flows, and property damage from inadequate irrigation service. Furthermore, any legal action by the Commission regarding these service quality standards could be negatively affected by the lack of clarity in the current administrative rules.

ORDER

IT IS ORDERED that:

1. The temporary rules attached as Appendix A are adopted.
2. The temporary rules shall be effective for a maximum of 180 days beginning on the date of filing with the Secretary of State.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

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

860-036-0010

Definitions for Water Utilities and Associations

As used in this Division:

(1) “Applicant” means a person that:

(a) Applies for service with a utility; or

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

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

(3) “Commission” means the Public Utility Commission of Oregon.

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

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

(6) “Emergency” mean an extraordinary interruption of the usual course of water service by a natural cause, an unforeseen event, or a combination of unexpected circumstances; an urgent need for assistance or relief; or the resulting state that calls for immediate action.

~~(67)~~ “Formal complaint” means a written complaint filed with the Commission’s Administrative Hearings Division.

~~(78)~~ “Fully regulated” means a water utility that is not exempt under ORS 757.061.

~~(79)~~ “Public utility” has the meaning given the term in ORS 757.005. The term does not include people’s utility districts, municipalities, or cooperatives and homeowner associations that provide service solely to their membership.

~~(810)~~ “Registered dispute” means an unresolved issue between a customer or applicant and a water utility that is under investigation by the Commission’s Consumer Services Division, but is not the subject of a formal complaint.

~~(911)~~ “Utility” means all water utilities, except when a more limited scope is explicitly stated.

~~(1012)~~ “Water utility” means all water utilities that meet the definition of a public utility found in ORS 757.005.

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

Stats. Implemented: ORS 756.040 & 756.105

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 9-2001, f. & cert. ef. 3-21-01 (Order No. 01-248)

860-036-0015

Information for Customers and Applicants

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

(2) Upon request, the water utility providing metered service shall inform its customers or applicants how to read meters, either in writing or by explanation at the water utility's offices.

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

(4) Upon request, the water utility shall supply a copy of its approved tariffs or statement of rates applicable to the type or types of service furnished to the customer by the water utility.

(5) Upon application for new service, or upon later request, the water utility shall assist the customer or applicant in selecting the most advantageous rate to meet individual service requirements. The customer or applicant shall be responsible for making the final selection of an applicable rate schedule.

(6) When service is initiated and not less than once each year thereafter, a water utility shall give its customers a written summary of their rights and responsibilities, as they relate to the water utility providing service. If service is initiated without a personal contact between the utility and the customer, the utility shall mail the summary to the customer no later than when the first bill statement is mailed. The summary shall include the text approved by the Commission's Consumer Services Division and describe:

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

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

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

(7) Water utilities exempt from rate regulation pursuant to ORS 757.061 and serving less than 500 customers shall annually notify their customers of the customers' right to petition the Commission for rate regulation provided the utility charges exceed the threshold levels established by the Commission in OAR 860-036-0030.

(8) When service is initiated, the water utility shall inquire if the customer would like to receive notices in a language other than English and will inform the customer of the types of notices and translations currently available. If the language chosen is not available, the utility will inform the customer or applicant that the translated version does not yet exist, but that the customer's or applicant's interest will be recorded for the Commission. Each utility shall report to the Commission the number of requests for notices and summaries in non-English languages. The report shall specify the number of requests for each language.

(a) The Commission will translate the Rights and Responsibilities Summary for Oregon Utility Consumers into the designated non-English languages and provide copies to water utilities. The information published by a water utility pursuant to OAR 860-036-0015 shall

prominently display the following statement in the designated non-English languages at the beginning of the summary and be printed in boldface: A version of the Rights and Responsibilities Summary for Oregon Utility Consumers printed in this language is available by calling (name of utility) at (phone number).

(9) Each water utility shall maintain a business location and a regular telephone number at which it may be contacted directly by customers, applicants, or the Commission during its regular business hours. **The water utility shall respond to nonemergency customer inquiries, complaints, and service problems promptly and within a reasonable period. For purposes of this rule, a reasonable period is considered to be 24 hours.**

(10) The water utility shall provide a means by which it may be contacted at any hour in the event of a service failure or emergency or at which a customer or applicant may leave a message reporting such failure or emergency. A water utility shall respond to emergency calls or messages within one hour of the time of the call or message, unless extenuating circumstances exist that prevent such response. The water utility may be required to justify such action to the Commission's satisfaction.

(11) In the event of an emergency involving all customers, a major portion of customers, or a specific geographical area of customers, the water utility shall use its best efforts to communicate and provide information to all affected customers as soon as possible.

~~(1012)~~ Notices approved by the Commission shall be posted in a conspicuous place in each water utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The notices shall be printed and shall be written in language that is easy to understand.

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

Stat. Implemented: ORS 756.040

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

860-036-0301

Quality of Water Service

(1) No water utility shall purposely or willfully provide substandard service or inadequate service when the water utility has the capacity to provide adequate service as determined by the Commission.

(2) The Commission has the power to require needed improvements notwithstanding that the utility meets the standard of the regulation in Division 036.

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

Stats. Implemented: ORS 756.040, 757.020, & 757.250

Hist.: NEW

860-036-0305

Maintenance of Plant and Equipment

(1) A water utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service.

(2) A water utility shall inspect its plant distribution system and facilities in such manner and with such frequency as may be needed to ensure a reasonably complete knowledge about their condition and adequacy at all times. Such record shall be kept of the conditions found as the utility considers necessary to properly maintain its system, unless in special cases the Commission specifies a more complete record.

(3) Dead end mains or other low flow portions of the distribution system shall be flushed as needed or at reasonable intervals to eliminate or minimize complaints from customer's or applicants arising from an objectionable condition of water. A record shall be kept of all flushings of main lines showing date, place and duration.

(4) Each water utility shall inspect, exercise, and maintain valves and hydrants as necessary to ensure they are operable. A record shall be kept of all inspections, maintenance, repairs, and exercises of all valves and hydrants.

(5) Each water utility shall make repairs and perform maintenance to its water system in a timely manner to prevent future damage to the water system, unnecessary wear and tear on equipment and water plant, and minimize customers' inconvenience, loss of water flow, low water pressure, and/or inadequate service.

(6) Each water utility shall communicate with the customer(s) or person(s) reporting service problems, informing the customer/person of:

(a) The source or suspected source of the service problem,

(b) The expected date of the repair,

(c) The length of time the repair is expected to take, and

(d) The effect it may have on the customers' service.

(7) The water utility shall notify all affected customers of the repair in a like manner.

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

Stats. Implemented: ORS 756.040 & 757.020

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

860-036-0315

Adequate Water Pressure Required

(1) The standard for all water pressure is adequacy as determined by the Commission.

(2) As used in this rule, "customer" means individual residential dwelling or commercial unit served by the water utility.

(3) Except as provided in section (7) of this rule, Each water utility shall maintain pressure at a minimum of 20 pounds per square inch (psi) for health reasons to each customer at all times and not exceed a maximum of 125 pounds per square inch psi to each customer. The 20 psi standard is not presumed to be adequate service and does not restrict the

authority of the Commission to require improvements where water pressure or flow is inadequate.

(4) In general, 40 psi of water pressure in the water mains is usually adequate for the purposes of this rule. Adequate pressure may vary depending on each individual water system and its customers' circumstances. In the case of a dispute, the Commission will determine the appropriate water pressure for the water utility.

(5) Each water utility shall maintain pressure recording gauges in good operating condition, test periodically for accuracy, and replace when necessary.

(6) The Commission, either upon its own motion or upon a showing of water pressure complaints from 20 percent or more of the customers shall investigate the operations and capacity of the water utility to provide adequate service. When necessary, the Commission may appoint a competent person or entity to monitor a water utility's water pressure at various points throughout the system and test the water utility's recording or measuring devices for accuracy.

(7) Each water utility may temporarily reduce or increase water pressure for fire flows, announced scheduled repairs, and emergency repairs and outages.

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

Stats. Implemented: ORS 756.040, 757.005, 757.020 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-023-0065