

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 15, 2001

REGULAR AGENDA X **CONSENT AGENDA** **EFFECTIVE DATE**

DATE: June 6, 2001

TO: Chairman Hemmingway, Commissioner Smith and Commissioner Hamilton

FROM: Sam Petrillo

SUBJECT: AR 398, AR 400 and AR 410 – Amendment of Oregon Administrative Rules, Chapter 860.

SUMMARY RECOMMENDATION: Adopt amendments to Oregon Administrative Rules, Chapter 860.

DISCUSSION:

At its February 6, 2001, Public Meeting, the Commission initiated these rulemaking dockets to consider a number of housekeeping changes to Oregon Administrative Rules, Chapter 860. Dockets AR 398 and AR 400 recommend minor changes to administrative rules in Divisions 021, 022, 023, 025, 026, 027, 032, 034, 036 and 037. The changes are designed to more clearly identify the type of utility subject to each rule, cross-reference rules in other Divisions, and utilize headings that more accurately reflect the contents of the rules. Docket AR 410 proposes revisions in OARs 860-034-0330 and 860-034-0340 to clarify that these rules apply to small telecommunications utilities and Type 2 cooperatives.

Notices of the proposed rulemakings were filed with the Secretary of State on February 9, 2001, and were published in the March 1, 2001, Oregon Bulletin. Verizon Northwest, Inc. filed comments in all three rulemaking dockets. No other comments were filed. There was no request for a public hearing in any of the three dockets.

The proposed revisions and Verizon's comments are addressed in the attached draft order, which adopts some, but not all, of Verizon proposals. In Docket AR 398, the draft order concludes that the rules should differentiate between large versus small telecommunications utilities to avoid the potential for confusion, notwithstanding Verizon's recommendation to the contrary. The draft order also declines to adopt Verizon's proposal to merge OAR 860-032-0210 with OAR 860-032-0035, because it may entail substantive issues beyond the scope of the notice.

In Docket AR 400, the draft order disagrees with Verizon's recommendation that OAR 860-026-0015(2)(a), (b) and (e), dealing with "promotional concessions" not apply to large telecommunications utilities. The draft order also declines to adopt Verizon's

proposed language for OAR 860-027-0035(1)(g)(B), concluding that the reference to “public and telecommunications utilities” is appropriate.

In Docket AR 410, the draft order does not adopt Verizon’s proposal to amend OAR 860-034-0330 to allow telecommunications utilities to itemize on customer bills all privilege taxes, fees and other assessments. As before, Verizon recommends a substantive change that goes beyond the scope of the notice issued in this rulemaking.

STAFF RECOMMENDATIONS:

Adopt the proposed amendments to Oregon Administrative Rules, Chapter 860, as set forth in the draft order.

ORDER NO. **DRAFT**

ENTERED

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 398, AR 400, AR 410

In the Matter of the Rulemaking Proceeding)
to Make Housekeeping Revisions to Clearly)
Differentiate Between Public Utilities, Large)
Telecommunications Utilities, Small)
Telecommunications Utilities,)
Telecommunications Cooperatives,)
Competitive Providers, and Other)
Telecommunications Providers (AR 398).)

ORDER

and

In the Matter of the Rulemaking Proceeding)
to Make Housekeeping Revisions to Clearly)
Differentiate Between Consumer-Owned)
Utilities, Electric Utilities, Gas Utilities,)
Large Telecommunications Utilities, and)
Other Telecommunications Providers in)
Divisions 021, 022, 023, 024, 025, 026, 027,)
and 036 (AR 400).)

and

In the Matter of the Rulemaking Proceeding)
to Revise OARs 860-034-0330 and 860-034-)
0340 for Small Telecommunications Utilities)
and Telecommunications Cooperatives)
(AR 410).)

DISPOSITION: RULES AMENDED

On February 6, 2001, the Public Utility Commission of Oregon (Commission or PUC) opened these rulemaking dockets to consider a number of housekeeping changes to Oregon Administrative Rules, Division 860. The Commission

ORDER NO. **DRAFT**

filed notices of the proposed rulemakings with the Secretary of State on February 9, 2001. The Notices were also served on an extensive list of interested persons. The notices described the rule changes proposed by the PUC Staff, and included Statements of Need, Statutory Authority, Principal Documents Relied Upon, and Fiscal and Economic Impact.

Verizon Northwest, Inc. filed comments in all three rulemaking dockets. No other comments were filed. There was no request for a public hearing in any of the three dockets.

Docket AR 398. This rulemaking proposes minor changes to administrative rules in Divisions 022, 032, and 034 to more clearly identify the type of utility subject to each rule. See Appendix A.

Large vs. Small Telecommunications Utilities. The proposed rules distinguish between large telecommunications utilities and small telecommunications utilities. Verizon claims this distinction is unnecessary because the current rules have not caused widespread confusion among carriers. Staff responds that the current rules are often read out of context, causing confusion for small telecommunications utilities, competitive telecommunications providers, Staff and consultants. It believes that the proposed changes will clarify the applicability of the rules and generally make them easier to use.

The Commission agrees with Staff that differentiating between small telecommunications utilities and large telecommunications utilities will provide additional clarification and minimize the potential for confusion. The proposed changes are therefore adopted.

Heading for OARs 860-032-0020, 860-032-0023, and 860-032-0035. Verizon recommends that the heading preceding this group of rules be revised to clarify that the rules deal with “regulated telecommunications services” rather than merely “regulated services” as described in the proposed rules. Verizon notes that its proposal corresponds with the heading used in OAR 860-026-0026. The Commission concludes that the heading for this group of rules should be revised to read “Requests to Abandon, Exempt from Regulation, or Price List Regulated Telecommunications Utility Services.” This change corresponds to the heading used in OAR 860-026-0026 and also reflects that price-listing only applies to telecommunications utilities, not competitive telecommunications providers.

OAR 860-032-0035. Verizon recommends that the heading of this rule be revised from “Petitions to Price List Utility Services” to “Petitions to Price List Telecommunications Utility Services.” The Commission agrees that Verizon’s recommendation will make the rule clear.

Merging OAR 860-032-0210 with OAR 860-032-0035. OAR 860-032-0210 addresses requests by local exchange carriers to price list toll and other non-local

ORDER NO. **DRAFT**

exchange services pursuant to ORS 759.195. OAR 860-032-0035 addresses requests to price list local exchange services pursuant to ORS 759.030(6). Neither rule specifically addresses requests to price list toll services pursuant to ORS 759.030(8). Verizon recommends that the two rules be merged into a single rule with three subparts.

The Commission agrees with Verizon that it may make sense to consider merging OAR 860-032-0210 with OAR 860-032-0035 or, alternatively, to consider incorporating the price listing requirements associated with ORS 759.030(8) into OAR 860-032-0035. However, both of these options may raise substantive issues relating to toll service price listing that are beyond the scope of the notice in this proceeding. The notice provides that the Commission will consider housekeeping changes only, not make substantive changes in the applicability of the rules under consideration. Accordingly, Verizon's proposal cannot be considered at this time.

Docket AR 400. This rulemaking docket proposes changes to the administrative rules in Divisions 021, 022, 023, 025, 026, 027, and 036, to more clearly identify the type of utility subject to each rule. See Appendix B.

OAR 860-021-0010 requires utilities to distribute annual notices to their customers summarizing consumer rights and responsibilities. Subsection (6)(e) requires utilities to specify procedures for conflict resolution, instructions for registering disputes with the Commission, and the toll-free number of the Commission's Consumer Services Division. As proposed, subsection (6)(e) applies only to large telecommunications utilities. Verizon proposes that it be amended to include electric utilities as well. The Commission concludes that the rule should apply to all energy utilities, not just electric utilities. The omission in the proposed rule appears to be a typographical error, since energy utilities are currently obligated to publish such summaries.

OAR 860-021-0335(4)(a) addresses the circumstances under which utility service may be refused. Verizon recommends eliminating the duplicative reference to OTAP customers. The Commission agrees.

OAR 860-023-0001(4) defines "telecommunications carrier." Verizon correctly points out that the rule should refer to ORS 759.400 rather than ORS 759.690.

OAR 860-026-0015(2)(a), (b), and (e) deal with "promotional concessions" made by utilities. Verizon claims that these rules pertain only to electric service or real estate financing, and do not apply to large telecommunications utilities. The Commission disagrees with Verizon on this point. The type of promotional concessions addressed in these subsections could be offered by both energy utilities and large telecommunications utilities. The proposed rule should remain unchanged.

ORDER NO. **DRAFT**

OAR 860-027-0035(1)(g)(B) deals with utility applications for authority to guarantee indebtedness under ORS 757.440 and ORS 759.350. Verizon recommends that the proposed rule be revised to refer to “electric and large telecommunications utilities” rather than “public and telecommunications utilities.” Although the rule is limited to applications filed by “energy and large telecommunications utilities,” the language in subsection (1)(g)(B) relates to the statutory definitions of “public utility” in ORS 757.005(1)(a), and “telecommunications utility” in ORS 759.005(1)(a), and the utility service obligations imposed by ORS Chapters 757 and 759, respectively. For that reason, the Commission finds that the proposed rule should remain unchanged.

Docket AR 410. This rulemaking proposes revisions in OARs 860-034-0330 and 860-034-0340 to clarify that they apply to small telecommunications utilities and Type 2 cooperatives. See Appendix C.

OAR 860-034-0330. Verizon recommends that OAR 860-034-0330 be revised to incorporate changes the company has proposed to OAR 860-022-0042 in docket AR 395. Specifically, Verizon urges that telecommunications utilities be allowed to itemize on customer bills all privilege taxes, fees, and other assessments. OAR 860-034-0330 currently provides that only those taxes, fees, and assessments exceeding 4 percent of local access revenues may be separately itemized on customer bills.

As noted above, the revisions proposed in this docket are housekeeping changes designed to clarify the applicability of these rules. Verizon recommends substantive changes to OAR 860-034-0330 which go beyond the scope of the notice issued in this proceeding. Accordingly, Verizon’s proposal cannot be considered at this time. The Commission will have the opportunity to consider Verizon’s concerns regarding the itemization of taxes, fees, and assessments in docket AR 395.

ORDER

IT IS ORDERED that:

1. Oregon Administrative Rules, Divisions 022, 032, and 034, as set forth in Appendix A of this order, are adopted.
2. Oregon Administrative Rules, Divisions 021, 022, 023, 025, 026, 027, and 036, as set forth in Appendix B of this order, are adopted.
3. Oregon Administrative Rules 860-034-0330 and 860-034-0340, as set forth in Appendix C of this order, are adopted.

ORDER NO. **DRAFT**

4. The changes to the Oregon Administrative Rules authorized in this order shall be effective upon filing with the Secretary of State.

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.

860-022-0026

**Requests to Abandon, Exempt from Regulation, or Price-List Regulated
Telecommunications Services**

A large telecommunications utility is subject to the requirements set forth in OAR 860-032-0020, 860-032-0023, 860-032-0025, and 860-032-0035.

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

Stats. Implemented: ORS 756.040, 759.020, 759.030, 759.035, 759.050, 759.190 & 759.195

Hist.: NEW

860-032-0001

Definitions for Telecommunications

For the purpose of this Division:

(1) “Competitive Provider” means a competitive telecommunications provider as defined in ORS 759.005(2)(a), who provides services authorized pursuant to ORS 759.020.

(2) “Cooperative” means a cooperative corporation or association, which provides local exchange telecommunications service within its own exchanges, which is organized under ORS Chapter 62, and which is certified under ORS 759.025(2).

(3) “Exempt Service” means a telecommunications service that is completely deregulated. All revenues from, costs of, and assets dedicated to providing the service are not under the Commission’s jurisdiction, until and unless the service is re-regulated under OAR 860-032-0025(6).

(4) “Local Exchange Service” means local exchange telecommunications service as defined in ORS 759.005(2)(c). Local exchange service includes “shared service.”

(5) “Operator Service” means service provided by a telecommunications provider in response to a request for special billing, dialing assistance, or information regarding the use of and charges for its telecommunications services. An operator service may be manual or automatic.

(6) “Pay Telephone” means a telephone instrument, generally placed in public areas, for transient use on a pay-per-call basis. “Pay Telephone” instruments may be coin operated, noncoin operated, prepay, postpay, central office controlled, instrument controlled, provided by local exchange carriers, or provided by other persons or entities.

(7) “Price-Listed Service” means a product or service whose price and terms are authorized under OAR **860-032-0023, OAR** 860-032-0035, ~~OAR 860-032-0210~~, ORS 759.030, ORS 759.050, or ORS 759.195, and posted in a price list filed with the Commission. The costs and revenues of a price-listed product or service shall be considered part of the telecommunications utility’s regulated activities.

(8) “Private Telecommunications Network” means a system, including the construction, maintenance, or operation of the system, for the provision of a service or any portion of a service, by a person for the exclusive use of that person and not for resale, directly or indirectly. “Private Telecommunications Network” includes services provided by the State of Oregon pursuant to ORS 190.240 and ORS 283.140.

(9) “Shared Service” means shared telecommunications service as defined in ORS 759.005(2)(f) and:

(a) The provision of telecommunications and information management services and equipment:

- (A) To a user group comprised of one person or association served by a single telecommunications system;
 - (B) Located in a single building or in several buildings on contiguous property;
 - (C) By a commercial shared service provider or by a users' association; and
 - (D) Through privately owned customer premises equipment and associated data processing and information management services.
- (b) Includes connection to local exchange service.
 - (10) "Telecommunications Provider" or "provider" includes competitive providers, cooperatives, and telecommunications utilities.
 - (11) "Telecommunications Service" or "service" means two-way switched access and transport of voice communications, and all services provided in connection with such services, but excludes:
 - (a) Services provided by radio common carrier;
 - (b) One-way transmission of television signals;
 - (c) Surveying;
 - (d) Private telecommunications networks; and
 - (e) Customer communications which take place on the customer's side of the network interface.
 - (12) "Telecommunications Utility" means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.
 - (13) "Toll Service" means a telecommunications service between local exchanges carried on the public switched network for which charges are made on a per-unit basis.
 - (14) "Unserved Person" means a person:
 - (a) Who lacks local exchange service;
 - (b) Who is applying for residential service or business service with five or fewer lines; and
 - (c) Who, for the initiation of such service, would be required to pay line extension charges.

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

Stats. Implemented: ORS 756.040 & 759.005

Hist.: PUC 27-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 19-1986 (Temp), f. & ef. 12-15-86 (Order No. 86-1253); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1989 (Temp), f. & cert. ef. 7-10-89 (Order No. 89-847); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 5-1993, f. & ef. 2-19-93 (Order No. 93-184); PUC 1-1994, f. & ef. 1-5-94 (Order No. 94-040); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 4-2000, f. & ef. 2-9-00 (Order No. 00-068)

**Requests to Abandon, Exempt from Regulation, or Price List Regulated
Telecommunications Utility Services**

860-032-0020

860-032-0023

Price List Petitions

(1) When submitting a petition for price listing pursuant to ORS 759.195, the **telecommunications** utility shall submit a list of the services deemed to be essential and a list of the remaining services. The **telecommunications** utility shall provide the following information:

- (a) A description of each price-listed service; and
 - (b) Any proposed maximum price to be charged for the price-listed service and the basis upon which this price has been established.
- (2) The petition shall demonstrate that the following conditions have been met:
- (a) Pricing flexibility is reasonably necessary to enable the **telecommunications** utility to respond to current and future competitive conditions for any or all telecommunications services;
 - (b) Pricing flexibility will maintain the appropriate balance between the need for price flexibility and the protection of customers and applicants;
 - (c) Pricing flexibility is likely to benefit the customers of fixed-rate services;
 - (d) Pricing flexibility is unlikely to cause any undue harm to any customer class; and
 - (e) The rate for the service is not lower than the long-run incremental cost of providing the service.

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

Stats. Implemented: ORS 756.040, 759.030 & 759.190

Hist.: PUC 18-1988, f. & cert. ef. 12-29-88 (Order No. 88-1522); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 4-2000, f. & ef. 2-9-00 (Order No. 00-068); **Renumbered from 860-032-0210**

860-032-0035

Petition to Price List Telecommunications Utility Services

- (1) Pursuant to ORS 759.030(6), a telecommunications utility may petition the Commission to price list a service. The petition shall contain the following information:
- (a) The name of the petitioner;
 - (b) A description of the proposed price-listed service, including the initial price list with the proposed terms and prices of the service;
 - (c) Documentation and information to support findings the Commission must make and the criteria the Commission must consider as set forth in sections (4), (5), and (6) of this rule; and
 - (d) A statement from:
 - (A) Each joint telecommunications provider of the service that it agrees to the price list; or
 - (B) The petitioner indicating how the price list will affect the rates and services of all joint telecommunications providers of the service.
- (2) A telecommunications utility seeking to price list a service shall identify other telecommunications providers who provide the service in the same geographic area as does the petitioner.
- (3) After notice and investigation, the Commission may, by order, grant a petition to price list a service.
- (4) The petition to price list a telecommunications service may be granted, subject to reasonable conditions, if the Commission finds:
- (a) The service is subject to competition; or
 - (b) The service is not essential.
- (5) Before finding that a service is subject to competition, the Commission shall consider:
- (a) The extent to which services are available from alternative telecommunications providers in the relevant market;
 - (b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

ORDER NO. **DRAFT**

- (c) Existing economic or regulatory barriers to entry; and
- (d) Any other factors deemed relevant by the Commission.

(6) Before finding that a telecommunications service is “not essential,” for purposes of ORS 759.030(6) and section (4)(b) of this rule, the Commission will apply the following criteria:

- (a) There is a rebuttable presumption that a service listed in OAR 8600320200 is also essential for purposes of ORS 759.030(6) and this rule;
- (b) A service required for emergency 9-1-1 calls is essential;
- (c) A service is essential if customers require it to efficiently establish, sustain, or discontinue a telecommunications call by means of the public switched network;
- (d) A service may be deemed “not essential” only if it is not essential for all customer classes. If a service is found to be essential for one customer class, it shall be considered an essential service, and it shall not be deemed “not essential.” Customers include end-users, telecommunications providers, enhanced service providers, and radio common carriers;
- (e) If the Commission determines that a service is “not essential,” it will be deemed not essential for all areas in Oregon served by the petitioner;
- (f) Presence of alternatives to the service will be considered. The presence or absence of alternatives, in and of itself, is not sufficient to determine whether a service is essential;
- (g) For telecommunications utilities certified prior to January 1, 1999, there is a rebuttable presumption that a telecommunications service which is first offered after January 1, 1999, is not essential;

(h) For any person certified as a telecommunications utility after January 1, 1999, all services proposed to be offered initially shall be deemed essential. However, the telecommunications utility may, with the application for a certificate of authority or thereafter, petition under this rule to price list some or all of its telecommunications services.

(i) A service is not new if it merely renames, repackages, or is a variation of an existing service; and

(j) There is a rebuttable presumption that a package of telecommunications services is not essential, provided each service within the package is readily available to customers on a separate basis.

(7) The rate set for a price listed service shall not be lower than the long-run incremental cost of providing the service.

(8) The rate set for a package of services must be equal to or greater than the tariffed rate(s) for the essential service(s) plus the long-run incremental cost(s) of the “not essential” service(s) in the package.

(9) Unless the Commission finds the petition is contrary to the public interest, a petition to price list a service shall be granted, subject to reasonable conditions.

(10) After notice and investigation, the Commission may amend or revoke an order price listing a service. The Commission may take such an action upon a finding that the circumstances under which the service was price listed no longer exist, or that the public interest requires that the telecommunications utility’s authority to price list a service be changed.

(11) If the Commission authorizes a telecommunications utility to price list a service, the telecommunications utility shall file a price list consistent with the terms of the order. The telecommunications utility may revise the price list by filing revisions with the Commission. Unless otherwise required by the Commission, a price list shall be effective on the date specified by the telecommunications utility. The price list may be effective immediately on filing with the

Commission. The procedures in ORS 759.180 to 759.190 do not apply to filing or revising a price list.

(12) The Commission may at any time order a telecommunications utility to appear before the Commission and establish that any or all of its price listed service rates or terms and conditions are just, reasonable, nondiscriminatory, and in the public interest. After hearing, the Commission may order the telecommunications utility to change the terms and condition or rates of its price listed services. The telecommunications utility may not thereafter change any terms and conditions or rates of price listed services contrary to the terms of the Commission order without approval by the Commission.

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

Stats. Implemented: ORS 756.040, 759.030 & 759.195

Hist.: PUC 77-1985 (Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1998, f. & ef. 4-28-98 (Order No. 98-170); PUC 4-2000, f. & ef. 2-9-00 (Order No. 00-068)

Telecommunications Subsidies

860-032-0040

Shared Telecommunications Service

860-032-0045

Declaratory Ruling

860-032-0050

Reporting Requirements and Annual Fees

860-032-0060

Reporting Requirements for Telecommunications Providers

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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

Collective Consideration of Intrastate Rates, Tariffs, or Conditions of Service

860-032-0100

Essential and Basic Services

860-032-0190

Definition of Basic Telephone Service

(1) Purpose of rule. This rule defines the term “basic telephone service” pursuant to Ch. 1093, Laws of 1999 (SB 622), Section 23(1), as the term is used in Ch. 1093, Laws of 1999 (SB 622), Sections 23 through 38.

(2) “Basic telephone service” means retail telecommunications service that is single party, has voice grade or equivalent transmission parameters and tone-dialing capability, provides local exchange calling, and gives customers access to but does not include:

(a) Extended area service (EAS);

(b) Long distance service;

(c) Relay service for the hearing and speech impaired;

(d) Operator service such as call completion assistance, special billing arrangements, service and trouble assistance, and billing inquiry;

(e) Directory assistance; and

(f) Emergency 9-1-1 service, including E-9-1-1 where available.

(3) The following are classified as basic telephone service, whether sold separately or in a package:

(a) Residential single party flat rate local exchange service;

(b) Business single party flat rate local exchange service, also known as “simple” business service;

(c) Residential single party measured local exchange service, including local exchange usage;

(d) Business single party measured local exchange service, including local exchange usage;

(e) Private branch exchange (PBX) trunk service;

(f) Multiline or “complex” business service; and

(g) Public access line (PAL) service.

(4) Services that are not considered basic telephone service include but are not limited to the following:

(a) Integrated Services Digital Network (ISDN) service;

(b) Digital subscriber line service, also known as xDSL service;

(c) Frame relay service;

(d) Centrex-type service;

(e) Private line or dedicated point-to-point service;

(f) Packet switched service;

(g) Foreign exchange service;

(h) Multiparty service, such as two-party and four-party suburban service; and

(i) Custom calling features, such as call waiting and caller ID.

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

Stats. Implemented: ORS 759.005 & 759.400

Hist: PUC 15-1999 (Temp), f. 12-15-99 & ef. 12-30-99 (Order No. 99-756); PUC 11-2000, f. & ef. 5-31-00 (Order No. 00-265); **Renumbered from 860-032-0260**

860-032-0210

[ED. NOTE: Former OAR 860-034-0210 was renumbered to OAR 860-032-0023]

Pay Telephones

860-032-0230

860-032-0260

[ED. NOTE: Former OAR 860-032-0260 was renumbered to OAR 860-032-0190]

Division 034

Regulation of Small Telecommunications Utilities and Telecommunications Cooperatives

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 **small telecommunications** 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 **small telecommunications** utilities as defined in section (3) of this rule.

(3) As used in this Division:

(**ba**) “**Small telecommunications Utility**” means a telecommunications utility partially exempt from regulation under ORS 759.040.;

(**ab**) “Telecommunications utility” has the meaning given the term in ORS 759.005.;

(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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-034-0020

Definitions for OAR 860-034-0030 through 860-034-0290

As used in OAR 860-034-0030 through ~~OAR 860-034-0270-0290~~:

(1) “Applicant” means a person who:

(a) Applies for service with a **small telecommunications** utility; or

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

(2) “Customer” means a person who has applied for, been accepted, and is currently receiving service. Notwithstanding section (1) of this rule, a customer who voluntarily disconnects service and later requests service with the same **small telecommunications** utility at a new or existing location within 20 days after disconnection retains customer status.

(3) “Local exchange service” has the meaning given to “local exchange telecommunications service” in ORS 759.005 (2)(c).

(4) “OTAP” has the meaning given to “Oregon Telephone Assistance Program” in OAR Chapter 860, Division 033.

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

(6) “Regulated charges” means charges for services delivered in Oregon and subject to the jurisdiction and approval of the Commission.

(7) “Utility service” means a service which is subject to Commission jurisdiction including local exchange service and intraLATA toll service.

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

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 17-1997 (Temp), f. 12-11-97, ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-034-0030

Applications for Service from a Small Telecommunications Utility

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

(a) Service is requested by a person who has not previously been served by the **small telecommunications** utility; or

(b) Service has been involuntarily discontinued in accordance with these rules, and the person later seeks to have service restored.

(2) An application for utility service may be requested when service has been voluntarily discontinued, and a request to restore service has not been made within 20 days.

(3) An application is a request for utility service. The **small telecommunications** utility shall not accept an application for service until the applicant:

(a) Establishes credit as set forth in OAR 860-034-0140; or

(b) Pays a deposit or deposit installment to the **small telecommunications** utility.

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-034-0040

Information for Utility Customers and Applicants

(1) Each **small telecommunications** utility shall, upon request, furnish each customer and applicant with such information as is reasonable to permit them to secure efficient service.

(2) Each **small telecommunications** utility shall keep on file and open for public inspection at its offices, complete rate schedules, contract forms, rules and regulations of the utility, and a copy of the Commission’s rules and regulations.

(3) Each **small telecommunications** utility shall supply, upon request, a copy of the tariffs applicable to the type or types of service furnished to the customer by the utility.

(4) Upon application for new service, or upon subsequent request, the **small telecommunications** 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 a rate schedule.

(5) When service is initiated and not less than once each year thereafter, every **small telecommunications** utility shall give its residential customers a written summary of their rights and responsibilities. If service is initiated without a personal visit between the **small telecommunications** utility and the customer, the utility shall mail the summary to the customer no later than when the first bill statement is mailed. A **small telecommunications** utility satisfies the annual notification requirement by prominent publication of the information in a telephone directory distributed to its customers annually. The summary shall include the text of a summary prepared by the Commission's Consumer Services Division or prepared by the **small telecommunications** utility and approved by the Commission that describes:

(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) Applicable financial assistance programs, such as the Oregon Telephone Assistance Program and Link-Up America;

(c) The availability of medical certificates;

(d) Special payment options. Late-payment charges, if any, shall be explained, along with the availability of any preferred billing date option;

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

(f) Listings of consumer organizations that participate in Commission proceedings, including addresses and telephone numbers, may be requested from the Commission's Consumer Services Division; and

(g) The Commission's telephone solicitation rules.

(6) When service is initiated, the **small telecommunications** utility shall inquire whether the customer would like to receive notices in a language other than English and will inform the customer of the type of notices and translations currently available. If the language chosen is not available, the **small telecommunications** utility will tell the customer the translated version does not yet exist, but that the customer's interest will be recorded for the Commission. Each **small telecommunications** utility shall retain a record of the number of requests for notices and summaries in non-English languages in a format that can be forwarded to the Commission immediately upon request. The reports shall specify the number of requests for each language.

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

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-034-0050

Multilingual Notices

(1) A **small telecommunications utility shall provide a** multilingual disconnect notice ~~shall be provided~~ when 5 percent or 500 customers, whichever is the lesser, have requested such a notice.

(2) Disconnect notices as required in section (1) of this rule shall contain the following information translated into the requested languages:

IMPORTANT NOTICE: Your 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.**

(3) A **small telecommunications** utility may petition the Commission for a waiver of the requirement in sections (1) and (2) of this rule to provide multilingual notice for two calendar years, which may be renewed, upon a showing that such notices are not necessary.

(4) The Commission will translate a consumer's rights and responsibilities summary into the following non-English languages: Spanish, Vietnamese, Cambodian, Laotian, and Russian. The Commission will provide copies to a **small telecommunications** utility upon request.

(5) The **small telecommunications** utility shall record all requests and promptly mail the requested version of the summary to the consumer.

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

Stats. Implemented: ORS 756.040 & 759.030

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)

860-034-0060

Dispute Resolution

(1) When a dispute occurs between a customer or applicant and a **small telecommunications** utility about any bill, charge, or service, the utility shall thoroughly investigate the matter and promptly report the results of its investigation to the customer or applicant. Each **small telecommunications** utility shall prepare a written record showing the name and address of the customer or applicant involved, the date and character of the dispute, and the disposition of the matter. The **small telecommunications** utility shall retain records of the dispute pursuant to OAR 860-034-0580.

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

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

ORDER NO. **DRAFT**

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

(5) If a registered dispute cannot be resolved informally, the Commission's Consumer Services Division shall advise the complainant of the right to file a formal written complaint with the Commission. The complaint shall state the facts of the dispute and the relief requested. The **small telecommunications** utility shall answer the complaint within 15 days of service of the complaint. The matter shall then be set for expedited hearing. A hearing may be held on less than ten days' notice when good cause is shown.

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

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

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

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

(c) When termination is based on nonpayment, the customer or applicant makes adequate arrangement to avoid future loss to the **small telecommunications** utility, such as prepaying estimated monthly utility charges; and

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

(8) If the conditions in section (7) of this rule are not satisfied, the **small telecommunications** utility has no obligation to provide continued service. A **small telecommunications** utility discontinuing service because of a failure to meet the conditions of subsections (7)(c) or (7)(d) of this rule shall give the customer five-day notice served in the same manner as provided by OAR 860-034-0260 except the notice need only describe the defect in performance, the date and time after which utility service will terminate, and the toll-free number of the Commission's Consumer Services Division. In deciding whether the conditions are met, the **small telecommunications** utility shall consult with the Commission's Consumer Services Division. A customer or applicant who has filed a formal complaint, the **small telecommunications** utility, or the Commission's Consumer Services Division may ask the Commission for a hearing to decide if the conditions are met. Unless extraordinary circumstances exist, the hearing will be conducted by telephone conference within three business days from the date requested. Notice of hearing will be given to the customer, the **small telecommunications** utility, and the Commission's Consumer Services Division at least 12 hours before the date and time of the hearing. Notice is effective when given in person, by telephone, or in writing delivered to the party's last known address. Mailed notice is effective two days after deposit in the U.S. mail, excluding Sundays and holidays.

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

Stats. Implemented: ORS 756.040, 759.045 & 759.500

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 8-1999, f. & ef. 10-18-99 (Order No. 99-632)

860-034-0070

Designation of Third Party to Receive Notices

Each small telecommunications utility shall offer its customers the option to designate a third party to receive bills and notices set forth in these rules. When a small telecommunications utility receives such designation, it shall send bills and notices required under these rules to the representative, with duplicate copies of disconnect notices also served on the customer.

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)

860-034-0080

Restrictions on Entering a Customer Residence

No employee of a small telecommunications utility-~~employee~~ shall enter the residence of a customer without proper authorization except in an emergency endangering life or property.

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

Stat. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185)

860-034-0090

Interruption of Utility Service

(1) Each small telecommunications utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration, and cause of interruption.

(2) Each small telecommunications utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur, shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) To the extent practical, every customer affected shall be notified in advance of any contemplated work which will result in interruption of service, but such notice shall not be required in case of interruption due to emergency repairs.

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-034-0095

Annual Fees Payable to the Commission by a Small Telecommunications Utility

(1) The Commission shall provide statement forms and each small telecommunications utility shall provide the requested information on the form for the subject year.

(2) Each small telecommunications utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0023. For payments due on or before April 1, 2000, the annual fee shall be no less than \$10. For payments due on or after April 1, 2001, the annual fee shall be no less than \$100.

(3) For retail intrastate service rendered on or after January 1, 2000, a **small telecommunications** utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the **small telecommunications** utility throughout Oregon; and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) Each **small telecommunications** utility shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(5) If the Commission receives a public record request for the information required in sections (1) and (4) 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."

(6) 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 employees. The materials shall be segregated and maintained in a locked file.

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

Stats. Implemented: ORS 756.310 & 756.320

Hist.: PUC 13-1999, f. & ef. 12-7-99 (Order 99-734)

860-034-0100

Temporary Utility Service

Each **small telecommunications** utility may render temporary service to a customer and may require the customer to bear all the cost of installing and removing the service in excess of any salvage realized. The length of temporary service shall be specified in the applicable tariffs on file with the Commission.

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

Stat. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

860-034-0110

Due and Payable Period

(1) Each **small telecommunications** utility shall establish procedures to ensure that the due and payable period is not less than 15 days for all customers.

(2) If the bill is delivered by U S Mail, the due and payable period begins the day after the U S Postal Service postmark or the day after the date of postage metering.

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-034-0120

Late-Payment Charge

(1) A **small telecommunications** 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 **small telecommunications** 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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-034-0130

Adjustment of Utility Bills

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

(2) The **small telecommunications** utility may waive rebilling for underbillings when the costs to the utility of rebilling make it uneconomical.

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

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-034-0140

Establishing Credit for Residential Utility Service

(1) Mandatory deposit from known credit risks. Except as provided in section (5) of this rule, a **small telecommunications** utility shall require a deposit from a customer or applicant who:

(a) Received the same type of utility service from it or any Oregon telecommunications utility, **as defined in ORS 759.005**, within the preceding 24 months and owed an account balance that was not paid according to its terms when service was terminated. This subsection does not apply to a customer who registered a dispute with the Commission within 60 days after service terminated and who promptly paid all undisputed or adjudicated amounts; or

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

(2) Credit established by prior account in good standing. A **small telecommunications** utility may not require a deposit from an applicant it served within the preceding 24 months who voluntarily terminated **utility** service and whose final bill was paid in full by its due date.

(3) Credit established by other means. In all other cases, an applicant may choose whether to submit:

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

(b) A written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For the purpose of this rule, a ~~utility~~ customer **of a small telecommunications utility** who has received **utility** service continuously for the preceding 12 months from the same utility without late payment is a responsible party. The surety obligation ceases when the customer establishes good credit; or

(c) A deposit; or

(d) Positive identification. A customer or applicant provides positive identification by executing a service application which includes the customer's or applicant's name, address, date of birth, and social security number, if any, and is supported by any one of the following:

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

(B) U.S. passport, certificate of citizenship or naturalization, Immigration and Naturalization Service temporary resident card, employment authorization card, or equivalent identification, with photograph; or

(C) A combination of:

(i) Birth certificate or social security card;

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

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

(4) Except as provided in section (5) of this rule, a deposit required under these rules will be based upon two months' average or estimated usage of the small telecommunications utility's tariff and price listed services.

(5) For ~~telecommunications~~ utility service applicants who are eligible for OTAP funding and who voluntarily elect to receive toll-blocked service, no deposit may be charged. A small telecommunications utility shall make toll blocking available at no charge to all applicants identified in rule.

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

(a) If service records indicate unbilled intraLATA toll activity greater than the basis of the prior deposit;

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

(7) Paying a deposit does not excuse a customer from complying with the small telecommunications utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(8) A small telecommunications utility may file a tariff that contains less stringent deposit requirements than those specified in this rule.

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

Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 17-1997 (Temp), f. 12-11-97, ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058)

860-034-0150

Payment Arrangements for Deposit and Installation Charges for Residential ~~Telecommunications~~ Utility Service

(1) Time payments for deposits and nonrecurring charges shall be limited to charges for residential utility service and intraLATA toll. When a small telecommunications utility requires deposits and/or nonrecurring charges to establish or reestablish utility service ~~are required~~ from an applicant, the applicant shall pay the deposit and/or nonrecurring charges in four installments. The first installment is due immediately; the remaining shall be paid in three installments which shall be due 30, 60, and 90 days, respectively, after the date the payment agreement is executed. Except for last payment, installments shall be the greater of \$20 or one-fourth of the deposit and/or nonrecurring charges. In communicating with an applicant to establish utility service or to require a deposit and/or nonrecurring charges, the small telecommunications utility shall inform the applicant of the availability of Link-Up America and Oregon Telephone Assistance Program benefits and inform the customer or applicant that details are available from the Commission.

(2) When a customer makes an installment payment or a deposit ~~is made~~ with a payment for utility service, the small telecommunications utility shall first apply the amount paid ~~shall first be applied~~ toward the amount due for deposit and/or nonrecurring charges.

(3) A customer who is required to pay an additional deposit shall pay one-fourth of the total deposit or \$20, whichever is greater, within five days to the small telecommunications utility. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has

an existing deposit installment agreement, the remaining installment payments will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) When a customer enters into an installment agreement for payment of a deposit and/or nonrecurring charges under section (1) of this rule, the **small telecommunications** utility shall provide written notice explaining its deposit and nonrecurring charges requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the customer that utility service will be disconnected if the **small telecommunications** utility does not receive the payment when due.

(5) If a customer fails to abide by the terms of an installment agreement, the **small telecommunications** utility may disconnect local exchange service after providing a written five-day notice. The notice shall contain the information set forth in OAR 860-034-0260(3)(a) through (e) and shall be served as required by OAR 860-034-0260(4) and (5). In lieu of permanent disconnection, the **small telecommunications** utility may curtail service pursuant to OAR 860-034-0260(7).

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

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

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

Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987

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)

860-034-0160

Interest on Deposits for Residential and Nonresidential Utility Service

(1) Unless otherwise specified by the Commission, customer deposits shall accrue interest at a rate based upon the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October. This interest rate, rounded to the nearest percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all **small telecommunications** utilities of the changes in the rate to be paid on customer deposits held as needed.

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

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

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987
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)

860-034-0170

Refund of ~~Utility~~ Deposits for Residential and Nonresidential Utility Service

(1) A small telecommunications utility shall promptly refund a customer's deposit with accrued interest when utility service is terminated, provided a refund due shall first be applied to any unpaid balance on the customer's account.

(2) A small telecommunications utility may continue holding a deposit until credit is satisfactorily established or reestablished. For purposes of this rule, credit shall be considered to be established or reestablished if one year after a deposit is made:

(a) The account is current;

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

(c) The customer was not disconnected for nonpayment during the previous 12 months.

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

(4) When the customer moves to a new address within the small telecommunications utility's service area, the deposit, plus accrued interest, will be transferred to the new account.

(5) Deposits plus accrued interest may be refunded or credited, in whole or in part, to the customer's account at any time earlier than prescribed in this rule, provided that procedures followed by the small telecommunications utility are nondiscriminatory.

(6) Unless otherwise specified by the customer, a small telecommunications utility shall mail deposit refunds to the customer's last known address. The small telecommunications utility shall promptly honor a valid claim for payment of refund if the request is received within one year of the date utility service is terminated. Funds held beyond one year will be disposed of in accordance with ORS 98.316.

Stat. Auth.: ORS Ch. 183, 756, 759 & Ch. 290, OL 1987
Stat. Implemented: ORS 759.045 **& Ch. 290, OL 1987**
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)

860-034-0180

Grounds for Disconnecting Utility Service

Utility service may be disconnected **by a small telecommunications utility**:

(1) For failure to establish credit by:

(a) Failing to pay a deposit or make payments in accordance with the terms of a deposit payment arrangement (OAR 860-034-0150); or

(b) Providing false identification or verification of identity.

(2) When facilities provided are unsafe or do not comply with state and municipal codes governing service or the rules and regulations of the **small telecommunications** utility (OAR 860-034-0250).

(3) Where a customer requests the **small telecommunications** utility to disconnect service or close an account (OAR 860-034-0190).

(4) When dangerous or emergency conditions exist at the service premises (OAR 860-034-0200).

(5) For failure to pay Oregon tariff or price listed charges due for services rendered (OAR 860-034-0260) or theft of service.

(6) For failure to abide by the terms of a time payment agreement (OAR 860-034-0270).

(7) Where the Commission approves the disconnection of service.

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-034-0190

Voluntary Disconnection of Utility Service

Every customer who is about to vacate any premises supplied with **utility** service by the **small telecommunications** utility, or who for any reason wishes to have such service discontinued, shall give five days' notice in advance of specified date of discontinuance of service to the **small telecommunications** utility. Until the **small telecommunications** utility shall have such notice, the customer shall be held responsible for all **utility** service rendered.

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)

860-034-0200

Emergency Disconnection of Utility Service

In emergencies endangering life or property, a **small telecommunications** utility may terminate **utility** service without following the procedures set forth in Division **034**. However, the **small telecommunications** utility shall immediately thereafter notify the Commission. In such cases, where the necessity for emergency termination was through no fault of the customer, there will be no charge made for restoration of **utility** service.

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)

860-034-0220

Accounts Not Related to Residential Utility Service

A **small telecommunications** utility may not deny or disconnect residential **utility** service due to the failure to pay for nonresidential **utility** service, or to meet obligations in connection with nonresidential **utility** service.

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)

860-034-0230

Reconnection Fee for Utility Service

Where a utility service is disconnected pursuant to OAR 860-034-0180, the **small telecommunications** utility may charge the reconnection fee set forth in its tariff.

Stat. Auth.: ORS Ch. 183, 756 & 59
Stat. Implemented: ORS 759.045
Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185)

860-034-0240

Transfer Billings

(1) If a **small telecommunications** utility identifies a balance a customer owes the utility from the customer's prior account for Oregon **utility** service, ~~a~~ **the small telecommunications** utility may transfer the amount to the customer's current account after giving the customer notice of the transfer, the amount due under the prior account, the period of time during which the balance was incurred, and the service address or telephone number under which the bill was incurred. The notice must also meet the provisions of OAR 860-034-0260(3)(d) and (e). If the bill is identified at the time a customer changes residences, the provisions of this rule apply. A **small telecommunications** utility may pursue disconnection for nonpayment of a customer's current utility service only in compliance with OAR 860-034-0260.

(2) ~~Utilities~~ **A small telecommunications utility** shall make more liberal payment arrangements for customers on medical certificates who cannot reasonably be expected to pay the outstanding balance in the time otherwise applicable under this rule.

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 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-034-0250

Refusal of Utility Service

(1) Refusal of **utility** service by a **small telecommunications** utility:

(a) A **small telecommunications** utility may refuse to provide service to a customer or applicant until the utility receives full payment of any overdue amount and any other obligation related to a prior account except for ~~telecommunications~~ **utility** service applicants who are eligible for OTAP.

(b) A **small telecommunications** utility may refuse to provide **utility** service to a customer or applicant who is eligible for OTAP until the utility receives full payment of any overdue amount relating to a prior account for tariffed local exchange and price-listed **utility** services, excluding any toll charges.

(2) A **small telecommunications** utility may refuse to provide **utility** service until the utility receives payment when all the following circumstances exist:

- (a) An overdue balance has been incurred by a customer or applicant at a service address;
- (b) An applicant for **utility** service resided at the service address described in subsection (2)(a) of this rule during the time the overdue balance was incurred; and
- (c) The customer or applicant described in subsection (2)(a) of this rule will reside at the location to be served under the new application.

(3) Any **small telecommunications** utility shall refuse to provide **utility** service if a customer or applicant has not complied with state and city codes and regulations governing service and with the **small telecommunications** utility's rules and regulations.

(4) A **small telecommunications** utility shall not provide **utility** service or materially change service to a customer if, in the utility's best judgment, the desired service is likely to unfavorably affect service to other customers.

(5) A **small telecommunications** utility shall refuse to serve a customer or applicant if, in the best judgment of the utility, the facilities of the customer or applicant cannot provide safe and satisfactory **utility** service.

(6) When the **small telecommunications** utility refuses to provide **utility** service, the **small telecommunications** utility shall notify the customer or applicant of the reasons for refusal and of the Commission's complaint process.

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 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058)

860-034-0260

Disconnection Procedures for Commercial and Residential Utility Customers

(1) This rule applies to the involuntary termination of all ~~telecommunications~~ utility service **provided by a small telecommunications utility.**

(2) At least five days before a **small telecommunications** utility disconnects service for nonpayment for **utility** services rendered, the utility must provide the customer a written notice of the disconnection.

(3) The notice must be printed in boldface type and must state in easy to understand language:

- (a) The reasons for the proposed disconnection;
- (b) The earliest date for disconnection;
- (c) The **small telecommunications** utility shall prominently identify the amount necessary to be paid to avoid disconnection of ~~regulated utility~~ services.;
- (d) An explanation of the Commission's complaint process and the Commission's toll-free number; and
- (e) An explanation of the availability of an emergency medical certificate for local exchange residential service customers under OAR 860-034-0270.

(4) The **small telecommunications** utility may not send the notice before the due date for payment for the **utility** services billed.

(5) The **small telecommunications** 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~~ **Notice is served** on the date of personal delivery or, if **service delivery** is by U S Mail, on the day after the U S Postal Service postmark or the day after the date of postage metering.

(6) If a premises visit is required to complete disconnection, the **small telecommunications** utility must make a good-faith effort to personally contact the customer or a resident at the service address to be disconnected. If the **small telecommunications** utility's attempt to make personal contact fails, the utility must leave a notice in a conspicuous place at the premises informing the customer that service has been disconnected.

(7) In lieu of permanent disconnection, a **small telecommunications** utility may temporarily curtail **utility** service by preventing the transmission of incoming telephone messages and/or outgoing toll messages while continuing to let the customer make outgoing local messages. Temporary curtailment of **utility** service, as defined in this section, shall be permitted only upon five days' written notice as set forth in section (3) of this rule. The notice shall state that permanent disconnection will follow within ten days unless the customer makes full payment of any overdue amount or any other obligation.

(8) Except for **utility** service provided by a **small telecommunications** utility to its customers served by an office incapable of restricting toll service, a **small telecommunications** utility shall not disconnect or deny local exchange service for an applicant's or customer's failure to pay for **utility** services not under the local exchange utility's tariff or price list. A **small telecommunications** utility may limit access to toll and special services using the "9XX" prefix or Numbering Plan Area (NPA) for the failure to pay for such services.

(9) A **small telecommunications** utility may not disconnect or deny local service to customers or applicants, who are eligible to receive OTAP, for failure to pay toll charges.

(10) A **small telecommunications** utility may request a limited waiver of the requirement of section (9) of this rule upon meeting all the following conditions:

(a) Showing the **small telecommunications** utility would incur substantial costs in complying with the requirement;

(b) Demonstrating the **small telecommunications** utility offers toll-blocking services to customers identified in section (9) of this rule; and

(c) Showing that telecommunications subscribership among low-income customers in its service area in Oregon is at least as high as the national subscribership level for low-income customers.

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

Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-034-0270

Emergency Medical Certificate for Residential ~~Telecommunications~~ Utility Service

(1) A **small telecommunications** utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of

the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) An oral certification must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. A written certification must include:

- (a) The name of the person to whom the certificate applies and relationship to the customer;
- (b) A complete description of the health conditions;
- (c) An explanation of how the person's physical health will be significantly endangered by terminating the **utility** service;
- (d) A statement indicating how long the health condition is expected to last;
- (e) A statement specifying the particular type of **utility** service required (for example, access to medical facility for telemonitoring); and
- (f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the **small telecommunications** utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-034-0260(3)(a) through (d) and shall be served as required by OAR 860-034-0260(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate is not excused from paying for **telecommunications utility** service. Customers are required to enter into a written time-payment agreement with the **small telecommunications** utility within ten days after submitting the certificate when an overdue balance exists. Terms of the time-payment agreement shall be those set forth in section (6) of this rule or such other terms as the parties agree upon in writing. Local exchange service is subject to termination if a customer refuses to enter into or abide by terms of a payment agreement.

(6) A **small telecommunications** utility may not disconnect local exchange residential service for nonpayment if a customer who has submitted a valid emergency medical certificate and:

(a) Pays the greater of \$10 or 25 percent of the balance owing for tariffed or price-listed **utility** services the **small telecommunications** utility has on file with the Commission, including:

(A) For a customer who is not eligible for OTAP, the amount overdue, existing late-payment charges, any current bill, and any bill under preparation but not yet presented to the customer; or

(B) For a customer who is eligible for OTAP, the amount overdue, existing late-payment charges, any current bill, and any bill under preparation but not yet presented to the customer but excluding any toll charges or late payment charges attributable to toll charges.

(b) Enters into a time-payment agreement to bring the account into balance within 90 days of the date of the agreement; and

(c) Agrees to keep subsequent bills current.

(7) When good cause exists, the **small telecommunications** utility may provide, or the Commission may require, more liberal payment arrangements than those set forth in this rule after providing notice of the payment arrangements in section (6) of this rule. The **small telecommunications** utility shall keep a written record of the reasons for such action.

(8) Nothing in this rule prevents a **small telecommunications** utility and a customer with a medical certificate from entering into a time-payment agreement for other charges.

(9) The **small telecommunications** utility and the customer may agree in writing to an alternate payment arrangement, provided the utility first informs the customer of the payment terms set forth in subsections (6)(a) through (6)(c) of this rule.

(10) Time payments shall be on a monthly basis unless otherwise agreed to by the **small telecommunications** utility and the customer.

(11) The **small telecommunications** utility shall not accelerate payments under a time-payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(12) If a customer who has submitted an emergency medical certificate fails to enter into or abide by the terms of a time-payment agreement, the **small telecommunications** utility shall disconnect local exchange service after providing five days' notice to the customer and to the Commission's Consumer Services Division. The contents of the notice and manner of ~~service~~ **servicing the notice** are provided in section (3) of this rule. A hearing may thereafter be held to determine whether the **small telecommunications** utility should be permitted to disconnect **utility** service to the customer.

(13) A **small telecommunications** utility may verify the accuracy of an emergency medical certificate. If the **small telecommunications** utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the utility may apply to the Commission for permission to disconnect **utility** service to the customer.

(14) After notice to the Commission, a **small telecommunications** utility may terminate local exchange residential service if the utility providing the service lacks the technical ability to terminate toll telecommunications service without also terminating local exchange service.

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

Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058)

860-034-0280

Telephone Solicitation Notices by Small Telecommunications Utilities

Each **small telecommunications** utility shall notify its residential customers of the provisions of ORS 646.561, ORS 646.563, ORS 646.567 through 646.578, and ORS 646.608. The notice shall include a statement that a customer not wishing to be solicited may file a request, together with the required fees, with the telephone solicitation program administrator contracted by the State Attorney General. The notice shall include the address and the telephone number for the customer to contact the telephone solicitation program administrator. The notice shall be provided in the following manner and a copy shall be forwarded to the Commission:

(a) Annual inserts in the billing statements mailed to parties; or

(b) Conspicuous publication of the notice in the consumer information pages of local telephone directories.

Stat. Auth.: ORS Ch. 183, 646, 756 & 759

Stat. Implemented: ORS 646.578 & 759.045

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 3-2001, f. & ef. 1-24-01 (Order No. 01-116)

860-034-0290

Customer Notification, and Information Delivery Services for Small Telecommunications Utilities

(1) As used in this rule:

(a) “Information provider” means any person, company, or corporation that operates an information delivery service on a pay-per-call basis;

(b) “Information delivery service” means any telephone-recorded messages, interactive programs, or other information services that are provided for a charge to a caller through an exclusive telephone number prefix or service access code. When a preexisting written contract exists between the customer and the information provider, this definition does not apply.

(2) A **small telecommunications** utility providing billing services for information providers shall inform customers:

(a) Of the availability of blocking for information delivery services if and when it is technically available;

(b) That a customer’s local and long distance service shall not be suspended or terminated for nonpayment of information deliver service charges;

(c) That any customer who suffers damage from a violation of ORS 646.608, 646.639, and 759.700 through 759.720 by an information provider has a cause of action against such information provider and a court may award the greater of three times the actual damages or \$500, order an injunction or restitution and award attorney fees and court costs to a prevailing plaintiff;

(d) That when an information provider has failed to comply with any provision of ORS 646.608, 646.639, and 759.700 through 759.720 any obligation by a customer that may have arisen from dialing a pay-per-call telephone number is void and unenforceable;

(e) That any obligation that may have arisen from the dialing of a pay-per-call telephone number by an unemancipated child under 18 years of age; or

(f) For a person whose physician substantiates the following conditions, the obligation is void and unenforceable:

(A) The person has a mental or emotional disorder generally recognized in the medical or psychological community that makes the person incapable of rational judgments and comprehending the consequences of the persons’ action; and

(B) The disorder was diagnosed before the obligation was incurred; and

(g) Upon written notification to the information provider or the billing agent for the information provider that a bill for information delivery services is void and unenforceable under subsections (2)(d), (2)(e), or (2)(f) of this rule, no further billing or collection activities shall be undertaken in regard to that obligation.

(3) The notice shall include text prepared by the Commission’s Consumer Services Division or prepared by the **small telecommunications** utility and approved by the Commission. The notice shall be provided in the following manner:

(a) An annual insert in the billing statements mailed to customers or conspicuous publication of the notice in the consumer information pages of local telephone directories; and

(b) Including the notice in the letters setting out the rights and responsibilities of customers sent to all new customers.

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

Stats. Implemented: ORS ~~756.040, & 759.045~~ **759.700 through 759.720**

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-034-0300

Tariffs of Small Telecommunications Utilities

(1) ~~Utilities~~ **Small telecommunications utilities** not subject to ORS 759.175 shall, upon the Commission's request, provide copies of any schedules showing rates, tolls, and charges, including all rules and regulations that in any manner affect the rates charged or to be charged for any service.

(2) ~~Utilities~~ **Small telecommunications utilities** subject to ORS 759.175 shall file tariffs in accordance with the following provisions:

(a) Form and style of tariffs:

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

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

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

(b) Size of tariffs and copies required:

(A) Tariffs and supplements thereto must be typewritten or printed on 8-1/2 x 11 inch paper; and

(B) The original and four conformed copies of each tariff, rate schedule, or revision or supplement shall be filed with the Commission. The advice letter accompanying the tariff sheets shall bear the signature of the issuing officer. The tariff sheets do not require a signature;

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

(d) The **small telecommunications** utility's rules and regulations that in any manner affect the rates charged or to be charged or that define the extent or character of the service to be given shall be included with each tariff;

(e) Changes in tariffs may be made by filing an entirely new tariff or by filing revised sheets which shall refer to the tariff sheets on file. Additions to the tariff on file may be made by filing additional sheets;

(f) Each **small telecommunications** utility filing tariffs or schedules changing existing tariffs or schedules shall submit in the advice letter or other document the following information:

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

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

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

(g) All tariff changes shall be made applicable with service rendered on and after the effective date of the changes, unless the Commission by order provides otherwise. As used in this rule, “service rendered” means units of toll calls connected, basic service provided, or likewise as the context requires;

(h) ~~Utilities~~ **Small telecommunications utilities** entering into special contracts with certain customers prescribing and providing rates, services, and practices not covered by or permitted in the general tariffs, schedules, and rules filed by such utilities are in legal effect tariffs and are subject to supervision, regulation, and control to the extent not exempted under ORS 759.040; and

(i) All special agreements designating service to be furnished at rates other than those shown in tariffs now on file in the Commission’s office shall be classified as rate schedules. A true and certified copy shall be filed pursuant to requirements of this Division.

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

Stats. Implemented: ORS 756.040, ~~&~~ 759.045 **& 759.175**

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)

860-034-0310

Announcement of Rate Increases by Small Telecommunications Utilities

(1) A **small telecommunications** utility which increases any rate for intrastate telecommunications services shall notify its affected customers at least 45 days before the proposed effective date of the increase. A copy of such notification shall at the same time be provided to the Commission.

(2) The **small telecommunications** utility shall notify its customers by:

(a) Inserting an announcement in the **small telecommunications** utility’s regular billing to its customers; or

(b) Mailing an announcement to each customer.

(3) The announcement shall contain the following information:

(a) The list of services subject to increase, current and proposed rates, and amount and percentage of increase for each service;

(b) The reasons for the proposed rate increase;

(c) The effective date of the proposed rate increase; and

(d) The following statement:

“Customers may petition the Public Utility Commission of Oregon to investigate the rate increase. The Commission will investigate the rate increase if it receives petitions signed by customers (10 percent of customers or 500, whichever is the lesser), on or before (ten days before the proposed effective date). If the Commission does not receive sufficient petitions by (ten days before the proposed effective date), the proposed rates will become effective on (the proposed effective date) without Commission review. Petitions should be sent to: Public Utility Commission of Oregon, Consumer Services Division, 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551, or call 1-800-522-2404 or TDD 1-800-648-3458. The Company will provide a current copy of the local exchange directory and its service territory map within ten days of a request from any customer.”

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 12-1998, f. & ef. 5-7-98
(Order No. 98-188); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-1999, f. & ef. 10-18-99 (Order No. 99-632)

860-034-0320

Notice to Interested Persons of Tariffs Filed Under ORS 759.175 by Small Telecommunications Utilities

(1) This rule applies to any tariff filed under ORS 759.175.

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

(3) The Commission shall notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice shall be placed in the mail within ten days of any tariff filing under section (1) of this rule that complies with OAR 860-034-0300.

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

(5) The notice shall include the following information:

(a) Name of the filing **small telecommunications** utility;

(b) Subject;

(c) Advice number;

(d) Filing date;

(e) Effective date;

(f) Customer classes affected, if readily ascertainable from the **small telecommunications** utility's advice letter; and

(g) Whether the tariff schedule is primarily related to price competition or a service alternative, if readily ascertainable from the **small telecommunications** utility's advice letter.

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 12-1998, f. & ef. 5-7-98
(Order No. 98-188)

860-034-0325

Requests to Abandon, Exempt from Regulation, or Price-List Regulated Telecommunications Services

A small telecommunications utility is subject to the requirements set forth in OARs 860-032-0020, 860-032-0023, 860-032-0025, and 860-032-0035.

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

Stats. Implemented: ORS 756.040, 759.020, 759.030, 759.035, 759.045, 759.050, 759.190 & 759.195

Hist.: NEW

860-034-0380

Maintenance of Plant and Equipment by Small Telecommunications Utilities

Each **small telecommunications** utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each **small telecommunications** 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. The **small telecommunications** utility shall keep such records of the conditions found as the utility considers necessary to properly maintain its system, unless in special cases the Commission requires a more complete record.

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188)

Service Standards for Small Telecommunications Utilities

860-034-0390

860-034-0392

Accounting for Directors' Fees by Small Telecommunications Utilities

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

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

Stats. Implemented: ORS 756.040 & 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); Renumbered from 860-034-0500 by PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0393

Uniform System of Accounts for Small 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 **small 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), 32.27(d), and 32.27(f) are replaced by OAR 860-034-0394(3);

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

(e) Each **small 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 756.040 & 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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-034-0394

Allocation of Costs by Small Telecommunications Utilities

(1) As used in this rule:

(a) “Affiliate transaction” means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a **small telecommunications** utility and accounts for nonregulated activities of a separate entity which is either an affiliated interest or another company in which the utility owns a controlling interest. The term also means a transfer of assets, a sale of supplies, or a sale of services between accounts for the regulated and nonregulated activities of a single **small telecommunications** utility;

(b) “Asset” means any tangible or intangible property of a **small telecommunications** utility or other right, entitlement, business opportunity, or other thing of value to which a utility holds claim;

(c) “Cost” means fully distributed cost, including the **small telecommunications** utility’s authorized rate of return and all overheads;

(d) “Fair market value” means the potential sales price that could be obtained by selling an asset in an arm’s-length transaction to a nonaffiliated entity, as determined by commonly accepted valuation principles;

(e) “Market rate” means the lowest price which is available from nonaffiliated suppliers for comparable services or supplies;

(f) “Net book value” means original cost less accumulated depreciation; and

(g) “Nonregulated service” means a service which is not a telecommunications service as defined by ORS 759.005(2)(g), or a service which the Commission has determined to be exempt from regulation.

(2) A **small telecommunications** utility that provides both regulated and nonregulated intrastate service shall:

(a) Allocate intrastate investments, expenses, and revenues between regulated activities and nonregulated activities according to principles, procedures, and accounting requirements which the Federal Communications Commission (FCC) adopted December 23, 1986, and amended on reconsideration September 17, 1987, in CC Docket No. 86-111, except as otherwise provided in this rule.;

(b) Part 64, Subpart I, Allocation of Costs, adopted by the Federal Communications Commission with revisions to October 1, 1998, is hereby adopted and prescribed.

(3) A **small telecommunications** utility's regulated and nonregulated intrastate activities shall be accounted for in accordance with FCC Part 32 – Uniform Systems of Accounts, but with the following exception: For intrastate purposes, Part 32 rules governing affiliate transactions (Sections 32.27(a), (b), (c), (d), and (f)) are replaced as follows:

(a) When an asset is transferred to regulated accounts from nonregulated accounts, the transfer shall be recorded in regulated accounts at the lower of net book value or fair market value;

(b) When an asset is transferred from regulated accounts to nonregulated accounts, the transfer shall be recorded in regulated accounts at the tariff rate if an appropriate tariff is on file with the Commission. If no tariff is applicable, proceeds from the transfer shall be recorded in regulated accounts at the higher of net book value or fair market value;

(c) When an asset is transferred from a regulated account to a nonregulated account at a fair market value that is greater than net book value, the difference shall be considered a gain to the regulated activity. The **small telecommunications** utility shall record the gain in a manner which will enable the Commission to determine the proper disposition of the gain in a subsequent rate proceeding;

(d) When services or supplies are sold by a regulated activity to a nonregulated activity, sales shall be recorded in regulated revenue accounts at tariffed rates if an applicable tariff is on file with the Commission. Tariffed rates shall be established whenever possible. If services or supplies are not sold pursuant to a tariff, sales shall be recorded in regulated revenue accounts at the **small telecommunications** utility's cost; and

(e) When services or supplies are sold to a regulated activity by a nonregulated activity, sales shall be recorded in regulated accounts at the nonregulated activity's cost or the market rate, whichever is lower. The nonregulated activity's cost shall be calculated using the **small telecommunications** utility's most recently authorized rate of return.

(4) If a **small telecommunications** utility is subject to ORS 759.120 through 759.130 and provides both regulated and nonregulated intrastate service, the utility shall maintain a current intrastate cost allocation manual on file with the Commission. If the FCC requires the **small telecommunications** utility to file an interstate cost allocation manual, the utility shall also maintain a current copy of its interstate manual with the Commission.

(5) An intrastate cost allocation manual shall contain the following:

(a) A description of each of the **small telecommunications** utility's nonregulated intrastate activities;

(b) A list of all intrastate activities to which the **small telecommunications** utility now accords incidental accounting treatment, and the justification for treating each as incidental;

(c) A chart showing the **small telecommunications** utility's affiliates;

(d) A statement identifying affiliates that engage in or will engage in transactions with the **small telecommunications** utility for the purpose of providing nonregulated intrastate service and describing the nature, terms, and frequency of such transactions; and

(e) A detailed specification of the cost categories to which amounts in each account and subaccount of Part 32 will be assigned, and a detailed specification of the basis on which each cost category will be apportioned between regulated and nonregulated activities.

(6) A cost allocation manual cannot be used to satisfy any other reporting requirement established by the Commission.

(7) The initial cost allocation manual filed by a **small telecommunications** utility pursuant to this rule must be filed with the Commission no less than 90 days before the manual's effective date. The manual shall go into effect unless rejected by the Commission before the manual's effective date.

(8) When a **small telecommunications** utility proposes any change to a cost allocation manual previously filed with the Commission, the utility shall file the proposed change with the Commission no less than 60 days before the effective date of the change. The changes shall go into effect unless rejected by the Commission before the effective date of the change.

(9) After the Commission has issued an order to exempt from regulation a telecommunications service provided by a **small telecommunications** utility which is subject to ORS 759.120 through 759.130, the affected utility shall file with the Commission either an initial cost allocation manual or a change to its previously filed manual.

(10) A **small telecommunications** utility that is required to file annual independent cost allocation audits with the FCC shall at the same time file copies of the annual audits with the 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 12-1998, f. & ef. 5-7-98 (Order No. 98-188); Renumbered from 860-034-0520 by PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 10-2000, f. & ef. 5-26-00 (Order No. 00-263)

860-034-0395

Annual Report Requirements for Small Telecommunications Utilities

Small telecommunications Utilities shall submit annual reports. The report Form O for the previous calendar year shall be submitted on or before April 1, using the most current forms approved by the Commission. The intrastate report Form I for the previous calendar year shall be submitted on or before October 31, using the most current form approved by the 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 4-1995, f. & ef. 6-19-95 (Order No. 95-516); PUC 12-1998, f. & ef. 5-7-98 (Order No. 98-188); Renumbered from 860-034-0530 by PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0397

Use of Deferred Accounting by Small Telecommunications Utilities

(1) Definitions: As used in this rule:

(a) "Amortization" means the inclusion in rates of an amount which has been deferred under ORS 759.200 and is designed to eliminate, over time, the balance in an authorized deferred account. Amortization excludes the normal positive and negative fluctuations in a balancing account; and

(b) "Deferred accounting" means recording an amount, as allowed by ORS 759.200, in a balance sheet account for later reflection in rates.

(2) Expiration: Any authorization to use a deferred account shall expire 12 months from the date the deferral is authorized to begin. If a deferral under ORS 759.200 is reauthorized, the reauthorization shall expire 12 months from the date the reauthorization becomes effective.

(3) Contents of Application: Application for deferred accounting, by a **small telecommunications** utility or a customer, shall include:

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

(b) The reason(s) deferred accounting is being requested and a reference to the section(s) of ORS 759.200 under which deferral may be authorized;

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

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

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

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

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

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

(5) Exceptions: Authorization under ORS 759.200 to use a deferred account is necessary only to add amounts to an account, not to retain an existing account balance and not to amortize amounts which have been entered in an account under an authorization by the Commission. Interest, once authorized to accrue on unamortized balances in an account, may be added to the account without further authorization by the Commission, even though authorization to add other amounts to an account has expired.

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

(a) A statement that the applicant has applied to the Commission for authorization to use deferred accounting, or for an order requiring that deferred accounting be used by a **small telecommunications** utility;

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

(c) The way an interested person can obtain a copy of the application;

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

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

(7) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's Public Meetings.

ORDER NO. **DRAFT**

(8) Reply Comments: Within ten days after the due date for comments on the application from interested persons, the applicant, and the small telecommunications utility if the utility is not the applicant, reply comments may be filed with the Commission and served on persons who filed the initial comments on the application.

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

(a) A small telecommunications utility shall request that amortizations of deferred accounts commence no later than one year from the date that deferrals cease for that particular account; and

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

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 12-1998, f. & ef. 5-7-98 (Order No. 98-188); Renumbered from 860-034-0560 by PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0580

Preservation and Destruction of Records for Small Telecommunications Utilities and Type 2 Cooperatives

The Regulations to Govern the Preservation of Records of Communication Common Carriers, Part 42, 47 Code of Federal Regulations Chapter 1 (October 1, 1998, Edition) is hereby adopted and prescribed by the Commission for all small telecommunications utilities and Type 2 telecommunications cooperatives.

[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 & 759.225

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 8-2000, f. & ef. 5-26-00 (Order No. 00-262)

860-034-0600

Definitions for Depreciation Guidelines for Small Telecommunications Utilities and Type 2 Cooperatives

As used in OARs 860-034-0600 through 860-034-0670:

(1) “Exception” means a rate for the depreciation of an investment made by a **small telecommunications** utility or Type 2 cooperative that exceeds the guideline rate. “Exception” also includes a rate for amortization of retired investment if the rate of amortization exceeds the otherwise applicable guideline rate for depreciation of that investment.

(2) “File” means compliance with Commission rules OARs 860-011-0025 and 860-011-0030.

(3) “Guidelines” means the standards used by this Commission to determine rates for the depreciation of investment made by a **small telecommunications** utility or Type 2 cooperative to provide a through service.

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

Stats. Implemented: ORS 756.040, 759.135, 759.220 & 759.225

Hist.: 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)

860-034-0620

Filing Deadlines for a Request for an Exception by a Small Telecommunications Utility or Type 2 Cooperatives

(1) A **small telecommunications** utility or Type 2 cooperative requesting an exception from the depreciation guidelines for one or more calendar years shall file a request for an exception on or before June 1 of the year preceding the first calendar year for which it seeks an exception.

(2) A **small telecommunications** utility or Type 2 cooperative may file a request for an exception after June 1 only if the Commission grants a motion to file out of time. The Commission may grant such a motion if the **small telecommunications** utility or Type 2 cooperative shows good cause for its failure to file timely and if the Commission concludes it has sufficient time to rule on the request on or before December 31 of the year preceding the first calendar year for which the **small telecommunications** utility or Type 2 cooperative seeks an exception.

(3) If the Commission grants a motion to file out of time, the time line set forth in OARs 860-034-0640 through 860-034-0660 shall begin on the date of the order granting the motion.

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

Stats. Implemented: ORS 756.040, 759.220 & 759.225

Hist.: 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)

860-034-0630

Information to be Included With a Request for an Exception Filed Under OAR 860-034-0620

Information included with filing a request for an exception, at a minimum, shall:

(1) State the account(s) for which the **small telecommunications** utility or Type 2 cooperative seeks the exception;

(2) State the number of calendar years for which the small telecommunications utility or Type 2 cooperative seeks the exception; and

(3) Include an engineering analysis, economic analysis, or both, or other support for the exception.

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

Stats. Implemented: ORS 756.040, 759.220 & 759.225

Hist.: 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)

860-034-0640

Review by Staff of a Request for an Exception Filed Under OAR 860-034-0620

On or before the 30th day following the filing of a request for an exception, staff shall issue a written response to the small telecommunications utility or Type 2 cooperative stating whether staff recommends approval or denial of the request.

(1) If staff recommends approval, it shall, within 15 days of notifying the small telecommunications utility or Type 2 cooperative of the recommendation, place on a Public Meeting agenda a recommendation that the Commission approve the request.

(2) If staff recommends denial, it shall provide written notice to the small telecommunications utility or Type 2 cooperative of such recommendation, specify the reason(s) therefore, and provide to the small telecommunications utility or Type 2 cooperative all documents, including, but not limited to, workpapers, studies, calculations, and internal memoranda which support its recommendation.

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

Stats. Implemented: ORS 756.040, 759.220 & 759.225

Hist.: 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)

860-034-0650

Petition to Open Depreciation Docket

If staff recommends denial of a request for an exception, a small telecommunications utility or Type 2 cooperative may file a petition with the Commission requesting that the Commission open a docket to determine whether to grant the exception. The small telecommunications utility or Type 2 cooperative shall file its petition with both the Administrative Hearings Division and staff on or before the 20th day following the small telecommunications utility's or Type 2 cooperative's receipt of staff's notification of recommended denial.

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

Stats. Implemented: ORS 756.040, 759.220 & 759.225

Hist.: 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)

860-034-0660

Review Procedure and Schedule for a Request for an Exception Filed Under OAR 860-034-0650

(1) A **small telecommunications utility or Type 2 cooperative** filing a petition pursuant to OAR 860-034-0650 shall include as exhibits to the petition:

- (a) Its request for exception and any material submitted in support of that request;
- (b) Staff's notification of recommended denial of the request for exception and all material provided by staff to the **small telecommunications utility or Type 2 cooperative** in support of staff's recommended denial; and
- (c) Any other arguments or evidence the **small telecommunications utility or Type 2 cooperative** chooses to submit.

(2) The petition and exhibits shall constitute the entire record unless, within 20 days following the **small telecommunications utility's or Type 2 cooperative's** filing, the staff files objections to the petition or exhibits or files supplemental evidence.

(3) If staff files an objection to the petition or exhibits or files supplemental evidence, the **small telecommunications utility or Type 2 cooperative** may file its response within 20 days from the date of the staff's filing.

(4) Within ten days after the date when the **small telecommunications utility or Type 2 cooperative** is to respond, either staff or the **small telecommunications utility or Type 2 cooperative** may request a hearing. If neither staff nor the **small telecommunications utility or Type 2 cooperative** requests a hearing, then the record shall be closed.

(5) The Administrative Law Judge (ALJ) shall establish a schedule for the filing of briefs, upon request of either the **small telecommunications utility or Type 2 cooperative** or staff.

(6) The ALJ shall have discretion, for cause, to modify the schedule, but in no event may modify the schedule so as to prevent the Commission from issuing an order on or before December 31.

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

Stats. Implemented: ORS 756.040, 759.220 & 759.225

Hist.: 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 12-1999, f. & ef. 11-18-99 (Order No. 99-709)

860-034-0720

Announcement of Rate Increases for Joint Rates or Rates Charged for Through Services by Type 2 Cooperatives

A Type 2 cooperative that increases any joint rate or rate charged for a through service shall notify its affected customers, who have requested notice, at least 30 days before the proposed effective date of the increase, or as ordered by the Commission. The Type 2 cooperative shall file a copy of such notification at the same time with the Commission.

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

Stats. Implemented: ORS 756.040, **759.175**, 759.220 & 759.225

Hist.: PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-034-0725

Telephone Solicitation Notices by Telecommunications Cooperatives

Each **telecommunications** cooperative shall notify its residential customers of the provisions of ORS 646.561, ORS 646.563, ORS 646.567 through 646.578, and ORS 646.608. The notice shall include a statement that a customer not wishing to be solicited may file a request, together with the required fees, with the telephone solicitation program administrator contracted by the State Attorney General. The notice shall include the address and the telephone number for the customer to contact the telephone solicitation program administrator. The notice shall be provided in the following manner and a copy shall be forwarded to the Commission:

- (a) Annual inserts in the billing statements mailed to parties; or
- (b) Conspicuous publication of the notice in the consumer information pages of local telephone directories.

Stat. Auth.: ORS Ch. 183, 646, 756 & 759

Stat. Implemented: ORS 646.578 & 756.040

Hist.: PUC 3-2001, f. & ef. 1-24-01 (Order No. 01-116)

Division 021

Utility Regulation of Electric, Gas, Steam Heat, and Large Telecommunications Utilities

860-021-0008

Definitions for Regulation of Utility Services

- (1) “Applicant” means a person who:
- (a) Applies for service with an energy or large telecommunications utility;
 - (b) Reapplies for service at a new or existing location after service has been discontinued; or
 - (c) Has not satisfied the requirements of OAR 860-021-0205 or OAR 860-021-0335(2) within the required time period, if either rule is applicable.
- (2) “Co-customer” means a person who meets the definition of “customer” and is jointly responsible with another person for utility service payments on an account with the energy or large telecommunications utility. If only one co-customer discontinues service in his/her name, the remaining co-customer shall only retain customer status if s/he reapplies for service in his/her own name within 20 days of such discontinuance, provided the energy or large telecommunications utility contacts the remaining co-customer or mails the remaining co-customer a written request for an application within one business day of the discontinuance.
- (3) “Customer” means a person who has applied for, been accepted, and is currently receiving service. Notwithstanding section (1) of this rule, a customer who voluntarily disconnects service and later requests service with the same utility at a new or existing location within 20 days after disconnection retains customer status.
- (4) “Energy utility” has the meaning given to a public utility in ORS 757.005, except water and wastewater. An energy utility can be an “electric utility,” “gas utility,” or “steam heat utility.”
- ~~(95)~~ “Large Telecommunications utility” has the meaning given to the term in means any telecommunications utility, as defined in ORS 759.005, unless it that is not partially exempt from regulation under ORS 759.040.
- ~~(56)~~ “Local exchange service” has the meaning given to “local exchange telecommunications service” in ORS 759.005(1)(c).
- ~~(67)~~ “OTAP” has the meaning given to “Oregon Telephone Assistance Program” in OAR Chapter 860, Division 033.
- ~~(78)~~ “Registered dispute” means an unresolved issue between a customer or applicant and an energy or large telecommunications utility that is under investigation by the Commission’s Consumer Services Division but is not the subject of a formal complaint.
- ~~(89)~~ “Regulated charges” means charges for services delivered in Oregon and subject to the jurisdiction and approval of the Commission.
- (10) “Utility” means all large telecommunications and energy utilities, as defined in sections (4) and ~~(95)~~ of this rule, except when a more limited scope is explicitly stated.

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

Stats. Implemented: ORS 756.010, 757.005 & 759.005

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 5-1998, PUC 17-1997 (Temp), f. 12-11-97,

ef. 1-1-98 (Order No. 97-469); f. & cert. ef. 3-13-98 (Order No. 98-058); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-021-0009

Applications for Utility Service from an Energy or Large Telecommunications Utility

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

(a) Service is requested by a person who has not previously been served by the **energy or large telecommunications** utility;

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

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

(2) An application is a request for utility service. The **energy or large telecommunications** utility shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-021-0200 and OAR 860-021-0205. However, the **energy or large telecommunications** utility may refuse a service application under OAR 860-021-0335.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 2-1993, f. & ef. 1-8-93 (Order No. 92-1793); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0010

Information for Utility Customers and Applicants

(1) Each **energy utility and large telecommunications** utility shall, upon request, furnish each customer and applicant with such information as is reasonable to permit ~~them~~ **him/her** to secure efficient service and select appliances properly adapted to their service needs. Gas utilities shall, upon request, inspect and adjust customer-owned appliances and facilities for safe and efficient operation.

(2) Each **energy utility or large telecommunications** utility providing metered service shall, upon request, inform its customers and applicants how to read meters, either in writing or by explanation at the utility's offices.

(3) Each **energy utility or large telecommunications** 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) Each **energy utility or large telecommunications** utility shall supply, upon request, a copy of the tariffs applicable to the type or types of service furnished to the customer by the utility.

(5) Upon application for new service, or upon later request, the **energy or large telecommunications** 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 a rate schedule.

(6) When service is initiated and not less than once each year thereafter, every **energy or large telecommunications** utility shall give its residential customers a written summary of their rights and responsibilities, as they relate to the utility providing service. If service is initiated

without a personal visit between the **energy or large telecommunications** utility and the customer, the utility shall mail the summary to the customer no later than when the first bill statement is mailed. **Large T**telecommunications utilities satisfy the annual notification requirement by prominent publication of the information in a telephone directory distributed to their customers annually. The summary shall include the text of a summary reviewed and 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) Applicable financial assistance programs, such as the Energy Assistance Fund for gas and electric utilities and Link-Up America for telecommunications utilities;
- (c) The availability of medical certificates;
- (d) Special payment options such as equal-payment plans. Late-payment charges, if any, shall be explained, along with the availability of any preferred billing date option;
- (e) Procedures for conflict resolution, including how to register a dispute with the **energy or large telecommunications** utility and with the Commission and the toll-free number of the Commission's Consumer Services Division;
- (f) Listings of consumer organizations that participate in Commission proceedings, including addresses and telephone numbers, may be requested from the Commission's Consumer Services Division; and
- (g) The Commission's telephone solicitation rules (telecommunications-~~companies~~ **utilities** only), as defined in OAR 860-021-0610(1)(a)).

(7) When service is initiated, the **energy or large telecommunications** utility shall inquire whether the customer would like to receive notices in a language other than English and will inform the customer of the type of notices and translations currently available. If the language chosen is not available, the **energy or large telecommunications** utility will tell the customer the translated version does not yet exist but the customer's interest will be recorded for the Commission. Each **energy or large telecommunications** utility shall report to the Commission the number of requests for notices and summaries in non-English languages. The reports shall specify the number of requests for each language.

(8) **Each energy or large telecommunications utility shall post n**Notices approved by the Commission ~~shall be posted~~ in a conspicuous place in each utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The notices shall be printed in large boldface type and shall be written in language that is easy to understand.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 164, f. 4-18-74. ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-021-0011

Multilingual Notices

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

IMPORTANT NOTICE: Your (electric, gas, 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 an energy or large telecommunications 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 energy or large telecommunications 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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-021-0017

Designation of Third Party to Receive Notices

Each energy or large telecommunications utility shall offer its customers the option to designate a third party to receive bills and notices set forth in these rules. When an energy or large telecommunications utility receives such designation, it shall send bills and notices required under these rules to the customer's representative, with duplicate copies of disconnect notices also served on the customer.

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

Stats. Implemented: ORS 756.040, 756.500 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-080; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0019

Restrictions on Entering a Customer Residence

No employee of an energy or large telecommunications utility-~~employee~~ shall enter the residence of a customer without proper authorization except in an emergency endangering life or property.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-066

860-021-0021

Interruption of Utility Service

(1) Each energy or large telecommunications utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration, and cause of interruption.

(2) Each energy or large telecommunications utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the energy or large telecommunications utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) To the extent practical, the energy or large telecommunications utility shall notify every customer affected ~~shall be notified~~ in advance of any contemplated work which will interrupt service, but such notice shall not be required in case of interruption due to emergency repairs.

(4) In addition to the requirements above, electric utilities shall comply with OAR 860-023-0080 through 860-023-0160, which set additional requirements for electric service reliability and reporting.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); Renumbered from 860-021-0070; PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0067; PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0034

Annual Fees Payable to the Commission by a Public an Energy Utility

(1) The Commission shall provide statement forms and each energy utility shall provide the requested information on the form for the subject year.

(2) Each electric utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0022.

(3) Each gas utility and steam heat utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0024.

(4) Each electric, gas, and steam heat utility shall pay a minimum annual fee of \$10.

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

Stats. Implemented: ORS 756.310 & 756.320
Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708)

860-021-0036

Annual Fees Payable to the Commission by a Large Telecommunications Utility

(1) The Commission shall provide statement forms and each large telecommunications utility shall provide the requested information on the form for the subject year.

(2) Each large telecommunications utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-0023. For payments due on or before April 1, 2000, the annual fee shall be no less than \$10. For payments due on or after April 1, 2001, the annual fee shall be no less than \$100.

(3) For retail intrastate service rendered on or after January 1, 2000, a large telecommunications utility must:

(a) Collect the annual fee by charging an equitable amount to each retail customer, using apportionment methods that are consistently applied by the large telecommunications utility throughout Oregon, and

(b) Describe the amount of the apportioned charge upon each retail customer's bill.

(4) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and the utility does not separately charge the customer an additional amount for the apportioned annual fee, then the utility may comply with subsection (3) of this rule by merely describing the apportioned amount of the charge on the retail customer's bill.

(5) If the annual fee charge is embedded in the large telecommunications utility's Commission-approved retail rates, and the utility separately charges the customer an additional amount for the apportioned annual fee, then the utility must comply with ORS 756.310(6)(c).

(6) Each large telecommunications utility shall:

(a) Maintain its records in sufficient detail to readily provide gross retail intrastate revenue from Oregon telecommunications services, as defined in OAR 860-032-0080;

(b) Follow the revenue allocation procedures in OAR 860-032-0090; and

(c) Make its revenue accounting records available to the Commission upon the Commission's request.

(7) If the Commission receives a public record request for the information required in sections (1) and (6) 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."

(8) 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 employees. The materials shall be segregated and maintained in a locked file.

Stat. Auth.: ORS Ch. 183, 192, 756 & 759
Stats. Implemented: ORS 756.060, 756.310 & 756.320
Hist.: PUC 13-1999, f. & ef. 12-7-99 (Order 99-734)

860-021-0055

Temporary Utility Service

Each **energy or large telecommunications** utility may render temporary service to a customer and may require the customer to bear all the cost of installing and removing the service in excess of any salvage realized. The length of temporary service shall be specified in the applicable tariffs approved by the Commission.

Stat. Auth.: ORS Ch. 183 & 756

Stat. Implemented: ORS 756.040

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

860-021-0125

Due and Payable Period

(1) Each **energy or large telecommunications** utility shall establish procedures to ensure that the due and payable period is not less than 15 days for all customers.

(2) If the bill is delivered by U S Mail, the due and payable period begins the day after the U S Postal Service postmark or the day after the date of postage metering.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0035; PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-021-0126

Late-Payment Charge

(1) Except as provided in section (2) of this rule, **an energy or large telecommunications** 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~~ **An energy utility** shall not impose late-payment charges on residential customers unless:

(a) The **energy** 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 **energy** 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 **energy or large telecommunications** 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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-021-0135

Adjustment of Utility Bills

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

(2) The **energy or large telecommunications** utility may waive rebilling for underbillings when the costs to the utility of rebilling make it uneconomical.

(3) No billing adjustment shall be required if an electric or gas meter registers less than 2 percent error under conditions of normal operation.

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

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

Stats. Implemented: ORS 756.040 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0030; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-021-0200

Establishing Credit for Residential Utility Service

(1) Mandatory deposit from known credit risks. Except as provided in section (5) of this rule, an **energy or large telecommunications** utility shall require a deposit from a customer or applicant who:

(a) Received the same type of utility service (energy or telecommunications) from it or any Oregon utility, **as defined in ORS 757.005 or 759.005**, within the preceding 24 months and owed an account balance that was not paid according to its terms when service was terminated. This subsection does not apply to a customer who registered a dispute with the Commission within 60 days after service terminated and who promptly paid all undisputed or adjudicated amounts; or

(b) Was previously terminated for theft of service by it or any Oregon utility, **as defined in ORS 757.005 or 759.005**, or was otherwise found to have diverted utility service.

(2) Credit established by prior account in good standing. **An energy or large telecommunications** utility may not require a deposit from an applicant it served within the preceding 24 months who voluntarily terminated service and whose final bill was paid in full by its due date.

(3) Credit established by other means. In all other cases, an applicant may choose whether to submit:

(a) A letter from another utility, **as defined in ORS 757.005 or 759.005**, on that utility's official stationery signed by an authorized employee, stating the utility served the named applicant within the preceding 24 months for the same type of utility service (energy or telecommunications), the applicant voluntarily terminated service, and the applicant paid his/her final bill in full by its due date; or

(b) A written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For the purpose of this rule, **an energy or large telecommunications** utility customer who has received service continuously for the preceding 12 months from the same utility without late payment is a responsible party. The surety obligation ceases when the customer establishes good credit; or

(c) A deposit; or

(d) Positive identification. A customer or applicant provides positive identification by executing a service application which includes the customer's or applicant's name, address, date of birth, and social security number, if any, and is supported by any one of the following:

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

(B) U.S. passport, certificate of citizenship or naturalization, Immigration and Naturalization Service temporary resident card, employment authorization card, or equivalent identification, with photograph; or

(C) A combination of:

(i) Birth certificate or social security card;

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

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

(4) Except as provided in section (5) of this rule, a deposit required under these rules will not exceed one-sixth the amount of reasonable estimated billing for 12 months at rates then in effect. This estimate shall be based upon the use of service at the premises during the prior 12 months or upon the type and size of the customer's equipment that will use the service. Deposits for telecommunications service shall be based upon two months' average or estimated usage of the **energy or large telecommunications** utility's tariff and price-listed services.

(5) For telecommunications service applicants who are eligible for OTAP funding and who voluntarily elect to receive toll-blocked service, no deposit may be charged. The **large** telecommunications utility shall make toll blocking available at no charge to all applicants identified in rule.

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

(a) For **large** telecommunications utilities, if service records indicate unbilled intraLATA toll activity greater than the basis of the prior deposit;

(b) For energy utilities, if the customer moves and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the prior deposit; and

(c) When a customer who established credit by providing “positive identification” under these rules, the customer gave false information to establish identity.

(7) Paying a deposit does not excuse a customer from complying with the **energy or large telecommunications** utility’s tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(8) **An energy or large telecommunications** utility may file a tariff that contains less stringent deposit requirements than those specified in this rule.

Stat. Auth.: ORS Ch. 183, 756, 757, 759 & Ch. 290, OL 1987

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

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1981, f. & ef. 8-10-81 (Order No. 81-498); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0040; PUC 5-1989 (Temp), f. & cert. ef. 4-19-89 (Order No. 89-493); PUC 13-1989, f. & cert. ef. 9-12-89 (Order No. 89-1173); 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 17-1997 (Temp), f. 12-11-97, ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058)

860-021-0205

Deposit Payment Arrangements for Residential Electric and Gas Utility Service

(1) When a **gas or electric** utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment. Except for the last payment, installments shall be the greater of \$30 or one-third the deposit.

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

(3) When the **gas or electric** utility requires the customer or applicant to pay an additional deposit, the customer shall pay one-third of the total deposit, or at least \$30, whichever is greater, within five days. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has an existing deposit installment agreement, the remaining installment payments will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) When a customer or applicant enters into an installment agreement for payment of a deposit under section (1) of this rule, the **gas or electric** utility shall provide written notice explaining its deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the customer or applicant that utility service will be disconnected if the **gas or electric** utility does not receive the payment when due. The notice shall also set forth the name and telephone number of the

appropriate unit within the Department of Human Resources or other agencies which may be able to help the customer obtain financial aid.

(5) If a customer fails to abide by the terms of a deposit installment agreement, the **gas or electric** utility may disconnect service after a five-day notice. The notice shall contain the information set forth in OAR 860-021-0405(2)(a), (b), (c), (e), (f), and (g) and shall be served as required by OAR 860-021-0405(5).

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

(7) If disconnection for nonpayment of a deposit occurs, the customer disconnected shall pay the full amount of the deposit, any applicable reconnection fee, late-payment fee, and one-half the past due amount before service is restored. The customer shall pay the balance of the past-due amount within 30 days of the date service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments, the full deposit, and other applicable fees.

Stat. Auth.: ORS 183, 756, 757 & Ch. 290, OL 1987

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

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284), PUC 12-1983 f. & ef. 10-7-83 (Order No. 83-623); PUC 5-1987, f. & ef. 7-2-87 (Order No. 87-723); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0206

Payment Arrangements for Deposit and Installation Charges for Residential Telecommunications Utility Service

(1) Time payments for deposits and nonrecurring charges shall be limited to charges for residential service and intraLATA toll. When the **large** telecommunications utility requires deposits and/or nonrecurring charges to establish or reestablish service from an applicant, the applicant shall pay one-fourth of the deposit and/or nonrecurring charges immediately. The customer shall pay the remainder in three equal installments, which shall be due 30, 60, and 90 days, respectively, after the date the payment agreement is executed. In communicating with an applicant to establish service or to require a deposit and/or nonrecurring charge, the **large telecommunications** utility shall inform the applicant of the availability of Link-Up America and Oregon Telephone Assistance Program benefits and inform the applicant that details are available from the Commission.

(2) When a customer makes an installment payment or a deposit with a payment for utility service, **the large telecommunications utility shall first apply** the amount paid ~~shall first be applied~~ toward the amount due for deposit and/or nonrecurring charges.

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

(4) When a customer enters into an installment agreement for payment of a deposit nonrecurring charges under section (1) of this rule, the **large telecommunications** utility shall provide written notice explaining its deposit and nonrecurring charges requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the customer that utility service will be disconnected if payment is not received when due.

(5) If a customer fails to abide by the terms of an installment agreement, the **large telecommunications** utility may disconnect local exchange service after providing a written five-day notice. The notice shall contain the information set forth in OAR 860-021-0505(3)(a) through (e) and shall be served as required by in OAR 860-021-0505(4) and (5). In lieu of permanent disconnection, the **large telecommunications** utility may curtail service pursuant to OAR 860-021-0505(7).

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

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

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

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

Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0210

Interest on Deposits for Residential and Nonresidential Utility Service

(1) Unless otherwise specified by the Commission, customer deposits shall accrue interest at a rate based upon the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October. This interest rate, rounded to the nearest percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all **energy and large telecommunications** utilities of the changes in the rate to be paid on customer deposits held as needed.

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

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

Stat. Auth.: ORS Ch. 183, 756, 757, 759 & Ch. 290, OL 1987

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

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

860-021-0215

Refund of ~~Utility~~ Deposits for Residential and Nonresidential Utility Service

(1) **An energy or large telecommunications** utility shall promptly refund a customer's deposit with accrued interest when service is terminated, provided a refund due shall first be applied to any unpaid balance on the customer's account.

(2) **An energy or large telecommunications** utility may continue holding a deposit until credit is satisfactorily established or reestablished. For purposes of this rule, credit shall be considered to be established or reestablished if one year after a deposit is made:

(a) The account is current;

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

(c) The customer was not disconnected for nonpayment during the previous 12 months.

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

(4) When the customer moves to a new address within the **energy or large telecommunications** utility's service area, the deposit and accrued interest will be transferred to the new account.

(5) Deposits plus accrued interest may be refunded or credited, in whole or in part, to the customer's account at any time earlier than prescribed in this rule, provided the **energy or large telecommunications** utility's procedures are nondiscriminatory.

(6) Unless otherwise specified by the customer, **an energy or large telecommunications** utility shall mail deposit refunds to the customer's last known address. The **energy or large telecommunications** utility shall promptly honor a valid claim for payment of refund if the request is received within one year of the date service is terminated. Funds held beyond one year will be disposed of in accordance with ORS 98.316.

Stat. Auth.: ORS Ch. 183, 756, 757, 759 & Ch. 290, OL 1987

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

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0305

Grounds for Disconnecting Utility Service

Utility service may be disconnected **by an energy utility or large telecommunications utility**:

(1) For failure to establish credit by:

(a) Failing to pay a deposit or make payments in accordance with the terms of a deposit payment arrangement (OAR 860-021-0206); or

(b) Providing false identification or verification of identity.

ORDER NO. **DRAFT**

(2) When facilities provided are unsafe or do not comply with state and municipal codes governing service or the utility's rules and regulations (OAR 860-021-0335); or when the customer does not cooperate in providing access to the meter (OAR 860-021-0120).

(3) When a customer requests the utility to disconnect service or close an account (OAR 860-021-0310) or when a co-customer fails to reapply for service within 20 days after a joint account is closed by the other co-customer, so long as the utility has provided a notice of pending disconnection.

(4) When dangerous or emergency conditions exist at the service premises (OAR 860-021-0315).

(5) For failure to pay Oregon tariff or price-listed charges due for services rendered (OAR 860-021-0405 and OAR 860-021-0505); or by meter-tampering, diverting service, or other theft of service.

(6) For failure to abide by the terms of a time-payment agreement (OAR 860-021-0410(6), 860-021-0415(5), and OAR 860-021-0510).

(7) When the Commission approves the disconnection of service.

Stat. Auth.: ORS Ch. 183, 756, 757, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 757.035, 757.225 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0075; PUC 8-1983, f. & ef. 8-15-83 (Order No. 83-502); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0310

Voluntary Disconnection of Utility Service

Every customer who is about to vacate any premises supplied with service by the **energy or large telecommunications** utility, or who for any reason wishes to have such service discontinued, shall give five days' notice in advance of specified date of discontinuance of service to the utility. Until the **energy or large telecommunications** utility shall have such notice, the customer shall be held responsible for all service rendered.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-065

860-021-0315

Emergency Disconnection of Utility Service

In emergencies endangering life or property, an **energy or large telecommunications** utility may terminate service without following the procedures in Division 021. However, the **energy or large telecommunications** utility shall immediately thereafter notify the Commission. In such cases, when the necessity for emergency termination was through no fault of the customer, the utility will not make a charge to restore service.

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

Stats. Implemented: ORS 756.040 & 757.035

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83; ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0068; PUC 8-1983, f. & ef. 8-15-83 (Order No. 83-502); PUC 2-1993, f. & ef. 1-8-93 (Order No. 92-1793 & 93-035); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0325

Accounts Not Related to Residential Utility Service

An energy or large telecommunications utility may not deny or disconnect residential service due to the failure to pay for nonresidential service or to meet obligations in connection with nonresidential service.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0330

Reconnection Fee for Utility Service

When a utility service is disconnected pursuant to OAR 860-021-0305, the energy or large telecommunications utility may charge the reconnection fee in its tariff.

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

Stats. Implemented: ORS 756.040 & 757.225

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0334

Transfer Billings

(1) If an energy or large telecommunications utility identifies a balance a customer owes the utility from the customer's prior account for Oregon service, ~~a~~ the utility may transfer the amount to the customer's current account after giving the customer notice of the transfer, the amount due under the prior account, the period when the balance was incurred, and the service address or telephone number under which the bill was incurred; or the utility may send a separate notice to the customer giving the same information that would be included in the transfer, but collecting the amount due separately from the customer's current account. If the bill is identified when a customer changes residences, the provisions of this rule apply. An energy or large telecommunications utility may pursue disconnection for nonpayment of a customer's current utility service only in compliance with OAR 860-021-0405 or OAR 860-021-0505.

(2) If the customer has six months or more remaining on a time-payment agreement, the installment amount will be adjusted to bring the account into balance within the time specified in the original agreement. If the customer has less than six months remaining on a time-payment agreement, the energy or large telecommunications utility will recalculate the agreement to bring the account into balance within 12 months. The customer must pay any past due time-payment installments before the energy or large telecommunications utility adjusts or

recalculates the agreement. **Energy and large telecommunications** utilities may make more liberal payment arrangements for customers on medical certificates who cannot reasonably be expected to pay the outstanding balance in the time otherwise applicable under this rule.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040 & 757.225

Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-021-0335

Refusal of Utility Service

(1) Except as provided in section (2) of this rule, an electric or gas utility may refuse to provide service to a customer or applicant until the utility receives full payment of any overdue amount and any other obligation related to an Oregon prior account.

(2) Except for a customer or applicant who was disconnected for theft of service, an electric or gas utility shall provide service to a customer or applicant upon receiving payment equal to at least one-half of any overdue amount and any other obligation related to a prior account, except deposits which must be paid in full, provided the customer or applicant has made reasonable partial payment on the account during the time service has been discontinued. The customer shall pay the balance of the amount owed to the **gas or electric** utility within 30 days of the date service is initiated. Upon failure to pay, the **gas or electric** utility may disconnect service after providing a five-day notice to the customer. The notice shall contain the information set forth in OAR 860-021-0405(2)(a), (b), (c), (f), and (g) and shall be served as required by OAR 860-021-0405(5). If a customer or applicant whose service was terminated applies for service within 20 days of the termination, the provisions of this rule apply.

(3) If electric or gas service is disconnected for a customer's failure to comply with the payment terms in section (2) of this rule, the utility may refuse to restore service until the utility receives full payment of any overdue obligation, including any reconnection fee, late-payment fee, and past due bill.

(4) Refusal of service by a **large** telecommunications utility:

(a) A **large** telecommunications utility may refuse to provide service to a customer or applicant ~~who is not eligible for OTAP~~ until the utility receives full payment of any overdue amount and any other obligation related to a prior account except for telecommunications service applicants who are eligible for OTAP.;

(b) A **large** telecommunications utility may refuse to provide service to a customer or applicant who is eligible for OTAP until the utility receives full payment of any overdue amount relating to a prior account for tariffed local exchange and price-listed services, excluding any toll charges.

(5) A **energy or large telecommunications** utility may refuse to provide service until the utility receives payment when all the following circumstances exist:

(a) An overdue balance has been incurred by a customer or applicant at a service address;

(b) An applicant for service resided at the service address described in subsection (5)(a) of this rule during the time the overdue balance was incurred; and

(c) The customer or applicant described in subsection (5)(a) of this rule will reside at the location to be served under the new application.

(6) Any **energy or large telecommunications** utility shall refuse to provide service if a customer or applicant has not complied with state and city codes and regulations governing service and with the utility's rules and regulations.

(7) **An energy or large telecommunications** utility shall reject an application for service or materially change service to a customer or applicant if, in the best judgment of the utility, the utility lacks adequate facilities to render the service applied for or if the desired service is likely to unfavorably affect service to other customers.

(8) **An energy or large telecommunications** utility shall refuse to serve a customer or applicant, if, in the best judgment of the utility, the facilities of the customer or applicant cannot provide safe and satisfactory service.

(9) When ~~the~~ **an energy or large telecommunications** utility refuses to provide service, the utility shall notify the customer or applicant of the reasons for refusal and of the Commission's complaint process.

Stat. Auth.: ORS Ch. 183, 756, 757, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 757.035, 757.225 & Ch. 290, OL 1987

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0060 and 860-021-0100; PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); 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 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058)

860-021-0405

Notice of Pending Disconnection of Residential Electric or Gas Utility Service

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

(a) The notice shall conform to the requirements of OAR 860-021-0010 concerning multilingual requirements and service on any designated representative; and

(b) The notice shall conform to the requirements of OAR 860-021-0326 if the **electric or gas** utility's records show the billing address is different than the service address or the residence is a master-metered multi-family dwelling. The notice may be addressed to "tenant" or "occupant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

(2) The notice shall be printed in boldface 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 860-021-0415;

(e) An explanation of the medical certificate provisions of OAR 860-021-0410;

(f) The name and telephone number of the appropriate unit of the Department of Human Resources or other agencies which may be able to provide financial aid; and

(g) An explanation of the Commission's complaint process and toll-free number.

(3) At least 15 days before an electric or gas utility may disconnect a residential customer for nonpayment for services rendered, the electric or gas utility must provide written notice to the customer. A 15-day notice is not required when disconnection is for failure to establish credit or theft of service.

(4) The electric or gas utility may not send a notice of disconnection before the due date for payment of a bill.

(5) The electric or gas utility may serve the 15-day notice of disconnection in person or send it by first-class mail to the customer's last known address. Service is complete on the date of personal delivery or, if the notice is delivered by U S Mail, service is complete on the day after the date of the U S Postal Service postmark or on the day after the date of postage metering.

(6) At least five business days before the proposed disconnection date, the electric or gas utility must mail or deliver a written disconnection notice to the customer. Service is complete on the date of personal delivery or, if the notice is delivered by U S Mail, service is complete on the day after the date of the U S Postal Service postmark or on the day after the date of postage metering.

(a) The disconnection notice shall inform the customer that service will be disconnected on or after a specific date and shall explain the alternatives and assistance that might be available as required in section (2) of this rule; or

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

(7) On the day the electric or gas utility expects to disconnect service and before disconnection, the 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 electric or gas utility shall advise the customer of the proposed disconnection; or

(b) If contact is not made, the electric or gas 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.

(8) When an electric or gas utility makes personal contact under this rule, and the circumstances are such that a reasonable person would conclude the customer does not understand the consequences of disconnection, the utility must:

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

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

(9) When the electric or gas utility makes personal contact under this rule, the utility's representative making contact shall be empowered to accept reasonable partial payment of the overdue balance under the time-payment provisions of OAR 860-021-0415.

(10) An electric or gas 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 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0085; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488)

860-021-0410

Emergency Medical Certificate for Residential Electric and Gas Utility Service

(1) ~~An gas or~~ electric or gas utility shall not disconnect residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) ~~An The~~ oral certification to the gas or electric utility must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. Written certifications must include:

- (a) The name of the person to whom the certificate applies and relationship to the customer;
- (b) A complete description of the health conditions;
- (c) An explanation of how the person's health will be significantly endangered by terminating the service;
- (d) A statement indicating how long the health condition is expected to last;
- (e) A statement specifying the particular type of utility service required (for example, electricity for respirator); and
- (f) The signature of the qualified medical professional prescribing medical care.

(3) If a medical certificate is not submitted in compliance with sections (1) and (2) of this rule, the electric or gas utility may disconnect service after providing a five-day notice to the customer. The notice shall comply with the requirements of OAR 860-021-0405, except subsection (1)(b), subsection (2)(e), and section (4) of this rule shall not be applicable.

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal for certificates not specifying chronic illnesses and no longer than twelve months for certificates specifying illnesses identified as chronic by a "Qualified Medical Professional" as defined in this rule. At least 15 days before the certificate's expiration date, an electric or gas utility will give the customer written notice of the date the certificate expires unless it is renewed with the utility before that day arrives.

(5) A customer submitting a medical certificate is not excused from paying for electric or gas utility service:

- (a) Customers are required to enter into a written time-payment agreement with the electric or gas utility when an overdue balance exists. Terms of the time-payment agreement shall be those in OAR 860-021-0415 or such other terms as the parties agree upon in writing;
- (b) When financial hardship can be shown, a customer with a medical certificate may renegotiate the terms of a time-payment agreement with the electric or gas utility; and
- (c) Time-payment arrangements in effect when a medical certificate terminates remain in effect for the balance then owing. If a customer fails to pay charges incurred after the certificate terminates, the provisions of OAR 860-021-0415 (standard time-payment provisions) shall apply to payment of the arrearage incurred after the medical certificate expires. The terms of the medical certificate time-payment plan continue to apply to the arrearage accrued during the disability.

(6) If a medical certificate customer fails to enter into a written time-payment agreement within 20 days of filing the certificate, or to abide by its terms, the electric or gas utility shall

notify the Commission's Consumer Services Division of its intent to disconnect service and the reason for the disconnection. The electric or gas utility may disconnect service after providing a notice 15 days in advance of disconnection for nonpayment, or five days before disconnection for failure to enter into a written time-payment agreement. The notice shall comply with the requirements of OAR 860-021-0405, except subsection (2)(e) shall not be applicable. A hearing may thereafter be held to determine whether the electric or gas utility should be permitted to disconnect service to the customer.

(7) An electric or gas utility may verify the accuracy of a medical certificate. If the electric or gas utility believes a customer does not qualify, or no longer qualifies for a medical certificate, the utility may apply to the Commission to terminate the service of the customer.

Stat. Auth.: ORS Ch. 183, 756, 757 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 757.750, 757.755 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0095; PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0415

Time-Payment Agreements for Residential Electric and Gas Utility Service (Nonmedical Certificate Customers)

(1) An electric or gas ~~or electric~~ utility may not disconnect residential service for nonpayment if a customer enters into a written time-payment plan. An electric or gas utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a levelized payment plan and an equal-pay arrearage plan.

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

(a) The electric or gas utility shall review the monthly installment plan periodically. If needed due to changing rates or variations in the amount of service used by the customer, the installment amount may be adjusted to bring the account into balance within the time specified in the original agreement.;

(b) If a customer changes service address at any time during the period of a time-payment agreement, provided that payments are then current and the customer pays other tariff charges associated with the change in residence, the electric or gas utility shall recalculate the customer's deposit and/or monthly installment. The recalculated amount shall reflect the balance of the account at the previous service address and the average annual bill at the new service address for the months remaining in the original time-payment agreement. When installments on a time-payment agreement have not been kept current, a customer shall pay all past-due installments and any other applicable charges before service is provided at the new residence.

(3) A customer who selects an equal-pay arrearage plan will pay a down payment equal to one-twelfth the amount owed for past electric or gas utility service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer). each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for utility service. If a customer changes

service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the **electric or gas** utility provides service at the new address.

(4) The **electric or gas** utility and customer may agree in writing to alternate payment arrangement, provided the utility first informs the customer of the availability of the payment terms in sections (2) and (3) of this rule.

(5) If a customer fails to abide by the time-payment agreement, the **electric or gas** utility may disconnect service after serving 15 days' notice. The notice shall comply with OAR 860-021-0405, except subsection (2)(d) of this rule shall not be applicable. If a medical certificate is in effect, OAR 860-021-0410(6) shall apply.

Stat. Auth.: ORS Ch. 183, 756, 757 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 757.750 & 757.760

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0505

Disconnection Procedures for All Commercial Electric and ~~Natural Gas~~ Utility Customers and All ~~Telecommunications~~ Utility Customers of Large Telecommunications Utilities

(1) This rule applies to the involuntary termination of all commercial electric and natural gas customers and all ~~telecommunications~~ utility services **provided by large telecommunications utilities**.

(2) At least five days before an **energy or large telecommunications** utility disconnects service for nonpayment for services rendered, the utility must provide the customer a written notice of the disconnection.

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

(a) The reasons for the proposed disconnection;

(b) The earliest date for disconnection;

(c) The **energy or large telecommunications** utility shall prominently identify the amount necessary to be paid to avoid disconnection of regulated services;

(d) An explanation of the Commission's complaint process and the Commission's toll-free number; and

(e) An explanation of the availability of an emergency medical certificate for local exchange residential telecommunications service customers under OAR 860-021-0510.

(4) The **energy or large telecommunications** utility may not send the notice before the due date for payment for the services billed.

(5) The **energy or large telecommunications** 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 personal delivery or, if service is by U S Mail, on the day after the U S Postal Service postmark or the day after the date of postage metering.

(6) If a premises visit is required to complete disconnection, the **energy or large telecommunications** utility must make a good-faith effort to personally contact the customer or a resident at the service address to be disconnected. If the **energy or large telecommunications**

utility's attempt to make personal contact fails, the utility must leave a notice in a conspicuous place at the premises informing the customer that service has been disconnected.

(7) In lieu of permanent disconnection, a **large** telecommunications utility may temporarily curtail service by preventing the transmission of incoming telephone messages and/or outgoing toll messages while continuing to let the customer make outgoing local messages. Temporary curtailment of service, as defined in this section, shall be permitted only upon five days' written notice as set forth in section (3) of this rule. The notice shall state that permanent disconnection will follow within ten days unless the customer makes full payment of any overdue amount or any other obligation.

(8) Except for telecommunications service provided by an office incapable of restricting toll service, a **large** telecommunications utility shall not disconnect or deny local exchange service for an applicant's or customer's failure to pay for services not under the local exchange utility's tariff or price list. A telecommunications utility may limit access to toll and special services using the "9XX" prefix or Numbering Plan Area (NPA) for the failure to pay for such services.

(9) A **large** telecommunications utility may not disconnect or deny local service to customers or applicants, who are eligible to receive OTAP, for failure to pay toll charges.

(10) A **large** telecommunications utility may request a limited waiver of the requirement of section (9) of this rule upon meeting all the following conditions:

(a) Showing the **large** telecommunications utility would incur substantial costs in complying with the requirement;

(b) Demonstrating the **large** telecommunications utility offers toll-blocking services to customers identified in section (9) of this rule; and

(c) Showing that telecommunications subscribership among low-income customers in its service area in Oregon is at least as high as the national subscribership level for low-income customers.

Stat. Auth.: ORS Ch. 183, 756, 757, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 756.060, 757.750, 757.755, 757.060 & Ch. 290, OL 1987

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0105; PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 6-1989, f. & cert. ef. 5-22-89 (Order No. 89-662); 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 17-1997 (Temp), f. 12-11-97, ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488); PUC 5-1999 (Temp), f. & ef. 9-21-99 (Order No. 99-537); PUC 14-1999 f. & ef. 12-15-99, (Order No. 99-758)

860-021-0510

Emergency Medical Certificate for Residential Telecommunications Utility Service

(1) A **large** telecommunications utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) ~~An~~ **The** oral certification **to the large telecommunications utility** must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. A written certification must include:

- (a) The name of the person to whom the certificate applies and relationship to the customer;
- (b) A complete description of the health conditions;
- (c) An explanation of how the person's physical health will be significantly endangered by terminating the service;
- (d) A statement indicating how long the health condition is expected to last;
- (e) A statement specifying the particular type of service required (for example, electricity for respirator); and
- (f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the **large** telecommunications utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-021-0505(3)(a) through (d) and shall be served as required by OAR 860-021-0505(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate is not excused from paying for telecommunications **utility** service. Customers are required to enter into a written time-payment agreement with the **large** telecommunications utility within ten days after submitting the certificate when an overdue balance exists. Terms of the time-payment agreement shall be those in section (6) of this rule or such other terms as the parties agree upon in writing. Local exchange service is subject to termination if a customer refuses to enter into or abide by terms of a payment agreement.

(6) A **large** telecommunications utility may not disconnect local exchange residential service for nonpayment if a customer who has submitted a valid emergency medical certificate:

- (a) Pays the greater of \$10 or 25 percent of the balance owing for tariffed or price-listed services the **large** telecommunications utility has on file with the Commission, including:
 - (A) For a customer who is not eligible for OTAP, the amount overdue, existing late-payment charges, any current bill, and any bill under preparation but not yet presented to the customer; or
 - (B) For a customer who is eligible for OTAP, the amount overdue, existing late-payment charges, any current bill, and any bill under preparation but not yet presented to the customer but excluding any toll charges or late payment charges attributable to toll charges.
- (b) Enters into a time-payment agreement to bring the account into balance within 90 days of the date of the agreement; and
- (c) Agrees to keep subsequent bills current.

(7) When good cause exists, the **large** telecommunications utility may provide, or the Commission may require, more liberal payment arrangements than those set forth in this rule after providing notice of the payment arrangements in section (6) of this rule. The **large** telecommunications utility shall keep a written record of the reasons for such action.

(8) Nothing in this rule prevents a **large** telecommunications utility and a customer with a medical certificate from entering into a time-payment agreement for other charges.

(9) The **large** telecommunications utility and the customer may agree in writing to an alternate payment arrangement, provided the **large** telecommunications utility first informs the customer of the payment terms in subsections (6)(a) through (6)(c) of this rule.

(10) Time payments shall be on a monthly basis unless otherwise agreed to by the **large** telecommunications utility and the customer.

(11) The **large** telecommunications utility shall not accelerate payments under a time-payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(12) If a customer who has submitted an emergency medical certificate fails to enter into or abide by the terms of a time-payment agreement, the **large** telecommunications utility shall disconnect local exchange service after providing five days' notice to the customer and to the Commission's Consumer Services Division. The contents of the notice and manner of service are provided in section (3) of this rule. A hearing may thereafter be held to determine whether the **large** telecommunications utility should be permitted to disconnect service to the customer.

(13) A **large** telecommunications utility may verify the accuracy of an emergency medical certificate. If the **large** telecommunications utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the **large** telecommunications utility may apply to the Commission for permission to disconnect service to the customer.

(14) After notice to the Commission, a **large** telecommunications utility may terminate local exchange residential service if the **large** telecommunications utility providing the service lacks the technical ability to terminate toll telecommunications service without also terminating local exchange service.

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

Stats. Implemented: ORS 756.040, 757.750, 757.760, 757.755 & Ch. 290, OL 1987

Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & cert. ef. 3-13-98 (Order No. 98-058)

860-021-0610

Telephone Solicitation Notices by Large Telecommunications Utilities

Each **large** telecommunications utility shall notify its residential customers of the provisions of ORS 646.561, ORS 646.563, ORS 646.567 through 646.578, and ORS 646.608. The notice shall include a statement that a customer not wishing to be solicited may file a request, together with the required fees, with the telephone solicitation program administrator contracted by the State Attorney General. The notice shall include the address and the telephone number for the customer to contact the telephone solicitation program administrator. The notice shall be provided in the following manner and a copy shall be forwarded to the Commission:

- (a) Annual inserts in the billing statements mailed to parties; or
- (b) Conspicuous publication of the notice in the consumer information pages of local telephone directories.

Stat. Auth.: ORS Ch. 183, 646 & 756

Stat. Implemented: ORS 646.578 & 756.040

Hist.: PUC 7-1991, f. & ef. 5-10-91 (Order No. 91-583); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 1-2000, f. & ef. 1-18-00 (Order No. 00-023); PUC 5-2000, f. & ef. 4-17-00 (Order No. 00-192); PUC 3-2001, f. & ef. 1-24-01 (Order No. 01-116)

860-021-0620

Customer Notification, and Information Delivery Services for Large Telecommunications Utilities

(1) As used in this rule:

(a) “Information provider” means any person, company, or corporation that operates an information delivery service on a pay-per-call basis;

(b) “Information delivery service” means any telephone-recorded messages, interactive programs, or other information services provided for a charge to a caller through an exclusive telephone number prefix or service access code. When a preexisting written contract exists between the customer and the information provider, this definition does not apply.

(2) A **large** telecommunications utility providing billing services for information providers shall inform customers:

(a) Of the availability of blocking for information delivery services if and when it is technically available;

(b) That a customer’s local and long distance service shall not be suspended or terminated for nonpayment of information delivery service charges;

(c) That any customer who suffers damage from a violation of ORS 646.608, ORS 646.639, and ORS 759.700 through ORS 759.720 by an information provider has a cause of action against such information provider and a court may award the greater of three times the actual damages or \$500, order an injunction or restitution and award attorney fees and court costs to a prevailing plaintiff;

(d) That when an information provider has failed to comply with any provision of ORS 646.608, ORS 646.639, and ORS 759.700 through ORS 759.720, any obligation by a customer that may have arisen from dialing a pay-per-call telephone number is void and unenforceable;

(e) That any obligation that may have arisen from the dialing of a pay-per-call telephone number by an unemancipated child under 18 years of age; or

(f) For a person whose physician substantiates the following conditions, the obligation is void and unenforceable:

(A) The person has a mental or emotional disorder generally recognized in the medical or psychological community that makes the person incapable of rational judgments and comprehending the consequences of the persons’ action; and

(B) The disorder was diagnosed before the obligation was incurred; and

(g) Upon written notification to the information provider or the billing agent for the information provider that a bill for information delivery services is void and unenforceable under (d), (e), or (f) of this rule, no further billing or collection activities shall be undertaken in regard to that obligation.

(3) The notice shall include text prepared by the Commission’s Consumer Services Division or prepared by the **large telecommunications** utility and approved by the Commission. The notice shall be provided in the following manner:

(a) An annual insert in the billing statements mailed to customers or conspicuous publication of the notice in the consumer pages of local telephone directories; and

(b) Including the notice in the letters setting out the rights and responsibilities of customers sent to all new customers.

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

Stats. Implemented: ORS 759.700 through 759.720

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

Division 022

Utility Rates

860-022-0001

Definitions for Utility Rates

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

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

(2) "Energy utility" means a public utility as defined in ORS 757.005 except a water utility; **or wastewater utility. An energy utility can be an "electric utility," "gas utility," or "steam heat utility."**

(3) "**Large T**telecommunications utility" ~~has the meaning~~ **means any telecommunications utility,** as defined in ORS 759.005 ~~unless it, that~~ is **not** partially exempt from regulation under ORS 759.040;

(4) "Utility" means all energy **utilities** and **large** telecommunications utilities, as defined in sections (2) and (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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-022-0005

Tariff Specifications for Energy Utilities and Large Telecommunications Utilities

(1) Form and style of tariffs **filed by energy and large telecommunications utilities:**

(a) All tariffs must be in book, sheet, or pamphlet form. Loose leaf plan may be used so changes can be made by reprinting and inserting a single leaf;

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

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

(d) Separate tariffs shall be filed for electric, telecommunications, telegraph, gas, heat, or for any other service entered.

(2) Size of tariffs and copies required **from energy and large telecommunications utilities:**

(a) Tariffs and supplements thereto must be typewritten or printed on 8-1/2 x 11 inch paper; and

(b) The original and four conformed copies of each tariff, rate schedule, revision, or supplement shall be filed with the Commission. The advice letter accompanying the tariff sheets shall bear the signature of the issuing officer or utility representative. The tariff sheets do not require a signature.

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

Stat. Implemented: ORS 757.205 **& 759.175**

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 176, f. 11-17-76, ef. 12-1-76 (Order No. 76-806); PUC 15-1987, f. & ef. 12-3-87 (Order No. 87-1185); PUC 8-1995, f. & ef. 8-30-95 (Order No. 95-858); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-022-0010

Tariff Contents for Energy Utilities and Large Telecommunications Utilities

(1) ~~Tariffs~~ **The tariffs of each energy utility and large telecommunications utility** must explicitly state the utility rates and charges for each class of service rendered, designating the area or district to which they apply.

(2) The **energy or large telecommunications** utility's rules and regulations that in any manner affect the rates charged or to be charged or define the extent or character of the service to be given shall be included with each tariff.

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

Stat. Implemented: ORS 757.205 **& 759.175**

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-022-0015

Tariff Changes by Energy Utilities and Large Telecommunications Utilities Require 30 Days' Notice to the Commission

Except as hereinafter provided in this Division, **energy utilities and large telecommunications** utilities must file with the Commission all tariffs, rate schedules, or supplements thereto containing any change in rates, tolls, charges, rules, or regulations at least 30 days before the effective date of such changes. The Commission will reject tariffs or schedules not conforming with the rules in this Division as provided in OAR 860-011-0025.

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

Stats. Implemented: ORS 757.007, 757.220 & 759.190

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 176, f. 11-17-76, ef. 12-1-76 (Order No. 76-806); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-022-0017

Announcement of Utility Tariff Changes

(1) Within 15 days of filing with the Commission new or revised tariff schedules which constitute a general rate revision, **an energy or large telecommunications** utility shall inform its customers of the filing. A "general rate revision" is a filing by **an energy or large telecommunications** utility which affects all or most of a utility's rate schedules. "General rate revision" excludes changes in an automatic adjustment clause under ORS 757.210(1), changes in

ORDER NO. **DRAFT**

the credit reflected on certain electric utility rate schedules relating to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, or similar changes in one rate schedule, such as for an amortization, that affects other rate schedules.

(2) The **energy or large telecommunications** utility shall inform its customers by:

(a) Inserting a display announcement, not less than a three column standard advertising unit (SAU) by ten-inch advertisement, at least once in a newspaper of general circulation in the communities served by the **energy or large telecommunications** utility;

(b) Inserting an announcement in the **energy or large telecommunications** utility's regular billing to its customers; or

(c) Mailing an announcement to each customer.

(3) The **energy or large telecommunications utility's** announcement shall include:

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

(b) A brief statement of the reasons why the **energy or large telecommunications** utility seeks the change;

(c) A statement that copies of the **energy or large telecommunications** utility's testimony and exhibits are available for inspection at its main and district offices;

(d) The mailing address and telephone number of the **energy or large telecommunications** utility's office that customers may contact for additional information about the filing;

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

(f) A statement that the purpose of the announcement is to provide the **energy or large telecommunications** utility's customers with general information about the utility's proposals and their effects on its customers, but that the calculations and statements contained in the announcement are not binding on the Commission.

(4) Within 20 days of issuing the announcement, the **energy or large telecommunications** utility shall file an affidavit that notice has been given and a copy of the notice.

(5) An **energy or large telecommunications** utility may submit to the Commission, and request approval of, a list of the newspapers of general circulation in the communities served by the utility. The utility may revise the list by written request to the Commission.

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

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

Stats. Implemented: ORS 757.205 through 757.220 & 759.175 through 759.190

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 11-1990 (Temp), f. & cert. ef. 6-21-90 (Order No. 90-968); PUC 22-1990, f. & cert. ef. 12-31-90 (Order No. 90-1917); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-022-0020

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

Applications by energy or large telecommunications utilities to make tariffs or rate schedules effective on less than statutory notice shall be made in duplicate upon prescribed forms.

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

Stat. Implemented: ORS 757.220 & 759.190

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

860-022-0025

Requirements for Filing Tariffs or Schedules Changing Rates

(1) An energy or large telecommunications utility may make tariff changes by filing an entirely new tariff or by filing revised sheets which shall refer to the tariff sheets on file. Additions to the tariff on file may be made by filing additional sheets.

(2) Each energy or large telecommunications utility filing tariffs or schedules changing existing tariffs or schedules shall submit therewith the following information:

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

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

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

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

Stats. Implemented: ORS 757.205, 757.061 & 759.175

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-022-0030

Requirements for Filing Tariffs or Schedules Naming Increased Rates

(1) Each energy or large telecommunications utility filing tariffs or schedules which name increased rates shall submit therewith, in addition to requirements of OAR 860-022-0025, the following information:

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

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

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

(2) Additional information from the energy or large telecommunications may be required to be filed either before the Commission's acceptance of the tendered filing or at any stage in the proceeding.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 757.205 & 759.175
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98
(Order No. 98-169)

860-022-0032

Tariff Changes Effective With Service Rendered by an Energy or Large Telecommunications Utility

An energy or large telecommunications utility shall make aAll tariff changes applicable with service rendered on and after the effective date of the changes, unless the Commission by order provides otherwise. As used in this rule, “service rendered” means units of energy consumed, toll calls connected, basic service provided, or likewise as the context requires.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 757.007, 757.220 & 759.190
Hist.: PUC 176, f. 11-17-76, ef. 12-1-76 (Order 76-806); PUC 13-1997, f. & ef. 11-12-97
(Order No. 97-434)

860-022-0035

Special Contracts

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

(2) All special agreements designating service to be furnished at rates other than those shown in tariffs now on file in the Commission’s office shall be classified as rate schedules. True and certified copies shall be filed subject to review and approval pursuant to the requirements of OARs 860-022-0005 through 860-022-0030.

Stat. Auth.: ORS Ch. 183, 756, ~~& 757~~ **& 759**
Stat. Implemented: ORS 757.007 **& 759.250**
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98
(Order No. 98-169)

860-022-0038

Notice to Interested Persons of Tariffs Filed Under ORS 757.205 or 759.175

(1) This rule applies to any tariff filed **by an energy utility** under ORS 757.205 **or by a telecommunications utility under ORS 759.175.**

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

(3) The Commission shall notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice shall be placed in the mail within ten days of any tariff filing under section (1) of this rule that complies with OARs 860-022-0025 through 860-022-0035.

ORDER NO. **DRAFT**

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

(5) The notice shall include the following information:

(a) Name of the filing utility;

(b) Subject;

(c) Advice number;

(d) Filing date;

(e) Effective date;

(f) Date of the public meeting when the tariff will be considered (when the information is available);

(g) Customer classes affected, if readily ascertainable from the utility's advice letter; and

(h) Whether the tariff schedule is primarily related to price competition or a service alternative, if readily ascertainable from the utility's advice letter.

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

Stats. Implemented: ORS 757.205, 757.230, 759.175 & 759.210

Hist.: PUC 16-1988, f. & cert. ef. 10-21-88 (Order No. 88-1216); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-022-0040

Relating to City Fees, Taxes, and Other Assessments ~~for~~ Imposed Upon Electric, Gas, and Steam Utilities

(1) The aggregate amount of all business or occupation taxes, license, franchise or operating permit fees, or other similar exactions, excepting volumetric-based fees in section (3) of this rule, imposed upon gas, electric, or steam utilities by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, which does not exceed 3 percent for gas utilities or 3.5 percent for electric and steam utilities, applied to gross revenues as defined herein, shall be allowed as operating expenses of such utilities for rate-making purposes and shall not be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" means revenues received from utility operations within the city less related net uncollectibles. Gross revenues of gas, electric, and steam utilities shall include revenues from the use, rental, or lease of the utility's operating facilities other than residential-type space and water heating equipment. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the utility purchasing the service is not the ultimate customer, or revenue from joint pole use.

(3) Each electric utility subject to volumetric-based privilege taxes or fees shall determine for each city imposing such volumetric charges a base volumetric rate for each customer class calculated as 3.5 percent of the class 1999 gross operating revenues within the city divided by the amount of electric energy in kilowatt-hours delivered to the class in 1999. In cases where 1999 data is not available for a particular city and/or class, the utility's total 1999 Oregon revenues and kilowatt-hour deliveries for the customer class shall be used to calculate the base volumetric rate. An amount equal to the base volumetric rates multiplied by the corresponding amount of electric energy in kilowatt hours delivered in the 12-month period used to determine the utility's revenue requirement shall be allowed as operating expenses and shall not be

ORDER NO. **DRAFT**

itemized or billed separately. The privilege tax shall be allocated across an electric company's customer classes in the same proportional amounts as levied by cities against the electric company.

(4) Permit fees or similar charges for street opening, installations, construction, and the like to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers, and the value of any utility services or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels set forth in sections (1) and (3) of this rule. Any such services may be continued within the same category or type of use. The value of any additional category of utility service or use of facilities provided after November 6, 1967, to a city without charge shall be considered in computing the percentage levels herein set forth.

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

(6) Except as provided in section (5) of this rule, to the extent any city tax, fee, or other exaction referred to in sections (1) and (3) of this rule exceeds the percentage levels allowable as operating expenses in sections (1) and (3) of this rule, such excess amount shall be charged pro rata to utility customers within said city and shall be separately stated on the regular billings to such customers.

(7) The percentage levels in sections (1) and (3) of this rule may be changed if the Commission determines after such notice and hearing, as required by law, that fair and reasonable compensation to a city or all cities should be fixed at a different level or that by law or the particular circumstances involved a different level should be established.

Stat. Auth.: ORS 183,756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 3-1990, f. & cert. ef. 4-6-90 (Order No. 90-417); PUC 14-1990, f. & cert. ef. 7-11-90 (Order No. 90-1031); PUC 7-1998, f. & cert. ef. 4-8-98; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 17-2000, f. & cert. ef. 9-29-00 (Order No. 00-596)

860-022-0042

Relating to City Privilege Taxes, Fees, and Other Assessments ~~for~~ Imposed Upon a Large Telecommunications Utilities Utility

(1) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a large telecommunications utility by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, whether applied to regulated revenues, net income, or other bases, shall be allowed as operating expenses of the large telecommunications utility for rate-making purposes, subject to sections (2) through (4) of this rule.

(2) As used in this rule:

(a) “Fees and other assessments” means business or occupation taxes or licenses; franchise or operating permit fees; sales, use, net income, gross receipts, and payroll taxes, levies, or charges; and other similar exactions imposed by cities, other than ad valorem taxes, upon revenues or income received from regulated telecommunications services by a **large** telecommunications utility;

(b) “Local access revenues” means those revenues derived from exchange access services within the city, as defined in ORS 401.710, less related net uncollectibles;

(c) “Privilege taxes” means taxes levied and collected by cities from a **large** telecommunications utility for use and occupancy of city streets, alleys, or highways, as provided under ORS 221.515;

(d) “Regulated revenues” means those revenues derived from regulated telecommunications services within the city less related net uncollectibles. Regulated revenues include, but are not limited to, local access revenues.

(3) Separate fees for street opening, installations, construction, and maintenance of fixtures or facilities to the extent such fees or charges are reasonably related to the city’s costs for inspection, supervision, and regulation in the exercise of its police powers shall be allowed as operating expenses of a **large** telecommunications utility for rate-making purposes. Such fees shall not be deducted in computing the percentage level set forth in section (4) of this rule.

(4) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a **large** telecommunications utility by a city, which does not exceed 4 percent of local access revenues, shall be allowed as operating expenses for rate-making purposes and shall not be itemized or billed separately. All privilege taxes and fees and other assessments in excess of 4 percent of local access revenues shall be charged pro rata to users of local access services within the city, and the aggregate excess amount shall be separately itemized on customers’ bills or billed separately.

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

Stat. Implemented: ORS 759.105

Hist.: PUC 14-1990, f. & cert. ef. 7-11-90 (Order No. 90-1031); PUC 7-1998, f. & cert. ef. 4-8-98 (Order No. 98-125)

860-022-0045

Relating to Local Government Fees, Taxes, and Other Assessments Imposed Upon an Energy or Large Telecommunications Utility

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

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

(3) This rule applies to new or increased taxes imposed on and after December 16, 1971, including new or increased taxes imposed retroactively after that date.

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

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

Stat. Implemented: ORS 757.110 & **759.115**

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 7-1998, f. & cert. ef. 4-8-98 (Order No. 98-125)

860-022-0046

Forced Conversion of Electric and Communication Facilities

(1) As used in this rule:

(a) "Convert," "converting," or "conversion" means the removal of overhead electric or communication facilities and the replacement of those facilities with underground electric or communication facilities at the same or different locations;

(b) "Conversion cost" means the difference in cost between constructing an underground system and retaining the existing overhead system. This difference is generally equal to the cost of all necessary excavating, road crossings, trenching, backfilling, raceways, ducts, vaults, transformer pads, other devices peculiar to underground service, and "overhead retirement costs." However, if the conversion is required in conjunction with a public project which would necessitate the relocation of the electric or **large** telecommunications utility's facilities at the utility's expense, "conversion costs" shall not include any "overhead retirement costs."

(c) "Electric or communication facilities" means any works or improvements used or useful in providing electric or communication service, including but not limited to poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, cross-arms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, and all related facilities required for the acceptance of electric or communication services. However:

(A) "Electric facilities" excludes any facilities used or intended to be used for the transmission of electric energy at nominal voltage in excess of 35,000 volts;

(B) "Communication facilities" excludes facilities used or intended to be used for the transmission of intelligence by microwave or radio apparatus cabinets or outdoor public telephones;

(C) "Electric or communication facilities" excludes any electric or communication facilities owned or used by or provided for a railroad or pipeline and located upon or above the right-of-way of the railroad or pipeline.

(d) "Local government" includes cities; counties; authorities and agencies created pursuant to ORS Chapters 456 and 457; special districts of the type described in ORS 198.010, 198.180; and all other political subdivisions of Oregon;

(e) "Overhead electric or communication facilities" means electric or communication facilities located above the surface of the ground;

ORDER NO. **DRAFT**

(f) “Overhead retirement cost” means the original cost, less depreciation, less salvage value, plus removal costs, of existing overhead distribution facilities no longer used or useful by reason of the conversion;

(g) “Underground electric or communication facilities” means electric or communication facilities located below the surface of the ground exclusive of those facilities such as substations, transformers, pull boxes, service terminals, pedestal terminals, splice closures, apparatus cabinets, and similar facilities which normally are above the surface in areas where electric or **large** telecommunications utility facilities are underground in accordance with standard underground practices.

(2) This rule does not apply if the total conversion cost incurred by the electric or **large** telecommunications utility during one calendar year does not exceed five-one hundredths of 1 percent (.05 percent) of the utility’s annual revenues derived from customers residing within the boundaries of the local government.

(3) When a local government requires an **energy or large telecommunications** utility to convert electric or telecommunications facilities at the utility’s expense, the utility shall collect the conversion costs from customers located within the boundaries of the local government.

(4) The local government may direct the electric or **large** telecommunications utility to collect conversion costs from only a portion of the customers located within the boundaries of the local government.

(5) Conversion costs incurred by the electric or **large** telecommunications utility shall be accumulated in a separate account in the electric or **large** telecommunications utility’s books. Interest shall accrue from the date the electric or **large** telecommunications utility incurs the cost. The rate of such interest shall be equal to the effective cost of the senior security issue which most recently preceded the incurrence of the cost.

(6) The electric or **large** telecommunications utility shall collect the conversion costs and interest over a reasonable period of time subject to the Commission’s approval. However, the pay-back period shall not exceed the depreciable life of the facilities. Collection shall begin as soon as practical after the end of the year in which the conversion costs are incurred.

(7) The conversion cost to be recovered from each customer shall be calculated by applying a uniform percentage to each customer’s total monthly bill for service rendered within the boundaries of the local government. The amount collected shall be separately stated and identified on each bill.

(8) This rule applies to conversions upon which construction began on or after August 13, 1984.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 17-1984, f. & ef. 8-14-84 (Order No. 84-615); PUC 20-1984, f. & ef. 9-19-84 (Order No. 84-737); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-023-0001

Definitions for Service Standards

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

(1) “Energy utility” means a public utility as defined in ORS 757.005 except a water utility; or wastewater utility. An energy utility can be an “electric utility,” “gas utility,” or “steam heat utility.”

~~(32) “Large T~~telecommunications utility” ~~has the meaning~~ means any telecommunications utility, as defined in ORS 759.005 ~~unless it, that is not~~ partially exempt from regulation under ORS 759.040; ~~and.~~

~~(23) “Local exchange service” has the meaning given to “local exchange telecommunications service” in ORS 759.005(1)(c); and.~~

(4) “Telecommunications carrier” has the meaning provided in ORS 759.400.

~~—(4) “Utility” means all energy and telecommunications utilities, as defined in sections (1) and (3) of this rule.~~

Stat. Auth.: ORS Ch. 183 & 756

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)

860-023-0005

Maintenance of Plant and Equipment

Each energy and large telecommunications utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each energy and large telecommunications 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 energy and large telecommunications utility considers necessary to properly maintain its system, unless in special cases the Commission specifies a more complete record.

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

Stat. Implemented: ORS 757.020 & 759.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

Division 025

Regulations to Prevent Duplication of Facilities and to Allocate Territory

Division 026

Sales Promotion by Electric, Gas, Steam Heat, and Large Telecommunications Utilities

860-026-0005

General Definitions for Utility Sales Promotion

As used in OAR 860-026-0005 through 860-026-0045, unless the context requires otherwise:

(1) “Affiliate” means “affiliated interest,” as defined in ORS 757.015 and ORS 759.010.

(2) “Appliance or equipment” includes any device which consumes electric and/or gas energy and any ancillary device required for its operation.

(3) “Consideration” includes any cash, donation, gift, allowance, rebate, bonus, merchandise (new or used), property (real or personal), labor, service, conveyance, commitment, right, or other thing of more than token value.

(4) “Energy efficiency” means any installation or action intended to reduce the amount of energy required to achieve a given purpose or to shift the timing of the use of energy to achieve greater efficiency in the use of a public utility system.

(5) “Energy utility” means a public utility as defined in ORS 757.005 except a water utility or wastewater utility. An energy utility can be an “electric utility,” “gas utility,” or “steam heat utility.”

~~(56)~~ “Financing” includes acquisition of equity or debt interests, loans, advances, sale and repurchase agreements, sale and leaseback agreements, sales on open account, conditional or installment sales contracts, or other investments or extensions of credit.

(7) “Large telecommunications utility” means a telecommunications utility, as defined in ORS 759.005, that is not partially exempt from regulation under ORS 759.040.

~~(68)~~ “Person” includes any individual, group, firm, partnership, corporation, association, organization, or public or private entity.

~~(79)~~ “Utility” means ~~any all energy and large telecommunications utility not partially exempt from regulation under ORS 759.040, or any electric or gas utility engaged in the production, storage, distribution, sale, delivery or furnishing of electricity or gas, or both, subject to the Commission’s jurisdiction~~ **utilities, as defined in sections (5) and (7) of this rule.**

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

Stats. Implemented: ORS 757.005 & 757.015

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1995, f. & ef. 8-30-95 (Order No. 95-861); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-026-0010

“Promotional Activity” Defined

“Promotional activity” means action by an **energy or large telecommunications** utility or its affiliate with the objective of increasing or preventing a decrease in the quantity of the **energy or large telecommunications** utility’s service used by present and prospective customers; inducing any person to use an energy utility’s service rather than a competing form of energy, the cost of which is properly chargeable to account number 911, 912, 913, or 916 of the Uniform System of Accounts as adopted by OARs 860-027-0045 and 860-027-0055; or inducing any person to use a **large** telecommunications utility’s service rather than a competitive provider’s service.

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

Stats. Implemented: ORS 756.040 & 759.267

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-026-0015

“Promotional Concession” Defined

(1) “Promotional concession” means any consideration offered or granted by an **energy or large telecommunications** utility or its affiliate to any person with the object, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service.

(2) For purposes of illustration, and without limiting the definition in section (1) of this rule, “promotional concession” includes:

(a) Financing real property, including the construction of any building thereon, when such property is not owned or otherwise possessed by and not intended for the immediate use of the **energy or large telecommunications** utility or its affiliate;

(b) Furnishing consideration to any architect, builder, engineer, subdivider, developer, or other person for work done or to be done on property not owned or otherwise possessed by and not intended for the immediate use of the **energy or large telecommunications** utility or its affiliate; except for studies to determine comparative capital cost and expenses to show the desirability or feasibility of selecting one form of energy over another;

(c) Acquisition from any builder, subdivider, developer, or other person of any easement, right-of-way, license, lease or other property for consideration in excess of the reasonable cost or value thereof;

(d) Furnishing consideration to any dealer, architect, builder, engineer, subdivider, developer, or other person for the sale, installation or use of any appliance or equipment;

(e) Providing free, or at less than cost or value, any wiring, piping, appliance, or equipment to any other person; but a **energy or large telecommunications** utility, engaged in an appliance merchandising sales program, is not precluded from conducting legitimate close-outs of appliances, clearance sales and sales of damage or returned appliances;

(f) Providing free, or at less than cost or value, any installation, operation, repair, modification, or maintenance of any appliance, equipment, wiring or piping of any other person;

(g) Granting a trade-in allowance on the purchase of any appliance or equipment in excess of the fair market value of the trade-in; or the granting of an allowance for such appliance or equipment when such allowance varies by reason of the type of energy consumed in such appliance or equipment;

(h) Financing the acquisition of any appliance or equipment at a rate of interest or on terms more favorable than those generally applicable to sales by nonutility dealers in such appliances or equipment;

(i) Furnishing consideration to any person for any advertising or publicity purpose of such person; and

(j) Guaranteeing the maximum cost of electric or gas utility service.

(3) “Promotional concession” excludes:

(a) Making any temporary emergency repairs to appliances or equipment of a customer, or performing any other repairs or maintenance for which the customer is charged at least at cost;

(b) Inspecting and adjusting appliances or equipment which consumes electric or gas energy;

(c) Providing appliances or equipment incidental to their demonstration for 60 days or less;

(d) Providing light bulbs, street or outdoor lighting service, service pipe or other service equipment or appliances, in accordance with tariffs filed with and approved by the Commission;

(e) Providing appliances or equipment to an educational institution for the purpose of instructing students in the use of such appliances or equipment;

(f) Rebates, low interest loans, and other considerations for Commission-approved energy efficiency programs; and

(g) Testing of new products and equipment that are expected to result in their inclusion in a Commission-approved energy efficiency program.

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

Stats. Implemented: ORS 756.040 & 759.267

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-026-0020

Standards Governing Promotional Activities and Concessions

(1) All promotional activities and concessions shall be just and reasonable, prudent as a business practice, economically feasible and compensatory, and reasonably beneficial both to the energy or large telecommunications utility and its customers. The cost of promotional activities and concessions must not be so large as to impose an undue burden on the energy or large telecommunications utility's customers in general and must be recoverable through related sales stimulation within a reasonable time.

(2) No energy or large telecommunications utility or its affiliate shall:

(a) Directly or indirectly, in any manner or by any device whatsoever, offer or grant any promotional concession except such as is uniformly and contemporaneously extended to all persons in a reasonably defined class;

(b) Engage in any promotional concession that creates an undue preference or advantage to any person or subjects any person to any undue prejudice or disadvantage;

(c) Engage in any promotional concession that establishes or maintains any unreasonable difference between localities or as between classes of customer; or

(d) Insert, or seek to enforce, any covenant or other provisions in any deed, mortgage, lease, or any other instrument related to realty that restricts the form of energy which may be used upon such realty.

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

Stats. Implemented: ORS 756.040 & 759.267

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-026-0022

Presumptions of Reasonableness of Advertising Expenses in Utility Rate Cases

(1) As used in this rule:

(a) "Advertising Expenses" means expenses for communications which inform, influence, and/or educate customers. Such communication may be by means of, but is not limited to, print, radio, television, billboards, direct mail, videos, banners, telephone listings, and displays;

(b) "Conservation Advertising Expenses" means advertising expenses, the primary purpose of which is to decrease the total consumption of utility services;

(c) "Institutional Advertising Expenses" means advertising expenses, the primary purpose of which is not to convey information, but to enhance the credibility, reputation, character, or image of an entity or institution;

(d) “Legally Mandated Advertising Expenses” means advertising expenses, the primary purpose of which is to comply with:

- (A) Local, state, or federal statutes, ordinances, rules, or regulations; and
- (B) Court or Commission’s orders.

(e) “Political Advertising Expenses” means advertising expenses, the primary purpose of which is to state or imply that persons should take a specific political action;

(f) “Promotional Advertising Expenses” means advertising expenses, the primary purpose of which is to communicate with respect to ~~the~~ **an energy or large telecommunications** utility’s promotional activities or promotional concessions, as defined in OARs 860-026-0010 and 860-026-0015;

(g) “Utility Information Advertising Expenses” means advertising expenses, the primary purpose of which is to increase customer understanding of utility systems and the function of those systems, and to discuss generation and transmission methods, utility expenses, rate structures, rate increases, load forecasting, environmental considerations, and other contemporary items of customer interest;

(h) “Utility Service Advertising Expenses” means advertising expenses, the primary purpose of which is to supply timely customer information about utility services such as changes in office hours, planned service repair interruptions, the closing or opening of new pay stations, or to encourage efficient and safe use of utility services and similar service-related subjects;

(i) “Nonutility Advertising Expenses” means advertising expenses, the primary purpose of which is to provide information about or encourage purchase of products or services whose revenues fall outside the scope of rate of return regulation by a state or federal regulatory body;

(j) “Energy Efficiency Advertising Expenses” means advertising expenses, the primary purpose of which is to promote energy efficiency, as defined in OAR 860-026-0005(7).

(2) For the purposes of this rule, advertising expenses are categorized as follows:

(a) Category “A” – Energy efficiency or conservation advertising expenses that do not relate to a Commission-approved program, utility service advertising expenses, and utility information advertising expenses;

(b) Category “B” – Legally mandated advertising expenses;

(c) Category “C” – Institutional advertising expenses, promotional advertising expenses and any other advertising expenses not fitting into Category “A,” “B,” or “D”;

(d) Category “D” – Political advertising expenses and nonutility advertising expenses; and

(e) Category “E” – Energy efficiency or conservation advertising expenses that relate to a Commission-approved program.

(3) For rate-making purposes:

(a) Advertising expenses in Category “A” are presumed to be just and reasonable in a rate proceeding to the extent that expenses are twelve and one-half hundredths of 1 percent (0.125 percent) or less of the gross retail operating revenues determined in that proceeding;

(b) Advertising expenses in Category “B” are presumed to be just and reasonable for rate-making purposes;

(c) The **energy or large telecommunications** utility shall carry the burden of showing that any advertising expenses in Category “C” are just and reasonable for rate-making purposes. In any rate filing under ORS 757.210 and ORS 759.180, the utility shall separately state the amount of advertising expenses in Category “C”;

(d) Advertising expenses in Category “D” are presumed to be not just and reasonable for rate-making purposes; and

(e) With Commission approval, advertising expenses in Category “E” may be capitalized. The Commission will review the prudence of such expenses in a general rate proceeding pursuant to ORS 756.500, ORS 757.210, or ORS 759.180.

(4) The presumptions in section (3) of this rule are rebuttable. **An energy or large telecommunications** utility seeking to include expenditures in excess of amounts in section (3) of this rule shall have the burden of showing that the expenditures are just and reasonable. Parties challenging expenditures which are equal to or less than the amounts in section (3) of this rule have the burden of showing that the expenditures are not just and reasonable.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 1-1975, f. & ef. 7-20-76 (Order No. 76-467); PUC 7-1981, f. & ef. 8-12-81 (Order No. 81-515); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0071; PUC 22-1985, f. 12-11-85, ef. 1-1-86 (Order No. 85-1170); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); Renumbered from 860-021-0605; PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1995, f. & ef. 8-30-95 (Order No. 95-861); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-026-0025

Filing of Proposed Promotional Concessions

No **energy or large telecommunications** utility or its affiliate shall offer, grant, or vary any promotional concession directly or indirectly, or in concert with others, or by any means whatsoever, unless a description of such concession has been filed with the Commission. A copy thereof shall be furnished to each other utility providing service in any portion of the service area of the filing utility.

Stat. Auth.: ORS Ch. 183 & 756

Stat. Implemented: 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-026-0030

Notice and Effective Date of Promotional Concessions

All filings required by OAR 860-026-0025 shall be effective upon 30 days’ notice to the Commission, subject to suspension and cancellation by the Commission. However, the Commission may allow changes without requiring the 30 days’ notice by entering an order specifying the changes to be made and the time when they shall take effect.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 757.007, ~~&~~ 757.220 **& 759.190**

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

860-026-0035

Reports of Promotional Activities and Concessions

(1) Each **energy or large telecommunications** utility shall file, concurrently with the annual report required by law, a report of each promotional activity and concession of the utility and its

affiliates during the preceding calendar year. The report shall show the amounts expended with respect to each promotional activity and concession and a statement of the benefits achieved from each.

(2) In reporting on each promotional activity or concession under this rule, **an energy or large telecommunications** utility shall employ the lowest practicable subprogram for budget and accounting purposes.

Stat. Auth.: ORS Ch. 183 & 756

Stat. Implemented: ORS 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 18-1998, f. & ef. 10-12-98 (Order No. 98-408)

860-026-0040

Investigations of Promotional Activities and Concessions

Nothing in OAR 860-026-0005 through 860-026-0040 is intended to prevent the Commission from investigating, either formally or informally, any promotional activity or concession, or the costs thereof, of any **energy or large telecommunications** utility.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040 & 756.070 through 756.115

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

860-026-0045

Promotional Concessions Offered or Granted on the Effective Date of These Rules

(1) Notwithstanding OARs 860-026-0025 and 860-026-0030, any promotional concession offered or granted by an **energy or large telecommunications** utility or its affiliate before July 1, 1971, may remain in force, subject to suspension and cancellation, if:

(a) A description of such concession was filed with the Commission not later than 5 p.m., June 30, 1971;

(b) Such filing includes a statement signed by the responsible officer of the **energy or large telecommunications** utility that any such promotional concession is in compliance with OAR 860-026-0020; and

(c) A copy of the description of such concession has been furnished to each other utility providing service in any portion of the service area of the filing utility.

(2) No other promotional concession shall be offered or granted on or after July 1, 1971, except in compliance with OAR 860-025-0005 through OAR 860-026-0040.

Stat. Auth.: ORS Ch. 183 & 756

Stat. Implemented: ORS 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

Division 027

Budgets, Finance, Accounting, and Annual Reports for Electric, Gas, Steam Heat, and Large Telecommunications Utilities

860-027-0001

Definitions for Utility Budgets, Finance, Accounting, and Annual Reports

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

(1) “Energy utility” means a public utility as defined in ORS 757.005 except a water utility; **or wastewater utility. An energy utility can be an “electric utility,” “gas utility,” or “steam heat utility.”**

(2) ~~“Large Telecommunications utility” has the meaning~~ **means any telecommunications utility,** as defined in ORS 759.005, ~~unless it that~~ is **not** partially exempt from regulation under ORS 759.040; ~~and.~~

(3) “Utility” means all energy **utilities** and telecommunications utilities, as defined in sections (1), ~~and (2), and (4)~~ **and.**

~~—(4) “Water utility” means a public utility as defined in ORS 757.005.~~

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

Stats. Implemented: ORS 756.040 & 759.005

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 4-1995, f. & ef. 6-19-95 (Order No. 95-516); PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0005

Utilities Required to File Reports

Each energy and **large** telecommunications utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file with the Commission on or before the first day of November of each year, a copy of its proposed Budget of Expenditures, on forms approved by the Commission.

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

Stats. Implemented: ORS 756.105, 757.105 & 759.100

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0015

New Construction Budget

Each energy and **large** telecommunications utility operating within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file annually on or before December 1 on forms approved by the Commission information on new construction, extensions, and additions to the ~~energy and telecommunications~~ utility’s property.

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

Stats. Implemented: ORS 756.105, 757.105 & 759.100

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0016

Accounting for Director's' Fees

Director's' fees paid by an energy or large telecommunications utility to members of its board of directors, who are also paid as officers of the energy or large telecommunications utility, shall not be recognized as a charge to operating expenses in Oregon.

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

Stats. Implemented: ORS 757.110 & 759.115

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0020

Form and Filing of Applications

(1) The Commission will furnish such information from the records on file as will assist in a full presentation of material facts for the following application forms.

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

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

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

(5) Whenever these rules require the ~~filing of~~ energy or large telecommunications utility to file financial statements, they shall be prepared as of the latest date available. The Income Statement shall be for the most recent 12-month period.

Stat. Auth.: ORS Ch. 183 & 756

Stat. Implemented: ORS 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0025

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

(1) The requirements of this rule will apply to any energy or large telecommunications utility ~~utilities~~ seeking authority under ORS 757.480, ORS 757.485, ORS 759.375, and ORS 759.380. Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information, which should, to the extent possible, be furnished for each person, firm, or corporation involved.

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

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

ORDER NO. **DRAFT**

(c) Name and address of the person on behalf of applicant authorized to receive notices and communications in respect to the applications;

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

(e) A description of the general character of the business done and to be done, and a designation of the territories served, by counties and states;

(f) A statement, as of the date of the balance sheet submitted with the application, showing for each class and series of capital stock: brief description; the amount authorized (face value and number of shares); the amount outstanding (exclusive of any amount held in the treasury); amount held as reacquired securities; amount pledged; amount owned by affiliated interests; and amount held in any fund;

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

(h) Whether the application is for disposition of facilities by sale, lease, or otherwise, a merger or consolidation of facilities, or for mortgaging or encumbering its property, or for the acquisition of stock, bonds, or property of another utility, also a description of the consideration, if any, and the method of arriving at the amount thereof;

(i) A statement and general description of facilities to be disposed of, consolidated, merged, or acquired from another utility, giving a description of their present use and of their proposed use after disposition, consolidation, merger, or acquisition. State whether the proposed disposition of facilities or plan for consolidation, merger, or acquisition includes all the operating facilities of the parties to the transaction;

(j) A statement by primary account of the cost of the facilities and applicable depreciation reserve involved in the sale, lease, or other disposition, merger or consolidation, or acquisition of property of another utility. If original cost is not known, an estimate of original cost based, to the extent possible, upon records or data of the applicant or its predecessors must be furnished, a full explanation of the manner in which such estimate has been made, and a statement indicating where all existing data and records may be found;

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

(l) The facts relied upon by applicants to show that the proposed sale, lease, assignment, or consolidation of facilities, mortgage or encumbrance of property, or acquisition of stock, bonds, or property of another utility will be consistent with the public interest;

(m) The reasons, in detail, relied upon by each applicant, or party to the application, for entering into the proposed sale, lease, assignment, merger, or consolidation of facilities, mortgage or encumbrance of property, acquisition of stock, bonds, or property of another utility, and the benefits, if any, to be derived by the customers of the applicants and the public;

(n) The amount of stock, bonds, or other securities, now owned, held or controlled by applicant, of the utility from which stock or bonds are proposed to be acquired; and

(o) A brief statement of franchises held, showing date of expiration if not perpetual, or, in case of transfer, that transferee has the necessary franchises.

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

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

ORDER NO. **DRAFT**

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

(c) EXHIBIT C. Copies of all resolutions of directors authorizing the proposed disposition, merger, or consolidation of facilities, mortgage or encumbrance of property, acquisition of stock, bonds, or property of another utility, in respect to which the application is made and, if approval of stockholders has been obtained, copies of the resolutions of the stockholders should also be furnished;

(d) EXHIBIT D. Copies of all mortgages, trust, deeds, or indentures, securing any obligation of each party to the transaction;

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

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

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

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

(i) EXHIBIT I. A copy of each contract in respect to the sale, lease or other proposed disposition, merger or consolidation of facilities, acquisition of stock, bonds, or property of another utility, as the case may be, with copies of all other written instruments entered into or proposed to be entered into by the parties to the transaction pertaining thereto;

(j) EXHIBIT J. A copy of each proposed journal entry to be used to record the transaction upon each applicant's books; and

(k) EXHIBIT K. A copy of each supporting schedule showing the benefits, if any, which each applicant relies upon to support the facts as required by subsection (1)(l) of this rule and the reasons as required by subsection (1)(m) of this rule.

(3) Utilities may use the following form in lieu of filing under sections (1) and (2) of this rule when permitted to do so by the Commission:

In the Matter of the Application of (Enter Exact Name of Applicant) or an Order Authorizing (Enter Authority Requested, i.e., to Sell, Transfer, or Otherwise Dispose of Utility Property) to (Enter Name of Purchaser or Other Parties Concerned).

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

The utility property to be sold consists of (explain or describe in general the property proposed to be sold).

The sale price of the property is \$_____, payable as set forth in the contract or agreement attached to the application.

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

ORDER NO. **DRAFT**

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

Wherefore applicant respectfully requests that the Commission enter an appropriate order authorizing the transaction proposed herein.

(Name of Utility)
Dated: _____

(Signature of Officer or Owner)
State of _____
County of _____,

(Name of Party signing above)
being first duly sworn, deposes and says s/he is _____ (Title) of
_____ (Name of Utility), the applicant in the foregoing application, that s/he has read said application, including all exhibits thereto, knows the contents thereof, and the same are true to the best of his/her knowledge and belief.

(Signature)
Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this _____ day of _____, _____.

(Signature)
My Commission expires _____,
(Notarial Seal).

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 756.105, 757.480, 757.485, 759.375 & 759.380
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 8-1995, f. & ef. 8-30-95 (Order No. 95-858); PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0030

Application by an Energy or Large Telecommunications Utility for Authority to Issue Stocks, Bonds, Notes, or Other Securities

(1) The requirements of this rule will apply to **any energy or large telecommunications utility-utilities** seeking authority under ORS 757.495, ORS 757.405 through 757.435, ORS 757.445, ORS 757.450, ORS 759.390, ORS 759.305 through 759.345, ORS 759.355, and ORS 759.360. Every applicant shall set forth in this application to the Commission, in the manner and form and in the order indicated, the following information:

- (a) The applicant’s exact name and the address of its principal business office;
- (b) The state in which incorporated, the date of incorporation, and the other states in which authorized to transact utility business;

ORDER NO. **DRAFT**

- (c) Name and address of person authorized, on behalf of applicant, to receive notices and communications in respect to application;
- (d) The names, titles and addresses of the principal officers of the applicant;
- (e) A description of the general character of the business done and to be done, and a designation of the territories served. A map showing the territories served is desirable;
- (f) A statement, as of the date of the balance sheet submitted with the application, showing for each class and series of capital stock: brief description; the amount authorized (face value and number of shares); the amount outstanding (exclusive of any amount held in the treasury), held amount as reacquired securities; amount pledged by applicant; amount owned by affiliated interests, and amount held in any fund;
- (g) A statement, as of the date of the balance sheet submitted with the application, showing for each class and series of long-term debt or notes: brief description (amount, interest rate and maturity); amount authorized; amount outstanding (exclusive of any amount held in the treasury); amount held as reacquired securities; amount pledged by applicant; amount held by affiliated interests; and amount in sinking and other funds;
- (h) A full description of the securities proposed to be issued, showing: kind and nature of securities or liabilities; amount (face value and number of shares); interest or dividend rate, if any; date of issue and date of maturity; and voting privileges, if any;
- (i) A reasonably detailed and precise description of the proposed transaction, including a statement of the reasons why it is desired to consummate the transaction and the anticipated effect thereof. If the transaction is part of a general program, describe the program and its relation to the proposed transaction. Such description shall include, but is not limited to, the following:
 - (A) A description of the proposed method of issuing and selling the securities;
 - (B) A statement of whether such securities are to be issued pro rata to existing holders of the applicant's securities or issued pursuant to any preemptive right or in connection with any liquidation or reorganization;
 - (C) A statement showing why it is in applicant's interest to issue securities in the manner proposed and the reason(s) why it selected the proposed method of sale; and
 - (D) A statement that exemption from the competitive bidding requirements of any federal or other state regulatory body has or has not been requested or obtained, and a copy of the action taken thereon when available.
- (j) The name and address of any person receiving or entitled to a fee for service (other than attorneys, accountants and similar technical services) in connection with the negotiation or consummation of the issuance or sale of securities, or for services in securing underwriters, sellers or purchasers of securities, other than fees included in any competitive bid; the amount of each such fee, and facts showing the necessity for the services and that the fee does not exceed the customary fee for such services in arm's-length transactions and is reasonable in the light of the cost of rendering the service and any other relevant factors;
- (k) A statement showing both in total amount and per unit the price to the public, underwriting commissions and net proceeds to the applicant. Supply also the information (estimated if necessary) required in section (4) of this rule. If the securities are to be issued directly for property, then a full description of the property to be acquired, its location, its original cost (if known) by accounts, with the identification of the person from whom the property is to be acquired, must be furnished. If original cost is not known, an estimate of original cost based, to the extent possible, upon records or data of the seller and applicant or their

ORDER NO. **DRAFT**

predecessors must be furnished, with a full explanation of how such estimate has been made, and a description and statement of the present custody of all existing pertinent data and records. A statement showing the cost of all additions and betterments and retirements, from the date of the original cost, should also be furnished;

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

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

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

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

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

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

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

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

(B) Is compatible with the public interest;

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

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

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

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

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

(p) If filed under ORS 757.490, ORS 757.495, ORS 759.385, or ORS 759.390:

(A) A statement describing the relationship between the utility and the affiliated interest as defined in ORS 757.015, ORS 757.490, ORS 759.010, or ORS 759.385:

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

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

(iii) State the pecuniary interest of any officer or director in compliance with ORS 757.490(1) or ORS 759.385(1).

ORDER NO. **DRAFT**

(B) The reasons, in detail, relied upon by the utility for entering into the proposed transaction and the benefits, if any customers of the utility and the general public will derive from the transaction.

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

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

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

(c) EXHIBIT C. A copy of each resolution of directors authorizing the issue in respect to which the application is made and, if approval of stockholders has been obtained, copies of the stockholder resolutions should also be furnished;

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

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

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

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

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

(i) EXHIBIT I. A copy of registration statement proper, if any, and financial exhibits made a part thereof, filed with the Securities and Exchange Commission;

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

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

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

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

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

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

ORDER NO. **DRAFT**

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

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

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

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

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

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

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

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

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

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

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

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

In the Matter of the Application of (Enter Exact Name of Applicant) for an Order Authorizing the Issuance of a Note.

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

A copy of the note proposed to be issued is attached to this application and contains the exact terms of the note that will be issued. The Commission will be advised in writing the note's date and that the terms of the note are the same as set forth herein, if this application is approved.

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

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

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

(Name of Utility)

Dated: _____

(Signature of Officer or Owner)
State of _____
County of _____ ,

(Name of Party signing above)
being first duly sworn, deposes and says s/he is _____ (Title) of
_____ (Name of Utility), the applicant in the foregoing application, that s/he has
read said application, including all exhibits thereto, knows the contents thereof, and the same are
true to the best of his/her knowledge and belief.

(Signature)
Subscribed and sworn to before me, a Notary Public in and for the State and County above
named, this _____ day of _____, ____ .

(Signature)
(Notarial Seal)
My Commission expires _____, ____

REPORT OF SECURITIES ISSUED

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

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 756.105, 757.405 through 757.435, 757.445, 757.450, 759.305
through 759.320, 759.330 through 759.350, 759.360 & 759.375

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 21-1990, f. & cert. ef. 12-31-90 (Order No. 90-1904); PUC 8-1995, f. & ef. 830-95 (Order No. 95-858); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0031

When the Commission May Reregulate Financings of Exempt Telecommunications Utilities

If any bond rating made by Standard and Poor's, Moody's, or Duff and Phelps for a **large** telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and ORS 759.315(2) falls below "A," the Commission may find that reregulation of the **large** telecommunications utility under ORS 759.310 and ORS 759.315(2) is necessary to prevent the impairment of service to customers.

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

Stats. Implemented: ORS 759.040 & 759.045

Hist.: PUC 8-1994, f. & ef. 4-15-94 (Order No. 94-555)

860-027-0032

Information Required Concerning Financings of Exempt Large Telecommunications Utilities

(1) Any **large** telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and ORS 759.315(2) shall, within 30 days of issuing securities, provide to the Commission, in writing, the following information:

- (a) The type of security involved in the issuance;
- (b) The amount of securities involved in the issuance; and
- (c) A description of the terms of the issuance.

(2) Any **large** telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and ORS 759.315(2) shall, within 90 days of issuing securities, provide to the Commission, in writing, the information required by OAR 860-027-0030(4).

(3) Any **large** telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and ORS 759.315(2) shall maintain its records in a manner which allows the Commission to determine whether the terms of any issuance of securities are reasonable.

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

Stats. Implemented: ORS 759.045, 759.310 & 759.315

Hist.: PUC 8-1994, f. & ef. 4-15-94 (Order No. 94-555)

860-027-0035

Applications by a Utility for Authority to Guarantee Indebtedness

(1) The requirements of this rule will apply to **any energy or large telecommunications utility-utilities** seeking authority under ORS 757.440 **and 759.350**. Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information which should, to the extent possible, be furnished for each person, firm, or corporation involved:

- (a) The information required by OAR 860-027-0030(1)(a) to (g) inclusive;

ORDER NO. **DRAFT**

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

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

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

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

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

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

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

(B) Necessary or appropriate for or consistent with the applicant's proper performance of service as a **public or telecommunications** utility;

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

(D) Reasonably necessary or required for such purposes.

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

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

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

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

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

(e) EXHIBIT E. Balance sheets with supporting fixed capital or plant schedules in conformity with the form set forth in the annual report which applicant is required to file with the Commission;

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

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

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

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

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

Stats. Implemented: ORS 757.440 & ~~759.335~~ **759.350**

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0044

Application for Waiver Requirements by Large Telecommunications Utilities Under OARs 860-027-0040 and 860-027-0041

(1) This rule does not apply to transactions subject to ORS 759.385(4), 759.390(7), or 759.394.

(2) Upon petition by a large telecommunications utility and approval by the Commission for good cause, the requirements of OARs 860-027-0040 and 860-027-0041 may be waived for individual transactions or classes of transactions. As a general guideline, in the absence of circumstances demonstrating in advance that the transaction or transactions will be fair and reasonable and not contrary to the public interest, transactions exceeding 0.1 percent of the previous calendar year's Oregon utility operating revenues will not qualify for waiver.

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

Stats. Implemented: ORS 756.040, 759.005, 759.010, 759.385, & 759.390

Hist.: PUC 12-1992, f. & cert. ef. 7-8-92 (Order No. 92-963); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

860-027-0050

Uniform System of Accounts for Large 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 large 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 large telecommunications utility shall maintain subsidiary records consistent with ORS 759.285; and

(e) Each large 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); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-027-0052

Allocation of Costs by a Large Telecommunications Utility

(1) As used in this rule:

(a) “Affiliate Transaction” means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a **large** telecommunications utility and accounts for nonregulated activities of a separate entity which is either an affiliated interest or another company in which the **large** telecommunications utility owns a controlling interest. The term also means a transfer of assets, a sale of supplies, or a sale of services between accounts for the regulated and nonregulated activities of a single **large** telecommunications utility;

(b) “Asset” means any tangible or intangible property of a **large** telecommunications utility or other right, entitlement, business opportunity, or other thing of value to which a **large** telecommunications utility holds claim;

(c) “Cost” means fully distributed cost, including the **large** telecommunications utility’s authorized rate of return and all overheads;

(d) “Fair Market Value” means the potential sales price that could be obtained by selling an asset in an arm’s-length transaction to a nonaffiliated entity, as determined by commonly accepted valuation principles;

(e) “Market Rate” means the lowest price which is available from nonaffiliated suppliers for comparable services or supplies;

(f) “Net Book Value” means original cost less accumulated depreciation; and

(g) “Nonregulated Service” means a service which is not a telecommunications service as defined by ORS 759.005(2)(g), or a service which the Commission has determined to be exempt from regulation.

(2) A **large** telecommunications utility that provides both regulated and nonregulated intrastate service shall:

(a) Allocate intrastate investments, expenses, and revenues between regulated activities and nonregulated activities according to principles, procedures, and accounting requirements which the Federal Communications Commission (FCC) adopted December 23, 1986, and amended on reconsideration September 17, 1987, in CC Docket No. 86-111, except as otherwise provided in this rule.;

(b) Part 64, Subpart I, Allocation of Costs, adopted by the Federal Communications Commission with revisions to October 1, 1998, is hereby adopted and prescribed.

(3) A **large** telecommunications utility’s regulated and nonregulated intrastate activities shall be accounted for in accordance with FCC Part 32 – Uniform Systems of Accounts, but with the following exception: For intrastate purposes, Part 32 rules governing affiliate transactions (Sections 32.27(a), (b), (c), and (d)) are replaced as follows:

(a) When an asset is transferred to regulated accounts from nonregulated accounts, the transfer shall be recorded in regulated accounts at the lower of net book value or fair market value;

(b) When an asset is transferred from regulated accounts to nonregulated accounts, the transfer shall be recorded in regulated accounts at the tariff or price-listed rate if an appropriate tariff or price list is on file with the Commission. If no tariff or price list is applicable, proceeds

from the transfer shall be recorded in regulated accounts at the higher of net book value or fair market value;

(c) When an asset is transferred from a regulated account to a nonregulated account at a fair market value that is greater than net book value, the difference shall be considered a gain to the regulated activity. The **large** telecommunications utility shall record the gain in a manner which will enable the Commission to determine the proper disposition of the gain in a subsequent rate proceeding;

(d) When services or supplies are sold by a regulated activity to a nonregulated activity, sales shall be recorded in regulated revenue accounts at tariffed or price-listed rates if an applicable tariff or price list is on file with the Commission. Tariffed or price-listed rates shall be established whenever possible. If services or supplies are not sold pursuant to a tariff or price list, sales shall be recorded in regulated revenue accounts at the **large** telecommunications utility's cost; and

(e) When services or supplies are sold to a regulated activity by a nonregulated activity, sales shall be recorded in regulated accounts at the nonregulated activity's cost or the market rate, whichever is lower. The nonregulated activity's cost shall be calculated using the **large** telecommunications utility's most recently authorized rate of return.

(4) If a **large** telecommunications utility is subject to ORS 759.100 through ORS 759.115 and provides both regulated and nonregulated intrastate service, the ~~telecommunications~~ utility shall maintain a current intrastate cost allocation manual on file with the Commission. If the FCC requires the **large** telecommunications utility to file an interstate cost allocation manual, the ~~telecommunications~~ utility shall also maintain a current copy of its interstate manual with the Commission.

(5) An intrastate cost allocation manual shall contain the following:

(a) A description of each of the **large** telecommunications utility's nonregulated intrastate activities;

(b) A list of all intrastate activities to which the **large** telecommunications utility now accords incidental accounting treatment, and the justification for treating each as incidental;

(c) A chart showing the **large** telecommunications utility's affiliates;

(d) A statement identifying affiliates that engage in or will engage in transactions with the **large** telecommunications utility for the purpose of providing nonregulated intrastate service and describing the nature, terms, and frequency of such transactions; and

(e) A detailed specification of the cost categories to which amounts in each account and subaccount of Part 32 will be assigned, and a detailed specification of the basis on which each cost category will be apportioned between regulated and nonregulated activities.

(6) Unless specifically allowed by the Commission, a cost allocation manual cannot be used to satisfy any other reporting requirement established by the Commission.

(7) The initial cost allocation manual filed by a **large** telecommunications utility pursuant to this rule must be filed with the Commission no less than 90 days before the manual's effective date. The manual shall go into effect unless rejected by the Commission before the manual's effective date.

(8) When a **large** telecommunications utility proposes any change to a cost allocation manual previously filed with the Commission, the ~~telecommunications~~ utility shall file the proposed change with the Commission no less than 45 days before the effective date of the change. The changes shall go into effect unless rejected by the Commission before the effective date of the change.

(9) After the Commission has issued an order to exempt from regulation a telecommunications service provided by a **large** telecommunications utility which is subject to ORS 759.100 through 759.115, the affected ~~telecommunications~~ utility shall file with the Commission either an initial cost allocation manual or a change to its previously filed manual.

(10) A **large** telecommunications utility that is required to file annual independent cost allocation audits with the FCC shall at the same time file copies of the annual audits with the Commission.

[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, 757 & 759

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

Hist.: PUC 24-1985, f. & ef. 12-12-85 (Order No. 85-1172); PUC 15-1988, f. & cert. ef. 9-7-88 (Order No. 88-954); PUC 8-1995, f. & ef. 8-30-95 (Order No. 95-858); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 10-2000, f. & ef. 5-26-00 (Order No. 00-263)

860-027-0070

Annual Report Requirements for Electric, Large Telecommunications, Gas, and Steam Heat Utilities

(1) Annual Reports will be submitted by electric, gas, water, and steam heat utilities. The report shall be submitted on or before April 1, using the most current forms approved by the Commission.

(2) Annual Reports will be submitted by **large** telecommunications utilities. The report Form O for the previous calendar year shall be submitted on or before April 1, using the most current forms approved by the Commission. The report Form I for the previous calendar year shall be submitted on or before October 31 using the most current forms approved by the Commission.

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

Stats. Implemented: ORS 756.040, 756.105, 757.120, 757.125, 757.135 & 759.225

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1985, f. & ef. 6-25-85 (Order No. 85-574); PUC 4-1995, f. & ef. 6-19-95 (Order No. 95-516); PUC 13-1997, f. & cert. ef. 11-12-97 (Order No. 97-434); PUC 2-1998, f. & cert. ef. 2-24-98 (Order No. 98-060); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468)

860-027-0200

Energy Utility Acquisition

In addition to the information required by ORS 757.511, any person filing an application pursuant to that statute, shall also provide:

(1) The information required by OAR 860-027-0030(1)(a) through (d), inclusive;

(2) A schedule detailing the existing capital structure of the **energy** utility to be acquired, as well as a pro forma utility capital structure as of 12 months after the acquisition is to be completed;

(3) An explanation of how the bond ratings and capital costs of the acquired utility will be affected by the acquisition;

(4) A description of existing and planned nonutility businesses which are or will become affiliated interests of the acquired utility under ORS 757.015, and a description of the organizational structure under which the applicant intends to operate its businesses;

(5) A description of the method by which management, personnel, property, income, losses, costs, and expenses will be allocated by the applicant between its utility and nonutility operations (if applicable);

(6) A description of any planned changes that may have a significant impact upon the policy, management, operations, or rates of the energy utility;

(7) A description of any plans to cause the energy utility to sell, exchange, pledge, or otherwise transfer its assets; and

(8) A copy of any existing or proposed agreement between the energy utility and any businesses which will become affiliated interests of the acquired utility under ORS 757.015.

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

Stats. Implemented: ORS 756.105 & 757.511

Hist.: PUC 6-1986, f. & ef. 7-22-86 (Order 86-731)

860-027-0300

Use of Deferred Accounting by Energy and Large Telecommunications Utilities

(1) As used in this rule:

(a) “Amortization” means the inclusion in rates of an amount which has been deferred under ORS 757.259 or 759.200 and which is designed to eliminate, over time, the balance in an authorized deferred account. Amortization does not include the normal positive and negative fluctuations in a balancing account;

(b) “Deferred Accounting” means recording the following in a balance sheet account, with Commission authorization for later reflection in rates:

(A) Electric, gas, and steam heat utilities: a current expense or revenue associated with current service, as allowed by ORS 757.259; or

(B) Large Telecommunications utilities: an amount allowed by ORS 759.200.

(2) Expiration: Any authorization to use a deferred account shall expire 12 months from the date the deferral is authorized to begin. If a deferral under ORS 757.259 or 759.200 is reauthorized, the reauthorization shall expire 12 months from the date the reauthorization becomes effective.

(3) Contents of Application: Application for deferred accounting, by an energy or large telecommunications utility or a customer, shall include:

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

(b) The reason(s) deferred accounting is being requested and a reference to the section(s) of ORS 757.259 or 759.200 under which deferral may be authorized;

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

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

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

ORDER NO. **DRAFT**

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

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

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

(5) Exceptions: Authorization under ORS 757.259 or 759.200 to use a deferred account is necessary only to add amounts to an account, not to retain an existing account balance and not to amortize amounts which have been entered in an account under an authorization by the Commission. Interest, once authorized to accrue on unamortized balances in an account, may be added to the account without further authorization by the Commission, even though authorization to add other amounts to an account has expired.

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

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

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

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

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

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

(7) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's public meetings.

(8) Reply Comments: Within ten days of the due date for comments on the application from interested persons, the applicant, and the energy or large telecommunications utility if the utility is not the applicant, may file reply comments with the Commission, and shall serve those comments on persons who have filed the initial comments on the application.

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

ORDER NO. **DRAFT**

(a) An electric, gas, or steam heat utility shall request that amortizations of deferred accounts commence no later than one year from the date that deferrals cease for that particular account; and

(b) In the case of ongoing balancing accounts, the electric, gas, or steam heat utility shall request amortization at least annually, unless amortization of the balancing account is then in effect; or

(c) A **large** telecommunications utility shall request amortization of deferred accounts as soon as practical after the deferrals cease but no later than in its next rate proceeding.

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

Stats. Implemented: ORS 756.040, 756.105, 757.259 & 759.200

Hist.: PUC 11-1988, f. & cert. ef. 6-9-88 (Order No. 88-597); PUC 2-1990, f. & cert. ef. 3-2-90 (Order No. 90-235); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 4-1998, f. & cert. ef. 2-24-98 (Order No. 98-057)

860-036-0755

Accounting for Director's' Fees

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

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

Stats. Implemented: ORS 756.040 & 757.110

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

860-034-0330

Relating to City Privilege Taxes, Fees, and Other Assessments Imposed Upon a Small Telecommunications Utility or Type 2 Cooperative

(1) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a ~~utility company, as defined in section (2) of this rule,~~ by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, whether applied to regulated revenues, net income, or other bases, shall be allowed as operating expenses of the ~~utility company~~ for rate-making purposes, subject to sections (2) through (4) of this rule.

(2) As used in this rule:

(a) "Company," as used in this rule, means a small telecommunications utility or Type 2 cooperative, as defined in OAR 860-034-0010;

(ab) "Fees and other assessments" means business or occupation taxes or licenses; franchise or operating permit fees; sales, use, net income, gross receipts, and payroll taxes, levies, or charges; and other similar exactions imposed by cities, other than ad valorem taxes, upon revenues or income received from regulated telecommunications services by a telecommunications utility company;

(bc) "Local access revenues" means those revenues derived from exchange access services within the city, as defined in ORS 401.710, less related net uncollectibles;

(ed) "Privilege taxes" means taxes levied and collected by cities from a utility company for use and occupancy of city streets, alleys, or highways, as provided under ORS 221.515;

(de) "Regulated revenues" means those revenues derived from regulated telecommunications services within the city less related net uncollectibles. Regulated revenues include, but are not limited to, local access revenues.

(3) Separate fees for street opening, installations, construction, and maintenance of fixtures or facilities to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in the exercise of its police powers shall be allowed as operating expenses of a ~~utility company~~ for rate-making purposes. Such fees shall not be deducted in computing the percentage level set forth in section (4) of this rule.

(4) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a **small telecommunications** utility by a city, which does not exceed 4 percent of local access revenues, shall be allowed as operating expenses for rate-making purposes and shall not be itemized or billed separately. All privilege taxes and fees and other assessments in excess of 4 percent of local access revenues shall be charged pro rata to users of local access services within the city and the aggregate excess amount shall be separately itemized on customers' bills or billed separately.

(5) The aggregate amount of all privilege taxes and fees and other assessments imposed upon a Type 2 cooperative by a city, which does not exceed 4 percent of local access revenues, shall be allowed as operating expenses for rate-making purposes and shall not be itemized or billed separately. All privilege taxes and fees and other assessments in excess of 4 percent of local access revenues shall not be included in joint rates and rates for through services.

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 7-1998, f. & cert. ef. 4-8-98 (Order No. 98-125)

860-034-0340

Relating to Local Government Fees, Taxes, and Other Assessments Imposed Upon a Small Telecommunications Utility or Type 2 Cooperative

(1) “Taxes,” as used in this rule, means sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, fees, or charges other than ad valorem taxes.

(2) For a Type 2 cooperative: If any county in Oregon, other than a city-county, should impose upon a Type 2 cooperative any taxes or license, franchise, or operating permit fees, the Type 2 cooperative may not collect such assessments from joint rates or rates for through services.

(13) For a small telecommunications utility:

(a) If any county in Oregon, other than a city-county, should impose upon a **small telecommunications** utility any new taxes or license, franchise, or operating permit fees, or increase any such taxes or fees, the **small telecommunications** utility required to pay such taxes or fees shall collect from its customers within the county imposing such taxes or fees the amount of the taxes or fees, or the amount of increase in such taxes or fees. However, if the taxes or fees cover the operations of a **small telecommunications** utility in only a portion of a county, then the affected utility shall recover the amount of the taxes or fees or increase in the amount thereof from customers in the portion of the county which is subject to the taxes or fees; ~~“Taxes,” as used in this rule, means sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, fees, or charges other than ad valorem taxes.~~

(2b) The amount collected from each **small telecommunications** utility customer pursuant to section **(13)(a)** of this rule shall be separately stated and identified in all customer billings;:

(3c) This rule applies to new or increased taxes imposed on and after December 16, 1971, including new or increased taxes imposed retroactively after that date;:

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

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

Stat. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 7-1998, f. & cert. ef. 4-8-98 (Order No. 98-125)