

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 25, 2001**

REGULAR CONSENT EFFECTIVE DATE _____

DATE: September 19, 2001

TO: Phil Nyegaard through Marc Hellman, Mike Myers, and Terry Lambeth

FROM: Kathy Miller

SUBJECT: AR 425 Permanent Rulemaking for Water Utilities

SUMMARY RECOMMENDATION:

Pursuant to ORS 756.060, staff recommends the Commission open a permanent rulemaking, docketed as AR 425, to consider permanently adopting staff's proposed water utility administrative rules in AR 413 and other proposed changes identified by staff.

DISCUSSION:

Docket AR 425 is a permanent rulemaking intended to proceed during the effective dates of the AR 413 emergency rulemaking regarding service standards for water utilities. The permanent rulemaking includes staff's proposed rules in AR 413 and other amended rules, new rules and housekeeping changes.

The purpose of AR 425 is to clear up any misunderstanding regarding the intent and interpretation of the Commission rules, and combines the emergency rules in AR 413 with staff's other proposed changes in a permanent rulemaking.

On August 23, 2001, the Commission asked staff to review its water utility rules in OAR Chapter 860 Division 036 to identify rules and service standards that need to be amended or added to provide a clear interpretation of the service standards. Staff reviewed the rules and identified service standards that needed immediate attention. Those rules staff included in AR 413, an emergency rulemaking. During the review, staff also identified other rules, developed new rules, and housekeeping changes that need to be considered for adoption.

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Staff's proposed changes are shown in Attachment A. Water utilities will be given the opportunity to comment regarding staff's proposal during the permanent rulemaking process.

STAFF RECOMMENDATIONS:

Pursuant to ORS 756.060, staff recommends the Commission open a permanent rulemaking, docketed as AR 425, to consider permanently adopting staff's proposed water utility administrative rules in AR 413 and other proposed changes.

860-036-0001**Scope and Applicability of Rules**

(1) Adoption of these rules shall in no way 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, either upon complaint or upon its own motion, or upon the application of any water utility subject to these rules. Furthermore, these rules shall not in any way relieve any water utility subject to them from any of its duties under the laws of this State. Upon application by a water utility, the Commission may relieve it of any obligations under these rules.

(2) The rules contained in ~~this d~~ivision 036 are applicable to public water utilities, as defined in OAR 860-036-0010, providing service in the State of Oregon.

(3) The rules contained in Division 036 do not restrict the authority of the Commission to require service improvements incorporating standards other than those set forth in this division when, after investigation, the Commission determines that such improvements are necessary.

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

Stat. Implemented: ORS 756.040

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

860-036-0005**Applicability and Formal Requirements**

All applications or petitions filed under the rules contained in ~~this d~~ivision 036 must also comply with all other applicable Commission rules.

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

Stat. Implemented: ORS 756.040

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

860-036-0010**Definitions for Water Utilities and Associations**

As used in ~~this~~-Division 036:

(1) "Applicant" means a person that:

(a) Applies for service with a utility; or

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

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

(3) "Commission" means the Public Utility Commission of Oregon.

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

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

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

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

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

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

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

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

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

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

Stats. Implemented: ORS 756.040 & 756.105

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

860-036-0015

Information for Customers and Applicants

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

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

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

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

(5) Upon application for new service, or upon later request, the water utility shall assist the customer or applicant in selecting the most advantageous rate to meet individual service

requirements. The customer or applicant shall be responsible for making the final selection of an applicable rate schedule.

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

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

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

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

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

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

(a) The Commission will translate the Rights and Responsibilities Summary for Oregon Utility Consumers into the designated non-English languages and provide copies to water utilities. The information published by a water utility pursuant to OAR 860-036-0015 shall prominently display the following statement in the designated non-English languages at the beginning of the summary and be printed in boldface: A version of the Rights and Responsibilities Summary for Oregon Utility Consumers printed in this language is available by calling (name of utility) at (phone number).

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

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

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

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

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

Stat. Implemented: ORS 756.040

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

860-036-0040

Establishing Credit for Residential Service

(1) A water utility may require a deposit from a customer or applicant who:

(a) Received service from it or any Oregon regulated water utility within the preceding 24 months and, at the time service was terminated, owed an account balance that was not paid according to its terms. This section does not apply to customers 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 regulated utility or was otherwise found to have diverted utility service.

(2) A water utility shall not require a deposit from an applicant it served within the preceding 24-month period who voluntarily terminated service and whose final bill was paid in full by its due date.

(3) In all other cases, a customer or applicant may choose whether to submit one of the following:

(a) A letter from another water utility on that utility's official stationery and signed by an authorized employee stating that it served the named applicant within the preceding 24 months for water service, that the applicant voluntarily terminated service and 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 month's average usage. For the purpose of this rule, a water utility customer who has received service continuously for the preceding 12 months from the same water utility company without late payment is considered a responsible party. The obligation of the surety ceases when the customer establishes good credit; or

(c) A customer or applicant provides a deposit and positive identification by providing the customer or applicant's name, address, date of birth, social security number, if any, and is supported by any one of the following:

(A) An Oregon license from the Department of Transportation, Driver and Motor Vehicle Service Branch, or other state identification containing a photograph of the customer or applicant 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

(Ce) A combination of one from each of the following groups:

- (i) Birth certificate or social security card; and
- (ii) Current identification from school, employment, Adult and Family Services Division, or other State of Oregon assistance program; and
- (iii) 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) A deposit required under these rules shall not exceed one-sixth the amount of reasonable estimated billing for one year at rates then in effect. This estimate shall be based upon the use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service.

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

(a) If the customer moves and the anticipated bill at the new residence will be at least 20 percent greater than that upon which the prior deposit was based; or

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

(6) Paying a deposit does not excuse a customer or applicant from complying with the water utility's tariffs, statement of rates, or other regulations, such as the obligation to promptly pay bills.

(7) A water utility may require less stringent deposit requirements than those specified in this section provided the requirements used by the water utility are nondiscriminatory.

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

Stat. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 9-1999 (Temp), f. 10-22-99 & ef. 10-23-99 (Order No. 99-650); PUC 6-2000, f. 4-18-00 & ef. 4-20-00 (Order No. 00-194)

860-036-0060

Installation of Water Service Connection

(1) A water utility shall, with the exceptions listed below, furnish and install at its own expense all necessary trenching, pipe, valves and fittings between its main line and the customer service line. Such installation shall be designated as "service connection." The water utility shall own, operate, maintain, and replace the service connection when necessary.

(2) A water utility may require the customer to pay a reasonable service connection charge to offset its expenses listed in section (1) of this rule. Such charge shall not include the cost or installation of the meter nor exceed the threshold level established in OAR 860-036-0030.

(3) A standard service connection charge that exceeds the threshold level established in OAR 860-036-0030 shall be deemed unreasonable and may be subject to refund.

(4) **Notwithstanding (2) of this rule,** A water utility may charge a service connection charge in excess of the threshold level if, ~~prior to assessing such charge, it demonstrates to the satisfaction of the Commission that~~

- (a) Circumstances exist that cause the service connection to be nonstandard;**
- (b) Ssuch charge is based on actual cost and is reasonable.; and**
- (c) The water utility and the customer agree on the amount of the charge prior to actual installation.**

(5) The water utility shall bear the burden of proof justifying that the charge in excess of the threshold is necessary, cost-based, and reasonable.

(56) Any connection longer than the width of the street, or public highway, or the width of a privately granted easement, located adjacent to the customer property will not be considered a service connection but will be treated as a main line extension. See OAR 860-036-0065.

(67) The customer shall furnish and install the necessary pipes and fittings to make the connection **from the customer's premise** to the water utility's service connection at the customer property line. Such installation shall be designated as the "customer service line."

(78) A customer service line shall extend to that point on the customer's property line of easiest access to the water utility from its distribution system, or requiring least extension of the system. In any case, where a reasonable doubt exists as to the proper location for the customer service line, the water utility should be consulted and a location agreed upon. If agreement cannot be reached; the water utility and customer shall pursue dispute resolution pursuant to OAR 860-036-0025.

(89) All construction and installation of water service connections shall comply with all applicable rules, regulations, codes, and **best practices and standards of the water industry standards.**

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

Stat. Implemented: ORS 756.040

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

860-036-0065

Installation of Main Line Extension

(1) A water utility shall develop a Commission-approved uniform policy governing the amount of main extension and applicable charges **whiehthat** will be made to connect a new customer. This policy shall be related to the investment that can prudently be made for the probable revenue.

(2) Customers may be required to pay a reasonable, cost-based charge for any necessary main line extension to provide service connection in accordance with the water utility main line extension policy. Such policy and charges must be filed as tariffs with the Commission or be included in the water utility's rules, whichever is applicable.

(3) Each water utility shall establish a main line extension policy that includes the following:

- (a) Schedule of cost-based charges;
- (b) Advance and refund provisions **whiehthat** describe the mechanism for collecting main line extension charges and rebating main line extension charges to customers **whiehthat**

equitably distributes the cost of the main line extension among customers of the line who contributed to the payment of the cost of the line; and

(c) Time period during which advance and rebate provisions will be in effect.

(4) All main line extension policies shall be applied uniformly among the water utility's customers and must be on file with the Commission, if required, or contained within the water utility's rules and made available to the public.

(5) All construction and installation of main lines and extensions shall comply with all applicable rules, regulations, codes, and industry standards.

(6) All disturbances of the surrounding area, including but not limited to pavement, sidewalk, driveway, landscaping, and lawn resulting from construction or installation by the water utility shall be restored to as good of condition as prior to the water utility's construction or installation.

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

Stat. Implemented: ORS 756.040

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

860-036-0075

Interruption of Service

(1) A water 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) A water utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the water 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, every customer affected shall be notified in advance of any contemplated work ~~which~~that will interrupt service, but such notice shall not be required in case of interruption due to emergency repairs. Whenever possible, scheduled interruptions shall be at such hours as will provide least inconvenience to the customer.

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

Stat. Implemented: ORS 756.040

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

860-036-0105

Use of Water Meters

(1) Unless otherwise authorized by the Commission, each water utility shall continue to own, maintain, and operate all equipment needed to regulate and measure water to its customers. When the water utility furnishes additional meters or relocates meters for the customer's convenience, the water utility may make a reasonable charge for such meters in accordance with a schedule approved by the Commission.

(2) No water utility shall charge for furnishing, installing, or maintaining any meter or other appliance for measurement purposes except by the Commission's permission, or as provided in

OARs 860-036-0060 and 860-036-0070. The amount so paid shall be refunded to the customer by allowing him/her a credit of one-half of the monthly bill until the amount has been paid, provided such refund payments do not run for more than three years from the date when the refund began.

(3) No rental fee shall be charged by any water utility for any meter or appliance installed by it, ~~which~~that the water utility uses as a basis for the rendering of bills, except when an additional meter or appliance is requested by the customer for his/her convenience.

(4) The water utility shall have the right to set meters or other devices for detecting and preventing fraud or waste, without notifying the customer.

(5) No water utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the Commission.

(6) If damage results to the meter from molesting or willful neglect by the customer, the water utility shall repair or replace the meter and may bill the customer for the reasonable cost.

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

Stats. Implemented: ORS 756.040 & 757.250

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

860-036-0110

Testing Water Meters

(1) All meters shall be tested before installation, or within 30 days thereafter. No meter will be placed in service or be allowed to remain in service that has an error in registration in excess of 2 percent under conditions of normal operation. The water utility may seek Commission approval for a waiver of this requirement if it can demonstrate to the satisfaction of the Commission a suitable random sampling technique for testing new meters.

(2) New meters, repaired meters, and meters that have been removed from service shall be correct to within 2 percent fast or slow before being installed or reinstalled.

(3) Each water utility shall adopt schedules for periodic tests and repairs of meters. The length of time meters shall be allowed to remain in service before receiving periodic tests and repairs is to be determined from periodic analysis of the accuracy of meters tested. The schedules adopted shall be subject to the Commission's approval.

(4) Whenever any meter is tested, the water utility shall prepare a test record, including the information needed for identifying the meter, the reason for making the test, the reading of the meter, the result of the test, and all data taken at the time of the test in sufficiently complete form to permit the convenient checking of methods employed. The water utility shall retain the current and immediately prior test records for all meters tested.

(5) Each water utility shall, unless specifically excluded by the Commission, provide such laboratory meter-testing equipment and other equipment and facilities as needed to make the tests required of it by these rules or other orders of the Commission. The apparatus and equipment so provided shall be subject to the Commission's approval.

(6) All meters used for measuring the quantity of water to a customer shall be in good working condition. They shall be adequate in size and design for the type of service measured and shall be accurate to register no more than 2 percent fast or slow under conditions of normal

operation. The water utility is responsible for repairing or replacing inaccurate or substandard meters at its own cost. Any such repair or replacement will be completed promptly at the water utility's expense and, until such completion, the customer shall be charged as adjusted to compensate for the inaccuracy.

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

Stats. Implemented: ORS 756.040 & 757.250

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

860-036-0115

Customer Requested Meter Test

(1) Any customer may ask the water utility to test the water meter used to measure the customer's service. Such tests shall be made within 20 working days of the request at no cost to the customer. If a customer requests more than one meter test within any 12-month period, the water utility may require a deposit from the customer to recover the reasonable cost of the test. The water utility will return the deposit **if the and will not charge the customer for a subsequent meter test when the** meter is found to register ~~more than~~ **outside the** 2 percent ~~fast~~ **accepted tolerance standard** under normal operating conditions.

(2) A customer or a designated representative shall have the right to be present at any meter test. The test shall be conducted at a mutually acceptable time during regular business hours.

(3) A report showing the customer's name, the request date, the address where the meter has been installed, the meter's number, the date tested, and the test result shall be supplied to the customer within a reasonable time after completing the test. **For purposes of this rule, a reasonable time shall be no longer than 10 working days.**

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

Stat. Implemented: ORS 756.040

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

860-036-0120

Meter Readings and Bill Forms

(1) Every water utility providing metered service shall indicate clearly on the meter the units of service for which the charge is made to the customer, except when automatic meter reading systems preclude such facilities.

(2) All water service bills shall show the beginning and ending meter readings for the period ~~for which~~ the bill is rendered, the date of the meter readings, the number of units of service supplied **clearly** stated in gallons or cubic feet, the schedule number under which the bill was computed, and any other information needed to compute the bill. Each bill shall bear on its face the delinquent date of the bill. When there is good reason for so doing, estimated bills may be submitted. Any estimated reading shall be clearly designated as such on the bill.

(3) As a matter of general practice, all service meters shall, as nearly as possible, be read at monthly intervals on the corresponding day of each meter reading period. Special authority may

be granted for reading the meters at other than monthly intervals, if the circumstances warrant or upon customer request if agreed to by the water utility and the customer. In such cases, the water utility shall provide confirmation in a written statement ~~which~~ that includes an explanation of the disadvantages of having the meter read and billed less often than monthly.

(a) When access to a meter is difficult due to the meter location or other circumstance, the water utility shall seek the customer's cooperation in obtaining monthly meter readings (for example, having the customer complete and return a meter reading form). Any customer reading shall be subject to actual verification by the water utility not less than once every four months;

(b) Each customer shall provide the water utility with regular access to the meter on the customer's property. Failure to permit access at reasonable times and after reasonable written notice of requested access is grounds for disconnection.

(4) On written request by a customer, the water utility shall cause the meter reader, when the customer's meter is read, to leave on such meter or with such customer, a card showing the actual meter reading and the date and time such reading was made.

(5) Water utilities shall make reasonable efforts to prepare opening and closing bills from actual meter readings.

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

Stats. Implemented: ORS 756.040 & 757.250

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

860-036-0230

Disconnection of Water Service to Tenants

(1) If a water utility's records show that a residential billing address is different from the service address, the water utility must provide a duplicate of the five-day disconnect notice required under OAR 860-036-0245 for water service to the occupants of the service address in the manner described in OAR 860-036-0245(2) for water service unless the water utility has ~~reasonable~~ evidence to believe that the service address is occupied by the customer. This requirement is satisfied by serving a notice addressed to "Tenants," as required in OAR 860-036-0245 for water service. The notice to occupants need not include the dollar amount owing.

(2) When a water utility's records show that a residence is a master-metered multi-unit dwelling (including rooming houses), the water utility must notify the Commission's Consumer Services Division at least five business days before disconnecting the service. The water utility will use reasonable efforts to notify occupants of the impending disconnection and alternatives available to them.

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

Stats. Implemented: ORS 756.040 & 757.760

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

860-036-0301**Quality of Water Service**

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

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

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

Stats. Implemented: ORS 756.040, 757.020, & 757.250

Hist.: NEW

860-036-0305**Maintenance of Plant and Equipment**

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

(2) A water utility shall inspect its plant, distribution system, and facilities in such manner and with such frequency as ~~may be needed~~necessary to ensure a reasonably complete knowledge about the ~~ir~~ condition and adequacy of the entire system at all times.

A water utility shall keep maintenance ~~Such records consistent with the best practices and standards of the water industry shall be kept of the conditions found as the utility considers necessary to properly maintain its system,~~ unless in special cases when the Commission specifies a more complete record.

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

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

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

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

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

(b) The expected date of the repair;

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

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

(7) The water utility shall notify in a like manner all customers whose service is affected by the service problem and all customers whose service may be affected during the repair.

(8) Each water utility repair shall not be longer than the minimum amount of time reasonably required to make the repair. In case of a dispute, the Commission shall determine the reasonable amount of time necessary to make the repair. If the water utility repair is determined to have taken longer than reasonably necessary, the water utility shall provide affected customers with service credits according to OAR 860-036-0330.

(9) All disturbances of the surrounding area, including but not limited to pavement, sidewalk, driveway, landscaping, and lawn resulting from construction or installation by the water utility shall be restored to as good of condition as prior to the water utility's construction or installation.

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

Stats. Implemented: ORS 756.040 & 757.020

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

860-036-0310

Purity of Water Supply for Domestic Purposes

(1) A water utility delivering water for domestic purposes shall furnish a supply ~~which that~~ shall at all times be free from bodily injurious physical elements and disease-producing bacteria. A water utility shall ~~cause to be made~~ make such tests and take precautions as will ensure the constant purity of its water supply. A water utility shall keep a record of all such tests and reports.

(2) A water utility delivering water for domestic purposes shall furnish a supply ~~which that~~ shall be reasonably free from elements ~~which that~~ cause physical damage to customer's or applicant's property including but not limited to pipes, valves, appliances, and personal property. A water supply that causes such damage must be remedied within a reasonable time unless the conditions are such as to not reasonably justify the necessary investment. The water utility shall bear the burden of demonstrating that remedying the condition is not reasonably justified.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-023-0060

860-036-0315

Adequate Water Pressure Required

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

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

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

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

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

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

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

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

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

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

860-036-0320

Pressure Surveys

(1) Every water utility shall have ~~a~~ permanently placed pressure gauges located **at various locations** on ~~a~~ main ~~which~~ **lines and/or distribution lines that are** ~~is~~ representative of the **entire** system's pressures. A portable gauge in good working condition shall be available for checking pressure conditions in any part of the distribution area.

(2) Any customer may request the water utility to perform a water pressure test. Such test shall be made within 20 working days of the request at no cost to the customer. If a customer requests more than one pressure test within any 12-month period, a deposit to recover the reasonable cost of the additional test may be required of the customer. The deposit shall be returned if the pressure ~~is not considered adequate~~ **test indicates less than 20 pounds per square inch or more than 125 pounds per square inch**.

(3) A customer or a designated representative shall have the right to be present at any **water** pressure test. The test shall be conducted at a mutually agreeable time during regular business hours.

(4) Pressure tests shall be performed as follows:

(a) For metered service, the pressure will be measured at a point adjacent to the meter on the customer service line.

(b) For non-metered service, the pressure will be measured at the customer service line or hose bibb or other reasonable point likely to best reflect the actual service pressure.

(5) A report showing the name of the customer, the date of the request, the address where the pressure was tested, the location of the test, ~~and~~ the date of the test, **and** with the result of the test shall be supplied to the customer within a reasonable time after completion of the test. **For purposes of this rule, a reasonable time shall be no longer than 10 working days.**

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

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

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-023-0070

860-036-0325

Water Supply

(1) Every water utility shall exercise due diligence to furnish a continuous and adequate supply of water to its customers.

(2) If a water utility finds that it is necessary to **conserve or** restrict the use of water, it shall notify its customers and give the Commission written notice before such restriction becomes effective. Such notifications shall specify:

(a) The reason for the restriction;

(b) The nature and extent of the restriction, for example, on outdoor use of water, use by certain classes of customers, etc.;

(c) The date such restriction is to go into effect; and

(d) The probable date of termination of such restriction.

(3) The Commission has the authority to formally or informally investigate the water utility's conservation or water restriction plan either on its own motion or by customer complaint. During or after such investigation, the Commission may change or alter the water utility's water conservation or restriction plan as it deems necessary.

(3) During times of actual water shortage, the water utility shall equitably apportion its available water supply among its customers with due regard to public health and safety.

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

Stat. Implemented: ORS 756.040

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

860-036-0330

Service Credit for Inadequate Service

(1) Upon finding that a water utility rendered inadequate service, the Commission may require the water utility to provide service credits to affected customers as follows:

(a) Credits shall be based upon the duration of the inadequate service as follows: 1 - 30 days, one third of customer regular fixed or flat monthly charges; 31 - 60 days, one half of customer regular fixed or flat monthly charges; 61 - 90 days, two thirds of customer regular fixed or flat monthly charges; 91 days until corrected, credit entire monthly fixed or flat charges.

(b) Such credits shall be limited to a six-month period unless otherwise extended by the Commission.

(2) Inadequate service credits are applicable only to deficiencies found in the water utility's system or those found to be in the control of the water utility. Deficiencies originating on the customer's portion of the system, caused by the customer's negligence or willful misconduct, ~~caused~~ by a natural disaster, or stemming from damage to the water system caused by a third party unaffiliated with the water utility, will not be eligible for inadequate service credits.

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

Stat. Implemented: ORS 756.040

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

860-036-0335

Maps and Records

(1) A water utility shall keep on file current maps and records of the entire plant showing size, location, character, and date of installation of major plant items, including **but not limited to main lines, distribution lines, pressure release valves, and** shut-off valves.

(2) Upon request, a water utility shall file with the Commission **maps as described described above in (1)**~~an adequate description or maps to define the territory serviced~~. All maps and records ~~that filed with~~ the Commission ~~may require the water utility to file~~ shall be in a form satisfactory to the Commission.

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

Stats. Implemented: ORS 756.040 & 757.020

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

860-036-0405

Notice of Customer's Right to Petition for Full Rate Regulation

(1) At least 60 days before an ~~non fully regulated~~**otherwise exempt** water utility serving less than 500 customers increases its residential rates to a level that exceeds the threshold levels established in OAR 860-036-0030, it shall provide written notice to all of its customers. ~~and~~ **The water utility shall send to the Commission a copy of the notice and a current list of its customers with names and addresses.** The notice will advise customers of their right to file a petition to initiate full regulation ~~ofn~~ the water utility. This written notice shall be prepared as follows:

NOTICE OF PROPOSED RATE INCREASE AND CUSTOMER RIGHT TO PETITION

(Company Name) water utility intends to increase its rates or charges from an average of (Current Rate or Charge) per month to (Proposed Rate or Charge) per month, effective (Effective Date). You have the right to petition the Public Utility Commission of Oregon to request that the proposed increase be investigated. If 20 percent or more of the customers petition, the company must obtain Commission approval before the proposed rate or charge can become effective. Absent such a petition, the proposed rates or charges will automatically become effective (Effective Date). The company will provide a complete customer list within 10 days of a request from any customer. The proposed rate or charge increase is necessary because of the following factors:

(Describe reasons for seeking increase Cause Factor)

Petitions should state the purpose for the petition, and include the customer's name, address, telephone number and signature. Send petitions 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 for further information.

(2) Any water utility ~~which~~that fails to provide the notice required in Section (1) of this rule prior to increasing rates or charges above the threshold level shall be required to reduce such rates or charges to threshold levels and provide notification as required in Section (1) of this rule.

(a) Failure to reduce rates or charges and provide notice as required may result in refunds of customer charges in excess of threshold levels, civil penalties, or both.

(3) At any other time ~~in which~~that the water utility is required to give notice to its customers of the customers' right to petition the Commission to initiate ~~full-rate~~ regulation, the written notice shall be prepared as follows:

NOTICE OF CUSTOMER RIGHT TO PETITION

The intent of this notice is to inform (name of company) customers of their right to petition the Public Utility Commission of Oregon to terminate the water utility's exempt status under ORS 757.061. Water utilities ~~which~~that are exempt under ORS 757.061 are not subject to rate approval by the Commission. Such exemption may be terminated if 20 percent or more of a water utility's customers petition for terminationrate regulation and the utility charges in excess of the threshold levels established in OAR 860-036-0030. (name of company) charges in excess of these threshold levels are:

(Identify charges in excess of Commission threshold levels.)

The company will provide a complete customer list within 10 days of a request from any customer. Petitions must be in writing and should state the purpose for the petition and include customer's name, address, telephone number, and signature. Petitions should be sent to: Public Utility Commission of Oregon, Consumer Services Division, 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551.

If the Commission receives petitions from 20 percent or more of the water utility's customers, the company's exempt status will be terminated and the water utility must seek Commission approval of its rates and charges by filing appropriate tariffs with the Commission within 60 days of the company's change in regulatory status. For further information you may call the Commission Consumer Services Division at 1-800-522-2404.

(4) The water utility shall send to the Commission a copy of the customer notice and a current customer list including names and addresses.

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

Stats. Implemented: ORS 756.040, 757.750 & 757.755

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); Renumbered from 860-022-0028 by PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 8-1999, f. & ef. 10-18-99 (Order No. 99-632)

860-036-0410

Relating to Rate Regulation of Water Utility by Customer Petition

(1) As used in this section, "customer" means individual residential dwelling or commercial unit served by the water utility. Hotels, motels, and RV parks shall be deemed one commercial customer, except the customers ~~those individuals~~ who use such facilities as a primary residence shall also be counted as customers.

(2) Customers may submit a petition to the Commission at any time after service rates or charges exceed or are proposed to exceed the threshold levels established in OAR 860-036-0030. Petitioners must be current customers of the water utility.

(3) Petitions must be in writing, state the purpose of the petition, and include the customer's name, address, telephone number, and signature.

(4) Individual customer letters may be submitted in lieu of a petition.

(5) If 20 percent of customers petition the Commission, Commission staff will notify the water utility, in writing, of its change in status to a ~~fully rate-~~regulated water utility.

(6) The water utility must file appropriate tariffs pursuant to ORS 757.205 within 60 days after receiving notification from Commission staff of its change in regulatory status.

(7) If the water utility fails to file appropriate tariffs within 60 days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.

(8) Existing rates and charges will be deemed interim rates and ~~may be~~ are subject to refund during the pendency of the tariff filing application. The period of refund will begin on the date of the notice requiring a tariff filing sent by Commission staff until the establishment of new rates by Commission order. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers determined by the Commission to be unreasonable or excessive or not justified by the water utility's cost. At the discretion of the Commission, any such refund may include interest.

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

Stat. Implemented: ORS 756.040

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

860-036-0415

Relating to Rate Regulation of Water Company by Customer Count

(1) As used in this section, "customer" means individual residential dwelling or commercial unit served by the water utility. Hotels, motels, and RV parks shall be counted as one commercial customer, except ~~the customers those individuals~~ who use such facilities as a primary residence shall also be counted as customers. Multiple user units such as, but not limited to, apartment complexes, duplexes, triplexes, condominiums, and town houses shall be counted as the number of individual units within the building. For example, a duplex shall be counted as two customers and a 14-unit apartment complex shall be counted as 14 customers.

(2) The Commission may require a customer count as specified in this section from any water utility.

(3) If the Commission determines a water utility has a customer count of over 500 customers, it shall notify the water utility in writing of its change in regulatory status and require the water company to file tariffs with the Commission within 60 days pursuant to ORS 757.205.

(4) If the water utility fails to file appropriate tariffs within 60 days of notification, the Commission may initiate a tariff filing proceeding to establish rates for the water utility.

(5) Existing rates and charges ~~may will~~ will be deemed interim rates subject to refund during the pendency of the rate filing application. Refund may be limited to those charges and fees paid by customers determined by the Commission to be unreasonable or excessive or not justified by the water utility's costs. At the discretion of the Commission, any such refund may include interest. The period of refund will begin on the date of the notice requiring a tariff filing sent by Commission staff, unless the date the water utility began serving 500 customers can be

reasonably determined, and end on the issuance date of the Commission order establishing new rates.

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

Stat. Implemented: ORS 756.040

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

860-036-0505

Relating to New Water Utilities

(1) This rule is applicable to newly constructed investor-owned water utilities ~~which~~that have not previously offered water service to the public during the past 12 months. This rule is not applicable to remodeled, renamed, new additions, or new ownership of existing water supply systems.

(2) A new water utility may initially establish a monthly residential rate exceeding the threshold level established in OAR 860-036-0030 provided it notifies each customer in writing at the time of connection, or earlier, of the customer's right to petition the Commission for rate regulation. The notice shall comply with OAR 860-036-0405. All subsequent rate increases will comply with the requirements of OAR 860-036-0405.

(3) If the Commission receives petitions from 20 percent or more of the new water utility's customers and the water utility charges or proposes to charge for services in excess of the threshold levels established in OAR 860-036-0030, the rules contained in OAR 860-036-0410 will become applicable.

(4) Customer count will be made pursuant to OAR 860-036-0415. The 20 percent calculation of customers will be based upon the total number of customers existing in the month ~~in which~~ the petition is received by the Commission. Petitions will carry over month to month and will be cumulative. Petitioners need not file petitions monthly in order to be counted for any particular month.

(5) Petitions will be valid for one year after which they must be resubmitted to the Commission.

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

Stats. Implemented: ORS 756.040 & 757.205

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

860-036-0605

Tariff Specifications

(1) 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 tariffs filed by each ~~fully regulated~~ water 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 for 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; and

(d) Separate tariffs shall be filed for water or for any other service entered.

(2) Size of tariffs and copies required:

(a) Tariffs and supplements thereto must be typewritten or printed upon paper 8-1/2 x 11 inches in size; and

(b) The original and four conformed copies of each tariff, rate schedule, revision, or supplement shall be filed with the Commission.

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

Stats. Implemented: ORS 756.040 & 757.205

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

860-036-0610

Tariff Contents

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

(2) Rules and regulations of the ~~fully rate-~~regulated water utility that in any manner affect the rates charged or to be charged or ~~which that~~ define the extent or character of the service to be given shall be included with each tariff.

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

Stats. Implemented: ORS 756.040 & 757.205

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

860-036-0615

Tariff Changes Require 30 Days' Notice to the Commission

Except as hereinafter provided, all tariffs, rate schedules, revisions, or supplements thereto containing any change in rates, ~~tolls,~~ charges, or rules and regulations must be filed with the Commission at least 30 days before the effective date of such changes. Tariffs or schedules not in conformity with the rules contained in ~~this d~~ivision 036 may be rejected as provided in OAR 860-011-0025.

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

Stats. Implemented: ORS 756.040, 757.007 & 757.220

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

860-036-0620**Announcement of Tariff Changes**

(1) Within 15 days of filing ~~with the Commission~~ new or revised tariff schedules with the Commission ~~which that~~ constitute a general rate revision, a fully rate-regulated water utility shall inform its customers of the filing. A “general rate revision” is a filing by a fully rate regulated water utility that affects all or most of ~~a fully regulated the~~ water utility’s rate schedules. “General rate revision” does not include changes in an automatic adjustment clause under ORS 757.210(1) or similar changes in one rate schedule, such as for an amortization, that affect other rate schedules.

(2) A fully regulated-water utility filing a general rate revision shall inform its customers of its filing by:

(a) Insertion of a display announcement, not less than a three column standard advertising unit (SAU) by 10 inch advertisement, at least once in a newspaper of general circulation in the communities served by the fully regulated water utility;

(b) An announcement inserted in the fully regulated-water utility’s regular billing to its customers; or

(c) An announcement mailed to each customer.

(3) The announcement shall include:

(a) The approximate annualized amount of the proposed total change in revenue, 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 change is sought;

(c) Notification that copies of the fully regulated-water utility’s application, testimony, and exhibits are available ~~for inspection~~ at its ~~main and district offices~~ at main office;

(d) The water utility office mailing address and ~~the~~ telephone number ~~of the fully regulated water utility’s office that~~ customers may contact for additional information about the filing;

(e) The mailing address and toll-free telephone number (1-800-522-2404) 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 customers ~~of the fully regulated water utility~~ with general information ~~regarding as to~~ the water utility’s proposed tariffs and their effect the tariff filing may have on ~~the~~ customers; ~~and~~

(g) A statement and that the calculations and statements contained in the water utility’s announcement and filing are not binding on the Commission.

(4) Within 20 days of issuance of the announcement, the fully regulated water utility shall file an affidavit with the Commission that notice has been given and a copy of the notice.

(5) The Commission may waive the requirements of this rule upon a showing by the fully regulated-water 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 fully regulated-water utility.

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

Stat. Implemented: ORS 756.040

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

860-036-0630

Requirements for Filing Tariffs or Schedules Changing Rates

(1) A ~~fully regulated~~ water utility may make tariff changes by filing an entirely new tariff or by filing revised sheets that shall refer to the sheets of the tariffs on file. Additions to the tariff on file may be made by filing additional sheets.

(2) Each ~~fully regulated~~ water 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

Stats. Implemented: ORS 756.040 & 757.205

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

860-036-0635

Requirements for Filing Tariffs or Schedules Naming Increased Rates

(1) Each ~~fully regulated~~ water utility filing tariffs or schedules ~~which~~that name increased rates shall submit therewith, in addition to requirements of OAR 860-036-0630, 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 annual revenue ~~which will~~ the water utility expects to be derived from the application of 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~~that 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 may be required to be filed either prior to acceptance by the Commission of the tendered filing or at any stage in the proceeding.

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

Stats. Implemented: ORS 756.040 & 757.205

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

860-036-0645**Notice to Interested Persons**

(1) This rule applies to any tariff filing that is filed under ORS 757.205.

(2) Any person who requests of the Commission, in writing, to be notified of **fully regulated** water 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 10 days of any tariff filing under section (1) of this rule that complies with OAR 860-036-0605 through 860-036-0635.

(4) The notice shall include the following information:

(a) Name of the filing ~~fully regulated~~ water utility;

(b) Subject;

(c) Filing date;

(d) Effective date;

(e) Date of the Commission's public meeting at which the tariff will be considered ~~(when the information is available)~~; and

(f) Customer classes affected;

(5) 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.

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

Stats. Implemented: ORS 756.040 & 757.230

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

860-036-0710**Notice and Approval Requirements Relating to the Sale, Transfer, Merger, Termination or Abandonment of Service, or Disposal of a Water Utility**

(1) Notice Requirements:

(a) All water utilities shall provide written notification to customers and the Commission of any sale, transfer, or merger, or disposal of the company 60 days prior to the closing date of the transaction. The notice shall include the following information:

(A) Name, address, and telephone number of the water utility;

(B) Purpose of notice;

(C) Filing date;

(D) Effective date of sale;

(E) Name, address, and telephone number of potential buyer;

(F) Reason(s) for sale;

(G) Effect of sale upon customers.

(b) ~~An non-fully regulated otherwise exempt~~ water utility ~~which that~~ charges for services in excess of threshold levels established in OAR 860-036-0030 must also provide its customers written notification ~~at least 60 days prior to the closing date of the transaction~~ of the customers' right to petition the Commission for regulatory approval of ~~the sale, transfer, or~~

~~merger of the water utility~~ **such transaction at least 60 days prior to the closing date.** If the Commission receives a petition from at least 20 percent of the customers prior to the closing date of the transaction, the water utility becomes **fully rate-**regulated and the transaction requires Commission approval;

(A) The notice shall include the information required in (1)(a) of this rule;

(B) The notice shall inform the customers of their right to petition the Commission for Commission approval of the proposed transaction.

(2) Approval Requirements:

(a) **Fully Rate-**regulated water utilities must file an application to obtain Commission approval prior to the sale, transfer, ~~or merger, of the company~~ **or to terminate service, abandon service, or otherwise dispose of the water utility.** Application requirements are found in OAR 860-036-0715;

(b) All water utilities seeking to terminate service, abandon, or otherwise dispose of the water utility, excluding sales, transfers or mergers, shall make application to and obtain Commission approval prior to such termination, abandonment, or disposal. **Application requirements are found in OAR 860-036-0715.**

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

Stats. Implemented: ORS 756.040 & 757.480

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 15-1998, f. & ef. 8-27-98 (Order No. 98-359); PUC 9-1999 (Temp), f. 10-22-99 & ef. 10-23-99 (Order No. 99-650); PUC 6-2000, f. 4-18-00 & ef. 4-20-00 (Order No. 00-194)

860-036-0715

Applications for Authority to Sell, Lease, Assign, Mortgage, Merge, Consolidate, Terminate or Abandon Service or Otherwise Dispose of or Encumber its Property, or to Acquire Stock, Bonds, or Property of Another Public Utility

(1) Requirements of this rule apply to **fully rate-**regulated water utilities seeking authority under ORS 757.480 and ORS 757.485. Every applicant shall, at a minimum, utilize the form prescribed below and provide all required information. At its discretion, the Commission may require further or more detailed information.

In the Matter of the Application of (Enter Exact Name of Applicant) for an Order Authorizing (Enter Authority Requested, for example, to Sell, Transfer, or Otherwise Dispose of Utility Property) to (Enter Name, Address, and Telephone Number 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 water 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 net book value of the system is \$_____.

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 transaction is proposed).

The effect(s) of the transaction upon the current customers is (state all effects of the transaction on current customers).

The current customers benefit from this transaction in the following ways: (List and explain all benefits current customers will realize from the transaction.)

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 water utility and the reasons why they desire to acquire the utility property. Attach to the application a financial statement of the purchasers.)

Attached to this application is a copy of all grants of easement(s) to be transferred with the sale of the water system. Also attached is documentation of all water rights to be transferred with the water system.

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 _____) ss.

County of _____)

(Name of Party signing above)

being first duly sworn, deposes and says he/she is _____ (Title) _____ of _____ (Name of Utility) _____, the applicant in the foregoing application, that he/she 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) _____

(Notarial Seal).

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

Stats. Implemented: ORS 756.040, 757.105, 757.480 & 757.485

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

860-036-0720

Application by a Water Utility for Authority to Issue Stocks, Bonds, Notes, or Other Securities

(1) This rule applies to fully rate-regulated water utilities seeking authority under ORS 757.495, 757.405 to 757.435 inclusive, 757.445, and 757.450. 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 water utility business;
- (c) The name and address of the person authorized, on behalf of applicant, to receive notices and communications in respect to the 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; amount authorized (face value and number of shares); 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 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) The 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 water 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 the 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 therefor, 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 or ORS 757.495:

(A) Provide a statement describing the relationship between the water utility and the affiliated interest as defined in ORS 757.015 or ORS 757.490:

- (i) Set forth the amount, kind, and ratio to total voting securities held, if applicable;
- (ii) List 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).

(B) State the reasons, in detail, relied upon by the water utility for entering into the proposed transaction and the benefits, if any, the customers of the water 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 the mortgage, indenture, or other agreement under which it is proposed to issue the securities, and a copy of any mortgage, indenture, or other agreement securing other funded obligations of the applicant;
- (e) EXHIBIT E. Copies of 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~~that the 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. Copies of 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~~that the applicant is required to file with the Commission;
- (h) EXHIBIT H. A copy of an analysis of surplus for the period covered by the income statements referred to in Exhibit G;
- (i) EXHIBIT I. A copy of the 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 the 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) An application for a water 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, 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

(m) An application for a water 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, and 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~~that the affiliated interest proposes to pay on the water utility's behalf, with a description of the obligation, how the funds will be used, and how incurred.

(C) Credits or open accounts a water 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 water utility proposes to give credit through its loan or open account.

(3) The following form of application may be filed by all water 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 of 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 Water Utility)
Dated: _____

(Signature of Officer or Owner)
State of _____
County of _____ ,

(Name of Party signing above)
being first duly sworn, deposes and says he/she is _____ (Title) of _____ (Name of Water Utility), the applicant in the foregoing application, that he/she 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's 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

Stats. Implemented: ORS 756.040, 756.105, 757.405 through 757.450 & 757.495

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

860-036-0725

Applications for Authority to Guarantee Indebtedness

(1) The requirements of this rule will apply to ~~fully rate-~~regulated water utilities seeking authority under ORS 757.440. Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information ~~which~~that should, to the extent possible, be furnished for each person, firm, or corporation involved:

(a) The information required by OAR 860-036-0720(1)(a) to (g) inclusive;

(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 water 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

Stats. Implemented: ORS 756.040 & 757.440

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

860-036-0730

Applications for Approval of Transactions Between Affiliated Interests

(1) Except as provided in section (3) of this rule, the requirements of this rule will apply to all ~~fully rate-~~regulated water utilities seeking authority under ORS 757.490 and ORS 757.495. An application for financing to an affiliated interest shall be made under OAR 860-036-0720.

(2) Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information:

(a) The applicant's exact name and the address of its principal business office;

(b) The name and address of the person authorized, on the ~~fully regulated-~~water utility's behalf, to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the ~~fully regulated-~~water utility and the contracting entity as defined by ORS 757.015 and ORS 757.490;

(d) The amount, kind, and ratio to total voting securities held, if applicable;

(e) A list of all officers and directors of the affiliated interest who are also officers or directors of the applicant;

(f) The pecuniary interest, directly or indirectly, of any officer or director who is a party to the contract;

(g) A description of the goods or services to be provided, the cost incurred in providing each of the goods or services, the market value of the goods or services if different from the costs, and the method or methods proposed for pricing those goods or services;

- (h) An estimate of the amount the ~~fully regulated~~-water utility will pay annually for the goods or services and the accounts in which it will record the charges;
- (i) The reasons, in detail, relied upon by the ~~fully regulated~~-water utility for procuring the proposed goods or services from the affiliate and benefits, if any, utility customers and the general public will derive from the provision of goods or services;
- (j) A description of the procurement process and the reasons, in pertinent detail appropriate to the complexity of the procurement, relied upon by the ~~fully regulated~~-water utility for procuring the proposed goods or services without a competitive procurement process, if such a process is not used;
- (k) Transfer prices in contracts or agreements for the procurement of goods or services under competitive procurement shall be presumed to be the market value, subject to evaluation of the procurement process;
- (l) A copy of the proposed contract or agreement between the ~~fully regulated~~-water utility and the contracting entity; and
- (m) Copies of all resolutions of directors authorizing the proposed transactions and, if stockholders' approval has been obtained, copies of the resolutions approved by the stockholders.
- (3) This rule shall not apply to ~~fully rate-~~regulated water utilities seeking to purchase or contracting to purchase, directly or indirectly, from any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1):
- (a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210; or
- (b) Any service provided under a rate or schedule of rates ~~which that~~:
- (A) Has been filed with an agency charged with the regulation of utilities;
- (B) Has been approved as just and reasonable or in compliance with another comparable standard; and
- (C) Is available to a broad class of customers.

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

Stats. Implemented: ORS 756.040 & 757.005 through 757.495

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

860-036-0735**Information Required for Water Utility Goods or Services Provided to Affiliated Interests**

(1) Except as provided in section (4) of this rule, this rule applies to ~~fully rate~~-regulated water utilities seeking to provide, or contracting to provide, directly or indirectly, to any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1), service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal, or other services, or entering revenues or credits therefore on its books. This rule does not apply to transactions subject to ORS 757.490 or 757.495 and OAR 860-036-0030.

(2) A ~~fully rate~~-regulated water utility's failure to submit this required information shall not limit the Commission's authority to recognize or impute revenues to the ~~fully regulated~~-water utility pursuant to such contract in any rate valuation or other hearing or proceeding.

(3) For transactions provided in section (1) of this rule, every ~~fully rate~~-regulated water utility shall submit to the Commission, in the manner and form indicated, the following information:

- (a) Its exact name and the address of its principal business office;
- (b) The name of the person authorized on the ~~fully regulated~~-water utility's behalf to receive notices, inquiries, and communications regarding the information;
- (c) A statement describing the relationship between the ~~fully regulated~~-water utility and the other contracting entity as defined by ORS 757.015 or ORS 757.490;
- (d) The pecuniary interest, directly or indirectly, of any officer or director who is a party to the contract;
- (e) A description of the goods or services to be provided, the costs incurred in providing those goods or services, the market value of the goods or services if different from the costs, and the method or methods proposed for pricing those goods or services;
- (f) An estimate of the amount the ~~fully regulated~~-water utility will receive annually for the goods or services and the accounts in which it will record the payments;
- (g) The reasons relied upon by the ~~fully regulated~~-water utility for providing the proposed goods or services and the benefits, if any, water utility customers and the general public will derive from the provision of goods or services;
- (h) A copy of the contract or agreement between the ~~fully regulated~~-water utility and the contracting entity that is the subject of this filing; and
- (i) Copies of all resolutions of directors of the ~~fully regulated~~-water utility authorizing the proposed transactions and, if approval of the ~~fully regulated~~-water utility's stockholders was obtained, copies of the resolutions approved by the stockholders.

(4) This rule shall not apply to ~~fully rate~~-regulated water utilities seeking to provide or contracting to provide, directly or indirectly, to any person or corporation having an affiliated interest as defined in ORS 757.015 or any corporation defined in ORS 757.490(1):

- (a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210; or
- (b) Any service provided under a rate or schedule of rates ~~which that~~:
 - (A) Has been filed with an agency charged with the regulation of water utilities;
 - (B) Has been approved as just and reasonable or in compliance with another comparable standard; and

(C) Is available to a broad class of customers.

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

Stats. Implemented: ORS 756.040 & 757.005 through 757.490

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 3-1999, f. & ef. 8-10-99 (Order No. 99-468); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117)

860-036-0738

Applications for Waiver of Requirements Under OARs 860-036-0730 and 860-036-0735

Upon petition by a **fully rate**-regulated water utility and approval by the Commission for good cause, the requirements of OARs 860-036-0730 and 860-036-0735 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

Stat. Implemented: ORS 756.040

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

860-036-0740

Special Contracts

(1) **FullyRate**-regulated water 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 water utilities are in legal effect tariffs and are subject to supervision, regulation, and control as such.

(2) All special contracts designating service to be furnished at rates other than those shown in tariffs currently on file with the Commission shall be classified as rate schedules. True and certified copies shall be filed subject to review and approval pursuant to the requirements of OARs 860-036-0605 through 860-036-0645.

(3) Special contracts shall be filed with the Commission not less than 30 days prior to the proposed effective date of the contract and shall become effective according to its terms the thirty-first day from the date of its filing unless earlier approved, suspended, or rejected by the Commission.

(4) Each special contract filed with the Commission shall be accompanied by documentation necessary to show that the terms are fair, just, and reasonable to the remaining customers, including but not limited to:

(a) A statement summarizing the basis of the terms of the contract and an explanation of the deviation from the tariffs on file;

(b) An explanation of all cost computations involved; and

(c) A statement indicating the basis for use of a contract rather than a filed tariff for the specific service involved.

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

Stats. Implemented: ORS 756.040 & 757.007

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

860-036-0750

Relating to Local Government Fees, Taxes, and Other Assessments

(1) If any county in Oregon, other than a city-county, imposes upon a water utility any new taxes or license, franchise, or operating permit fees, or increases any such taxes or fees, the water 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 water utility in only a portion of a county, then the affected water 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~~that 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 water 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, water 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

Stats. Implemented: ORS 756.040 & 757.110

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

860-036-0755

Accounting for Directors' Fees

Directors' fees paid by a ~~fully rate-~~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); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-036-0805**Budget of Expenditures**

Each **fully rate--**regulated water 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

Stats. Implemented: ORS 756.040, 756.105 & 757.105

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

860-036-0810**New Construction Budget**

Each **fully rate--**regulated water 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 property of the water utility.

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

Stats. Implemented: ORS 756.040, 756.105 & 757.105

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

860-036-0815**Annual Reports**

All water utilities shall submit annual reports to the Commission in the following manner:

(1) **Fully Rate--**regulated water utilities shall submit a financial Result of Operations annual report using the most current form approved by the Commission and shall submit such report on or before April 1.

(2) All other water utilities shall submit a Records and Accounts annual report using the most current form approved by the Commission and shall submit such report on or before April 1.

(3) By June 1, **fully rate--**regulated water utilities shall submit on forms approved and provided by the Commission, a report of all affiliated interest, intercompany, and intracompany transactions **which that** occurred during the period from January 1 through December 31 of the immediately preceding year.

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

Stats. Implemented: ORS 756.040, 756.105, 757.120, 757.125 & 757.135

Hist: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 8-2001, f. & cert. ef. 3-21-01 (Order No. 01-247)

860-036-0820**Use of Deferred Accounting as it Applies to ~~Fully Rate--~~Regulated Water Utilities**

(1) Definitions: The following definitions shall be used in this rule:

(a) “Deferred Accounting” means the recording in a balance sheet account, with Commission authorization under ORS 757.259, of a current expense or revenue associated with current service for later reflection in rates;

(b) “Amortization” means the inclusion in rates of an amount that has been deferred under ORS 757.259 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.

(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 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 ~~fully regulated~~ water utility, a ratepayer, or other applicant shall include:

(a) A description of the ~~fully regulated~~ water 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 under which deferral can be authorized;

(c) The account proposed for recording of the amounts to be deferred and the account ~~which that would will~~ 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.

(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 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 that~~ 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 ~~fully regulated~~ water utility’s last general rate case. If the applicant is other than a ~~fully rate--~~regulated water utility, the applicant shall serve a copy of the application upon the affected ~~fully rate--~~regulated water 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 ~~fully rate-~~ regulated water utility;

(b) A description of the ~~fully regulated~~ water 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 can 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 10 days of the due date for comments on the application from interested persons, the applicant and the ~~fully regulated~~ water utility, if the ~~fully regulated~~ water utility is not the applicant, may file reply comments with the Commission. Those comments shall be served 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 ~~fully regulated~~ water 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 ~~fully regulated~~ water 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 period of deferral. Unless authorized by the Commission to do otherwise:

(a) A ~~fully regulated~~ water 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 ~~fully regulated~~ water utility shall request amortization at least annually, unless amortization of the balancing account is then in effect.

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

Stats. Implemented: ORS 756.040, 756.105 & 757.259

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

860-036-0900

Service Territory Allocation

(1) For purposes of service territory allocation OAR 860-036-0900 through OAR 860-036-0930:

(a) "Allocated territory" shall mean an approved area with boundaries set out in an order granting an application for the allocation of territory;

(b) “Community water supply system” shall mean a water source and distribution system, whether publicly or privately owned, that serves more than three residences or other users to whom water is provided for public consumption, including but not limited to schools, farm labor camps, industrial establishments, recreational facilities, restaurants, motels, mobile home parks, or group care homes;

(c) “Utility service” shall mean service provided by a water utility, any equipment, plant, or facility for the distribution of water to users through a connected and interrelated distribution system. “Utility service” does not include service provided through or by the use of any equipment, plant, or facilities solely for the production and sale of water to other water utilities;

(d) “Water utility” as used in OAR 860-036-0900 through OAR 860-036-0930 shall mean any water system that meets the definition of a public water utility in ORS 758.300.

(2) The requirements of this section rule apply to all water utilities.

(3) A water utility providing water service shall make application to the Commission, on forms provided by the Commission, for an order designating the territory it serves adequately and exclusively as its exclusive service territory.

(4) The Commission shall recognize the service territory of a water utility that has an existing franchise as of October 23, 1999, with a municipality as an exclusive service territory. Upon application, any such water utility may request an order from the Commission to designate exclusive service territory in addition to those identified in the franchise agreement, if the water utility is providing adequate and exclusive service to areas outside the areas identified in the franchise agreement.

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 758.300 through 758.320

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