

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 7, 2003**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ NA _____

DATE: April 28, 2003

TO: John Savage

FROM: Terry Lambeth through Cynthia Van Landuyt, Vikie Bailey-Goggins, Ed Busch, Rebecca Hathhorn, and Phil Nyegaard

SUBJECT: AR 460: Initiate a rulemaking to update the rules for collecting PUC fee payments and statements due from public utilities.

STAFF RECOMMENDATION:

The rules for electric, gas, steam heat, wastewater, and water utilities (public utilities) should be consistent with the rules for telecommunications utilities and competitive telecommunications providers (telecommunications providers). However, the annual PUC fee rules for public utilities do not contain all the collection and audit provisions required for telecommunications providers. Therefore, the Commission should open a rulemaking proceeding to add OARs 860-036-0097 and 860-037-0097, and amend OARs 860-011-0022, 860-011-0023, 860-011-0024, 860-021-0034, 860-021-0037, 860-036-0095, and 860-037-0095.

DISCUSSION:

The Commission recently updated its PUC fee filing, payment, and penalty requirements for telecommunications providers. The rules for public utilities should also be updated.

The Oregon Universal Service rules (AR 439) and PUC fees rules (AR 455) for telecommunications providers clarified the filing and payment requirements; imposed fees for failure to file report or make timely payments and filings; and established requirements for Commission audits, hearings, and companies' record-keeping.

As shown in Attachment A, staff would revise the PUC fee rules for public utilities to:

- Clarify that statement forms and payments must be received by the Commission by 5 p.m. on April 1 each year;
- Impose a \$100 penalty for failure to pay for statements filed more than five days late;
- Add recovery of collection costs in compliance with ORS 756;350;

- Impose a date by which the Commission can begin its audits; and
- Establish a proposed PUC fee if a utility fails to file a statement form or pay its fee.

The attached proposal will aid the Commission in collecting and writing-off overdue PUC fees and late payment penalties. The changes should have little or no effect on electric and gas utilities, because they usually make timely filings and payments. The changes may affect some small water and wastewater utilities that are not familiar with Oregon's rules and laws.

OAR 860-037-0095 should also be revised for wastewater utilities. However, that rule is open in docket AR 405. Therefore, staff has added this recommendation to docket AR 405.

Staff expects this proposal to be published on June 1, 2003, in the Oregon Bulletin, with comments due by June 21, 2003. Staff is not requesting a hearing in this docket, because the changes are consistent with those adopted in dockets AR 439 and AR 455 (Orders 02-787 and 03-222, respectively).

PROPOSED COMMISSION MOTION:

Open a rulemaking proceeding to update the rules for collecting PUC fee payments and statements due from utilities.

Attachment

AR460 pm.doc

860-011-0022

Annual Fees Payable to be Paid by Electric Utilities

(1) In addition to all other fees payable, each electric ~~company~~ utility as defined in ORS 756.310(8)(a) shall pay to the Commission an annual fee determined by orders entered on or after March 1 of each year. ~~The~~ Each utility shall pay the annual fee shall be payable by on or before the date specified in a notice, which date shall be at least 15 days after the mailing of the notice.

(2) By September 1, 1998, the Commission shall determine the following for each electric ~~company~~ utility:

(a) The gross revenue fees per kilowatt-hour delivered to retail electric customers paid by the utility in 1997 relative to the gross revenue fees per kilowatt-hour paid by all electric ~~companies~~ utilities; and

(b) The average gross revenue for each retail customer class designation, calculated using 1997 loads and revenues and expressed on a per kilowatt-hour basis.

(3) By February 1 of each year, each electric ~~company~~ utility shall provide the Commission with the amount of kilowatt-hours delivered during the prior calendar year to each retail customer class designation.

(4) By March 1 of each year, the Commission shall determine the average rate per kilowatt-hour to be charged each ~~company~~ electric utility. The determination shall maintain the same approximate fee relationships established in section (2)(a) of this rule between each electric ~~company~~ utility. The average annual fee payable paid by each electric ~~company~~ utility shall not exceed eighteen-hundredths of one mill per kilowatt-hour applied to kilowatt-hours delivered to retail electric customers in the preceding calendar year.

(5) Rate filings made by electric ~~companies~~ utilities pursuant to ORS 757.210 shall allocate the ~~company~~ utility's total annual fees so that fees collected among different retail customer classes bear the same approximate relationship as the information developed by the Commission pursuant to section (2)(b) of this rule.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310 & 756.320

Hist.: PUC 14-1998, f. & ef. 7-15-98 (Order No. 98-276); PUC 11-99, f. 11-18-99 (Order No. 99-708)

860-011-0023

Annual Fees Payable to be Paid by Telecommunications Utilities and Competitive Telecommunications Providers

(1) For payments due on or before April 1, 2000, each telecommunications utility shall pay to the Commission an annual fee equal to 25 hundredths of one percent (.25

percent) of gross operating revenues derived with Oregon.

(2) For payments due on and after April 1, 2001, each telecommunications utility and competitive telecommunications provider shall pay to the Commission an annual fee on gross retail intrastate revenue at a rate determined by Commission order. The Commission's order shall be entered by November 1 of the year prior to the calendar year upon which the annual fee is based.

(3) ~~The~~ **The Each telecommunications utility and competitive provider shall pay the annual fee shall be payable by on or before** April 1 of the year after the calendar year upon which the annual fee is based. The annual fee ~~payable paid~~ shall not exceed 25 hundredths of one percent (.25 percent) of the gross retail intrastate revenue during the calendar year upon which the annual fee is based.

Stat. Auth.: ORS Ch. 183 & 756
Stats. Implemented: ORS 756.310 & 756.320
Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708)

860-011-0024

Annual Fees Payable to be Paid by Other Public Utilities

(1) Each gas, steam heat, water, and ~~water~~ wastewater public utility shall pay to the Commission an annual fee on gross operating revenues derived within Oregon at a rate determined by Commission order. The Commission's order shall be entered on or after March 1 of the year after to the calendar year upon which the annual fee is based.

(2) The annual fee shall be ~~payable by~~ **due on or before** April 1 of the year after the calendar year upon which the annual fee is based. The annual fee ~~payable rate~~ shall not exceed 25 hundredths of one percent (.25 percent) of the Oregon revenue during the prior calendar year.

Stat. Auth.: ORS Ch. 183 & 756
Stats. Implemented: ORS 756.310 & 756.320
Hist.: PUC 11-99, f. & ef. 11-18-99 (Order No. 99-708); PUC 14-2000, f. & ef. 8-23-00 (Order No. 00-458)

860-021-0034

Annual Fees Payable to the Commission by an Energy Utility

(1) ~~The Commission shall provide~~ **On** statement forms **prescribed by the Commission, and** each energy utility shall provide the requested information ~~on the form~~ for the subject year.

(2) Each electric utility shall pay an annual fee in compliance with OARs 860-011-0020 and 860-011-00232.

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

(4) The annual fee payment must be received by the Commission no later than 5 p.m. on the due date.

(5) Each electric, gas, and steam heat utility shall pay:

(a) a minimum annual fee of \$10.

(b) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee of \$25 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(6) For any year in which an energy utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

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

Stats. Implemented: ORS 756.310, & 756.320 & 756.350

Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-021-0037

Estimated Annual Fees Payable to the Commission

(1) For any year in which a n energy or large telecommunications utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the energy or large telecommunications utility.

(3) Within 30 days after service of the notice of proposed annual fee, the energy or large telecommunications utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the energy or large telecommunications utility has not filed a petition by the end of the 30-day period, the proposed annual fee is due and payable.

(5) During the 30-day period allowed for filing a petition, the energy or large telecommunications utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756, 757 & 759

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: (Order No. 03-222)

860-036-0095

Annual Fees Payable to the Commission by a Water Utility

~~(1) The Commission shall provide On~~ statement forms prescribed by the Commission, and each water utility shall provide the requested information ~~on the form~~ for the subject year.

(2) The annual fee payment must be received by the Commission no later than 5 p.m. on the due date.

~~(23)~~ Each water utility shall pay:

(a) a An annual fee in compliance with OARs 860-011-0020 and 860-011-0024.

(b) A minimum The annual fee ~~shall be no less than of~~ \$10.

(c) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date.

(d) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(e) A service fee of \$25 for each payment returned for non-sufficient funds.

(f) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(4) For any year in which a water utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and

practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310, ~~756.320~~ & **756.350**

Hist.: PUC 11-99, f. 11-18-99 (Order No. 99-708)

860-036-0097

Estimated Annual Fees Payable to the Commission by a Water Utility

(1) For any year in which a water utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the water utility.

(3) Within 30 days after service of the notice of proposed annual fee, the water utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the water utility has not filed a petition by the end of the 30-day period, the proposed annual fee is due and payable.

(5) During the 30-day period allowed for filing a petition, the water utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756 & 757

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: NEW

860-037-0095

Annual Fees Payable to the Commission by a Wastewater Utility

~~(1) The Commission shall provide On~~ statement forms prescribed by the Commission, and each wastewater utility shall provide the requested information ~~on the form~~ for the subject year.

(2) The annual fee payment must be received by the Commission no later than 5 p.m. on the due date.

~~(23)~~ Each wastewater utility shall pay:

(a) An annual fee in compliance with OARs 860-011-0020 and 860-011-0024.

(b) A minimum annual fee shall be no less than of \$10. The payment must be received by the Commission no later than 5 p.m. on the due date.

(c) A late statement fee of \$100, if the Commission has not received the utility's statement form on or before 5 p.m. on the fifth business day following the due date.

(d) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(e) A service fee of \$25 for each payment returned for non-sufficient funds.

(f) All costs incurred by the Commission to collect a past-due annual fee from the utility.

(4) For any year in which a wastewater utility's statement form was due, the Commission may audit the utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the utility has overpaid its annual fee, the Commission shall, at its discretion, recompense the utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310, & 756.320 & **756.350**

Hist.: PUC 14-2000, f. & ef. 8-23-00 (Order No. 00-458)

860-037-0097

Estimated Annual Fees Payable to the Commission by a Wastewater Utility

(1) For any year in which a wastewater utility fails to file a statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee shall:

(a) Include a penalty fee for failure to pay as required by ORS 756.350;

(b) Include a late statement fee of \$100; and

(c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission shall provide written notice of the proposed annual fee to the wastewater utility.

(3) Within 30 days after service of the notice of proposed annual fee, the wastewater utility may file a petition with the Commission for a hearing. In its petition, the utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the wastewater utility has not filed a petition by the end of the 30-day period, the proposed annual fee is due and payable.

(5) During the 30-day period allowed for filing a petition, the wastewater utility may file its statement form and pay the annual fee, penalties, and late statement fee. The Commission shall accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756 & 757

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: NEW