

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: SEPTEMBER 11, 2003**

<b>REGULAR</b> _____	<b>CONSENT</b> _____	<b>X</b> _____	<b>EFFECTIVE DATE</b> _____	<b>Upon filing with the Secretary of State</b> _____
<b>DATE:</b>	August 28, 2003			
<b>TO:</b>	John Savage			
<b>REVIEWED BY:</b>	Terry Lambeth			
<b>FROM:</b>	Kathy Miller through Rebecca Hathorn and Marc Hellman			
<b>SUBJECT:</b>	<u>AR 461</u> : Adopt housekeeping and clarification amendments to OAR Division 036, Regulation of Water Utilities and Associations			

**STAFF RECOMMENDATION:**

Staff recommends the adoption of amendments to OAR 860 Division 036 to incorporate housekeeping and clarification changes, update the Commission's address, provide a regulatory threshold for large commercial customers, and add definitions for water utilities.

**DISCUSSION:**

Order No. 03-287 (AR 447) implemented recommendations from the Water Issues Steering Committee. No other clarifying or housekeeping changes were approved. Docket AR 461 was opened as a follow-up to complete clarifying and housekeeping changes, add definitions, update the Commission's address, and set rate thresholds for large and small commercial customers.

At its public meeting on July 15, 2003, the Public Utility Commission initiated this rulemaking proceeding. Notice of the proposed rulemaking was published in the Secretary of State's Bulletin on August 1, 2003. The deadline for comments was August 21, 2003. No comments were received.

**PROPOSED COMMISSION MOTION:**

Adopt the proposed changes to Division 036, which include adding OAR 860-036-0407 and amending OARs 860-036-0010, 860-036-0015, 860-036-0025, 860-036-0030, 860-036-0045, 860-036-0060, 860-036-0080, 860-036-0105, 860-036-0210, 860-036-0240, 860-036-0245, 860-036-0305, 860-036-0405, 860-036-0410, 860-036-0620, 860-036-0710, 860-036-0900, and 860-036-0905.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 461

In the Matter of a Rulemaking to Amend     )  
Division 036 Rules and Incorporate         )  
Housekeeping and Clarification Changes     )  
   )  
ORDER

DISPOSITION: Rules Amended

At its public meeting on July 15, 2003, the Public Utility Commission initiated this rulemaking proceeding. Notice of the proposed rulemaking was published in the Secretary of State's *Oregon Bulletin* on August 1, 2003. The deadline for comments was August 21, 2003. No comments were received.

Order No. 03-287 implemented recommendations from the Water Issues Steering Committee. No other clarifying or housekeeping changes were approved. Docket AR 461 was opened as a follow-up to complete to complete clarifying and housekeeping changes, add definitions, update the Commission's address, and set rate thresholds for large and small commercial customers.

**ORDER**

IT IS ORDERED that:

1. The modifications to the rules set forth in Appendix A, attached to and made part of this order, are adopted.
2. The amended rules shall become effective upon filing with the Secretary of State.

Made, entered, and effective \_\_\_\_\_.

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**Lee Beyer**  
Chairman

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**Ray Baum**  
Commissioner

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**John Savage**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

860-036-0010

**Definitions for Water Utilities and Associations**

As used in Division 036:

**(1) "Actual cost" means the direct cost of parts, materials and labor of a specific item or project separated from indirect costs.**

**(2) "Applicant" means a person who:**

(a) Applies for service with a utility; or

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

**(3) "Association" means an incorporated or homeowner association providing water service, as defined in ORS 757.005.**

**(4) "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.**

**(5) "Commercial customer" means a customer who performs or produces a service or product that is a source of revenue, income or livelihood to the customer or others using the premises.**

~~(6) "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).**~~

**(7) "Contributions in aid of construction" means any money, services or property received by a water utility to fund capital investments at no cost to the company with no obligation to repay.**

**(8) "Cooperative" means a cooperative corporation as defined in ORS Chapter 62.**

**(9) "Cost-based" means the direct and indirect costs of a specific item or project, including overhead and a reasonable expected return on investment.**

~~**(10) "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.**~~

**(11) "District" means a corporation as defined under ORS Chapter 553.**

~~**(12) "Emergency" means an extraordinary interruption of the usual course of water service by a natural cause, an unforeseen event, or a combination of unexpected circumstances; an urgent need for assistance or relief; or the resulting state that calls for immediate action.**~~

**(13) "End-user" means a domestic water user.**

**(14) "Exempt water company" means a water company that meets the definition of a public utility in ORS 757.005, but is exempt from regulation as provided in ORS 757.005(1)(b)(E).**

**(15) "Forced connection" means a water utility or its customers being required by law, regulation, rule, or company policy to retrofit, improve, or change the original service connection. All retrofits, improvements, additions or changes to the original service connection will be the operational and financial responsibility of the company, with the following exceptions (1) any national or state laws or rules clearly assigning such costs to**

**the customer, or (2) the Commission otherwise approves as provided in OAR 860-036-0105(1) and (2).**

~~(167)~~ “Formal complaint” means a written complaint filed with the Commission’s Administrative Hearings Division.

**(17) “Large commercial customer” means a commercial customer with a meter or pipe diameter of two inches or larger.**

**(18) “Mainline extension” means the extension of a main line to an area not previously served. If the main line extension is required at the request of a potential customer to receive service, the cost of such extension shall comply with the water utility’s main line extension policy.**

**(19) “Meter set” means the parts, material, and labor necessary to install a meter. The meter set assembly is owned, installed, and maintained by the utility. The meter set does not include any components of the service connection required to provide unmetered service.**

**(20) “People’s utility district” (PUD) means a corporation as defined in ORS Chapter 261.**

~~(219)~~ “Public utility” has the meaning given the term in ORS 757.005. The term does not include ~~districts, people’s utility district~~ **PUDs, cooperatives,** or municipalities.

~~(228)~~ “Rate-regulated **utility**” means a water utility that is not exempt from certain financial regulations, **and** conditions, ~~and maximum rates established by the Commission~~ under ORS 757.061.

~~(2310)~~ “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.

**(24) “Residential customer” means a customer who receives domestic or irrigation water in residential areas and is not considered a commercial customer.**

**(25) “Small commercial customer” means a commercial customer with a meter or pipe diameter of less than two inches.**

**(26) “System development fee or charge” is the proportionate fee charged by a water company prior to service being initiated that encompasses the cost of the system allocated to all potential customers.**

~~(2714)~~ “Utility” means **allany** water utilities, except when a more limited scope is explicitly stated.

~~(2812)~~ “Water utility” has the same meaning as public utility in section ~~(921)~~ of this rule, except if a more limited scope is explicitly stated.

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); PUC 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**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 office(s).

(3) A water utility shall keep on file and open for public inspection at its office(s): complete rate schedules, service application forms, 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.

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

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

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

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

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

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

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

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

(9) Each water utility shall maintain a business location and a regular telephone number at which it may be contacted directly by customers, applicants, or the Commission during its

regular business hours. The water utility shall respond to nonemergency customer inquiries, complaints, and service problems 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. The 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 extenuating 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.

(12) 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); PUC 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

## **860-036-0025**

### **Dispute Resolution**

(1) When a dispute occurs between a customer or applicant and a water utility about any bill, charge, or service, the water utility shall thoroughly investigate the matter and promptly report the results of its investigation to the customer or applicant. The water utility shall prepare a written record showing the name and address of the customer or applicant involved, the date and character of the dispute, and the disposition of the matter. The utility shall retain records of the dispute pursuant to OAR 860-036-0760.

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

(3) A customer or applicant may request the Commission's assistance in resolving the dispute by contacting the Commission's Consumer Services ~~Division~~ at:

(a) 1-800-522-2404; ~~TDD 1-800-648-3458~~ TY 711;

(b) The Commission's mailing address: Public Utility Commission of Oregon, Consumer Services, PO Box 2148, Salem OR 97308-2148; or

(c) The Commission's street address: Public Utility Commission of Oregon, 550 Capitol Street NE Suite 215, Salem, OR ~~regon~~ 97301-2551. The Commission shall notify the water utility upon receipt of such a request.

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

(5) If a registered dispute cannot be resolved informally, the Commission's Consumer Services ~~Division~~ shall advise the complainant of the right to file a formal written complaint with the Commission. The complaint shall state the facts of the dispute and the relief requested. The water utility shall answer the complaint within 15 days of service of the complaint. The matter shall then be set for ~~expedited~~ hearing. A hearing may be held on less than 10 days' notice when good cause is shown.

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

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

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

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

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

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

(8) If the conditions in section (7) of this rule are not satisfied, the water utility has no obligation to provide continued service. A water utility discontinuing service because of a failure to meet the conditions of subsections (7)(c) or (7)(d) of this rule shall give the customer a five-**business**-day disconnect notice. The notice shall be served in the same manner as provided by OAR 860-036-0245, except that it need only describe the defect in performance, the date and time when water utility service will terminate and the toll-free number of the Commission's Consumer Services ~~Division~~. In deciding whether the conditions are met, the water utility shall consult with the Commission's Consumer Services ~~Division~~. The customer who has filed a formal complaint, the water utility, or the Commission's Consumer Services ~~Division~~ may ask the Commission for a hearing to decide if the conditions are met. Unless extraordinary circumstances exist, the hearing will be conducted by telephone conference within three business days from the date requested. Notice of hearing will be given to the customer, the water utility, and the Commission's Consumer Services ~~Division~~ at least 12 hours before the date and time of the hearing. Notice is effective when given in person, by telephone, or in writing delivered to the party's last known address. Mailed notice is effective two days after deposit in the U.S. mail, excluding Sundays and holidays.

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

Stats. Implemented: ORS 756.040, 756.500 & 756.512

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

### **860-036-0030**

#### **Threshold Levels of Rates and Charges for Water Utilities Serving Fewer than 500 Customers**

(1) Pursuant to ORS 757.061(2) the Commission adopts the following maximum rates and charges for water utilities serving fewer than 500 customers:

(a) \$24 annual average monthly residential or small commercial service rate;

~~(b) \$85 annual average monthly service rate for large commercial customers; and~~  
~~(c) \$300 for standard service connection charge. A standard service connection is defined in OAR 860-036-0060.~~

~~(d) Any system development fee, facilities charge, or other like charge shall be cost based upon actual cost and demonstrated as such to the Commission's satisfaction upon request of the Commission.~~

~~(2) A standard service connection is defined in OAR 860-036-0060.~~

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

Stat. Implemented: ORS 757.061

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

### **860-036-0045**

#### **Deposit Payment Arrangements for Residential Water Service**

(1) When a water utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. Installments shall be one-third the deposit. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment.

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

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

~~(4) If a customer is disconnected by the water utility for theft of service, the water utility may require the customer to pay a deposit in addition to any overdue charges on the customer's account and repair charges as explained in OAR 860-036-0250. This deposit may be paid in one payment or in two equal installments. The deposit or first deposit installment is due upon restoration of service and the second installment is due within 30 days of the restoration of service.~~

~~(5) When a customer enters into an installment agreement for payment of a deposit under section (1) of this rule, the water utility shall provide written notice explaining the deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the person that water service will be disconnected if payment is not received when due.~~

~~(6) If a customer or applicant fails to abide by the terms of a deposit installment agreement, the water utility may disconnect service after providing a written five-business-day disconnect notice. The notice shall comply with the requirements of OAR 860-036-0245.~~

~~(7) When good cause exists, the water utility may provide, or the Commission may require, more liberal arrangements for payment of deposits than those set forth in this rule. The water utility shall keep a written record of the reasons for such action.~~

~~(8) If disconnection for nonpayment of a deposit occurs, the customer or applicant disconnected shall pay the full amount of the outstanding deposit, any applicable reconnection~~

fee, late-payment fee, and past due amount before service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments.

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)

### **860-036-0060**

#### **Installation of Water Service Connection**

(1) A water utility ~~shall will~~, 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, **repair**, and replace the service connection when ~~necessary~~ **needed**.

(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. **The meter is not considered to be a component of the service connection.**

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

(4) Notwithstanding section (2) of this rule, a water utility may charge a service connection charge in excess of the threshold level if:

- (a) Circumstances exist that cause the service connection to be nonstandard;
- (b) Such 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 to justify that the charge in excess of the threshold is necessary, ~~cost-based, and~~ reasonable **and at actual cost.**

(6) 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.

(7) The customer shall furnish and install the necessary ~~pipes and fittings~~ **parts and materials** 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.” **The customer shall own, maintain, repair, and replace the customer service line when needed.**

(8) 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.

(9) 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.

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 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0080**

**Refusal of Service**

(1) A water utility may refuse to provide service to a customer or applicant until it receives full payment of any overdue amount and any other obligation related to a prior account except as provided below:

(a) ~~Except for customers or applicants who were disconnected for theft of service,~~ **When a customer or applicant whose service was terminated applies for service within 20 calendar days of the termination, the** water utility shall provide service to an applicant upon receipt of payment equal to at least one-half of any overdue amount. The balance of the amount owed to the utility shall be paid within 30 days of the date service is initiated. Except for the last payment, installments shall be the greater of \$30 or one-half the overdue amount. Upon failure to pay, the water utility may disconnect service after providing a written five-day notice. The notice shall contain the information and be served in the manner prescribed as provided in OAR 860-036-0245. ~~When a customer whose service was terminated applies for service within 20 days of the termination, the provisions of this rule apply.~~

(2) If water service is disconnected for failure to comply with the payment terms set forth in section (1)(a) of this rule, the water utility may refuse to restore service until it receives full payment of any overdue obligation, including any reconnection fee, late payment fee, and past due bill.

(3) A water utility may refuse to provide service until payment is received when **all** the following circumstances exist:

(a) The customer has incurred an overdue balance at a service address; **and**

(b) An applicant for **residential** service resided at the service address described in subsection (1)(a) of this rule during the time the overdue balance was incurred; and

(c) The **residential** customer described in subsection (1)(a) of this rule will reside at the location to be served under the new application.

(4) ~~Any~~ water utility shall refuse to provide service if a customer or applicant has not complied with state and municipal codes and regulations governing service and with the rules and regulations of the water utility.

(5) A water utility shall refuse to serve a customer or applicant, if, in the best judgment of the water utility, the facilities of the customer or applicant are of such a character that safe and satisfactory service cannot be given.

(6) If service is refused, the water utility shall provide written notification within 10 **workingbusiness** days to the customer or applicant of the reasons for refusal and of the Commission's complaint process. A copy of the notice shall also be sent to the Commission unless service was refused for nonpayment.

(7) A water utility shall not accept an application for service or materially change service to a customer if it does not have adequate facilities or water resources to render the service applied for, or if the desired service is of a character that is likely to unfavorably affect service to other customers.

(a) If a water utility refuses service on the grounds of inadequate facilities or water resources, the water utility shall:

(1) Provide the customer or applicant with a written letter of refusal, a copy of which shall be sent to the Commission, stating:

(A) ~~Provide~~ The reason for the refusal;

(B) ~~Inform~~ The customer or applicant ~~that he/she~~ may request the details upon which the water utility's decision was based, including but not limited to current capacity and load measured in gallons or cubic feet per minute and pounds per square inch (psi);

(C) When capacity does not exist, provide the costs to provide capacity for the customer or applicant; and

(D) Inform the customer or applicant that he/she may challenge the water utility's refusal of service through the Commission's dispute resolution process pursuant to OAR 860-036-0025.

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

Stats. Implemented: ORS 756.040, 757.035 & 757.225

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 ~~will~~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 ~~and installation 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.

~~(3) If the Commission determines that refunds are appropriate, T~~he 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.

~~(34)~~ No rental fee shall be charged by any water utility for any meter or appliance installed by the water utility and used as a basis for the rendering of bills, except when an additional meter or appliance is requested by the customer for his/her convenience.

~~(45)~~ The water utility shall have the right to set meters or other devices for detecting and preventing fraud or waste, without notifying the customer.

~~(56)~~ No water utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the Commission.

~~(67)~~ If damage results to the meter from tampering 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); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0210**

**Voluntary Disconnection**

(1) A customer who ~~for any reason~~ wishes to have service discontinued, ~~shall~~will provide the water utility a five-business-day~~s~~ notice in advance of the requested date of discontinuance of service. Until the water utility ~~shall have~~ receives such notice, the customer shall be held responsible for all service rendered.

(2) A water utility is not required to implement seasonal water service rates.

(3) Nonseasonal water service rates are calculated based on continuous service throughout a 12-month period. A water utility is entitled to charge monthly base rates to any customer requesting disconnection and reconnection of water service during the same 12-month period prior to reconnection.

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)

**860-036-0240**

**Reconnection Fee**

When a water utility service is disconnected pursuant to OAR 860-036-0245 or OAR 860-036-0250, the water utility may charge the reconnection fee in its tariff or in its statement of rates.

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

Stats. Implemented: ORS 756.040 & 757.225

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)

**860-036-0245**

**Disconnection Procedures for all Customers of Water Utility Services**

(1) Involuntary termination of water utility service for all customers shall be under the provisions of this rule.

(2) Notice Requirements:

(a) At least five business days before a water utility disconnects service, a written disconnect notice of disconnection must be provided to the customers to be disconnected;

(b) ~~At least 15 days before~~ Before a water utility disconnects service due to a customer's failure to abide by a time-payment agreement, the water utility will provide the customer with a written 15-business-day disconnect notice and a written five-business-day disconnect notice of disconnection must be provided to the customer;

(c) The disconnection notice shall inform the person-customer that service will be disconnected on or after a specific date and shall explain the alternatives. The specified date must conform to OAR 860-036-0220, disconnection of service on Fridays, weekends and holidays.

(3) The water utility may serve the notice of disconnection in person or send it by first class mail to the last known addresses of the customer and the customer's designated representative. Service is complete on the date of mailing or personal delivery. If notification is made by delivery to the residence, the water utility shall attempt personal contact. If personal contact

cannot be made with the customer or an adult resident, the water utility shall leave the notice in a conspicuous place at the residence.

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

(a) The notice shall conform to the requirements of OAR 860-036-0235 concerning multilingual requirements and service on any designated representative; and

(b) The notice shall conform to the requirements of OAR 860-036-0230 if the water utility's records show that the billing address is different than the service address or that the premises is a master-metered multi-unit dwelling. The notice may be addressed to "Tenant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

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

(a) The reason for the proposed disconnection;

(b) The amount to be paid to avoid disconnection;

(c) The earliest date for disconnection;

(d) An explanation of the time-payment agreement provisions of OAR 860-036-0125; and

(e) An explanation of the Commission's dispute resolution process and toll-free number.

(6) A notice of disconnection may not be sent prior to the due date for payment of a bill.

(7) At least five-business-days before the proposed disconnection date, the water utility must mail or deliver a written disconnection notice to the customer.

~~(8)~~ A fee in an amount approved by the Commission may be charged whenever a water utility is required to visit a residential service address in order to serve a disconnection notice.

~~(98)~~ On the day that the water utility expects to disconnect service and prior to disconnection, the water utility must make a good faith effort to personally contact the customer or an adult at the residence to be disconnected.

(a) If the contact is made, the water utility shall advise the person of the proposed disconnection; or

(b) If contact is not made, the water utility must leave a notice in a conspicuous place at the residence informing the customer that service has been, or is about to be, disconnected.

~~(109)~~ Where personal contact is made by a water utility under this rule, and the circumstances are such that a reasonable person would conclude that the customer does not understand the consequences of disconnection, the water utility must:

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

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

~~(1110)~~ When personal contact is made by the water utility under this rule, the representative of the water utility making contact shall be authorized to accept reasonable partial payment of the overdue balance in accordance with the time-payment provisions.

~~(1211)~~ A water utility must document its efforts to provide notice under this rule and shall make that documentation available to the customer and the Commission upon request.

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

Stats. Implemented: ORS 756.040, 757.750 & 757.755

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

**860-036-0305**

**Maintenance and Repair 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 necessary to ensure a reasonably complete knowledge about the condition and adequacy of the entire system at all times.

(3) A water utility ~~shall~~**will** keep maintenance **and repair** records consistent with the ~~best practices and standards of the water industry~~**Commission's Guide for the Preservation of Records for Public Water Utilities**, except when the Commission specifies a more complete record.

(4) A water utility shall flush dead end mains or other low flow portions of the distribution system as needed or at reasonable intervals to eliminate or minimize complaints from customers or applicants arising from an objectionable condition of water. A water utility ~~shall~~**must**:

**(a) Provide prior notification to the customers of all routine (nonemergency) flushings.**

**The notice must include:**

**(A) The date, time, and approximate duration of the flushings; and**

**(B) A statement cautioning customers to avoid using water during flushing to prevent debris in the customers' service lines.**

**(b) ~~Keep~~** a record of the date, place, time, and duration of **all routine and emergency such** flushings.

(5) A water utility shall inspect, exercise, and maintain valves and hydrants as necessary to ensure they are operable. A water utility shall keep records of all inspections, maintenance, repairs, and exercise of each valve and hydrant.

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

(7) A water utility shall communicate with the customer(s) or person(s) reporting service problems, informing the customer(s) or person(s) of:

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

(b) The expected date and time of the repair;

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

(d) The effect the repairs may have on the customer's service.

(8) All customers whose service is **or may be** affected by the service problem ~~and all customers whose service may be affected during the repair shall~~**will** be notified by the water utility in the same manner as stated in section (7) of this rule.

(9) The water utility shall make repairs in a timely manner. In case of a dispute, the Commission will 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.

(10) The water utility will restore the surrounding area disturbed during utility repairs, maintenance, construction, or installation to its previous or better condition. The customer has the burden of demonstrating that the area has not been restored to its previous or better condition.

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); PUC 22-2001 (Temp), f. & ef. 9-26-01 (Order No. 01-828); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0405**

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

(1) At least 60 days before an water utility or otherwise exempt water utility serving less than 500 customers increases its residential rates or charges to a level that exceeds the threshold levels established in OAR 860-036-0030, it shall provide a written notice to all customers. The water utility must provide the Commission with a copy of the notice and a complete and current list of its customers' names and mailing addresses. The notice will advise customers of their right to file a petition to initiate full regulation of the water utility. ~~This written notice shall include the following statement; and, at a minimum, must include the following information:~~

- (a) Name of water utility;
- (b) A statement that the water utility intends to increase its residential rates and charges;
- (c) Current rates and charges to residential customers;
- (d) Proposed rates and charges to residential customers;
- (e) Date the proposed rates are to become effective (minimum of 60 days);
- (f) The reason(s) the water utility is seeking the rate increase;
- (g) A statement informing customers of their right to petition the Commission to request that the proposed increase be investigated;
- (h) A statement that all customers may submit petitions to the Commission for 45 days from the date of the customer notice;
- (hi) A statement informing customers that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;
- (ij) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;
- (k) A statement that customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded;
- (l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and
- (m) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: Public Utility Commission of Oregon, Consumer Services, PO Box 2148, Salem OR 97308-2148.

~~**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.)~~

~~— Customer petitions should state the purpose for the petition, and include each 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 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, civil penalties, or both.

~~— (3) At any other time that the water utility is required to give notice to its customers of the customers' right to petition the Commission to initiate rate regulation, the water utility shall prepare a written notice which includes the following statement:~~

~~NOTICE OF CUSTOMER RIGHT TO PETITION~~

~~— The intent of this notice is to inform (Company Name) customers of their right to petition the Public Utility Commission of Oregon to terminate the water utility's exempt status under ORS 757.005 and ORS 757.061. Water utilities 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 rate regulation and the utility charges in excess of the threshold levels established in OAR 860-036-0030. (Company Name) 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. Completed 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.~~

(3) At least seven business days prior to sending notice to the customers, the water utility must provide the Commission with a draft copy of the customer notice referred to in sections (1) and (2) of this rule.

(4) The same time the water utility sends notice to its customers, The water utility it must provide the Commission with a final copy of the customer notice and a complete and 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); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**OAR 860-036-0407**

**Notice of Commercial and Other Water Customers' Right to Petition for Full Rate Regulation**

**(1) At least 60 days before a public utility or otherwise exempt water utility serving less than 500 customers increases its commercial rates or charges to a level that exceeds the threshold levels established in 860-036-0030, it shall provide a written notice to all customers of the customers' right to petition the Commission to initiate rate regulation. Petitions may be submitted to the Commission for 45 days from the date of the customer notice.**

**(2) At least seven business days prior to sending notice to the customers, the water utility must provide the Commission with a draft copy of its customer notice referred to in section 1 of this rule.**

**(3) The same time the water utility sends notice to its customers, it must provide the Commission with a final copy of the customer notice and a complete and current customer list including names and addresses.**

**(4) At a minimum, the notice to the customers must include the following information:**

**(a) Name of water utility;**

**(b) A statement that the water utility intends to increase rates and charges;**

**(c) Current customer rates and charges;**

**(d) Proposed customer rates and charges;**

**(e) Date the proposed rates are to become effective (minimum of 60 days);**

**(f) The reason(s) the water utility is seeking the rate increase;**

**(g) A statement informing the customer of their right to petition the Commission to request that the proposed increase be investigated;**

**(h) A statement informing the customer that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;**

**(i) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;**

**(j) A statement that customers may petition the Commission for rate regulation for 45 days from the date of the customer notice;**

**(k) A statement that customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded;**

**(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and**

**(m) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: Public Utility Commission of Oregon, PO Box 2148, Salem OR 97308-2148.**

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

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

**Hist.: New**

**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 recreational vehicle (RV) parks shall be deemed one commercial customer, except those individuals who use such facilities as a primary residence shall also be counted as customers.

(2) **Once a water utility has exceeded a threshold level and if the Commission did not receive a petition from 20 percent or more of the customers, the** ~~customers~~ may submit a petition to the Commission at any time **for full rate regulation 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. **Such petitions are in effect for one year. Petitions one year or older must be resubmitted to the Commission.**

(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 **will be notified by the Commission**, in writing, of its change in status to a rate-regulated water utility.

(6) The water utility must file appropriate tariffs pursuant to ORS 757.205 within 60 days after receiving notification from ~~the 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) Customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded.**

~~(9)~~ Existing **nonpetitioned** rates and charges will be deemed interim rates and may be 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 the Commission, 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. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers determined by the Commission to be unreasonable, 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); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0620**

**Announcement to Customers of Tariff Changes**

(1) This rule applies to rate-regulated water utilities as defined in ORS 757.005 and ORS 757.061.

(2) Within 15 days of filing new or revised tariff schedules with the Commission that constitute a general rate revision, a water utility shall inform its customers of the filing. A “general rate revision” is a filing by a water utility that affects all or most of 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.

(3) A 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 water utility; or

(b) An announcement inserted in the water utility's regular billing to its customers; or

(c) An announcement mailed to each customer.

(4) **At a minimum, the announcement must include the following information:**

(a) The approximate **current and proposed average monthly rate for each customer class 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 water utility's application, testimony, and exhibits are available at its main office;

(d) The mailing address and telephone number customers may use to contact **the water utility** to receive additional information about the filing;

(e) The water utility's office mailing address and office telephone number;

(f) The Commission's toll-free telephone number (1-800-522-2404; **TTY 711**) and mailing address (**Public Utility Commission of Oregon, Administrative Hearings Division Public Utility Commission of Oregon, Administrative Hearings Division, 550 Capitol Street NE Suite 215, PO Box 2148, Salem Oregon 97301-255197308-2148**) where customers may request to receive notice of the time and place of any hearing on the matter;

(g) A statement that the purpose of the announcement is to provide customers with general information regarding the water utility's proposed tariffs and the effect the tariff filing may have on the customers; and

(h) A statement that **"the calculations and statements contained in the water utility's announcement and filing are not binding on the Commission."**

**(5) At least seven business days prior to sending the announcement to the customers, the water utility must provide the Commission with a draft copy of the announcement referred to in sections (2), (3), and (4) of this rule.**

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

**(67)** The Commission may waive the requirements of this rule upon a showing by the water utility that the **notice-announcement** 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 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); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0710**

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

(1) ~~Any~~ water utilities seeking to terminate, ~~or~~ abandon service, or otherwise dispose of a water utility, excluding sales, transfers, or mergers, shall apply to and obtain approval from the Commission prior to such termination, abandonment, or disposal. Application requirements are found in OAR 860-036-0715.

**(2) Any rate regulated water utility seeking to sell, transfer, or merge, shall apply to and obtain approval from the Commission prior to such transaction. Application requirements are found in OAR 860-036-0715.**

**(3) Any water utility that is not rate regulated or exempt shall provide its customers with notice of the requirements for sale, transfer, or merger:**

~~—(a) All water utilities as defined in ORS 757.005 must provide written notification to customers and the Commission of any sale, transfer, or merger of the company~~ 60 days prior to the closing date of the transaction. The notice shall include the following information:

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

~~(Bb)~~ Purpose of notice;

~~(Cc)~~ Filing date;

~~(Dd)~~ **Proposed effective** date of sale **(minimum of 60 days)**;

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

~~(Ff)~~ Reason(s) for sale; ~~and~~

~~(Gg)~~ Effect of sale upon customers; ~~;~~ **and**

**(h) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: Public Utility Commission of Oregon, Consumer Services, PO Box 2148, Salem OR 97308-2148.**

~~—(34)~~ A water utility otherwise exempt by ORS 757.061 ~~and 757.005, which~~ that charges for services in excess of threshold levels established in OAR 860-036-0030, must also provide its customers written notification of the customers' right to petition the Commission for regulatory approval of such transaction at least 60 days prior to the closing date of the transaction. 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 rate regulated and the transaction requires Commission approval.

**(5) At least seven business days prior to sending notice to customers, the water utility must provide the Commission with a draft copy of the notice referred to in section (4) of this rule and will include the following information:**

~~—(a) The notice shall include the information required in (2)(a) of this rule;~~

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

**(b) Purpose of notice;**

**(c) Proposed filing date;**

**(d) Proposed effective date of sale;**

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

**(f) Reason(s) for sale;**

**(g) Effect of sale upon customers;**

(h) A statement informing customers of their right to petition the Commission for regulatory approval of the transaction;

(i) A statement informing customers that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;

(j) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;

(k) A statement that customers' petitions may be submitted to the Commission for 45 days from the date of the customer notice;

(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and

(m) The Commission's toll-free telephone number (1-800-522-2404) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: Public Utility Commission of Oregon, Consumer Services, PO Box 2148, Salem OR 97308-2148.

~~(b) The notice shall inform the customers of their right to petition the Commission for Commission approval of the proposed transaction and shall include the following statement:~~

~~NOTICE OF CUSTOMER RIGHT TO PETITION~~

~~The intent of this notice is to inform (Company Name) customers of the proposed sale of the water utility and of their right to petition the Public Utility Commission of Oregon to terminate the water utility's exempt status under ORS 757.005 and ORS 757.061. Water utilities that are exempt 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 an investigation of the proposed sale of the water utility.~~

~~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) All rate-regulated water utilities, as defined in ORS 757.005 and ORS 757.061, must file an application to obtain Commission approval prior to the sale, transfer, or merger or to terminate or abandon service or to otherwise dispose of the water utility. 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); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**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” means an approved area with boundaries set out in a Commission order granting an application for the allocation of service territory.

(b) “Community water supply system” means 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” means service provided by a water utility as defined in subsection (1)(d) of this rule, 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 means any water system that meets the definition of a water utility in ORS 758.300.

(2) The requirements of this 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); PUC 8-2002, f. & ef. 2-26-2002 (Order No. 02-116)

**860-036-0905**

**Original Application Requirements**

(1) A completed application requesting an exclusive service territory for area the water utility is currently serving shall include the following:

(a) The water utility’s complete name, address, and telephone number;

(b) The nature of the water utility’s business organization, that is, corporation, partnership, limited partnership, sole proprietorship, association, etc.;

(c) The name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the water utility;

(d) A statement showing the financial and technical ability of the applicant to provide service to the current territory;

(e) A detailed map or maps of the water system showing the existing lines and facilities;

(f) A detailed map or maps identifying the boundaries of the water utility's current service territory marked with a fine-tipped RED pen. The map must identify the map source and the date of the map in the upper left corner of the map. Appropriate maps may include: a GIS map, city or county map, tax lot map, plat map, or telephone book map. The map must be of sufficient scale and detail to identify the utility's current service territory boundaries and enable correlation with a written description of such territory;

(g) A complete and accurate written description of the water utility's current service territory. The description may be a legal description or may reference township, range, and section; interstates, state roads, and local streets; rivers, streams, and major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;

(h) Evidence that the water utility owns the land upon which the water utility facilities are located, or a copy of an agreement that provides for the continued use of the land, such as an easement or 99-year lease;

(i) A schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the current service territory is fully occupied; and

(j) The name and address of the nearest municipality, county, any known planning councils, any known governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the current service territory.

(2) The application may also include any adjacent territory that the water utility plans to serve within six months following the date of the application:

(a) If another water utility or community water supply system is not serving such territory; and

(b) If the applicant demonstrates that it is more economical and feasible to serve the area by an extension of the applicant's existing facilities than by an extension of the facilities of another water utility or community water supply system. Application requirements for expanded service territory are contained in OAR 860-036-0915.

**(3) Within 15 days of making its proposed service territory filing pursuant to OAR 860-036-0906, a water utility must provide written notice to its customers by mail or hand delivery. The notice shall include the following information:**

**(a) Name, address, and telephone number of water utility;**

**(b) The purpose of the notice;**

**(c) An accurate and detailed written description of the territory applied for;**

**(d) Filing date;**

**(e) A statement that customers may file a protest with the Public Utility Commission of Oregon; and**

**(f) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: Public Utility Commission of Oregon, Consumer Services, PO Box 2148, Salem OR 97308-2148.**

**(4) The water utility's application to the Commission must include a copy of the notice to customers and a customer mailing list.**

(5) In reviewing a completed application submitted under Chapter 695 Sections 2-4, Oregon Laws 1999 for current exclusive service territory, the Commission shall consider the applicant's ability to provide adequate and exclusive service to its existing customers which may include but

is not limited to, financial resources, technical ability, customer service history, physical facilities, system capacity, revenue and cost studies, and system compliance with the Oregon Health Division's water rules and regulations.

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); PUC 13-2002, f & ef. 3-26-02 (Order No. 02-179)