

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: October 16, 2003**

**REGULAR** \_\_\_\_\_ **CONSENT**   X   **EFFECTIVE DATE** \_\_\_\_\_ **NA** \_\_\_\_\_

**DATE:** October 7, 2003

**TO:** Lee Sparling through Marc Hellman, Rebecca Hathhorn, Terry Lambeth

**FROM:** Kathy Miller

**SUBJECT:** AR 405: Wastewater Rulemaking. Second Publishing and Noticing of Wastewater Regulatory Rules (OAR Chapter 860 Division 037) Incorporating Substantive Changes and New Rules Not Included in Original Publishing and Noticing in the Secretary of State Bulletin.

**STAFF RECOMMENDATION:**

No staff recommendation, informational update only.

**DISCUSSION:**

The original wastewater rules were adopted in 1999 pursuant to ORS 758.300 through 758.320, giving PUC authority to regulate certain wastewater utilities. Docket AR 405 is the first revision to the original wastewater rules. AR 405 was initiated on May 14, 2001, and notice was published on June 1, 2001, in the Secretary of State Bulletin.

The docket has been in abeyance since 2001, first delayed awaiting the outcome of a legal proceeding, UM 1024 Juniper Utility, the ensuing condemnation proceeding by the City of Bend, and further delayed to allow other rulemakings dockets affecting wastewater rules to be completed.

Due to five new rules and substantive changes in the amendments from its originally published version, AR 405 is being republished. Two new rules pertain to wastewater disposal and wastewater services charges. The other three new rules incorporate recommendations from the Water Issues Steering Committee and are consistent with Division 036 Water Regulation. They include compliance enforcement by regent appointment, acquisition adjustments, and accounting treatment of Contributions in Aid of Construction.

AR 405 proposes to repeal OAR 860-037-0315, a service territory rule that does not apply to wastewater utilities. It also proposes to repeal OAR 860-036-0305, a remedy to

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customers for inadequate service by means of service credits. OAR 860-036-0305 is replaced with 2003 new legislation (HB 2227) authorizing PUC to directly fine wastewater utilities for inadequate service. The remaining revisions are clarifying and housekeeping in nature, including new definitions and updating the Commission's telephone numbers and addresses.

Attachment A is a summary of the proposed rules and amendments. The proposed rules and amendments are shown in Attachment B.

**PROPOSED COMMISSION MOTION:**

Informational Update Only

## SUMMARY OF PROPOSED RULE CHANGES

The following is a general summary of the wastewater rules and amendment proposed in AR 405 to OAR Chapter 860, Division 037.

**General Changes Throughout Division 037**

Updates the Commission's mailing and location addresses and telephone numbers.

Changes "five-day" to "five-business-day" for company notices to customers.

Replaces the word "Division" from "Consumer Services Division," with "Section."

Generally replaces the word "which" with "that."

Changes "water/wastewater" to "wastewater."

**860-037-0010 Definitions**

The following are additional and clarification changes to the definitions in 860-037-0010:

860-037-0010(1) defines "Actual cost."

860-037-0010(3) defines "Association."

860-037-0010(6) defines "Construction."

860-037-0010(7) defines "Contributions In Aid of Construction."

860-037-0010(8) defines "Cooperative."

860-037-0010(9) defines "Cost-based."

860-037-0010(11) defines "Customer service line."

860-037-0010(12) defines "DEQ."

860-037-0010(13) defines "Domestic wastewater."

860-037-0010(14) defines "District."

860-037-0010(15) defines "Emergency repair."

860-037-0010(16) defines "Failing system."

860-037-0010(18) defines "Industrial/commercial wastewater."

860-037-0010(19) defines "Legal availability."

860-037-0010(20) defines "Lift or pump station."

860-037-0010(21) defines "Main line extension."

860-037-0010(22) defines "Pressure transport piping."

860-037-0010(23) defines "Public health hazard."

860-037-0010(24) defines "Public utility."

860-037-0010(25) defines "Registered dispute."

860-037-0010(26) defines "Service connection."

860-037-0010(27) defines "System development fee or charge (SDC)."

860-037-0010(28) defines "Utility."

860-037-0010(29) defines "Utility service line."

860-037-0010(30) defines "Wastewater."

860-037-0010(31) defines "Wastewater collection system."

860-037-0010(33) defines "Wastewater treatment system."

860-037-0010(35) defines "Wastewater utility."

**860-037-0025 Dispute Resolution**

- Modifies "termination of water service for wastewater service . . ." to "termination of wastewater service through disconnection of water service."
- Modifies "expedited hearing" to "hearing."

**860-037-0050 Refund of Wastewater Utility Deposits**

- Simplifies the language regarding (customer) establishing credit and deposit refunds.

**860-037-0055 Installation of Wastewater Service Connection**

- Adds "repair" of the service connection as a responsibility of the water utility.
- Requires all materials, construction, and installation of a wastewater system be in compliance with all applicable rules, codes, regulation and industry standards.

**860-037-0065 Design, Construction, and Operation**

- Clarifies that the utility owner is responsible for the management and operations of the wastewater system.
- Requires all materials will meet or exceed industry standards and codes.
- Requires system to be operated and maintained in such a way that it does not create a public hazard.
- Requires utility to have adequate inventory of spare parts.
- Requires that a failing system be immediately repaired.

**New Rule****860-037-0067 Wastewater Disposal**

- States utility will ensure proper handling and treatment of all waste.
- States utility will ensure proper transport of all waste.
- States utility will clean up ground spills and disinfect spill areas immediately.
- States utility owner is responsible for all licenses, permits, treatment facilities, and application sites.

**860-037-0075 Refusal of Service**

- Deletes the language "Except for customers or applicants who were disconnected for theft of service," and adds "When a customer or applicant whose service was terminated applies for service within 20 calendar days of the termination, the . . .".
- Changes "An applicant for service" to "An applicant for residential service."
- Changes "The customer" to "The residential customer."
- Requires that the utility send a copy of all letters of refusal of service to PUC Consumer Services Section at the same time the letter is sent to the customer or applicant.

**860-037-0101 Wastewater Service Charges**

- Explains that generally wastewater service charges are based upon the volume of water delivered to a customer.
- Provides a remedy for situations where significant water volume is delivered to customers or if water or wastewater is discharged into wastewater system from another source.

**860-037-0105 Bill Forms**

- Requires wastewater utilities to include the utility's telephone number, where utility personnel can be reached during normal business hours, on the face of the customer's bill.

**860-037-0205 Grounds for Terminating Wastewater Service by Disconnecting Water Service**

- Clarifies that a wastewater utility may terminate wastewater service by disconnecting a customer's water service for cause.

**860-037-0210 Voluntary Disconnection**

- Changes "A customer who for any reason wishes to have service disconnected" to "A customer who wishes to have service disconnected."
- Changes "Until the water utility shall have such notice" to "Until the wastewater utility receives such notice."

**Repeals Rule 860-037-0305 Service Credit for Inadequate Service.****New Rule****860-037-0307 Compliance Enforcement by Commission Appointment of Regent to Operate and Manage a Wastewater System**

- Generally provides the requirements and conditions necessary for the Commission to appoint a third party or regent to run a wastewater system.
- Requires that the utility must demonstrate that it is either unwilling, incapable, or refuses to operate and manage system in compliance with Oregon statutes and Administrative Rules.
- Requires regent must be, or employ, a qualified operator or be a qualifying wastewater utility.
- States that the regent duties may include billing and collection, customer service, and administration of the system.
- Provides that when monies are involved, the regent will record all transaction in a general ledger and supply a copy of the ledger and bank statement to the Commission.
- Provides that in the end, the Commission will approve a final accounting of all monies and disbursement of surplus funds.

**Repeals Rule 860-037-0315 Service Territories**

- Service territory rules are not applicable to wastewater utilities.

**860-037-0425 Announcement of Tariff Changes**

- Changes announcement requirements by deleting “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” and replacing it with “current and proposed average monthly rate for each customer class.”
- Requires each wastewater utility to provide the Commission with a draft copy of the announcement of tariff changes prior to mailing announcement to customers.

**860-037-0510 Notice and Approval Requirements Relating to the Sale, Transfer, Merger, Termination of Service or Abandonment or Disposal of a Wastewater Utility**

- Adds new language stating that any rate regulated water utility seeking to sell, transfer, or merge must obtain Commission approval prior to the transaction.
- References OAR 860-046-00715 for application requirements.
- Clarifies that each wastewater utility must apply for Commission approval to permanently terminate wastewater service or to abandon or dispose of the wastewater utility.
- Requires the wastewater utility to provide notice to its customer for any of the above transactions.

**New Rule****860-037-0517 Acquisition Adjustment**

- Allows a wastewater utility to petition the Commission for an acquisition adjustment when acquiring a wastewater system.
- States that approval and determination of such approval is at the sole discretion of the Commission.

**New Rule****860-037-0567 Accounting of Contributions in Aid of Construction (CIAC)**

- Changes CIAC accounting treatment in regulatory rate making.
- Removes CIAC from rate base in determining rates.
- Describes CIAC.
- Provides phasing CIAC out of the utility's rate base if the initial removal is too detrimental to the utility.

**860-037-0605 Preservation and Destruction of Records**

- Requires each wastewater utility allow “e-sign” as a form of accepted media.

## DIVISION 037

**WASTEWATER UTILITY REGULATION FOR JOINT WATER/WASTEWATER UTILITIES****General****860-037-0001****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/wastewater~~ utility subject to these rules. Furthermore, these rules shall not in any way relieve any ~~water/wastewater~~ utility subject to them from any of its duties under the laws of this State. Upon application by a ~~water/wastewater~~ utility the Commission may relieve it of any obligations under these rules.

(2) The rules contained in this division are applicable to wastewater service provided by public ~~water/wastewater~~ utilities, as defined in OAR 860-037-0010(1428) and (36), providing service in the State of Oregon.

~~(3) A water/wastewater utility is subject to Division 037 only when it engages in activity that affects wastewater rates or wastewater service to its wastewater customers. A water/wastewater utility shall comply with Division 036 of the Commission's rules when it engages in activity that affects the water rates or water service to customers receiving both water and wastewater service or to customers receiving only water service.~~

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

**860-037-0010****Definitions**

As used in this Division:

(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 that:

(a) Applies for service with a ~~water/wastewater~~ utility; or

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

(3) **"Association" means an incorporated or unincorporated association of individuals or a homeowner association providing wastewater service, as defined in ORS 757.005.**

(24) "Co-customer" means a person who meets the definition of "customer" and is jointly responsible with another person for payments for wastewater utility service on an account with the ~~water/wastewater~~ 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/wastewater~~ 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.

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

(6) "Construction" includes installation of a new wastewater system or part thereof, or the alteration, repair, or extension of an existing wastewater system. The grading, excavation, and earth-moving work connected with installation, alteration, or repair of a system, or part thereof, is considered to be a part of the wastewater system construction.

(7) "Contributions in aid of construction" means any money, service, or property received by a wastewater utility for capital expenditures at no cost to the utility and with no obligation to repay the benefactor.

~~(48) "Cooperative or association" means a cooperative corporation, unincorporated association, or homeowner association, as defined in ORS 757.005(1)(a)(A), that provides water/wastewater service solely to its membership"~~ 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 return on investment.

(510) "Customer" means any person, partnership, association, corporation, or governmental agency who has applied for, been accepted, and is currently receiving service unless otherwise noted. Notwithstanding section (42) of this rule, a customer who voluntarily terminates service and subsequently ~~asks requests~~ for service with the same ~~water/wastewater~~ utility at a new or existing location within 20 days after disconnection retains customer status.

~~(611) "Customer's service pipeline" means any wastewater pipe extending from the customer's residence or other structure receiving and transporting wastewater to the utility's service pipe connection that portion of the sewer pipe extending from the end of the utility service connection to the structure or premises to be served. The customer service line is purchased, installed, maintained, repaired, and replaced as necessary by the customer and at the customer's expense.~~

(12) "DEQ" means the Oregon Department of Environmental Quality.

(13) "Domestic wastewater" means the water-carried human waste, together with such groundwater infiltration and surface water that may be present that flow to wastewater treatment facilities from residences, buildings, industrial establishments, or other places.

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

(15) "Emergency repair" means repair of a failing wastewater system when immediate action is necessary to relieve a situation in which sewage is backing up into a dwelling or building, or repair of a broken sewer pipe. It does not include the construction of new or additional installation, expansion, alteration, or repair of a system, or part thereof that does not constitute a public health hazard.

(16) "Failing system" means a failing wastewater system or any wastewater system that discharges untreated or incompletely treated sewage or septic tank effluent, directly or indirectly, onto the ground surface, public waters, dwellings, or buildings.

(17) "Formal complaint" means a written complaint filed with the Commission's Administrative Hearings Division.

(18) "Industrial/commercial wastewater" means any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing trade, business, or from the development or recovery of any natural resource.

(19) "Legal availability" means a wastewater system will be legally available for service if the system is not under a DEQ connection permit moratorium.

(20) "Lift or pump station" means any pump, structure, equipment, or device, used to lift sewage or effluent to a higher elevation. Lift stations are considered a part of the wastewater collection system.

(21) "Main line 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 in order to receive service, the cost of such extension will comply with the wastewater utility's main line extension policy.

(22) "Pressure transport piping" means piping that conveys sewage or effluent under pressure into a common sewage system by means of a pump, siphon, or gravity.

(23) "Public health hazard" means a condition whereby there are sufficient types and amounts of biological, chemical, or physical agents, including radiological, relating to sewage that are likely to cause human illness, disorder, or disability, or it is probable that the public is exposed to disease-caused physical suffering or illness due to the presence of inadequately treated sewage. These include, but are not limited to, pathogens, viruses, bacteria, parasites, toxic chemicals, and radioisotopes.

~~(824) "Public utility" has the meaning given the term in ORS 757.005 and ORS 757.061, means all water/wastewater utilities, except when a more limited scope is explicitly stated. The term does not include pPeople's uUtility dDistricts (PUDs), municipalities, or cooperatives and homeowner associations that provide service solely to their membership.~~

~~(925) "Registered dispute" means an unresolved issue between a customer or applicant and a water/wastewater utility that is under investigation by the Commission's Consumer Services SectionDivision or Utility Division staff,~~ but is not the subject of a formal complaint.

(26) "Service pipe-connection" means **the physical connection of the utility service line and the customer service line and** that portion of the ~~servicesewer~~ pipe **extending** from the ~~sewer~~ main **line** to the boundary line of the **customer's property**, easement, public road, or street under which ~~such~~**the sewer main line** is located.

(4027) "**System development charge (SDC) or fee**" is the **infrastructure charge to all potential customers by a wastewater utility prior to service being initiated. The SDC encompasses the total cost of the wastewater system proportionately allocated to all potential customers.**

(28) "**Utility**" means any wastewater utility, except when a more limited scope is explicitly stated.

(29) "**Utility service line**" means that portion of the sewer pipe between the sewer main line and the customer's property line. The utility service line is purchased, installed, maintained, repaired, and replaced as necessary by the utility and at the utility's expense.

(3044) "**Wastewater**" means **sewage or the water-carried human or animal waste from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration and surface water that may be present. The admixture of domestic and industrial waste or other by-products, such as sludge, is considered sewage**~~the combination of the liquid and water-carried pollutants from a residence, commercial building, industrial plant, or institution (together with any groundwater, surface runoff, or leachate that may be present).~~

(31) "**Wastewater collection system**" means all components including pipes, manholes, pumps, lift or pumping stations, and other components necessary to collect and transport domestic and/or industrial liquid waste from a community, individual, corporation, or entity that produces wastewater, sewage, or other waste treatable in a community or private wastewater treatment facility.

(432) "**Wastewater service**" means the collection, transportation, treatment, and disposal of wastewater for the public or any other beneficial or necessary purpose. Wastewater service does not include septic pumping.

(33) "**Wastewater system**" means any structure, equipment, or process required to collect, carry away, and treat sewage, including pipe or conduits, lift or pump stations, main lines, and other structures, devices, appurtenances, and facilities used for collecting, treating, or disposing of wastewater, or for collecting or conveying sewage to an ultimate point for treatment and disposal.

(434) "**Wastewater treatment facilities**" includes all pipes, pumps, canals, lagoons, plant, structures, and appliances, and ~~all~~ other real estate, fixtures, and personal property owned, operated, and controlled or managed in connection with or to facilitate the collection, ~~carriage~~**transport**, treatment, and disposal of wastewater for the public, or any other beneficial or necessary purpose.

(35) "**Wastewater treatment system**" means any sewage treatment system. It includes all structures, facilities, equipment, or processes for

**treating, neutralizing, stabilizing, and/or disposing of domestic waste and sludge, including industrial waste discharged to sewage treatment works.**

(1436) “~~Water~~wastewater utility” means all public water utilities as defined ORS 757.005 **and ORS 757.061** that also provide wastewater service inside the boundaries of a city, either directly or through an affiliate, regardless of the number of customers receiving **water or** wastewater service.

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

Stats. Implemented: ORS 756.040, 756.105, 757.005 & 757.061

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)

**860-037-0015**

**Information for Customers and Applicants**

(1) Upon request, the ~~water~~wastewater utility shall furnish customers or applicants with such information as is reasonable to permit such customers to secure efficient service.

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

(3) Upon request, the ~~water~~wastewater utility shall supply a copy of its approved tariffed rates applicable to the type or types of wastewater service furnished to the customer by the ~~water~~wastewater utility.

(4) When service is initiated and not less than once each year thereafter, a ~~water~~wastewater utility shall give its customers a written summary of the customers’ rights and responsibilities, as they relate to the ~~water~~wastewater utility providing service. If service is initiated without a personal contact between the utility and the customer, the ~~water~~wastewater 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 ~~Section~~**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 **Section: Division 1-800-522-2404 or TTY 711.**

(5) When service is initiated, the ~~water~~wastewater 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 the water/wastewater utilities. The information published by a ~~water~~/wastewater utility pursuant to OAR 860-037-0015 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).

(6) Each ~~water~~/wastewater 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 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.**

**(7) Each wastewater utility must** 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.

(78) Notices approved by the Commission shall be posted in a conspicuous place in each ~~water~~/wastewater 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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

#### **860-037-0020**

##### **Designation of Third Party to Receive Notices**

A ~~water~~/wastewater utility shall offer its customer or applicant the option to designate a third party to receive bills and notices set forth in these rules. When a ~~water~~/wastewater utility receives such designation, it shall send bills and notices required under these rules to the customer's representative, with duplicate copies of disconnect notices also served on the customer.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

#### **860-037-0025**

##### **Dispute Resolution**

(1) When a dispute occurs between a customer or applicant and a ~~water/wastewater~~ utility about any bill, charge, or service, the ~~water/wastewater~~ utility shall thoroughly investigate the matter and promptly report the results of its investigation to the customer or applicant. The ~~water/wastewater~~ 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 860-037-0605.

(2) The ~~water/wastewater~~ utility shall inform the customer or applicant of the right to a ~~water/wastewater~~ utility supervisory review of any dispute, including, but not limited to, establishment of credit and termination of ~~waste~~water service through disconnection of for wastewater service. If a dispute is not resolved, the ~~water/wastewater~~ 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 ~~Section~~Division at:

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

(b) The Commission's mailing address: Public Utility Commission of Oregon, Consumer Services Section, 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.

(d) The Commission shall notify the ~~waste~~water utility upon receipt of such a request.

(4) The Commission's Consumer Services ~~Section~~Division shall assist the complainant and the ~~water/wastewater~~ 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 ~~Section~~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/wastewater~~ 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 of wastewater service is based on nonpayment, the customer makes adequate arrangement to avoid future loss to the

~~water/wastewater~~ utility, such as prepaying estimated monthly wastewater utility service 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/wastewater~~ utility has no obligation to provide continued service. A ~~water/wastewater~~ utility discontinuing water service because of a **customer's** failure to meet the conditions of subsections (7)(c) or (7)(d) of this rule for wastewater utility service shall give the customer a five-**business**-day disconnect notice. The notice shall be served in the same manner as provided by OAR 860-037-0245, except that it need only describe the defect in performance, the date and time when **water service will be disconnected in order to**~~water utility service will~~ terminate **wastewater service** and the toll-free number of the Commission's Consumer Services **Section**~~Division~~. In deciding whether the conditions are met, the ~~water/wastewater~~ utility shall consult with the Commission's Consumer Services **Section**~~Division~~. The customer who has filed a formal complaint, the ~~water/wastewater~~ utility, or the Commission's Consumer Services **Section**~~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/wastewater~~ utility, and the Commission's Consumer Services **Section**~~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, 757.005 & 757.061

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)

### **860-037-0030**

#### **Applications for ~~Water/Wastewater~~ Utility Service**

(1) An application for ~~water/wastewater~~ utility service must be made when:

(a) Service is requested by an applicant who has not previously been served by the ~~water/wastewater~~ utility;

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

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

(2) An application is a request for ~~water/wastewater~~ utility service. The ~~water/wastewater~~ utility shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-037-0035. However, the ~~water/wastewater~~ utility may refuse a service application under OAR 860-037-0075.

(3) A ~~water~~/wastewater utility may require an applicant to provide the following information when applying for service:

- (a) The name of person(s) responsible for payment on the account;
- (b) The name to be used to identify the account, if different than the actual name;
- (c) The birth date of person(s) responsible for payment on the account;
- (d) The social security number of person(s) responsible for payment on the account;
- (e) A current valid Oregon driver license number of the person(s) responsible for payment on the account;
- (f) The service address;
- (g) The billing address, if different than service address; and
- (h) Any available telephone numbers where the applicant can be reached night and day.

(4) In lieu of providing a valid social security number or current valid Oregon driver license number under section (3) of this rule, an applicant may provide:

- (a) A valid state or federal identification containing name and photograph of the person(s) responsible for payment on the account;
- (b) A combination of:
  - (A) An original or certified true copy of his or her birth certificate;
  - (B) A current identification from school or employer containing a photograph; and
  - (C) The name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or
- (c) Other information deemed sufficient by the utility to establish an applicant's identification.

(5) If an applicant is denied service for failure to provide an acceptable form of identification, the applicant may pursue conflict resolution under the Commission's rules.

(6) Upon request, the ~~water~~/wastewater utility shall protect the account from access by others through the use of a personalized password or other means acceptable to both the ~~water~~/wastewater utility and the customer.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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 16-2003, f. & ef. 10-1-03 (Order No. 03-550)

### **860-037-0035**

#### **Establishing Credit for Residential Service**

(1) An applicant or customer may demonstrate satisfactory credit for new or continuing service by showing any of the following, provided that a deposit is not required under section (2) of this rule:

- (a) Received 12 months of continuous ~~water~~/or wastewater utility service type during the preceding 24 months and the new ~~water~~/wastewater utility can verify, either by contacting the former ~~water~~/or wastewater utility or through an authorized letter

provided by the applicant or customer, that the applicant or customer voluntarily terminated service and timely paid for all services rendered;

(b) Meets the ~~water~~/wastewater utility's minimum credit requirements based on a third party credit report score or based on the ~~water~~/wastewater utility's own credit scoring formula approved by the Commission; or

(c) Proof of ability to pay by providing either:

(A) Proof of employment during the entire 12 months previous to the application of service for person(s) responsible for payment on the account and a work telephone number to enable the ~~water~~/wastewater utility to verify employment; or

(B) A statement or other documentation from the income provider or an authorized representative, that the ~~water~~/wastewater utility can verify, indicating that the applicant or customer receives a regular source of income.

(2) An applicant or customer may be required to pay a deposit at the time of application for new or continued service when:

(a) The applicant or customer is unable to establish credit as defined in section (1) of this rule;

(b) The applicant or customer received the same type of ~~water~~/or wastewater utility service from it or any Oregon ~~water~~/or wastewater utility, as defined in ORS 757.005, within the preceding 24 months and owed an account balance that was not paid in full when service was terminated. Subsection (2)(b) of this rule does not apply to a customer who registered a dispute with the Commission within 60 days after service was terminated and who paid all undisputed or adjudicated amounts; or

(c) The applicant or customer was previously terminated for theft of service by any Oregon ~~water~~/or wastewater utility as defined in ORS 757.005, was found to have tampered with the meter or other ~~water~~/wastewater utility facilities, or was otherwise found to have diverted ~~water~~/or wastewater utility service.

(3) In lieu of paying a deposit, an applicant or customer may provide the ~~water~~/wastewater utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For purposes of section (3) of this rule, a responsible party is a customer with the same ~~water~~/wastewater utility who meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate should the responsible party no longer meet the conditions set forth herein. In the event a responsible party is subsequently found not to qualify, the applicant or customer will be required to either pay a deposit or obtain a written surety agreement from another responsible party. The surety obligation ceases when the customer establishes good credit.

(4) Deposits for ~~water~~/wastewater utility service shall not exceed one-sixth the amount of reasonable billing for 12 months at the rates then in effect. The estimate shall be based on the use of the service at the premises during the prior 12 months or on the type and size of the customer's equipment that will use the service. Each deposit shall be rounded to the nearest whole dollar.

(5) A new or additional deposit, calculated as provided by sections (4) of this rule with the most recent information available, may be required from a customer as a condition of continued service when:

(a) The ~~water/wastewater~~ utility discovers that the customer gave false information to establish an account and/or credit status;

(b) The ~~water/wastewater~~ utility discovers that the customer has stolen ~~water/~~or ~~wastewater~~ utility service, has tampered with the meter or other ~~water/~~or ~~wastewater~~ utility facilities, or was otherwise found to have diverted ~~water/~~or ~~wastewater~~ utility service; or

(c) A customer moves and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the existing deposit.

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

(7) A ~~water/wastewater~~ utility may file a tariff that contains less stringent deposit requirements than those specified in this rule.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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 16-2003, f. & ef. 10-1-03 (Order No. 03-550)

### **860-037-0040**

#### **Deposit Payment Arrangements for Residential ~~Water/Wastewater~~ Service**

(1) When a ~~water/wastewater~~ utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. Installments shall be one-third of 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 **deposit** installment payment or a deposit is made with a payment for ~~water/~~or ~~wastewater~~ 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) When a customer enters into an installment agreement for payment of a deposit under section (1) of this rule, the ~~water/wastewater~~ 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/~~or ~~wastewater~~ service will be **terminated through disconnected ing water service** if payment is not received when due.

(5) If a customer or applicant fails to abide by the terms of a deposit installment agreement, the ~~water~~/wastewater utility may disconnect water service after providing a **five-business-day** written notice. The notice shall comply with the requirements of OAR 860-037-0245.

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

(7) If termination of wastewater service 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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

### **860-037-0045**

#### **Interest on Deposits for Residential and Nonresidential Service**

(1) Each year, the Commission shall establish an annual interest rate that must be paid on customer deposits. The Commission will base the rate upon consideration of the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October, the interest rate on the most recent issuance of one-year Treasury Bills, or the effective interest rate for the average yield of Treasury Bills of the closest term issued during the last week of October. This interest rate, rounded to the nearest one-half of one percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise ~~water~~/wastewater utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) Upon payment of a deposit, the ~~water~~/wastewater utility shall provide the customer documentation showing the date, name of the customer or applicant, the service address, the amount of deposit, a statement that the deposit will accrue interest at the rate prescribed by the Commission, and an explanation of the conditions under which the deposit will be refunded.

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

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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 16-2003, f. & ef. 10-1-03 (Order No. 03-550)

**860-037-0050****Refund of ~~Water/Wastewater~~ Utility Deposits for Residential and Nonresidential Service**

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

(2) A ~~water/wastewater~~ utility may continue holding a deposit until credit is satisfactorily established or reestablished. For purposes of this rule, credit is considered established or reestablished one year after a deposit is made if:

(a) The account is current;

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

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

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

(4) When the customer moves to a new address within the ~~water/wastewater~~ utility's service area, the deposit and accrued interest will be transferred to the new account.

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

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

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

Stats. Implemented: ORS 98.316, 756.040, 757.005 & 757.061

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)

**860-037-0055****Installation of ~~Water/Wastewater~~ Service Pipe Connection**

(1) A ~~water/wastewater~~ utility shall furnish and install that portion of the ~~servicesewer~~ pipe from the sewer main to the customer's property boundary line ~~of the~~ easement, public road, or street, under which such main is located. Such installation shall be designated as the "wastewater service pipe connection." The ~~water/wastewater~~ utility shall own, operate, maintain, and repair or replace the wastewater service pipe connection when necessary.

(2) A ~~water/wastewater~~ utility may require the customer to pay a reasonable wastewater service-~~pipe~~ connection charge to offset its expenses listed in section (1) of this rule.

(3) The customer shall furnish, install, ~~and maintain,~~ repair, and replace that portion of the ~~servicesewer~~ pipe from the end of the ~~water/wastewater's~~ service connection into the premises served. Such installation shall be designated as the "customer service line."

(4) The utility shall not connect the customer's service ~~pipeline~~ until it is satisfied that~~has received notice from the inspection agency certifying that~~ the customer's plumbing is ~~satisfactory~~adequate.

(5) All construction and installation of the wastewater service connection and sewer pipes must comply with all applicable statutes, rules, regulations, codes, and industry standards.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

#### 860-037-0060

##### Installation of Main Line Extension

(1) A ~~water/wastewater~~ utility shall develop a Commission-approved uniform policy governing the amount of main line extension and applicable fee charged ~~sd which to the customer or applicant to receive service 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 a service ~~pipe~~ connection in accordance with the ~~water/wastewater~~ utility main line extension policy. Such policy and charges must be filed as tariffs with the Commission.

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

(a) Schedule of cost-based charges;

(b) Advance and refund provisions ~~which describe the mechanism for that equitably collecting main line extension charges~~ and ~~rebate~~ eng main line extension charges to customers ~~which equitably distributes the cost of the main line extension among customers of the line~~ who contributed to the payment of the cost of the main line extension; and

(c) The time period ~~during which~~when advance and rebate provisions ~~will beare~~ in effect.

(4) All main line extension policies shall be applied uniformly among the ~~water/wastewater~~ utility's customers and must be on file with the Commission, 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.

Stat. Auth.: ORS Ch. 183, 756 & 757  
Stats. Implemented: ORS 756.040, 757.005 & 757.061  
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)

**860-037-0065****Design, Construction, and Operation**

**(1) The wastewater utility owner is responsible and liable for meeting the requirements for all applicable laws, rules, and codes and for the wastewater (sewage) that passes through the collection, treatment, and disposal plants.**

**(2) The wastewater utility owner is responsible for obtaining and maintaining all permits, licenses, approvals, design, equipment and materials selection, installation, testing, operation, and maintenance of the complete wastewater system.**

**(3) Each ~~water~~wastewater utility shall maintain and operate wastewater treatment facilities of adequate size and properly equipped to collect, transport, and treat wastewater, and discharge the effluent at the degree of purity required by the health laws ~~of the Department of Environmental Quality~~, and all ~~federal, state, and local~~other regulatory agencies ~~and authorities, federal, state, and local~~, having jurisdiction over such matters.**

**(4) All materials used in construction of a wastewater system must be structurally sound, durable, and capable of withstanding normal stresses incidental to installation and operation, and will meet or exceed the industry established standards, codes, and requirements of entities having such authority.**

**(5) Wastewater treatment facilities shall be constructed, installed, maintained, and operated in accordance with accepted ~~good~~engineering practice to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.**

**(6) While prudently managing costs, the design and construction of the ~~water~~wastewater utility's collecting main lines, treatment plant and facilities, and all additions thereto and modifications thereof, shall ~~meet or exceed~~~~conform to~~ the requirements of all regulatory authorities, construction codes, and industry standards.**

**(7) The capacity of the treatment facilities for the collection, treatment, and disposal of wastewater and wastewater effluent must be sufficiently sized to meet all normal demands for service and provide reasonable reserve for emergencies.**

**(8) Each ~~water~~wastewater utility shall adopt procedures for inspection of its plant and facilities to assure safe and adequate operation and shall make inspections of its plant on a regular basis. The procedures shall be filed with the Commission. The ~~water~~wastewater utility shall maintain a record of inspections, findings, and corrective action required and/or taken, by location and date.**

**(9) All components of the wastewater system must be operated and maintained so as not to create a public health hazard or cause water**

**pollution, and without interruption, sewage spills, sewage backup, or other unhealthful conditions.**

**(a) The owner must establish operating procedures and maintain appropriate qualified staff and adequate inventory of necessary spare parts such as pumps, piping, electrical controls, and valves.**

**(b) A failing system must be immediately repaired.**

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

### **860-037-0067**

#### **Wastewater Disposal**

**(1) The wastewater utility must ensure proper handling and treatment of all wastewater, sewage, effluent, solids, and biosolids (generated or pumped).**

**(2) The wastewater utility must ensure proper transport of all wastewater, sewage, effluent, solids, and biosolids (generated or pumped). Such transportation must prevent leaking or spilling of sewage onto the highways, streets, roads, waterways, or other land surfaces not approved for application or disposal.**

**(3) The utility must immediately clean up any ground surface sewage spills and disinfect any and all spill areas, unless exempted by federal or state law or state agency administrative rules.**

**(4) The wastewater utility owner is responsible for obtaining and maintaining all licenses, permits, wastewater treatment facilities, permitted pits, ponds or lagoons; or solid land application sites.**

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

**Stats. Implemented: ORS 756.040, 757.005 & 757.061**

**Hist.: New**

### **860-037-0070**

#### **Interruption of Service**

(1) A ~~water~~wastewater utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the date, time, duration, and cause of interruption, remedy, and steps taken to prevent reoccurrence.

(2) A ~~water~~wastewater utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the ~~water~~wastewater utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) Each ~~water~~wastewater utility shall make all reasonable efforts to notify every customer affected in advance of any scheduled work that will interrupt service, but such notice shall not be required in case of interruption due to

emergency repairs or for repairs or maintenance work that results in an interruption of less than five minutes. All scheduled interruptions shall be made at a time causing minimum inconvenience to customers. In determining reasonable notice, the ~~water~~/wastewater utility shall consider the length of the planned interruption, the type and number of customers affected, the potential impact of the interruption on customers, and other surrounding circumstances. Notice may be given in writing, either via US mail or a door hanger on the affected premises, or by contact with the customer or an adult at the residence by personal visit or by telephone.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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 16-2003, f. & ef. 10-1-03 (Order No. 03-550)

### 860-037-0075

#### Refusal of Service

(1) A ~~water~~/wastewater utility may refuse to provide wastewater service to an applicant applying for wastewater service until it receives full payment of any overdue amount of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account except as provided below:

(a) ~~Except for residential customers or applicants who were disconnected for theft of service, a water/~~**When a customer or applicant whose service was terminated applies for service within 20 calendar days of the termination, the** wastewater utility shall provide service to an **residential** applicant upon receipt of payment equal to at least one-half of any overdue amount ~~of an Oregon tariffed or price-listed charge~~. 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;

(b) Upon failure to pay, the ~~water~~/wastewater utility may disconnect water service after providing a written five-**business**-day notice. The notice shall contain the information and be served in the manner prescribed as provided in OAR 860-036-0245. ~~When a residential customer whose service was terminated applies for wastewater 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 for wastewater service set forth in section (1)(a) of this rule, the ~~water~~/wastewater utility may refuse to restore water service until it receives full payment of any overdue obligation of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account, including any reconnection fee, late payment fee, and past due bill.

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

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

(b) ~~An residential~~ 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/wastewater~~ utility shall refuse to provide wastewater 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/wastewater~~ utility.

(5) A ~~water/wastewater~~ utility shall refuse to serve a customer or applicant, if, in the best judgment of the ~~water/wastewater~~ 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/wastewater~~ 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. **The utility must send contemporaneously a** copy of the notice ~~shall also be sent~~ to the Commission's **Consumer Services Section** unless service was refused for nonpayment.

(7) A ~~water/wastewater~~ utility shall not accept an application for wastewater service or materially change service to a customer if it does not have adequate facilities or ~~water/wastewater~~ 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/wastewater~~ utility refuses wastewater service on the grounds of inadequate facilities or resources, the ~~water/wastewater~~ utility shall:

(A) Provide the customer or applicant with a written letter of refusal, ~~a copy of which shall sent to the Commission~~, stating the reason for the refusal; **The utility must send contemporaneously a copy of such refusal letter to the Commission's Consumer Services Section.**

(B) Inform the customer or applicant that he/she may request the details upon which the ~~water/wastewater~~ utility's decision was based, including but not limited to current capacity and demand;

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

(D) Inform the customer or applicant that he/she may challenge the ~~water/wastewater~~ utility's refusal of wastewater service through the Commission's dispute resolution process pursuant to OAR 860-037-0025.

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

Stats. Implemented: ORS 756.040, 757.005, 757.035, 757.061 & 757.225

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 22-2002, f. & ef. 12-9-02 (Order No. 02-723)

**860-037-0080****Restrictions on Entering a Customer Residence**

No ~~water~~/wastewater utility employee shall enter the residence of a customer without proper authorization except in an emergency endangering life or property.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

**Billing and Payments****860-037-0101****Wastewater Service Charges**

**In general, wastewater service charges are based upon the volume of water delivered to the customer's property. The water meter serving the premises measures this volume. In cases where a significant volume of the water delivered to the premises is not returned to, or water or wastewater from another source is discharged to the wastewater system the customer may request, or the utility may require, special flow measuring devices to properly measure the volume of wastewater entering the wastewater system. Such special flow measuring devices must be furnished, installed, and maintained by and at the expense of the customer with the approval of the utility.**

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

**Stats. Implemented: ORS 756.040, 757.005 & 757.061**

**Hist.: New**

**860-037-0105****Bill Forms**

(1) Every ~~water~~/wastewater utility providing service shall indicate clearly on the bill the date of the billing period, the schedule number under which the bill was rendered, and any other information needed to compute the bill. Each bill shall bear on its face the delinquent date of the bill **and the wastewater utility telephone number where the utility's personnel may be reached during normal business hours.**

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

**860-037-0110**

**Due and Payable Period; Time-Payment Agreements for Residential Service**

(1) Each ~~water~~/wastewater utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment of the final bill, to the due date is not less than 15 days. If the bill is delivered by US mail, the due and payable period begins the day after the US Postal Service postmark or the day after the date of postage metering.

(2) A ~~water~~/wastewater utility may not disconnect residential water service for nonpayment of wastewater service charges if a customer enters into a written time-payment plan. A ~~water~~/wastewater utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a levelized-payment plan and an equal-pay arrearage plan.

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

(a) The monthly installment plan shall be reviewed by the ~~water~~/wastewater utility periodically. If necessary, due to changing rates or variations, the installment amount may be adjusted in order to bring the account into balance within the time period specified in the original agreement;

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

(4) A customer who selects an equal-pay arrearage plan will pay a down payment equal to 1/12 the amount owed for past ~~water~~/wastewater utility service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer). Each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for wastewater service. If a customer changes his/her service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the ~~water~~/wastewater utility provides service at the new address.

(5) The ~~water~~/wastewater utility and customer may agree in writing to an alternate payment arrangement, provided the ~~water~~/wastewater utility first informs the customer of the availability of the payment terms set forth in sections (3) and (4) of this rule.

(6) If a customer fails to abide by the wastewater time-payment agreement, the ~~water~~/wastewater utility may disconnect water service after serving a 15-day disconnect notice. The notice shall comply with OAR 860-037-0245, except that

subsection (5)(d) shall not be applicable. Such customers shall not be eligible for a renewal or renegotiation of a time-payment plan.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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 16-2003, f. & ef. 10-1-03 (Order No. 03-550)

### **860-037-0115**

#### **Late-Payment Charge**

(1) Except as provided in section (2) of this rule, a ~~water~~/wastewater utility may apply a late-payment charge to customer accounts not paid in full each month, provided the ~~water~~/wastewater utility has filed the late-payment charge in its tariffs.

(2) The charge will be based on a monthly late-payment rate applied to only overdue account balances at the time of preparing the subsequent month's bill for residential accounts or by the bill due date for all other accounts. The late-payment charge may not be applied to time-payment or equal-payment accounts that are current. The Commission will determine the late-payment rate based on a survey of prevailing market rates for late-payment charges of commercial enterprises and will advise all ~~water~~/wastewater utilities of the changes in the rate they may use to determine late-payment charges on overdue customer accounts as needed. The current late-payment rate and the conditions for its application to customer accounts shall be specified on the utility bill.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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

### **860-037-0120**

#### **Adjustment of Bills**

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

(2) When a customer is required to repay an underbilling, the customer shall be entitled to enter into a time-payment agreement without regard to whether the customer already participates in such an agreement. If the customer and ~~water~~/wastewater utility cannot agree upon payment terms, the Commission

shall establish terms and conditions to govern the repayment obligation. The ~~water~~/wastewater utility shall provide written notice advising the customer of the opportunity to enter into a time-payment agreement and of the Commission's complaint process.

(3) No billing adjustment shall be allowed if a ~~water~~/wastewater utility bases its wastewater service charges on the water meter and the water meter registers less than 2 percent error under conditions of normal operation.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061 & 757.250

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)

### 860-037-0125

#### Transfer Billings

(1) If a ~~water~~/wastewater utility identifies a balance a customer owes the ~~water~~/wastewater utility from the customer's prior account for Oregon service, the ~~water~~/wastewater utility shall have the option to transfer the amount to the customer's current account. The ~~water~~/wastewater utility must give the customer prior notice of the transfer, including the amount due under the prior account, the period when the balance was incurred, and the service address under which the bill was incurred; or the ~~water~~/wastewater utility may send a separate notice to the customer giving the same information as included in the transfer, but collecting the amount due separately from the customer's current account. If the bill is identified when a customer changes residences, the provisions of this rule apply.

(2) If the customer has an amount remaining on an existing time-payment agreement, the customer may enter into a new time-payment agreement to include the transfer.

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

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.225

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)

### ~~Disconnection~~Termination of Wastewater Service for Wastewater Service Customer Obligation Through Disconnection of Customer's Water Service

### 860-037-0205

#### Grounds for Terminating Customer Wastewater Service by Disconnecting Water Service for Wastewater Service

A ~~water~~/wastewater utility may disconnect water service to a wastewater customer for wastewater service customer obligations:

(1) ~~For~~ failure to establish credit by:

- (a) Failing to pay a deposit or make payments in accordance with the terms of a deposit payment arrangement (OAR 860-037-0040); or
- (b) Providing false identification or verification of identity.
- (2) When facilities provided are unsafe or do not comply with **federal, state, and municipal codes governing service or the ~~water/wastewater~~ utility's** rules and regulations.
- (3) When the customer does not cooperate in providing reasonable access for necessary inspections, **operations, or maintenance**. Necessary in this context means required by law or to determine if a health or safety hazard exists.
- (4) When a customer requests the ~~water/wastewater~~ utility to disconnect water service or close an account (OAR 860-037-0210) or when a co-customer fails to reapply for service within 20 days after a joint account is closed by the other co-customer, so long as the ~~water/wastewater~~ utility has provided a notice of pending disconnection.
- (5) When dangerous or emergency conditions exist at the service premises (OAR 860-037-0215).
- (6) For failure to pay Oregon tariffed wastewater rates due for services rendered.
- (7) For diverting service, or other theft of service.
- (8) When the Commission approves the disconnection of water service.

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

Stats. Implemented: ORS 756.040, 757.005, 757.035, 757.061, 757.225 & 757.760

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)

### **860-037-0210**

#### **Voluntary Water Disconnection for Wastewater Service**

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

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

### **860-037-0215**

#### **Emergency Water Disconnection for Wastewater Service**

A ~~water/wastewater~~ utility may terminate water service in emergencies endangering life or property without following the procedures set forth in OAR 860-037-0245. However, the ~~water/wastewater~~ utility shall immediately thereafter

notify the customer and the Commission. In such cases, when the necessity for emergency termination was through no fault of the customer, the ~~water/wastewater~~ utility will not make a charge to restore service.

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

Stats. Implemented: ORS 756.040, 757.005, 757.035 & 757.061

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)

### 860-037-0220

#### **Disconnection of Water Service for ~~Wastewater Service~~ on Weekends and Holidays**

Water ~~and therefore wastewater~~ service shall not be disconnected for non-emergencies on a weekend or a state- or ~~water/wastewater~~ utility-recognized holiday. Water service shall not be disconnected for non-emergencies on a Friday or the day before a state- or ~~water/wastewater~~ utility-recognized holiday unless mutually agreed upon by the customer, the ~~water/wastewater~~ utility, and the Commission's Consumer Services Section~~Division~~.

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

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.760

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)

### 860-037-0225

#### **Accounts Not Related to Residential Service**

A ~~water/wastewater~~ utility may not deny or disconnect residential water service due to the failure to pay for nonresidential wastewater service, or to meet obligations in connection with nonresidential wastewater service.

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

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.760

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)

### 860-037-0230

#### **Disconnection of Wastewater and ~~Therefore Wastewater~~ Service to Tenants**

(1) If a ~~water/wastewater~~ utility's records show that a residential billing address is different from the service address, the ~~water/wastewater~~ utility must provide a duplicate of the five-business-day water disconnect notice required under OAR 860-037-0020 to the occupants of the service address in the manner described in OAR 860-037-0245 unless the ~~water/wastewater~~ utility has reason 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-

037-0245 for wastewater service. The notice to occupants need not include the dollar amount owing.

(2) When a ~~water~~wastewater utility's records show that a residence is a master-metered, multi-unit dwelling (including rooming houses), the ~~water~~wastewater utility must notify the Commission's Consumer Services **SectionDivision** at least five business days before disconnecting the water service for wastewater service obligations. The ~~water~~wastewater 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, 757.005, 757.061 & 757.760

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)

### **860-037-0235**

#### **Multilingual Disconnection Notice**

(1) Except as provided in section (2) of this rule, all disconnect notices shall contain the following information translated into Spanish, Vietnamese, Cambodian, Laotian, and Russian (translations are available from the Consumer Services **SectionDivision**):

IMPORTANT NOTICE: Your water service will be shut off because of an unpaid balance on your wastewater account. You must act immediately to avoid shut-off. Important information about how you can avoid shut-off is printed in English in the enclosed notice. If you cannot understand English, please find someone to translate the notice. If translation assistance is unavailable, please contact (name) at (phone number) who will try to help you. Information on customer's rights and responsibilities printed in this language is also available by calling that number. YOU MUST ACT NOW TO AVOID SHUT-OFF.

(2) Upon petition by a ~~water~~wastewater utility, the Commission shall waive the requirement to provide multilingual notice for two calendar years, which may be renewed upon a showing that the lesser of 5 percent or 500 of the ~~water~~wastewater utility's Oregon customers would benefit from use of multilingual notification or show other reasons why such notices are not necessary.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

### **860-037-0240**

#### **Reconnection Fee**

When a ~~water~~wastewater service is disconnected for wastewater service, pursuant to OAR 860-037-0245, the ~~water~~wastewater utility may charge the reconnection fee in its tariff.

Stat. Auth.: ORS Ch. 183, 756 & 757  
Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.225  
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)

**860-037-0245****Disconnection Procedures for all Customers of ~~Water~~/Wastewater Utility Services**

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

(2) Notice Requirements:

(a) At least five business days before a ~~water~~/wastewater utility disconnects water service ~~for~~ to terminate wastewater service, written notice of disconnection must be provided to the customer;

(b) At least 15 days before a ~~water~~/wastewater utility disconnects water service to terminate wastewater service due to customer failure to abide by a time-payment agreement, written notice of disconnect must be provided to the customer; and

(c) The disconnection notice shall inform the person that water service will be disconnected on or after a specific date for violation of a wastewater service rule and shall explain the alternatives, in compliance with OAR 860-037-0220.

(3) The ~~water~~/wastewater 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~~/wastewater utility shall attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the ~~water~~/wastewater 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 860-037-0235 concerning multilingual requirements and service on any designated representative;

(b) The notice shall conform to the requirements of OAR 860-037-0230 if the ~~water~~/wastewater utility's records show that the billing address is different than the service address or that the premise is a multi-unit dwelling. The notice may be addressed to "Tenant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of water 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 termination of wastewater service by disconnection of water service;

(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 860-037-0110; 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~~/wastewater utility must mail or deliver a written disconnection notice to the customer. A fee in an amount approved by the Commission may be charged whenever a ~~water~~/wastewater utility is required to visit a residential service address in order to serve a disconnection notice.

(8) On the day that the ~~water~~/wastewater utility expects to disconnect water service and prior to disconnection, the ~~water~~/wastewater utility 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~~/wastewater utility shall advise the person of the proposed disconnection; or

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

(9) Where personal contact is made by a ~~water~~/wastewater 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~~/wastewater utility must:

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

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

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

(11) A ~~water~~/wastewater 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, 757.005, 757.061, 757.750 & 757.755

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

### Service Quality

860-037-0305

~~Service Credit for Inadequate Service~~

~~\_\_\_\_\_ (1) Upon finding that a water/wastewater utility rendered inadequate wastewater service, the Commission may require the water/wastewater 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/wastewater utility's system or those found to be in the control of the water/wastewater 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 wastewater system caused by a third party unaffiliated with the water/wastewater utility, will not be eligible for inadequate service credits.~~

~~(3) The utility shall make all reasonable efforts to eliminate or prevent the entry of surface or ground water, or any corrosive or toxic industrial liquid waste into its sanitary wastewater system. A utility may request assistance from the appropriate state, county, or municipal authorities in its efforts, but such a request does not relieve the utility of its aforementioned responsibilities.~~

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

Stats. Implemented: ORS 756.040, 757.005, 757.061

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)

### **860-037-0307**

#### **Wastewater Utility Compliance Enforcement by Commission Appointment of Regent to Operate and Manage a Wastewater System**

**\_\_\_\_\_ (1) In extreme circumstances where a wastewater utility owner, operator, or representative demonstrates to the Commission's satisfaction an unwillingness, incapacity, or refusal to effectively operate and manage the wastewater system to provide safe and adequate service to its customers in compliance with Oregon statutes, rules, and standards, the Commission, after consultation with affected customers, may appoint a regent to operate and manage the wastewater system. The appointment shall be accomplished under an Interim Operating Agreement until a long-term option for the provision of wastewater is available to the customers.**

**\_\_\_\_\_ (2) The regent appointed to operate, maintain, and repair the system must be, or employ, a qualified wastewater operator or be a qualified wastewater utility.**

(3) The appointment of the regent may also include responsibility for billing and collection, customer service, and administration of the system.

(4) The regent shall record all transactions in a general ledger and supply a copy of the ledger and bank statements to the Commission.

(5) At the end of the Interim Operating Agreement, the Commission shall approve a final accounting of all monies and disbursement of surplus funds.

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

Stats. Implemented: ORS 756.040, 757.005, & 757.061

Hist.: New

### **860-037-0310**

#### **Maps and Records**

(1) A ~~water~~/wastewater utility shall keep on file current maps and records of the entire system showing size, location, and date of installation of the collection system and ~~water~~/wastewater plant.

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

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

Stats. Implemented: ORS 756.040, 757.005, 757.020 & 757.061

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)

### **860-037-0405**

#### **Service Territory Allocation**

~~The service territory allocation rules, as set forth in 860-036-0900 through and including 860-036-0930, shall apply to only the water portion of water/wastewater utilities.~~

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

Stats. Implemented: ORS 756.040, 757.005, 757.061, 757.205 & 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)

## **Rate Regulation and Tariff Filings**

### **860-037-0405**

#### **Relating to New ~~Water~~/Wastewater Utilities**

This rule ~~is applicable~~applies to newly constructed investor-owned ~~water~~/wastewater utilities ~~which~~that have not previously offered ~~water~~/wastewater service to the public during the past 12 months. A new

~~water~~/wastewater utility shall initially and immediately file tariffs with the Commission to establish approved rates and charges. All subsequent rate increases will comply with the requirements of OAR 860-037-0410 through 860-037-0445.

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

Stats. Implemented: ORS 756.040, 757.005, 757.061, 757.205 & 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)

### **860-037-0410**

#### **Tariff Specifications**

(1) Form and style of tariffs:

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

(b) The initial tariff sheets filed by a ~~water~~/wastewater 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. Sample forms will be furnished upon request; and

(d) Separate tariffs shall be filed for wastewater service 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, 757.005, 757.061 & 757.205

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)

### **860-037-0415**

#### **Tariff Contents**

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

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

Stat. Auth.: ORS Ch. 183, 756 & 757  
 Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.205  
 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)

**860-037-0425****Announcement of Tariff Changes**

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

(b) An announcement inserted in the ~~water~~/wastewater utility’s regular billing to its wastewater customers; or

(c) An announcement mailed to each wastewater customer.

(3) At a minimum, the announcement shall include the following information:

(a) The approximate current and proposed average monthly wastewater service rate for each customer class annualized amount of the proposed total change, expressed both in dollar and in percentage terms; and the approximate amount of the proposed change for an average residential customer’s monthly bill, expressed in dollar terms;

(b) A brief statement of the reasons why the change is sought;

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

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

(e) The Commission's Consumer Services Section mailing address and toll-free telephone number: 1-800-522-2404 or TTY 711; and mailing address: Public Utility Commission of Oregon, Administrative Hearings Division, PO Box 2148, Salem OR, of the Commission to which that interested persons may contact 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 ~~water~~/wastewater utility with general information as to the

proposed tariffs and their effect on customers, and that the calculations and statements contained in the announcement are not binding on the Commission.

(4) **With no less notice than seven business days prior to sending the written announcement to its customers, the wastewater utility must provide the Commission with a draft copy of the written announcement for staff review.**

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

**(65)** The Commission may waive the requirements of this rule upon a showing by the ~~water~~wastewater 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 ~~water~~wastewater utility.

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

Stats. Implemented: ORS 756.040, 757.005, & 757.061

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)

#### **860-037-0430**

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

Applications to make wastewater tariffs or rate schedules effective on less than statutory notice shall be made in duplicate upon prescribed forms available from the Commission.

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

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.220

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)

#### **860-037-0435**

##### **Requirements for Filing Tariffs or Schedules Changing Rates**

(1) A ~~water~~wastewater utility may make wastewater 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 ~~water~~wastewater utility filing wastewater 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, 757.005, 757.061 & 757.205

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)

#### 860-037-0440

##### Requirements for Filing Tariffs or Schedules Naming Increased Rates

(1) A ~~water/wastewater~~ utility filing ~~wastewater~~ tariffs or schedules ~~which namethat~~ increased rates shall submit ~~therewith~~, in addition to the requirements of OAR 860-037-0435, 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 be~~ derived ~~from the application of under~~ the proposed schedule in the application;

(b) A statement setting forth for each separate schedule the monthly bills under both the existing rates and the proposed rates for characteristic customers, ~~whichthat will~~ fairly represents s 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, 757.005, 757.061 & 757.205

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)

#### 860-037-0445

##### Tariff Changes Effective with Service Rendered

All tariff changes ~~shall be made applicable with~~ apply to service rendered on and after the effective date of the changes, unless the Commission by order provides otherwise. As used in this rule, "service rendered" means basic service provided, or likewise as the context requires.

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

Stats. Implemented: ORS 756.040, 757.005, 757.007, 757.061 & 757.220

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)

#### 860-037-0450

##### 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 ~~water~~/wastewater 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 860-037-0410 through 860-037-0440.
- (4) The notice shall include the following information:
  - (a) Name of the ~~water~~/wastewater utility submitting the filing;
  - (b) Subject;
  - (c) Filing date;
  - (d) Effective date;
  - (e) Date of the 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 from the notice list names of persons 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, 757.005, 757.061 & 757.230  
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)

## Financial Transactions

### 860-037-0505

#### Form and Filing of Applications

- (1) The Commission will furnish to applicant such information from the records on file as will assist in a full presentation of material facts required by OAR 860-037-0510 to 860-037-0535.
- (2) When any document required to be filed under these rules has ~~heretofore~~previously been filed with the Commission, it shall be sufficient if the application makes reference to such filing and the capacity in which it was filed.
- (3) Where the words "none" or "not applicable" truly and completely state the fact, they should be used in answering the requirement of any particular section of this rule.
- (4) The Commission may require additional information when it appears to be pertinent in a particular case.
- (5) Whenever these rules require the filing of financial statements, they shall be prepared as of the latest date available. The Income Statement shall be for the most recent 12-month period.

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

Stats. Implemented: ORS 756.040 & 756.105, 757.005 & 757.061  
 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)

### 860-037-0510

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

(1) ~~Notice~~**Approval** Requirements:

~~\_\_\_\_\_~~ **(a) Each wastewater utility must file an application to obtain Commission approval prior to the sale, transfer, or merger of the utility. Application requirements are found in OAR 860-037-0515;**

~~\_\_\_\_\_~~ **(b) Each wastewater utility must file an application to obtain Commission approval prior to terminating, abandoning, or otherwise disposing of the wastewater utility, excluding sales, transfers, or mergers.**

(2) **Notice Requirements:**

~~(a) All~~**Each** ~~water/wastewater utilities~~ shall provide written notification to customers and the Commission of any sale, transfer, merger, **termination, abandonment,** or disposal of the ~~company~~**utility** 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 ~~waste~~**water** utility;

(B) Purpose of notice;

(C) Filing date;

(D) ~~Proposed~~ **Effective** date of ~~sale~~**the transaction.**

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

(F) Reason(s) for sale; **transfer, or merger, termination, abandonment or disposal of the wastewater system;**

(G) Effect of ~~sale~~**the transaction** upon customers; **and**

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

~~\_\_\_\_\_~~ **(I) In case of termination, abandonment, or disposal of utility, the utility shall also provide an explanation of any alternative water service option(s) to customers.**

~~\_\_\_\_\_~~ **(3) A draft copy of the customer notice must be mailed to the Commission for Utility Division staff review seven business days prior to a customer mailing.**

~~\_\_\_\_\_~~ **(2) Approval Requirements:**

~~\_\_\_\_\_~~ **(a) waster/wastewater utilities must file an application to obtain Commission approval prior to the sale, transfer, or merger of the company. Application requirements are found in OAR 860-037-0515;**

~~\_\_\_\_\_~~ **(b) All water/wastewater utilities seeking to terminate wastewater service, abandon, or otherwise dispose of the wastewater utility, excluding**

~~sales, transfers, or mergers, shall make application to and obtain Commission approval prior to such termination, abandonment, or disposal.~~

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

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.480

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)

### 860-037-0515

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

(1) Requirements of this rule apply to ~~water~~wastewater 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 dispose of wastewater 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 wastewater 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 wastewater system is \$\_\_\_\_\_.

The reasons applicant desires to sell, transfer, or otherwise dispose of its wastewater 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 wastewater utility property. (State any experience purchasers have that will assist or aid them in the operations of the wastewater utility and the reasons why they desire to acquire the wastewater 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 wastewater system. Also attached is

documentation of all ~~water~~/wastewater utility rights to be transferred with the wastewater 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, 757.005, 757.061, 757.105, 757.480 &  
757.485

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)

**860-037-0517**

**Acquisition Adjustment**

**(1) A wastewater utility may file a petition with the Commission for approval of an acquisition adjustment for acquiring a wastewater utility. The approval and determination of an acquisition adjustment is at the sole discretion of the Commission.**

**(2) The Commission shall consider the merits of the utility's petition based on the benefit to the customers being acquired and the public interest on a case-by-case basis.**

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

Hist.: New

**860-037-0520**

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

(1) This rule applies to ~~water~~/wastewater 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~~/wastewater 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) **For C**onstruction, completion, extension, or improvement of wastewater facilities, **include a-**A description of such facilities and the cost thereof;

(B) **For r**eimbursement of the applicant's treasury for expenditures against ~~which~~ securities **that** have not been issued, **include a-**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) **For r**efunding or discharging of wastewater obligations, **include aA** description of the obligations to be refunded or discharged, **includingThe description shall** provide 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) **For i**mprovement or maintenance of wastewater service, **include aA** 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~~/wastewater utility;
- (D) ~~Will~~**Does** 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 therefore, respectively; and the facts relied upon to show the issuance of the securities for which approval is requested will not result in the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract; and
- (p) If filed under ORS 757.490 or ORS 757.495:
- (A) Provide a statement describing the relationship between the ~~water~~/wastewater 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~~/wastewater utility for entering into the proposed transaction and the benefits, if any, the customers receiving wastewater service 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; **shall be filed as part of the application:**
- (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 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 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~~/wastewater utility to loan its funds to an affiliated interest, ~~in addition to Exhibits A through K, shall also include the following~~**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.

(m) An application for a ~~water~~/wastewater 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~~**money** 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 also 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 of money~~ the affiliated interest proposes to pay on the ~~water/wastewater~~ 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/wastewater~~ utility proposes to give to an affiliated interest, ~~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; and

(ii) EXHIBIT M. The amount and a description of each item for which the ~~water/wastewater~~ utility proposes to give credit through its loan or open account.

(3) The following form of application may be filed by all ~~water/wastewater~~ 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/wastewater~~ 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/wastewater 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, 757.005, 757.061, 757.405  
through 757.450 & 757.495

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)

### 860-037-0525

#### Applications for Authority to Guarantee Indebtedness

(1) The requirements of this rule ~~will~~ apply to ~~water~~/wastewater 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 860-037-0520(1)(a) to (g) inclusive;
- (b) A full description of the securities ~~for which~~the 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~~/wastewater utility;
  - (C) ~~Will~~Does 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 shall be filed as part of the application:

- (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~~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 at the date of the application;

(g) EXHIBIT G. Comparative income statements in conformity with the form set forth in the annual report ~~which~~the 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, 757.005, 757.061 & 757.440

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)

### 860-037-0530

#### 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 ~~water~~ wastewater utilities seeking authority under ORS 757.490 and ORS 757.495. An application for financing to an affiliated interest shall be made under OAR 860-037-0520.

(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 ~~water~~ wastewater utility's behalf, to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the ~~water~~ wastewater 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 of money the ~~water~~ wastewater utility ~~will~~expects to pay annually for the goods or services and the accounts in which ~~it will~~the charges are recorded ~~the charges~~;

(i) The reasons, in detail, relied upon by the ~~water~~ wastewater utility for procuring the proposed goods or services from the affiliate and benefits, if any,

utility wastewater service 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 ~~water~~/wastewater 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 ~~water~~/wastewater 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 ~~water~~/wastewater 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 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)

### 860-037-0535

#### Information Required ~~for~~ Regarding ~~Water~~/Wastewater Utility Goods or Services Provided to Affiliated Interests

(1) Except as provided in section (4) of this rule, this rule applies to ~~water~~/wastewater 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 860-037-0030.

(2) A ~~water~~/wastewater utility's failure to submit this required information shall not limit the Commission's authority to recognize or impute revenues to the ~~water~~/wastewater 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 ~~water/wastewater~~ 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 ~~water/wastewater~~ utility's behalf to receive notices, inquiries, and communications regarding the information;
- (c) A statement describing the relationship between the ~~water/wastewater~~ 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 ~~water/wastewater~~ utility ~~will~~expects to receive annually for the goods or services and the accounts in which ~~it will record~~ the payments are recorded;
- (g) The reasons relied upon by the ~~water/wastewater~~ utility for providing the proposed goods or services and the benefits, if any, ~~water/wastewater~~ 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 ~~water/wastewater~~ utility and the contracting entity that is the subject of this filing; and
- (i) Copies of all resolutions of directors of the ~~water/wastewater~~ utility authorizing the proposed transactions and, if approval of the ~~water/wastewater~~ utility's stockholders was obtained, copies of the resolutions approved by the stockholders.

(4) This rule shall not apply to ~~water/wastewater~~ 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/wastewater~~ 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 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)

### **860-037-0540**

#### **Timeliness of Applications Made Under OAR 860-037-0530 and Filings Made Under OAR 860-037-0535**

An application made under OAR 860-037-0530 and a filing made under OAR 860-037-0535 shall occur no later than 90 days after the execution of the contract giving rise to the application or filing. The contract ~~shall be~~ deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

### **860-037-0545**

#### **Applications for Waiver of Requirements Under OARs 860-037-0530 and 860-037-0535**

Upon petition by a ~~water~~/wastewater utility and approval by the Commission for good cause, the requirements of OARs 860-037-0530 and 860-037-0535 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 & 757

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

## **Special Contracts**

### **860-037-0550**

#### **Special Contracts**

(1) ~~Water~~/wastewater utilities within Oregon entering into special contracts with certain customers prescribing and providing wastewater rates, services, and practices not covered by or permitted in the general tariffs, schedules, and rules filed by such ~~water~~/wastewater utilities are in legal effect tariffs and are subject to supervision, regulation, and control as such.

(2) All special contracts designating wastewater 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 860-037-0405 through 860-037-0445.

(3) Special contracts shall be filed with the Commission ~~not less than~~ at least 30 days prior to the proposed effective date of the contract and ~~shall become~~ effective according to its terms the 31st 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, 757.005, 757.007 & 757.061

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)

### **Fees, Taxes, and Other Assessments**

#### **860-037-0555**

##### **Relating to City Fees, Taxes, and Other Assessments**

(1) The aggregate amount of all business or occupation taxes, licenses, franchise or operating permit fees, or other similar exactions imposed upon ~~water/~~wastewater utilities by any city in Oregon for engaging in wastewater business within such city or for use and occupancy of city streets and public ways, which does not exceed 3.5 percent, applied to gross revenues as defined herein, shall be allowed as operating expenses of such ~~water/~~wastewater utilities for rate-making purposes and shall not be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" means revenues received from utility wastewater service operations ~~within the city~~ less related net uncollectibles. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the ~~water/~~wastewater utility purchasing the service is not the ultimate customer.

(3) Permit fees or similar charges for street opening, installations, construction, and the like to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers, and the value of any wastewater utility service or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels herein set forth. Any such service may be continued within the same category or type of use. The value of any additional category of wastewater utility service or use of facilities provided after

November 6, 1967, to a city without charge shall be considered in computing the percentage levels herein set forth.

(4) This rule shall not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of wastewater service rendered by a ~~water~~/wastewater utility under such franchises shall not be itemized or billed separately. When compensation different from the percentage levels in section (1) of this rule is specified in a franchise existing on November 6, 1967, such compensation shall continue to be treated by the affected ~~water~~/wastewater utility as an operating expense during the balance of the term of such franchise. Any tax, fee, or other exaction set forth in section (1) of this rule, unilaterally imposed or increased by any city during the unexpired term of a franchise existing on November 6, 1967, and containing a provision for compensation for use and occupancy of streets and public ways, shall be charged pro rata to local users as herein provided.

(5) Except as provided in section (4) of this rule, to the extent any city tax, fee, or other exaction referred to in section (1) of this rule exceeds the percentage levels allowable as operating expenses in section (1) of this rule, such excess amount shall be charged pro rata to wastewater utility service customers within said city and shall be separately stated on the regular billings to such customers.

(6) The percentage levels in section (1) of this rule may be changed if the Commission determines after such notice and hearing, as required by law, that fair and reasonable compensation to a city or all cities should be fixed at a different level or that by law or the particular circumstances involved a different level should be established.

**(7) The amount allowed as an operating expense may be described on customers' bills in a manner determined by the wastewater utility.**

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

Stats. Implemented: ORS 756.040, 757.005 & 757.061

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)

### **860-037-0560**

#### **Relating to Local Government Fees, Taxes, and Other Assessments**

(1) If any county in Oregon, other than a city-county, imposes upon a ~~water~~/wastewater utility any new taxes or license, franchise, or operating permit fees, or increases any such taxes or fees, the ~~water~~/wastewater utility required to pay such taxes or fees shall collect from its wastewater customers within the county imposing such taxes or fees the amount of the taxes or fees, or the proportional share of increase in such taxes or fees. However, if the taxes or fees cover the operations of a ~~water~~/wastewater utility in only a portion of a county, then the affected ~~water~~/wastewater utility shall recover the amount of the taxes or fees or increase in the amount thereof from wastewater 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 wastewater service customer pursuant to section (1) of this rule shall be separately stated and identified in all wastewater 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~~wastewater 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, 757.005, 757.061 & 757.110

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)

### Accounting Records

#### 860-037-0565

##### Accounting for Director's Fees

Director's fees paid by a ~~water~~wastewater 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, 757.005, 757.061 & 757.110

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)

#### 860-037-0567

##### Accounting for Contributions in Aid of Construction (CIAC)

(1) CIAC are contributions in any form including, but not limited to, cash, services, or utility plant on a separate schedule. The utility must identify the type of contribution, original cost, and utility plant installation date.

(2) Each wastewater utility must provide an accounting of CIAC upon Commission request, and in its annual reports and rate applications. Each utility shall account for and record CIAC on a separate schedule.

(3) Each wastewater utility must keep a record as described in section (2) of this rule and record CIAC on a separate plant and depreciation schedule.

(4) As of November 1, 2002, CIAC and its resulting depreciation are excluded from wastewater utility ratemaking. CIAC must be separated from utility plant and accounted for and depreciated on a separate schedule outside the ratemaking process.

(5) In cases where previous CIAC depreciation was included in rates and removing it all at once would cause irreparable harm to the wastewater utility, the Commission may systematically remove CIAC from rates over a period of time set forth in a schedule to be approved by the Commission.

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

Stats. Implemented: ORS 756.040, 757.005, & 757.061

Hist.: New

## Record and Reporting Requirements

### 860-037-0605

#### Preservation and Destruction of Records

(1) The Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, April 1974, revised May 1985, published by the National Association of Regulatory Utility Commissioners as applicable for wastewater utility service and operation is hereby adopted as modified and prescribed by the Commission for all wastewater service documents and records, with the following exceptions:

(a) Operations and Maintenance, Records of Auxiliary, and other Operations. ~~The Commission prescribes that r~~Records of operations ~~other than wastewater utility operations shall~~ be retained for the same periods as prescribed for similar records pertaining to wastewater utility operations;

(b) Revenue Accounting and Collecting. ~~The Commission prescribes that c~~Contracts and card files or other customer records thereof with customers for wastewater utility service shall be retained for at least one year after the expiration or cancellation of the agreement.

(c) Record Media. Each wastewater utility that provides service in Oregon shall allow the federally required "e-sign" as a form of accepted media.

[Publications: The publications referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

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

Stats. Implemented: ORS 756.040, 757.005, 757.061 & 757.105

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)

### 860-037-0610

#### Uniform System of Accounts for ~~Water~~Wastewater Utilities

The Uniform System of Accounts for Class A Water Utilities, 1996, published by the National Association of Regulatory Utility Commissioners, is hereby adopted as modified and prescribed by the Commission for all wastewater service and operations.

[Publications: The publications referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

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

Stats. Implemented: ORS 756.040, 757.005, 757.061, 757.105, 757.120, 757.125 & 757.135

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)

### Annual Reports

#### 860-037-0615

##### Budget of Expenditures

Each ~~water~~/wastewater utility operating wastewater service 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 1st day of November of each year, a copy of its proposed Budget of Expenditures, on forms approved by the Commission.

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

Stats. Implemented: ORS 756.040, 756.105, 757.005, 757.061 & 757.105

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)

#### 860-037-0620

##### New Construction Budget

Each ~~water~~/wastewater utility operating wastewater service within Oregon and having gross operating revenues of \$50,000 or more per annum is required to file annually on or before December 31, on forms approved by the Commission, information on new construction, extensions, and additions to the property of the ~~water~~/wastewater utility.

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

Stats. Implemented: ORS 756.040, 756.105, 757.005, 757.061 & 757.105

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 12-2002, f. & ef. 3-12-02 (Order No. 02-144)

#### 860-037-0625

##### Annual Reports

On forms approved and provided by the Commission, all ~~water~~/wastewater utilities shall submit:

(1) A financial Result of Operations annual report for the immediately preceding year, by April 1.

(2) A report of all affiliated interest, intercompany, and intracompany transactions which occurred during the period from January 1 through December 31 of the immediately preceding year, by June 1.

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

Stats. Implemented: ORS 756.040, 756.105, 757.005, 757.061, 757.120, 757.125 & 757.135

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 8-2001, f. & cert. ef. 3-21-01 (Order No. 01-247)

### 860-037-0630

#### **Use of Deferred Accounting as it Applies to Wastewater Operations by ~~Water~~ Wastewater Utilities**

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

(a) "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;

(b) "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.

(2) Expiration: Any authorization to use a deferred account ~~shall~~ expires 12 months from the date the deferral is authorized to begin. If a deferral under ORS 757.259 is reauthorized, the reauthorization ~~shall~~ expires 12 months from the date the reauthorization becomes effective.

(3) Contents of Application: Application for deferred accounting by a ~~water~~ wastewater utility, a ratepayer, or other applicant shall include:

(a) A description of the wastewater 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 would be used for recording the amounts in the absence of approval of deferred accounting;

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

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

(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 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 ~~water/wastewater~~ utility's last general rate case. If the applicant is other than a ~~water/wastewater~~ utility, the applicant shall serve a copy of the application upon the affected ~~water/wastewater~~ 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 ~~water/wastewater~~ utility;

(b) A description of the wastewater 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 ~~does~~ not authorize a change in rates, but ~~will~~ permits 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 ~~water/wastewater~~ utility, if the ~~water/wastewater~~ 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 ~~water/wastewater~~ utility or another party. The Commission may authorize amortization of such amounts only for wastewater utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the ~~water/wastewater~~ 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 ~~encompasses~~ 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 water~~/wastewater utility shall request that amortizations of wastewater 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 ~~water~~/wastewater 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, 757.005, 757.061 & 757.259

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)