

**PUBLIC UTILITY COMMISSION OF OREGON  
ADMINISTRATIVE HEARINGS DIVISION REPORT  
PUBLIC MEETING DATE: March 16, 2004**

**REGULAR** \_\_\_\_\_ **CONSENT**  X  **EFFECTIVE DATE** \_\_\_\_\_ **Upon Filing with Secretary of State**

**DATE:** March 9, 2004  
**TO:** Commissioners Lee Beyer, John Savage, and Ray Baum  
**FROM:** Tom Barkin through Lauri Salsbury  
**REVIEWED BY:** Terry Lambeth, Rules Project Leader  
**SUBJECT:** AR 477: Adopt a rule amendment to allow a water utility to refuse service if required by law.

**ADMINISTRATIVE LAW JUDGE RECOMMENDATION:**

I recommend the Commission adopt the amendments to OAR 860-036-0080 set out in Appendix A.

**DISCUSSION:**

On November 5, 2003 the Commission adopted a temporary rulemaking (AR 476) to allow a water utility to refuse service to a customer if the utility is prohibited from doing so by law. Prior to adoption of the temporary rule, the Commission's rules allowed a water utility to refuse service to a customer only when the utility does not have adequate facilities or resources, or when the requested service would adversely affect other customers.

The temporary rule was set to expire on May 12, 2004. This rulemaking permanently adopts the same amendment language, makes some housekeeping changes, and repeals the temporary rule.

**PROPOSED COMMISSION MOTION:**

The proposed rule amendments as set forth in Appendix A of the proposed order be adopted.

ORDER NO.

ENTERED

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 477

In the Matter of a Permanent Rulemaking )  
to Amend OAR 860-036-0080 to Allow a )  
Water Utility to Refuse Service to a )  
Customer if the Utility is Prohibited From )  
Doing so by Law.

ORDER

DISPOSITION: Rules Amended

On December 4, 2003, the Public Utility Commission (Commission) initiated this rulemaking proceeding. On December 10, 2003, the Commission filed the Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact with the Secretary of State. Notice of the rulemaking was published in the *Oregon Bulletin* on January 1, 2004. Interested persons were given until February 3, 2004, to file written comments or request a hearing. No comments were filed and no hearing was requested.

On November 5, 2003 the Commission adopted a temporary rulemaking (AR 476) to allow a water utility to refuse service to a customer if the utility is prohibited from doing so by law. Prior to adoption of the temporary rule, the Commission's rules allowed a water utility to refuse service to a customer only when the utility does not have adequate facilities or resources, or when the requested service would adversely affect other customers.

The temporary rule was set to expire on May 12, 2004. This rulemaking permanently adopts the same amendment language, makes some housekeeping changes, and repeals the temporary rule.

On March 16, 2004, the Commission deliberated this matter at its regular meeting and entered the decisions set out in this order.

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**ORDER**

IT IS ORDERED that:

1. The modifications to the rules as set forth in Appendix A, attached to and made part of this order, are adopted.
2. The amended rules shall become effective upon filing with the Secretary of State.
3. The temporary rule adopted in AR 476, OAR 860-036-0080, is repealed on the effective date of the permanent rule.

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

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**Lee Beyer**  
Chairman

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**John Savage**  
Commissioner

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**Ray Baum**  
Commissioner

A person may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

**860-036-0080**

**Refusal of Water Utility Service**

(1) A water utility may refuse to provide service to a customer or applicant 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 utility shall provide service to a residential applicant upon receipt of payment equal to at least one-half of any overdue amount. The balance of the amount owed to the utility shall be paid within 30 days of the date service is initiated. Except for the last payment, installments shall be the greater of \$30 or one-half the overdue amount.

**(b)** Upon failure to pay, the water utility may disconnect service after providing a written five-day notice. The notice shall contain the information and be served in the manner prescribed as provided in OAR 860-036-0245. When a customer whose service was terminated applies for service within 20 days of the termination, the provisions of this rule apply.

(2) If water service is disconnected for failure to comply with the payment terms set forth in section (1)(a) of this rule, the water utility may refuse to restore service until it receives full payment of any overdue obligation 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 utility may refuse to provide service until payment is received when the following circumstances exist:

- (a) A residential customer has incurred an overdue balance at a service address;
- (b) A residential applicant for service resided at the service address described in subsection (1)(a) of this rule during the time the overdue balance was incurred; and
- (c) The residential customer described in subsection (1)(a) of this rule will reside at the location to be served under the new application.

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

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

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

(7) A water utility shall not accept an application for service or materially change service to a customer if it does not have adequate facilities or water resources to render the service applied for, if the desired service is of a character that is likely to unfavorably affect service to other customers, **or if it is prohibited by law from providing the service.** ~~(a)~~ If a water utility refuses service on the grounds of inadequate facilities or water resources, the water utility shall: ~~(1)~~ ~~Provide the customer or applicant with a written letter of refusal, a copy of which shall be sent to the Commission, stating:~~ **The letter must:**

- (Aa)** Provide the reason for the refusal;

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

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

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

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

Stats. Implemented: ORS 756.040, 757.035 & 757.225

Hist.: PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 15-1998, f. & ef. 8-27-98 (Order No. 98-359); PUC 22-2002, f. & ef. 12-9-02 (Order No. 02-723); PUC 21-2003 (Temp), f. & ef. 11-7-03 thru 5-5-04 (Order No. 03-634)