

FREQUENTLY ASKED QUESTIONS BY WATER UTILITIES

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One of the primary roles of the PUC is to protect customers from inadequate or discriminatory service and unreasonable rates. The PUC also protects water utilities as ongoing businesses because, generally, it is not in the customers' interest for a water utility to go out of business or file bankruptcy.

WHAT'S NEW?

Legislation passed into law effective January 1, 2004, revises PUC jurisdiction and water regulation. See below:

- *Allows the members of associations to petition the PUC for regulation.*
- *Removes serving 300 or more customer as a threshold criterion for public utilities.*
- *Requires that once a water system becomes a public utility for any reason, its regulatory status will remain a public utility, unless the Commission approves a change in regulatory status..*
- *Allows water utilities to request rate regulation.*
- *Allows the PUC to directly levy fines for noncompliance with PUC rules by PUC order rather than going through circuit court.*
- *Allows Construction Work In Progress (CWIP) to be included in the utility's plant on which a return is calculated.*
- *Establishes an emergency repair fund that may be used when, in an emergency, the owner/operator cannot be reached or will not make repairs.*
- *Changes the requirement that each exempt and public water utility must file a water service territory application from mandatory to voluntary.*

Please Note: PUC rules and regulations apply only to regulated water utilities subject to PUC jurisdiction. A regulated water utility may be either a "public water utility" regulated for adequate water service, or a "rate regulated water utility" regulated for both service and rates. Inadequate or discriminatory service can result in a regulatory status change of an exempt water utility to a public utility. In other words, once a company is deemed a public utility, its exempt status is permanently terminated, except under certain conditions where the Commission approves the withdrawal of jurisdiction.

PUC Jurisdiction

Q. What water utilities does the PUC regulate?

- A. The PUC has regulatory authority over privately-owned water systems. Privately owned means that a single individual, partners, or a group of individuals or investors own the water system. Some homeowner or water associations also fall under PUC jurisdiction. PUC jurisdiction means that the water utility is subject to regulatory authority for service, rates, or both.

THE PUC DOES NOT HAVE ANY REGULATORY AUTHORITY OVER CITIES, DISTRICTS, OR COOPERATIVES PROVIDING WATER SERVICE.

Q. Are there different levels of regulation?

- A. Yes. PUC regulation of water systems is divided into three jurisdictional categories:
1. Exempt: An exempt water utility is subject to PUC jurisdiction, but is exempt from regulation as long as it charges an average annual monthly residential water service rate of \$18 or less AND provides adequate and nondiscriminatory service. If the utility meets all three criteria, it qualifies for exempt status.
 2. Public Utility: A public utility is subject to PUC jurisdiction because it does not meet all three criteria for exemption as listed above. The water utility either: 1) charges an average annual monthly residential rate above \$18 (but less than \$24), 2) provides inadequate service, or 3) provides discriminatory service. As such, public utilities are subject to PUC rules and regulations for safe, adequate, and nondiscriminatory service.
 3. Rate Regulated: Rate-regulated utilities include all water utilities serving 500 or more customers. Also, a water utility serving less than 500 customers can become rate regulated if the utility charges or proposes to charge an average annual monthly residential rate over \$24 **and** 20 percent of the customers petition for rate regulation. Customers have 45 days from the date of the utility's notice of the proposed rate increase to request rate regulation of the utility. If the PUC receives such a petition(s), the proposed rate cannot go into effect and the utility must file tariffs with the Commission for approval of its rates, rules, and regulations. Legislation allows a utility to request rate regulation.

Q. My water system is privately owned, but it is a nonprofit corporation. Am I still subject to PUC's regulation?

- A. Yes. The state laws governing PUC regulation do not differentiate between a profit and nonprofit water utility; therefore, it is not a criterion in determining whether a utility is subject to PUC jurisdiction.

Selling, Disposing, or Abandoning a Water System or Service

Q. Under what circumstances can I quit serving a customer?

A. Water utilities are required to provide service in a nondiscriminatory manner. A customer can only be disconnected from water service for proper cause. The grounds for disconnection of water service are found in Oregon Administrative Rule [\(OAR\) 860-036-0205](#). A utility may disconnect a customer's service for the following reasons:

1. The customer does not establish credit.
2. The customer's facilities are unsafe or do not comply with state and municipal codes or the utility's rules or regulations.
3. The customer does not cooperate in providing the utility reasonable access to the meter or necessary inspections of the premises.
4. The customer requests disconnection or closes an account.
5. Dangerous or emergency conditions exist requiring disconnection.
6. The customer fails to pay Oregon tariff rate or applicable statement of rate charges.
7. The customer tampers with the meter, diverts service, or commits other theft of service.
8. The Commission approves the disconnection of service.

Q. I want to sell my water system. What do I need to do?

A. If it is a sale of the assets, the requirements to sell a water utility are:

1. A rate-regulated water utility must file an application with the Commission for approval to sell or change ownership of the water utility. See [OAR 860-036-0710\(2\)](#) and ORS 757.480
2. All public utilities must provide customers with written notice of the utility's intent to sell or change ownership of the water utility 60 days prior to executing a contract. See [OAR 860-036-0710\(3\)](#). Notice requirements – [OAR 860-036-0710\(3\)\(a-h\)](#).
3. Exempt water utilities that currently charge above one of the thresholds established by the Commission in [OAR 860-036-0030](#), but are not rate regulated, must provide written notice of the proposed sale or change of ownership and inform the customers of their right to petition the PUC to investigate the proposed transaction. See [OAR 860-036-0710\(4\)](#). Notice requirements – [OAR 860-036-0710\(5\)\(a-m\)](#).

Please contact the PUC Water Program staff if you have any questions on the sale of the water utility.

Q. I can no longer operate my water system. What are my options for disposing of the water utility?

A. The options for disposing of a water utility are:

1. Sell the system to another water system or owner.
2. Transfer or sell the system to the customers.
3. Annexation by a city.
4. Water service to the customers is taken over by another water utility.
5. File an application with the PUC for approval to abandon service.

A water utility is obligated to serve its customers until the Commission approves the application to abandon service or the system ownership is changed. Generally, to obtain PUC approval to abandon service, there must be a viable alternative water source available to the customers. All water utilities seeking to terminate or abandon service must submit an application and receive Commission approval. See [OAR 860-036-0710](#)(1). Application requirements – [OAR 860-036-0715](#).

Service Standards

Q. These rules are confusing. Is there someone at the PUC who can help me understand them?

A. Call PUC Consumer Services Section at 1-800-522-2404; TTY 711 for more information.

Q. The rules refer to safe and adequate service. How do I know if my service is adequate?

A. Oregon Administrative Rules Chapter 860 Division 036 attempts to set standards regarding what is safe and adequate service; however, it is not intended to be all inclusive. If a dispute arises, the Commission ultimately determines what is adequate and safe service on a case-by-case basis. Safe and adequate service is not limited to or intended to be limited to PUC administrative rules. Other industry or agency standards and best practices may also be considered as service standards and enforced by PUC. If you have any questions call the PUC Consumer Services Section at 1-800-522-2404; TTY 711.

Q. What kind of service standards do I have to meet?

A. The PUC service quality standards are found throughout OAR Chapter 860 Division 036, primarily in [OAR 860-036-0301 through OAR 860-036-0360](#). There are standards for purity of water, adequate water pressure, pressure testing, meter testing, maintenance and repairs, water supply, record keeping, and construction and safety. Ultimately, the Commission has authority to determine the standard of adequacy for water utilities on a case-by-case basis and may impose additional requirements other than those described in the administrative rules.

Q. What are the consequences if I don't comply with PUC service standards?

- A. The PUC will work with a utility to bring the water system into compliance. This requires cooperation on the part of the utility. If the owner/operator does not cooperate in trying to resolve compliance problems, the PUC's recourse is to 1) assess penalties of up to \$10,000 or seek an injunction through circuit court, or 2) the PUC can directly fine water utilities up to \$500 for each violation.

Q. My system is deteriorating and customers are starting to complain. I don't have any money to fix it or make improvements. What can be done?

- A. There are resources available to the utility, contact:
1. Oregon Association of Water Utilities (OAWU) 503-873-8353.
 2. The Department of Human Services Drinking Water Program (DWP) Circuit Rider Program through HBH Consulting Engineers, Inc. 1-800-266-0555 or Robert Bynum 541-266-0355. The Sherwood office contact is Robert Henry 503-625-8065.
 3. The Safe Drinking Water State Revolving Loan Fund, DWP (971) 673-0422 or Economic and Community Development Department (503) 986-0123.

Water Service Rates

Q. How much can I increase my rates and still remain an exempt utility?

- A. You may increase your rates to an annual average monthly residential rate of \$18 and remain an exempt utility as long as you serve less than 500 customers and provide safe, adequate, and nondiscriminatory service. If your annual average monthly residential rate is above \$18, your regulatory status will change from exempt to a public utility regulated for service. However, you may remain exempt from rate regulation.

Q. What do I have to do to raise my rates above an annual average monthly residential rate of \$18 per customer?

- A. A water utility may raise its rates above the average annual monthly residential rate threshold of \$18 up to and including an average annual monthly residential rate (or flat rate) of \$24 without PUC approval. However, it is incumbent upon the utility to inform the PUC of the rate change and provide prior notice of the increase to its customers explaining the increase and the reasons for it.

Q. What do I have to do to raise my rates above an annual average monthly residential rate of \$24 per customer?

- A. To raise rates above an average annual monthly residential rate of \$24, the utility must send a 60-day notice to its customers and the Commission explaining the reasons for the increase, how much the increase is annually in dollars, and what the new monthly rate will be for each customer class. The notice must also include specific language informing customers of their 45-day right to petition the PUC for rate regulation. See Notice Requirements [OAR 860-036-0405](#). A petition from 20 percent or more of the customers is required before the PUC will initiate rate regulation.

Q. If the PUC receives a petition from 20 percent or more of my customers requesting rate regulation, what happens next?

- A. After receiving a petition from 20 percent or more of the customers within the 45-day deadline for petition submittals, the PUC checks the names on the petitions against the utility's customer list and informs the utility (and the customers who petitioned) that the PUC has received a petition from 20 percent or more of the customers requesting rate regulation. Regulation is effective on the day the Commission receives petitions from 20 percent or more of the customers. The Commission will issue an order stating that the PUC is initiating rate regulation. The water utility's proposed rates cannot go into effect. The utility has 60 days to file tariffs with the Commission for review and approval.

If the PUC does not receive a petition from 20 percent or more of the customers requesting rate regulation within the 45-day deadline for petition submittals, the PUC will inform the utility (and the petitioning customers) that not enough petitions were received to initiate rate regulation. Therefore, the utility's proposed new rates may go into effect 60 days from the date the PUC receives its copy of the customer notice or the date of the utility's notice to its customers, whichever is longer. The utility's regulatory status will remain exempt from rate regulation. The customers retain the right to petition for rate regulation at any time.

Rate Regulation

Q. What is a rate tariff?

- A. A tariff is an official rate schedule on file with the PUC. It is an 8 ½" X 11" sheet of paper containing the following information:
1. Name of water utility.
 2. Type of water service offered.
 3. Customer class the rates are applicable to.
 4. The charge for water (generally a base rate and usage rate or a flat rate) for each customer class it is applicable to.
 5. Effective date.

Rate-regulated water utilities cannot charge for water service or miscellaneous charges unless the Commission approves the rates and charges in the utility's tariffs. For your convenience, the PUC Water Program staff can provide you with the proper tariff format.

Q. What is involved in filing a tariff to establish or raise rates?

A. The rate application consists of:

1. A written brief that summarizes what the utility is requesting.
2. Testimony in the form of questions and answers concerning the utility's finances and operations.
3. A complete set of tariffs showing the effect the utility's proposal would have on each customer class' rates, miscellaneous fees, and the utility's rules and regulations.

Staff is available to help companies in filling out applications.

Q. How much time will it take to go through this process?

A. A rate application takes about four to six months to process. The process includes:

1. An open house where customers and the public can learn about the PUC rate process and ask questions regarding the water utility's case, followed by a prehearing conference to identify the issues and parties, and approve a procedural schedule, including a date by which parties need to file for intervenor status, if interested.
2. Discovery is the time set aside for staff and intervenors to review the utility's application, request and gather information, and develop recommendations.
3. The settlement conference is a meeting where all parties discuss the issues in the case and attempt to resolve them or settle the case.
4. An evidentiary hearing is a meeting where evidence is entered into the record and witnesses are cross-examined, if settlement is not reached.
5. The Administrative Law Judge who presides over the case will then make a recommendation to the Commission.
6. The Commission will issue a final order setting rates and resolving other issues in the case. The date of the order is usually the date rates go into effect. Rates can go into effect on a date subsequent to the order; however, rates cannot be effective prior to an order being issued.

Q. What can I do to shorten the process time?

A. In general, a utility can shorten the time it takes to process a rate application by:

- Meeting with staff prior to filing an application. Staff will explain the process, answer questions, provide assistance in filling out the application; discuss areas of concern, and offer technical advice.
- Being upfront with staff regarding all issues, i.e., customer relations, capacity, condition of facilities, repairs, complaints, etc. Remember, staff is here to help you.
- Supplying supporting documentation in a timely manner. Staff will request information from the utility in the form of a “data request” during the case to verify and document financial and other information. Staff can show you what constitutes proper supporting documentation. Providing proper documentation to Staff can cut down on the time it takes for staff to complete its investigation.
- Responding in writing as soon as possible to requests (data requests) for further information from staff or intervenors.
- Fully answer all questions submitted in data requests.
- Contacting staff as soon as you have questions.
- Using staff as a resource. However, please do not ask PUC staff to do your work for you.

Training and Technical Assistance

Q. The financial information you ask for in this application (or report) is confusing. Where can I get some help?

A. The PUC Water Program staff is happy to help you fill out any PUC required form, application, or report. Call Kathy Miller, Senior Water Analyst, at 503-373-1003 for assistance.

Q. Do I have to be a certified operator to run a water system? Are there classes I can attend to learn what to do? Who offers classes, and how do I sign up?

A. All water systems serving fewer than 150 connections and either using groundwater as their only source or purchasing their water from another public water system without adding any additional treatment must have a certified small groundwater system operator. No fees are associated with this "S" certification. The only requirement is to attend the DHS Drinking Water Program's free **Small Water System Training Course** once every 3 years and submit a new **Small Water System Operator Application** with proof of training attendance. No other courses are required or will substitute for this requirement. You can find information about how to obtain an "S" certification on the DHS Drinking Water Program's website at <http://oregon.gov/DHS/ph/dwp/certif.shtml>.

Systems serving 150 or greater connections are required to have an operator that is certified at a grade level equal to or greater than the classification of the water system. System grades are classified according to the size of population served. The Water Distribution Operator classifications are based on the population served:

CLASSIFICATION/GRADE	POPULATION SERVED
Water Distribution Operator 1 Certificate	1,500 and less
Water Distribution Operator 2 Certificate	1,501 - 15,000
Water Distribution Operator 3 Certificate	15,001 - 50,000
Water Distribution Operator 4 Certificate	50,001 or more

You may be required to have a Water Treatment Operator. Water Treatment Operator classifications are based on the complexity of the system via a point system:

CLASSIFICATION/GRADE	POINTS
Water Treatment Operator 1 Certificate	30 or less points
Water Treatment Operator 2 Certificate	31 to 55 points
Water Treatment Operator 3 Certificate	56 to 75 points
Water Treatment Operator 4 Certificate	76 or more points

Operator certificates expire on December 31 of each year and may be renewed. Examinations are given at least twice annually. For more information on certified water treatment operators, distribution operators, or classes and training contact:

[Dottie Reynolds](#), Operator Certification Coordinator, 971-673-0426
[Lee Keyes](#), 971-673-0413 / Fax: 971-673-0457

Correspondence: DHS-Drinking Water Program
 PO Box 14450
 Portland, OR 97293-0450
<http://oregon.gov/DHS/ph/dwp/certif.shtml>

The Oregon Association of Water Utilities (<http://www.oawu.net/>)
 12312 Silverton Rd. NE
 Silverton OR 97381
 503-873-8353

DEQ certifies personnel for Wastewater Treatment and Collection.
 Contact Steve Desmond at 541-298-7255 Ext. 32 for information or visit their website at <http://www.deq.state.or.us/wq/opcert/opcert.htm>.

Q. I need help with my accounts and bookkeeping. Can you help me?

A. The PUC Water Program staff can help you with your accounts and bookkeeping. Call Michael Dougherty, Program Manager, at 503-378-3623.

Q. I need some help with the technical operations of my system. Where can I find some training and get advice?

A. There are organizations that provide free technical assistance. Contact:

The Oregon Association of Water Utilities
12312 Silverton Rd. NE
Silverton OR 97381
503-873-8353
<http://www.oawu.net/>

Oregon's Drinking Water Program
800 NE Oregon St.
Portland OR 97232
971-673-0405
<http://oregon.gov/DHS/ph/dwp/docs/circuitrider.shtml>

HBH Consulting Engineers, Inc.
Robert Bynum 541-266-0355
rbynum@hbh-consulting.com
Toll Free: 1-866-266-0555

HBH Sherwood Office
Robert Henry 503-625-8065
rhenry@hbh-consulting.com

Customer Services and Questions

Q. How can I get my customers to pay for service, preferably on time?

A. The utility should:

1. Establish and follow a standardized billing cycle.
2. Proceed with collection action following the due date of the billing. The utility should have written nondiscriminatory procedures regarding collection practices and procedures.
3. Establish procedures to ensure that the period from billing transmittal to due date is not less than 15 days for all customers. See [OAR 860-036-0125](#).

Any questions, call the Consumer Services Section at 1-800-522-2404; TTY 711.

Q. Can I charge a late payment fee if my customers don't pay their bill on time?

A. A water utility may assess a late-payment fee to customer accounts that are not paid in full each month, provided the utility has filed the appropriate late-payment fee in its tariffs or the utility's statement of rates pursuant to [OAR 860-036-0130](#). The Commission sets the rate for late payment fees. It is currently 1.7 percent per month.

The charge will be based on a monthly late-payment rate applied to account balances that are overdue at the time the utility is preparing the next 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 utilities of the changes in the rate they may use on overdue customer accounts as needed. The late-payment fee and conditions for its application must be specified on the utility bill.

Q. What do I have to do before I disconnect service to a customer?

- A. A water utility may disconnect a customer after providing the following written notices, depending on the reason for the disconnect:
1. A five-business-day notice prior to the disconnection of service for nonpayment. See [OAR 860-036-0245\(2\)\(a\)](#).
 2. A five-business-day notice prior to disconnection of service if the customer fails to make the second DEPOSIT payment 30 days after service was initiated. See [OAR 860-036-0080\(1\)\(a\)](#).
 3. A fifteen-business-day notice AND a five-business-day notice prior to the disconnection of service if the customer fails to make the agreed upon payment of a Time Payment Agreement. See [OAR 860-036-0245\(2\)\(b\)](#).
 4. If the disconnection of service is for nonpayment of a tenant (not owner) and the water utility's records show a residential billing address different from the service address, the water utility must provide a duplicate copy of the five-business-day disconnect notice to the occupants of the service address. The notice to occupants does not need to include the dollar amount owing. See [OAR 860-036-0230\(1\)](#).
 5. A five-business-day notice of service disconnection for nonpayment of a master-metered multi-unit dwelling (including rooming houses). The water utility MUST notify the Commission's Consumer Services Section (1-800-522-2404) at least five business days prior to disconnecting the service. The water utility MUST use reasonable efforts to notify all occupants of the impending disconnection and alternatives available to them. See [OAR 860-036-0230\(2\)](#).
 6. In an emergency endangering life or property that requires immediate disconnection, service may be terminated without notice. If service is terminated due to an emergency, the utility will immediately notify the customers and the Commission's Consumer Services Section of the termination. If the reason for the emergency termination is not the customer's fault, the water utility will not charge the customer to restore service. See [OAR 860-036-0215](#).

7. For disconnection of residential service, the water utility **MUST** make a good faith effort to personally contact the customer or an adult at the residence on the day service is to be disconnected. If personal contact is made by the utility, and the utility believes that the person they have contacted doesn't understand the consequences of the disconnection, the water utility must:

- a. Notify the Department of Human Services and the Commission; and
- b. Delay the proposed disconnection date for an additional five business days.
See [OAR 860-036-0245](#).

Note: A water utility cannot disconnect a customer's water service for nonemergencies on a weekend or a state or water utility recognized holiday unless mutually agreed upon by the customer, the water utility, and the Public Utility Commission's Consumer Services Section (1-800-522-2404; TTY 711). See [OAR 860-036-0220](#).

Q. Can I make the property owner or new tenant pay a balance owing from a previous tenant or previous owner?

- A. A water utility can only hold the customer, spouse, or co-customer responsible for the charges incurred. (See [OAR 860-036-0010](#), definitions of customer and co-customer). However ORS 757.069, Notice of delinquency on water bills, allows the water utility to mail notice of the delinquency to the persons who are listed as owners of the property in the real property tax records for the county, if the customer (tenant) fails to pay a water bill for more than 120 days.

Q. When there is an outstanding bill, can I refuse to provide service if a roommate or applicant of that same dwelling applies for service?

- A. A water utility cannot hold an applicant or roommate responsible for payment of an outstanding bill at a residence; however, they can refuse service if **all three** of the following conditions exist:
1. A residential customer has incurred an overdue balance at a service address; and
 2. A residential applicant for service resided at the service address described in [OAR 860-036-0080](#)(1)(a) during the time the over-due balance was incurred; and
 3. The residential customer described in No. 2 above will reside at the location to be served under the new application. See [OAR 860-036-0080](#)(3).

Q. Do all public water utilities and rate-regulated companies have to follow the billing and disconnection rules of the PUC?

- A. Yes, all water companies must follow the billing and disconnection rules of the PUC. Failure to do so by an exempt water company can result in the termination of its exempt regulatory status.

Q. I'm not sure what a disconnect notice should look like. Is there a sample disconnect notice available?

A. Notice requirements and sample notices are available on the PUC's website at http://www.puc.state.or.us/PUC/water/forms_notices/water_notices.shtml and are available in hard copy. Contact the Consumer Services Section at 1-800-522-2404; TTY 711.

Q. I own a mobile home park and I provide water service. I want to use a billing agent for billing and collection. The billing agent wants to put in submeters. Can I do this?

A. The Commission does not regulate water service provided by an exempt mobile home park just because it uses a billing agent or submeters customers through a third party. The costs of such service may be passed through to its customers, but only for the actual expense. Any additional charge or markup to the customers by the owner above the cost of the submetering or billing agent service can result in a change of regulatory status.

Q. What should I do if someone reconnects service without authorization?

A. If someone reconnects service without authorization, that consumer is not a customer. Therefore, the water utility may disconnect without notice. Because this person is not a customer, he or she does not have the rights afforded to a water utility customer. [OAR 860-036-0010](#)(2) and (5) provide the definitions of a co-customer and a customer.

Q. My customer will not let me on the property to read the utility's meter. What should I do?

A. Each customer is responsible to provide the water utility access to the meter on the customer's property. Failure to permit the utility access to the meter at reasonable times and after reasonable written notice has been given requesting meter access, is grounds for disconnection of service. If you plan to disconnect a customer for failure to provide access, please contact the Public Utility Commission's Consumer Services Section at 1-800-522-2404; TTY 711, for assistance in providing adequate notice to the customer. See [OAR 860-036-0120](#).