

FREQUENTLY ASKED QUESTIONS BY WATER UTILITIES

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

One of the primary roles of the Public Utility Commission is to protect customers from inadequate or discriminatory service and unreasonable rates. The Commission also protects water utilities as ongoing businesses.

Commission Jurisdiction

Q. What water utilities does the Commission regulate?

- A. The Commission regulates mostly private and investor-owned water systems along with some associations and mobile home parks providing water service.

Commission rules and regulations only apply to water systems subject to the Commission's jurisdiction. The regulation is divided into three jurisdictional categories: 1) Exempt, 2) Service Regulated, and 3) Rate & Service Regulated.

The Commission regulates water systems meeting the definition of a public utility in ORS 757.005 for service. In addition, some water systems are regulated for both rates and service.

Q. Please explain the different levels of regulation?

- A. The Commission has three levels of jurisdiction. Exempt water utilities are not regulated, but may come under Commission regulation under certain circumstances. Legitimate service issues may terminate the utility's exempt status.

Service regulated utilities meet the definition of a public utility in ORS 757.005 and are subject to the Commission's rules and regulations concerning safe, adequate and nondiscriminatory service.

Rate & Service Regulated utilities are subject to service regulation and regulation of rates.

1. EXEMPT UTILITIES

Private and investor-owned water systems are subject to Commission jurisdiction, but exempt from regulation as long as it:

- a. Charges an average annual monthly residential water service rate of \$18 or less, and
- b. Provides adequate service, and
- c. Provides nondiscriminatory service.

If the utility meets all three criteria, it qualifies for exempt status. If it fails to meet any one of the above criteria, it meets the definition of a public utility and is regulated for service.

2. SERVICE REGULATED (SR)

A private or investor-owned water system that meets the definition of a public utility in ORS 757.005 must comply with Commission regulations governing safe, adequate, and nondiscriminatory service. Once a company is deemed a public utility, its exempt status is permanently terminated. A public utility is regulated for service:

- a. If it charges an average annual monthly residential rate above \$18, or
- b. Is found to be providing unsafe, discriminatory, or inadequate service.

An Association (**ASSOCN**) providing water service to customers that are not members of the association meets the definition of a public utility and is **SR** if:

- a. It charges average monthly rates that exceed \$18; or
- b. It provides inadequate service as determined by the Commission; or
- c. It provides discriminatory service as determined by the Commission.

A Mobile Home Park (**MHP**) providing water service meets the definition of a public utility and is SR if:

- a. It is serving customers that are outside the mobile home park and
 - A. Charges average monthly rates that exceed \$18 per month; or
 - B. Provides inadequate service as determined by the Commission; or
 - C. Provides discriminatory service as determined by the Commission
- b. The MHP landlord does not comply with the requirements for water service as found in ORS 90.532, 90.534, and 90.536. ORS 90.532(6) states:

A landlord who provides utilities or services only to tenants of the landlord in compliance with this section and ORS 90.534 and 90.536 is not a public utility for purposes of ORS chapter 757.

3. RATE & SERVICE REGULATED (R&SR)

A private and investor-owned-water system becomes **R&SR** if:

- a. It serves 500 or more customers, or
- b. It provides both water and wastewater services within the boundaries of a city. In this circumstance, both water and wastewater services are regulated for service and rates, or
- c. It requests rate regulation, or
- d. It charges or proposes to charge a rate or fee that exceeds the Commission's established regulatory thresholds AND 20 percent of the customers petition for rate regulation. The thresholds are found in OAR 860-036-0030 and are listed below:
 - A. \$33 annual average monthly residential or small commercial (line size one inch or less) flat or unmetered rate.
 - B. \$36 annual average monthly residential or small commercial (meter size one inch or less) metered rate.
 - C. \$110 annual average monthly large commercial (line size greater than one inch) flat or unmetered rate.
 - D. \$119 annual average monthly large commercial (meter size greater than one inch) metered rate.
 - E. A standard hook-up fee that exceeds \$450 or a nonstandard hook-up fee that is not at actual cost.
 - F. Any system development or like fee that is not cost-based AND 20 percent or more of the customers petition the PUC for rate regulation.

An **ASSOCN** is **R&SR** if:

- a. 20 percent of the members petition the Commission for rate regulation and the Commission finds that it is in the public interest to regulate the association; or
- b. It serves customers who are not members of the association and charges above Commission established rate thresholds and 20 percent of the customers petition for rate regulation.

A **MHP** is **R&SR** if:

- a. It does not comply with the requirements for water service as found in ORS 90.532, 90.534, and 90.536 and charges above the Commission established rate thresholds and 20 percent of the customers petition for rate regulation; or
- b. It provides service to customers outside the park and charges above the Commission established rate thresholds and 20 percent of the customers petition for rate regulation.

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

- A. Yes. Commission regulation does not differentiate between a profit and nonprofit water utilities; therefore, it is not a criterion in determining whether a utility is subject to Commission jurisdiction.

Selling or Disposing of a Water Utility, Terminating Service, or Abandoning a Water System

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

A. The requirements to sell a water utility are:

1. **R&SR** water utilities must file an application with the Commission for approval to sell or change ownership of the water utility. See ORS 757.480 and [OAR 860-036-0710\(2\)](#).
2. **SR** water 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. However, no Commission approval is required. 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 Commission to investigate the proposed transaction. Commission approval of the sale is only required if the customers petition and the system becomes **R&SR**. See [OAR 860-036-0710\(4\)](#). Notice requirements – [OAR 860-036-0710\(5\)](#) (a-m).

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. Transfer or sell the system to another water system or owner.
2. Transfer or sell the system to the customers.
3. City takes over or purchases the water system. Annexation may be required.
4. File an application with the Commission 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 Commission approval to abandon service, there must be a viable alternative water source available to the customers. All water utilities seeking to 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 Commission who can help me understand them?

A. Call the Commission's Consumer Services Section at 1-800-522-2404; TTY 711 for more information.

Q. The rules refer to safe and adequate service. What is considered safe and adequate service?

A. OAR 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 adequate and safe service on a case-by-case basis. Safe and adequate service is not limited to or intended to be limited to Commission administrative rules. Other industry or agency standards and best practices may also be considered as service standards and enforced by the Commission. If you have any questions call Consumer Services at 1-800-522-2404; TTY 711.

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

A. The Commission's service standards are found throughout OAR Chapter 860 Division 036. 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. The Commission has the authority to impose additional requirements other than those described in the administrative rules.

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

A. The Commission 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 Commission's recourses are:

1. Assess penalties of up to \$10,000, or
2. Seek an injunction through circuit court, or
3. Directly fine water utilities up to \$500 for each violation,
4. All of the above.

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 water utilities, contact:

1. Oregon Association of Water Utilities (OAWU): 503-873-8353.
2. Department of Human Services Drinking Water Program (DWP) Circuit Rider, HBH Consulting: 1-866-266-0555 or local (Sherwood) 503-625-8065.
3. The Safe Drinking Water State Revolving Loan Fund, DWP: 971-673-0405.

Water Service Rates

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

- A. You may raise 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 the annual average monthly residential rate is above \$18, your regulatory status will change from exempt to a **SR** public utility. However, you may remain exempt from **R&SR**.

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 of \$18 up to and including the Commission's established residential threshold rates without Commission approval. However, it is incumbent upon the utility to inform the Commission of the rate change and provide notice of the impending increase to its customers explaining the reasons for the increase.

Q. What are the Commission's established rate thresholds?

- A. The Commission's established rate thresholds are:
- \$33 annual average monthly residential or small commercial (line size one inch or less) flat or unmetered rate.
 - \$36 annual average monthly residential or small commercial (meter size one inch or less) metered rate.
 - \$110 annual average monthly large commercial (line size greater than one inch) flat or unmetered rate.
 - \$119 annual average monthly large commercial (meter size greater than one inch) metered rate.
 - A standard hook-up fee that exceeds \$450 or a nonstandard hook-up fee that is not at actual cost.
 - Any system development or like fee that is not cost-based.

Q. What do I have to do to raise my rates above the Commission's established rate thresholds?

- A. To raise rates above the Commission's established thresholds, the utility must send a 60-day notice to its customers and the Commission explaining the reasons for the increase, state the annual increase in dollars, and show the old and new monthly rates for each customer class. The notice must also include specific language informing customers of their 45-day right to petition the Commission for rate regulation. See Notice Requirements [OAR 860-036-0405](#). A petition from 20 percent or more of the customers is required before the Commission will initiate **R&SR**.

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

- A. After receiving petitions from 20 percent or more of the customers within the 45-day deadline, Commission staff verifies the names on the petitions and informs the utility (and petitioners) that 20 percent or more of the customers requested rate regulation. The Commission issues an order confirming the utility's change in regulatory status. The utility's proposed rates cannot go into effect, and it has 60 days to file an application and proposed tariffs with the Commission.

If the Commission does not receive petitions from 20 percent or more of the customers requesting rate regulation, it will inform the utility and the petitioners that insufficient petitions were received to assert **R&SR**. The utility's proposed new rates will become the legal rates, and it will be **SR** only. However, 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 Commission. 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. The customer class the rates are applicable to.
 4. The monthly charge for water for each customer class.
 5. The date the tariffs are effective.

R&SR water utilities cannot charge for water service or miscellaneous charges unless the tariffs are approved by the Commission. If desired, the Commission's Water Program staff will assist the utility in filling out the proper forms.

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

- A. The rate application (staff help is available in filling out application) consists of:

1. A written brief that summarizes what the utility is requesting, and

2. Testimony (in question/answers format) 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.

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

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

1. An open house where customers and the public can learn about the rate process and ask questions of Commission staff or the water utility. The open house is followed by a prehearing conference to (1) identify the issues and parties to the case, and (2) approve a procedural schedule.
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 of the parties where (1) staff presents its recommendation, (2) the parties discuss the issues in the case, and (3) the parties attempt to settle or resolve all issues.
4. If settlement is reached, staff files a stipulation (signed by all parties) and testimony supporting the stipulation.
5. If settlement is not reached, an evidentiary hearing is held where evidence is entered into the record and witnesses are cross-examined.
6. The Administrative Law Judge who presides over the case will then make a recommendation to the Commission.
7. The Commission issues a final order approving rates and resolving any outstanding 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:

1. 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.
2. 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.
3. Supplying supporting documentation in a timely manner. Staff can show you what constitutes proper supporting documentation. Proper documentation can cut down on the time it takes for staff to complete its investigation.
4. Responding in writing as soon as possible to requests (data requests) for further information from staff or intervenors.
5. Fully answering all questions submitted in data requests.

- 6. Contacting staff as soon as you have questions.
- 7. Using staff as a resource. Staff is happy to assist you.

Training and Technical Assistance

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

A. The Water Program staff is happy to help you fill out any Commission required forms, applications, or reports. 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 between 15 and 150 connections must have a certified small groundwater system operator. Systems serving 151 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 size. 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:

The Oregon Association of Water Utilities
 12312 Silverton Rd. NE
 Silverton OR 97381

503-873-8353
<http://www.oawu.net/>

Oregon Department of Human Services, Health Services, Drinking Water Program
800 NE Oregon St.
Portland OR 97232
971-673-0405
<http://egov.oregon.gov/DHS/ph/dwp/index.shtml>

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

A. 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 circuit rider technical assistance. Contact:

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

Oregon Department of Human Services, Health Services, Drinking Water Program
800 NE Oregon St.
Portland OR 97232
971-673-0405
<http://egov.oregon.gov/DHS/ph/dwp/index.shtml>

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. **R&SR** utilities 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.

The Commission sets the rate for late payment fees for rate and service regulated utilities. It determines the late-payment rate based on a survey of prevailing market rates for late-payment charges of commercial enterprises and will advise all **R&SR** 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.

Exempt or **SR** utilities may assess a late-payment fee to customer accounts that are not paid in full each month, provided the late-payment fee is included in the utility's statement of rates.

A late-payment charge is 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.

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).

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. Under what circumstances can I disconnect service to 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](#)).

Q. Do exempt water utilities have to follow the Commission's billing and disconnection rules too?

- A. Yes. Failure to do so by an exempt water utility can result in termination of its exempt regulatory status.

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 applicable written notice(s):

A five-business-day notice prior to the disconnection of service for nonpayment. See [OAR 860-036-0245\(2\) \(a\)](#).

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\(1\) \(a\)](#).

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\(2\) \(b\)](#).

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\(1\)](#).

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\(2\)](#).

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 (if possible) 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](#).

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

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

A. A sample disconnect notice, along with other notice requirements and samples, is located on the web at www.puc.state.or.us or available in hard copy. Contact the Consumer Services Section at 1-800-522-2404; TTY 711.

Q. I own a MHP and I provide water service. I want to use a vendor for billing and collection. The vendor wants to install submeters. Can I do this?

A. The Commission does not regulate a **MHP** because it uses submeters or contracts for bill and collection services. The cost of these services may be passed through to its customers, but only for the actual expense. Any additional charge or markup above the cost of the 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 customer. [OAR 860-036-0010](#) (2) and (5) provides the definitions of a co-customer and a customer.

Q. My customer won't 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 serving the customer with reasonable written notice requesting meter access is grounds for disconnection of service. If you plan to disconnect a customer for failure to provide access, please contact Consumer Services at 1-800-522-2404; TTY 711. See [OAR 860-036-0120](#)