

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
 A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission	860
Agency and Division	Administrative Rules Chapter Number
Diane Davis	(503) 378-4372
Rules Coordinator	Telephone
PO Box 2148, Salem, OR 97308	
Address	

**RULE CAPTION**

In the Matter of Updating Rules about Water Regulation including Changes Required by SB 142.  
**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

October 26, 2011	9:30 a.m.	550 Capitol Street NE 1 <sup>st</sup> Floor Salem, Oregon 97301	TBD
Hearing Date	Time	Location	Hearings Officer

Hearing Date	Time	Location	Hearings Officer
<i>Auxiliary aids for persons with disabilities are available upon advance request.</i>			

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.  
**ADOPT:** 860-036-0026, 860-036-0128, 860-036-0207, 860-036-0241, 860-036-0242, 860-036-0425, 860-036-0708, 860-036-0816

**AMEND:** 860-036-0001 through 860-036-0930

**REPEAL:** 860-036-0245, 060-036-0340, 860-036-0407, 860-036-0625, 860-036-0810

**RENUMBER:**

**AMEND & RENUMBER:** 860-036-0207 to 860-036-0249; 860-036-0625 to 860-036-0616

Stat. Auth.: ORS Ch. 183, 756, 757 and Ch. 202, OL 2003

Other Auth.:

Stats. Implemented: ORS 98.316, 756.040, 756.105, 756.310, 756.320, 756.350, 756.500, 756.512, 757.005, 757.007, 757.015 through 757.039, 757.061 through 757.069, 757.105, 757.120, 757.125, 757.135, 757.205, 757.220, 757.225, 757.230, 757.250, 757.259, 757.270 through 757.290, 757.405 through 757.450, 757.480, 757.485, 757.495, 757.542 through 757.562, 757.750, 757.755, 757.760, 758.300 through 758.320, 759.650 through 759.675; Ch. 202, OL 2003

**RULE SUMMARY**

The proposed rules address changes required by Senate Bill 142 (2011 session), which are intended to simplify water utility regulation. The proposed rules also clarify the rules and make housekeeping changes. The proposed changes reduce the regulatory burden on water utilities. The proposed rule changes include but are not limited to:

- Identification of the type of information water utilities are required to keep about each water meter has been added to the metering rule.
- Water utilities are no longer required to file master plans with the PUC thus reducing the regulatory burden on water utilities.
- “Reasonable” advanced customer notice requirement for planned maintenance and repair service interruptions is replaced with a 2 or 5 day advanced notice, depending on the method of notification.
- Applications for water utilities seeking Commission approval to (1) issue stocks and other securities, (2) guaranty indebtedness, and (3) enter into affiliated interest contracts have been simplified and the requirements reduced.
- The threshold revenue requirement for filing the Budget of Expenditures is raised from \$50,000 to \$500,000, reducing the number of water utilities required to file this report. In the future, approximately three water utilities will be filing annual Budget of Expenditures.
- Water utilities are no longer required to file annual Construction Budgets.
- Copies of well logs and water rights are now required in service territory applications; however, water utilities should already have this information.

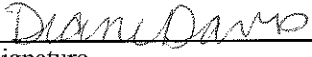
The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 559 on comments and file them by e-mail to the Commission’s Filing Center at [PUC.FilingCenter@state.or.us](mailto:PUC.FilingCenter@state.or.us) and also send a signed hard copy to the Filing Center, PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=16941>.

Participants wanting to monitor the hearing by telephone (listen only) must contact Diane Davis at [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372 by close of business October 21, 2011, to request a dial-in number. To present oral comment at the hearing, participants must attend in person.

The Agency requests public comment on whether other options should be considered for achieving the rule’s substantive goals while reducing the negative economic impact of the rule on business.

November 4, 2011, 5:00 p.m.

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

	Diane Davis <a href="mailto:diane.davis@state.or.us">diane.davis@state.or.us</a>	9/15/11
Signature	Printed name	Date

\*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Updating Water Regulation Rules including Changes Required by SB 142

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Updating water regulation rules including changes required by SB 142.

Statutory Authority: ORS Ch. 183, 756, 757 and Ch. 202, OL 2003

Other Authority:

Stats. Implemented: ORS 98.316, 756.040, 756.105, 756.310, 756.320, 756.350, 756.500, 756.512, 757.005, 757.007, 757.015 through 757.039, 757.061 through 757.069, 757.105, 757.120, 757.125, 757.135, 757.205, 757.220, 757.225, 757.230, 757.250, 757.259, 757.270 through 757.290, 757.405 through 757.450, 757.480, 757.485, 757.495, 757.542 through 757.562, 757.750, 757.755, 757.760, 758.300 through 758.320, 759.650 through 759.675; Ch. 202, OL 2003

Need for the Rule(s):

Senate Bill 142 (SB 142), passed in the 2011 legislative session and effective on January 1, 2012, simplified water regulation into two levels of regulation: (1) service regulation; and (2) rate regulation. It has been several years since the Commission completely reviewed the water regulation rules. Complying with SB 142 provided the Commission the opportunity to update all water rules to not only comply with SB 142, but also to clarify and simplify, reduce the regulatory burden on water utilities, and make housekeeping changes.

Documents Relied Upon, and where they are available:

Oregon Revised Statutes Chapter 756, available online at <http://www.leg.state.or.us/ors/756.html>Oregon Revised Statutes Chapter 757, available online at <http://www.leg.state.or.us/ors/757.html>Oregon Administrative Rules Chapter 860, available online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_tofc.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_tofc.html)SB 142 (2011 legislative session), available online at <http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0142.en.pdf>

Comments about proposed rules from customer representatives and two regulated water companies available upon request from Diane Davis, [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372

Fiscal and Economic Impact:

The proposed rules will reduce the regulatory requirements and therefore reduce the administrative burden on regulated water utilities. The proposed rules also lessen the burden for the staff of the Public Utility Commission and its counsel at the Department of Justice where requirements are simplified or eliminated.

## Statement of Cost of Compliance:

## 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Regarding the Oregon Public Utility Commission and the Department of Justice, where the rules have been simplified or removed, workload will be reduced from what otherwise would occur. The rules do not affect any other state agencies or units of local government. The public benefits indirectly from rules that are clarified and regulation that is less complex.

## 2. Cost of compliance effect on small business (ORS 183.336):

## a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Approximately 80 water utilities are subject to the Commission's authority, and the majority of these are small businesses.

## b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Changes to the metering rule identify information to be recorded about each water meter. This should be standard operating procedure for water utilities. It is not anticipated that the changes will require any additional recordkeeping activities, but to ensure no additional burden on the water utilities, Staff will grandfather all meters installed before January 1, 2012.

The proposed rule changes that affect water utilities include, but are not limited to:

- Identification of the type of information water utilities are required to keep about each water meter has been added to the metering rule.
- Water utilities are no longer be required to file master plans with the PUC thus reducing the regulatory burden on water utilities.
- "Reasonable" advanced customer notice requirement for planned maintenance and repair service interruptions is replaced with a 2 or 5 day advanced notice, depending on the method of notification.
- Applications for water utilities seeking Commission approval to (1) issue stocks and other securities, (2) guaranty indebtedness, and (3) enter into affiliated interest contracts have been simplified and the requirements reduced.
- The threshold revenue requirement for filing the Budget of Expenditures is raised from \$50,000 to \$500,000, reducing the number of water utilities required to file this report. In the future, approximately three water utilities will be filing annual Budget of Expenditures.
- Water utilities are no longer required to file annual Construction Budgets.
- Copies of well logs and water rights are now required in service territory applications; however, water utilities should already have this information.

## c. Equipment, supplies, labor and increased administration required for compliance:

The proposed rules do not require increased equipment labor or administration for compliance. In fact, it is anticipated that the proposed rule will reduce administration.

How were small businesses involved in the development of this rule?


A copy of the proposed rules was sent out to 38 rate-regulated water utilities, the Oregon Association of Water Utilities (an industry organization), the Citizens' Utility Board of Oregon, customer representatives,

and certain legislators. The comments of those who responded were considered and appropriate changes to the proposed rules were made.

Administrative Rule Advisory Committee consulted?: No

If not, why?: Given the above-described solicitation of comments, stakeholders were actively involved in the drafting of the proposed rule language. Stakeholders will also have an opportunity to provide comment during this formal rulemaking process. The Commission does not have an appointed administrative rule advisory committee.

---

	Diane Davis	9/15/11
Signature	Printed name	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

**DIVISION 36  
WATER UTILITIES AND ASSOCIATIONS**

**General**

**860-036-0001**

**Scope and Applicability of Rules**

(1) Upon request or its own motion, the Commission may waive any of the Division 036 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

(2) The rules contained in Division 036 are applicable to public utilities, as defined in ~~OAR 860-036-0010~~ ORS 757.005, providing water service in the State of Oregon.

(3) The rules contained in Division 036 do not restrict the authority of the Commission to require service improvements incorporating standards other than those set forth in this division when, after investigation, the Commission determines that such improvements are necessary.

**(4) A water utility must provide the Commission with all Commission requested information concerning the water utility and its facilities, operations, management, and administration.**

**(5) The Commission may physically inspect the water system and the work performed thereon to determine past and present conformance to Commission rules and regulations.**

**(6) All water utilities must comply with the Commission's rules and regulations. Inadequate or discriminatory service by a water utility may cause a change in the water utility's regulatory status per ORS 757.061.**

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, ORS 756.105

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02

**860-036-0010**

**Definitions for Water Utilities and Associations**

As used in ~~d~~Division 036:

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

~~(2)~~ (1) "Applicant" means a person who:

(a) Applies for service with a water utility; or

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

~~(3)~~ (2) "Association" means an ~~incorporated or homeowner association providing water service, as defined in ORS 757.005~~ association of individuals with a shared interest in a water system that furnishes water service to those individuals or members, even if the association does not furnish water directly to or for the public. An association providing water service to a nonmember customer is considered a public water utility as defined in ORS 757.005.

(43) "Co-customer" means a person who meets the definition of "customer" and:

(a) Is jointly responsible with another person for payments for water utility service on an account with the water utility; and

(b) Retains customer status as the remaining customer by providing the utility a written request to place service in only the remaining customer's name within 20 calendar days of the leaving co-customer's discontinuing service in the leaving co-customer's name. If only one of the co-customers discontinues service in his/her name, the remaining co-customer shall retain customer status only if he/she reapplies for service in his/her own name within 20 days of such discontinuance provided the water utility contacts the co-customer or mails a written request for an application to the remaining co-customer within one business day of the discontinuance.

(54) "Commercial customer" means a customer who uses the water provided in the promotion of a business or business product~~performs or produces a service or product~~ that is a source of ~~revenue, income or~~ livelihood to the customer or others using the premises.

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

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

(87) "Construction work in progress (CWIP)" means account 105 in the water utility plant section of the balance sheet representing the costs of water utility plant under construction but not yet placed in service.

~~(9) "Cooperative" means a cooperative corporation as defined in ORS Chapter 62.~~

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

~~(119)~~ "Customer" means a person who has applied for, been accepted, and is currently receiving service unless otherwise noted. Notwithstanding section (1) of this rule, a customer who voluntarily disconnects service and subsequently asks for service with the same water utility at a new or existing location within 20 calendar days after disconnection retains customer status.

~~(12) "District" means a corporation as defined under ORS Chapter 198.~~

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

~~(14) "End-user" means a domestic water user.~~

~~(15) "Exempt water company" means a water company that meets the definition of a public utility in ORS 757.005, but is exempt from regulation as provided in ORS 757.005(1)(b)(E).~~

(161) "Flat rate" means a periodic stated charge for water utility service not based on metered quantity of service. Such a rate is used where service is provided on an unmetered basis.

~~(17) "Forced connection" means a water utility or its customers being required by law, regulation, rule, or company policy to retrofit, improve, or change the~~

~~original service connection. All retrofits, improvements, additions or changes to the original service connection will be the operational and financial responsibility of the company, with the following exceptions (1) any national or state laws or rules clearly assigning such costs to the customer, or (2) the Commission otherwise approves as provided in OAR 860-036-0105(1) and (2).~~

(182) “Formal complaint” means a written complaint filed with the Commission's Administrative Hearings Division.

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

~~(2014) “Mainline extension” means the extension of a main line to an area not previously served. If the main line extension is required at the request of a potential customer to receive service, the cost of such extension shall comply with the water utility's main line extension policy.~~

(215) “Metered rate” means a periodic stated charge for water utility service that is based on metered quantity of water consumed.

~~(22) “Meter set” means the parts, material, and labor necessary to install a meter. The meter set assembly is owned, installed, and maintained by the utility. The meter set does not include any components of the service connection required to provide unmetered service.~~

(2316) “Metered system” means a water system that uses a meter to measure consumption of water and uses a metered rate as a charge to customers.

~~(24) “People's utility district” (PUD) means a corporation as defined in ORS Chapter 261.~~

~~(2517) “Public utility” has the meaning given the term in ORS 757.005 and 757.061. The term does not include districts, People's Utility Districts (PUDs), cooperatives, or municipalities.~~

(2618) “Rate-regulated water utility” means a public water utility that is not exempt from does not meet the exemption criteria for certain financial regulations and conditions under ORS 757.061.

(19) “Rate regulation” means regulation of a water utility’s rates and service. A water utility regulated for rates is also regulated for service.

(270) “Registered dispute” means an unresolved issue between a customer or applicant and a water utility that is under investigation by the Commission's Consumer Services Section, but is not the subject of a formal complaint.

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

(22) “Service regulation” means regulation of the adequacy of a water utility’s service and product, which includes, but is not limited to: rules; procedures; customer service; billing and collection; disconnects and reconnects; and water pressure, quality, and capacity. Service regulation does not include regulation over the dollar amount of any rate or charge.

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

~~(3024) “System development impact fee or charge” is the proportionate fee charged by a water company utility prior to service being initiated that encompasses the cost of the system allocated to all potential customers.~~



**(25) "Tariff" means a published collection of rate schedules and the terms and conditions for use of water utility service.**

~~(3126)~~ "Unmetered system" means a water system that does not use a meter to measure consumption and ~~uses~~**charges customers** a flat rate ~~to charge customers~~.

~~(3227)~~ "Utility" means any water utility, except when a more limited scope is explicitly stated.

~~(3328)~~ **"Water system" means all assets, equipment, and infrastructure used and necessary in the provision of water service to customers.**

~~(29)~~ "Water utility" has the same meaning as public utility in **ORS 757.005**~~section (22) of this rule~~, except if a more limited scope is explicitly stated.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 756.105 & 757.061

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 9-2001, f. & cert. ef. 3-21-01; PUC 22-2001(Temp), f. & cert. ef. 9-26-01 thru 3-24-02; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03; PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thru 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04; PUC 13-2009, f. & cert. ef. 11-24-09

## **860-036-0015**

### **Information for Customers and Applicants**

(1) Upon request, the water utility ~~shall~~**must furnish provide** a customer or applicant with an application **form** for service and ~~such~~**shall information necessary as is reasonable to permit them** to secure efficient service.

(2) Upon request, the water utility providing metered service ~~shall~~**must** inform its customers or applicants how to read meters,<sup>5</sup> **The water utility may provide meter reading information** either in writing or by explanation at the water utility's office(s).

(3) A water utility ~~shall~~**must** keep on file and open for public inspection at its office(s): complete rate schedules, service application forms, contract forms, rules and regulations ~~of the utility~~, and a copy of the Commission's rules and regulations.

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

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

(4) Upon request, the water utility ~~shall supply~~**must provide** a copy of its approved tariffs or statement of rates applicable to the type or types of service furnished to the customer.

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

~~(65)~~ **A water utility must provide its customers with a written summary of the customers' water service rights and responsibilities** ~~When service is initiated and not less than once each year thereafter, a water utility shall give its customers a written~~

~~summary of their rights and responsibilities as they relate to the water utility providing service.~~ If service is initiated without a personal contact between the water utility and the customer, the water utility shall must mail the summary to the customer no later than when the first bill statement is mailed. The summary shall must include the text approved by the Commission's Consumer Services Section 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;:-

~~(c) Any late-payment charges and preferred billing date options shall be explained, along with the availability of any preferred billing date option; and~~

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

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

~~(86)~~ When service is initiated, the water utility shall must 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 water 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 water utility shall must report ~~to the Commission~~ the number of requests for notices and summaries in non-English languages to the Commission. The report shall must specify the number of requests for each language.

~~(a7)~~ Upon request, ~~The~~ Commission will translate the Rights and Responsibilities Summary for Oregon Utility Consumers into the designated non-English languages and provide copies to water utilities upon request. The information published by a water utility per this rule must pursuant to OAR 860-036-0015 shall prominently display in bold face type the following statement in the designated non-English languages at the beginning of the summary ~~and be printed in bold face type~~: 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).

~~(98)~~ Each water utility shall must maintain a business location and a regular telephone number at which it may be contacted directly by customers, applicants, or the Commission during its regular business hours. The water utility shall must 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 before the end of the next business day, except as provided in OAR 860-036-0241.~~

~~(109)~~ The water utility shall 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 a~~ water failure or emergency. The water utility must respond to the caller within one hour of the time of the call or message and promptly take appropriate action to resolve the failure or emergency. If

~~**extenuating circumstances exist that prevents the water utility from responding to the caller within one hour, the Commission may require the water utility to justify the delay. The water utility shall respond to emergency calls or messages within one hour of the time of the call or message, unless extenuating circumstances exist that prevent such response. The water utility may be required to justify extenuating circumstances to the Commission's satisfaction.**~~

(110) In the event of an emergency involving all customers, a major portion of customers, or a specific geographical area of customers, the water utility **shall must** use its best efforts to communicate and provide information to all affected customers as soon as possible.

(121) Notices ~~**regarding the customers' rights and responsibilities approved by the Commission shall must**~~ be posted in a conspicuous place in each water utility office where credit matters are transacted, ~~**setting forth the rights and responsibilities of customers under these rules.**~~ The notices **shall must** be printed, written using plain language, and approved by the Commission standards ~~**printed and shall be written in language that is easy to understand.**~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 22-2001(Temp), f. & cert. ef. 9-26-01 thru 3-24-02; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

### **860-036-0020**

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

~~**When service is initiated or upon request, A**~~ water utility **shall must** offer ~~**its**~~ a customer or applicant the option to designate a third party to receive bills and notices ~~**set forth in these rules.**~~ When a water utility receives ~~**such a**~~ third-party designation, it ~~**shall will**~~ send bills and notices required under these rules to the customer's representative, ~~**with a**~~ duplicate copyies of disconnect notices **must** also **be** served on the customer who designated a third party to receive bills and notices.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98

### **860-036-0025**

#### **Dispute Resolution Informal Complaints**

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

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

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

(a) 1-800-522-2404; TTY 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 97301-2551. ~~The Commission shall notify the water utility upon receipt of such a request.~~

(4) The Commission's Consumer Services **Section shall will** assist the complainant and the water utility in an effort to reach an informal resolution of the dispute. **Upon receiving a request for dispute resolution, the Commission will inform the water utility of the request and begin its investigation of the dispute. Upon complaint or on its own motion, the Commission may investigate any dispute between a customer or applicant and a water utility.**

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

~~(56) Pending resolution of the dispute, the complainant is obliged to pay undisputed amounts's obligation to pay undisputed amounts continues.~~

~~(67) A customer who has a registered dispute or formal complaint pending with the Commission shall be is~~ entitled to continued or restored service **provided if**:

(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 The customer who was terminated based on nonpayment termination is based on nonpayment, the customer~~ makes adequate arrangements to avoid future loss to the water utility, ~~such as~~ **for example, by** prepaying estimated monthly water utility charges; and

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

~~(87) If the conditions in section (76) of this rule are not satisfied, the water utility has no obligation to provide continued service. A water utility discontinuing service because of a failure to meet the conditions of subsections (76)(c) or (76)(d) of this rule shall must~~ give the customer a five-business-day disconnect notice. The notice **shall must** be served in the same manner as ~~provided by in~~ **provided by in** OAR 860-036-024507, except ~~that if the notice~~ need only describe the defect in performance, the date and time when water utility service

will terminate, and the toll-free number of the Commission's Consumer Services Section. Notice is effective when given in person or in writing delivered to the party's last known address. If notice is delivered by US Mail, service is complete on the day after the date of the US postal service postmark or postage metering.

(8) In deciding whether the conditions in section (6) are met, the water utility must consult with the Commission's Consumer Services Section.

~~In deciding whether the conditions are met, the water utility shall consult with the Commission's Consumer Services.~~

(9) ~~TEither~~ the customer who has filed a formal registered dispute complaint, the water utility, or the Commission's Consumer Services Section may ask the Commission for a hearing to decide if the conditions are met in section 6. Unless extraordinary circumstances exist, the hearing will be conducted by telephone conference within three business days from the date requested. Notice of hearing will be given to the customer, the water utility, and the Commission's Consumer Services 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.

(10) If a registered dispute cannot be resolved informally, the Commission's Consumer Services Section must advise the complainant of his or her right to file a formal written complaint with the Commission.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.500, 756.512

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-1999, f. & cert. ef. 10-18-99; PUC 18-2003, f. & cert. ef. 10-6-03

### 860-036-0026

#### Dispute Resolution Formal Complaint

(1) When a registered dispute cannot be resolved informally, the customer or applicant may file a formal written complaint with the Commission. The customer or applicant may obtain the complaint form from the Commission's Consumer Services Section. The formal complaint must state the facts of the dispute and the relief requested.

(2) Upon receipt of the formal written complaint, the Commission will serve the water utility with a copy of the complaint. The water utility must answer the complaint within 15 calendar days of service of the complaint. If the dispute is not resolved by the time the water utility files its answer, the Commission may schedule a telephone conference to establish further proceedings. A hearing may be held on less than 10 calendar days' notice when good cause is shown.

(3) Pending resolution of the dispute, the complainant is obliged to pay undisputed amounts.

(4) A customer or applicant who has a registered formal complaint pending with the Commission is entitled to continued or restored service if:

(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 or applicant entitle the customer or applicant to service;

**(c) The customer whose service was terminated based on nonpayment makes adequate arrangements to avoid future loss to the water utility, for example, by prepaying estimated monthly water utility charges; and**

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

**(5) If the conditions in section (4) of this rule are not satisfied, the water utility has no obligation to provide continued service. In deciding whether the conditions of section (4) of this rule are met, the water utility must consult with the Commission's Consumer Services Section.**

**(6) A water utility discontinuing service because of a failure to meet the conditions of subsections (4)(c) or (4)(d) of this rule must give the customer a five-business-day disconnect notice. The notice must be served in the same manner as in OAR 860-036-0207, except the notice need only describe the defect in performance, the date and time when water service will terminate and the toll-free number of the Commission's Consumer Services Section.**

**(7) A customer or applicant who has filed a formal complaint, the water utility, or the Commission's Consumer Services Section may ask the Commission for a hearing to decide if the conditions are met. Unless extraordinary circumstances exist, the hearing will be conducted by telephone conference within three business days from the date requested. Notice of hearing will be given to the customer, the water utility, and the Commission's Consumer Services Section 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 electronic mail address or last known mailing address. Mailed notice is effective two days after deposit in the U.S. mail, excluding Sundays and holidays.**

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

**Stats. Implemented: ORS 756.040, 756.500, & 756.512**

**Hist.: NEW**

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

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

As required by ORS 757.061(~~75~~), the Commission adopts the following maximum rates and charges for water utilities that are not rate regulated and are serving fewer than 500 customers:

(1) An annual average monthly residential rate of \$33 for unmetered water systems and \$36 for metered water systems;

(2) An annual average monthly service rate for small commercial customers with a meter or pipe diameter one inch or less of \$33 for unmetered water systems and \$36 for metered water systems;

(3) An annual average monthly service rate for large commercial customers with a meter or pipe diameter larger than one inch of \$110 for unmetered water systems and \$119 for metered water systems; and

(4) Any service connection charge, system impact fee, facilities charge, main line extension, or other similar charge must be cost based. Upon the Commission's request, a water utility must be able to demonstrate compliance with this requirement.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.061

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 18-2003, f. & cert. ef. 10-6-03; PUC 7-2004, f. & cert. ef. 4-9-04; PUC 2-2008, f. & cert. ef. 5-30-08; PUC 13-2009, f. & cert. ef. 11-24-09

### 860-036-0035

#### Applications for Water Utility Service

(1) **The water utility must provide a water service application form upon request.**

(2) **Application for water service must be made for each individual service. The application must identify the applicant, the premises to be served, the billing address if different from the service address, and the type of water use. A customer is not permitted to install any tree or branch connection in the service pipe. Tandem service is not permitted unless stated in the customer's application and approved by the water utility.**

(3) An application for water utility service must be made when:

(a) Service is requested by an applicant who has not previously been served by the water 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 calendar days; ~~or~~

(d) **There is a change in the type of water use including, but not limited to, water that has been used or diverted to serve a use that was not designated in the original application.**

(24) An application is a request for water ~~utility~~ service. **The applicant must establish credit as set forth in OAR 860-036-0040 before the water utility accepts the application for service. The water utility shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-036-0040. However,** ~~†~~ **The water utility may refuse a service application for cause** under OAR 860-036-0080.

(35) A water 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.

**(46)** In lieu of providing a valid social security number or current valid Oregon driver license number under section **(35)** 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 **water** utility to establish an applicant's identification.

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

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

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 16-2003, f. & cert. ef. 10-1-03; PUC 16-2004, f. & cert. ef. 12-1-04

## **860-036-0040**

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

(1) **If a deposit is not required under section (2) of this rule,** ~~An applicant or a 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 utility service during the preceding 24 months and the water utility can verify, either by contacting the former water 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 utility's minimum credit requirements based on a third party credit report score or based on the water 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 utility to verify employment; or

(B) A statement or other documentation from the income provider or an authorized representative, that the water 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 utility service from it or any Oregon **public** water 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. ~~This subsection (2)(b) of this rule~~ does not apply to a customer who registered a dispute with the Commission within 60 **calendar** 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 **public** water utility as defined in ORS 757.005, was found to have tampered with the meter or other water utility facilities, or was otherwise found to have diverted water utility service.

(3) In lieu of paying a deposit, an applicant or customer may provide the water utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For purposes of **this** section ~~(3)~~ of this rule, a responsible party is a customer with the same water utility who meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate **shouldif** the responsible party no longer meets the conditions **in section (1) of this rule set forth herein. Ifn 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 ~~utility~~ service ~~shall~~**must** not exceed one-sixth the amount of reasonable billing for one year at the rates then in effect. The estimate ~~shall~~**must** be based on the use of the service at the premises during the prior year or on the type and size of the customer's equipment that will use the service. Each deposit ~~shall~~**must** be rounded to the nearest whole dollar.

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

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

(b) The water utility discovers that the customer has stolen water ~~utility~~ service, has tampered with the meter or other water utility facilities, or was otherwise found to have diverted water 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 **Commission's rules and regulations, the water utility's rules and regulations, or the rate-regulated water utility's tariffs, or other regulations** on file with the Commission, ~~such as~~ **including** the obligation to promptly pay bills.

(7) A water utility may ~~file a tariff that contains~~ **require** less stringent deposit requirements than those specified in this rule, **as long as the deposit requirement is applied in a consistent and nondiscriminatory manner. Deposit requirements must**

**be stated in the water utility rules and regulations or the rate-regulated water utility tariffs, whichever is applicable.**

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 16-2003, f. & cert. ef. 10-1-03; PUC 2-2004(Temp), f. & cert. ef. 1-9-04 thru 7-2-04; PUC 11-2004, f. & cert. ef. 6-2-04; PUC 16-2004, f. & cert. ef. 12-1-04

**860-036-0045**

**Deposit Payment Arrangements for Residential Water Service**

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

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

(3) A customer who is required to pay an additional deposit ~~shall~~**must** pay one-third of the total deposit within five calendar 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- ~~calendar~~**calendar**-day period.

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

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

(6) If a customer or applicant fails to abide by the terms of a deposit installment agreement, the water utility may disconnect service after providing a written five-business-day disconnect notice. The notice ~~shall~~**must** comply with the requirements of OAR 860-036-024**507**.

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

(8) If disconnection for nonpayment of a deposit occurs, the customer or applicant disconnected ~~shall~~**must** 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 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 18-2003, f. & cert. ef. 10-6-03

### 860-036-0050

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

(1) Each year, the Commission ~~shall~~will establish an annual interest rate that must be paid by rate-regulated water utilities 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. **If one-year Treasury Bills have not been issued at such times, the Commission will use Treasury Bills of the closest term to one year that were issued.** This interest rate, rounded to the nearest one-half of one percent, ~~shall~~will apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all rate-regulated water utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) Upon payment of a deposit, ~~the a~~ water utility ~~shall~~must provide the customer documentation showing the date, name of the customer or applicant, the service address, the amount of deposit, ~~a statement that the~~ interest rate 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~~must be paid by a credit to the customer's account. If held less than one year, interest ~~will~~must be prorated. A water utility ~~shall~~must keep a detailed record of each deposit received until the deposit is credited or refunded.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 16-2003, f. & cert. ef. 10-1-03; PUC 16-2004, f. & cert. ef. 12-1-04

### 860-036-0055

#### Refund of Water Utility Deposits for Residential and Nonresidential Service

(1) **When a customer's water service is terminated, the water utility must first apply the deposit and accrued interest to any unpaid balance on the customer's account and then promptly refund the remainder of the deposit and accrued interest to the customer.** ~~A water 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 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 disconnection 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 **shall must** be promptly refunded or credited to the customer's account. A customer **shall be is** entitled to a refund upon-request.

(4) When the customer moves to a new address within the water utility's service area, the deposit and accrued interest **will must** 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 if** the water utility's procedures are nondiscriminatory.

(6) Unless otherwise specified by the customer, a water utility **shall must** mail deposit refunds to the customer's last known address. The water utility **will must** 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 must** be disposed of in accordance with ORS 98.316.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 98.316, 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98

## 860-036-0060

### Installation of Water Service Connection

(1) **The "service connection" consists of all necessary pipes, valves, equipment, and fittings necessary to make the connection between the water utility's main line and the customer's service line.** A water utility **will must**, with the exceptions listed below, furnish ~~and install~~ at its own expense all necessary trenching, **construction, labor, equipment, pipes, valves, and fittings between its main line and the customer service line.** ~~Such installation shall be designated as "necessary to complete the~~ service connection."~~"~~ The water utility **shall** own **the water service connection and is required to**, operate, maintain, repair, and replace the service connection when needed.

(2) A water utility may require the customer to pay a reasonable **cost-based** service connection charge to offset its expenses listed in section (1) of this rule. **Such The service connection charge shall may** not include the cost or installation of the meter, **except when the cost has been approved for inclusion in the service connection charge and is included in the water utility's tariffs or statement of rates, whichever is applicable.** ~~Service connection charges must be applied in a nondiscriminatory manner nor exceed the threshold level established in OAR 860-036-0030. The meter is not considered to be a component of the service connection.~~

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

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

~~(a) Circumstances exist that cause the service connection to be nonstandard;~~

~~(b) Such charge is based on actual cost and is reasonable; and~~

~~(c) The water utility and the customer will must agree on the amount of the charge prior to actual installation. If an amount cannot be agreed upon, the customer may initiate a dispute resolution process.~~

~~(5) The water utility shall bears the burden of proof to justify that the charge in excess of the threshold for the service connection is necessary, reasonable, and at actual cost based.~~

~~(6) Any connection longer than the width of the street, or public highway, or the width of a privately granted easement, located adjacent to the customer property will not be considered a service connection but will be treated as a main line extension. See OAR 860-036-0065.~~

~~(7) The customer shall must furnish and install the necessary parts and materials to make the connection from the customer's premises to the water utility's service connection. This line is the "customer's service line at the customer property line. Such installation shall be designated as the "customer service line." The customer shall owns the customer service line, and must maintain, repair, and replace the customer service line when it as needed.~~

~~(8) A customer service line shall must extend to that point on the customer's property line of easiest access to the water utility from its distribution system, or requiring the least extension of the system. In any case, where a reasonable doubt exists as to the proper location for the customer service line, the water utility should be consulted and a location agreed upon. If agreement cannot be reached, the water utility and customer shall may pursue dispute resolution pursuant to OAR 860-036-0025.~~

~~(9) All construction and installation of water service connections shall must comply with all applicable rules, regulations, codes, and best practices and standards of the water industry.~~

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

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

**860-036-0065****Installation of Main Line Extension**

(1) A water utility ~~shall~~**must** develop a ~~Commission-approved~~ uniform policy governing main line extensions and applicable charges~~the amount of main extension and applicable charges that will be made to connect a new customer.~~

(2) Customers may be required to pay a reasonable, cost-based charge for any necessary main line extension to provide water service. The main line extension policy and charges must be:

(a) Included in the water utility's rate schedules and rules and regulations; or

(b) For rate-regulated water utilities, filed as tariffs and approved by the

Commission. These main line extension policy shall**must** be related to the investment that can prudently be made for the probable revenue.

~~(23) Customers may be required to pay a reasonable, cost-based charge for any necessary main line extension to provide a service connection in accordance with the water utility main line extension policy. If the main line extension is required at the request of a potential customer to receive service, the cost of the extension must comply with the water utility's main line extension policy.~~

(4) Upon request by a customer or the Commission, the water utility must provide a written breakdown of all costs associated with the main line extension. The breakdown must include all materials and labor necessary for the construction and installation, and explain how the customer's proportional cost was calculated.~~Such policy and charges must be filed as tariffs with the Commission or be included in the water utility's rules, whichever is applicable.~~

~~(35) Each water utility shall~~**must** establish a main line extension policy that includes the following:

(a) Schedule of cost-based charges;

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

(c) Time period during which advance and rebate provisions will be in effect.

~~(46) All main line extension policies shall~~**must** be applied uniformly among the water utility's customers ~~and must be on file with the Commission, if required, or contained within the water utility's rules and made available to the public.~~

~~(57) All construction and installation of main lines and extensions shall~~**must** comply with all applicable rules, regulations, codes, and best practices and standards of the water industry.

~~(67) The water utility will~~**must** restore the surrounding area disturbed during utility construction or installation to its previous or better condition. The customer has the burden of demonstrating that the area has not been restored to its previous or better condition.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02

**860-036-0075****Interruption of Service**

(1) A water utility ~~shall~~**must** 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, and approximate number of customers affected.~~

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

(3) Each water utility ~~shall~~**must** make all reasonable efforts to notify every customer affected in advance of any scheduled work that will interrupt **water** service, ~~but such~~ **Notice shall** ~~is~~ not ~~be~~ required ~~in case of~~ **when the** interruption **is** due to emergency repairs or for repairs or maintenance work that results in an interruption of less than five minutes. All scheduled interruptions ~~shall~~**must** be ~~made~~ at a time causing minimum inconvenience to customers. ~~In determining reasonable notice, the water 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 requirements are found in OAR 860-036-0305(6).~~ Notice **options include:** ~~may be given in writing, either via US mail or~~

**(a) At least a 2-calendar-day advanced notice if providing notice by** a door hanger on the affected premises, ~~or by~~ **personal** contact with the customer or an adult at the ~~premises residence by personal visit,~~ or by telephone; **or**

**(b) At least a 5-business-day advanced notice if providing written notice by US Mail. The notice must be delivered at least 5 business days prior to the service interruption. Notice by US Mail is complete on the day after the date of the US postal service postmark or postage metering.**

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 16-2003, f. & cert. ef. 10-1-03; PUC 16-2004, f. & cert. ef. 12-1-04

**860-036-0080****Refusal of Water Utility Service**

(1) A water utility may refuse to provide service to ~~an~~ **customer or** applicant until ~~it~~ **the water utility** receives full payment of any overdue ~~amount of an~~ **charge per** Oregon tariffed or ~~statement of rates~~ **price-listed charge and any other like obligation related to a prior account** except as provided in section (2). ~~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.~~

(2) When a residential customer whose service was involuntarily terminated applies for service within 20 calendar days of the termination or the applicant has made reasonable partial payment on the account during the time service was disconnected, a water utility must provide service to the residential applicant or customer upon receipt of payment equal to at least one-half of any charges per Oregon tariff or statement of rates related to a prior account, except deposits which must be paid in full.

(a) The customer must pay the balance of the amount owed to the water utility within 30 calendar days of the date service is initiated.

(b) The water utility may disconnect service after providing a five-business-day notice to the customer if the customer fails to pay the balance of the amount owed. The disconnection notice must contain the information in OAR 860-036-0207, except subsection (5)(d).

(3) Section (2) of the rule does not apply to residential customers or applicants who were disconnected for theft of service.

~~(24) If water service is disconnected for failure to comply with the payment terms set forth in section (12)(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 charge or statement of rates charge price-listed charge and any other like obligation related to a prior account, including any reconnection fee, late payment fee, and past due bill.~~

~~(35) 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 (12)(a) of this rule during the time the overdue balance was incurred; and~~

~~(c) The residential customer described in subsection (12)(a) of this rule will reside at the location to be served under the new application.~~

(6) If the water utility refuses water service under sections (1), (2), (3), (4), or (5) of this rule, the water utility must inform the customer or applicant of his or her right to dispute resolution through the Commission's Consumer Services Section. The water utility must provide the customer or applicant with the Commission's Consumer Services Section's toll-free telephone number and addresses shown in OAR 860-036-0025.

~~(47) Any water utility shall must refuse to provide service if:~~

~~(a) A customer's or applicant's facilities do has not complied with state and municipal codes and regulations governing water service and with the rules and regulations of the water utility; or,~~

~~(b)(5) A water utility shall refuse to serve a customer or applicant, if, i~~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. In the case of a dispute, the water utility has the burden of proof. The water utility must demonstrate to the Commission's satisfaction that the customer's or applicant's facilities are not safe.



**(68)** If service is refused according to subsection (7)(b) of this rule, the water utility ~~shall~~**must** provide the customer or applicant a written notification letter of refusal within 10 ~~working~~**business** days ~~to the customer or applicant of the reasons for refusal and of the Commission's complaint process.~~ A copy of the ~~notice~~**letter** ~~shall~~**must** also be sent to the Commission's Consumer Services Section unless service was refused for nonpayment. At a minimum, the letter must include the following:

- (a) The date;
- (b) The name, address, and telephone number of the water utility;
- (c) The name and address, and service address if different, of customer or applicant being refused service;
- (d) An explanation of the reason(s) for the refusal;
- (e) A statement informing the customer or applicant that he or she may request the details upon which the water utility's decision was based;
- (f) The specific codes, regulations, or rules that the customer's or applicant's facilities violate;
- (g) A description of specific improvements to the customer's or applicant's facilities that are necessary in order to receive water service;
- (h) A statement that the customer or applicant may challenge the water utility's refusal of service through the Commission's dispute resolution process; and
- (i) The Commission's Consumer Services Section's toll-free telephone number and addresses shown in OAR 860-036-0025.

**(79)** A water utility ~~shall~~**must** ~~refuse to provide service 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 water service requested.

**(10)** If a water utility refuses to provide water service per section (9) of this rule ~~on the grounds of inadequate facilities or water resources~~, the water utility ~~shall~~**must** provide the customer or applicant with a written letter of refusal within 10 business days of receipt of the application, ~~a~~**A** copy of the letter of refusal ~~which shall~~**must** be sent to the Commission's Consumer Services Section. At a minimum, T~~the~~ letter must include the following:

- (a) The date;
- (b) The name, address, and telephone number of the water utility;
- (c) The name and address of customer or applicant being refused service;
- (d) An explanation of the reasons ~~Provide the reason~~ for the ~~refusal;~~
- (e) A statement i~~n~~**forming** the customer or applicant that he ~~or~~ 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);
- (ef) When~~If~~ capacity does not exist, provide ~~the estimated costs to provide capacity for the customer or applicant; and~~
- (dg) A statement that ~~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 ~~per~~ OAR 860-036-0025; and

**(h) The Commission's Consumer Services Section's toll-free telephone number and addresses shown in OAR 860-036-0025.**

**(11) In the case of a dispute when a water utility refuses service per section (9) of this rule, the burden of proof is on the water utility. The water utility must demonstrate to the Commission's satisfaction that its facilities are inadequate or it does not have capacity to render the service requested by the customer or applicant.**

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.035, 757.225

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 22-2002, f. & cert. ef. 9-9-02; PUC 18-2003, f. & cert. ef. 10-6-03; PUC 21-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PUC 8-2004, f. & cert. ef. 4-9-04

### **860-036-0095**

#### **Annual Fees Payable to the Commission by a Water Utility**

(1) On statement forms prescribed by the Commission, each water utility must provide the requested information for the subject year.

(2) Each water utility must pay to the Commission:

(a) A minimum annual fee of \$10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based. The annual fee rate will not exceed 25 hundredths of one percent (0.25 percent) of the Oregon revenue during the prior calendar year.

(b) A late statement fee in accordance with OAR 860-001-0050, if the Commission has not received the **water** utility's statement form, completed in compliance with section (1) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the **water** utility.

(3) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(4) For any year in which a water utility's statement form was due, the Commission may audit the **water** utility as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the **water** utility has underreported its subject revenues, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the **water** utility has overpaid its annual fee, the Commission may, at its discretion, recompense the **water** utility with a refund or a credit against annual fees subsequently due.

Stat. Auth.: ORS 183 & 756

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 11-1999, f. & cert. ef. 11-18-99; PUC 15-2003, f. & cert. ef. 7-24-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04

### **860-036-0097**

#### **Estimated Annual Fees Payable to the Commission by a Water Utility**

(1) For any year in which a ~~waste~~water utility fails to file a completed statement form, the Commission may determine a proposed annual fee based upon any information available to the Commission. The proposed annual fee must:

- (a) Include a penalty fee for failure to pay as required by ORS 756.350;
- (b) Include a late statement fee in accordance with OAR 860-001-0050; and
- (c) Be made no later than three (3) years after the statement form's due date.

(2) The Commission will provide written notice of the proposed annual fee to the ~~waste~~water utility.

(3) Within 30 calendar days after service of the notice of proposed annual fee, the ~~waste~~water utility may file a petition with the Commission for a hearing. In its petition, the water utility must specify its reasons for disputing the proposed annual fee. The Commission may conduct a hearing on the petition under its rules governing hearings and proceedings.

(4) If the ~~waste~~water utility has not filed a petition by the end of the 30-calendar-day period, the proposed annual fee is due and payable.

(5) During the 30-calendar-day period allowed for filing a petition, the ~~waste~~water utility may file its completed statement form and pay the annual fee, penalties, and late statement fee. The Commission will accept the statement form, fees, and penalties in accordance with the original due date for that year's statement form and payment.

Stat. Auth.: ORS 183, 192, 756 & 757

Stats. Implemented: ORS 756.040, 756.310, 756.320 & 756.350

Hist.: PUC 15-2003, f. & cert. ef. 7-24-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04

### **Water Meters and Billing**

#### **860-036-0105**

##### **Use of Water Meters**

(1) Water utilities must keep a record of each meter owned and used by the water utility for any purpose. Water utilities are required to record the following information for all meters installed on or after January 1, 2012:

- a) The meter identification number;
- b) The date of purchase;
- c) The name of manufacturer;
- d) The meter serial number;
- e) The type of meter;

**f) The meter rating;**

**g) The name and address of the customer premises where the meter is located;**  
**and**

**h) The location of meter.**

(2) Unless otherwise authorized by the Commission, **the water utility owns** each water ~~meter~~**utility will own, and must** maintain, ~~and~~ operate, **repair, and replace all equipment**~~them as~~ needed to regulate and measure water to its customers.

(3) When the water utility furnishes additional meters or relocates meters **at the customer's request** for the customer's convenience, the water utility ~~may~~**must** ~~make~~**assess** a reasonable, **cost-based** charge ~~for such meters and installation.~~ **The water utility bears the burden of proof that the customer charge for an additional or relocated meter is a reasonable, cost-based charge.**

(24) ~~No~~**A** water utility ~~shall~~**may not** charge **a fee, including a rental fee,** for furnishing, installing, or maintaining any meter or other appliance for measurement purposes except by the Commission's permission, or as provided in OARs 860-036-0060, ~~and~~**OAR** 860-036-0070, **and section (3) of this rule.**

(3) ~~If the Commission determines that refunds are appropriate, the amount paid shall be refunded to the customer by allowing a credit of one-half of the monthly bill until the amount has been paid, provided such refund payments do not run for more than three years from the date when the refund began.~~

~~4) No rental fee shall be charged by any water utility for any meter or appliance installed by the water utility and used as a basis for the rendering of bills, except when an additional meter or appliance is requested by the customer for his/her convenience.~~

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

(6) **A water utility may not**~~No water utility shall~~ use prepayment meters except in special cases or for clearly defined special classes of service authorized by the Commission.

(7) If damage ~~results~~ to the meter **results** from tampering or **willful neglect**~~negligence~~ by the customer, the water utility ~~shall~~**must** repair or replace the meter and ~~may~~**must** bill the customer for the reasonable cost. **The water utility bears the burden of proof that the charge for meter repair or replacement is due to tampering or willful neglect by the customer and is reasonable.**

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.250

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

**860-036-0110****Testing Water Meters**

(1) All meters ~~shall~~**must** be tested before installation, or within 30 **calendar** days thereafter. **A meter must not**~~No meter will~~ be placed in service or be allowed to remain in service **that if it** has an error in registration in excess of 2 percent under conditions of normal operation. The water utility may seek a waiver of this requirement under OAR

860-036-0001(1) if it can demonstrate to the Commission's satisfaction ~~of the Commission~~ a suitable random sampling technique for testing new meters.

(2) New meters, repaired meters, and meters that have been removed from service **shall must** be correct to within 2 percent fast or slow before being installed or reinstalled.

(3) Each water utility **shall must** adopt schedules for periodic tests and repairs of meters. The length of time meters may be allowed to remain in service before receiving periodic tests and repairs is to be determined from periodic analysis of the accuracy of meters tested. The schedules adopted ~~shall be~~ subject to the Commission's approval.

(4) Whenever any meter is tested, the water utility **shall must** prepare a test record, including the information needed for identifying the meter, the reason for making the test, the reading of the meter, the result of the test, and all data taken at the time of the test in complete form to permit the convenient checking of methods employed. The water utility **shall must** retain the current and immediately prior test records for all meters tested.

(5) Each water utility **shall must** provide a means to perform such laboratory meter testing equipment and other equipment and facilities as needed to make the required tests ~~required of it by~~ these rules or ~~other~~ orders of the Commission. The apparatus and equipment necessary to perform the required tests ~~so provided~~ may be subject to the Commission's approval.

(6) All meters used for measuring the quantity of water to a customer **shall must** be in good working condition. They **shall must** be adequate in size and design for the type of service measured and **shall must** be accurate to register no more than 2 percent fast or slow under conditions of normal operation. The water utility is responsible for repairing or replacing inaccurate or substandard meters at its own cost. Any ~~such~~ repair or replacement **will must** be completed promptly at the water utility's expense and, until ~~such~~ completion, the customer water service bill must be adjusted to compensate for the inaccuracy.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.250

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02

## 860-036-0115

### Customer Requested Meter Test

(1) Any customer may ask the water utility to test the water meter used to measure the customer's service. The water utility ~~shall must perform~~ **make** such test at no cost to the customer within 20 ~~working~~ business days of the request, unless access to the meter cannot be obtained during that time period at no cost to the customer.

(2) If a customer requests more than one meter test within any 12-month period, the water utility ~~may~~ **must** charge the customer to recover the reasonable cost of ~~such~~ the test ~~unless. The water utility may not charge the customer if~~ the meter is found to register outside the 2 percent accepted tolerance standard under normal operating conditions. The charge for performing an additional meter test within a 12-month period must be included in the water utility's tariffs or statement of rates. The charge must be applied nondiscriminately.

(23) A customer or a designated representative ~~shall have~~has the right to be present at any meter test. The test ~~shall~~must be conducted at a mutually acceptable time during regular business hours, unless other reasonable arrangements are agreed to by both the customer and the water utility.

(34) The water utility must provide a written report to the customer within 10 ~~working~~business days from the date of the meter test showing the customer's name, the request date, the address where the meter is installed, the meter's identification number, the date tested, and the test result.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 16-2003, f. & cert. ef. 10-1-03; PUC 20-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04

### 860-036-0120

#### Meter Readings and Bill Forms

(1) Every water utility providing metered service ~~shall~~must indicate clearly on the meter the units of service for which the charge is made to the customer, except when automatic meter reading systems preclude such facilities.

(2) All water service bills ~~shall~~must show the beginning and ending meter readings for the period the bills are rendered, the date of the meter readings, the number of units of service supplied clearly stated (gallons or cubic feet), the schedule number under which the bill was computed, and any other information needed to compute the bill. Each bill ~~shall~~must bear on its faceclearly state on the first page the delinquent date of the bill and the water utility's telephone number. When there is good reason for so doing, estimated bills may be submitted. Any estimated reading ~~shall~~must be clearly designated ~~as such~~ on the bill.

(3) As a matter of general practice, all service meters ~~shall~~must, as nearly as possible, be read at monthly intervals on the corresponding day of each meter reading period. Meters may be read at other than monthly intervals, if designated as such in the tariffs or rules and regulations, whichever is applicable~~the Commission is given notice and does not object to the water utility's meter reading proposal. If the water utility reads meters at other than monthly intervals, T~~the water utility shallmust annually provide each customer a written statement that explains the disadvantages of having the meter read and billed less often than monthly. If at any time the Commission determines that circumstances warrant, a water utility may be required to return to monthly meter reading.

(a) When access to a meter is difficult due to the meter location or other circumstance, the water utility ~~shall~~must seek the customer's cooperation in obtaining monthly meter readings (for example, having the customer complete and return a meter reading form). Any customer reading ~~shall be~~is subject to actual verification by the water utility not less than once every four months;

(b) Each customer ~~shall~~must provide the water utility with regular access to the meter on the customer's property. Failure to permit the water utility access at reasonable

times and after reasonable written notice of requested access is grounds for disconnection.

(4) Upon written request by the customer, the water utility must provide routine meter reading information on the day of the meter reading. The meter reader must leave with the customer or on the customer's meter a card indicating the date and time the meter was read and the actual meter reading. ~~Upon written request by a customer, the water utility shall cause the meter reader, when the customer's meter is read, to leave on such meter or with such customer, a card showing the actual meter reading and the date and time such reading was made.~~

(5) Water utilities ~~shall~~must make reasonable efforts to prepare opening and closing bills from actual meter readings except when conditions prevent meter access and estimated billings are used.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.250

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 7-2004, f. & cert. ef. 4-9-04

#### 860-036-0125

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

(1) Each water utility ~~shall~~must 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 calendar 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 utility may not disconnect residential service for non-payment if a customer enters into a written time-payment plan. A water 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 utility periodically. If necessary, due to changing rates or variations in the amount of service used by the customer, 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 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 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 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 water utility service. If a customer changes 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 utility provides service at the new address.~~

~~(5) The water utility and customer may agree in writing to an alternate payment arrangement, provided the water 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 time-payment agreement, the water utility may disconnect service after serving a 15-day disconnect notice. The notice shall comply with OAR 860-036-0245, 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 183, 756 & 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 16-2003, f. & cert. ef. 10-1-03; PUC 16-2004, f. & cert. ef. 12-1-04

### **860-036-0128**

#### **Time Payment Agreements for Residential Water Service**

**(1) A water utility may not disconnect residential service for nonpayment if the customer enters into a written time-payment plan. A water utility must offer the customer a choice of payment agreements. At a minimum, the customer may choose between a levelized payment plan and an equal-pay arrearage plan.**

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

**(a) The water utility must review the monthly installment plan periodically. If needed, due to changing rates or variations in the amount of service used by the customer, the installment amount may be adjusted to bring the account into balance within the time specified in the original agreement;**

**(b) When a customer changes his or her service address at any time during the period of a time-payment agreement, if the payments are then current and the customer pays other tariff charges associated with the change in residence, the water utility must recalculate the customer's deposit or monthly installment. The recalculated amount must 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 must pay all past-due**



installments and any other applicable charges before service is provided at the new residence.

(3) A customer who selects an equal-pay arrearage plan must pay a down payment equal to one-twelfth the amount owed for past water 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), and then 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 utility service. If a customer changes his or 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 utility provides service at the new address.

(4) The water utility and customer may agree in writing to an alternate payment arrangement, provided the water utility first informs the customer of the availability of the payment terms in sections (2) and (3) of this rule.

(5) If a customer fails to abide by the time-payment agreement, the water utility may disconnect service after serving the customer a 15-calendar-day notice. The notice must comply with all provisions of OAR 860-0036-0207 except subsection (5)(d).

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

Stats. Implemented: ORS 756.040

Hist.: NEW

#### 860-036-0130

##### Late-Payment Charge

(1) Except as provided in section (2) of this rule, if a water utility's late payment charge is included in its tariffs or statements of rates, the water utility may apply a late-payment charge to customer accounts not paid in full each month, ~~provided the water utility has filed the late-payment charge in its tariffs or statement of rates.~~

(2) The late-payment charge ~~will~~must 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.

(3) For rate-regulated water utilities, ~~t~~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 rate-regulated water utilities of the changes in the rate they may use to determine late-payment charges on overdue customer accounts as needed.

(4) The current late-payment rate and the conditions for its application to customer accounts shall~~must~~ be specified on the water utility bill.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 4-2001, f. & cert. ef 1-24-01

## Disconnection of Water Service

### 860-036-0205

#### Grounds for Disconnecting Water Utility Service

Water utility service may be disconnected:

- (1) When the applicant or customer fails to pay a deposit or make payments in accordance with the terms of a deposit payment arrangement.~~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 860-036-0045); or~~
  - ~~(b) Providing false identification or verification of identity.~~
- (2) When the applicant or customer provides false identification to establish service, continue service, or verify identity.
- (3) When the customer fails to pay charges due for services rendered under an Oregon tariff or statement of rates.
- (4) When the customer fails to abide by the terms of a time-payment agreement.
- (5) When the customer requests the utility to disconnect service or close an account.
- (6) When a remaining customer from a joint account fails to place service in his or her name within 20 calendar days after the leaving co-customer discontinues service in the leaving co-customer's name, as long as the utility has provided a notice of pending disconnection to the remaining customer.
- (7) When facilities provided are unsafe or do not comply with state and municipal codes governing service or the water utility's rules and regulations; or
- (38) When the customer does not cooperate in providing reasonable access to the meter (OAR 860-036-0120) or necessary inspections of the premises. 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 utility to disconnect service or close an account (OAR 860-036-0210) 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 utility has provided a notice of pending disconnection.~~
- (59) When dangerous or emergency conditions exist at the service premises (OAR 860-036-0215).
- ~~(6) For failure to pay Oregon tariffed rates, or applicable statement of rate charges, due for services rendered.~~
- ~~(710) For meter-tampering, diverting service, or other theft of service.~~
- (11) When the customer fails to install a required back flow prevention device or comply with the water utility's cross connection control program.
- (812) When the Commission approves the disconnection of service.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.035, 757.225, 757.760

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98

**860-036-0207****Disconnection Procedures for All Customers of Water Utility Services**

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

**(2) Notice Requirements:**

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

**(b) Before a water utility disconnects water service due to a customer's failure to abide by a time-payment agreement, the water utility must provide the customer with a written 15-business-day disconnect notice and a written five-business-day disconnect notice;**

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

**(3) The water utility must 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.**

**(a) If the disconnect notice is delivered by US Mail, service is complete on the day after the date of the US postal service postmark or postage metering; or**

**(b) If the water utility delivers the disconnect notice to the premises, the water utility must attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the water utility must leave the disconnect notice in a conspicuous place at the premises and mail a copy of the disconnect notice to the last known mailing addresses of the customer and the customer's designated representative.**

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

**(a) The disconnect notice must comply with OAR 860-036-0235 concerning multilingual requirements and service on any designated representative; and**

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

**(5) The disconnect notice must be printed, written using plain language, and state the following:**

**(a) The reasons for the proposed disconnection;**

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

**(c) The earliest date for disconnection;**

**(d) For residential accounts, an explanation of the time-payment agreement provisions of OAR 860-036-0125;**

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

(f) A statement that service may be reconnected after the customer or applicant has requested reconnection, paid all applicable charges, submitted necessary credit information, and has satisfied all requirements for service; and

(g) A statement that reconnections may be performed during or after normal business hours, and the customer may be charged a reconnection fee at the applicable rate.

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

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

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

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

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

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

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

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

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

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

Stats. Implemented: ORS 756.040, 757.225, & 757.760

Hist.: NEW

## 860-036-0210

### Voluntary Disconnection

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

(2) When one co-customer discontinues service in his or her name, the remaining customer retains customer status as the remaining customer by providing the utility a written request to place service in only the remaining customer's name within 20 calendar days of the leaving co-customer's discontinuing service in the leaving co-customer's name

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

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

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 18-2003, f. & cert. ef. 10-6-03

### **860-036-0215**

#### **Emergency Disconnection**

A water utility may terminate service in emergencies endangering life or property without following the procedures set forth in OAR 860-036-024507. ~~However, t~~The water utility shall must immediately ~~thereafter~~ notify the affected customers and the Commission. ~~In such cases, w~~When the necessity for emergency termination was through no fault of the customer, the water utility will may not ~~make a~~ charge to restore service.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.035

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98

### **860-036-0220**

#### **Disconnection of Service on Weekends and Holidays**

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

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.760

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97

### **860-036-0230**

#### **Disconnection of Water Service to Tenants**

(1) If a water utility's records show that a residential billing address is different from the service address, the water utility must provide a duplicate of the five-business-day disconnect notice required under OAR 860-036-024507 to the occupants of the service address in the manner described in OAR 860-036-0245(2)07 unless the water utility has evidence that the service address is occupied by the customer. Serving a notice addressed to "Tenants," as required in OAR 860-036-024507, satisfies this requirement. The notice to occupants need not include the dollar amount owing.

(2) When a water utility's records show that a residence is a master-metered multi-unit dwelling (including rooming houses), the water utility must notify the Commission's Consumer Services Division~~Section~~ at least five business days before disconnecting the

service. The water utility **will must** use reasonable efforts to notify occupants of the impending disconnection and alternatives available to them.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.760

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02

### **860-036-0235**

#### **Multilingual Disconnection Notice**

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

IMPORTANT NOTICE: Your water services will be shut off because of an unpaid balance on your 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) The Commission may grant a waiver of the multilingual notice requirement under OAR 860-036-0001(1), for a period not to exceed two calendar years, if the water utility shows that:

- (a) For a water utility with less than 50,000 customers, less than 5 percent of its Oregon customers would benefit from such notice, or
- (b) For a water utility with 50,000 or more customers, less than 500 of its Oregon customers would benefit from such notice.

The water utility may request a waiver of the multilingual notice every two years.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98

### **860-036-0240**

#### **Reconnection Fee**

When ~~a water utility~~ service is disconnected ~~pursuant to per~~ OAR 860-036-024507 or 860-036-0250, the water utility may charge ~~a cost-based~~ the reconnection fee **that is included** in its tariff or **listed** in its statement of rates, **whichever is applicable**.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.225

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 18-2003, f. & cert. ef. 10-6-03

**860-036-0241****Reconnection of Residential Water Service**

**(1) This rule applies to service reconnection requested within 20 calendar days of the date of disconnection, after an applicant or customer has satisfied the requirements for service under all applicable rules and regulations, and requested reconnection.**

**(2) Each water utility must provide a means by which a customer or applicant may contact the water utility during normal business hours to request a service reconnection. For purposes of this section of this rule, normal business hours are Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding state-recognized holidays.**

**(3) The water utility must offer normal and after-hours reconnection. Each water utility must establish reasonable hours during which it will reconnect water service during normal business hours and after normal business hours. The water utility must post its reconnection hours and the state-recognized holidays in plain view in the water utility office.**

**(4) The water utility must reconnect water service after the customer or applicant has requested reconnection, paid all applicable charges, provided necessary credit information, and satisfied all requirements for service.**

**(5) For water service that has been disconnected per OAR 860-036-0205, the water utility must reconnect service as soon as reasonably possible, within the normal course of business, but no later than 5:00 p.m. of the next calendar day, except on state-recognized holidays, unless other arrangements are agreed to between the customer or applicant and the water utility.**

**(6) For water service that has been involuntarily disconnected per OAR 860-036-0215, service must be reconnected per section (3) of this rule. If the necessity for emergency termination was through no fault of the customer, the water utility must reconnect at no charge to the customer.**

**(7) Reconnection of service following an interruption of service must comply with the requirements of OAR 860-036-0075.**

**(8) The water utility may petition the commission for a temporary waiver of the requirements in this rule for any cause not reasonably within the control of the water utility including, but not limited to, the following:**

**(a) A documented Force Majeure event;**

**(b) An action or default by an applicant, customer, or other person outside of the water utility's control, including a cancellation of the request made by the applicant or customer;**

**(c) Major events, such as storms or system outages;**

**(d) Safety-related issues that preclude the water utility from reconnecting service;**

**(e) The applicant's or customer's facilities not being accessible due to circumstances beyond the water utility's control;**

**(f) The water utility's equipment or facilities prevent the reconnection from occurring; or**

**(g) The Commission approval of a waiver.**

Stat. Auth.: ORS Ch. 183 & 756  
Stats. Implemented: ORS 757.040  
Hist.: NEW

860-036-0242

Field Visit Charge

A water utility may assess a field visit charge whenever the water utility visits a residential service address intending to reconnect or disconnect service, but due to customer action, the water utility is unable to complete the reconnection or disconnection at the time of the visit. The field visit charge must be included in the water utility's tariffs or statement of rates, whichever is applicable.

Stat. Auth.: ORS Ch. 183, 756 & 757  
Stats. Implemented: ORS 756.040 & 757.225  
Hist.: NEW

860-036-0245

Disconnection Procedures for All Customers of Water Utility Services

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

~~(2) Notice Requirements:~~

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

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

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

~~(3) The water utility may serve the notice of disconnection in person or send it by first class mail to the last known addresses of the customer and the customer's designated representative. Service is complete on the date of mailing or personal delivery. If notification is made by delivery to the residence, the water utility shall attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the water utility shall leave the notice in a conspicuous place at the residence.~~

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

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

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



~~"Important notice regarding disconnection of utility service," or words to that effect.~~

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

~~(a) The reason for the proposed disconnection;~~

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

~~(c) The earliest date for disconnection;~~

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

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

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

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

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

~~(9) On the day that the water utility expects to disconnect service and prior to disconnection, the water utility must make a good faith effort to personally contact the customer or an adult at the residence to be disconnected.~~

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

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

~~(10) Where personal contact is made by a water utility under this rule, and the circumstances are such that a reasonable person would conclude that the customer does not understand the consequences of disconnection, the water utility must:~~

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

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

~~(11) When personal contact is made by the water utility under this rule, the representative of the water utility making contact shall be authorized to accept reasonable partial payment of the overdue balance in accordance with the time-payment provisions.~~

~~(12) A water utility must document its efforts to provide notice under this rule and shall make that documentation available to the customer and the Commission upon request.~~

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

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

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 18-2003, f. & cert. ef. 10-6-03

**860-036-0249****Unapproved Diversion of Water Service Due to a Connection, Device, or Other Means of Changing the Water Usage Specified in the Application**

**(1) Application for water service must be made for each individual service. The application must identify the applicant, the premises to be served, the billing address if different from the service address, and the type of use. A customer is prohibited from installing any tree or branch connection in the service pipe. Tandem service is not permitted unless stated in the customer's application and approved by the water utility.**

**(2) A customer may not change the type of water use or use any means to divert or draw any water from its stated use in the application. A customer may not install any device or make any connection that allows water to be served to any other property or premises without prior approval from the water utility.**

**(3) If the water utility discovers evidence that any connection, device, or other means has been used to divert water, the water utility must provide the customer with written notice of the discovery. The notice must inform the customer that:**

**a) The device, connection, or other means of diversion must be removed or corrected within 10 calendar days and that the customer may be billed for any base rates that should have been incurred and any estimated water consumption not properly applied for; or**

**b) The customer must file a new application for change of use and the customer may be billed for any base rates that should have been incurred and any estimated water consumption not properly applied for.**

**3) The water utility must mail or hand deliver the written notice within three calendar days of making the discovery as stated in section 1 or 2 of this rule.**

**4) If the connection, device, or other means of diversion is not removed or corrected within the 10 calendar days permitted, the water utility must give the customer a five-business-day disconnect notice for obtaining water through fraud or subterfuge per OAR 860-036-0205. The notice must be served in the same manner described in OAR 860-036-0207.**

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

**Stats. Implemented: ORS 756.040 & 757.225**

**Hist.: NEW**

**860-036-0250****Unapproved Diversion of Irrigation Water by Tampering with or Damaging Water Utility Equipment**

**(1) A customer may not tamper with or damage ~~water~~-utility equipment in order to divert irrigation water flow ~~without written permission of the water utility~~.**

**(2) If the water utility's equipment is tampered with or damaged by a customer, it the water utility may take any of the following actions:**

**(a) Replace or repair the equipment and require the customer to reimburse the water utility for the ~~actual~~-reasonable cost to replace or repair.**

**(b) Require the customer to pay a reconnection fee ~~in compliance with~~per OAR 860-036-0240.**

(c) Require the customer pay a deposit up to \$250 for the restoration of irrigation service. The payment of this deposit ~~will be made in~~ must comply ~~iance~~ with OAR 860-036-0045(4) and OAR 860-036-0055(4).

(d) For repeat offenses, require the customer to pay an additional deposit of \$250. ~~Notwithstanding the requirements Except as described in~~ OAR 860-036-0045, ~~no~~ an installment payment plan ~~will be~~ is not available to the customer to restore services. ~~Such~~ This additional deposits must be ~~made~~ paid in full immediately at the time irrigation service is restored.

(e) Refuse irrigation service to the customer ~~pursuant to~~ per OAR 860-036-0080.

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

Stats. Implemented: ORS 756.040, 757.105, 7757.120, 7757.125, 7757.135

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

### Service Quality

#### 860-036-0305

##### Maintenance and Repair of Plant and Equipment

(1) A water utility ~~will~~ shall ~~must~~ have and maintain its entire plant and system in such condition that it ~~will~~ furnishes safe, adequate, and reasonably continuous service.

(2) A water utility ~~will~~ shall ~~must~~ inspect its plant, distribution system, and facilities in such manner and with such frequency as necessary to ensure a reasonably complete knowledge about the condition and adequacy of the entire system at all times.

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

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

(a) Provide ~~prior~~ an annual notice or at least a five-business-day advanced ~~notification~~ to the customers of all routine (nonemergency) flushings. The notice must include:

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

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

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

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

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

**(a) For planned maintenance or repairs that will interrupt service for more than 5 minutes, the water utility must notify all affected customers. Notice options include:**

**(A) At least a 2-calendar-day advanced notice if providing notice by a door hanger on the affected premises, personal contact with the customer or an adult at the premises, or telephone; or**

**(B) At least a 5-business-day advanced notice if providing written notice by US Mail. The notice must be delivered at least 5 business days prior to the service interruption. Notice by US Mail is complete on the day after the date of the US postal service postmark or postage metering.**

**(b) The notice must include:**

**(A) The date, time, and approximate duration of the planned maintenance or repair; and**

**(B) A statement warning customers that water service will be interrupted during that time.**

**(C) A statement cautioning customers to avoid using water during the time the water is turned off to prevent debris in the customers' service lines.**

**(D) The Commission's Consumer Services Section's toll-free telephone number and addresses as shown in OAR 860-036-0025.**

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

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

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

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

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

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

(9) The water utility ~~shall~~**must** make repairs in a timely manner. In case of a dispute, the Commission will determine the reasonable amount of time necessary to make the repair. ~~If the water utility repair is determined to have taken longer than reasonably necessary, the water utility shall provide affected customers with service credits according to OAR 860-036-0330.~~

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

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 22-2001(Temp), f. & cert. ef. 9-26-01 thru 3-24-02; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

**860-036-0315****Adequate Water Pressure Required**

(1) The standard for all water pressure is adequacy as determined by the Commission.

(2) As used in this rule, "customer" means an individual residential dwelling or commercial unit served by the water utility.

(3) Except as provided in section (7) of this rule, each water utility shall must maintain pressure at a minimum of 20 pounds per square inch (psi) for health reasons to each customer at all times ~~and not exceed a maximum of 125 psi~~. The 20 psi ~~and 125 psi~~ standard ~~is are~~ not presumed to be adequate service and ~~does~~ not restrict the authority of the Commission to require improvements where water pressure or flow is inadequate.

(4) In general, ~~40 psi of~~ water pressure measuring between 45 and 80 psi in the water mains is usually adequate for the purposes of this rule. Adequate pressure may vary depending on each individual water system and its customers' circumstances. In the case of a dispute, the Commission will determine the appropriate water pressure ~~for the water utility on a case-by-case basis~~.

(5) Each water utility shall must maintain permanent pressure recording gauges ~~in good operating condition at various locations that are representative of the entire system's water pressure~~. The water utility will must maintain all pressures gauges in good operating condition, test periodically for accuracy, and recalibrate or replace when necessary. A portable gauge in good working condition shall must be available for checking pressure conditions in any part of the distribution area.

(6) The Commission, either upon its own motion or upon customer complaints may investigate the operations and capacity of the water utility to provide adequate service. When necessary, the Commission may appoint a competent person or entity to monitor a water utility's water pressure at various points throughout the system and test the water utility's recording or measuring devices for accuracy.

(7) Each water utility may temporarily reduce or increase water pressure for fire flows, announced scheduled repairs, emergency repairs, and outages.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.005, 757.020, 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 13-1997, f. & cert. ef. 11-12-97; Renumbered from 860-023-0065; PUC 22-2001(Temp), f. & cert. ef. 9-26-01 thru 3-24-02; PUC 8-2002, f. & cert. ef. 2-26-02

**860-036-0320****Pressure Surveys**

(1) ~~Every water utility shall have permanently-placed pressure gauges located at various locations on main lines and/or distribution lines that are representative of the entire system's water pressures. A portable gauge in good working condition shall be available for checking pressure conditions in any part of the distribution area.~~

~~(2) Any~~ customer may request the water utility ~~to~~ perform a water pressure test. ~~Such~~ The test shall must be made within 20 ~~working~~ business days of the request at no cost to the customer. If a customer requests more than one pressure test within any 12-month period, a deposit to recover the reasonable cost of the additional test may be

required of the customer. The deposit **shallmust** be returned if the pressure is not considered adequate according to OAR 860-036-0315.

(32) A customer or a designated representative ~~shall have~~**has** the right to be present at the water pressure test. The test **shallmust** be conducted at a mutually agreeable time during regular business hours, **unless other reasonable arrangements are agreed to by both the customer and the water utility.**

(4) Pressure tests **shallmust** be performed as follows:

(a) For metered service, the pressure **willmust** be measured at a point adjacent to the meter on the customer service line.

(b) For non-metered service, the pressure **willmust** be measured at the customer service line or hose bibb or other reasonable point likely to best reflect the actual service pressure.

(5) The water utility **shallmust** provide a written report to the customer within 10 **workingbusiness** days after completion of the pressure test showing the name of the customer, the date of the request, the address where tested, the actual test site(s), the date of the test, and the result of the test.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.005, 757.020, 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 13-1997, f. & cert. ef. 11-12-97; Renumbered from 860-023-0070; PUC 8-2002, f. & cert. ef. 2-26-02

## 860-036-0325

### Water Supply

(1) Every water utility **shallmust** exercise due diligence to furnish a continuous and adequate supply of water to its customers.

(2) If a water utility finds that it is necessary to conserve or restrict the customers' use of water, it must provide written notice to its customers and the Commission before ~~such~~**the** restriction becomes effective. ~~Such~~**The** notifications **shallmust** specify:

(a) The reason for the restriction;

(b) ~~The nature and extent of the restriction, for example, on outdoor use of water, use by certain classes of customers, etc.~~ **A detailed description of the restriction being implemented;**

(c) The date ~~such~~**the** restriction is to go into effect; and

(d) The probable ~~end~~ date of ~~termination of such~~**the** restriction.

(3) The Commission may formally or informally investigate the water utility's conservation or water restriction plan either on its own motion or by customer complaint. During or after ~~such~~**an** investigation, the Commission may change or alter the water utility's water conservation or restriction plan as it deems necessary.

(4) During times of water shortage, the water utility **shallmust** equitably apportion its available water supply among its customers with ~~due~~ regard to public health and safety.

**(5) If a customer fails to comply with the water restrictions after receiving written notification of the restrictions from the water utility, the water utility must provide a written letter to the customer restating the restrictions, specifying the customer's water restrictions violations, and warning that failure to immediately comply with said restriction may result in disconnection of the water service.**

**(6) If a customer fails to immediately comply with the restriction after the water utility has sent the warning letter per section (5) of this rule, the water utility may seek Commission approval to disconnect the customer's water service per OAR 860-036-0205(9). The burden of proof is with the water utility to prove that:**

**(a) A water shortage does exist;**

**(b) The customer in violation of the water restrictions was sent a copy of said restrictions;**

**(c) The customer in violation of the water restrictions was sent a warning letter per section (5) of this rule; and**

**(d) The customer continued to violate the water restrictions after receiving the warning letter.**

**(7) The Commission will promptly consider the evidence provided to determine if the situation warrants an emergency disconnect, a five-day disconnect notice, or no action.**

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02

#### **860-036-0340**

##### **Master Plan**

~~A water utility that is required to develop and submit a master plan to the Oregon Health Division pursuant to OAR 333-061-0060(5) shall also submit a copy of such plan to the Commission. All amendments, changes, or updates to the plan shall also be provided to the Commission within a reasonable time period.~~

~~Stat. Auth.: ORS 183, 756, 757~~

~~Stats. Implemented: ORS 756.040~~

~~Hist.: PUC 13-1997, f. & cert. ef. 11-12-97~~

#### **860-036-0350**

##### **Construction, Safety, and Reporting Standards for Water Utilities**

If a water utility engages in the management, operation, ownership, or control of gas pipelines or communication, signal, or electrical supply lines within Oregon, the water utility ~~shall~~**must** comply with the construction, safety, and reporting standards ~~set forth~~ in OAR ~~e~~**C**hapter 860, ~~d~~**D**ivision 024.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.020, 757.035, 757.039

Hist.: PUC 23-2001, f. & cert. ef. 10-11-01

#### **860-036-0360**

##### **Attachments to Poles and Conduits Owned by Public, Telecommunications, and Consumer-Owned Utilities**

Pole and conduit attachments ~~shall~~**must** comply with the rules ~~set forth~~ in OAR ~~e~~**C**hapter 860, ~~d~~**D**ivision 028.

Stat. Auth.: ORS 183, 756, 757, 759

Stats. Implemented: ORS 756.040, 757.270 - 757.290, 759.650 - 757.675

Hist.: PUC 23-2001, f. & cert. ef. 10-11-01

### 860-036-0365

#### Compliance Enforcement by Commission Appointment of Regent(s) to Operate and Manage a Water System

(1) In extreme circumstances when the water utility owner, operator, or representative demonstrates to the Commission's satisfaction an unwillingness, ~~or~~ incapacity, or refusal to effectively operate and manage the water system to provide safe and adequate service to its customers in compliance with Oregon statutes, rules, and standards, the Commission may appoint ~~a~~ regent(s) to operate and manage the water system. ~~This procedure will be accomplished~~ The Commission will enter into ~~under~~ an Interim Operating Agreement with each regent until long-term water provision can be ensured.

(2) ~~The~~ Each regent(s) appointed to operate, maintain, and repair the system must be a certified operator(s) or a qualified water utility(ies).

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

(4) If the Commission authorizes an operating account for receiving and dispersing funds by ~~the~~ a regent(s), a Commission staff member will be a signatory or named on ~~such~~ the account to monitor all transactions.

(5) The regent will ~~must~~ record all transactions in a general ledger and shall ~~must~~ supply a copy of the ledger and bank statement to Commission staff ~~member~~ each month.

(6) At the end of the Interim Operating Agreement, Commission staff will make a final accounting of all monies received and transacted. Disbursement of surplus funds will be determined by the Commission.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.105, 757.120, 757.125, 757.135

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

### 860-036-0370

#### Expenditure of Fees Collected Under ORS 756.310 to Make Emergency Repairs

(1) The Commission may use up to \$5,000 per biennium of the fees collected under ORS 756.310 to make emergency repairs for water utilities. The Commission may expend monies under the provisions of this rule if the Commission determines that:

(a) Customers of a water utility are without adequate service and are likely to remain without adequate service for an unreasonable period of time. Adequate service is determined by the Commission on a case-by-case basis;

(b) The water utility is unwilling or unable to make emergency repairs, or cannot be found after reasonable effort; and

(c) Restoration of the service is necessary for the health and safety of the customers of the water utility.



(2) The Commission **shallwill** promptly attempt to recover fees used under this rule from the **water** utility providing water service. ~~No~~ interest **shallwill not** accrue on the outstanding balance.

(3) The Commission may also recover penalties as provided in ORS 756.350 from the time the fees are expended.

Stat. Auth.: ORS 183, 756 & Ch. 202, OL 2003

Stats. Implemented: ORS 756.040 & Ch. 202, OL 2003

Hist.: PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thur 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04

### **860-036-0380**

#### **Commission-Assessed Civil Penalties for Noncompliance**

(1) In addition to any other penalty provided by law, the Commission may impose a civil penalty not to exceed \$500 for each violation of state statutes, Oregon administrative rules, or Commission orders related to water utilities.

(2) Prior to assessing civil penalties, the Commission may send a warning letter to the water utility by registered or certified mail. The warning letter must include, ~~but not be limited to,~~ the following:

(a) A statement that the water utility is in violation of state statutes, Oregon administrative rules, or Commission orders;

(b) The time allowed for correcting the violation(s); and

(c) A statement that, if the violations are not corrected within the time allowed, staff may make a recommendation to the Commission to assess civil penalties.

(3) The Commission must give notice of civil penalties by registered or certified mail to the water utility incurring the penalties. The notice must include, ~~but is not limited to~~ the following:

(a) The section of the statute, rule, or order violated;

(b) A concise statement of the violation(s) asserted or charged;

(c) A statement of the amount of civil penalties that may be assessed;

(d) A statement of the water utility's right to request a hearing within 20 calendar days of the date of service of the notice; and

(e) A statement of the authority and jurisdiction under which the hearing is to be held.

(4) Within 20 calendar days of the date of service of the notice, the water utility incurring the penalties may request a hearing. ~~Such~~**The** request must be in writing and **shallmust** state what actions, if any, have been made to correct the violation(s) stated in the notice. If the water utility does not request a hearing within the time allowed, or if the water utility requesting a hearing fails to appear, the Commission may issue a final order imposing the penalty.

(5) The Commission may require that penalties imposed under this rule be used for the benefit of the customers ~~of water utilities~~ affected by the violation(s).

Stat. Auth.: ORS 183, 756 & Ch. 202, OL 2003

Stats. Implemented: ORS 183.090, 756.040 & Ch. 202, OL 2003

Hist.: PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thur 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04

### Changes in Regulatory Status

#### 860-036-0405

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

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

- (a) The date;
- (b) The name, address, and telephone number of the water utility;
- (c) A statement that the water utility intends to increase its ~~residential~~water rates and charges;
- (d) The current rates and charges to residential customers;
- (e) The proposed rates and charges to residential customers;
- (f) The date the proposed rates and charges are to become effective (minimum of 60 calendar days);
- (g) The reason(s) the water utility is seeking the change in rates and charges increase;
- (h) A statement informing customers of their right to petition the Commission to request rate regulation that the proposed increase be investigated;
- (i) A statement that all customers may submit petitions to the Commission for 45 calendar days from the date of the customer notice;
- (j) A statement informing customers that if 20 percent or more of total customers file petitions, the water utility will be subject to rate regulation by the Commission;
- (k) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, ~~telephone number,~~ and signature;
- (l) A statement that customer petitions filed with the Commission requesting rate regulation ~~of a water utility~~ may not be withdrawn or rescinded;
- (m) A statement that the water utility will~~must~~ provide a complete customer list within 10 calendar days of a request from any customer; and
- (n) The Commission's toll-free telephone number (~~1-800-522-2404; TTY 711~~) and addresses shown in OAR 860-036-0025. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148

(2) ~~Any water utility that fails to provide the notice required in section (1) of this rule prior to increasing rates or charges above the threshold level shall be required to reduce such rates or charges to threshold levels and provide notification as required in section (1) of this rule. Failure to reduce rates or charges and provide~~

~~notice as required may result in refunds of customer charges, civil penalties, or both.~~

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

~~(4) TAt the same time the water utility sends notice to its customers, it must provide the Commission with a **final** copy of the customer notice and a complete, **and** current customer list including names and addresses.~~

Stat. Auth.: ORS 183, 757, 757

Stats. Implemented: ORS 756.040, 757.750, 757.755

Hist.: PUC 14-1989, f. & cert. ef. 11-3-89 (Order No. 89-1464; PUC 13-1997, f. & cert. ef. 11-12-97; Renumbered from 860-022-0028; PUC 8-1999, f. & cert. ef. 10-18-99; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

### **860-036-0407**

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

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

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

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

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

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

~~(b) A statement that the water utility intends to increase rates and charges;  
I Current customer rates and charges;~~

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

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

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

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

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

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

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

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

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

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

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

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

**Hist.: PUC 18-2003, f. & cert. ef. 10-6-03**

### **860-036-0410**

#### **Relating to Rate Regulation of Water Utility by Customer Petition**

(1) As used in this section, "customer" means individual residential dwellings, irrigation customers, or commercial units served by the water utility. Hotels, motels, and RV parks ~~shall be~~ counted as one commercial customer, except those individuals who use such facilities as a primary residence ~~shall be~~ also counted as customers. Multiple user units including apartment complexes, duplexes, triplexes, condominiums, and town houses are counted as the number of individual units within the building. For example, a duplex is counted as two customers and a 14-unit apartment complex is counted as 14 customers.

(2) ~~Once~~If a water utility ~~has exceeded~~ed a maximum rate threshold ~~per level, as defined in~~ OAR 860-036-0030, and if the Commission did not receive ~~a sufficient~~ petitions ~~from 20 percent or more of the customers to initiate rate regulation~~, the customers may submit ~~a~~ petitions to the Commission at any time ~~fore~~requesting full-rate regulation. Petitioners must be current customers of the water utility. ~~Such p~~etitions are in effect for six months. Petitions older than six months must be resubmitted to the Commission.

(3) Customer Petitions must be in writing, state the purpose of the petition, and include the customer's name, address, ~~telephone number~~, and signature.

(4) Individual customer letters may be submitted in lieu of a petition.

(5) If 20 percent of customers petition the Commission, the water utility will be notified by the Commission, in writing, of its ~~change in~~-status ~~to~~as a rate-regulated water utility.

(6) The water utility must file appropriate tariffs ~~pursuant to~~per ORS 757.205 within 60 calendar days after receiving notification from the Commission of its ~~change in~~ regulatory status.

(7) If the water utility fails to file appropriate tariffs within 60 calendar days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.

(8) Customer petitions filed with the Commission requesting rate regulation ~~of a water utility~~ may not be withdrawn or rescinded.

~~(9) Existing nonpetitioned rates and charges will be deemed interim rates and may be subject to refund during the pendency of the tariff filing application. The period of refund will begin on the date of the notice requiring a tariff filing sent by the Commission, unless the date the water utility began serving 500 customers can be reasonably determined, and end on the issuance date of the Commission order establishing new rates. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers determined by the Commission to be unreasonable, excessive, or not justified by the water utility's cost. At the discretion of the Commission, any such refund may include interest.~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03; PUC 7-2004, f. & cert. ef. 4-9-04

### 860-036-0412

#### Request for Rate Regulation of an Association by Members

~~(1) For purposes of this rule, "association" means any association of individuals that furnishes water to members of the association, even if the association does not furnish water directly to or for the public. This rule does not apply to any cooperative formed under ORS Chapter 62 or to any public body as defined by ORS 174.109.~~

~~(2)~~ Association members may submit a petition to the Commission at any time ~~for requesting rate~~ regulation of a water system owned, operated, managed, or controlled by an association. Petitioners must be current members of the water association.

~~(3)~~ Petitions must be in writing, state the purpose of the petition, and include the member's name, address, ~~telephone number~~, and signature.

~~(4)~~ The Commission will consider individual letters submitted by association members, which meet the criteria of subsection ~~(3)~~, as petitions for the purposes of calculating the 20 percent requirement.

(4) Petitions filed with the Commission may not be withdrawn or rescinded and are valid for six months.

(5) If 20 percent of association members petition the Commission and the Commission finds that it is in the public interest to regulate the association, the Commission must will issue an order notifying the association of its change in regulatory status ~~to as~~ a rate regulated water utility and order.

~~(6)~~ If required by the regulatory change, the association must file tariffs pursuant to ORS 757.205 within 60 calendar days after receiving Commission notification of rate regulation from the Commission of its change in regulatory status.

~~(7)~~ If the association fails to file appropriate tariffs within 60 calendar days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.

~~(8)~~ Petitions filed with the Commission may not be withdrawn or rescinded and are valid for six months.

Stat. Auth.: ORS 183, 756 & Ch. 202, OL 2003

Stats. Implemented: ORS 756.040 & Ch. 202, OL 2003

Hist.: PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thur 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04

### 860-036-0415

#### Relating to Rate Regulation of Water Company by Customer Count

(1) As used in this section, "customer" means individual residential dwelling, irrigation customer, or commercial unit served by the water utility. Hotels, motels, and RV parks ~~shall beare~~ counted as one commercial customer, except those individuals who use such facilities as a primary residence ~~shallare~~ also be counted as customers. Multiple user units ~~such as, but not limited to, including~~ apartment complexes, duplexes, triplexes, condominiums, and town houses ~~shall beare~~ counted as the number of individual units within the building. For example, a duplex ~~shall beis~~ counted as two customers and a 14-unit apartment complex ~~shall beis~~ counted as 14 customers.

(2) The Commission may require a customer count as specified in this ~~section~~rule from any water utility.

(3) If the Commission determines a water utility has a customer count of over 500 customers, ~~it shall~~the Commission will notify the water utility in writing of its change in regulatory status and require the water company to file tariffs with the Commission within 60 calendar days ~~pursuant to per~~ ORS 757.205.

(4) If the water utility fails to file appropriate tariffs within 60 calendar days of notification, the Commission may initiate a tariff filing proceeding to establish rates for the water utility.

~~(5) Existing rates and charges will be deemed interim rates subject to refund during the pendency of the rate filing application. Refund may be limited to those charges and fees paid by customers determined by the Commission to be unreasonable, excessive, or not justified by the water utility's costs. At the discretion of the Commission, any such refund may include interest. The period of refund will begin on the date of the notice requiring a tariff filing sent by Commission staff, unless the date the water utility began serving 500 customers can be reasonably determined, and end on the issuance date of the Commission order establishing new rates.~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02

### 860-036-0420

#### Request for Rate Regulation by a Water Utility

(1) Any water utility serving fewer than 500 customers may, at any time, file a petition with the Commission ~~for full~~requesting rate regulation of the water utility.

(2) When the water utility files the petition with the Commission requesting rate regulation, the water utility must also provide written notification to its customers and a copy to. ~~The water utility must provide~~ the Commission ~~with a copy of the notice~~. At a minimum, the customer notice must include the following information:

(a) The date

- (b) The n**Name, address, and telephone number of the water utility;
- (bc) The p**Purpose of the notice;
- (ed)** The reason(s) the water utility is seeking rate regulation; **and**
- (de) The Commission's Consumer Services Section's toll-free telephone number and addresses shown in OAR 860-036-0025.**~~The Commission's toll-free telephone number, TTY number, and its mailing and location addresses. The information is available on the Commission website or by calling the Commission; and~~
- (e)** ~~A statement informing customers that ORS 757.061 was amended in 2003 to allow water utilities to petition the Commission for rate regulation.~~
- (3) The Commission will consider the water utility's request for regulation and promptly render its decision.**~~Within 30 days after the water utility files its petition requesting rate regulation, the Commission must issue an order notifying the water utility of its change in regulatory status to a rate-regulated water utility~~**Changes in regulatory status will be determined by Commission order.**
- (4)** Within 60 **calendar** days **of the Commission's order asserting rate regulation**~~after the Commission notifies the water utility of its change in regulatory status~~, the water utility must file appropriate tariffs **pursuant to per** ORS 757.205.

Stat. Auth.: ORS 183, 756 & Ch. 082, OL 2003

Stats. Implemented: ORS 756.040 & Ch. 202, OL 2003

Hist.: PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thur 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04

### **860-036-0425**

#### **Removal of Rate Regulation**

**(1) When a regulated water utility is reorganized into a municipality or quasi-municipal entity or association through the sale, merger, or transfer of the water system or the transfer of the water utility's customers, the regulated water utility no longer meets the definition of a public utility per ORS 757.005. The Commission's regulation and jurisdiction must be removed by Commission order. If the regulated water utility is reorganized into an association, association members retain their right to petition for rate regulation at any time per ORS 757.063 and OAR 860-036-0412.**

**(2) A potential buyer of a rate-regulated water utility serving fewer than 500 customers may petition the Commission to have rate regulation, but not service regulation, removed upon the close of the buyer's purchase of the water utility if:**

**(a) The rate-regulated water utility is currently operating under a Commission-appointed regent; or**

**(b) A court has ordered the sale of the rate-regulated water system per a complaint filed in court by the Oregon Health Authority Drinking Water Program.**

**(3) If the Commission grants removal of rate regulation per section (2) of this rule, customers retain their right to petition for rate regulation per ORS 757.061.**

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

**Stats. Implemented: ORS 757.005, 757.061 & 757.063**

**Hist.: NEW**

### New Water Utilities

#### 860-036-0505

##### Relating to New Water Utilities

(1) This rule applies to newly constructed water utilities that have not previously offered water service to the public during the past 12 months. This rule does not apply to remodeled, renamed, new additions or new ownership of existing water supply systems.

(2) A new water utility may initially establish a monthly residential rate exceeding the threshold level established in OAR 860-036-0030 **provided if** it notifies each customer in writing at the time of connection, or earlier, of the customer's right to petition the Commission for rate regulation. The notice **shall must** comply with OAR 860-036-0405. All subsequent rate increases **will must** comply with the requirements of OAR 860-036-0405.

(3) If the Commission receives petitions from 20 percent or more of the new water utility's customers **requesting rate regulation, the rules contained in** OAR 860-036-0410 **applies will become applicable.**

(4) Customer count **is calculated will be made pursuant to per** OAR 860-036-0415. The 20 percent calculation of customers will be based upon the total number of customers existing in the month the Commission receives the petitions. Petitions will carry over month to month and will be cumulative. Petitioners need not file petitions monthly in order to be counted for any particular month.

(5) Petitions are valid for six months, after which they must be resubmitted to the Commission.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 7-2004, f. & cert. ef. 4-9-04

### Tariffs

#### 860-036-0605

##### Tariff Specifications

(1) **This rule applies to rate-regulated water.**

(2) **Form, requirements,** and style of tariffs:

(a) **A separate tariff must be filed for each service provided;**

(b) **All tariffs, including rates and rules and regulations, must be typed, single-sided on 8 ½ inch by 11 inch pages in loose-leaf form so that changes can be made by reprinting and inserting a single leafpage. If a tariff cannot fit on one page, use additional pages. Blank forms will be furnished by the Commission upon request;**

(c) **Each wastewater utility must designate the initial tariff as PUC Oregon No. 1, and designate successive tariffs with the next number in consecutive numerical order;**

(d) **Supplemental information not otherwise provided by the tariff must be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, for**



example, 3A, 3B, etc. Revisions to tariffs must be denoted by 1st Revised Sheet No. 3, 2nd Revised Sheet No. 3, etc.;

~~(ee) **The tariffs must include a uniform**~~The title page **and table of contents; should be uniform. Rates, rules, and regulations must be written only on one side of a sheet. If a single sheet is insufficient, two or more pages should be used. Blank forms will be furnished by the Commission upon request; and**

~~(d) **Separate tariffs must be filed for wastewater service or for any other service entered.**~~

~~(2) **Size of tariffs and required:**~~

~~(af) Tariffs and supplements **thereto** must be prepared using a readable font that, when printed, will fit on an 8-1/2 x 11 inch page; and~~

~~(bg) **Wastewater** utilities must file with the Commission an original of each tariff, rate schedule, revision, or supplement. The advice letter accompanying the tariffs must bear the signature of the issuing officer or **water** utility representative. **The Water utility** tariffs do not require a signature.~~

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.205

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2004, f. & cert. ef. 12-30-04

### **860-036-0610**

#### **Tariff Contents**

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

~~(2) Tariffs must explicitly state the rates and charges for each type of service rendered, designating the area or district to which they apply.~~

~~(23) **Water utility r**Rules and regulations ~~of the water utility~~ that in any manner affect the rates charged or to be charged or that defines the extent or character of the service to be given **shall** ~~must~~ be included with each tariff filing.~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02

### **860-036-0615**

#### **Tariff Changes Require a 30—Calendar-Days' Notice to the Commission**

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

~~(2) Except as **hereinafter** provided in **this Division** OAR 860-036-0616, a water utility must file with the Commission all tariffs, rate schedules, revisions, or supplements ~~thereto~~ containing any change in rates, charges, or rules and regulations at least 30 **calendar** days before the effective date of ~~such~~ **the** changes. The Commission will reject tariffs or schedules not conforming ~~with~~ **to** the rules in this Division, **except as provided for in OAR 860-036-0616.**~~

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.007 & 757.220

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2004, f. & cert. ef. 12-30-04

### **860-036-0616**

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

**(1) This rule applies to rate-regulated water utilities.**

**(2) A water utility seeking authority to make tariffs or rate schedules effective on less than statutory notice must use a Commission approved application form. The application form is available upon request.**

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

**Stats. Implemented: ORS 757.220**

**Hist.: NEW**

### **860-036-0620**

#### **Announcement to Customers of Tariff Changes**

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

(2) Within 15 **calendar** days of filing new or revised tariff schedules with the Commission that constitute a "general rate revision," a water utility **shallmust** inform its customers of the filing. A "general rate revision" is a filing by a water utility that affects all or most of the water utility's rate schedules. "A **g**eneral 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 example**, an amortization, that affects other rate schedules **is not a general rate revision**.

(3) A water utility filing a general rate revision **shallmust** inform its customers of its filing by:

(a) Insertion of a display announcement, not less than a three column standard advertising unit (SAU) by 10 inch advertisement, at least once in a newspaper of general circulation in the communities served by the water utility; or

(b) An announcement inserted in the water utility's regular **customer** billings ~~to its customers~~; or

(c) An announcement mailed to each customer.

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

(a) The approximate current and proposed average monthly rate for each customer class expressed in dollar terms;

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

(c) **A statement** ~~Notification~~ that copies of the water utility's application, testimony, and exhibits are available at its main office;

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

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

(f) The Commission's toll-free telephone number (~~1-800-522-2404; TTY 711~~) and mailing addresses (~~PUBLIC UTILITY COMMISSION OF OREGON, ADMINISTRATIVE HEARINGS DIVISION, P.O. BOX 2148, SALEM OR 97308-2148~~) shown in OAR 860-036-0025 where customers may request to receive notice of the time and place of any hearing on the matter;

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

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

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

~~(6)~~ Within 20 calendar days of ~~issuance of~~ the announcement, the water utility shall must file an affidavit with the Commission that notice has been given and include a copy of the announcement.

~~(7)~~ The Commission may waive the requirements of this rule if upon a showing by the water utility shows that the announcement required by this rule has been given with respect to a particular general rate revision, and ~~upon a further showing~~ that additional notice with respect to that rate revision would be duplicative, confusing to customers, and burdensome to the water utility.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

### **860-036-0625**

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

~~A water utility seeking authority to make tariffs or rate schedules effective on less than statutory notice must use application forms approved by the Commission.~~

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

~~Stats. Implemented: ORS 756.040 & 757.220~~

~~Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 18-2004, f. & cert. ef. 12-30-04~~

### **860-036-0630**

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

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

~~(2)~~ A water utility may make tariff changes by filing an entirely new tariff or by filing revised sheets that ~~shall~~ refer to the sheets of the tariffs currently on file with the Commission. Additions to the tariff on file may be made by filing additional sheets.

~~(3)~~ Each water utility filing tariffs or schedules changing existing tariffs or schedules shall must submit ~~therewith~~ the following information:

(a) A statement plainly indicating the **proposed** increase, decrease, or other change **thereby made into the** existing rates, charges, ~~or and~~ rules and regulations;

(b) A statement **setting forth identifying** the number of customers affected by the proposed change and the resulting change in annual revenue; and

(c) A detailed statement **setting forth explaining** the reason(s) ~~or ground(s)~~ **relied upon in support of for** the proposed change.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02

### 860-036-0635

#### Requirements for Filing Tariffs or Schedules Increasing Rates

**(1)** This rule applies to rate-regulated-water utilities ~~as defined:~~

**(12)** Each water utility filing tariffs or schedules that increase rates must submit, in addition to requirements of OAR 860-036-0630, the following information:

(a) 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 the water utility expects to derive from the application of the proposed schedule;

(b) For each separate schedule, the average monthly **water usage** and resulting average bills under both the existing rates and the proposed rates for characteristic customers, that will fairly represent the application of the proposed tariff or schedules; and

(c) A detailed statement **setting forth explaining** the reason(s) ~~relied upon in support of for~~ the proposed increase.

**(23)** Additional information may be required ~~to be filed either~~ prior to **the Commission's** acceptance ~~by the Commission~~ of the **tendered water utility's** filing or at any stage in the proceeding.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.205

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02

### 860-036-0640

#### Tariff Changes Effective with Service Rendered

**(1)** This rule applies to rate-regulated water utilities.

**(2)** All tariff changes ~~shall~~ **must** be made applicable with "service rendered" on and after the effective date of the changes, unless **otherwise ordered by** the Commission ~~by order provides otherwise~~. As used in this rule, "service rendered" means units of water consumed, basic service provided, or likewise as the context requires.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.007, 757.220

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97

**860-036-0645****Notice to Interested Persons of Tariffs Filed Under ORS 757.205**

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

(2) This rule applies to any tariff filing that is filed under ORS 757.205.

(3) Any person who submits a written requests ~~of~~ the Commission, ~~in writing~~, to be notified of the water utility tariff filings covered under section (2) of this rule must be included on a notice list.

(4) The Commission ~~must~~will notify all persons on the notice list referred to in section (3) of this rule of any applicable tariff filing. The notice will be given within ten calendar days of any tariff filing under section (2) of this rule that complies with OAR 860-036-0605 through 860-036-0635.

(5) The notice must include the following information:

(a) The n~~N~~ame of the filing water utility;

(b) The s~~S~~ubject;

(c) The f~~F~~iling date;

(d) The e~~E~~ffective date;

(e) The d~~D~~ate of the Commission's public meeting when the tariff will be considered; and

(f) The c~~C~~ustomer classes affected.

(6) The Commission may periodically delete names of persons from the notice list who do not demonstrate a continued interest in receiving the notices set forth in section (3) of this rule. No person's name may be deleted from the list without a 20--calendar- days' notice before deletion.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.230

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2004, f. & cert. ef. 12-30-04

### Financial Transactions

**860-036-0705****Form and Filing of Applications**

(1) This rule applies to rate-regulated water utilities.

(2) The Commission will furnish to applicant ~~such~~ information from the records on file ~~as will~~to assist in a full presentation of material facts required by OAR 860-036-0710 to 860-036-0735.

(3) When any document required to be filed under these rules has ~~heretofore~~already been filed with the Commission, it ~~is~~shall be sufficient if the application makes reference to ~~such~~the filing and the capacity in which it was filed.

(4) 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.

(5) The Commission may require additional information when it appears to be pertinent in a particular case.

**(56)** Whenever these rules require the filing of financial statements, they **shall must** be prepared as of the latest date available. The Income Statement **shall must** be for the most recent 12-month period.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98

### **860-036-0708**

#### **Approval Requirements for the Termination of Water Service, Abandonment, or Disposal of a Water Utility**

**(1) In this rule, the term "water utility" refers to any water utility or private or investor-owned water utility regardless of whether it is currently under Commission jurisdiction, authority, or regulation.**

**(2) All water utilities must apply to and obtain approval from the Commission before terminating, abandoning, or disposing of a water system. The water utility must submit a letter requesting Commission approval of the specific action it is seeking. At a minimum, the letter must include:**

**(a) The date;**

**(b) The name, address, and telephone number of the water utility;**

**(c) A statement indicating the action for which the applicant is seeking approval of the Commission;**

**(d) The reasons for the abandonment, termination, or disposal;**

**(e) The proposed effective date of the abandonment, termination, or disposal;**

**(f) A description of the customers' alternative water service options and estimated, average customer cost for each option;**

**(g) The contact information for each affected customer. At a minimum, the list will include each customer's name, mailing address, and service address (if different); and**

**(h) Any other pertinent information.**

**(3) The water utility must provide each customer with a notice regarding its filing with the Commission. The notice must be delivered within seven calendar days of the date the water utility files its application with the Commission.**

**(a) At a minimum, the notice must include the information required in section (2) of this rule and the Commission's Consumer Services Section's toll-free telephone number and addresses as shown in OAR 860-036-0025.**

**(b) The water utility may deliver the notice by personal contact at the premises or by US Mail. If the notice is delivered by to the premises, the water utility must attempt personal contact with the customer or an adult resident at the premises. If personal contact cannot be made, the water utility must leave the notice in a conspicuous place at the premises and mail a copy of the notice to the last known mailing addresses of the customer and the customer's designated representative.**

**(c) If the water utility's records show that the billing address is different from the service address or that the premises is a master-metered multi-unit dwelling. The notice may be addressed to "Tenant." The envelope must bear a bold notice stating, "Important notice regarding water utility service," or words to that effect.**

**(d) If notice is delivered by US Mail, the notice must be delivered to the customer's last known address. Notice is effective on the day after the date of the US postal service postmark or postage metering.**

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

**Stats. Implemented: ORS 756.040**

**Hist.: NEW**

**860-036-0710**

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

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

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

~~(3) Any water utility that is not rate regulated or exempt shall provide its customers with notice of the proposed sale, transfer, or merger to its customers and a copy to the Commission no less than 60 calendar days prior to the closing date of the transaction. The notice shall include the following information:~~

~~(a) The name, address, and telephone number of the water utility;~~

~~(b) The purpose of notice;~~

~~(c) The proposed closing date of the transaction;~~

~~(d) The proposed effective date of sale (minimum of 60 calendar days);~~

~~(e) The name, address, and telephone number of potential buyer;~~

~~(f) The reason(s) for sale;~~

~~(g) The effect of sale upon customers; and~~

~~(h) The Commission's Consumer Services Section's toll-free telephone number (1-800-522-2404; TTY 711) and addresses shown in OAR 860-036-0025. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES SECTION, PO BOX 2148, SALEM OR 97308-2148.~~

~~(4) A water utility otherwise exempt by ORS 757.061 that charges for services in excess of threshold levels established in OAR 860-036-0030, must also provide its customers written notification of the customers' right to petition the Commission for regulatory approval of such transaction at least 60 days prior to the closing date of the transaction. If the Commission receives a petition from at least 20 percent of the customers prior to the closing date of the transaction, the water utility becomes rate regulated and the transaction requires Commission approval.~~

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

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

- ~~(b) Purpose of notice;~~
- ~~(c) Proposed filing date;~~
- ~~(d) Proposed effective date of sale;~~
- ~~(e) Name, address, and telephone number of potential buyer;~~
- ~~(f) Reason(s) for sale;~~
- ~~(g) Effect of sale upon customers;~~
- ~~(h) A statement informing customers of their right to petition the Commission for regulatory approval of the transaction;~~
- ~~(i) A statement informing customers that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;~~
- ~~(j) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;~~
- ~~(k) A statement that customers' petitions may be submitted to the Commission for 45 days from the date of the customer notice;~~
- ~~(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and~~
- ~~(m) The Commission's toll-free telephone number (1-800-522-2404) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.480

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

### 860-036-0715

#### **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 rate-regulated water utilities seeking authority under ORS 757.480 and 757.485. Every applicant ~~shall~~must, at a minimum, ~~utilize~~use the application form ~~prescribed below~~available from the Commission and provide all required information. At its discretion, the Commission may require further ~~or more detailed~~ information. ~~[Form not included. See ED. NOTE.]~~

(2) ~~If the owner of the water utility or water utility property to be sold is unable or unwilling to file the application form with the Commission, the purchaser may file the application form.~~n ~~the case of abandonment or termination of service by the water utility, in addition to the requirements in section (1) of this rule, the water utility must provide a description of all alternative water service options available to the customers and the estimated cost to customers of each alternative water service option.~~

~~[ED. NOTE: Forms referenced are available from the agency.]~~



Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.105, 757.480, 757.485

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02

### 860-036-0716

#### Acquisition Adjustments

(1) A rate-regulated water utility may petition the Commission for approval of an acquisition adjustment in rates for acquiring a water system when the benefits of the acquisition outweigh the increase to customers' rates resulting from an acquisition adjustment.

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

(3) The approval and determination of an acquisition adjustment is at the sole discretion of the Commission.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.105, 757.120, 757.125, 757.135

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

### 860-036-0720

#### Application by a Water Utility for Authority to Issue Stocks, Bonds, Notes, or Other Securities

~~(1) This rule applies to rate-regulated water utilities~~**Application by a Water Utility for Authority to Issue Stocks, Bonds, Notes, or Other Securities:**

~~(1) This rule applies to rate-regulated water utilities~~ seeking authority **to issue stocks, bonds, notes, or other securities underper** ORS 757.495, 757.405 **through** 757.435 **inclusive**, 757.445, and 757.450.

~~(2) Every applicant shall~~**must set forth**~~provide in this application~~ to the Commission, **the following information** in the **order**, 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 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:

**(A) A** brief description;

**(B) The** amount authorized (face value and number of shares);

**(C) The** amount outstanding (exclusive of any amount held in the treasury);

- (D) The held amount as reacquired securities;
- (E) The amount pledged by applicant;
- (F) The amount owned by affiliated interests; and
- (G) The 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:

- (A) A brief description (amount, interest rate and maturity);
- (B) The amount authorized;
- (C) The amount outstanding (exclusive of any amount held in the treasury);
- (D) The amount held as reacquired securities;
- (E) The amount pledged by applicant;
- (F) The amount held by affiliated interests; and
- (G) The amount in sinking and other funds;

(h) A full description of the securities proposed to be issued, showing:

- (A) The kind and nature of securities or liabilities;
- (B) The amount (face value and number of shares);
- (C) The interest or dividend rate, if any;
- (D) The date of issue and date of maturity; and
- (E) The voting privileges, if any;

(i) A reasonably detailed and precise description of the proposed transaction, including a statement of the reason(s) ~~why it is desired to consummate~~ for the proposed transaction and the its anticipated effect thereof. If the transaction is part of a general program, describe the program and its relation to the proposed transaction. ~~Such The~~ description of the proposed transaction must ~~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, when available, a copy of the action taken by the federal or other state regulatory body 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.

**(A)** 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.~~

**(B)** 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; ~~;~~

**(C)** A statement showing the cost of all additions and betterments and retirements, from the date of the original cost, ~~should also be furnished;~~

**(k)** The purposes for which the securities are to be issued. Specific information ~~will~~**must** be submitted with each filing for the issuance of bonds, stocks, or securities:

**(A)** Construction, completion, extension, or improvement of facilities. A description of ~~such the~~ facilities and their ~~ir~~ cost ~~thereof~~;

**(B)** Reimbursement of the applicant's treasury for expenditures against which securities have not been issued. A statement giving a general description of ~~such the~~ expenditures, the amounts and accounts to which charged, the associated credits, if any, and the periods during which the expenditures were made;

**(C)** Refunding or discharging of obligations. A description of the obligations to be refunded or discharged, including 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 the~~ obligations; and

**(D)** Improvement or maintenance of service. A 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 utility;~~

~~(D) Will 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, 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 757.495:~~

(A) Provide a statement describing the relationship between the water utility and the affiliated interest as defined in ORS 757.015 or 757.490:

- (i) ~~Set forth~~Describe 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~~ under ORS 757.490(1).

(B) State the reason(s), in detail, ~~relied upon by~~ for the water utility ~~for~~ entering into the proposed transaction and the benefits, if any, the customers of the water utility and the general public will derive from the transaction.

~~(23)~~ Required Exhibits. There ~~following exhibits shall~~ must be filed with the application ~~as part thereof the following exhibits:~~

~~(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 DA.~~ 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 EB.~~ 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~~ using the form in the annual report that the applicant is required to file with the Commission;

~~(f) EXHIBIT FC.~~ 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 GD.~~ Copies of comparative income statements showing recorded results of operations, adjustments to record the proposed transaction and pro forma ~~in conformity with~~ using the form in the annual report that the 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 IE.~~ 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 JE.~~ 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 ~~finalized in final form so as~~ to permit filing, a preliminary draft or a summary identifying the parties ~~thereto~~ and ~~setting forth~~ the principal terms ~~thereof,~~ may be filed pending the filing of the conformed final copy of the contract or underwriting by final amendment to the application;

~~(k) EXHIBIT K. Copies of the stock certificates, notes, or other evidences of indebtedness proposed to be issued;~~

~~(lg) An application for a water utility to loan its funds to an affiliated interest, in addition to Exhibits A through **KF**, **shall must** also include the following:~~

~~(A) EXHIBIT **LG**. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction;~~

~~(B) EXHIBIT **MH**. The amount of money the applicant desires to loan to the affiliated interest, terms of **said the** loan, rate of interest, method of repayment, security given, if any, and if **said the** loan is to be an open account or evidenced by a promissory note; and~~

~~(C) EXHIBIT **NI**. **An explanation of how the affiliated interest will use the funds from the loan. The use to which funds derived from this loan are to be put by the affiliated interest; and.**~~

~~(mh) An application for a water 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 **KF**, **shall must** also include the following:~~

~~(i) EXHIBIT **LG**. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction;~~

~~(ii) EXHIBIT **MJ**. The amount of cash the applicant proposes to receive, the rate of interest it will pay, and the date and method of repayment; and~~

~~(iii) EXHIBIT **NK**. 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 **KF**, **shall must** include the following:~~

~~(i) EXHIBIT **LG**. Copies of all proposed or existing contracts or agreements entered into by the parties to the transaction; and~~

~~(ii) EXHIBIT **ML**. The amount that the affiliated interest proposes to pay on the water utility's behalf, **with including** a description of the obligation, how the funds will be used, and how incurred.~~

~~(C) Credits or open accounts a water utility proposes to give to an affiliated interest, in addition to **EXHIBITS A** through **KF**, **shall must** include the following:~~

~~(i) EXHIBIT **LG**. 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 utility proposes to give credit through its loan or open account.~~

~~(34) **The following form of A shortened** application may be filed by all water utilities with annual revenues of less than **\$10250,000** 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 **\$1025,000**. In **these** instances **when this provision is proper**, the requirements of sections **(12)** and **(23)** of this rule do not apply. The Commission may require compliance with sections **(12)** and **(23)** of this rule if the Commission deems it necessary **in a particular case**. **An application form is available from the Commission.** ~~Form not included. See ED. NOTE.]~~~~

~~[ED. NOTE: Forms & Exhibits referenced are available from the agency.]~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.405 - 757.450, 757.495

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 8-2002, f. & cert. ef. 2-26-02

### 860-036-0725

#### Applications for Authority to Guarantee Indebtedness

(1) ~~This rule applies to rate-regulated water utilities~~~~The requirements of this rule apply to rate-regulated water utilities~~ seeking authority to guarantee indebtedness under ORS 757.440.

(2) Every applicant ~~shall~~~~must set forth~~~~include~~ in its application to the Commission, in the manner and form indicated, the following information ~~that should, to the extent possible, be furnished~~ for each person, firm, or corporation involved:

- (a) The information required by OAR 860-036-0720(1)(a) ~~through~~ (g) ~~inclusive~~;
  - (b) A full description of the securities for which applicant proposes to assume obligation or liability as guarantor, endorser, surety, or otherwise;
  - (c) The amount of other securities of ~~said~~the person, firm, or corporation now held, owned, or controlled by the applicant;
  - (d) A statement of whether or not an application regarding the transaction as a whole or in part~~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 reason(s), 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 utility;
    - (C) ~~Will not impair its ability to perform that service~~Not an impairment to the water utility's ability to properly perform its service; and
    - (D) Reasonably necessary or required for ~~such~~the stated purposes.
- (23) Required Exhibits. There ~~are~~ following exhibits shall~~must~~ be filed with the application ~~as part thereof the following exhibits~~:
- (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. A copy of any mortgage, indenture, or other agreement securing any security that it proposes to guarantee; also, a copy of any mortgage, indenture, or other agreement securing applicant's funded obligations;

~~(eb) EXHIBIT EB.~~ Balance sheets with supporting fixed capital or plant schedules ~~in conformity with using~~ the form ~~set forth~~ in the annual report that applicant is required to file with the Commission;

~~(fc) EXHIBIT FC.~~ 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 that 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

~~(id) EXHIBIT ID.~~ A statement showing the present market value or other basis of determining the value of the securities to be guaranteed.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.440

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 8-2002, f. & cert. ef. 2-26-02

### 860-036-0730

#### Applications for Approval of Transactions Between Affiliated Interests

(1) ~~This rule applies to rate-regulated water utilities~~~~Except as provided in section (3) of this rule, this rule applies to all rate-regulated water utilities~~ seeking authority for approval of affiliated interest transactions under ORS 757.490 and 757.495 except as provided in section (3) of this rule. An application for financing to an affiliated interest ~~shall~~must be made under OAR 860-036-0720.

(2) Every applicant ~~shall~~must include set forth in its application to the Commission, the following information 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 utility's behalf, to receive notices, inquiries, and communications regarding the information;
- (c) A statement describing the relationship between the water utility and the contracting entity as defined by ORS 757.015 and 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 the water utility will pay annually for the goods or services and the accounts in which it will record the charges;

(i) The reason(s), in detail, ~~relied upon by~~ the water utility ~~for~~ procuring the proposed goods or services from the affiliate and the benefits, if any, the water utility customers and the general public will derive from the provision of goods or services;

(j) A description of the procurement process and the reason(s), in pertinent detail appropriate to the complexity of the procurement, ~~relied upon by~~ the water utility ~~for~~ procuring the proposed goods or services without a competitive procurement process, if ~~such a~~ process is not used;

(k) A statement that ~~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 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~~ does not apply to water 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 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 183, 756, 757

Stats. Implemented: ORS 756.040, 757.005 - 757.495

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 8-2002, f. & cert. ef. 2-26-02

### 860-036-0735

#### Information Required for Water Utility Goods or Services Provided to Affiliated Interests

(1) Except as provided in section (4) of this rule, this rule applies to rate-regulated water utilities ~~except as provided in section (4) of this rule, this rule applies to rate-regulated water 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 860-036-0030.

(2) A water utility's failure to submit this required information ~~shall~~ does not limit the Commission's authority to recognize or impute revenues to the water utility ~~pursuant to~~ such ~~under the~~ contract in any rate valuation or other hearing or proceeding.



(3) For transactions provided in section (1) of this rule, ~~every rate-regulated~~the water utility ~~shall~~must submit to the Commission, the following information 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 utility's behalf to receive notices, inquiries, and communications regarding the information;
- (c) A statement describing the relationship between the water 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 utility will receive annually for the goods or services and the accounts in which it will record the payments;
- (g) The reason(s) ~~relied upon by~~for the water utility ~~for~~ providing the proposed goods or services and the benefits, if any, water 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 utility and the contracting entity that is the subject of this filing; and
- (i) Copies of all resolutions of directors of the water utility authorizing the proposed transactions and, if approval of the water utility's stockholders was obtained, copies of the resolutions approved by the stockholders.

(4) This rule ~~shall~~does not apply to water 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 that:
  - (A) Has been filed with an agency charged with the regulation of water 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 183, 756, 757

Stats. Implemented: ORS 756.040, 757.005 - 757.490

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 8-2002, f. & cert. ef. 2-26-02

### **860-036-0737**

#### **Timeliness of Applications Made Under OAR 860-036-0730 and Filings Made Under OAR 860-036-0735**

**(1) This rule applies to rate-regulated water utilities.**

**(2)** An application made under OAR 860-036-0730 and a filing made under OAR 860-036-0735 ~~shall~~must occur no later than 90 calendar days after the execution of the contract giving rise to the application or filing. The contract ~~shall be~~is 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 183, 756

Stats. Implemented: ORS 756.040

Hist.: PUC 3-1999, f. & cert. ef. 8-10-99

### **860-036-0739**

#### **Allocation of Costs by a Water Utility**

(1) **This rule applies to rate-regulated water utilities.**

(2) As used in this rule:

(a) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a water utility;

(b) "Affiliate transaction" means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a water utility and accounts for nonregulated activities of a separate entity that is either an affiliated interest or another company in which the water utility owns a controlling interest. The term also means a transfer of assets, a sale of supplies, or a sale of services between accounts for the regulated and nonregulated activities of a single water utility;

(c) "Asset" means any tangible or intangible property of a water utility or other right, entitlement, business opportunity, or other thing of value to which a water utility holds claim that is recorded or should be recorded as a capital expenditure in the water utility's financial statements. All water utility tangible or intangible property, rights, entitlements, business opportunities and things of value should be considered assets, services, or supplies;

(d) "Cost" means fully distributed cost, including the water utility's authorized rate of return and all overheads;

(e) "Fair market value" means the potential sales price that could be obtained by selling an asset in an arm's-length transaction to a nonaffiliated entity, as determined by commonly accepted valuation principles;

(f) "Market rate" means the lowest price that is available from nonaffiliated suppliers for comparable services or supplies;

(g) "Net book value" means original cost less accumulated depreciation;

(h) "Nonregulated activity" means an activity that is not a regulated activity of the water utility as defined in subsection (1)(i) of this rule;

(i) "Regulated activity" means a Commission regulated activity that is provided by a water utility directly or indirectly relating to the general operations of the water utility such as production, transmission, delivery, or furnishing of water unless the Commission has determined the activity to be exempt from regulation;

(j) "Services" means labor-related activities including, but not limited to advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, and legal. All water utility tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies; and

(k) "Supplies" means any tangible or intangible property of a water utility or other thing of value to which a water utility holds claim that is recorded or should be recorded as an operating expense in the water utility's financial statements. All water utility

tangible or intangible property, rights, entitlements, business opportunities, and things of value should be considered assets, services, or supplies.

(23) For purposes of this rule, regulated and nonregulated activities of a water utility **shall must** be accounted for ~~in accordance with~~ **per** the Uniform System of Accounts for Water Utilities published by the National Association of Regulatory Utility Commissioners as modified by the Commission.

(34) When a water utility is conducting an affiliate interest transaction, as defined in this rule, the water utility must use the following cost allocation methods:

(a) When an asset is transferred to a water utility from an affiliate, the transfer **shall must** be recorded in the water utility's accounts at the lower of net book value or fair market value.;

(b) When an asset is transferred from a water utility to an affiliate, the transfer **shall must** be recorded in the water utility's accounts at the tariff rate if an appropriate tariff is on file with the Commission. If no tariff is applicable, proceeds from the transfer **shall must** be recorded in the water utility's accounts at the higher of net book value or fair market value.;

(c) When an asset is transferred from a water utility to an affiliate at a fair market value that is greater than net book value, the difference ~~shall be~~ considered a gain to the water utility. The water utility **shall must** record the gain so the Commission can determine the proper disposition of the gain in a subsequent rate proceeding.;

(d) When services or supplies are sold by a water utility to an affiliate, sales **shall must** be recorded in the water utility's accounts at ~~tariffed~~ rates **per the tariff**, if an applicable tariff is on file with the Commission. ~~Tariffed r~~ Rates **per the tariff** **shall must** be established whenever possible. If services or supplies are not sold ~~pursuant to~~ **per** a tariff, sales **shall must** be recorded in the water utility's accounts at the water utility's cost or the market rate, whichever is higher.;

(e) When services or supplies are sold to a water utility by an affiliate, sales **shall must** be recorded in the water utility's accounts at the affiliate's cost or the market rate, whichever is lower. The affiliate's cost **shall must** be calculated using the water utility's most recently authorized rate of return.;

(f) Income taxes **shall must** be calculated for the water utility on a standalone basis for both ratemaking purposes and regulatory reporting. When income taxes are determined on a consolidated basis, the water utility **shall must** record income tax expense as if it were determined for the water utility separately for all time periods.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.490 & 757.495

Hist.: PUC 7-2004, f. & cert. ef 4-9-04

### Special Contracts

860-036-0740

#### Special Contracts

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

~~(12)~~ ~~Rate-regulated w~~Water utilities within Oregon entering into special contracts with certain customers prescribing and providing rates, services, and practices not covered by or permitted in the general tariffs, schedules, and rules filed by ~~such~~ water utilities are in legal effect tariffs and are subject to supervision, regulation, and control as such.

~~(23)~~ All special contracts designating service to be furnished at rates other than those shown in tariffs currently on file with the Commission **shall must** be classified as rate schedules. True and certified copies **shall must** be filed subject to review and approval **pursuant to the requirements of per** OARs 860-036-0605 through 860-036-0645.

~~(34)~~ ~~A s~~Special contracts **shall must** be filed with the Commission not less than 30 **calendar** days prior to the proposed effective date of the contract and ~~shall~~ become effective according to its terms the thirty-first day from the date of its filing unless earlier approved, suspended, or rejected by the Commission.

~~(45)~~ Each special contract filed with the Commission **shall must** 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 183, 756, 757

Stats. Implemented: ORS 756.040, 757.007

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02

### Fees, Taxes, and Other Assessments

#### 860-036-0745

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

(1) **This rule applies to rate-regulated water utilities.**

~~(2)~~ The aggregate amount of all business or occupation taxes, licenses, franchise or operating permit fees, or other similar exactions imposed upon water utilities by any city in Oregon for engaging in 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 utilities for rate-making purposes and **shall must** not be itemized or billed separately.

~~(23)~~ Except as otherwise provided **herein**, "gross revenues" means revenues received from **water** utility operations within the city less related net uncollectibles. Gross revenues **shall do** 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 utility purchasing the service is not the ultimate customer.

~~(34)~~ 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 water utility services or use of facilities provided on November 6, 1967, to a city without charge, ~~shall will~~ not be considered in computing the percentage levels ~~herein set forth established in this rule~~. ~~Any such~~ These services may be continued within the same category or type of use. The value of any additional category of water utility service or use of facilities provided after November 6, 1967, to a city without charge ~~shall be is~~ considered in computing the percentage levels ~~herein set forth established in this rule~~.

(45) This rule ~~shall does~~ not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of service rendered by a water utility under such franchises ~~shall will~~ not be itemized or billed separately. When compensation different from the percentage levels in section (12) of this rule is specified in a franchise existing on November 6, 1967, ~~such the~~ compensation ~~shall continues~~ to be treated by the affected water utility as an operating expense during the balance of the term of such franchise. Any tax, fee, or other exaction ~~set forth~~ in section (12) 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 must~~ be charged pro rata to local users ~~as herein provided~~.

(56) Except as provided in section (45) of this rule, to the extent any city tax, fee, or other exaction referred to in section (12) of this rule exceeds the percentage levels allowable as operating expenses in section (12) of this rule, ~~such the~~ excess amount ~~shall must~~ be charged pro rata to water utility customers within said city and ~~shall must~~ be separately stated on the regular billings to ~~such the~~ customers.

(67) The percentage levels in section (12) 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.

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

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 14-2003, f. & cert. ef. 7-24-03

## 860-036-0750

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

(1) This rule applies to rate-regulated water utilities.

(2) If any county in Oregon, other than a city-county, imposes upon a water utility any new taxes or license, franchise, or operating permit fees, or increases any ~~such~~ taxes or fees, the water utility required to pay ~~such the~~ taxes or fees ~~shall must~~ collect from its customers within the county imposing ~~such the~~ taxes or fees the amount of the taxes or fees, or the amount of increase in ~~such the~~ taxes or fees. However, if the taxes or fees cover the operations of a water utility in only a portion of a county, then the affected water utility ~~shall must~~ recover the amount of the taxes or fees or increase in the amount ~~thereof~~ from customers in the portion of the county 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.

(23) The amount collected from each water utility customer ~~pursuant to~~ per section (1) of this rule ~~shall~~ must be separately stated and identified in all customer billings.

(34) 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.

(45) If any county, water 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 ~~under OAR 860-036-0001(1) by petition to the Commission, setting forth the reasons why the rule should not apply.~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.110

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 8-2002, f. & cert. ef. 2-26-02

### Accounting Records

#### 860-036-0755

##### Accounting for Director's Fees

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

(2) Directors' fees paid by a ~~rate-regulated~~ water utility to members of its board of directors, who are also paid as officers of the water utility, ~~shall~~ may not be recognized as a charge to operating expenses in Oregon.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.110

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 8-2002, f. & cert. ef. 2-26-02

#### 860-036-0756

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

(1) This rule applies to rate-regulated water utilities.

(2) Each water utility ~~shall~~ must provide an accounting of CIAC upon Commission request in its annual reports and in its rate application. CIAC accounting ~~shall~~ must include contributions in any form including, ~~but not limited to,~~ contributed utility plant. CIAC record keeping ~~will~~ must identify the contributed plant, original date of installation, and original cost.

(23) Each water utility must keep a record as described in section (1) of this rule and record CIAC on a separate plant and depreciation schedule.

(34) As of November 2002, CIAC and its resulting depreciation will be excluded from water utility ratemaking. CIAC will be separated from utility plant and accounted for and depreciated on a separate schedule outside the ratemaking process.

(45) In cases where previous CIAC depreciation was included in rates and removing it all at once would cause irreparable harm to the water utility, the Commission may

systematically remove CIAC from rates over a period of time. **The schedule of which must set forth in a schedule to** be approved by the Commission.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.105, 757.120, 757.125, 757.135

Hist.: PUC 9-2003, f. & cert. ef. 5-15-03

### **860-036-0757**

#### **Accounting for Construction Work In Progress (CWIP)**

##### **(1) This rule applies to rate-regulated water utilities.**

**(2)** The Commission may allow into rates the costs of a specific capital improvement project in progress if:

**(1a)** The water utility uses the additional revenues solely for the purpose of completing the capital improvement project;

**(2b)** The water utility demonstrates that its access to capital is limited and it is in the public interest to provide funding for the capital improvement through rates; and

**(3c)** ~~Such~~**The** costs are approved through tariffs filed with the Commission.

Stat. Auth.: ORS 183, 756, 757 & Ch. 202, OL 2003

Stats. Implemented: ORS 756.040, 757.355 & Ch. 202, OL 2003

Hist.: PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thur 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04

### **860-036-0760**

#### **Preservation and Destruction of Records**

The Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, April 1974, revised ~~May 1985~~**November 2007**, published by the National Association of Regulatory Utility Commissioners ~~is hereby~~**are** adopted as modified and prescribed by the Commission for all water utilities with the following exceptions:

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

(2) Revenue Accounting and Collecting. The Commission prescribes that contracts and card files or other records thereof with customers for water utility service be retained for one year after the expiration or cancellation of the agreement.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.105

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00

**860-036-0765****Uniform System of Accounts for Water Utilities -- Class A, B, and C**

(1) ~~Class A. The Uniform System of Accounts for Class A, Class B, and Class C Water Utilities, 1996,~~ published by the National Association of Regulatory Utility Commissioners, is **hereby modified**, adopted, and prescribed by the Commission for all ~~Class A Water Utilities.~~

(2) ~~Class B. The Uniform System of Accounts for Class B Water Utilities, 1996,~~ published by the National Association of Regulatory Utility Commissioners, is **hereby adopted and prescribed by the Commission for all Class B Water Utilities.**

(3) ~~Class C. The Uniform System of Accounts for Class C Water Utilities, 1996,~~ published by the National Association of Regulatory Utility Commissioners, is **hereby adopted and prescribed by the Commission for all Class C Water Utilities.**

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.105, 757.120, 757.125, 757.135

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 177, f. 12-2-76, ef. 1-1-77 (Order No. 76-832); PUC 5-1985, f. & ef. 4-24-85 (Order No. 85-355); PUC 3-1992, f. & cert. ef. 2-14-92 (Order No. 92-246); PUC 13-1997, f. & cert. ef. 11-12-97;

Renumbered from 860-027-0060

### Annual Reports

**860-036-0805****Budget of Expenditures**

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

**On or before November 1 of each year, Each all** rate-regulated water utilities operating within Oregon and having gross operating revenues of \$500,000 or more per annum ~~is required to will~~**must** file with the Commission ~~on or before the first day of November of each year, a copy of its~~**their** proposed Budget of Expenditures, on forms approved by the Commission.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.105

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02

**860-036-0810****New Construction Budget**

~~This rule applies to rate-regulated water utilities as defined in ORS 757.005 and ORS 757.061: Each rate-regulated water utility operating 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 utility.~~



~~Stat. Auth.: ORS 183, 756, 757~~

~~Stats. Implemented: ORS 756.040, 756.105, 757.105~~

~~Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 12-2002, f. & cert. ef. 3-12-02~~

#### **860-036-0815**

##### **Annual Reports Results of Operations Report**

~~All water utilities shall submit annual reports to the Commission in the following manner:~~

~~(1) By April 1 of each year, all~~ **Each** rate-regulated water utilities ~~shall~~ **must** submit a financial Result of Operations annual report **for the preceding calendar year** using the most current form approved by the Commission ~~and shall submit such report on or before April 1.~~

~~(2) Each water utility shall submit a Records and Accounts annual report using the most current form approved by the Commission and shall submit such report on or before April 1.~~

~~(3) By June 1, each rate-regulated water utilities shall submit on forms approved and provided by the Commission, a report of all affiliated interest, intercompany, and intracompany transactions that occurred during the period from January 1 through December 31 of the immediately preceding year.~~

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.120, 757.125, 757.135

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2001, f. & cert. ef. 3-21-01; PUC 8-2002, f. & cert. ef. 2-26-02

#### **860-036-0816**

##### **Annual Affiliated Interest Report**

**(1) By June 1 of each year, all rate-regulated water utilities having an affiliated interest transaction occurring during the period from January 1 through December 31 of the immediately preceding year must file an Affiliated Interest Report with the Commission. The report consists of a letter listing the names of the parties to the transactions and the dollar amounts of the transactions.**

**(2) As used in this rule, "affiliated interest transactions" means transactions between affiliated interests as defined by ORS 757.015.**

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

**Stats. Implemented: ORS 756.105 & 757.105**

**Hist.: NEW**

#### **860-036-0820**

##### **Use of Deferred Accounting as It Applies to Rate-Regulated Water Utilities**

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

**(12) As used in this rule:**

(a) "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; **and**

(b) "Amortization" means the inclusion in rates of an amount that has been deferred under ORS 757.259 and 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.

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

**(34)** Contents of Application: Application for deferred accounting, by a water utility, a ratepayer, or other applicant **shall** **must** include:

(a) A description of the water 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 that will 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.

**(45)** Reauthorization: Application for reauthorization to use a deferred account **shall** **must** be made not more than 60 **calendar** days prior to the expiration of the previous authorization for the deferral. Application for reauthorization **shall** **must** include the requirements ~~set forth~~ in subsections (4)(a) through (4)(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.

**(56)** 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 that 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.

**(67)** Notice of Application: The applicant **shall** **must** serve a notice of application upon all persons who were parties in the water utility's last general rate case. If the applicant is other than a rate-regulated water utility, the applicant **shall** **must** serve a copy of the application upon the affected water utility. A notice of application **shall** **must** 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 ~~rate-regulated~~ water utility;

- (b) A description of the water 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 calendar days from the date of the application; and
- (e) A statement that the granting of the application will not authorize a change in rates, but will permit the Commission to consider allowing such deferred amounts in rates in a subsequent proceeding rate case.

(78) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's public meetings.

(89) Reply comments: Within 10 calendar days of the due date for comments on the application from interested persons, the applicant and the water utility, if the water utility is not the applicant, may file reply comments with the Commission. Those comments shall must be served on persons who ~~have~~ filed the initial comments on the application.

(910) Amortization: Amortization in rates of a deferred amount shall may only be allowed in a proceeding, whether initiated by the water utility or another party. The Commission may authorize amortization of such amounts only for water utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the water utility shall must 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 encompass 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 utility shall must request that amortizations of deferred accounts ~~commence~~ begin no later than one year from the date that deferrals ~~cease ends~~ for that particular account; and

(b) In the case of ongoing balancing accounts, the water utility shall must request amortization at least annually, unless amortization of the balancing account is then in effect.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.259

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02

### Service Territory Allocation

#### 860-036-0905

##### Original Application Requirements

(1) Any water utility may file an application with the Commission requesting an exclusive service territory. A completed exclusive service territory application ~~requesting an exclusive service territory~~ for area the water utility is currently serving shall must include the following:

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

- (b) The nature of the water utility's business organization, that is, corporation, partnership, limited partnership, sole proprietorship, association, etc.;
- (c) The name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the water utility;
- (d) A statement showing the financial and technical ability of the applicant to provide service to the current territory;
- (e) A detailed map or maps of the water system showing the existing lines and facilities;
- (f) A detailed map or maps identifying the boundaries of the water utility's current service territory ~~marked with a fine-tipped RED pen~~. The map must identify the map source and the date of the map in the upper left corner of the map. Appropriate maps may include: a GIS map, city or county map, tax lot map, or plat map, ~~or telephone book map~~. The map must be of sufficient scale and detail to identify the water utility's current service territory boundaries and enable correlation with a written description of such territory;
- (g) A complete and accurate written description of the water utility's current service territory. The description may be a legal description or may reference township, range, and section; interstates, state roads, and local streets; rivers, streams, and major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;
- (h) Evidence that the water utility owns the land upon which the water utility facilities are located, or a copy of an agreement that provides for the continued use of the land, such as an easement or ~~99-year~~ lease contract;
- (i) A schedule showing the number of customers currently served, by customer class and meter size, as well as the number of customers projected to be served when the current service territory is fully occupied or built out; and
- (j) A copy of all well logs and current water rights; and
- (k) The name and address of the nearest municipality, county, any known planning councils, any known governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the current service territory.
- (2) The application may also include any adjacent territory that the water utility plans to serve within six months following the date of the application:
- (a) If another water utility or community water supply system is not serving ~~such~~ the territory; and
- (b) If the applicant demonstrates that it is more economical and feasible to serve the area by an extension of the applicant's existing facilities than by an extension of the facilities of another water utility or community water supply system. Application requirements for expanded service territory are ~~contained~~ in OAR 860-036-0915.
- (3) Within 15 calendar days of making its proposed service territory filing ~~pursuant to~~ per OAR 860-036-0906, a water utility must provide written notice to its customers by mail or hand delivery. The notice ~~shall~~ must include the following information:
- (a) Name, address, and telephone number of water utility;
- (b) The purpose of the notice;
- (c) An accurate and detailed written description of the territory applied for;
- (d) Filing date;

(e) A statement that customers may file a protest with the Commission's Administrative Hearings Division; and

(f) The Commission's toll-free telephone number, TTY number, and mailing and location addresses.

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

(5) In reviewing a completed application for current exclusive service territory, the Commission **shall will** consider the applicant's ability to provide adequate and exclusive service to its existing customers, which may include, ~~but is not limited to,~~ financial resources, technical ability, customer service history, physical facilities, system capacity, revenue and cost studies, and system compliance with the Oregon Health **Division Authority Drinking Water Program**'s water rules and regulations.

Stat. Auth.: ORS 183, 756, 757 & 758

Stats. Implemented: ORS 758.300-758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 13-2002, f. & cert. ef. 3-26-02; PUC 18-2003, f. & cert. ef. 10-6-03; PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thur 6-7-04; PUC 7-2004, f. & cert. ef 4-9-04

### **860-036-0910**

#### **Commission Notice and Procedure**

(1) Within 30 **calendar** days of receipt of a completed service territory application, the Commission **shall will** give written notice to any municipality, county, planning council, and governmental authority known to have a concern with the application, and to all known water utilities and community water supply systems in the areas adjacent to the proposed area described in the application.

(2) The Commission **shall will** publish notice of the filing in a newspaper or newspapers of general circulation in the proposed territory at least once weekly for two consecutive weeks.

(3) Any objections to the application must be filed with the Commission no later than 30 **calendar** days after the last date that the notice was mailed or published, whichever is later.

(4) The Commission may, on its own motion, hold a hearing on the application; however, the Commission must hold a hearing on the application if a customer of the water utility requests a hearing on the application within 30 **calendar** days after the final publication of notice as required in section (2) of this rule.

(5) If a hearing is scheduled, the Commission **shall will** give notice of the hearing, setting the time, date, and place of hearing. If the hearing is by reason of a customer's request, the Commission **shall will** give notice of the hearing within 30 days after the request is received by the Commission. The hearing **shall will** be held at a place within or conveniently accessible to the area described in the application.

(6) The Commission **shall will** enter an order granting or denying an application for an exclusive service territory under OAR 860-036-0900. The Commission may grant an

application subject to ~~such~~ conditions and limitations ~~as the Commission deems appropriate~~.

(7) The applicable provisions of ORS 756.500 through 756.610 ~~shall~~ govern the conduct of hearings under this section and any appeal of the Commission's order.

Stat. Auth.: ORS 183, 756, 757 & 758

Stats. Implemented: ORS 758.300-758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thru 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04

### **860-036-0915**

#### **Filing an Application to Expand Exclusive Service Territory**

(1) A water utility may apply to expand its service territory to serve an area not currently being provided water service. It ~~shall~~must file an expanded service territory application with the Commission.

(2) Upon application by the water utility or by the Commission's own motion, an approved service territory may be expanded to include unserved areas.

(3) In reviewing a completed application for an expanded exclusive service territory, the Commission ~~shall~~will consider the applicant's ability to adequately and exclusively provide service to the expanded territory, which may include ~~but is not limited to~~, financial resources, technical ability, physical facilities, customer demand, system capacity, revenue and cost studies, regional planning, environmental impact, customer service history, impact on existing customers, compliance with the Oregon Health Division's water rules and regulations, economic and feasibility studies, and availability of alternate service.

(4) Notice and hearing of the proposed expansion ~~shall~~will be given ~~as provided in~~per OAR 860-036-0910.

(5) The application must include:

(a) The water utility's complete name and address;

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

(c) The name and address of any other water utility or community water supply system that could potentially provide water service within the proposed expanded territory;

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

(e) The name and address of the nearest municipality, county, any known planning councils, any known governmental authorities that may have a concern with the application, and all known water utilities and community water supply systems in the general area of the proposed expanded service territory;

(f) A map identifying the boundaries of the proposed expanded service territory (currently unserved) ~~marked with a fine-tipped BLUE pen~~. Appropriate maps may include: a GIS map, city or county map, tax lot map, or plat map, ~~or telephone book map~~. The map must be of sufficient scale and detail to identify the expanded service

territory boundaries and enable correlation with the description of the proposed expanded territory;

(g) A complete, ~~and~~ accurate written description of the proposed expanded territory. The description may reference township, range, and section; interstates, state roads, and local streets; rivers, streams, ~~and~~ major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;

(h) The total projected number of customers to be served in the proposed expanded territory by meter size and customer class, that is, single family homes, mobile homes, duplexes, golf course clubhouse, commercial, etc.;

(i) The estimated date applicant plans to begin providing service to customers in the proposed expanded territory;

(j) The estimated flat rate or base and usage rate structure to be utilized, unless an alternative rate structure is supported by the applicant and authorized by the Commission;

(k) A cost study including customer growth projections supporting the proposed water service rates and charges;

(l) A schedule showing by account the projected operating expenses of the water system to serve the expanded service territory when 100 percent of the system is being utilized;

(m) A schedule showing the projected capital structure including the methods of financing the construction and operation of the water utility until the water utility reaches 100 percent of the design capacity of the system;

(n) A statement describing the need for water service in the proposed expanded service territory;

(o) Evidence demonstrating adequate existing ~~or~~and proposed capacities of the system and facilities to serve the proposed expanded territory in terms of estimated average daily customer demand, customer peak demand, and daily pumping capacity per water source in gallons or cubic feet. If development will be in phases, separate this information by phases;

(p) A written description of the type of water treatment required, if necessary;

(q) A schedule showing the projected cost of the proposed system(s) by accounts. If the system is to be built in phases, show information for each phase individually;

(r) A list of all entities, including affiliates, upon which the applicant is relying to provide funding to the water utility for capital improvement, and an explanation of the manner and amount of such funding, including their financial statements and a copy of all contracts or agreements with the water utility. This requirement shalldoes not apply to any person or entity holding less than 10 percent ownership interest in the water utility;

(s) Financial statements demonstrating applicant's financial capability to provide service;

**(t) A copy of all well logs and water rights secured or applied for necessary to provide the capacity required to serve the expanded service territory;**

**(tu)** A statement showing applicant's technical ability or capacity to procure technical skill necessary to provide service; **and**

**(tv)** A statement describing any impact the expansion of service territory may have on existing customers.

Stats. Implemented: ORS 758.300-758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 24-2003(Temp), f. & cert. ef. 12-10-03 thru 6-7-04; PUC 7-2004, f. & cert. ef. 4-9-04

### **860-036-0920**

#### **Reduction of Approved Service Territory Boundaries Procedure**

(1) Upon petition by the water utility or a customer of the water utility ~~for an order~~, or by the Commission's ~~on its~~ own motion, an approved service territory may be reduced upon a showing that the water utility is not providing adequate service to its customers or does not have the capacity to serve the designated exclusive service territory.

(2) Notice and procedure of the proposed decrease of an approved service territory ~~shall~~must be given ~~as provided in~~per ORS 860-036-0910.

Stat. Auth.: ORS 183, 756, 757, 758

Stats. Implemented: ORS 758.300 - 758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00

### **860-036-0925**

#### **Transfer of Approved Service Territory**

~~(1) Except as provided in paragraph (6) of this rule, t~~The rights acquired by an approved service territory may be transferred only with the approval of the Commission under ORS 758.310, after a finding that the assignment or transfer is in the public interest.

~~(2) Service territory approved by Commission order shall not be altered solely as the result of a change in ownership or form of ownership.~~

~~(3) Upon the death of an applicant under an approved service territory, the executor or administrator shall continue operating the water utility for transferring such rights for a period not to exceed two years.~~

~~(4) Applicants must submit to the Commission an application to transfer an approved service territory. The application shall include:~~

~~(a) The application requirements as provided in OAR 860-036-0915;~~

~~(b) Evidence demonstrating that the transfer of the service territory is in the public interest.~~

~~(5) Notice and procedure of the proposed transfer shall be given as provided in ORS 860-036-0910.~~

~~(6) Commission approval is not required if at least 75 percent of the affected customers agree to the proposed transfer.~~

Stat. Auth.: ORS 183, 756, 757, 758

Stats. Implemented: ORS 758.300 - 758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 13-2002, f. & cert. ef. 3-26-02



**860-036-0930****Exclusive Obligation**

(1) The approved service territory of a water utility ~~shall~~must be exclusive. A water utility or community water supply system ~~shallis prohibited from not~~ providing~~ing~~ water ~~utility~~ service using distribution plant within the approved exclusive service territory of another water utility without the express approval of the Commission.

(2) A water utility ~~shall~~must serve ~~only~~all customers and applicants within its approved exclusive service territory ~~and shall serve all applicants for service within such territory~~. The water utility may only refuse service to a customer or applicant within the service territory only as provided inper OAR 860-036-0080 unless specifically authorized by the Commission.

Stat. Auth.: ORS 183, 756, 757, 758

Stats. Implemented: ORS 758.300 - 758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 13-2002, f. & cert. ef. 3-26-02