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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860
PUBLIC UTILITY COMMISSION

FILED: 09/24/2026 4:05 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: In the Matter of Rulemaking to Implement 2025 Senate Bill 845 (AR 673).

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/02/2026 3:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/19/2026
TIME: 2:00 PM
OFFICER: Christopher Allwein

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 669-254-5252
CONFERENCE ID: 1657953385
SPECIAL INSTRUCTIONS:
Passcode: 8667099406

NEED FOR THE RULE(S):

Senate Bill (SB) 845 (2025) granted the Public Utility Commission (PUC) additional authority to ensure safe and adequate water service, by allowing the Commission to order the sale of a regulated water utility when the utility is not able to provide safe and adequate service. In addition, SB 845 amends ORS 757.068, increasing the dollar amount the Commission may use to make emergency repairs to water systems. The proposed rules update the Commission's rules on

emergency repairs to align with the change in statute and introduce new rules detailing the process for the forced sale of a water utility described in SB 845.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Senate Bill 845 (2025), found online at https://olis.oregonlegislature.gov/liz/2025r1/Downloads/MeasureDocument/SB845/Enrolled.

Senate Bill 845 (2045) – Testimony from Nolan Moser, found online at https://olis.oregonlegislature.gov/liz/2025r1/Downloads/PublicTestimonyDocument/130599.

OPUC Staff materials and stakeholder comments submitted in Docket No. AR 673, found online at https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=24585.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

The proposed rules are only applicable to water utilities, and do not impact racial equity in the state.

FISCAL AND ECONOMIC IMPACT:

The potential impact of the proposed rules is limited to regulated water utilities and the PUC. Forced sale of a water system is a last resort measure and thus the proposed rules for forced sales should have minimal to no impact.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) No units of local government or members of the public could be affected by the proposed rules. The proposed rules would only apply to a PUC-regulated water utility that has failed to provide safe and adequate service. The PUC does not regulate government owned water utilities.

(2)(a) It is unlikely that any state agencies or small businesses would be economically affected, except potentially for a small water utility that may be subject to a PUC-ordered sale pursuant to the proposed rules.

(2)(b) The proposed rules do not create any new record keeping or reporting activities.

(2)(c) The proposed rules do not increase the need for services, supplies, or labor; again, the rules are expected to be utilized only in rare instances.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Staff of the PUC reached out individually to each regulated water utility in the state, some of whom are small businesses, to invite them to participate in the development of the proposed rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Staff of the PUC developed the proposed rules through public process, primarily OPUC Docket No. AR 673. As part of that process, Staff reached out individually to each regulated water utility in the state, some of whom are small businesses, to invite them to participate in the development of the proposed rules. Two workshops were held, along with

opportunities to provide written comment. No small businesses specifically engaged in this informal rulemaking process (except those affiliated with larger corporate entities), but the process was open to all.

RULES PROPOSED:
860-036-1710, 860-225-0000, 860-225-0010, 860-225-0020, 860-225-0030, 860-225-0040, 860-225-0050

AMEND: 860-036-1710

RULE SUMMARY: This rule change modifies the amount of PUC fees that can be used to fund emergency water utility repairs per biennium to align with ORS 757.068.

CHANGES TO RULE:

860-036-1710
Expenditure of Charges Collected Under ORS 756.310 to Make Emergency Repairs ¶

(1) The Commission may use up to $~~5~~100,000 per biennium of the charges 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 repairs to the water system are necessary~~ under the conditions set for ~~the health and safety of the customers or the water utility~~ in ORS 757.068.¶
(2) The Commission will seek recovery of charges used under this rule from the water utility providing service. Interest will not accrue on the outstanding balance.¶
~~(3) The Commission may also recover penalties as provided in ORS 756.350 from the time the charges are expended.~~
Statutory/Other Authority: ORS 183, 756, 757
Statutes/Other Implemented: ORS 756.040, 757.068, 757.310

ADOPT: 860-225-0000

RULE SUMMARY: Provides the scope and applicability of rules in Division 225.

CHANGES TO RULE:

860-225-0000
Scope and Applicability of Rules
The rules in this division prescribe the rules and procedures applicable to a Commission ordered sale of a water utility pursuant to ORS 757.066.
Statutory/Other Authority: ORS 183, 756, 757
Statutes/Other Implemented: ORS 756.040, 757.060, 757.066

ADOPT: 860-225-0010

RULE SUMMARY: Definitions for rules in this division.

CHANGES TO RULE:

860-225-0010
Definitions for OAR 860-225-0000 to OAR 860-225-0050
(1) "Alternative actions" means actions a water utility may take to avoid a Commission ordered sale as provided in ORS 757.066(5).¶
(2) "Acquiring entity" means a person or company taking ownership of a water utility subject to a Commission-ordered sale.¶
(3) "Acquisition adjustment" means some or all of the difference between the net book value and the purchase price, as provided in OAR 860-036-2130.¶
(4) "Initial response" means the water utility's response to a notice of intent issued by the Commission.¶
(5) "Notice of intent" means notice provided to a water utility specifying the Commission's intent to open a contested case as provided in ORS 757.066(4).¶
(6) "Ordered sale" means a sale of a water utility directed by the Commission under ORS 757.066 following a contested case.¶
(7) "Water utility" is defined as provided in OAR 860-036-1010.
Statutory/Other Authority: ORS 183, 756, 757
Statutes/Other Implemented: ORS 756.040, 757.066

ADOPT: 860-225-0020

RULE SUMMARY: Provides requirements for Commission notice and utility response prior to opening a contested case related to an ordered sale.

CHANGES TO RULE:

860-225-0020
Commission Notice of Intent to Open Contested Case
(1) If a water utility is found to be in violation of statutory or regulatory standards affecting the safety and adequacy of potable water service, the Commission will issue written notice to the utility prior to opening a contested case to determine whether to order the sale of the water utility. The notice must include the following information:¶
(a) Specific violations committed by the utility;¶
(b) Conditions impairing the safety and adequacy of service, if relevant;¶
(c) Alternative actions the Commission finds acceptable;¶
(d) Instructions and timeline for filing an initial response; and¶
(e) The Commission's intent to open a contested case.¶
(2) The water utility must provide an initial response to the Commission within the timeline specified in the notice of intent. The initial response must identify alternative action(s), if any, the water utility intends to take to remedy the condition or violation.¶
(3) If the initial response indicates that the water utility will pursue alternative action(s), it must provide a detailed plan for taking such action(s), which include:¶
(a) A description of the anticipated timeline to implement the alternative action(s) with milestones;¶
(b) The known or estimated cost of completing the chosen action(s), including how the necessary funds will be secured; and¶
(c) A description of any interim efforts the water utility will take to ensure safety and adequacy of service while the alternative action(s) are pursued.¶
(4) If the water utility fails to provide its initial response within the timeframe specified in the notice of intent, the Commission may immediately open a contested case to consider whether to order the sale of the water utility.¶
(5) At the same that the Commission provides its notice of intent to the violating water utility, it will also provide a copy of the notice to the Oregon Health Authority and any other relevant government agency.
Statutory/Other Authority: ORS 183, 756, 757
Statutes/Other Implemented: ORS 756.040, 756.068, 757.020, 757.035, 757.066

ADOPT: 860-225-0030

RULE SUMMARY: Specifies considerations and requirements for any PUC order requiring the sale of a water utility.

CHANGES TO RULE:

860-225-0030
Contested Case Hearing and Ordered Sale
(1) If after a hearing the Commission orders the sale of a water utility, the order must include:¶
(a) Process for sale of the water utility;¶
(b) Required timelines, if any, for an acquiring entity to resolve safety and adequacy conditions or violations; and¶
(c) Any interim action(s) necessary to protect customer health or safety.¶
(2) In establishing a sale process, the Commission may consider:¶
(a) Type and severity of the water utility's conditions or violations;¶
(b) Anticipated amount of time needed to correct conditions or violations;¶
(c) Utility size and complexity; ¶
(d) Potential impacts to customers;¶
(e) Financial condition of the water utility; and¶
(f) Any other information deemed relevant by the Commission.
Statutory/Other Authority: ORS 183, 756, 757
Statutes/Other Implemented: ORS 756.040, 756.068, 757.020, 757.035, 757.066

ADOPT: 860-225-0040

RULE SUMMARY: Describes requirements for transactions under ORS 757.480 related to the provisions of this division.

CHANGES TO RULE:

860-225-0040
Transactions Under this Division
(1) Applications for sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation under ORS 757.480 must meet the requirements of OAR 860-036-2110.¶
(a) The terms of any transaction, including cost, will be determined by negotiation between the water utility and an acquiring entity.¶
(b) The Commission will consider any requests for an acquisition adjustment.¶
(2) After receiving an application for approval of an ORS 757.480 transaction, the Commission must open a proceeding to adjust the water utility's rate base.¶
(a) The Commission may require the water utility to obtain professional appraisal of system value from an independent third party.¶
(b) The Commission may consider whether the public interest supports use of special cost recovery mechanisms.
Statutory/Other Authority: ORS 756, 757
Statutes/Other Implemented: ORS 756.040, 757.020, 757.480, 757.066

ADOPT: 860-225-0050

RULE SUMMARY: Provides direction for the treatment of penalties imposed on a utility subject to the provisions of this division.

CHANGES TO RULE:

860-225-0050
Liability for Penalties and Violations
(1) When ownership of a water utility is transferred under this division, the acquiring entity will not be liable for violations which occurred prior to acquisition of the water utility. The Commission may postpone or waive any penalties that were imposed on the utility due to violations committed by prior ownership.¶
(2) The acquiring entity will be allowed a reasonable time to correct violations originating from prior ownership prior to the application of penalties.¶
(3) The Commission may allow the rate recovery of applicable penalties imposed by other governmental authorities under prior ownership upon a demonstration that such an inclusion would benefit customers and the public interest.
Statutory/Other Authority: ORS 756, 757
Statutes/Other Implemented: ORS 756.040, 757.020, 757.259, 757.066, 757.994