

**Chapter 860 Public Utility Commission**  
**OREGON ADMINISTRATIVE RULES 1997 COMPILATION**

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**DIVISION 11**

**GENERAL**

**860-011-0000**

**Applicability, Construction, and Waiver of Rules**

(1) These general rules of practice and procedure apply to proceedings and hearings before the Commissioner.

(2) Any special rules which may be adopted for a particular proceeding by the Commissioner or presiding officer shall govern, if inconsistent with the general rules.

(3) The Oregon Rules of Civil Procedure shall govern in all cases except as modified by these rules, by order of the Commissioner or by ruling of the presiding officer.

(4) Members of the public are encouraged to appear and be heard on matters relevant to the issues involved. The Commissioner or presiding officer at a hearing may receive testimony from members of the public under conditions which protect the rights of all parties and avoid burdening the record.

(5) These rules shall be liberally construed to secured just, speedy, and inexpensive determination of the issues presented.

(6) For good cause shown, the Commission may deviate from or may waive any of the rules contained in Divisions 11 through 14.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 183.315

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-11-035 & 860-11-040; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); Renumbered from 860-11-055

**860-011-0001**

**Notice to Interested Persons**

(1) Prior to the adoption, amend-ment, or repeal of any rule, the Commissioner shall notify, by mail, the persons whose names appear on the Commissioner's list of persons requesting notice of rule changes.

(2) Any person who requests of the Commissioner, in writing, notice of proposed actions shall be included on the notice list.

(3) The Commissioner shall not delete the names of persons from the notice list without prior notification.

[ED. NOTE: Former OAR 860-11-005 was renumbered to 860-11-010 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

[ED. NOTE: Former OAR 860-11-010 was renumbered to 860-11-020 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

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

Stats. Implemented: ORS 183.335

Hist.: PUC 169, f. & ef. 11-10-75 (Order No. 75-936); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

**860-011-0010**

**Address for Mailing or Filing**

(1) The Public Utility Commissioner's address is: Public Utility Commission of Oregon, 550 Capitol Street NE, Salem, Oregon 97310-1380.

(2) All documents of any kind related to docketed Commission proceedings shall be filed at the address in section (1) of this rule. Unless otherwise provided by Commission instructions to parties, documents and facsimiles should be directed to the Administrative Hearings Division and should bear the number, if determined, for the docket in which they are to be filed. Inquiries regarding docketed proceedings should be directed to the Administrative Hearings Division, Support Unit

(3) The original document and all copies required by the Commission rules shall be filed in the same envelope or container. A party making simultaneous filings in more than one docket shall enclose the documents for each docket in a separate envelope or container.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.050

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-11-005; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

#### **860-011-0015**

##### **Fees and Charges for Filings**

A document shall not be accepted for filing with the Commissioner until all fees and charges required by law are paid.

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

Stats. Implemented: ORS 756.060

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

[ED. NOTE: Former OAR 860-11-020 was renumbered to 860-11-025 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

#### **860-011-0020**

##### **Method of Payment of Fees and Charges**

(1) Payment of fees and charges required for the filing of documents shall be by cash, money order, bank draft, sight draft, cashier's check, or certified or personal check.

(2) Filings tendered with personal checks shall be conditionally accepted until the check is cleared by the bank upon which it is drawn.

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

Stats. Implemented: ORS 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-11-010; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-011-0025**

##### **Acceptable Filings**

(1) Pleadings or other documents shall be filed by mail, personal delivery or any other reasonable means of delivery at the address listed in OAR 860-011-0010(1).

(2) Documents received by the Commission which are incomplete or not in substantial compliance with these rules, the Commission's orders, Hearings Officers' rulings or memoranda, or statutes shall not be accepted for official filing.

(3) Documents required to be filed with the Commission within a specified time but which fail to substantially comply with these rules, the Commission's orders or statutes may be conditionally filed, to satisfy the filing date, on the date received by the Commission.

(4) A telephonic facsimile copy of a document will be accepted for filing if the original signed document is deposited in the mail, addressed to the Commission, with proof of service as required by OAR 860-013-0070 on the date the facsimile copy is received. The complete facsimile copy must be received by the Commission by 5 p.m. on the filing deadline. Persons filing documents by facsimile copy accept all responsibility for timely filing. Delays in transmission shall not extend filing deadlines.

(5) Conditionally received filings shall not be officially filed or entered on the Commission's docket until approved as being in substantial compliance with these rules, the Commission's orders or statutes. Conditionally received filings shall be rejected unless brought into compliance within the time granted by the Commission.

(6) The Commission shall provide the filer the reason for rejecting or conditionally accepting a filing.

(7) The Commission or presiding officer may require the filing of additional information to clarify or explain a filing at any

stage of a proceeding, or in ex parte matters. If such information broadens or changes the scope or intent of the filing, the Commission or presiding officer shall require notice be given to persons affected.

[ED. NOTE: Former OAR 860-11-025 was renumbered to 860-11-040 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS 183.335, & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-11-020; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 9-1989, f. & cert. ef. 7-10-89 (Order No. 89-818); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

#### **860-011-0030**

##### **Filing Dates for Pleadings or Other Documents**

(1) Except as modified by statute or by these rules, a document is filed on the date received by the Commission at Salem, Oregon, between the hours of 8 a.m. and 5 p.m.

(2) If the prescribed filing date falls on a Saturday, Sunday, or legal holiday, as defined in ORS 187.010, or when the office is closed pursuant to a Department of Administrative Services directive, the next business day following is the date of filing.

[ED. NOTE: Former OAR 860-11-030 was renumbered to 860-11-050 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 183.315

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 9-1989, f. & cert. ef. 7-10-89 (Order No. 89-818); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

#### **860-011-0035**

##### **Definitions**

(1) "Applicant" means any person requesting or applying for any right, privilege, power, or other authority, or seeking permission to exercise any right or privilege under a statute requiring the filing of an application.

(2) "Complainant" means any person, including the Commission, who files a complaint under any statute providing for the filing of complaints before the Commission.

(3) "Defendant" means a person against whom a complaint is filed under ORS 756.500.

(4) "Interested person", except as provided in ORS 756.450, means any person who is not a party or staff and who asks to be listed as an interested person in any docketed Commission proceeding. Interested persons shall be served with copies of any orders, rulings, notices, or other documents issued by the Commission or presiding officer in the Commission proceeding for which they are listed. Unless permitted by the Commission or presiding officer, interested persons are not entitled to service of documents from staff or parties, to present evidence for the record, to conduct cross-examination of witnesses, to file pleadings, testimony, exhibits or briefs, or otherwise exercise the rights of a party.

(5) "Intervenor" means a person with the rights of a party who, pursuant to rule 860-013-0021, the Commission has allowed to participate in a proceeding.

(6) "Mail, mailed, or mailing" means a document is deposited in the United States mail, properly addressed, with first class postage prepaid.

(7) "Party" means any person entitled as a matter of right to a hearing before the Commission, or named as a party, or admitted as a party under OAR 860-013-0021.

(8) "Person" means individuals, joint ventures, partnerships, limited liability companies, corporations and associations, and governmental entities, or their officers, employees, agents, lessees, assignees, trustees or receivers.

(9) "Petitioner" means any person applying for permission to exercise any right or privilege or power under a statute requiring the filing of a petition, any person requesting a declaratory ruling under ORS 756.450, or any person applying for other relief for

which no specific pleading is designated by statute.

(10) "Protestant" means any person opposing an application under ORS 759.020.

(11) "Respondent" means any person designated as such in any matter over which the Commission has jurisdiction.

(12) "Staff" means any employee of the Commission except presiding officers.

[ED. NOTE: Former OAR 860-11-035 was renumbered to 860-11-000 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS Ch 183, 756.060

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

**860-011-0040** [Renumbered to 860-011-0055]

[ED. NOTE: Former OAR 860-11-040 was renumbered to 860-11-055 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

**860-011-0045** [Renumbered to 860-011-0060]

[ED. NOTE: Former OAR 860-11-045 was renumbered to 860-11-060 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

**860-011-0055** [Renumbered to 860-11-0000]

**860-011-0065** [Renumbered to 860-13-021]

**860-011-0075** [Renumbered to 860-12-007]

**860-011-0080**

**Charges for Copies and Services**

Unless otherwise stated by separate rule, the Public Utility Commission shall make charges for copies and services as follows:

(1) Photocopies:

(a) No charge for 20 pages or less, in excess of 20 pages, per page: \$0.25 (e.g. if 21 pages requested, charge would be \$5.00 minimum plus \$0.25, for a total of \$5.25.)

(b) Other government agencies, per page from first page: \$0.05

(2) Certification of true copies of public documents (per document certification) \$10.00

(3) Maps of specific area boundaries \$15.00

(4) Hearing transcripts: At cost. A copy of a public hearing transcript shall be supplied to a party without cost upon the filing with the Commission of a satisfactory affidavit of indigency, pursuant to ORS 756.521. Such request shall be filed on a form supplied by the Commission and contain information for the Commission to use to determine the eligibility of the requesting party.

(5) Statistical reports (Second and subsequent copies) \$15.00

(6) Facsimile transmission (FAX) charges: No charge for first 15 pages transmitted; additional pages, per page \$1.00.

(7) Tape recordings:

(a) Commission public meetings and hearings, first cassette \$15.00;

(b) Commission public meetings and hearings, additional cassettes on same invoice \$5.00.

(8) Staff research time: At Cost

(9) Annual subscription to all Commission orders or notices of specific hearings will be provided under the following schedule. Subscribers will be notified of renewal requirements on a yearly basis.

(a) Utility Cases: Orders \$80.00; Hearing Notices \$30.00;

(b) Administrative Rules Update Service: Utility \$50.00;

(c) All Commission Orders: \$155.00;

(10) Computer Services: At Cost

(11) Billing: The agency may require cash payment prior to honoring any request. Billings for unpaid balances may accompany mailed copies.

(12) Waiver of Fees: No fee shall be charged or collected for copies of published documents furnished to or provided for: Routine requests for one copy of a Commission order, of adminis-

trative rules and general publications. Requests for additional copies will be subject to applicable charges.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: PUC 13-1985, f. & ef. 9-26-85 (Order No. 85-886); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); Renumbered from 860-15-005; PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043); PUC 3-1996, f. & cert. ef. 7-19-96 (Order No. 96-181)

**DIVISION 12**

**PRACTICE BEFORE THE COMMISSIONER**

**860-012-0005**

**Representation and Ethical Conduct**

(1) All persons appearing in proceedings in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Oregon.

(2) If any person does not conform to such standards, the Commissioner may decline to permit such person to appear in a representative capacity in any proceeding.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

**860-012-0007**

**Representation by Authorized Representative or Agency Officer or Employee**

(1) For purposes of this rule, the words listed below shall have the following meaning:

(a) "Authorized representative" means a member of a partnership, an authorized officer or regular employee of a corporation, association or organized group, or an authorized officer or employee of a governmental authority other than a state agency;

(b) "Commission" means the Public Utility Commission of Oregon;

(c) "Contested Case" means a proceeding before the Commission in which a person is provided the opportunity for a hearing which is substantially of the character described in ORS 183.310(2);

(d) "Legal argument" includes argument on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; or

(C) The application of court precedent to the facts of the particular contested case proceeding.

(e) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses, presentation of factual arguments, or argument on:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of the agency conducting the proceeding;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; or

(D) The admissibility of evidence or the correctness of procedures being followed.

(2) Except for the staff of the Commission, a party or interested person participating in a contested case hearing before the Commission may be represented by an authorized representative, following a determination that the appearance by an authorized representative will not unreasonably broaden the issues or delay the proceeding, or otherwise hinder the orderly and timely development of the record:

(a) On or before the first appearance by an authorized representative, the presiding officer must be provided with a letter authorizing the named representative to appear on behalf of a



party or interested person;

(b) The presiding officer shall have authority to limit an authorized representative's presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments to insure the orderly and timely development of the hearing record. The presiding officer shall not allow an authorized representative to present legal argument as defined in subsection (1)(d) of this rule.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 183.455, 183.457, 756.060

Hist.: PUC 2-1989, f. & cert. ef. 1-23-89 (Order No. 89-067); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); Renumbered from 860-11-007; PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

#### **860-012-0010**

##### **Former Employees**

(1) No former employee of the Commissioner may appear on behalf of other parties in a formal proceeding in which the former employee took an active part on the Commissioner's behalf.

(2) Except with written permission of the Commissioner, no former employee of the Commissioner shall appear as an expert witness on behalf of other parties in a formal proceeding in which the former employee took an active part on behalf of the Commissioner.

Stat. Auth.: ORS Ch. 756, 767 & 183

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-012-0015 \**

##### **Ex Parte Contacts**

(1) The presiding officer shall place on the record a statement of the substance of any written or oral ex parte communication on the merits of an issue made to the presiding officer by a party while a contested case is pending. The presiding officer shall notify the parties of the communication and of their right to rebut the communication on the record.

(2) The Commissioner shall place on the record a statement of the substance of any written or oral ex parte communication on the merits of an issue made to the Commissioner by a party while a contested case is pending. The Commissioner shall notify all parties of the communication and of their right to rebut the communication on the record.

(3) For the purposes of this rule, staff is not a party.

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

Stats. Implemented: ORS 183.462

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

#### **860-012-0020**

##### **Joint Hearings with Federal Regulatory Agencies**

In any proceeding in which the Commissioner participates jointly with any federal regulatory agency, the rules of practice and procedure of the federal agency shall govern.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-012-0025**

##### **Joint Hearings With Another State**

In any proceeding in which the Commissioner participates jointly with an administrative body of another state, the rules of procedure of the state where the hearing is held shall govern the proceeding. Any person entitled to appear in a representative

capacity before any of the agencies involved in the joint hearing may do so in the joint hearing.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

**860-012-0030** [Renumbered to 860-014-0045 & 0085]

#### **860-012-0035**

##### **Presiding Officers**

(1) The Commissioner delegates to the presiding officer authority to:

- (a) Regulate the course of hearings including scheduling, recessing, reconvening, and adjourning;
- (b) Administer oaths and affirmations;
- (c) Issue subpoenas;
- (d) Make evidentiary rulings, with or without objection;
- (e) Limit, supervise, and control discovery;
- (f) Hold appropriate conferences before, during or after hearings;

(g) Decide procedural matters but not to grant motions to dismiss or other motions which involve final determination of the proceedings;

(h) Limit or extend filing periods and grant waivers;

(i) Certify a question to the Commissioner for consideration and disposition;

(j) Take any other action consistent with the duties of a presiding officer;

(k) Upon request by a party, and for good cause shown, issue a standard protective order adopted by the Commission, which may include language agreed upon by all parties to a proceeding and the presiding officer, to limit disclosure of confidential information. Decisions by the presiding officer regarding the standard protective order may be appealed to the Commission pursuant to OAR 860-014-0091.

(2) The presiding officer shall conduct a fair and impartial hearing and maintain order. If a person engages in conduct which interferes with this duty, the presiding officer may suspend the hearing or exclude the person from the hearing.

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

Stats. Implemented: ORS 756.055

Hist.: PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 11-1989, f. & cert. ef. 7-10-89 (Order No. 89-817)

## **DIVISION 13**

## **PLEADINGS AND TARIFF FILINGS**

#### **860-013-0005**

##### **Pleadings Enumerated**

Pleadings consist of applications, complaints, petitions, answers, protests, replies, and motions.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS Ch. 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & cert. 2-21-966 (Order No. 96-043)

#### **860-013-0010**

##### **Applications**

(1) An application is a pleading which applies for any right, power, privilege, or other authority under a statute requiring the filing of an application.

(2) All applications shall be in writing, set forth the applicant's name and business address, state clearly and concisely the



authorization or permission sought, cite by appropriate reference the statutory provision or other authority under which the Commissioner's action is sought, and specify such other information as is required by the Commissioner's rules and regulations under which application is made.

[ED. NOTE: Former rule 860-13-010 was renumbered to 860-13-050 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

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

Stats. Implemented: ORS 767.125 & 756.060

Hist.: Adopted by order entered & ef. 3-10-13, (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-025; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

### **860-013-0015**

#### **Complaints**

A complaint is a written pleading filed with or by the Commissioner requesting or instituting a formal investigation or hearing. Such pleading shall:

(1) Contain the full name and address of each party complainant and each party defendant;

(2) Set forth the specific acts complained of in sufficient detail to advise the parties and the Commissioner of the facts constituting the grounds of complaint and the exact relief requested;

(3) Cite the applicable statutes or rules alleged to have been violated.

[ED. NOTE: Former rule 860-13-015 adopted by order entered and ef. 3-10-13, (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); Repealed by PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783).]

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

Stats. Implemented: ORS 756.500

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-020; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

### **860-013-0020**

#### **Petitions**

(1) A petition is a written pleading requesting relief. A petition is not a complaint, answer, reply, application, or motion.

(2) A petition shall set forth all facts upon which the request for relief is based, a citation of the statutes and rules upon which the petition is based, and other information required by the Commissioner.

[ED. NOTE: Former rule 860-13-020 was renumbered to 860-13-015 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

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

Stats. Implemented: ORS 756.060

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-030; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

### **860-013-0021**

#### **Petitions to Intervene**

(1) Any person may petition to intervene in any proceeding before the Commission. The petition to intervene shall contain the following information:

(a) The name and address of the petitioner;

(b) The name and address of the attorney or authorized representative of the petitioner;

(c) If the petitioner is an organization, the number of members in and the purposes of the organization;

(d) The nature and extent of the petitioner's interest in the proceeding;

(e) The issues petitioner intends to raise at the proceeding; and

(f) Any special knowledge or expertise of the petitioner which would assist the Commission in resolving the issues in the proceeding.

(2) If the Commission or presiding officer finds the petitioner has sufficient interest in the proceeding and the petitioner's appearance and participation will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding, the Commission or presiding officer shall grant the petition. The Commission, or presiding officer, may impose appropriate conditions upon any intervenor's participation in the proceeding.

(3) Notwithstanding section (2) of this rule, the Citizens' Utility Board may intervene in Commission proceedings as of right, pursuant to ORS 774.180, by filing a notice of intervention containing the information required by subsections (1)(a) and (b) of this rule.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127; Renumbered from 860-11-065)

### **860-013-0025**

#### **Answers**

Except as provided in rules 860-013-0030 and 860-013-0035, any party who desires to respond to a pleading shall make the representations by a written answer:

(1) The answer to a complaint shall state fully and completely the nature of the defense and shall admit or deny, in detail, all material allegations of the complaint or motion.

(2) Matters alleged by affirmative defense shall be separately stated and numbered. Any defense which challenges the jurisdiction of the Commission over the subject matter of the proceeding may be pleaded as an affirmative defense.

[ED. NOTE: Former rule 860-13-025 was renumbered to 860-13-010 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS Ch. 183, 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-035; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

### **860-013-0030**

#### **Protests**

A protest is a written pleading addressed to an application under ORS 759.020.

(1) Every protest shall:

(a) Identify the application or petition to which an objection is made; and

(b) Fully and succinctly state the basis of the objection, that a hearing in the matter is requested, and that the protestant will appear at a hearing and may offer evidence in support of the protest.

[ED. NOTE: Former rule 860-13-030 was renumbered to 860-13-020 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No 77-163); PUC 10-1984, f. & ef. 5-18-84 (Order No. 84-381); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & cert. 2-21-96 (Order No. 96-043)

### **860-013-0031**

#### **Motions**

A motion is a request to the Commission or presiding officer for a ruling or other action which affects the rights of a party to

the proceeding. A motion shall be in writing unless made orally at a hearing or prehearing conference if the party against which the motion is directed is present, or when otherwise permitted by the Commission or presiding officer.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

**860-013-0032** [Renumbered to 860-013-0022]

**860-013-0035**

**Replies**

A reply is a written pleading which responds to a defendant's pleading or other answer. A party replying shall file the reply with the Commissioner within the time set forth in rule 860-013-0050. Failure to file a reply within that time shall be deemed a general denial.

[ED. NOTE: Former rule 860-13-035, sections (1) thru (3) renumbered to 860-13-025 and sections (4) and (5) renumbered to 860-13-055 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

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

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 6798); PUC 120, f. 10-26-62, ef. 11-15-62, (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-040; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

**860-013-0040**

**Form and Size**

(1) Pleadings shall be fastened at the left margin and be legibly written or typed on paper 8-1/2 X 11 inches in size. Exhibits and appendices shall be folded to that size. The printing or writing shall be double spaced. Footnotes or quotations may be single spaced and indented. The first page of a pleading, exhibit, appendix, or other document shall bear the docket number of the proceeding in which the document is filed, unless no docket number has been assigned.

(2) Reproduction may be by any process, provided all copies are clear and permanently legible.

(3) Unless otherwise directed by the presiding officer, all written testimony and exhibits in utility proceedings shall be paginated in the top right corner as follows: Party/Exhibit Number; Witness/ Page Number.

[ED. NOTE: Former rule 860-13-040 was renumbered to 860-13-035 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-055; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

**860-013-0050**

**Time for Answer, Reply, or Motion**

(1) Answers shall be filed as follows:

(a) An answer to a complaint, application or petition shall be filed within 20 days after service;

(b) An answer to a consumer complaint under OAR 860-021-0015 shall be filed within 15 days after service.

(2) A reply to a motion or a responsive pleading shall be filed within 15 days of service of the pleading against which the reply is directed.

(3) Motions shall be filed as follows:

(a) A motion against a complaint, application or petition shall be filed within 20 days of service;

(b) A motion against an answer or protest shall be filed within 15 days of service;

(c) A motion against a reply shall be filed within 10 days of

service;

(d) Unless otherwise specified by these rules or the presiding officer, a written response to a motion shall be filed within 15 days of service of the motion.

(4) Objections to the jurisdiction of the Commissioner or that a pleading does not state facts sufficient to constitute grounds for relief are never waived.

[ED. NOTE: Former rule 860-13-050: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); Repealed by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

[ED. NOTE: Former rule 860-13-055 was renumbered to 860-13-040 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-010; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

**860-013-0055**

**Default Upon Failure to Plead**

(1) If a party fails to plead or otherwise appear within the time specified in rule OAR 860-013-0050, the party shall be in default. All material allegations of the complaint shall be deemed admitted and hearing waived. The proceeding may be disposed of without further notice to the defaulting party.

(2) A defaulted party may file a motion to set aside a final order of default as follows:

(a) A motion to set aside a final order upon default must be filed within 60 days from the date of service of the order. The motion must be served as provided in OAR 860-013-0070. The Commission may grant the motion if the moving party shows that the default resulted from mistake, inadvertence, surprise, excusable neglect, or other good cause;

(b) A motion made under this rule must be accompanied by a pleading or motion which contains an assertion of a claim or a defense;

(c) The filing of a motion under this rule does not excuse the defaulted party from complying with the order nor is the enforcement of the order stayed or postponed, except upon order of the Commission.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-035(4) and (5); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

**860-013-0060**

**Copies of Filings Required**

Except as otherwise provided for general rate revisions and tariff filings under Divisions 22 and 34 of the Commission's rules, an original and five copies of any pleading, written testimony, exhibit or brief in a utility proceeding shall be filed with the Commission.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

**860-013-0065**

**Signature on Pleadings Required**

(1) Every pleading shall be signed by at least one of the pleaders, the pleader's attorney, or authorized representative.

(2) Signature of a pleading constitutes a certificate that:

(a) The person has read the pleading;

(b) To the best of the knowledge, information, and belief of the person, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(c) It is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

[ED. NOTE: Former rule 860-13-065 was renumbered to 860-13-070 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-070; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

**860-013-0070(1)** [Renumbered to 860-13-071]

**860-013-0070**

**Service By Parties**

(1) Parties shall serve all filed documents, including correspondence with the Commission or presiding officer, pleadings, testimony, exhibits, memoranda of law, and briefs on the attorney of record, or, if not represented, upon each party to the proceeding. Service need not be made upon persons listed as interested persons under OAR 860-011-0035.

(2) Parties shall serve those documents in person, by mail, or by any other reasonable means of delivery. Service is complete when the documents are delivered in person, or deposited in the mail; or as otherwise allowed by the Commissioner or presiding officer.

(3) When a party has appeared by attorney or other duly authorized representative, service upon the attorney or representative shall be valid service upon the party.

(4) The original of all filed documents, including those listed in section (1) of this rule, shall include an acknowledgement of service or a certificate in substantially the form shown as follows:

**I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, to the following parties or attorneys of parties:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Dated at** \_\_\_\_\_

**this** \_\_\_\_\_ **day of** \_\_\_\_\_, **19**\_\_\_\_\_.

\_\_\_\_\_  
(Signature)

**of Counsel for** \_\_\_\_\_

[ED. NOTE: Former rule 860-13-070 was renumbered to 860-13-065 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55 ef. 9-1-

54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 47783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-065; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

**860-013-0071**

**Service of Complaints, Orders and Rulings by the Commission**

The Commission shall serve all complaints in which the Commission is the complainant, all formal consumer complaints filed pursuant to rule 860-021-0015(5), all proposed orders, final orders, presiding officers' rulings and memoranda, and all other documents issued by the Commission or presiding officer in a docketed proceeding. Service shall be made by mail or any other reasonable means of delivery, to the address appearing in the Commission's records. Service shall be deemed complete when the document is mailed.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55 ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 47783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-13-065; PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); Renumbered from 860-13-070(1); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

**860-013-0075**

**Tariff Filings and Trial Briefs**

(1)(a) Unless waived by the Commission or presiding officer for good cause, any utility filing new or revised tariff schedules which constitute a general rate revision shall include supporting testimony and exhibits, working papers, and trial briefs. A general rate revision is a filing by a utility which affects all or most of the company's rate schedules. The term "general rate revision" does not include rate changes set forth in OAR 860-022-0017(1).

(b) As used in this rule, working papers shall consist of those documents which show the source, calculations and details supporting the testimony and other exhibits submitted. The Commission or presiding officer may direct that the working papers of a party be provided to any other party.

(c) The trial brief shall contain an exhibit showing in summary form the following information:

(A) The dollar amount of total revenues which would be collected under the proposed rates;

(B) The dollar amount of change in revenues requested, total and net of any credits from federal agencies;

(C) The percentage change in revenues requested, total and net of any credits from federal agencies;

(D) The test period;

(E) The requested return on capital and return on equity;

(F) The rate base proposed in the filing;

(G) The results of operations before and after the proposed rate change; and

(H) The proposed effect of the rate change on each class of customers.

(2) The Commission or presiding officer may require participants appearing in any proceeding to file by a specific time, written testimony or other documents.

(3)(a) Every utility required to submit written testimony or other exhibits pursuant to this rule shall file with the Commission an original and 20 copies unless fewer copies are authorized. A public utility shall file with the Commission three sets of working papers.

(b) All other persons submitting written testimony and other exhibits in a proceeding subject to this rule shall file with the Commission an original and five copies or such other number as



the Commission or presiding officer may prescribe.

(c) Parties shall serve copies of the written testimony and other exhibits on the other parties to the proceeding in the manner required by OAR 860-013-0070.

(4) Telecommunications utilities partially exempt from regulation under ORS 759.040 shall file tariffs in the manner specified in OAR 860-034-0300.

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

Stats. Implemented: ORS 756.060

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

## DIVISION 14

### HEARINGS AND PROCEEDINGS

#### 860-014-0005

##### Notice

The Commissioner or presiding officer shall set the time and place for hearings. Notice shall be served on all parties at least 10 days prior to the date of the hearing, in person, by mail, or by any other reasonable means of delivery. By order, the Commissioner may require a hearing to be held on less than 10 days' notice. (See OAR 860-022-0017.)

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

Stats. Implemented: ORS 756.512

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 103, f. 7-20-61, ef. 7-25-61 (Order No. 37732); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### 860-014-0010

##### Postponements and Continuances of Hearings

(1) Any party may request a postponement of a hearing. The party shall provide the reasons why the postponement is necessary. The Commission or presiding officer may require oral requests for postponement of a hearing to be confirmed in writing.

(2) The Commission or presiding officer may grant a postponement of a hearing and may, at any time, order a postponement upon his or her own motion.

(3) The Commission or presiding officer may continue a hearing or conference to receive additional evidence or argument.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.534

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

#### 860-014-0020

##### Conferences

(1) The Commission or presiding officer may schedule conferences to:

(a) Establish a procedural schedule, including dates for discovery, testimony, and exhibits;

(b) Identify, simplify, and clarify issues;

(c) Eliminate irrelevant or immaterial issues;

(d) Obtain stipulations, authenticate documents, admit documents into evidence, adopt witness schedules, cross-examination schedules, and decide the order of proof;

(e) Consider other matters which may expedite the orderly conduct and disposition of the proceeding.

(2) All discovery procedures provided in these rules may be applied to aid in the conference.

(3) The record shall reflect the results of any conferences, which shall be binding on all parties.

(4) Unaccepted proposals at conference shall be privileged

and shall not be admissible in evidence in the proceeding.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

#### 860-014-0025

##### Consolidation of Proceedings

Proceedings may be consolidated for hearing at the discretion of the Commissioner or presiding officer.

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

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-76, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### 860-014-0030

##### Appearances

(1) Parties shall enter appearances at the hearing by giving their names and addresses in writing to the reporter or presiding officer.

(2) The Commissioner or presiding officer may require appearances to be stated orally so that the identity and interest of all parties present will be known to those at the hearing.

(3) Parties withdrawing from a proceeding shall immediately notify the Commissioner or presiding officer and all parties to the proceeding.

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

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### 860-014-0032

##### Failure to Appear

If a party fails to appear at a conference or hearing, the party waives its right to participate in the proceeding. Upon motion by any party, or upon the Commission's own motion, the Commission may enter an order dismissing the party from the proceeding. Such order shall be served on the party dismissed. Unless allowed by the Commission or presiding officer, the party may not reopen any matter determined at the conference or hearing or recall for further examination witnesses then available and excused. If the Commission or presiding officer finds there was good cause for the party's failure to appear, or the interests of other parties or the public would be prejudiced, the Commission or presiding officer may reinstate the party or permit the matter to be reopened, heard, and considered.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

#### 860-014-0035

##### Order of Procedure

(1) Unless modified by the Commission or presiding officer, parties shall present evidence in the following order:

(a) Formal complaints: Complainant; defendant; Commission's staff in proceedings in which the Commission is not the complainant; participants; and rebuttal by complainant;

(b) Investigation and suspension proceedings: Respondent; Commission's staff; protestants against suspended schedules; other participants; and rebuttal by respondent;

(c) Applications and petitions: Applicant or petitioner; protestants; participants; Commission's staff; and rebuttal by



applicant or petitioner;

(2) In hearings where several proceedings are heard on a consolidated record, the Commission or presiding officer shall designate the order of procedure.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

#### **860-014-0040**

##### **Subpoenas**

(1) A subpoena may be issued by an attorney of record of a party and subscribed by the signature of the attorney.

(2) Parties not represented by an attorney shall submit, in writing to the Commissioner or presiding officer, requests for the issuance of subpoenas. The request shall set forth the general relevance and reasonable scope of the testimonial, documentary, or physical evidence sought.

(3) Requests for subpoenas duces tecum shall specify the particular document or part of a document to be produced.

(4) Parties shall serve subpoenas as provided in the circuit courts of the State of Oregon under the **Oregon Rules of Civil Procedure**. Parties shall return the originals to the Commissioner or presiding officer.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

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

Stats. Implemented: ORS 756.543

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-014-0045**

##### **Evidence**

(1) Relevant evidence:

(a) Means evidence tending to make the existence of any fact at issue in the proceeding more or less probable than it would be without the evidence;

(b) Is admissible if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs;

(c) May be excluded if the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by undue delay.

(2) Parties objecting to the introduction of evidence shall state the grounds for objection at the time the evidence is offered.

(3) When objection is made to the admissibility of evidence, the Commissioner or presiding officer may have the evidence recorded and reserve ruling until a later time.

(4) When a party excepts to a ruling excluding certain evidence, the Commission or presiding officer may require the party to make an offer of proof by stating what the evidence would indicate if received. Alternatively, the Commission or presiding officer may permit the excluded evidence to be received in like manner as other evidence, but it shall be marked and designated as evidence offered, excluded, and excepted to.

(5) No admission or offer of settlement made during compromise negotiations, including a settlement conference under these rules, shall be admissible in evidence against the party making the admission or offer in any formal hearing before the Commission. Independently ascertainable facts disclosed during compromise negotiations may be proved in any subsequent hearing.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f.

7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); Renumbered from 860-12-030

#### **860-014-0050**

##### **Official Notice**

(1) The Commissioner or presiding officer may take official notice of the following matters:

(a) All matters of which the courts of the State of Oregon take judicial notice;

(b) Rules, regulations, administrative rulings and reports of the Commissioner and other governmental agencies;

(c) Orders of the Commissioner;

(d) Permits, certificates, and licenses issued by the Commissioner;

(e) Documents and records in the files of the Commissioner which have been made a part of the file in the regular course of performing the Commissioner's duties;

(f) General, technical or scientific facts within the specialized knowledge of the agency;

(g) The results of the Commissioner's or presiding officer's own inspection of the physical conditions involved after notice to the parties.

(2) The Commissioner or the presiding officer shall notify the parties when official notice is taken. The notice may be given on the record during the hearing or in findings of fact in a proposed or final order. A party may object to the fact noticed within 15 days of that notification. The objecting party may explain or rebut the noticed fact.

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

Stats. Implemented: ORS 756.060

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-014-0055**

##### **Resolutions**

(1) Properly authenticated resolutions of governing bodies of government, business, agricultural or civic organizations shall be received in evidence if offered at the hearing by the president, secretary, or other person authorized to offer the resolution.

(2) Parties may rebut the authenticity of the resolution or the circumstances surrounding its procurement.

(3) Recitals of fact contained in resolutions are not proof of the facts. The Commissioner or presiding officer may receive a resolution for the limited purpose of showing the expression of the official action of the resolving body with respect to the matter under consideration in the proceeding.

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

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-014-0060**

##### **Testimony and Exhibits**

(1) The form and size of testimony and exhibits shall conform to OAR 860-013-0040. When filed before hearing, the number of copies shall conform to OAR 860-013-0060. When offered at hearing, the number of copies shall conform to section (2) of this rule.

(2) When testimony or exhibits are offered in evidence, copies shall be furnished to each party, the Commission and presiding officer. When practicable, the parties shall distribute copies of exhibits before or at the commencement of the hearing.

(3) When relevant evidence offered by a party is included in a book, paper, or document containing irrelevant material, the party offering the exhibit shall plainly designate the matter offered:

(a) If irrelevant material is included in the exhibit which would encumber the record, the exhibit shall not be received in evidence. The exhibit may be marked for identification, and, if properly authenticated, the relevant matter may be read into the record;

(b) If the Commission or presiding officer directs, a copy of the relevant portions of the exhibit may be received as evidence. The offering party shall offer copies of the document to all other parties appearing at the hearing. The parties shall be afforded an opportunity to examine the exhibit and to offer in evidence other portions of the exhibit found to be relevant.

(4) Papers and documents on file with the Commission may be introduced by reference to number, date, or by any other method of identification satisfactory to the Commission or presiding officer.

(5)(a) A party may submit the direct testimony of a witness in writing in utility cases. Supporting exhibits may accompany written testimony. Parties shall serve copies of the written testimony and exhibits on the other parties to the proceeding. Unless otherwise directed by the Commission or presiding officer, such testimony, when sworn to orally or in writing by the witness under oath to be true, shall be received in the same manner as an exhibit. The Commission or presiding officer may direct that any portion of the direct, redirect, or rebuttal testimony of any witness be submitted in writing;

(b) The written testimony shall be prepared in question and answer or narrative form, and shall contain a statement of the qualifications of the witness. The written testimony shall be subject to the same rules of admissibility and cross-examination as if it were presented orally;

(c) The Commission or presiding officer may direct that demonstrative evidence be reduced to a diagram, map, photograph or similar representation.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127) PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

## **860-014-0065**

### **Depositions**

(1) The testimony of any witness may be taken by deposition at any time before the hearing is closed.

(2) A party proposing to take a deposition shall notify in writing every other party and the Commissioner or presiding officer. Unless notice is waived a party shall provide 10 days' notice to the parties of a deposition to be taken within the state and 15 days' notice for a deposition to be taken elsewhere. The notice shall state the name and address of the witness, the subject matter on which the witness is expected to testify, the time and place of taking the deposition, the name and address of the officer before whom it is to be taken, and the reason why the deposition is to be taken. Other parties in the proceeding may make any appropriate response to the notice of deposition.

(3) A party may take a deposition before a person designated in the notice or agreed upon by the parties. The Commissioner or presiding officer may impose such conditions on the taking of the deposition as may be necessary to insure fairness in the proceeding.

(4) Every person whose testimony is taken by deposition shall swear or affirm concerning the matter about which he or she shall testify. The testimony shall be transcribed. The person before whom the deposition was taken shall certify, under oath on the transcript, that the witness was sworn in the reporter's or transcriber's presence, and the transcript is a true record of the testimony or a correct transcription of the recording.

(5) The deposition shall conform to the requirements of OAR 860-013-0040.

(6) A party may examine a deponent on any matter not

privileged which appears reasonably calculated to lead to the discovery of evidence relevant to the issues involved in the pending proceeding, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things, and the identity and location of persons having knowledge of relevant facts.

(7) Unless received in evidence by the Commissioner or presiding officer, no portion of a deposition shall constitute a part of the record in the proceeding. A party may object at the hearing in the proceeding to receiving in evidence any portion of the deposition. Upon request, the party examining the deponent shall provide the Commissioner or presiding officer a transcribed copy of any deposition taken in the proceeding.

(8) The party requesting the deposition shall pay the deponents and the person taking the deposition the same fees as are paid for like services in the courts of record of the state in which the deposition is taken.

[ED. NOTE: Former OAR 860-14-070 was renumbered to 860-14-080 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

[ED. NOTE: Former OAR 860-14-065 was renumbered to 860-14-075 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

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

Stats. Implemented: ORS 756.538

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

## **860-014-0070**

### **Data Requests**

(1) Subject to limitations imposed by the Commission or presiding officer, the Commission, presiding officer, or any party, may submit data requests to any party. Data requests are written interrogatories or requests for production of documents. The data requests shall be answered within 10 Commission business days from the date of service. Each data request shall be answered fully and separately in writing or by production of documents, unless objected to, in which event the objection shall be written in lieu of answer.

(2) If the party to whom the data requests are directed refuses to answer or objects to any data request, the Commission or presiding officer shall rule upon the objection and may compel an answer or impose sanctions for refusal to answer.

(3) Any party may offer into evidence data requests and the answers to the data requests. Upon request, the party answering the data request shall provide the Commission or presiding officer a copy of the answer to any data request. Any objection to substance or form of any data requests or answers shall be attached to the submitted data requests with specific reference and grounds. The Commission or presiding officer shall rule on objections prior to receiving the submitted data requests in evidence. Every remedy available to a party using deposition procedures shall be available to a party using data requests.

(4) Any motion regarding disputed data requests submitted to the Commission or presiding officer, whether by motion or otherwise, shall contain a certification that the parties have conferred and been unable to resolve the dispute. The certification may be included in the body of the motion. Any motion which does not contain this certification will be denied.

(5) Parties are not required to file data requests or responses to data requests with the Commission, except when requesting resolution of a discovery dispute under these rules.

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

Stat. Implemented: ORS 756.060

Hist.: PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217); PUC 13-1995, f. & cert. ef. 12-12-95 (Order No. 95-1284); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

## **860-014-0075 [Renumbered to 860-014-0085]**

[ED. NOTE: Former OAR 860-14-075 was renumbered to 860-14-085 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

## **860-014-0080**

### **Records in Other Proceedings**

If a portion of the record of any other proceeding before the Commissioner is offered in evidence, a copy of the portion shall be presented for the record and a copy furnished to each party to the proceeding.

[ED. NOTE: Former OAR 860-14-080 was renumbered to 860-14-090 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-14-070; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

### **860-014-0085**

#### **Voluntary Settlements; Stipulation to Facts**

(1) In all Commission proceedings, some or all of the parties may enter into a voluntary settlement of issues, or enter into a stipulation upon any matter in controversy, at any time during the proceeding. Any such agreement shall be subject to sections (2) through (6) of this rule.

(2) Any party may attend any settlement conference in which the Commission staff participates. A settlement conference is any meeting called for the purpose of discussing resolution of issues in a proceeding. Examples of communications not constituting settlement conferences for purposes of this rule include, but are not limited to communications primarily for the purpose of discovery, and communications occurring prior to initiation of docketed proceedings.

(3) All parties to a proceeding shall be provided reasonable prior notice by Commission staff of any settlement conference in which staff intends to participate. The notice shall include the time and place of the settlement conference, the party or parties involved, and the issue(s) to be discussed. Once notice has been given by staff of a settlement conference involving a particular issue, additional notice of continuing settlement conferences involving the same issue need only be provided to parties attending the initial conference, or who have requested continuing notice.

(4) A stipulation or settlement shall not be binding on the Commission or presiding officer. Settlements and stipulations shall be reduced to writing, served on the parties to the case, and filed for review by the Commission or the presiding officer. Unless waived by the Commission or presiding officer, settlements and stipulations filed for review shall be supported by an explanatory brief or written testimony filed and served concurrently therewith. Parties may present oral or written stipulations on the record at the hearing or other appropriate time with leave of the Commission or presiding officer.

(5) Within 20 days of the filing of the settlement or stipulation, any party may file written objections to the settlement or stipulation or request a hearing. Upon request or its own motion, the Commission or presiding officer may set another time period for objections and request for hearing. Objections may be on the merits or based upon failure of staff or a party to comply with this rule. The Commission or presiding officer may hold a hearing to receive testimony and evidence regarding the settlement or stipulation. The Commission or presiding officer may require evidence of any facts stipulated, notwithstanding the stipulation of the parties. The parties shall be afforded notice and an opportunity to submit proof, if such evidence is requested.

(6) If a stipulation is rejected, the Commission or presiding officer shall provide the parties sufficient opportunity on the record to present evidence and argument on the matters contained in the settlement or stipulation. No further hearing need be held where a review hearing has already been held under section (5) of this rule and the Commission or presiding officer determines that the issues were fully addressed in the prior hearing.

[ED. NOTE: Former OAR 860-14-085 was renumbered to 860-14-095 by PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436).]

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-14-075; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); Renumbered from 860-12-030

### **860-014-0090**

#### **Briefs and Oral Arguments**

(1) The form and size of briefs shall conform to OAR 860-013-0040, and the number of copies shall be as specified in OAR 860-13-060.

(2) Parties may file briefs in any proceeding. The Commission or presiding officer may require a party to file a brief.

(3) Parties shall serve copies on all other parties. Proof of service shall be furnished to the Commission as provided by OAR 860-013-0070.

(4) The Commission or presiding officer may require the parties to present their arguments and authority orally at the close of the hearing instead of by written brief.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 126, f. 2-5-64, ef. 3-1-64 (Order No. 39889); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-14-080; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

### **860-014-0091**

#### **Appeals to the Commission From Rulings of Presiding Officers**

(1) A ruling of the presiding officer may not be appealed during the proceeding except where the presiding officer certifies the question to the Commission pursuant to OAR 860-012-0035(1)(i), upon a finding that the ruling:

(a) May result in substantial detriment to the public interest or undue prejudice to any party; or

(b) Denies or terminates any person's participation.

(2) A request for certification of a ruling of the presiding officer must be filed within ten days of the date of service of the ruling, or the date of the oral ruling.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

### **860-014-0092**

#### **Proposed Order**

(1) After a contested case hearing, the presiding officer shall issue a proposed order at the direction of the Commission.

(2) The Commission's staff and parties to the proceeding may file exceptions to a proposed order and a reply to the exceptions.

(3) The exceptions, if taken, shall be:

(a) Confined to factual and legal issues which are essential to the ultimate and just determination of the proceeding and shall be based on grounds that:

(A) A necessary finding of fact is omitted, erroneous, or unsupported by the preponderance of the evidence of record;

(B) A necessary legal conclusion is omitted or is contrary to law or the Commission's policy; or

(C) Prejudicial procedural error occurred.

(b) Numbered and shall specify the disputed findings, opinions or conclusions. Supporting citations to the record and authorities shall be provided. The nature of the suggested error shall be specified and alternative or corrective language provided;

(c) Filed on or before the 15th day after the service date of



the proposed order.

(4) A reply to the exceptions, if made, shall be filed on or before the 10th day after the exceptions are due.

(5) Exceptions and replies shall be filed and served as specified in OAR 860-013-0060 and 860-013-0070(2).

(6) The Commission may modify the proposed order, reject it and prepare a different order, or adopt the proposed order.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.060

Hist.: PUC 8-1980, f. & ef. 12-11-80; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

#### **860-014-0093**

##### **Extension of Date to Comply With Rules And Orders**

(1) Within 60 days of the date of service of an order, or an adoption of a rule, parties may file petitions for extension of an effective date or of time to comply with a rule or an order of the Commissioner.

(2) Petitions shall set forth specifically the reasons for the requested extensions.

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

Stats. Implemented: ORS 756.060

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

#### **860-014-0094**

##### **Notice of Acceptance of Terms of Orders**

The Commission may require any public utility affected by any order to notify the Commission within a specified time whether the terms of the order are accepted and the time within which the order will be obeyed.

Stat. Auth.: ORS Ch. 756

Stat. Implemented: ORS 756.561

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 1-1996, f. & cert. ef. 2-21-96 (Order No. 96-043)

#### **860-014-0095**

##### **Rehearing or Reconsideration**

(1) Within 60 days from the date of service of an order entered by the Commission, a party may file an application for rehearing or reconsideration of such order as provided for by ORS 756.561. The application shall set forth all grounds for rehearing or reconsideration.

(2) The application shall specify:

(a) The portion of the challenged order which the applicant contends is erroneous or incomplete;

(b) The portion of the record, laws, rules, or policy of the Commission relied upon to support the application;

(c) The change in the order which the Commission is requested to make;

(d) How the applicant's requested changes in the order will alter the outcome; and

(e) One or more of the grounds for rehearing or reconsideration set forth under section (3) of this rule.

(3) The Commission may grant an application for rehearing or reconsideration if the applicant shows that there is:

(a) New evidence which is essential to the decision and which was unavailable and not reasonably discoverable prior to issuance of the order;

(b) A change in the law or agency policy since the date the order was issued, relating to a matter essential to the decision;

(c) An error of law or fact in the order which is essential to the decision; or

(d) Good cause for further examination of a matter essential to the decision.

(4) Within 15 days from the date the application is filed, any party may file a reply setting forth its position on the application.

(5) Unless ordered by the Commission under OAR 860-014-0093, an order granting an application for rehearing or reconsideration shall not stay or postpone compliance with the original order.

(6) The application is deemed denied if, by the sixtieth day after filing, the Commission has not issued an order granting the

application. If the application is granted, the Commission may adhere to, modify, or rescind its prior order or take such other action as it may deem appropriate.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.561

Hist.: Adopted by order entered & ef. 3-10-13 (not filed with Secretary of State); PUC 1, f. & ef. 8-16-39 (Order No. 6798); PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 155, f. 7-3-73, ef. 7-15-73 (Order No. 73-436); Renumbered from 860-14-085; PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 15-1990, f. & cert. ef. 8-17-90 (Order No. 90-1159); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127)

#### **860-014-0096**

##### **Prior Rules**

Any prior rules conflicting with these rules are superceded.

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

Stats. Implemented: ORS 756.061

Hist.: PUC 179, f. 3-18-77, ef. 4-1-77 (Order No. 77-163); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)

### **DIVISION 15**

#### **CHARGES FOR COPIES AND SERVICES**

**860-015-0005** [Renumbered to 860-011-0080]

### **DIVISION 21**

#### **UTILITY REGULATION**

##### **General**

[ED. NOTE: Secretary of State Administrative Order Number PUC 164, filed April 14, 1974, adopted utility regulation OAR 860-21-005 through 860-28-010, effective May 11, 1974. PUC 164 superseded all previous utility administrative rule adoptions as listed below by Secretary of State administrative rule control numbers: PUC 2, 4, 5, 18, 20, 21, 23 through 33, 41, 52, 56, 58 through 68, 71, 91, 96, 97, 102, 104, 107, 112, 120, 126, 132, 134, 135, 136, 139, 140, 146 and 148.]

#### **860-021-0000**

##### **Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040**

The rules contained in this Division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS Ch. 183, 756.010(13) & 759.040

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-021-0005**

##### **Scope of the Rules**

The adoption of these rules shall in no way preclude the Public Utility Commissioner from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint or upon its own motion, or upon the application of any utility. Furthermore, these rules shall not in any way relieve any utility from any of its duties under the laws of this State. Upon application by a utility the Commissioner may relieve it of any obligations under these rules.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-021-0008**

##### **Definitions**

(1) "Applicant" means a person who:



(a) Applies for service with a utility; or  
(b) Reapplies for service at a new or existing location after service has been discontinued; or

(c) Has not satisfied the requirements of OAR 860-021-0205 or 860-021-0335(2) within the required time period, if either is applicable.

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

(3) "Co-customer" means a person who meets the definition of "customer" and is jointly responsible with another person for payments for utility service on an account with the utility. If only one of the co-customers discontinues service in his or her name, the remaining co-customer shall only retain customer status if he or she reapplies for service in his or her own name within 20 days of such discontinuance provided the utility actually contacts the co-customer or mails a written request for an application to the remaining co-customer within one business day of the discontinuance.

(4) "Consumer" means applicants and customers.

(5) "Registered dispute" means an unresolved issue between a consumer and a regulated utility company that is under investigation by Consumer Services Division, but is not the subject of a formal complaint.

(6) "Public utility" has the meaning given the term in ORS 757.005.

(7) "Telecommunications utility" has the meaning given the term in ORS 759.005.

(8) "Utility" means all telecommunications and public utilities, except when a more limited scope is explicitly stated.

Stat. Auth.: ORS Ch. 756 & 757

Stat. Implemented: ORS 756.010, 757.005 & 759.005

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

#### **860-021-0009**

##### **Applications for Utility Service**

(1) An application for utility service must be made where:

(a) Service is requested by a person who has not previously been served by the utility;

(b) Service has been involuntarily discontinued in accordance with these rules, and the person subsequently seeks to have service restored; or

(c) Service has been voluntarily discontinued, and a request to restore service has not been made within 20 days.

(2) An application is a request for utility service. An application for service shall not be accepted until the applicant establishes credit as set forth in OAR 860-021-0200 and 860-021-0205. However, the utility has the right to refuse an application for service as set forth in OAR 860-021-0335.

Stat. Auth.: ORS Ch. 756 & 757

Stat. Implemented: ORS 756.040 & 756.060

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

#### **860-021-0010**

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

(1) Each utility shall upon request, furnish its customers with such information as is reasonable to permit them to secure efficient service and select appliances properly adapted to their service needs. Natural gas utilities shall, upon request, inspect and adjust customer-owned appliances and facilities for safe and efficient operation.

(2) Each utility providing metered service shall, upon request, inform its customers how to read meters, either in writing or by explanation at the offices of the utility.

(3) Each utility shall keep on file and open for public inspection

at its offices, complete rate schedules, contract forms, rules, and regulations of the utility, and a copy of the Commission's rules and regulations.

(4) Each utility shall supply, upon request, a copy of the tariffs applicable to the type or types of service furnished to the customer.

(5) At the time of application for new service, or upon subsequent request, the utility shall assist the consumer in selecting the most advantageous rate to meet individual service requirements. The consumer shall be responsible for making the final selection of a rate schedule.

(6) At the time service is initiated and not less than once each year thereafter, every utility shall give its residential customers a written summary of their rights and responsibilities, as they relate to the utility providing service. If service is initiated without a personal visit between the utility and the customer, the utility shall mail the summary to the customer no later than the time that the first bill statement is mailed. Telecommunications utilities satisfy the annual notification requirement by prominent publication of the information in a telephone directory distributed to its customers annually. The summary shall include the text of a summary reviewed and approved by Consumer Services Division and describe:

(a) The option to designate a third party to receive bills and notices and the availability of notices in languages other than English;

(b) Applicable financial assistance programs, such as the Energy Assistance Fund for gas and electric utilities and Link-Up America for telecommunications utilities;

(c) The availability of medical certificates;

(d) Special payment options such as equal payment plans. Late-payment charges, if any, shall be explained, along with the availability of any preferred billing date option;

(e) Procedures for conflict resolution, including how to register a dispute with the utility and with the Commission and the toll-free number of the Consumer Services Division;

(f) Listings of consumer intervenor organizations, including address and telephone number, may be requested from Consumer Services Division; and

(g) The Commission's telephone solicitation rules (Telecommunications companies only).

(7) When service is initiated, the utility shall inquire whether the customer would like to receive notices in a language other than English and will inform the customer of the type of notices and translations currently available. If the language chosen is not available, the utility will tell the consumer that the translated version does not yet exist, but that the consumer's interest will be recorded for the Commission. Each utility shall report to the Commission the number of requests for notices and summaries in non-English languages. The report shall specify the number of requests for each language.

(8) Notices approved by the Commission shall be posted in a conspicuous place in each utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The notices shall be printed in large boldface type and shall be written in language that is easy to understand.

Stat. Auth.: ORS Ch. 756 & 757

Stat. Implemented: ORS 756.040, 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

#### **860-021-0011**

##### **Multilingual Notices**

(1) Except as provided in section (2) of this rule, all disconnect notices shall contain the following information translated into Spanish, Vietnamese, Cambodian, Laotian, and Russian:

**IMPORTANT NOTICE: Your (electric/ gas/water/ telephone) 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) Upon petition by any water utility or telecommunications utility serving less than 15,000 access lines in Oregon and not affiliated or under common control with any other utility providing service in Oregon, the Commission shall waive the requirement to provide multilingual notice for two calendar years, which may be renewed, upon a showing that the lesser of five percent or 500 of the utility's Oregon customers would benefit from use of multilingual notification or show other reasons why such notices are not necessary.

(3) The Commission will translate a consumer's rights and responsibilities summary into the designated non-English languages and provide copies to utilities. The consumer information published by a utility pursuant to OAR 860-021-0010 shall prominently display the following information printed in the designated non-English languages, in boldface, at the beginning of the summary: **A version of a consumer rights and responsibilities summary printed in this language is available by calling (name of utility) at (phone number).**

(4) The utility shall record all requests and promptly mail the requested version of the summary to the consumer.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0015**

##### **Dispute Resolution**

(1) In the event of a dispute between a consumer and a utility about any bill, charge, or service, the utility shall thoroughly investigate the matter and promptly report the results of its investigation to the person. Each utility shall prepare a written record showing the name and address of the consumer involved, the date and character of the dispute, and the disposition of the matter. Records of disputes shall be retained pursuant to OAR 860-028-0010.

(2) A consumer shall be informed of the right to supervisory review of any dispute, including but not limited to, establishment of credit and termination of service. If a dispute is not resolved, the utility shall notify the consumer of the Commission's dispute resolution procedure and its toll-free telephone number.

(3) A consumer may request the Commission's assistance in resolving the dispute by contacting the Commission's Consumer Services Division at 1-800-522-2404; TDD 1-800-648-3458; or at 550 Capitol Street, N.E., Salem, OR 97310-1380. The Commission shall notify the utility upon receipt of such a request.

(4) The Consumer Services Division shall assist the complainant and the utility in an effort to reach an informal resolution of the dispute.

(5) If a registered dispute cannot be resolved informally, the Consumer Services Division 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 utility shall answer the complaint within 15 days of service of the complaint. The matter shall then be set for expedited hearing. A hearing may be held on less than ten days' notice where good cause is shown.

(6) Pending resolution of the dispute, the complainant's obligation to pay undisputed amounts continues.

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

(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) Where termination is based on nonpayment, the customer makes adequate arrangement to avoid future loss to the utility, such as prepaying estimated monthly utility charges; and

(d) The consumer diligently pursues conflict resolution under the Commission's rules.

(8) If the conditions in section (7) of this rule are not satisfied, the utility has no obligation to provide continued service. A utility discontinuing service because of a failure of conditions of subsection (7)(c) or (d) of this rule shall give the customer five-day notice served in the same manner as provided for in OAR 860-021-0405 or 860-021-0505, whichever applies, except that the notice need only describe the defect in performance, the date and time after which utility service will terminate, and the toll-free number of Consumer Services Division. In deciding whether the conditions are met, the utility shall consult with Consumer Services Division. A customer who has filed a formal complaint, the utility, or Consumer Services 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 utility, and Consumer Services Division 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 last known address of the party. 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, 756.060, 756.500 & 756.512

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 4-1985, f. & ef. 4-22-85 (Order No. 85-350); PUC 5-1987, f. & ef. 7-2-87 (Order No. 87-723); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0017**

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

Each utility shall offer its customers the option to designate a third party to receive bills and notices set forth in these rules. When a utility receives such designation, it shall send bills and notices required under these rules to the representative, with duplicate copies of disconnect notices also served on the customer.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040, 756.60 & 5757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-080; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0019**

##### **Restrictions on Entering a Customer Residence**

No utility employee shall enter the residence of a customer without proper authorization except in an emergency endangering life or property.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-066

#### **860-021-0020 [Renumbered to 860-021-0120]**

#### **860-021-0021**

##### **Interruption of Service**

(1) Each utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration and cause of interruption.

(2) Each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur, shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its consumers and the general public.

(3) Insofar as is practical, every customer affected shall be notified in advance of any contemplated work which will result in

inter-ruption of service, but such notice shall not be required in case of interruption due to emergency repairs.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040, & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); Renumbered from 860-21-070; PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-067

**860-021-0025** [Renumbered to 860-21-030]

**860-021-0030** [Renumbered to 860-21-135]

**860-021-0035** [Renumbered to 860-21-125]

**860-021-0040** [Renumbered to 860-21-200]

#### **Installation of Service**

##### **860-021-0045**

###### **Installation of Electric Service**

(1) For the connection of its distribution system to the customer's premises, an electric utility shall, with the exceptions as provided under its extension rules, furnish service connections to the customer's service entrance.

(2) The electric utility shall furnish, own, operate, maintain and replace the service connections with the exceptions as may be listed in these rules or its tariff for line extensions.

(3) The service entrance on a customer's premises shall be so located as to make the meter and service easily accessible from the electric utility's distribution lines, and convenient for the installation, operation and maintenance of the utility's meters and equipment.

(4) The electric utility will not be required to install or maintain more than one service connection direct from its distribution lines to the premises of any one customer. Each customer may be required to install and maintain, at his own expense, all wiring and equipment necessary to be installed on his premises to enable the utility to furnish and meter, at a single point on the customer's premises, all service to be used by the customer. If conditions are such as to make it advisable for the utility to use a single connection from its distribution line for furnishing service to two or more customers on the same or different premises, the service connection shall be of adequate capacity for the purpose, and the service furnished to each customer shall be metered and billed separately.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

##### **860-021-0050**

###### **Installation of Gas and Water Service**

(1) Except as otherwise provided in OAR 860-021-0051, each gas utility shall furnish, free of charge, a gas service from the gas main adjacent to the customer's premises to and including the meter, but the customer may be required to pay the installed cost of any length of service in excess of 40 feet beyond the property line bounding the street or right-of-way in which the main is situated.

(2) Each gas utility shall furnish, own, operate, maintain and replace the service connections when necessary.

(3) The gas utility will not be required to make more than one connection to its main to furnish service to the premises of any one customer and will not be required to install or maintain pipes for the distribution of gas beyond a single point of delivery to points of use upon the customer's premises.

(4) Each gas utility shall not be responsible for the condition or maintenance of the piping or appliances installed by the customer.

(5) Each water utility shall furnish a water service connection from the distribution main to the customer's property. The customer, however, may be required to pay a reasonable service connection charge. Such a charge shall not include the cost of the meter nor exceed an amount equal approximately to the average

cost of making service connections for the past three years and shall be set forth in the utility's filed tariff.

(6) Each water utility shall own, operate, maintain and, when necessary, replace service connections.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

##### **860-021-0051**

###### **Main Extensions for Gas and Water Service**

Each gas and water utility shall develop, with the approval of the Commissioner, a uniform policy governing the amount of main extension which will be made free to connect a new customer. This policy should be related to the investment that can prudently be made for the probable revenue.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

##### **860-021-0055**

###### **Temporary Service**

Each utility may render temporary service to a customer and may require the customer to bear all the cost of installing and removing the service in excess of any salvage realized. The length of temporary service shall be specified in the applicable tariffs approved by the Commissioner.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **Measuring and Billing Service**

**860-021-0060** [Renumbered to 860-021-0335]

**860-021-0065** [Renumbered to 860-021-0310]

**860-021-0066** [Renumbered to 860-021-0019]

**860-021-0067** [Renumbered to 860-021-0021]

**860-021-0068** [Renumbered to 860-021-0315]

**860-021-0071** [Renumbered to 860-021-0605]

**860-021-0075** [Renumbered to 860-021-0305]

**860-021-0080** [Renumbered to 860-021-0017]

**860-021-0085** [Renumbered to 860-021-0405]

**860-021-0090** [Renumbered to 860-021-0015]

**860-021-0095** [Renumbered to 860-021-0410]

**860-021-0100** [Renumbered to 860-021-0335]

**860-021-0105** [Renumbered to 860-021-0505]

##### **860-021-0120**

###### **Meter Readings and Bill Forms**

(1) Every utility providing metered service excluding telephone utilities, shall indicate clearly on the meter the units of service for which charge is made to the customer, except in those instances where automatic meter reading systems preclude such facilities. In cases where the dial reading on an electric meter must be multiplied by a constant to obtain the units consumed, the proper constant to be applied shall be clearly and plainly marked on the meter.

(2) All bills shall show the readings of the meters at the beginning and end of the period for which the bill is rendered, the date of the meter readings, the number of units of service supplied, the schedule number under which the bill was computed, and any other information necessary to the computation of the bill.



Each bill shall bear on its face the delinquent date of the bill. When there is good reason for so doing, estimated bills may be submitted. Any estimated reading shall be clearly noted on the bill.

(3) As a matter of general practice, all service meters shall, as nearly as possible, be read at monthly intervals, on the corresponding day of each meter reading period. Special authority may be granted for the reading of the meters at other than monthly intervals, if the circumstances warrant or upon Customer's request if mutually agreed to by the utility and the customer. In such case, the utility shall provide confirmation in a written statement which includes an explanation of the disadvantages of having the meter read and billed less often than monthly:

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

(b) A customer shall provide the utility with regular access to a meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice is grounds for disconnection.

(4) On written request by a customer, the utility shall cause the meter reader at the time the customer's meter is read, to leave on such meter, or with such customer, a card showing the date and time such reading was made, and the reading of the meter.

(5) Utilities shall make reasonable efforts to prepare opening and closing bills from actual meter readings.

Stat. Auth.: ORS Ch. 756 & 757

Stat. Implemented: ORS 756.040, 756.060 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-020; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

#### **860-021-0125**

##### **Due and Payable Period**

Each utility shall establish procedures to insure that the period from billing transmittal to due date is not less than 15 days for all customers.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307);

PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-035

#### **860-021-0126**

##### **Late-Payment Charge**

(1) Except as provided in section (2) of this rule, a utility may apply a late-payment charge to customer accounts not paid in full each month, provided the utility has filed the late-payment charge in its rate schedule.

(2) Energy utilities shall not impose late-payment charges on residential customers unless:

(a) The utility offers residential customers a preferred billing date option under which the customer can select or change a bill date. Utilities shall not be required to change a customer's bill date more than once in any 12-month period;

(b) The utility's rate schedule provides that the late charge is not applied on residential balances less than \$200; or

(c) The charge is applied only to amounts carried forward for two consecutive monthly due dates.

(3) The charge will be based on a monthly late-payment rate applied to overdue account balances at the time of preparing the subsequent month's bill. The late-payment charge may not be applied to time-payment or equal-payment accounts that are current. The Commission will determine the late-payment rate annually based on a survey of prevailing market rates for late-payment charges of commercial enterprises and will advise all utilities by November 15 of each year what rate they may use to determine late-payment charges on overdue customer accounts during the following calendar year. The current late-payment rate

and the conditions for its application to customer accounts shall be specified on the utility bill.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0130**

##### **Meter Test**

(1) Any customer may request the utility to test an electric, gas, or water meter. Such tests shall be made within 20 working days of the request at no cost to the customer. If a customer requests more than one meter test within any 12-month period, a deposit to recover the reasonable cost of the test may be required of the customer. The deposit will be returned if the meter is found to register more than two percent fast under conditions of normal operation.

(2) A customer and/or a designated representative shall have the right to be present at any meter test. The test shall be conducted at a mutually agreeable time during regular business hours.

(3) A report showing the name of the customer, the date of the request, the address where the meter has been installed, the number of the meter, the date tested, and the result of the test shall be supplied to the customer within a reasonable time after completion of the test.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040, 756.060 & 757.255

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-025

#### **860-021-0135**

##### **Adjustment of Bills**

(1) When an under or overbilling occurs, the utility shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to some cause, the date of which can be fixed, the over or undercharge shall be computed back to such date. If no date can be fixed, the utility shall refund the overcharge or rebill the undercharge for no more than six months' usage. In no event shall an over or underbilling be for more than three years' usage.

(2) No billing adjustment shall be required if an electric, gas, or water meter registers less than two percent error under conditions of normal operation.

(3) Where a customer is required to repay an underbilling, the customer shall be entitled to enter into a time payment agreement without regard to whether the customer already participates in such an agreement. If the customer and utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The utility shall provide written notice advising the customer of the opportunity to enter into a time payment agreement and of the Commission's complaint process.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040, 756.060 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-030; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **Credit Establishment**

#### **860-021-0200**

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

(1) Mandatory deposit from known credit risks. A utility shall require a deposit from a consumer who:

(a) Received the same type of utility service (energy, telecommunications or water) from it or any Oregon regulated utility within the preceding 24 months and at the time service was terminated, the customer owed an account balance that was not paid according to its terms. This section does not apply to customers who registered a dispute with the Commission within 60 days after service terminated and who promptly paid all undisputed or adjudicated amounts; or

(b) Was previously terminated for theft of service by it or any Oregon regulated utility or was otherwise found to have diverted



utility service.

(2) Credit established by prior account in good standing. A utility shall not require a deposit from an applicant it served within the preceding two years who voluntarily terminated service and whose final bill was paid in full by its due date.

(3) Credit established by other means. In all other cases, an applicant may choose whether to submit:

(a) A letter from another utility, on that utility's official stationery signed by an authorized employee, stating that it served the named applicant within the preceding two years for the same type of utility service (energy, telecom-munications or water), the applicant voluntarily terminated service, and paid his or her final bill in full by its due date;

(b) A written surety agreement from a responsible party to secure payment in an amount equal to two month's average usage. For the purpose of this rule, a customer of the utility who has received service continuously for the preceding 12 months from the same utility company without late payment is considered a responsible party. The obligation of the surety ceases when the customer establishes good credit; or

(c) Positive identification. A consumer provides positive identification by executing an application for service including the consumer's name, address, date of birth, social security number, if any, and is supported by any one of the following:

(A) An Oregon license from the Department of Motor Vehicles, or other state identification containing a photograph of the consumer or other identifying information such as name, date of birth, sex, height, color of eyes, and address;

(B) U.S. passport, certificate of citizenship or naturalization, Immigration and Naturalization Service temporary resident card, employment authorization card, or equivalent identification, with photograph;

(C) A combination of:

(i) Birth certificate or social security card;

(ii) Current identification from school, employment, Adult and Family Services, or other State of Oregon assistance program; and

(iii) With the name, address, and telephone number of a person who can verify the consumer's identity as shown, such as a teacher, employer, or caseworker.

(d) A deposit.

(4) A deposit required under these rules shall not exceed one-sixth the amount of reasonable estimated billing for one year at rates then in effect. This estimate shall be based upon the use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service. Deposits for telephone service shall be based upon two months' average or estimated usage of the utility's tariff and price listed services.

(5) Any additional or subsequent deposit required shall be calculated as provided for by section (4) of this rule using the most recent information available. Such deposits may be required as a condition of continued service:

(a) For telecommunications utilities, if service records indicate unbilled intralata toll activity greater than that upon which the prior deposit was based;

(b) For utilities other than telecommunications, if the customer moves and the anticipated bill at the new residence will be at least 20 percent greater than that upon which the prior deposit was based; and

(c) In the case of a customer who established credit by providing "positive identification" under these rules, the customer gave false information to establish identity.

(6) Paying a deposit does not excuse a customer from complying with the utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(7) A utility may file a tariff that contains less stringent deposit requirements than those specified in this section.

Stat. Auth.: ORS Ch. 183, 756, 757 & 767

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1981, f. & ef. 8-10-81 (Order No. 81-498); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-040; PUC 5-1989(Temp), f. & cert. ef. 4-

19-89 (Order No. 89-493); PUC 13-1989, f. & cert. ef. 9-12-89 (Order No. 89-1173); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0205**

##### **Deposit Payment Arrangements for Residential Electric and Gas Service**

(1) When a deposit is required by the utility, the consumer may pay the deposit in full or elect to pay the deposit in three installments. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment. Except for the last payment, installments shall be the greater of \$30 or one-third the deposit.

(2) Where an installment payment or a deposit is made together with a payment for utility service, the amount paid shall first be applied toward payment of the amount due for deposit.

(3) In the event a consumer is required to pay an additional deposit, the customer shall pay one-third of the total deposit, or at least \$30, whichever is greater, within five 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-day period.

(4) Where a consumer enters into an installment agreement for payment of a deposit under section (1) of this rule, the utility shall provide written notice explaining its deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the person that utility service will be disconnected if payment is not received when due. The notice shall also set forth the name and telephone number of the appropriate unit within the Department of Human Resources or other agencies which may be able to help the customer obtain financial aid.

(5) If a customer fails to abide by the terms of a deposit installment agreement, the utility may disconnect service after a five-day notice. The notice shall contain the information set forth in OAR 860-021-0405(2)(a), (b), (c), (e), (f) and (g) and shall be served in the manner set forth in OAR 860-021-0405(5).

(6) Where good cause exists the Commission or the utility may provide more liberal arrangements for payment of deposits than those set forth in this rule. The utility shall keep a written record of the reasons for such action.

(7) Should disconnection for nonpayment of a deposit occur, the person disconnected shall be required to pay the full amount of the deposit, and any applicable reconnection fee, late payment fee, and one-half the past due amount before service is restored. The balance of the past-due amount shall be paid within 30 days of the date service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments, along with the full deposit and other applicable fees.

Stat. Auth.: ORS Ch. 290, 756 & 757

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284), PUC 12-1983 f. & ef. 10-7-83 (Order No. 83-623); PUC 5-1987, f. & ef. 7-2-87 (Order No. 87-723); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0206**

##### **Payment Arrangements for Deposit and Installation Charges for Residential Telecommunications Service**

(1) Time payments for deposits and non-recurring charges shall be limited to charges for residential service and intraLATA toll. When a deposit and/or non-recurring charges to establish or reestablish service are required from an applicant, the applicant shall pay one-fourth of the deposit and/or non-recurring charges immediately. The remainder shall be paid in three equal installments which shall be due 30, 60, and 90 days respectively after the date the payment agreement is executed. In communicating with an applicant to establish service or to require a deposit and/or non-recurring charges, the utility shall inform the applicant of the availability of Link-Up America and Oregon Telephone Assistance Program benefits and inform the person that details are available from the Commission.

(2) Where an installment payment or a deposit is made together with a payment for utility service, the amount paid shall first be applied toward payment of the amount due for deposit and/or non-recurring charges.

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

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

(5) If a person fails to abide by the terms of an installment agreement, the utility may disconnect local exchange service after providing a written five-day notice. The notice shall contain the information set forth in OAR 860-021-0505(3)(a) through (e) and shall be served in the manner set forth in OAR 860-021-0505(4) and (5). In lieu of permanent disconnection, the utility may curtail service pursuant to OAR 860-021-0505(7).

(6) Where good cause exists the utility may provide or the Commission may require, more liberal arrangements for payment of deposits and/or nonrecurring charges than those set forth in this rule. The utility shall keep a written record of the reasons for such action.

(7) Should disconnection for nonpayment of a deposit and/or non-recurring charges occur, the person disconnected shall be required to pay the full amount of the deposit and/or non-recurring charges, any applicable reconnection fee, late-payment fee, and past due amount before service is restored. A customer may continue with an existing medical certificate time-payment agreement by paying all past-due installments.

Stat. Auth.: ORS Ch. 290 & 756

Stats. Implemented: ORS 756.040, 756.060 & Ch. 290(2) -(5)

Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0210**

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

(1) Unless otherwise specified by the Commission, customer deposits shall accrue interest at a rate based upon the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October. This interest rate, rounded to the nearest percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all utilities by November 15 of each year what rate will be paid on customer deposits held during the following calendar year.

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

Stat. Auth.: ORS Ch. 290, 756 & 757

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0215**

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

(1) A customer's deposit, plus accrued interest, shall be promptly refunded when service is terminated, provided that refunds due shall first be applied to any unpaid balance on the customer's account.

(2) A utility may continue holding a deposit until such time as credit is satisfactorily established or reestablished. For purposes of this rule, credit shall be considered to be established or reestablished if one year after a deposit is made:

(a) The account is current;

(b) Not more than two five-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 be promptly refunded or credited to the customer's account. A customer shall be entitled to a refund upon request.

(4) In the event the customer moves to a new address within the company's service area, the deposit, plus accrued interest, will be transferred to the new account.

(5) Deposits plus accrued interest can be refunded or credited, in whole or in part, to the customer's account at any time earlier than prescribed in this section, provided that procedures followed by the utility are nondiscriminatory.

(6) Unless otherwise specified by the customer, a utility shall mail deposit refunds to the customer's last known address. Valid claims for payment of refunds shall be promptly honored by the utility if received within one year of the date service is terminated. Funds held beyond one year will be disposed of in accordance with ORS 98.316.

Stat. Auth.: ORS Ch. 290, 756 & 757

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **Disconnection Rules — All Utility Service**

##### **860-021-0305**

##### **Grounds for Disconnecting Utility Service**

Utility service may be disconnected:

(1) 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 860-021-0206); (OAR 860-021-0206); or

(b) Providing false identification or verification of identity.

(2) Where facilities provided are unsafe or do not comply with state and municipal codes governing service or the rules and regulations of the utility (OAR 860-021-0335); or where the customer does not cooperate in providing access to the meter (OAR 860-021-0120).

(3) Where a customer requests the utility to disconnect service or close an account (OAR 860-021-0310) or where 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 utility has provided a notice of pending disconnection.

(4) Where dangerous or emergency conditions exist at the service premises (OAR 860-021-0315).

(5) For failure to pay Oregon tariff or price listed charges due for services rendered (OAR 860-021-0405, 860-021-0505); or by meter-tampering, diverting service, or other theft of service.

(6) For failure to abide by the terms of a time payment agreement (OAR 860-021-0410(6); 860-021-0415(5); 860-021-0510).

(7) Where the Commission approves the disconnection of service.

Stat. Auth.: ORS Ch. 290, 756 & 757

Stat. Implemented: ORS 756.040, 756.060, 757.035, 757.225 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-075; PUC 8-1983, f. & ef. 8-15-83 (Order No. 83-502); PUC 3-1989, f. 2-6-89, cert. ef. 2-

8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

**860-021-0310**  
**Voluntary Disconnection**

Every customer who is about to vacate any premises supplied with service by the utility, or who for any reason wishes to have such service discontinued, shall give five days' notice in advance of specified date of discontinuance of service to the utility. Until the utility shall have such notice, the customer shall be held responsible for all service rendered.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 756.040 & 756.060  
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-065

**860-021-0315**  
**Emergency Disconnection**

In emergencies endangering life or property, a utility may terminate service without following the procedures set forth in Division 21. However, the utility shall immediately thereafter notify the Commission. In such cases, where the necessity for emergency termination was through no fault of the customer, there will be no charge made for restoration of service.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 757  
Stats. Implemented: ORS 756.040, 756.060 & 757.035  
Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83; ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-068; PUC 8-1983, f. & ef. 8-15-83 (Order No. 83-502); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

**860-021-0320**  
**Disconnection of Service on Weekends and Holidays**

Utility service shall not be disconnected for nonpayment on a weekend or a state- or utility-recognized holiday. Utility service shall not be disconnected for nonpayment on a Friday or the day before a state- or utility-recognized holiday unless mutually agreed upon by the customer, utility, and the Commission's Consumer Services Division.

Stat. Auth.: ORS Ch. 756 & 757  
Stat. Implemented: ORS 756.040, 756.060 & 757.760  
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

**860-021-0325**  
**Accounts not Related to Residential Service**

A utility may not deny or disconnect residential service due to the failure to pay for nonresidential service, or to meet obligations in connection with nonresidential service.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 756.040 & 756.060  
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284)

**860-021-0326**  
**Disconnection of Gas, Electric or Water Service to Tenants**

(1) When a gas, electric, or water utility's records show that a residential billing address is different from the service address, the utility must provide a duplicate of the five-day disconnect notice required under OAR 860-021-0405(6) for gas and electric service and OAR 860-21-505 for water service to the occupants of the premises in the manner described in OAR 860-021-0405(6) and OAR 860-021-0505(2) for water service unless the utility has reason to believe that the service address is occupied by the customer. This requirement is satisfied by serving a notice addressed to "Tenants," in the same manner provided for in OAR 860-021-0405 and OAR 860-021-0505 for water service. The notice to occupants need not include the dollar amount owing.

(2) When a gas, electric or water utility's records show that a residence is a master-metered multi-family dwelling (including rooming houses), the utility must notify the Consumer Services Division at least five business days prior to disconnecting the service. The utility will use reasonable efforts to notify occupants

of the impending disconnection and alternatives available to them.  
Stat. Auth.: ORS Ch. 756  
Stat. Implemented: ORS 756.040, 756.060 & 757.760  
Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

**860-021-0330**  
**Reconnection Fee**

Where a utility service is disconnected pursuant to OAR 860-021-0305, the utility may charge the reconnection fee set forth in its tariff.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 756.040, 756.060 & 757.225  
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

**860-021-0334**  
**Transfer Billings**

(1) If a utility identifies a balance a customer owes the utility from the customer's prior account for Oregon service, a utility shall have the option to transfer the amount to the customer's current account after giving the customer notice of the transfer, the amount due under the prior account, the period of time during which the balance was incurred, and the service address or telephone number under which the bill was incurred, or may send a separate notice to the customer giving the same information as would be included in the transfer, but collecting the amount due separately from the customer's current account. If the bill is identified at the time a customer changes residences, the provisions of this rule apply.

(2) If the customer has six months or more remaining on a time-payment agreement, the installment amount will be adjusted in order to bring the account into balance within the time period specified in the original agreement. If the customer has less than six months remaining on a time-payment agreement, the utility will recalculate the agreement to bring the account into balance within 12 months. The customer must pay any past due time-payment installments before the utility adjusts or recalculates the agreement. Utilities may make more liberal payment arrangements for customers on medical certificates who cannot reasonably be expected to pay the outstanding balance in the time otherwise applicable under this rule.

Stat. Auth.: ORS Ch. 756  
Stat. Implemented: ORS 756.040, 756.060, 757.225  
Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

**860-021-0335**  
**Refusal of Service**

(1) Except as provided in section (2) of this rule, an electric or gas utility may refuse to provide service to an applicant until it receives full payment of any overdue amount and any other obligation related to an Oregon prior account.

(2) Except for consumers who were disconnected for theft of service, an electric or gas utility shall be required to provide service to an applicant upon receipt of payment equal to at least one-half of any overdue amount and any other obligation related to a prior account, except deposits which must be paid in full, provided that the person has made reasonable partial payment on the account during the time service has been discontinued. The balance of the amount owed to the utility shall be paid within 30 days of the date service is initiated. Upon failure to pay, the utility may disconnect service after providing a five-day notice. The notice shall contain the information set forth in OAR 860-21-405(2)(a), (b), (c), (f) and (g) and shall be served in the manner set forth in OAR 860-021-0405(5). In the event a customer whose service was terminated applies for service within 20 days of the termination, provisions of this rule apply.

(3) If electric or gas service is disconnected for failure to comply with the payment terms set forth in section (2) of this rule, the utility may refuse to restore service until it receives full payment of any overdue obligation, including any reconnection fee, late-payment fee, and past due bill.



(4) A telephone or water utility may refuse to provide service to a person until it receives full payment of any overdue amount and any other obligation related to a prior account.

(5) A utility may refuse to provide service until payment is received when the following circumstances exist:

(a) An overdue balance has been incurred by a person at a service address;

(b) An applicant for service resided at the service address described in subsection (5)(a) of this rule during the time the overdue balance was incurred; and

(c) The person described in subsection (5)(a) of this rule will reside at the location to be served under the new application.

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

(7) A utility shall not accept an application for service or materially change service to a customer, if, in the best judgment of the utility, it does not have adequate facilities to render the service applied for, or if the desired service is of a character that is likely to unfavorably affect service to other customers.

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

(9) In the event service is refused, the utility shall notify the customer or applicant of the reasons for refusal and the Commission's complaint process.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040, 756.060, 757.035 & 757.225

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-060 and 860-21-100; PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **Disconnection Rules — Residential Electric or Gas Service**

##### **860-021-0405**

##### **Notice of Pending Disconnection of Residential Electric or Gas Service**

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

(a) The notice shall conform to the requirements of OAR 860-021-0010 concerning multilingual requirements and service on any designated representative;

(b) The notice shall conform to the requirements of OAR 860-021-0326 if the utility's records show that the billing address is different than the service address, or that the residence is a master-metered multi-family dwelling. The notice may be addressed to "tenant" or "occupant." The envelope shall bear a bold notice stating, "**Important notice regarding disconnection of utility service**", or words to that effect.

(2) 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 860-021-0415;

(e) An explanation of the medical certificate provisions of OAR 860-021-0410;

(f) The name and telephone number of the appropriate unit of the Department of Human Resources or other agencies which may be able to provide financial aid; and

(g) An explanation of the Commissioner's complaint process and toll-free number.

(3) At least 15 days before an electric or gas utility can disconnect a residential customer for nonpayment for services rendered, the utility must provide written notice to the customer. A 15-day notice is not required when disconnection is for failure to establish credit or theft of service.

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

(5) The utility may serve the 15-day notice of disconnection in person or send it by first class mail to the last known address of the customer. Service is complete on the date of mailing or personal delivery.

(6) At least five business days before the proposed disconnection date, the utility must mail or deliver a written disconnection notice to the customer:

(a) The disconnection notice shall inform the person that service will be disconnected on or after a specific date and shall explain the alternatives and assistance that might be available as required in section (2) of this rule; or

(b) If notification is made by delivery to the residence, the utility shall attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the utility shall leave the notice in a conspicuous place at the residence.

(7) On the day that the utility expects to disconnect service and prior to disconnection, the 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 utility shall advise the person of the proposed disconnection; or

(b) If contact is not made, the 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.

(8) Where personal contact is made by a 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 utility must:

(a) Notify the Department of Human Resources and the Commissioner; and

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

(9) Where personal contact is made by the utility under this rule, the representative of the utility making contact shall be empowered to accept reasonable partial payment of the overdue balance in accordance with the time payment provisions of OAR 860-021-0415.

(10) A 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 Ch. 756 & 757

Stats. Implemented: ORS 756.040, 756.060 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-085; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

##### **860-021-0410**

##### **Emergency Medical Certificate for Residential Electric and Gas Service**

(1) A gas or electric utility shall not disconnect residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described with-out direct supervision by a physician.

(2) An oral certification must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. Written certifications must include:

(a) The name of the person to whom the certificate applies and relationship to the customer;

(b) A complete description of the health conditions;

(c) An explanation how the health of the person will be significantly endangered by the termination of service;

(d) A statement indicating how long the health condition is expected to last;

(e) A statement specifying the particular type of utility service required (e.g., electricity for respirator); and

(f) The signature of the qualified medical professional prescribing medical care.

(3) If a medical certificate is not submitted in compliance with sections (1) and (2) of this rule, the utility may disconnect



service after providing a five-day notice to the customer. The notice shall comply with the requirements of OAR 860-021-0405, except that subsections (1)(b), (2)(e), and section (4) of this rule shall not be applicable.

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal for certificates not specifying chronic illnesses and no longer than twelve months for certificates specifying illnesses identified as chronic by a "Qualified Medical Professional" as defined in this rule. At least 15 days before the certificate's expiration date, a utility will give the customer written notice of the date the certificate expires unless it is renewed with the utility before that day arrives.

(5)(a) A customer submitting a medical certificate is not excused from paying for utility service. Customers are required to enter into a written time-payment agreement with the utility where an overdue balance exists. Terms of the time-payment agreement shall be those set forth in OAR 860-021-0415, or such other terms as agreed upon in writing between the parties;

(b) Where financial hardship can be shown, a customer with a medical certificate shall be permitted to renegotiate the terms of a time-payment agreement with the utility;

(c) Time-payment arrangements in effect when a medical certificate terminates remain in effect for the balance then owing. If a customer fails to pay charges incurred after the certificate terminates, the provisions of OAR 860-021-0415 (standard time-payment provisions) should apply to payment of the arrearage incurred after the medical certificate expires. The terms of the medical certificate time-payment plan continue to apply to the arrearage accrued during the disability.

(6) If a medical certificate customer fails to enter into a written time-payment agreement within 20 days of filing the certificate, or to abide by its terms, the utility shall notify the Consumer Services Division of its intent to disconnect service and the reason for the disconnection. The utility may disconnect service after providing a notice 15 days in advance of disconnection for nonpayment, or five days before disconnection for failure to enter into a written time-payment agreement. The notice shall comply with the requirements of OAR 860-021-0405, except that subsection (2)(e) of this rule shall not be applicable. A hearing may thereafter be held to determine whether the utility should be permitted to disconnect service to the customer.

(7) A utility may verify the accuracy of a medical certificate. If the utility believes a customer does not qualify, or no longer qualifies for a medical certificate, the utility may apply to the Commission for permission to terminate the service of the customer.

Stat. Auth.: ORS Ch. 290, 756 & 757

Stat. Implemented: ORS 756.040, 756.060, 757.750, 757.755 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-095; PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

#### **860-021-0414**

##### **Equal Payment Plans for Residential Electric and Gas Service**

Electric and gas utilities will make equal-payment plans available to residential customers. A customer with no outstanding balance who agrees to remain on an equal-payment plan for 12 months may enter into equal-payment agreement at any time during the year. The plan will provide for an annual adjustment between the estimated charge and the actual charges. If a customer changes residences during the term of the agreement, the payments may be adjusted to reflect the anticipated change in usage. Nothing in this rule is intended to restrict a utility's right to adopt additional payment options.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060, 757.750 & 757.760

Stats. Implemented: ORS 756.040, 756.060, 757.750 & 757.760

Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0415**

##### **Time-Payment Agreements for Residential Electric and Gas Service (Non-Medical Certificate Customers)**

(1) A gas or electric utility may not disconnect residential service for nonpayment if a customer enters into a written time-payment plan. A utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a leveled payment plan and an equal-pay arrearage plan.

(2) A customer who selects a leveled-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 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 tariff charges associated with the change in residence, the utility shall recalculate the customer's deposit and/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.

(3) A customer who selects an equal-pay arrearage plan will pay a down payment equal to one-twelfth the amount owed for past 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 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 utility provides service at the new address.

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

(5) If a customer fails to abide by the time-payment agreement, the utility may disconnect service after serving 15 days' notice. The notice shall comply with OAR 860-021-0405, except that subsection (2)(d) shall not be applicable. If a medical certificate is in effect, OAR 860-021-0410(6) shall apply.

Stat. Auth.: ORS Ch. 290, 756 & 757

Stats. Implemented: ORS 756.040, 756.060, 757.750 & 757.760

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

#### **860-021-0420**

##### **Disconnect Visit Charge**

A fee in an amount approved by the Commissioner may be charged whenever a gas or electric utility is required to visit a residential service address in order to serve a disconnection notice in accordance with the provisions of OAR 860-021-0405(5) or (6).

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040, 756.060 & 757.225

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

##### **Disconnection Rules — Utility Service Other Than Residential Electric and Gas Service**

#### **860-021-0505**

##### **Disconnection Procedures for All Commercial Customers and**

### **Residential Telecommunications and Water Utility Services**

(1) Involuntary termination of all commercial customers and residential telecommunications and water utility service shall be under the provisions of this rule.

(2) At least five days before a utility disconnects service for nonpayment for services rendered, written notice of disconnection must be provided to the customer.

(3) The notice must be printed in bold face type and must state in easy to understand language:

(a) The reasons for the proposed disconnection;

(b) The earliest date for disconnection;

(c) The amount to be paid to avoid disconnection;

(d) An explanation of the Commissioner's complaint process and the Commission's toll-free number; and

(e) An explanation of the availability of an emergency medical certificate for local exchange residential telecommunications service customers under OAR 860-021-0510.

(4) The notice may not be sent prior to the due date for payment for the services billed.

(5) The 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.

(6) If a premise visit is required to complete disconnection, the utility must make a good-faith effort to personally contact the customer or a resident at the service address to be disconnected. If the attempt to make personal contact fails, the utility must leave a notice in a conspicuous place at the premise informing the customer that service has been disconnected.

(7) In lieu of permanent disconnection, a telephone utility may temporarily curtail service by preventing the transmission of incoming telephone messages and/or outgoing toll messages while continuing to allow the customer to make outgoing local messages. Temporary curtailment of service, as defined in this section, shall be permitted only upon five days' written notice as set forth in section (3) of this rule. The notice shall state that permanent disconnection will follow within ten days unless full payment of any overdue amount or any other obligation is made.

(8) Except for service provided by a telecommunications utility to its customers served by an office incapable of restricting toll service, a utility shall not disconnect or deny local exchange telephone service for the failure by an applicant or customer to pay for services not under the local exchange utility's tariff or price list. Telecommunications public utilities may limit access to toll and special services using the "9XX" prefix for the failure to pay for such services.

Stat. Auth.: ORS Ch. 290, 756 & 757

Stats. Implemented: ORS 756.040, 756.060 757.750, 757.755, 757.760 & Ch. 290(2)-(5)

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-105; PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 6-1989, f. & cert. ef. 5-22-89 (Order No. 89-662); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

### **860-021-0510**

#### **Emergency Medical Certificate for Residential Telecommunications Service**

(1) A telecommunications utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) An oral certification must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. Written certifications must include:

(a) The name of the person to whom the certificate applies and relationship to the customer;

(b) A complete description of the health conditions;

(c) An explanation of how the physical health of the person

will be significantly endangered by the termination of service;

(d) A statement indicating how long the health condition is expected to last;

(e) A statement specifying the particular type of service required (e.g., electricity for respirator); and

(f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-021-0505(3)(a) through (d) and shall be served in the manner set forth in OAR 860-021-0505(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate is not excused from paying for telecommunications service. Customers are required to enter into a written time-payment agreement with the utility within ten days after submitting the certificate where an overdue balance exists. Terms of the time payment agreement shall be those set forth in section (6) of this rule or such other terms as are agreed upon in writing by the parties. Local exchange service is subject to termination if a customer refuses to enter into or abide by terms of a payment agreement.

(6) A telecommunications public utility may not disconnect local exchange residential service for nonpayment if a customer who has submitted a valid emergency medical certificate:

(a) Pays the greater of \$10 or 25 percent of the balance owing for tariffed or price-listed services the telecommunications utility has on file with the Commission, including the amount overdue, existing late-payment charges, any current bill, and any bill under preparation but not yet presented to the customer;

(b) Enters into a time-payment agreement to bring the account into balance within 90 days of the date of the agreement; and

(c) Agrees to keep subsequent bills current.

(7) Where good cause exists, the utility may provide, or the Commission may require, more liberal payment arrangements than those set forth in this rule after providing notice of the payment arrangements in section (6) of this rule. The utility shall keep a written record of the reasons for such action.

(8) Nothing in this section prevents a telecommunications utility and a customer with a medical certificate from entering into a time-payment agreement for other charges.

(9) The utility and the customer may agree in writing to an alternate payment arrangement, provided the utility first informs the customer of the payment terms set forth in subsections (6)(a) through (c) of this rule.

(10) Time payments shall be on a monthly basis unless otherwise agreed to by the utility and the customer.

(11) The utility shall not accelerate payments under a time-payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(12) If a customer who has submitted an emergency medical certificate fails to enter into or abide by the terms of a time-payment agreement, the utility shall disconnect local exchange service after providing five days' notice to the customer and to Consumer Services Division. The contents of the notice and manner of service shall be provided for in section (3) of this rule. A hearing may thereafter be held to determine whether the utility should be permitted to disconnect service to the customer.

(13) A utility may verify the accuracy of an emergency medical certificate. If the utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the utility may apply to the Commission for permission to disconnect service to the customer.

(14) After notice to the Commission, a telecommunications public utility may terminate local exchange residential service if the telecommunications public utility providing the service does not have the technical ability to terminate toll telecommunications

service without also terminating local exchange service.

Stat. Auth.: ORS Ch. 290 & 756  
Stats. Implemented: ORS 756.040, 756.060, 757.750, 757.755, 757.760 & Ch. 290(2)-(5)  
Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

**860-021-0605** [Renumbered to 860-26-022]

### **Telephone Solicitation**

#### **860-021-0610**

##### **Telephone Solicitation**

(1) As used in this rule:

(a) "Telecommunications companies" means certified providers of local exchange telecommunications service except for providers certified solely as competitive telecommunications providers;

(b) "Parties" means residential customers of telecommunications companies.

(2) Pursuant to ORS 646.571, telecommunications companies may identify in local telephone directories parties who do not wish to receive any telephone solicitation. Telecommunications companies which are subject to ORS 759.175 shall file with the Commission all rates, terms, and conditions for any identification program offered.

(3) All telecommunications companies shall notify parties of the provisions of ORS 646.561, 646.653, 646.567 to 646.571, and 646.608. The notice shall include a statement that all telecommunications companies may identify in local telephone directories parties who do not wish to receive any telephone solicitation. The notice shall be provided in the following manner and a copy shall be forwarded to the Commission:

(a) Annual inserts in the billing statements mailed to parties; or

(b) Conspicuous publication of the notice in the consumer information pages of local telephone directories.

Stat. Auth.: ORS 756.060  
Stats. Implemented: ORS 756.040 & 756.060  
Hist.: PUC 7-1991, f. & cert. ef. 5-10-91 (Order No. 91-583)

#### **860-021-0620**

##### **Customer Notification, Information Services**

(1) As used in this rule:

(a) "Information provider" means any person, company or corporation that operates an information delivery service on a pay-per-call basis.

(b) "Information delivery service" means any telephone-recorded messages, interactive programs or other information services that are provided for a charge to a caller through an exclusive telephone number prefix or service access code. Where a preexisting written contract exists between the customer and the information provider, this definition does not apply.

(2) A telecommunications utility providing billing services for information providers shall inform customers:

(a) Of the availability of blocking for information delivery services if and when it is technically available;

(b) That a customer's local and long distance service shall not be suspended or terminated for nonpayment of information delivery service charges;

(c) That any customer who suffers damage from a violation of ORS 646.608, 646.639 and 759.700 to 759.720 by an information provider has a cause of action against such information provider and a court may award the greater of three times the actual damages or \$500, order an injunction or restitution and award attorney fees and court costs to a prevailing plaintiff.

(d) That when an information provider has failed to comply with any provision of ORS 646.608, 646.639 and 759.700 to 759.720 any obligation by a customer that may have arisen from the dialing of a pay-per-call telephone number is void and unenforceable;

(e) That any obligation that may have arisen from the dialing of a pay-per-call telephone number by an unemancipated child

under 18 years of age; or

(f) A person whose physician substantiates that:

(A) The Person has a mental or emotional disorder generally recognized in the medical or psychological community that makes the person incapable of rational judgments and comprehending the consequences of the persons' action; and

(B) The disorder was diagnosed before the obligation was incurred is void and unenforceable; and

(g) Upon written notification to the information provider or the billing agent for the information provider that a bill for information delivery services is void and unenforceable under (d), (e) or (f) of this rule, no further billing or collection activities shall be undertaken in regard to that obligation.

(3) The notice shall include text prepared by the Consumer Services Division or prepared by the utility and approved by the Commission. The notice shall be provided in the following manner:

(a) An insert in the billing statements mailed to all current customers within 120 days after the effective date of this rule;

(b) An annual insert in the billing statements mailed to customers or conspicuous publication of the notice in the consumer pages of local telephone directories; and

(c) Including the notice in the letters setting out the rights and responsibilities of customers sent to all new customers.

Stat. Auth.: ORS Ch. 183, 756 & 759  
Stat. Implemented: ORS 756.040, 756.060, 759.700 through 759.720  
Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

## **DIVISION 22**

### **RATES**

#### **860-022-0000**

##### **Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040**

The rules contained in this Division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759  
Stats. Implemented: ORS 759.045  
Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-022-0001**

##### **Definitions**

For purposes of this division, "utility" or "public utility" means a public utility as defined in ORS 757.005 and a telecommunications utility as defined in ORS 759.005.

Stat. Auth.: ORS 756.060  
Stat. Implemented: ORS Ch. 756, 757 & 759.005  
Hist.: PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

#### **860-022-0005**

##### **Tariff Specifications**

(1) Form and Style of Tariffs:

(a) All Tariffs must be in book, sheet or pamphlet form. Loose leaf plan may be used so that changes can be made by reprinting and inserting a single leaf;

(b) The initial Tariff filed by each public utility shall be designated as P.U.C. Oregon No. 1 and thereafter as other tariffs are filed, they shall be designated with the next number in consecutive numerical order. Supplemental information not otherwise provided for by the tariff shall be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, i.e., 3A, AB, etc. Revisions to tariff sheets shall be denoted by 1st Revised Sheet No. 3, 2nd Revised Sheet No. 3, etc.;

(c) The title page should be uniform. Rates, rules and regulations shall 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 upon request;

(d) Separate tariffs shall be filed for electric, telephone,



telegraph, gas, water, heat or for any other service entered.

(2) Size of Tariffs and Copies Required:

(a) Tariffs and supplements thereto must be typewritten or printed upon paper 8-1/2 x 11 inches in size;

(b) The original and four conformed copies of each tariff, rate schedule, or revision or supplement shall be filed with the Commission. The Advice letter accompanying the tariff sheets shall bear the signature of the issuing officer or company representative. The tariff sheets do not require a signature.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.205

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 176, f. 11-17-76, ef. 12-1-76 (Order No. 76-806); PUC 15-1987, f. & ef. 12-3-87 (Order No. 87-1185); PUC 8-1995, f. & cert. ef. 8-30-95 (Order No. 95-858)

#### **860-022-0010**

##### **Tariff Contents**

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

(2) Rules and regulations of the utility that in any manner affect the rates charged or to be charged or that define the extent or character of the service to be given shall be included with each tariff.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.205

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-022-0015**

##### **Tariff Changes Require 30 Days' Notice to the Commission**

Except as hereinafter provided, all tariffs, rate schedules or supplements thereto containing any change in rates, tolls, charges or rules and regulations must be filed with the Commissioner at least 30 days before the effective date of such changes. Tariffs or schedules not in conformity with the rules contained in this Division will be rejected as provided in OAR 860-011-0025 of the general rules relating to Practice and Procedure.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.007, 757.220 & 759.190

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 176, f. 11-17-76, ef. 12-1-76 (Order No. 76-806)

#### **860-022-0017**

##### **Announcement of Tariff Changes**

(1) Within 15 days of filing with the Commission new or revised tariff schedules which constitute a general rate revision, a public utility shall inform its customers of the filing. A "general rate revision" is a filing by a utility which affects all or most of a utility's rate schedules. "General rate revision" does not include changes in an automatic adjustment clause under ORS 757.210(1), changes in the credit reflected on certain electric utility rate schedules relating to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980 or similar changes in one rate schedule, such as for an amortization, that affects other rate schedules.

(2) The public utility shall inform its customers by:

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

(b) An announcement inserted in the utility's regular billing to its customers; or

(c) An announcement mailed to each customer.

(3) The announcement shall include:

(a) The approximate annualized amount of the proposed total change, expressed both in dollar and in percentage terms; and the approximate amount of the proposed change for an average residential customer's monthly bill, expressed in dollar terms;

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

(c) A statement that copies of the company's testimony and exhibits are available for inspection at its main and district offices;

(d) The mailing address and telephone number of the com-

pany office that customers may contact for additional information about the filing;

(e) The mailing address and toll free telephone number of the Commission to which requests to receive notice of the time and place of any hearing on the matter may be directed; and

(f) A statement that the purpose of the announcement is to provide customers of the public utility with general information as to the proposals made by the utility and their effect on its customers, but that the calculations and state-ments contained in the announcement are not binding on the Commission.

(4) Within 20 days of issuance of the announce-ment, the public utility shall file an affidavit that notice has been given and a copy of the notice.

(5) A utility may submit to the Commission, and request approval of a list of the newspapers of general circulation of the communities served by the utility. The utility may revise the list by written request to the Commission.

(6) The Commission may waive the require-ments of this rule upon a showing by the public utility that the notice 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 company.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 757

Stats. Implemented: ORS 756.060

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 11-1990(Temp), f. & cert. ef. 6-21-90 (Order No. 90-968); PUC 22-1990, f. & cert. ef. 12-31-90 (Order No. 90-1917); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

#### **860-022-0020**

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

Applications to make tariffs or rate schedules effective on less than statutory notice shall be made in duplicate upon prescribed forms.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.220

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-022-0025**

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

(1) Changes in tariffs may be made by filing an entirely new tariff or by filing revised sheets which shall refer to the sheets of the tariffs on file. Additions to the tariff on file may be made by filing additional sheets.

(2) Each utility filing tariffs or schedules changing existing tariffs or schedules shall submit therewith the following information:

(a) A statement plainly indicating the increase, decrease or other change thereby made in existing rates, charges, tolls or rules and regulations;

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

(c) A detailed statement setting forth the reasons or grounds relied upon in support of the proposed change.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.205 & 759.175

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-022-0028**

##### **Relating to Rate Deregulation of Water Companies**

At least 60 days before a water utility serving less than 500 customers increases its residential rates to a level that exceeds an annual average of \$18 per month, it shall provide written notice to all of its customers and the PUC. In the notice, the company will advise customers of their right to file a petition for PUC review of the proposed increase. This written notice shall be prepared as follows:

**NOTICE OF PROPOSED RATE INCREASE AND  
CUSTOMER RIGHT TO PETITION  
(Company Name) water utility intends to increase its**

rates from an average of **(Current Rate)** per month to **(Proposed Rate)** per month, effective **(Effective Date)**. You have the right to petition the Oregon Public Utility Commission to request that the proposed increase be investigated. If 20 percent or more of the customers petition, the company must obtain Commission approval before the proposed rate can become effective. Absent such a petition, the proposed rates will automatically become effective **(Effective Date)**. The company will provide a complete customer list within 10 days of a request from any customer. The proposed rate increase is necessary because of the following factors:

**(Cause Factor)**

**Petitions should be sent to: Oregon Public Utility Commission, Consumer Services Division, 550 Capitol Street, N.E., Salem, OR 97310-1380, or call 1-800-522-2404**

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 757.005 & 757.061

Hist.: PUC 14-1989, f. & cert. ef. 11-3-89 (Order No. 89-1464)

**860-022-0030**

**Requirements for Filing Tariffs or Schedules Naming Increased Rates**

(1) Each utility filing tariffs or schedules which name increased rates shall submit therewith, in addition to requirements of OAR 860-022-0025, the following information:

(a) A statement setting forth for each separate schedule the total number of customers affected, the total annual revenue derived under the existing schedule and the amount of estimated revenue which will be derived from the application of the proposed schedule;

(b) A statement setting forth for each separate schedule the average monthly use and resulting bills under both the existing rates and the proposed rates for characteristic customers, which will fairly represent the application of the proposed tariff or schedules;

(c) A detailed statement setting forth the reasons or grounds relied upon in support of the proposed increase.

(2) Additional information may be required to be filed either prior to acceptance by the Commissioner of the tendered filing or at any stage in the proceeding.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060, 757.205 & 759.175

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

**860-022-0031**

**OITA Model Tariff**

(1) The Oregon Independent Telephone Association Model Tariff dated May 1, 1987, is adopted and prescribed as a guideline tariff pertaining to definitions, rules, and regulations for all regulated telecommunications services.

(2) Tariffs filed substantially following the Model Tariff definitions, rules, and regulations will be accepted without further review. Substantial deviations from the Model Tariff Form will require justification by the telecommunications public utility requesting the deviation.

Stat. Auth.: ORS Ch. 757

Stats. Implemented: ORS 756.060

Hist.: PUC 9-1987, f. & ef. 10-6-87 (Order No. 87-994)

**860-022-0032**

**Tariff Changes Effective with Service Rendered**

All tariff changes shall be made applicable with service rendered on and after the effective date of the changes, unless the Commissioner by order provides otherwise. As used in this rule, "service rendered" means units of energy or water consumed, toll calls connected, basic service provided, or likewise as the context requires.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.007, 757.220 & 759.190

Hist.: PUC 176, f. 11-17-76, ef. 12-1-76 (Order No. 76-806)

**860-022-0035**

**Special Contracts**

(1) Public utilities within the state 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 utilities are in legal effect tariffs and are subject to supervision, regulation and control as such.

(2) All special agreements designating service to be furnished at rates other than those shown in tariffs now on file in the Commissioner's office shall be classified as rate schedules. A true and certified copy shall be filed subject to review and approval pursuant to requirements of OAR 860-022-0005 to 860-022-0030, inclusive.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.007

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

**860-022-0038**

**Notice to Interested Persons**

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

(2) Any person who requests of the Commission, in writing, to be notified of utility tariff filings covered under section (1) of this rule shall be included on a notice list.

(3) The Commission shall notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice shall be placed in the mail within ten days of any tariff filing under section (1) of this rule that complies with OAR 860-022-0025 through 860-022-0035.

(4) 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 (2) of this rule. No person's name shall be deleted from the list without 20 days' notice before deletion.

(5) The notice shall include the following information:

(a) Name of the filing utility;

(b) Subject;

(c) Advice number;

(d) Filing date;

(e) Effective date;

(f) Date of the public meeting at which the tariff will be considered (when the information is available);

(g) Customer classes affected, if readily ascertainable from the utility's advice letter;

(h) Whether the tariff schedule is primarily related to price competition or a service alternative, if readily ascertainable from the utility's advice letter.

Stat. Auth.: ORS Ch. 183, 757 & 767

Stats. Implemented: ORS 757.230 & 759.210

Hist.: PUC 16-1988, f. & cert. ef. 10-21-88 (Order No. 88-1216)

**860-022-0040**

**Relating to City Fees, Taxes and Other Assessments**

(1) The aggregate amount of all business or occupation taxes, license, franchise or operating permit fees, or other similar exactions imposed upon gas, electric or steam utilities by any city of this state for engaging in business within such city or for use and occupancy of city streets and public ways, which do not exceed three percent for gas utilities or 3.5% for electric, steam and water utilities, applied to gross revenues as defined herein, shall be allowed as operating expenses of such utilities for rate making purposes and shall not be itemized or billed separately. See ORS 806-022-0042 for municipality privilege taxes, fees, and other assessments relating to telecommunications utilities.

(2) Except as otherwise provided herein, "gross revenues" shall mean revenues received by utilities from operations within the city less net uncollectible. Gross revenues of gas, electric and steam utilities shall include revenues from the use, rental or lease of operating facilities of the utility other than residential-type

space and water heating equipment. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one public utility to another when the utility purchasing the service is not the ultimate consumer, or revenue from joint pole use.

(3) 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 costs of the city for inspection, supervision and regulation in the exercise of its police powers; and the value of any utility services or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels hereinabove set forth. Any such services may be continued within the same category or type of use. The value of any additional category of utility service or use of facilities provided after November 6, 1967, to a city without charge shall be considered in computing the percentage levels hereinabove set forth.

(4) This rule shall not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of service rendered by a utility under such franchises shall not be itemized or billed separately. Where compensation different from the percentage levels set forth in section (1) of this rule is specified in a franchise existing on November 6, 1967, such compensation shall continue to be treated by the affected utility as an operating expense, during the balance of the term of such franchise. Any tax, fee or other exaction set forth in section (1) of this rule, hereinafter 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 be charged pro rata to local users as hereinafter provided.

(5) Except as provided in section (4) of this rule, to the extent that any city tax, fee or other exaction referred to in section (1) of this rule exceeds the percentage levels allowable as operating expenses in said section (1) of this rule, such excess amount shall be charged pro rata to users of the utility within said city and shall be separately stated on the regular billings to such users.

(6) The percentage levels set forth in section (1) of this rule subsequently may be changed if the Commission determines after such notice and hearing as are required by law that fair and reasonable compensation to a city or all cities should be fixed at a different level, or determines that by law or the particular circumstances involved a different level should be established.

Stat. Auth.: ORS Ch. 183, 756 & 767

Stats. Implemented: ORS 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 3-1990, f. & cert. ef. 4-6-90 (Order No. 90-417); PUC 14-1990, f. & cert. ef. 7-11-90 (Order No. 90-1031)

#### **860-022-0042**

##### **Relating to Municipality Privilege Taxes, Fees and Other Assessments for Telecommunications Utilities**

(1) The aggregate amount of all privilege, business or occupation taxes, license, franchise or operating permit fees, or other similar exactions imposed upon telecommunications utilities by any city of this state for engaging in business within such city or for use and occupancy of city streets and public ways, applied to gross revenues as defined herein, shall be allowed as operating expenses of such utilities for rate-making purposes and shall be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" shall mean those revenues derived from exchange access services, as defined in ORS 401.710, less net uncollectibles from such revenues.

(3) Separate fees for street opening, installations, construction and maintenance of fixtures or facilities to the extent such fees or charges are reasonably related to the costs of the city for inspection, supervision and regulation in the exercise of its police powers may be deducted in computing the percentage levels hereinabove set forth.

(4) The aggregate amount of all privilege, business or occupation taxes, license, franchise or operating permit fees, and other

similar exactions imposed on telecommunications utilities by municipalities, which do not exceed four percent, shall be allowed as operating expenses for rate-making purposes and shall not be itemized or billed separately. All such exactions in excess of four percent shall be charged pro rata to users of basic local access services within the municipality, and separately itemized on customer's bills, or billed separately.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.105

Hist.: PUC 14-1990, f. & cert. ef. 7-11-90 (Order No. 90-1031)

#### **860-022-0045**

##### **Relating to Local Government Fees, Taxes or Other Assessments**

(1) In the event any county of the State of Oregon, other than a city-county, should impose upon any public utility subject to the jurisdiction of the Public Utility Commissioner any new taxes, or license, franchise or operating permit fees, or increase any such taxes or fees, the public utility required to pay such taxes or fees shall collect from its customers within the county imposing such taxes or fees the amount of the taxes or fees, or the amount of increase in such taxes or fees provided, however, that should the taxes or fees cover the operations of a public utility in only a portion of a county, then the affected public utility shall recover the amount of the taxes or fees or increase in the amount thereof from customers in the portion of the county which is subject to the taxes or fees. Taxes, as used here, mean sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, fees or charges other than ad valorem taxes.

(2) The amount collected from each utility customer pursuant to section (1) of this rule shall be separately stated and identified to all customer billings.

(3) This rule shall apply to new or increased taxes imposed on and after December 16, 1971, including new or increased taxes imposed retroactively after that date.

(4) Should any county, public utility or customer affected by this rule deem its application in any particular instance to be unjust or unreasonable, it may apply for a waiver of this rule by petition, setting forth the reasons why the rule should not apply.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.110 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-022-0046**

##### **Forced Conversion of Electric and Communication Facilities**

(1) As used in this rule:

(a) "Convert", "Converting" or "Conversion" means the removal of overhead electric or communication facilities and the replacement of those facilities with underground electric or communication facilities at the same or different locations;

(b) "Conversion Cost" means the difference in cost between constructing an underground system and retaining the existing overhead system. This difference is generally equal to the cost of all necessary excavating, road crossings, trenching, backfilling, raceways, ducts, vaults, transformer pads, other devices peculiar to underground service, and "overhead retirement costs". However, if the conversion is required in conjunction with a public project which would necessitate the relocation of the utility's facilities at the utility's expense, "conversion costs" shall not include any "overhead retirement costs";

(c) "Electric or Communication Facilities" means any works or improvements used or useful in providing electric or communication service, including but not limited to poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, and all related facilities required for the acceptance of electric or communication services; however:

(A) "Electric Facilities" does not include any facilities used or intended to be used for the transmission of electric energy at nominal voltage in excess of 35,000 volts;

(B) "Communication Facilities" does not include facilities



used or intended to be used for the transmission of intelligence by microwave or radio, apparatus cabinets or outdoor public telephones;

(C) "Electric or Communication Facilities" does not include any electric or communication facilities owned or used by or provided for a railroad or pipeline and located upon or above the right-of-way of the railroad or pipeline.

(d) "Local Government" includes cities; counties; authorities and agencies created pursuant to ORS Chapters 456 and 457; special districts of the type described in ORS 198.010, 198.180; and all other political subdivisions of the state;

(e) "Overhead Electric or Communication Facilities" means electric or communication facilities located above the surface of the ground;

(f) "Overhead Retirement Cost" means the original cost, less depreciation, less salvage value, plus removal costs, of existing overhead distribution facilities no longer used or useful by reason of the conversion;

(g) "Underground Electric or Communication Facilities" means electric or communication facilities located below the surface of the ground exclusive of those facilities such as substations, transformers, pull boxes, service terminals, pedestal terminals, splice closures, apparatus cabinets and similar facilities which normally are above the surface in areas where utility facilities are underground in accordance with standard underground practices;

(h) "Utility" means any electric or communication utility described by ORS 757.005.

(2) This rule does not apply if the total conversion cost incurred by the utility during one calendar year does not exceed five-one hundredths of one percent (.05%) of the utility's annual revenues derived from customers residing within the boundaries of the local government.

(3) When a local government requires a utility to convert electric or communications facilities at the utility's expense, the utility shall collect the conversion costs from customers located within the boundaries of the local government.

(4) The local government may direct the utility to collect conversion costs from only a portion of the customers located within the boundaries of the local government.

(5) Conversion costs incurred by the utility shall be accumulated in a separate account in the utility's books. Interest shall accrue from the date the utility incurs the cost. The rate of such interest shall be equal to the effective cost of the senior security issue which most recently preceded the incurrence of the cost.

(6) The utility shall collect the conversion costs and interest over a reasonable period of time subject to approval by the Commission. However, the pay-back period shall not exceed the depreciable life of the facilities. Collection shall begin as soon as practical after the end of the year in which the conversion costs are incurred.

(7) The conversion cost to be recovered from each customer shall be calculated by applying a uniform percentage to each customer's total monthly bill for service rendered within the boundaries of the local government. The amount collected shall be separately stated and identified on each bill.

(8) This rule applies to conversions upon which construction is commenced on or after August 13, 1984.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 757

Stats. Implemented: ORS 756.060

Hist.: PUC 17-1984, f. & ef. 8-14-84 (Order No. 84-615); PUC 20-1984, f. & ef. 9-19-84 (Order No. 84-737); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

## **860-022-0055**

### **Pole Attachments**

(1) This rule applies whenever a party files a complaint with the Commissioner pursuant to ORS 757.270 through 757.290.

(2) In this rule:

(a) "Carrying Charge" means the percentage of operation, maintenance, administrative, general, and depreciation expenses, taxes, and money costs attributable to the facilities used by the licensee. The cost of money component shall be equal to the

return on investment authorized by the Commissioner in the pole owner's most recent rate proceeding;

(b) "Pole Cost" means the depreciated original installed cost of an average bare pole of the pole owner;

(c) "Support Equipment" means guy wires, anchors, anchor rods, grounds, and other accessories of the pole owner used by the licensee to support or stabilize pole attachments;

(d) "Support Equipment Cost" means the average depreciated original installed cost of support equipment;

(e) "Usable Space" means all the space on a pole, except the portion below ground level, the 20 feet of safety clearance space above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole is buried below ground level.

(3) A disputed pole attachment rental rate will be computed by taking the pole cost times the carrying charge times the portion of the usable space occupied by the licensee's attachment.

(4) A disputed support equipment rental rate will be computed by taking the support equipment cost times the carrying charge times the portion of the usable space occupied by the licensee's attachment.

(5) The minimum usable space occupied by a licensee's attachment is one foot.

(6) The rental rates referred to in sections (3) and (4) of this rule do not cover the costs of special inspections, preconstruction, make ready, change out, and rearrangement work. Charges for those activities shall be based on actual (including administrative) costs.

(7) Licensees shall report all attachments to the pole owner. A pole owner may impose a penalty charge for failure to report and pay for all attachments. If a pole owner and licensee do not agree on the penalty amount and submit the dispute to the Commissioner, the penalty amount will be five times the normal rental rate from the date the attachment was installed until the appropriate rental rate is paid. A pole owner may also charge for any expenses it incurs as a result of an unauthorized attachment.

(8) All attachments shall meet state and federal clearance and other safety requirements, be adequately grounded, guyed, and anchored, and meet the provisions of contracts executed between the pole owner and the licensee. A pole owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the pole owner for any fines, fees, damages, or other costs the licensee's attachments cause the pole owner to incur.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 757.270, 757.273, 757.276, 757.279, 757.282, 757.285, 757.287 & 757.290

Hist.: PUC 9-1984, f. & ef. 4-18-84 (Order No. 84-278); PUC 16-1984, f. & ef. 8-14-84 (Order No. 84-608)

## **860-022-0060**

### **Conduit Attachments**

(1) This rule applies whenever a party files a complaint with the Commissioner pursuant to ORS 757.270 through 757.290.

(2) In this rule:

(a) "Attachment" means any attachment defined in ORS 757.270(1), except attachments to poles;

(b) "Annual Operating Expense" means annual operating maintenance, administrative, general, depreciation, and income, property and other tax expenses attributable, on a per-duct basis, to the section of conduit occupied by the licensee;

(c) "Annual Carrying Charge" shall be equal to the return on investment authorized by the Commissioner in the conduit owners' most recent rate proceeding times the conduit cost;

(d) "Conduit Cost" means the depreciated original installed cost, on a per-duct basis, of the section of conduit occupied by the licensee;

(e) "Duct" means a single enclosed raceway for conductors or cable;

(f) "Conduit" means any structure, or section thereof, containing one or more ducts, conduits, manholes, handholes, bolts, or other facilities used for any telegraph, telephone, cable television, electrical, or communications conductors, or cable

right-of-way, owned or controlled, in whole or in part, by one or more public utilities;

(g) "Licensee" means any entity defined to be a licensee by ORS 757.270(2);

(h) "Surplus" ducts are ducts other than those occupied by the utility or a prior licensee, one unoccupied duct held as an emergency use spare, and other unoccupied ducts that the utility reasonably expects to use within the next 18 months;

(i) "Utility" means any entity defined to be a public utility by ORS 757.270(3).

(3) A disputed conduit rental rate will be computed by adding the annual operating expense to the annual carrying charge and then multiplying by the number of ducts occupied by the licensee.

(4) A licensee occupying part of a duct shall be deemed to occupy the entire duct.

(5) Licensees shall report all attachments to the conduit owner. A conduit owner may impose a penalty charge for failure to report or pay for all attachments. If a conduit owner and licensee do not agree on the penalty and submit the dispute to the Commissioner, the penalty amount will be five times the normal rental rate from the date the attachment was made until the penalty is paid. If the date the attachment was made cannot be clearly established, the penalty rate shall apply from the date the conduit owner last inspected the conduit in dispute. The last inspection shall be deemed to be no more than three years before the unauthorized attachment is discovered. The conduit owner also shall charge for any expenses it incurs as a result of the unauthorized attachment.

(6) The conduit owner shall give a licensee 18 months' notice of its need to occupy licensed conduit and shall propose that the licensee take the first feasible action listed:

(a) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with multiplexing, optical fibers, or other space-saving technology sufficient to meet the utility's space needs;

(b) Pay revised conduit rent based on the cost of new conduit constructed to meet the utility's space needs;

(c) Vacate ducts that are no longer surplus;

(d) Construct and maintain sufficient new conduit to meet the utility's space needs.

(7) When two or more licensees occupy a section of conduit, the last licensee to occupy the conduit shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting of space-saving technology or construction of new conduit, all licensees shall bear the increased cost.

(8) All attachments shall meet local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between the conduit owner and the licensee. A conduit owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the conduit owner for any fines, fees, damages, or other costs the licensee's attachments cause the conduit owner to incur.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 757.270, 757.273, 757.276, 757.279, 757.282, 757.285, 757.287 & 757.290

Hist.: PUC 2-1986, f. & ef. 2-7-86 (Order No. 86-107)

## DIVISION 23

### SERVICE STANDARDS

#### 860-023-0000

##### **Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040**

The rules contained in this Division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 757.040

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### 860-023-0001

##### **Definitions**

For purposes of this division, "utility" or "public utility" means a public utility as defined in ORS 757.005 and a telecommunications utility as defined in ORS 759.005.

Stat. Auth.: ORS 756.060

Stat. Implemented: ORS Ch. 756, 757 & 759.005

Hist.: PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

#### 860-023-0005

##### **Maintenance of Plant and Equipment**

Each utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each utility shall inspect its plant distribution system and facilities in such manner and with such frequency as may be necessary to insure a reasonably complete knowledge as to their condition and adequacy at all times. Such record shall be kept of the conditions found as the utility itself shall consider necessary for the proper maintenance of its system, unless in special cases a more complete record be specified by the Commissioner.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### 860-023-0010

##### **Use of Gas, Electric and Water Meters**

(1) Electrical energy sold by a utility shall be charged for by meter measurements, except that which may be otherwise authorized by the Commissioner. All meter measurements for gas service shall be converted to a therm basis for billing purposes.

(2) Unless otherwise authorized by the Commissioner, each utility shall continue to own, maintain, and operate all equipment necessary for the regulation and measurement of electricity, gas or water to its customers. Where additional meters are furnished by the utility or meters are relocated for the convenience of the customer, a reasonable charge for such meters may be made in accordance with a schedule approved by the Commissioner.

(3) No utility shall make a charge for furnishing, installing or maintaining any meter or other appliance for measurement purposes except by permission of the Commissioner, or as provided in OAR 860-021-0050(1) and 860-021-0055. The amount so paid shall be refunded to the customer by allowing him a credit of one-half of the monthly bill until such time as 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 shall be charged by any utility for any meter or appliance installed by it, which is used by the utility as a basis for the rendering of bills, except when an additional meter or appliance may be requested by the customer for his convenience.

(5) The utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste, without notice to the customer.

(6) No utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the Commissioner.

(7) Should damage result to the meter from molesting or willful neglect on the part of the customer, the utility shall repair or replace the meter and it may bill the customer for the cost.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.040, 757.060 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### 860-023-0015

##### **Testing Gas, Electric and Water Meters**

(1) All meters shall be tested before installation, or within 30 days thereafter, and no meter will be placed in service or be allowed to remain in service which has an error in registration in excess of two percent under conditions of normal operation. This requirement may be waived by written agreement if the utility provides an approved random sampling technique for testing new meters.

(2) New meters, repaired meters and meters that have been

removed from service shall be correct to within two percent fast or slow before being installed or reinstalled.

(3) Each utility shall adopt schedules for periodic tests and repairs of meters. The length of time meters shall 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 approval of the Commissioner.

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

(5) Each utility shall, unless specifically excluded by the Commissioner, provide such laboratory meter-testing equipment and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of the Commissioner. The apparatus and equipment so provided shall be subject to the approval of the Commissioner.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

### **Electric Service Standards**

#### **860-023-0020**

##### **Quality of Electric Service**

(1) Every electric utility shall adopt a set of normal standard voltages at the point of delivery for the different classes of service in their service areas. The nominal standard voltages applicable to residential and commercial customers shall be specified in the tariffs filed by the utility. Except as may be caused by the operation of apparatus by the customer in violation of the utility's rules, or by conditions beyond the utility's control, every electric utility shall maintain the adopted standard secondary voltages so that the same shall not normally vary more than plus or minus five percent of the standard at the service entrance.

(2) Each electric utility shall make a sufficient number of voltage surveys to indicate that the service furnished is in compliance with the standard as indicated under section (1) of this rule.

(3) Each utility shall keep a complete record of each test of voltage and service conditions, as made under these rules, and this record shall be accessible to the Commissioner or its authorized representatives. Each record of tests of voltage or service conditions so kept shall contain complete information concerning the test, including such items as the Commissioner may from time to time require.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

### **Gas Service Standards**

#### **860-023-0025**

##### **Purity of Gas**

(1) All gas supplied to customers shall contain no more than .25 of one grain of hydrogen sulfide in each 100 cubic feet; 20 grains of sulphur in each 100 cubic feet (30 grains of sulphur in 100 cubic feet may be permitted if the utility shall show cause for such an exception in advance or immediately upon the discovery of exceptional conditions that warrant it); five grains of ammonia in each 100 cubic feet. No gas shall contain impurities which may cause excessive corrosion of mains or piping or form corrosive or harmful fumes when burned in a properly designed and adjusted burner.

(2)(a) Each utility distributing manufactured gas, or a mixture of manufactured and other gas, shall test the gas for the presence of hydrogen sulfide at least once each day. Each utility distributing natural gas shall make hydrogen sulfide tests at such intervals as are necessary;

(b) Records of all tests shall be properly filed and shall be reported to the Commissioner for such periods and at such times as the Commissioner shall request.

(3) Manufactured and mixed gas shall be tested at least once each month for the presence of total sulphur and ammonia. Approved methods of testing shall be used. Record of all tests shall be preserved as specified by the Commissioner.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **860-023-0030**

##### **Change in Character of Service**

(1) Any change in the heating value or the characteristics of the gas service which may impair the safe, efficient utilization of the gas in the customer's appliances shall not be made without the approval of the Commissioner and without adequate notice to the customers. In such event, the gas utility shall make any necessary adjustments to the customer's appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customers.

(2) No changes of standard shall take effect and no expenditure shall be incurred for the alteration of plant or equipment for the purpose of supplying gas under the proposed standard until the Commissioner shall have approved the change of standard or until 30 days after notification, data and schedules required by this rule shall have been transmitted to the Commissioner; but the provisions of this rule shall not be interpreted as forbidding expenditure for engineering services or experimental or development work needed to determine the character and cost of the proposed changes.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **860-023-0035**

##### **Pressure Testing and Maintenance of Standard**

(1) Each gas utility shall make every reasonable effort necessary to maintain adequate gas pressure. Each utility shall make such determinations and keep such records of pressures as will enable it to have at all times a substantially accurate knowledge of the pressure existing in every part of its distributing system. The pressure records shall be properly identified, dated and filed.

(2) All recording pressure gauges shall be tested periodically and maintained in an accurate condition.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **860-023-0040**

##### **Testing Equipment and Facilities**

(1) Each gas utility shall own and maintain or have access to all testing equipment necessary to make all tests of the gas required by the Commissioner. The Commissioner may approve arrangements for the utility to have any part of its testing done by another utility or competent party.

(2) All testing equipment shall be of an approved type, properly maintained, and subject to inspection and approval of the Commissioner. All equipment shall be open to use of qualified representatives of the Commissioner at any time for testing the gas distributed by the utility.

(3) Testing equipment shall be so located and used that the sample of gas tested shall be typical of the gas being distributed in the system.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **860-023-0045**

##### **Heating Value**

(1) Each gas utility shall file with the Commissioner, as part of its schedules of rates or rules and regulations, the average total heating value of the gas together with the indicated maximum



expected fluctuation above and below the average total heating value which may be expected of a gas supplied by it in each district, division or community served.

(2) In maintaining the established heating value, the chemical composition and specific gravity shall be such as to attain satisfactory combustion in the customer's appliances at all times without repeated readjustment of the burners.

(3) When supplemental or substitute gas is distributed by a utility, the gas quality shall be such that the utilization performance will be satisfactory, regardless of the heating value of the gas.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **860-023-0050**

##### **Heating Value Tests — Records and Reports**

(1) Each gas utility shall test the heating value of manufactured or mixed gas being furnished to the distribution system at least once a day except Sundays and holidays. Original test data shall be recorded on the utility's standard forms and preserved for at least three years.

(2) Each utility supplying natural gas shall make sufficient tests, or have access to such tests made by its suppliers, as to maintain the established heating value.

(3) These tests shall be made at a location, or locations, which will insure a representative sampling of gas being sent out to the distribution systems. A monthly summary shall be made from these tests.

(4) The variation permitted from the established total heating value shall not exceed an amount consistent with normal satisfactory appliance operation.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **Telephone Service Standards**

#### **860-023-0055**

##### **Telephone Service Standards**

Every exchange carrier shall adhere to the following service standards:

(1) Held Access Line Service Orders. Requests for access line (main) telephone service delayed over 30 days because of lack of outside plant or central office equipment shall be counted as held when service is not provided within 30 days after the commitment date. Alternatively, the date the order is taken from the customer may be used in lieu of commitment date where it is not the utility's practice to establish commitment dates. At 60 days and over 120 days the order shall be moved to the appropriate period for which it has been held. A record of why each order is held shall be maintained together with the estimated "in service date". Orders requiring the customer to meet specific prerequisites (e.g., line extension charges) shall be measured from the time the prerequisites have been met.

(2) Held Regrade Service Orders. Requests for change in grade of an existing access line service delayed over 60 days, because of lack of outside plant or central office equipment, shall be counted as held when service is not provided within 60 days after the commitment date. Alternatively the date the order is taken from the customer may be used in lieu of commitment date where it is not the utility's practice to establish commitment dates. Requests for change in grade of an existing access line service delayed because of facility shortage shall be counted as a held order 60 days after the taken date and/or commitment date. At 120 days the order shall be noted to indicate it has been held for that period of time. A record of why each order is held shall be maintained together with the estimated "in service date". Orders requiring the customer to meet specific prerequisites shall be measured from the time the prerequisites have been met.

(3) Installation Due Date Commitments:

(a) At the time the request for access line service (excluding

Key and PBX service) is taken, a customer shall be given a due date based upon the following mileage zones (where outside plant facilities are available):

<b>Zone</b>	<b>Due Date Objective</b>
0-15 Miles	Three (3) Working Days
16-30 Miles	Five (5) Working Days
Over 30 Miles	Seven (7) Working Days

(b) It is recognized that the "objectives" cannot consistently be met. Therefore, for reporting purposes the average number of days required to install service shall be the "due date period" of record for any given month. Mileage shall be measured from the point where employees engaged in service installation are normally assigned;

(c) Key, PBX, and special systems and lines shall be on a due date basis which is compatible with equipment and manpower availability. Each utility shall make all reasonable efforts to assure expeditious installation of its Key, PBX, special systems, lines and other special services.

(4) Dial Tone Speed. When measured 98 percent of originating average busy hour, call attempts shall receive dial tone within three seconds.

(5) Toll Operator Answering Time. 90 Percent of the Toll Operator Calls shall be answered within ten seconds. (Equivalent measuring methods may be used.) This standard would be applied only if customer complaints of slow answers were received by the Public Utility Commissioner of Oregon.

(6) Directory Assistance Operator Answering Time. 84.9 percent of attempted calls shall be answered within ten seconds.

(7) Trouble Reports:

(a) All utilities shall maintain a record of reported trouble. The record of reported trouble shall contain as a minimum requirement:

(A) Telephone number;

(B) Date and time received;

(C) Time cleared;

(D) Type of trouble reported;

(E) Location of trouble;

(F) Whether or not the present trouble report is within 30 days of the previous trouble report.

(b) Records may be kept in a format suitable for each utility's operation. Utilities are not required to forward such records to the Commissioner on a continuing basis. Records shall be kept in such condition that they can be forwarded to the Commissioner immediately upon request. All records shall be kept by central office designation for a period of one year;

(c) Service shall be maintained by the exchange carrier in such a manner that the monthly rate of all customer trouble reports, excluding reports concerning connecting company calls and customer premise equipment, does not exceed 5 per 100 local access lines per central office equipped with 1,000 or more access lines. The standard for central offices with less than 1,000 lines shall be 7 per 100.

(8) Subscriber Lines:

(a) All newly constructed and rebuilt subscriber lines shall be designed with the objective of no more than 8.5db transmission loss at 1,000 + -20 HZ (Hertz) from the serving central office to the customer premise network interface. All subscriber lines shall be maintained so that the transmission loss does not exceed 10db (decibels);

(b) All newly built and rebuilt subscriber lines shall be constructed and maintained so that metallic noise shall not exceed 20dBRNC. All subscriber lines shall be maintained so that metallic noise does not exceed 30dBRNC. (Decibels above reference noise level — C message weighting.);

(c) All subscriber lines shall provide a minimum range of 20 to 23 milliamperes of loop current from the central office to the customer premise network interface when terminated with 400 ohms;

(d) All combinations of subscribers' lines and central office switching equipment shall be capable of accepting and correctly

processing at least the following network control signals from customer premise equipment:

(A) Dial Pulse — 8 to 12 pulses per second and 58 to 64 percent break;

(B) Tone Pulsing — 50 milliseconds DTMF (Dual Tone Multi Frequency) on 50 milliseconds DTMF tone off.

(9) Intraoffice, Interoffice, and Access Trunking:

(a) All intraoffice, interoffice, and access trunking and associated switching components shall be engineered and maintained to allow 99 percent completion of properly dialed calls to the trunk group during the average busy season without encountering blockages or equipment irregularities;

(b) All interoffice and access trunk groups shall be maintained so that the AML (actual measured loss) in no more than 30 percent of the trunks shall deviate from EML (expected measured loss) by more than .7db and no more than 4.5 percent of the trunks shall deviate from EML by more than 1.7db.

(10) Interexchange Carriers. All interexchange carrier facilities connected to the facilities of an exchange carrier shall be operated in a manner which will not impede the exchange carrier's ability to meet required standards of service. All exchange carriers shall report situations contrary to the above promptly to the Commissioner.

(11) Exchange carriers shall report to the Commissioner when the following conditions are exceeded where measured:

(a) Local calling — 3 percent of properly dialed local calls cannot be completed;

(b) Blockages on incoming trunks exceeding 1.5 percent and exceeding three percent on outgoing trunks;

(c) Trouble reports per 100 access lines exceeds: 5 per 100 local access lines for central offices equipped with 1,000 or more access lines or 7 per 100 for central offices with less than 1,000 access lines, excluding reports concerning connecting company calls and customer premise equipment.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.025 & 759.240

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 23-1985, f. & ef. 12-11-85 (Order No. 85-1171)

### **Water Service Standards**

#### **860-023-0060**

##### **Purity of Water Supply for Domestic Purposes**

Each water utility delivering water for domestic purposes shall furnish a supply which shall at all times be free from injurious physical elements and disease-producing bacteria, and shall cause to be made such tests and take precautions as will insure the constant purity of its supply. A record of all tests and reports pertinent to the water supply shall be kept by the company.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.005 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **860-023-0065**

##### **Adequate Pressure Required**

Each water utility shall maintain pressure at a minimum of 20 pounds per square inch to each customer.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.005, 757.020 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

#### **860-023-0070**

##### **Pressure Surveys**

Every water utility shall have a permanently placed pressure gauge located on a main representative of the system's pressure. A portable gauge shall be available for checking pressure conditions in any part of the distribution area.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.005, 757.020 & 757.250

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

## **DIVISION 24**

### **CONSTRUCTION AND SAFETY STANDARDS, GENERAL**

#### **860-024-0000**

##### **Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040**

The rules contained in this Division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.040

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-024-0001**

##### **Definitions**

For purposes of this division, "utility" or "public utility" means a public utility as defined in ORS 757.005 and a telecommunications utility as defined in ORS 759.005.

Stat. Auth.: ORS 756.060

Stat. Implemented: ORS Ch. 756, 757 and 759.005

Hist.: PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

#### **860-024-0005**

##### **Maps and Records**

(1) Each utility shall keep on file current maps and records of the entire plant showing size, location, character and date of installation of major plant items.

(2) Upon request, each utility shall file with the Commissioner an adequate description or maps to define the territory served. All maps and records which the Commissioner may require the utility to file shall be in a form satisfactory to the Commissioner.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 757.020

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-024-0006**

##### **Reasonable Accuracy of Marking Locatable Underground Facilities.**

"Reasonable accuracy" means location within 24 inches of the outside dimensions of both sides of an underground facility. Offset marking, when used, will have the same tolerance of accuracy.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 757.541

Hist.: PUC 5-1988, f. & cert. ef. 3-8-88 (Order No. 88-244)

#### **860-024-0007**

##### **Color Code for Marking Location of Underground Facilities**

(1) Colors for marking location of underground facilities shall be as listed below.

(2) Color — To indicate:

(a) Red — Electric power lines, cables or conduit, and lighting cables;

(b) Yellow — Gas, oil, stream, petroleum, or other hazardous liquid or gaseous materials;

(c) Orange — Communications, cable televisions, alarm or signal lines, cables or conduits;

(d) Blue — Water, irrigation, and slurry lines;

(e) Green — Sewer and drain lines;

(f) White — For voluntary premarking of the outer limits of the proposed excavation of marking the centerline of proposed lineal installations of pipe, cables, conduits, or other items where the trench will not exceed 24 inches in width.

Stat. Auth.: ORS Ch.

Stats. Implemented: ORS 757.561

Hist.: PUC 5-1988, f. & cert. ef. 3-8-88 (Order No. 88-244)

### **Electric and Communication**

#### **860-024-0010**

##### **Construction, Operation, and Maintenance of Electrical**

### **Supply and Signal Lines**

Construction, operation, and maintenance of electrical supply and signal lines shall comply with the standards prescribed by the **1993 Edition of the American National Standard, National Electrical Safety Code** approved July 10, 1992, by the American National Standards Institute and amended March 8, 1994, by the NESC Committee with Tentative Interim Amendments 93-1 and 93-2.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS 756.060 & 757.035

Stats. Implemented: ORS 757.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 173, f. & ef. 1-14-76 (Order No. 76-037); PUC 1-1978, f. 1-13-78, ef. 2-13-78 (Order No. 78-076); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 6-1990, f. & cert. ef. 5-25-90 (Order No. 90-833); PUC 11-1993, f. & cert. ef. 6-23-93 (Order No. 93-809); PUC 13-1994, f. & cert. ef. 8-31-94 (Order No. 94-1243)

### **860-024-0015**

#### **Ground Return**

Every person, company, agency, municipality, or association, their agents, lessees or acting trustees or receivers, appointed by any court, engaged in the management, operation, ownership or control of either alternating or direct current power lines or equipment within the State of Oregon may use a connection to ground only for protection purposes. A ground connection shall not be used for the purpose of providing a return conductor for power purposes.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

### **Gas**

### **860-024-0020**

#### **Gas Pipeline Safety**

The following rules and regulations governing the transportation of natural gas and other gas by pipeline are adopted and prescribed by the Commission to be observed by all gas operators (as that term is defined in **49 CFR, Part 192.3**) doing business in Oregon:

(1) **49 CFR, Part 191, and amendments through No. 9 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on January 6, 1992.**

(2) **49 CFR, Part 192, and amendments through No. 72 — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards, in effect on May 12, 1994.**

(3) **49 CFR, Part 199, and amendments through No. 9 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations, in effect on March 17, 1994.**

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 172, f. & ef. 1-14-76 (Order No. 76-036); PUC 180, f. 4-8-77, ef. 5-1-77 (Order No. 77-232); PUC 2-1978, f. & ef. 3-16-78 (Order No. 78-158); PUC 6-1980, f. & ef. 10-22-80 (Order No. 80-777); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533)

### **860-024-0021**

#### **Liquid Natural Gas Facility**

The following rules and regulations governing Liquid Natural Gas Facilities are adopted and prescribed by the Commission to be observed by all gas operators (as that term is

defined in **49 CFR, Part 193.2007**) doing business in Oregon:

(1) **49 CFR, Part 193, and amendments through No. 9 — Liquid Natural Gas Facilities; Minimum Safety Standards, in effect on May 12, 1994.**

(2) **49 CFR, Part 199, and amendment through No. 9 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations, in effect on March 17, 1994.**

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533)

### **Steam and Hot Water**

### **860-024-0025**

#### **Construction, Operation and Maintenance of Steam and Hot Water Transmission and Distribution Systems**

The construction, operation and maintenance of steam and hot water transmission and distribution systems shall be in accordance with the **American Society of Mechanical Engineers Code for Pressure Piping, Section B31.1, 1989 Edition**, an American National Standard. The code may be obtained from the American National Standards Institute, 1430 Broadway, New York, NY 10018 and may be inspected at the Office of the Public Utility Commission.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS 183.335, 756.040, 756.060, 757.005 & 757.020

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 10-1991, f. & cert. ef. 12-5-91 (Order No. 91-1603)

## **DIVISION 25**

### **REGULATIONS TO PREVENT DUPLICATION OF FACILITIES**

### **860-025-0000**

#### **Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040**

The rules contained in this Division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.040

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-025-0001**

#### **Definitions**

For purposes of this division, “utility” or “public utility” means a public utility as defined in ORS 757.005 and a telecommunications utility as defined in ORS 759.005.

Stat. Auth.: ORS 756.060

Stat. Implemented: ORS Ch. 756, 757 & 759.005

Hist.: PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

### **860-025-0005**

#### **Applicability and Formal Requirements**

All applications or petitions filed under the rules contained in this division must also comply with all other applicable Commission rules.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)



**860-025-0010**

**Applications for Approval of Contracts to Avoid or Eliminate Duplicate Utility Service**

Applications for a Commission order under ORS 758.410 shall contain the following:

- (1) A copy of the contract.
- (2) A map or maps, drawn to appropriate scale, showing the general location and boundaries of the respective applicant's service areas.
- (3) A map or maps, to appropriate scale, showing the location of customers who are being served by either or both of the parties, or who could be economically served by the then existing facilities of either party, or by reasonable and economic extensions thereto, who are covered by the contract.
- (4) A description by county, section lines, river, highway, road, street or metes and bounds, where applicable and necessary, designating the boundaries of the territory to be served by each party to the contract. Such legal description of boundary lines may be drawn and described:

(a) So as to eliminate minor irregularities in the boundary of each party where to do so will include within each party's territory, only that unserved area which may be economically served by the then existing facilities of the respective parties or by reasonable and economic extensions thereto; and

(b) In the case of persons providing telephone utility service who have entered into exchange boundary agreements prior to May 31, 1961, for the purpose of defining mutually exclusive exchange service areas, the area affected by such agreement may be described by reference to the exchange area map in that agreement, provided that applicant shall not be relieved by such reference from showing that it can economically serve the unserved areas within the exchange area map with its existing facilities or by a reasonable and economic extension thereto.

(5) A description of the equipment and facilities of each party which are the subject of sale, exchange, transfer or lease pursuant to the contract and the consideration to be paid therefor.

(6) Facts showing that the contract will eliminate or avoid unnecessary duplicating facilities, and will promote the efficient and economic use and development and the safety of operation of the utility systems of the parties to the contract, while providing adequate and reasonable service to all territories and customers affected thereby.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 758.400 thru 758.475

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

**860-025-0015**

**Applications for Approval of Amendments to Contracts to Avoid or Eliminate Duplicate Utility Service**

Applications under ORS 758.430 for an order of the Commission approving an amendment to a contract approved pursuant to ORS 758.410 to 758.420, inclusive, shall contain:

- (1) The amendatory contract;
- (2) Reference to the Commission order approving the initial contract; and
- (3) Such information required by OAR 860-025-0010 as may assist the Commission in reviewing the application.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 758.400 thru 758.475

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

**860-025-0020**

**Applications for Allocation of Exclusively Served Territory**

Applications under ORS 758.435 for an order of the Commission allocating territory to a person providing exclusive electric, gas or telephone utility service in a territory shall contain the following information:

- (1) A map, drawn to appropriate scale, showing the general location and boundaries of the applicant's service area.
- (2) A map, drawn to appropriate scale, showing the location

of applicant's customers and facilities in the vicinity of the boundaries of the territory applied for in sufficient detail to enable the Commission to determine the boundaries of that territory served exclusively by applicant.

(3) A description by county, section lines, river, highway, road, street or metes and bounds, where applicable and necessary, of the boundaries of applicant's exclusive service area. Such map and legal description of boundary lines may be drawn and described so as to eliminate minor irregularities in the boundary.

(4) Facts showing that applicant is lawfully and in good faith providing exclusive electric, gas or telephone utility service within the area described in the application and that no other person is providing a similar utility service within such territory.

(5) Such additional information as may be necessary to a full understanding of the situation.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 758.400 thru 758.475

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

**860-025-0025**

**Applications for Allocation of Exclusively Served Territory and Adjacent Unserved Territory**

Applications under ORS 758.435, for an order of the Commission allocating territory to a person providing exclusive electric, gas or telephone utility service in a territory and adjacent unserved territory shall contain the following information:

(1) The information required under OAR 860-025-0020.

(2) Map similar to that required by OAR 860-025-0020(2) and description comparable to that required by OAR 860-025-0020(3), showing and describing the boundary of the adjacent unserved territory covered by the application.

(3) The names and addresses of all persons providing similar utility service in proximity to the unserved area applied for who may have an interest in or be affected by an approval or disapproval of the application.

(4) Facts showing that it is more economical and feasible to serve the adjacent unserved territory by an extension of the applicant's existing facilities than by an extension of the facilities of another person, including but not limited to the following:

(a) Map, drawn to appropriate scale, showing location and capability of equipment, plant or facilities including the capability, location, and route of proposed facilities, if any, which relate to the applicant's ability to extend utility service into the adjacent unserved area;

(b) Copies of such franchises or permits as the appropriate public authorities may require for extending service into the adjacent unserved area, or a statement that they will be filed at the hearing or a statement that no such authority is required by said public authorities;

(c) The kind or nature and extent of the need or demand, or reasonable anticipated need or demand, for utility service within the unserved area;

(d) The estimated construction, operating and related costs of and revenues from providing the proposed utility service within the unserved area.

(5) Such additional information as may be necessary to a full understanding of the situation.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 758.400 thru 758.475

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

**860-025-0027**

**Application to Transfer Rights to Allocated Territory**

(1) Applications under ORS 758.460 for an order of the Commission approving the transfer of rights acquired by an allocation of territory shall comply with OAR 860-025-0005 and shall contain the following information:

(a) A statement of the purposes for the transfer, the supporting reasons therefor and a detailed explanation thereof showing the justification as to why the transfer will not be contrary to public interest;

(b) A copy of all written evidence and a statement of all oral understanding compromising the agreement between the transferor and transferee covering the transfer of the territory described in the application and sought to be transferred;

(c) A map or maps, drawn to appropriate scale, showing the general location and boundaries of the allocated territory sought to be transferred and the transferor's and transferee's adjacent service areas;

(d) A map or maps, drawn to appropriate scale, showing:

(A) The number and, where practicable, the location of customers and the location of equipment or facilities of the transferor with a detailed description of such equipment or facilities which are within the territory sought to be transferred; and

(B) The location of equipment or facilities of the transferor and transferee, with a detailed description of the same, which are in the territory immediately adjacent to that sought to be transferred and which are or will be interconnected therewith.

(e) A legal description comparable to that required in OAR 860-025-0020(3), of the boundaries of the territory sought to be transferred;

(f) A legal description comparable to that required in OAR 860-025-0020(3), of the resulting boundaries of the remaining allocated portion of the parcel of territory of the transferor where the territory sought to be transferred is only part of a parcel of transferor's allocated territory and a similar description of the resulting boundaries of the allocated territory of the transferee where the territory sought to be transferred will be contiguous to a parcel of transferee's allocated territory;

(g) Copies of such franchises or permits, as the appropriate public authorities may require, authorizing the transferee to serve in the territory sought to be transferred, or evidence of the approval of the appropriate public authorities of the transfer to the transferee of the transferor's franchise or permit to serve the territory sought to be transferred.

(2) Applications under ORS 758.460 by a public utility as defined by ORS 757.005 for an order of the Commission approving the transfer of rights acquired by an allocation of territory which would otherwise be subject to ORS 757.480 shall comply with OAR 860-027-0025.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 758.400 thru 758.475

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

### **860-025-0030**

#### **Petitions for Certificate of Public Convenience and Necessity for Construction of Overhead Transmission Lines**

(1) Petitions under ORS 758.015, for a certificate of public convenience and necessity to construct an overhead transmission line, which will necessitate a condemnation of land or an interest therein, shall contain the following information:

(a) The information required under OAR 860-025-0005;

(b) A detailed description and the purpose of the proposed transmission line which shall include but not be limited to a general description of the proposed route, voltage and capacity of the line. The description of the project should be in sufficient detail as to enable a full understanding of the public convenience, necessity and justification in the public interest for the proposed transmission line and the benefits to be derived therefrom and to enable a determination of its safety and practicability;

(c) A map or maps drawn to appropriate scale showing the general location and boundaries of petitioner's service area to be connected or served by the proposed transmission line and showing, by appropriate distinguishing colors and symbols, but not limited to, the following information:

(A) Proposed route, voltage and capacity of the proposed transmission line;

(B) Available alternate routes;

(C) Other transmission lines and substations of petitioner connecting or serving or capable of being adopted to connect or serve the areas covered by the proposed transmission line;

(D) The terminals, substations, sources of energy and load centers related to the proposed project;

(E) Land to be condemned.

(d) An estimate of the cost of developing the project including:

(A) Land and land rights to be condemned;

(B) Other land and land rights acquired or to be acquired;

(C) Transmission facilities;

(D) Substation, accessory and miscellaneous labor, plant and equipment;

(E) Indirect and overhead costs including engineering, legal expense, taxes, interest during construction and itemized administrative and general expenses;

(F) Any other costs, direct or indirect, relating to the project;

(G) Such explanation of the various cost estimates as is necessary to enable a full understanding of their basis and derivation.

(e) An explanation of the financial feasibility of the proposed project, including the kind, nature, extent and estimated growth of the energy requirements or reasonably anticipated need, load or demand, for the proposed transmission line;

(f) A description of the property and interest to be condemned, together with a full explanation of the intended use, and the specific necessity and convenience for the taking of said property:

(A) A map must be included whereon the land to be condemned is clearly marked, and the general contour, culture and improvements along that portion of the route are clearly shown;

(B) The names and addresses of all persons who have an interest, known or of record, in the land to be affected or traversed by the proposed route from whom applicant has not acquired the necessary right of way or option therefor.

(g) A statement and explanation with supporting data comparable to that described in subsections (d) and (e) of this section for possible alternative routes;

(h) Such additional information as may be necessary to a full understanding of the situation;

(i) Such information and supporting data necessary for the Commission to satisfy the land use findings requirement described in sections (2), (3) and (4) of this rule.

(2) The Commission, as part of its approval of a Certificate of Public Convenience and Necessity, shall adopt findings which assure that the proposed transmission project complies with the Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each of the local government(s) in which the project is to be located. The Commission's findings shall be developed in accordance with the rules and procedures as set forth in the Commission's state agency coordination program pursuant to ORS 197.180.

(3) The Commission's land use findings assuring the proposed project's goal compliance and plan compatibility shall be based on the hearing record, which shall include at least one of the following:

(a) A copy of the local land use permit from each affected city or county planning agency, building department, or governing body stating that the proposed transmission project has received the jurisdiction's approval; or

(b) A copy of a letter from each affected local planning agency, building department, or governing body stating that the proposed transmissions project is permitted under the jurisdiction's comprehensive plan, land use regulations, and development codes, but does not require specific approval by the jurisdiction; or

(c) Other written or oral land use information and documentation equivalent to subsections (3)(a) or (b) of this rule properly presented to the Commission from an authorized representative from each affected city or county; or

(d) Commission goal compliance findings adopted pursuant to OAR 660-030-0065(3) in situations where the Commission is unable to assure goal compliance by acting compatibly with one or more of the affected comprehensive plans.

(4) If a proposed transmission line is subject to the jurisdiction of the Energy Facility Siting Council (EFSC), the Commission shall adopt findings which assure that the project and route have been certified by EFSC, and the requirements of sections (2) and (3) of this rule shall not apply.

Stat. Auth.: ORS 183.335, 197.180 & 756.060  
Stats. Implemented: ORS 758.015  
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 8-1991, f. & cert. ef. 5-30-91 (Order No. 91-700); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

## DIVISION 26

### SALES PROMOTION

#### 860-026-0005

##### General Definitions

As used in OAR 860-026-0005 through 860-026-0045, unless the context requires otherwise:

(1) "Affiliate" has the same meaning as "affiliated interest", as defined in ORS 757.015.

(2) "Appliance or Equipment" includes any device which consumes electric and/or gas energy and any ancillary device required for its operation.

(3) "Consideration" includes any cash, donation, gift, allowance, rebate, bonus, merchandise (new or used), property (real or personal), labor, service, conveyance, commitment, right or other thing of more than token value.

(4) "Financing" includes acquisition of equity or debt interests, loans, advances, sale and repurchase agreements, sale and leaseback agreements, sales on open account, conditional or installment sales contracts, or other investments or extensions of credit.

(5) "Person" includes any individual, group, firm, partnership, corporation, association, organization or public or private entity.

(6) "Public utility" or "utility" means any telecommunications utility not partially exempt from regulation under ORS 759.040, or any electric or gas utility engaged in the production, storage, distribution, sale, delivery or furnishing of electricity or gas, or both, subject to the jurisdiction of the Commission.

(7) "Energy efficiency" means any installation or action intended to reduce the amount of energy required to achieve a given purpose or to shift the timing of the use of energy to achieve greater efficiency in the use of a public utility system.

Stat. Auth.: ORS 183.335 & 756.060  
Stats. Implemented: ORS 756.060, 757.005 & 757.015  
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035); PUC 9-1995, f. & cert. ef. 8-30-95 (Order No. 95-861)

#### 860-026-0010

##### "Promotional Activity" Defined

"Promotional Activity" means action by a utility or its affiliate with the object of bringing about an increase, or preventing a decrease, in the quantity of the service of such utility used by present and prospective customers or with the object of inducing any person to use its service rather than a competing form of energy, the cost of which is properly chargeable to account number 911, 912, 913, or 916 of the Uniform System of Accounts as adopted by OAR 860-27-045 and 860-27-055.

[ED. NOTE: The Uniform System of Accounts was previously adopted in 1968 under OAR 860-26-140 and 860-26-150. Those administrative rules were renumbered and readopted as OAR 860-27-045 and 860-27-055 in Order 74-307.  
Stat. Auth.: ORS Ch. 756  
Stats. Implemented: ORS 756.060  
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### 860-026-0015

##### "Promotional Concession" Defined

(1) "Promotional concession" means any consideration offered or granted by a public utility or its affiliate to any person with the object, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service.

(2) For purposes of illustration, and without limiting the

definition in section (1) of this rule, "Promotional concession" includes:

(a) Financing real property, including the construction of any building thereon, when such property is not owned or otherwise possessed by and not intended for the immediate use of the utility or its affiliate;

(b) Furnishing consideration to any architect, builder, engineer, subdivider, developer or other person for work done or to be done on property not owned or otherwise possessed by and not intended for the immediate use of the utility or its affiliate; except for studies to determine comparative capital cost and expenses to show the desirability or feasibility of selecting one form of energy over another;

(c) Acquisition from any builder, subdivider, developer or other person of any easement, right-of-way, license, lease or other property for consideration in excess of the reasonable cost or value thereof;

(d) Furnishing consideration to any dealer, architect, builder, engineer, subdivider, developer or other person for the sale, installation or use of any appliance or equipment;

(e) Providing free, or at less than cost or value, any wiring, piping, appliance or equipment to any other person; but a utility, engaged in an appliance merchandising sales program, is not precluded from conducting legitimate close-outs of appliances, clearance sales and sales of damage or returned appliances;

(f) Providing free, or at less than cost or value, any installation, operation, repair, modification or maintenance of any appliance, equipment, wiring or piping of any other person;

(g) Granting a trade-in allowance on the purchase of any appliance or equipment in excess of the fair market value of the trade-in; or the granting of an allowance for such appliance or equipment when such allowance varies by reason of the type of energy consumed in such appliance or equipment;

(h) Financing the acquisition of any appliance or equipment at a rate of interest or on terms more favorable than those generally applicable to sales by non-utility dealers in such appliances or equipment;

(i) Furnishing consideration to any person for any advertising or publicity purpose of such person; and

(j) Guaranteeing the maximum cost of electric or gas utility service.

(3) "Promotional concession" does not include:

(a) Making any temporary emergency repairs to appliances or equipment of a customer, or performing any other repairs or maintenance for which the customer is charged at least at cost;

(b) Inspecting and adjusting appliances or equipment which consumes electric or gas energy;

(c) Providing appliances or equipment incidental to their demonstration for 60 days or less;

(d) Providing light bulbs, street or outdoor lighting service, service pipe or other service equipment or appliances, in accordance with tariffs filed with and approved by the Commission; and

(e) Providing appliances or equipment to an educational institution for the purpose of instructing students in the use of such appliances or equipment;

(f) Rebates, low interest loans, and other considerations for Commission-approved energy efficiency programs; and

(g) Testing of new products/equipment that are expected to result in their inclusion in a Commission-approved energy efficiency program.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

#### 860-026-0020

##### Standards Governing Promotional Activities and Concessions

(1) All promotional activities and concessions shall be just and reasonable, prudent as a business practice, economically feasible and compensatory, and reasonably beneficial both to the utility and its customers. The cost of promotional activities and concessions must not be so large as to impose an undue burden on



the utility's customers in general and must be recoverable through related sales stimulation within a reasonable period of time.

(2) No public utility or its affiliate shall:

(a) Directly or indirectly, in any manner or by any device whatsoever, offer or grant any promotional concession except such as is uniformly and contemporaneously extended to all persons in a reasonably defined class;

(b) Engage in any promotional concession that creates an undue preference or advantage to any person or subjects any person to any undue prejudice or disadvantage;

(c) Engage in any promotional concession that establishes or maintains any unreasonable difference between localities or as between classes of customer;

(d) Insert, or seek to enforce, any covenant or other provisions in any deed, mortgage, lease or any other instrument related to realty that restricts the form of energy which may be used upon such realty.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-026-0022**

##### **Presumptions of Reasonableness of Advertising Expenses in Utility Rate Cases**

(1) As used in this rule:

(a) "Advertising Expenses" means expenses for communication which informs influences, and/or educates customers. Such communication may be by means of, but is not limited to, print, radio, television, billboards, direct mail, videos, banners, telephone listings, and displays;

(b) "Conservation Advertising Expenses" means advertising expenses, the primary purpose of which is to decrease the total consumption of utility services;

(c) "Institutional Advertising Expenses" means advertising expenses, the primary purpose of which is not to convey information, but to enhance the credibility, reputation, character, or image of an entity or institution;

(d) "Legally Mandated Advertising Expenses" means advertising expenses, the primary purpose of which is to comply with:

(A) Local, state or federal statutes, ordinances, rules, or regulations, and

(B) Court or Commission's orders.

(e) "Political Advertising Expenses" means advertising expenses, the primary purpose of which is to state or imply that persons should take a specific political action;

(f) "Promotional Advertising Expenses" means advertising expenses, the primary purpose of which is to communicate with respect to promotional activities or promotional concessions of the utility as defined in OAR 860-026-0010 and 860-026-0015;

(g) "Utility Information Advertising Expenses" means advertising expenses, the primary purpose of which is to increase customer understanding of utility systems and the function of those systems, and to discuss generation and transmission methods, utility expenses, rate structures, rate increases, load forecasting, environmental considerations, and other contemporary items of ratepayer interest;

(h) "Utility Service Advertising Expenses" means advertising expenses, the primary purpose of which is to supply timely customer information about utility services such as changes in office hours, planned service repair interruptions, the closing or opening of new pay stations, or to encourage efficient and safe use of utility services and similar service-related subjects;

(i) "Non-Utility Advertising Expenses" means advertising expenses, the primary purpose of which is to provide information about or encourage purchase of products or services whose revenues fall outside the scope of rate of return regulation by a state or federal regulatory body;

(j) "Energy Efficiency Advertising Expenses" means advertising expenses, the primary purpose of which is to promote energy efficiency, as defined in OAR 860-026-0005(7).

(2) For the purposes of this rule, advertising expenses are categorized as follows:

(a) Category "A" — Energy efficiency or conservation

advertising expenses that do not relate to a Commission-approved program, utility service advertising expenses, and utility information advertising expenses;

(b) Category "B" — Legally mandated advertising expenses;

(c) Category "C" — Institutional advertising expenses, promotional advertising expenses and any other advertising expenses not fitting into Category "A", "B" or "D";

(d) Category "D" — Political advertising expenses, and non-utility advertising expenses;

(e) Category "E" — Energy efficiency or conservation advertising expenses that relate to a Commission-approved program.

(3)(a) Advertising expenses in Category "A" are presumed to be just and reasonable for ratemaking purposes a rate proceeding to the extent that expenses are twelve and one-half hundredths of one percent (0.00125) or less of the gross retail operating revenues determined in that proceeding;

(b) Advertising expenses in Category "B" are presumed to be just and reasonable for rate-making purposes;

(c) The utility shall carry the burden of showing that any advertising expenses in Category "C" are just and reasonable for rate-making purposes. In any rate filing under ORS 757.210, the utility shall separately state the amount of advertising expenses in Category "C";

(d) Advertising expenses in Category "D" are presumed to be not just and reasonable for rate-making purposes;

(e) With Commission approval, advertising expenses in Category "E" may be capitalized. The Commission will review the prudence of such expenses in a general rate proceeding pursuant to ORS 756.500 or 757.210.

(4) The presumptions in section (3) of this rule are rebuttable. A utility seeking to include expenditures in excess of amounts in section (3) of this rule shall have the burden of showing that the expenditures are just and reasonable. Parties challenging expenditures which are equal to or less than the amounts in section (3) of this rule have the burden of showing that the expenditures are not just and reasonable.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.060

Hist.: PUC 1-1975, f. & ef. 7-20-76 (Order No. 76-467); PUC 7-1981, f. & ef. 8-12-81 (Order No. 81-515); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-071; PUC 22-1985, f. 12-11-85, ef. 1-1-86 (Order No. 85-1170); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); Renumbered from 860-21-605; PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035); PUC 9-1995, f. & cert. ef. 8-30-95 (Order No. 95-861)

#### **860-026-0025**

##### **Filing of Proposed Promotional Concessions**

No public utility or its affiliate shall offer, grant or vary any promotional concession directly or indirectly, or in concert with others, or by any means whatsoever, unless a description of such concession has been filed with the Commission. A copy thereof shall be furnished to each other public utility providing service in any portion of the service area of the filing utility.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060 & 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-026-0030**

##### **Notice and Effective Date of Promotional Concessions**

All filings required by OAR 860-026-0025 shall be effective upon 30 days' notice to the Commission, subject to suspension and cancellation by the Commission. However, the Commission may allow changes without requiring the 30 days' notice by entering an order specifying the changes to be made and the time when they shall take effect.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060, 757.007 & 757.220

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-026-0035**

##### **Reports**

(1) Each public utility shall file, concurrently with the annual budget required by law, a report informing the Commission of each promotional activity and concession the utility and its affiliates expect to offer or engage in during the ensuing calendar year. The report shall state the expected amount to be expended on each activity and concession and that an analysis of the benefits anticipated from each is available for inspection. The report shall include a statement signed by the responsible officer of the utility that any promotional activity or concession to be offered or engaged in is in compliance with OAR 860-026-0020.

(2) Each public utility shall file, concurrently with the annual report required by law, a report of each promotional activity and concession of the public utility and its affiliates during the preceding calendar year. The report shall show the amounts expended with respect to each promotional activity and concession, together with a statement of the benefits achieved from each.

(3) In reporting on each promotional activity or concession under this section, a utility shall employ the lowest practicable subprogram for budget and accounting purposes.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060 & 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

#### **860-026-0040**

##### **Investigations**

Nothing in OAR 860-026-0005 through 860-026-0040 is intended to prevent the Commission from investigating, either formally or informally, any promotional activity or concession, or the costs thereof, of any utility.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-026-0045**

##### **Promotional Concessions Offered or Granted on the Effective Date of These Rules**

(1) Notwithstanding OAR 860-026-0025 and 860-026-0030, any promotional concession offered or granted by a public utility or its affiliate prior to July 1, 1971, may remain in force, subject to suspension and cancellation, if:

(a) A description of such concession was filed with the Commission not later than 5:00 p.m., June 30, 1971;

(b) Such filing includes a statement signed by the responsible officer of the utility that any such promotional concession is in compliance with OAR 860-026-0020; and

(c) A copy of the description of such concession has been furnished to each other public utility providing service in any portion of the service area of the filing utility.

(2) No other promotional concession shall be offered or granted on or after July 1, 1971, except in compliance with OAR 860-025-0005 through 860-026-0040.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060 & 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

### **DIVISION 27**

### **BUDGETS, FINANCE, ACCOUNTING AND ANNUAL REPORTS**

#### **Budget Filings**

#### **860-027-0000**

##### **Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040**

(1) The rules contained in this division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

(2) Except for OAR 860-027-0050 and 860-027-0070, these rules do not apply to cooperative corporations organized under

ORS Chapter 62.

Stat. Auth.: ORS 756, 759

Stat. Implemented: ORS Ch. 183 & 759.040

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 3-1995, f. & cert. ef. 6-19-95 (Order No. 95-516); PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

#### **860-027-0001**

##### **Definitions**

For purposes of this division, “utility” or “public utility” means a public utility as defined in ORS 757.005 and a telecommunications utility as defined in ORS 759.005.

Stat. Auth.: ORS 756.060

Stat. Implemented: ORS Ch. 756, 757 & 759.005

Hist.: PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

#### **860-027-0005**

##### **Utilities Required to File**

Each public utility operating within the State of Oregon and having gross operating revenues of \$50,000 or more per annum is required to file with the Commission, on or before the first day of November of each year, a copy of its proposed Budget of Expenditures, on forms approved by the Commission.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.105, 757.105 & 759.100

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-027-0010**

##### **Utilities Not Required to File**

Utility companies receiving less than \$50,000 gross annual revenues shall not be required to submit Budgets of Expenditures to the Commission.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-027-0015**

##### **New Construction Budget**

Each public utility operating within the State of Oregon and having gross operating revenues of \$50,000 or more per annum is required to file annually on or before December 1 on forms approved by the Commission information on new construction, extensions and additions to the property of the public utility.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.105, 757.105 & 759.100

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-027-0016**

##### **Accounting for Director’s Fees**

Director’s fees paid by a public utility to members of its board of directors, who are also paid as officers of the utility, shall not be recognized as a charge to operating expenses in Oregon.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.110 & 759.115

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

### **Finance**

### **Formal Applications for Authority to Sell, Lease, Merge, Assign, and Mortgage Public Utility Property; Issue Securities, Guarantee Indebtedness, Purchase Securities and Property of Utilities and Enter into Transactions with Affiliated Interests**

#### **860-027-0020**

##### **Form and Filing of Applications**

(1) The Commission will furnish such information from the records on file as will assist in a full presentation of material facts for the following application forms.

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

(3) 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 these rules.

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

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

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.060 & 756.105

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-027-0025**

#### **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) The requirements of this rule will apply to public utilities seeking authority under ORS 757.480, 757.485, 759.375, and 759.380. Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information, which should, in so far as possible, be furnished for each person, firm or corporation involved:

(a) The exact name and address of the principal business office;

(b) The state in which incorporated, the date of incorporation, and the other states in which authorized to transact utility operations;

(c) Name and address of the person on behalf of applicant authorized to receive notices and communications in respect to the applications;

(d) The names, titles, and addresses of the principal officers;

(e) A description of the general character of the business done and to be done, together with a designation of the territories served, by counties and states;

(f) A statement, as of the date of the balance sheet submitted with the application, showing for each class and series of capital stock: brief description; the amount authorized (face value and number of shares); the amount outstanding (exclusive of any amount held in the treasury); amount held as reacquired securities; amount pledged; amount owned by affiliated interests; and 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 and notes: brief description (amount, interest rate and maturity); amount authorized; amount outstanding (exclusive of any amount held in the treasury); amount held as reacquired securities; amount pledged; amount held by affiliated interests; and amount in sinking and other funds;

(h) Whether the application is for disposition of facilities by sale, lease, or otherwise, a merger or consolidation of facilities, or for mortgaging or encumbering its property, or for the acquisition of stock, bonds, or property of another utility, also a description of the consideration, if any, and the method of arriving at the amount thereof;

(i) A statement and general description of facilities to be disposed of, consolidated, merged, or acquired from another utility, giving a description of their present use and of their proposed use after disposition, consolidation, merger, or acquisition. State whether the proposed disposition of facilities or plan for consolidation, merger, or acquisition includes all the operating facilities of the parties to the transaction;

(j) A statement by primary account of the cost of the facilities and applicable depreciation reserve involved in the sale, lease, or other disposition, merger or consolidation, or acquisition of property of another utility. If original cost is not known, an estimate of original cost based, insofar as possible, upon records or data of the applicant or its pre-decessors must be furnished, together with a full explanation of the manner in which such estimate has been made, and a statement indicating where all existing data and records may be found;

(k) A statement 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;

(l) The facts relied upon by applicants to show that the proposed sale, lease, assignment, or consolidation of facilities, mortgage or encumbrance of property, or acquisition of stock, bonds, or property of another utility will be consistent with the public interest;

(m) The reasons, in detail, relied upon by each applicant, or party to the application, for entering into the proposed sale, lease, assignment, merger, or consolidation of facilities, mortgage or encumbrance of property, acquisition of stock, bonds, or property of another utility, and the benefits, if any, to be derived by the customers of the applicants and the public;

(n) The amount of stock, bonds, or other securities, now owned, held or controlled by applicant, of the utility from which stock or bonds are proposed to be acquired;

(o) A brief statement of franchises held, showing date of expiration if not perpetual, or, in case of transfer, that transferee has the necessary franchises.

(2) Required Exhibits. There shall be filed with the application as part thereof the following exhibits:

(a) *EXHIBIT A*. A copy of the charter or articles of incorporation with amendments to date;

(b) *EXHIBIT B*. A copy of the by-laws with amendments to date;

(c) *EXHIBIT C*. Copies of all resolutions of directors authorizing the proposed disposition, merger, or consolidation of facilities, mortgage or encumbrance of property, acquisition of stock, bonds, or property of another utility, in respect to which the application is made and, if approval of stockholders has been obtained, copies of the resolutions of the stockholders should also be furnished;

(d) *EXHIBIT D*. Copies of all mortgages, trust, deeds, or indentures, securing any obligation of each party to the transaction;

(e) *EXHIBIT E*. Balance sheets showing booked amounts, adjustments to record the proposed transaction and pro forma, with supporting fixed capital or plant schedules in conformity with the forms set forth in the annual report, which applicant(s) is required, or will be required, to file with the Commission;

(f) *EXHIBIT F*. 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 G*. Comparative income state-ments showing recorded results of operations, adjustments to record the proposed transaction and pro forma, in conformity with the form set forth in the annual report which applicant(s) is required, or will be 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;

(i) *EXHIBIT I*. A copy of all contracts in respect to the sale, lease or other proposed disposition, merger or consolidation of facilities, acquisition of stock, bonds, or property of another utility, as the case may be, together with copies of all other written instruments entered into or proposed to be entered into by the parties to the transaction pertaining thereto;

(j) *EXHIBIT J*. A copy of the proposed journal entries to be used to record the transaction upon each applicant's books;

(k) *EXHIBIT K*. A copy of supporting schedules showing the benefits, if any, which each applicant relies upon to support the facts as required by subsection (1)(l) of this rule and the reasons as required by subsection (1)(m) of this rule.

(3) All Class D water utilities when seeking authority to sell, transfer, or otherwise dispose of utility property shall use the following form unless required to file under sections (1) and (2) of this rule. All other utilities may use the following form in lieu of filing under sections (1) and (2) of this rule when permitted to do so by the Commission:

**In the Matter of the Application of (Enter Exact  
Name of Applicant) or an Order Authorizing (Enter  
Authority Requested, i.e., to Sell, Transfer, or  
Otherwise Dispose of Utility Property) to (Enter**



**Chapter 860 Public Utility Commission**  
**OREGON ADMINISTRATIVE RULES 1997 COMPILATION**

**Name of Purchaser or Other Parties Concerned)**

A copy of the contract or other agreement is attached to this application and contains the exact terms and provisions of the document that will be entered into. The Commission will be advised in writing of the exact date the transaction is entered into and that the terms and provisions of the contract or agreement are the same as set forth herein, if this application is approved.

The utility property to be sold consists of (explain or describe in general the property proposed to be sold).

The sale price of the property is \$\_\_\_\_\_, payable in the manner set forth in the contract or agreement attached to the application.

The reasons applicant desires to sell, transfer, or otherwise dispose of its utility property are (list the reasons and any facts supporting these reasons why the sale is proposed).

The purchasers are financially able and willing to take over and operate the utility property. (State any experience purchasers have that will assist or aid them in the operations of the utility and the reasons why they desire to acquire the utility property. Attach to the application a financial statement of the purchasers.)

Wherefore applicant respectfully requests that the Commission enter an appropriate order authorizing the transaction proposed herein.

\_\_\_\_\_  
(Name of Utility)

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Officer or Owner)

State of \_\_\_\_\_ ) ss.

County of \_\_\_\_\_ )

\_\_\_\_\_  
(Name of Party signing above)

being first duly sworn, deposes and says that he is \_\_\_\_\_(Title)\_\_\_\_\_ of \_\_\_\_\_(Name of Utility)\_\_\_\_\_, the applicant in the foregoing application, that he has read said application, including all exhibits thereto, knows the contents thereof, and the same are true to the best of his knowledge and belief.

\_\_\_\_\_  
(Signature)

Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signature)

(Notarial Seal)

My Commission expires \_\_\_\_\_, 19\_\_\_\_.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.105, 757.480, 757.485, 759.375 & 759.380

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 8-1995, f. & cert. ef. 8-30-95 (Order No. 95-858)

**860-027-0030**

**Application by a Public Utility for Authority to Issue Stocks, Bonds, Notes or Other Securities**

(1) The requirements of this rule will apply to public utilities seeking authority under ORS 757.495, 757.405 to 757.435 inclusive, 757.445, 757.450, 759.390, 759.305 to 759.345 inclusive, 759.355, and 759.360. Every applicant shall set forth in this application to the Commission, in the manner and form and in the order indicated, the following information:

(a) The exact name of the applicant 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 utility business;

(c) Name and address of person authorized, on behalf of applicant, to receive notices and communications in respect to 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, together with 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: brief description; the amount authorized (face value and number of shares); the amount outstanding (exclusive of any amount held in the treasury), held amount as reacquired securities; amount pledged by applicant; amount owned by affiliated interests, and 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: brief description (amount, interest rate and maturity); amount authorized; amount outstanding (exclusive of any amount held in the treasury); amount held as reacquired securities; amount pledged by applicant; amount held by affiliated interests; and amount in sinking and other funds;

(h) A full description of the securities proposed to be issued, showing: kind and nature of securities or liabilities; amount (face value and number of shares); interest or dividend rate, if any; date of issue and date of maturity; and voting privileges, if any;

(i) A reasonably detailed and precise description of the proposed transaction, including a statement of the reasons why it is desired to consummate the transaction and the anticipated effect thereof. If the transaction is part of a general program, describe the program and its relation to the proposed transaction. Such description 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 securities of the applicant 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;

(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 a copy of the action taken 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. 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, together with the identification of the person from whom the property is to be acquired, must be furnished. If original cost is not known, an estimate of original cost based, in so far as possible, upon records or data of the seller and applicant or their predecessors must be furnished, together with a full explanation of the manner in which such estimate has been made, and a description and statement of the present custody of all existing pertinent data and records. A statement showing the cost of all additions and betterments and retirements, from the date of the original cost, should also be furnished;

(l) Purposes for which the securities are to be issued. Specific information will 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 facilities and the cost thereof;

(B) Reimbursement of the treasury of the applicant for expenditures against which securities have not been issued. A statement giving a general description of such 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 obligations;

(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 public utility;

(D) Will not impair its ability to perform that service;

(E) Is reasonably necessary or appropriate for such purposes;

(F) If filed under ORS 757.495, is fair and reasonable and not contrary to 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 therefor, respectively, and the facts relied upon to show that 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;

(p) If filed under ORS 757.490, 757.495, 759.385 or 759.390:

(A) A statement describing the relationship between the public utility and the affiliated interest as defined in ORS 757.015, 757.490, 759.010 or 759.385:

(i) Set forth the amount, kind and ratio to total voting securities held, if applicable;

(ii) A list of 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 ORS 757.490(1) or 759.385(1).

(B) The reasons, in detail, relied upon by the public utility for entering into the proposed transaction and the benefits, if any customers of the public utility and the general public will derive from the transaction.

(2) Required Exhibits. There shall 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 amend-ments to date;

(b) *EXHIBIT B*. A copy of the by-laws with amendments to date;

(c) *EXHIBIT C*. A copy of all resolutions of directors authorizing the issue in respect to which the application is made and, if approval of stock-holders has been obtained, a copy of the resolution of the stockholders should also be furnished;

(d) *EXHIBIT D*. A copy of mortgage, indenture or other agreement under which it is proposed to issue the securities, also a copy of any mortgage, indenture or other agreement securing other funded obligations of the applicant;

(e) *EXHIBIT E*. Balance sheets showing booked amounts, adjustments to record the proposed transaction and pro forma, with supporting fixed capital or plant schedules in conformity with the form set forth in the annual report which applicant is required to file with the Commission;

(f) *EXHIBIT F*. 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 G*. Comparative income state-ments showing recorded results of operations, adjustments to record the proposed transaction and pro forma in conformity with the form set forth in the annual report which 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;

(i) *EXHIBIT I*. A copy of registration statement proper, if any, and financial exhibits made a part thereof, filed with the Securities and Exchange Commission;

(j) *EXHIBIT J*. 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. Where a contract or underwriting is not in final form so as to permit filing, a preliminary draft or a summary containing such identification of the parties thereto and setting forth of the principal terms thereof as may be practicable, may be filed pending filing of conformed copy in the form executed by final amendment to the application;

(k) *EXHIBIT K*. A copy of the stock certificates, notes or other evidences of indebtedness proposed to be issued;

(l) Application for a public utility to loan its funds to an affiliated interest, in addition to Exhibits A through K, shall also include the following:

(A) *EXHIBIT L*. A copy of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(B) *EXHIBIT M*. The amount of money which the applicant desires to loan to the affiliated interest, the terms of said loan, rate of interest, method of repayment, security given, if any, and if said loan is to be an open account or evidenced by a promissory note;

(C) *EXHIBIT N*. The use to which funds derived from this loan are to be put by the affiliated interest.

(m) An application for a public 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 K, shall also include the following:

(i) *EXHIBIT L*. A copy of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(ii) *EXHIBIT M*. The amount of cash which the applicant proposes to receive, the rate of interest it will pay, the date and method of repayment;

(iii) *EXHIBIT N*. 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 K*, shall include the following:

(i) *EXHIBIT L*. A copy of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(ii) *EXHIBIT M*. The amount which the affiliated interest proposes to pay on behalf of the public utility, together with a description of the obligation, how the funds will be used and how incurred.

(C) Credits or open accounts a public utility proposes to give to an affiliated interest, in addition to *EXHIBITS A through K*, shall include the following:

(i) *EXHIBIT L*. A copy of all proposed or existing contracts or agreements entered into by the parties to the transaction;

(ii) *EXHIBIT M*. The amount and a description of each item for which the public utility proposes to give credit through its loan or open account.

(3) The following form of application may be filed by all public utilities with annual revenues of less than \$100,000 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 \$10,000. In the instances when this provision is proper, the requirements of sections (1) and (2) of this rule do not apply. The Commission may require compliance with sections (1) and (2) of this rule if he deems it necessary in a particular case.

**In the Matter of the Application of (Enter Exact  
Name of Applicant) for an Order Authorizing the  
Issuance of a Note**

The above named applicant desires to issue its (enter type of note) note to (enter to whom issued) in the principal amount of \$\_\_\_\_\_ to be dated (date of note) and to mature (date due). The note will bear interest at \_\_\_\_\_ % per annum and is payable in (number of payments) payments of \$\_\_\_\_\_ with a final payment of \$\_\_\_\_\_.

A copy of the note proposed to be issued is attached to this application and contains the exact terms of the note that will be issued. The commissioner will be advised in writing of the date of the note and that the terms of the note are the same as set forth herein, if this application is approved.

The proceeds of the note are required for the purposes set forth in the following and are necessary for the proper performance of service to the public. The proceeds will be expended as follows: (Explain in detail the proposed use of the funds from the note.)

No fees or payment will be or have been made to any person, association or corporation for assistance in connection with this borrowing other than fees required by regulatory authorities.

Wherefore applicant respectfully requests that the Commission enter an appropriate order authorizing the note as herein set forth.

\_\_\_\_\_  
(Name of Utility)

\_\_\_\_\_  
(Signature of Officer or Owner)

Dated: \_\_\_\_\_

State of \_\_\_\_\_ ) ss.

County of \_\_\_\_\_ )

\_\_\_\_\_  
(Name of Party signing above)

being first duly sworn, deposes and says that he is \_\_\_\_\_ (Title) \_\_\_\_\_ of \_\_\_\_\_ (Name of Utility) \_\_\_\_\_ the applicant in the foregoing application, that he has read said application, including all exhibits thereto, knows the contents thereof, and the same are true to the best of his knowledge and belief.

\_\_\_\_\_  
(Signature)

Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Notarial Seal)

My Commission expires \_\_\_\_\_, 19\_\_\_\_.

(4) Report of Securities Issued:

\_\_\_\_\_  
(Name of Applicant)

**REPORT OF SECURITIES ISSUED**

Items	Amount
(1) Face value or principal amount	_____
(2) Plus premium or less discount	_____
(3) Gross proceed	_____
(4) Underwriter's spread or commission	_____
(5) Securities and Exchange Commission registration fee	_____
(6) State mortgage registration tax	_____
(7) State Commission fee	_____
(8) Fee for recording indenture	_____
(9) United States document tax	_____
(10) Printing and engraving expenses	_____
(11) Trustee's charges	_____
(12) Counsel fees	_____
(13) Accountant's fees	_____
(14) Cost of listing	_____
(15) Miscellaneous expense of issue (describe large items)	_____
(16) Total Deductions	_____
(17) Net Amount Realized	_____

Stat. Auth.: ORS Ch. 183, 756 & 767

Stats. Implemented: ORS 756.105, 757.405, 757.410, 757.415, 757.419, 757.420, 757.425, 757.430, 757.435, 757.445, 757.450, 759.305, 759.310, 759.315, 759.320, 759.330, 759.335, 759.340, 759.345, 759.350, 759.360 & 759.375,

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 21-1990, f. & cert. ef. 12-31-90 (Order No. 90-1904); PUC 8-1995, f. & cert. ef. 8-30-95 (Order No. 95-858)

**860-027-0031**

**When the Commission May Reregulate Financings of Exempt Telecommunications Utilities**

If any bond rating made by Standard and Poor's, Moody's, or Duff and Phelps for a telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and 759.315(2) falls below "A", the Commission may find that reregulation of the telecommunications utility under ORS 759.310 and 759.315(2) is necessary to prevent the impairment of service to customers.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 759.040 & 759.045

Hist.: PUC 8-1994, f. & cert. ef. 4-15-94 (Order No. 94-555)

**860-027-0032**

**Information Required Concerning Financings of Exempt Telecommunications Utilities**

(1) Any telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and 759.315(2) shall, within 30 days of issuing securities, provide to the Commission, in writing, the following information:

- The type of security involved in the issuance;
- The amount of security involved in the issuance; and
- A description of the terms of the issuance.



(2) Any telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and 759.315(2) shall, within 90 days of issuing securities, provide to the Commission, in writing, the information required by OAR 860-27-030(4).

(3) Any telecommunications utility exempt under ORS 759.315(5) from the requirements of ORS 759.310 and 759.315(2) shall maintain its records in a manner which allows the Commission to determine whether the terms of any issuance of securities are reasonable.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 759.045, 759.310 & 759.315

Hist.: PUC 8-1994, f. & cert. ef. 4-15-94 (Order No. 94-555)

#### **860-027-0035**

##### **Applications for Authority to Guarantee Indebtedness**

(1) The requirements of this rule will apply to public utilities seeking authority under ORS 757.440. Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information which should, in so far as possible, be furnished for each person, firm or corporation involved:

(a) The information required by OAR 860-027-0030(1 )(a) to (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 person, firm or corporation now held, owned or controlled by the applicant;

(d) A statement 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 reasons, 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;

(g) The facts relied upon by the applicant to show that the assumption is:

(A) For some lawful object within the corporate purposes of the applicant and compatible with the public interest;

(B) Necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility;

(C) Will not impair its ability to perform that service;

(D) Reasonably necessary or required for such purposes.

(2) Required Exhibits. There shall 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 amend-ments to date;

(b) *EXHIBIT B*. A copy of the by-laws with amendments to date;

(c) *EXHIBIT C*. A copy of all resolutions of directors authorizing the assumption in respect to which the application is made and, if approval of stockholders has been obtained, a copy of the resolution of the stockholders should also be furnished;

(d) *EXHIBIT D*. A copy of any mortgage, indenture, or other agreement securing any security which it proposes to guarantee; also, a copy of any mortgage, indenture or other agreement securing applicant's funded obligations;

(e) *EXHIBIT E*. Balance sheets with supporting fixed capital or plant schedules in conformity with the form set forth in the annual report which applicant is required to file with the Commission;

(f) *EXHIBIT F*. 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 G*. Comparative income state-ments in conformity with the form set forth in the annual report which 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;

(i) *EXHIBIT I*. A statement showing the present market value or other basis of determining the value of the securities to be

guaranteed.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 757.440 & 759.335

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **860-027-0040**

##### **Applications for Approval of Transactions Between Affiliated Interests**

(1) Except as provided in section (3) of this rule, the requirements of this rule will apply to public utilities and telecommunications utilities seeking authority under ORS 757.490, 757.495, 759.385 and 759.390. An application for financing to an affiliated interest shall be made under OAR 860-027-0030.

(2) Every applicant shall set forth in its application to the Commission, in the manner and form indicated, the following information:

(a) The exact name of the applicant and the address of its principal business office;

(b) The name and address of the person authorized, on behalf of the public or telecommunications utility, to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the public or telecommunications utility and the contracting entity as defined by ORS 757.015, 757.490, 759.010 or 759.385;

(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 public or telecommunications utility will pay annually for the goods or services and the accounts in which it will record the charges;

(i) The reasons, in detail, relied upon by the public or telecommunications utility for procuring the proposed goods or services from the affiliate and benefits, if any, customers of the public or telecommunications utility and the general public will derive from the provision of goods or services;

(j) A description of the procurement process and the reasons, in pertinent detail appropriate to the complexity of the procurement, relied upon by the public or telecommunications utility for procuring the proposed goods or services without a competitive procurement process, if such a process is not used;

(k) Transfer prices in contracts or agreements for the procurement of goods and 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 agree-ment between the public or telecommunications utility and the contracting entity; and

(m) A copy of all resolutions of directors authorizing the proposed transactions and, if approval of stockholders has been obtained, a copy of the resolutions approved by the stockholders.

(3) This rule shall not apply to public or telecommunications 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 759.010 or any corporation defined in ORS 757.490(1) or 759.385(1):

(a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210 or 759.180; or

(b) Any service provided under a rate or schedule of rates which:

(A) Has been filed with an agency charged with the regulation of public 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 Ch. 183, 756 & 767

Stats. Implemented: ORS 756.040, 756.060, 757.005, 757.015, 757.490, 757.495, 759.005, 759.110, 759.385 & 759.390

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 21-1990, f. & cert. ef. 12-31-90 (Order No. 90-1904); PUC 21-1990-A, f. 10-11-91, cert. ef. 12-31-90 (Order No. 90-1904); PUC 15-1994, f. & cert. ef. 12-28-94 (Order No. 94-1953)

#### **860-027-0041**

##### **Information Required for Utility Goods or Services Provided to Affiliated Interests**

(1) Except as provided in section (4) of this rule, this rule applies to public or telecommunications 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 759.010 or any corporation defined in ORS 757.490(1) or 759.385(1), service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal, or other services, or enter revenues or credits therefor on its books. This rule does not apply to transactions subject to ORS 757.490, 757.495, 759.385, or 759.390, and OAR 860-027-0040.

(2) A utility's failure to submit this required information shall not limit the Commission's authority to recognize or impute revenues to the utility pursuant to such contract in any rate valuation or other hearing or proceeding.

(3) For transactions provided in section (1) of this rule, every public or telecommunications utility shall submit to the Commission, 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 behalf of the public utility or telecommunications utility, to receive notices, inquiries, and communications regarding the information;

(c) A statement describing the relationship between the public or telecommunications utility and the other contracting entity as defined by ORS 757.015, 757.490, 759.010 or 759.385;

(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 public or telecommunications utility will receive annually for the goods or services and the accounts in which it will record the payments;

(g) The reasons relied upon by the public or telecommunications utility for providing the proposed goods or services and the benefits, if any, customers of the public utility and the general public will derive from the provision of goods or services;

(h) A copy of the contract or agreement between the public or telecommunications utility and the contracting entity that is the subject of this filing; and

(i) A copy of all resolutions of directors of the public or telecommunications utility authorizing the proposed transactions and, if approval of the public or telecommunications utility's stockholders was obtained, a copy of the resolution approved by the stockholders.

(4) This rule shall not apply to public or telecommunications 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 759.010 or any corporation defined in ORS 757.490(1) or 759.385(1):

(a) Any service provided under a rate or schedule of rates filed with the Commission under ORS 757.210 or 759.180; or

(b) Any service provided under a rate or schedule of rates which:

(A) Has been filed with an agency charged with the regulation of public or telecommunications 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 183.335, 756.040, 756.060 & 767.445

Stats. Implemented: ORS 756.040, 756.060, 757.005, 757.015, 759.005, 759.385 & 759.490

Hist.: PUC 21-1990, f. & cert. ef. 12-31-90 (Order No. 90-1904); PUC 21-1990-A, f. 10-11-91, cert. ef. 12-31-90 (Order No. 90-1904)

#### **860-027-0042**

##### **Timeliness of Application Made Under OAR 860-027-0040 and Filings Made Under OAR 860-027-0041**

Applications made under OAR 860-027-0040 and filings made under OAR 860-027-0041 shall occur no later than 90 days subsequent to the execution of the contract giving rise to the application or filing. The contract shall be 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 Ch. 183, 756 & 767

Stats. Implemented: ORS 756.040, 756.060, 757.005, 757.015, 757.490, 747.495, 759.005, 759.010, 759.385 & 759.390

Hist.: PUC 21-1990, f. & cert. ef. 12-31-90 (Order No. 90-1904)

#### **860-027-0043**

##### **Application for Waiver of Requirements Under OAR 860-027-0040 and 860-027-0041**

Upon petition by a public utility and approval by the Commission for good cause, the requirements of OAR 860-027-0040 and 860-027-0041 may be waived for individual transactions or classes of transactions. As a general guideline, in the absence of circumstances demonstrating in advance that the transaction or transactions will be fair and reasonable and not contrary to the public interest, transactions exceeding 0.1 percent of the previous calendar year's Oregon utility operating revenues will not qualify for waiver.

Stat. Auth.: ORS 183.335, 756.040, 756.060 & 767.445

Stats. Implemented: ORS 756.040, 756.060, 757.005, 757.015, 757.490 & 757.495

Hist.: PUC 21-1990, f. & cert. ef. 12-31-90 (Order No. 90-1904); PUC 21-1990-A, f. 10-11-91, cert. ef. 12-31-90 (Order No. 90-1904); PUC 12-1992, f. & cert. ef. 7-8-92 (Order No. 92-963)

#### **860-027-0044**

##### **Application for Waiver Requirements by Telecommunications Utilities Under OAR 860-027-0040 and 860-027-0041**

(1) This rule does not apply to transactions subject to ORS 759.385(4), 759.390(7), or 759.394.

(2) Upon petition by a telecommunications utility and approval by the Commission for good cause, the requirements of OAR 860-027-0040 and 860-027-0041 may be waived for individual transactions or classes of transactions. As a general guideline, in the absence of circumstances demonstrating in advance that the transaction or transactions will be fair and reasonable and not contrary to the public interest, transactions exceeding 0.1 percent of the previous calendar year's Oregon utility operating revenues will not qualify for waiver.

Stat. Auth.: ORS 756.060

Stats. Implemented: ORS 756.040, 756.060, 759.005, 759.010, 759.385 & 759.390

Hist.: PUC 12-1992, f. & cert. ef. 7-8-92 (Order No. 92-963)

### **Uniform System of Accounts**

#### **860-027-0045**

##### **Electric Utilities — Major and Nonmajor**

(1) The Uniform System of Accounts prescribed for Public Utilities and Licensees by the Federal Energy Regulatory Commission, February 12, 1985, as amended through November 30, 1991, is hereby adopted and prescribed by the Commission.

(2) All electric utilities having multistate operations shall maintain records in such detail that the cost of property located and business done in Oregon in accordance with geographic boundaries can be readily ascertained.

(3) All electric utilities having multistate operations shall file annually with the Commission, on or before April 1 of the ensuing year, their Oregon allocated results of operations for the calendar year reported, on the basis of allocation methods acceptable to the

**Commission.**

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS 756.060 & 757.125

Stats. Implemented: ORS 756.105, 757.120, 757.125 & 757.135

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); 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)

**860-027-0050**

**Telephone Utilities — Class A and B**

(1) **The Uniform System of Accounts for Class A and Class B Telecommunications Entities, Part 32, adopted by the Federal Communication Commission with revisions to December 23, 1986, effective January 1, 1988**, except the portion of **Part 32** relating to allocations between regulated and nonregulated activities (shown in Appendix C to FCC Order No. 86-564), is hereby adopted and prescribed by the Commission for all Telecommunications Entities having gross operating revenues from regulated telecommunications operations of:

(a) Class A — \$100,000,000 or more; and

(b) Class B — Less than \$100,000,000.

(2) Effective January 1, 1989, the cost of individual items of equipment, classifiable to Accounts 2112, Motor Vehicles; 2113, Aircraft; 2114, Special Purpose Vehicles; 2115, Garage Work Equipment; 2116, Other Work Equipment; 2122, Furniture; 2123, Office Equipment; and 2124, General Purpose Computers, costing \$500 or less or having a life less than one year shall be charged to the applicable Plant Specific Operations Expense accounts. If the aggregate investment in the items is relatively large at the time of acquisition, such amount shall be maintained in the applicable materials and supplies account until the items are used.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 746, 756 & 757

Stats. Implemented: ORS 756.105, 759.120, 759.125 & 759.130

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 8-1981, f. & ef. 9-8-81 (Order No. 81-626); PUC 5-1985, f. & ef. 4-24-85 (Order No. 85-355); PUC 13-1987, f. & ef. 11-16-87 (Order No. 87-1176); PUC 17-1989, f. & cert. ef. 12-14-89 (Order No. 89-1508/89-1672)

**860-027-0052**

**Allocation of Cost**

(1) As used in this rule:

(a) “Affiliate Transaction” means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a telecommunications public utility and accounts for nonregulated activities of a separate entity which is either an affiliated interest or another company in which the utility owns a controlling interest. It 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 telecommunications public utility;

(b) “Asset” means any tangible or intangible property of a telecommunications public utility or other right, entitlement, business opportunity, or other thing of value to which a telecommunications public utility holds claim;

(c) “Cost” means fully distributed cost, including the utility’s authorized rate of return and all overheads;

(d) “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;

(e) “Market Rate” means the lowest price which is available from nonaffiliated suppliers for comparable services or supplies;

(f) “Net Book Value” means original cost less accumulated depreciation;

(g) “Nonregulated Service” means a service which is not a telecommunications service as defined by ORS 759.005(2)(g), or a service which the Commission has determined to be exempt from regulation.

(2) A telecommunications public utility that provides both regulated and nonregulated intrastate service shall allocate

intrastate investments, expenses, and revenues between regulated activities and nonregulated activities according to principles, procedures, and accounting requirements which the **Federal Communications Commission (FCC) adopted December 23, 1986, and amended on reconsideration September 17, 1987, in CC Docket No. 86-111**, except as otherwise provided in this rule.

(3) Regulated and nonregulated intrastate activities of a telecommunications public utility shall be accounted for in accordance with **FCC Part 32 — Uniform Systems of Accounts**, but with the following exception. For intrastate purposes, **Part 32** rules governing affiliate transactions (**Sections 32.27(a), (b), (c), and (d)**) are replaced as follows:

(a) When an asset is transferred to regulated accounts from nonregulated accounts, the transfer shall be recorded in regulated accounts at the lower of net book value or fair market value;

(b) When an asset is transferred from regulated accounts to nonregulated accounts, the transfer shall be recorded in regulated accounts at the tariff or price listed rate if an appropriate tariff or price list is on file with the Commission. If no tariff or price list is applicable, proceeds from the transfer shall be recorded in regulated accounts at the higher of net book value or fair market value;

(c) When an asset is transferred from a regulated account to a nonregulated account at a fair market value that is greater than net book value, the difference shall be considered a gain to the regulated activity. The telecommunications public utility shall record the gain in a manner which will enable the Commission to determine the proper disposition of the gain in a subsequent rate proceeding;

(d) When services or supplies are sold by a regulated activity to a nonregulated activity, sales shall be recorded in regulated revenue accounts at tariffed or price listed rates if an applicable tariff or price list is on file with the Commission. Tariffed or price listed rates shall be established whenever possible. If services or supplies are not sold pursuant to a tariff or price list, sales shall be recorded in regulated revenue accounts at the utility’s cost;

(e) When services or supplies are sold to a regulated activity by a nonregulated activity, sales shall be recorded in regulated accounts at the nonregulated activity’s cost or the market rate, whichever is lower. The nonregulated activity’s cost shall be calculated using the telecommunications public utility’s most recently authorized rate of return.

(4) If a telecommunications public utility is subject to ORS 759.100 through 759.115 and provides both regulated and nonregulated intra-state service, the utility shall maintain a current intrastate cost allocation manual on file with the Commission. If the FCC requires the utility to file an interstate cost allocation manual, the utility shall also maintain a current copy of its interstate manual with the Commission.

(5) An intrastate cost allocation manual shall contain the following:

(a) A description of each of the utility’s nonregulated intrastate activities;

(b) A list of all intrastate activities to which the utility now accords incidental accounting treatment, and the justification for treating each as incidental;

(c) A chart showing the utility’s affiliates;

(d) A statement identifying affiliates that engage in or will engage in transactions with the regulated utility for the purpose of providing nonregulated intrastate service and describing the nature, terms, and frequency of such transactions;

(e) A detailed specification of the cost categories to which amounts in each account and subaccount of **Part 32** will be assigned, and a detailed specification of the basis on which each cost category will be apportioned between regulated and nonregulated activities.

(6) Unless specifically allowed by the Commission, a cost allocation manual cannot be used to satisfy any other reporting requirement established by the Commission.

(7) The initial cost allocation manual filed by a telecommunications public utility pursuant to this rule must be filed with the Commission no less than 90 days prior to the manual’s effective date. The manual shall go into effect unless rejected by the



Commission prior to the manual's effective date. The acceptance date of any manual filed with the Commission within 90 days of the effective date of this rule shall, at the discretion of the utility, be January 1, 1988.

(8) When a telecommunications public utility proposes any change to a cost allocation manual previously filed with the Commission, the utility shall file the proposed change with the Commission no less than 45 days prior to the effective date of the change. The changes shall go into effect unless rejected by the Commission prior to the effective date of the change.

(9) After the Commission has issued an order to exempt from regulation a telecommunications service provided by a telecommunications public utility which is subject to ORS 759.100 through 759.115, the affected utility shall file with the Commission either an initial cost allocation manual or a change to its previously filed manual.

(10) A telecommunications public utility that is required to file annual independent cost allocation audits with the FCC shall at the same time file copies of the annual audits with the Commission.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.105, 759.120, 759.125 & 759.130

Hist.: PUC 24-1985, f. & ef. 12-12-85 (Order No. 85-1172); PUC 15-1988, f. & cert. ef. 9-7-88 (Order No. 88-954); PUC 8-1995, f. & cert. ef. 8-30-95 (Order No. 95-858)

#### **860-027-0055**

##### **Gas Utilities — Major and Nonmajor**

(1) The **Uniform System of Accounts prescribed for Natural Gas Companies by the Federal Energy Regulatory Commission, February 12, 1985, as amended through November 30, 1991**, is hereby adopted and prescribed by the Commission.

(2) All gas utilities having multistate operations shall maintain records in such detail that the cost of property located in and business done in Oregon can be readily ascertained.

(3) All gas utilities having multistate operation shall file annually with the Commission, on or before April 1 of the ensuing year, their Oregon allocated results of operations for the calendar year reported, on the basis of allocation methods acceptable to the Commission.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS 756.060 & 757.125

Stats. Implemented: ORS 756.105, 757.120, 757.125 & 757.135

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); 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)

#### **860-027-0060**

##### **Water Utilities — Class A, B, and C**

(1) Class A. The **Uniform System of Accounts for Class A Water Utilities, 1984, published by the National Association of Regulatory Utility Commissioners**, is hereby 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, 1984, published by the National Association of Regulatory 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, 1984, published by the National Association of Regulatory Commissioners**, is hereby adopted and prescribed by the Commission for all Class C Water Utilities.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS 756.060 & 757.125

Stats. Implemented: ORS 756.105, 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)

#### **860-027-0065**

##### **Steam Heat Utilities — Class A, B, and C**

The **Uniform System of Accounts for Steam Heat Utilities, January 1, 1938**, copies of which are on file with the Secretary of State, is hereby adopted and prescribed by the Commission for all Class A, B, and C Steam Heat Utilities.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.105, 757.120, 757.125 & 757.135

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307)

#### **Annual Reports**

#### **860-027-0070**

##### **Electric, Telephone, Gas, Water, and Steam Heat Utilities**

(1) Annual Reports will be submitted by electric, gas, water, and steam heat utilities. The report shall be submitted on or before April 1, using the most current forms approved by the Commission.

(2) Annual Reports will be submitted by telecommunications utilities. The report Form O for the previous calendar year shall be submitted on or before April 1, using the most current forms approved by the Commission. The intrastate report Form I for the previous calendar year shall be submitted on or before October 31, using the most current forms approved by the Commission.

Stat. Auth.: ORS Ch 756

Stats. Implemented: ORS 756.105, 757.120, 757.125 & 757.135

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1985, f. & ef. 6-25-85 (Order No. 85-574); PUC 3-1995, f. & cert. ef. 6-19-95 (Order No. 95-516)

#### **860-027-0100**

##### **Reporting of Affiliated Transactions**

(1) By June 1, on forms approved and provided by the Commission, all energy and telecommunication utilities shall file with the Commission a report of all affiliated interest, intercompany, and intracompany transactions which occurred during the period from January 1 through December 31 of the immediately preceding year.

(2) As used in this rule:

(a) Intracompany transactions mean transactions between regulated and unregulated operating divisions within a public utility;

(b) Intercompany transactions mean transactions between a public utility and another company when the public utility owns a majority of or controls directly or indirectly the voting stock of the other contracting company;

(c) Affiliated interest transactions mean transactions between affiliated interests as defined by ORS 757.015.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.040, 756.060, 757.005, 757.015, 757.490, 757.495, 759.005, 759.010, 759.385 & 759.390

Hist.: PUC 10-1987, f. & ef. 10-8-87 (Order No. 87-898)

#### **860-027-0200**

##### **Utility Acquisition**

In addition to the information required by ORS 757.511, any person filing an application pursuant to that statute, shall also provide:

(1) The information required by OAR 860-027-0030(1)(a) through (d), inclusive;

(2) A schedule detailing the existing capital structure of the utility to be acquired, as well as a pro forma utility capital structure as of 12 months after the acquisition is to be completed;

(3) An explanation of how the bond ratings and capital costs of the acquired utility will be affected by the acquisition;

(4) A description of existing and planned nonutility businesses which are or will become affiliated interests of the acquired utility under ORS 757.015, and a description of the organizational structure under which the applicant intends to operate its businesses;

(5) A description of the method by which management,

personnel, property, income, losses, costs, and expenses will be allocated by the applicant between its utility and nonutility operations (if applicable);

(6) A description of any planned changes that may have a significant impact upon the policy, management, operations, or rates of the utility;

(7) A description of any plans to cause the utility to sell, exchange, pledge, or otherwise transfer its assets; and

(8) A copy of any existing or proposed agreement between the utility and any businesses which will become affiliated interests of the acquired utility under ORS 757.015.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 756.105 & 757.511

Hist.: PUC 6-1986, f. & ef. 7-22-86 (Order No. 86-731)

#### **860-027-0300**

##### **Use of Deferred Accounting as It Applies to All Utilities Except Telecommunications**

(1) Definitions: The following definitions shall be 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;

(b) "Amortization" means the inclusion in rates of an amount which has been deferred under ORS 757.259 and which 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.

(2) 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.

(3) Contents of Application: Application for deferred accounting, by a utility or a ratepayer, shall include:

(a) A description of the 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 which would 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.

(4) Reauthorization: Application for reauthorization to use a deferred account shall be made not more than 60 days prior to the expiration of the previous authorization for the deferral. Application for reauthorization shall include the requirements set forth in subsections (3)(a) through (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.

(5) 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 which 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.

(6) Notice of Application: The applicant shall serve a notice of application upon all persons who were parties in the utility's last general rate case. If the applicant is other than a utility, the applicant shall serve a copy of the application upon the affected utility. A notice of application shall 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 utility;

(b) A description of the 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 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.

(7) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's public meetings.

(8) Reply Comments: Within ten days of the due date for comments on the application from interested persons, the applicant, and the utility if the utility is not the applicant, may file reply comments with the Commission, and shall serve those comments on persons who have filed the initial comments on the application.

(9) Amortization: Amortization in rates of a deferred amount shall only be allowed in a proceeding, whether initiated by the utility or another party. The Commission may authorize amortization of such amounts only for utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the utility shall 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 utility shall request that amortizations of deferred accounts commence no later than one year from the date that deferrals cease for that particular account; and

(b) In the case of ongoing balancing accounts, the utility shall request amortization at least annually, unless amortization of the balancing account is then in effect.

Stat. Auth.: ORS Ch. 183, 756, 757 & 767

Stats. Implemented: ORS 756.105, 759.200 & 759.259

Hist.: PUC 11-1988, f. & cert. ef. 6-9-88 (Order No. 88-597); PUC 2-1990, f. & cert. ef. 3-2-90 (Order No. 90-235)

#### **860-027-0310**

##### **Cost-Effective Conservation Resources**

(1) As used in this section:

(a) "Conservation" means any reduction in electric power or natural gas consumption as the result of increases in efficiency of energy use, production, or distribution. Conservation also includes cost-effective fuel switching;

(b) "Fuel switching" means any substitution of one type of energy or fuel for another;

(c) "Cost-effective" has the meaning given that term in OAR 860-030-0010. However, the cost-effective level for fuel switching shall not include the ten percent cost advantage specified in OAR 860-030-0010(6)(b).

(2) The Commission encourages energy utilities to acquire cost-effective conservation resources. Utilities may apply for Commission approval of programs designed to promote the acquisition of cost-effective conservation resources. Programs in this context consist of accounting and ratemaking mechanisms designed to provide a utility with incentives, or to remove disincentives, to acquire such resources. The Commission adopts the following policies for evaluating programs proposed by energy utilities:

(a) Incentive:

(A) Least-Cost Resources: Acquisition of least-cost resources should be the utility's most profitable course of action. A utility

should have an incentive to acquire all least-cost resources, but should not have an incentive to pursue conservation past the point at which it is no longer cost-effective. A utility should not be expected to pursue a course of action that involves an identifiable and sustained loss of profits. The most important criterion for evaluating an incentive program is its effect on the utility's resource acquisition strategy. Incentive programs under which the utility can earn higher profits by acquiring resources which are not least-cost resources need not be considered, no matter how well they may suit the other criteria;

(B) Cost Minimization: A utility should have the incentive to acquire any resource at the minimum total cost. The set of incentives given the utility should not merely influence the choice of which resource to acquire, but the manner of its acquisition as well;

(C) Strategic Manipulation: A utility should not have incentives to manipulate the program strategically.

(b) Predictability: Program impacts should be predictable to all participants;

(c) Simplicity:

(A) Administration: The program should be as simple as possible to administer, consistent with the need to determine actual results;

(B) Implementation: The program should be understandable to affected parties.

(d) Impact:

(A) Balance: Risks and rewards should be distributed fairly between stockholders and ratepayers. Fair treatment of these groups relative to each other may require a balancing of rewards with penalties; if shareholders are rewarded for good performance, they should also be penalized for poor performance;

(B) Cross-Subsidization: Cross-subsidization of participants by nonparticipants should be minimized;

(C) Rate Pressure: Incentive programs should be as consistent as possible with the Commission objective of promoting rate stability.

(e) Tradeoffs: In developing cost-effective conservation programs, utilities may balance the emphasis given to each policy listed above. Greater focus on one policy may come at the expense of another policy, if the whole proposal is reasonable.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.060

Hist.: PUC 14-1993(Temp), f. & cert. ef. 8-6-93 (Order No. 93-1105; PUC 2-1994, f. & cert. ef. 1-14-94 (Order No. 94-075)

## DIVISION 28

### REPORTS AND RECORDS

#### **Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040**

The rules contained in this Division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.040

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-028-0005**

##### **Reports**

(1) As used in this rule:

(a) "Serious injury to person" means, in the case of an employee, an injury which results in hospitalization. In the case of a non-employee, "serious injury" means any contact with an energized high-voltage line, or any accident which results in hospitalization. Treatment in an emergency room is not hospitalization;

(b) "Serious injury to property" means:

(A) Damage to utility or nonutility property exceeding \$25,000 (\$5,000 in the case of gas utilities);

(B) Damage to property which causes a loss of service to over 500 utility customers (50 customers in the case of gas

utilities) for over two hours (five hours for electric utilities serving less than 15,000 customers); however "serious injury to property" does not include damage which is restricted to a single feeder line and results in an electric outage of less than four hours;

(C) "Utility" means, every person, municipality, or public utility as defined in ORS 756.010, their agents, lessees or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership or control of gas pipelines, telegraph, telephone, signal or power lines and serving 20 customers or more within this state.

(2) Except as provided in section (5) of this rule, every utility shall give immediate notice by telephone, telegraph, or personally to the Commissioner, of accidents attended by loss of life or limb, or serious injury to person or property occurring in this state upon the premises of or directly or indirectly arising from or connected with the maintenance or operation of a utility.

(3) Except as provided in section (5) of this rule, accidents attended by loss of life or limb, or serious injury to person or property, occurring in this state upon the premises of or directly or indirectly arising from or connected with the maintenance and operation of a public utility shall, in addition to the immediate notice given by telegraph, telephone or personally to the Commissioner, be reported in writing to the Commissioner within 20 days of the occurrence. In the case of injuries to employees, a copy of the accident report form that is submitted to Oregon OSHA, Department of Insurance and Finance for reporting accident injuries, will normally suffice for a written report. In the case of gas utilities, copies of accident or leak reports submitted under **49 CFR Part 191** will normally suffice.

(4) An accident report filed by a utility in accordance with ORS 654.715 cannot be used as evidence in any action for damages in any suit or action arising out of any matter mentioned in the report.

(5) A Peoples Utility District (PUD) is exempt from this rule if the PUD agrees, by signing an agreement, to comply voluntarily with the filing requirements set forth in sections (2) and (3) of this rule.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 654, 756 & 757.035

Stats. Implemented: ORS 654.715, 756.105 & 757.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 21-1985, f. & ef. 11-25-85 (Order No. 85-1130); PUB 12-1989, f. & cert. ef. 8-11-89 (Order No. 89-946); PUC 4-1992, f. & cert. ef. 2-14-92 (Order No. 92-234)

#### **860-028-0010**

##### **Preservation and Destruction of Records**

(1) Electric, Gas and Water Utilities. The **Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, April 1974, revised May 1985, published by the NARUC**, a copy of which is on file with the Secretary of State, is hereby adopted and prescribed by the Commission for all Electric, Gas and Water Utilities with the following exceptions:

(a) Operations and Maintenance, Production — Gas. The Commission prescribes that royalty records be retained for six years;

(b) Operations and Maintenance, Records of Auxiliary and other Operations. The Commission prescribes that records of operations other than utility operations be retained for the same periods as prescribed for similar records pertaining to utility operations;

(c) Operations and Maintenance, Transmission and Distribution — Gas. The Commission prescribes that records of meter tests be kept until the superseding test but not less than two years or as may be necessary to comply with service rules regarding refunds on fast meters;

(d) Revenue Accounting and Collecting. The Commission prescribes that contracts and card files or other records thereof with customers for utility service be retained for one year after the expiration or cancellation of the agreement.

(2) Steam Heat Utilities. The **Regulations to Govern the Preservation and Destruction of Records of Classes A, B, and**



**C Electric, Water, Gas and Steam Heat Utilities, 1936**, copies of which are on file with the Secretary of State, is hereby adopted and prescribed by the Commission for all Steam Heat Utilities.

(3) Telephone Utilities. The **Regulations to Govern the Preservation of Records of Communication Common Carriers, Part 42, 47 CFR, Chapter 1 (October 1, 1985, Edition)** is hereby adopted and prescribed by the Commission for all Telephone Utilities.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 756.105.

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 12-1985, f. & ef. 8-20-85 (Order No. 85-751); PUC 15-1986, f. & ef. 11-10-86 (Order No. 86-1144)

## DIVISION 29

### ELECTRIC UTILITIES INTERCONNECTION WITH ELECTRIC COGENERATION AND SMALL POWER PRODUCTION FACILITIES

#### 860-029-0001

##### Purpose

The purpose of this Division is to implement ORS 758.505 to 758.555 and to implement regulations relating to electric utilities and qualifying cogeneration and small power production facilities as provided under Section 210 of the federal Public Utility Regulatory Policies Act of 1978 (PURPA), Public Law 95-617 (16 U.S.C. 824a-3).

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742)

#### 860-029-0005

##### Applicability of Rules

(1) Except as otherwise provided, these rules shall apply to all interconnection arrangements between a public utility as defined by ORS 758.505 and facilities which are qualifying facilities as defined herein. Provisions of these rules shall not supersede contracts existing prior to the effective date of this rule. At the expiration of such an existing contract between a public utility and a cogenerator or small power producer, any contract extension or new contract shall comply with these rules.

(2) Nothing in these rules limits the authority of a public utility or a qualifying facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be provided by these rules, provided such rates or terms do not burden ratepayers of the utility.

(3) Within 30 days following the initial contact between a prospective qualifying facility and a public utility, the utility shall submit informational documents, approved by the Commission, to the qualifying facility which state:

(a) The public utility's internal procedural requirements and information needs;

(b) That any contract offered by the public utility is subject to negotiation; and

(c) (Deleted by Commission Order No. 87-1154);

(d) That avoided costs are subject to change pursuant to OAR 860-029-0080(3);

(e) (Deleted by Commission Order No. 87-1154);

(f) That the avoided cost actually paid to a qualifying facility will depend on the quality and quantity of power to be delivered to the utility. The avoided cost may be recalculated to reflect streamflows, generating unit availability, loads, seasons, or other conditions.

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742); PUC 5-1986, f. & ef. 5-15-87 (Order No. 86-488); PUC 14-1987, f. & ef. 11-19-87 (Order No. 87-1154); PUC 8-1995, f. & cert. ef. 8-30-95 (Order No. 95-858)

#### 860-029-0010

##### Definitions

(1) "Avoided Costs" means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate itself or purchase from another source and shall include any costs of interconnection of such resource to the system.

(2) "Back-Up Power" or "Stand-By Power" means electric energy or capacity supplied by a public utility to replace energy ordinarily generated by a qualifying facility's own generation equipment during an unscheduled outage of the facility.

(3) "Capacity" means the average output in kilowatts (kW) committed by a qualifying facility to a utility during a specific period.

(4) "Capacity Costs" means the costs associated with supplying capacity; they are an allocated component of the fixed costs associated with providing the capability to deliver energy.

(5) "Cogeneration" means the sequential generation of electric energy and useful heat from the same primary energy source or fuel for industrial, commercial, heating, or cooling purposes.

(6) "Cogeneration Facility" means a facility which produces electric energy, and steam or other forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes, by cogeneration. Such facility must be at least 50 percent owned by a person who is not an electric utility, an electric holding company, an affiliated interest or any combination thereof.

(7) "Commission" means the Oregon Public Utility Commission.

(8) "Costs of Interconnection" means the reasonable costs of connection, switching, dispatching, metering, transmission, distribution, equipment necessary for system protection, safety provisions and administrative costs incurred by an electric utility directly related to the installation and maintenance of the physical facilities necessary to permit purchases from a qualifying facility.

(9) "Demand" means the average rate in kilowatts at which electric energy is delivered during a set period of time, to be determined by mutual agreement between the utility and the customer.

(10) "Electric Utility" means a non-regulated utility or a public utility.

(11) "Energy" means electric energy, measured in kilowatt hours (kWh).

(12) "Energy Costs" means:

(a) For non-firm energy, the incremental costs associated with the production or purchase of electric energy by the utility, which costs include the cost of fuel and variable operation and maintenance expenses, or the cost of purchased energy;

(b) For firm energy, the combined allocated fixed costs and associated variable costs applicable to a displaced generating unit or to a purchase.

(13) "Firm Energy" means a specified quantity of energy committed by a qualifying facility to a utility.

(14) "Index Rate" means the lowest avoided cost approved by the Commission for a generating utility for the purchase of energy or energy and capacity of similar characteristics including on-line date, duration of obligation and quality and degree of reliability.

(15) "Interruptible Power" means electric energy or capacity supplied by a public utility to a qualifying facility subject to interruption by the electric utility under certain specified conditions.

(16) "Non-Firm Energy" means:

(a) Energy to be delivered by a qualifying facility to a utility on an "as available" basis;

(b) Energy delivered by a qualifying facility in excess of its firm energy commitment.

**NOTE:** The rate for non-firm energy may contain an element representing the value of aggregate capacity of non-firm sources.

(17) "Maintenance Power" means electric energy or capacity supplied by a public utility during scheduled outages of a qualifying facility.

(18) "Nonregulated Utility" means an entity providing retail electric utility service to Oregon consumers that is a people's utility district organized under ORS Chapter 261, a municipal utility operating under ORS Chapter 225 or an electric cooperative organized under ORS Chapter 62.

(19) "Primary Energy Source" means the fuel or fuels used for the generation of electric energy. The term does not include minimum amounts of fuel required for ignition, start-up, testing, flame stabilization, and control uses; the term does not include minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies which directly affect the public health, safety, or welfare.

(20) "Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

(21) "Public Utility" means a utility regulated by the Commission under ORS Chapter 757, that provides electric power to consumers.

(22) "Qualifying Facility" means a cogeneration facility or a small power production facility as defined by these rules.

(23) "Rate" means any price, charge, or classification made, demanded, observed, or received with respect to the sale or purchase of electric energy or capacity; any rule, regulation, or practice respecting any such rate, charge, or classification.

(24) "Sale" means the sale of electric energy or capacity or both by a public utility to a qualifying facility.

(25) "Small Power Production Facility" means a facility which produces electric energy using as a primary energy source biomass, waste, solar energy, wind power, water power, geothermal energy, or any combination thereof. Such facility must be at least 50 percent owned by a person who is not an electric utility, an electric utility holding company, an affiliated interest or any combination thereof. Only small power production facilities which, together with any other facilities located at the same site, have power production capacities of 80 megawatts or less, are covered by these rules.

(26) "Supplementary Power" means electric energy or capacity supplied by a public utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

(27) "System Emergency" means a condition on a public utility's system which is likely to result in imminent, significant disruption of service to customers, in imminent danger of life or property, or both.

(28) "Time of Delivery" means:

(a) In the case of capacity, when the generation is first on line and capable of meeting the capacity commitment of the qualifying facility to the utility under the terms of its contract or other legally enforceable obligation;

(b) In the case of firm energy and depending upon the contract between the parties, either:

(A) When the first kilowatt-hour of energy is able to be delivered under the commitment of the qualifying facility; or

(B) When each kilowatt-hour is delivered under the commitment of the qualifying facility.

(29) "Time the Obligation to Purchase the Energy Capacity, or Energy and Capacity is Incurred" means the earlier of:

(a) The date on which a binding, written obligation is entered into between a qualifying facility and a public utility to deliver energy, capacity, or energy and capacity; or

(b) The date agreed to, in writing, by the qualifying facility and the utility as the date the obligation is incurred for the purposes of calculating the applicable rate.

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-

742); PUC 5-1986, f. & ef. 5-15-86 (Order 86-488); PUC 14-1987, f. & ef. 11-19-87 (Order 87-1154)

#### **860-029-0020**

##### **Obligations of Qualifying Facilities to the Electric Utility**

The conditions listed in this rule shall apply to all qualifying facilities that sell electricity to a public utility under this Division:

(1) The owner or operator of a qualifying facility purchasing or selling electricity pursuant to these rules shall execute a written agreement with the public utility. The utility shall file a true copy or summary of the terms of the executed agreement with the Commission within 30 days of the execution of the agreement. If a summary is filed, the summary shall identify the quantity and quality of the power and the price being paid. A true copy of the executed contract shall be available upon request for Commission staff review.

(2)(a) All contracts between a qualifying facility and a utility for energy, or energy and capacity shall include language which substantially conforms to the following: **This agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this agreement. The utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the utility and to the Public Utility Commission of Oregon, prior to the date of initial operation, certified copies of all local, state and federal licenses, permits, and other approvals required by law;**

(b) Under subsection (a) of this section, the utility shall bear no obligation to identify which approvals are required by law, or to verify that the approvals were properly obtained or that the project is maintained pursuant to the terms of the approvals.

(3) In order to ensure system safety and reliability of interconnected operations, all interconnected qualifying facilities shall be constructed and operated in accordance with all applicable federal, state, and local laws and regulations.

(4) The qualifying facility shall furnish, install, operate, and maintain in good order and repair and without cost to the public utility switching equipment, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus as shown by the utility to be reasonably necessary for the operation of the qualifying facility in parallel with the public utility's system, or may contract for the public utility to do so at the expense of the qualifying facility. Delivery shall be at a voltage, phase, power factor, and frequency as specified by the public utility.

(5) Switching equipment capable of isolating the qualifying facility from the public utility's system shall be accessible to the utility at all times.

(6) At its option, the public utility may choose to operate the switching equipment, described in section (4) of this rule if, in the sole opinion of the utility, continued operation of the qualifying facility in connection with the utility's system may create or contribute to a system emergency. Such a decision by the utility is subject to the Commission's verification pursuant to OAR 860-29-070. The utility shall endeavor to minimize any adverse effects on the qualifying facility of the operation of the switching equipment.

(7) Any agreement between a qualifying facility and a public utility shall provide for the degree to which the qualifying facility will assume responsibility for the safe operation of the interconnection facilities.

(8) At its option, the public utility may require a qualifying facility to report periodically the amount of deliveries and scheduled deliveries to the utility, as shown to be reasonably necessary for the utility's system operations and reporting.

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742); PUC 2-1985, f. & ef. 2-15-85 (Order No. 85-099)

#### **860-029-0030**

##### **Obligations of the Public Utility to Qualifying Facilities**

(1) Obligations to purchase from qualifying facilities: Each

public utility shall purchase, in accordance with OAR 860-029-0040, any energy and capacity in excess of station service (power necessary to produce generation) and amounts attributable to conversion losses, which is made available from a qualifying facility:

(a) Directly from a qualifying facility in its service territory; or

(b) Indirectly from a qualifying facility in accordance with section (4) of this rule.

(2) Obligation to sell to qualifying facilities: Each public utility shall sell to any qualifying facility, in accordance with OAR 860-29-050, any energy and capacity requested by the qualifying facility on the same basis as available to other customers of the utility in the same class who do not generate electricity.

(3) Obligation to interconnect: Each public utility shall make such interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under this Division. The obligation to pay for any interconnection costs shall be determined in accordance with OAR 860-029-0060.

(4) Option to wheel power to other electric utilities or to the Bonneville Power Administration. At the request of a qualifying facility, a public utility (which would otherwise be obliged to purchase energy or capacity from such qualifying facility) may transmit (wheel) energy or capacity to any other electric utility or to the Bonneville Power Administration, at the expense of the qualifying facility. Use of a public utility's transmission facilities shall be on a cost-related basis.

(5) Parallel operation: Each public utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with the standards established in accordance with OAR 860-029-0020.

(6) Where the generating portion of the qualifying facility consumes more electric energy than it produces, the public utility shall cease purchases.

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742)

### **Rates for Purchases**

(1) Rates for purchases by public utilities shall:

(a) Be just and reasonable to the ratepayers of the public utility and in the public interest; and

(b) Be in accordance with this section, regardless of whether the public utility making such purchases is simultaneously making sales to the qualifying facility.

(2) (Deleted by Commission Order No. 87-1154).

(3) Establishing rates:

(a) Except for qualifying facilities in existence prior to November 8, 1978, and except in instances in which a public utility fails to make a good faith effort to comply with the request from a qualifying facility to wheel, a rate for purchases satisfies the requirements of section (1) of this rule if the rate equals the avoided costs after consideration of the factors set forth in section (6) of this rule;

(b) If a public utility fails to make a good faith effort to comply with the request from a qualifying facility to wheel, the public utility shall purchase at a rate which is the utility's avoided cost or the index rate, whichever is higher. A good faith effort shall be demonstrated by the public utility's publication of a generally applicable reasonable policy of the utility to use the public utility's transmission facilities on a cost-related basis;

(c) When the rates for purchases are based upon estimates of avoided costs over a specific term of the contract or other legally enforceable obligation, the rates do not violate these rules if any payment under the obligation differs from avoided costs;

(d) Nothing in these rules shall be construed as requiring payment of avoided-cost prices to qualifying facilities in existence prior to November, 1978; provided, however, that prices for such purchases shall be sufficient to encourage continued power production.

(4) Rates for purchases — Time of calculation. Except for the purchases made under section (5) of this rule (standard rates) each qualifying facility shall have the option to:

(a) Provide non-firm energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing public utility's non-firm energy avoided cost, or index rate if subsection (3)(b) of this rule is applicable, in effect when the energy is delivered; or

(b) Provide firm energy and/or capacity pursuant to a legally enforceable obligation for the delivery of energy and/or capacity over a specified term, in which case the rates for purchases shall be based on:

(A) The avoided costs calculated at the time of delivery, or, if subsection (3)(b) of this rule is applicable, the index rate in effect at the time of delivery; or

(B) At the election of the qualifying facility, exercised at the time the obligation is incurred, the avoided costs, or the index rate then in effect if subsection (3)(b) of this rule is applicable, projected over the life of the obligation and calculated at the time the obligation is incurred.

(5) Standard rates for purchases shall be implemented as follows:

(a) Each public utility shall file with the Commission, within 30 days of Commission acknowledgement of its least-cost plan pursuant to Order No. 89-507, to become effective 30 days after filing, standard rates for purchases from qualifying facilities with a nameplate capacity of one megawatt or less, in the same manner as it publishes rates for the sales of electricity. The publication shall contain all the terms and conditions of the purchase. Except in instances in which a public utility fails to make a good faith effort to comply with the request from a qualifying facility to wheel, the standard rate of the utility shall apply to purchases from qualifying facilities with a nameplate capacity of one megawatt or less;

(b) If a public utility fails to make a good faith effort to comply with the request from a qualifying facility to wheel, the public utility shall purchase at a rate which is the utility's standard rate or the index standard rate, whichever is higher. A good faith effort shall be demonstrated by the public utility's publication of a generally acceptable reasonable policy of the utility to use the public utility's transmission facilities on a cost-related bases;

(c) The utility's standard rate may differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies.

(6) Factors affecting rates for purchases: In determining avoided costs and for determining the index rate the following factors shall, to the extent practicable, be taken into account:

(a) The data provided pursuant to OAR 860-029-0080(3) and the Commission's evaluation of the data;

(b) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:

(A) The ability of the public utility to dispatch output of the qualifying facility;

(B) The expected or demonstrated reliability of the qualifying facility;

(C) The terms of any contract or other legally enforceable obligation;

(D) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the public utility's facilities;

(E) The usefulness of energy and/or capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

(F) The individual and aggregate value of energy and capacity from qualifying facilities on the public utility's system; and

(G) The smaller capacity increments and the shorter lead times available, if any, with additions of capacity from qualifying facilities.

(c) The relationship of the availability of energy and/or capacity from the qualifying facility as derived in subsection



(6)(b) of this rule, to the ability of the public utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(d) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility if the purchasing public utility generated an equivalent amount of energy itself or purchased an equivalent amount of energy and/or capacity.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742); PUC 5-1986, f. & ef. 5-15-86 (Order No. 86-488); PUC 14-1987, f. & ef. 11-19-87 (Order No. 87-1154); PUC 11-1991, f. & cert. ef. 12-5-91 (Order No. 91-1605); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

#### **860-029-0050**

##### **Rates for Sales**

(1) Rates for sales by public utilities shall:

- (a) Be just and reasonable and in the public interest; and
- (b) Not discriminate against qualifying facilities.

(2) Rates for sales which are based on accurate data and consistent, system-wide costing principles shall be considered not to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or other cost-related characteristics.

(3) The following additional services shall be provided by a public utility to a qualifying facility at its request:

- (a) Supplementary power;
- (b) Back-up power;
- (c) Maintenance power; and
- (d) Interruptible power.

(4) The Commission may waive any requirement of section (3) of this rule if, after notice in the area served by the public utility and after opportunity for public comment, the public utility demonstrates and the Commission finds that compliance with such requirement will:

(a) Impair the public utility's ability to render adequate service to its other customers; or

(b) Place an undue burden on the public utility.

(5) The rate for sale of back-up power or maintenance power:

(a) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on a public utility's system will occur simultaneously, during the system peak, or both; and

(b) Shall take into account the extent to which scheduled outages of the qualifying facilities can be coordinated usefully with the scheduled outages of the utility's facilities.

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742)

#### **860-029-0060**

##### **Interconnection Costs**

(1) Obligation to pay: Any costs of interconnection shall be the responsibility of the owner or operator of the qualifying facility. Interconnection costs which may reasonably be incurred by the public utility shall be assessed against a qualifying facility on a nondiscriminatory basis with respect to other customers with similar load or other cost-related characteristics.

(2) Reimbursement of interconnection costs: The public utility shall be reimbursed by the qualifying facility for any reasonable inter-connection costs including costs of financing at an interest rate no greater than the effective rate of the utility's last senior securities issuance at the time of the contract with the qualifying facility. Such reimbursement may be over any agreed period of time not greater than one-half the length of any contract between the public utility and the qualifying facility where the contract is for a period greater than two years, otherwise reimbursement shall be made over a one-year period. At the option of the public utility and with approval of the Commission, a public

utility may guarantee a loan to a qualifying facility for interconnection costs rather than finance such costs from the utility's own funds.

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742)

#### **860-029-0070**

##### **System Emergencies**

(1) Qualifying facility's obligation to provide power during system emergencies: A qualifying facility shall be required to provide energy and capacity to a public utility during a system emergency only to the extent:

(a) Provided by agreement between such qualifying facility and public utility; or

(b) Ordered under Section 202(c) of the Federal Power Act.

(2) During any system emergency, a public utility may curtail:

(a) Purchases from a qualifying facility if such purchases would contribute to such emergency (including net output requirement); and

(b) Sales to a qualifying facility, as qualified by section (3) of this rule, provided that such curtailment is on a non-discriminatory basis.

(3) Except in cases of practical impossibility, sales to a qualifying facility which is generating 50 percent or more of its load, shall not be curtailed during a system emergency, or under mandatory curtailments established by Order No. 78-823, until all other customers in its class have been fully curtailed.

(4) A qualifying facility which is unable to deliver power to a public utility owing to curtailment by the utility shall be relieved of any obligation to sell to the utility during the curtailment period.

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742)

#### **860-029-0080**

##### **Electric Utility System Cost Data**

(1) Each public utility shall provide sufficient data concerning its avoided costs and costs of interconnection to allow the owner or operator of a qualifying facility to estimate, with reasonable accuracy, the payment it could receive from the utility if the qualifying facility went into operation under any of the purchase agreements provided for in these rules.

(2) By January 1 of each odd numbered year, each nonregulated utility shall prepare and file with the Commission a schedule of avoided costs equaling the utility's forecasted incremental cost of resources over at least the next 20 years.

(3) Each public utility shall file with the Commission draft avoided cost information with its least-cost plan pursuant to Order No. 89-507, and final avoided cost information within 30 days of Commission acknowledgement of the least-cost plan to be effective 30 days after filing. The information submitted shall be maintained for public inspection and include the following data for calculating avoided costs:

(a) The estimated avoided cost on its system, solely with respect to the energy component, for expected levels of purchases from qualifying facilities. The levels of purchases shall be stated in blocks of not more than one hundred megawatts for systems with peak demand of one thousand megawatts or more and in blocks equivalent to not more than ten percent of the system peak demand for systems of less than one thousand megawatts. The avoided costs shall be stated on a cents-per-kWh basis, during peak and off-peak periods, by year, for the current calendar year and each of the next five years;

(b) Its estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kW, and the associated energy costs of each

addition or purchase, expressed in cents per kWh. These costs shall be expressed in terms of individual generating resources and of individual, planned firm purchases.

(4) Each public utility contracting to purchase nonfirm energy from a qualifying facility under OAR 860-029-0040(4)(a) shall file with the Commission each quarter its nonfirm energy avoided cost.

(5) Nothing in these rules shall preclude the determination of avoided costs:

(a) As the average avoided costs over an appropriate period of time; or

(b) To reflect variations in avoided costs because of changes in streamflows, generating unit availability, loads, seasons, or other conditions.

(6) State review: Any data submitted by a public utility under this section shall be subject to review and approval by the Commission. In any such review, the public utility has the burden of supporting and justifying its data. Any standard rates filed under OAR 860-029-0040 shall be subject to suspension and modification by the Commission.

(7) A utility may propose or the Commission may require a utility to file the data described in section (3) of this rule during the two-year period between filing least-cost plans pursuant to Order No. 89-507 to reflect significant changes in circumstances, such as the acquisition of a major block of resources or the completion of a competitive bid. Such revision will become effective 90 days after filing.

(8) At least every two years, the utility must file with the Commission the data described in OAR 860-029-0040(5) and section (3) of this rule.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

#### **860-029-0090(18)**

#### **Qualifying Cogeneration and Small Power Production Facilities**

**CFR, Part 292, Subpart B, in effect on April 1, 1983**, is adopted and prescribed by the Commission as minimum criteria that a cogeneration facility or small power production facility must meet to qualify as a qualifying facility.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 756 & 758

Stats. Implemented: ORS 758.505 thru 758.555

Hist.: PUC 9-1981, f. & ef. 10-29-81 (Order No. 81-755); PUC 7-1982, f. & ef. 7-21-82 (Order No. 82-514); PUC 21-1984, f. & ef. 9-25-84 (Order No. 84-742)

### **DIVISION 30**

#### **RESIDENTIAL AND COMMERCIAL ENERGY CONSERVATION**

#### **860-030-0005**

#### **Energy Information and Audit Services**

(1) As used in the rules in Division 30, the terms "cash payment", "commercial lending institution", "Commission", "cost-effective", "Director", "dwelling", "dwelling owner", "energy audit", "energy conservation measure", "investor-owned utility", "residential customer", "space heating" and "tenant" shall have the meanings set forth in ORS 469.631.

(2) Investor-owned utilities shall notify their customers annually of the availability of energy audits without direct charge to the customer. Such notification shall be made:

(a) In a bill insert or other direct mailing; and

(b) It shall state the types of assistance and technical advice available.

(3)(a) Except as provided in section (5) of this rule, each investor-owned utility shall provide energy audits to eligible

customers upon request. The audit shall be performed in accordance with the provisions of ORS 469.631(8) and 469.633(2). The utility may set a schedule of reasonable charges for residential energy audits performed beyond the first energy audit for an individual customer in a particular residence;

(b) If utility records do not contain sufficient data to establish a normal consumption for the customer in the dwelling (e.g., a newly-established residence or a residence using a supplemental fuel, maintained at approximately 70 degree F.), the utility shall make a reasonable estimate of such consumption for the purpose of completing the audit;

(c) If the dwelling requested to be audited is a rental unit, the audit shall include a heating cost estimate using average temperatures and typical lifestyles. A statement shall be included to the effect that a household's energy bill will contain charges for uses in addition to space heating. Such heating cost estimate and statement shall be displayed on the audit or a separate document suitable for conspicuous posting.

(4) An eligible customer is any customer of the investor-owned utility receiving residential electric or natural gas service.

(5) Primary responsibility for furnishing an energy audit lies with the utility providing the primary source of home heating energy, and an investor-owned utility, not a primary supplier, may discharge its energy audit obligation by arranging for the primary supplier of space heating to perform the energy audit.

(6) Any residential customer using a space-heating fuel other than electricity or natural gas who receives service from an electric investor-owned utility shall be eligible for an energy audit from that utility if no other audit is obtainable. The utility may set a schedule of reasonable charges for these audits which shall be separate from the periodic utility bill.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 11-1981(Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619); PUC 14-1985, f. & ef. 9-27-85 (Order No. 85-891); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

#### **860-030-0007**

#### **Gas Utility Avoided Costs**

(1) Investor-owned gas utilities shall file a proposed avoided cost methodology, along with draft avoided costs, with their least-cost plans pursuant to Order No. 89-507. Final avoided cost information shall be filed within 30 days of Commission acknowledgement of the least-cost plan to become effective 30 days after filing. The avoided cost methodology filed should be appropriate for determining the cost effectiveness of weatherization measures from the perspective of the gas utility.

(2) A utility may propose or the Commission may require a utility to file the data described in section (1) of this rule during the two-year period between filing least-cost plans pursuant to Order No. 89-507 to reflect significant changes in circumstances, such as acquisition of a major block of resources. Such revision will become effective 90 days after filing.

(3) At least every two years, the utility must file with the Commission the data described in section (1) of this rule.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035)

#### **860-030-0010**

#### **Cost-Effectiveness**

(1) "Cost-effective", as defined in ORS 469.631(4), relates an energy conservation measure's cost, life cycle, and the cost of alternative energy facilities. A utility's cost-effectiveness calculations should be consistent with the utility's most recently acknowledged least-cost plan pursuant to Order No. 89-507.

(2) Unless otherwise demonstrated in an acknowledged utility least-cost plan the following energy conservation measures are deemed to be cost-effective in all installations:

(a) Caulking;

(b) Weatherstripping;

(c) Timed (set-back) thermostats (except when used with heat pumps);

(d) Water heater, steam pipe, hot and cold water pipe-wraps.

(3) Unless otherwise demonstrated in an acknowledged utility least-cost plan, the following energy conservation measures are deemed to be cost-effective when installed with certain other energy conservation measures, as indicated:

(a) Ground cover, when installed in conjunction with under-floor insulation;

(b) Vapor barrier materials, when installed in conjunction with wall, ceiling, or under-floor insulation;

(c) Dehumidifiers, when installed in conjunction with storm windows and doors, and caulking and weather-stripping of all openings allowing infiltration; and

(d) Attic ventilation, excluding power ventilators, when installed in conjunction with ceiling or attic insulation.

(4) The following energy conservation measures shall be deemed to have the indicated life cycles:

(a) Attic, ceiling, wall and under-floor insulation, 30 years;

(b) Insulation of walls in heated basements, 30 years;

(c) Insulation of heating system supply and return air ducts, 30 years;

(d) Thermal doors, 30 years;

(e) Storm windows, 15 years;

(f) Windows meeting the requirements of **Chapter 53** of the **Oregon Residential Energy Code**, and window replacements 25 years;

(g) Storm doors, 7 years;

(h) Electronic furnace ignition(gas), 10 years.

(5) Within 30 days after approval of an investor-owned electric or gas utility's avoided cost submitted in compliance with OAR 860-029-0040 or 860-030-0007, such utility shall submit to the Commission for approval, computations used to determine the cost effectiveness of weatherization measures. The computations shall include present worth of energy and capacity saved per unit for different lifecycles, recognizing, where appropriate, line losses, administrative costs of conservation programs, and revenues from additional wholesale sales made possible by the conservation activity. At the same time, each utility shall file tariffs, relating to payments for weatherization measures using the new cost effectiveness computations, to become effective 30 days after submission.

(6)(a) Energy and capacity savings due to conservation shall be considered firm for purposes of the calculations in section (5) of this rule;

(b) The calculated costs as specified in section (5) of this rule shall be multiplied by 1.1 to determine the cost-effectiveness of the conservation alternative.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS 183.335, Ch. 469 & 756.060

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 11-1981(Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619); PUC 11A-1985(Temp), f. & ef. 7-16-85 (Order No. 85-639); PUC 14-1985, f. & ef. 9-27-85 (Order No. 85-891); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 93-035); PUC 3-1993, f. & cert. ef. 1-8-93 (Order No. 92-1792)

### **860-030-0015**

#### **Residential Energy Conservation Financing**

(1) An eligible dwelling owner may obtain a loan or a cash payment from or through the investor-owned utility for energy conservation measures.

(2)(a) The loan shall be made in accordance with the following terms, conditions and limitations:

(A) A principal amount of up to \$5,000;

(B) On a loan from or through an electric utility, an interest rate that does not exceed six and one-half (6.5) percent annually;

(C) On a loan from or through a gas utility, an annual interest rate ten percentage points lower than the rate published by the Federal Housing Administration for Title I property improvement loans (**24 CFR, subsection 201.4(a)**) on the date of the loan

application, but not lower than 6.5 percent or higher than 12 percent;

(D) A repayment period of not more than ten years;

(E) Unless waived by the utility, a minimum monthly payment of not less than \$15; and

(F) To eligible dwelling owners with approved credit.

(b) The cash payment shall be in the amount of:

(A) 25 percent of the cost-effective portion of the energy conservation measures recommended under subsection (c) of this section, including installation (but not including the dwelling owner's own labor), not to exceed the cost of the measure; or

(B) \$350, whichever is less.

(c) Any dwelling owner is eligible for financing under this rule, provided:

(A) A valid energy audit preceded the work and established the cost-effective portion of the recommended measures;

(B) The measures installed are those recommended by the utility; and

(C) The dwelling has a space-heating system, installed and operational, which is designed to heat the living space of the customer's dwelling, and which draws its energy for operation from the utility from which financing is sought.

(d) A dwelling owner who acquires a dwelling for which a previous loan was obtained under this rule may obtain a loan or a cash payment for energy conservation measures for the newly acquired dwelling under circumstances including, but not necessarily limited to, when there remain cost-effective energy conservation measures to be undertaken with regard to the dwelling.

(3) An investor-owned utility shall not make a loan or a cash payment for the installation of urea-formaldehyde wall insulation.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS 183.335, Ch. 469, 756.060 & Ch. 767

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 11-1981(Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619); PUC 11A-1985(Temp), f. & ef. 7-16-85 (Order No. 85-639); PUC 11B-1985(Temp), f. 7-16-85, ef. 9-20-85 (Order No. 85-639); PUC 28-1985, f. & ef. 12-20-85 (Order No. 85-1212); PUC 15-1989, f. & cert. ef. 11-3-89 (Order No. 89-1465); PUC 11-1992(Temp), f. & cert. ef. 6-15-92 (Order No. 92-856); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035); PUC 3-1993, f. & cert. ef. 1-8-93 (Order No. 92-1792)

### **860-030-0018**

#### **Rental Unit Additional Financing**

(1) After December 31, 1985, investor-owned gas and electric utilities, upon request of final certification from the Oregon Department of Energy under ORS Chapter 469, shall offer additional financing as described in section (3) of this rule for energy conservation measures installed by a dwelling owner who rents the dwelling to a tenant whose dwelling unit receives energy for space-heating from an investor-owned gas or electric utility.

(2) Upon being notified by the Oregon Department of Energy that it has committed all available tax credits for rental unit additional financing for a given calendar year, a utility shall stop offering additional financing until it is notified that tax credits are available.

(3) The dwelling owner may select one of the following types of financing:

(a) The dwelling owner may select a low-interest loan pursuant to OAR 860-030-0015(2)(a). In such case, the dwelling owner shall be liable to repay to the utility the loan minus the present value to the utility of the tax credit received, as established pursuant to ORS 469.185 to 469.225;

(b) The dwelling owner may select a cash payment pursuant to OAR 860-030-0015(2)(b). In such case, the cash payment shall be supplemented by an amount equal to the present value to the utility of the tax credit received, as established pursuant to ORS 469.185 to 469.225.

(4) Investor-owned gas and electric utilities shall notify their customers annually of the availability of the financing options with regard to the tax credit established pursuant to ORS 469.185



to 469.225 and of the option to apply directly to the State of Oregon for a tax credit.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 28-1985, f. & ef. 12-20-85 (Order No. 85-1212)

#### **860-030-0020**

##### **Certain Energy Conservation Measures Excluded from Financing**

Energy conservation measures for any of the following building and improvement activities shall not be financed under an investor-owned utility's residential energy conservation program adopted pursuant to ORS 469.631 to 469.645:

(1) Construction of a new dwelling; or

(2) Construction which increases or changes the living space in a dwelling being remodeled, added to, or otherwise substantially altered.

(3) When a dwelling/property owner proposes to build a new dwelling, remodel, or otherwise alter an existing dwelling, the UBC or local equivalent code must be complied with. Because weatherization programs are designed to be an incentive encouraging people to voluntarily weatherize, it would not be in the public interest to spend this money on loans or grants for measures which otherwise are required by state or local law.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 11-1981(Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896)

#### **860-030-0025**

##### **Assurance of Work Quality**

(1) The investor-owned utility shall, at a minimum, inspect:

(a) Each installation for which the customer requests inspection;

(b) For each contractor for which the utility has no current experience of work performance, or for which past performance has shown inadequate performance, the first ten installations by that contractor, and at least two of every ten installations thereafter.

(2) The purposes of the inspections required under subsections (1)(a) and (b) of this rule are to verify that the financed measures were installed, and that the standards of materials and workmanship set by the company, which shall meet or exceed those of the Oregon State Building Code are met.

(3) When inspections are required under subsection (1)(a) or (b) of this rule, utility funds used for principal payment under this program shall not be dispersed until the standards referenced in section (2) of this rule are met.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 11-1981(Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619)

#### **860-030-0035**

##### **Accounting Rule**

(1) "Indirect costs" shall mean:

(a) Reasonable expenses which the utility incurs in providing to its residential customers information about weatherization programs and other means of saving energy;

(b) Reasonable expenses which the utility incurs in providing to its residential customers technical advice concerning advantages and disadvantages of various methods of saving energy in the customer's dwelling unit;

(c) Reasonable expenses which the utility incurs in providing pre-installation inspection services, cost estimates, and post-installation inspections for its residential customers;

(d) Cash payments made to dwelling owners pursuant to ORS 469.633;

(e) The interest or other carrying charges resulting from the

difference between the interest charges authorized by the Commissioner pursuant to ORS 469.633, and the cost of the utility's own funds used to finance weatherization services, or, in the event the utility arranges financing with a commercial lending institution, the difference between the interest charges allowed by the Commissioner pursuant to ORS 469.633, and the interest charged by the commercial lending institution;

(f) Reasonable carrying charges on the unamortized balance included in the deferred debit account until such time as the unamortized balance is included in the rate base;

(g) Any reasonable level of bad debts, including a reasonable level of casualty losses attributable to the services performed under ORS 469.633;

(h) Fees charged a utility pursuant to ORS 469.185 to 469.225;

(i) Tax credits authorized under ORS 469.185 to 469.225;

(j) Reasonable administrative costs of residential energy conservation programs.

(2) All other terms shall have the meanings provided in ORS 469.631.

(3) The public utility shall pass on to all of its customers the indirect cost incurred pursuant to ORS 469.631 to 469.645, by accounting for the costs as an allowable revenue deduction and by including where applicable the unamortized balance of the accumulated deferred debits associated with indirect costs in the rate base for rate-making purposes.

(4) The public utility shall keep books and accounts so as to enable the Commissioner to readily identify all direct, as well as indirect, costs incurred in connection with the weatherization program and any other insulation or energy-saving programs.

(5) Except for a reasonable level of bad debts, including casualty losses and cash payments to dwelling owners pursuant to ORS 469.633, no direct costs of weatherization services provided to individual space heating residential customers shall be allowable expenses for rate-making purposes. Direct costs shall be a personal obligation of the owner of the dwelling unit requesting weatherization services. Direct costs include the cost of all materials and labor directly associated with the services.

(6) All indirect costs incurred by a public utility, pursuant to ORS 469.631 to 469.645, shall be placed in a deferred debit account until such time as the Commissioner issues an order including an appropriate amount of indirect costs in rates.

(7) Tax credits authorized under ORS 469.185 to 469.225 and OAR 860-30-018 shall be accounted for under section (6) of this rule as deferred debits, until each year's credit is recovered.

(8) After an appropriate amount of indirect costs is included in rates, deferred debit accounting shall not be utilized to recover additional indirect costs unless the utility demonstrates that the present level of recovery of indirect costs is inadequate.

(9) The amounts of indirect costs accumulated in the deferred debit account may be disposed of by being included in rates by a tracking procedure or by being included in rates upon the issuance of an order by the Commissioner.

(10) Carrying charges associated with the utility's own funds as defined as subsection (1)(e) of this rule shall be recorded in Account 421, Miscellaneous Nonoperating Income, concurrently with the recording of those costs in the deferred debit account. Carrying charges associated with the balance in deferred debit account not amortized to operating expenses as defined in subsection (1)(f) of this rule shall be recorded in Account 421, concurrently with their being recorded in the deferred debit account.

(11) Income tax normalization procedures shall be used when appropriate for amounts included in the deferred debit account.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 11-1981(Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896); PUC 28-1985, f. & ef. 12-20-85 (Order No. 85-1212)

#### **860-030-0040**

##### **Commercial Energy Conservation**

Purpose, Statutory Authorization, Policy. The purpose of

these rules is to provide procedures, standards, and criteria for electric and gas utilities to present energy audit programs for commercial buildings as required by Oregon Laws 1981, Chapter 708, Section (1) through (11) (ORS 469.865 et seq.).

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685)

### **860-030-0045**

#### **Definitions**

For the purpose of these rules, the following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) "Automatic Control System" means devices, including but not limited to, wide dead band thermostats, which regulate lighting, heating, ventilating, air conditioning, or other energy loads automatically based on time, temperature, humidity, pressure or load limiting measures. Equipment associated with automatic control systems includes, but is not limited to: Automatic dampers, wiring, electronic circuitry, relays, valves, and other equipment which produces a reduction in energy consumption or demand.

(2) "BTU" means a British Thermal Unit, the amount of energy required to raise the temperature of a one-pound mass of water one degree Fahrenheit.

(3) "Commercial Building" means a public building as defined in ORS 456.746, and other commercial structures as defined by utility company tariff.

(4) "Commercial Building Customer" means the owner or tenant of a commercial building who is responsible for paying fuel costs to a utility which provides electricity or gas energy to the building.

(5) "Commercial Energy Audit" means the service provided to a commercial building customer which includes on-site data gathering, energy use analysis, and a report to the customer recommending energy conservation measures, and an estimate of the cost/benefit of those measures.

(6) "Commercial Energy Auditor" (or "Level I Auditor") means a person who is qualified through general training and experience and who has demonstrated a general knowledge of heat transfer principles, construction terms and components, energy efficient operations and maintenance procedures, boiler and furnace efficiency improvements, infiltration controls, envelope weatherization, heating, ventilating, and air conditioning (HVAC) systems, electric control systems, lighting systems, solar insolation, and applicable energy conservation measures.

(7) "Commercial Energy Specialist" (or "Level II Auditor") means a person who is qualified through specialized training and experience, who has demonstrated knowledge and abilities of a qualified commercial energy auditor, and who can in addition:

(a) Perform calculations of energy use analysis;

(b) Perform calculations of energy efficiencies of HVAC, lighting, plumbing, water, steam, control, or electrical systems; and

(c) Can prepare technical reports of net energy savings for energy conservation measures.

(8) "Conservation Services" means those services specified in ORS 469.865 and 469.885.

(9) "Commissioner" means the Oregon Public Utility Commissioner.

(10) "Energy Use Analysis" means estimates of energy consumed by various systems and components of a building including, but not limited to: envelope, lighting, HVAC, and hot water.

(11) "Energy Conservation Measure" has the meaning specified in ORS 469.860(1)(e).

(12) "Envelope Weatherization" includes, but is not limited to insulation of ceiling, walls, floors, ducts, or pipes, and installation of storm or thermal windows and doors.

(13) "Furnace and Boiler Efficiency Improvements" means replacement burners, furnaces, or boilers of the same energy type which, because of their design, reduce energy use due to an increase in combustion efficiency, improved heat generation or

reduced heat losses, automatic vent dampers, automatic ignition devices; replacement filters; and cleaning and combustion efficiency adjustments.

(14) "Heat Recovery Devices" means those devices or equipment which recover heat from commercial use by capturing, storing, transferring, and using heat content of liquid or gaseous streams to reduce the need for additional energy resources. Devices include, but are not limited to: recuperators, heat wheels, regenerators, heat exchangers, and economizers.

(15) "Heating, Ventilating, and Air Conditioning (HVAC) System Modifications" includes, but is not limited to improving control and utilization of outside air, adjusting temperature and humidity of supply air, reducing energy use of reheat systems and exhaust hoods, and replacement air conditioning systems of the same energy type which reduce the amount of energy use due to an increase in efficiency.

(16) "Infiltration Controls" means caulking, weatherstripping, dampers, sealants, air locks, revolving doors, and gaskets used to reduce air leaks in a building shell.

(17) "Improved Operations and Maintenance Measures" means any energy conservation measure which is presumed cost-effective because there is little or no cost associated with the measure, such that the simple payback period is less than one year. Operations and maintenance measures include, but are not limited to: Temperature setbacks, water flow reductions, reduced use of ancillary systems or reduced energy use when a building is unoccupied, repairing air duct leaks, and steam system and furnace or boiler maintenance.

(18) "Lighting System Improvements" means devices and actions which reduce overall indoor or outdoor lighting energy consumption while maintaining satisfactory lighting levels. Devices and actions include, but are not limited to: reducing light levels to acceptable minimum levels; installation of task lighting, local switching, time control, and sensing devices; and installation of more efficient lamps.

(19) "Net Energy Savings" means the BTU savings from a conservation measure, taking into account interactions of other known consumption measures being implemented and impacts on all energy sources and systems in the building.

(20) "Simple Payback Period" means the estimated total installed costs of an energy conservation measure divided by the estimated first year dollar savings to the customer resulting from the measure.

(21) "Solar Water Heaters" means water heating devices, either active or passive, designed to heat water with radiant energy from the sun.

(22) "Utility" shall have the meaning given a public utility under ORS 757.005, which provides natural gas or electric service for heat, light, or power and is regulated by the Commissioner under ORS Chapter 757.

(23) "Water Heating Heat Pumps" means water heating devices designed to heat water by extracting energy from the surrounding ambient environment, including air, earth, and ground water.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896)

### **860-030-0050**

#### **Commercial Energy Audit Programs**

(1) Each utility shall be responsible, to the extent possible, for ensuring that the services required by these rules are offered to all commercial building customers within its service territory, and that the services are provided to the standards required herein.

(2) Each utility shall have available on request information about energy saving operations and maintenance measures for commercial buildings. The information may be tailored to special classes of commercial building customers.

(3) Each utility shall establish a procedure to notify each commercial building customer of the availability of information and materials about energy conservation and of energy audit services. The notice shall include the location of the nearest office

for obtaining these services, procedures for obtaining such service, and fees, if any. New commercial building customers shall be given this information and offered audit services at the time of application for gas or electric service. Existing commercial customers shall be notified by mail as soon as practical but not later than within 12 months of the approval of the utility's program and annually thereafter.

(4) Each utility shall actively promote the availability of energy audit services whenever it enters into any phase of a contingency or curtailment plan for dealing with an energy supply shortfall.

(5) Each utility shall be responsible for having available trained commercial energy auditors, specialists, or other engineering or architectural professionals either employed directly, or as independent consultants, such that sufficient persons with appropriate education and experience are available to provide energy audits of simple and complex commercial building systems and components which may exist in its service area.

(6) When a utility receives a request from a commercial building customer who uses less than 4,000 kwh of electricity or 200 therms of gas per month on the average annually for a commercial energy audit, a qualified energy auditor shall perform an on-site audit to collect data and evaluate energy conservation measures including, but not limited to: Operations and maintenance measures, simple automatic control systems, envelope weatherization, infiltration controls, and lighting systems improvements.

(7) When a utility receives a request from a commercial building customer who uses more than 4,000 kwh of electricity per month or 200 therms of natural gas per month on the average annually for a commercial energy audit, the utility shall use a qualified energy specialist, engineer or architect to perform the energy audit and evaluate more complex energy conservation measures such as sophisticated automatic control systems, furnace and boiler efficiency improvements, heat recovery devices, HVAC system modifications, lighting system improvements, and solar water heaters or water heating heat pumps unless it can substantiate that analysis of the systems in use does not require that level of expertise.

(8) Each utility shall be responsible for: Designing or obtaining data recording forms for an energy audit, developing procedures for analyzing energy use in a commercial building, and for calculating potential energy savings, and designing report forms for recommendations to customers. The system so designed shall have the capability of reporting simple payback periods of at least ten years.

(9) Reports to a commercial building customer shall include as a minimum: A brief description of the building's energy using systems and overall condition; an energy use analysis; recommended operations, and maintenance measures; energy conservation measures which have a simple payback period of up to three years or up to ten years upon request of the customer, including a description of each measure, its estimated cost and estimated net energy and dollar savings for the first year. Information about the availability of state and federal tax credits and low-cost financing options for the commercial building customer shall also be included.

(10) The Commissioner may review any federal or regional commercial energy audit programs to determine if they meet or exceed the requirements of these rules. Any utility whose commercial energy audit program meets the guidelines of the federal or regional programs, and which has executed a contract to implement the program, shall be considered to have met the requirements of this section for training and level of audit service. Use of associated federal or regional model commercial audit formats will be considered satisfactory for data collection, analysis procedures, and reports to commercial building customers.

(11) If a commercial building customer qualifies for equal or better audit services under another federal, state, or local government or utility subsidized program, the utility shall refer the commercial building customer to that program. Utilization of such services shall be at the option of the customer.

(12) During the course of an audit, a utility shall not recommend fuel switching from one source of energy to another. If it appears that a change of energy sources might be beneficial to the customer, the customer shall be advised to seek independent consulting advice. However, if in the case of a joint audit both utilities agree to recommend fuel switching, such a recommendation may be made.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685)

### **860-030-0055**

#### **Coordination of Utilities**

(1) In the case where more than one utility serves the same building, the utilities shall, whenever possible, conduct a joint analysis of the energy consuming systems and present combined recommendations to the commercial building customer. Where disputes arise among utilities in the coordination of analysis and recommendations, such disputes will be resolved by the utility with the highest average monthly billing for that customer.

(2) In the event that the commercial building customer uses oil, wood, or a renewable resource in the building, the utility shall make reasonable efforts to determine or estimate previous energy use records for that energy system and shall evaluate the system, particularly the operations and maintenance aspects of the system. Where the practices and systems seem to warrant attention beyond the capability of the auditor or specialist, the customer shall be referred to the oil or wood supplier, qualified contractor, engineer, or architect.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685)

### **860-030-0060**

#### **Fees**

All utilities shall develop and present to the Commissioner for approval, a fee schedule. A fee schedule may provide incentives to encourage audit and implementation of audit results. Fee schedules may be defined in terms of the level of complexity of the audit and may identify: per-hour cost of the on-site visit, basic per-hour analysis and report preparation costs and cost of private consulting engineer's or auditor's fees, if any. Fees may be charged in proportion to work performed if two utilities cooperate on performance of audit for single building or complex.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685)

### **860-030-0065**

#### **Implementation Schedules**

(1) Each utility shall submit its Commercial Energy Audit Program to the Commissioner for its review and approval within 180 days of the effective date of these rules.

(2) Each utility shall provide to the Commissioner a copy of the program it will use to train its energy auditors and energy specialists, or if qualified contractors will be used to perform audits, the criteria by which these contractors will be chosen.

(3) Each utility shall submit to the Commissioner a copy of the data collection form, analysis procedures, and report formats at the time of program acceptance.

(4) Each utility shall begin offering its program to the public within 60 days of its program being approved by the Commissioner. Each commercial building customer who requests an audit should receive an audit report within 120 days of the request for service.

Stat. Auth.: ORS Ch. 469 & 756

Stats. Implemented: ORS 469.631 thru 469.645

Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685)

### **860-030-0070**

#### **Reporting Requirements**

(1) Each utility shall report to the Commissioner on a quarterly basis the number of eligible commercial building



customers, number of audit requests received, number of referrals to other utilities, number of referrals to other audit programs, estimated aggregate savings of operations and maintenance recommendations, estimated aggregate savings from recommended energy conservation measures, costs of providing the audit services and fees charged and collected.

(2) Each utility shall perform on an annual basis an analysis of program cost effectiveness which shall include, but not be limited to:

- (a) The number and cost of audits performed, including the relationship between the complexity of the audit and its cost;
- (b) Number of measures recommended, by type;
- (c) Number of measures installed, by type;
- (d) Predicted energy and capacity savings, by type of measure installed and by the program as a whole;
- (e) The simple payback periods to the customer for measures recommended, by type;
- (f) The simple payback periods to the customers for measures installed, by type;
- (g) The total program cost to ratepayers;
- (h) The companies' conclusions as to the cost effectiveness of the program;

(i) The companies' recommendations for changes in the program. If the utility's service is offered through an association, the association may provide the above information on an individual basis for each utility served.

(3) Each utility may be required to report data aggregated by commercial category. The utility shall obtain the consent of the customer before making details of an audit available to any other person.

Stat. Auth.: ORS Ch. 469 & 756  
Stats. Implemented: ORS 469.631 thru 469.645  
Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685)

#### **860-030-0075**

##### **Accounting**

(1) The utility shall pass on to all of its customers the commercial energy audit program costs reasonably incurred pursuant to ORS 469.860 to 469.900, by accounting for the costs not recovered from the commercial building customer as an allowable revenue deduction and by including where applicable the unamortized balance of the accumulated deferred debits associated with commercial energy audit program costs in the rate base for rate-making purposes.

(2) The utility shall keep books and accounts so as to enable the Commissioner to readily identify all costs incurred in connection with the commercial energy audit program.

(3) All costs incurred by a public utility pursuant to Oregon Laws 1981, Chapter 708, shall be placed in a deferred debit account until such time as the Commissioner issues an order including an appropriate amount of costs in rates.

(4) After the authorized amount of costs are included in rates, deferred debit accounting shall not be utilized to recover additional costs unless the utility demonstrates that the present level of recovery of costs is inadequate.

(5) The amounts of costs accumulated in the deferred debit account may be disposed of by being included in rates by a tracking procedure or by being included in rates upon the issuance of an order by the Commissioner.

Stat. Auth.: ORS Ch. 469 & 756  
Stats. Implemented: ORS 469.631 thru 469.645  
Hist.: PUC 10-1982, f. & ef. 9-30-82 (Order No. 82-685); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896)

### **DIVISION 31**

#### **INSPECTION OF GAS PIPELINE OPERATORS AND WAIVER OF SAFETY STANDARDS**

#### **860-031-0005**

##### **Inspection of Operators**

(1) Priority in inspections will be given to those systems and

plants with greater risk potential. The following factors will be considered in determining potential risk: the size of the plant or system and the number of customers it serves; the ratio of total pipe to cathodically protected pipe; the ratio of total pipe to coated pipe; the leaks per mile of main; the percentage of unaccounted-for gas volume; and the number of past accidents.

(2) Inspections will include reviews of the operator's standard practices and records concerning design, construction, operation, maintenance, inspection, emergency procedures, and damage prevention programs. Field inspections may include, but are not limited to, checks of cathodic protection levels, construction practices, barricading or protection of equipment from damage, witnessing operational checks of overpressure protection and regulating equipment, odorization, leak surveys, and other field functions. Any documentation, records, or physical evidence necessary to support allegations of noncompliance may be obtained by the investigator during the inspection or at any later date.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

#### **860-031-0010**

##### **Verbal Notice of Probable Violation**

When an evaluation of an operator's records, practices, or facilities indicates that the operator is not in compliance with a pipeline safety regulation, the investigator will informally discuss the probable violation of the regulation with the operator whenever practical before concluding his inspection. On-site corrective action may be taken by the operator during the inspection or during the concluding interview at the facility when a probable violation exists. In all cases where a probable violation was found, a written inspection report will be issued pursuant to OAR 860-031-0015.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

#### **860-031-0015**

##### **Written Notice of Probable Violation**

(1) As soon as practical after an inspection where a probable violation was noted, a written inspection report listing all violations found will be issued. The report will contain a notice that a probable violation exists, a short description of the probable violation, and a citation to the rule(s) in point. The report will specify reasonable times for the operator to submit a response and to correct the violation. If the probable violation was corrected at the time of the inspection or concluding interview, the corrective action will be noted in the inspection report.

(2) A written response from the operator pursuant to OAR 860-031-0020 must be received by the PUC gas pipeline safety section within the time specified in the inspection report. If no written response is received within such time, the probable violation will be taken to be admitted.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

#### **860-031-0020**

##### **Responses Open to the Operator**

(1) After receiving the citation, the operator may:

(a) Correct the violation within the time allotted in the inspection report and notify the gas pipeline safety section of the action taken; or

(b) Submit a written plan of action indicating the action to be taken to correct the probable violation, including a schedule and the date when the completion of corrective action is anticipated; or

(c) Request an informal conference with the PUC gas pipeline safety section.

(2) If the plan of action is not accepted, or if the operator selects the third option, an informal conference will be scheduled.

Stat. Auth.: ORS Ch. 756 & 757

Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

### **860-031-0025**

#### **Informal Conference**

A date, time, and place for the informal conference will be arranged. At the conference the operator may explain his position and may present alternatives for remedying the probable violation. The operator and the gas pipeline safety staff may agree on a plan to remedy the probable violation.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

### **860-031-0030**

#### **Referral to Commissioner**

After receiving a response from the operator and after holding the informal conference, if any, or after receiving no response within the time specified in the inspection report, the PUC gas pipeline safety staff will determine whether to refer the case to the Public Utility Commissioner for formal action. In such case, the staff shall notify the Commissioner of the response chosen by the operator and the result of the informal conference, if any.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

### **860-031-0035**

#### **Civil Penalties**

Civil penalties for failure to comply with gas pipeline safety rules or regulations shall be based on the gravity of the violation, the extent of the operator's past violations, and other matters as justice may require.

**NOTE:** ORS 756.180 provides for the enjoining of a violation of the utility laws. ORS 757.991 provides for penalties for failure to comply with gas pipeline safety rules or regulations of \$1,000 per day, to a maximum of \$200,000 for any related series of failures.

Stat. Auth.: ORS Ch. 756 & 757  
Stats. Implemented: ORS 757.039  
Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685)

### **860-031-0040**

#### **Waivers**

(1) Upon application by an operator, the Public Utility Commissioner may grant a waiver from compliance with the gas pipeline safety regulations for intrastate pipeline transportation. The application shall include a statement of reasons why the regulations are not appropriate and why a waiver is consistent with gas pipeline safety. The Commissioner may grant a waiver if:

- (a) The noncompliance does not entail a significant risk to the operator's employees or the public; or
- (b) The degree of risk does not justify the expense of bringing the system into compliance.

(2) If the Commissioner decides to grant a waiver, he shall issue the waiver under such terms and conditions as are appropriate, with a statement of reasons for granting the waiver. The waiver shall contain a recital that it is subject to the approval of the Secretary of Transportation of the United States Department of Transportation. If the Commissioner denies the waiver, he shall notify the applicant of the reasons for the denial.

(3) The Commissioner shall give the Secretary of Transportation of the United States Department of Transportation written notice 60 days prior to the effective date of the waiver. If, before the effective date of the waiver, the Secretary objects in writing to the granting of the waiver, the Commissioner's action granting the waiver will be stayed. The Commissioner may present the case for the waiver to the Secretary, who in such case shall determine finally whether the requested waiver will be granted. If the Commissioner does not present the case for the waiver to the Secretary, the grant of the waiver shall be withdrawn and the waiver shall be denied.

Stat. Auth.: ORS Ch. 756 & 757

## **DIVISION 32**

## **TELECOMMUNICATIONS**

### **860-032-0001**

#### **Definitions**

For the purpose of this Division:

(1) "Competitive Provider" means a person, who is not a public utility, and who provides only the services authorized under OAR 860-032-0005 and 860-032-0010.

(2) "Exempt Service" means a telecommunications service which is completely deregulated. All revenues from, costs of, and assets dedicated to providing the service are beyond the Commission's jurisdiction, until and unless the service is reregulated under OAR 860-032-0025(6).

(3) "Local Exchange Service" means service provided within the boundaries of exchange maps filed with and approved by the Commission. Local exchange service includes "shared service."

(4) "Operator Service" means service provided by a telecommunications provider in response to a consumer's request for special billing, dialing assistance, or information regarding the use of and charges for its telecommunications services. An operator service may be manual or automatic.

(5) "Price Listed Service" means a product or service whose price and terms are authorized, under OAR 860-032-0035, to be posted in a price list filed with the Commission. The prices of such products or services are subject to change, without notice and hearing, at the discretion of the Commission. The costs and revenues of a price listed product or service shall be considered part of the regulated activities of the utility.

(6) "Private Telecommunications Network" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service, by a person for the exclusive use of that person and not for resale, directly or indirectly. "Private telecommunications network" includes services provided by the State of Oregon pursuant to ORS 190.240 and 283.140.

(7) "Shared Telecommunications Service" or "shared service":

(a) Means the provision of telecommunications and information management services and equipment:

(A) To a user group comprised of one person or association served by a single telecommunication system;

(B) Located in a single building or in several buildings on contiguous property;

(C) By a commercial shared services provider or by a users' association;

(D) Through privately owned customer premises equipment and associated data processing and information management services.

(b) Includes connection to the local exchange telecommunications service.

(8) "Telecommunications Provider" or "Provider" includes competitive providers and public utilities.

(9) "Telecommunications Public Utility" or "public utility" means a person, who is not a competitive provider, and who is designated as a public utility under OAR 860-032-0010.

(10) "Telecommunications Service" or "Service" means two-way switched access and transport of voice communications, and all services provided in connection with such services, but does not include:

(a) Services provided by radio common carrier;

(b) One-way transmission of television signals;

(c) Surveying;

(d) Private telecommunications networks;

(e) Communications of the customer which take place on the customer side of the network interface.

(11) "Toll" means a telecommunications service between local exchanges carried on the public switched network for which

charges are made on a per-unit basis.

(12) "Unserved Person" means a person:

(a) Who does not have local exchange telecommunications service;

(b) Who is applying for residential service or business service with five or fewer lines; and

(c) Who, for the initiation of such service, would be required to pay line extension charges.

(13) "Pay Telephone" means a telephone instrument, generally placed in public areas, for transient use on a pay-per-call basis. "Pay Telephone" instruments may be coin operated, non-coin operated, pre-pay, post-pay, central office controlled, instrument controlled, provided by local exchange carriers, or provided by other persons or entities.

Stat. Auth.: ORS Ch. 183, 756, 757 & 767

Stats. Implemented: ORS 756.040, 756.060 & 759.005

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 19-1986(Temp), f. & ef. 12-15-86 (Order No. 86-1253); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1989(Temp), f. & cert. ef. 7-10-89 (Order No. 89-847); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 5-1993, f. & cert. ef. 2-19-93 (Order No. 93-184); PUC 1-1994, f. & cert. ef. 1-5-94 (Order No. 94-040)

### **860-032-0002**

#### **Notice and Procedure**

(1) All notices initiating a proceeding under this Division shall be served on all providers and all persons on the Commission's telecommunications mailing list. Any person wishing to be included on the list shall submit his or her name and address to the Public Utility Commission, Administrative Hearings Division, 429 Labor and Industries Building, Salem, OR 97310.

(2) The Commission shall serve notice of each application, petition, complaint, and other pleading initiating a proceeding under this Division on the persons listed on the telecommunications mailing list.

(3) Except as otherwise provided, every proceeding under this Division shall follow the procedures set forth in ORS 756.500 et seq. and the Commission's rules of procedure.

(4) Any person submitting information under the Commission's rules may request that the information be held in confidence pursuant to the public records law, ORS 192.500.

Stat. Auth.: ORS Ch. 183, 756, 757 & 767

Stats. Implemented: ORS 759.020 & 759.025

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96)

### **860-032-0005**

#### **Application for New or Amended Certificate of Authority**

(1) No person shall provide tele-communications services within the State of Oregon except as authorized in a certificate of authority from the Commission.

(2) Any person intending to provide telecommunication services in Oregon shall file an application, on forms provided by the Commission, for a new or amended certificate of authority to provide telecommunications services. The application may include a petition to exempt services from regulation under OAR 860-032-0025, or to price list services under OAR 860-032-0035.

(3) An application shall contain:

(a) The name, address, and telephone number of the applicant;

(b) A description of the service the applicant seeks to provide and the territory where the service is to be offered. An application to provide local exchange services shall include a map describing the local exchange service boundaries;

(c) The names and addresses of affiliates of the applicant, as defined in ORS 759.010, which are certified to provide or are actually providing telecommunications services in Oregon;

(d) A request for classification as a public utility or competitive provider. The request shall set forth the information required under OAR 860-032-0010 to classify the provider. Each applicant shall designate whether it is proposing to provide local exchange, shared or toll service.

(4) If an application, in any material respect, is incomplete, inaccurate, false or misleading, the Commission shall reject the application.

(5) Within 30 days of filing, the Commission shall serve notice of the application on all providers and all persons on the Commission's tele-communications mailing list.

(6)(a) Within 20 days of the date of service under section (5) of this rule, any affected provider or other interested person may file a protest to an application. The protest shall set forth the grounds for the protest. Failure to protest within the time limit shall be deemed consent to the application. Except as provided in subsection (7)(b) of this rule, the Commission may require a person filing a protest to show that it is affected by the application or that its appearance and participation will not unreasonably broaden the issues or burden the record;

(b) The applicant shall serve protestants with copies of amendments and additional information submitted in the course of the application process. If an applicant intends to broaden the authority requested during the application process, it shall follow the procedures set forth in sections (2) through (6) of this rule. However, it may narrow its request by serving its amendment on each protestant.

(7)(a) Unless a hearing is held on the Commission's own motion or under subsection (b) of this section, the Commission may consider the protests and grant or deny the application without hearing. If an application is denied in whole or in part, without hearing, the Commission shall set forth in writing the reasons for the denial. Within 30 days of the date of service of the denial, the applicant may, in writing, request a hearing;

(b) If the application is to provide local exchange service, other than shared services within the service territory of a public utility, and the utility protests the application, the Commission shall hold a hearing on the application.

(8) The Commission may find an application to provide local exchange service other than shared services is in the public interest, and may grant the application, if:

(a) The public utility in whose service territory the applicant seeks to provide local exchange service consents or does not protest; or

(b) After hearing, the Commission finds the public utility in whose service territory the applicant seeks to provide local exchange service is unable to provide local exchange service. Failure by the public utility to provide reasonable and adequate local exchange service after having been ordered to do so by the Commission shall constitute inability to provide service.

(9) A certificate to provide telecommunications services shall be subject to the following conditions:

(a) The certificate holder shall provide only the telecommunications services authorized in the certificate;

(b) The certificate holder shall not abandon service except as authorized under the Commission's rules;

(c) For public utilities, the records and books of the certificate holder are open to inspection by the Commission, and shall be maintained according to the Commission's rules;

(d) For competitive providers, the books and records of the certificate holder shall be open to inspection by the Commission to the extent necessary to verify information required of the certificate holder by the Commission's rules. The books and records shall be maintained according to generally accepted accounting principles and the applicable rules of the Commission;

(e) The certificate holder agrees to pay all access charges and subsidies imposed pursuant to the Commission's rules;

(f) The certificate holder involved in the provision of an operator service shall:

(A) Notify all callers at the beginning of each call of the telecommunications provider's name. However, a local exchange telephone company providing operator services for another local exchange telephone company may "brand" the call by identifying the other local exchange company;

(B) Disclose rate and service information to the caller when requested;

(C) Maintain a current list of emergency numbers for each service territory it serves;



(D) Transfer an emergency call to the appropriate emergency number when requested, free of charge;

(E) Transfer a call to, or instruct the caller how to reach, the originating local exchange company's operator service upon request of the caller, free of charge;

(F) Not transfer a call to another operator service provider without the caller's notification and consent;

(G) Not bill or collect for calls not completed to the caller's destination;

(H) Not screen calls and prevent or "block" the completion of calls which would allow the caller to reach an operator service company different from the certificate holder. In addition, the certificate holder shall, through contract provisions with its call aggregator clients, prohibit the blocking of a caller's access to his or her operator service company of choice. A certificate holder may apply for a waiver from the Commission if necessary to prevent fraudulent use of its services.

(g) Telecommunications providers who enter into operator service contract or arrangements with call aggregators shall include in those contracts or arrangements provisions for public notification as follows:

(A) A sticker or name plate identifying the name of the certificate holder shall be attached to each telephone available to the public;

(B) A brochure, pamphlet, or other notice shall be available in the immediate vicinity of the telephone giving the name of the operator service provider, stating that rate quotes are available upon request, listing a toll-free telephone number for customer inquiry, and giving instructions on how the caller may access other operator service providers.

(h) Competitive providers may contract with local telephone utilities for customer billing and collection under the following conditions:

(A) The telephone utility, in billing for the competitive provider, shall include on the bill the name of a company with the information and authority to provide information and resolve disputes about billing entries, a toll-free number to reach that company, and details of the services and charges billed;

(B) The telephone utility shall not deny telephone service to customers for failure to pay charges for competitive provider services or unregulated utility services.

(i) The certificate holder agrees to comply with the Commission's rules applicable to the certificate holder; and

(j) A public utility shall meet the service standards for regulated services set forth in the Commission's rules.

(10) Cooperative corporations organized under ORS Chapter 62 are not subject to ORS 759.015, et seq. or Division 32 of the Commission's rules. Nothing in Division 32 shall have any effect on the integrity of a cooperative's territorial allocation granted under ORS 758.400 et seq.

Stat. Auth.: ORS 183.335, 756.060, 756.690, Ch. 757, 759 & 767

Stats. Implemented: ORS 759.020, 759.025 & 759.690

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159); PUC 10-1989(Temp), f. & cert. ef. 7-10-89 (Order No. 89-847); PUC 1-1990, f. & cert. ef. 2-6-90 (Order No. 90-96); PUC 23-1990, f. & cert. ef. 12-31-90 (Order No. 90-1918); PUC 9-1991, f. & cert. ef. 7-16-91 (Order No. 91-854)

#### **860-032-0010**

##### **Classification of Applicants**

(1) There shall be two classifications of telecommunications providers:

(a) Public utility; and

(b) Competitive services provider.

(2) If the provider qualifies under section (4) of this rule, the Commission shall classify the applicant as a competitive provider.

(3) The Commission shall classify all other providers as public utilities.

(4) To qualify as a competitive provider, the certificate holder shall demonstrate that the only services it offers are subject to competition or that its customers or those proposed to be customers have available alternatives. Pursuant to OAR 860-032-0045, shared services are competitive. In determining the nature

of the services the certificate holder provides, the Commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market;

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

(c) Existing economic or regulatory barriers to entry;

(d) Any other factors deemed relevant by the Commission.

(5) Any provider may file a petition with the Commission under OAR 860-032-0005 and this rule to change its classification. On the Commission's own motion and after notice and opportunity for hearing, the Commission may change a provider's classification upon a finding that the provider no longer qualifies for the classification previously assigned, or qualifies for a different classification.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.005, 759.020 & 759.030

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986 f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0011**

##### **Advertisements by Competitive Providers**

By accepting a certificate to operate as a competitive telecommunications provider, the carrier agrees to the following condition: Advertisements or other offers of service shall not include reference to certification of the competitive telecommunications provider by the Commission, unless the advertisement or offer conspicuously includes the following statement:

**The Public Utility Commission does not regulate the rates or service of this company. Certification by the Commission means only that this company is listed with the Commission to do business in Oregon.**

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 759.020

Hist.: PUC 5-1991, f. & cert. ef. 4-3-91

#### **860-032-0012**

##### **Service Standards of Competitive Providers**

(1) As used in this section, "Busy Hour" means the hour of the day when the number of calls carried on the competitive provider's network is the highest. "Level of service" means the probability, expressed as a percentage, that a call will not be blocked during the busy hour. For the purpose of calculating the probability, a call to a number which is busy is defined as an unblocked call.

(2) Standard Level of Service. The standard level of service for competitive telecommunications providers is 99 percent.

(3) Minimum Service Level. Upon certification as a competitive provider, and on or before January 1 of each year thereafter, a provider shall file a declaration with the Commission stating the minimum level of service it will provide.

(4) Notification to Customers. If the minimum service level is below 99 percent, providers shall notify prospective and present customers of the minimum service level that the customers may expect to receive, as stated in the declared minimum service level in effect and on file with the Commission, and that the service level being provided is below the standard of 99 percent.

(5) Revocation of Certificate. The Commission may revoke the certificate of a provider which repeatedly fails to meet the declared minimum service level in effect and on file with the commission.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 759.020

Hist.: PUC 5-1991, f. & cert. ef. 4-3-91

#### **860-032-0013**

##### **Uncertified Providers**

No telecommunications provider shall provide local exchange access to another person for purposes of resale, unless the purchaser has a valid certificate of authority from the commission to operate as a telecommunications provider.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 759.020  
Hist.: PUC 5-1991, f. & cert. ef. 4-3-91

#### **860-032-0015**

##### **Cancellation or Suspension of a Certificate**

(1) The Commission may cancel or suspend a certificate to provide telecommunications service, upon a finding that:

(a) The certificate holder intentionally filed an application containing incomplete, inaccurate, false or misleading information or otherwise mis-represented the services or territory the applicant intends to serve, the ownership of the applicant, affiliates of the applicant, or the applicant's assets or other information presented to the Commission; or

(b) The certificate holder has failed to comply with the terms and conditions of the certificate.

(2) If the Commission finds a provider has violated section (1) of this rule, the Commission may cancel or suspend the authority in its entirety or the authority to provide a particular service. Upon suspension or cancellation, the provider shall be prohibited from providing the services specified in the order.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.020

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0020**

##### **Notice of Intent to Abandon Service**

(1) Upon 30 days' notice to the Commission:

(a) A competitive provider or shared provider may abandon a service authorized in its certificate;

(b) A public utility may abandon an exempted service.

(2) A public utility intending to discontinue a regulated service shall file a petition with the Commission. The petition shall be filed at least 60 days prior to the date the utility intends to abandon the service. At least 30 days prior to the date a public utility intends to abandon service, it shall notify affected customers of its intent. The public utility shall demonstrate that the abandonment will not deprive the public of necessary telecommunications services. The public utility shall agree to reinstitute service at the request of the Commission to prevent the public from being deprived of necessary services.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040, 756.060 & 759.035

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0025**

##### **Petition to Exempt Services**

(1) Upon petition by a public utility and, except as provided in section (7) of this rule, upon notice and hearing, the Commission shall exempt in whole or in part from regulation a service, if the Commission finds the rate the public utility proposes for the service covers its full long range incremental cost:

(a) Price and service competition exists; or

(b) The service is subject to competition.

(2) Upon petition by any person and, except as provided in section (7) of this rule, upon notice and hearing, the Commission may exempt in whole or in part from regulation a service, if the Commission finds:

(a) Price or service competition exists; or

(b) The services are subject to competition; or

(c) The public interest no longer requires full regulation of the service.

(3) Prior to making a finding under section (1) or (2) of this rule, the Commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market;

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions;

(c) Existing economic or regulatory barriers to entry;

(d) Any other factors deemed relevant by the Commission.

(4) Petitions filed under sections (1) and (2) of this rule shall contain:

(a) The name and address of the petitioner;

(b) A copy of the petitioner's certificate of authority, if any;

(c) The service or portion of a service proposed to be exempted from regulation;

(d) Documentation which demonstrates that the petition meets the requirements set forth in sections (1), (2) and (3) of this rule;

(e) The public utility's revenues from and costs of providing the service, the long-range incremental cost of the service, the cost allocation to regulated and unregulated activities for future ratemaking treatment, and supporting documentation. The information submitted under this paragraph may be submitted in confidence;

(f)(A) A statement from each joint provider of the service that it agrees to the exemption; or

(B) A statement from the petitioner indicating how the exemption will affect the rates and services of all affected joint providers of the service.

(5) The Commission may attach reasonable conditions to an exemption granted under this section, and may amend or revoke any such order under ORS 756.568.

(6) Except as provided in section (7) of this rule, after notice and hearing, and upon a finding that the circumstances under which the service was exempted no longer exists or the public interest requires reregulation of the service, the Commission may reregulate a service which has been exempted under this section.

(7) If no objections are filed to proposals under section (1), (2) or (6) of this rule, the Commission may waive the requirement for hearing.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.030

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0035**

##### **Petition to Price List Services**

(1) Any public utility may petition the Commission to price list a service. The petition shall contain the following information:

(a) The name of the public utility;

(b) The service territory of the public utility;

(c) The service proposed to be price listed, including the initial price list with the proposed terms and prices of the service;

(d) The public utility's jurisdiction for price listing the service;

(e)(A) A statement from each joint provider of the service that it agrees to the price list; or

(B) A statement from the petitioner indicating how the price list will affect the rates and services of all joint providers of the service.

(2) A public utility seeking to price list a service other than local exchange service shall identify the providers which provide the service.

(3) After notice and investigation, the Commission may, by order, grant a petition to price list a service.

(4) The petition to price list a local exchange service may be granted, subject to reasonable conditions, if the Commission finds that:

(a) The service is subject to competition; or

(b) The service is not essential.

(5) Prior to making a finding that a service is subject to competition, the Commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market;

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions;

(c) Existing economic or regulatory barriers to entry;

(d) Any other factors deemed relevant by the Commission.

(6) Unless the Commission finds the petition is contrary to the public interest, a petition to price list a service other than a local exchange service shall be granted, subject to reasonable

conditions.

(7)(a) After notice and investigation, the Commission may amend or revoke an order price listing a service;

(b) The Commission may take such an action upon a finding that the circumstances under which the service was price listed no longer exist, or that the public interest requires that the public utility's authority to price list a service be changed.

(8) If the Commission authorizes the public utility to price list a service, the public utility shall file a tariff with a price list consistent with the terms of the order. The public utility may revise the price list by filing revisions with the Commission. The filing shall reference the tariff and include a statement from each joint provider of the service that it agrees to the price list or a statement from the petitioner indicating how the price list will affect the rates and services of all joint providers. Unless otherwise required by the Commission, a price list, agreed to by all joint providers, shall be effective on the date specified by the public utility. The effective date shall be not less than 24 hours after the price list or change in price list is filed with the Commission. The procedures set forth in ORS 759.180 to 759.190 do not apply to filing or revising a price list.

(9) If the Commission determines that the price or terms of a service are illegal, excessive or are priced below cost, the Commission may reject a price list or may require the public utility to file a revised price list for a service. The Commission may suspend the effective date of the price list until the public utility establishes that the price or terms proposed are not contrary to the public interest.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.030 & 759.195

Hist.: PUC 77-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0040**

##### **Subsidies for Telecommunications Service**

(1) Prior to determining the necessity or the sources of a subsidy to providers of telecommunications services, the Commission shall initiate an investigation, and hold hearings. The investigation shall consider:

(a) The need to secure and maintain high-quality universal telecommunications service at just and reasonable rates for all classes of customers;

(b) The need to encourage innovation through a balanced program of regulation and competition; and

(c) The effect of changing technology on pricing methodologies.

(2) Any person may petition the Commission to require providers to subsidize services provided by a public utility.

(3) The Commission shall, by order, identify the revenue source of any fund necessary to provide the subsidy and prescribe the manner of collection and distribution of the fund.

Stat. Auth.: ORS Ch. 756/759.015 & 759.030

Stats. Implemented: ORS 759.015 & 759.030

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0045**

##### **Petitions for Alternative Access by Customers of Shared Service Providers**

(1) Any person who uses shared services or any affected public utility may petition the Commission for an order requiring a shared service provider to make available alternative facilities or conduit space at reasonable terms, conditions and prices.

(2) The petition shall include:

(a) The name and address of the petitioner;

(b) The name and address of the shared services provider;

(c) The type of services required by the petitioner.

(3)(a) If, after notice and investigation, the Commission finds a shared service provider has not provided reasonably priced and reasonably available alternative access to local exchange services, the Commission may require the shared service provider to make conduit space and inside cabling available to the local exchange public utility on reasonable terms and conditions at reasonable

rates;

(b) The shared provider shall provide the local exchange public utility access and cabling on an unbundled and nondiscriminatory basis. Inside cabling means the cabling necessary for the public utility to serve the customer on the shared service provider's side of the point of demarcation. The utility and the shared provider shall agree on one point of demarcation.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.030

Hist.: PUC 27-1985(Temp), f. & ef. 12-19-85 (Order No. 85-1203); PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0050**

##### **Petition for a Declaratory Ruling that a Service is not Subject to Regulation**

Any person may file a petition with the Commission requesting a ruling whether a service is subject to regulation by the Commission. The petition shall contain the following information:

(1) The name, address, and telephone number of the petitioner.

(2) A detailed description of the service on which the ruling is requested.

(3) The legal basis under which the petitioner contends that the service is, or is not, subject to regulation, including citations to relevant state and federal statutes, court decisions or orders of the Federal Communications Commission or the Commission.

(4) The names and addresses of any joint providers of the service.

(5) The rate schedules or price lists affected.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)

#### **860-032-0055**

##### **Regulation of Interexchange Public Utilities**

(1) This rule applies to public utilities which only provide service between exchanges.

(2) Except upon order of the Commission, a public utility under section (1) of this rule need not comply with rules relating to public utilities or other requirements of ORS Chapters 757, 758 and 759, except:

(a) The restrictions on abandonment of service under OAR 860-032-0020;

(b) The service standards applicable to interexchange carriers under OAR 860-023-0055(10);

(c) The prohibition against, directly or indirectly, by any device, charging, demanding, collecting, or receiving from any person a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects, or receives from any other person for a like and contemporaneous service under substantially similar circumstances; and

(d) The prohibition against making or giving undue or unreasonable preference or advantage to any particular person or locality, or subjecting any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect;

(e)(A) Public utilities providing service under this section may charge no more than maximum rates filed with and approved by the Commission on the effective date of this rule. Subject to a maximum rate, rates for message toll service are eligible to be price listed under OAR 860-032-0035;

(B) A utility providing service under this section may petition the Commission to change the maximum allowable toll rate schedules. If ordered by the Commission, the petition to change the maximum rate shall be subject to hearing.

(3) A public utility providing service under this section also may provide services which the Commission finds are competitive or subject to competition under OAR 860-032-0010 or 860-032-0025.

Stat. Auth.: ORS Ch. 756

Stats. Implemented: ORS 759.195 & 759.275

Hist.: PUC 16-1986, f. & ef. 11-17-86 (Order No. 86-1159)



**860-032-0060**

**Reporting Requirements**

(1) General:

(a) Telecommunications public utilities shall maintain books and records in accordance with the **Uniform System of Accounts (USOC)** as provided in OAR 860-027-0050. Competitive providers shall maintain books and records in accordance with the **Uniform System of Accounts or Generally Accepted Accounting Principles (GAAP)**; and

(b) The books and records of all telecommunications providers shall be open to the Commission and subject to audit to the extent necessary to verify required reports.

(2) Annual report — Form and filing date:

(a) Competitive providers — On forms provided by the Commission, each competitive telecommunications provider, including providers of shared service, shall submit an annual report before March 1, containing data required by section (3) of this rule relating to its operations for the preceding calendar year. Competitive providers need not file any other reports with the Commission, except on special order;

(b) Telecommunications public utilities — On forms provided by the Commission, each telecommunications public utility shall submit an annual report before March 1, containing data required by section (3) of this rule, related to its toll operations for the preceding calendar year. Data need be submitted only for the items designated in subsections (3)(a), (b), (d), and (e) of this rule. Reports required by this section are in addition to and not in lieu of, reports otherwise required by the Commission for telecommunications public utilities.

(3) Annual reports — Contents:

(a) Business name and address, including:

(A) Name, address, and position of person within the state of Oregon designated by the provider as contact for the Commission staff;

(B) Name, address and position of person within the state of Oregon designated by the provider as contact for the general public.

(b) A description of toll services being provided in Oregon, including a list of areas actually served, together with a designation of new service areas that were added during the year;

(c) Interests, as defined by ORS 759.010, which are affiliated with the provider;

(d) Originating conversation minutes tabulated for each calendar quarter and totaled for the year;

(e) Percentage of originating minutes which are intrastate and percentage which are interstate. No such separation shall be required of competitive providers whose sole responsibilities is to provide building tenants direct access to local exchange companies;

(f) In reports from shared telecommunications services providers, the name of lines or commercial trunks used to provide the shared services. The number of lines or trunks shall be tabulated by calendar quarter;

(g) If the Commission receives a public records request for materials submitted pursuant to subsections (d), (e) and (f) of this section, the Commission shall assert that the materials are trade secrets and therefore, exempt from disclosure. The material that utilities and competitive providers shall provide shall be submitted in a separate envelope, marked **“EXEMPT FROM PUBLIC DISCLOSURE AS TRADE SECRETS”**. Access to this material shall be limited to Commissioners, their Counsel and employees of the Commission who are assigned to compile or analyze the information. The materials shall be segregated and maintained in a locked file.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS Ch. 757

Stats. Implemented: ORS 756.105, 759.120, 759.125 & 759.130

Hist.: PUC 17-1988, f. & cert. ef. 11-15-88 (Order No. 88-1306)

**860-032-0100**

**Collective Consideration of Oregon Intrastate Rate, Tariff, or Service Proposals**

(1) Local exchange telecom-munications public utilities may become members of the Oregon Exchange Carrier Association, Inc. The Association's rules of procedure shall be subject to approval by the Commission. The Association's rules of procedure shall provide for joint or collective consideration of proposals for changes in intrastate rates, tariffs or conditions of service. The Association may file petitions and publish tariffs and may represent its members before the Commission. Membership in the Association by a local exchange public utility providing toll service shall be subject to approval by the Commission.

(2) All telecommunications rates, fares, charges, classifications and rules and regulations governing the practices and services of local exchange telecommunications public utilities shall be filed with the Commission. Changes in all tariffs shall be submitted to the Commission subject to all the procedural requirements and protections presently associated with utility filings before the Commission.

(3) The Association shall not discourage independent proposals of members to be filed directly with the Commission, nor oppose at hearings any independent proposal of a member or non-member telecommunications service provider.

(4) The Commission has the authority to supervise the activities of the Association. However, such supervision and advice shall not compromise the independent evaluation of any proposal which must be submitted to the Commission for final approval.

(5) To the extent that the Association is involved in the collection and redistribution of funds pursuant to Commission orders authorizing certain revenue sharing arrangements under common tariff, it shall maintain and provide to the Commission, in a timely manner, monthly and annual financial reports. These reports shall include:

(a) Budgetary estimates and forecasts for the fund administrator and all fund collections and distributions to each member local exchange company and the basis upon which the collection and distribution is budgeted;

(b) Actual expenditures of the fund administrator;

(c) Actual fund collections and distributions to each member local exchange company and the basis upon which the collection and distribution is made; and

(d) Budget-to-actual tracking reports for the fund administrator and for fund collections and distributions for each member local exchange company.

(6) Activities taken pursuant to this rule are deemed to be an integral and necessary part of state regulation of telecommunications service in Oregon and are in the public interest.

(7) The Association shall adopt rules to provide for broad participation by its members, interested persons, and non-member telecommunications service providers in its deliberations. The rules shall provide procedures for notifying members and other persons of Association meetings and for providing meeting agendas to such persons.

Stat. Auth.: ORS Ch. 757

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 19-1986(Temp), f. & ef. 12-15-86 (Order No. 86-1253); PUC 7-1987, f. & ef. 9-16-87 (Order No. 87-955)

**860-032-0200**

**Essential Services**

(1) For purposes of ORS 759.195, a local exchange service is essential if customers require it to efficiently establish, sustain, or discontinue a telecommunications service by means of the public network. The public network is comprised of a system of interconnected tele-communications channels held out by a local exchange company for use by the general public.

(2) A local exchange service is essential if the service is essential for one or more local customer classes.

(3) If essential and potentially price listed services are packaged together, the entire package is eligible to be considered for price listing if each essential service in the package is readily available to customers on a separate basis and the package price is equal to or greater than the tariffed rate(s) for the essential service(s) plus the long run incremental cost(s) of the price listed

service(s).

(4) Any new service is presumed to be potentially price listed until the Commission determines otherwise. A service is not new if it merely repackages or renames an existing service.

(5) A service can only be discontinued pursuant to OAR 860-032-0020, whether the service is essential or potentially price listed.

(6) The following are essential services:

- (a) Residential Flat;
- (b) Residential Measured;
- (c) Residential Multiparty;
- (d) Suburban;
- (e) Farmer Line;
- (f) Business Simple;
- (g) Business Complex;
- (h) Semi-Public Coin;
- (i) Public Coin;
- (j) Public Access Line;
- (k) Tone Dialing (Touch Tone);
- (l) Hunting;
- (m) Direct Inward Dialing;
- (n) Conditioning;
- (o) Intercept Announcement and Referral;
- (p) Directory Listing (White and Yellow Pages);
- (q) Privacy Listing;
- (r) Directory Assistance;
- (s) Emergency (9-1-1);
- (t) Switched Access Service;
- (u) Toll Restriction.

Stat. Auth.: ORS Ch. 757

Stats. Implemented: ORS 759.190

Hist.: PUC 18-1988, f. & cert. ef. 12-29-88 (Order No. 88-1522); PUC 1-1994, f. & cert. ef. 1-5-94 (Order No. 94-040)

#### **860-032-0210**

##### **Price List Petitions**

(1) When submitting a petition for price listing pursuant to ORS 759.195, the utility shall submit a list of the services deemed to be essential and a list of the remaining services. The utility shall provide the following information:

(a) A description of each service price listed; and

(b) Any proposed maximum price to be charged for the price listed service and the basis upon which this price has been established.

(2) The petition shall demonstrate that the following conditions have been met:

(a) Pricing flexibility is reasonably necessary to enable the utility to respond to current and future competitive conditions for any or all telecom-munications services;

(b) Pricing flexibility will maintain the appropriate balance between the need for price flexibility and the protection of consumers;

(c) Pricing flexibility is likely to benefit the consumers of fixed rate services;

(d) Pricing flexibility is unlikely to cause any undue harm to any customer class; and

(e) The rate for the service is not lower than the long run incremental cost of providing the service.

Stat. Auth.: ORS Ch. 757

Stats. Implemented: ORS 759.030 & 759.190

Hist.: PUC 18-1988, f. & cert. ef. 12-29-88 (Order No. 88-1522)

#### **860-032-0220**

##### **Application for Service by Unserved Person**

(1) Applications under ORS 759.590 for an order of the Commission directing another telecommunications utility to provide local exchange service to an unserved person shall contain the following information:

(a) The name, address (both a physical address to which service is requested and a mailing address), and telephone number (if any) of the applicant-unserved person;

(b) The name and address of the telecommunications utility in whose service territory the applicant is located, if known;

(c) The name and address of the telecommunications utility which is willing to provide local exchange service to the applicant, if any;

(d) Such information and supporting data necessary for the Commission to make the findings described in ORS 759.595(1), including, if known:

(A) The line extension charges or other facilities installation charges estimated by the telecommunications utility in whose territory the applicant is located; and

(B) The line extension charges or other facilities installation charges estimated by the telecommunications utility from which the applicant seeks local exchange service.

(2) The application shall be signed by the applicant, or the applicant's agent or attorney.

(3) An original and two copies of the application shall be filed with the Commission.

(4) The applicant shall mail or otherwise serve a copy of the application upon the telecommunications utility in whose territory the applicant is located and the telecommunications utility from which the applicant seeks local exchange service.

(5) The Commission shall, upon request of the applicant or any telecommunications utility that would be affected by the granting of the application by the Commission, hold a hearing to determine whether the application should be granted. Also, the Commission may hold such a hearing on its own initiative.

Stat. Auth.: ORS 183.335, 756.060 & 767.445

Stats. Implemented: ORS 759.580 & 759.585

Hist.: PUC 5-1993, f. & cert. ef. 2-19-93 (Order No. 93-184)

#### **860-032-0230**

##### **Pay Telephones**

(1) This rule does not apply to pay telephones located within inmate areas of jails, prisons or similar institutions.

(2) A pay telephone must allow free access to 9-1-1 and must not limit the duration of calls to 9-1-1.

(3)(a) Unless the pay telephone is restricted to local calling, access to all available alternative inter-LATA long distance carriers via 10XXX+0 dialing must be allowed where equal access exists;

(b) Unless the pay telephone is restricted to local calling, in all areas access to all available alternative inter-LATA long distance carriers must be allowed via "800" and 950-XXXX numbers.

(4) Pay telephones must carry a label which includes:

(a) The owner and the number to call for reporting problems;

(b) Notification if the pay telephone provider has knowledge of extensions which enable eavesdropping on calls;

(c) The price of a local call;

(d) Any toll or local calling time duration restrictions;

(e) Notification if the pay telephone will not accept incoming calls;

(f) The presubscribed inter-LATA long distance carrier;

(g) Notification that this telephone provides access to all available inter-LATA long distance carriers; and

(h) Notice to dial 9-1-1 for emergencies.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 756.040, 756.060 & 759.690

Hist.: PUC 1-1994, f. & cert. ef. 1-5-94 (Order No. 94-040)

#### **860-032-0240**

##### **Methods for Changing a Telephone Customer's Interexchange Carrier**

(1) As used in this section:

(a) "Electronic authorization" means telephone calls to the toll free number(s) which will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC change, including automatically recording the originating telephone number;

(b) "Interexchange carrier (IXC)" means a person engaged in providing telecommunications services on a for-hire basis between local telephone exchanges, including interstate, intrastate, intra-LATA, and inter-LATA services, but excluding Extended Area Service;

(c) "Local exchange company (LEC)" means "telecommunications public utility" as defined by OAR 860-032-0001(9);

(d) "Primary interexchange carrier (PIC)" means a customer's predesignated interexchange carrier for purposes of placing and being billed for interexchange telephone calls;

(e) "Telemarketer" means a person who, on the person's own behalf, or on behalf of another person, initiates telephone contact with a prospective customer to solicit or attempt to solicit a PIC change.

(2) No IXC shall submit a PIC change order generated by a telemarketer to a LEC until the order has first been confirmed in accordance with at least one of the following procedures:

(a) The IXC has obtained the customer's written authorization to submit the PIC change order, which it must retain for at least one year, and which confirms:

(A) The customer's billing name and address and each telephone number to be covered by the PIC change order;

(B) The decision to change the PIC to the IXC;

(C) The customer's understanding of the PIC change fee; and

(D) The name of the person ordering the change which must be the customer of record or the customer's authorized representative; or

(b) The IXC has obtained the customer's electronic authorization, placed from at least one of the telephone number(s) on which the PIC is to be changed, to submit the order that confirms the information described in subsection (2)(a) of this rule. IXCs electing to confirm sales electronically shall establish one or more toll-free telephone numbers for that purpose. The IXC must create and retain a recording of the electronic authorization for at least one year; or

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has orally confirmed the customer's oral authorization to submit the PIC change order. The IXC must retain a record of the authorization for at least one year. The record must include the information described in subsection (2)(a) of this rule; or

(d) Within three business days of a customer's request for a PIC change, and before the PIC is changed, the IXC must send each new customer an information package by first class mail. The package shall contain at least the following information concerning the requested change:

(A) The information is being sent to confirm an order placed by the customer within the previous week;

(B) The name of the customer's current IXC, if known to the newly requested IXC;

(C) The name of the newly requested IXC;

(D) A description of all terms, conditions, and charges that will be incurred;

(E) The name of the person ordering the change which must be the customer of record or the customer's authorized representative;

(F) The name, address, and telephone number of both the customer and the soliciting IXC;

(G) An addressed, postpaid postcard or return envelope with an insert which the customer can use to deny, cancel, or confirm a service order;

(H) A clear statement that if the customer does not return the postcard, the customer's long distance service will be switched to the soliciting carrier no sooner than 14 days after the information package was mailed; and

(I) The following contact point for consumer complaints: Oregon Public Utility Commission, Consumer Services Division, 550 Capitol Street NE, Salem, OR 97310-1380, Telephone: (503) 378-6600 or 1-800-522-2404.

(e) If an IXC exercises option 2(d), the IXC must wait 14 days after the form is mailed to a customer before submitting the customer's PIC change order to the LEC. If the customer cancels its order during the 14-day waiting period, the IXC may not submit the customer's order to the LEC.

(3) Willful or intentional failure to comply with this rule, or a pattern or practice of non-compliance with this rule, may result in suspension or cancellation of the IXC's certificate(s) of authority

and, in the event of cancellation, the Commission may prohibit the IXC from applying for or obtaining a new certificate of authority for up to three years.

(4) An IXC which obtains a new customer must pay all fees charged to the customer for the PIC change, pay all fees for re-establishment of service with the customer's previous IXC and reimburse the customer for any toll charges paid to the IXC that were in excess of what would have been paid to the customer's previous IXC when:

(a) The IXC fails to comply with this rule;

(b) Except as provided in section (5) of this rule, the customer whose PIC is changed did not authorize the PIC change and so notifies the IXC within 60 days of the PIC change; or

(c) The customer's authorization for a PIC change is obtained by fraud, misrepresentation or deception.

(5) An IXC shall not have its certificate suspended or cancelled under section (3) of this rule or be subject to making payments under section (4) of this rule when:

(a) The PIC change is obtained under section (2) of this rule and was not obtained by fraud, misrepresentation or deception; or

(b) A PIC is changed by a LEC without authorization from the IXC or the end user.

(6)(a) An IXC's failure to provide the Commission, upon request, with records or copies of records required by section (2) of this rule or other records regularly maintained by the IXC regarding PIC changes obtained by means other than telemarketing shall be a violation of this rule.

(b) A customer's failure to provide copies of bills issued to the end user by the IXC from which the refund is sought or issued by the IXC's authorized billing agent shall waive the customer's right to a refund of toll charges under section (4) of this rule.

Stat. Auth.: ORS 183.335, 756.060, 759.015, 759.020 & 759.030

Stats. Implemented: ORS 756.060, 759.015, 759.020 & 759.030

Hist.: PUC 11-1994, f. & ef. 7-21-94 (Order No. 94-1126)

## **DIVISION 33**

### **OREGON TELEPHONE ASSISTANCE PLAN (OTAP)**

#### **860-033-0005**

##### **Definitions**

(1) Residential Service Protection Fund. A legislatively approved fund in the State Treasury.

(2) Residential Service Protection Fund Surcharge. A specified amount up to 35 cents per month against each paying retail subscriber who has telecommunications service with access to the telecommunications relay service. The surcharge shall be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line shall be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premise equipment connected to each circuit. For providers of central office based services, the surcharge shall be applied to each line that has unrestricted connection to the telecommunications relay service. These central office based service lines that have restricted access to the OTRS shall be charged based on software design. For cellular, wireless or other radio common carriers, the surcharge shall be applied on a per instrument basis.

(3) The surcharge does not apply to interconnection between telecommunications utilities, telecommunication cooperatives, competitive telecommunications providers certified pursuant to ORS 759.020, radio common carriers, and interexchange carriers or other services exempt by the Constitution or laws of the United States or of the State of Oregon.

(4) Oregon Telephone Assistance Program (OTAP). A program established by the Public Utility Commission which offers reduced local exchange rates to eligible low income residential customers.

(5) The Commission annually shall review the surcharge and the balance in the Residential Service Protection Fund and may make adjustments to the amount of the surcharge to ensure that the fund has adequate resources but that the fund balance does not



exceed six months of projected expenses. The annual review by the Commission shall take place every January.

Stat. Auth.: ORS 756

Stat. Implemented: ORS 183 & Ch 290, Sections 7 & 8

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 7-1995(Temp), f. & cert. ef. 8-17-95 (Order No. 95-860); PUC 14-1995, f. & cert. ef. 12-20-95 (Order No. 95-1328)

#### **860-033-0010**

##### **Applicability**

The Oregon Telephone Assistance Program is designed to provide reduced rates for local exchange residential telecommunications service for low income customers who meet eligibility requirements. Reduced rates apply to the single line serving the eligible household's principal residence. The Service Assistance Program surcharge is levied on each local access line for which the Federal Communications Commission (FCC) Subscriber Line Charge (SLC) applies. All public utilities, cooperative corporations and unincorporated associations providing local exchange telecommunications service are required to follow these provisions.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 767

Stats. Implemented: ORS Ch. 290 § 6(2)

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

#### **860-033-0030**

##### **Eligibility**

(1) Eligibility for OTAP can be demonstrated by one of the following methods:

(a) Application to the Commission by an individual currently receiving benefits from the federal food stamp program or receiving benefits from another low income public assistance program for which eligibility requirements do not exceed 135 percent of the poverty level;

(b) Certification by an agency contracting with the Commission to qualify an individual as meeting eligibility criteria;

(c) Certification of eligibility in a public assistance program which the Commission has determined to meet eligibility criteria.

(2) An applicant must sign a written authorization (OTAP application) permitting the Commission to release necessary information to a local exchange carrier.

(3) The Commission must be able to verify an individual's continuing participation in a qualifying program. Continuing OTAP eligibility will be based on annual recertification by the Public Utility Commission.

(4) Local exchange carriers and OTAP shall treat OTAP data as confidential information to be used for program purposes only.

Stat. Auth.: ORS Ch. 183, 756 & 767

Stat. Implemented: ORS Ch. 290, Sect. 6(5)

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217)

#### **860-033-0035**

##### **OTAP Rates**

(1) Residential customers qualifying for the OTAP benefit shall pay a reduced monthly rate for local telephone service as established by the Commission. The OTAP benefit shall include:

(a) A waiver of up to 100 percent of the Federal Communications Commission's (FCC) Subscriber Line Charge (SLC); and

(b) A monthly recurring rate which is reduced by an amount at least equal to the waived portion of the FCC Subscriber Line Charge.

(2) The OTAP benefit shall be provided for each billing period during which a customer has been determined eligible for assistance. Where a customer has been determined eligible for less than an entire billing period, the benefit shall be prorated.

(3) Initial benefits become effective on the date PUC receives the signed OTAP application (written authorization) from an eligible customer.

(4) Customers removed from OTAP can reapply by

telephone when they again meet eligibility criteria. Benefits then become effective on the date the Commission reverifies the individual's eligibility.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 767

Stats. Implemented: ORS Ch. 290 § 6

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

#### **860-033-0040**

##### **Alternative Plans**

(1) In lieu of participation in OTAP, a local exchange carrier may apply to the Commission for authority to provide low income telephone assistance by means of an alternative plan. A local exchange carrier's application shall demonstrate that:

(a) Customers eligible for OTAP will receive a benefit not less than the benefit the same customers would have received from OTAP;

(b) Customers who qualify for assistance under OTAP will also qualify for assistance under the local exchange carrier's alternative plan;

(c) Administrative costs for an alternative plan will be no greater than the local exchange carrier's administrative costs would be if the local exchange carrier participated in OTAP.

(2) Local exchange carriers providing low income assistance under an alternative plan shall inform the Commission monthly of the number of subscribers receiving a benefit and the total dollar amount in benefits provided by the local exchange carrier's plan.

(3) Eligible subscribers shall continue receiving benefits under the Commission plan until the local exchange carrier's alternative plan is approved by the Commission and implemented by the local exchange carrier.

Stat. Auth.: ORS Ch. 183, 756 & 767

Stats. Implemented: ORS Ch. 290 § 6(3)

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415)

#### **860-033-0045**

##### **Compensable Expenses**

(1) Local exchange carriers shall be compensated from the Residential Service Protection Fund for specific costs incurred as a consequence of participating in OTAP. Local exchange carriers shall request compensation by submitting an invoice to the Commission at least quarterly. Funds will be disbursed to carriers no more than 20 days after a properly filed invoice is received by the Commission:

(a) Local exchange carriers will be compensated for benefit costs. Compensation will equal the revenue carriers forego by providing local service to qualified low income customers at a reduced rate. Invoices shall indicate the number of qualified customers who received the OTAP benefit during a specified period and the amount of revenue foregone during the same period;

(b) Local exchange carriers shall receive compensation for each customer they enroll for the OTAP benefit at the request of the Commission. Invoices shall indicate the number of customers that were enrolled during a specified period;

(c) Local exchange carriers shall be compensated for the cost of preparing special administrative reports for OTAP. Invoices shall include the number and type of administrative reports prepared for the Commission during a specified period;

(d) Local exchange carriers shall be compensated for the cost of preparing and distributing educational materials about OTAP at the request of the Commission. Invoices shall indicate the number of customers receiving the materials and an itemized accounting of the cost of preparing the materials.

(2) Compensation will be determined by the Commission based on the cost a local exchange carrier would reasonably incur to accomplish each task referred to in section (1) of this rule.

(3) Local exchange carriers providing low income telephone assistance under an approved alternative plan shall be compensated for benefit and administrative costs. However, compensation from the Residential Service Protection Fund shall be no greater than the compensation carriers would have received had they participated in OTAP.

(4) Governmental agencies contracting with the Commission to certify the eligibility requirements of individuals or to perform other administrative functions authorized by these rules shall be compensated based on the terms of the contract.

Stat. Auth.: ORS Ch. 183, 756 & 767

Stats. Implemented: ORS Ch. 290, § 8

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415)

#### **860-033-0046**

##### **Audit and Accounting**

(1) Based upon accounting procedures approved by the Commission, local exchange carriers shall maintain accounting records in such a manner that costs associated with OTAP can be separately identified. Records shall be provided to PUC upon request.

(2) The OTAP shall conduct an internal audit on a biennial basis and the results of the audit shall be reported to the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 767

Stats. Implemented: ORS Ch. 290, § 8

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

##### **Link-Up America**

#### **860-0033-0050**

##### **Eligibility**

(1) The Public Utility Commission adopts the Federal Communications Commission (FCC) eligibility criteria for Link-Up America in **Part 36 of Title 47 CFR, Section 36.711, effective on February 27, 1989.**

(a) Applicants can self-certify to a local exchange carrier eligibility criteria other than the income criteria. Income eligibility must be verified;

(b) Applicants must be certified by an organization approved by the Commission as meeting the requirements of an established income test for a low income assistance program offered through the Department of Human Resources.

(2) Security deposit requirements will be waived for residential applicants who are eligible for Link-Up America and who have met satisfactory credit requirements of OAR Chapter 860, Division 21.

(3) If an applicant does not meet the credit requirements of OAR Chapter 860, Division 21 or has an outstanding bill with the local exchange carrier, the deposit will not be waived and the applicant will be subject to the conditions and payment arrangements contained in OAR 860, Division 21.

(4) A local exchange carrier shall offer a 50 percent reduction in its tariffed line connection charge, up to a maximum of \$30, to eligible Link-Up America applicants. This assistance does not cover special features or services or deposits.

(5) Customers shall be entitled to pay the remaining line connection balance in no more than four equal monthly installments, provided the monthly payment is at least \$2. If the equal monthly payment is under \$2, a local exchange carrier may enter into an agreement for less than four months.

(6) Local exchange carriers shall seek reimbursement from the National Exchange Carrier's Association (NECA), authorized agent of the FCC.

(7) Failure by a customer to make payments as agreed upon with the local exchange carrier will result in disconnection of service pursuant to OAR Chapter 860, Division 21.

(8) Upon FCC approval of a Commission OTAP and Link-Up America plan, local exchange carriers subject to Oregon Laws 1987, Chapter 290, shall file appropriate tariffs with the FCC and the Commission.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS 756 & 767

Stat. Implemented: ORS Ch. 290, Section 6

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 8-1989, f. & cert. ef. 6-8-89 (Order No. 89-724); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

##### **Telecommunication Devices Access Program**

#### **860-033-0505**

##### **Definitions**

(1) "Adaptive Equipment". A special telecommunications equipment that permits a disabled person, other than a person who is hearing- or speech-impaired, to communicate effectively on the telephone.

(2) "Applicant". A person who applies for a telecommunication device for the deaf (TDD), adaptive equipment and/or signal device.

(3) "Authorized TDD Distributor". A facility authorized by the Commission to distribute TDD/ adaptive equipment.

(4) "Coordinator". A person employed by the Commission to implement the Telecommunication Devices Access Program (TDAP).

(5) "Disabled". A physical condition other than hearing or speech impairment that requires use of adaptive equipment before a person can utilize the telephone.

(6) "Distribution Center". A facility authorized by the Commission to distribute TDD/adaptive equipment.

(7) "Household". All occupants living in one dwelling.

(8) "Recipient". A person whose application for TDD device/adaptive equipment has been approved by the Commission and who receives TDD/adaptive equipment.

(9) "TDD / Adaptive Maintenance Service". A facility authorized by the Commission to repair any reasonably damaged TDD / adaptive equipment.

(10) "TeleBraille". A two-unit system designed for face to face and telephone communication through the use of a modified TDD equipped with a typewriter keyboard, visual display, and acoustical coupler, linked to a Braille display with a 20-cell dynamic Braille display.

(11) "Telecommunication Device for the Deaf Equipment" or "TDD Equipment". Various telecommunication devices including TDD, signal device, surge suppressor, adaptive equipment and Braille display enabling the TDD recipient to use the public telephone system.

(12) "Telecommunication Devices Access Program (TDAP)". A program established by the Commission which with the Telecommunication Devices Access Program Advisory Committee's advice provides TDD equipment and dual party relay services at no additional cost beyond telephone service for deaf, severely hearing-impaired, severely speech-impaired or deaf-blind customers.

(13) "Telephone Relay Center". A facility authorized by the Commission to provide telephone relay service.

(14) "Local Exchange Carrier". A telecommunication public utility or cooperative association that switches and transports communications between customers linked inside an exchange.

Stat. Auth.: ORS 183.335, Ch. 290, 756.060 & Ch. 757

Stats. Implemented: ORS Ch. 290, § 9

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

#### **860-033-0506**

##### **Telecommunications Devices Access Program Advisory Committee (TDAPAC)**

The Telecommunications Devices Access Program Advisory Committee (TDAPAC) shall consist of 12 Oregon residents appointed by the Commission as prescribed by Oregon Law 1987, Chapter 290, Section 12. The TDAPAC shall meet regularly with the Coordinator to give advice concerning matters of general development, implementation, and administration of TDAP. TDAPAC meetings are public, and minutes shall be provided to the public upon request.

Stat. Auth.: ORS Ch. 290 & 757

Stat. Implemented: ORS Ch. 290, Sections 11 & 12

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102)

### **860-033-0510**

#### **Applicability**

The Telecommunication Devices Access Program (TDAP) is designed to provide TDD equipment and services to deaf, severely hearing-impaired, severely speech-impaired, or deaf-blind customers who meet eligibility requirements.

Stat. Auth.: ORS 183.335, Ch. 290, 756.060 & Ch. 757

Stats. Implemented: ORS Ch. 290, § 11(2)

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

### **860-033-0530**

#### **Eligibility**

(1) Eligibility to receive TDD/ adaptive equipment from the TDAP can be demonstrated by meeting all of the following requirements:

(a) Applicant or applicant's parent or guardian is a customer of an Oregon local exchange carrier or has regular access to a specific telephone number;

(b) Applicant submits to the Commission a written form signed by a licensed physician, audiologist, speech pathologist, Vocational Rehabilitation counselor, the state Coordinator or a regional Coordinator of the Deaf and Hearing Impaired Access Program or a person certified by the program as qualified to determine whether a person meets the eligibility requirements of TDAP, stating that the applicant is deaf, severely hearing-impaired, severely speech-impaired, or deaf-blind. The certification can precede adoption of these rules. Such certification may be presented in any one of the following ways:

(A) A written statement or signed audiogram describing the severity of the hearing loss; or

(B) A signed form developed by the Commission which permits the applicant to send the form to a professional with certification authority mentioned in paragraph (1)(b)(A) of this rule. Applicant's handicap may be a temporary disability and shall require professional verification of the extent and permanence of the disability.

(c) Applicants shall demonstrate their ability to understand the nature and use of the TDD device/adaptive equipment for the purposes of receiving or sending messages via the telephone system. In the case of applicants below 18 years of age, a parent or a guardian must apply on behalf of the applicant and assume full responsibility for the TDD/adaptive equipment and services. Emancipated minors are considered adults.

(2) The Coordinator shall only approve applications for persons who cannot use the telephone for expressive or receptive communication. The Coordinator shall provide equipment suitable to utilize the telecommunications system.

(3) The Coordinator shall provide one TDD/ adaptive device for the deaf per household. However, two TDD/adaptive devices for the deaf may be provided to a household if more than one eligible person permanently resides in the household.

Stat. Auth.: ORS 183.335, Ch. 290, 756.060 & Ch. 757

Stats. Implemented: ORS Ch. 290, § 14

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

### **860-033-0535**

#### **TDD/Adaptive Equipment Ownership and Identification**

The following are indications of ownership and identification procedures:

(1) All TDD/adaptive equipment purchased under the TDAP will remain the property of the State of Oregon. The distributors and distribution centers shall record the serial number of each TDD/adaptive equipment.

(2) Any TDD/adaptive equipment distributed to eligible applicants under this program shall not be sold, loaned, or otherwise transferred from the possession of the original recipient. Unauthorized transfers will subject the recipient to repossession of the TDD/adaptive equipment, prosecution, or liability for the full purchase price of the equipment.

(3) Any recipient who moves to a different address within Oregon must report the new address to the PUC within 20 days of the move. A recipient who moves to another state, or who is no longer a customer of an Oregon local exchange carrier for any reason, shall return all TDD/adaptive equipment received through the TDAP to a distribution center or the PUC within 30 days after termination of local exchange service or before leaving Oregon. However, a recipient may take TDD/adaptive equipment on travel outside of Oregon. The recipient must obtain written permission from the Coordinator if the travel will be for more than 90 days.

(4) Recipients must complete training provided by PUC or a distribution center and sign the Conditions of Acceptance agreement before they receive TDD/adaptive equipment. The training for each recipient, including the specific date and time of completion, will also be documented by the distribution center.

(5) Recipients shall be liable to the Commission for damage done to the equipment as a result of negligence, recklessness, or intentional destruction. Recipients shall pay the damage in full. A substantial deposit for a second TDD/adaptive device will be required. Recipients are not liable for damage caused to the equipment by normal wear and tear or acts of nature such as earthquakes and floods.

(6) If the equipment is stolen, a recipient must notify the local law enforcement agency within 24 hours of the date the recipient discovers the theft. A recipient shall forward a copy of the police report to the Commission or a distribution center within five days of the date the theft was reported.

(7) The Commission may request information from a local exchange carrier regarding the status of recipients' exchange access service. Upon receipt of such a request, the local exchange carrier shall report to the Commission whether a recipient has ordered, is receiving, has requested termination, is in the process of terminating, or is not receiving local exchange service. The Commission shall provide the local exchange company with the name and telephone number of the recipient at the time the information is requested.

Stat. Auth.: ORS 183.335, Ch. 290, 756.060 & Ch. 757

Stats. Implemented: ORS Ch. 290, § 10, § 13

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

### **860-033-0540**

#### **TDD/Adaptive Distribution Procedures**

(1) Subject to appropriation and to the approval of expenditures for the TDD/adaptive equipment and services purchased by the Commission, the Commission may contract with any governmental agency or other entity to establish authorized TDD/adaptive equipment distributors, a TDD/adaptive equipment distribution center network, and a TDD/adaptive maintenance center network.

(2) In the event demand exceeds supply, the Commission will distribute TDD/adaptive equipment to customers on a first come first serve basis.

(3) The authorized TDD distributors shall inform the Coordinator in writing of all incoming and outgoing shipping orders of TDD/adaptive equipment. The written information shall include the serial number they engraved on all TDD/ adaptive equipment.

(4) The TDD/adaptive equipment distribution centers shall inform the Coordinator in writing of all incoming and outgoing shipping of TDD/ adaptive equipment with the engraved serial numbers.

(5) Upon notice from the Coordinator, the distribution centers shall distribute TDD/adaptive equipment to applicants found to be eligible.

(6) A network of "strategically placed" distribution centers around the state of Oregon shall be established to serve the recipients. In sparsely populated areas where the distribution centers are out of reach of recipient's residence, or when a recipient is physically unable to go to a distribution center, recipients shall correspond directly with the Coordinator. Upon delivery of the TDD/adaptive equipment to the Coordinator, the Coordinator will arrange the necessary training and delivery of the



TDD/adaptive equipment.

(7) The distribution centers shall require all applicants, including parents or legal guardians, to sign the Conditions of Acceptance form supplied by the Coordinator before they are provided TDD/adaptive equipment or are eligible to receive training. The distribution centers and maintenance centers shall forward all forms to the Coordinator.

(8) The distribution centers shall provide basic training approved by the Coordinator, not including a course in typing or use of the telephone network, to all recipients, parents, or legal guardians in the proper use of TDD/adaptive equipment and in associated rights and responsibilities. The center shall document and report to the Coordinator the specific times and dates of each training provided for each applicant. No applicant shall be issued a device before completing the required training.

(9) The distribution centers shall inform the Coordinator in writing of those applicants who failed to report for training and receipt of devices.

(10) Neither authorized TDD/adaptive equipment distributors, distribution centers, TDD/ adaptive maintenance centers, nor the Coordinator shall provide replacement paper for the TDD/ adaptive equipment, the payment of the recipient's monthly telephone bill, purchase or lease cost of recipient's telephone, or the cost of replacement light bulbs for signal devices.

(11) The distribution center shall disseminate a copy of telephone rate reduction application forms, mailing forms for purchasing TDD equipment paper, and telephone relay service information handouts.

Stat. Auth.: ORS 183.335, Ch. 290, 756.060 & Ch. 757

Stats. Implemented: ORS Ch. 290, § 13

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

#### **860-033-0545**

##### **Compensable Expense**

(1) The authorized TDD/adaptive equipment distributors, distribution centers, maintenance centers, and Oregon local exchange carriers shall be compensated from the Residential Services Protection Fund for specific costs incurred as a consequence of participating in the TDAP. These contracted TDD programs and services shall request compensation by submitting an invoice to the Commission at least quarterly. Funds will be disbursed to these contracted TDD programs or services no more than 20 days after a properly filed invoice is received by the Commission:

(a) The local exchange carriers shall be compensated for the costs associated with the verification of service status and notification to the coordinator of service termination under OAR 860-33-535(7);

(b) The authorized TDD/adaptive distributors will be compensated for selling, coordinating, and storing the TDD/adaptive equipment. Invoices shall indicate all services performed by distributors as well as the number of the TDD/adaptive equipment provided to recipients. Compensable services shall include the cost of engraving TDD/adaptive equipment with an identification number, shipping costs, storage costs, delivery costs, and other related costs;

(c) The distribution centers will be compensated for the cost of preparing and distributing the TDD/adaptive equipment and maintenance request services for the customers. Invoices shall indicate the number of the TDD/adaptive equipment unit including the engraved identification on either distributing TDD/adaptive equipment to recipient or receiving TDD repair orders from recipient. The specific tasks of preparation and services in distributing the TDD/adaptive equipment shall be subject to written agreement between the Commission and the contracted TDD/adaptive equipment personnel;

(d) The TDD/adaptive equipment maintenance centers shall be compensated for repairing the damaged TDD/adaptive equipment, the storage of extra TDD/adaptive equipment replacement, and required insurance for storage. Invoices shall indicate the labor and parts of the damaged TDD/adaptive equipment, the

storage cost and the insurance premium cost, including engraved TDD/adaptive equipment identification inventory;

(e) The rate of compensation will be determined by the Commission based on the cost the distribution center should reasonably incur to accomplish each task.

(2) Based upon accounting procedures established by the Commission, the TDD/adaptive equipment distributors, TDD/ adaptive equipment distribution centers, and TDD/adaptive equipment maintenance centers shall maintain accounting records in such a manner that costs associated with TDAP can be separately identified. Their records will be audited by the Commission.

Stat. Auth.: ORS 183.335, Ch. 290, 756.060 & Ch. 757

Stats. Implemented: ORS Ch. 290, § 13

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

#### **860-033-0560**

##### **Oregon Telecommunications Relay Service (OTRS)**

OTRS will comply with the Americans with Disabilities Act's requirements incorporated with the Federal Communications Commission's Adopted Rules of CC Docket No. 90-571 dated July 11, 1991.

Stat. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS Ch. 290, § 10

Hist.: PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238)

### **DIVISION 34**

#### **SMALL TELECOMMUNICATIONS UTILITIES**

#### **860-034-0010**

##### **Scope of the Rules**

(1) The adoption of these rules shall in no way preclude the Public Utility Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint or upon its own motion, or upon the application of any utility. Furthermore, these rules shall not in any way relieve any utility from any of its duties under the laws of this State.

(2) The rules contained in this Division shall apply exclusively to telecommunications utilities partially exempt from regulation under ORS 759.040.

(3) As used in this Division, except as provided in section (4) of this rule:

(a) "Telecommunications Utility" has the meaning given the term in ORS 759.005;

(b) "Utility" means a telecommunications utility partially exempt from regulation under ORS 759.040.

(4) As used in OAR 860-034-0600 through OAR 860-034-0670, "telecommunications utility" has the meaning given that term in ORS 759.005 and also includes, as provided in ORS 759.225, any unincorporated association or cooperative corporation providing intrastate telecommunications services.

Stat. Auth.: ORS 759.220, 759.225 & 756.060

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **General**

#### **860-034-0020**

##### **Definitions**

As used in OAR 860-034-0030 through 860-034-0270:

(1) "Applicant" means a person who:

(a) Applies for service with a utility; or

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

(2) "Customer" means a person who has applied for, been accepted, and is currently receiving service. Notwithstanding section (1) of this rule, a customer who voluntarily disconnects service and subsequently requests service with the same utility at

a new or existing location within 20 days after disconnection retains customer status.

(3) "Consumer" means applicants and customers.

(4) "Registered Dispute" means an unresolved issue between a consumer and a utility that is under investigation by Consumer Services Division, but is not the subject of a formal complaint.

(5) "Utility Service" means those services which are subject to Commission jurisdiction including local exchange service and intraLATA Toll Service.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0030**

##### **Applications for Utility Service**

(1) An application for utility service must be made where:

(a) Service is requested by a person who has not previously been served by the utility; or

(b) Service has been involuntarily discontinued in accordance with these rules, and the person subsequently seeks to have service restored.

(2) An application for utility service may be requested when service has been voluntarily discontinued, and a request to restore service has not been made within 20 days.

(3) An application is a request for utility service. An application for service shall not be accepted until the applicant:

(a) Establishes credit as set forth in OAR 860-034-0140; or

(b) Pays a deposit or deposit installment to the utility.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0040**

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

(1) Each utility shall upon request, furnish its customers with such information as is reasonable to permit them to secure efficient service.

(2) Each utility shall keep on file and open for public inspection at its offices, complete rate schedules, contract forms, rules, and regulations of the utility, and a copy of the Commission's rules and regulations.

(3) Each utility shall supply, upon request, a copy of the tariffs applicable to the type or types of service furnished to the customer by the utility.

(4) At the time of application for new service, or upon subsequent request, the utility shall assist the consumer in selecting the most advantageous rate to meet individual service requirements. The consumer shall be responsible for making the final selection of a rate schedule.

(5) At the time service is initiated and not less than once each year thereafter, every utility shall give its residential customers a written summary of their rights and responsibilities. If the service is initiated without a personal visit between the utility and the customer, the utility shall mail the summary to the customer no later than the time that the first bill statement is mailed. Utilities satisfy the annual notification requirement by prominent publication of the information in a telephone directory distributed to its customers annually. The summary shall include the text of a summary prepared by Consumer Services Division or prepared by the utility and approved by the Commission that describes:

(a) The option to designate a third party to receive bills and notices and the availability of notices in languages other than English;

(b) Applicable financial assistance programs, such as the Oregon Telephone Assistance Program and Link-Up America;

(c) The availability of medical certificates;

(d) Special payment options. Late-payment charges, if any, shall be explained, along with the availability of any preferred billing date option;

(e) Procedures for conflict resolution, including how to register a dispute with the utility and with the Commission and the toll-free number of the Consumer Services Division;

(f) Listings of consumer intervenor organizations, including

address and telephone number, may be requested from Consumer Services Division; and

(g) The Commission's telephone solicitation rules.

(6) When service is initiated, the utility shall inquire whether the customer would like to receive notices in a language other than English and will inform the customer of the type of notices and translations currently available. If the language chosen is not available, the utility will tell the consumer that the translated version does not yet exist, but that the consumer's interest will be recorded for the Commission. Each utility shall retain a record of the number of requests for notices and summaries in non-English languages in a format that can be forwarded to the Commission immediately upon request. The report shall specify the number of requests for each language.

(7) Notices approved by the Commission shall be posted in a conspicuous place in each utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The notices shall be printed in large boldface type and shall be written in language that is easy to understand.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0050**

##### **Multilingual Notices**

(1) A multi-lingual disconnect notice shall be provided when five percent or 500 customers, whichever is the lesser, have requested such a notice.

(2) Disconnect notices as required in section (1) of this rule shall contain the following information translated into the requested languages: **IMPORTANT NOTICE:** Your telephone 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.**

(3) A utility may petition the Commission for a waiver of the requirement in sections (1) and (2) of this rule to provide multilingual notice for two calendar years, which may be renewed, upon a showing that such notices are not necessary.

(4) The Commission will translate a consumer's rights and responsibilities summary into the following non-English languages: Spanish, Vietnamese, Cambodian, Laotian, and Russian. The Commission will provide copies to a utility upon request.

(5) The utility shall record all requests and promptly mail the requested version of the summary to the consumer.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0060**

##### **Dispute Resolution**

(1) In the event of a dispute between a consumer and a utility about any bill, charge, or service, the utility shall thoroughly investigate the matter and promptly report the results of its investigation to the person. Each utility shall prepare a written record showing the name and address of the consumer involved, the date and character of the dispute, and the disposition of the matter. Records of disputes shall be retained pursuant to OAR 860-034-0580.

(2) A consumer shall be informed of the right to supervisory review of any dispute, including but not limited to, establishment of credit and termination of service. If a dispute is not resolved, the utility shall notify the consumer of the Commission's dispute resolution procedure and its toll-free telephone number.

(3) A consumer may request the Commission's assistance in resolving the dispute by contacting the Commission's Consumer

Services Division at 1-800-522-2404; TDD 1-800-648-3458; or at 550 Capitol Street N.E., Salem, OR 97310-1380. The Commission shall notify the utility upon receipt of such a request.

(4) The Consumer Services Division shall assist the complainant and the utility in an effort to reach an informal resolution of the dispute.

(5) If a registered dispute cannot be resolved informally, the Consumer Services Division 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 utility shall answer the complaint within 15 days of service of the complaint. The matter shall then be set for expedited hearing. A hearing may be held on less than ten days' notice where good cause is shown.

(6) Pending resolution of the dispute, the complainant's obligation to pay undisputed amounts continues.

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

(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) Where termination is based on nonpayment, the customer makes adequate arrangement to avoid future loss to the utility, such as prepaying estimated monthly utility charges; and

(d) The consumer diligently pursues conflict resolution under the Commission's rules.

(8) If the conditions in section (7) of this rule are not satisfied, the utility has no obligation to provide continued service. A utility discontinuing service because of a failure of conditions of subsection (7)(c) or (d) of this rule shall give the customer five-day notice served in the same manner as provided for in OAR 860-034-0260 except that the notice need only describe the defect in performance, the date and time after which utility service will terminate, and the toll-free number of Consumer Services Division. In deciding whether the conditions are met, the utility shall consult with Consumer Services Division. A customer who has filed a formal complaint, the utility, or Consumer Services Division 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 utility, and Consumer Services Division 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 last known address of the party. Mailed notice is effective two days after deposit in the U.S. mail, excluding Sundays and holidays.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0070**

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

Each utility shall offer its customers the option to designate a third party to receive bills and notices set forth in these rules. When a utility receives such designation, it shall send bills and notices required under these rules to the representative, with duplicate copies of disconnect notices also served on the customer.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0080**

##### **Restrictions on Entering a Customer Residence**

No utility employee shall enter the residence of a customer without proper authorization except in an emergency endangering life or property.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0090**

##### **Interruption of Service**

(1) Each utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration and cause of interruption.

(2) Each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur, shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its consumers and the general public.

(3) Insofar as is practical, every customer affected shall be notified in advance of any contemplated work which will result in interruption of service, but such notice shall not be required in case of interruption due to emergency repairs.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0100**

##### **Temporary Service**

Each utility may render temporary service to a customer and may require the customer to bear all the cost of installing and removing the service in excess of any salvage realized. The length of temporary service shall be specified in the applicable tariffs on file with the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0110**

##### **Due and Payable Period**

Each utility shall establish procedures to insure that the period from billing transmittal to due date is not less than 15 days for all customers.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0120**

##### **Late-Payment Charge**

(1) A utility may apply a late-payment charge to customer accounts not paid in full each month, provided the utility has filed the late-payment charge in its rate schedule.

(2) The charge will be based on a monthly late-payment rate applied to overdue account balances at the time of preparing the subsequent month's bill. The late-payment charge may not be applied to time-payment accounts that are current. The Commission will determine the late-payment rate annually based on a survey of prevailing market rates for late-payment charges of commercial enterprises and will advise all utilities by November 15 of each year what rate they may use to determine late-payment charges on overdue customer accounts during the following calendar year. The current late-payment rate and the conditions for its application to customer accounts shall be specified on the utility bill.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0130**

##### **Adjustment of Bills**

(1) When an under or overbilling occurs, the utility shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to some cause, the date of which can be fixed, the over or undercharge shall be computed back to such date. If no date can be fixed, the utility shall refund the overcharge or rebill the undercharged for no more than six months' usage. In no event shall an over or underbilling be for more than three years' usage.

(2) Where a customer is required to repay an underbilling, the customer shall be entitled to enter into a time payment agreement without regard to whether the customer already



participates in such an agreement. If the customer and utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The utility shall provide written notice advising the customer of the opportunity to enter into a time-payment agreement and of the Commission's complaint process.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0140**

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

(1) Mandatory deposit from known credit risks. A utility shall require a deposit from a consumer who:

(a) Received the same type of utility service from it or any Oregon telecommunications utility within the preceding 24 months and at the time service was terminated, the customer owed an account balance that was not paid according to its terms. This section does not apply to customers who registered a dispute with the Commission within 60 days after service terminated and who promptly paid all undisputed or adjudicated amounts; or

(b) Was previously terminated for theft of service by it or any Oregon regulated electric, gas, water or telecommunications utility or was otherwise found to have diverted electric, gas, water or telecommunications utility service.

(2) Credit established by prior account in good standing. A utility shall not require a deposit from an applicant it served within the preceding two years who voluntarily terminated service and whose final bill was paid in full by its due date.

(3) Credit established by other means. In all other cases, an applicant may choose whether to submit:

(a) A letter from a telecommunications utility, on that telecommunications utility's official stationery signed by an authorized employee, stating that it served the named applicant within the preceding two years, the applicant voluntarily terminated service, and paid his or her final bill in full by its due date;

(b) A written surety agreement from a responsible party to secure payment in an amount equal to two month's average usage. For the purpose of this rule, a customer of the utility who has received service continuously for the preceding 12 months from the same utility company without late payment is considered a responsible party. The obligation of the surety ceases when the customer establishes good credit; or

(c) Positive identification. A consumer provides positive identification by executing an application for service including the consumer's name, address, date of birth, social security number, if any, and is supported by any one of the following:

(A) An Oregon license from the Department of Motor Vehicles, or other state identification containing a photograph of the consumer or other identifying information such as name, date of birth, sex, height, color of eyes, and address;

(B) U.S. passport, certificate of citizenship or naturalization, Immigration and Naturalization Service temporary resident card, employment authorization card, or equivalent identification, with photograph;

(C) A combination of:

(i) Birth certificate or social security card;

(ii) Current identification from school, employment, Adult and Family Services, or other State of Oregon assistance program; and

(iii) With the name, address, and telephone number of a person who can verify the consumer's identity as shown, such as a teacher, employer, or caseworker.

(d) A deposit.

(4) A deposit required under these rules shall be based upon two months' average or estimated usage of the utility's tariff and price listed services.

(5) Any additional or subsequent deposit required shall be calculated as provided for by section (4) of this rule using the most recent information available. Such deposits may be required as a condition of continued service:

(a) If service records indicate unbilled intraLATA toll

activity greater than that upon which the prior deposit was based;

(b) In the case of a customer who established credit by providing "positive identification" under these rules, the customer gave false information to establish identity.

(6) Paying a deposit does not excuse a customer from complying with the utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(7) A utility may file a tariff that contains less stringent deposit requirements than those specified in this section.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0150**

##### **Payment Arrangements for Deposit and Installation Charges for Residential Telecommunications Service**

(1) Time payments for deposits and nonrecurring charges shall be limited to charges for residential service and intraLATA toll. When a deposit and/or nonrecurring charges to establish or reestablish service are required from an applicant, the applicant shall pay the deposit and/or nonrecurring charges in four installments. The first installment is due immediately; the remaining shall be paid in three installments which shall be due 30, 60, and 90 days respectively after the date the payment agreement is executed. Except for last payment, installments shall be the greater of \$20 or one-fourth of the deposit and/or nonrecurring charges. In communicating with an applicant to establish service or to require a deposit and/or nonrecurring charges, the utility shall inform the applicant of the availability of Link-Up America and Oregon Telephone Assistance Program benefits and inform the person that details are available from the Commission.

(2) Where an installment payment or a deposit is made together with a payment for utility service, the amount paid shall first be applied toward payment of the amount due for deposit and/or nonrecurring charges.

(3) A customer who is required to pay an additional deposit shall pay one-fourth of the total deposit or \$20, whichever is greater, within five 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-day period.

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

(5) If a person fails to abide by the terms of an installment agreement, the utility may disconnect local exchange service after providing a written five-day notice. The notice shall contain the information set forth in OAR 860-034-0260(3)(a) through (e) and shall be served in the manner set forth in OAR 860-034-0260(4) and (5). In lieu of permanent disconnection, the utility may curtail service pursuant to OAR 860-034-0260(7).

(6) Where good cause exists, the utility may provide or the Commission may require, more liberal arrangements or payment of deposits and/or nonrecurring charges than those set forth in this rule. The utility shall keep a written record of the reasons for such action.

(7) Should disconnection for nonpayment of a deposit and/or nonrecurring charges occur, the person disconnected shall be required to pay the full amount of the deposit and/or nonrecurring charges, any applicable reconnection fee, late-payment fee, and past-due amount before service is restored. A customer may continue with an existing medical certificate time-payment agreement by paying all past-due installments.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045 & Ch. 290, § 2-4

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0160**

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

(1) Unless otherwise specified by the Commission, customer deposits shall accrue interest at a rate based upon the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October. This interest rate, rounded to the nearest percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all utilities by November 15 of each year what rate will be paid on customer deposits held during the following calendar year.

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

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0170**

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

(1) A customer's deposit, plus accrued interest, shall be promptly refunded when service is terminated, provided that refunds due shall first be applied to any unpaid balance on the customer's account.

(2) A utility may continue holding a deposit until such time as credit is satisfactorily established or reestablished. For purposes of this rule, credit shall be considered to be established or reestablished if one year after a deposit is made:

(a) The account is current;

(b) Not more than two five-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 be promptly refunded or credited to the customer's account. A customer shall be entitled to a refund upon request.

(4) In the event the customer moves to a new address within the company's service area, the deposit, plus accrued interest, will be transferred to the new account.

(5) Deposits plus accrued interest can be refunded or credited, in whole or in part, to the customer's account at any time earlier than prescribed in this section, provided that procedures followed by the utility are nondiscriminatory.

(6) Unless otherwise specified by the customer, a utility shall mail deposit refunds to the customer's last known address. Valid claims for payment of refunds shall be promptly honored by the utility if received within one year of the date service is terminated. Funds held beyond one year will be disposed of in accordance with ORS 98.316.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0180**

##### **Grounds for Disconnecting Utility Service**

Utility service may be disconnected:

(1) 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 860-034-0150); or

(b) Providing false identification or verification of identity.

(2) Where facilities provided are unsafe or do not comply with state and municipal codes governing service or the rules and regulations of the utility (OAR 860-034-0250).

(3) Where a customer requests the utility to disconnect service or close an account (OAR 860-034-0190).

(4) Where dangerous or emergency conditions exist at the service premises (OAR 860-034-0200).

(5) For failure to pay Oregon tariff or price listed charges due for services rendered (OAR 860-034-0260) or theft of service.

(6) For failure to abide by the terms of a time payment agreement (OAR 860-034-0270).

(7) Where the Commission approves the disconnection of service.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0190**

##### **Voluntary Disconnection**

Every customer who is about to vacate any premises supplied with service by the utility, or who for any reason wishes to have such service discontinued, shall give five days' notice in advance of specified date of discontinuance of service to the utility. Until the utility shall have such notice, the customer shall be held responsible for all service rendered.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0200**

##### **Emergency Disconnection**

In emergencies endangering life or property, a utility may terminate service without following the procedures set forth in Division 34. However, the utility shall immediately thereafter notify the Commission. In such cases, where the necessity for emergency termination was through no fault of the customer, there will be no charge made for restoration of service.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0210**

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

Utility service shall not be disconnected for nonpayment on or the day prior to a weekend or a state or utility-recognized holiday.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0220**

##### **Accounts Not Related to Residential Service**

A utility may not deny or disconnect residential service due to the failure to pay for nonresidential service, or to meet obligations in connection with nonresidential service.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0230**

##### **Reconnection Fee**

Where a utility service is disconnected pursuant to OAR 860-34-180, the utility may charge the reconnection fee set forth in its tariff.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0240**

##### **Transfer Billings**

(1) If a utility identifies a balance a customer owes the utility from the customer's prior account for Oregon service, a utility

may transfer the amount to the customer's current account after giving the customer notice of the transfer, the amount due under the prior account, the period of time during which the balance was incurred, and the service address or telephone number under which the bill was incurred. The notice must also meet the provisions of OAR 860-034-0260(3)(d) and (e). If the bill is identified at the time a customer changes residences, the provisions of this rule apply.

(2) Utilities shall make more liberal payment arrangements for customers on medical certificates who cannot reasonably be expected to pay the outstanding balance in the time otherwise applicable under this rule.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0250**

##### **Refusal of Service**

(1) A utility may refuse to provide service to a person until it receives full payment of any overdue amount and any other obligation related to a prior account.

(2) A utility may refuse to provide service until payment is received when the following circumstances exist:

(a) An overdue balance has been incurred by a person at a service address;

(b) An applicant for service resided at the service address described in subsection (2)(a) of this rule during the time the overdue balance was incurred; and

(c) The person described in subsection (2)(a) of this rule will reside at the location to be served under the new application.

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

(4) A utility shall not provide service or materially change service to a customer, if, in the best judgment of the utility, the desired service is of a character that is likely to unfavorably affect service to other customers.

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

(6) In the event service is refused, the utility shall notify the customer or applicant of the reasons for refusal and the Commission's complaint process.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0260**

##### **Disconnection Procedures for Commercial and Residential Utility Services Customers**

(1) Involuntary termination of commercial and residential utility service shall be under the provisions of this rule.

(2) At least five days before a utility disconnects service for nonpayment for services rendered, written notice of disconnection must be provided to the customer.

(3) The notice must be printed in bold face type and must state in easy to understand language:

(a) The reasons for the proposed disconnection;

(b) The earliest date for disconnection;

(c) The amount to be paid to avoid disconnection;

(d) An explanation of the Commission's complaint process and the Commission's toll-free number; and

(e) An explanation of the availability of an emergency medical certificate for local exchange residential telecommunications service customers under OAR 860-034-0270.

(4) The notice may not be sent prior to the due date for payment for the services billed.

(5) The 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.

(6) If a premise visit is required to complete disconnection, the utility must make a good-faith effort to personally contact the customer or a resident at the service address to be disconnected. If the attempt to make personal contact fails, the utility must leave a notice in a conspicuous place at the premise informing the customer that service has been disconnected.

(7) In lieu of permanent disconnection, a utility may temporarily curtail service by preventing the transmission of incoming telephone messages and/or outgoing toll messages while continuing to allow the customer to make outgoing local messages. Temporary curtailment of service, as defined in this section, shall be permitted only upon at least five days' written notice as set forth in section (3) of this rule. The notice shall state when permanent disconnection will occur unless full payment of any overdue amount or any other obligation is made. The utility shall provide at least ten days' notice before permanent disconnection.

(8) Except for service provided by a utility to its customers served by an office incapable of restricting toll service, a utility shall not disconnect or deny local exchange telephone service for the failure by an applicant or customer to pay for services not under the local exchange utility's tariff or price list. Utilities may limit access to toll and special services using the "9XX" prefix or NPA for the failure to pay for such services.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0270**

##### **Emergency Medical Certificate for Residential Telecommunications Service**

(1) A utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) An oral certification must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. Written certifications must include:

(a) The name of the person to whom the certificate applies and relationship to the customer;

(b) A complete description of the health conditions;

(c) An explanation of how the physical health of the person will be significantly endangered by the termination of service;

(d) A statement indicating how long the health condition is expected to last;

(e) A statement specifying the particular type of service required (e.g., access to medical facility for telemonitoring); and

(f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-034-0260(3)(a) through (d) and shall be served in the manner set forth in OAR 860-034-0260(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate is not excused from paying for telecommunications service. Customers are required to enter into a written time-payment agreement with the utility within ten days after submitting the certificate where an overdue balance exists. Terms of the time payment agreement shall be those set forth in section (6) of this rule or such other terms as are agreed upon in writing by the parties. Local exchange service is subject to termination if a customer refuses to enter into or abide by terms of a payment agreement.

(6) A utility may not disconnect local exchange residential service for nonpayment if a customer who has submitted a valid



emergency medical certificate:

(a) Pays the greater of \$10 or 25 percent of the balance owing for tariffed or price-listed services the utility has on file with the Commission, including the amount overdue, existing late-payment charges, any current bill, and any bill under preparation but not yet presented to the customer;

(b) Enters into a time-payment agreement to bring the account into balance within 90 days of the date of the agreement; and

(c) Agrees to keep subsequent bills current.

(7) Where good cause exists, the utility may provide, or the Commission may require, more liberal payment arrangements than those set forth in this rule after providing notice of the payment arrangements in section (6) of this rule. The utility shall keep a written record of the reasons for such action.

(8) Nothing in this section prevents a utility and a customer with a medical certificate from entering into a time-payment agreement for other charges.

(9) The utility and the customer may agree in writing to an alternate payment arrangement, provided the utility first informs the customer of the payment terms set forth in subsections (6)(a) through (c) of this rule.

(10) Time payments shall be on a monthly basis unless otherwise agreed to by the utility and the customer.

(11) The utility shall not accelerate payments under a time-payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(12) If a customer who has submitted an emergency medical certificate fails to enter into or abide by the terms of a time-payment agreement, the utility shall disconnect local exchange service after providing five days' notice to the customer and to Consumer Services Division. The contents of the notice and manner of service shall be provided for in section (3) of this rule. A hearing may thereafter be held to determine whether the utility should be permitted to disconnect service to the customer.

(13) A utility may verify the accuracy of an emergency medical certificate. If the utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the utility may apply to the Commission for permission to disconnect service to the customer.

(14) After notice to the Commission, a utility may terminate local exchange residential service if the utility providing the service does not have the technical ability to terminate toll telecommunications service without also terminating local exchange service.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045 & Ch. 290, § 5

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0280**

##### **Telephone Solicitation**

(1) As used in this rule:

(a) "Telecommunications companies" means certified providers of local exchange telecommunications service except for providers certified solely as competitive telecommunications providers;

(b) "Parties" means residential customers of telecommunications companies.

(2) Pursuant to ORS 646.571, telecommunications companies may identify in local telephone directories parties who do not wish to receive any telephone solicitation. Telecommunications companies which are subject to ORS 759.175 shall file with the Commission all rates, terms, and conditions for any identification program offered.

(3) All telecommunications companies shall notify parties of the provisions of ORS 646.561, 646.563, 646.567 to 646.571, and 646.608. The notice shall include a statement that all telecommunications companies may identify in local telephone directories parties who do not wish to receive any telephone solicitation. The notice shall be provided in the following manner and a copy shall be forwarded to the Commission:

(a) Annual inserts in the billing statements mailed to parties;

or

(b) Conspicuous publication of the notice in the consumer information pages of local telephone directories.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0290**

##### **Customer Notification, Information Services**

(1) As used in this rule:

(a) "Information provider" means any person, company or corporation that operates an information delivery service on a pay-per-call basis.

(b) "Information delivery service" means any telephone-recorded messages, interactive programs or other information services that are provided for a charge to a caller through an exclusive telephone number prefix or service access code. Where a preexisting written contract exists between the customer and the information provider, this definition does not apply.

(2) A utility providing billing services for information providers shall inform customers:

(a) Of the availability of blocking for information delivery services if and when it is technically available;

(b) That a customer's local and long distance service shall not be suspended or terminated for nonpayment of information delivery service charges;

(c) That any customer who suffers damage from a violation of ORS 646.608, 646.639 and 759.700 to 759.720 by an information provider has a cause of action against such information provider and a court may award the greater of three times the actual damages or \$500, order an injunction or restitution and award attorney fees and court costs to a prevailing plaintiff;

(d) That when an information provider has failed to comply with any provision of ORS 646.608, 646.639 and 759.700 to 759.720 any obligation by a customer that may have arisen from the dialing of a pay-per-call telephone number is void and unenforceable;

(e) That any obligation that may have arisen from the dialing of a pay-per-call telephone number by an unemancipated child under 18 years of age; or

(f) A person whose physician substantiates that:

(A) The Person has a mental or emotional disorder generally recognized in the medical or psychological community that makes the person incapable of rational judgments and comprehending the consequences of the persons' action; and

(B) The disorder was diagnosed before the obligation was incurred is void and unenforceable; and

(g) Upon written notification to the information provider or the billing agent for the information provider that a bill for information delivery services is void and unenforceable under (d),(e) or (f) of this rule, no further billing or collection activities shall be undertaken in regard to that obligation.

(3) The notice shall include text prepared by the Consumer Services Division or prepared by the utility and approved by the Commission. The notice shall be provided in the following manner:

(a) An insert in the billing statements mailed to all current customers within 120 days after the effective date of this rule;

(b) An annual insert in the billing statements mailed to customers or conspicuous publication of the notice in the consumer pages of local telephone directories; and

(c) Including the notice in the letters setting out the rights and responsibilities of customers sent to all new customers.

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

Stat. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No 95-1217)

#### **Rates**

#### **860-034-0300**

##### **Tariffs**

(1) Utilities not subject to ORS 759.175 shall, upon the

request of the Commission, provide copies of any schedules showing rates, tolls, and charges, including all rules and regulations that in any manner affect the rates charged or to be charged for any service.

(2) Utilities subject to ORS 759.175 shall file tariffs in accordance with the following provisions:

(a) Form and style of Tariffs:

(A) All tariffs must be in book, sheet or pamphlet form. Loose leaf plan may be used so that changes can be made by reprinting and inserting a single leaf;

(B) The initial tariff filed by each utility shall be designated as PUC Oregon No. 1, and thereafter as other tariffs are filed, they shall be designated with the next number in consecutive numerical order. Supplemental information not otherwise provided for by the tariff shall be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, i.e., 3A, AB, etc. Revisions to tariff sheets shall be denoted by 1st Revised Sheet No. 3, 2nd Revised Sheet No. 3, etc.;

(C) The title page should be uniform. Rates, rules and regulations shall 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 upon request.

(b) Size of Tariffs and Copies Required:

(A) Tariffs and supplements thereto must be typewritten or printed upon paper 8-1/2 x 11 inches in size;

(B) The original and four conformed copies of each tariff, rate schedule, or revision or supplement shall be filed with the Commission. The advice letter accompanying the tariff sheets shall bear the signature of the issuing officer. The tariff sheets do not require a signature.

(c) Tariffs must explicitly state the rates and charges for each class of service rendered, designating the area or district to which they apply;

(d) Rules and regulations of the utility that in any manner affect the rates charged or to be charged or that define the extent or character of the service to be given shall be included with each tariff;

(e) Changes in tariffs may be made by filing an entirely new tariff or by filing revised sheets which shall refer to the sheets of the tariffs on file. Additions to the tariff on file may be made by filing additional sheets;

(f) Each utility filing tariffs or schedules changing existing tariffs or schedules shall submit in the advice letter or other document the following information:

(A) A statement plainly indicating the increase, decrease or other change thereby made in existing rates, charges, tolls or rules and regulations;

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

(C) A detailed statement setting forth the reasons or grounds relied upon in support of the proposed change.

(g) All tariff changes shall be made applicable with service rendered on and after the effective date of the changes, unless the Commission by order provides otherwise. As used in this rule, "service rendered" means units of toll calls connected, basic service provided, or likewise as the context requires;

(h) Utilities 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 utilities are in legal effect tariffs and are subject to supervision, regulation and control to the extent not exempted under ORS 759.040;

(i) All special agreements designating service to be furnished at rates other than those shown in tariffs now on file in the Commission's office shall be classified as rate schedules. A true and certified copy shall be filed pursuant to requirements of this Division.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

**860-034-0310**

#### **Announcement of Rate Increases**

(1) A utility which increases any rate for intrastate telecommunications services shall notify its affected customers at least 45 days prior to the proposed effective date of the increase. A copy of such notification shall at the same time be provided to the Commission.

(2) The utility shall notify its customers by:

(a) An announcement inserted in the utility's regular billing to its customers; or

(b) An announcement mailed to each customer.

(3) The announcement shall contain the following information:

(a) The list of services subject to increase, current and proposed rates and amount and percentage of increase for each service;

(b) The reasons for the proposed rate increase;

(c) The effective date of the proposed rate increase; and

(d) The following statement: **"Customers may petition the Public Utility Commission to investigate the rate increase. The Commission will investigate the rate increase if it receives petitions signed by customers (ten percent of customers, or 500, whichever is the lesser), on or before (ten days prior to the proposed effective date). If the Commission does not receive sufficient petitions by (ten days prior to the proposed effective date) the proposed rates will become effective on (the proposed effective date) without Commission review. Petitions should be sent to: Oregon Public Utility Commission, Consumer Services Division, 550 Capitol Street N.E., Salem, OR 97310-1380, or call 1-800-522-2404 or TDD 1-800-648-3458. The Company will provide a current copy of the local exchange directory and its service territory map within ten days of a request from any customer"**.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0320**

##### **Notice to Interested Persons**

(1) This rule applies to any tariff filing that is filed under ORS 759.175.

(2) Any person who requests of the Commission, in writing, to be notified of utility tariff filings covered under section (1) of this rule shall be included on a notice list.

(3) The Commission shall notify all persons on the notice list referred to in section (2) of this rule of any applicable tariff filing. The notice shall be placed in the mail within ten days of any tariff filing under section (1) of this rule that complies with OAR 860-034-0300.

(4) 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 (2) of this rule. No person's name shall be deleted from the list without 20 days' notice before deletion.

(5) The notice shall include the following information:

(a) Name of the filing utility;

(b) Subject;

(c) Advice number;

(d) Filing date;

(e) Effective date;

(f) Customer classes affected, if readily ascertainable from the utility's advice letter;

(g) Whether the tariff schedule is primarily related to price competition or a service alternative, if readily ascertainable from the utility's advice letter.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0330**

##### **Relating to Municipality Privilege Taxes, Fees and Other**

### **Assessments for Utilities**

(1) The aggregate amount of all privilege, business or occupation taxes, license, franchise or operating permit fees, or other similar exactions imposed upon a utility by any city of this state for engaging in business within such city or for use and occupancy of city streets and public ways, applied to gross revenues as defined herein, shall be allowed as operating expenses of such utilities for rate-making purposes and shall be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" shall mean those revenues derived from exchange access services, as defined in ORS 401.710, less net uncollectibles from such revenues.

(3) Separate fees for street opening, installations, construction and maintenance of fixtures or facilities to the extent such fees or charges are reasonably related to the costs of the city for inspection, supervision and regulation in the exercise of its police powers may be deducted in computing the percentage levels hereinabove set forth.

(4) The aggregate amount of all privilege, business or occupation taxes, license, franchise or operating permit fees, and other similar exactions imposed on a utility by municipalities, which do not exceed four percent, shall be allowed as operating expenses for rate-making purposes and shall not be itemized or billed separately. All such exactions in excess of four percent shall be charged pro rata to users of basic local access services within the municipality, and separately itemized on customers' bills, or billed separately.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0340**

#### **Relating to Local Government Fees, Taxes or Other Assessments**

(1) In the event any county of the State of Oregon, other than a city-county, should impose upon a utility subject to the jurisdiction of the Public Utility Commission any new taxes, or license, franchise or operating permit fees, or increase any such taxes or fees, the utility required to pay such taxes or fees shall collect from its customers within the county imposing such taxes or fees the amount of the taxes or fees, or the amount of increase in such taxes or fees provided, however, that should the taxes or fees cover the operations of a utility in only a portion of a county, then the affected utility shall recover the amount of the taxes or fees or increase in the amount thereof from customers in the portion of the county which is subject to the taxes or fees. Taxes, as used here, mean sales, use, net income, gross receipts, payroll, business or occupation taxes, levies, fees or charges other than ad valorem taxes.

(2) The amount collected from each utility customer pursuant to section (1) of this rule shall be separately stated and identified to all customer billings.

(3) This rule shall apply to new or increased taxes imposed on and after December 16, 1971, including new or increased taxes imposed retroactively after that date.

(4) Should any county, utility or customer affected by this rule deem its application in any particular instance to be unjust or unreasonable, it may apply for a waiver of this rule by petition, setting forth the reasons why the rule should not apply.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0350**

#### **Forced Conversion of Communication Facilities**

(1) As used in this rule:

(a) "Convert", "Converting" or "Conversion" means the removal of overhead communication facilities and the replacement of those facilities with underground communication facilities at the same or different locations:

(b) "Conversion Cost" means the difference in cost between constructing an underground system and retaining the existing

overhead system. This difference is equal to the cost of all necessary excavating, road crossings, trenching, backfilling, raceways, ducts, vaults, transformer pads, other devices peculiar to underground service, and "overhead retirement costs". However, if the conversion is required in conjunction with a public project which would necessitate the relocation of the utility's facilities at the utility's expense, "conversion costs" shall not include any "overhead retirement costs";

(c) "Communication Facilities" means any works or improvements used or useful in providing communication service, including but not limited to poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, and all related facilities required for the acceptance of communication service. However, "communication facilities" does not include facilities used or intended to be used for the transmission of intelligence by microwave or radio, apparatus cabinets or outdoor public telephones; or facilities owned or used by or provided for a railroad or pipeline and located upon or above the right-of-way of the railroad or pipeline;

(d) "Local Government" includes cities; counties; authorities and agencies created pursuant to ORS Chapters 456 and 457; special districts of the type described in ORS 198.010, 198.180; and all other political subdivisions of the state;

(e) "Overhead Communication Facilities" means communication facilities located above the surface of the ground;

(f) "Overhead Retirement Cost" means the original cost, less depreciation, less salvage value, plus removal costs, of existing overhead distribution facilities no longer used or useful by reason of the conversion;

(g) "Underground Communication Facilities" means communication facilities located below the surface of the ground exclusive of those facilities such as service terminals, pedestal terminals, splice closures, apparatus cabinets and similar facilities which normally are above the surface in areas where utility facilities are underground in accordance with standard underground practices.

(2) This rule does not apply if the total conversion cost incurred by the utility during one calendar year does not exceed five-one hundredths of one percent (.05%) of the utility's annual revenues derived from customers residing within the boundaries of the local government.

(3) When a local government requires a utility to convert communications facilities at the utility's expense, the utility shall collect the conversion costs from customers located within the boundaries of the local government.

(4) The local government may direct the utility to collect conversion costs from only a portion of the customers located within the boundaries of the local government.

(5) Conversion costs incurred by the utility shall be accumulated in a separate account in the utility's books. Interest shall accrue from the date the utility incurs the cost. The rate of such interest shall be equal to the effective cost of the senior security issue which most recently preceded the incurrence of the cost.

(6) The utility shall collect the conversion costs and interest over a reasonable period of time subject to approval by the Commission. However, the pay-back period shall not exceed the depreciable life of the new facilities. Collection shall begin as soon as practical after the end of the year in which the conversion costs are incurred.

(7) The conversion cost to be recovered from each customer shall be calculated by applying a uniform percentage to each customer's total monthly bill for service rendered within the boundaries of the local government. The amount collected shall be separately stated and identified on each bill.

(8) This rule applies to conversions upon which construction is commenced on or after August 13, 1984.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0360**



### **Pole Attachments**

(1) This rule applies whenever a party files a complaint with the Commission pursuant to ORS 759.650 through 759.675 and the pole owner is a utility.

(2) In this rule:

(a) "Carrying Charge" means the percentage of operation, maintenance, administrative, general, and depreciation expenses, taxes, and money costs attributable to the facilities used by the licensee. The cost of money component shall be equal to the return on investment authorized by the Commission in the pole owner's most recent rate proceeding;

(b) "Licensee" means any entity defined to be a licensee by ORS 759.650(2);

(c) "Pole Cost" means the depreciated original installed cost of an average bare pole of the pole owner;

(d) "Support Equipment" means guy wires, anchors, anchor rods, grounds, and other accessories of the pole owner used by the licensee to support or stabilize pole attachments;

(e) "Support Equipment Cost" means the average depreciated original installed cost of support equipment;

(f) "Usable Space" means all the space on a pole, except the portion below ground level, the 20 feet of safety clearance space above around level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole is buried below ground level.

(3) A disputed pole attachment rental rate will be computed by taking the pole cost times the carrying charge times the portion of the usable space occupied by the licensee's attachment.

(4) A disputed support equipment rental rate will be computed by taking the support equipment cost times the carrying charge times the portion of the usable space occupied by the licensee's attachment.

(5) The minimum usable space occupied by a licensee's attachment is one foot.

(6) The rental rates referred to in sections (3) and (4) of this rule do not cover the costs of special inspections, preconstruction, make ready, change out, and rearrangement work. Charges for those activities shall be based on actual (including administrative) costs.

(7) Licensees shall report all attachments to the pole owner. A pole owner may impose a penalty charge for failure to report and pay for all attachments. If a pole owner and licensee do not agree on the penalty amount and submit the dispute to the Commission, the penalty amount will be five times the normal rental rate from the date the attachment was installed until the appropriate rental rate is paid. A pole owner may also charge for any expenses it incurs as a result of an unauthorized attachment.

(8) All attachments shall meet state and federal clearance and other safety requirements, be adequately grounded, guyed, and anchored, and meet the provisions of contracts executed between the pole owner and the licensee. A pole owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the pole owner for any fines, fees, damages, or other costs the licensee's attachments cause the pole owner to incur.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0370**

#### **Conduit Attachments**

(1) This rule applies whenever a party files a complaint with the Commission pursuant to ORS 759.650 through 759.675 and the conduit owner is a utility.

(2) In this rule:

(a) "Attachment" means any attachment defined in ORS 759.650(1), except attachments to poles;

(b) "Annual Operating Expense" means annual operating maintenance, administrative, general, depreciation, and income, property and other tax expenses attributable, on a per-duct basis, to the section of conduit occupied by the licensee;

(c) "Annual Carrying Charge" shall be equal to the return on investment authorized by the Commission in the conduit owners'

most recent rate proceeding times the conduit cost;

(d) "Conduit Cost" means the depreciated original installed cost, on a per-duct basis, of the section of conduit occupied by the licensee;

(e) "Duct" means a single enclosed raceway for conductors or cable;

(f) "Conduit" means any structure, or section thereof, containing one or more ducts, conduits, manholes, handholes, bolts, or other facilities used for any telegraph, telephone, cable television, electrical, or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by one or more public utilities;

(g) "Licensee" means any entity defined to be a licensee by ORS 759.650(2);

(h) "Surplus" ducts are ducts other than those occupied by the utility or a prior licensee, one unoccupied duct held as an emergency use spare, and other unoccupied ducts that the utility reasonably expects to use within the next 18 months.

(3) A disputed conduit rental rate will be computed by adding the annual operating expense to the annual carrying charge and then multiplying by the number of ducts occupied by the licensee.

(4) A licensee occupying part of a duct shall be deemed to occupy the entire duct.

(5) Licensees shall report all attachments to the conduit owner. A conduit owner may impose a penalty charge for failure to report or pay for all attachments. If a conduit owner and licensee do not agree on the penalty and submit the dispute to the Commission, the penalty amount will be five times the normal rental rate from the date the attachment was made until the penalty is paid. If the date the attachment was made cannot be clearly established, the penalty rate shall apply from the date the conduit owner last inspected the conduit in dispute. The last inspection shall be deemed to be no more than three years before the unauthorized attachment is discovered. The conduit owner also shall charge for any expenses it incurs as a result of the unauthorized attachment.

(6) The conduit owner shall give a licensee 18 months' notice of its need to occupy licensed conduit and shall propose that the licensee take the first feasible action listed:

(a) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with multiplexing, optical fibers, or other space-saving technology sufficient to meet the utility's space needs;

(b) Pay revised conduit rent based on the cost of new conduit constructed to meet the utility's space needs;

(c) Vacate ducts that are no longer surplus;

(d) Construct and maintain sufficient new conduit to meet the utility's space needs.

(7) When two or more licensees occupy a section of conduit, the last licensee to occupy the conduit shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting of space-saving technology or construction of new conduit, all licensees shall bear the increased cost.

(8) All attachments shall meet local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between the conduit owner and the licensee. A conduit owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the conduit owner for any fines, fees, damages, or other costs the licensee's attachments cause the conduit owner to incur.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **Service Standards**

### **860-034-0380**

#### **Maintenance of Plant and Equipment**

Each utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each utility shall inspect its plant

distribution system and facilities in such manner and with such frequency as may be necessary to insure a reasonably complete knowledge as to their condition and adequacy at all times. Such record shall be kept of the conditions found as the utility itself shall consider necessary for the proper maintenance of its system, unless in special cases a more complete record be specified by the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0390**

#### **Telecommunications Service Standards**

Every telecommunications utility shall adhere to the following standards:

(1) Definitions.

(a) "Access Line" Refers to a dial tone line that provides basic exchange services extending from the telecommunications provider's switching equipment to a point of termination at the premise of the telecommunications provider's end user customer.

(b) "Held Access Line Service orders" Requests for access line service delayed beyond the commitment date due to lack of facilities. Orders requiring the customer to meet specific reasonable prerequisites (e.g., line extension charges) shall be measured from the time the prerequisites have been met.

(c) "Trouble Report" Means a report of a malfunction on existing lines, circuits, or features made to a Local Exchange Carrier (LEC) by or on behalf of that LEC's customer in the LEC's network up to and including the point of demarcation at the customer's location. Trouble found to be caused by conditions on the customer's side of the demarcation point, or by a connecting carrier, shall not be counted. Trouble reports shall also not be counted if the Commission finds that the trouble was caused by factors beyond the telecommunications utility's control.

(d) "Wire Center" Refers to the LEC-owned facility wherein the local exchange cables terminate and are accessible for connection to the switching or call processing equipment. Wire centers also have common language codes assigned to them.

(2) Provisioning.

(a) At the time a request for access line service is taken, a customer shall be given a committed due date of no more than five business days (unless a later date is mutually agreed to). Access line service is a dial tone line that provides basic exchange services from a telecommunications utility's switching equipment to a point of termination at the end user's premise. Access line service installation orders include orders for new or transferred service or additional lines or change orders.

(b) A telecommunications utility shall meet at least 90 percent of commitments for service.

(c) Held Access Line Service Orders. Once a request for service becomes a held order, commitments to fill the order must be made in writing to the customer within 15 business days.

(d) The average number of held access line orders shall not exceed the greater of 2 per wire center per month averaged over the telecommunications utility's Oregon service territory, or 4 held orders per 1,000 inward orders.

(e) A record of why each order is held shall be maintained, together with the commitment date.

(f) Held orders shall be reported to the Commission upon request, by total number and those held over 30 days past the initial commitment date.

(3) Access to Telecommunications Utility Representatives.

(a) Business Office. Eighty-five percent of calls to each of a telecommunications utility's business office centers shall be answered within 20 seconds each month.

(b) Repair Service. Eighty-five percent of calls to each of a telecommunications utility's repair service centers shall be answered within 20 seconds each month.

(c) No more than 1 percent of calls to each business office and to each repair service center shall encounter a busy signal or other busy indication.

(d) Equivalent measurements to those specified in this paragraph may be used when approved by the Commission.

(4) Repair Commitment and Restoral Times.

(a) A telecommunications utility shall clear at least 95 percent of all reports within 48 hours each month.

(b) A telecommunications utility shall provide each customer making a network trouble report with a commitment time by which the repair will be completed.

(5) Trouble Reports.

(a) Each telecommunications utility shall establish and compute an ongoing 12-month rolling average trouble report rate for each wire center or central office for reports of trouble on the utility side of the network interface.

(b) Each telecommunications utility shall maintain a record of reported trouble. The record of reported trouble shall contain as a minimum:

(A) Telephone number;

(B) Date and time received;

(C) Time cleared;

(D) Type of trouble reported;

(E) Location of trouble; and

(F) Whether or not the present trouble is within 30 days of a previous trouble report.

(c) Records shall be kept in such condition that they can be forwarded to the Commission immediately upon request. All records shall be kept by wire center for a period of one year.

(d) Service shall be maintained by the telecommunications utility so that the rolling 12-month average trouble report rate does not exceed 2 per 100 access lines per wire center.

(6) Dial Tone Speed. Ninety-eight percent of originating average busy hour call attempts shall receive dial tone within 3 seconds.

(7) Toll Operator Answer Time. Ninety percent of toll operator calls shall be answered within 10 seconds (equivalent measuring methods may be used).

(8) Subscriber Lines.

(a) All subscriber lines shall be designed, installed, and maintained with the objective of no more than 8.5 dB (decibel) loss at 1004 HZ (Hertz) from the serving central office to the customer premise network interface.

(b) All subscriber lines shall be designed, installed, and maintained so that metallic noise shall not exceed 20dBRNC (Decibels Above Reference Noise level - C message weighting).

(c) All subscriber lines shall provide a minimum of 20 to 23 milliamperes of loop current from the central office to the customer network interface when terminated with 400 ohms.

(d) All combinations of subscriber lines and central office switching equipment shall be capable of accepting and correctly processing at least the following network control signals from customer premise equipment:

(A) Dial Pulse 8 to 12 pulses per second and 58 to 64 percent break.

(B) Tone Pulsing 50 milliseconds DTMF (Dual Tone Multi Frequency) on; 50 milliseconds DTMF off.

(e) Special Service Lines. All special service lines shall meet performance requirements specified in applicable telecommunications utility tariffs.

(9) Intraoffice, Interoffice, and Access Trunking.

(a) All intraoffice, interoffice, and access trunking and associated switching components shall be engineered and maintained to allow 99 percent completion of properly dialed calls during the average busy season without encountering blockages or equipment irregularities.

(b) All interoffice and access trunk groups shall be maintained so that the AML (actual measured loss) in no more than 30 percent of the trunks shall deviate from EML (expected measured loss) by more than .7 dB and no more than 4.5 percent of the trunks shall deviate from EML by more than 1.7 dB.

(10) Interexchange and Competitive Carriers. All interexchange or competitive carrier facilities interconnected to the facilities of a telecommunications utility shall be operated in a manner which will not impede the telecommunications utility's ability to meet required standards of service. All telecommunications utilities shall report situations contrary to the above promptly to the Commission.

(11) Reporting Requirements. Telecommunications utilities shall report to the Commission when any of the above standards are not met on a monthly basis.

(a) The Commission may require after its own investigation that a telecommunications utility provide monthly reports on any or all items covered by this rule.

(b) Where a telecommunications utility does not measure items covered by these standards on June 30, 1996, it need not begin doing so unless ordered to by the Commission.

(12) Alternatives to these Telecommunications Standards. Telecommunications utilities whose normal methods of operation do not provide for exact compliance with these rules may:

(a) File for a variance from, or waiver of, one or more of these rules specifically indicating the alternative standards to be applied or indicating which standards are desired to be waived.

(b) File a service standards tariff indicating the levels of service that the utility is committed to provide.

(c) Any variance or tariff must be in substantial compliance with these rules.

(13) Installation Agreement.

(a) In lieu of adhering to the service standards set forth in this rule and upon request of a business customer with an order for service, the exchange carrier shall provide a written Installation Agreement which shall include, at a minimum, the following terms:

(A) An identification and description of the services to be installed;

(B) The location of the customer's facility;

(C) The facilities required to service customer;

(D) The date upon which the requested services shall be installed and operable in accordance with industry specifications and standards ("Installation Date"); and,

(E) If agreed to by the business customer and exchange carrier, the amount of liquidated damages to be paid to the customer by the exchange carrier in the event the exchange carrier fails to meet the Installation Date in lieu of any other remedies provided herein.

(b) An exchange carrier's failure to provide service in accordance with the provisions of a written Installation Agreement shall be deemed to be an omission under the exchange carrier's duty to provide adequate service.

(c) The customer and exchange carrier may negotiate an Installation Agreement that provides for payment of specific liquidated damages by the exchange carrier in lieu of consequential damages to be paid to the customer in the event the exchange carrier fails to provide service in accordance with the terms of the written agreement.

(14) Remedies for Violation of this Rule. If the Commission believes a company subject to this rule has violated one or more of its service standards, it shall give the company notice and an opportunity to explain the alleged violation(s). If, after hearing the company's explanation, but Commission believes that a violation has occurred, the Commission may require the company to provide the following relief to the affected customers:

(a) A requirement that the company provide an alternative means of telecommunications service for violations of 2(d).

(b) Customer billing credits equal to the associated nonrecurring and recurring charges of the company for the affected service(s) for the period of the violation(s).

(c) Other relief authorized by Oregon law.

(15) Exemption from these Rules.

(a) A telecommunications utility may petition the Commission for an exemption from these rules with respect to one or more telecommunications services offered by the utility.

(b) If the Commission determines that effective facilities-based competition exists for a service in one or more exchanges, it may exempt the utility from this service quality rule for that service in those exchanges.

(c) In making this determination, the Commission shall consider:

(A) The extent to which the service is available from alternative providers in the relevant market;

(B) The extent to which the services of alternative providers

are functionally equivalent or substitutable at comparable rates, terms and conditions;

(C) Existing barriers to market entry;

(D) Market share and concentration;

(E) Number of suppliers;

(F) Price to cost ratios;

(G) Demand side substitutability (e.g., customer perceptions of competitors as viable alternatives); and

(H) Any other factors deemed relevant by the Commission.

Stats. Auth.: ORS 183.335 & 756.060

Stats. Implemented: ORS 759.035 & 759.240

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 23-1985, f.

& ef. 12-11-85 (Order No. 85-1171); PUC 4-1997, f. & cert. ef. 1-7-97

## **Construction and Safety Standards, General**

### **860-034-0400**

#### **Maps and Records**

(1) Each utility shall keep on file current maps and records of the entire plant showing size, location, character and date of installation of major plant items.

(2) Upon request, each utility shall file with the Commission an adequate description or maps to define the territory served. All maps and records which the Commission may require the utility to file shall be in a form satisfactory to the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0410**

#### **Reasonable Accuracy of Marking Locatable Underground Facilities**

"Reasonable accuracy" means location within 24 inches of the outside dimensions of both sides of an underground facility. Offset marking, when used, will have the same tolerance of accuracy.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0420**

#### **Color Code for Marking Location of Underground Facilities**

(1) Colors for marking location of underground facilities shall be as listed below.

(2) Color — To indicate:

(a) Red — Electric power lines, cables or conduit, and lighting cables;

(b) Yellow — Gas, oil, stream, petroleum, or other hazardous liquid or gaseous materials;

(c) Orange — Communications, cable televisions, alarm or signal lines, cables or conduits;

(d) Blue — Water, irrigation, and slurry lines;

(e) Green — Sewer and drain lines;

(f) White — For voluntary premarking of the outer limits of the proposed excavation of marking the centerline of proposed lineal installations of pipe, cables, conduits, or other items where the trench will not exceed 24 inches in width.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **860-034-0430**

#### **Construction, Operation, and Maintenance of Electrical Supply and Signal Lines**

Construction, operation, and maintenance of electrical supply and signal lines shall comply with the standards prescribed by the **1997 Edition of the American National Standard, National Electrical Safety Code** approved June 6, 1996, by the American National Standards Institute.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 756 & 759

Stats. Implemented: ORS 757 & 759



Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 3-1994, f. & cert. ef. 1-14-94 (Order No. 94-074); PUC 13-1994, f. & cert. ef. 8-31-94 (Order No. 94-1243); PUC 7-1997, f. & cert. ef. 2-6-97

### **Regulations to Prevent Duplication of Facilities**

#### **860-034-0440**

##### **Applicability and Formal Requirements**

(1) The rules contained in this division are auxiliary to and supplemental to the rules contained in Divisions 11 through 14 of this chapter, Practice and Procedure, and all applications or petitions for approval of contracts or amendments thereto, allocations of territory, assignment or transfer of rights acquired pursuant to an allocation of territory, and all other pleadings filed with the Commission pursuant to ORS 759.500 to 759.595 inclusive, shall be governed by the rules in Divisions 11 through 14 of this chapter, Practice and Procedure, except as provided in sections (2) and (3) of this rule.

(2) All applications and petitions shall contain the full and correct name and business address of the applicant or petitioner.

(3) An original and three conformed copied of all applications and petitions shall be filed with the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0450**

##### **Applications for Approval of Contracts to Avoid or Eliminate Duplicate Utility Service**

Applications under ORS 759.500 through 759.595 for an order of the Commission approving a contract authorized thereunder shall contain in addition to the contract, if not contained therein, the following information:

(1) A map or maps, to appropriate scale, showing the general location and boundaries of the respective applicant's service areas.

(2) A map or maps, to appropriate scale, showing the location of customers who are being served by either or both of the parties, or who could be economically served by the then existing facilities of either party, or by reasonable and economic extensions thereto, who are covered by the contract.

(3) A description by county, section lines, river, highway, road, street or metes and bounds, where applicable and necessary, designating the boundaries of the territory to be served by each party to the contract. Such legal description of boundary lines may be drawn and described:

(a) So as to eliminate minor irregularities in the boundary of each party where to do so will include within each party's territory, only that unserved area which may be economically served by the then existing facilities of the respective parties or by reasonable and economic extensions thereto; and

(b) In the case of persons providing utility service who have entered into exchange boundary agreements prior to May 31, 1961, for the purpose of defining mutually exclusive exchange service areas, the area affected by such agreement may be described by reference to the exchange area map in that agreement, provided that applicant shall not be relieved by such reference from showing that it can economically serve the unserved areas within the exchange area map with its existing facilities or by a reasonable and economic extension thereto.

(4) A description of the equipment and facilities of each party which are the subject of sale, exchange, transfer or lease pursuant to the contract and the consideration to be paid therefor.

(5) Facts showing that the contract will eliminate or avoid unnecessary duplicating facilities, and will promote the efficient and economic use and development and the safety of operation of the utility systems of the parties to the contract, while providing adequate and reasonable service to all territories and customers affected thereby.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0460**

##### **Applications for Approval of Amendments to Contracts to Avoid or Eliminate Duplicate Utility Service**

Applications under ORS 759.530 for an order of the Commission approving an amendment to a contract approved pursuant to ORS 759.510 to 759.520, inclusive, shall contain the amendatory contract and such information required by OAR 860-034-0450 as is pertinent to the Commission in making a decision thereon.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0470**

##### **Applications for Allocation of Exclusively Served Territory**

Applications under ORS 759.535 for an order of the Commission allocating territory to a person providing exclusive utility service in a territory shall contain the following information:

(1) A map, to appropriate scale, showing the general location and boundaries of the applicant's service area.

(2) A map, to appropriate scale, showing the location of applicant's customers and facilities in the vicinity of the boundaries of the territory applied for in sufficient detail to enable the Commission to determine the boundaries of that territory served exclusively by applicant.

(3) A description by county, section lines, river, highway, road, street or metes and bounds, where applicable and necessary, of the boundaries of applicant's exclusive service area. Such map and legal description of boundary lines may be drawn and described so as to eliminate minor irregularities in the boundary.

(4) Facts showing that applicant is lawfully and in good faith providing exclusive utility service within the area described in the application and that no other person is providing a similar utility service within such territory.

(5) Such additional information as may be necessary to a full understanding of the situation.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0480**

##### **Applications for Allocation of Exclusively Served Territory and Adjacent Unserved Territory**

Applications under ORS 759.535, for an order of the Commission allocating territory to a person providing exclusive utility service in a territory and adjacent unserved territory shall contain the following information:

(1) The information required under OAR 860-034-0470.

(2) Map similar to that required by OAR 860-034-0470(2) and description comparable to that required by OAR 860-034-0470(3), showing and describing the boundary of the adjacent unserved territory covered by the application.

(3) The names and addresses of all persons providing similar utility service in proximity to the unserved area applied for who may have an interest in or be affected by an approval or disapproval of the application.

(4) Facts showing that it is more economical and feasible to serve the adjacent unserved territory by an extension of the applicant's existing facilities than by an extension of the facilities of another person, including but not limited to the following:

(a) Map, to appropriate scale, showing location and capability of equipment, plant or facilities including the capability, location, and route of proposed facilities, if any, which relate to the applicant's ability to extend utility service into the adjacent unserved area;

(b) Copies of such franchises or permits as the appropriate public authorities may require for extending service into the adjacent unserved area, or a statement that they will be filed at the hearing or a statement that no such authority is required by said public authorities;

(c) The kind or nature and extent of the need or demand, or reasonable anticipated need or demand, for utility service within the unserved area;

(d) The estimated construction, operating and related costs of and revenues from providing the proposed utility service within the unserved area.

(5) Such additional information as may be necessary to a full understanding of the situation.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0490**

##### **Application to Transfer Rights to Allocated Territory**

Applications under ORS 759.560 for an order of the Commission approving the transfer of rights acquired by an allocation of territory shall comply with OAR 860-034-0440(2) and (3) and shall contain the following information:

(1) A statement of the purposes for the transfer, the supporting reasons therefor and a detailed explanation thereof showing the justification as to why the transfer will not be contrary to public interest.

(2) A copy of all written evidence and a statement of all oral understanding compromising the agreement between the transferor and transferee covering the transfer of the territory described in the application and sought to be transferred.

(3) A map or maps, to appropriate scale, showing the general location and boundaries of the allocated territory sought to be transferred and the transferor's and the transferee's adjacent service areas.

(4) A map or maps, to appropriate scale, showing:

(a) The number and, where practicable, the location of customers and the location of equipment or facilities of the transferor with a detailed description of such equipment or facilities which are within the territory sought to be transferred; and

(b) The location of equipment or facilities of the transferor and transferee, with a detailed description of the same, which are in the territory immediately adjacent to that sought to be transferred and which are or will be interconnected therewith.

(5) A legal description comparable to that required in OAR 860-034-0470(3) of the boundaries of the territory sought to be transferred.

(6) A legal description comparable to that required in OAR 860-034-0470(3) of the resulting boundaries of the remaining allocated portion of the parcel of territory of the transferor where the territory sought to be transferred is only part of a parcel of transferor's allocated territory and a similar description of the resulting boundaries of the allocated territory of the transferee where the territory sought to be transferred will be contiguous to a parcel of transferee's allocated territory.

(7) Copies of such franchises or permits as the appropriate public authorities may require authorizing the transferee to serve in the territory sought to be transferred, or evidence of the approval of the appropriate public authorities of the transfer to the transferee of the transferor's franchise or permit to serve the territory sought to be transferred.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **Budgets, Finance, Accounting and Annual Reports**

#### **860-034-0500**

##### **Accounting for Director's Fees**

Director's fees paid by a utility to members of its board of directors, who are also paid as officers of the utility, shall not be recognized as a charge to operating expenses in Oregon. Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0510**

##### **Uniform System of Accounts, Telephone Utilities — Class A and B**

(1) The Uniform System of Accounts for Class A and B

Telecommunications Entities, Part 32, adopted by the Federal Communication Commission with revisions to December 23, 1986, effective January 1, 1988, except the portion of Part 32 relating to allocations between regulated and nonregulated activities (shown in Appendix C to FCC Order No. 86-564), is hereby adopted and prescribed by the Commission for all Telecommunications Entities having gross operating revenues from regulated telecommunications operations of:

(a) Class A — \$100,000,000 or more; and

(b) Class B — Less than \$100,000,000.

(2) Effective January 1, 1989, the cost of individual items of equipment, classifiable to Accounts 2112, Motor Vehicles; 2113, Aircraft; 2114, Special Purpose Vehicles; 2115, Garage Work Equipment; 2116, Other Work Equipment; 2122, Furniture; 2123, Office Equipment; and 2124, General Purpose Computers, costing \$500 or less or having a life less than one year shall be charged to the applicable Plant Specific Operations Expense accounts. If the aggregate investment in the items is relatively large at the time of acquisition, such amount shall be maintained in the applicable materials and supplies account until the items are used.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0520**

##### **Allocation of Cost**

(1) As used in this rule:

(a) "Affiliate Transaction" means a transfer of assets, a sale of supplies, or a sale of services between accounts for regulated activities of a utility and accounts for nonregulated activities of a separate entity which is either an affiliated interest or another company in which the utility owns a controlling interest. It 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 utility;

(b) "Asset" means any tangible or intangible property of a utility or other right, entitlement, business opportunity, or other thing of value to which a utility holds claim;

(c) "Cost" means fully distributed cost, including the utility's authorized rate of return and all overheads;

(d) "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;

(e) "Market Rate" means the lowest price which is available from nonaffiliated suppliers for comparable services or supplies;

(f) "Net Book Value" means original cost less accumulated depreciation;

(g) "Nonregulated Service" means a service which is not a telecommunications service as defined by ORS 759.005(2)(g), or a service which the Commission has determined to be exempt from regulation.

(2) A utility that provides both regulated and nonregulated intrastate service shall allocate intrastate investments, expenses, and revenues between regulated activities and nonregulated activities according to principles, procedures, and accounting requirements which the Federal Communications Commission (FCC) adopted December 23, 1986, and amended on reconsideration September 17, 1987, in CC Docket No. 86-111, except as otherwise provided in this rule.

(3) Regulated and nonregulated intrastate activities of a utility shall be accounted for in accordance with FCC Part 32 — Uniform Systems of Accounts, but with the following exception. For intrastate purposes, Part 32 rules governing affiliate transactions (Sections 32.27(a), (b), (c), (d), and (f)) are replaced as follows:

(a) When an asset is transferred to regulated accounts from nonregulated accounts, the transfer shall be recorded in regulated accounts at the lower of net book value or fair market value;

(b) When an asset is transferred from regulated accounts to nonregulated accounts, the transfer shall be recorded in regulated 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 be recorded in regulated accounts at the higher of net book value or fair market value;

(c) When an asset is transferred from a regulated account to a nonregulated account at a fair market value that is greater than net book value, the difference shall be considered a gain to the regulated activity. The utility shall record the gain in a manner which will enable the Commission to determine the proper disposition of the gain in a subsequent rate proceeding;

(d) When services or supplies are sold by a regulated activity to a nonregulated activity, sales shall be recorded in regulated revenue accounts at tariffed rates if an applicable tariff is on file with the Commission. Tariffed rates shall be established whenever possible. If services or supplies are not sold pursuant to a tariff, sales shall be recorded in regulated revenue accounts at the utility's cost;

(e) When services or supplies are sold to a regulated activity by a nonregulated activity, sales shall be recorded in regulated accounts at the nonregulated activity's cost or the market rate, whichever is lower. The nonregulated activity's cost shall be calculated using the utility's most recently authorized rate of return.

(4) If a utility is subject to ORS 759.120 through 759.130 and provides both regulated and nonregulated intrastate service, the utility shall maintain a current intrastate cost allocation manual on file with the Commission. If the FCC requires the utility to file an interstate cost allocation manual, the utility shall also maintain a current copy of its interstate manual with the Commission.

(5) An intrastate cost allocation manual shall contain the following:

(a) A description of each of the utility's nonregulated intrastate activities;

(b) A list of all intrastate activities to which the utility now accords incidental accounting treatment, and the justification for treating each as incidental;

(c) A chart showing the utility's affiliates;

(d) A statement identifying affiliates that engage in or will engage in transactions with the regulated utility for the purpose of providing nonregulated intrastate service and describing the nature, terms, and frequency of such transactions;

(e) A detailed specification of the cost categories to which amounts in each account and subaccount of Part 32 will be assigned, and a detailed specification of the basis on which each cost category will be apportioned between regulated and nonregulated activities.

(6) A cost allocation manual cannot be used to satisfy any other reporting requirement established by the Commission.

(7) The initial cost allocation manual filed by a utility pursuant to this rule must be filed with the Commission no less than 90 days prior to the manual's effective date. The manual shall go into effect unless rejected by the Commission prior to the manual's effective date.

(8) When a utility proposes any change to a cost allocation manual previously filed with the Commission, the utility shall file the proposed change with the Commission no less than 60 days prior to the effective date of the change. The changes shall go into effect unless rejected by the Commission prior to the effective date of the change.

(9) After the Commission has issued an order to exempt from regulation a telecommunications service provided by a utility which is subject to ORS 759.120 through 759.130, the affected utility shall file with the Commission either an initial cost allocation manual or a change to its previously filed manual.

(10) A utility that is required to file annual independent cost allocation audits with the FCC shall at the same time file copies of the annual audits with the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **Annual Reports**

#### **860-034-0530 Requirement**

Utilities shall submit annual reports. The report Form O for the previous calendar year shall be submitted on or before April 1, using the most current forms approved by the Commission. The intrastate report Form I for the previous calendar year shall be submitted on or before October 31, using the most current form approved by the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 3-1995, f. & cert. ef. 6-19-95 (Order No. 95-516)

#### **860-034-0550**

##### **Reporting of Affiliated Transactions**

(1) By April 1, on forms approved and provided by the Commission, all utilities shall file with the Commission a report of all affiliated interest, intercompany, and intracompany transactions which occurred during the period from January 1 through December 31 of the immediately preceding year.

(2) As used in this rule:

(a) "Intracompany Transactions" mean transactions between regulated and unregulated operating divisions within a utility;

(b) "Intercompany Transactions" mean transactions between a utility and another company when the utility owns a majority of or controls directly or indirectly the voting stock of the other contracting company;

(c) "Affiliated Interest Transactions" mean transactions between affiliated interests as defined by ORS 759.010.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0560**

##### **Use of Deferred Accounting**

(1) Definitions: The following definitions shall be used in this rule:

(a) "Deferred Accounting" means the recording in a balance sheet account, with Commission authorization under ORS 759.200, of a current expense or revenue associated with current service for later reflection in rates;

(b) "Amortization" means the inclusion in rates of an amount which has been deferred under ORS 759.200 and which 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.

(2) 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 759.200 is reauthorized, the reauthorization shall expire 12 months from the date the reauthorization becomes effective.

(3) Contents of Application: Application for deferred accounting, by a utility or a ratepayer, shall include:

(a) A description of the 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 759.200 under which deferral can be authorized;

(c) The account proposed for recording of the amounts to be deferred and the account which would 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.

(4) Reauthorization: Application for reauthorization to use a deferred account shall be made not more than 60 days prior to the expiration of the previous authorization for the deferral. Application for reauthorization shall include the requirements set forth in subsections (3)(a) through (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.

(5) Exceptions: Authorization under ORS 759.200 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 which 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.

(6) Notice of Application: The applicant shall serve a notice of application upon all persons who were parties in the utility's last general rate case. If the applicant is other than a utility, the applicant shall serve a copy of the application upon the affected utility. A notice of application shall 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 utility;

(b) A description of the 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 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.

(7) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's public meetings.

(8) Reply Comments: Within ten days of the due date for comments on the application from interested persons, the applicant, and the utility if the utility is not the applicant, may file reply comments with the Commission, and shall serve those comments on persons who have filed the initial comments on the application.

(9) Amortization: Amortization in rates of a deferred amount shall only be allowed in a proceeding, whether initiated by the utility or another party. The Commission may authorize amortization of such amounts only for utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the utility shall 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 utility shall request that amortizations of deferred accounts commence no later than one year from the date that deferrals cease for that particular account; and

(b) In the case of ongoing balancing accounts, the utility shall request amortization at least annually, unless amortization of the balancing account is then in effect.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **Reports and Records**

#### **860-034-0570**

##### **Reports**

(1) As used in this rule:

(a) "Serious Injury to Person" means in the case of an employee, an injury which results in hospitalization. In the case of a nonemployee, "serious injury" means any accident which results in hospitalization. Treatment in an emergency room is not hospitalization;

(b) "Serious Injury to Property" means:

(A) Damage to utility or nonutility property exceeding

\$25,000;

(B) Damage to property which causes a loss of service to over 500 utility customers for over two hours; however "serious injury to property" does not include damage which is restricted to a single feeder or distribution line and results in an outage of less than four hours.

(2) Every utility shall give immediate notice by telephone, telegraph, or personally to the Commission, of accidents attended by loss of life or limb, or serious injury to person or property, occurring in this state upon the premises of or directly or indirectly arising from or connected with the maintenance or operation of a utility.

(3) Accidents attended by loss of life or limb, or serious injury to person or property, occurring in this state upon the premises of or directly or indirectly arising from or connected with the maintenance or operation of a utility shall, in addition to the immediate notice given by telegraph, telephone or personally to the Commission, be reported in writing to the Commission within 20 days of the occurrence. In the case of injuries to employees, a copy of the accident report form that is submitted to Oregon OSHA, Department of Insurance and Finance, for reporting accident injuries, will normally suffice for a written report.

(4) An accident report filed by a utility in accordance with ORS 654.715 cannot be used as evidence in any action for damages in any suit or action arising out of any matter mentioned in the report.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

#### **860-034-0580**

##### **Preservation and Destruction of Records**

The Regulations to Govern the Preservation of Records of Communication Common Carriers, **Part 42, 47 CFR, Chapter 1 (October 1, 1985, Edition)** is hereby adopted and prescribed by the Commission for all utilities.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Public Utility Commission.]

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185)

### **to Establishment of and Exceptions to Depreciation Guidelines**

#### **860-034-0600**

##### **Definitions**

(1) "Guidelines" means the standards used by this Commission to determine rates for the depreciation of investment made by a company to provide joint telecommunications service.

(2) "Company" means any telecommunications utility, unincorporated association or cooperative corporation subject to ORS 759.220.

(3) "File" means compliance with Commission rules OAR 860-011-0025 and 860-011-0030.

(4) "Exception" means a rate for the depreciation of an investment made by a company that exceeds the guideline rate. "Exception" shall also include a rate for amortization of retired investment if the rate of amortization exceeds the otherwise applicable guideline rate for depreciation of that investment.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **860-034-0610**

##### **Revision of Depreciation Guidelines**

During February of 1995 and every three years thereafter, the Commission will open a docket to consider changes to the guidelines. The Commission will hold a prehearing conference to establish dates for resolution of the issues.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **860-034-0620**

##### **Filing Deadlines for a Request for an Exception**

(1) A company requesting an exception from the guidelines for one or more calendar years shall file a request for an exception on or before June 1 of the year preceding the first calendar year for which it seeks an exception.

(2) A company may file a request for an exception subsequent to June 1 only if the Commission grants a motion to file out of time. The Commission may grant such a motion if the company shows good cause for its failure to file timely and if the Commission concludes that it has sufficient time to rule on the request on or before December 31 of the year preceding the first calendar year for which the company seeks an exception.

(3) If the Commission grants a motion to file out of time, the time line set forth in OAR 860-034-0640 through OAR 860-034-0660 shall begin on the date of the order granting the motion.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **860-034-0630**

##### **Information to be Included With a Request for an Exception**

Information included with filing a request for an exception, at a minimum, shall:

(1) State the account(s) for which the company seeks the exception;

(2) State the number of calendar years for which the company seeks the exception; and

(3) Include an engineering analysis, economic analysis or both, or other support for the exception.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **860-034-0640**

##### **Review by Staff of a Request for an Exception**

On or before the 30th day following the filing of a request for an exception, staff shall issue a written response to the company stating whether it recommends approval or denial of the request.

(1) If staff recommends approval, it shall, within 15 days of notifying the company of the recommendation, place on a public meeting agenda a recommendation that the Commission approve the request.

(2) If staff recommends denial, it shall provide written notice to the company of such recommendation, specify the reason(s) therefor, and provide to the company all documents, including, but not limited to, workpapers, studies, calculations, and internal memoranda which support its recommendation.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **860-034-0650**

##### **Petition to Open Docket**

If staff recommends denial of a request for an exception, a company may file a petition with the Commission, requesting that the Commission open a docket to determine whether to grant the exception. The Company shall file its petition with both the Administrative Hearings Division and staff on or before the 20th day following the company's receipt of staff's notification of recommended denial.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **860-034-0660**

##### **Review Procedure and Schedule for a Request for an Exception**

(1) A company filing a petition pursuant to OAR 860-034-0650 shall include as exhibits to the petition:

(a) Its request for exception and any material submitted in

support of that request;

(b) Staff's notification of recommended denial of the request for exception and all material provided by staff to the company in support of staff's recommended denial; and

(c) Any other arguments or evidence the company chooses to submit.

(2) The petition and exhibits shall constitute the entire record unless, within 20 days following the company's filing, the staff files objections to the petition or exhibits or files supplemental evidence.

(3) If staff files an objection to the petition or exhibits or files supplemental evidence, the company may file its response within 20 days from the date of the staff's filing.

(4) Within 10 days after the date on which the company is to respond, either staff or the company may request a hearing. If neither staff nor company requests a hearing, then the record shall be closed.

(5) The Hearings Officer shall establish a schedule for the filing of briefs, upon request of either the company or staff.

(6) The Hearings Officer shall have discretion, for cause, to modify the schedule, but in no event may modify the schedule so as to prevent the Commission from issuing an order on or before December 31.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

#### **860-034-0670**

##### **Extension of Time for a Request for an Exception**

The Commission or a Hearings Officer may grant, upon a showing of good cause, a request for modification of the filing dates set forth in OAR 860-034-0640 through 860-034-0660.

Stat. Auth.: ORS 756.060, 759.220 & 759.225

Stats. Implemented: ORS

Hist.: PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242)

### **DIVISION 35**

#### **OPEN NETWORK ARCHITECTURE (ONA)**

#### **860-035-0010**

##### **Purpose and Applicability**

(1) The purpose of this division is to prescribe the Open Network Architecture (ONA) environment within the State of Oregon in order to:

(a) Stimulate enhanced services availability to the public through the local exchange network;

(b) Foster development of innovative applications for ONA services and vigorous competition among all enhanced services providers;

(c) Encourage public use of enhanced services;

(d) Create a regulatory framework which ensures nondiscriminatory access to the local exchange network for all providers of enhanced services on equal rates, terms and conditions; and

(e) Prescribe conditions under which local exchange carriers may furnish enhanced services in competition with other providers of enhanced service without undue competitive advantage.

(2) This division shall apply to all LECs operating within the State of Oregon with the following exceptions:

(a) LECs which are cooperatives, unincorporated associations, or telecommunications utilities serving less than 15,000 lines in Oregon and not affiliated or under common control with any other kind of public utility providing service in Oregon are exempt from OAR 860-035-0030, 860-035-0040, 860-035-0060(1), 860-035-0070(1), 860-035-0080(4), and 860-035-0090(2) and (3);

(b) This division shall apply to LECs which are cooperatives or unincorporated associations only for services which are subject to regulation by the Commission pursuant to ORS 759.220 and 759.225.

(3) A LEC, at its discretion, may elect to offer enhanced

services solely on a structurally separated basis by means of LEC affiliates. Should a LEC make such an election, the LEC shall treat the LEC affiliates as customers.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

## **860-035-0020**

### **Definitions**

For purposes of this division:

(1) "Access Element (AE)" means an unbundled component of a BSA.

(2) "Aggregate CPNI" means summarized or aggregate noncustomer specific CPNI.

(3) "Ancillary Service (ANS)" means a service, such as billing and collection service or Operations Support Systems (OSS), which is performed by a local exchange carrier to directly administer or support provision of the LEC's basic and enhanced services. ANSs do not include the provision of common administration such as human resources, accounting, purchasing, inventory control, or other similar functions.

(4) "Basic Service" means a service which provides transmission capacity for the movement of information. Basic services include data processing, computer memory or storage, switching techniques and other activities which facilitate the movement of information.

(5) "Basic Service Element (BSE)" means an optional feature or function provided by a LEC as part of basic services. An optional feature or function can also be classified as a CNS.

(6) "Basic Serving Arrangement (BSA)" means basic services provided by a LEC which link customers to and through the LEC's network.

(7) "Building Block" means an element or group of elements representing the smallest feasible level of unbundling capable of being tariffed and offered as a service.

(8) "Collocation" means a service, offered by a LEC, which provides for placement and installation of a customer's equipment, software, and databases on LEC premises. Premises include central offices, remote network facilities, or any other similar location owned by the LEC. The equipment, software, and databases are owned by the customer.

(9) "Complementary Network Service (CNS)" means an optional feature or function provided by a LEC as part of basic services. An optional feature or function can also be classified as a BSE.

(10) "Comparably Efficient Interconnection (CEI)" means the provisioning of interconnection and network functionalities to customers and the LEC's own operations under the same rates, terms, and conditions, and on an unbundled and functionally equivalent basis.

(11) "Customer" means a subscriber, user, or consumer of LEC services or an applicant for LEC services.

(12) "Customer Proprietary Network Information (CPNI)" means individual customer data which a LEC accumulates in the course of providing basic services to the customer. CPNI includes types, quantities, and locations of services, billing amounts, repair information, calling patterns, and usage data. CPNI does not include listed name, address and telephone number, billed name, address, and telephone number, credit information, or information pertaining to enhanced or unregulated services supplied by a LEC.

(13) "Enhanced Service" means a service which employs computer processing applications that act on the format, content, code, protocol or similar aspects of the customer's transmitted information; provides the customer with additional, different, or restructured information; or involves customer interaction with stored information. Enhanced services include but are not limited to information retrieval services, voice messaging, and protocol translation between customer equipment or software.

(14) "Enhanced Service Provider (ESP)" means a person which supplies enhanced services by using ONA services furnished by a LEC, including the enhanced services operation of a LEC and an IXC acting as an ESP. An IXC acts as an ESP only when it provides enhanced services to customers separate from its

provision of basic services.

(15) "Interexchange Carrier (IXC)" means a provider of basic services, except extended area service, between local exchanges.

(16) "Joint Marketing" means the offering of enhanced and basic services by a LEC to customers either through contact initiated by the LEC or through contact initiated by the customer.

(17) "LEC Affiliate" means a person separate from the LEC which is either an affiliated interest or another company in which the LEC owns a controlling interest.

(18) "Local Exchange Carrier (LEC)" means a telecommunications utility, unincorporated association, or cooperative corporation which provides basic services within the boundaries of exchange maps filed with and approved by the Commission, and provides basic service to nearby exchanges as part of extended area service. A LEC includes its employees and individuals under contract.

(19) "Nonstructural Safeguards" means measures to prevent unjust discrimination and cross-subsidy of a LEC's enhanced service operations from the LEC's basic services operations. These measures include accounting rules, service unbundling, imputation, service deployment requirements, joint marketing, and CPNI restrictions.

(20) "Open Network Architecture (ONA) Services" means Basic Serving Arrangements, Access Elements, Basic Service Elements, Complementary Network Services, Ancillary Services, Collocation, and Virtual Collocation as defined in this division.

(21) "Operations Support Systems (OSS)" means services which support various network operation functions such as service provisioning, performance monitoring, and maintenance. OSS can be classified as an ANS.

(22) "Person" includes individuals, joint ventures, partnerships, corporations and associations, and governmental entities, or their officers, employees, agents, lessees, assignees, trustees or receivers.

(23) "Structural Safeguards" means measures to prevent unjust discrimination and cross-subsidy of a LEC's enhanced service operations from the LEC's basic services operations by employing separate personnel and facilities for enhanced services or a separate LEC Affiliate for enhanced services.

(24) "Tariff(s)" means any document on file with the Commission which specifies rates, terms, and conditions for LEC services, including price lists and special contracts.

(25) "Unbundling" means disaggregation of a service into building blocks or groups of building blocks which are offered to customers as separate services.

(26) "Unhooking" means any activity by a LEC which encourages a customer or prospective customer of an ESP to switch to the LEC's version of the same or substantially similar enhanced service at the time the ESP's customer contacts the LEC to obtain basic services which are necessary for operation of the enhanced service.

(27) "Virtual Collocation" means a service, offered by a LEC, which provides for placement and installation of customer selected equipment, software, and databases on LEC premises. Premises include central offices, remote network facilities, or any other similar location owned by the LEC. The equipment, software, and databases are owned and maintained by the LEC.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

## **860-035-0030**

### **Extent of Unbundling**

(1) In order to encourage the development of enhanced services and provide for a more competitive enhanced services market, LECs shall unbundle their local exchange and exchange access services subject to conditions provided in these rules.

(2) Unless otherwise ordered by the Commission, within six months following adoption of this rule, LECs shall create BSEs and CNSs by separating all optional features and functions from existing basic services in their intrastate local exchange and interexchange access tariffs.



(3) At least six months prior to offering any enhanced service, a LEC shall create ANSs by separating such services from existing basic services in their intrastate local exchange and interexchange access tariffs.

(4) BSEs, CNSs, and ANSs shall be offered to customers without requiring purchase of a BSA or any other service.

(5) LECs which currently offer an enhanced service shall comply with sections (3) and (4) of this rule within six months following adoption of this rule.

(6) Nothing in this rule shall preclude a LEC from combining AEs, BSEs, CNSs, and ANSs in order to create additional services so long as the unbundled services are also offered to customers separately.

(7) The LECs shall unbundle BSAs into AEs, CNSs, and BSEs. The level, extent, and implementation of BSA unbundling will be determined by Commission order or as provided in section (8) of this rule.

(8) The LECs shall submit tariffs with an effective date no later than January 1, 1995, which unbundle BSAs into AEs, CNSs and BSEs unless a different date is authorized by the Commission. LECs may file tariffs which unbundle BSAs into AEs, CNSs, and BSEs at any time prior to January 1, 1995 if they so desire.

(9) Customers shall be permitted to request AEs as part of the request process for ONA services according to OAR 860-035-0070. LECs may elect to implement the resulting new ONA service but will not be required to do so until the LEC has unbundled BSAs according to provisions in sections (7) and (8) of this rule.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0040**

##### **Tariffing**

(1) Tariff nomenclature and service descriptions for ONA services shall be as consistent as possible with those adopted by the Information Industry Liaison Committee (IILC). Each LEC shall maintain a separate section of either its local exchange or interexchange access tariffs containing a listing of all intrastate ONA services offered by the LEC, or shall maintain a separate ONA tariff containing such listing. The separate ONA section or tariff shall refer to appropriate tariff sections and price lists for each ONA service and include a compatibility matrix. The compatibility matrix shall indicate which BSAs and AEs are compatible with each BSE, CNS, and ANS offered by the LEC.

(2) Optional features and functions may be classified by a LEC as either BSEs, CNSs, or both.

(3) ONA services shall be made available in all tariffs where applicable.

(4) When a BSA is unbundled under the provisions of OAR 860-35-030(7), (8) and (9) the resulting services shall be tariffed as AEs, BSEs, and CNSs.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0050**

##### **Allocation of Costs**

If a telecommunications utility, unincorporated association, or cooperative corporation offers an enhanced service, costs and revenues of the enhanced service shall be allocated to the utility's enhanced service operation in accordance with rules contained in OAR 860-027-0052.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0060**

##### **Rates for ONA Services**

(1) Rates for ONA services contained in a LEC's interexchange access tariffs shall be equal to rates charged for the same ONA services when they are offered in the LEC's local exchange tariffs, unless there are regulatory policy or cost differences.

(2) Rates for ONA services shall be published in tariffs and shall be based on pricing policies determined by Commission order.

(3) Rates for collocation and virtual collocation may include elements for safety, security, floor space, power, maintenance and other relevant cost.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0070**

##### **Deployment of ONA Services**

(1) LECs shall issue an annual report providing a three-year deployment projection of ONA services availability by market area. The annual report shall identify and fully describe the current capabilities of each wire center, all ONA services that have become available since the previous report, and all ONA services that the LEC expects to make available within the ensuing three years. A copy of the annual report shall be filed with the Commission. LECs shall mail the annual report to customers upon their request.

(2) Upon request, LECs shall make available to customers references which provide the technical specifications of LEC interfaces that could affect customer premises equipment or the functions provided to customers for the purpose of providing enhanced services.

(3) All requests for ONA services shall be promptly evaluated by the LEC. A request to unbundle an existing service shall be considered a request for an ONA service:

(a) Each LEC shall establish an ONA service request process within six months following adoption of this rule and make information about such process available to customers upon request;

(b) The LEC shall inform the requesting customer whether the request is complete within 14 days of receiving the request. Within the 14 days, the LEC shall return an incomplete request to the customer together with a detailed explanation of deficiencies and directions for correcting such deficiencies;

(c) Schedules for implementing ONA services may deviate from these rules by mutual agreement between the LEC and the requesting customer;

(d) LECs must use the same process, criteria, and cost methods to evaluate ONA service requests from their own enhanced services operations as they use to evaluate requests from customers.

(4) Complete requests for ONA services other than collocation and virtual collocation shall be evaluated pursuant to the following requirements:

(a) The LEC shall provide a written response to the customer within 120 days of receipt. A status report shall be provided to the customer within 80 days of receipt;

(b) The LEC shall implement the request by offering the service in tariffs or by special contract if the service is feasible based on currently available technology and forecasted demand is sufficient to allow the LEC to recover its cost. The LEC shall implement the request as soon as practical and in any event no later than 12 months following the receipt of the customer's request. Implementation of AEs is the only exception. AEs shall be implemented as prescribed in OAR 860-035-0030(7), (8), and (9).

(5) Complete requests for collocation and virtual collocation shall be evaluated pursuant to the following requirements:

(a) The LEC shall provide a written response to the customer within 45 days of receipt;

(b) The LEC shall implement the request as soon as feasible and in any event no later than six months of the receipt of the request;

(c) The LEC shall implement a request for collocation or virtual collocation by offering the service in tariffs or by special contract if there is sufficient space or capacity and all applicable requirements in OAR 860-035-0080(5) and 860-035-0110 are met.

(6) A LEC which rejects a request for an ONA service shall

inform the requesting customer of any alternative arrangements which will perform the same or similar function.

(7) LECs shall maintain a detailed record of all requests made by customers for ONA services. At minimum, such records shall contain the name of the requesting customer, the date of the request, the specific type of service requested, the LEC's planned and actual response dates, the criteria and cost methods used to evaluate the request, and the response of the LEC. Such records shall be subject to audit by the Commission and its staff.

(8) Disputes concerning requests for ONA services are subject to the complaint process in OAR 860-035-0130.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0080**

##### **Availability of ONA Services**

(1) A LEC which offers enhanced services on either a deregulated or regulated basis shall charge or impute to its own enhanced services operation the same tariffed or price listed rates for ONA services that the LEC offers to its customers.

(2) LECs which offer ONA services shall not give any advantage to their own enhanced services operation or otherwise discriminate regarding service availability, ordering, provisioning, and repair or access to technical standards.

(3) LECs shall not impose use and user restrictions for ONA services except as authorized by the Commission.

(4) A LEC which offers enhanced services on either a deregulated or regulated basis shall make billing and collection available as an ANS to ESPs which provide enhanced services in direct competition with comparable enhanced services provided by the LEC at rates, terms, and conditions which are equivalent to rates, terms and conditions available to the LEC's enhanced service operations. LECs shall also offer to ESPs information which the LEC can capture in the LEC's network which ESPs could use to bill for enhanced services.

(5) A LEC which offers enhanced services on either a deregulated or regulated basis shall make any OSS service defined as an ONA service under federal law available as an ANS to customers, pursuant to OAR 860-035-0070(1), (2), (3), (6), (7), and (8). All customer requests for OSS services not defined as ONA services under federal law must be approved by the Commission unless there is a mutual agreement between the LEC and the requesting customer.

(6) All facilities connected to, or interacting with, the facilities of a LEC shall be operated in a manner which will not impede the LEC's ability to meet standards of service required in OAR 860-023-0055. All LECs shall report situations contrary to this requirement promptly to the Commission.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0090**

##### **Access to CPNI**

(1) If a LEC makes Aggregate CPNI available to its personnel who are involved in enhanced services, the same information shall be available without delay to customers under the same rates, terms and conditions. LECs must use the same process, criteria, and cost methods to evaluate requests for Aggregate CPNI from their own operations as they use to evaluate requests from customers.

(2) LEC personnel involved in marketing enhanced services shall be permitted access to CPNI without prior written authorization from individual customers, unless a customer has specifically requested restriction of CPNI. In instances where a customer has requested restriction of CPNI, access to CPNI shall be limited to LEC personnel who are not involved in marketing enhanced services. LECs shall provide a simple and convenient way for customers to request such restriction of their CPNI. LECs shall not refuse or delay provision of basic services to customers who have requested restriction of their CPNI.

(3) LECs which offer enhanced services shall mail a

notification to each customer with more than 20 lines describing the customer's right to restrict CPNI access to LEC personnel who are not involved in marketing enhanced services. Such notification shall be mailed within six months of the adoption of these rules and annually thereafter. Such notification shall also be provided to customers with more than 20 lines within 30 days of initiating service. LECs shall also prominently display a comparable notification to all customers in the LECs' local telephone directories. A LEC shall comply with the preceding notification requirements at least six months prior to the date the LEC first begins to offer enhanced services.

(4) A LEC shall release a customer's CPNI to a third party only after the customer has authorized the LEC to release such CPNI to the third party. A third party is any person other than the customer and the LEC. A LEC Affiliate is a third party.

(5) Each LEC shall specifically state in its tariffs the terms and conditions for providing CPNI and Aggregate CPNI.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0100**

##### **Joint Marketing**

(1) Subject to conditions provided in these rules, LECs shall be permitted to engage in joint marketing. As part of joint marketing, the LECs shall be allowed to use CPNI in accordance with OAR 860-035-0090.

(2) LECs shall not engage in unhooking.

(3) Whenever LEC personnel provide information about enhanced services in the course of a customer contact involving basic services, the LEC shall advise the customer in an unbiased manner that similar enhanced services may be available from other providers. The LEC shall so advise customers before taking an order for an enhanced service.

(4) A customer who subscribes to LEC's enhanced services shall have seven days to cancel without cost or penalty. The LEC shall inform customers of this right at the time the order is placed.

(5) LECs shall not use CPNI to create lists of prospective enhanced services customers for use in unsolicited direct sales such as telemarketing and direct mail except LECs may create such lists using the CPNI of any customer who has authorized the LEC to use the customer's CPNI for that purpose.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **860-035-0110**

##### **Collocation and Virtual Collocation**

(1) LECs shall offer collocation and virtual collocation to customers as provided in this rule.

(2) Software and database collocation shall be limited to facilities designed for external applications such as rapid delivery platforms, service nodes, or memory partitions. All requests for software and database collocation must be approved by the Commission unless there is mutual agreement for such collocation between the LEC and the requesting customer.

(3) A LEC shall require customers to meet the following collocation requirements:

(a) Collocation space shall not be accessible by the general public. Customers shall comply with all reasonable security requirements of the LEC. Customers shall permit LEC personnel to enter and inspect collocation space upon 24 hour notice, and only in the presence of a customer representative, except that LEC personnel may immediately enter in the event of an emergency;

(b) Customers shall be responsible for the installation, operation, and maintenance of its own equipment. LECs may offer installation, operation, and maintenance services to customers. Equipment compatibility shall be the responsibility of the customer;

(c) Customers are required to maintain comprehensive general liability insurance, including protection against death, personal injury and property damage, issued by a company qualified to do business in Oregon, in an amount of not less than

\$1 million;

(d) Customers are required to indemnify the LEC in the event there is damage to LEC equipment or the LEC's security is compromised as a result of the customer's intentional misuse or negligence;

(e) Customers shall request collocation in writing. The request shall specify technical and space requirements.

(4) LECs shall meet the following collocation requirements:

(a) If a customer has complied with all collocation requirements specified in this Division, the LEC shall permit the customer to collocate without regard to the technology employed by the customer;

(b) A LEC shall maintain and control access to its facilities in accordance with industry standards for security and safety. A LEC shall permit access to a customer's collocated facilities by authorized representatives of the customer in accordance with said standards;

(c) A LEC shall be required to indemnify the collocated customer against death, personal injury and property damage caused by the LEC's intentional misuse or negligence;

(d) A LEC shall assign space for collocation on a first-come, first-served basis based on the date the LEC receives a collocation request. The LEC shall maintain records documenting requests for collocation;

(e) In the event a LEC states it does not have sufficient space to allow for collocation and the customer disputes the LEC's assertion, the Commission's staff shall inspect the proposed point of collocation to verify that there is a lack of space. If the Commission's staff verifies that space is not available, the LEC shall deny collocation to the customer and offer the customer virtual collocation and CEI arrangements;

(f) Expansion of the LEC's enhanced services operation shall not take precedence over existing written requests for collocation. In the event a LEC required space for basic services which is otherwise occupied by a customer, the LEC shall give the customer at least 12 months' written notice to vacate. Customers shall vacate on a last-in, first-out basis or as mutually agreed by all affected parties. Customers so forced to vacate shall be offered virtual collocation and CEI arrangements;

(g) In the event it is necessary for a LEC to construct or modify existing space to collocate a customer, the LEC may require the customer to pay reasonable construction costs for the construction of segregated space in a LEC facility. Thereafter, the LEC may charge a monthly service charge for the use of the segregated space;

(h) LECs shall permit customers to monitor, test, and control the customer's collocated equipment either on site or remotely;

(i) LECs shall permit a customer to transmit information, including signaling and protocols, through the LEC's network without interference or manipulation;

(j) To the extent that a LEC provides enhanced services by means of computer software operating in a processor external to its central office switches, the LEC shall make available to customers the same interfaces which the LEC uses to enable communications between its switches and such external processor.

(5) A LEC shall require customers to request virtual collocation in writing. Requests shall specify which equipment, software, and databases the customer requires.

(6) LECs shall meet the following virtual collocation requirements:

(a) A LEC shall maintain and control access to its facilities in accordance with industry standards for security and safety. A LEC shall permit access for inspection purposes by authorized representatives of the customer in accordance with said standards;

(b) A LEC shall assign space for virtual collocation on a first-come, first-served basis based on the date the LEC receives a request. The LEC shall maintain records documenting requests for virtual collocation;

(c) In the event a LEC states it does not have sufficient space to allow for virtual collocation and the customer disputes the LEC's assertion, the Commission's staff shall inspect the proposed point of virtual collocation to verify that there is a lack of space. If the Commission's staff verifies that space is not

available, the LEC shall deny virtual collocation to the customer and offer the customer CEI arrangements;

(d) Expansion of the LEC's enhanced services operation shall not take precedence over existing written requests for virtual collocation. In the event a LEC requires space for basic services which is otherwise occupied by a customer, the LEC shall give the customer at least 12 months' written notice to vacate. Customers shall vacate on a last-in, first-out basis or as agreed by all affected parties. Customers so forced to vacate shall be offered CEI arrangements;

(e) In the event it is necessary for a LEC to construct or modify existing space to virtually collocate a customer, the LEC may require the customer to pay reasonable construction costs;

(f) LECs shall permit customers to monitor, test, and control the virtually collocated equipment;

(g) LECs shall permit a customer to transmit information, including signaling and protocols, through the LEC's network without interference or manipulation;

(h) To the extent that a LEC provides enhanced services by means of computer software operating in a processor external to its central office switches, the LEC shall make available to customers the same interfaces which the LEC uses to enable communications between its switches and such external processor.

(7) Disputes concerning collocation and virtual collocation are subject to the complaint process in OAR 860-35-130.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

## **860-035-0120**

### **Safeguards**

(1) LECs which offer enhanced services shall be permitted to provide enhanced services on an integrated basis using nonstructural safeguards and nondiscrimination requirements provided in these rules. Accordingly, LECs shall be allowed to use common personnel and facilities to provide basic and enhanced services, including deregulated enhanced services. If an enhanced service of a LEC is exempt from regulation, costs and revenues of the enhanced service shall be allocated to the LEC's enhanced service operation pursuant to rules for regulated and nonregulated accounting set forth in OAR 860-027-0052.

(2) If a complaint filed pursuant to ORS 756.500 alleges that a LEC has discriminated against competitors or has misallocated costs and revenues between enhanced and basic services, the Commission will investigate the complaint. If the Commission determines that the allegations in the complaint are substantiated, the Commission shall impose appropriate remedies, including but not limited to structural safeguards, ratemaking adjustments, termination of or restrictions on the LEC's enhanced service offerings.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

## **860-035-0130**

### **Dispute Resolution**

(1) If a LEC denies a request for ONA services, the LEC shall advise the customer as to the specific reasons and provide the customer reasonable opportunity to resolve problems identified by the LEC. The customer or LEC may seek assistance from the Commission and its staff to resolve the dispute before filing a complaint under this rule.

(2) If a LEC rejects a customer's request for an ONA service, or if a customer is not satisfied with a LEC's response to such a request, the customer may bring a complaint before the Commission under ORS 756.500. If a complaint is filed based upon a rejection of a request for service, the Commission shall determine whether the requested ONA service is viable, as defined in OAR 860-035-0070(4)(b). If the complaint relates to the timeliness of the LEC's response, or the implementation schedule, rates, terms, or conditions of providing the service, the Commission shall determine the reasonableness of the LEC's actions or positions.

(3) If a LEC specifically rejects a customer's request for



collocation or virtual collocation, or if the LEC's implementation schedule, rates, terms, or conditions for collocation or virtual collocation are considered unsatisfactory by the customer, the customer may bring a complaint before the Commission under ORS 756.500. A customer may also bring a complaint under ORS 756.500 if the customer is not satisfied with the Comparably Efficient Interconnection arrangements. The Commission shall determine whether collocation or virtual collocation should be allowed or, if applicable, whether alternative arrangements meet the CEI requirements. If the customer's complaint relates to implementation schedule, rates, terms, or conditions of collocation or virtual collocation, the Commission shall determine whether the LEC's action or position is justified.

Stat. Auth.: ORS 183.335, 756.060 & Ch. 759

Stats. Implemented: ORS 756.040 & 756.060

Hist.: PUC 13-1993, f. & cert. ef. 6-23-93 (Order No. 93-852)

#### **DIVISION 40**

##### **RAILROADS**

**860-040-0006** [Renumbered to 741-050-0010]

**860-040-0008** [Renumbered to 741-050-0020]

**860-040-0009** [Renumbered to 741-050-0030]

**860-040-0010** [Renumbered to 741-050-0040]

**860-040-0020** [Renumbered to 741-050-0050]

**860-040-0025** [Renumbered to 741-050-0060]

**860-040-0030** [Renumbered to 741-050-0070]

**860-040-0032** [Renumbered to 741-050-0080]

**860-040-0040** [Renumbered to 741-050-0090]

**860-040-0060** [Renumbered to 741-050-0100]

**860-040-0070** [Renumbered to 741-050-0110]

**860-040-0080** [Renumbered to 741-050-0120]

**860-040-0090** [Renumbered to 741-050-0130]

**860-040-0100** [Renumbered to 741-050-0140]

**860-040-0110** [Renumbered to 741-050-0150]

**860-040-0120** [Renumbered to 741-050-0160]

**860-040-0125** [Renumbered to 741-050-0170]

**860-040-0130** [Renumbered to 741-050-0180]

**860-040-0140** [Renumbered to 741-050-0190]

**860-040-0145** [Renumbered to 741-050-0200]

**860-040-0150** [Renumbered to 741-050-0210]

**860-040-0200** [Renumbered to 741-050-0220]

**860-040-0210** [Renumbered to 741-050-0230]

**860-040-0300** [Renumbered to 741-050-0240]

**860-040-0310** [Renumbered to 741-050-0250]

**860-040-0400** [Renumbered to 741-050-0260]

**860-040-0410** [Renumbered to 741-050-0270]

**860-040-0500** [Renumbered to 741-055-0010]

#### **DIVISION 42**

##### **RAILROAD-HIGHWAY CROSSINGS**

**860-042-0001** [Renumbered to 741-100-0010]

**860-042-0002** [Renumbered to 741-100-0020]

**860-042-0005** [Renumbered to 741-105-0010]

**860-042-0010** [Renumbered to 741-105-0020]

**860-042-0015** [Renumbered to 741-105-0030]

**860-042-0045** [Renumbered to 741-110-0010]

**860-042-0055** [Renumbered to 741-110-0020]

**860-042-0060** [Renumbered to 741-110-0030]

**860-042-0070** [Renumbered to 741-110-0040]

**860-042-0075** [Renumbered to 741-110-0050]

**860-042-0080** [Renumbered to 741-110-0060]

**860-042-0090** [Renumbered to 741-110-0070]

**860-042-0096** [Renumbered to 741-110-0080]

**860-042-0105** [Renumbered to 741-110-0090]

**860-042-0107** [Renumbered to 741-115-0010]

**860-042-0108** [Renumbered to 741-115-0020]

**860-042-0114** [Renumbered to 741-115-0030]

**860-042-0116** [Renumbered to 741-115-0040]

**860-042-0117** [Renumbered to 741-115-0050]

**860-042-0120** [Renumbered to 741-115-0060]

**860-042-0210** [Renumbered to 741-120-0010]

**860-042-0215** [Renumbered to 741-120-0020]

**860-042-0225** [Renumbered to 741-120-0030]

**860-042-0235** [Renumbered to 741-120-0040]

**860-042-0240** [Renumbered to 741-120-0050]

**860-042-0310** [Renumbered to 741-125-0010]

**860-042-0330** [Renumbered to 741-125-0020]

#### **DIVISION 43**

##### **APPLICATIONS**

**860-043-0005** [Renumbered to 741-200-0010]

**860-043-0011** [Renumbered to 741-200-0020]

**860-043-0025** [Renumbered to 741-200-0030]  
**860-043-0040** [Renumbered to 741-200-0040]  
**860-043-0045** [Renumbered to 741-200-0050]  
**860-043-0046** [Renumbered to 741-200-0060]  
**860-043-0050** [Renumbered to 741-200-0070]  
**860-043-0060** [Renumbered to 741-200-0080]  
**860-043-0065** [Renumbered to 741-200-0090]

**DIVISION 44**

**RAILROAD EMPLOYEE SAFETY**

**860-044-0005** [Renumbered to 741-300-0010]  
**860-044-0008** [Renumbered to 741-300-0020]  
**860-044-0010** [Renumbered to 741-300-0030]  
**860-044-0015** [Renumbered to 741-300-0040]  
**860-044-0016** [Renumbered to 741-300-0050]  
**860-044-0017** [Renumbered to 741-300-0060]  
**860-044-0025** [Renumbered to 741-300-0070]  
**860-044-0055** [Renumbered to 741-305-0010]  
**860-044-0060** [Renumbered to 741-305-0020]  
**860-044-0105** [Renumbered to 741-310-0010]  
**860-044-0106** [Renumbered to 741-310-0020]  
**860-044-0110** [Renumbered to 741-310-0030]  
**860-044-0115** [Renumbered to 741-310-0040]  
**860-044-0120** [Renumbered to 741-310-0050]  
**860-044-0155** [Renumbered to 741-315-0010]  
**860-044-0180** [Renumbered to 741-320-0010]  
**860-044-0190** [Renumbered to 741-320-0020]  
**860-044-0210** [Renumbered to 741-320-0030]  
**860-044-0245** [Renumbered to 741-320-0040]  
**860-044-0250** [Renumbered to 741-320-0050]  
**860-044-0300** [Renumbered to 741-320-0060]  
**860-044-0305** [Renumbered to 741-320-0070]  
**860-044-0310** [Renumbered to 741-320-0080]  
**860-044-0315** [Renumbered to 741-320-0090]  
**860-044-0320** [Renumbered to 741-320-0100]  
**860-044-0322** [Renumbered to 741-320-0110]  
**860-044-0325** [Renumbered to 741-320-0120]

**860-044-0330** [Renumbered to 741-320-0130]  
**860-044-0332** [Renumbered to 741-320-0140]  
**860-044-0335** [Renumbered to 741-320-0150]  
**860-044-0340** [Renumbered to 741-320-0160]  
**860-044-0342** [Renumbered to 741-320-0170]  
**860-044-0351** [Renumbered to 741-325-0010]  
**860-044-0364** [Renumbered to 741-330-0010]  
**860-044-0365** [Renumbered to 741-330-0020]  
**860-044-0366** [Renumbered to 741-330-0030]  
**860-044-0367** [Renumbered to 741-330-0040]  
**860-044-0500** [Renumbered to 741-335-0010]  
**860-044-0505** [Renumbered to 741-335-0020]  
**860-044-0520** [Renumbered to 741-335-0030]  
**860-044-0525** [Renumbered to 741-335-0040]  
**860-044-0530** [Renumbered to 741-335-0050]  
**860-044-0532** [Renumbered to 741-335-0060]  
**860-044-0535** [Renumbered to 741-335-0070]  
**860-044-0537** [Renumbered to 741-335-0080]  
**860-044-0539** [Renumbered to 741-335-0090]  
**860-044-0543** [Renumbered to 741-335-0100]  
**860-044-0545** [Renumbered to 741-335-0110]  
**860-044-0547** [Renumbered to 741-335-0120]  
**860-044-0550** [Renumbered to 741-335-0130]  
**860-044-0552** [Renumbered to 741-335-0140]  
**860-044-0555** [Renumbered to 741-335-0150]  
**860-044-0560** [Renumbered to 741-335-0160]  
**860-044-0570** [Renumbered to 741-335-0170]  
**860-044-0580** [Renumbered to 741-335-0180]  
**860-044-0585** [Renumbered to 741-335-0190]

**DIVISION 45**

**Standard for the Operation by Class I Railroads of Freight  
Trains Without an Occupied Caboose as the Rear Car**

**860-045-0015** [Renumbered to 741-400-0010]

**DIVISION 46**

**MOVEMENT OF EXCESS DIMENSION LOADS AND  
MARKING OF CARS AND OREGON RAILROAD  
HAZARDOUS MATERIALS TRANSPORTATION RULES**

**860-046-0005** [Renumbered to 741-500-0010]  
**860-046-0015** [Renumbered to 741-500-0020]  
**860-046-0020** [Renumbered to 741-500-0030]  
**860-046-0035** [Renumbered to 741-500-0040]  
**860-046-0050** [Renumbered to 741-500-0050]  
**860-046-0500** [Renumbered to 741-510-0010]  
**860-046-0510** [Renumbered to 741-510-0020]  
**860-046-0520** [Renumbered to 741-510-0030]  
**860-046-0530** [Renumbered to 741-510-0040]  
**860-046-0920** [Renumbered to 741-520-0010]  
**860-046-0930** [Renumbered to 741-520-0020]

**DIVISION 47**

**ACCIDENT NOTICES AND REPORTS**

**860-047-0001** [Renumbered to 741-600-0010]  
**860-047-0005** [Renumbered to 741-600-0020]  
**860-047-0011** [Renumbered to 741-600-0030]  
**860-047-0015** [Renumbered to 741-600-0040]  
**860-047-0045** [Renumbered to 741-600-0050]

**DIVISION 48**

**UNIFORM SYSTEM OF  
ACCOUNTS FOR RAILROADS**

**860-048-0005** [Renumbered to 741-700-0010]  
**860-048-0050** [Renumbered to 741-700-0020]  
**860-048-0055** [Renumbered to 741-700-0030]

**DIVISION 49**

**RAILROAD REGULATORY FEE**

**Methodology for Computing the Regulatory Rail Fee**

**860-049-0000** [Renumbered to 741-710-0010]  
**860-049-0010** [Renumbered to 741-710-0020]  
**860-049-0020** [Renumbered to 741-710-0030]  
**860-049-0030** [Renumbered to 741-710-0040]

**DIVISION 61**

**DEFINITIONS; GENERAL PROVISIONS**

**860-061-0005** [Renumbered to 740-030-0010]  
**860-061-0010** [Renumbered to 740-030-0020]

**860-061-0015** [Renumbered to 740-030-0030]  
**860-061-0020** [Renumbered to 740-300-0010]  
**860-061-0030** [Renumbered to 740-300-0020]  
**860-061-0040** [Renumbered to 740-300-0060]  
**860-061-0050** [Renumbered to 740-300-0070]  
**860-061-0060** [Renumbered to 740-300-0030]  
**860-061-0065** [Renumbered to 740-300-0040]  
**860-061-0070** [Renumbered to 740-300-0050]  
**860-061-0080** [Renumbered to 740-300-0080]  
**860-061-0090** [Renumbered to 740-300-0090]  
**860-061-0100** [Renumbered to 740-300-0100]  
**860-061-0110** [Renumbered to 740-300-0110]  
**860-061-0120** [Renumbered to 740-300-0120]  
**860-061-0130** [Renumbered to 740-300-0130]

**DIVISION 62**

**CERTIFICATES, PERMITS,  
LICENSES, AND DOCUMENTS**

**860-062-0005** [Renumbered to 740-035-0010]  
**860-062-0010** [Renumbered to 740-035-0020]  
**860-062-0015** [Renumbered to 740-035-0030]  
**860-062-0020** [Renumbered to 740-035-0040]  
**860-062-0025** [Renumbered to 740-035-0050]  
**860-062-0055** [Renumbered to 740-035-0100]  
**860-062-0060** [Renumbered to 740-035-0110]  
**860-062-0062** [Renumbered to 740-035-0120]  
**860-062-0063** [Renumbered to 740-035-0130]  
**860-062-0065** [Renumbered to 740-035-0140]  
**860-062-0070** [Renumbered to 740-035-0150]  
**860-062-0071** [Renumbered to 740-035-0160]  
**860-062-0072** [Renumbered to 740-035-0170]  
**860-062-0073** [Renumbered to 740-035-0180]  
**860-062-0074** [Renumbered to 740-035-0190]  
**860-062-0075** [Renumbered to 740-045-0170]  
**860-062-0090** [Renumbered to 740-035-0200]  
**860-062-0092** [Renumbered to 740-035-0210]  
**860-062-0094** [Renumbered to 740-035-0220]  
**860-062-0096** [Renumbered to 740-035-0230]



**860-062-0098** [Renumbered to 740-035-0240]  
**860-062-0100** [Renumbered to 740-035-0250]  
**860-062-0102** [Renumbered to 740-035-0260]  
**860-062-0120** [Renumbered to 740-035-0300]  
**860-062-0125** [Renumbered to 740-035-0310]  
**860-062-0150** [Renumbered to 740-035-0320]  
**860-062-0160** [Renumbered to 740-035-0330]  
**860-062-0190** [Renumbered to 740-035-0340]  
**860-062-0200** [Renumbered to 740-035-0350]  
**860-062-0210** [Renumbered to 740-035-0360]  
**860-062-0400** [Renumbered to 740-035-0370]  
**860-062-0420** [Renumbered to 740-035-0380]  
**860-062-0500** [Renumbered to 740-035-0390]

**DIVISION 63**

**INSURANCE AND BONDS**

**860-063-0005** [Renumbered to 740-040-0010]  
**860-063-0008** [Renumbered to 740-040-0020]  
**860-063-0010** [Renumbered to 740-040-0030]  
**860-063-0012** [Renumbered to 740-040-0040]  
**860-063-0015** [Renumbered to 740-040-0050]  
**860-063-0017** [Renumbered to 740-040-0060]  
**860-063-0020** [Renumbered to 740-040-0070]  
**860-063-0025** [Renumbered to 740-040-0080]  
**860-063-0035** [Renumbered to 740-050-0830]  
**860-063-0040** [Renumbered to 740-050-0840]

**DIVISION 64**

**IDENTIFICATION, ISSUANCE AND PLACEMENT OF  
PLATES, MARKERS, DEVICES OR PASSES**

**860-064-0005** [Renumbered to 740-045-0010]  
**860-064-0006** [Renumbered to 740-045-0020]  
**860-064-0007** [Renumbered to 740-045-0030]  
**860-064-0010** [Renumbered to 740-045-0040]  
**860-064-0011** [Renumbered to 740-100-0110]

**DIVISION 65**

**VEHICLES: DRIVER: EQUIPMENT: EQUIPMENT  
REQUIRED AND CONDITION OF VEHICLES**

**860-065-0010** [Renumbered to 740-100-0010]  
**860-065-0012** [Renumbered to 740-100-0020]  
**860-065-0015** [Renumbered to 740-100-0030]  
**860-065-0020** [Renumbered to 740-100-0040]  
**860-065-0025** [Renumbered to 740-100-0050]  
**860-065-0028** [Renumbered to 740-100-0060]  
**860-065-0030** [Renumbered to 740-100-0070]  
**860-065-0035** [Renumbered to 740-100-0080]  
**860-065-0040** [Renumbered to 740-100-0090]  
**860-065-0050** [Renumbered to 740-100-0100]  
**860-065-0055** [Renumbered to 740-100-0120]  
**860-065-0056** [Renumbered to 740-100-0130]  
**860-065-0090** [Renumbered to 740-100-0200]  
**860-065-0095** [Renumbered to 740-100-0210]  
**860-065-0100** [Renumbered to 740-100-0220]  
**860-065-0105** [Renumbered to 740-100-0230]  
**860-065-0130** [Renumbered to 740-045-0100]  
**860-065-0140** [Renumbered to 740-045-0110]  
**860-065-0141** [Renumbered to 740-045-0120]  
**860-065-0142** [Renumbered to 740-045-0130]  
**860-065-0145** [Renumbered to 740-045-0140]  
**860-065-0150** [Renumbered to 740-045-0150]  
**860-065-0155** [Renumbered to 740-045-0160]

**DIVISION 66**

**FREIGHT: HAZARDOUS MATERIALS: LOGS, POLES,  
OR PILING: COMMISSIONS AND INFECTIOUS WASTE**

**860-066-0005** [Renumbered to 740-050-0800]  
**860-066-0010** [Renumbered to 740-050-0810]  
**860-066-0015** [Renumbered to 740-050-0820]  
**860-066-0055** [Renumbered to 740-110-0010]  
**860-066-0060** [Renumbered to 740-110-0020]  
**860-066-0061** [Renumbered to 740-110-0030]  
**860-066-0066** [Renumbered to 740-110-0040]  
**860-066-0072** [Renumbered to 740-110-0050]  
**860-066-0073** [Renumbered to 740-110-0060]  
**860-066-0074** [Renumbered to 740-110-0070]

**Chapter 860    Public Utility Commission**  
**OREGON ADMINISTRATIVE RULES    1997 COMPILATION**

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**860-066-0075** [Renumbered to 740-110-0080]  
**860-066-0077** [Renumbered to 740-110-0090]  
**860-066-0090** [Renumbered to 740-105-0010]  
**860-066-0100** [Renumbered to 740-105-0100]  
**860-066-0101** [Renumbered to 740-105-0110]  
**860-066-0102** [Renumbered to 740-105-0120]  
**860-066-0103** [Renumbered to 740-105-0130]  
**860-066-0104** [Renumbered to 740-105-0140]  
**860-066-0105** [Renumbered to 740-105-0150]  
**860-066-0106** [Renumbered to 740-105-0160]  
**860-066-0107** [Renumbered to 740-105-0170]  
**860-066-0108** [Renumbered to 740-105-0180]  
**860-066-0109** [Renumbered to 740-105-0190]  
**860-066-0110** [Renumbered to 740-105-0200]  
**860-066-0111** [Renumbered to 740-105-0210]  
**860-066-0112** [Renumbered to 740-105-0220]  
**860-066-0113** [Renumbered to 740-105-0230]  
**860-066-0114** [Renumbered to 740-105-0240]  
**860-066-0115** [Renumbered to 740-105-0250]  
**860-066-0116** [Renumbered to 740-105-0260]  
**860-066-0117** [Renumbered to 740-105-0270]  
**860-066-0150** [Renumbered to 740-035-0400]

**DIVISION 67**

**TARIFFS AND TIME SCHEDULES**

**Intrastate Rate Regulation**

**860-067-0000** [Renumbered to 740-050-0010]  
**860-067-0005** [Renumbered to 740-050-0020]  
**860-067-0010** [Renumbered to 740-050-0030]  
**860-067-0015** [Renumbered to 740-050-0040]  
**860-067-0020** [Renumbered to 740-050-0050]  
**860-067-0025** [Renumbered to 740-050-0060]  
**860-067-0030** [Renumbered to 740-050-0070]  
**860-067-0035** [Renumbered to 740-050-0080]  
**860-067-0040** [Renumbered to 740-050-0090]  
**860-067-0045** [Renumbered to 740-050-0100]  
**860-067-0050** [Renumbered to 740-050-0110]

**860-067-0055** [Renumbered to 740-050-0120]  
**860-067-0070** [Renumbered to 740-050-0130]  
**860-067-0075** [Renumbered to 740-050-0140]  
**860-067-0135** [Renumbered to 740-050-0200]  
**860-067-0140** [Renumbered to 740-050-0220]  
**860-067-0145** [Renumbered to 740-050-0230]  
**860-067-0150** [Renumbered to 740-050-0240]  
**860-067-0185** [Renumbered to 740-050-0210]  
**860-067-0190** [Renumbered to 740-050-0250]  
**860-067-0195** [Renumbered to 740-050-0260]  
**860-067-0200** [Renumbered to 740-050-0270]  
**860-067-0205** [Renumbered to 740-050-0280]  
**860-067-0215** [Renumbered to 740-050-0290]  
**860-067-0240** [Renumbered to 740-050-0400]  
**860-067-0245** [Renumbered to 740-050-0410]  
**860-067-0250** [Renumbered to 740-050-0420]  
**860-067-0255** [Renumbered to 740-050-0430]  
**860-067-0265** [Renumbered to 740-050-0500]  
**860-067-0295** [Renumbered to 740-050-0600]  
**860-067-0300** [Renumbered to 740-050-0610]  
**860-067-0310** [Renumbered to 740-050-0620]  
**860-067-0315** [Renumbered to 740-050-0630]  
**860-067-0320** [Renumbered to 740-050-0640]  
**860-067-0335** [Renumbered to 740-050-0650]  
**860-067-0375** [Renumbered to 740-050-0700]

**DIVISION 68**

**RECORDS, REPORTS AND ACCOUNTING FEES AND  
TAXES**

**860-068-0005** [Renumbered to 740-055-0010]  
**860-068-0010** [Renumbered to 740-055-0020]  
**860-068-0048** [Renumbered to 740-055-0100]  
**860-068-0050** [Renumbered to 740-055-0110]  
**860-068-0055** [Renumbered to 740-055-0120]  
**860-068-0056** [Renumbered to 740-055-0130]  
**860-068-0058** [Renumbered to 740-055-0140]  
**860-068-0063** [Renumbered to 740-055-0150]  
**860-068-0064** [Renumbered to 740-055-0160]

**860-068-0067** [Renumbered to 740-055-0170]  
**860-068-0069** [Renumbered to 740-055-0180]  
**860-068-0071** [Renumbered to 740-055-0190]  
**860-068-0073** [Renumbered to 740-055-0200]  
**860-068-0075** [Renumbered to 740-055-0210]  
**860-068-0080** [Renumbered to 740-055-0220]  
**860-068-0091** [Renumbered to 740-055-0300]  
**860-068-0097** [Renumbered to 740-055-0310]  
**860-068-0107** [Renumbered to 740-055-0320]  
**860-068-0141** [Renumbered to 740-055-0400]  
**860-068-0151** [Renumbered to 740-055-0500]

**DIVISION 69**

**TRANSPORTATION OF HOUSEHOLD GOODS**

**860-069-0005** [Renumbered to 740-060-0010]  
**860-069-0006** [Renumbered to 740-060-0020]  
**860-069-0007** [Renumbered to 740-060-0030]  
**860-069-0010** [Renumbered to 740-060-0040]  
**860-069-0015** [Renumbered to 740-060-0050]  
**860-069-0020** [Renumbered to 740-060-0060]  
**860-069-0030** [Renumbered to 740-060-0070]  
**860-069-0040** [Renumbered to 740-060-0080]  
**860-069-0050** [Renumbered to 740-060-0100]  
**860-069-0060** [Renumbered to 740-060-0110]

**DIVISION 70**

**CARGO LOADING AND SECUREMENT RULES**

**860-070-0005** [Renumbered to 740-115-0010]  
**860-070-0010** [Renumbered to 740-115-0020]  
**860-070-0015** [Renumbered to 740-115-0030]  
**860-070-0020** [Renumbered to 740-115-0040]  
**860-070-0025** [Renumbered to 740-115-0050]  
**860-070-0030** [Renumbered to 740-115-0060]  
**860-070-0035** [Renumbered to 740-115-0070]

**DIVISION 71**

**BALED HAY AND STRAW-LOADING, SECUREMENT,  
AND TRANSPORTATION**

**860-071-0005** [Renumbered to 740-120-0010]  
**860-071-0010** [Renumbered to 740-120-0020]  
**860-071-0015** [Renumbered to 740-120-0030]  
**860-071-0020** [Renumbered to 740-120-0040]

**DIVISION 72**

**BALED COTTON, PAPER, AND JUTE LOADING,  
SECUREMENT, AND TRANSPORTATION**

**860-072-0005** [Renumbered to 740-125-0010]  
**860-072-0010** [Renumbered to 740-125-0020]  
**860-072-0015** [Renumbered to 740-125-0030]  
**860-072-0020** [Renumbered to 740-125-0040]

**DIVISION 73**

**LOGS AND POLES — LOADING, SECUREMENT, AND  
TRANSPORTATION**

**860-073-0005** [Renumbered to 740-130-0010]  
**860-073-0010** [Renumbered to 740-130-0020]  
**860-073-0015** [Renumbered to 740-130-0030]  
**860-073-0020** [Renumbered to 740-130-0040]  
**860-073-0025** [Renumbered to 740-130-0050]  
**860-073-0030** [Renumbered to 740-130-0060]  
**860-073-0035** [Renumbered to 740-130-0070]  
**860-073-0040** [Renumbered to 740-130-0080]  
**860-073-0045** [Renumbered to 740-130-0090]

**DIVISION 74**

**JUNK AND SCRAP METAL — LOADING  
SECUREMENT,  
AND TRANSPORTATION**

**860-074-0005** [Renumbered to 740-135-0010]  
**860-074-0010** [Renumbered to 740-135-0020]  
**860-074-0015** [Renumbered to 740-135-0030]  
**860-074-0020** [Renumbered to 740-135-0040]

**DIVISION 75**

**STEEL COILS — LOADING,  
SECUREMENT AND TRANSPORTATION**

**860-075-0005** [Renumbered to 740-140-0010]  
**860-075-0010** [Renumbered to 740-140-0020]  
**860-075-0015** [Renumbered to 740-140-0030]



**860-075-0020** [Renumbered to 740-140-0040]

**860-075-0025** [Renumbered to 740-140-0050]

**860-075-0030** [Renumbered to 740-140-0060]

**DIVISION 76**

**STEEL PLATE, SHEET, AND TINPLATE — LOADING  
AND SECUREMENT**

**860-076-0005** [Renumbered to 740-145-0010]

**860-076-0010** [Renumbered to 740-145-0020]

**860-076-0015** [Renumbered to 740-145-0030]

**860-076-0020** [Renumbered to 740-145-0040]

**860-076-0025** [Renumbered to 740-145-0050]

**860-076-0030** [Renumbered to 740-145-0060]

**DIVISION 76**

**STEEL PLATE, SHEET, AND TINPLATE — LOADING  
AND SECUREMENT**

**860-076-0005** [Renumbered to 740-145-0010]

**860-076-0010** [Renumbered to 740-145-0020]

**860-076-0015** [Renumbered to 740-145-0030]

**860-076-0020** [Renumbered to 740-145-0040]

**860-076-0025** [Renumbered to 740-145-0050]

**860-076-0030** [Renumbered to 740-145-0060]

**DIVISION 77**

**EMPTY WOODEN OR PLASTIC BOXES — LOADING,  
SECUREMENT, AND TRANSPORTATION**

**860-077-0005** [Renumbered from 740-150-0010]

**860-077-0010** [Renumbered from 740-150-0020]

**860-077-0015** [Renumbered from 740-150-0030]

**860-077-0020** [Renumbered from 740-150-0040]

**860-077-0025** [Renumbered from 740-150-0050]

**DIVISION 78**

**DETACHABLE FREIGHT VANS OR TANK CONTAINERS  
— LOADING, SECUREMENT, AND TRANSPORTATION**

**860-078-0005** [Renumbered to 740-155-0010]

**860-078-0010** [Renumbered to 740-155-0020]

**860-078-0015** [Renumbered to 740-155-0030]

**860-078-0020** [Renumbered to 740-155-0040]

**860-078-0025** [Renumbered to 740-155-0050]

**860-078-0030** [Renumbered to 740-155-0060]

**DIVISION 79**

**LUMBER AND LUMBER PRODUCTS — SAFE LOADING,  
SECUREMENT, AND TRANSPORTATION**

**860-079-0005** [Renumbered to 740-160-0010]

**860-079-0010** [Renumbered to 740-160-0020]

**860-079-0015** [Renumbered to 740-160-0030]

**860-079-0020** [Renumbered to 740-160-0040]

**860-079-0025** [Renumbered to 740-160-0050]

**860-079-0030** [Renumbered to 740-160-0060]

**860-079-0035** [Renumbered to 740-160-0070]

**DIVISION 80**

**SACKED CEMENT, SAND, READY-MIX CONCRETE,  
BARK DUST, BARK CHIPS, SEED, SECUREMENT AND  
TRANSPORTATION**

**860-080-0005** [Renumbered to 740-165-0010]

**860-080-0010** [Renumbered to 740-165-0020]

**860-080-0015** [Renumbered to 740-165-0030]

**860-080-0020** [Renumbered to 740-165-0040]

**DIVISION 81**

**RECIPROCAL AGREEMENTS AND INTERSTATE  
COMPACTS**

**860-081-0005** [Renumbered to 740-200-0010]

**860-081-0015** [Renumbered to 740-200-0020]

**860-081-0020** [Renumbered to 740-200-0030]