

Division 21 Supplemental Information

This documents accompanies the draft rules and gives an explanation of changes. This also addresses the bulleted information in Joint Advocates and SBUA comments.

860-021-0008

Definitions for Regulation of Utility Services

Added the edited definition of Low-Income customer.

(7) “Low-income residential customer” means a customer or applicant whose eligibility has been verified under OAR 860-021-0180.

Also throughout the rule definitions, the revised rules add “sends” as utilities have multiple ways (email, letter, other) to notify customers; and changes “his/her” to “**the customer**”.

Concerning the Joint Utilities request to strike-out “written,” the Joint Utilities point out:

“The Joint Utilities propose the ability to serve and distribute information to customers using modern communication channels (e.g., email, text message, etc.) if the customer has requested as such. Much of Division 21 language requires customer communications to go out via USPS or phone call. The Joint Utilities would like to amend this language so that as technology continues to grow, customers are able to receive notifications via their preferred form of communication.”

Staff points out that sending an email or a text is sending a written notice. If no one intended to authorize oral notifications, then there is no need to delete “written”. Deleting it will mean a written communication is not required, leaving oral communications an option, which are hard to track, document, and especially enforce. Importantly, TPAs may not be longer than 12 months so it would be illegal to allow oral agreement for those terms. See ORS 41.580.

860-021-0009

Applications for Utility Service from an Energy or Large Telecommunications Utility

Removed Staff's added section that allows utilities to collect demographic data. Staff has removed this section from the rule to allow for consideration of specific information collection requirements as necessary in the future.

860-021-0010

Information for Utility Customers and Applicants

Includes multiple administrative changes that deals with means of information provided from the utilities to customers. As the utilities state in its joint comments:

"The Joint Utilities propose the ability to serve and distribute information to customers using modern communication channels (e.g., email, text message, etc.) if the customer has requested as such. Much of Division 21 language requires customer communications to go out via USPS or phone call. The Joint Utilities would like to amend this language so that as technology continues to grow, customers are able to receive notifications via their preferred form of communication."

The rule also clarifies the PUC's Consumers Services is a Section and not Division; and changes "him/her" to "**the customer**"

860-021-0011

Multilingual Notices

This rule (amongst others) changes "consumer" to "customer" for consistency throughout Division 21.

860-021-0015

Dispute Resolution

Makes various administrative (non-substantive) changes that correctly label Commission's Consumer Services; updates email addresses; and corrects that hearings are conducted electronically, and not by phone.

860-021-0021

Interruption of Utility Service

Staff accepted the Joint Utilities' request that Staff revise its original revision on section (2) to reestablish service within 21 days notification to the Commission of the interruption if it goes beyond 21 days.

Joint utilities stated:

"The joint utilities suggest notification to the Commission rather than the Commission approving. In the event of a natural disaster that results in interruption of service beyond 21 days there is no recourse for requiring service to be reestablished until it is safe to do so."

Staff added additional language clarifying what information should be provided to the Commission.

(2) Each energy or large telecommunications utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the energy or large telecommunications utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers, **employees**, and the general public. **In cases when the interruption of service lasts longer than 21 days, the utility must notify the Commission and must provide the reasons for the continued interruption, the efforts to that date that the utility had taken to restore service, and what additional events or measures are required to restore service.**

"Electronically" was also an option for utilities to notify customers in Section (3):

Notice may be given in writing, either via US mail, **electronically**, or a door hanger on the affected premises, or by contact with the customer or an adult at the residence by personal visit or by telephone.

860-021-0126

Late-Payment Charge

Added the customer protection for low-income customers in new section (3):

(3) An energy utility may not impose late-payment charges to low-income residential customers.

860-021-0135

Adjustment of Utility Bills

Changes “consumer” to “customer” in section (5)(c).

860-021-0180

Verification of Eligibility for Low-income Residential Customer

Revises and simplifies Staff’s original submission to state:

860-021-0180

Verification of Eligibility for Low-income Residential Customer

(1) A residential customer shall qualify as an eligible low-income residential customer for purposes of OAR 860-021-0205(5), OAR 860-021-0210, OAR 860-021-0330, or OAR 860-021-0420 through the following methods:

(a) The customer is a recipient of energy assistance through the Low income Home Energy Assistance Program (LIHEAP) or the Oregon Energy Assistance Program (OEAP) or an energy assistance program offered by an energy utility; or

(b) The customer is enrolled in any of the utility’s income-qualified energy assistance programs, including discounted rates offered by a utility pursuant to 2021 House Bill 2475.

(2) An energy utility may require a low-income residential customer to verify or recertify eligibility as per section (1) of this rule on an annual basis if the customer is to remain an eligible low-income residential customer.

In section (1), the definition is simplified to include traditional low income (60% of the state median income); and adds that customers enrolled in any of the utility’s income qualified energy assistance programs, including discounted rates pursuant to 2021 HB 2475. However, Staff added, “**or an energy assistance program offered by an energy utility**” to account for programs such as OLGA, LIRAP, OLIBA. Staff removed the word “known” before “recipient” as it is not a needed addition.

The Section (1)(ii) change may capture more customers than the traditional energy assistance, which is a concern of Joint Advocates.

As Joint Utilities state in their March 2, 2022, comments:

“In order to be eligible for these protections, the Joint Utilities recommend removing barriers to make it as easy as possible for eligible customers to receive these benefits. The Joint Utilities propose the definition of a low-income customer be defined as a customer who has received LIHEAP or OEAP in the past 12-months or those residential customers who are enrolled in a utility’s income-qualified energy assistance program(s). In both scenarios, the customer is already designated as income-qualified, so an additional step of asking for this information again is unnecessary.”

In section (2), Staff accepted Joint Utilities change for “must” to “may” concerning annual reenrollment.

860-021-0200

Establishing Credit for Residential Utility Service

Staff accepted Joint Utilities suggested changes that clarifies requirements in section (1) of the rule that now reads:

(1) An applicant or customer may demonstrate satisfactory credit for new or continuing service by showing any of the following, provided that a deposit is not required under section (2) of this rule: Received 12 months of continuous utility service of the same type applied for (energy or telecommunications) during the preceding 24 months and the utility can verify **a prior service account in the customer or applicant’s name**, either by contacting the former utility or through an authorized letter provided by **the applicant or customer from the** former utility on utility letterhead **that** ~~to~~ includes **the following**:

- (i) Name(s) of the responsible person(s) on the account;**
- (ii) Date of service;**
- (iii) A statement that the customer was not disconnected for nonpayment during the final 12 months of service; and**
- (iv) A statement that the applicant or customer voluntarily terminated service and timely paid for all services rendered.**

~~dates of service and presented by the applicant, customer or former utility, that the applicant or customer voluntarily terminated service and timely paid for all services rendered.~~

Section (2)(b) removes the need for a low-income customers to pay a deposit by stating:

(2) An applicant or customer may be required to pay a deposit at the time of application for new or continued service when:

(b) The applicant or customer received the same type of utility service from it or any Oregon energy or telecommunications utility, as defined in ORS 757.005 or 759.005, within the preceding 24 months and owed an account balance that was not paid in full when service was terminated. Subsection (2)(b) of this rule does not apply to a customer who registered a dispute with the Commission within 60 days after service was terminated and who paid all undisputed or adjudicated amounts **or is a low-income customer**; or

Section (3) clarifies methods of establishing credit in lieu of paying a deposit:

(3) In lieu of paying a deposit, an applicant or customer may:

(a) Provide the energy or large telecommunications utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage, **which may be transferred to the responsible party's account as established in OAR 860-021-0334**. For purposes of section (3) of this rule, a responsible party is a customer ~~of~~^{with} the same utility **that has maintained credit in good standing for the preceding 12 months without receiving a past due notice or incurring involuntary disconnection**. ~~who~~ meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate should the responsible party no longer meet the conditions set forth herein. In the event a responsible party is subsequently found not to qualify, the applicant or customer will be required to either pay a deposit or obtain a written surety agreement from another responsible party. The surety obligation ceases when the customer establishes good credit;

860-021-0205

Deposit Payment Arrangements for Residential Energy Utility Service

Section 1 adds a reference to OAR 860-021-0335(1) and (2) Refusal of Service, concerning when a utility requires a deposit to prevent refusal of service; changes the 30 day and 60 day requirement of paying installments to "two subsequent monthly bills;" and clarifies that a low-income customer is not required to pay a deposit.

(1) **Except as provided for in OAR 860-021-0335(1) and (2),** ~~when~~ an energy utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. The first installment is due immediately; the remaining installments are due **with the subsequent two monthly bills 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 of the deposit. **An energy utility shall not require a deposit be paid by a low-income residential customer.**

Section (3) clarifies that the two subsequent payments cannot be within the same “billing” period.

860-021-0215

Refund of Deposits for Residential and Nonresidential Utility Service

Includes a new Section 6 concerning low income customers.

(6) An energy utility that collects or has collected a deposit from a low-income residential customer must apply or return the deposit as outlined in this section.

(a) For a low-income residential customer, the energy utility will return the deposit within two billing cycles.

(A) The deposit will first be applied to any outstanding balance on a low-income residential customer’s account. If there are any remaining funds, the funds will be applied to the customer’s account or returned by check mailed to the last-known address upon request.

(B) If a low-income residential customer account is current, the deposit will be applied to a customer’s account or returned by check mailed to the last-known address upon request.

(C) For a low-income residential customer that pays the deposit in installments per section (1) above, the energy utility will return the deposit within two billing cycles, after the last installment payment is made.

It is important to note that the new Section 6 would basically become seldom utilized after adoption of these rules as energy utilities will not be collecting deposits from low-income customers pursuant to OAR 860-021-0205(1).

860-021-0305

Grounds for Disconnecting Utility Service

Section (5) specifies calendar days for when utility service may be disconnected by an energy utility or large telecommunications utility:

(5) When the customer requests the utility to disconnect service or close an account or when a co-customer fails to reapply for service within 20 **calendar** days after a joint account is closed by the other co-customer, so long as the utility has provided a notice of pending disconnection.

The rule also adds a new section (10) that addresses customer load information and damage to the system:

(10) When a customer fails to disclose reasonably accurate customer load information and damage to utility equipment results.

860-021-0320

Disconnection of Service on Weekends and Holidays

Administrative change to reflect that Consumers Services is a Section, not Division.

860-021-0326

Disconnection of Gas or Electric Service to Tenants

Revises and adds clarifying language concerning contacting a tenant:

(1) When an energy utility's records show that a residential billing address is different from the service address, **and the utility has reason to believe that the service address is not occupied by the customer or co-customer,** the utility must provide a ~~duplicate of the five-day disconnect notice~~ **to the occupants of the premises in the manner described in** required under OAR 860-021-0405(6), ~~for gas and electric service to the occupants of the premises in the manner described in 860-021-0405(6) unless the utility has reason to believe that the service address is occupied by the customer.~~ **The five-day disconnect notice may be addressed to "tenant" or "occupant" and must include a statement regarding the impending disconnection of utility service, the earliest date for disconnection and an explanation of the Commission's complaint process and toll-free number.** This requirement is satisfied by serving a notice addressed to "Tenants" in the same manner provided for in 860-021-0405. The notice to occupants need not include the dollar amount owing **or the reason for disconnection.**

Section (2) makes an administrative change to reflect that Consumers Services is a Section, not Division.

860-021-0328

Reconnection of Residential Energy Utility Service

Section (2) adds a protection for low-income customers:

(2) Each energy utility must provide a means by which an applicant or customer may contact the utility on a Business Day so that the applicant or customer may pay applicable charges, **apply for verification as a low-income residential customer under OAR 860-021-0180**, submit any necessary credit information, and request reconnection of service. A Business Day is defined as Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding state- or utility-recognized holidays.

Section (3)(A) adds reference to utility holidays:

(A) For a request for reconnection received during the Business Day, Monday through Thursday, service must be restored by 5:00 p.m. the following day, except when the following day is a state **or utility** recognized holiday.

Section (7) adds a reference to OAR 860-021-0330, Reconnection Fee for Utility Service.

860-021-0330

Reconnection Fee for Utility Service

Staff maintained its language concerning reconnection fees; however, adds a new Section (2) that addresses electric utilities that do not have to disconnect remotely:

(1) When a utility service is disconnected pursuant to OAR 860-021-0305, the energy or large telecommunications utility may charge the reconnection fee in its tariff, **except as provided below**:

(a) For electric utilities that have the ability to perform remote reconnection, the electric utility will not assess a reconnection fee for low-income residential customers for the first two reconnections in a calendar year.

(b) For electric utilities that do not have the ability to perform remote reconnection, the electric utility will not assess a reconnection fee for low-income residential customers for the first reconnection in a calendar year.

(c) For natural gas utilities, the natural gas utility will not assess a reconnection fee for low-income residential customers for the first reconnection in a calendar year.

(d) Sections (a) (b), and (c) above do not apply to After Hour Reconnect as described in OAR 860-021-0328(7)(b).

The Joint Utilities stated the following on the two waived fees:

The Joint Utilities recommend waiving the first reconnection fee in a calendar year instead of breaking this out by fuel type. For some electric utilities, the customer does not have a choice to have a remote capable meter so the Joint Utilities do not feel the customer should be treated different based on their meter type.

Staff disagrees with Joint Utilities comments. Remote reconnections are performed easier as compared to rolling a truck; and have minimal incremental costs. Additionally, joint utilities recognize notification difference (OAR 860-021-0405) for customers that can be disconnected remotely.

Joint Advocates state:

We are concerned that the 1-2 cap on annual reconnection fee waivers per eligible customer in the proposed 860-021-0330(1) and (2) may be arbitrary. For that reason, we call for a more data driven determination of the appropriate cap. Specifically, we encourage Staff to request data from the utilities about the number of reconnections for customers that would be eligible for these protections (i.e. using the number of reconnections for energy assistance recipients as a proxy). That data would help us determine a potentially more appropriate cap on annual reconnection fee waivers.

Additionally, we encourage Staff to amend language excluding after-hours reconnections from the waiver in the proposed 860-021-0330(3). After-hour reconnections should be eligible for waiver at least in a limited set of circumstances, like when the customer has a medical certificate or other vulnerability factor, when severe weather or poor air quality are on the horizon, or in the context of wildfires.

Staff believes that the revised rule offers adequate protections to low-income customers without placing extraordinary additional costs to the system. Staff will send out data requests on energy assistance customers and disconnects.

Concerning after hours reconnections, the utilities already handle medical certificate customers with extra care. Severe weather or poor air quality reconnections are addressed in OAR 860-021-0406 and 0407.

An important aspect of disconnections is that disconnections cannot occur on holidays, weekend, and for the most part on Fridays. There are costs associated with after hour connections that should not be placed on the system.

Additionally, active participation by the customer with the utility concerning the reconnect situation, should alleviate many after hour reconnections.

860-021-0335

Refusal of Utility Service

Section (1) adds a reference to OAR 860-021-0330, Reconnection Fee for Utility Service as a condition for not refusing service.

(1) Except as provided in section (2) of this rule, **and OAR 860-021-0330**, an energy utility may refuse to provide service to a customer or applicant until the utility receives full payment of any overdue amount of an Oregon tariffed or price-listed charge and any other like obligation related to an Oregon prior account.

Section (2) specifically states that a low-income customer will not be required to pay a deposit; restores the one-half payment of overdue charges as recommended by the joint utilities; and changes the interval period from 30 days to subsequent billing periods to better align with utilities' billing practices concerning the balance of the overdue balance.

(2) Except for a residential customer or applicant who was disconnected for theft of service, an energy utility shall provide service to a residential customer or applicant upon receiving payment equal to at least one-half of any overdue amount of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account, except deposits which must be paid in full, provided the customer or applicant has made reasonable partial payment on the account during the time service has been discontinued. **An energy utility shall not require a deposit be paid by a low-income residential customer.** The customer shall pay the balance of the amount owed to the energy utility within ~~30~~ **two subsequent billing cycles** of the date service is initiated. Upon failure to pay, the energy utility may disconnect service after providing a five-day notice to the customer. The notice shall contain the information set forth in OAR 860-021-0405(2)(a), (b), (c), (d)(A) and (D) and shall be served as required by 860-021-0405(5). If a customer or applicant whose service was terminated applies for service within 20 days of the termination, the provisions of this rule apply.

Section (5) has minor clarifying changes:

(5) An energy or large telecommunications utility may refuse to provide service until the utility receives payment when all the following circumstances exist:

(a) An overdue balance has been incurred by a residential customer or applicant at a service address; **and**

~~(b) A residential 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~~

(b) The residential customer or applicant described in subsection (5)(a) of this rule will reside at the location to be served under the new application.

860-021-0405

Notice of Pending Disconnection of Residential Electric or Gas Utility Service

Staff draft rules changes the 15-day notice to a 20-day notice throughout the rule. The rule also allows for electronic transmittal of notices in addition to notices by mail.

Although the utilities request to maintain the 15-day, and correctly point out:

“...currently provide anywhere from 38-66 days, compared to the OAR’s required 32 days, from billing to when disconnection for nonpayment may occur. Further, with the customer protections currently in place, customers can prevent receiving a notice or being disconnected through a myriad of ways such as setting up a TPA, seeking energy assistance, etc.”

A big take from the focus groups is that they sometimes needed a little more time based on pay cycles. As Staff points out in the December 16, 2021 Public Meeting (December 7, 2021 Staff Report):

“As an alternate solution, Staff discussed the possibility of proposing that the five-day notice of disconnection should follow the 15-day late notice. This change will add five days to the days from billing to disconnection. This change is significant as it will allow more time (one week) for low-income customers to pay past due bills. As a result, the shortest turn-around (Avista) would increase to 43 days (six weeks). This change will increase the Portland area utilities disconnect timeline to seven to eight weeks allowing customers more time to obtain energy assistance.”

Staff recommended the 20-day notice in lieu of having separate notices with a longer time for low-income customers based on the utilities’ concern over the burden to implement and maintain two different time frames.

Section (9)(b)(B) clarifies noticing when a utility has the capability of remote disconnection.

(B) **Where the service address has remote disconnect capability installed, attempt to contact the customer at least once, two days prior to the expected date of disconnection.** ~~a service address where remote disconnect capability is installed via the telephone at least twice a day for the three consecutive days prior to the proposed disconnection, and at least one call must be placed during the morning or afternoon (8:00 am to 5:00 pm) and another call placed during early evening (6:00 pm to 8:00 pm). Where **if contact is attempted via telephone and** an answering machine or service is available, the utility must leave a message at the end of each calling day informing the customer of the proposed disconnection. Initial implementation of section (9)(b)(B) may not occur during the winter heating season (November 1 through April 30).~~

Although considered unnecessary by the Joint Utilities because of Staff's edits, Staff maintained its changes to Section 11.

(11) When the energy utility makes personal contact under this rule, **and subject to the energy utility's payment collection policies,** the utility's representative making contact is empowered to accept reasonable partial payment of the overdue balance under the time-payment provisions of OAR 860-021-0415.

Lead Staff firmly believes that collecting money at the door should be a utility decision and not required by the Commission. Staff contends that:

- Three utilities (PGE, PAC, and Cascade NG) have Commission approved waivers.
- Utilities have established multiple means of paying bills. As an example, Cascade Natural Gas utilizes online payments, customers can set-up automatic payments or electronic checking transfers, use CNG's 3rd party card payment processor Speedpay, mail or drop off payment, and pay in person at convenience pay locations or western union (both that take cash).
- The PUC's Consumer Services cannot locate any instances of receiving complaints about customers not being able to pay at the door.
- In a quick look by Cascade Natural Gas, the company has received a total of nine complaints from 2018 to date about this issue.
- Staff has been told on numerous occasions that customers in arrears avoid answering phone calls and opening bills. This hesitancy to transact with a utility at the door would appear to be also plausible, resulting in a probably infrequent means of transacting. (*Staff will data request this.*)
- Lead Staff believes it is an unsafe practice to place an employee in a situation where they are asked to carry large sums of money. If a utility believes otherwise, Section (11) allows them to continue this process.

860-021-0406

Wildfire Displacement Protection

Added both level 2 (Joint Advocates) and level 3 (Joint Utilities) to evacuation notice. In Section (1) added “best effort” based on Joint Utilities” comments:

“The Joint Utilities are concerned about if or how we will know about all evacuation orders. The joint utilities ask flexibility to this language in the event the utility is unaware of an evacuation order.”

In Section (3), Staff also added, “Upon request from a customer” based on Joint Utilities comments:

“The joint utilities would like to reconnect at the request of the customer in the event the customer has moved out or does not wish to have service put back in their name.”

(1) An energy utility must make best efforts to put into effect a moratorium on the disconnection of residential and commercial service for nonpayment on any day a residential or commercial customer is under a level 2 or 3 evacuation notice due to wildfires.

(2) An energy utility must make best effort to put into effect a moratorium on the disconnection of residential and commercial service for nonpayment on any day of and the day after a level 2 or 3 evacuation order has been lifted.

(3) Upon request from a customer who has been disconnected for non-payment within the previous 72 hours of a wildfire evacuation, after the evacuation order has been lifted, an energy utility must make best efforts to reconnect the customer. An energy utility shall notify the Commission’s Consumer Services Section when the utility determines that reconnects are not possible due to adverse geographic and weather conditions.

860-021-0407

Severe Weather Moratorium on Disconnection of Residential and Small Commercial Electric or Gas Utility Service for Nonpayment

In Section (1), Staff clarified “Winter Storm Warning.” According to the National Weather Service:

“Snow, sleet, or ice expected. Take Action! Confidence is high that a winter storm will produce heavy snow, sleet, or freezing rain and cause significant impacts.”

In Section (3), Staff accepted Joint Utilities’ revisions that clarified the rule.

(3) An energy utility must put into effect a moratorium on the disconnection of residential and small commercial service for nonpayment when the Air Quality Index is at or above 100 as issued on the website AirNow.gov or a similar air quality reporting service that may be designated by the utility.

Staff removed, Based on Joint Utilities’ input, the added Section (6) as it is clear in Section (3b)

(6) For purposes of section (3) of this rule, an energy utility must base the need for a moratorium on data available from AirNow.gov or a similar air quality reporting service that may be designated by the utility.

Revised Section (9) to state. This adds a similar provision to the new Wildfire Rule, which has the customer requesting reconnection.

(9) Upon request from a customer who has been disconnected for nonpayment within the previous 72 hours of a severe weather or air quality condition outlined in sections (1), (2), and (3) of this rule, an energy utility must make best efforts to reconnect service. Reconnection fees stated in OAR 860-021-0330 may apply to any reconnection. An energy utility shall notify the Commission’s Consumer Services Section when the utility determines that reconnects are not possible due to weather or air quality conditions.

860-021-0408

Disconnect Reporting Rule

SBUA requested small commercial customers to be included in the reporting requirement.

Staff added "*small commercial*" to the rule. As a result of UM 2114, energy utilities are reporting small commercial disconnects and Staff does not consider this to be an onerous burden to report.

860-021-0410

Emergency Medical Certificate for Residential Electric and Gas Service

The Joint Utilities requested that the current 14-day certification remains and not require the UM 2114 Stipulated Agreement change to 60 days.

"The Joint Utilities ask to keep the current language of 14-days. The 60-day period was provided during the pandemic when it might have been difficult to see a Qualified Medical Professional, but the Joint Utilities do not think this is a reasonable amount of time as a standard."

Staff agrees that the pandemic is over, but believes a customer needs more than 14-days to work with a medical provider and **revised the 60 days to 30 days**.

In Section (5)(b), Staff accepted the Joint Utilities recommendation of removing "*at least once during the duration of the time-payment agreement;*" As pointed out,

"The Joint Utilities do not think this addition is necessary as the provision allows for renegotiation of the TPA."

As a result, there are no changes to Section (5)(b), maintaining the current language.

(b) When financial hardship can be shown, a customer with a medical certificate may renegotiate the terms of a time-payment agreement with the energy utility;

860-021-0415

Time-Payment Agreements for Residential Electric and Gas Service (Nonmedical Certificate Customers)

In the revised draft, **Staff changed the 24 month TPA to 18 months.** Joint Utilities' requested that the rules maintain the current 12 months stating that utilities can offer greater length TPAs on an individualized basis. Joint Utilities' state:

“Defaulting to 24-month TPAs will not be a benefit to all customers. There is data to suggest customers may be more likely to default or feel overwhelmed when they are on a longer TPA. Instead, the Joint Utilities ask that their customer service teams have the flexibility to work with the customer and set them up on a plan that makes the most sense given their situation, which could include a TPA up to 24-months in duration. For this reason the Joint Utilities do not support establishing a default rule-required TPA duration of 24 months, but rather keep the default TPA duration at 12-months as currently required while allowing for longer TPAs to be offered on an individualized basis.”

Joint Advocates request that Staff maintains the 24-months.

“We support Staff’s proposed changes to 860-021-0415 extending the maximum length of a time payment agreement from 12 to 24 months. If Staff settles on language that would not set the 24 months as the default, the 860-021-0415 should outline that utility customer representatives must inform customers that they can have up to 24 months to repay their arrears.”

As a result, Staff revised Section (4) of the rules to include plans of longer duration (based on a recommendation of Joint Utilities) and notice to customers of longer duration up to 24 months (based on input from Joint Advocates):

(4) The energy utility and customer may agree in writing to alternate payment arrangement, **including plans of longer duration**, provided the utility first informs the customer of the availability of the payment terms in sections (2) and (3) of this rule. **An energy utility may inform customers of longer durations, up to 24 months, based on the individualized need of the customer.**

Because the pandemic is over, but realizing there will be ongoing effects of the pandemic on residential customers based on the level of residential customer 90-day

arrears, Staff settled in the middle at **18-months** for TPA duration. Utilities can still offer TPAs at a longer length based on the language in Section (4).

Staff maintained new Section (5), which allows for renegotiation of a TPA, stating:

(5) During the term of the time-payment arrangement, a customer whose financial condition changes during the term of a time-payment arrangement who defaults on a time-payment arrangement and who seeks to renegotiate payment arrangements, may do so at least one time under the same terms specified above.

In Staff's revision, Staff removed the requirement of utilities to offer TPAs to small commercial customers. This requirement was pandemic based; and is no longer necessary based on the end of the pandemic and data on arrearages. Below is a comparison between January 2021 and January 2022.

	January 2021	January 2022
Customers in Arrear	17,130	15,652
Total Arrears	\$8,758,268	\$6,030,275
Average 30+ Day Arrears	\$278.59	\$286.02
Average 60+ Day Arrears	\$425.75	\$356.84
Average 90+ Day Arrears	\$863.73	\$666.67

Additionally, small commercial customers have other options for funding, and energy utilities should not have to be a source of funding for small commercial customers through the use of TPAs.

Small businesses have options not available to residential customer such as Small Business Administration Loans: <https://www.sba.gov/funding-programs/loans?msclkid=38ed5f5fa64011ecbcd9c27264ab6620>, bank line of credits, and programs through Business Oregon, [Business Oregon : Welcome : Fund a Business : State of Oregon](#).

860-021-0420

Field Visit Charge

A Commission approved fee may be charged whenever an energy utility visits a residential service address intending to reconnect or disconnect service, but due to customer action, the energy utility is unable to complete the reconnection or disconnection at the time of the visit. **An energy utility shall waive the first field visit charge to low-income residential customers.**

In this draft, Staff accepted Joint Utilities deletion of “eligible,” as the new language is consistent with the definition of low-income residential customers.

Waiving of the field visit charge was viewed as a positive to Joint Advocates.

860-021-0505

Disconnection Procedures for All Commercial Electric and Gas Utility Customers and All Customers of Large Telecommunications Utilities

Staff removed the previously added section referring to low-income residential customers as it was not relevant to the rule and inadvertently added.

The rule also adds “electronically” to be consistent with other rules and the means that a utility can communicate with customers.

JOINT ADVOCATES COMMENTS

The following addresses Joint Advocates bulleted comments.

- *Update **860-021-0180(1)** to ensure that all minimum wage earners can access Division 21 protections.*

Joint Advocates are correct that certain minimum wage earners will not be eligible for energy assistance as they will earn above the Maximum Income Level for energy assistance. These minimum wage earners are single person households that are full-time workers that will receive the Portland Metro area \$14.75 per hour wage effective July 1, 2022. Households over 2 persons will be eligible for energy assistance.

With this said, the low-income definition in OAR 860-021-0180 includes

(b) The customer is enrolled in any of the utility’s income-qualified energy assistance programs, including discounted rates offered by a utility pursuant to 2021 House Bill 2475.

A minimum wage earner may not be low-income based on other factors, including, but not limited to, other sources of income. Also, minimum wages vary in Oregon and are subject to change in July 2023.

Based on how utilities structure its low-income rates, it is plausible that these minimum wage earners and other disconnection sensitive customers will fall into the definition in OAR 860-021-0180(1)(i).

Staff does not recommend adding “minimum wage earners” to the Division 21 rules.

- *Consider the conversations regarding income verification and re-enrollment that have taken place in the context of HB 2475 and of PGE's HB 2475 proposal.*

Staff believes this is covered by the updated version of OAR 860-021-0180.

(b) The customer is enrolled in any of the utility's income-qualified energy assistance programs, including discounted rates offered by a utility pursuant to 2021 House Bill 2475.

And (emphasis is revised to state "may"):

(2) An energy utility may require a low-income residential customer to verify or recertify eligibility as per section (1) of this rule on an annual basis if the customer is to remain an eligible low-income residential customer.

- *Expand eligibility for Division 21 protections to households with Functional and Access Needs/At-Risk Populations like households with children and elderly residents.*

The Division 21 rules were written for low-income protections that were established in UM 2114. There are already protections for customers on a medical certificates. Additionally, Staff added protections for wildfire displacement, and protections for air quality exposure.

As stated above, based on how utilities structure its low-income rates, it is plausible that these disconnection sensitive customers will fall into the definition in OAR 860-021-0180(1)(i).

Staff does not agree with any expansion of scope, as the proposed low-income, current and proposed medical protections, time payment arrangements, and added air quality and wildfire rules will help those in *Functional and Access Needs/At-Risk Populations* groups that require enhanced protections. Additionally, not all elderly and medical certificates holders (or eligible holders) and families with children are disconnection sensitive based on income and asset wealth. However, individuals in these groups that are low-income are protected in the proposed rules.

- *Expand the re-enrollment period beyond one year, especially for people on a fixed income.*

Staff believes this is covered by the updated version of OAR 860-021-0180 that revises "must" to "may."

- *Expand eligibility for Division 21 protections to people with medical certificates.*

Staff believes there are significant protections in place for customers on a medical certificate. Rules that offer expanded protections include:

- 860-021-0010, Information for Utility Customers and Applicants
- 860-021-0334, Transfer Billings
- 860-021-0405, Notice of Pending Disconnection of Residential Electric or Gas Utility Service
- 860-021-0408, Disconnect Reporting Rule
- 860-021-0410, Emergency Medical Certificate for Residential Electric and Gas Service

Additionally, Staff is recommending that self-certification is maintained at 30 days. Medical certificate customers that are low income will be eligible for the proposed low-income protections.

- *Explore whether to do away with deposit requirements for all customers.*

The revised rules eliminate the deposit requirement for low-income customers. *OAR 860-021-0200, Establishing Credit for Residential Utility Service*, includes various means to not having to pay a deposit. These include:

- Received 12 months of continuous utility service of the same type applied for (energy or telecommunications) during the preceding 24 months and the utility can verify a prior service account in the customer or applicant's name.
- Meets Commission approved minimum credit requirements based on a third party credit report score or the energy or large telecommunications utility's own credit scoring formula.
- Proof of employment during the entire 12 months previous to the application of service for person(s) responsible for payment on the account and a work telephone number to enable the energy or large telecommunications utility to verify employment.
- A statement or other documentation from the income provider or an authorized representative, that the energy or large telecommunications utility can verify, indicating that the applicant or customer receives a regular source of income.
- Provide the energy or large telecommunications utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage.

- An energy or large telecommunications utility may file a tariff that contains less stringent deposit requirements than those specified in in OAR 860-021-0200.

Additionally, 860-021-0205, Deposit Payment Arrangements for Residential Energy Utility Service, allows for installment payments to lessen the burden of a deposit for those required to pay a deposit.

- *Determine a data-driven cap for annual reconnection fees.*

Staff points out that reconnection fees are approved by the Commission and are listed in utilities' tariffs; and are intended to be cost-based. To place a cap on the amount of reconnection fees a utility may collect has the potential to result in discriminatory service when this cap is reached. Customers prior to the cap would pay a fee, customers after the cap would not be required to pay the fee.

- *Allow a fee waiver for after-hour reconnections for customers with medical certificates or other vulnerability factors, when severe weather or poor air quality events are occurring or forecasted, or in the context of wildfires.*

Although this is ripe for discussion, Staff sees two problems with this:

- Because of potentially hazardous night conditions, utilities may not be able to safely access the property.
- Medical or other vulnerabilities may not affect a customer's ability to pay; and should not be a system cost.

- *Explore more health protective triggers for cold-weather-based severe weather moratoria.*

With the addition of the winter storm warning, Oregon has one of the strongest protections based on NAEDA data [Winter and COVID-19 Utility Shut-off Moratoriums - NEADA.ORG](#). The current / revised rule language provides sufficient protection. Staff does not believe additional changes are necessary.

- *Add local government extreme or severe weather emergency declaration to the list of triggers for severe weather moratoria.*

There is a National Weather Service in Portland, which is the government expertise on weather. Adding additional sources would be redundant and harder for utilities to administer, potentially resulting in a rule violation. These events are rare and should be administered in a consistent fashion. The current / revised rule language provides sufficient protection. Staff does not believe additional changes are necessary.

- *Add forecasted severe weather or air quality events as triggers for moratoria on disconnections.*

The rule language refers to forecasts:

(1) Except as set forth in section (~~811~~) of this rule, an energy utility must put into effect a moratorium on the disconnection of residential service for nonpayment on any day a high temperature of less than 32 degrees Fahrenheit is forecasted by the applicable weather reporting service **or a winter storm warning indicating weather conditions pose a threat to life or property is issued by the applicable weather reporting service.**

Forecasts decrease in accuracy as they go further out in days. The current / revised rule language provides sufficient protection. Staff does not believe additional changes are necessary.

- *Add language requiring utilities to engage in outreach to people facing severe weather events while disconnected for non-payment.*

Energy utilities perform a significant amount of outreach already, and Staff does not see the added value to this. A customer who is disconnected knows they are disconnected, and an energy should not become a weather reporting service for customers.

- *Consider comments and conversations taking place in the context of the wildfire protection plans.*

Staff that is involved in wildfire protection plans are part of the review process for these rules.

- *Require that utilities prioritize low-income customers and medically vulnerable customers in their outreach related to protections to customers impacted by wildfires.*

Energy utilities may not have all the timely information involving wildfires, and to place a requirement that they may not be able to meet is unreasonable. Customers are better aware of their particular status than the energy utility would be. Section (3) of the rule, OAR 860-021-0406, *Wildfire Displacement Protection*, allows customers to request reconnection:

(3) Upon request from a customer who has been disconnected for non-payment within the previous 72 hours of a wildfire evacuation, after the evacuation order has been lifted, an energy utility must attempt to reconnect the customer. An energy utility shall notify the Commission's Consumer Services Section when the utility determines that reconnections are not possible due to adverse geographic and weather conditions.

- *Require that utilities report on how their vulnerable customers were affected (or not) by disconnections during wildfires and other severe weather events.*

This is a questionable expansion of an energy utilities' responsibilities and likely a duplication of effort that is more relevant to state agency reporting (OEM, OHA, DHS, and ODOT). As previously mentioned, Customers are better aware of their particular status than the energy utility would be.

- *Specify that the moratorium on disconnections due to wildfire evacuations in 860-021-0406(1) is triggered by Level 2 and 3 evacuation orders.*

This is included in Section (1) of the rule, OAR 860-021-0406 *Wildfire Displacement Protection*:

(1) An energy utility must make best effort to put into effect a moratorium on the disconnection of residential and commercial service for nonpayment on any day a residential or commercial customer is under a level 2 or 3 evacuation notice due to wildfires.

Level 2 – Be set to evacuate on a moment's notice. Level 3 – Leave immediately.

- *Explore how customers would be notified of their need and ability to call the utility to seek reconnections under 860-021-0406(3).*

The language in section (3) is clear:

(3) Upon request from a customer who has been disconnected for non-payment within the previous 72 hours of a wildfire evacuation, after the evacuation order has been lifted, an energy utility must attempt to reconnect the customer. An energy utility shall notify the Commission's Consumer Services Section when the utility determines that reconnections are not possible due to adverse geographic and weather conditions.

There are multiple ways to contact an energy utility that are clear on each utility's website, bills, etc. The rule does not need to be over-prescriptive.

- *Require utility to play a more active role in areas impacted by wildfires, including by being more proactive regarding resiliency solutions for vulnerable customers like those with medical certificates.*

AR 638 has placed substantial requirements on energy utilities. These requirements, plus OAR 860-021-0406 Wildfire Displacement Protection, and additional rules including:

- 860-021-0010, Information for Utility Customers and Applicants
- 860-021-0334, Transfer Billings
- 860-021-0405, Notice of Pending Disconnection of Residential Electric or Gas Utility Service
- 860-021-0408, Disconnect Reporting Rule
- 860-021-0410, Emergency Medical Certificate for Residential Electric and Gas Service

allow for significant protections to customers on medical certificates.

- *Add customers with medical certificates to the list of people eligible for Division 21 protections.*

As previously highlighted, there are significant protections for Medical Certificate customers:

- 860-021-0010, Information for Utility Customers and Applicants
- 860-021-0334, Transfer Billings

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- 860-021-0405, Notice of Pending Disconnection of Residential Electric or Gas Utility Service
- 860-021-0408, Disconnect Reporting Rule
- 860-021-0410, Emergency Medical Certificate for Residential Electric and Gas Service

Medical certificate customers that are also low-income, will be eligible for low-income protections.

- *Explore additional protections for customers with medical certificates, such as no disconnections.*

Both utilities and the PUC's Consumer Services handle medical certificate customers with special care. Disconnections are rare, but they do happen. Having a medical certificate does not necessarily equate to low-income; however, medical certificate holders who are low-income are afforded enhanced protections in the revised rules.

- *If Staff modifies draft 860-021-0415 language adopting 24-month time-payment agreements as default, require that utilities inform customers that they can have up to 24 months for their TPA.*

Included in revised rules:

(4) The energy utility and customer may agree ~~in writing~~ to alternate payment arrangement, **including plans of longer duration**, provided the utility first informs the customer of the availability of the payment terms in sections (2) and (3) of this rule. **An energy utility may inform customers of longer durations, up to 24 months, based on the individualized need of the customer.**

Note that Staff is recommending 18-months TPAs in the revised rules.

- *Consider expanding changes to 860-021-0405(3) and adopting a longer period for customers eligible for Division 21 protections.*

Staff settled on 20-days as utilities had already stated that having different notice timelines for low-income and non-low-income customers was administratively and

technologically difficult. The extra five days also address the Focus Group concern of needing a little extra time.

- *Include language in 860-021-0009(4) regarding demographic data collection, and modify to clarify that customers can refuse to provide such data.*

In Staff's revised rules, this section was removed. As Joint Utilities point out:

*"The joint utilities do not believe this addition is necessary **as there is no rule advising the utilities, they can't collect this data.** Currently, this is data the utilities do not plan or wish to collect as it is expensive to collect and protect and there is no business need for it."*

- *Abandon changes to 860-021-0405(11) that would effectively eliminate the requirement that a utility seeks a waiver before refusing to accept "cash at the door."*

Despite a request from Joint Utilities to eliminate Section (11), Staff maintained the revised language of:

(11) When the energy utility makes personal contact under this rule, **and subject to the energy utility's payment collection polices,** the utility's representative making contact is empowered to accept reasonable partial payment of the overdue balance under the time-payment provisions of OAR 860-021-0415.

As explained previously:

- Three utilities (PGE, PAC, and Cascade NG) have Commission approved waivers.
- Utilities have established multiple means for customers to pay bills. As an example, Cascade Natural Gas utilizes online payments, customers can set-up automatic payments or electronic checking transfers, use CNG's 3rd party card payment processor Speedpay, mail or drop off payment, and pay in person at convenience pay locations or western union (both that take cash).
- The PUC's Consumer Services cannot locate any instances of receiving complaints about customers not being able to pay at the door.
- In a quick look by Cascade Natural Gas, the company has received a total of nine complaints from 2018 to date about this issue.
- Staff has been told on numerous occasions that customers in arrears avoid answering phone calls and opening bills. This hesitancy to transact with a

utility at the door would appear to be also plausible, resulting in a probably infrequent means of transacting. (*Staff will data request this.*)

- Lead Staff believes it is an unsafe practice to place an employee in a situation where they are asked to carry large sums of money. If a utility believes otherwise, Section (11) allows them to continue this process.

SBUA COMMENTS

- **OAR 860-021-0008(3)** - “Customer”—refers to “person”. This could be revised to include the “Small commercial customer” using the UM 2114 Stipulation definition: *Small commercial customer: The definition of small commercial is the definition provided by a utility on its applicable tariff.*

Staff does not recommend any revision to this definition. Throughout the rules, the rules identify different classes of customers (residential, small commercial).

- **OAR 860-021-0009**—Appears to apply to all customers, however, the requirements of the rule do not seem to fit entity customers. For example, how are the questions in (3) and (5) answered when the customer is an entity?

Section (3) of the rule states:

An energy or large telecommunications utility **may** require an applicant to provide the following information when applying for service.

Energy utilities are required to file tariffs schedules and rules. As an example PGE’s Rule D, Application for Electricity Service: [Portland General Electric Company \(ctfassets.net\)](http://portlandgeneral.com) states:

B. Nonresidential Applicants

Sole proprietors must provide the identification required under (2)(A) of this rule as well as meet the credit requirements as established in Rule E. All other Nonresidential Applicants must provide the following information for the person(s) responsible for payment of the account:

- 1) Company name and, if applicable, name used for Doing Business As (DBA);
- 2) Service address;
- 3) Preferred mailing address;
- 4) State of incorporation;
- 5) Name of an officer or other responsible employee;

- 6) A current, valid telephone number(s) where the officer or other employee named for C5) may be reached; and
- 7) A Federal Tax Identification Number.

As a result, Staff does not recommend a change to the rule.

- **OAR 860-021-0010** - *Generally, this could be revised so as to include small commercial customers. Change language to avoid pronoun limitation of "him/her".*

Staff changed "him/her" to "the customer."

- **OAR 860-021-0021 (3)** - *Consider changing "at the residence" to "at the location of service" in order to include the location of commercial customers.*

The rule states towards the end states:

Notice may be given in writing, either via US mail, electronically, or a door hanger **on the affected premises**, or by contact with the customer or an adult at the residence by personal visit or by telephone.

"Affected premise" would include a commercial location. The second part of the sentence ensures an adult, and not a child is contacted at a personal residence.

- **OAR 860-021-0045(4)** - *Change language to avoid pronoun limitation of "his/her" expense.*

Staff made this change.

- **OAR 860-021-0120 - Meter readings and bill forms**
*Please explain the terminology "Proper constant".
SBUA suggests more input generally from small commercial customers on how the bill forms read.*

"Proper constant" refers to a fixed value that is used when converting meter readings to actual energy use. Because the current rule states:

(2) All bills must display:

- (a) The total consumption for the billing period;

- (b) The beginning and ending meter readings for the billing period, where available;
- (c) The beginning and ending dates of the billing period;
- (d) The number of units of service supplied;
- (e) The schedule number under which the bill was computed; and
- (f) Any other information needed to compute the bill. Each bill will specify the delinquent date of the bill. When there is good reason for so doing, the energy utility may submit estimated bills. The energy utility will clearly note on the bill when total consumption is estimated for more than twenty-four hours in one billing period.

Staff is unsure what other input is needed for bill accuracy.

- **OAR 860-021-0126(2) Late payment charge**
*Include small commercial in this rule.
Consider the continued use of late fees per Kermode, supra footnote 2, and include a provision that late payments will not be included as lost revenue. Id.*

The rule contains an added provision for residential customers. As Mr. Kermode points out, *“it is best to recognize that small businesses are a unique class of their own.”*

Mr. Kermode’s suggestions on late fees relate more to ratemaking, than rulemaking.

- **OAR 860-021-0180 - Verification of eligibility for Low-Income Residential Customer or Applicant**
*Consider this provision that would enable certain small commercial customers to receive treatment similar to residential customers eligible for low income treatment.
“(5) A small commercial applicant whose owner is eligible for low income residential customer treatment shall receive treatment as Low Income Small Commercial Customer.”*

This is not the intent of the rule. The owner of a small commercial business that qualifies as a low-income customer will be eligible for low-income treatment in their place of residence if they meet the criteria the definition.

- **OAR 860-0210-0205(5) - Consider eliminating deposits; alternatively apply similar treatment to eligible small commercial.**

In addition to deposit requirements stated above, all utilities have rules in place for establishing credit and paying a deposit. As an example, PGE: [Microsoft Word - Rule E -20-44 Eff Jan 1.2021 \(ctfassets.net\)](#)

As a result, there is no need to eliminate small commercial deposit requirements.

- **OAR 860-021-0210** - Add to Staff's (4): *"An energy utility will apply interest to deposits submitted by an eligible low-income residential or small commercial customers or applicant for the time period that the deposit is being held by the utility."*

The rule is labeled, 860-021-0210, Interest on Deposits for Residential and **Nonresidential** Utility Service, As such, there is no need for additional clarification.

- **OAR 860-021-0330** - Reconnection fee for Utility Service
See Kermode regarding accounting of reconnection fees.

This is a ratemaking and not rulemaking issue.

- **OAR 860-021-0408** - Disconnection Reporting Rule
Rule should be generally applicable, apply to all customers or at least also to small commercial customers.
Add: (3)(A) should read "Number of active residential and small commercial accounts".

Staff added this suggestion to the rules.

- **OAR 860-021-0414** - Equal-Payment Plans

In its comments, SBUA stated:

SBUA recommends that Equal-Payment Plans for Energy services be expanded to include small commercial. The use of EPP for small commercial would be exceptionally helpful to small business allowing them to budget for utility service rather than continually estimating changes in seasonal energy use. It would be a win for both the small business and the utility. Far from being a radical idea, many of Canada's largest energy companies currently provide Equal-Payment Plans to small commercial customers (e.g., FortisBC, Hydro Ottawa, Enbridge).

Without sufficient knowledge on the history of the rule, Staff is not opposed to this change, and it should be a subject of the April 6, 2022, Rule Workshop. In the interim, Staff is trying to gather data on this subject from other states.

Alaska - Statutes and regulations do not provide equal payments for non-residential-Alaska regulations (3 AAC 52.440) only provide for leveled billing for residential for electric customers. <http://www.akleg.gov/basis/aac.asp#3.52.440>

Two utilities (Chugach and Enstor) do offer equal payments to small general service customers.

Arkansas (CenterPoint Energy) – Pursuant to the provisions of Section 3A.3, residential customers and small commercial customers having less than 500 MMBtu annual usage may have the option of participating in the "Levelized Payment Plan" (LPP) for billing purposes as opposed to the normal billing procedure.

Delaware - Delaware natural gas and electric utilities offer "budget billing" which allows bills to be broken into equal payments for small commercial customers. Below are the usage requirements and links to the tariffs.

Chesapeake Utilities Gas

Any Customer using gas for commercial and/or industrial purposes with an annual consumption of less than four thousand (4,000) Ccf. -
<https://chpkgas.com/wp-content/uploads/2022/03/DE-Tariff-Update-3.18.22.pdf> Leaf No. 25

Delmarva Power Gas

Non-Residential, Firm Sales Customers whose maximum monthly use is less than 2,000 MCF. -
<https://www.delmarva.com/SiteCollectionDocuments/GAS%20Master%20Tariff%20eff%2001-01-22%20filed%2012-22-21%20DSIC.pdf> Leaf 10a

Delmarva Power Electric

Non-Residential Customer whose monthly maximum measured demand is less than 300 kW -
<https://www.delmarva.com/SiteCollectionDocuments/Master%20tariff%20eff%2001-01-2022%20filed%2003-10-2022%20EE%20Approved%20as%20Final.pdf> Leaf No. 15

Florida - While Florida does not have any programs specifically referred to as "Equal Payment Plans," certain IOUs do offer an annualized "Budget Billing" option. Florida Power & Light Company, Duke Energy Florida, and Tampa Electric Company each offer a version of this program to non-residential (GS-1/GSD-1) customers via their budget billing tariffs.

Kentucky - Kentucky regulations require budget payment plans be offered to residential customers. In addition, the regulations allow such plans to be offered to other classes of customers. The applicable regulation is 807 KAR 5:006, Section 14(2)(a). [Title 807 Chapter 5 Regulation 006 • Kentucky Administrative Regulations • Legislative Research Commission](#)

Section 14(2) requires utilities to negotiate and accept reasonable partial payment plans at the request of residential customers who have received a termination notice for failure to pay a bill. There is no requirement to provide or prohibition against providing partial payment plans to small commercial customers who have received a termination notice for failure to pay a bill.

There are several utilities that do offer their budget payment plans to small commercial customers. Most have a provision that they can revoke the plan if the customer fails to pay their bills.

Maine - The rules do not address this except for instances where there is a past-due amount. In that situation, a non-residential customer can have a levelized payment plan pursuant to Chapter 815 of the Maine Commission's rules. <https://www.maine.gov/mpuc/legislative/laws-rules> Staff interprets this as a TPA. Maine's largest electric utility was silent on this issue when asked by Maine Staff.

Michigan – Allows for Equal Payment Plans for Small Commercial defined as; (i) *"Small nonresidential customer" means a nonresidential customer with usage of less than 300 Mcf of natural gas per year or less than 30,000 kWh of electric usage per year, including schools and centrally metered apartment buildings.*

"A utility shall establish a policy to allow a residential or small nonresidential customer the opportunity to enter into a minimum of 2 documented payment plans for an amount owed to the utility that is not in dispute, if a customer claims an inability to pay in full."

Missouri - Does not allow equal payments (budget billing) for Missouri commercial customers. Residential customers are the only class allowed to budget bill.

- *OAR 860-021-0415 Time-Payment Agreements*
SBUA recommends that 60-021-0415 be modified to include mostly the same equal-pay arrearage plan provisions for small commercial customers that is provided residential customers. However, assuming the acceptance of our recommendation for the inclusion of small-commercial in Equal-Payment Plans (OAR 860-021-0414) SBUA does not propose the inclusion of the leveled payment plans for small commercial.

As highlighted above, Staff removed the requirement of utilities to offer TPAs to small commercial customers. This requirement was pandemic based; and is no longer necessary based on the end of the pandemic and data on arrearages. Below is a comparison between January 2021 and January 2022.

	January 2021	January 2022
Customers in Arrear	17,130	15,652
Total Arrears	\$8,758,268	\$6,030,275
Average 30+ Day Arrears	\$278.59	\$286.02
Average 60+ Day Arrears	\$425.75	\$356.84
Average 90+ Day Arrears	\$863.73	\$666.67

Additionally, small commercial customers have other options for funding, and energy utilities should not have to be a source of funding for small commercial customers through the use of TPAs.

Small businesses have options not available to residential customer such as Small Business Administration Loans: <https://www.sba.gov/funding-programs/loans?msclkid=38ed5f5fa64011ecbcd9c27264ab6620>, bank line of credits, and programs through Business Oregon, [Business Oregon : Welcome : Fund a Business : State of Oregon](#).