

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING**

A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission of Oregon	860
Agency and Division	Administrative Rules Chapter Number
Diane Davis PO Box 1088, Salem, OR 97308-1088	(503) 378-4372
Rules Coordinator	Address Telephone

**RULE CAPTION**

In the Matter of Rule Changes Regarding Eligibility for OTAP and Other RSPF Rule Changes

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

11-6-13	9:30 am	Public Utility Commission Hearing Room – 2 <sup>nd</sup> floor 3930 Fairview Industrial Drive SE Salem, OR 97302	Patrick Power
Hearing Date	Time	Location	Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:** 860-033-0110

**AMEND:** 860-033-0001, 860-033-0005, 860-033-0006, 860-033-0007, 860-033-0010, 860-033-0030, 860-033-0035, 860-033-0040, 860-033-0045, 860-033-0046, 860-033-0050, 860-033-0100, 860-033-0530, 860-033-0535, 860-033-0536, 860-033-0537, 860-033-0540

**REPEAL:** 860-033-0055, 860-033-0001(T), 860-033-0005(T), 860-033-0006(T), 860-033-0007(T), 860-033-0010(T), 860-033-0030(T), 860-033-0035(T), 860-033-0040(T), 860-033-0045(T), 860-033-0046(T), 860-033-0050(T), 860-033-0100(T), 860-033-0110(T), 860-033-0530(T), 860-033-0535(T), 860-033-0536(T), 860-033-0537(T), 860-033-0540(T)

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth. : ORS Ch. 183, 756,759, Ch. 290 OL 1987

Other Auth.:

Stats. Implemented: ORS 756.040, 756.060, Ch. 290 OL 1987, SB 203 Sec. 1 (2013)

**RULE SUMMARY**

The proposed rule amendments change Residential Service Protection Fund (RSPF) rules to meet several federal requirements related to the provision of telecommunication subsidies to low income customers. The proposed rules change Oregon Telephone Assistance Program (OTAP) eligibility requirements to conform to federal criteria set by the Federal Communications Commission (FCC), implement new and revised reporting requirements for eligible telecommunications carriers (ETCs) so that this Commission can maintain its opt-out approval status with the FCC's National Lifeline Accountability Database, minimize the effect on the RSPF of exponential growth of the number of recipients by removing the compensatory obligations to ETCs for enrolling new customers and participation costs, ensure the quality of information ETCs disseminate to the public about the OTAP, and make clarifying and correcting changes to the rules.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 574 on comments and file them by e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us and also send a signed paper copy to the Filing Center at PO Box 1088, Salem, Oregon 97308-1088. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=18569>.

For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_tofc.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_tofc.html). Participants wishing to monitor the hearing by telephone must contact Diane Davis at [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372 by close business November 1, 2013, to request a dial -in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

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

11-13-2013 5:00 p.m.

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

/s/Diane Davis

Diane Davis

9-13-13

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Signature

Printed name

Date

**Note:** Hearing Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*.

**STATEMENT OF NEED AND FISCAL IMPACT**

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

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Rules Regarding Eligibility for OTAP and Other RSPF Rule Changes

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

In the Matter of: Rules Regarding Eligibility for OTAP and Other RSPF Rule Changes

Statutory Authority: ORS Ch. 183, 756, 759, Ch. 290 OL 1987

Other Authority:

Stats. Implemented: ORS 756.040, 756.060, Ch. 290 OL 1987, Senate Bill 203, Sec. 1(2013)

Need for the Rule(s):

The proposed rules are necessary to meet several federal requirements related to the provision of telecommunication subsidies to low-income customers.

I. The Oregon Telephone Assistance Program (OTAP) is the state counterpart to the federal Lifeline program. A residential telephone customer who qualifies for OTAP receives a reduced rate or discount for telephone service that is funded by the federal government and the State of Oregon. In its Lifeline Reform Order 12-11, the Federal Communications Commission (FCC) acknowledges that eligibility criteria for Lifeline varies from state to state and identifies the need for nationwide uniformity. Consequently, the FCC amended its rules to require all states, including Oregon, to use at a minimum, the federal income and program criteria used by the FCC by June 1, 2012.

Because Oregon's criteria were not consistent with the federal criteria, the Oregon Public Utility Commission (PUC) petitioned the FCC for a temporary limited waiver twice, which was granted until April 1, 2013 and July 1, 2013, respectively. Senate Bill 203 (SB 203), signed by Governor Kitzhaber and made effective on April 5, 2013, amends existing law to obtain conformity with the FCC mandate. On July 1, 2013, the PUC filed temporary administrative rule changes to implement SB 203 before the FCC's deadline. This rulemaking is intended to make those changes permanent when the temporary rules expire on December 24, 2013.

The proposed permanent rule changes prevent some low-income Oregon customers from receiving larger discounts than others solely based on differences in state and federal qualification criteria, resulting in inequity among eligible low-income customers in Oregon. In addition, absent the adoption of permanent changes to the rules, Eligible Telecommunications Carriers (ETCs) authorized by the PUC to provide state and federal support to qualifying low-income customers would become responsible for the administration of the program for those Lifeline customers who qualify solely for federal support, but not state support. ETCs would be forced to expend additional time, resources and money to implement new eligibility procedures unless or until OTAP criteria became consistent with the new Lifeline criteria. Also, without the proposed rule changes, Oregon customers would experience confusion as the current combined OTAP and Lifeline programs would split into two programs with differing support amounts and numerous administrative points of contact (the PUC and each ETC) in place of the PUC single point of contact and administration.

II. The PUC filed a petition requesting that the FCC authorize it to opt-out of the National Lifeline Accountability Database established in the Lifeline Reform Order 12-11. The FCC's National Lifeline Accountability Database is an electronic system that helps detect and eliminate qualifying low-income customers from receiving duplicate support from multiple ETCs. The proposed rules outline the new and revised reporting requirements that the ETC must fulfill in order for the PUC to maintain its opt-out approval status in the prevention of duplicative support; thereby minimizing the potential for Residential Service Protection Fund surcharge rate increases.

III. Now that Lifeline service is offered by prepaid wireless ETCs at no charge, the number of low-income customers receiving Lifeline benefits has doubled from 45,000 to nearly 90,000 in one year. The growth is projected to triple in the next year as more companies petition the PUC for authorization to provide OTAP and Lifeline services. To minimize the effect on the Residential Service Protection Fund, which funds the OTAP benefit through a surcharge assessed on retail telecommunications subscribers, the proposed rule changes permanently remove the PUC's obligation to provide ETCs a \$3.80 subsidy for enrolling new OTAP customers and for costs incurred as a consequence of participating in OTAP. Otherwise, retail landline and wireless

telecommunications service subscribers will be subject to rising surcharge rates to ensure that the Residential Service Protection Fund has adequate funds for the continual provision of OTAP subsidies to qualifying low-income customers.

IV. In the Lifeline Reform Order, the FCC expressed concern about the Lifeline marketing tactics of ETCs to potential customers. To ensure that customers understand that the services are a government benefit eligible to only those who qualify, and that the subsidy is limited to one-per-household, the FCC adopted certain standards to enhance the quality of information ETCs provide to the public. The proposed rule changes incorporate the definition of marketing materials and disclosures set forth in the FCC's Lifeline Reform Order to ensure consistency between state (OTAP) and federal (Lifeline) marketing, advertising and outreach activities. The proposed rule changes will protect low-income customers with accurate and quality information about the program and increase public awareness that the Lifeline benefit, although offered by multiple ETCs, is limited to one per household. ETCs will still have the flexibility to market their Lifeline-supported service in creative and innovative ways as long as the PUC is afforded the opportunity to review its marketing materials to ensure that the ETC includes all required disclosures. Also, the proposed rule changes prohibit agents contracted by the ETCs from soliciting customers for the completion and submission of applications for OTAP and Lifeline benefits.

V. Some ETCs allow customers to receive OTAP and Lifeline benefits in conjunction with other discounts offered by the ETC while others do not. The proposed rule changes prohibit ETCs from engaging in the inequitable treatment of eligible low-income customers, providing that the combined OTAP and Lifeline benefits and discounts do not exceed the charges for the service. ETCs receive reimbursement from the PUC and the FCC for the cost to provide the OTAP and Lifeline benefit, respectively. Therefore, the OTAP and Lifeline benefit is revenue neutral to the ETC and ensures that low-income customers are not unjustly denied the benefit or discount. In addition, some ETCs allow eligible low-income customers to retain their out of state phone number while others do not. The proposed rule changes require ETCs to allow an eligible low-income customer to retain his or her out of state number as long as his or her residential address is in Oregon. To require an individual to change phone numbers to receive the OTAP and Lifeline benefit on the basis of that individual's income is contrary to the FCC and PUC's goals of making OTAP and Lifeline benefits available to all eligible customers.

VI. Currently, ETCs that offer Lifeline benefits at no charge to the customer ship wireless handsets to the customer without confirmation that the handset was actually delivered to the intended customer. In order to confirm the delivery of the handset, the proposed rule changes require customers to call ETCs before the Lifeline benefits can be activated. The customer must provide the last four digits of his or her social security number to ensure that the handset was received by the intended customer. This is akin to credit card activations and will aid in the prevention of waste, fraud and abuse.

The PUC believes that failure to maintain compliance with the FCC requirements will result in serious prejudice to the public interest because low-income customers may be unable to retain phone service without equitable or full OTAP and Lifeline benefits. Without phone service, customers may not have immediate access to emergency services.

Documents Relied Upon, and where they are available:

FCC Lifeline Reform Order 12-11 - [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-11A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf)

FCC Waiver Extension Order - <https://prodnet.www.neca.org/publicationsdocs/wwpdf/51613orpuc.pdf>

SB 203 (2013) - <http://www.leg.state.or.us/13reg/measpdf/sb0200.dir/sb0203.intro.pdf>

Fiscal and Economic Impact:

The proposed rules require administrative changes for the subject ETCs and for the PUC because of changing reporting requirements; however, the potential magnitude of the additional costs created by these requirements cannot be quantified at this time. Additionally, under the proposed rule changes, the ETCs will no longer receive compensation for enrolling new OTAP customers or for costs incurred as a consequence of participating in OTAP, and these savings will flow through to the subscribers who pay the surcharge that funds the OTAP benefit.

Statement of Cost of Compliance:

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

The proposed changes to the Division 033 rules will have an impact on the PUC's Information Systems Department. The PUC's database will need to be restructured to contain specific features to comply with opt-out requirements set forth by the FCC. Also, the elimination of the PUC's compensatory obligations, \$3.80, to an ETC for enrolling new OTAP customers and for costs incurred as a consequence of participating in OTAP will result in a projected \$161,971.20 biennial savings to retail landline and wireless telecommunications service subscribers who pay the Residential Service Protection Fund surcharge that funds the OTAP benefit. PUC Staff does not anticipate any impact on other state agencies or units of local government.

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

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

Forty-one (41) ETCs are subject to the rule. Of the 41 ETCs, at least 10 ETCs will be subject to the new reporting requirements for Tribal Lifeline and Tribal Link Up. Some ETCs may experience a cost of compliance in relation to the reporting requirements and to modify billing systems to accommodate the application of OTAP and Lifeline benefits with other discounts and out of state numbers but the potential magnitude of these additional costs cannot be quantified at this time.

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

The proposed amendments to these rules increase the frequency of existing reporting, recordkeeping or other administrative activities required by the ETCs for compliance. ETCs with fewer than 1,000 OTAP and Lifeline customers were required to report quarterly. The revised rule requires monthly reporting regardless of the number OTAP and Lifeline customers an ETC serves. ETCs that also provide Tribal Lifeline and Tribal Link Up benefits to qualifying low-income Native Americans will be subject to new reporting, recordkeeping and other administrative activities required for compliance, but the costs for professional services cannot be quantified at this time.

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

Labor and increased administration will likely be necessary for compliance from both the PUC and ETCs. Staff of the PUC's Information Systems Department and Residential Service Protection Fund will be required to perform the duties associated with these rules.

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

PUC Staff hosted a workshop on Wednesday, September 11, 2013 to solicit informal input from ETCs, some of which are small businesses, in the development of these rules.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: Although the Oregon Telecommunications Relay Service Industry Advisory Committee was not consulted, its members and all ETCs were invited to participate in the workshop sponsored by PUC Staff to provide informal comment on drafts of the proposed rule.

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Signature

Printed name

Date

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

**DIVISION 33  
RESIDENTIAL SERVICE PROTECTION FUND (RSPF)**

**860-033-0001**

**Applicability**

(1) The rules in this Division apply to all telecommunications providers **including, but not limited to cellular, wireless, or other radio common carriers** that offer service in Oregon with access to the Oregon Telecommunications Relay Service and to the applicants for and recipients of RSPF benefits.

(2) Upon request or its own motion, the Commission may waive any of the Division 033 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040 & Ch. 290, OL 1987

Hist.: PUC 3-1999, f. & cert. ef. 8-10-99; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 6-2011, f. & cert. ef. 9-14-11

**860-033-0005**

**Definitions**

For the purpose of this division:

**(1) “Agent” means a contractor, dealer or representative contracted by an Eligible Telecommunications Provider in connection with providing OTAP or Lifeline supported services.**

~~(12)~~ "Basic Service" means "basic telephone service" as defined in OAR 860-032-0190. For qualifying low-income recipients, basic service also includes access to toll-limitation services.

~~(23)~~ “Competitive Provider” means a competitive telecommunications provider as defined in ORS 759.005~~(21)(a)~~ that provides services authorized under ORS 759.020.

~~(34)~~ “Cooperative” means a cooperative corporation or association that provides local exchange telecommunications service within its own exchanges, is organized under ORS Chapter 62, and is certified under ORS 759.025(2).

**(5) “Duplicate Support” means a customer is receiving OTAP or Lifeline supported services on two or more single lines or single line equivalents concurrently, or two or more customers in a household are receiving OTAP or Lifeline supported services concurrently.**

**(6) “Economic unit” means all individuals contributing to and sharing in the income and expenses of a household, including individuals with no income who benefit from another individual’s financial support.**

~~(47)~~ “Eligible Telecommunications Carrier” means a provider of telecommunications service, including a cellular, wireless, or other **radio** common carrier, that is certified by order of the Commission as eligible to receive federal universal service support throughout a designated service area by having met the eligibility criteria set forth in 47 C.F.R. § 54 **Subpart C.201** ~~(20082012)~~ and **in orders of the Commission.** ~~in Commission Order 06-292.~~

~~(58)~~ "Eligible Telecommunications Provider" means a provider of telecommunications service, including a cellular, wireless, or other **radio** common carrier, that is certified by order of the Commission as eligible to provide OTAP to its qualifying customers throughout a designated service area by having met the following eligibility criteria:

(a) Offers services under 47 C.F.R. § 54 ~~Subpart E-101~~ ~~(20082013)~~ using either its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another Eligible Telecommunications Carrier throughout the service area). Under 47 C.F.R. § 54 ~~Subpart C-201(f)~~ ~~(20082012)~~, the requirement of using its "own facilities" includes, but is not limited to, purchasing unbundled network elements from another carrier;

(b) Advertises the availability of and the charges for such services using media of general distribution; and

(c) Demonstrates that it will comply with OAR 860-033-0005 through 860-033-0110.

**(9) "Household" means any individual or group of individuals who are living together at the same address as one economic unit.**

**(10) "Income" means all income actually received by all members of a household. This includes but is not limited to salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, and lottery winnings. The only exceptions are student financial aid, and military housing and cost-of-living allowances.**

**(11) "Lifeline" means a program established by the Federal Communications Commission as defined in 47 C.F.R. § 54 Subpart E (2013).**

**(12) "Lifeline Household Worksheet" means a form that the Commission sends to an applicant when the Commission is unable to determine if an applicant and a current OTAP or Lifeline customer are part of a separate economic unit or household.**

**(613)** "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(3).

**(14) "Low-income customer" means an individual who demonstrates eligibility for Lifeline supported services or the Oregon Telephone Assistance Program in OAR 860-033-0030.**

**(15) "Marketing materials" means all media, including but not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage, that describe the OTAP or Lifeline supported service offering.**

**(716)** "Oregon Telephone Assistance Program" or "OTAP" means a program established by the Commission that offers reduced local exchange rates to eligible low-income residential customers. **OTAP establishes the requirements for Eligible Telecommunications Carriers to offer Lifeline supported services in Oregon and may provide benefits that are in addition to those offered in Lifeline.**

**(817)** "Oregon Telecommunications Relay Service" or "OTRS" means a facility authorized by the Commission to provide telecommunications relay service.

**(918)** "Outstanding Accounts" means amounts owing to the Commission including current accounts receivable and accounts that the Commission has written off through appropriate legal procedures. The term does not include amounts owing to the Commission that have been lawfully discharged through bankruptcy proceedings or amounts that are the subject of a proceeding pending before the Commission.

**(1019)** "Remittance Report" means the reporting form identified by that title that is available on the Commission's website at

**<http://www.oregon.gov/puc/Pages/telecom/rspf/index.aspx>~~http://www.puc.state.or.us/PUC/telecom/rspf/index.shtml~~**

(~~1420~~) "Residential Service Protection Fund" or "RSPF" means a legislatively approved fund in the Oregon State Treasury that supports the Oregon Telephone Assistance Program, the Telecommunication Devices Access Program and the Oregon Telecommunications Relay Service.

(~~1421~~) "RSPF Surcharge" means a specified amount up to 35 cents per month collected from each paying retail subscriber who has telecommunications service with access to the telecommunications relay service, except as provided in OAR 850-033-0006(2).

(~~1322~~) "RSPF Surcharge Exception Form" means the reporting form identified by that title that is available on the Commissions website at

<http://www.oregon.gov/puc/Pages/telecom/rspf/index.aspx>~~http://www.puc.state.or.us/PUC/telecom/rspf/index.shtml.~~

(~~1423~~) "Telecommunication Devices Access Program" or "TDAP" means a program established by the Commission that provides Assistive Telecommunication Devices or Adaptive Equipment at no additional cost beyond telephone service for customers who are deaf, hard of hearing, speech-impaired, deaf-blind or have a disability.

(~~1524~~) "Telecommunications provider" includes competitive providers, cooperatives and telecommunications utilities.

(~~1625~~) "Telecommunications service" means the offering of telecommunications as defined in 47 C.F.R. 54.5 (~~10-1-08 Edition~~2012) for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(~~1726~~) "Telecommunications utility" means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.

(~~1827~~) "Toll Limitation Service" means a service provided by an Eligible Telecommunications Provider that allows an OTAP recipient to choose to block the completion of outgoing toll calls (toll blocking) or to specify a certain toll usage that may be incurred per month or per billing cycle (toll control).

**(28) "Tribal Lifeline" means a Lifeline service for eligible residents of Tribal lands as defined in 47 C.F.R. § 54 Subpart E (2013).**

**(29) "Tribal Link Up" means a federal assistance program for eligible residents of Tribal lands as defined in 47 C.F.R. § 54 Subpart E (2013).**

**(30) "Universal Service Administrative Company" means an independent, not-for-profit corporation designated by the Federal Communications Commission as the administrator of the universal service fund.**

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

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); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 18-2000, f. & cert. ef. 10-24-00; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11



**860-033-0006**

**Monthly RSPF Surcharge: General Provisions, Remittance Reports and Payment**

(1) The surcharge rate and the balance in the RSPF are reviewed annually by the Commission each October. The Commission may adjust the amount of the surcharge to ensure the fund has adequate resources but does not exceed six months of projected expenses. A rate adjustment ordered by the Commission following the annual review becomes effective January 1 of the year following the review.

(2) The surcharge imposed by 1987 Oregon Laws Chapter 290, Section (7)(1) does not apply to entities upon which the state is prohibited from imposing the surcharge by the Constitution or laws of the United States or the Constitution or laws of the State of Oregon including, but not limited to:

(a) Counties and political subdivisions.

(b) Federal, state and municipal government bodies or public corporations. For purposes of this rule, "public corporation" means a corporation formed by a state or local government authority for the public's benefit or for a public purpose. **A regional housing authority qualifies as a public corporation.**

(c) Federally chartered corporations specifically exempt from state excise taxes by federal law.

(d) Federally recognized Native-American Tribes, and tribal members who live within federally recognized Indian country and are enrolled members of the tribe with sovereignty over that Indian country.

(e) Foreign government offices and representatives that are exempt from state taxation by treaty provisions.

~~(f) Regional housing authorities exempt from all state taxes and assessments by ORS 307.092.~~

~~(fg)~~ Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified under ORS 759.020, radio common carriers and interexchange carriers.

~~(gh)~~ Any other agency, organization or person claiming an exemption is required to identify the authority for its claim to a provider. If a telecommunications provider is unable to determine the status of a subscriber the Commission will determine whether the subscriber is exempt.

(3) Collection of RSPF Surcharge.

(a) Each telecommunications provider must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP eligible subscribers. The RSPF surcharge is applied on a telecommunications circuit designated for a particular subscriber.

(A) One subscriber line is counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit.

(B) For providers of central office based services, the surcharge is applied to each line that has unrestricted connection to the telecommunications relay service. For central office based service lines that have restricted access to the ~~Oregon Telecommunications Relay Service (OTRS)~~, the surcharge is charged based on software design.

(b) Each cellular, wireless, or other radio common carrier must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP eligible subscribers. The surcharge is applied on a per-instrument basis.

- (c) Each telecommunications provider and each cellular, wireless, or other radio common carrier must identify the surcharge on each retail customer's bill as a separate line item named "RSPF Surcharge."
- (4) A telecommunications provider or a cellular, wireless, or other radio common carrier may remit surcharges due to the Commission by electronic transfer, mail or in person.
- (5) The Remittance Report and surcharges are due to the Commission on or before the 21st calendar day after the close of each month and must be received in the Commission's offices no later than 5 p.m. Pacific Standard Time on the due date. A surcharge remittance or Remittance Report postmarked on the due date does not meet the requirements of this section and will not be considered as timely submitted.
- (6) Each telecommunications provider and each cellular, wireless, or other radio common carrier must submit the Remittance Report and surcharge with no exceptions. If no surcharge is collected, the telecommunications provider or the cellular, wireless, or other radio common carrier must still submit its monthly Remittance Report specified in section (5) of this rule.
- (7) For each billing period that a telecommunications provider or a cellular, wireless, or other radio common carrier fails to submit the surcharge fees in full on or before the due date required by these rules, the telecommunications provider or the cellular, wireless, or other radio common carrier must pay a late payment fee in accordance with OAR 860-001-0050.
- (8) If the telecommunications provider or the cellular, wireless, or other radio common carrier fails to remit the surcharge in full on or before the due date, the telecommunications provider or the cellular, wireless, or other radio common carrier must pay interest in accordance with OAR 860-001-0050.
- (9) If a telecommunications provider or a cellular, wireless, or other radio common carrier fails to file a Remittance Report as required by these rules, the telecommunications provider or the cellular, wireless, or other radio common carrier must pay a late report fee in accordance with OAR 860-001-0050.
- (10) If the amount shown due on a Remittance Report is not paid by the due date, the Commission may issue a proposed assessment to set the sum due. The Commission may waive the late report fee, the late payment fees and the interest on the unpaid surcharge fees, or any combination thereof, if the telecommunications provider or the cellular, wireless, or other radio common carrier files a written waiver request and provides evidence showing that the telecommunications provider or the cellular, wireless, or other radio common carrier submitted the Remittance Report and surcharge fees late due to circumstances beyond its control.
- (11) The telecommunications provider or the cellular, wireless, or other radio common carrier must pay a fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.
- (12) The telecommunications provider or the cellular, wireless, or other radio common carrier is responsible for and must pay all costs incurred by the Commission to collect a past-due RSPF surcharge from the telecommunications provider or the cellular, wireless, or other radio common carrier.
- (13) Remittance Report Records: A telecommunications provider and a cellular, wireless, or other radio common carrier must keep all records supporting each Remittance Report for three years, or if a Commission review or audit is pending, until the review or audit is complete, whichever is later.
- (14) In addition to any other penalty, obligation, or remedy provided by law, the Commission may suspend or cancel the telecommunications provider's certificate of authority to provide

telecommunications service in Oregon for its failure to file its Remittance Report or its failure to remit the surcharge in full.

(15) Except as otherwise provided by law, if after an audit or review the Commission determines that the telecommunications provider or the cellular, wireless, or other radio common carrier has remitted an excessive amount, the Commission will provide the telecommunications provider or the cellular, wireless, or other radio common carrier a credit in that amount against sums subsequently due from that telecommunications provider or that cellular, wireless, or other radio common carrier.

(16) A telecommunications provider or a cellular, wireless, or other radio common carrier must submit any revisions to a ~~previously-filed~~ Remittance Report no later than three years **from the due date of the Remittance Report from its due date**. If the Commission concludes that a telecommunications provider or cellular, wireless, or other common carrier remitted an excessive amount and that refunding the excess would have a material and adverse financial impact on the RSPF, the Commission may enter into an agreement with the telecommunications provider or the cellular, wireless, or other radio common carrier to spread payments of the refunds over a period not to exceed three years.

(17) The RSPF Surcharge Exception Form is due annually by March 15. A telecommunications provider or a cellular, wireless, or other radio common carrier **that qualifies for the exception** must submit the completed form (in person, electronically, or by mail) so that it is received in the Commission's offices no later than 5 p.m. Pacific Standard Time on March 15.

(18) In computing any period of time prescribed or allowed by these rules, the first day of the act or event is not included. The last day of the period is included, unless the last day is a Saturday or legal holiday; then the period runs until the end of the next day that is not a Saturday or a legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10; PUC 9-2011, f. & cert. ef. 10-4-11

## **860-033-0007**

### **Estimated Report**

(1) For any period for which a telecommunications provider, or a cellular, wireless, or other radio common carrier fails to file a Remittance Report **and remit the surcharge payments** as required by these rules, the Commission may determine a proposed **surcharge** assessment based upon any information available to the Commission.

(2) The proposed assessment ~~must~~ **may not cover a period longer than three years prior to the date of the proposed assessment and must include:**

**(a) An estimated surcharge amount owed;**

**(ab) Include a** late payment fee equal to 9 percent of the **estimated surcharge amount owed** ~~proposed assessment amount~~, up to a maximum of \$500 for that reporting period;

**(bc) Include i**nterest on the **estimated surcharge amount owed** ~~proposed assessment amount~~ at the rate of 9 percent per annum from the day the surcharge **amount** ~~fee~~ was originally due; **and**

**(ed) Include a** late report fee per 860-001-0050(3)(e); **and**

**(d) Be made no later than 3 years after the Remittance Report's due date.**

(3) Notwithstanding ~~sub~~section (2)(e) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to propose an assessment for the period represented by the non-filed Remittance Report. The proposed assessment must include all late payment fees as specified in this rule.

(4) During the 30-day period allowed for filing a petition for a hearing, the telecommunications provider, or the cellular, wireless, or other radio common carrier may file its Remittance Report and pay the surcharge, late report fee, late payment fee, and interest. The Commission will accept the Remittance Report, surcharge payment, late report fee, late payment fee and interest if correctly calculated in accordance with the original due date for the subject period's Remittance Report and payment.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10; PUC 9-2011, f. & cert. ef. 10-4-11

### **860-033-0010**

#### **OTAP and Lifeline Applicability**

**(1)** The Oregon Telephone Assistance Program (OTAP) is designed to provide a reduced rate or discount for an Eligible Telecommunications Provider's basic service, whether sold separately or in combination with other services, to low-income customers who meet eligibility requirements.

**(2)** An Eligible Telecommunications Provider must offer to all low-income customers who meet eligibility requirements OTAP ~~reduced rates or~~ discounts with all service offerings that include basic telephone service. Reduced rates or discounts apply to the single line, or service that is functionally equivalent to a single line, serving the eligible ~~recipient~~customer's principal residence in Oregon.

**(a)** An Eligible Telecommunications Provider may not decline to provide a discount to a customer on the basis that the customer is receiving the OTAP or Lifeline benefit. The Eligible Telecommunications Provider must limit the total discount offered to a customer receiving the OTAP or Lifeline benefit to an amount equal to the customer's charges.

**(b)** An Eligible Telecommunications Provider may not decline to provide the OTAP or Lifeline benefit on the basis that the customer is receiving another discount. The Eligible Telecommunications Provider must limit the total discount offered to a customer receiving the OTAP or Lifeline benefit to an amount equal to the customer's charges.

**(c)** An OTAP or Lifeline customer may retain his or her out of state phone number as long as his or her residential address is in Oregon.

**(3)** Eligible Telecommunications Providers and the Commission ~~OTAP~~ must treat OTAP and Lifeline data as confidential information, to the extent allowed by law, and OTAP and Lifeline data may be used only for OTAP and Lifeline~~program~~ purposes.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

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 18-1997, f. & cert. ef. 12-17-97; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09

860-033-0030

**OTAP and Lifeline Eligibility**

(1) ~~A low-income customer demonstrates~~ Eligibility for OTAP ~~and Lifeline is demonstrated~~ by application to the Commission on a Commission-approved form demonstrating compliance with this rule ~~by an individual currently meeting the criteria for a “low income customer” set forth in 1987 Oregon Laws Chapter 290, Section (6) paragraph (5)(b).~~

(2) To be eligible, the customer, one or more of the customer’s dependents or the customer’s household must:

(a) Receive benefits from one of the following public assistance programs: Medicaid under Title XIX and XXI of the Social Security Act; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program’s free lunch program; or Temporary Assistance for Needy Families; or

(b) Receive benefits from another Commission-approved low-income public assistance program for which eligibility requirements do not exceed 135 percent of the applicable Federal Poverty Guidelines.

(c) Have income that is at or below 135 percent of the applicable Federal Poverty Guidelines for a household of that size.

(3) The Commission may require a low-income customer to submit documentation demonstrating that he or she qualifies under the program or income based eligibility requirements.

(a) Acceptable documentation of program eligibility includes the current or prior year’s statement of benefits from a public assistance program, a notice or letter of participation in a public assistance program, program participation documents, or another official document demonstrating that the customer, one or more of the customer’s dependents or the customer’s household receives benefits from a qualifying assistance program.

(b) Acceptable documentation of income eligibility includes the prior year’s state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement or pension statement of benefits; an Unemployment or Workers’ Compensation statement of benefit; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information. If the customer presents documentation of income that does not cover a full year, such as current pay stubs, the customer must present the same type of documentation covering three consecutive months within the previous twelve months.

(24) ~~The customer~~An applicant or recipient may be required to furnish his or her social security number and the social security number of the member of the customer’s household upon whom eligibility is based before OTAP and Lifeline eligibility can be determined or verified. Failure to do so may result in denial of benefits.

(35) ~~An applicant~~The customer must sign a written authorization on a Commission-approved form (OTAP application) permitting the Commission to release necessary information to an Eligible Telecommunications Provider and, as necessary, to the following: Federal Communications Commission, Universal Service Administrative Company, Department of Human Services, and the applicant’s personal representative or legal guardian.

~~(4) The Commission must be able to verify an individual's continuing eligibility participation in a qualifying program. Continuing OTAP eligibility is based on monthly or quarterly recertification by the Commission.~~

(6) If a customer provides a temporary residential address to the Commission, he or she will be required to verify his or her temporary residential address every 90 days. If the customer fails to respond within 30 days of a Commission attempt to verify the temporary address, the Commission will notify the Eligible Telecommunications Provider to de-enroll the customer from OTAP and the Lifeline program.

(7) An applicant or customer may not use a post office box as his or her residential address. The Commission may accept a P.O. Box or General Delivery address as a billing address, but not a residential address.

~~(58) The OTAP or Lifeline benefit is limited to one single line, or single line equivalent, per economic unit at the applicant's or recipientcustomer's principal residence in Oregon. Generally, only one OTAP benefit is allowed per residential address, but the Commission may make exceptions for certain facilities including but not limited to rooming houses and other independent living facilities.~~

(a) If the Commission is unable to determine that an applicant and a current OTAP or Lifeline customer are part of a separate economic unit or household, the applicant must complete and submit to the Commission the Lifeline Household Worksheet.

(b) The Commission may verify annually that the customer continues to be part of a separate economic unit or household.

(c) If the customer fails to respond within 30 days of the Commission's attempts to verify that the customer continues to be part of a separate economic unit or household, the Commission will notify the Eligible Telecommunications Provider to de-enroll the customer from OTAP and the Lifeline program.

~~(69) The name of the OTAP or Lifeline applicant or recipient must appear on the billing statement or account for the telecommunications service in order for that for that recipientapplicant to qualify for OTAP or Lifeline benefits. The Commission may waive this requirement if it determines that good cause exists.~~

~~(710) At its discretion, the Commission may require qualifying applicant who did not receive benefits from an Eligible Telecommunications Provider after submitting an application to the Commission may receive provide up to a maximum of three months of OTAP or Lifeline benefits credited to the applicantcustomer's account. The qualifying applicantcustomer may be required to submit documentation demonstrating that he or she qualified under the program or income based eligibility requirements in section (2) or (3) of this rulewritten proof of application date to the Commission in order to receive the OTAP benefits credited to the applicant's account.~~

(11) The Commission will verify a customer's continuing eligibility. Continuing OTAP and Lifeline eligibility is based on monthly, quarterly, or annual verification by the Commission.

(a) The Commission will allow a customer 30 days following the date of the notice of termination or de-enrollment to demonstrate continued eligibility. A customer may be required to submit proof of continued eligibility to the Commission.

(b) When the Commission notifies the Eligible Telecommunications Provider of a customer who is no longer eligible, the Eligible Telecommunications Provider must immediately de-enroll the customer from the OTAP and Lifeline program.

**(c) After the Commission determines that the customer is not eligible or no longer eligible, the customer may file a written request for a hearing to appeal the determination as specified in the notice of determination.**

**(d) At the hearing, the customer must provide to the Commission documentation demonstrating that he or she qualifies under the program or income based eligibility requirements listed in section (2) or (3) of this rule.**

**(12) If the Commission identifies that a customer or household is receiving duplicate support from one or more Eligible Telecommunications Providers, the Commission, at its discretion and based on the available information, will select the Eligible Telecommunications Provider for which the customer must be de-enrolled.**

**(13) If a customer does not use the OTAP or Lifeline supported service that the Eligible Telecommunications Provider offers at no charge for 60 consecutive days, the Eligible Telecommunications Provider must provide the customer 30 days' notice, using plain language, that the customer's failure to use the OTAP or Lifeline supported service within the 30-day notice period will result in de-enrollment from OTAP or the Lifeline program. If the customer uses the OTAP or the Lifeline supported service within the 30-day notice period, the Eligible Telecommunications Provider may not terminate the customer's OTAP or Lifeline supported service.**

**(14) When the customer switches to a different Eligible Telecommunications Provider, the customer must submit to the Commission an application for OTAP or the Lifeline program on a Commission-approved form.**

**(15) If, in a span of 30 days, the customer disconnects and reconnects service with the same Eligible Telecommunications Provider, the customer is not required to reapply for the OTAP or Lifeline benefits.**

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 6-1997, f. & ef. 1-10-97 (Order No. 97-005); PUC 6-1997, f. & cert. ef. 1-10-97; PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

### **860-033-0035**

#### **OTAP and Lifeline Benefits**

(1) A residential customer qualifying for the OTAP **and Lifeline** benefit pays a reduced monthly rate, as established by the Commission, for basic service, whether sold separately or in combination with other services, provided by an Eligible Telecommunications Provider. The monthly OTAP benefit includes:

(a) The federal ~~baseline~~ Lifeline **program** support ~~equal to the Eligible Telecommunication Carriers tariff rate for the federal end user common line charge for primary residential lines; and~~

~~(b) An additional federal Lifeline support of \$1.75 in accordance with 47 C.F.R. § 54.403 (2008);~~

~~(e) The State of Oregon support of \$3.50; and.~~

~~(d) An additional federal Lifeline support, in an amount equal to one-half the amount of support provided by the State of Oregon up to a federal maximum of \$1.75, available to the Eligible Telecommunications Providers that provide OTAP benefits to qualifying low-income recipients;~~

~~(d) For each qualifying low-income individual living on federally recognized tribal lands, provided this support does not bring the basic local rate below \$1.00 per month:~~

~~(A) An additional federal Lifeline support, in an amount up to \$25.00 per month, available for each eligible resident of tribal lands; and~~

~~(B) A total of up to \$35.00 each month, including first and second tier federal support amounts per primary residential connection, available for each eligible resident of tribal lands on basic local residential service, as prescribed in 47 C.F.R. § 54.403 (2008).~~

~~(f) A qualifying tribal Lifeline customer must directly contact the local Eligible Telecommunications Provider to receive tribal Lifeline support.~~

~~(2) The OTAP benefit is provided for each billing period that a customer is determined eligible for assistance. When a customer is determined eligible for less than an entire billing period, the benefit is prorated.~~

~~(32) Initial OTAP and Lifeline benefits become effective on the date the Commission receives from an eligible customer the signed OTAP application on a Commission-approved form (written authorization) from an eligible customer.~~

~~(43) An Eligible Telecommunications Provider that offers OTAP or Lifeline supported service at no charge to the low-income customer must require the customer to call the Eligible Telecommunications Provider to activate the OTAP or Lifeline supported service. The Eligible Telecommunications Provider must require the low-income customer to provide the last four digits of his or her social security number or Tribal identification number before activating the OTAP or Lifeline supported service. A customer removed from or denied OTAP may reapply by telephone or online when eligible. Benefits then become effective on the date the Commission verifies the customer's eligibility.~~

~~(a) A customer removed from or denied OTAP benefits after the Commission is notified that the customer is no longer eligible, because the customer is not currently receiving benefits from one of the qualifying programs listed OAR 860-033-0030(1) may file a written request for a hearing to appeal the termination.~~

~~(b) At the hearing, the customer must provide to the Commission written documentation showing the customer's current participation in one of the qualifying under the programs listed in OAR 860-033-0030(1).~~

~~(5) A customer who has not received OTAP benefits for three or more years must submit a new signed OTAP application.~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290 OL 1987

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 18-1997, f. & cert. ef. 12-17-97; PUC 2-2002, f. & cert. ef. 2-5-02; PUC 12-2009, f. & cert. ef. 11-13-09

**860-033-0040**

**OTAP Alternatives**



(1) In lieu of OTAP participation, an Eligible Telecommunications Provider public utility, cooperative corporation or unincorporated association providing local exchange telecommunication service may apply to the Commission for authority to provide low-income telephone assistance through an alternative plan. ~~The~~ An Eligible Telecommunications Provider's application must demonstrate that:

(a) Customers eligible for OTAP will receive a benefit under the alternative plan at least equal to the OTAP benefit ~~not less than the benefit the same customers would have received from OTAP;~~

(b) Customers ~~who qualify for assistance under~~ eligible for OTAP will ~~also qualify~~ be eligible for assistance under the Eligible Telecommunications Provider's alternative plan; and

(c) Administrative costs for an alternative plan will be less than or equal to the administrative costs if of participation ~~the Eligible Telecommunications Provider participated~~ in OTAP.

(2) An Eligible Telecommunications Provider public utility, cooperative corporation or unincorporated association providing low-income telephone assistance under an alternative plan must inform the Commission monthly of the number of ~~subscriber~~ customers receiving a the benefit and the total dollar amount in benefits provided ~~by~~ under the Eligible Telecommunications Provider's under the alternative plan.

(3) Eligible ~~subscriber~~ customers must continue receiving benefits under ~~the Commission plan~~ OTAP until the Eligible Telecommunications Provider's the alternative plan is approved by the Commission and implemented by the Eligible Telecommunications Provider public utility, cooperative corporation or unincorporated association.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-2009, f. & cert. ef. 11-13-09

#### 860-033-0045

##### OTAP Compensable Expenses

~~(1) Each Eligible Telecommunications Provider may be compensated from the RSPF for enrolling new OTAP customers and for benefit costs incurred as a consequence of participating in OTAP.~~

~~(1a)~~ The Eligible Telecommunications Provider may be compensated for the State of Oregon benefit provided to each customer enrolled in OTAP by the Commission for the OTAP benefit at the Commission's request. ~~(b)~~ Compensation may include ~~Benefit costs include~~ the revenue the Eligible Telecommunications Provider foregoes by providing the State of Oregon benefit local service to qualified low-income eligible customers ~~at the OTAP reduced rate or discount.~~

(2) To receive compensation, an Eligible Telecommunications Provider must submit a monthly reimbursement form no later than 21 calendar days after the end of the billing period. The Eligible Telecommunications Provider's reimbursement form must indicate the number of qualified eligible customers who were enrolled during the billing period, the number of customers who received the OTAP benefit during the billing period, and the amount of revenue foregone during that same period.

(3) If the Commission overcompensates an Eligible Telecommunications Provider, the Eligible Telecommunications Provider must immediately return the excess RSPF funds once it notifies the Commission or is notified by the Commission of the overcompensation.

(a) If the Commission overcompensates the Eligible Telecommunications Provider as a result of Commission error and the Eligible Telecommunications Provider upon notification of the overcompensation immediately returns the excess RSPF funds, the Eligible Telecommunications Provider is not required to pay interest on the excess RSPF funds.

(b) If the Commission overcompensates the Eligible Telecommunications Provider as a result of Commission error and upon notification the Eligible Telecommunications Provider does not immediately return the excess RSPF funds, the Eligible Telecommunications Provider must pay interest on the excess RSPF funds at the rate set forth in OAR 860-001-0050.

(c) If the Commission overcompensates the Eligible Telecommunications Provider as a result of actions by the Eligible Telecommunications Provider, including, but not limited to, the filing of an incorrect reimbursement form, then upon notification the Eligible Telecommunications Provider must immediately return the excess RSPF funds and pay interest on the excess RSPF funds at the rate set forth in OAR 860-001-0050.

(4) Notice of Proposed Assessment:

(a) If the Eligible Telecommunications Provider is overcompensated and does not timely return the excess RSPF funds as described in section (3) of this rule, the Commission may issue a written proposed assessment for the amount due.

(b) Within 30 days of the service date of the notice of proposed assessment, the Eligible Telecommunications Provider may pay the proposed assessment in full or may file a written petition for a hearing. The written petition for a hearing must clearly specify all the reasons the Eligible Telecommunications Provider disputes the assessment.

(A) If the Eligible Telecommunications Provider pays the proposed assessment in full within 30 days of the service date of the notice of proposed assessment, the Commission will accept the payment and discontinue any further collection activities for that assessment.

(B) If the Eligible Telecommunications Provider timely files a written petition for a hearing under subsection (b) of this section~~rule~~, the Commission will grant the Eligible Telecommunications Provider a hearing and provide at least 10 days notice of the time and place of the hearing. The Commission will conduct the hearing under its rules governing hearings and proceedings.

(5) Commission Order: The Commission will enter an order if the Eligible Telecommunications Provider does not respond to the notice of proposed assessment within 30 days of the service date of the notice of proposed assessment or after considering the testimony presented at hearing. Any charges assessed by the Commission in its order become due and payable on the tenth day after the service date of the Commission's order.

(6) If the Eligible Telecommunications Provider does not respond to the Commission order, then the account may be referred to the Department of Revenue or to a collection agency for collection. The Eligible Telecommunications Provider is responsible for and must pay all costs incurred by the Commission to collect a past-due assessed amount from the Eligible Telecommunications Provider.

(7) An Eligible Telecommunications Provider must submit any revisions to a previously filed reimbursement form no later than three years from its due date. If the Commission concludes that refund is due to an Eligible Telecommunications Provider and that the refund would have a material adverse financial impact on the RSPF, the Commission may enter into an agreement

with the Eligible Telecommunications Provider to spread payment of the refund over a period of time not to exceed three years.

(8) The Commission may determine the compensation amount based on the costs an Eligible Telecommunications Provider would reasonably incur to accomplish each task referred to in section (1) of this rule. The Commission disburses funds from the RSPF to the Eligible Telecommunications Provider within 45 calendar days after the Commission receives a properly completed reimbursement form.

(9) Each ~~Eligible Telecommunications Provider~~ **public utility, cooperative corporation or unincorporated association** providing low-income telephone assistance under an ~~Commission-~~ approved alternative plan may be compensated for **the State of Oregon benefit and enrollment costs**. However, compensation from the RSPF may not be greater than the compensation ~~the provider that~~ would have **been** received ~~through had it-~~ **participated** in OTAP.

(10) Governmental agencies contracting with the Commission to certify the eligibility requirements of individuals or to perform other administrative functions authorized by these rules are compensated based on the terms of the contract.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

#### **860-033-0046**

##### **OTAP and Lifeline Accounting, Reporting and Auditing**

(1) Based upon accounting procedures approved by the Commission, Eligible Telecommunications Providers must maintain accounting records so that costs associated with OTAP **and Lifeline** can be separately identified. Records must be provided to the Commission upon request.

(2) Active OTAP **and Lifeline** Customer Report: The Active OTAP **and Lifeline** Customer Report is a listing of all customers receiving the OTAP **or Lifeline** benefit. The listing may include the customers' telephone numbers, addresses or Commission-assigned OTAP Identification Number.

~~(a)~~ Each Eligible Telecommunications Provider ~~with 1,000 or more OTAP customers~~ must submit monthly to the Commission in an electronic format accessible by the Commission, an Active OTAP **and Lifeline** Customer Report. **The Active OTAP and Lifeline Customer Report must be received by the Commission on or before the close of business on the 21st calendar day of the following month.**

~~(b)~~ ~~Each Eligible Telecommunications Provider with fewer than 1,000 OTAP customers must submit quarterly to the Commission in an electronic format accessible by the Commission an Active OTAP Customer Report.~~

(3) Order Activity Report: The Order Activity Report is a listing of all OTAP **or Lifeline** customers whose **phone** service was disconnected, **who voluntarily de-enrolled or were de-enrolled for failure to use the OTAP or Lifeline supported service that the Eligible Telecommunications Provider offers at no charge, and a listing of all OTAP or Lifeline customers whose telephone numbers or addresses have changed.** ~~The Commission may also~~

~~require additional information such as a listing of all OTAP customers whose telephone numbers or addresses have changed.~~

~~(a) Each Eligible Telecommunications Provider with 1,000 or more OTAP customers must submit monthly to the Commission in an electronic format accessible by the Commission an Order Activity Report. The Order Activity Report must be received by the Commission on or before the close of business on the 21st calendar day of the following month.~~

~~(b) Each Eligible Telecommunications Provider with fewer than 1,000 OTAP customers must submit quarterly to the Commission in an electronic format accessible by the Commission an Order Activity Report.~~

(4) No Match Report: When the Commission notifies the Eligible Telecommunications Provider of customers who meet eligibility criteria, the Eligible Telecommunications Provider must notify the Commission of any discrepancy that prevents a customer from receiving the OTAP or Lifeline benefit. Notification of discrepancies may must be submitted electronically in a format accessible by the Commission.

(5) The Commission reserves the right to audit the records of an Eligible Telecommunications Provider that provides OTAP or Lifeline benefits ~~or low-income telephone assistance.~~

(6) OTAP and Lifeline Records: Each Eligible Telecommunications Provider must keep all OTAP and Lifeline records and supporting documentation for three years, or if a Commission review or audit is pending, until the review or audit is complete, whichever is later.

(a) An Eligible Telecommunications Provider must produce for inspection or audit upon request of the Commission or its authorized representative all OTAP and Lifeline records and supporting documentation. The Commission, or its representative, must allow the Eligible Telecommunications Provider a reasonable time to produce the records for inspection or audit.

(b) In addition to any other penalty allowed by law, the Commission may suspend or cancel an Eligible Telecommunications Provider's certificate of authority to provide telecommunications service for its failure to produce for inspection or audit the records required by this rule.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

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 18-1997, f. & cert. ef. 12-17-97; PUC 12-2009, f. & cert. ef. 11-13-09

### **Link-Up America**

**860-033-0050**

~~Link-Up America Eligibility~~ Tribal Lifeline and Tribal Link-Up

~~(1) Eligibility for Link-Up America is demonstrated by application to the Commission by an individual currently;~~ The Commission must determine if a prospective Tribal Lifeline or Tribal Link Up recipient who has executed a certification pursuant to 47 C.F.R. § 54 Subpart E (2013) has previously received a Tribal Lifeline or Tribal Link Up benefit at the residential address provided by the prospective subscriber to prevent duplicative support. An eligible resident of Tribal lands may receive the benefit of the Tribal Link Up program for a second or subsequent time only for otherwise qualifying commencement of telecommunications service at a principal place of residence with an address different from the address for which Tribal Link Up assistance was previously provided.

- ~~(a) Receiving benefits from the federal food stamp program or receiving benefits from another Commission-approved low-income public assistance program for which eligibility requirements do not exceed 135 percent of the poverty level;~~
- ~~(b) Certified by an agency contracting with the Commission to qualify an individual as meeting eligibility criteria; or~~
- ~~(c) Certified as eligible in a public assistance program that the Commission has determined to meet eligibility criteria.~~
- ~~(2) An applicant or recipient may be required to furnish his or her social security number before Link-Up America eligibility can be determined or verified. Failure to do so may result in denial of benefits. Within five business days of a request for Tribal Lifeline or Tribal Link Up benefit, the Eligible Telecommunications Provider must submit to the Commission in an electronic format accessible by the Commission the Tribal Lifeline or Tribal Link Up applicant's full name, residential address, date of birth, telephone number associated with the application for Tribal Lifeline or Tribal Link Up benefit, and last four digits of his or her social security number or Tribal identification number. Each Eligible Telecommunications Provider must obtain, from each new and existing subscriber, consent to transmit the information as specified in this section of this rule. Prior to obtaining consent, the Eligible Telecommunications Provider must describe to the subscriber, using plain language, the specific information being submitted, that the information is being submitted to the Commission to ensure proper administration of the Tribal Lifeline and Tribal Link Up program, and that failure to provide consent will result in the subscriber being denied the Tribal Lifeline or Tribal Link Up benefit.~~
- ~~(3) An applicant must sign a written authorization (OTAP application) permitting the Commission to release necessary information to an Eligible Telecommunications Provider and, as necessary, to the following: Department of Human Services, and the applicant's personal representative or legal guardian. If the Commission notifies the Eligible Telecommunications Provider that a prospective subscriber has received a Tribal Lifeline and Tribal Link Up benefit at the residential address provided by the subscriber, the Eligible Telecommunications Provider may not seek universal service support reimbursement for Tribal Lifeline or Tribal Link Up.~~
- ~~(4) Eligible Telecommunications Providers and OTAP must treat Link-Up America data as confidential information, to the extent allowed by law, and Link-Up America data may be used only for OTAP program purposes. Where two or more Eligible Telecommunications Providers submit the information required in section (2) of this rule for the same subscriber, only the Eligible Telecommunications Provider whose information was received and processed by the Commission first, as determined by the Commission, will be entitled to reimbursement from the universal service fund for that subscriber.~~
- ~~(5) The name of the applicant or recipient must appear on the billing statement for the telecommunications service in order for that recipient to qualify for Link-Up America benefits. The Commission may waive this requirement if it determines that good cause exists. Tribal Lifeline and Tribal Link Up Order Activity Report: The Tribal Lifeline and Tribal Link Up Order Activity Report is a listing of all Tribal Lifeline and Tribal Link Up customers whose phone service was disconnected, who voluntarily de-enrolled or were de-enrolled for failure to use the Tribal Lifeline service which the Eligible Telecommunications Provider offers at no charge and a listing of all Tribal Lifeline and Tribal Link Up customers whose telephone numbers or addresses have changed.~~

**[Publications: Publications referenced are available from the agency.]**

Stat. Auth.: ORS 183, 756, 759 & Ch. 290 OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290 OL 1987

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. & ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & ef. 4-18-96 (Order 96-102); PUC 6-1997, f. & cert. ef. 1-10-97; PUC 18-1997, f. & cert. ef. 12-17-97; PUC 2-2002, f. & cert. ef. 2-5-02; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09

860-033-0055

**Link-Up America Benefits**

- ~~(1) Security deposit requirements may be waived for a residential applicant who is eligible for Link-Up America and who satisfies the credit requirements of OAR Chapter 860, Division 021, or if the qualifying low-income applicant voluntarily elects toll blocking, where available, from the provider.~~
- ~~(2) If an applicant does not meet the credit requirements of OAR chapter 860, division 021, or has an outstanding bill with the Eligible Telecommunications Provider, the deposit is not waived and the applicant is subject to the conditions and payment arrangements contained in OAR chapter 860, division 021.~~
- ~~(3) An Eligible Telecommunications Provider must offer a 50 percent reduction in its tariffed line connection charge, up to a maximum reduction of \$30, to eligible Link-Up America applicants. This assistance does not cover special features, services, or deposits. Each eligible resident living on federally recognized tribal lands, with initial connection or line extension costs of \$130 or more as prescribed in 47 C.F.R. § 54.411 (2008), may receive an additional reduction of up to \$70 to cover 100% of the charges between \$60 and \$130 for a total maximum support amount of \$100. A qualifying Tribal Lifeline customer must directly contact the local Eligible Telecommunications Provider to receive tribal Link-Up support.~~
- ~~(4) An Eligible Telecommunications Provider must offer to the Link-Up America recipient a deferred payment schedule for connection charges up to \$200. Payment for the connection charges may be deferred for a period not to exceed one year. The Eligible Telecommunications Provider may not charge the Link-Up America recipient interest on the deferred amount during the deferral period. Connection charges include any charges that the provider customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements.~~
- ~~(5) A Link-Up America recipient who fails to make payments as agreed with the Eligible Telecommunications Provider is subject to disconnection of service pursuant to OAR Chapter 860, Division 021.~~
- ~~(6) An Eligible Telecommunications Provider's Link-Up America program must allow a customer to receive the benefit of the Link-Up America program for a second or subsequent time only for a principal place of residence with an address different from the address where the Link-Up America assistance was previously provided.~~
- ~~(7) An Eligible Telecommunications Provider may seek reimbursement from the Universal Service Administrative Company, an authorized agent of the FCC.~~
- ~~(8) Upon FCC approval of a Commission OTAP and Link-Up America plan, an Eligible Telecommunications Provider subject to Oregon Law 1987, Chapter 290, must file appropriate tariffs or price lists with the Commission.~~

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756, 759 & Ch. 290 OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290 OL 1987

Hist.: PUC 12-2009, f. & cert. cf. 11-13-09

### **860-033-0100**

#### **Toll Limitation Service and Prohibited Charges**

**(1) Upon request and availability, an ~~qualifying~~ OTAP or Lifeline recipient customer is entitled to Toll Limitation Service from an Eligible Telecommunications Provider at no additional charge.**

**(2) An Eligible Telecommunications Provider may not charge the OTAP or Lifeline customer:**

**(a) The federal universal service fund fee on the local service portion of the phone bill;**

**(b) The local number portability fee; or**

**(c) The access recovery fee.**

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, ORS 759.036 & Ch. 290, OL 1987

Hist.: PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-2009, f. & cert. ef. 11-13-09

### **860-033-0110**

#### **Advertising, Marketing and Outreach**

**(1) An Eligible Telecommunications Provider may not conceal or misstate a material fact about OTAP or the Lifeline program in advertising, marketing materials or other outreach to Oregon consumers.**

**(2) An Eligible Telecommunications Provider must explain in plain language and disclose in OTAP and Lifeline marketing materials:**

**(a) That the Eligible Telecommunications Provider's offering is an OTAP and Lifeline supported service;**

**(b) That OTAP and Lifeline are government assistance programs. This disclosure must be conspicuous and in font larger in proportion to surrounding print;**

**(c) The name of the Eligible Telecommunications Provider offering the OTAP and Lifeline supported service;**

**(d) That only eligible low-income customers may enroll in OTAP and Lifeline supported programs;**

**(e) That proof of eligibility may be necessary for enrollment;**

**(f) That OTAP and Lifeline supported services are limited to one benefit per household, consisting of either wireline or wireless service; and**

**(g) That OTAP and Lifeline supported services are non-transferable.**

**(3) The Eligible Telecommunications Provider must provide the Commission an opportunity to review OTAP and Lifeline marketing materials prior to release.**

**(4) An Eligible Telecommunications Provider may not use agents to solicit potential customers for OTAP and Lifeline supported services. Agents may not submit applications for OTAP or Lifeline on behalf of customers or potential customers.**

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 5-2013, f. & cert. ef. 8-28-13 (Temp.)



## Telecommunication Devices Access Program (TDAP)

860-033-0530

### TDAP Eligibility

(1) A person may apply to receive an Assistive Telecommunication Device or Adaptive Equipment from the **TDAP Commission**. The application must be submitted using the form provided by **TDAP the Commission**. The TDAP application form is available online at <http://www.puc.state.or.us/PUC/rspf/tdapapp.pdf>, from the Commission and from certain community resources.

(2) A TDAP applicant must provide the **TDAP Commission** with:

(a) Evidence of regular access to a specific telephone number in Oregon;

(b) Evidence of current residency in Oregon; and

(c) A properly completed application including a statement that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired, or has a disability that requires adaptive equipment or an assistive telecommunication device to communicate effectively on the telephone. This statement must be signed by:

(A) A licensed physician who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired or has a disability;

(B) An audiologist or a hearing aid specialist who may certify only that the applicant is deaf or hard of hearing;

(C) A speech pathologist who may certify only that the applicant is speech impaired;

(D) A vocational rehabilitation counselor from the Oregon Office of Vocational Rehabilitation Services who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired or has a disability;

(E) A nurse practitioner who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired, or has a disability; **or**

(F) A rehabilitation instructor from the Oregon Commission for the Blind who may certify only that the applicant has a vision impairment; ~~or~~

~~(G) A person certified by the Commission as qualified to determine whether a person meets the eligibility requirements of TDAP.~~

(d) For a person under 18 years of age, or an adult who is determined to require a legal guardian, a parent or a guardian must apply on that person's behalf and assume full responsibility for the Assistive Telecommunication Device or Adaptive Equipment and services. An emancipated minor is considered an adult. If the application is signed by a person asserting power of attorney for the applicant or by a legal guardian, the person signing the application may be required to provide the Commission with evidence of the power of attorney or legal guardianship.

(3) The **TDAP Commission** may only approve applications for persons certified as deaf, deaf-blind, hard of hearing, speech or vision impaired or who have a disability and cannot use a telephone for expressive or receptive communication.

(4) The **TDAP Commission** may provide one Assistive Telecommunication Device or one Adaptive Equipment unit per eligible person. The one device or unit provided may also include an accessory device such as a loud ringer or signal device, as applicable. More than one Assistive Telecommunication Device or Adaptive Equipment unit may be provided to a household if more than one eligible person permanently resides in the household.

(5) If the Commission purchases new devices that may benefit a TDAP recipient more than the equipment currently provided by **TDAP the Commission** to the recipient, the

**TDAPCommission** may allow the recipient to use both the current and new device for a 60-day trial period. The recipient must return the less beneficial equipment to the TDAP within five business days after the end of the trial period. If the recipient fails to return the equipment, the recipient is responsible for paying the **TDAPCommission** for the cost of the more expensive equipment.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036, & Ch. 290, OL 1987

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); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

### **860-033-0535**

#### **Ownership of and Conditions for Use of Assistive Telecommunication Devices or Adaptive Equipment**

- (1) All Assistive Telecommunication Devices or Adaptive Equipment purchased **underby** the **TDAPCommission** remain the property of the State of Oregon. The Authorized Distributors must record the serial number of each Assistive Telecommunication Device or Adaptive Equipment unit. An Authorized Distributor's failure to comply may terminate the distributor's contract with the State of Oregon.
- (2) Before receiving an Assistive Telecommunication Device or Adaptive Equipment, a recipient must sign the Conditions of Acceptance ~~Agreement~~. A recipient who received TDAP equipment when under the age of 18 must sign a new Conditions of Acceptance form within 30 calendar days after becoming 18 years of age. Similarly, if there is a change in legal guardian for an adult recipient, the new guardian must sign a Conditions of Acceptance form within 30 calendar days of the change in guardianship. Failure to do so will result in the Commission billing the parent or guardian of record for the device.
- (3) Before the requested equipment is distributed, an applicant or recipient must pay in full all outstanding accounts with the Commission.
- (4) Any Assistive Telecommunication Device or Adaptive Equipment distributed to an eligible recipient under this program may not be sold, loaned, or otherwise transferred from the possession of the original recipient. Unauthorized transfers subject the recipient to repossession of the Assistive Telecommunication Device or Adaptive Equipment, prosecution, or liability for the full purchase price of the equipment.
- (5) A recipient who moves to a different address within Oregon must report the new address to the Commission within 30 calendar days of the move. A recipient who moves out of Oregon must return all Assistive Telecommunication Devices or Adaptive Equipment received through the **TDAPCommission** to an Authorized Distributor or the Commission before moving out of Oregon. A recipient who is no longer receiving telephone services must return all Assistive Telecommunication Devices or Adaptive Equipment received through the **TDAPCommission** to an Authorized Distributor or the Commission within 30 calendar days after termination of Local Exchange Service.

(6) A recipient may take Assistive Telecommunication Devices or Adaptive Equipment on travel outside Oregon. The recipient must obtain written permission from the **RSPF ManagerCommission** if the travel will be for more than 90 calendar days.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

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 18-1997, f. & cert. ef. 12-17-97 860-033-0535(5) Renumbered to 860-033-0536; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09

### **860-033-0536**

#### **TDAP Recipients' Liability**

(1) The recipient is financially responsible for any damage to the equipment that is not caused by normal wear and tear, acts of nature, or disasters. To avoid financial responsibility for damaged equipment, the recipient must prove to the Commission that the damage was caused by normal wear and tear or acts of nature or disasters. The recipient is also financially responsible for the full replacement cost of the equipment if the recipient **loses the equipment or** moves out of Oregon without returning the equipment.

(2) Stolen Equipment or Equipment Damaged by Acts of Nature or Disasters:

(a) If the equipment is stolen, a recipient must notify the local law enforcement agency within 24 hours of the time the recipient discovers the theft. A recipient must forward a copy of the police report to the **RSPF ManagerCommission** within five business days of the date the theft was reported. If the local law enforcement agency does not respond to the recipient's theft report, the recipient must notify the **RSPF ManagerCommission** within five business days after the theft was reported. The recipient must forward a written report to the **RSPF ManagerCommission** that describes the theft and includes any witnesses' names, addresses, and telephone numbers.

(b) If the equipment is stolen outside the United States, the recipient must submit a copy of the police report to the **RSPF ManagerCommission** within five business days of the date the theft was reported. If the local law enforcement agency does not respond to the recipient's theft report, the recipient must notify the **RSPF ManagerCommission** within five business days after returning to Oregon. The recipient must forward to the **RSPF ManagerCommission** a written report that includes any witnesses' names, addresses, and telephone numbers; and describes the theft.

(c) If the equipment is damaged due to acts of nature or disasters, including, but not limited to floods, storms or fire, the recipient must submit an insurance claim, fire department report, police report, or other equivalent documentation about the event within five business days after the date the event occurred.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

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 18-1997, f. & cert. ef. 12-17-97 Renumbered from 860-033-0535(5); PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09

## **860-033-0537**

### **Holding Recipients Financially Responsible for Damaged, Lost, or Otherwise Not Returned Assistive Telecommunication Devices or Adaptive Equipment**

#### (1) Invoices:

(a) The Commission will mail an invoice indicating the amount of and the reason for such invoice to the responsible recipient at the last known address. The recipient has 30 calendar days from the service date of the invoice to respond.

(b) The invoiced recipient may submit a written response to the Commission in an attempt to resolve the invoice. At the Commission's discretion, further investigation may be initiated. If the investigation finds that the invoice was issued in error (for example, there is no verifiable reason for the invoice having been sent), the invoice may be canceled.

(c) If the Commission does not receive payment, the Commission may begin the collection activities.

(d) **Incorrect address:** When an invoice or notice of proposed assessment is returned with an incorrect address and the invoiced recipient has not notified the Commission of an address change as required by the Conditions of Acceptance ~~and Agreement~~ for TDAP Equipment, the amount billed to the recipient becomes a liquidated debt.

#### (2) Notice of Proposed Assessment:

(a) If the recipient does not respond to the invoice within 30 days from the service date of the invoice, the Commission may issue a written proposed assessment for the amount due.

(b) The recipient may pay the assessment in full within 30 days of the service date of the notice of proposed assessment or may file a written petition for a hearing within 30 days of the service date of the notice of proposed assessment. A written petition for a hearing must clearly specify all the reasons the recipient disputes the proposed assessments.

(A) If the recipient pays the proposed assessment in full within the 30 days of the service date of the notice of proposed assessment, the Commission will accept the payment and discontinue any further collection activities for that assessment.

(B) If the recipient timely files a written petition for a hearing as set forth in subsection (b) of this section of this rule, the Commission will grant the recipient a hearing and give at least 10 days notice of the time and place of the hearing. The Commission will conduct the hearing under its rules governing hearings and proceedings.

#### (3) Commission Order:

(a) The Commission will enter an order if the recipient does not respond to the notice of proposed assessment within 30 days of the service date of the notice of proposed assessment or after considering the testimony presented at hearing. Any charges assessed by the Commission in its order become due and payable on the tenth day after the service date of the Commission's order.

(b) If the recipient does not respond to the order assessing charges, the account may be referred to the Department of Revenue or a collection agency for collection. The recipient is responsible for and must pay all costs incurred by the Commission to collect a past-due invoice amount from the recipient.

#### (4) Collection procedures for a recipient with two or more Assistive Telecommunication Devices or Adaptive Equipment units:

(a) The Commission will mail a letter to the recipient asking the recipient to return the equipment within 30 calendar days, and

(b) If the Commission does not receive a response, the Commission will send an invoice to the recipient. If the recipient does not pay the amount billed, the Commission may take the necessary action against the recipient to either regain possession of the State of Oregon's equipment or receive the full replacement value of such equipment.

(5) When the Commission receives notice that a recipient is deceased, the Commission will request that the estate return the equipment. The Commission may bill the estate for the cost of replacing the equipment if it has not been returned, or if it is returned in damaged condition.

(6) If the lost, damaged, or otherwise not returned equipment is obsolete or is no longer offered by the TDAP, the Commission may waive the recipient's financial responsibility.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

### **860-033-0540**

#### **Distribution Procedures for Assistive Telecommunication Devices or Adaptive Equipment**

(1) Subject to appropriation and approval of expenditures for Assistive Telecommunication Devices or Adaptive Equipment and services purchased by the Commission, the Commission may contract with any governmental agency or other entity to establish an Authorized Distributor network and an Authorized Maintenance Center network.

(2) If demand exceeds supply, the Commission may distribute Assistive Telecommunication Devices or Adaptive Equipment to customers on a first-come first-serve basis.

(3) Each Authorized Distributor must inform the **TDAP Commission** in writing of all incoming and outgoing shipments of Assistive Telecommunication Devices or Adaptive Equipment. The written information must include the serial numbers engraved by the Authorized Distributor.

(4) Upon notice from the **RSPF Manager Commission**, the Authorized Distributor must distribute Assistive Telecommunication Devices or Adaptive Equipment to eligible applicants.

(5) The Authorized Distributor must require each recipient, including the parent or legal guardian, to sign the Conditions of Acceptance **Agreement** form supplied by the **TDAP Commission** before providing an Assistive Telecommunication Device or Adaptive Equipment unit. The Authorized Distributor and Authorized Maintenance Center must forward all forms to the **RSPF Manager Commission**.

(6) If needed, the Commission may contract with an agency or individual to provide training on Assistive Telecommunication Devices or Adaptive Equipment to specialized populations.

(7) Recipients of Assistive Telecommunication Devices or Adaptive Equipment are responsible for replacement paper for the Assistive Telecommunication Device or Adaptive Equipment, the payment of the recipient's monthly telephone bill, the purchase or lease cost of recipient's telephone, the cost of replacement light bulbs for signal devices and batteries for the equipment.

(8) The **Commission may require the** Authorized Distributor **mustto** provide each recipient a copy of the OTAP application form, mailing forms for purchasing TTY paper, and telecommunications relay service information handouts.

(9) The recipient must return defective or damaged equipment to the Commission, at the Commission's expense, prior to receiving repaired or replacement equipment. The Commission will decide whether to replace or to repair the damaged or defective equipment. The requirement

to return defective or damaged equipment prior to receiving repaired or replaced equipment may be waived by the ~~RSPP Manager~~Commission.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

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); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09