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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860
PUBLIC UTILITY COMMISSION

FILED

10/28/2020 3:44 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: RSPF RULE REVISIONS

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/25/2020 4:00 PM

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

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Filed By:
Diane Davis
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/17/2020

TIME: 1:30 PM

OFFICER: Christopher J. Allwein

ADDRESS: By Zoom

Remote/Virtual

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Zoom Meeting: - Use this link:

<https://opuc-state-or-us.zoom.us/j/81249121159?pwd=cHhtYVZoanlRSm9KMk9JSUtnWGR1UTO9>

Meeting ID: 812 4912 1159

Passcode: NmmVjj%td5

By telephone: +1 971 247 1195 US
(Portland)

Meeting ID: 812 4912 1159

Passcode: 0721527817

NEED FOR THE RULE(S):

ORS 759.685, as amended, directs the Public Utility Commission of Oregon (Commission) to fund the programs provided in section 2 to 6, chapter 290, Oregon Laws 1987 assessing a surcharge, not to exceed 35 cents, levied on each

paying landline and cellular service subscriber with access to the Oregon Telecommunications Relay Service. The 2017 Oregon Legislature enacted Senate Bill 84 into law clarifying that the surcharge does apply to subscribers of interconnected voice over internet protocol service and directed the Commission to adopt, by rule, the definition of interconnected voice over protocol service consistent with 47 C.F.R. § 9.3.

The Oregon Telephone Assistance Program (OTAP) is a plan of assistance to low income customers established under Sections 2 and 6, chapter 290, Oregon Laws 1987, as amended, to assure adequate, affordable residential telecommunication service is available to all citizens and to support broadband internet access service. The 2019 Oregon Legislature enacted Senate Bill 69, effective January 1, 2020, to align Oregon law with Federal Communications Commission (FCC) regulations, under which eligible low-income customers can receive the OTAP discount on broadband internet access service.

The Commission, in response to the enactment of Senate Bill 69 and an Oregon Interim Joint Emergency Board allotment, adopted temporary rules in Docket No. AR 634 on June 30, 2020. The temporary rule amendments addressed the need for expanded support by requiring the plan of assistance to include broadband internet access service for eligible low-income customers. The temporary rule changes are effective through December 31, 2020. The proposed rule changes would adopt many of the temporary rule changes on a permanent basis.

Pursuant to ORS 759.695, as amended, the Telecommunication Devices Access Program (TDAP) loans assistive telecommunication devices and adaptive equipment (equipment) to qualifying Oregon residents with a disability. In 2018, Moss Adams LLP performed a risk assessment and testing of internal controls over the TDAP. Moss Adams LLP identified that the Commission spends an inordinate amount of time and resources to manually track equipment despite depreciation, obsolescence, or the length of time a TDAP recipient has the equipment in his or her possession. The rule change allows for the transfer of equipment ownership to the recipient after four (4) years, which generally encompasses the standard warranty and extended warranty period.

Other proposed rules are necessary to eliminate obsolete rules, update definitions, reflect current practices, and reorganize for clarity and consistency.

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 635 on comments and attach them to an e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us.

Interested persons may review all filings online at <https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=22178>. 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 <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

Participants wishing to make comment at the rulemaking hearing are strongly encouraged to contact Diane Davis at

diane.davis@state.or.us or (503) 378-4372 before 10:00 a.m. on November 17, 2020. Participants who present oral comment at the hearing will be asked to also submit their comments in writing before the comment period closes at 4:00 p.m. on November 25, 2020.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2017 Senate Bill 84 found online at <https://olis.oregonlegislature.gov/liz/2017R1/Measures/Overview/SB84>

2019-2020 Oregon State Legislature Interim Joint Emergency Board action found online at <https://olis.oregonlegislature.gov/liz/2019I1/Committees/EB/2020-06-05-15-00/Agenda>

2019 Senate Bill 69 found online at <https://olis.oregonlegislature.gov/liz/2019R1/Measures/Overview/SB69>

Moss Adams LLP. (2018). Oregon Public Utility Commission Telecommunication Devices Access Program Inventory and Compliance Internal Audit Report. Jon Cray, Commission Staff, at jon.cray@state.or.us.

Federal definition of Telecommunications Relay Service found at Twenty-First Century Communications and Video Accessibility Act of 2010 (Public Law 111-260, as amended by Public Law 111-265).

FISCAL AND ECONOMIC IMPACT:

The proposed rules incorporate 2017's Senate Bill 84, which extended the Residential Service Protection Fund (RSPF) surcharge to subscribers of interconnected voice over internet protocol service with access to the Oregon Telecommunications Relay Service. Therefore, any of these subscribers not already paying the surcharge will observe a slight increase in their monthly bill. The proposed rule amendments, consistent with the legislative directive, integrate interconnected voice over internet protocol service providers into the Commission's system for assessing, collecting, remitting and reporting the surcharge. Interconnected voice over internet protocol service providers subject to the rules will incur administrative, labor and reporting costs to assess, collect and remit the surcharge, which are expected to be minimal as many interconnected voice over internet protocol service providers have already been assessing, collecting and remitting the surcharge.

Senate Bill 69, which was passed in the 2019 legislative session, allows eligible low-income customers to receive the OTAP discount on broadband internet access service. Thirty-four Eligible Telecommunications Providers provide OTAP discounts to Commission-approved customers. The Eligible Telecommunications Providers then request reimbursement resulting from the discount provided to customers. As affected Eligible Telecommunications Providers are already providing federal Lifeline discounts on broadband internet access service, the cost of additional reporting, recordkeeping, and administrative activities for the Oregon discount as a result of this rulemaking is expected to be

minimal. However, one Eligible Telecommunications Provider stated that to comply with the proposed requirement that the OTAP discount be applied on any broadband internet access service, regardless of the FCC's minimum standard for speed, the provider needs to implement billing system changes that will require 560 software development hours at an estimated cost of \$100,000. Thus, the cost of compliance may vary among providers. The temporary rule amendments increased the OTAP benefit for eligible customers to up to \$12.00, an increase over the prior amount of \$3.50. The proposed rule changes would effect a permanent increase of up to \$7.00.

When holding a TDAP recipient financially liable for the cost of equipment, the proposed rule amendments factor depreciation of the equipment by a decrement of 25 percent each year after the first year following purchase by the State of Oregon, which will reduce the financial impact on recipients who lose or damage older equipment. The amendments relieve parents and legal guardians of financial responsibility for the cost of equipment when a TDAP recipient turns eighteen (18) of age.

COST OF COMPLIANCE:

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

(1) There will be no additional administrative costs to the Commission as a result of the proposed rules. Members of the public that subscribe to interconnected voice over internet protocol service with access to the Oregon Telecommunications Relay Service may observe a slight increase in their monthly bill if not already paying the RSPF surcharge. State agencies and local governments are exempt from the surcharge, pursuant to OAR 860-033-0006(2)(b). TDAP recipients will not be financially liable for the full replacement cost of equipment Assistive Telecommunication Devices or Adaptive Equipment after the first year of purchase due to depreciation and normal wear and tear. Members of the public who are eligible for OTAP benefits will receive an increase in their benefit.

(2)(a) The compliance impact of the proposed rules is placed on interconnected voice over internet protocol service providers and 35 Eligible Telecommunications Providers in Oregon, some of which are small businesses.

(b) Affected service providers will be required to report monthly, retain records for three years, and engage in administrative activities related to the assessment, collection, and remittance of the RSPF surcharge. Eligible Telecommunications Providers subject to the proposed rules already provide the federal Lifeline discount on broadband internet access service. Therefore, the cost to comply with additional reporting, recordkeeping and other administrative activities under the proposed rules is expected to be minimal, but this cost may vary among providers and may be significant. One provider has indicated it will need to implement billing system changes that will require 560 software development hours at an estimated cost of \$100,000.

(c) The Commission expects that affected service providers will not require a significant amount of additional equipment, supplies, labor, professional services or significantly increased administration in order to comply with the proposed rules.

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

Staff invited all interested parties to attend a workshop on September 10, 2020, to provide an overview of the forthcoming proposed rules and to solicit stakeholder input on proposed changes. Staff then disseminated a working draft of the proposal for purposes of discussion, informal comment, and to ascertain the fiscal impact, if any, to affected parties for compliance with the rules on September 29, 2020.

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

Staff invited all interested parties to attend a workshop on September 10, 2020, to provide an overview of the forthcoming proposed rules and to solicit stakeholder input on proposed changes. Invitees included the Oregon Telecommunications Relay Service Industry Advisory Committee, Oregon Telephone Assistance Program Advisory Committee, and Telecommunication Devices Access Program Advisory Committee. Staff provided an overview of the forthcoming proposed rules and solicited committee member input on the proposed changes at the workshop. Staff then disseminated a working draft of the proposed rules to the committee members on September 29, 2020.

RULES PROPOSED:

860-033-0001, 860-033-0005, 860-033-0006, 860-033-0007, 860-033-0008, 860-033-0009, 860-033-0010, 860-033-0021, 860-033-0030, 860-033-0035, 860-033-0040, 860-033-0045, 860-033-0046, 860-033-0050, 860-033-0110, 860-033-0505, 860-033-0506, 860-033-0530, 860-033-0535, 860-033-0536, 860-033-0537, 860-033-0540, 860-033-0545, 860-033-0560

AMEND: 860-033-0001

RULE SUMMARY: The rule amendment clarifies that the scope of Division 033 includes interconnected voice over internet protocol service providers. Language addressing the calculation of time, based on OAR 860-033-0006(18), is added to this section.

CHANGES TO RULE:

860-033-0001

Applicability ¶

(1) The rules in this Division apply to all telecommunications providers ~~including, but not limited to~~ interconnected voice over internet protocol service providers, and 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 33 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.¶

(3) 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.

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

Statutes/Other Implemented: ORS 756.040, 1987 OL Ch. 290

RULE SUMMARY: The rule changes add definitions of broadband internet access service, interconnected voice over internet protocol service, interconnected voice over internet protocol service provider and OTAP Reimbursement Form. The rule changes amend the definitions of Eligible Telecommunications Carrier and Eligible Telecommunications Provider to incorporate current terminology and eliminate the references and requirements for designation criteria as those are moved to a new section. The definition of Eligible Telecommunications Provider is further amended to specify that the Eligible Telecommunications Provider provides OTAP discounts to qualifying low-income customers. The definition of OTAP is revised to incorporate broadband internet access service as a service for which the OTAP a discount for eligible low-income customers. The proposed rule change further clarifies that the OTAP provides a discount on basic service as defined in OAR 860-033-0005(1) or both basic service and broadband internet access service. The Oregon Telecommunications Relay Service definition is amended to mirror the federal definition of Telecommunications Relay Services. The definitions of Benefit year, Outstanding Accounts, RSPF Exception Form are deleted as no longer necessary. Citations are updated in the definitions of Lifeline, Service Type, Tribal Lifeline and Tribal Link Up. The web address in the definition of RSPF Surcharge Form 751 has been updated.

CHANGES TO RULE:

860-033-0005

Definitions ¶¶

For the purpose of this division:¶¶

(1) "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.¶¶

(2) ~~"Benefit year" means the 12 months following a customer's Lifeline service initiation date with the Eligible Telecommunications Provider~~ broadband internet access service" has the same meaning as defined in OAR 860-250-0010.¶¶

(3) "Competitive Provider" means a competitive telecommunications provider as defined in ORS 759.005(1) that provides services authorized under ORS 759.020.¶¶

(4) "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 adult individuals, eighteen or older, contributing to and sharing in the income and expenses of a household, including adult individuals with minimal or no income who benefit from another individual's financial support. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.¶¶

(7) "Eligible Telecommunications Carrier" means a provider of telecommunications service, including a cellular, wireless, or other radio common carrier, that is ~~certified~~ designated 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 (2012) and in orders of the Commission.~~¶¶

(8) "Eligible Telecommunications Provider" means a provider of telecommunications service, including a cellular, wireless, or other radio common carrier, that is ~~certified~~ designated 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 (2013) 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)~~ discounts to its qualifying low-income customers throughout the service area). Under

~~47 C.F.R. § 54 Subpart C (2012), 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 860-033-0110a designated service area.¶~~

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

(10) "Income" means gross income as defined under section 61 of the Internal Revenue Code, 26 USC § 61, for all members of the household from any source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 USC § 101, et. seq.¶

(11) "Interconnected voice over internet protocol service" means a service that:¶

(a) Enables a real-time, two-way voice communications;¶

(b) Requires a broadband connection from the user's location;¶

(c) Requires internet protocol-compatible customer premises equipment; and ¶

(d) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. ¶

(12) "Interconnected voice over internet protocol service provider" means a provider that offers interconnected voice over internet protocol service to retail subscribers.¶

(13) "Lifeline" means a program established by the Federal Communications Commission as defined in 47 C.F.R. § 54 Subpart E (2016).¶

(14) "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.¶

~~(13) "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(3).¶~~

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

(16) "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.¶

~~(16) "Oregon Telephone Assistance Program" or "OTAP" means a program established by the Commission that offers reduced local exchange rates to provides a discount on basic service, broadband internet access service, or both, for 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.¶~~

~~(17) "Oregon Telecommunications Relay Service" or "OTRS" means a facility authorized by the Commission to provide TAP Reimbursement Form 750" means the reporting form identified by that title that is available on the Commission's website at <https://www.oregon.gov/puc/Pages/default.aspx>¶~~

~~(19) "Oregon Telecommunications Relay sService.¶~~

~~(18) "Outstanding Accounts" means amounts owing to the Commission including current accounts receivable and accounts that the Commission has written" or "OTRS" means a telephone transmission service that provides the ability for an individual who is deaf, hard of hearing, or deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.¶~~

(20) "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.¶

(20) "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 860-033-0006(2).¶

~~(21) "RSPF Surcharge Exception Form" means the reporting form identified by that title that is available on the Commission's website at <http://www.puc.state.or.us/Pages/telecom/rspf/index.aspx>.¶~~

(22) "RSPF Surcharge Remittance Form 751" means the reporting form identified by that title that is available on the Commission's website at <https://www.puc.state.or.us/Pages/telecom/rspf/index.oregon.gov/puc/Pages/default.aspx>.¶

(23) "Service Initiation Date" means the date the low-income customer began receiving the OTAP or Lifeline benefit.¶

(24) "Service Type" means the following type of Lifeline supported service to which the low-income customer may subscribe pursuant to the minimum service standards defined in 47 C.F.R. § 54 Subpart E (2016):¶

(a) Voice telephony service only;¶

(b) Voice telephony service with broadband internet access service - (broadband internet access service does not meet the minimum service standards);¶

(c) Broadband internet access service only;¶

(d) Broadband internet access service with voice telephony service - (voice telephony service does not meet the minimum service standards); or¶

(e) Bundle - both voice telephony and broadband internet access service meet the minimum service standards.¶

(25) "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.¶

(26) "Telecommunications provider" includes competitive providers, cooperatives and telecommunications utilities.¶

(27) "Telecommunications service" means the offering of telecommunications as defined in 47 C.F.R. 54.5 (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.¶

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

(29) "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).¶

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

(31) "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).¶

(32) "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.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

RULE SUMMARY: Changes to this rule add flexibility in setting the date for an annual review. The rule revisions remove reference to 1987 Oregon Laws Chapter 290, Section (7)(1). The rule changes integrate interconnected voice over internet protocol service providers into the Commission's system for assessing and collecting the RSPF surcharge. The rule changes clarify that the RSPF surcharge applies to Lifeline eligible subscribers. The provision requiring telecommunications providers and cellular, wireless, or other radio common carriers to submit the Remittance Report even if no surcharge is collected is eliminated as is reference to an annual RSPF Surcharge Exception Form. Other rule changes include revisions for housekeeping purposes and organizational clarity. Language governing the calculation of time is deleted.

CHANGES TO RULE:

860-033-0006

Monthly RSPF Surcharge: ~~General Provisions, Remittance Reports and Payment~~ ¶

(1) The Commission reviews the surcharge rate and the balance in the RSPF ~~are reviewed annually by the Commission each October annually.~~ 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) Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified under ORS 759.020, radio common carriers and interexchange carriers.¶

(g) 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, interconnected voice over internet protocol service 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 or Lifeline 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 OTRS, the surcharge is charged based on software design.¶

(b) Each interconnected voice over internet service provider must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP or

Lifeline eligible subscribers.^{¶¶}

(c) 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 or Lifeline eligible subscribers. The surcharge is applied on a per-instrument basis.^{¶¶}

(ed) Each telecommunications provider, each interconnected voice over internet protocol service provider, and each cellular, wireless, or other radio common carrier must identify the surcharge on each retail customer's bill or, if no amount is due, on a monthly statement as a separate line item named "RSPF Surcharge."^{¶¶}

(4) A telecommunications provider, interconnected voice over internet protocol service provider, or a cellular, wireless, or other radio common carrier may remit surcharges due to the Commission by electronic transfer, ~~mail or in person or by mail.~~^{¶¶}

(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 or surcharge 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 ~~sub~~remit the surcharge ~~fees in full~~ on or before the due date required by these rules, the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier must pay a late payment fee in accordance with OAR 860-001-0050.^{¶¶}

(87) If the telecommunications provider, interconnected voice over internet protocol service 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, interconnected voice over internet protocol provider or the cellular, wireless, or other radio common carrier must pay interest in accordance with OAR 860-001-0050.^{¶¶}

(98) If a telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier fails to file a Remittance Report as required by these rules, the telecommunications provider, interconnected voice over internet protocol service 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.~~⁹⁾ 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, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier files a written waiver request and provides evidence showing that the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier submitted the Remittance Report and surcharge fees late due to circumstances beyond its control. The request must be filed in accordance with OAR 860-001-0140 and 860-001-0170.^{¶¶}

(140) The telecommunications provider, interconnected voice over internet protocol service 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.^{¶¶}

(121) ~~The~~^A telecommunications provider ~~or the cellular, wireless, or other radio common carrier is responsible for and must pay all costs incurred by the Commission,~~ interconnected voice over internet proto-collect a past-due RSPF surcharge from the telecommunications service provider or the^a 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 must submit any revisions to a Remittance Report no later than three years from the due date of the Remittance Report. If the Commission concludes that a 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 Remittance Report no later than three years from the due date of the Remittance Report. If the Commission concludes that a telecommunications, interconnected voice over internet protocol service 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, interconnected voice over internet protocol service provider or a the cellular, wireless, or other radio common carrier that qualifies for the exception must electronically submit the completed form 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 o spread payments of the refunds over a period not to exceed three years.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0007

RULE SUMMARY: The proposed amendments to subsections governing delinquent Remittance Reports and failure to remit the RSPF surcharge integrate interconnected voice over internet protocol service providers reorganize or consolidate the existing language for clarity. Language from OAR 860-033-0006(14) is added to this rule.

CHANGES TO RULE:

860-033-0007

Estimated Report-s and Failure to Remit Surcharge ¶¶

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

~~(2) The proposed assessment 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;¶¶~~

~~(b) A~~ issue a notice of proposed assessment for the surcharge amount to the telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier based upon any information available to the Commission.¶¶

~~(2) If a telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier failed to file a Remittance Report within the time specified in these rules, the Commission may add to the proposed assessment a late report fee per 860-001-0050(3)(e) and, if the provider or carrier failed to remit the surcharge by the due date, the Commission may add a late payment fee equal to 9 percent of the estimated surcharge amount owed, up to a maximum of \$500 for that reporting period;¶¶~~

~~(c) 1~~ per annum of the amount of the proposed assessment, up to a maximum of \$500, and interest on the estimated surcharge amount owed at the rate of 9 percent per annum from the day the surcharge amount was originally due; and¶¶

~~(d) A late report fee per 860-001-0050(3)(e).¶¶~~

~~(3) Notwithstanding section (2) of this rule, ue date.¶¶~~

~~(3) The proposed assessment may not cover a period longer than three years prior to the date of the notice of proposed assessment. But 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 w¶¶~~

~~(4) In addition to any other penalty allowed by law, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service or revoke an eligible telecommunications provider's designation for failure to timely file a Remittance Report or its failure to remit the original due date for the subject period's Remittance Report and payments~~ surcharge by the due date.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

RULE SUMMARY: The rule changes integrate interconnected voice over internet service providers subject to Commission audits and incorporates language from OAR 860-033-0006(13). The amendments remove language regarding response time to produce records. The subsections governing Commission audits are consolidated and amended for organizational clarity. Language from OAR 860-033-0006(15) is added to this section.

CHANGES TO RULE:

860-033-0008

~~Commission Audit and Proposed Assessment~~ ¶¶

~~(1) For any period for which a telecommunications provider, interconnected voice over internet protocol service provider and a cellular, wireless, or other radio common carrier must keep all records supporting each Remittance Report it has submitted to the Commission for three years, or if a Commission review or audit is pending, until the review or audit is complete, whichever is later.~~¶

~~(2) For any period for which a telecommunications provider's, an interconnected voice over internet protocol service provider's or a cellular, wireless, or other radio common carrier's Remittance Report was due, the Commission may audit the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier as the Commission deems necessary and appropriate.~~¶

~~(23) The Commission's audit must begin no later than three years after the Remittance Report's due date. After completion of the audit, the Commission may propose to assess an additional surcharge amount due from the telecommunications provider or the cellular, wireless, or other radio common carrier. But if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to audit the telecommunications provider.~~¶

~~(34) If a telecommunications provider or a cellular, wireless, or other radio common carrier failed to file a Remittance Report within the time specified in these rules, the Commission will add to the proposed assessment a late report fee per 860-001-0050(3)(e) and a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500.~~¶

~~(45) Each proposed assessment bears interest on the additional surcharge amount proposed at the rate of 9 percent per annum from the day the original surcharge amount was due.~~¶

~~(5) Notwithstanding section (2) of this rule, if a telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier must produce for inspection or audit upon request of the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to audit the telecommunications provider for the surcharge fees.~~¶

~~(6) A telecommunications Commission or its authorized representative all records supporting its Remittance Reports.~~ ¶

~~(6) After completion of the audit, the Commission may propose to assess an additional surcharge amount from the telecommunications provider, interconnected voice over internet protocol service provider or at the cellular, wireless, or other radio common carrier must produce for inspect in addition to the amount previously remitted. The Commission or audit upon request of the Commission or its authorized representative all records supporting its Remittance Reports. The Commission, or its representative, will allow the telecommunications may add to the proposed assessment a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500, and interest on the surcharge amount owed at the rate of 9 percent per annum from the original surcharge due date.~~¶

~~(7) Except as otherwise provided by law, if after an audit or review the Commission determines that the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier a reasonable time to produce the records for inspection or audit has remitted an excessive amount, the Commission will provide a credit in that amount against sums subsequently due.~~¶

(78) In addition to any other penalty allowed by law, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service for ~~its~~revoke an eligible telecommunications provider's designation for failure to timely produce for inspection or audit the records required by this rule.

Statutory/Other Authority: ORS 183, 756, 759-~~6~~, Ch. 290; OL 1987

Statutes/Other Implemented: ORS 756.040, 759.036-~~6~~, Ch. 290; OL 1987

AMEND: 860-033-0009

RULE SUMMARY: The rule amendments integrate interconnected voice over internet service providers and clarify the Commission's process for notice of proposed assessments, hearings, and orders. The amendments remove language regarding response time to produce records. Other subsections of this rule are reorganized for clarity. Language from OAR 860-033-0007(3) is added to this section.

CHANGES TO RULE:

860-033-0009

Notice of Proposed Assessment ~~and, Hearing, and Order~~ ¶

- (1) ~~The Commission will provide a request a hearing on the~~ notice of proposed assessment ~~upon, the~~ telecommunications provider or ~~the~~ cellular, wireless, or other radio common carrier, ~~as well as a proposal to~~ revoke or suspend the telecommunications provider's certificate of authority, if applicable. ¶
- (2) ~~Within 30 days after the service of the notice of proposed assessment, the telecommunications provider must~~ submit a written request for a hearing. ~~The request for hearing must include a written response that admits or~~ denies all factual matters alleged in the notice of proposed assessment, and alleges any and all affirmative defenses and the reasoning in support ~~the cellular, wireless, or other radio common carrier may petition the~~ Commission in writing for a hearing ~~reof. Factual matters not denied will be considered admitted, and failure to~~ raise a defense will be a waiver of the defense. ~~The telecommunications provider or the cellular, wireless, or other radio common carrier must specify in its petition all of the reasons it disputes~~ Commission must receive the request for hearing within 30 days of the ~~dates the~~ notice of proposed assessment. ¶
- (a) ~~If a petition was mailed.~~ ¶
- (a) ~~If the Commission does not file~~ receive a written request for hearing within 30 days, the Commission may enter an order assessing charges on default based upon information in the Commission's files. ~~Any amount assessed by the Commission in an order on a notice of proposed assessment is due and payable ten days after the issue date of the order, unless a different due date is specified in the order.~~ ¶
- (b) ~~If a petition is filed within the 30-day period, the Commission will grant the telecommunications provider or the cellular, wireless, or other radio common carrier a hearing and give the telecommunications provider or the cellular, wireless, or other radio common carrier at least 10 days' notice of the time and place of a hearing.~~ ¶
- (32) ~~The hearing on the telecommunications provider's or the cellular, wireless, or other radio common carrier's petition is conducted under the Commission's rules governing hearings and proceedings.~~ ¶
- (43) ~~An assessment made by the Commission under these rules is due and payable on the 10th day after the~~ During the 30-day period allowed for requesting a hearing on a notice of proposed assessment under these rules, the telecommunications provider, interconnected voice over internet protocol service date provider of the Commission's order assessing the cellular, wireless, or other radio common charges. ¶
- (5) ~~If the Commission has not received payment of the surcharge and penalties assessment within the specified time, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service for its failure to pay the assessment required by this rule~~ er may file its Remittance Report and pay any surcharge, late report fee, late payment fee, and interest proposed in the notice. ~~The Commission will accept the Remittance Report and payment if correctly calculated.~~

Statutory/Other Authority: ORS 183, 756, 759 & Ch. 290; OL 1987

Statutes/Other Implemented: ORS 756.040, 759.036 & Ch. 290; OL 1987

AMEND: 860-033-0010

RULE SUMMARY: The rule changes specify that eligible low-income customers can receive the Oregon Telephone Assistance Program discount on basic service, broadband internet access service or both basic service and broadband internet access service and require an Eligible Telecommunications Provider to offer the OTAP discount on all service offerings that include broadband internet access service to the eligible low-income customer.

CHANGES TO RULE:

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 broadband internet access service, basic service, or both, 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 discounts with all service offerings that include broadband internet access service or 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 customer's principal residence in Oregon. An Eligible Telecommunications Provider may not decline to provide the OTAP and the Lifeline discount to an eligible customer for wireless service on the basis the customer has an out-of-state telephone number.¶
- (3) Eligible Telecommunications Providers and the Commission 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 purposes.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

ADOPT: 860-033-0021

RULE SUMMARY: This is a new rule specifying the requirements for designation and maintenance of designation as an Eligible Telecommunications Provider. The new rule specifies that the Commission may suspend or revoke an Eligible Telecommunications Provider's designation for failure to comply with these requirements and applicable rules in Division 33.

CHANGES TO RULE:

860-033-0021

Eligible Telecommunications Provider Requirements

(1) A telecommunications provider, interconnected voice over internet protocol service provider, or cellular, wireless, or other radio common carrier may petition the Commission for designation as an Eligible Telecommunications Provider. To be designated as an Eligible Telecommunications Provider, the petitioner must demonstrate that it will:

(a) Offer services under 47 C.F.R. § 54 Subpart E (2013) 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 (2012), the requirement of using its "own facilities" includes, but is not limited to, purchasing unbundled network elements from another carrier;

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

(c) Comply with OAR 860-033-0005 through 860-033-0110.

(2) Once designated, the Commission may suspend or revoke an Eligible Telecommunications Provider's designation for failure to comply with the requirements under subsection (1)(a), (1)(b) or (1)(c).

Statutory/Other Authority: ORS 183, 756, 759

Statutes/Other Implemented: ORS 759.036, 1987 OL Ch. 290

AMEND: 860-033-0030

RULE SUMMARY: The rule amendments define an eligible resident of Tribal lands, and consistent with FCC regulations, updates the tribal-specific federal assistance program criteria through which a Tribal low-income resident can demonstrate eligibility for the OTAP. The rule changes reflect the Commission's current practices, consistent with FCC regulations, 47 CFR §54.410(f), that govern rolling recertification in which the Commission verifies a low-income customer's continuing eligibility every 12 months, as measured from the customer's OTAP or Lifeline service initiation date. The rules governing the benefit port regulation is deleted.

CHANGES TO RULE:

860-033-0030

OTAP and Lifeline Eligibility ¶

(1) A low-income customer demonstrates eligibility for OTAP and Lifeline by application to the Commission on a Commission-approved form demonstrating compliance with this rule.¶

(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); or Veterans and Survivors Pension Benefit; or¶

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

(3) A low-income customer who resides on federally-recognized Tribal lands is eligible for OTAP if the customer, one or more of the customer's dependents or the customer's household:¶

(a) Meets the requirements of section (2) of the rule; or ¶

(b) Receives benefits from one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs General Assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.¶

(4) 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.¶

(45) The customer 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.¶

(56) The customer must sign a written authorization on a Commission-approved form 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.¶

- (67) 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.¶¶
- (78) The OTAP or Lifeline benefit is limited to one single line, or single line equivalent, per economic unit at the customer's principal residence in Oregon.¶¶
- (a) If the Commission is unable to determine that an applicant and a current OTAP or Lifeline customer are part of a separate 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 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 household, the Commission will notify the Eligible Telecommunications Provider to de-enroll the customer from OTAP and the Lifeline program.¶¶
- (89) The name of the OTAP or Lifeline applicant must appear on the billing statement or account for the telecommunications service in order for that applicant to qualify for OTAP or Lifeline benefits.¶¶
- (910) The Commission may require an Eligible Telecommunications Provider to provide up to three months of OTAP or Lifeline benefits credited to the customer's account if the customer does not receive benefits after applying for benefits and demonstrating eligibility. The qualifying customer 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 rule.¶¶
- (101) 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.~~ every 12 months, as measured from the customer's OTAP or Lifeline service initiation date. ¶¶
- (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) The Eligible Telecommunications Provider must de-enroll the customer from the OTAP and Lifeline program within five business days of notice from the Commission that the customer is no longer eligible for OTAP and the Lifeline program.¶¶
- (c) After the Commission determines that the customer is not eligible or no longer eligible, the customer ~~may file~~ submit 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.¶¶
- (142) If the Commission identifies that a customer or household is receiving duplicate support from more than one Eligible Telecommunications Provider, the Commission will attempt to contact the customer to determine the customer's preferred provider and thereafter, based on the available information, select which Eligible Telecommunications Provider must de-enroll the customer.¶¶
- (123) If a customer does not use the OTAP or Lifeline supported service that the Eligible Telecommunications Provider offers at no charge per the usage requirements defined in 47 C.F.R. § 54 Subpart E (2016) for 30 consecutive days, the Eligible Telecommunications Provider must provide the customer 15 days' notice, using plain language, that the customer's failure to use the OTAP or Lifeline supported service within the 15-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 15-day notice period, the Eligible Telecommunications Provider may not terminate the customer's OTAP or Lifeline supported service.¶¶
- (134) 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.¶¶
- ~~(a) A customer may not receive Lifeline or OTAP benefits for service from an Eligible Telecommunications Provider if the customer has initiated a qualifying Lifeline or OTAP-supported voice telephony service with a different Eligible Telecommunications Provider within the previous 60 days.¶¶~~
- ~~(b) A customer may not receive Lifeline benefits for service from an Eligible Telecommunications Provider if the customer has initiated a qualifying Lifeline-supported broadband Internet access service with a different Eligible~~

Telecommunications Provider within the previous 12 months.¶¶

~~(c) A customer may not receive Lifeline or OTAP benefits for service from an Eligible Telecommunications Provider if the customer has initiated a qualifying Lifeline or OTAP supported bundle of voice telephony and broadband Internet access service with a different Eligible Telecommunications Provider within the previous 12 months.¶¶~~

~~(14) Notwithstanding subsections (13)(a) – (c) of this rule, the customer may switch to a different Eligible Telecommunications Provider if:¶¶~~

~~(a) The customer moves to a different residential address;¶¶~~

~~(b) The Eligible Telecommunications Provider ceases operations or otherwise fails to provide service;¶¶~~

~~(c) The Eligible Telecommunications Provider has imposed late fees for non-payment related to the supported service greater than or equal to the monthly end-user charge for service;¶¶~~

~~(d) The Federal Communication Commission finds the Eligible Telecommunications Provider to be in violation of the Federal Communication Commission's regulations during the customer's benefit year and the customer is impacted by the violation; or¶¶~~

~~(e) The Commission finds the Eligible Telecommunications Provider to be in violation of OAR Division 860, Chapter 033 during the customer's benefit year and the customer is impacted by the violation.¶¶~~

~~(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.~~

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

RULE SUMMARY: The rule changes specify that after application of the OTAP and Lifeline discount, the customer pays a reduced monthly rate on broadband internet access service or both basic service and broadband internet access service. The rule amendments adjust the OTAP discount up to \$7.00 for low-income customers who pay a monthly rate, and stipulates that the discount may not exceed the rate. The rule amendment establishes minimum standards for Eligible Telecommunications Providers that offer service at no charge. The Eligible Telecommunications Provider must provide unlimited voice minutes for basic service and unlimited data for any broadband internet access service to the low-income customer for Commission authorization of the \$7.00 discount. The rule is revised to specify that OTAP and Lifeline benefits become effective on the date the Commission notifies the Eligible Telecommunications Provider of approval unless otherwise specified in the notice of approval.

CHANGES TO RULE:

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 broadband internet access service or basic service, or both, whether sold separately or in combination with other services, provided by an Eligible Telecommunications Provider. The monthly OTAP benefit includes:¶

(a) The federal Lifeline program support in accordance with 47 C.F.R. §54.403; and¶

(b) ~~The State of Oregon support of \$3.50.¶~~

~~(2) OTAP and Lifeline benefits become effective on the date the Commission receives from an eligible~~For a customer paying a monthly rate, the State of Oregon support of up to \$7.00. The customer may not receive a monthly OTAP benefit in excess of the customer's monthly rate; or¶

(c) For a customer that receives the OTAP supported service at no charge, the State of Oregon support of \$7.00. If an Eligible Telecommunications Provider that offers OTAP supported service at no charge to the low-income customer demonstrates to the Commission that it provides unlimited voice minutes for basic service and unlimited data for any broadband internet access service provided to the customer, the signed application on a Commission-approved form~~Commission may authorize a State of Oregon support amount up to \$7.00.¶~~

(2) OTAP and Lifeline benefits become effective on the date the Commission notifies the Eligible Telecommunications Provider of approval unless otherwise specified in the notice of approval.¶

(3) 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.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

REPEAL: 860-033-0040

RULE SUMMARY: The rule is repealed.

CHANGES TO RULE:

~~860-033-0040~~

~~OTAP Alternatives-~~

~~(1) In lieu of OTAP participation, a 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 application must demonstrate that:¶¶~~

~~(a) Customers eligible for OTAP will receive a benefit under the alternative plan at least equal to the OTAP benefit;¶¶~~

~~(b) Customers eligible for OTAP will be eligible under the alternative plan; and¶¶~~

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

~~(2) A 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 customers receiving the benefit and the total dollar amount in benefits provided under the under the alternative plan.¶¶~~

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

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

~~Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290~~

RULE SUMMARY: The rule changes indicate the Commission may authorize compensation to the Eligible Telecommunications Provider that offers service at no charge for basic service and broadband internet access service provided to each eligible low-income customer and eliminates redundant language that the Eligible Telecommunications Provider may be compensated for the revenue the Eligible Telecommunications Provider foregoes by providing the Oregon Telephone Assistance Program discount. The rule changes require a Commission-authorized Eligible Telecommunications Provider that offers service at no charge to provide detailed information on the basic service and broadband internet access service provided to each eligible low-income customer when authorized to receive compensation for each Commission-enrolled OTAP customer. The rule amendments further provide that the Eligible Telecommunications Provider must report the average monthly usage by its Oregon Telephone Assistance Program customers to the Commission for public review. A new rule requires the Eligible Telecommunications Provider to provide a listing of all Oregon Telephone Assistance Program and Lifeline customers with specific data for which the Eligible Telecommunications Provider seeks compensation. The rule amendments clarify the Commission processes for notice of proposed assessments, hearing, and order. Rule language superfluous in nature or obsolete are eliminated while other subsections were reorganized and revised for housekeeping purposes.

CHANGES TO RULE:

860-033-0045

OTAP Compensable Expenses ¶

- (1) The Eligible Telecommunications Provider may be compensated for the State of Oregon benefit provided to each customer enrolled in OTAP by the Commission. ~~Compensation may include the revenue the Eligible Telecommunications Provider foregoes by providing the State of Oregon benefit to eligible customers. ¶~~
- ~~(2) To receive compensation, If an Eligible Telecommunications Provider offers OTAP supported service at no charge to the low-income customer, the Commission may authorize compensation for the basic service and broadband internet access service provided to each eligible customer. ¶~~
- (a) An Eligible Telecommunications Provider offering OTAP supported service at no charge to the low-income customer that is authorized to seek compensation must provide detailed information on the basic service and, if applicable, broadband internet access service provided to each eligible customer for which it seeks compensation. ¶
- (b) An Eligible Telecommunications Provider must report the average monthly usage of voice minutes and data by its OTAP customers to the Commission in an electronic format that is accessible to the public. ¶
- ~~(2) To receive compensation as described in section (1) of this rule, an Eligible Telecommunications Provider must submit a monthly rOTAP Reimbursement fForm no later than 21on or before the eighth calendar days after the endclose of the billing periodmonth. The Eligible Telecommunications Provider's reimbursement form must indicate the number of eligibl must provide a listing of all OTAP and Lifeline customers for which the Eligible Telecommunications Provider seeks compensation in an electronic format accessible by the Commission. The listing must include the customer's who were enrolled during the billing period, the number of customers who received the OTAP beneffirst and last name, telephone or broadband internet access service account number, residential address, service type, service initiation date and Commission-assigned OTAP Identification Number. ¶~~
- (3) An Eligible Telecommunications Provider must submit any revisions to a previously filed OTAP Reimbursement Form no later than three years from its during the billing period, and the amount of revenue foregone during that same periode date. If the Commission concludes that refund is due to an Eligible Telecommunications Provider based on the revised Form 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. ¶
- ~~(34) 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.¶¶

(45) 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 notice of proposed assessment for the amount due.¶¶

(b) ~~Within 30 days of the service date~~ To request a hearing on the notice of proposed assessment, the Eligible Telecommunications Provider ~~may pay the proposed assessment in full or may file~~ must submit a written ~~petition request~~ petition for a hearing. The ~~written petition request~~ written petition for a hearing must ~~clearly specify all the~~ include a written response ~~on~~ 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, it admits or denies all factual matters alleged in the notice of proposed assessment, and alleges any and all affirmative defenses and the reasoning in support thereof. Factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense. The Commission will accept the payment and discontinue any further collection activities for that assessment. must receive the request for hearing within 30 days of the date of the notice of proposed assessment was mailed.~~¶¶

(B) ~~c~~ If the Eligible Telecommunications Provider timely files a written petition for a hearing under subsection (b) of this section, 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.¶¶

(56) 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.~~ Any amount assessed by the Commission in an order on a notice of proposed assessment is due and payable ten days after the issue date of the order.¶¶

(87) ~~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's certificate of authority to provide T~~¶¶

elecommunications Provider within 45 calendar days after the Commission receives a properly completed reimbursement form.¶¶

~~(9) Each public utility, cooperative corporation or unincorporated association providing low-income telephone assistance under a Commission-approved alternative plan may be compensated for the State of Oregon benefit costs. However, compensation from the RSPF may not be greater than the compensation that would have been received through participation 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.~~
service or suspend or revoke an eligible telecommunications provider's designation for failure to timely return excess RSPF funds.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

RULE SUMMARY: The rule is revised to be in active voice. The rule amendments eliminate the Active OTAP and Lifeline Customer report. Instead, the Eligible Telecommunications Provider is required to provide a listing of all OTAP customers for which the Eligible Telecommunications Provider seeks compensation in OAR 860-033-0045. The rule revisions integrate broadband internet access service and requires the Eligible Telecommunications Provider to report weekly, even if there is no activity, and include the customer's first and last name and Commission-assigned OTAP identification number on the Order Activity Report. The Commission-assigned OTAP Identification Number is used in lieu of the customer's social security number as a measure to safeguard his or her personal identifying information. The rule amendments eliminate language regarding response times to produce records. The rule is revised to indicate that an Eligible Telecommunications Provider's designation may be suspended or revoked due to noncompliance with the rule.

CHANGES TO RULE:

860-033-0046

OTAP and Lifeline Accounting, Reporting and Auditing ¶¶

(1) Based upon accounting procedures approved by the Commission, Eligible Telecommunications Providers and 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, service types, or Commission-assigned OTAP Identification Number. Each Eligible Telecommunications Provider 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 Eligible Telecommunications Provider must provide records to the Commission upon or before the close of business on the 21st calendar day of the following month request.¶¶

~~(32) Order Activity Report: The Order Activity Report is a listing of all OTAP or Lifeline customers whose phone service or broadband internet access 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, addresses, or service initiation dates and service types have changed. The listing must include the customer's first and last name and Commission-assigned OTAP Identification Number. Except as specified in section (54) of this rule, each Eligible Telecommunications Provider must submit weekly to the Commission in an electronic format accessible by the Commission an Order Activity Report. The Eligible Telecommunications Provider does not need to submit the Order Activity Report if there is no activity for the week.¶¶~~

~~(43) No Match Report: When the Commission notifies the Eligible Telecommunications Provider of customers who meet eligibility criteria, the Eligible Telecommunications Provider must submit an electronic No Match Report in a format accessible by the Commission that contains the following:¶¶~~

~~(a) Any discrepancy that prevents a customer from receiving the OTAP or Lifeline benefit; and¶¶~~

~~(b) The Commission-approved low-income customer's service initiation date and service type.¶¶~~

~~(54) When the Commission issues an order designating a provider of telecommunications service as an Eligible Telecommunications Provider and thereby adopts the terms of a stipulation setting specific requirements for reporting Order Activity and No Match that are different from sections (32) and (43) of this rule, the Eligible Telecommunications Provider may report Order Activity and No Match in a manner consistent with the terms of the stipulation approved by the Commission.¶¶~~

~~(65) The Commission reserves the right to audit the records of an Eligible Telecommunications Provider that provides OTAP or Lifeline benefits.¶¶~~

~~(76) 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 or suspend or revoke an eligible telecommunications provider's designation for failure to produce for inspection or audit the records required by this rule.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0050

RULE SUMMARY: The rule is revised to integrate broadband internet access service and clarify that the Tribal Lifeline or Tribal Link Up applicant's first and last name must be provided. The rule changes also require the Eligible Telecommunications Provider to submit the Tribal Lifeline and Tribal Link Up Order Activity Report weekly even if there is no activity and to include the Commission-assigned OTAP Identification Number on the Order Activity Report in lieu of the customer's social security number and Tribal identification number. The Commission-assigned OTAP Identification Number is used as a measure to safeguard customers' personal identifying information.

CHANGES TO RULE:

860-033-0050

Tribal Lifeline and Tribal Link-Up ¶¶

- (1) 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.¶
- (2) 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 first and last name, residential address, date of birth, telephone number or broadband internet access service account 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) If the Commission notifies the Eligible Telecommunications Provider that a prospective subscriber is receiving a Tribal Lifeline benefit or has received a Tribal Link Up benefit at the residential address provided by the subscriber, the Eligible Telecommunications Provider may not seek universal service support reimbursement for duplicate service.¶
- (4) If the Commission notifies the Eligible Telecommunications Provider that a prospective subscriber is not receiving a Tribal Lifeline benefit or has not received a Tribal Link Up benefit at the residential address provided by the subscriber, the Eligible Telecommunications Provider must provide the customer's service initiation date and service type.¶
- (5) When 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.¶
- (6) 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 or broadband internet access 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 list of all Tribal Lifeline and Tribal Link Up customers whose telephone numbers, addresses, or service initiation dates and service types have changed. The listing must include the customer's first and last name and Commission-assigned OTAP Identification Number. Each Eligible Telecommunications Provider must submit this report weekly to the

Commission in an electronic format accessible by the Commission. ~~The Eligible Telecommunications Provider does not need to submit the Order Activity Report if there is no activity for the week.~~

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0110

RULE SUMMARY: The rule changes replace the term voice telephony with basic service and eliminate redundant "Lifeline supported" language.

CHANGES TO RULE:

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;¶¶
 - (c) The name of the Eligible Telecommunications Provider or 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 ~~voice telephony~~basic service, a bundle of ~~voice telephony~~basic service and broadband Internet access services, or, ~~Lifeline supported~~ broadband Internet access service; and¶¶
 - (g) That OTAP and Lifeline supported services are non-transferable.¶¶
- (3) The Eligible Telecommunications Provider must provide to the Commission copies of OTAP and Lifeline marketing materials to be released in the State of Oregon at least five business days prior to release.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0505

RULE SUMMARY: The rule changes eliminate the definitions of Authorized Distributor and Authorized Maintenance Center.

CHANGES TO RULE:

860-033-0505

TDAP Definitions ¶¶

(1) "Adaptive Equipment" means equipment that permits a person with a disability, other than a hearing or speech impairment, to communicate effectively on the telephone.¶¶

(2) "Assistive Telecommunication Device" means a device that uses a keyboard, acoustic coupler, display screen, Braille display, speakerphone, or amplifier to enable a person who is deaf, deaf-blind, hard of hearing, speech or vision impaired or who has a disability to communicate effectively on the telephone.¶¶

~~(3) "Authorized Distributor" means a facility authorized by the Commission to distribute Assistive Telecommunication Devices and Adaptive Equipment.¶¶~~

~~(4) "Authorized Maintenance Center" means a facility authorized by the Commission to repair any reasonably damaged Assistive Telecommunication Device or Adaptive Equipment.¶¶~~

(5) "Disability" means a physical condition other than hearing or speech impairment that requires the use of adaptive equipment to communicate effectively on the telephone.

Statutory/Other Authority: ORS 183, 756, 759-~~6~~, Ch. 290; OL 1987

Statutes/Other Implemented: ORS 756.040, 759.036-~~6~~, Ch. 290; OL 1987

REPEAL: 860-033-0506

RULE SUMMARY: The rule is repealed.

CHANGES TO RULE:

860-033-0506

~~Telecommunication Devices Access Program Advisory Committee (TDAPAC)~~

~~The TDAPAC consists of 12 Oregon residents appointed by the Commission as prescribed by Oregon Laws 1987, Chapter 290, Section 12. The TDAPAC must meet regularly with the Commission Staff to give advice concerning matters of general development, implementation, and administration of TDAP. TDAPAC meetings are public, and minutes must be provided to the public upon request. A copy of the TDAPAC bylaws is available upon request.~~

~~Statutory/Other Authority: ORS 183, 756, 759 & Ch. 290, OL 1987~~

~~Statutes/Other Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987~~

RULE SUMMARY: The rule changes include the web address for the TDAP or Speech Generating Device application. The rule changes allow an applicant to provide the Commission with his or her cellular number or email address. The rule changes require the applicant to provide information for an alternate contact the Commission can contact if the TDAP recipient is unavailable. The requirement that an applicant provide proof of state residency is deleted. In the event an applicant does not have a record, the applicant is provided with options for demonstrating residency. The rule changes clarify that the Commission may provide up to two accessories that facilitate the person's use of the assistive telecommunication device or adaptive equipment and states that the Commission may provide up to two assistive telecommunication devices or adaptive equipment to a household if more than one eligible person resides in the household.

CHANGES TO RULE:

860-033-0530

TDAP Eligibility and Distribution of Assistive Telecommunication Devices or Adaptive Equipment ¶

- (1) A person age four and above may apply to receive an Assistive Telecommunication Device or Adaptive Equipment from the Commission. The application must be submitted using the form provided by the Commission. The TDAP application form, Speech Generating Device application, is available online at <https://www.puc.state.or.us/PUC/rsp/tdapapp.pdf>, from the Commission and from certain community resources. ¶
- ~~(2) A TDAP~~ oregon.gov/puc/Pages/default.aspx. ¶
- ~~(2) The applicant must provide the Commission with: ¶~~
- ~~(a) Evidence of regular access to a specific telephone number in Oregon; ¶~~
- ~~(b) Evidence of current residency in Oregon; ¶~~ Their telephone or cellular number or email address; ¶
- ~~(b) Their Oregon residential address; ¶~~
- ~~(c) Information for an alternate contact such as, for example, the telephone or email address of a relative or friend the Commission can contact if the TDAP recipient is not available; and ¶~~
- ~~(d) 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 a~~ Assistive t elecommunication dDevice or Adaptive Equipment 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) A licensed audiologist or a licensed hearing aid specialist who may certify only that the applicant is deaf or hard of hearing; ¶
- (C) A licensed speech-language 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 registered nurse practitioner who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired, or has a disability; ¶
- (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 licensed physician assistant who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired or has a disability. ¶
- ~~(de)~~ For a person under 18 years of age, or an adult who is determined to require a legal guardian, a parent or a legal 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.¶

~~(3f) If the 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, is not able to verify an applicant's residency, the applicant must submit evidence of Oregon residency such as, for example, a recent utility bill in the applicant's name. ¶~~

~~(43) The Commission may provide one Assistive Telecommunication Device or one Adaptive Equipment unit per to an 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.¶~~

~~(a) The Commission may provide up to two accessories, for example, an amplified ringer or wheelchair mount that supports the person's use of the Assistive Telecommunication Device or Adaptive Equipment.¶~~

~~(5b) If the Commission purchases new devices that may benefit a TDAP recipient more than the equipment currently provided by the Commission to the recipient, the Commission may allow the recipient to use both the current and new devices may provide up to two Assistive Telecommunication Devices 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 pay Adaptive Equipment to a household if more than one eligible person resides in the Commission for the cost of the more expensive equipment household.~~

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

RULE SUMMARY: The rule changes allow for the transfer of assistive telecommunication devices and adaptive equipment ownership to the TDAP recipient after four (4) years. The requirement that the Authorized Distributor must record the serial number of each Assistive Telecommunication Device or Adaptive Equipment is deleted. The rule changes relieve the parent and legal guardian of financial responsibility when the TDAP recipient turns eighteen (18) of age. The rule changes clarify the conditions with which the TDAP applicant or recipient must comply upon acceptance of the device or equipment under State of Oregon ownership. It relieves the TDAP recipient of the requirement to obtain permission from the Commission to travel out of the state with the assistive telecommunication device or adaptive equipment. The rule changes also clarify the TDAP recipient's financial responsibility and contains other housekeeping revisions.

CHANGES TO RULE:

860-033-0535

Ownership of and Conditions for Use of Assistive Telecommunication Devices or Adaptive Equipment and Liability ¶

- ~~(1) All Assistive Telecommunication Devices or Adaptive Equipment purchased by the Commission 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 for four years from the Commission's purchase date. ¶~~
- ~~(2) 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 t ¶~~
- ~~(3) The Commission b willing 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 not provide an Assistive Telecommunication Device or Adaptive Equipment to an applicant or recipient when the applicant or recipient owes any amount of money due and payable to the Commission under the terms of an order. ¶~~
- ~~(4) A recipient may trial two Assistive Telecommunication Devices or Adaptive Equipment distributed to an eligible recipient under this program may not be sold, loaned, or otherwise transferred from the possession for 60 calendar days. The recipient must return one Assistive Telecommunication Device or Adaptive Equipment to the Commission within 30 days after the end of the o riginal recipient. Unauthorized transfers subject the recipient to repossession of the al period. ¶~~
- ~~(5) A recipient of an Assistive Telecommunication Device or Adaptive Equipment is responsible for the appropriate care and the costs related to the use of an Assistive Telecommunication Device or Adaptive Equipment; prosecution, or liability for the full purchase price of th. ¶~~
- ~~(6) A recipient may not sell, lease, give away, or loan any Assistive Telecommunication Device or Adaptive Equipment. A recipient may not use any Assistive Telecommunication Device or Adaptive eEquipment as collateral for a loan of any type or as a pledge for a pawn loan. ¶~~
- ~~(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 Before movesing out of Oregon, a recipient must return all Assistive Telecommunication Devices or Adaptive Equipment received through the Commission to an Authorized Distributor or the Commission before moving out of Oregon. A recto the Commission. ¶~~
- ~~(8) The recipient is financially responsible for: ¶~~

- ~~(a) Damage to the Assistive Telecommunication Device or Adaptive Equipment who is no longer receiving telephone services must return all not caused by normal wear and tear, force majeure or acts of terrorism.¶~~
- ~~(b) Loss of the Assistive Telecommunication Devices or Adaptive Equipment received through the Commission 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; or¶~~
- ~~(c) Failure to comply with subsections (4), (5), (6), (7) or (8) of this rule.¶~~
- ~~(9) If the Assistive Telecommunication Device or Adaptive Equipment is stolen, the recipient must notify the law enforcement agency in the jurisdiction where the theft occurred within 24 hours of the time the recipient discovers the theft. The recipient must submit a copy of the law enforcement agency report that describes the theft, includes the location, date, time of the discovery and any witnesses' names, addresses, and telephone numbers to the Commission within five business days of the reported date the theft.¶~~
- ~~(10) When the Commission receives notice that a recipient is deceased, the Commission if the travel will be for more than 90 calendamay request that the recipient's alternate contact return the Assistive Telecommunication Device or Adaysptive equipment.~~

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

REPEAL: 860-033-0536

RULE SUMMARY: The rule is repealed.

CHANGES TO RULE:

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 Commission 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 Commission within five business days after the theft was reported. The recipient must forward a written report to the Commission 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 Commission 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 Commission within five business days after returning to Oregon. The recipient must forward to the Commission 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.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

RULE SUMMARY: To align with all other Commission processes for assessments, the requirement to issue an invoice is deleted. When holding a TDAP recipient financially liable, the new rule factors depreciation of the assistive telecommunication device and adaptive equipment by a decrement of 25 percent each year after the first year following purchase. The rule amendments clarify the Commission processes for notice of proposed assessments, hearing, and order.

CHANGES TO RULE:

860-033-0537

Holding Recipients Financially Responsible for Damaged, Lost, or Otherwise Not Returned Assistive Telecommunication Devices or Adaptive Equipment Notice of Proposed Assessment, Hearing and Order ¶

(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 recipient does not comply with the requirements in OAR 860-033-0535, the Commission may issue a notice of proposed assessment to the recipient at the address on file with 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~~ for the cost to repair or replace the Assistive Telecommunication Device or Adaptive Equipment while it remains the property of the State of Oregon.¶

(c) ~~If~~ The Commission does not receive payment, the Commission may begin ~~may assess the full replacement cost when 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, a recipient's violation of OAR 860-033-0535 occurs in the first year following purchase of the Assistive Telecommunication Device for TDAP Adaptive Equipment, the amount billed to ~~seventy-five percent of the recipient becomes a liquidated debt.~~¶

(2) Notice of Proposed Assessment:¶

(a) ~~placement cost in the second year following its purchase, fifty percent of 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 placement cost in the third year following its purchase, and twenty-five percent for~~ in the amount due.¶

(b) The recipient may pay the assessment in full w ~~fourth year following its purchase.~~¶

(b) Within 30 days of ~~after the service date of the notice of proposed assessment or may file, the recipient may submit a written petition request 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, The request for hearing must include a written response that admits or denies all factual matters alleged in the notice of proposed assessment, and alleges any and all affirmative defenses and the reasoning in support thereof. The Commission must receive the request for hearing 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 was mailed.¶

(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, If the Commission does not receive a written request within 30 days, the Commission may enter an order on default based on the information in the Commission's file. Any amount assessed by 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 in an order on a notice of proposed assessment is due and payable on the tenth day after otherwise not returned equipment is obsolete or is no longer offered by the TDAP, the Commission may waive the recipient's financial responsibility issue date of the order.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

REPEAL: 860-033-0540

RULE SUMMARY: This rule is repealed.

CHANGES TO RULE:

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 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 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 form supplied by the Commission before providing an Assistive Telecommunication Device or Adaptive Equipment unit. The Authorized Distributor and Authorized Maintenance Center must forward all forms to the 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 to 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 Commission.

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

Statutes/Other Implemented: ORS 756.040, 759.036, 1987 OL Ch. 290

REPEAL: 860-033-0545

RULE SUMMARY: This rule is repealed.

CHANGES TO RULE:

~~860-033-0545~~

~~TDAP Compensable Expense~~

~~(1) The Authorized Distributors and the Authorized Maintenance Centers may be compensated from the RSPF for specific costs incurred as a result of participating in the TDAP. These contracted programs and services must request compensation by submitting an invoice to the Commission at least quarterly. Funds must be disbursed to these contracted programs or services no more than 30 calendar days after a properly filed invoice is received by the Commission.¶¶~~

~~(a) The Authorized Distributors may be compensated for coordinating and storing the Assistive Telecommunication Devices or Adaptive Equipment. Invoices must indicate all services performed by distributors and the number of the Assistive Telecommunication Devices or Adaptive Equipment units provided to recipients. Compensable services must include the cost of Assistive Telecommunication Devices or Adaptive Equipment with an identification number, shipping costs, storage costs, delivery costs, and other related costs.¶¶~~

~~(b) The Authorized Distributors may be compensated for the cost of preparing and distributing the Assistive Telecommunication Devices or Adaptive Equipment and maintenance services requested by the customers. Invoices must indicate the number of the Assistive Telecommunication Devices or Adaptive Equipment unit including the engraved identification on either distributing Assistive Telecommunication Devices or Adaptive Equipment to the recipient or receiving Assistive Telecommunication Devices or Adaptive Equipment repair orders from the recipient. The specific tasks of preparation and services in distributing the Assistive Telecommunication Devices or Adaptive Equipment are subject to written agreement between the Commission and the contracted Assistive Telecommunication Devices or Adaptive Equipment personnel.¶¶~~

~~(c) The Authorized Maintenance Centers may be compensated for repairing the damaged Assistive Telecommunication Devices or Adaptive Equipment, the storage of extra Assistive Telecommunication Devices or Adaptive Equipment replacements, and the required insurance for storage. Invoices must indicate the labor and parts of the damaged Assistive Telecommunication Devices or Adaptive Equipment, the storage cost, and the insurance premium cost, including Assistive Telecommunication Devices or Adaptive Equipment identification inventory.¶¶~~

~~(d) The Commission will determine the rate of compensation based on the cost the Authorized Distributor should reasonably incur to accomplish each task.¶¶~~

~~(2) Based upon accounting procedures established by the Commission, the Authorized Distributors and Authorized Maintenance Centers must maintain accounting records in such a manner that costs associated with TDAP can be separately identified. The Commission may audit the records of an Authorized Distributor or an Authorized Maintenance Center.~~

~~Statutory/Other Authority: ORS 183,756,759 & Ch. 290, OL 1987~~

~~Statutes/Other Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987~~

REPEAL: 860-033-0560

RULE SUMMARY: This rule is repealed.

CHANGES TO RULE:

~~860-033-0560~~

~~Oregon Telecommunications Relay Service (OTRS)~~

~~The OTRS must comply with the Americans with Disabilities Act's requirements as set forth in 47 C.F.R. § 64.601-64.606 (2008).~~

~~Statutory/Other Authority: ORS 183, 756, 759 & Ch. 290, OL 1987~~

~~Statutes/Other Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987~~