

**PUBLIC UTILITY COMMISSION OF OREGON  
ADMINISTRATIVE HEARINGS DIVISION REPORT  
PUBLIC MEETING DATE: DECEMBER 20, 2005**

<b>REGULAR</b>	<u>  x  </u>	<b>CONSENT</b>	<u>      </u>	<b>EFFECTIVE DATE</b>	<u>Upon Filing With The Secretary of State</u>
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**DATE:** December 13, 2005

**TO:** Public Utility Commission

**FROM:** Sam Petrillo, Administrative Law Judge

**REVIEWED BY:** Terry Lambeth, Rules Project Leader

**SUBJECT:** AR 492: Adopt amendments to Oregon Administrative Rules 860-023-0055, 860-032-0012, and 860-034-0390 Relating to Retail Telecommunications Service Standards.

**ADMINISTRATIVE LAW JUDGE RECOMMENDATION:** Adopt amendments to Oregon Administrative Rules 860-023-0055, 860-032-0012, and 860-034-0390.

**DISCUSSION:** This rulemaking was initiated at the March 8, 2005, public meeting to revise service quality standards for large telecommunications utilities, small telecommunications utilities, and competitive telecommunications providers (carriers) pursuant to ORS 759.450. Opening and reply comments were filed in April and May, 2005, respectively. A public hearing was held June 8, 2005.

The three administrative rules affected by this rulemaking – OAR 860-023-0055, 860-032-0012, and 860-034-0390 – are substantially the same. The proposed rules make several changes to the current service quality rules, and were discussed at length in the Staff Report presented at the March 8, 2005, public meeting. The attached order addresses substantive changes made to the proposed rules as a result of the written and oral comments submitted in this matter. The following matters are discussed in the order:

**Applicability of Service Quality Rules** – Declines to adopt MCI’s position that service quality regulation is unnecessary. Clarifies that carriers may obtain an exemption from service quality standards by demonstrating that effective competition exists.

**Scope of Service Quality Rules** – Declines a proposal by AT&T and MCI to limit the application of retail service quality rules to customers with four or fewer access lines.

**Section (1)(a)** – Revises the definition of “Access Line” to clarify that service quality reporting applies only to basic retail telephone service, or POTS.

**Section (1)(c)** – Revises the “Average Speed of Answer” definition to clarify that the time calculation begins when a call is placed in the queue for a customer service representative.

**Section (1)(h)** – Adds a definition of a “Force Majeure” event.

**Section (1)(j)** – Declines an MCI proposal to modify the definition of “Initial Commitment Date” to delete the requirement to negotiate in “good faith.” Currently, the initial commitment date is either the minimum six business-day period set forth in Section (4) or another date determined by good faith negotiations between the customer and the carrier. The order concludes that the “good faith” requirement does not impose an unreasonable burden upon carriers and, in fact, operates to protect both carriers and customers.

**Section (1)(m) – OAR 860-032-0012 Only** – Adds a new definition of “Service Area” to recognize that the network architecture employed by competitive providers may differ from the traditional wire center-based architecture used by ILECs. The service area will function as the service quality reporting area for competitive providers that do not maintain traditional wire centers. The definition provides that the service area for a competitive provider is the entire geographic area it is certified to serve. A competitive provider may petition the Commission for a different service area upon a proper showing.

**Section (2)** – Adds a sentence to correspond with the new *force majeure* definition. Provides that the service quality objective service levels set forth in Sections (4) through (8) of this rule apply only to normal operating conditions and do not establish a level of performance to be achieved during force majeure events.

**Section (4)** – Clarifies that carriers may take into account the time required to install special service access lines when establishing the initial commitment date. In other words, a carrier may take into account any installation other than a simple POTS line when it sets up an initial commitment date.

**Section (4)** – Declines to adopt proposal to extend the six-day period for carriers to provision facilities. Concludes that the existing rule is unlikely to pose problems for carriers, and agrees with Staff that the rule includes sufficient measures to accommodate special circumstances that may cause delays in provisioning service.

**Subsections (5)(a)(B) and (a)(C)** – Declines MCI and AT&T recommendation to delete Internet Service Provider Blockage and Modem Speed Complaints from the list of items that do not need to be included in trouble reports. Clarifies that excluding these two items from trouble reporting is not an exercise of Commission jurisdiction over these matters.

**Subsection (5)(b)** – Adopts an ILEC proposal to increase the trouble report rate to 3.0 reports/month for wire centers with less than 1,000 access lines. Concludes that this change will reduce the reporting burden on carriers without significantly compromising the quality of service received by customers in small wire centers.

**Subsection (7)(b)(B)** – Adopts AT&T proposal to revise the description of the objective service level to remove the reference to “properly” dialed calls. This change is designed to prevent unnecessary strain on carrier resources by having to subtract out misdialed calls.

**Subsection (7)(b)(C)** – Adopts Staff proposal to add this subsection. Provides that a carrier failing to maintain the interoffice final trunk group P.01 grade of service for four or more consecutive months will be considered out-of-standard until the condition is resolved. A single repeat blockage within two months of “resolving the blockage” will be considered a continuation of the original blockage.

**Subsection (8)(b)(B)** – Declines to adopt an AT&T proposal to extend the 20-second call answer time set forth in the current rule to 90 seconds. Concludes that the existing answer time is consistent with national standards, and that other changes in the rules provide carriers with the flexibility that may be required.

**Subsection (8)(a)(C)(ii)** – Adopts AT&T proposal to delete the phrase “attempted to be placed to,” and replace it with the words “received by.” Acknowledges that it may be difficult or impossible in some instances for carriers to ascertain the number of attempted calls.

**Subsection (9)(a)(D)** – Adopts Staff proposal to require that carriers report wire center isolation lasting longer than 15 minutes, as opposed to 10 minutes in the proposed rule.

**Subsection (9)(a)(E)** – Declines AT&T proposal to eliminate reporting where there is an outage affecting a business office or repair center access system lasting longer than 15 minutes.

**Subsection (9)(c)** – Adopts Staff revisions designed to clarify that carriers are only required to report significant outages, and that nonfacilities-based providers (*i.e.*, resellers) are not required to report.

**Section (15)** – Declines MCI proposal to delete Section (15) providing remedies for violations of service quality standards. Observes that ORS 759.450(5)-(7) requires the Commission to impose specific measures for service quality violations, including the implementation of a service quality improvement plan and assessment of penalties for failure to abide by service quality standards.

**Subsection (15)(a)** – Declines MCI proposal to modify proposed rule to provide that Commission “may require” a carrier to submit a plan for improving performance where it has failed to meet minimum service quality standards. ORS 759.450(5) mandates that the Commission shall require submission of an improvement plan under such circumstances. Adds additional sentence to clarify statutory requirement.

**Subsection (15)(b)(A)** – Declines MCI proposal to delete provision allowing the Commission to require carriers to provide customers with an alternative means of telecommunications service for violations of Section (4)(b)(B) regarding held orders for lack of facilities.

**Subsection (15)(b)(B)** – Declines AT&T proposal to delete provision allowing the Commission to authorize billing credits for customers where service quality violations occur.

**Subsection (16)(d)** – Adds Subsection (16)(d) to allow a carrier to petition the Commission for an exemption from service quality reporting requirements if the carrier meets all service quality objective service levels set forth in Sections (4)-(8) for the 12-month period prior to the month in which the petition is filed. Declines ILEC proposal to allow exemption from service standards on an individual basis.

**PROPOSED COMMISSION MOTION:** The Commission adopt amendments to Oregon Administrative Rules 860-023-0055, 860-032-0012, and 860-034-0390 as set forth in Appendix A of the order attached to this memorandum.