

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

Diane Davis

(503) 378-4372

Rules Coordinator

Telephone

550 Capitol Street NE, Suite 215, Salem, OR 97301

Address

RULE CAPTION

In the Matter of Clarifying OAR 860-032-0620, Quarterly OUS Report: Filing and Payment.

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

RULEMAKING ACTION**ADOPT:**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

860-032-0620

REPEAL:**Renumber:** Secure approval of rule numbers with the Administrative Rules Unit prior to filing.**Amend and Renumber:** Secure approval of rule numbers with the Administrative Rules Unit prior to filing.**Statutory Authority: ORS**

183, 192, 756 & 759

Other Authority:**Statutes Implemented: ORS**

756.040, 759.015 & 759.425

Continued on next page

Continuation of ... NOTICE OF PROPOSED RULEMAKING***RULE SUMMARY**

The proposed amendments to OAR 860-032-0620 clarify that the quarterly contribution report must be signed by an officer of the telecommunications provider, clarify the penalty waiver provisions and make other minor clarifications to the rule regarding deferrals.

There are instances of telecommunications providers filing unsigned quarterly contribution reports or filing reports that are signed by contracted tax consultants. Filing of an incomplete or inaccurate contribution report can lead to monetary penalties for the subject company. The proposed amendments to the rule clarify the requirements regarding signatures required and deferrals.

Additionally, there are circumstances beyond a provider's control that may prevent it from timely filing its report and fee; under such circumstances, the Commission should be able to waive the appropriate penalties. The proposed amendments clarify the waiver provisions.

The Commission encourages participants to file written comments before the comment deadline, allowing time for other participants to consider and respond to the comments before the deadline. For information about how to file your comments, please contact Diane Davis at diane.davis@state.or.us or (503) 378-4372. Filed comments will be available online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=15346>.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

ORS 183.335(2)(b)(G) 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.

3/27/2009	Close of Business	Diane Davis	diane.davis@state.or.us	02/05/2009
Last Day (m/d/yyyy) and Time for Public Comment		Printed Name	Email Address	Date Filed

Please enter date as m/d/yyyy or mm/dd/yyyy

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

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

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Clarifying OAR 860-032-0620, Quarterly OUS Report: Filing and Payment.

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

In the Matter of:

Clarifying OAR 860-032-0620, Quarterly OUS Report: Filing and Payment.

Statutory Authority: ORS

183, 192, 756 & 759

Other Authority:

Stats. Implemented: ORS

756.040, 759.015 & 759.425

Need for the Rule(s):

There are instances of telecommunications providers filing unsigned quarterly contribution reports or filing reports that are signed by contracted tax consultants. Filing of an incomplete or inaccurate contribution report can lead to monetary penalties for the subject company. The proposed amendments to the rule clarify the requirements regarding signatures required and deferrals.

Additionally, there are circumstances beyond a provider's control that may prevent it from timely filing its report and fee; under such circumstances, the Commission should be able to waive the appropriate penalties. The proposed amendments clarify the waiver provisions.

Documents Relied Upon, and where they are available:

Oregon Administrative Rule 860-032-0620 available at http://arcweb.sos.state.or.us/rules/OARS_800/OAR_860/860_032.htmlOUS Fund - Contribution (Revenue) Worksheet Instructions available at <http://www.oregonusf.gov/5contrib.htm>*Continued on next page*

Secretary of State

Continuation of ... STATEMENT OF NEED AND FISCAL IMPACT

Fiscal and Economic Impact:

The proposed changes provide clarification of existing requirements. There is no anticipated resultant negative fiscal or economic impact.

Statement of Cost of Compliance:

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

The amendments will not impact state agencies, units of local government or the public. The amendments provide clarifying language.

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

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

Telecommunications providers are subject to the rule. The proposed changes do not create any new fiscal or economic impact or cost of compliance for subject businesses.

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

It is not anticipated that the proposed clarifying changes will affect cost for compliance.

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

It is not anticipated that the proposed clarifying changes will affect cost for compliance.

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

Agency staff proposes the changes to clarify current requirements. No small businesses were involved in the development of the proposed change.

Administrative Rule Advisory Committee consulted?:

 Yes No

If not, why?:

The proposed amendments clarify existing requirements.

3/27/2009

Close of Business

Diane Davis

diane.davis@state.or.us

02/05/2009

Last Day (m/d/yyyy) and Time
for Public Comment

Printed Name

Email Address

Date Filed

Please enter date as m/d/yyyy or mm/dd/yyyy

860-032-0620

Quarterly OUS Report: Filing and Payment

(1) For the purpose of the OUS fund, a telecommunications provider ~~shall~~must file its contribution report with the OUS Administrator. The contribution report is due on or before the 10th day of the second month after the close of each three-month quarter (i.e. approximately 40 days after the end of each three-month quarter). **The contribution report must include the signature of an officer of the company (telecommunications provider) verifying the information in the contribution report.** A telecommunications provider ~~shall~~must send its contribution report so that it is received in the OUS Administrator's offices no later than 5 p.m. on the date it is due.

(2) A telecommunications provider ~~shall~~must file the contribution report for each quarter with no exceptions, including when the contribution amount shown on the report is \$0.00.

(3) The amount shown on the contribution report is due and payable by the telecommunications provider on or before the 28th day of the second month after the close of each three-month quarter. Payment ~~shall~~must be made to the Commission. A telecommunications provider ~~shall~~must send payment (electronically or by mail) so that it is received in the Commission's offices by no later than 5 p.m. on the date it is due.

(4) If the contribution amount is less than \$100, a telecommunications provider may defer payment and accumulate it to the following quarter's contribution. This accumulation may continue interest-free until either the accumulated amount is greater than \$100 or four quarters have passed from the first deferment, whichever comes first. **The telecommunications provider must note the deferral on its contribution report.**

(5) If a telecommunications provider fails to file a contribution report as required by these rules, the Commission shall impose a late report fee of \$100. The Commission ~~shall~~may not impose a late report fee until a contribution report is five business days past due.

(6) If a telecommunications provider files a contribution report but fails to pay the contribution amount in full on or before the day it is due, **unless the amount due is deferred under section (4) of this rule,** the Commission shall add a late payment fee equal to 9 percent of the unpaid amount of the contribution, up to a maximum of \$500. The Commission ~~shall~~may not impose a late payment fee until the required payment is five business days past due.

(7) If a telecommunications provider fails to pay the contribution amount in full on or before the day it is due, **unless the amount due is deferred under section (4) of this rule,** the Commission shall add interest on the unpaid contribution amount at the rate of 9 percent per annum from the day payment was due until paid.

(8) If the amount shown due on a contribution report is not paid on the due date, **unless the amount due is deferred under section (4) of this rule,** the Commission may issue a

proposed order to set the sum due. The Commission may waive **the late report fee, the late payment fees, the interest on the unpaid contribution amount, or any combination thereof,** if the **provider requests the waiver and provides** evidence showing that the provider paid its contribution amount late due to circumstances beyond its control.

Stat. Auth.: ORS 183, 192, 756 & 759

Stats. Implemented: ORS 756.040, 759.015 & 759.425

Hist.: PUC 23-2002, f. & cert. ef. 12-9-02

H:\Work Files\860_032_0620_rev.doc