

**PUBLIC UTILITY COMMISSION OF OREGON
INTEROFFICE CORRESPONDENCE**

DATE: January 5, 2017

TO: File through Bryan Conway and Bruce Hellebuyek 

FROM: Stephen Hayes 

SUBJECT: ASOTIN TELEPHONE COMPANY: (Docket No. ADV 443/Advice No. 123)
Makes compliance filing pursuant to FCC Order 16-38, Adopted April 27, 2016 and OPUC
Order No. 16-448, OTAP Rulemaking, 11/23/2016.

BACKGROUND

I have reviewed this filing and recommend that an acknowledgement letter be sent.

Asotin Telephone Company's (Asotin) first filing, Docket ADV 431, Advice Letter No. 122 was withdrawn on November 30, 2016. The subject of this memo to file is Docket ADV 443, Advice Letter No. 123 filed on November 30, 2016 proposing a December 2, 2016 effective date.

Asotin's parent company is TDS Broadband LLC (TDS). TDS also owns Bend Cable Data Services, LLC (dba BendBroadband) an Oregon certificated competitive provider (CP 1273, Order No. 14-276, July 31, 2014). BendBroadband reported to the FCC under the name TDS Baja Broadband LLC with interconnected VoIP as their principal communications type. On October 11, 2016, TDS BAJA BROADBAND LLC changed its name on file with the Commission to TDS Broadband Service LLC., dba BendBroadband. Of all the Oregon TDS affiliates only Asotin reported access lines to the Commission in 2015.

Since BendBroadband is certificated as a competitive provider and an entity can only hold one type of certificate at a time it is not a Utility according to ORS 759.005(9)(b)(C). This allows Asotin and its Oregon affiliates to qualify for the exemption in ORS 759.040 as an affiliated group of telecommunications utilities serving fewer than 50,000 access lines in Oregon. This qualifies Asotin for the relevant exemption in ORS 759.190 which requires utilities to file schedules upon a thirty-day notice. Accordingly, staff concludes that Asotin timely filed its tariff change proposal with at least one-day notice.

DESCRIPTION OF PROPOSED TARIFF CHANGE

Asotin proposes to revise the Lifeline tariff by revising language within the newly named Low-Income Assistance Program tariff. Asotin indicates it will provide Federal Lifeline Service on a non-discriminatory basis to all qualifying customers and will comply with all applicable federal laws in compliance with FCC's April 27, 2016 Report and Order, Further Report and Order and Order on Reconsideration in relevant WC Docket No. 11-42, (FCC Order No. 16-38). The tariff pages do not show the specific eligibility requirements but refer to specific FCC orders and specific Oregon Administrative Rules (OAR). This is not the preferred method because customers will have to find FCC Orders and OARs to see eligibility requirements. However, since specific FCC Orders with their release dates are provided it avoids the impasse from the Commission's perspective of illegally delegating legal authority to the FCC for unknown,

unspecified future actions. This impasse might occur if specific FCC rules and regulations were not cited.

According to the FCC Public Notice (DA 16-1133) Released October 3, 2016, the relevant rules became effective on December 2, 2016. Those rules are found in the Code of Federal Regulations (CFRs) Title 47 Section 54.101 – USF supported services and in 47 CFR 54.400(f), (j), (m)-(o) – Definitions of “income,” “qualifying assistance program,” “voice telephony service,” “supported services,” and “National Lifeline Eligibility Verifier”.

The changes affect the way Federal and State program eligibility is determined. Specifically, the program participation list for default eligibility is changed. The recognized programs for Lifeline default eligibility are now defined in 47 CFR 54.409(a)(2) Consumer qualification for Lifeline.

(2) The consumer, one or more of the consumer’s dependents, or the consumer’s household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit.

Finally, a customer may also qualify if they have income at or below 135% of the federal poverty level. The percentage is unchanged but the FCC changed the definition of gross income to align with the Internal Revenue Service definition.

The Oregon Telecommunications Assistance Program (OTAP) engaged in a temporary rulemaking process culminating with Commission Order No. 16-448. The OTAP rulemaking essentially implemented applicable FCC Lifeline rules. The OTAP also received a waiver of the effective date for implementing port freeze rules from the FCC in FCC Order No. DA 16-1324 released December 1, 2016. Asotin’s filing complies with the temporary OTAP rules.

A permanent rulemaking is planned for 2017 that will provide another opportunity for utility tariff compliance filings and additional housekeeping changes where necessary. Additional time for public comment will also be facilitated with the permanent rule making.

This filing does not affect rates under Oregon’s jurisdiction. However, under the new FCC rules standalone voice services that are not bundled with a broadband internet access service will experience a gradual waterfall in support. So support rates in this tariff could drop in the future. This waterfall timing is shown in 47 CFR 54.403. The first support reduction could occur in December 2019. Even if support waterfalls a Carrier has an obligation to continue offering lifeline, (47CFR 54.405). The FCC process allowed for public comment on its regulations.

For the reasons explained above this tariff change filing is viewed as a compliance filing and did not go to a public meeting.