

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

FILED
3-15-17 3:40 PM
ARCHIVES DIVISION
SECRETARY OF STATE
860

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

RULE CAPTION

In the Matter of Revisions to Division 033 Rules.

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

Hearing Date	Time	Location	Hearings Officer
4-17-17	9:30 a.m.	Public Utility Commission Hearing Room, 201 High Street SE, Salem, OR	Chief ALJ Grant

RULEMAKING ACTION

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

ADOPT:

AMEND:

OAR 860-033-0005, 860-033-0030, 860-033-0046, 860-033-0050, 860-033-0110, 860-033-0530

REPEAL:

Temporary Amendments to OAR 860-033-0005, 860-033-0030, 860-033-0046, 860-033-0050

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

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS Ch. 756, 759, 1987 OL Ch. 290

Other Authority:

Statutes Implemented:

ORS 756.040, 759.036, 1987 OL Ch. 290

RULE SUMMARY

The proposed rules modify OPUC's Division 033 rules to (a) conform to the changes to the federal requirements related to the provision of telecommunications subsidies to low-income customers and (b) clarify eligibility for the Telecommunication Device Access Program.

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 612 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 <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=20654>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html.

Participants wishing to monitor the hearing by telephone must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business 4/21/17, to request a dial-in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

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

04-24-2017 5:00 p.m.

Diane Davis

diane.davis@state.or.us

Last Day (m/d/yyyy) and Time
for public comment

Rules Coordinator Name

Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
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Administrative Rules Chapter Number

In the Matter of Revisions to Division 033 Rules.

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

In the Matter of:

Revisions to Division 033 Rules.

Statutory Authority:

ORS Ch. 756, 759, 1987 OL Ch. 290

Other Authority:

Statutes Implemented:

ORS 756.040, 759.036, 1987 OL Ch. 290

Need for the Rule(s):

The Oregon Telephone Assistance Program (OTAP) is the state counterpart to the Federal Communication Commission's (FCC) Lifeline program, collectively known as Oregon Lifeline. Through the OTAP, the Public Utility Commission of Oregon allows eligible telecommunications providers (ETPs) to offer reduced local exchange rates to eligible low-income residential customers.

In the 2016 Lifeline Modernization Order (16-38) the FCC streamlined the eligibility criteria for Lifeline to "increase efficiency and improve the program for consumers, Lifeline providers, and other participants." 47 Code of Federal Regulation § 54.409(a)(2) pertaining to consumer qualification for Lifeline became effective December 2, 2016. Previously, on November 23, 2016, the OPUC adopted temporary rule amendments expiring on May 31, 2017, to conform to the FCC's mandate of new and streamlined eligibility criteria. However, permanent rulemaking is needed to ensure continued compliance before the temporary rules expire.

In addition, the FCC removed state-specific eligibility criteria as well as qualifying for Low-Income Home Energy Assistance Program, the National School Lunch Program's free lunch program, and Temporary Assistance for Needy Families from the list of program-based eligibility that serves as criteria for the Lifeline program. Adoption of these changes on a permanent basis for Oregon will ensure consistency between federal and state eligibility criteria and prevent some low-income customers from receiving smaller or larger discounts than others solely based on differences in federal and state eligibility criteria. In addition to changes in eligibility criteria, the proposed rule amendments make permanent the reporting rules requiring ETPs to provide existing Lifeline subscriber information (i.e., service type and service initiation date) on a weekly basis.

On November 8, 2016, the OPUC filed with the FCC a temporary waiver of the December 2, 2016, effective date for the Lifeline benefit portability regulation. The FCC granted the OPUC's petition for a temporary waiver until June 1, 2017. Rules governing the Lifeline benefit portability regulation need to be in place before the temporary waiver expires or the OPUC will be at risk for non-compliance with the revised federal Lifeline regulations.

The Telecommunication Devices Access Program (TDAP) is an OPUC program designed to loan specialized telephone equipment to qualifying Oregonians who have a loss in hearing, speech, vision, mobility or cognition so they can communicate effectively on the telephone. The OPUC has received TDAP applications for individuals as young as one year old. As a result, the OPUC surveyed other states with a similar program and the age restriction ranges from three to five years old and proposes to mirror the state of Washington's program age limit of four years old. In accordance with existing statute, amendments are proposed to add a licensed physician assistant as a certifying authority for TDAP services, including clarification that certain certifying authorities must be registered or licensed to practice in Oregon by the appropriate authority.

Documents Relied Upon, and where they are available:

FCC Lifeline Modernization Order (16-38) found online at https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf

47 CFR Part 54, Subpart E, found online at

<http://www.ecfr.gov/cgi-bin/text-idx?SID=df300c8c78a404e944b7699a2918cec3&mc=true&node=sp47.3.54.e&rgn=div6>

FCC Order Granting OPUC's Petition for Temporary Waiver of Lifeline Benefit Port Regulation found online at https://apps.fcc.gov/edocs_public/attachmatch/DA-16-1324A1.pdf

State of Washington Eligibility Criteria for Specialized Telephone Equipment found online at <https://www.dshs.wa.gov/altsa/odhh/telecommunication-equipment-distribution>

Fiscal and Economic Impact:

Under the proposed rules, some members of the public may no longer be eligible for OTAP benefits as a result of the changes in eligibility. TDAP applicants under the age of four will no longer be eligible for benefits. The OPUC does not anticipate a significant number of OTAP customers will no longer be eligible for Lifeline given the number and breadth of remaining eligibility criteria. Lifeline customers will no longer be eligible for benefits with a different provider for the period specified in the proposed rules following initiation of service and may not be able to take advantage of a competitor's plan offering during that period. Under the proposed rules, ETPs will continue to have the reporting obligations imposed under the temporary rules.

Without making the current temporary rules permanent, ETPs authorized by the OPUC to provide federal and state support to eligible low-income customers would become responsible for the administration of the program for those Lifeline customers who qualify solely for federal support. Adoption of the proposed permanent rule amendments allows the OPUC to continue to administer and perform eligibility functions for the Oregon Lifeline program. Otherwise, ETPs would be forced to expend additional time, resources, and money to implement new eligibility procedures. Further, without the proposed permanent rule amendments, Oregon customers may become confused and possibly miss out on benefits for which they are eligible as the current combined OTAP and Lifeline programs would become bifurcated with differing support amounts and numerous administrative points of contact (i.e., the OPUC and each ETP in lieu of the OPUC single point of contact and administration for the Oregon Lifeline program).

Statement of Cost of Compliance:

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

There are no impacts on units of local government or state agencies besides the OPUC. The OPUC expended staff resources to modify its information systems to conform to the changes implemented in the temporary rules which would also conform to the proposed permanent rules. Additional staff resources will be expended to conform the OPUC's information systems to all of the changes in the proposed rules, specifically, the benefit port rules. Some members of the public may no longer be eligible for OTAP benefits. Applicants under the age of four are not eligible for TDAP benefits as a result of the changes in eligibility criteria. Lifeline customers will no longer be eligible for benefits with a different provider for the period specified in the rule following initiation of service and may not be able to take advantage of a competitor's plan offering during that period. The proposed amendments to conform to federal requirements will ensure eligible members of the public retain both OTAP and federal Lifeline benefits.

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

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

Thirty-four ETPs offering services subject to Lifeline benefits, and individual TDAP participants will be subject to the rule. Many of these ETPs are small businesses.

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

The proposed amendments to these rules include reporting changes that require ETPs to provide specific data for the OPUC to enforce the FCC's Lifeline benefit port regulation. However, the majority of the reporting changes were adopted as temporary rules, and the ETPs have already adopted administrative changes to collect the required information for such reports. ETPs will continue to incur expenses associated with reports required under the permanent rules.

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

ETPs may incur some labor and administrative expenses to provide the required reports to the OPUC.

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

The OPUC solicited informal comments from stakeholders, including ETPs, some of which are small businesses, on the proposed rule amendments. Also, the proposed rule amendments to the TDAP rules were discussed at the September 23, 2016 meeting of the TDAP Advisory Board.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The OPUC solicited informal comments from stakeholders, including ETPs, on the proposed rule amendments.

Also, the proposed rule amendments to the TDAP rules were discussed at the September 23, 2016 meeting of the TDAP Advisory Board.

Last Day (m/d/yyyy) and Time
for public comment

Printed Name

Email Address

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

ARC 925-2007

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.**

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

(43) "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).

(54) "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.

(65) "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.**

(76) "Eligible Telecommunications Carrier" means a provider of telecommunications service, including a cellular, wireless, or other radio common carrier, that is certified by order of the Commission as eligible to receive federal universal service support throughout a designated service area by having met the eligibility criteria set forth in 47 C.F.R. § 54 Subpart C (2012) and in orders of the Commission.

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

(a) Offers services under 47 C.F.R. § 54 Subpart E (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) Advertises the availability of and the charges for such services using media of general distribution; and

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

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

(109) "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. all income actually received by all members of a household. This includes but is not limited to salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, and lottery**

~~winnings. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as babysitting or lawn mowing, and the like.~~

(1140) "Lifeline" means a program established by the Federal Communications Commission as defined in 47 C.F.R. § 54 Subpart E ~~(20162013)~~.

(1211) "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.

(1312) "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(3).

(1413) "Low-income customer" means an individual who demonstrates eligibility for Lifeline supported services or the Oregon Telephone Assistance Program in OAR 860-033-0030.

(1514) "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.

(1615) "Oregon Telephone Assistance Program" or "OTAP" means a program established by the Commission that offers reduced local exchange rates to eligible low-income residential customers. OTAP establishes the requirements for Eligible Telecommunications Carriers to offer Lifeline supported services in Oregon and may provide benefits that are in addition to those offered in Lifeline.

(1716) "Oregon Telecommunications Relay Service" or "OTRS" means a facility authorized by the Commission to provide telecommunications relay service.

(1817) "Outstanding Accounts" means amounts owing to the Commission including current accounts receivable and accounts that the Commission has written off through appropriate legal procedures. The term does not include amounts owing to the Commission that have been lawfully discharged through bankruptcy proceedings or amounts that are the subject of a proceeding pending before the Commission.

~~(18) "Remittance Report" means the reporting form identified by that title that is available on the Commission's website at <http://www.oregon.gov/puc/Pages/telecom/rspf/index.aspx>.~~

(19) "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 850-033-0006(2).

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

(2522) “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.

(2623) “Telecommunications provider” includes competitive providers, cooperatives and telecommunications utilities.

(2724) “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.

(2825) “Telecommunications utility” means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.

(2926) “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).

(3027) “Tribal Lifeline” means a Lifeline service for eligible residents of Tribal lands as defined in 47 C.F.R. § 54 Subpart E (2013).

(3128) “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).

(3229) “Universal Service Administrative Company” means an independent, not-for-profit corporation designated by the Federal Communications Commission as the administrator of the universal service fund.

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

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

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 7-1995(Temp), f. & cert. ef. 8-17-95 (Order No. 95-860); PUC 14-1995, f. & cert. ef. 12-20-95 (Order No. 95-1328); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 18-2000, f. & cert. ef. 10-24-00; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11; PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13; PUC 7-2013, f. & cert. ef. 12-20-13

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 ~~Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families; or~~**

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

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

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

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

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

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) The name of the OTAP or Lifeline applicant must appear on the billing statement or account for the telecommunications service in order for that for that applicant to qualify for OTAP or Lifeline benefits.

(9) 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.

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

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

(b) 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 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.

(11) 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.

(12) 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 **3060** consecutive days, the Eligible Telecommunications Provider must provide the customer **1530** days' notice, using plain language, that the customer's failure to use the OTAP or Lifeline supported service within the **1530**-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 **1530**-day notice period, the Eligible

Telecommunications Provider may not terminate the customer's OTAP or Lifeline supported service.

(13) 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.

(1514) If, in a span of 30 days, the customer disconnects and reconnects service with the same Eligible Telecommunications Provider, the customer is not required to reapply for the OTAP or Lifeline benefits.

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

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

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 6-1997, f. & ef. 1-10-97 (Order No. 97-005); PUC 6-1997, f. & cert. ef. 1-10-97; PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11; PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13; PUC 7-2013, f. & cert. ef. 12-20-13

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 Commission on or before the close of business on the 21st calendar day of the following month.

(3) Order Activity Report: The Order Activity Report is a listing of all OTAP or Lifeline customers whose phone service was disconnected, who voluntarily de-enrolled or were de-enrolled for failure to use the OTAP or Lifeline supported service that the Eligible Telecommunications Provider offers at no charge, and a listing of all OTAP or Lifeline customers whose telephone numbers, ~~or~~ addresses, or service initiation dates and service types have changed. Except as specified in section (5) of this rule, e~~Each~~ Eligible Telecommunications Provider must submit ~~weekly~~monthly to the Commission in an electronic format accessible by the Commission an Order Activity Report. ~~The Order Activity Report must be received by the Commission on or before the close of business on the 21st calendar day of the following month. The Eligible Telecommunications Provider does not need to submit the Order Activity Report if there is no activity for the week.~~

(4) 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~~notify the Commission of any discrepancy that prevents a customer from receiving the OTAP or Lifeline benefit. Notification of discrepancies must be submitted electronically~~ 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.

(5) 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 (3) and (4) 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 failure to produce for inspection or audit the records required by this rule.

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

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

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13; PUC 7-2013, f. & cert. ef. 12-20-13

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 name, residential address, date of birth, telephone number associated with the application for Tribal Lifeline or Tribal Link Up benefit, and last four digits of his or her social security number or Tribal identification number. Each Eligible Telecommunications Provider must obtain, from each new and existing subscriber, consent to transmit the information as specified in this section of this rule. Prior to obtaining consent, the Eligible Telecommunications Provider must describe to the subscriber, using plain language, the specific information being submitted, that the information is being submitted to the Commission to ensure proper administration of the Tribal Lifeline and Tribal Link Up program, and that failure to provide consent will result in the subscriber being denied the Tribal Lifeline or Tribal Link Up benefit.

(3) 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.

(54) 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.

(65) Tribal Lifeline and Tribal Link Up Order Activity Report: The Tribal Lifeline and Tribal Link Up Order Activity Report is a listing of all Tribal Lifeline and Tribal Link Up customers whose phone service was disconnected, who voluntarily de-enrolled or were de-enrolled for failure to use the Tribal Lifeline service which the Eligible Telecommunications Provider offers at no charge and a list of all Tribal Lifeline and Tribal Link Up customers whose telephone numbers, ~~or~~ addresses, or service initiation dates and service types have changed. Each Eligible Telecommunications Provider must submit this report weekly~~monthly~~ to the Commission in an electronic format accessible by the Commission ~~on or before the close of business on the 21st calendar day of the following month.~~ The Eligible Telecommunications Provider does not need to submit the Order Activity Report if there is no activity for the week.

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

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

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 8-1989, f. & cert. ef. 6-8-89 (Order No. 89-724); PUC 5-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & ef. 4-18-96 (Order 96-102); PUC 6-1997, f. & cert. ef. 1-10-97; PUC 18-1997, f. & cert. ef. 12-17-97; PUC 2-2002, f. & cert. ef. 2-5-02; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13; PUC 7-2013, f. & cert. ef. 12-20-13

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 service, a bundle of voice telephony 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.

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

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

Hist.: PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13; PUC 7-2013, f. & cert. ef. 12-20-13

860-033-0530

TDAP Eligibility

(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 is available online at <http://www.puc.state.or.us/PUC/rspf/tdapapp.pdf>, from the Commission and from certain community resources.

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

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

(b) Evidence of current residency in Oregon; and

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

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

(B) 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; or

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

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

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

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

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

(5) If the Commission purchases new devices that may benefit a TDAP recipient more than the equipment currently provided by the Commission to the recipient, the Commission may allow the recipient to use both the current and new device for a 60-day trial period. The recipient must return the less beneficial equipment to the TDAP within five business days after the end of the trial period. If the recipient fails to return the equipment, the recipient is responsible for paying the Commission for the cost of the more expensive equipment.

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

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

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11; PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13; PUC 7-2013, f. & cert. ef. 12-20-13