

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 7, 2019

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: April 14, 2019

TO: Public Utility Commission

FROM: Scott Shearer *SOS*

THROUGH: Jason Eisdorfer *EPM*, Bryan Conway *BAC*, and Bruce Hellebuyck *BH*

SUBJECT: CITIZENS TELECOMMUNICATIONS COMPANY OF OREGON:
(Docket No. UM 2007) Petition for Partial Waiver from Oregon
Administrative Rules 860-021-0010(6), 860-021-0610, and 860-021-0620
– Regarding the Delivery of Printed Directories.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Citizens Telecommunications Company of Oregon, Inc. (Citizens) Petition for a Partial Waiver Oregon Administrative Rules (OAR) 860-021-0010(6), 860-021-0610, and 860-021-0620, subject to the conditions stated in the Proposed Commission Motion below, for good cause.

DISCUSSION:

Issue

Whether good cause exists for the Commission to grant Citizens' request for a partial waiver of the Oregon Administrative Rules identified in this petition related to delivery of printed directories to its customers.

Applicable Law and Rules

Under ORS 756.040(2), the Commission supervises and regulates telecommunications utilities in this state. The Commission has the authority to adopt and amend reasonable and proper rules in the course of its activities under ORS 756.060. Under ORS 646.565 and ORS 646.578, the Commission must by rule require that telecommunications companies inform customers of ORS 646.561 and ORS 646.563, relating to telephone solicitation, and of the solicitation program established under ORS 646.567 to

ORS 646.578 and ORS 646.608. The Commission has adopted such rules, along with a variety of other notice requirements for telecommunications utilities, in its Division 021 rules. Under OAR 860-021-0005, the Commission may waive any of the Division 021 rules for good cause shown.

Under OAR 860-021-0010(6), a large telecommunications utility "shall give its residential customers a written summary of their rights and responsibilities" upon application for new service and at least annually thereafter. Such telecommunications utilities "satisfy the annual notification requirement by prominent publication of the information in a telephone directory distributed to their customers annually."

Under OAR 860-021-0610, the Commission requires large telecommunications utilities to provide notice of the telephone solicitation program via annual bill inserts or conspicuous publication in the consumer information pages of local telephone directories, and to forward that notice to the Commission. The notice "shall include a statement that a customer not wishing to be solicited may file a request, together with the required fees, with the telephone solicitation program administrator contracted by the State Attorney General" and "shall include the address and the telephone number for the customer to contact the telephone solicitation program administrator."

Additionally, under OAR 860-021-0620(2), the Commission requires large telecommunications utilities that provide billing services for information providers to inform customers of a variety of pieces of information related to billing rules and protections. The notice must be provided in an annual billing insert or conspicuous publication in local telephone directories; it must also be included in the notice of rights and responsibilities sent to all new customers. OAR 860-021-0620(3).

Analysis

Background

Citizens requests partial waiver of OAR 860-021-0010(6), 860-021-0610, and 860-021-0610 such that the relevant requirements may be met by digital online publication instead of printed paper directories in the circumstances in which the rules refer to directories. As good cause, Citizens explains that digital publication is more readily and efficiently provided and is now more popularly accessed by customers.

Additionally, Citizens explains that the requested waiver would permit operational consistency between it and its affiliate, Frontier Communications of the Northwest Inc. In Order No. 16-138 in Docket No. UM 1763, the Commission approved a petition for partial waiver of OAR 860-021-0010, OAR 860-021-0610, and OAR 860-021-0620 to allow Frontier Communications of the Northwest Inc., Qwest Corporation, and United

Telephone Company of the Northwest to provide the above notices in an electronic online directory in the circumstances in which these rules refer to a directory, subject to a condition requiring those utilities to provide a directory including white pages free of charge to residential customers on request and a condition requiring annual residential customer notice of numerous pieces of related information. Citizens was not a party to the waiver request that the Commission addressed in Order No. 16-138.¹

Staff's Analysis of Requested Waiver

Staff assessed the scope of the requested waiver, the purpose of the relevant rules, and discussed potential conditions with Citizens. For the following reasons, Staff supports a partial waiver of the rules subject to the recommended conditions described below.

The purpose of the directory-related portions of each of the relevant rules was to set requirements for effective notice of important information. Specifically, they all require that customers be provided with information about certain protections by having that information included in bill inserts or published annually in a telephone directory at no additional charge. In Order No. 90-1105, in which the Commission discussed OAR 860-021-0010(6), the Commission noted that the disclosed "information should be in written form so that customers can retain it for future reference." Remarking on the role of printed directories, the Commission explained that "customers who receive telephone directories are more likely to retain the directory than they are to save a bill insert" and "are also likely to look to the directory for information about their rights and responsibilities." In Order No. 93-185, in which the Commission adopted OAR 860-021-0620(3), the Commission stated that the rule language relating to information providers should match the language adopted for OAR 860-021-0010. The statute provided direction about the means of notice addressed in OAR 860-021-0610.²

Staff agrees with Citizens that online publication of the relevant information is now a reasonable, efficient, and popular way of providing notice. When the requirement to provide the various notices in a printed directory delivered to all customers in the early 1990s, phone directories were ubiquitous with phone service and finding way to contact people. Today, with the advent of internet searches and smartphones, the number of people needing and using printed directories is more limited. In light of the changes in the use and availability of phone information described above, Citizens requests that the *means* for complying with the rules be expanded to include online options. That is, the status quo would not change for customers who prefer to continue to receive printed

¹ Qwest Corp. dba CenturyLink QC, Frontier Communications Northwest Inc., and Dex Media, Inc. Petition for Partial Waiver of 860-021-0010(6), 860-021-0610, and 860-021-0620, Docket No. UM 1763, Order No. 16-138, Appendix A, at 3 (noting that petitioners to Docket No. UM 1763 filed a letter confirming Citizens was not a party to that request).

² ORS 646.578.

directories and would not change materially for customers who prefer to use online electronic directories with the same content. Additionally, online publication will provide reduced costs for printing and delivery of books that have limited use or limited appeal to customers, and will provide environmental benefits by reducing paper consumption. For all of these reasons, Staff is in favor of expanding the understanding of "telephone directory" or "local telephone directory" as it is used in OAR 860-021-0010(6), 860-021-0610, and 860-021-0610 to include online directory and local directory publications.

Staff's Proposed Conditions for Waiver

The waiver conditions proposed in Citizens' filing reflect Staff's recommended conditions. These conditions and their rationales are as follows:

Condition 1: Citizens will provide a directory including white pages free of charge to their customers when requested by a customer.

This first condition provides an option for customers who have no or very limited access to internet to still receive a directory with in appropriate notice provisions.

Condition 2: Citizens will provide a notice to their current customers and new customers to inform them of the following:

- A. that Citizens will no longer deliver directories to customers unless the directories are requested by the customer;
- B. that customers may request a directory, including white pages, free of charge, as well as the process for doing so;
- C. that customers can access directory information online and provide the website(s) address;
- D. that both the printed directories delivered to customers and the on-line directories will include (a) a statement summarizing the Customers' Rights and Responsibilities, (b) a statement that complies with the requirements of OAR 860- 021-0610 pertaining to Telephone Solicitation Notices, and (c) a statement that complies with the requirements of OAR 860-021-0620 pertaining to Customer Notification and Information Delivery Services.

This second condition provides customers information on their choices for delivery of directories, as well as providing the location of the notice language still required under the other provisions of these rules.

These conditions are substantially similar to what the Commission approved in the analogous waiver in 2016 and address all issues Staff views as relevant to Citizens.

Conclusion

Staff agrees that good cause exists to support granting a waiver of the requirement to provide printed directories to all Citizen's customers, with the recommended conditions.

PROPOSED COMMISSION MOTION:

Approve Citizens' Petition for Partial Waiver of Oregon Administrative Rules 860-021-0010(6), 860-021-0610, and 860-021-0620, to allow Citizens to provide the required notices in an electronic directory available online when these rules refer to a directory, provided that Citizens meets the following conditions:

1. Citizens will provide a directory including white pages free of charge to their customers when requested by a customer.
2. Citizens will provide a notice to their current customers and new customers to inform them of the following:
 - A. that Citizens will no longer deliver directories to customers unless the directories are requested by the customer;
 - B. that customers may request a directory, including white pages, free of charge as well as the process for doing so;
 - C. that customers can access directory information on-line and provide the website(s) address;
 - D. that both the printed directories delivered to customers and the on-line directories will include (a) a statement summarizing the Customers' Rights and Responsibilities, (b) a statement that complies with the requirements of OAR 860- 021-0610 pertaining to Telephone Solicitation Notices, and (c) a statement that complies with the requirements of OAR 860-021-0620 pertaining to Customer Notification and Information Delivery Services.