

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of

Rulemaking to Adopt and Amend Rules per  
2020 Senate Bill 1603.

Docket No. AR 640

**OCTA COMMENTS REGARDING  
PROPOSED RULES TO IMPLEMENT  
2020 SENATE BILL 1603**

**INTRODUCTION**

The Oregon Cable Telecommunications Association (“OCTA”) appreciates this opportunity to comment on the proposed amendments to the Commission’s rules regarding the Oregon Universal Service Fund, set forth in Oregon Administrative Rules (“OAR”) Chapter 860, Division 100. As noted in Order No. 20-305, Commission “Staff drafted the proposed rules with stakeholder input in mind.”<sup>1</sup> OCTA was one of the stakeholders that provided input to the Staff at the workshop convened on August 31, 2020. In large measure, the proposed rules reflect the stakeholder input that Staff received, including some provided by OCTA. However, OCTA wishes to raise with the Commission two remaining concerns with the proposed rules and to provide recommended language to address these concerns.

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<sup>1</sup> Order No. 20-305 at Appendix A, p. 2.

## COMMENTS REGARDING PROPOSED RULES

### **1. The Commission Should Add New Subsection (3) to OAR 860-100-0001(1) to Clarify That Nothing in the Rules Is Intended to Expand the Commission’s Regulatory Authority with Respect to Commercial Mobile Radio Services or Interconnected Voice over Internet Protocol Services.**

As explained in Order No. 20-305, workshop participants, including OCTA, objected to a number of proposed changes and additions to the definitions set forth in OAR 860-100-0005 that appear to conflate commercial mobile radio service (“CMRS”) and interconnected VoIP service (“VoIP”) with telecommunications service.<sup>2</sup> CMRS and VoIP are defined and treated separately in 2020 Senate Bill 1603 (“SB 1603”) and are not “telecommunications service” as that term is used in SB 1603, or as that term is used elsewhere in Oregon Revised Statutes (“ORS”) Title 759. The Commission has regulatory jurisdiction over “telecommunications service.” The Commission does not have regulatory jurisdiction over CMRS or VoIP. In fact, SB 1603 expressly provides that:

(8) Nothing in this section is intended to grant the commission the authority to impose any requirement or condition, or to exercise any regulatory authority, with respect to commercial mobile radio services or interconnected voice over internet protocol services other than as expressly provided for in this section.<sup>3</sup>

OCTA understands that Commission Staff drafted the proposed rules to use these definitions in order to “greatly reduce the number of additional rule changes needed further on in the division.”<sup>4</sup> Rather than modifying or deleting these definitions, OCTA proposes the Commission simply add a new subsection (3) to the “Scope and Applicability” section of the rules set forth in OAR 860-100-0001 that would read: “(3) Nothing in this Division, including but not limited to terms defined in 860-100-0005, is intended to expand the commission’s

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<sup>2</sup> See proposed OAR 860-100-0005, subsections (15), (19), (21) and (22).

<sup>3</sup> SB 1603, Section 2(8).

<sup>4</sup> *Id.*

authority to impose any requirement or condition, or to exercise any regulatory authority, with respect to commercial mobile radio services or interconnected voice over internet protocol services other than as expressly provided for in Oregon Laws 2020, Chapter 17, sections 1-12 (First Special Session).” This proposed addition to the rules would provide the needed clarification to allow for the use of defined terms that are otherwise confusing and could lead to a misinterpretation of the scope of the Commission’s authority.

**2. The Definition of “Retail Telecommunications Service Gross Revenue” in OAR 860-100-0005(19) Should Be Modified.**

During the August 31<sup>st</sup> workshop and again afterward, OCTA and other stakeholders pointed out to Staff that the definition of “Retail Telecommunications Service Gross Revenue” in OAR 860-100-0005(19), upon which the OUSF surcharge is assessed,<sup>5</sup> includes “uncollectible amounts” commonly referred to as bad debt. OCTA urges the Commission to delete the words “uncollectible amounts” from the definition. There is no rational basis for assessing the surcharge on amounts that a provider is owed that has not become revenue. In addition, the forms providers are required to use in calculating gross revenues subject to the OUSF surcharge, both prior to enactment of SB1603 and as modified to reflect SB 1603, do not include uncollectible amounts.

While Commission Staff “agrees with stakeholders that this subject should be addressed,” Staff suggests it should be done in another docket.<sup>6</sup> OCTA respectfully disagrees. With the enactment of SB 1603, beginning January 1, 2021, a number of providers that have not previously been required to remit OUSF surcharge amounts to the Commission will be required

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<sup>5</sup> See OAR 860-100-0100(2).

<sup>6</sup> Order No. 20-305 at Appendix A, p. 2.

to do so. For the benefit of these providers as well as existing OUSF remitting providers, the Commission should amend the rule to delete the unwarranted term from the rule.

Respectfully submitted this 29<sup>th</sup> day of October 2020.

OREGON CABLE TELECOMMUNICATIONS ASSOCIATION

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