

ORDER NO. **18 375**

ENTERED **OCT 11 2018**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 624

In the Matter of


Rulemaking Regarding the Retail
Telecommunications Service Standards.

ORDER


DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our October 9, 2018 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated at Salem, Oregon, OCT 11 2018.



Megan W. Decker
Chair



Stephen M. Bloom
Commissioner



Letha Tawney
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

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ITEM NO. RM1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 9, 2018

REGULAR X CONSENT _____ EFFECTIVE DATE Upon Approval

DATE: September 20, 2018

TO: Public Utility Commission

FROM:  Malia Brock,  Stephen Hayes and  Scott Shearer

THROUGH:  Jason Eisdorfer,  Bryan Conway, and  Bruce Hellebuyck

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. AR 624) Request for approval to initiate a rulemaking to consider changes to Retail Telecommunications Service Standards, for Large Telecommunications Providers OAR 860-023-0055, for Competitive Telecommunications Providers OAR 860-032-0012 and for Small Telecommunications Utilities OAR 860-034-0390.

STAFF RECOMMENDATION:

Staff recommends that the Commission open a rulemaking docket to consider changes to the retail service quality rules.

DISCUSSION:

Issue

Whether the Commission should open a rulemaking docket to consider changes to the retail service quality rules.

Applicable Rule or Law

Under ORS 756.060, the Commission is authorized to "adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission" and to "adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and telecommunications utilities and other parties before the commission."

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The Oregon Legislature requires by statute that the Commission determine minimum service quality standards that relate to the provision of retail telecommunications services.¹ This requirement was first enacted in 1999 as Senate Bill 622.² The Legislature also requires that the adopted standards apply to all telecommunications carriers³ except those specifically exempted: Radio communications service, radio paging service, commercial mobile radio service, personal communications service, cellular communications service, a cooperative corporation organized under ORS chapter 62 that provides telecommunications service, and a small utility with respect to standards measuring carrier inquiry response times.⁴

The Legislature delegated authority to the Commission to determine minimum service quality standards that relate to the provision of retail telecommunications services to ensure safe and adequate service. Such standards adopted by the Commission must relate to specific indices, including but not limited to: held orders, trouble reports, repair intervals, and carrier inquiry response times. For each standard adopted, the Commission must consider general industry practice and achievement; national data for similar standards; normal operating conditions; the historic purpose for which the telecommunications network was constructed; technological improvements and trends; and other factors as determined by the Commission.⁵

The Commission has adopted administrative rules establishing service quality standards for large telecommunications utilities, competitive providers, and small telecommunications utilities. See OAR 860-023-0055, 860-032-0012, and 860-034-0390. The Commission must, by rule, "review and revise the minimum service quality standards as necessary to ensure safe and adequate retail telecommunications services."⁶

The Legislature assigns the responsibility to the Commission to take certain steps related to telecommunication carrier performance related to the minimum retail service quality standards. Those steps specify alternative actions which could include civil penalties.⁷

¹ ORS 759.450(2).

² Or Laws 1999 c. 1093 § 29.

³ ORS 759.450(2).

⁴ ORS 759.450(8)(a) and (b), (9).

⁵ ORS 759.450(3)(a)-(f).

⁶ ORS 759.450(2).

⁷ ORS 759.450(5)-(7).

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Analysis

History of Retail Service Quality Rulemakings

In compliance with the directive to establish minimum service quality rules in 1999's Senate Bill 622, the Commission adopted comprehensive service quality rules on June 8, 2000.⁸ In the period between 2000 and 2006, these rules were amended a number of times. Since 2006, the Commission has amended the rules one time, to provide regulatory relief by decreasing the objective service level of the time-to-repair standard from 95 percent of all reports to 90 percent and by allowing for a longer time for repair requests that would require consistently full weekend repair technician staffing.⁹ Staff supported these changes in 2014 and viewed the changes as a means to promote better overall facility quality, resulting in better service quality, by allowing more time to fix facilities that might require extensive repairs. Companies attempting to meet the 95 percent standard might be rushing to restore service instead of making more involved facility improvements. Further, because companies were, and are continuing to experience customer decline, they likely can afford fewer skilled technicians. Allowing a weekend time extension for repair requests seemed reasonable. To offset impacts to customers who might require more immediate attention, the Commission included requirements for companies to respond faster to customers who met certain conditions.¹⁰ Since the 2014 rulemaking, Staff has received indications from customers that these provisions have not been faithfully followed. Staff intends to examine this more fully in the context of the proposed rulemaking docket.

Scope

Staff proposes to address all three OAR Divisions containing retail service quality standards; OAR 860-023-0055, OAR 860-032-0012, and OAR 860-034-0390, setting forth the requirements for large telecommunications utilities, competitive providers, and small telecommunication utilities. Each section is nearly identical with minor exceptions that are specific to each carrier class. For example there is an additional exemption allowed for competitive provider trouble reports that are caused by the underlying carrier. In reviewing the rules and statutory requirements, Staff will consider changes that may: 1) modernize standards; 2) delete obsolete requirements; 3) make necessary corrections; and 4) clarify requirements.

⁸ *In the Matter of a Rulemaking to Amend OAR Chapter 860, Divisions 023 and 034 to Adopt Rule Changes to Implement SB 622, Section 29, Minimum Service Quality Standards for Providing Retail Telecommunications Services*, Docket AR 375, Order No. 00-303 (June 8, 2000).

⁹ *In the Matter of Telecommunications Standards Revisions - Repair Clearing Time*, Docket AR 575, Order No. 14-016 (January 21, 2014).

¹⁰ OAR 860-023-0055(6)(c), 860-032-0012(6)(c), 860-034-0390(6)(c).

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While Staff may recommend some changes that provide regulatory relief, Staff also intends to examine the impacts of any changes on consumers, and specifically the impact from the changes resulting from Docket AR 575.

Staff also intends to examine and compare the service quality rules required of telecommunication service providers not regulated by the Commission. For example, cable franchise service quality requirements, other states' service quality standards, and a review of common customer complaints may provide meaningful information regarding more modern service quality standards.

Process

Staff anticipates soliciting input from multiple stakeholders that may include regulated and non-regulated telecommunications service providers, other state agencies, local governments, consumer advocates, broadband providers, public interest advocacy groups, and the public. Staff also anticipates drawing on the work of federal agencies, including the Federal Communications Commission (FCC), and other states that have previously engaged in policymaking regarding retail service quality.

Staff expects to schedule workshops with stakeholders to discuss the relevant issues and formulate proposed changes, as appropriate.

Conclusion

Oregon statute requires the Commission to develop standards for retail service quality. The Commission has a history of reviewing and revising retail service quality rules, but has not conducted a comprehensive review of the rules in some time. Given the concerns the Telecommunications and Water Division and Consumer Services Section have received from citizens and industry regarding the current rules, Staff supports opening a rulemaking to consider changes that are consistent with and best implement the statutory guidance and that 1) modernize the standards; 2) delete unnecessary and obsolete requirements; 3) make necessary corrections; and 4) clarify the requirements.

PROPOSED COMMISSION MOTION:

Open a rulemaking docket to consider changes to the retail service quality rules contained in OAR 860-023-0055, OAR 860-032-0012, and OAR 860-034-0390.