

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 634

In the Matter of

Temporary Rulemaking Regarding Oregon
Telephone Assistance Program Subsidy.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our June 30, 2020 Regular Public Meeting, to adopt the Staff recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A. The temporary rule changes become effective July 1, 2020.

Made, entered, and effective Jun 30, 2020.

Megan W. Decker
Chair

Letha Tawney
Commissioner



Mark R. Thompson
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.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 30, 2020**

REGULAR ___ CONSENT ___ RULEMAKING X EFFECTIVE DATE 07/01/2020

DATE: June 23, 2020

TO: Public Utility Commission

FROM: Jon Cray

THROUGH: Michael Dougherty, Phil Boyle, and Diane Davis **SIGNED**

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND:
(Docket No. AR 634)
Request for approval of temporary rulemaking.

STAFF RECOMMENDATION:

Adopt the temporary rule amendments as proposed in Attachment A, effective July 1, 2020.

DISCUSSION:

Issue

Whether the Public Utility Commission of Oregon (Commission) should adopt the proposed temporary rule amendments in Attachment A, effective July 1, 2020.

Applicable Law

Pursuant to ORS 756.060, the Commission “may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission...” The Oregon Administrative Procedures Act sets forth the process for amendment of administrative rules and allows for the adoption or amendment of temporary rules for a period of up to 180 days in appropriate circumstances.

Under ORS 183.335(5), an agency may adopt, amend or suspend a rule without the notice or hearing required for a permanent rulemaking if the agency prepares a written statement that includes:

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- (1) Findings that failure to act promptly will result in serious prejudice to the public interest or the interests of the parties concerned;
- (2) Specific reasons why failure to act promptly will result in serious prejudice to those interests;
- (3) Legal authority relied upon for adoption, amendment or suspension of the rule;
- (4) A statement about the need for the rule and how the rule is intended to meet the need; and
- (5) A list of the principal documents, reports, or studies, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location where those documents are available for public inspection.

Under Sections 2 and 6, chapter 290, Oregon Laws 1987, as amended, to assure adequate, affordable residential telecommunication service is available to all citizens and to support broadband internet access service, the Commission is directed to:

[E]stablish a plan to provide assistance to low income customers through differential rates or otherwise. The plan of assistance is in addition to the available funding offered by the Federal Communications Commission. The plan established by the Public Utility Commission shall prescribe the amount of assistance to be provided and the time and manner of payment.

Accordingly, the Commission has established the Oregon Telephone Assistance Program (OTAP), which is governed by the administrative rules set forth in ORS Chapter 860, Division 33.

On June 5, 2020, the 2019-2020 Oregon Interim Joint Emergency Board allocated \$3.5 million from the federal Coronavirus Relief Fund to the Commission to expand access to affordable telephone and broadband internet access service for eligible low income households.¹

Background

OTAP is the state counterpart to the Federal Communications Commission's (FCC's) Lifeline program, collectively known as Oregon Lifeline. The OTAP currently provides \$3.50 of state Lifeline support from the Residential Service Protection per month in

¹ See Oregon State Legislature; *Oregon Legislative Information; 2019-2020 Interim Joint Emergency Board*, <https://olis.oregonlegislature.gov/liz/201911/Committees/EB/2020-06-05-15-00/Agenda> (last visited June 20, 2020).

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addition to the support of \$9.25 available from the federal Universal Service Fund for phone (voice service) or broadband internet access service.²

In the Lifeline Modernization Order (16-38),³ adopted on March 31, 2016, the FCC amended the definition of Lifeline to include broadband internet access service as a supported service for qualifying low income households. The 2019 Oregon Legislature enacted Senate Bill 69⁴ into law, effective January 1, 2020, to align Oregon law with FCC regulations in which eligible low-income customers can receive the OTAP discount on broadband internet access service.

On March 8, 2020, Governor Brown declared an emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19, which is currently extended to July 6, 2020.⁵ COVID-19 is a global pandemic that is causing a significant economic downturn in Oregon, imposing sustained economic hardship on many Oregonians in the form of lost wages and an inability to pay basic household expenses including voice service and broadband internet access service.⁶ Oregonians were directed to stay home to the greatest extent possible and a number of government offices and retail businesses were closed.⁷ These closures effectively limited access to the internet for many Oregonians. Though phased re-opening has begun, a number of protective measures are required and the possibility remains that restrictions may be re-imposed.⁸

Justification for Temporary Rulemaking

The proposed temporary rule amendments are necessary to ease the financial burden of the COVID-19 pandemic on low-income Oregonians and enable qualifying low-income households to retain or enhance the supported voice and broadband internet access services they receive. In addition, by increasing the support amount for voice and broadband internet access service, eligible Oregonians may access those services from home, thereby reducing the public health threat for these customers and all Oregonians. If the Commission fails to act promptly to expand OTAP support using the now-available federal Coronavirus Relief Funding, serious prejudice to the public interest will result because there is a substantial likelihood that low-income households will be unable to continue to pay for voice or broadband internet access, or will be

² See 47 C.F.R. § 54.403(a)(2)(i). Federal Lifeline support for voice-only service declined from \$9.25 to \$7.25 per month, effective December 2019 and will decline further to \$5.25 per month beginning December 2020 before it is eliminated altogether by December 2021.

³ See Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Red 3962 (2016) (2016 Lifeline Modernization Order).

⁴ Or Laws 2019 c.91 §1.

⁵ EO 20-03 (March 8, 2020); EO 20-24 (May 1, 2020).

⁶ See EO 20-11 (March 22, 2020).

⁷ EO 20-12 (March 23, 2020).

⁸ See EO 20-27 (June 5, 2020).

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unable to access those services to the extent necessary while pandemic restrictions are in place.

The Commission has authority to adopt the proposed temporary rule amendments under Sections 2 and 6, chapter 290, Oregon Laws 1987, as amended, and under ORS 756.060.

The proposed temporary rule amendments set forth in Attachment A address the need for expanded support by requiring the plan of assistance (OTAP) to include broadband internet access services for eligible low income customers. These amendments address the need to expand the supported services to which OTAP benefits apply. A cornerstone of the Oregon Lifeline program is the Commission's existing policy that supports consumer choice; the low income customer is permitted to apply the OTAP discount on any Eligible Telecommunications Provider's phone service for which he or she pays a monthly rate. The proposed temporary rule amendment applies the same policy to broadband internet access service.⁹

Given the one-time allocation of \$3.5 million from the Oregon Interim Joint Emergency Board, the proposed rule amendments also increase the amount of OTAP support for customers that are paying a monthly rate, from \$3.50 up to \$12.00 per month.¹⁰ Not only does the enhanced OTAP discount serve to expand access, it will have a more meaningful financial impact for many current and future eligible low income customers who are struggling to retain the service that meets their individual needs.

For customers that receive supported services at no charge, the Eligible Telecommunications Provider offering the service may be approved for reimbursement up to \$12.00 if it can demonstrate it is providing the expanded voice and broadband internet access services required under the proposed rule. For instance, an Eligible Telecommunications Provider in Oregon that offers wireless service at no charge must currently offer a minimum of 1,000 voice minutes and 3GB of data to receive reimbursement at the \$7.25 and \$9.25 federal Lifeline rate, respectively. However, this limited number of voice minutes and data may not be sufficient access to enable necessary communications consistent with basic service, e.g., communications with family and friends, access to healthcare, government services, education, etc. Therefore, the proposed temporary rule amendment sets the minimum standard the

⁹ See Comments of the Oregon Public Utility Commission on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket No. 11-42 (filed July 31, 2019). See Comments of the Oregon Public Utility Commission on NTCA - the Rural Broadband Association Petition for Waiver of December 2019 Minimum Service Standard for Fixed Broadband Internet Access Service, WC Docket No. 11-42 (filed August 28, 2019).

¹⁰ A customer may not receive OTAP and Lifeline benefits in excess of the customer's monthly rate.

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Eligible Telecommunications Provider must offer at no charge to each eligible customer to unlimited voice minutes and unlimited data.

Practical Considerations on Implementation

Commission Staff, via email on Friday June 12, 2020, and Tuesday, June 16, 2020, solicited feedback from Oregon Eligible Telecommunications Providers as to whether they can modify their respective billing systems to accommodate the July 1 effective date for the temporary \$12.00 OTAP discount. Many Eligible Telecommunications Providers indicated they can either accommodate the July 1 effective date or apply the revised OTAP discount retroactive to July 1 for eligible customers due to the timing of billing cycles. One Eligible Telecommunications Provider stated that they will apply the difference of \$8.50 manually due to time constraints and billing system limitations. Staff is amenable to more efficient alternatives that meet the same objective within the parameters of the administrative rules governing OTAP reimbursement and is confident customers will see immediate benefits upon adoption of the proposed amendments.

Conclusion

Based on the foregoing Justification for Temporary Rulemaking, Staff recommends adoption of the proposed rule amendments on a temporary basis allows the Commission to meet the urgent need to provide expanded access to phone and broadband internet access service to eligible low income customers.

PROPOSED COMMISSION MOTION:

Adopt temporary rule amendments as set forth in Attachment A, effective July 1, 2020.

AMEND: 860-033-0005

RULE TITLE: Definitions

RULE SUMMARY: The rule changes define broadband internet access service so the Commission can implement the 2019 Senate Bill 69 by establishing and providing assistance to eligible low-income customers who subscribe to broadband internet access service, incorporate broadband internet access service as a service for which the Oregon Telephone Assistance Program provides a discount for eligible low-income customers, eliminate the language that the Oregon Telephone Assistance Program offers reduced local exchange rates, and clarify that the Oregon Telephone Assistance Program provides a discount on basic service as defined in OAR 860-033-0005(1) or both basic service and broadband internet access service.

RULE TEXT:

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.

(3) "Broadband internet access service" has the same meaning as defined in OAR 860-250-0010.

(~~34~~) "Competitive Provider" means a competitive telecommunications provider as defined in ORS 759.005(1) that provides services authorized under ORS 759.020.

(~~45~~) "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).

(~~56~~) "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.

(~~67~~) "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.

(~~78~~) "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.

(89) "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.

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

(4011) "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.

(4112) "Lifeline" means a program established by the Federal Communications Commission as defined in 47 C.F.R. § 54 Subpart E (2016).

(4213) "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.

(4314) "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(3).

(4415) "Low-income customer" means an individual who demonstrates eligibility for Lifeline supported services or the Oregon Telephone Assistance Program in OAR 860-033-0030.

(~~15~~**16**) "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.

(~~16~~**17**) "Oregon Telephone Assistance Program" or "OTAP" means a program established by the Commission that ~~offers reduced local exchange rates to~~ **provides a discount on basic service, broadband internet access service, or both, for** 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.

(~~17~~**18**) "Oregon Telecommunications Relay Service" or "OTRS" means a facility authorized by the Commission to provide telecommunications relay service.

(~~18~~**19**) "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.

(~~19~~**20**) "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~~**21**) "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 860-033-0006(2).

(~~21~~**22**) "RSPF Surcharge Exception Form" 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>.

(~~22~~**23**) "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~~**24**) "Service Initiation Date" means the date the low-income customer began receiving the OTAP or Lifeline benefit.

(~~24~~**25**) "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.

~~(2526)~~ “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.

~~(2627)~~ “Telecommunications provider” includes competitive providers, cooperatives and telecommunications utilities.

~~(2728)~~ “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.

~~(2829)~~ “Telecommunications utility” means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.

~~(2930)~~ “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).

~~(3031)~~ “Tribal Lifeline” means a Lifeline service for eligible residents of Tribal lands as defined in 47 C.F.R. § 54 Subpart E (2013).

~~(3132)~~ “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).

~~(3233)~~ “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.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 759, 1987 OL Ch. 290

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0010

RULE TITLE: OTAP and Lifeline Applicability

RULE SUMMARY: The rule changes specify that eligible low-income customers can receive the Oregon Telephone Assistance Program discount on basic service, broadband internet access service or both basic service and broadband internet access service and require an Eligible Telecommunications Provider to offer the OTAP discount on all service offerings that include broadband internet access service to the eligible low-income customer.

RULE TEXT:

(1) The Oregon Telephone Assistance Program (OTAP) is designed to provide a reduced rate or discount for an Eligible Telecommunications Provider's **broadband internet access service**, basic service, **or both**, whether sold separately or in combination with other services, to low-income customers who meet eligibility requirements.

(2) An Eligible Telecommunications Provider must offer to all low-income customers who meet eligibility requirements OTAP discounts with all service offerings that include **broadband internet access service or** basic telephone service. Reduced rates or discounts apply to the single line, or service that is functionally equivalent to a single line, serving the eligible customer's principal residence in Oregon. An Eligible Telecommunications Provider may not decline to provide the OTAP and the Lifeline discount to an eligible customer for wireless service on the basis the customer has an out-of-state telephone number.

(3) Eligible Telecommunications Providers and the Commission must treat OTAP and Lifeline data as confidential information, to the extent allowed by law, and OTAP and Lifeline data may be used only for OTAP and Lifeline purposes.

STATUTORY/OTHER AUTHORITY: 756, ORS 183, 759, 1987 OL Ch. 290

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0035

RULE TITLE: OTAP and Lifeline Benefits

RULE SUMMARY: The rules changes specify that after application of the OTAP and Lifeline discount, the customer pays a reduced monthly rate on broadband internet access service or both basic service and broadband internet access service. Additionally, pursuant to the 2019-2020 Interim Joint Emergency Board one-time allocation of \$3.5 million in emergency federal coronavirus relief dollars, adjusts the OTAP discount from \$3.50 to up to \$12.00 for low-income customers who pay a monthly rate, and stipulates that the discount may not exceed the rate. The changes also limit the OTAP discount to \$3.50 for service the Eligible Telecommunications Provider offers at no charge to the low-income customer. Otherwise,

the Eligible Telecommunications Provider that offers service at no charge must provide unlimited voice minutes for basic service and unlimited data for any broadband internet access service to the low-income customer for Commission authorization of the OTAP discount in an amount greater than \$3.50 and up to \$12.00.

RULE TEXT:

(1) A residential customer qualifying for the OTAP and Lifeline benefit pays a reduced monthly rate, as established by the Commission, **for broadband internet access service or basic service, or both**, whether sold separately or in combination with other services, provided by an Eligible Telecommunications Provider. The monthly OTAP benefit includes:

(a) The federal Lifeline program support in accordance with 47 C.F.R. §54.403; and

(b) **For a customer paying a monthly rate**, the State of Oregon support of ~~\$3.50~~ **up to \$12.00. The customer may not receive a monthly OTAP benefit in excess of the customer's monthly rate; or**

(c) For a customer that receives the OTAP supported service at no charge, the State of Oregon support of \$3.50. If an Eligible Telecommunications Provider that offers OTAP supported service at no charge to the low-income customer demonstrates to the Commission that it provides unlimited voice minutes for basic service and unlimited data for any broadband internet access service provided to the customer, the Commission may authorize a State of Oregon support amount up to \$12.00.

(2) OTAP and Lifeline benefits become effective on the date the Commission receives from an eligible customer the signed application on a Commission-approved form.

(3) An Eligible Telecommunications Provider that offers OTAP or Lifeline supported service at no charge to the low-income customer must require the customer to call the Eligible Telecommunications Provider to activate the OTAP or Lifeline supported service. The Eligible Telecommunications Provider must require the low-income customer to provide the last four digits of his or her social security number or Tribal identification number before activating the OTAP or Lifeline supported service.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 759, 1987 OL Ch. 290

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0045

RULE TITLE: OTAP Compensable Expenses

RULE SUMMARY: The rule changes indicate the Commission may authorize compensation to the Eligible Telecommunications Provider that offers service at no charge for basic service and broadband internet access service provided to each eligible low-income customer and eliminates redundant language that the Eligible Telecommunications Provider may be

compensated for the revenue the Eligible Telecommunications Provider foregoes by providing the OTAP discount. The rule changes also require a Commission-authorized Eligible Telecommunications Provider that offers service at no charge to provide detailed information on the basic service and broadband internet access service provided to each eligible low-income customer when authorized to receive compensation in excess of \$3.50.
RULE TEXT:

(1) The Eligible Telecommunications Provider may be compensated for the State of Oregon benefit provided to each customer enrolled in OTAP by the Commission. ~~Compensation may include the revenue the Eligible Telecommunications Provider foregoes by providing the State of Oregon benefit to eligible customers.~~ **If an Eligible Telecommunications Provider offers OTAP supported service at no charge to the low-income customer, the Commission may authorize compensation for the basic service and broadband internet access service provided to each eligible customer.**

(2) To receive compensation **as described in section (1) of this rule**, an Eligible Telecommunications Provider must submit a monthly reimbursement form no later than 21 calendar days after the end of the billing period. The Eligible Telecommunications Provider's reimbursement form must indicate the number of eligible customers who were enrolled during the billing period, the number of customers who received the OTAP benefit during the billing period, and the amount of revenue foregone during that same period. **An Eligible Telecommunications Provider offering OTAP supported service at no charge to the low-income customer that is authorized to seek compensation in excess of the \$3.50 support amount must provide detailed information on the basic service and, if applicable, broadband internet access service provided to each eligible customer for which it seeks compensation.**

(3) If the Commission overcompensates an Eligible Telecommunications Provider, the Eligible Telecommunications Provider must immediately return the excess RSPF funds once it notifies the Commission or is notified by the Commission of the overcompensation.

(a) If the Commission overcompensates the Eligible Telecommunications Provider as a result of Commission error and the Eligible Telecommunications Provider upon notification of the overcompensation immediately returns the excess RSPF funds, the Eligible Telecommunications Provider is not required to pay interest on the excess RSPF funds.

(b) If the Commission overcompensates the Eligible Telecommunications Provider as a result of Commission error and upon notification the Eligible Telecommunications Provider does not immediately return the excess RSPF funds, the Eligible Telecommunications Provider must pay interest on the excess RSPF funds at the rate set forth in OAR 860-001-0050.

(c) If the Commission overcompensates the Eligible Telecommunications Provider as a result of actions by the Eligible Telecommunications Provider, including, but not limited to, the filing

of an incorrect reimbursement form, then upon notification the Eligible Telecommunications Provider must immediately return the excess RSPF funds and pay interest on the excess RSPF funds at the rate set forth in OAR 860-001-0050.

(4) Notice of Proposed Assessment:

(a) If the Eligible Telecommunications Provider is overcompensated and does not timely return the excess RSPF funds as described in section (3) of this rule, the Commission may issue a written proposed assessment for the amount due.

(b) Within 30 days of the service date of the notice of proposed assessment, the Eligible Telecommunications Provider may pay the proposed assessment in full or may file a written petition for a hearing. The written petition for a hearing must clearly specify all the reasons the Eligible Telecommunications Provider disputes the assessment.

(A) If the Eligible Telecommunications Provider pays the proposed assessment in full within 30 days of the service date of the notice of proposed assessment, the Commission will accept the payment and discontinue any further collection activities for that assessment.

(B) If the Eligible Telecommunications Provider timely files a written petition for a hearing under subsection (b) of this section, the Commission will grant the Eligible Telecommunications Provider a hearing and provide at least 10 days notice of the time and place of the hearing. The Commission will conduct the hearing under its rules governing hearings and proceedings.

(5) Commission Order: The Commission will enter an order if the Eligible Telecommunications Provider does not respond to the notice of proposed assessment within 30 days of the service date of the notice of proposed assessment or after considering the testimony presented at hearing. Any charges assessed by the Commission in its order become due and payable on the tenth day after the service date of the Commission's order.

(6) If the Eligible Telecommunications Provider does not respond to the Commission order, then the account may be referred to the Department of Revenue or to a collection agency for collection. The Eligible Telecommunications Provider is responsible for and must pay all costs incurred by the Commission to collect a past-due assessed amount from the Eligible Telecommunications Provider.

(7) An Eligible Telecommunications Provider must submit any revisions to a previously filed reimbursement form no later than three years from its due date. If the Commission concludes that refund is due to an Eligible Telecommunications Provider and that the refund would have a material adverse financial impact on the RSPF, the Commission may enter into an agreement with the Eligible Telecommunications Provider to spread payment of the refund over a period of time not to exceed three years.

(8) The Commission may determine the compensation amount based on the costs an Eligible Telecommunications Provider would reasonably incur to accomplish each task referred to in section (1) of this rule. The Commission disburses funds from the RSPF to the Eligible Telecommunications Provider within 45 calendar days after the Commission receives a properly completed reimbursement form.

(9) Each public utility, cooperative corporation or unincorporated association providing low-income telephone assistance under a Commission-approved alternative plan may be compensated for the State of Oregon benefit costs. However, compensation from the RSPF may not be greater than the compensation that would have been received through participation in OTAP.

(10) Governmental agencies contracting with the Commission to certify the eligibility requirements of individuals or to perform other administrative functions authorized by these rules are compensated based on the terms of the contract.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 759, 1987 OL Ch. 290

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0046

RULE TITLE: OTAP and Lifeline Accounting, Reporting and Auditing

RULE SUMMARY: The rule changes require the Eligible Telecommunications Provider to report to the Commission OTAP customers whose broadband internet access service was disconnected.

RULE TEXT:

(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 **or broadband internet access 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, addresses, or service initiation dates and service types have changed. Except as specified in section (5) of this rule, each Eligible Telecommunications Provider must submit weekly to the Commission in an electronic format accessible by the Commission an Order Activity Report. 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 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.

(6) The Commission reserves the right to audit the records of an Eligible Telecommunications Provider that provides OTAP or Lifeline benefits.

(7) 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.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 759, 1987 OL Ch. 290

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0050

RULE TITLE: Tribal Lifeline and Tribal Link-Up

RULE SUMMARY: The rule changes require the Eligible Telecommunications Provider to report to the Commission Tribal Lifeline and Tribal Link Up customers whose broadband internet access service was disconnected.

RULE TEXT:

(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.

(5) 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.

(6) 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 **or broadband internet access 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, addresses, or service initiation dates and service types have changed. Each Eligible Telecommunications Provider must submit this report weekly to the Commission in an electronic format accessible by the Commission. The Eligible Telecommunications Provider does not need to submit the Order Activity Report if there is no activity for the week.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 759, 1987 OL Ch. 290

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 759.036, 1987 OL Ch. 290

AMEND: 860-033-0110

RULE TITLE: Advertising, Marketing and Outreach

RULE SUMMARY: The rule changes replace the term voice telephony with basic service and eliminate redundant "Lifeline supported" language.

RULE TEXT:

(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~~ **basic** service, a bundle of ~~voice telephony~~ **basic** 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.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 759, 1987 OL Ch. 290

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 759.036, 1987 OL Ch. 290