

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 635

In the Matter of

Rulemaking to Implement Permanent Rules
for Temporary Rules Adopted in AR 634 and
Comprehensive Revisions to Rules for RSPF,
OTAP, and TDAP.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our October 20, 2020 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.


Made, entered, and effective Oct 22 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.

ITEM NO. RM1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 20, 2020**

REGULAR ___ CONSENT ___ RULEMAKING X EFFECTIVE DATE _____

DATE: October 13, 2020

TO: Public Utility Commission

FROM: Jon Cray

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

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. AR 635)
Request to issue notice of proposed rulemaking for changes to
administrative rules affecting RSPF, OTAP, and TDAP programs.

STAFF RECOMMENDATION:

Issue notice of proposed rulemaking for changes to administrative rules affecting the Residential Service Protection Fund (RSPF), Oregon Telephone Assistance Program (OTAP), and Telecommunication Devices Access Program (TDAP).

DISCUSSION:

Issue

Whether the Public Utility Commission of Oregon (Commission) should issue a notice of proposed rulemaking for changes to administrative rules governing RSPF, OTAP, and TDAP programs.

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 administrative rulemaking.

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Analysis

Background

Residential Service Protection Fund

ORS 759.685, as amended, directs the Commission to fund the programs provided in section 2 to 6, chapter 290, Oregon Laws 1987 assessing a surcharge, not to exceed 35 cents,¹ levied on each paying landline and cellular service subscriber with access to the Oregon Telecommunications Relay Service. The 2017 Oregon Legislature enacted Senate Bill 84² into law clarifying that the RSPF surcharge does apply to subscribers of interconnected voice over internet protocol service and directed the Commission to adopt, by rule, the definition of interconnected voice over protocol service consistent with 47 C.F.R. § 9.3.

Oregon Telephone Assistance Program

OTAP is a plan of assistance to low income customers established 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 2019 Oregon Legislature enacted Senate Bill 69,³ effective January 1, 2020, to align Oregon law with FCC regulations, under which eligible low-income customers can receive the OTAP discount on broadband internet access service.

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.⁴ The Commission, in response to the enactment of Senate Bill 69 and the Oregon Interim Joint Emergency Board allotment, adopted temporary rules in Docket No. AR 634 on June 30, 2020. The temporary rule amendments addressed the need for expanded support by requiring the plan of assistance to include broadband internet access service for eligible low-income customers. These rules are effective through December 31, 2020.

¹ The RSPF surcharge is currently \$0.10.

² ORS 759.685(1)(b).

³ Or Laws 2019 c.91 §1.

⁴ 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 October 11, 2020).

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Telecommunication Devices Access Program

Pursuant to ORS 759.695, as amended, the Commission, with the advice of the Telecommunication Devices Access Program Advisory Committee, is responsible for:

- (1) Establish[ing] and administer[ing] a statewide program to purchase and distribute assistive telecommunication devices to persons who are deaf, hard of hearing, speech-impaired or deaf-blind and establish a telecommunications relay service.
- (2) [E]stablish[ing] and administer[ing] a statewide program to purchase and distribute adaptive equipment to make telephone service generally available to persons with physical disabilities.

In 2018, Moss Adams LLP (Moss Adams) was commissioned to perform a risk assessment and testing of internal controls over the TDAP in accordance with Standards for Consulting Services established by the American Institute of Certified Public Accountants. Moss Adams identified properly designed internal controls and recommended improvements for administrative efficiency.

On September 2, 2020, the Commission opened a permanent rulemaking docket⁵ to:

- (1) Consider permanent rules implementing the temporary rules adopted in Docket No. AR 634, and
- (2) Consider comprehensive revisions to the rules governing the RSPF, OTAP, and TDAP.

Staff hosted a workshop on September 10, 2020, to provide an overview of the forthcoming proposal and to solicit stakeholder input on proposed changes. Workshop participants included Eligible Telecommunications Providers, telecommunications utilities, industry associations, the Citizens' Utility Board, and members of the OTAP and TDAP Advisory Committees. Staff disseminated a working draft of the proposal for purposes of discussion, informal comment, and to ascertain the fiscal impact, if any, to affected parties for compliance with the rules on September 29, 2020. The Oregon Telecommunications Association, a trade organization representing the telecommunications industry, indicated no policy concerns. An Eligible Telecommunications Provider that offers OTAP and Lifeline supported wireless service at no charge to the qualifying low-income customer proposed a minimum standard of unlimited voice minutes and 5GB of data to receive OTAP reimbursement at a rate of \$7.00. One TDAP Advisory Committee member indicated support for the proposed rule amendments. Staff continues to receive informal feedback on the proposed draft rules,

⁵ See Order No. 20-297.

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which it will review and consider as time permits now and during the rulemaking comment period. However, Staff has prepared and presents the attached draft for inclusion in the notice of proposed rulemaking given the limited time available, as permanent rules will need be effective upon the expiration of the temporary rules.

Summary and Discussion of Proposed Draft Rules

Staff drafted the attached proposed rules to:

- (1) Implement the temporary rules adopted in Docket No. AR 634.
- (2) Update the OTAP rules regarding subscriber reporting data and on eligibility.
- (3) Allow for transfers of equipment ownership to TDAP recipients and incorporate Moss Adams audit recommendations for improvements to TDAP operations.
- (4) Update definitions, reflect current practices, and reorganize for clarity and consistency, and
- (5) Eliminate obsolete OTAP and TDAP rules.

The following contains a summary of rule changes by section.

Oregon Administrative Rule (OAR) 860-033-0001

The rule amendment clarifies that the scope of Division 033 includes interconnected voice over internet protocol service providers, pursuant to the 2017's Senate Bill 84. A generic rule governing the calculation of time is added to this rule and deleted from OAR 860-033-0006(18).

OAR 860-033-0005

The proposed changes define "broadband internet access service" to implement the 2019 Senate Bill 69 and incorporate broadband internet access service as a service for which the OTAP provides a discount for eligible low-income customers. The proposed changes further clarifies that the OTAP provides a discount on basic service as defined in OAR 860-033-0005(1) or both basic service and broadband internet access service. The rule also defines OTAP Reimbursement Form 750.

The rule changes also define "interconnected voice over internet protocol" consistent with 47 C.F.R. § 9.3 in accordance with the 2017 legislative directive.

The definition of Oregon Telecommunications Relay Service is amended to mirror the definition of Telecommunications Relay Services in the Twenty-First Century Communications and Video Accessibility Act of 2010 (Public Law 111-260, as amended by Public Law 111-265).

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The definitions of benefit year, outstanding accounts, RSPF Exception Form, are no longer necessary and are proposed to be deleted. Other revisions include housekeeping changes that incorporate a new web address and current terminology.

OAR 860-033-0006

ORS 759.685(3), as amended, requires the Commission to review the surcharge rate and the balance in the RSPF annually. There is no statutory requirement that mandates a review each October, so the proposed amendment add flexibility in setting an annual review. The rule changes also integrate interconnected voice over internet protocol service providers into the Commission's system for assessing and collecting the RSPF surcharge.

The Oregon Department of Revenue and the Commission exchange and compare data provided by companies that collect and remit the E911 tax and RSPF surcharge from their customers to the respective agencies. The Commission is able to engage in reconciliation and compliance activities based on information provided by the Oregon Department of Revenue and other sources. Therefore, there is no longer a need for the rule that requires telecommunications providers and cellular, wireless, or other radio common carriers to submit the Remittance Report even if no surcharge is collected. There is also no need for the annual RSPF Surcharge Exception Form. Therefore, these rules are proposed to be repealed.

Other rule changes include revisions for housekeeping purposes and organizational clarity.

OAR 860-033-0007

The proposed amendments to subsections governing delinquent Remittance Reports and failure to remit the RSPF surcharge integrate interconnected voice over internet protocol service providers and reorganized or consolidate the existing language for clarity. What was OAR 860-033-0006(14) is proposed to be added to this rule.

OAR 860-033-0008

The rule changes integrate interconnected voice over internet service providers subject to Commission audits and incorporates language previously in OAR 860-033-0006(13), which is more suitable for this section. Proposed amendments eliminate language that the Commission will allow the company a reasonable amount of time to produce records because response times for data requests are provided in OAR 860-001-0540. The subsections governing Commission audits are consolidated and amended for organizational clarity. Language previously in OAR 860-033-0006(15) is added to this section.

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OAR 860-033-0009

The rule amendments integrate interconnected voice over internet service providers and clarify the Commission's process for notice of proposed assessments, hearings, and orders. Proposed amendments eliminate language that the Commission will allow the company a reasonable amount of time to produce records because response times for data requests are provided in OAR 860-001-0540. Other subsections of this rule are reorganized for clarity. Language from OAR 860-033-0007(3) is added to this section.

OAR 860-033-0010

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 requires 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. The Commission has upheld its 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 rule amendment applies the same policy to broadband internet access service. See Order Nos. 20-204 and 20-318.

OAR 860-033-0020

This is a new proposed rule to contain the requirements for designation and maintenance of designation as an Eligible Telecommunications Provider (ETP) that were previously outlined in the definition of ETP in OAR 860-033-0005(10). The new rule specifies that the Commission may suspend or revoke an Eligible Telecommunications Provider's designation for failure to comply with these requirements and applicable rules in Division 33.

OAR 860-033-0030

The rule amendments define an eligible resident of Tribal lands, and consistent with FCC regulations, updates the tribal-specific federal assistance program criteria through which a Tribal low-income resident can demonstrate eligibility for OTAP. The Commission verifies a low-income customer's continuing eligibility every 12 months, as measured from the customer's OTAP or Lifeline service initiation date. The rule changes reflect the Commission's current practices, consistent with FCC regulations governing rolling recertification.⁶

⁶ See Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration (2016).

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On November 16, 2017, the FCC adopted an Order (17-155)⁷ eliminating the benefit port regulation for voice and broadband internet access service. Therefore, the corresponding subsections that govern the benefit port regulation are proposed to be deleted.

OAR 860-033-0035

The rule 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. It also adjusts the OTAP discount from \$3.50 to \$7.00 for low-income customers who pay a monthly rate, and stipulates that the discount may not exceed the rate.

The rule changes also establish minimum standards for Eligible Telecommunications Providers that offer service at no charge. The Eligible Telecommunications Provider 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 \$7.00 OTAP discount.

In Docket No. AR 634, the Commission adopted a temporary OTAP discount rate of \$12.00. To receive \$12.00 compensation for each Commission-enrolled OTAP customer, an Eligible Telecommunications Provider that offered service at no charge was required to provide unlimited voice and unlimited data. However, on review of information requested by Staff, it is apparent that low-income customers are not using nearly the amount of free voice minutes and data available to them under the enhanced offerings. Therefore, Staff is proposing a \$7.00 OTAP discount to better match the value received by low-income customers. Staff will continue to monitor voice and data usage and may propose adjustments to the discount allowed in future rulemakings.

OAR 860-033-0040

This rule is obsolete and Staff proposes repealing it. All public utilities, cooperative corporations or unincorporated associations participate in the OTAP; otherwise, bifurcation would occur and result in administrative inefficiencies for both the Commission and the public utilities, cooperative corporations and unincorporated associations.

⁷ See Bridging the Digital Divide for Low Income Consumers, et al., Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (2017).

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OAR 860-033-0045

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 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 for each Commission-enrolled OTAP customer. The amendments further provide that the Eligible Telecommunications Provider must report the average monthly usage by its OTAP customers to the Commission for public review. A new subsection requires the Eligible Telecommunications Provider to provide a listing of all OTAP and Lifeline customers with specific data for which the Eligible Telecommunications Provider seeks compensation.

The rule amendments clarify the Commission processes for notice of proposed assessments, hearing, and order. Rule language superfluous in nature or obsolete are eliminated while other subsections were reorganized and revised for housekeeping purposes.

OAR 860-033-0046

The rule changes eliminate the Active OTAP and Lifeline Customer report. Instead, the Eligible Telecommunications Provider is required to provide a listing of all OTAP customers for which the Eligible Telecommunications Provider seeks compensation in OAR 860-033-0045.

In addition to other housekeeping changes, the rule changes integrate broadband internet access service and requires the Eligible Telecommunications Provider to report weekly even if there is no activity, and include the customer's first and last name and Commission-assigned OTAP identification number on the Order Activity Report. The Commission-assigned OTAP Identification Number is used in lieu of the customer's social security number as a measure to safeguard his or her personal identifying information.

OAR 860-033-0050

The rule is revised to integrate broadband internet access service and clarify that the Tribal Lifeline or Tribal Link-Up applicant's first and last name must be provided. The rule changes also require the Eligible Telecommunications Provider to submit the Tribal Lifeline and Tribal Link-Up Order Activity Report weekly even if there is no activity and

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to include the Commission-assigned OTAP Identification Number on the Order Activity Report in lieu of the customer's social security number and Tribal identification number. The Commission-assigned OTAP Identification Number is used as a measure to safeguard customers' personal identifying information.

OAR 860-033-0110

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

OAR 860-033-0505

The rule changes eliminate the definitions of Authorized Distributor and Authorized Maintenance Center; the terms are deleted in subsequent rule sections, making the definitions unnecessary.

OAR 860-033-0506

Staff proposes to repeal this rule as there is nothing in this rule that is not redundant of ORS 759.696, the Public Records Law, or the Public Meetings Law.

OAR 860-033-0530

The Commission began the distribution of tablets in 2015 followed by cell phones and smartphones in 2017 and 2018. In response to the decline of landline phone service, the rule changes modernize the TDAP by allowing an applicant to provide the Commission with his or her cellular number or email address. The rule changes require the applicant to provide information for an alternate contact such as a relative's phone number or email address the Commission can contact if the TDAP recipient is unavailable.

The Commission has access to the Department of Motor Vehicles system to verify an applicant's Oregon residency. The requirement that an applicant provide proof of state residency is repealed and in the event an applicant does not have a record, a new rule provides the applicant with options for demonstrating residency, e.g., utility bill in his or her name. The rule changes encompass other housekeeping changes and clarifies that the Commission may provide up to two accessories that facilitates the person's use of the assistive telecommunication device or adaptive equipment. In accordance with the law, the revised rule states that the Commission may provide up to two assistive telecommunication devices or adaptive equipment to a household if more than one eligible person resides in the household.

OAR 860-033-0535

Moss Adams identified that the Commission spends an inordinate amount of time and resources to manually track assistive telecommunication devices and adaptive

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equipment despite depreciation, obsolescence, or the length of time a TDAP recipient has the device or equipment in his or her possession. The rule change allows for the transfer of assistive telecommunication devices and adaptive equipment ownership to the TDAP recipient after four (4) years, which generally encompasses the standard warranty and extended warranty period.

The rule changes clarify the conditions with which the TDAP applicant or recipient must comply upon acceptance of the device or equipment under State of Oregon ownership. The rule changes relieve the parent and legal guardian of financial responsibility when the TDAP recipient turns eighteen (18) of age. It also relieves the TDAP recipient of the requirement to obtain permission from the Commission to travel out of the state with the assistive telecommunication device or adaptive equipment. The rule changes also clarify the TDAP recipient's financial responsibility and contains other housekeeping revisions.

OAR 860-033-0536

This section of the rule is repealed because the language has been consolidated under OAR 860-033-0535, as amended.

OAR 860-033-0537

To align with all other Commission processes for assessments, the requirement to issue an invoice is deleted. When holding a TDAP recipient financially liable, the new rule factors depreciation of the assistive telecommunication device and adaptive equipment by a decrement of 25 percent each year after the first year following purchase, a fair and reasonable approach contrary to billing for full replacement costs without consideration of age or normal wear and tear. The rule amendments clarify the Commission processes for notice of proposed assessments, hearing, and order.

OAR 860-033-0540

This rule is obsolete and proposed to be repealed accordingly. The Commission, through the Oregon Department of Administrative Services, has entered into contracts with multiple vendors that define the distribution procedures for assistive telecommunication devices and adaptive equipment. Each vendor is bound to the respective terms and conditions of the contract, rendering this rule unnecessary.

OAR 860-033-0545

This rule is obsolete and Staff proposes to repeal it. The contracts the Commission has entered into with vendors define the invoice and payment parameters for products and services rendered. Staff finds it is sufficient that the vendor must comply with the terms and conditions of the contract as opposed to a rule.

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OAR 860-033-0560

Staff proposes to repeal this rule as there is no need for a rule that states a federal regulation applies to the Commission.

Conclusion

Staff recommends that the Commission issue a notice of proposed rulemaking for the draft rule changes in Attachment 1.

PROPOSED COMMISSION MOTION:

Issue a notice of proposed rulemaking for changes to administrative rules governing the RSPF, OTAP, and TDAP programs.

****NOT FOR PUBLICATION****

The following draft administrative rules have been prepared as a working draft for purposes of discussion. These rules have not been approved for publication or for any other use by Staff or the Public Utility Commission of Oregon. A notice of proposed rulemaking has not been issued on this subject.

OAR 860-033-0001

Applicability

(1) The rules in this Division apply to all telecommunications providers, interconnected voice over internet protocol service providers, and ~~including, but not limited to~~ cellular, wireless, or other radio common carriers that offer service in Oregon with access to the Oregon Telecommunications Relay Service and to the applicants for and recipients of RSPF benefits.

(2) Upon request or its own motion, the Commission may waive any of the division 33 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

(3) In computing any period of time prescribed or allowed by these rules, the first day of the act or event is not included. The last day of the period is included, unless the last day is a Saturday or legal holiday; then the period runs until the end of the next day that is not a Saturday or a legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.

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OAR 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.~~

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

~~(43)~~ "Competitive Provider" means a competitive telecommunications provider as defined in ORS 759.005(1) that provides services authorized under ORS 759.020.

~~(54)~~ "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).

~~(65)~~ "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.

~~(76)~~ "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.

~~(87)~~ "Eligible Telecommunications Carrier" means a provider of telecommunications service, including a cellular, wireless, or other radio common carrier, that is ~~certified~~ **designated** 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.~~

~~(108)~~ "Eligible Telecommunications Provider" means a provider of telecommunications service, including a cellular, wireless, or other radio common carrier, that is ~~certified~~ **designated** by order of the Commission as eligible to provide OTAP **discounts** to its qualifying **low-income** 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~~

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~~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.~~

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

(110) "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.

(11) "Interconnected voice over internet protocol service" means a service that:

(a) Enables a real-time, two-way voice communications;

(b) Requires a broadband connection from the user's location;

(c) Requires internet protocol-compatible customer premises equipment; and

(d) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(12) "Interconnected voice over internet protocol service provider" means a provider that offers interconnected voice over internet protocol service to retail subscribers.

(12) "Lifeline" means a program established by the Federal Communications Commission as defined in 47 C.F.R. § 54 Subpart E (20169).

(13) "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.

~~(14) "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(3).~~

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

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(15) "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) "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) "OTAP Reimbursement Form 750" means the reporting form identified by that title that is available on the Commission's website at <https://www.oregon.gov/puc/forms/Pages/default.aspx>.

(18) "Oregon Telecommunications Relay Service" or "OTRS" means a ~~facility authorized by the Commission to provide telecommunications relay service~~ **telephone transmission service that provides the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.**

(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) "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 860-033-0006(2).

~~(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>.~~

(21) "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> <https://www.oregon.gov/puc/forms/Pages/default.aspx>.

(22) "Service Initiation Date" means the date the low-income customer began receiving the OTAP

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or Lifeline benefit.

(~~25~~23) "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~~9):

(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.

(~~26~~24) "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.

(~~27~~25) "Telecommunications provider" includes competitive providers, cooperatives and telecommunications utilities.

(~~28~~26) "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.

(~~29~~27) "Telecommunications utility" means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.

(~~30~~28) "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).

(~~31~~29) "Tribal Lifeline" means a Lifeline service for eligible residents of Tribal lands as defined in 47 C.F.R. § 54 Subpart E (~~2013~~9).

(~~32~~30) "Tribal Link Up" means a federal assistance program for eligible residents of Tribal lands as

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defined in 47 C.F.R. § 54 Subpart E (2013~~9~~).

(~~33~~**31**) “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.

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OAR 860-033-0006

Monthly RSPF Surcharge: ~~General Provisions, Remittance Reports and Payment~~

(1) The Commission reviews the surcharge rate and the balance in the RSPF ~~are reviewed annually by the Commission each October~~. The Commission may adjust the amount of the surcharge to ensure the fund has adequate resources but does not exceed six months of projected expenses. A rate adjustment ordered by the Commission following the annual review becomes effective January 1 of the year following the review.

(2) The surcharge ~~imposed by 1987 Oregon Laws Chapter 290, Section (7)(1)~~ does not apply to entities upon which the state is prohibited from imposing the surcharge by the Constitution or laws of the United States or the Constitution or laws of the State of Oregon including, but not limited to:

(a) Counties and political subdivisions.

(b) Federal, state and municipal government bodies or public corporations. For purposes of this rule, "public corporation" means a corporation formed by a state or local government authority for the public's benefit or for a public purpose. A regional housing authority qualifies as a public corporation.

(c) Federally chartered corporations specifically exempt from state excise taxes by federal law.

(d) Federally recognized Native-American Tribes, and tribal members who live within federally recognized Indian country and are enrolled members of the tribe with sovereignty over that Indian country.

(e) Foreign government offices and representatives that are exempt from state taxation by treaty provisions.

(f) Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified under ORS 759.020, radio common carriers and interexchange carriers.

(g) Any other agency, organization or person claiming an exemption is required to identify the authority for its claim to a provider. If a telecommunications provider, interconnected voice over internet protocol service provider, or a cellular, wireless, or other radio common carrier is unable to determine the status of a subscriber the Commission will determine whether the subscriber is exempt.

(3) Collection of RSPF Surcharge.

(a) Each telecommunications provider must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP or Lifeline eligible subscribers. The RSPF surcharge is applied on a telecommunications circuit

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designated for a particular subscriber.

(A) One subscriber line is counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit.

(B) For providers of central office based services, the surcharge is applied to each line that has unrestricted connection to the telecommunications relay service. For central office based service lines that have restricted access to the OTRS, the surcharge is charged based on software design.

(b) Each interconnected voice over internet service provider must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP or Lifeline eligible subscribers.

~~(bc)~~ Each cellular, wireless, or other radio common carrier must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP **or Lifeline** eligible subscribers. The surcharge is applied on a per-instrument basis.

~~(ed)~~ Each telecommunications provider, **each interconnected voice over internet protocol service provider** and each cellular, wireless, or other radio common carrier must identify the surcharge on each retail customer's bill **or, if no amount is due, on a monthly statement** as a separate line item named "RSPF Surcharge."

(4) A telecommunications provider, **interconnected voice over internet protocol service provider** or a cellular, wireless, or other radio common carrier may remit surcharges due to the Commission by electronic transfer, **or by** mail ~~or in person~~.

(5) The Remittance Report and surcharges are due to the Commission on or before the 21st calendar day after the close of each month and must be received in the Commission's offices no later than 5 p.m. Pacific Standard Time on the due date. A ~~surcharge remittance or~~ Remittance Report **or surcharge** postmarked on the due date does not meet the requirements of this section and will not be considered as timely submitted.

~~(6) Each telecommunications provider and each cellular, wireless, or other radio common carrier must submit the Remittance Report and surcharge with no exceptions. If no surcharge is collected, the telecommunications provider or the cellular, wireless, or other radio common carrier must still submit its monthly Remittance Report specified in section (5) of this rule.~~

~~(76)~~ For each billing period that a telecommunications provider or a cellular, wireless, or other radio common carrier fails to ~~submit~~ **remit** the surcharge fees in full on or before the due date required by these rules, the telecommunications provider, **interconnected voice over internet protocol service**

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provider or the cellular, wireless, or other radio common carrier must pay a late payment fee in accordance with OAR 860-001-0050

(87) If the telecommunications provider, **interconnected voice over internet protocol service provider** or the cellular, wireless, or other radio common carrier fails to remit the surcharge in full on or before the due date, the telecommunications provider, **interconnected voice over internet protocol service provider** or the cellular, wireless, or other radio common carrier must pay interest in accordance with OAR 860-001-0050.

(98) If a telecommunications provider, **interconnected voice over internet protocol service provider** or a cellular, wireless, or other radio common carrier fails to file a Remittance Report as required by these rules, the telecommunications provider, **interconnected voice over internet protocol service provider** or the cellular, wireless, or other radio common carrier must pay a late report fee in accordance with OAR 860-001-0050.

(109) ~~If the amount shown due on a Remittance Report is not paid by the due date, the Commission may issue a proposed assessment to set the sum due.~~ The Commission may waive the late report fee, the late payment fees and the interest on the unpaid surcharge fees, or any combination thereof, if the telecommunications provider, **interconnected voice over internet protocol service provider** or the cellular, wireless, or other radio common carrier files a written waiver request and provides evidence showing that the telecommunications provider, **interconnected voice over internet protocol service provider** or the cellular, wireless, or other radio common carrier submitted the Remittance Report and surcharge fees late due to circumstances beyond its control. The request must be filed in accordance with OAR 860-001-0140 and 860-001-0170.

(110) The telecommunications provider, **interconnected voice over internet protocol service provider** or the cellular, wireless, or other radio common carrier must pay a fee in accordance with OAR 860-001-0050 for each payment returned for non-sufficient funds.

(12) ~~The telecommunications provider or the cellular, wireless, or other radio common carrier is responsible for and must pay all costs incurred by the Commission to collect a past due RSPF surcharge from the telecommunications provider or the cellular, wireless, or other radio common carrier.~~

(13) ~~Remittance Report Records: A telecommunications provider and a cellular, wireless, or other radio common carrier must keep all records supporting each Remittance Report for three years, or if a Commission review or audit is pending, until the review or audit is complete, whichever is later.~~

(14) ~~In addition to any other penalty, obligation, or remedy provided by law, the Commission may suspend or cancel the telecommunications provider's certificate of authority to provide telecommunications service in Oregon for its failure to file its Remittance Report or its failure to remit the surcharge in full.~~

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~~(15) Except as otherwise provided by law, if after an audit or review the Commission determines that the telecommunications provider or the cellular, wireless, or other radio common carrier has remitted an excessive amount, the Commission will provide the telecommunications provider or the cellular, wireless, or other radio common carrier a credit in that amount against sums subsequently due from that telecommunications provider or that cellular, wireless, or other radio common carrier.~~

(16**11**) A telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier must submit any revisions to a Remittance Report no later than three years from the due date of the Remittance Report. If the Commission concludes that a telecommunications provider, interconnected voice over internet protocol service provider or cellular, wireless, or other common carrier remitted an excessive amount and that refunding the excess would have a material and adverse financial impact on the RSPF, the Commission may enter into an agreement with the telecommunications provider, interconnected voice over internet protocol service protocol or the cellular, wireless, or other radio common carrier to spread payments of the refunds over a period not to exceed three years.

~~(17) The RSPF Surcharge Exception Form is due annually by March 15. A telecommunications provider or a cellular, wireless, or other radio common carrier that qualifies for the exception must electronically submit the completed form so that it is received in the Commission's offices no later than 5 p.m. Pacific Standard Time on March 15.~~

~~(18) In computing any period of time prescribed or allowed by these rules, the first day of the act or event is not included. The last day of the period is included, unless the last day is a Saturday or legal holiday; then the period runs until the end of the next day that is not a Saturday or a legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.~~

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OAR 860-033-0007

~~Estimated Report~~ **Late Reports and Failure to Remit Surcharge**

(1) For any period for which a telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier fails to file a Remittance Report and remit the surcharge payments by the due date as required by these rules, the Commission may issue a notice of proposed assessment for the surcharge amount to the telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier determine a proposed assessment based upon any information available to the Commission.

(2) If a telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier failed to file a Remittance Report within the time specified in these rules, the Commission may add to the proposed assessment a late report fee per 860-001-0050(3)(e) and, if the provider or carrier failed to remit the surcharge by the due date, the Commission may add a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500, and interest on the surcharge amount owed at the rate of 9 percent per annum from the due date.

~~The proposed assessment may not cover a period longer than three years prior to the date of the proposed assessment and must include:~~

- ~~(a) An estimated surcharge amount owed;~~
- ~~(b) A late payment fee equal to 9 percent of the estimated surcharge amount owed, up to a maximum of \$500 for that reporting period;~~
- ~~(c) Interest on the estimated surcharge amount owed at the rate of 9 percent per annum from the day the surcharge amount was originally due; and~~
- ~~(d) A late report fee per 860-001-0050(3)(e).~~

(3) **The proposed assessment may not cover a period longer than three years prior to the date of the notice of proposed assessment.**

Notwithstanding section (2) of this rule, **But** if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to propose an assessment for the period represented by the non-filed Remittance Report. ~~The proposed assessment must include all late payment fees as specified in this rule.~~

(4) In addition to any other penalty allowed by law, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service or revoke an eligible telecommunications provider's designation for failure to timely file a

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Remittance Report or its failure to remit the surcharge by the due date.

~~During the 30-day period allowed for filing a petition for a hearing, the telecommunications provider, or the cellular, wireless, or other radio common carrier may file its Remittance Report and pay the surcharge, late report fee, late payment fee, and interest. The Commission will accept the Remittance Report, surcharge payment, late report fee, late payment fee and interest if correctly calculated in accordance with the original due date for the subject period's Remittance Report and payment.~~

~~(35) If a telecommunications provider, or a cellular, wireless, or other radio common carrier failed to file a Remittance Report within the time specified in these rules, the Commission will add to the proposed assessment a late report fee per 860-001-0050(3)(e) and a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500.~~

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Commission Audit

(1) A telecommunications provider, interconnected voice over internet protocol service provider and a cellular, wireless, or other radio common carrier must keep all records supporting each Remittance Report it has submitted to the Commission for three years, or if a Commission review or audit is pending, until the review or audit is complete, whichever is later.

(12) For any period for which a telecommunications provider's, an interconnected voice over internet protocol service provider's or a cellular, wireless, or other radio common carrier's Remittance Report was due, the Commission may audit the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier as the Commission deems necessary and appropriate.

(23) The Commission's audit must begin no later than three years after the Remittance Report's due date. After completion of the audit, the Commission may propose to assess an additional surcharge amount due from the telecommunications provider or the cellular, wireless, or other radio common carrier. But if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to audit the telecommunications provider.

(4) A telecommunications provider, interconnected voice over internet protocol service provider or a cellular, wireless, or other radio common carrier must produce for inspection or audit upon request of the Commission or its authorized representative all records supporting its Remittance Reports.

(35) If a telecommunications provider or a cellular, wireless, or other radio common carrier failed to file a Remittance Report within the time specified in these rules, the Commission will add to the proposed assessment a late report fee per 860-001-0050(3)(e) and a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500. After completion of the audit, the Commission may propose to assess an additional surcharge amount from the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier in addition to the amount previously remitted. The Commission may add to the proposed assessment a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500, and interest on the surcharge amount owed at the rate of 9 percent per annum from the original surcharge due date.

(4) Each proposed assessment bears interest on the additional surcharge amount proposed at the rate of 9 percent per annum from the day the original surcharge amount was due.

(5) Notwithstanding section (2) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to audit the

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~~telecommunications provider for the surcharge fees.~~

~~(68) A telecommunications provider or a cellular, wireless, or other radio common carrier must produce for inspection or audit upon request of the Commission or its authorized representative all records supporting its Remittance Reports. The Commission, or its representative, will allow the telecommunications provider or the cellular, wireless, or other radio common carrier a reasonable time to produce the records for inspection or audit.~~

Except as otherwise provided by law, if after an audit or review the Commission determines that the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier has remitted an excessive amount, the Commission will provide a credit in that amount against sums subsequently due.

(79) In addition to any other penalty allowed by law, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service or revoke an eligible telecommunications provider's designation for its failure to timely produce for inspection or audit the records required by this rule.

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OAR 860-033-0009

Notice of Proposed Assessment, ~~and~~ Hearing **and Order**

~~(1) The Commission will provide a notice of proposed assessment upon the telecommunications provider, or cellular, wireless, or other radio common carrier, as well as a proposal to revoke or suspend the telecommunications provider's certificate of authority, if applicable.~~

~~(2) Within 30 days after the service of the notice of proposed assessment~~ **To request a hearing on the notice of proposed assessment**, the telecommunications provider, **interconnected voice over internet protocol service provider** or the cellular, wireless, or other radio common carrier ~~may petition the Commission in writing~~ **must submit a written request for a hearing. The request for hearing must include a written response that admits or denies all factual matters alleged in the notice of proposed assessment, and alleges any and all affirmative defenses and the reasoning in support thereof. Factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.** The telecommunications provider or the cellular, wireless, or other radio common carrier must specify in its petition all of the reasons it disputes the notice of proposed assessment. **The Commission must receive the request for hearing within 30 days of the date the notice of proposed assessment was mailed.**

~~(a) If a petition is not filed~~ **the Commission does not receive a written request for hearing** within the 30-day period, the Commission may enter an order **on default** assessing charges based upon information in the Commission's files. **Any amount assessed by the Commission in an order on a notice of proposed assessment is due and payable ten days after the issue date of the order, unless a different due date is specified in the order.**

(b) If a petition is filed within the 30-day period, the Commission will grant the telecommunications provider or the cellular, wireless, or other radio common carrier a hearing and give the telecommunications provider or the cellular, wireless, or other radio common carrier at least 10 days' notice of the time and place of a hearing.

(3) The hearing on the telecommunications provider's or the cellular, wireless, or other radio common carrier's petition is conducted under the Commission's rules governing hearings and proceedings.

~~(4) An assessment made by the Commission under these rules is due and payable on the 10th day after the service date of the Commission's order assessing the charges.~~

(4) During the 30-day period allowed for filing a petition for requesting a hearing on a notice of proposed assessment under these rules, the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier may file its Remittance Report and pay any surcharge, late report fee, late payment fee, and interest proposed in the notice. The Commission will accept the Remittance Report and payment if correctly calculated.

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~~(5) If the Commission has not received payment of the surcharge and penalties assessment within the specified time, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service for its failure to pay the assessment required by this rule.~~

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OAR 860-033-0010

OTAP and Lifeline Applicability

(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.

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OAR 860-033-0020**Eligible Telecommunications Provider Requirements**

(1) A telecommunications provider, interconnected voice over internet protocol service provider, or cellular, wireless, or other radio common carrier may petition the Commission for designation as an Eligible Telecommunications Provider. To be designated as an Eligible Telecommunications Provider, the petitioner must demonstrate that it will:

(a) Offer 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) Advertise the availability of and the charges for such services using media of general distribution; and

(c) Comply with OAR 860-033-0005 through 860-033-0110.

(2) Once designated, the Commission may suspend or revoke an Eligible Telecommunications Provider's designation for failure to comply with the requirements under subsection (1)(a), (1)(b) or (1)(c).

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OAR 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

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

(3) A low-income customer who resides on federally-recognized Tribal lands is eligible for OTAP if the customer, one or more of the customer's dependents or the customer's household:

(a) Meets the requirements of section (2) of the rule; or

(b) Receives benefits from one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs General Assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

(34) 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

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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.

(45) 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.

(56) 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.

(67) 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.

(78) 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.

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

(910) 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.

(4011) The Commission will verify a customer's continuing eligibility **every 12 months, as measured**

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~~from the customer's OTAP or Lifeline service initiation date. 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~~submit 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.

~~(4112)~~ 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.

~~(4213)~~ 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 (2019) for 30 consecutive days, the Eligible Telecommunications Provider must provide the customer 15 days' notice, using plain language, that the customer's failure to use the OTAP or Lifeline supported service within the 15-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 15-day notice period, the Eligible Telecommunications Provider may not terminate the customer's OTAP or Lifeline supported service.

~~(4314)~~ 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~~

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~~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.~~

(15) 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.

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OAR 860-033-0035

OTAP and Lifeline Benefits

(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~~**\$7.00**. 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 \$7.00. 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 of data for any broadband internet access service provided to the customer, the Commission may authorize a State of Oregon monthly support amount of \$7.00.

(2) OTAP and Lifeline benefits become effective on the date the Commission notifies the Eligible Telecommunications Provider of approval unless otherwise specified in the notice of approval~~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.

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~~OAR 860-033-0040~~

~~OTAP Alternatives~~

~~(1) In lieu of OTAP participation, a public utility, cooperative corporation or unincorporated association providing local exchange telecommunication service may apply to the Commission for authority to provide low income telephone assistance through an alternative plan. The application must demonstrate that:~~

~~(a) Customers eligible for OTAP will receive a benefit under the alternative plan at least equal to the OTAP benefit;~~

~~(b) Customers eligible for OTAP will be eligible under the alternative plan; and~~

~~(c) Administrative costs for an alternative plan will be less than or equal to the administrative costs of participation in OTAP.~~

~~(2) A public utility, cooperative corporation or unincorporated association providing low income telephone assistance under an alternative plan must inform the Commission monthly of the number of customers receiving the benefit and the total dollar amount in benefits provided under the alternative plan.~~

~~(3) Eligible customers must continue receiving benefits under OTAP until the alternative plan is approved by the Commission and implemented by the public utility, cooperative corporation or unincorporated association.~~

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OAR 860-033-0045

OTAP Compensable Expenses

(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.**

(a) An Eligible Telecommunications Provider offering OTAP supported service at no charge to the low-income customer that is authorized to seek compensation 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.

(b) An Eligible Telecommunications Provider must report the average monthly usage of voice minutes and data by its OTAP customers to the Commission in an electronic format that is accessible to the public.

(2) To receive compensation **as described in section (1) of this rule**, an Eligible Telecommunications Provider must submit a monthly ~~OTAP reimbursement~~ **Reimbursement Form** ~~no later than~~ **on or before the 21st** calendar days after the end ~~close~~ of the billing period ~~month~~. 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.

The Eligible Telecommunications Provider must provide a listing of all OTAP and Lifeline customers for which the Eligible Telecommunications Provider seeks compensation in an electronic format accessible by the Commission. The listing must include the customer's first and last name, telephone or broadband internet access service account number, residential address, service type, service initiation date and Commission-assigned OTAP Identification Number.

(3) An Eligible Telecommunications Provider must submit any revisions to a previously filed OTAP Reimbursement Form no later than three years from its due date. If the Commission concludes that refund is due to an Eligible Telecommunications Provider based on the revised Form 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.

(34) If the Commission overcompensates an Eligible Telecommunications Provider, the Eligible Telecommunications Provider must immediately return the excess RSPF funds once it notifies the

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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.

(45) 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 notice of 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.~~ **To request a hearing on the notice of proposed assessment, the Eligible Telecommunications Provider must submit a written request for a hearing. The request for hearing must include a written response that admits or denies all factual matters alleged in the notice of proposed assessment, and alleges any and all affirmative defenses and the reasoning in support thereof. Factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense. The Commission must receive the request for hearing within 30 days of the date of the notice of proposed assessment was mailed.**

~~(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.~~

(c) 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

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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:~~ **If the Commission does not receive a written request for hearing within 30 days, the Commission will may enter an order on default based on information in the Commission's files** 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 **amount** assessed by the Commission in its **an** order **on a notice of proposed assessment** **becomeis** due and payable ~~on the~~ tenth days after the service issue date of the Commission's order.

(6) **The Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service or suspend or revoke an eligible telecommunications provider's designation for failure to timely return excess RSPF funds.**

(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.~~

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OAR 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. **The Eligible Telecommunications Provider** Records must be provided **records** 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.~~

~~(32) 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. **The listing must include the customer's first and last name and Commission-assigned OTAP Identification Number.** 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.~~~~

~~(43) 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.~~

~~(54) 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~~

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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 **or suspend or revoke an eligible telecommunications provider's designation** for its failure to produce for inspection or audit the records required by this rule.

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OAR 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 (2019) 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~~**first and last** name, residential address, date of birth, telephone number **or broadband internet access service account 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

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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. **The listing must include the customer's first and last name and Commission-assigned OTAP Identification Number.** 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.~~

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OAR 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~~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.

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OAR 860-033-0505

TDAP Definitions

(1) "Adaptive Equipment" means equipment that permits a person with a disability, other than a hearing or speech impairment, to communicate effectively on the telephone.

(2) "Assistive Telecommunication Device" means a device that uses a keyboard, acoustic coupler, display screen, Braille display, speakerphone, or amplifier to enable a person who is deaf, deaf-blind, hard of hearing, speech or vision impaired or who has a disability to communicate effectively on the telephone.

~~(3) "Authorized Distributor" means a facility authorized by the Commission to distribute Assistive Telecommunication Devices and Adaptive Equipment.~~

~~(4) "Authorized Maintenance Center" means a facility authorized by the Commission to repair any reasonably damaged Assistive Telecommunication Device or Adaptive Equipment.~~

(53) "Disability" means a physical condition other than hearing or speech impairment that requires the use of adaptive equipment to communicate effectively on the telephone.

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~~860-033-0506~~

~~Telecommunication Devices Access Program Advisory Committee (TDAPAC)~~

~~The TDAPAC consists of 12 Oregon residents appointed by the Commission as prescribed by Oregon Laws 1987, Chapter 290, Section 12. The TDAPAC must meet regularly with the Commission Staff to give advice concerning matters of general development, implementation, and administration of TDAP. TDAPAC meetings are public, and minutes must be provided to the public upon request. A copy of the TDAPAC bylaws is available upon request.~~

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OAR 860-033-0530

TDAP Eligibility and Distribution of Assistive Telecommunication Devices or Adaptive Equipment

(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 ~~or Speech Generating Device application,~~ is available online at <https://www.oregon.gov/puc/forms/Pages/default.aspx>, ~~from the Commission and from certain community resources.~~

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

(a) ~~Their Evidence of regular access to a specific telephone~~ or cellular number or email address in Oregon;

(b) ~~Evidence of current residency in Oregon~~ Their Oregon residential address; and

(c) Information for an alternate contact such as, for example, the telephone or email address of a relative or friend the Commission can contact if the TDAP recipient is not available; and

~~(ed)~~ 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~~ Assistive Telecommunication Device or Adaptive Equipment 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;

(F) A rehabilitation instructor from the Oregon Commission for the Blind who may certify only that

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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 **legal** 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.

(e) If the Commission is not able to verify an applicant's residency, the applicant must submit evidence of Oregon residency such as, for example, a recent utility bill in the applicant's name.

~~(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 to an~~ 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.~~

(a) The Commission may provide up to two accessories, for example, an amplified ringer or wheelchair mount that supports the person's use of the Assistive Telecommunication Device or Adaptive Equipment.

(b) The Commission may provide up to two Assistive Telecommunication Devices or Adaptive Equipment to a household if more than one eligible person 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.~~

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OAR 860-033-0535

Ownership Conditions and Liability

(1) All Assistive Telecommunication Devices or Adaptive Equipment purchased by the Commission remain the property of the State of Oregon **for four years from the Commission's purchase date.** ~~The Authorized Distributors must record the serial number of each Assistive Telecommunication Device or Adaptive Equipment unit. An Authorized Distributor's failure to comply may terminate the distributor's contract with the State of Oregon.~~

~~(2) Before receiving an Assistive Telecommunication Device or Adaptive Equipment, a recipient must sign the Conditions of Acceptance. A recipient who received TDAP equipment when under the age of 18 must sign a new Conditions of Acceptance form within 30 calendar days after becoming 18 years of age. Similarly, if there is a change in legal guardian for an adult recipient, the new guardian must sign a Conditions of Acceptance form within 30 calendar days of the change in guardianship. Failure to do so will result in the Commission billing the parent or guardian of record for the device.~~

~~(33) Before the requested equipment is distributed, an applicant or recipient must pay in full all outstanding accounts with the Commission.~~ **The Commission will not provide an Assistive Telecommunication Device or Adaptive Equipment to an applicant or recipient when the applicant or recipient owes any amount of money due and payable to the Commission under the terms of an order.**

(4) A recipient may trial two Assistive Telecommunication Devices or Adaptive Equipment for 60 calendar days. The recipient must return one Assistive Telecommunication Device or Adaptive Equipment to the Commission within 30 days after the end of the trial period.

(5) A recipient of an Assistive Telecommunication Device or Adaptive Equipment is responsible for the appropriate care and the costs related to the use of an Assistive Telecommunication Device or Adaptive Equipment.

~~(46) Any Assistive Telecommunication Device or Adaptive Equipment distributed to an eligible A recipient under this program may not be sold, loaned, or otherwise transferred from the possession of the original recipients.~~ **sell, lease, give away or loan any Assistive Telecommunication Device or Adaptive Equipment.** ~~Unauthorized transfers subject the recipient to repossession of the Assistive Telecommunication Device or Adaptive Equipment, prosecution, or liability for the full purchase price of the equipment.~~ **A recipient may not use any Assistive Telecommunication Device or Adaptive Equipment as collateral for a loan of any type or as a pledge for a pawn loan.**

~~(57) A recipient who moves to a different address within Oregon must report the new address to the Commission within 30 calendar days of the move. Before moving out of Oregon, Aa recipient who moves out of Oregon must return all Assistive Telecommunication Devices or Adaptive Equipment to received through the Commission to an Authorized Distributor or the Commission before moving out~~

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~~of Oregon. A recipient who is no longer receiving telephone services must return all Assistive Telecommunication Devices or Adaptive Equipment received through the Commission to an Authorized Distributor or the Commission within 30 calendar days after termination of Local Exchange Service.~~

~~(6) A recipient may take Assistive Telecommunication Devices or Adaptive Equipment on travel outside Oregon. The recipient must obtain written permission from the Commission if the travel will be for more than 90 calendar days.~~

(8) The recipient is financially responsible for:

(a) Damage to the Assistive Telecommunication Device or Adaptive Equipment not caused by normal wear and tear, force majeure or acts of terrorism;

(b) Loss of the Assistive Telecommunication Device or Adaptive Equipment; or

(c) Failure to comply with subsections (3), (4), (5) or (8) of this rule.

(9) If the Assistive Telecommunication Device or Adaptive Equipment is stolen, the recipient must notify the law enforcement agency in the jurisdiction where the theft occurred within 24 hours of the time the recipient discovers the theft. The recipient must submit a copy of the law enforcement agency report that describes the theft, includes the location, date, time of the discovery and any witnesses' names, addresses, and telephone numbers to the Commission within five business days of the reported date the theft.

(10) When the Commission receives notice that a recipient is deceased, the Commission may request that the recipient's alternate contact return the Assistive Telecommunication Device or Adaptive equipment.

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~~860-033-0536~~

~~TDAP Recipients' Liability~~

~~(1) The recipient is financially responsible for: any damage to the equipment that is not caused by normal wear and tear, acts of nature, or disasters. To avoid financial responsibility for damaged equipment, the recipient must prove to the Commission that the damage was caused by normal wear and tear or acts of nature or disasters. The recipient is also financially responsible for the full replacement cost of the equipment if the recipient loses the equipment or moves out of Oregon without returning the equipment. Unauthorized transfers subject the recipient to repossession of the Assistive Telecommunication Device or Adaptive Equipment, prosecution, or liability for the full purchase price of the equipment.~~

~~(2) Stolen Equipment or Equipment Damaged by Acts of Nature or Disasters:~~

~~(a) If the equipment is stolen, a recipient must notify the local law enforcement agency within 24 hours of the time the recipient discovers the theft. A recipient must forward a copy of the police report to the Commission within five business days of the date the theft was reported. If the local law enforcement agency does not respond to the recipient's theft report, the recipient must notify the Commission within five business days after the theft was reported. The recipient must forward a written report to the Commission that describes the theft and includes any witnesses' names, addresses, and telephone numbers.~~

~~(b) If the equipment is stolen outside the United States, the recipient must submit a copy of the police report to the Commission within five business days of the date the theft was reported. If the local law enforcement agency does not respond to the recipient's theft report, the recipient must notify the Commission within five business days after returning to Oregon. The recipient must forward to the Commission a written report that includes any witnesses' names, addresses, and telephone numbers; and describes the theft.~~

~~(c) If the equipment is damaged due to acts of nature or disasters, including, but not limited to floods, storms or fire, the recipient must submit an insurance claim, fire department report, police report, or other equivalent documentation about the event within five business days after the date the event occurred.~~

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OAR 860-033-0537

~~Holding Recipients Financially Responsible for Damaged, Lost, or Otherwise Not Returned Assistive Telecommunication Devices or Adaptive Equipment~~ **Notice of Proposed Assessment, Hearing and Order**

(1) ~~Invoices:~~

~~(a) The Commission will mail an invoice indicating the amount of and the reason for such invoice to the responsible recipient at the last known address. The recipient has 30 calendar days from the service date of the invoice to respond.~~

~~(b) The invoiced recipient may submit a written response to the Commission in an attempt to resolve the invoice. At the Commission's discretion, further investigation may be initiated. If the investigation finds that the invoice was issued in error (for example, there is no verifiable reason for the invoice having been sent), the invoice may be canceled.~~

~~(c) If the Commission does not receive payment, the Commission may begin the collection activities.~~

~~(d) Incorrect address: When an invoice or notice of proposed assessment is returned with an incorrect address and the invoiced recipient has not notified the Commission of an address change as required by the Conditions of Acceptance for TDAP Equipment, the amount billed to the recipient becomes a liquidated debt.~~

(2) Notice of Proposed Assessment:

~~(a1) If the recipient does not respond to the invoice within 30 days from the service date of the invoice, the Commission may issue a written proposed assessment for the amount due. If the recipient does not comply with the requirements in OAR 860-033-0535, the Commission may issue a notice of proposed assessment to the recipient at the address on file with the Commission for the cost to repair or replace the Assistive Telecommunication Device or Adaptive Equipment while it remains the property of the State of Oregon.~~

~~(a) The Commission may assess the full replacement cost when the recipient's violation of OAR 860-033-0535 occurs in the first year following purchase of the Assistive Telecommunication Device or Adaptive Equipment, seventy-five percent of the replacement cost in the second year following its purchase, fifty percent of the replacement cost in the third year following its purchase, and twenty-five percent in the fourth year following its purchase.~~

~~(b) The recipient may pay the assessment in full within 30 days of the service date of the notice of proposed assessment or may file a written petition for a hearing within 30 days of the service date of the notice of proposed assessment. A written petition for a hearing must clearly specify all the reasons the recipient disputes the proposed assessments. Within 30 days after the service of the notice of~~

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proposed assessment, the recipient may submit a written request for a hearing. The request for hearing must include a written response that admits or denies all factual matters alleged in the notice of proposed assessment, and alleges any and all affirmative defenses and the reasoning in support thereof. The Commission must receive the request for hearing within 30 days of the date the notice of proposed assessment was mailed.

~~(A) If the recipient pays the proposed assessment in full within the 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.~~

~~(Bc)~~ If the recipient timely files a written petition for a hearing as set forth in subsection (b) of this section of this rule, the Commission will grant the recipient a hearing and give 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.

~~(3) Commission Order:~~

~~(a2) If the Commission does not receive a written request within 30 days, the Commission will~~**may** ~~enter an order on default based on the information in the Commission's file. if the recipient 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~~**amount** ~~assessed by the Commission in its~~**an** ~~order on a notice of proposed assesement becomes~~**is** ~~due and payable on the tenth day after the service~~**issue** ~~date of the Commission's order.~~

~~(b) If the recipient does not respond to the order assessing charges, the account may be referred to the Department of Revenue or a collection agency for collection. The recipient is responsible for and must pay all costs incurred by the Commission to collect a past due invoice amount from the recipient.~~

~~(4) Collection procedures for a recipient with two or more Assistive Telecommunication Devices or Adaptive Equipment units:~~

~~(a) The Commission will mail a letter to the recipient asking the recipient to return the equipment within 30 calendar days, and~~

~~(b) If the Commission does not receive a response, the Commission will send an invoice to the recipient. If the recipient does not pay the amount billed, the Commission may take the necessary action against the recipient to either regain possession of the State of Oregon's equipment or receive the full replacement value of such equipment.~~

~~(5) When the Commission receives notice that a recipient is deceased, the Commission will request that the estate return the equipment. The Commission may bill the estate for the cost of replacing the equipment if it has not been returned, or if it is returned in damaged condition.~~

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~~(6) If the lost, damaged, or otherwise not returned equipment is obsolete or is no longer offered by the TDAP, the Commission may waive the recipient's financial responsibility.~~

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~~860-033-0540~~

~~Distribution Procedures for Assistive Telecommunication Devices or Adaptive Equipment~~

~~(1) Subject to appropriation and approval of expenditures for Assistive Telecommunication Devices or Adaptive Equipment and services purchased by the Commission, the Commission may contract with any governmental agency or other entity to establish an Authorized Distributor network and an Authorized Maintenance Center network.~~

~~(2) If demand exceeds supply, the Commission may distribute Assistive Telecommunication Devices or Adaptive Equipment to customers on a first come first serve basis.~~

~~(3) Each Authorized Distributor must inform the Commission in writing of all incoming and outgoing shipments of Assistive Telecommunication Devices or Adaptive Equipment. The written information must include the serial numbers engraved by the Authorized Distributor.~~

~~(4) Upon notice from the Commission, the Authorized Distributor must distribute Assistive Telecommunication Devices or Adaptive Equipment to eligible applicants.~~

~~(5) The Authorized Distributor must require each recipient, including the parent or legal guardian, to sign the Conditions of Acceptance form supplied by the Commission before providing an Assistive Telecommunication Device or Adaptive Equipment unit. The Authorized Distributor and Authorized Maintenance Center must forward all forms to the Commission.~~

~~(6) If needed, the Commission may contract with an agency or individual to provide training on Assistive Telecommunication Devices or Adaptive Equipment to specialized populations.~~

~~(7) Recipients of Assistive Telecommunication Devices or Adaptive Equipment are responsible for replacement paper for the Assistive Telecommunication Device or Adaptive Equipment, the payment of the recipient's monthly telephone bill, the purchase or lease cost of recipient's telephone, the cost of replacement light bulbs for signal devices and batteries for the equipment.~~

~~(8) The Commission may require the Authorized Distributor to provide each recipient a copy of the OTAP application form, mailing forms for purchasing TTY paper, and telecommunications relay service information handouts.~~

~~(9) The recipient must return defective or damaged equipment to the Commission, at the Commission's expense, prior to receiving repaired or replacement equipment. The Commission will decide whether to replace or to repair the damaged or defective equipment. The requirement to return defective or damaged equipment prior to receiving repaired or replaced equipment may be waived by the Commission.~~

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~~860-033-0545~~

~~TDAP Compensable Expense~~

~~(1) The Authorized Distributors and the Authorized Maintenance Centers may be compensated from the RSPF for specific costs incurred as a result of participating in the TDAP. These contracted programs and services must request compensation by submitting an invoice to the Commission at least quarterly. Funds must be disbursed to these contracted programs or services no more than 30 calendar days after a properly filed invoice is received by the Commission.~~

~~(a) The Authorized Distributors may be compensated for coordinating and storing the Assistive Telecommunication Devices or Adaptive Equipment. Invoices must indicate all services performed by distributors and the number of the Assistive Telecommunication Devices or Adaptive Equipment units provided to recipients. Compensable services must include the cost of Assistive Telecommunication Devices or Adaptive Equipment with an identification number, shipping costs, storage costs, delivery costs, and other related costs.~~

~~(b) The Authorized Distributors may be compensated for the cost of preparing and distributing the Assistive Telecommunication Devices or Adaptive Equipment and maintenance services requested by the customers. Invoices must indicate the number of the Assistive Telecommunication Devices or Adaptive Equipment unit including the engraved identification on either distributing Assistive Telecommunication Devices or Adaptive Equipment to the recipient or receiving Assistive Telecommunication Devices or Adaptive Equipment repair orders from the recipient. The specific tasks of preparation and services in distributing the Assistive Telecommunication Devices or Adaptive Equipment are subject to written agreement between the Commission and the contracted Assistive Telecommunication Devices or Adaptive Equipment personnel.~~

~~(c) The Authorized Maintenance Centers may be compensated for repairing the damaged Assistive Telecommunication Devices or Adaptive Equipment, the storage of extra Assistive Telecommunication Devices or Adaptive Equipment replacements, and the required insurance for storage. Invoices must indicate the labor and parts of the damaged Assistive Telecommunication Devices or Adaptive Equipment, the storage cost, and the insurance premium cost, including Assistive Telecommunication Devices or Adaptive Equipment identification inventory.~~

~~(d) The Commission will determine the rate of compensation based on the cost the Authorized Distributor should reasonably incur to accomplish each task.~~

~~(2) Based upon accounting procedures established by the Commission, the Authorized Distributors and Authorized Maintenance Centers must maintain accounting records in such a manner that costs associated with TDAP can be separately identified. The Commission may audit the records of an Authorized Distributor or an Authorized Maintenance Center.~~

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~~860-033-0560~~

~~Oregon Telecommunications Relay Service (OTRS)~~

~~The OTRS must comply with the Americans with Disabilities Act's requirements as set forth in 47 C.F.R. § 64.601-64.606 (2008).~~

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