

**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: NEW RULE ADOPTED, RULE AMENDMENTS ADOPTED, RULES
REPEALED

I. SUMMARY

In this order, we adopt changes to the administrative rules in division 033 to make permanent many of the June 30, 2020, temporary rule amendments for the Oregon Telephone Assistance Program (OTAP). We developed the temporary rules in response to 2019 Senate Bill 69 and an Oregon Joint Emergency Board allotment to provide assistance to individuals in response to the coronavirus pandemic. The rule amendments also implement changes in response to an audit of the Telecommunication Devices Access Program (TDAP), update rules to reflect current practices, and repeal obsolete provisions. The proposed rules, as presented in Appendix A, show the changes from the previous set of permanent rules because the temporary rules expired on December 27, 2020.

II. BACKGROUND

OTAP provides assistance to low income customers. It was established under Sections 2 and 6, chapter 290, Oregon Laws 1987, as amended, to ensure adequate, affordable residential telecommunication service is made available to all citizens and to support the availability and use of broadband internet access service. The 2019 Oregon Legislature enacted Senate Bill 69, effective January 1, 2020, to align Oregon law with FCC regulations, under which eligible low-income customers may receive the OTAP discount on broadband internet access service.¹ On

¹ Or Laws 2019 c.91 §1.

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.² In response to the enactment of Senate Bill 69 and the Oregon Interim Joint Emergency Board allotment, we adopted temporary rules in Docket No. AR 634 on June 30, 2020.

TDAP is a program that loans specialized communications equipment to eligible Oregon residents who have a disability in hearing, vision, speech, mobility, or cognition. In 2018, we hired Moss Adams LLP to complete 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 LLP identified properly designed internal controls and recommended improvements for administrative efficiency. We address these recommendations as a part of this rulemaking.

We opened this docket to revise and update the division 033 rules pertaining to OTAP and TDAP on September 8, 2020 at a regular public meeting. Staff led a workshop with stakeholders on September 10, 2020, and presented proposed rules at the regular public meeting on October 20, 2020, to open the formal stage of rulemaking.

On October 28, 2020, we filed a Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact with the Secretary of State. On October 29, 2020, notice was provided to all interested persons on the service lists maintained pursuant to OAR 860-01-0030(1)(b) and to certain legislators specified in ORS 183.335(1)(d). Notice of the rulemaking was published in the November 2020 *Oregon Bulletin*, establishing a hearing date of November 17, 2020, and a comment due date of November 25, 2020.

We held a hearing to receive public comment on November 17, 2020. Staff opened comments, and then Northwest Fiber, LLC, dba Zply Fiber, Oregon Citizens' Utility Board (CUB), and AT&T offered comment. There were no other comments offered at the hearing. Zply Fiber, Oregon Telecommunications Association, TruConnect Communications, Inc., Assurance Wireless USA, L.P., Staff; and AT&T Corporation, Teleport Communications America LLC, and AT&T Mobility LLC (jointly AT&T) filed written comments. The comment period closed on November 30, 2020.

During the public comment hearing, Zply Fiber presented its issues on the definition of broadband internet access services (BIAS), its previous request for a waiver from the temporary

² See Oregon State Legislature; Oregon Legislative Information; 2019-2020 Interim Joint Emergency Board, <https://olis.oregonlegislature.gov/liz/2019I1/Committees/EB/2020-06-05-15-00/Agenda> (last visited September 1, 2020)

rules adopted in AR 634,³ and the need for consistency between Oregon and federal definitions. CUB offered comments in full support of the proposed rules as written, and AT&T commented on making the definition of basic service technology neutral and ensuring language in OAR 860-033-0006(3) references “remitting” rather than “collecting” to comport with statutory language.

In the written comments, we received additional, specific recommendations regarding definitions, reporting requirements, alignment of OTAP with FCC rules, the OTAP discount, and further modifications from Staff. We adopt some recommendations as discussed below.

III. DISCUSSION

Below, we provide a summary of the updates to the applicable OTAP and TDAP rules, which include approval processes for transfers of equipment ownership to TDAP recipients and audit recommendations incorporated from the Moss Adams audit for TDAP operational improvements. We also update some definitions as recommended by Staff and adopt other changes that reflect current practices. Finally, we eliminate obsolete OTAP and TDAP rules.

A. OAR 860-033-0001: Applicability

The rule now reflects that the applicability of this division extends to interconnected voice over internet protocol (VoIP) service providers. The computation of time periods prescribed or allowed by these rules is now presented in section (3) (and deleted from OAR 860-033-0006(18)).

AT&T recommends that the definition of “basic telephone service,” as presented in proposed OAR 860-033-0005(1), be modified to reference the FCC phrase “voice telephony” as defined in 47 C.F.R. §54.400(m), in order to ensure consistency across technologies and with the federal Lifeline program (Lifeline).

Staff responds that such a change is unnecessary at this time, considering that the Oregon Legislature continues to employ the current term. In addition, Staff notes that the Federal Communications Commission (FCC) elimination of Lifeline support for standalone voice service is pending, and therefore Staff remains uncertain of the impact of adopting this proposal. Staff further states they would be willing to consider it in a future rulemaking.

We find Staff’s reasoning regarding the uncertain impact of adopting the federal term while a change in the federal program is pending sufficient to continue to use the term “basic telephone

³ *In the Matter of NORTHWEST FIBER, LLC, dba ZIPLY FIBER, Request for a Waiver of OAR 860-033-0005(25), Minimum Service Standards*, docket no. UM 1631, Order No. 20-318 (Sep. 25, 2020).

service” for the time being. Therefore, we decline to adopt AT&T’s recommendation at this time.

B. OAR 860-033-0005: Definitions

The definition of broadband internet access service is included in order to implement 2019 Senate Bill 69, which incorporates this as a service that OTAP will discount for eligible, low-income customers. The rule clarifies that OTAP provides a discount on basic service or both basic service and broadband internet access service. The term “interconnected voice over internet protocol” is now consistent with 47 C.F.R. Section 9.3. We amend the definition of Oregon Telecommunications Relay Service to mirror the definition of Telecommunications Relay Services in the Twenty-First Century Communications and Video Accessibility Act of 2010. Finally, we delete unnecessary definitions and add a new web address and language reflecting current technology.

Ziply Fiber comments that while it generally concurs with the rule changes, the company continues to take issue with the definition of “Broadband Internet Access Service” in OAR 860-033-0005(2) as proposed. Ziply Fiber notes that the proposed definition does not define a minimum service standard. As with the temporary rules, Ziply Fiber contends this issue creates administrative challenges, because the new definition expands the universe of OTAP customers beyond those eligible for Lifeline. The company describes the resulting situation where manual adjustments are required within the company’s automated billing system to credit customers eligible for OTAP but not eligible for Lifeline. In addition, Ziply Fiber must manually identify these customers for state and federal reporting purposes. Ziply Fiber notes that it will be costly to upgrade to its system to incorporate these customers electronically. OTA supports Ziply Fiber’s comments. Ziply Fiber previously requested a waiver of this rule after the temporary rules were introduced.⁴

Staff addresses this recommendation by noting, as it did in the company’s September waiver request, that changing the “Broadband Internet Access Service” definition is necessary to implement 2019 Senate Bill 69 and to align Oregon law with FCC regulations. The purpose of SB 69 is to support broadband internet access service, and we are charged with establishing a plan of assistance in addition to the available funding offered by the FCC.

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 by

⁴ See UM 1631, *General Waiver Requests*, Ziply Fiber Petition for Waiver (Sep 2, 2020); Captioned *In the Matter of the Temporary Rulemaking Regarding Oregon Telephone Assistance Program Subsidy*, Docket No. AR 634.

increasing the OTAP discount per month for six months.⁵ As noted in the materials from that meeting, the allotment from the Coronavirus Relief Fund was intended to increase the OTAP subsidy for six months with the intent of providing financial relief for up to 8,000 more low-income households and increasing access to broadband service.⁶ Thus, these were Oregon-specific measures meant to align the federal and state program regulations and increase the availability of the OTAP discount for broadband internet access service.⁷

Staff further noted in September that OTAP is governed by the Oregon Legislature and the PUC, rather than the FCC, and that the statute governing OTAP requires the Commission to support the affordability of broadband internet access service for all citizens of the state. Finally, Staff pointed out that the Commission has a longstanding policy of supporting consumer choice so that customers may choose services that fit their individual needs and budgets. Therefore, according to Staff, the OTAP discount must be applied to any telecommunications providers' phone service—and as expanded by OAR 860-033-0010(2)—to any broadband internet access service.

In our order declining Ziplly Fiber's waiver of the temporary rule, we encouraged Ziplly Fiber to take steps to ensure OTAP discounts can be provided to the limited number of customers who appear to be affected while minimizing the administrative burden to the company.⁸ We again decline to change the rule, because we agree with Staff's assessment of the legislature's intent and do not find it warranted to undermine the legislative intent for a billing system unable to accommodate federal and state programs. We request that Ziplly Fiber continue to keep Staff apprised of this situation, including efforts by the company to address the stated issues, and to update Staff regarding the number of customers that Ziplly Fiber must track separately due to the rule. If Staff concludes that future program adjustments are necessary, we will take up Staff's recommendation at that time.

C. OAR 860-033-0006: Monthly RSPF Surcharge

The rule changes integrate VoIP service providers into our system for assessing and collecting the RSPF surcharge. Flexibility in the amended version of ORS 759.685(3) is reflected in the rule that governs our annual review of the surcharge rate. We repeal the rules requiring telecommunications providers, cellular, wireless or other radio common carriers to submit the Remittance Report even if no surcharge is collected.

⁵ See Oregon State Legislature; Oregon Legislative Information; 2019-2020 Interim Joint Emergency Board, <https://olis.oregonlegislature.gov/liz/2019I1/Committees/EB/2020-06-05-15-00/Agenda> (last visited September 1, 2020).

⁶ See Oregon Legislative Information; 2019-2020 Interim Joint Emergency Board, *Item 6: PUC OTAP*, <https://olis.oregonlegislature.gov/liz/2019I1/Downloads/CommitteeMeetingDocument/222415>

⁷ See *In the Matter of NORTHWEST FIBER, LLC, dba ZIPLY FIBER, Request for a Waiver of OAR 860-033-0005(25), Minimum Service Standards*, docket no. UM 1631, Order No. 20-318 (Sep. 25, 2020), Appendix A at 2.

⁸ Order No. 20-318 (Sep 25, 2020).

AT&T requests that we modify proposed OAR 860-033-0006(3)(d), which requires each telecommunications provider, interconnected VoIP provider and each wireless carrier to identify on each retail customer's bill a separate line item named "RSPF Surcharge" (or, in the event an amount is not due, on a monthly statement). AT&T recommends the Commission exclude interconnected VoIP and wireless providers from this requirement. AT&T notes that the relevant statute, ORS 759.685(5), only requires "telecommunications public utilities" to separately identify in bills to customers the surcharge imposed. AT&T further states that, as long as the Commission receives the surcharge for each wireless "instrument" for applicable subscribers and interconnected VoIP subscribers, the Commission should not be concerned with whether and how the surcharge appears on the customer's bill or monthly statement.

Staff agrees, noting that, although interconnected VoIP service providers and cellular, wireless, or other radio common carriers do collect the RSPF surcharge from retail customers, ORS 759.685 does not require the Commission to establish a system for collection of the surcharge. Therefore, Staff recommends revising proposed OAR 860-033-0006(3)(b) and OAR 860-033-0006(c) to state, respectively:

- (b) Each interconnected voice over internet service provider must ~~collect~~ remit the specified RSPF surcharge ~~by charging the specified amount to the~~ Commission for each retail subscriber with access to the telecommunications relay service, including OTAP or Lifeline eligible subscribers.
- (c) Each cellular, wireless, or other radio common carrier must ~~collect~~ remit the specified RSPF surcharge ~~by charging the specified amount to the~~ Commission for each retail subscriber with access to the telecommunications relay service, including OTAP or Lifeline eligible subscribers."

Staff recommends further amending OAR 860-033-0006(3)(d) to state:

- (d) Each telecommunications public utility 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."

This change better aligns the rule with ORS 759.685(5).

We adopt the proposed revision to the rule, as described and recommended by Staff.

D. OAR 860-033-0007: Late Reports and Failure to Remit Surcharge

This rule reflects the reorganization and consolidation of provisions governing delinquent Remittance Reports and failure to submit surcharge reports. It now incorporates VoIP service providers.

E. OAR 860-033-0008: Commission Audit

General language reflecting company response times to keep and produce records for data requests that may be a part of our audits is eliminated (and more specifically spelled out in OAR 860-033-0540). We integrate VoIP service providers into this rule.

F. OAR 860-033-0009: Notice of Proposed Assessment, Hearing and Order

The rule changes clarify the process for notice of proposed assessments, hearings and orders and integrate VoIP service providers. General response time language is also eliminated here and moved to OAR 860-033-0540.

G. OAR 860-033-0010: OTAP and Lifeline Applicability

As noted in the October 22, 2020 Staff Report, the rule changes here specify that eligible low-income customers can receive the OTAP discount on basic service, broadband internet access service, or both basic service and broadband internet access service. The rule requires an Eligible Telecommunications Provider (ETP) to offer the OTAP discount on all service offerings that include broadband internet access service to the eligible low-income customer. We continue our existing policy to encourage customer choice by allowing low-income customers to apply the OTAP discount on any ETP phone service for which the customer pays a monthly rate, as noted in Order Nos. 20-204 and 20-318.

H. OAR 860-033-0021: Eligible Telecommunications Provider Requirements

This is a new rule that presents the requirements for designation and maintaining a designation as an ETP, previously listed in other rules. The new rule also states that an ETP designation may be suspended or revoked for failure to comply with the rules and requirements in Division 033.

In its comments, Staff recommends adding language in proposed rule OAR 860-033-0021(1)(a) that expressly acknowledges that a Lifeline-only Eligible Telecommunications Carrier may not be required to use its own facilities or a combination of its own facilities and resale of another carrier's services. Accordingly, Staff proposes adding the following language to the proposed rule:

- (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)- or for Lifeline-only carriers, a compliance plan that has been approved by the Federal Communications Commission.

We adopt the new rule, along with Staff's additional, recommended changes.

I. OAR 860-033-0030: OTAP and Lifeline Eligibility

As stated in the October 22, 2020 Staff Report, we amend this rule to define an eligible resident of Tribal lands and, consistent with FCC regulations, update the tribal-specific federal assistance program criteria through which a Tribal low-income resident may demonstrate eligibility for OTAP. The rule changes reflect the Commission's current practices, consistent with FCC regulations governing rolling recertification.

Corresponding provisions governing the port regulation benefit have been deleted, consistent with the elimination of the port regulation benefit by the FCC.

J. OAR 860-033-0035: OTAP and Lifeline Benefits

This rule adjusts the OTAP discount from \$12.00 to \$7.00 for low-income customers paying a monthly rate. For customers receiving OTAP supported services at no charge, ETPs must provide unlimited voice minutes for basic service and unlimited data for any broadband internet access service to low-income customers in order to be eligible to for the monthly support amount of \$7.00 from the State of Oregon. This is an adjustment from the temporary rule rate of \$12.00 due to usage of unlimited minutes and unlimited data by eligible customers being less than anticipated. This may be adjusted in future proceedings.

Staff recommends an additional revision to OAR 860-033-0035(1)(a) to clarify that the OTAP discount will still be available to eligible low-income customers, despite the FCC's objective to eliminate Lifeline support for standalone voice service in the coming year. To minimize potential for confusion, Staff proposes to amend OAR 860-033-0035(1)(a) to state:

- (a) The federal Lifeline support in accordance with 47 C.F.R. §54.403~~;~~, if available; and [.]”

Assurance and TruConnect comment on proposed OAR 860-033-0035(1)(b) and (c), which adjusts the rate for an eligible customer paying a monthly rate to \$7.00 from \$12.00. For a customer receiving OTAP supported service at no charge, the State of Oregon will provide

support of \$7.00. If an ETP provides unlimited voice minutes for basic service and unlimited data for any broadband internet access service to the customer, the Commission may authorize monthly support from the State of Oregon of \$7.00. TruConnect asserts that requiring unlimited mobile data for \$7.00 is unreasonable. TruConnect includes comparisons to other states to demonstrate that other jurisdictions provide higher subsidies and limit data amounts for customers. Assurance comments that the rule appears to force qualifying customers to choose only unlimited data in order for the Commission to authorize an ETP reimbursement of \$7.00.

TruConnect recommends that the Commission change the rule so that the reduced support amount of \$7.00 is paired with a reasonable amount of data that is less than unlimited. In the alternative, TruConnect recommends that the Commission allow ETPs the option of qualifying for a support amount of less than \$7.00 for instances where a customer receives the FCC minimum standard of 4.5 gigabytes of mobile broadband. Assurance urges the Commission to adopt an adjustment so that eligible customers receiving an OTAP service free of charge may be supported with a \$3.50 amount to the ETP, and for an ETP that provides OTAP-supported service at no charge to the low-income customer—along with unlimited voice minutes and unlimited data for any broadband internet access service—up to \$7.00.

Staff notes in its October 13, 2020 report that temporary rules adopted a \$12.00 OTAP discount monthly rate. To receive the \$12.00 compensation for customers receiving service at no charge, unlimited voice minutes and data were required to be provided by the ETP. Staff found in its investigation subsequent to the implementation of the temporary rules that eligible customers receiving these enhanced services were using far less than the unlimited voice minutes and data available to them. Therefore, the discount was adjusted to \$7.00 to match the amount of service currently being utilized by eligible customers. Staff noted that it would “continue to monitor voice and data usage and may propose adjustments to the discount allowed in the future.”⁹

In response to TruConnect’s comments, Staff notes that TruConnect provides no data to show that the OTAP discount adjustment is unreasonable or a financial burden. Staff notes that TruConnect expresses concern regarding removing barriers and opening access to communication. Staff sees as contradictory TruConnect’s stated access concerns compared with its attempt to potentially limit customer voice minutes and data. Staff’s monitoring of customer usages resulted in the proposed OTAP discount adjustment. Staff already addressed the possibility that this proposed discount may need future adjustment. Staff argues it is reasonable to continue to monitor usage and propose any further adjustments at the appropriate time. Finally, Staff notes that in 860-033-0010(2), an ETP is required to offer the OTAP discount to all eligible customers. Staff recognized that some ETPs are granted waivers from this rule and those customers only receive the Lifeline discount. This is a current option that is utilized for customers that choose only limited services.

⁹ Order No. 20-366 at Appendix A at 7 (Oct 22, 2020).

Staff requests that the Commission add language to OAR 860-033-0035 to clarify that the OTAP support amount may be reduced by order of the Commission if sufficient funding is not available. Doing so provides the Commission with the flexibility to sustain the provision of all RSPF program services and products to all Oregonians. Staff proposes the following language::

- (d) The Commission may reduce the State of Oregon support by order of the Commission when sufficient funding is not available to sustain the current level of support.

In the absence of data rebutting Staff's investigation that average usage is commensurate with the recommended rate, we decline to adopt the proposed changes to the rule as recommended by TruConnect and Assurance. We adopt the changes as recommended by Staff.

K. OAR 860-033-0045: OTAP Compensable Expenses

The rule changes indicate the Commission may authorize compensation to the ETP offering service at no charge for basic service and broadband internet access service provided to each eligible low-income customer. The amendments further provide that the ETP must report the average monthly usage by its OTAP customers to the Commission for public review. A new subsection requires the ETP to provide a listing of all OTAP and Lifeline customers with specific data for which the ETP seeks compensation. The rule amendments clarify the Commission processes for notice of proposed assessments, hearing, and order.

For proposed OAR 860-033-0045, Staff recommends removing the phrase, "if applicable," from proposed OAR 860-033-0045(1)(a). This language is an inadvertent carryover from the temporary rule but is out of context in the proposed version of the permanent rule:

- (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.

TruConnect and Assurance take issue with OAR 860-033-0045(1), which requires reporting data that will be accessible to the public. Specifically, the rule requires the following items:

- (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

Assurance is concerned that this required reporting would violate trade secret laws, but it is not specific on how these numbers would be considered a trade secret. Staff notes that this reporting

consists of two numbers, which are the average monthly usage of voice minutes and data of the OTAP provider's collective customer base in a format accessible to the public.

Assurance provides no further information on why it believes this information is protected or specifics on why this information should be protected a trade secret. Oregon law states that a public body cannot rely merely on the entity's assurance that the information is a trade secret.¹⁰ TruConnect merely opines that the Commission is increasing reporting requirements by requesting these two numbers.

Staff notes that the required data will provide insight into the need for future support levels and any adjustments that may be considered to the minimum service standards. Staff is unaware of any law that would protect such data from disclosure. Staff believes that the rule itself cannot designate information as exempt from public disclosure, as that topic is addressed by the Oregon Public Records law. Staff sees no reason why Oregonians, including taxpayers who fund the OTAP and OTAP recipients, would not be able to inspect this aggregated usage data and participate in future policy or rulemaking dockets on the subject. Without additional information from the commenting parties, we cannot simply assume that the average customer data and minutes usage are trade secrets or overly burdensome. Therefore, we decline to modify the rule regarding this issue at this time.

We adopt the rule change as recommended by Staff.

L. OAR 860-033-0046: OTAP and Lifeline Accounting, Reporting and Auditing

The rule changes eliminate the Active OTAP and Lifeline Customer report. Now the ETP is required to provide a listing of all OTAP customers for which the ETP seeks compensation in OAR 860-033-0045. The ETP is required to report weekly even if there is no activity. The Commission-assigned OTAP Identification Number is used in lieu of the customer's social security number as a measure to safeguard customers' personal information.

M. OAR 860-033-0050: Tribal Lifeline and Tribal Link-up

The rule is revised to integrate broadband internet access service and clarify the information for the Tribal Lifeline or Tribal Link-Up reporting, and similar to customer information required in OAR 860-033-0046, the Commission-assigned OTAP Identification number must be provided.

N. OAR 860-033-0110: Advertising, Market and Outreach

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

¹⁰ See *Brown v. Guard Publ'g Co.*, 267 Or App 552, 570 (2014) ("‘Trust us, it's exempt’ * * * is not how Oregon's public records law * * * is intended to operate.").

O. OAR 860-033-0505: TDAP Definitions

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.

P. OAR-860-033-0530: TDAP Eligibility and Distribution of Assistive Telecommunication Devices or Adaptive Equipment

The Commission's TDAP program began distributing 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. A new rule provides the applicant with options for demonstrating residency (e.g., utility bill in his or her name). The rule clarifies that the Commission may provide up to two accessories to facilitate a 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.

Q. OAR 860-033-0535: Conditions and Liability

In its audit, Moss Adams identified that the Commission spends an inordinate amount of time and resources to manually track assistive telecommunication devices and adaptive equipment despite depreciation, obsolescence, or the length of time a TDAP recipient has had the device or equipment in his or her possession.

This rule change allows for the transfer of assistive telecommunication devices and adaptive equipment ownership to the TDAP recipient after four 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 years of age. The rule changes relieve 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.

R. OAR 860-033-0537: Notice of Proposed Assessment, Hearing and Order

To align with all other Commission processes for assessments, we delete the requirement to issue an invoice for TDAP equipment and instead institute assessments. 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 when compared 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.

S. OAR 860-033-0040; OAR 860-033-0506; OAR 860-033-0536; OAR 860-033-540; OAR 860-033-545; OAR-860-033-0560.

We repeal these rules because they are obsolete, have been consolidated under other rules, or are unnecessary.

IV. ORDER

IT IS ORDERED that:

1. The modifications to the Chapter 860, division 033 administrative rules are adopted as set forth in Appendix A to this order.

2. The rule changes become effective upon filing with the Secretary of State.

Made, entered, and effective Dec 29 2020.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Mark Thompson
Commissioner

A person may petition the Public Utility Commission of Oregon for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

Division 033
RESIDENTIAL SERVICE PROTECTION FUND (RSPF)

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 033 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 legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040 & Ch. 290, OL 1987

Hist.: PUC 3-1999, f. & cert. ef. 8-10-99 (Order No. 99-468); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 6-2011, f. & cert. ef. 9-14-11 (Order No. 11-346); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475)

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.

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

(4) "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).

(5) "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.

(6) "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.

(7) "Eligible Telecommunications Carrier" means a provider of telecommunications service, including a cellular, wireless, or other radio common carrier, that is **designated** ~~certified~~ by order of the Commission as eligible to receive federal universal service support throughout a designated service area ~~by having met the eligibility criteria set forth in 47 C.F.R. § 54 Subpart C (2012) and in orders of the Commission.~~

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

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

(10) "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.

~~(113)~~ "Lifeline" means a program established by the Federal Communications Commission as defined in 47 C.F.R. § 54 Subpart E (2016).

~~(1214)~~ "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.

~~(13) "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(3).~~

~~(1415)~~ "Low-income customer" means an individual who demonstrates eligibility for Lifeline supported services or the Oregon Telephone Assistance Program in OAR 860-033-0030.

~~(1516)~~ "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.

~~(1617)~~ "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.

~~(1718)~~ "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.**

~~(18) "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) "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/Pages/default.aspx>.

(1920) "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.

(2021) "RSPF Surcharge" means a specified amount up to 35 cents per month collected from each paying retail subscriber who has telecommunications service with access to the telecommunications relay service, except as provided in OAR 860-033-0006(2).

~~(21) "RSPF Surcharge Exception Form" means the reporting form identified by that title that is available on the Commissions website at <http://www.puc.state.or.us/Pages/telecom/rspf/index.aspx>.~~

(22) "RSPF Surcharge Remittance Form 751" means the reporting form identified by that title that is available on the Commission's website at **<https://www.oregon.gov/puc/Pages/default.aspx><http://www.puc.state.or.us/Pages/telecom/rspf/index.aspx>.**

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

(24) "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 (20169):

- (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.

(25) "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.

(26) "Telecommunications provider" includes competitive providers, cooperatives and telecommunications utilities.

(27) "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.

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

(29) "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).

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

(31) "Tribal Link Up" means a federal assistance program for eligible residents of Tribal lands as defined in 47 C.F.R. § 54 Subpart E (2013).

(32) "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.

Stat. Auth.: ORS 183, 756, 759 & 1987 OL Ch. 290

Stats. Implemented: ORS 756.040, 759.036 & 1987 OL Ch. 290

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 7-1995(Temp), f. & cert. ef. 8-17-95 (Order No. 95-860); PUC 14-1995, f. & cert. ef. 12-20-95 (Order No. 95-1328); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 18-2000, f. & cert. ef. 10-24-00 (Order No. 00-661); PUC 4-2001, f. & cert. ef. 1-24-01 (Order No. 01-117); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475); PUC 7-2016(Temp), f. 11-22-16 & cert. ef. 12-2-16 thru 5-30-17 (Order No. 16-448); PUC 5-2017, f. & cert. ef. 5-31-17 (Order No. 17-200); PUC 4-2020 (Temp), f. & cert. ef. 7-1-20 (Order No. 20-204)

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 **or interconnected voice over internet protocol service provider** 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 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 protocol service provider must remit the specified RSPF surcharge amount to the Commission for each retail subscriber with access to the telecommunications relay service, including OTAP or Lifeline eligible subscribers.

(c) Each cellular, wireless, or other radio common carrier must collect and remit the specified RSPF surcharge by charging the specified amount to for 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 public utility 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.~~

(67) For each billing period that a telecommunications provider, interconnected voice over internet protocol service provider, or a cellular, wireless, or other radio common carrier fails to submit the surcharge ~~fees in full~~ on or before the due date 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 payment fee in accordance with OAR 860-001-0050.

(78) 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 service provider, or the cellular, wireless, or other radio common carrier must pay interest in accordance with OAR 860-001-0050.

(89) 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.

~~(910) 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.

~~(1014)~~ 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.

~~(1112)~~ ~~The~~ telecommunications provider, interconnected voice over internet protocol service provider, or ~~the~~ 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 amount 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 provider, or the cellular, wireless, or other radio common carrier to spread payments of the refunds over a period not to exceed three years. 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.~~

~~(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) A telecommunications 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 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 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.~~

Stat. Auth.: ORS 183, 756, 759 & 1987 OL Ch. 290

Stats. Implemented: ORS 756.040, 759.036 & 1987 OL Ch. 290

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 18-2004, f. & cert. ef. 12-30-04 (Order No. 04-753); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 1-2010, f. & cert. ef. 5-18-10 (Order No. 10-178); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357); PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-13 (Order No. 13-475); PUC 1-2015, f. & cert. ef. 3-3-15 (Order No. 14-434)

860-033-0007

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

(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 based upon any information available to the Commission.**

~~determine a proposed assessment based upon any information available to the Commission.~~

~~(2) 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;~~

(2) If a telecommunications provider, interconnected voice over internet service provider or a cellular, wireless, or other 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 OAR 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

(b) A late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500, and 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 due date, day the surcharge amount was originally due; and

(d) A late report fee per 860-001-0050(3)(e).

(3) Notwithstanding section (2) of this rule, The proposed assessment may not cover a period longer than three years prior to the date of the notice of proposed assessment. 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) 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. 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 Remittance Report or its failure to remit the surcharge by the due date.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (09-452); PUC 1-2010, f. & cert. ef. 5-18-10 (Order No. 10-178); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475)

860-033-0008

Commission Audit and Proposed Assessment

(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.

(2) For any period for which a telecommunications provider's, **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.

(32) The Commission's audit must begin no later than three years after the Remittance Report's due date. **But, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has unlimited time to audit the telecommunications provider. 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.**

(43) 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.

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

(6) 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.
~~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.~~

(7) 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.

~~(78)~~ 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.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert.

ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452);

PUC 1-2010, f. & cert. ef. 5-18-10 (Order No. 10-178); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357)

860-033-0009

Notice of Proposed Assessment, and Hearing, and Order

~~(1) The Commission will provide a~~
To request a hearing on the notice of proposed assessment, upon the telecommunications provider, interconnected voice over internet protocol service provider or cellular, wireless, or other radio common carrier 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 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, 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, the telecommunications provider or the cellular, wireless, or other radio common carrier may petition the Commission in writing for a hearing. 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.~~

(a) If the Commission does not receive a written request for hearing within 30 days, a petition is not filed 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 written request for hearing~~petition~~ is filed within the 30-day period, the Commission will grant the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier a hearing and give the telecommunications provider, interconnected voice over internet protocol service provider or the cellular, wireless, or other radio common carrier at least 10 days' notice of the time and place of a hearing.

~~(23)~~ The hearing on the telecommunications provider's, the interconnected voice over internet protocol service provider's or the cellular, wireless, or other radio common carrier's petition is conducted under the Commission's rules governing hearings and proceedings.

~~(34) 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. During the 30-day period allowed for requesting a hearing on a notice of proposed assessment under these rules, the telecommunications provider, interconnected voice over internet protocol service provider, 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.~~

~~(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.~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert.

ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452);

PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357)

OREGON TELEPHONE ASSISTANCE PROGRAM (OTAP)

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.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & cert. ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475); PUC 4-2020 (Temp), f. & cert. ef. 7-1-20 (Order No. 20-204)

860-033-0021

Eligible Telecommunications Provider Requirements

(1) A telecommunications 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) or for Lifeline-only carriers, a compliance plan that has been approved by the Federal Communications Commission. 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).

Stat. Auth.: ORS 183, 756, 759

Stats. Implemented: ORS 759.036, 1987 OL Ch. 290

Hist.: NEW

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.

(4) 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 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.

(54) 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.

(65) 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.

(76) 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.

(87) 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.

(98) 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.

(109) 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.

(1140) The Commission will verify a customer's continuing eligibility every 12 months, as measured 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 **filesubmit** 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.

(1214) 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.

(1312) 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 (2016) 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.

(1413) 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 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.

Stat. Auth.: ORS 183, 756, 759 & 1987 OL Ch. 290

Stats. Implemented: ORS 756.040, 759.036 & 1987 OL Ch. 290

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 6-1997, f. & ef. 1-10-97 (Order No. 97-005); PUC 6-1997, f. & cert. ef. 1-10-97 (Order No. 97-005); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & cert. ef. 11-18-99 (Order No. 99-709); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475); PUC 7-2016(Temp), f. 11-22-16 & cert. ef. 12-2-16 thru 5-30-17 (Order No. 16-448); PUC 5-2017, f. & cert. ef. 5-31-17 (Order No. 17-200)

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, **if available**; and

(b) **For a customer paying a monthly rate, the State of Oregon support of \$3.50 up to \$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 data for any broadband internet access service provided to the customer, the Commission may authorize a State of Oregon support amount up to \$7.00.

(d) The Commission may reduce the State of Oregon support by order of the Commission when sufficient funding is not available to sustain the current level of support.

(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.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290 OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 2-2002, f. & cert. ef. 2-5-02 (Order No. 01-1023); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475); PUC 4-2020 (Temp), f. & cert. ef. 7-1-20 (Order No. 20-204)

~~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 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.~~

~~Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987~~

~~Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987~~

~~Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475)~~

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 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 Form~~ on or before the eighth calendar day after the close of the month ~~no later than 21 calendar days after the end of the billing period~~. The Eligible Telecommunications Provider's 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. ~~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.~~

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

Telecommunication Provider based on the revised OTAP Reimbursement 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.

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

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

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

(c) If the Commission overcompensates the Eligible Telecommunications Provider as a result of actions by the Eligible Telecommunications Provider, including, but not limited to, the filing of an incorrect reimbursement form, then upon notification the Eligible Telecommunications Provider must immediately return the excess RSPF funds and pay interest on the excess RSPF funds at the rate set forth in OAR 860-001-0050.

(54) 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 (34) 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 To request a hearing on** the notice of proposed assessment, the Eligible Telecommunications Provider **must submit a** ~~may pay the proposed assessment in full or may file a~~ **written petition request** for a hearing. The ~~written petition request~~ for a 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 that the notice of proposed assessment was mailed. clearly specify all the reasons the Eligible Telecommunications Provider disputes the assessment.**

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

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

~~(65) If the Commission does not receive a written request for hearing within 30 days, the Commission will enter an order on default based on 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. Commission Order: The Commission will enter an order if the Eligible Telecommunications Provider does not respond to the notice of proposed assessment within 30 days of the service date of the notice of proposed assessment or after considering the testimony presented at hearing. Any charges assessed by the Commission in its order become due and payable on the tenth day after the service date of the Commission's order.~~

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

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

~~(78) 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. 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.~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 18-1997, f. & cert.

ef. 12-17-97 (Order No. 97-489); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631);

PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09

(Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357); Temp PUC 5-2013,

f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order

No. 13-475); PUC 4-2020 (Temp), f. & cert. ef. 7-1-20 (Order No. 20-204)

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 must provide records to the Commission upon request. Records must be provided to the Commission upon request.**

~~(2) Active OTAP and Lifeline Customer Report: The Active OTAP and Lifeline Customer Report is a listing of all customers receiving the OTAP or Lifeline benefit. The listing may include the customers' telephone numbers, addresses, service types, or Commission-assigned OTAP Identification Number. Each Eligible Telecommunications Provider must submit monthly to the Commission in an electronic format accessible by the Commission, an Active OTAP and Lifeline Customer Report. The Active OTAP and Lifeline Customer Report must be received by the Commission on or before the close of business on the 21st calendar day of the following month.~~

(23) 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 (45) 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.~~

(34) 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.

(45) 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 (23) and (34) 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.

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

(67) 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.

Stat. Auth.: ORS 183, 756, 759 & 1987 OL Ch. 290

Stats. Implemented: ORS 756.040, 759.036 & 1987 OL Ch. 290

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475);

PUC 7-2016(Temp), f. 11-22-16 & cert. ef. 12-2-16 thru 5-30-17 (Order No. 16-448);
 PUC 5-2017, f. & cert. ef. 5-31-17 (Order No. 17-200); PUC 4-2020 (Temp), f. & cert. ef. 7-1-20
 (Order No. 20-204)

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 (2013) has previously received a Tribal Lifeline or Tribal Link Up benefit at the residential address provided by the prospective subscriber to prevent duplicative support. An eligible resident of Tribal lands may receive the benefit of the Tribal Link Up program for a second or subsequent time only for otherwise qualifying commencement of telecommunications service at a principal place of residence with an address different from the address for which Tribal Link Up assistance was previously provided.

(2) Within five business days of a request for Tribal Lifeline or Tribal Link Up benefit, the Eligible Telecommunications Provider must submit to the Commission in an electronic format accessible by the Commission the Tribal Lifeline or Tribal Link Up applicant's full 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 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.~~**

Stat. Auth.: ORS 183, 756, 759 & 1987 OL Ch. 290

Stats. Implemented: ORS 756.040, 759.036 & 1987 OL Ch. 290

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 8-1989, f. & cert. ef. 6-8-89 (Order No. 89-724); PUC 5-1992, f. & ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & ef. 4-18-96 (Order 96-102); PUC 6-1997, f. & cert. ef. 1-10-97 (Order No. 97-005); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 2-2002, f. & cert. ef. 2-5-02 (Order No. 01-1023); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475); PUC 7-2016(Temp), f. 11-22-16 & cert. ef. 12-2-16 thru 5-30-17 (Order No. 16-448); PUC 5-2017, f. & cert. ef. 5-31-17 (Order No. 17-200); PUC 4-2020 (Temp), f. & cert. ef. 7-1-20 (Order No. 20-204)

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.

Stat. Auth.: ORS 183, 756, 759 & 1987 OL Ch. 290

Stats. Implemented: ORS 756.040, 759.036 & 1987 OL Ch. 290

Hist.: PUC 5-2013(Temp), f. & cert. ef. 6-28-13 thru 12-24-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-13 (Order No. 13-475); PUC 5-2017, f. & cert. ef. 5-31-17 (Order No. 17-200); PUC 4-2020 (Temp), f. & cert. ef. 7-1-20 (Order No. 20-204)

Telecommunication Devices Access Program (TDAP)

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

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order 97-489); PUC 12-1999, f. & cert. ef. 11-18-99 (Order No. 99-709); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357)

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.~~

~~Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987~~

~~Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987~~

~~Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357)~~

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~~ **Speech Generating Device application** is available online at <https://www.oregon.gov/puc/Pages/default.aspx?puc.state.or.us/PUC/rspfdtdapapp.pdf>, ~~from the Commission and from certain community resources.~~

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

- (a) ~~Their telephone or cellular number or email address~~ **Evidence of regular access to a specific telephone number in Oregon;**
- (b) ~~Their Oregon residential address~~ **Evidence of current residency in Oregon;**
- 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**

(d) ~~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 a~~ **Assistive t** ~~Telecommunication d~~ **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 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.

~~(ed)~~ 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.

~~(f3) 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. 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..~~

~~(34) The Commission may provide one Assistive Telecommunication Device or one Adaptive Equipment unit **perto 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.**~~

~~**(b5) 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.** 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.~~

Stat. Auth.: ORS 183, 756, 759 & 1987 OL Ch. 290

Stats. Implemented: ORS 756.040, 759.036 & 1987 OL Ch. 290

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & cert. ef. 11-18-99 (Order No. 99-709); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475); PUC 5-2017, f. & cert. ef. 5-31-17 (Order No. 17-200)

860-033-0535

Ownership of and Conditions and Liability for Use of Assistive Telecommunication Devices or Adaptive Equipment

(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.**

(3) **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. Before the requested equipment is distributed, an applicant or recipient must pay in full all outstanding accounts with the Commission.**

(4) **Any 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 with 30 days after the end of the trial period. distributed to an eligible recipient under this program may not be sold, loaned, or otherwise transferred from the possession of the original recipient. 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.**

(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.**

(6) **A recipient may not sell, lease, give away, or loan any Assistive Telecommunication Device or Adaptive Equipment. A recipient may not use any**

Assistive Device or Adaptive Equipment as collateral for a loan of any type or as a pledge for a pawn loan.

~~(75) 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. **A recipient who moves Before moving** out of Oregon, **a recipient** must return all Assistive Telecommunication Devices or Adaptive Equipment **to the Commission** received through the Commission to an Authorized Distributor or the Commission before moving out 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.~~

(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 sections (4), (5), (6), (7), 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 discovery and any witnesses' names, addresses, and telephone numbers to the Commission within five business days of the reported date of the theft.

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

~~**(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.**~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489)(860-033-0535(5) Renumbered to 860-033-0536); PUC 12-1999, f. & cert. ef. 11-18-99 (Order No. 99-709); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475)

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.~~

~~(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.~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489)

Renumbered from 860-033-0535(5); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475)

860-033-0537

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

(1) 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. Invoices:

(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, 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) Within 30 days after the service of the notice of 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. 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:~~

~~(a) 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.~~

~~(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.~~

~~(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.~~

~~(cB) If the recipient timely files a written request 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.~~

~~(2) If the Commission does not receive a written request within 30 days, the Commission may enter an order on default based on the information in the Commission's file. Any amount assessed by the Commission in an order on a notice of proposed assessment is due and payable on the tenth day after the date of the order.~~

~~(3) Commission Order:~~

~~(a) The Commission will enter an order 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 assessed by the Commission in its order become due and payable on the tenth day after the service 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.~~

~~(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.~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & cert. ef. 11-18-99 (Order No. 99-709); PUC 19-2003, f. & cert. ef. 11-14-03 (Order No. 03-631); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475)

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.~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-1999, f. & cert. ef. 11-18-99 (Order No. 99-709); PUC 16-2004, f. & cert. ef. 12-1-04 (Order No. 04-695); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); Temp PUC 5-2013, f. & ef. 06-28-13 thru 12-19-13 (Order No. 13-242); PUC 7-2013, f. & cert. ef. 12-20-2013 (Order No. 13-475)

860-033-0545

TDAP Compensable Expenses

~~(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.~~

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-1999,

f. & cert. ef. 11-18-99 (Order No. 99-709); PUC 19-2003, f. & cert. ef. 11-14-03 Order No. 03-631); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452); PUC 9-2011, f. & cert. ef. 10-4-11 (Order No. 11-357)

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).

~~Stat. Auth.: ORS 183, ORS 756, ORS 759 & Ch. 290, OL 1987~~

~~Stats. Implemented: ORS 756.040, ORS 759.036 & Ch. 290, OL 1987~~

~~Hist.: PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97 (Order No. 97-489); PUC 12-2009, f. & cert. ef. 11-13-09 (Order No. 09-452)~~